

Planning Commission  
Minutes - June 12, 2023

1. Call to Order: Vice Chairman Moody called the meeting to order at 6:00pm.
2. Roll Call: Vice Chairman Moody; Commissioners Butler, Jefferson, Guidry, Mehserle and Ross were present. Chairman Edwards was absent.

Staff: Bryan Wood – Community Development Director, Emily Carson – Community Planner, and Christine Sewell – Recording Clerk.

Guests: Colby Carkoski, Wilnis Louis, Rosston Smith, Winston Creath, Andy Acosta, and Mike Baker.

3. Invocation- was given by Commissioner Mehserle
4. Approval of Minutes from May 8, 2023, and work session May 22, 2023  
Commissioner Butler motioned to approve as submitted; Commissioner Ross seconded; all in favor and was unanimously approved.
5. Announcements – Vice Chairman Moody referred to the notices as listed.
  - Per O.C.G.A. 36-67A-3 if any opponent of a rezoning or annexation application has made campaign contributions and/or provided gifts totaling \$250 or more within the past two years to a local government official who will consider the application, the opponent must file a disclosure statement.
  - Policies and Procedures for Conducting Zoning Hearings are available at the entrance.
  - Please place cell phones in silent mode.
6. Citizens with Input – None
7. Old Business – None
8. New Business – None
  - A. Public Hearing (Planning Commission decision)
  - B. Informational Hearing (Planning Commission recommendation – Scheduled for public hearing before City Council on July 18, 2023)
    - **RZNE- 0070-2023**. Rezone property at 120 Sparrow Street from R-AG, Residential Agricultural to R-1, Single Family Residential. The applicant is Colby Carkoski.

Ms. Carson read the applicants' request which was to rezone from R-AG, Residential Agricultural to R-1, Single Family Residential, along with staff responses. Ms. Carson noted the property is a vacant parcel in the Birdsong Acres subdivision, totaling 7.68 acres and the applicant is re-platting 1.8 acres upon approval of the R-1 rezoning process and in doing so creates a parcel for a new dwelling while maintaining the five acres required per dwelling in the R-AG zone.

Vice Chairman Moody opened the informational hearing at 6:07pm and called for anyone in favor or opposed to the request; there being none; the informational hearing was closed at 6:08pm. The Vice Chairman called for the applicant who was in attendance but had nothing further to add.

Commissioner Butler motioned to recommend approval to Mayor & Council of the application as presented; Commissioner Ross seconded; all in favor and was unanimously recommended for approval.

- **RZNE- 0075-2023.** Rezone property at 101 Big Indian Creek Drive from R-3, Single Family Residential to RM-1, Multi-Family Residential. The applicant is Wilnis Louis.

Ms. Carson read the applicants' request, which was to rezone from R-3, Single Family Residential to RM-1, Multi-Family Residential, along with staff responses. Ms. Carson further advised the applicant purchased the property from its previous owners in hopes of building a duplex. However, unbeknownst to him, the city had a code violation case open on the parcel requiring the structure be torn down. This application stops the nuisance abatement process and allows the new owner to begin development of a rehabilitated multi-family structure on the site.

Vice Chairman Moody opened the informational hearing at 6:12pm and called for anyone in favor or opposed to the request; there being none; the informational hearing was closed at 6:13pm. The Vice Chairman called for the applicant who was in attendance but had nothing further to add.

Commissioner Ross motioned to recommend approval to Mayor & Council of the application as presented; Commissioner Mehserle seconded; all in favor and was unanimously recommended for approval.

- **TEXT-0076-2023.** Establish short-term rental permit procedures and standards, delete provisions for bed and breakfast inns, add provisions for interpretation by administrator and appeal of decision of the administrator.

Mr. Wood advised with Council's establishment of a moratorium in April and the concerns that had been raised, particularly the proximity to other short-term rentals and the impact of the character of neighborhoods, staff has researched in-state and other states for established procedures and is presenting the proposed amendment.

Mr. Wood reviewed highlights of the ordinance which included Establish Annual Short-term Rental Permit, Initial permit requires special exception in residential districts, Renewal permit issued by staff, inspection of property required for compliance with life safety codes, permit is not transferrable to another owner or property, permit can be administratively revoked for violation of requirements, revocation may be appealed to Planning Commission, One-year waiting period if revoked, existing STRs must obtain renewal permit and comply with standards by December 29, 2023, 1,000-foot separation between STRs; one STR per parcel, occupants limited to 2 per bedroom + 2; not to exceed 10, Minimum 24-hour stay, parking restrictions, curfew and no amplified sound between 10:00 pm and 9:00 am, posted "House Rules" required, local responsible party required, cannot be used for events, permit must be posted and used in all advertisements, proof of insurance required, Perry occupational tax certificate required, Payment of hotel occupancy tax required and City may require documentation to verify compliance.

