

**Perry Planning Commission
Meeting Minutes
September 14, 2009**

CALL TO ORDER: Chairman Martin Beeland called the meeting to order at 6:00pm

ROLL: Chairman Beeland, Commissioners Barker, Clarington, Cosey, Hubbard, Mehserle (arrived at 6:08 PM) were all present; Commissioner Jefferson was absent.

STAFF PRESENT: Mike Beecham, Director of Community Development, Joni Ary, Recording Secretary, and Harold Deal, Assistant City Engineer.

INVOCATION: was given by Commissioner Clarington.

GUESTS/SPEAKERS: Mr. Alton Johnson, Ms. Lora Ennis, Mr. Dawkins Ennis, Mr. Larry Brown, Mr. Bo Simmons, Ms. Deborah Mason, Mr. Mike Baker, Mr. Randall Walker, and Mr. Jimmy Faircloth

APPROVAL OF MINUTES FROM AUGUST 24, 2009 MEETING: Commissioner Cosey made a motion to approve the minutes as submitted; Commissioner Clarington seconded; all in favor and was unanimously approved.

ANNOUNCEMENT: The Campaign Notice, per O.C.G.A. 36-67A-3, please turn cell phones off; Chairman Beeland referred to the notice posted on the door of council chambers.

HEARING(S)

1. Public Hearing – Variance #V-09-09 – Mr. Alton Johnson – 1108 Gaines Drive

Chairman Beeland opened the hearing at 6:03pm. Mr. Beecham read the applicant's request which was for a 2' variance of the 20' separation requirement between structures, along with the conditions necessary for a variance and the staff response for the criteria. Chairman Beeland then called for anyone wishing to speak in favor of the request; the applicant, Mr. Johnson, addressed the board and advised the lean to portion of the accessory structure will be demolished. The existing accessory structure will be approximately 18' from the addition once the demolition is completed.

Chairman Beeland then called for anyone opposed; there being none the hearing was closed at 6:06pm.

The board then posed questions; Commissioner Hubbard inquired of staff if the two buildings were connected could both remain; Mr. Beecham answered in the affirmative that both could remain if properly connected and all other setbacks are met.

Upon conclusion of discussion, Commissioner Clarington made a motion to approve the request ; Commissioner Cosey seconded; all in favor; Commissioner Mehserle abstained since he was not present for the public hearing.

2. Informational Hearing – Rezoning Request #R-09-03 – Ms. Lora Ennis – 1401 Swift Street

Chairman Beeland opened the hearing at 6:12pm. Mr. Beecham read the applicants' request to rezone the property from R-3, Multi-Family residential District to OC, Office Commercial District, the conditions necessary for a rezoning and the staff response for the criteria. The floor was then opened for discussion and Ms. Lora Ennis applicant and owner of property advised the board that she submitted the request for rezoning to teach piano lessons. Her current location of 1019 Ball Street has a bar going in next door. After discovering the bar will opening within the next month Ms. Ennis decided to search for another location to run her piano lessons. She found the dwelling at 1401 Swift Street and purchased the property. She further stated that the family is currently residing at 1401 Swift and her business license has been transferred to 1401 Swift Street. Her intent is to run the private piano lessons at 1401 Swift Street and reside elsewhere. She presented a petition to the Commission of neighbors in favor of her request.

Mr. Bo Simmons then addressed the commission and stated he was Ms. Ennis' lawyer and in favor of the request. Ms. Ennis teaches his daughter and felt there would be little, if any impact on traffic.

Chairman Beeland then called for anyone wishing to speak who opposed the request. Mr. Mike Baker of 1306 Swift Street stated that he was not opposed to the business but felt it should be a home occupation instead of a rezoning. He is growing frustrated with the repeated attempts to rezone the property along Swift Street to commercial. Mr. Beecham mentioned he had received a phone call from a neighbor unable to attend the meeting who stated their opposition to the request. Chairman Beeland then called for anyone else wishing to speak who opposed the request and there being none, closed the hearing at 6:30pm.