Mr. Wood also advised the amendment deleted all references and standards for “Bed and breakfast inn” and added procedures for interpretations by the administrator. As well as update to Article 10, Enforcement, with consistent section numbering and list of permit types to remove “Conditional use permit” and add “Short-term rental permit.

Vice Chairman Moody opened the informational hearing at 6:20pm and called for anyone in favor of the request. There being none; Vice Chairman Moody called for anyone opposed.

Mr. Rosston Smith of 110 Kevin Drive, Warner Robins and owner of 700 Martin Luther King Jr., Drive, Perry felt the ordinance had good intentions but with the highlights as mentioned by Mr. Wood is restricting homeowners’ rights. Would like to know how the 1000 feet was determined as there is no evidence for it and it’s not required for long-term rentals and doesn’t affect the quality of guests or stays as that is determined by the quality of management. Voiced concern the ordinance infringes on property owners’ rights, and they should be allowed to use their property as they see fit and unnecessarily restricts a homeowner to make money. Again, voiced concern for the distancing requirements and questioned a duplex not being allowed to have both units available for short term rentals. Mr. Smith advised owners buy and rehab properties as an investment and they create value for the city and rentals bring income into the city.

Mr. Winston Creath – 364 Lee Paul Road, Haynesville was opposed as short term rentals provide an opportunity for his retirement with investment property and the proposal limits the rights and privileges of citizens. Mr. Creath would like to have more short-term rental properties available for the visitors to the fairgrounds who will spend money in the city and these types of rentals are available when local hotels are not and if there are no rental properties people will go elsewhere. Mr. Creath felt it was good to keep an open and welcoming attitude with regard to short-term rentals and felt more discussion should be had before making a decision.

Mr. Andy Acosta – 2006 Carl Drive #1806 Warner Robins, advised he echoes Mr. Smith’s comments, but he can also see neighbors’ concerns and they are factored in the proposal and the appreciates the city looking for a middle ground with the amendment, but it caters to the fears of those opposed. Mr. Acosta felt the 1000ft. separation was not practical as each neighborhood was different and that should be the factor in deciding. Also, not all short-term rentals are the same, some rent full time during the year, while others only parttime and others not the entire house but a room. Mr. Acosta voiced concern that an environment was going to be created where the market becomes distorted and monopolized with the proposed standards and could lead to hosts overcharging due to lack of competition; there needs to be healthy competition and the distance requirements should be removed and focus on population density. Furthermore, felt the limitation of occupants and parking does not consider the property size and its features; it limits the capacity for use of the property and restricts large travel groups, which Perry attracts. With respect to parties and guests, Airbnb and VRBO do a good job of keeping up with this as it’s part of their standards.

Mr. Mike Baker – 1306 Swift Street, Perry as a resident and board member of the tourism board supports the amendments and short-term rentals are commercial businesses and if he wanted to do, he would have to go through a special exception process and if the market becomes

oversaturated with these rentals it will hurt the local hotels. Mr. Baker agreed to allowing in commercial areas, but not residential areas.

Mr. Wilnis Louis – 309 Bowen Drive, Warner Robins – was just in Navarre, Florida where he had stayed in a short term rental and there are no separation issues, and they are well kept because the owners want people to come back. The maximum number of people is restrictive as he works on base and there is a need. Appreciates regulations but if implemented too early will be restrictive.

There being no further comment Vice Chairman Moody closed the informational hearing at 6:50pm.

Commissioner Guidry advised he had recently attended training and this issue was brought up and those in attendance from cities throughout the state were grappling with this same issue. Commissioner Guidry understands property rights are important until it affects the neighbors, then it becomes cause for concern.

Commissioner Mehserle noted as we look to the future and why we have regulations or not it is the Commission's responsibility to be fair and have understandable and enforceable ordinances and recognize both sides. Commissioner Mehserle further noted that the opponents who spoke against the proposed amendment were all based on capitalism with no concern about the neighborhoods.

Commissioner Jefferson commended staff for their time and efforts in drafting the ordinance and appreciates that it represents the best interests of the community. Vice Chairman Moody echoed the statement.

Commissioner Mehserle motioned to recommend approval to Mayor & Council of the application as submitted; Commissioner Butler seconded; all in favor with Commissioner Ross opposed; resulting vote was 5 to 1 for recommendation of approval.

- **TEXT-0024-2023.** Revise Section 6-9, sign regulations. The applicant is the City of Perry.

Mr. Wood advised the amendment has been worked on for a number of months and presented and overview of the changes, which included: Ensure content neutrality, Place standards in table format for ease of use, Establish standards for signs in all districts, including residential districts, Monument and monopole signs with up to 100 square feet of sign face for commercial properties over 3 acres in size, Monument and monopole signs with up to 75 square feet of sign face for commercial properties less than 3 acres in size, Reduce maximum height of ground signs in Downtown from 20 feet to 15 feet, Limit area of multiple message sign face, Establish time periods for display of additional ground signs, Establish the administrator as the authorized individual to accept service of an appeal of a Planning Commission decision, Establish the City Manager as the authorized individual to accept service of an appeal of a City Council decision, and as required by changes in State statute.

Per the City Attorneys' request Mr. Wood read the following statement:

It is the purpose of these regulations to provide standards to safeguard life, public health, property, and welfare by regulating the location, size, illumination, erection, maintenance, and quality of materials of all signs. More specifically, signs have a powerful impact on the aesthetic environment of the community, and it is the purpose of these regulations to encourage an aesthetically attractive environment, allowing sufficient opportunities for communications to serve business, interest groups and the public, while complying with the federal and state constitutions and laws.

In consideration of these sign regulations, we especially recognize the vast number of court decisions, coming from Georgia courts, the federal courts, and courts throughout the United States, which recognize that the regulation of the size, location and quantity of sign structures is a valid and lawful means of achieving the above-stated intents and purposes, and that such intents and purposes are valid and lawful governmental interests, which include the following:

Granite State Outdoor Advertising, Inc. v. Cobb County, Ga., [193 Fed.Appx. 900] (finding that the stated goals within a sign ordinance of protecting against traffic hazards and the adverse impact on the county's aesthetic qualities are substantial government interests); Gregory v. Clive, [2007 WL 2914515 (Ga. S.Ct. 2007)](recognizing as within a local government's police power to enact legislation governing billboards and signs, as such legislation clearly addresses the public health, safety, or general welfare of the community); H & H Operations, Inc. v. City of Peachtree City, Ga., [248 Ga. 500 (1981)](holding that, under its police power, a municipality can enact and enforce reasonable regulations governing the erection and maintenance of signs within its jurisdiction); Harnish v. Manatee County, Florida, [783 F.2d 1535 (C.A. 11<sup>th</sup> 1986)](finding that aesthetics is a substantial governmental goal which is entitled to and should be accorded weighty respect, and that the governmental entity charged with the responsibility of protecting the environment must be given discretion in determining how much protection is necessary and the best method of achieving that protection); Lamar Advertising Company v. City of Douglasville, Ga., [254 F.Supp.2d 1321 (N.D.Ga. 2003)](finding that where a sign ordinance asserts the goals of public safety, traffic safety, health, welfare and aesthetics, a municipality has shown an important or substantial governmental interest unrelated to the suppression of free speech); Metromedia, Inc. v. City of San Diego, [453 U.S. 490 (1981)](holding that the goals of traffic safety and aesthetics advanced by a municipality as justification for regulating signs is a substantial governmental interest); St. Louis Poster Advertising Co. v. City of St. Louis, [249 U.S. 269 (1919)](finding that billboards may be prohibited in the residential districts of a city in the interest of the safety, morality, health and decency of the community); Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent, [466 U.S. 789 (1984)](finding that a government entity can regulate signs and billboards when necessary to advance a significant and legitimate state interest, such as the protection of the aesthetics and quality of life within its jurisdiction); City of Doraville v. Turner Communications, Corp., [236 Ga. 385 (1976)](finding that under its police power authority, a municipality can regulate the location and maintenance of outdoor advertising signs within their territorial jurisdiction); Spratlin Outdoor Media, Inc. v. City of Douglasville, [2006 WL 826077 (N.D.Ga. 2006)](upholding sign ordinance where the ordinance's height and setback restrictions were rationally related to its stated goals of promoting the health, safety, morality and general welfare of the community, promoting the orderly and beneficial development of the city, promoting adequate access to natural light and air, improving the aesthetic appearance of the city, and encouraging the most appropriate use of land and buildings in accordance with the city's comprehensive plan).

Vice Chairman Moody opened the informational hearing at 7:10pm and called for anyone in favor of the request; there being no he called for anyone opposed; there being none the public hearing was closed at 7:12pm.

Commissioner Mehserle inquired about electronic signs in the overlay districts; Mr. Wood advised they were still prohibited, with the exception of gasoline signs. Commissioner Mehserle also asked if the amendment increases allowable signage and size; Mr. Wood reviewed the table for the various districts.

Commissioner Butler motioned to recommend approval to Mayor & Council of the application as submitted; Commissioner Mehserle seconded. There was no call for a vote, as Commissioner Jefferson and Guidry felt additional time was needed for review. Commissioner Butler withdrew his motion to recommend approval.

Commissioner Jefferson motioned to table until July 10, 2023, meeting for further review; Commissioner Ross seconded; all in favor and was unanimously approved to table.

9. Other Business – None

10. Commission questions or comments- None

11. Adjournment: there being no further business to come before the Commission the meeting was adjourned at 7:30pm.