Chairman Beeland stated that his concern was in rezoning the property to commercial. While he thought the piano lessons would not be detrimental to the area, the Commission has to take a long range view. If Ms. Ennis left, the next owner could use the property for anything allowed in the OC District.

Commissioner Mehserle asked if there was a way to possibly leave the property zoned R-3 District but allow the piano lessons as a special exception without residing there. He suggested considering the proposed use as a private school which is permitted in R-3 with a special exception. Commissioner Clarrington inquired what time does the applicant give lessons. Ms. Ennis stated that lessons last from 2:00pm until 9:00pm.

Commissioner Mehserle asked staff if the rezoning could be withdrawn and the Commission recommend approval of a special exception without the applicant having to re-apply. Mr. Beecham stated that, in his opinion, the applicant will have to start over with a special exception application but will check with the City Attorney. However, the Commission can motion to recommend approval of a special exception in case another application is unnecessary.

There being no further discussion Commissioner Mehserle made a motion to recommend denial of the rezoning request and recommend approval of a special exception to utilize the property as a private school giving piano lessons; Commissioner Hubbard seconded; all in favor and was unanimously approved.

NEW BUSINESS:

1. Final Plat Approval – Sutton Place Subdivision, Phase 1

Chairman Beeland opened the discussion to give final plat approval for Sutton Place Subdivision, Phase 1.

Mr. Harold Deal, Assistant City Engineer addressed the board and advised that the subdivision has been inspected and, with the exception of the backup generator for the Notting Hill pump station, had been recommended for approval by the Public Works Department.

Mr. Larry Brown of SF Communities explained that his company is trying to acquire this foreclosed property from CB&T Bank. Mr. Frith, owner of SF Communities, has already spent approximately \$100,000.00 to complete the subdivision. However, the subdivision has to have final plat approval prior to finalizing the sale. The backup generator has been ordered and a contract with Pyles Plumbing has been executed to install the generator. It will be approximately 4 weeks until the generator is delivered and the sales contract will expire prior to generator installation. The banks are no longer giving letters of credit so we are requesting that we be allowed to provide a certified check to the city in the amount of the generator installation with a contract assignable to the city. When the generator is installed and approved, the city will forward the check to Pyles Plumbing. The city could hold any COs until the project is completed to the city's satisfaction.

Chairman Beeland expressed concern that a contract assignable to the city may make us liable for completing the generator installation.

Commissioner Mehserle felt the proposed contract was an unfair hardship on the city. He felt the city may be liable for any unforeseen costs associated with the generator installation if problems arise. Commissioner Mehserle asked Mr. Brown if there would be some other mechanism to make sure the city is not responsible for any costs associated with the generator installation. Mr. Brown stated that the contract will state that the city will hold the money until the project is completed. Commissioner Barker stated the proposal is putting the city in the development business and it will be our responsibility to make sure the project is completed satisfactorily. It should not be the responsibility of the city to complete subdivisions.

Commissioner Barker stated he can attest that letters of credit are no longer a viable option in the current financing market. Commissioner Cosey had concerns that a certified check can be revoked. Commissioner Mehserle recommended against entering into a contract with the developer.

Mr. Brown reminded the Commission of the risk his employer is taking and asked for a way to work out the proposal. Commissioner Barker asked if there is a deadline date with the sales contract. Mr. Brown stated that yes there is a deadline date and the bank may increase the price since SF Communities has invested money in the subdivision.

Commissioner Barker observed that this will not be the last subdivision in this situation. Commissioner Cosey expressed concerns that a check could be cancelled leaving the city financially responsible. Commissioner Barker stated that the city needs to explore other options since the letters of credit are no longer a viable option. Mr. Beecham reminded the Commission of the city's requirement that a letter of credit be in an amount of 120% of the anticipated costs.

Commissioner Barker made a motion to approve the final plat with the condition that the backup generator issue is resolved to the satisfaction of Mayor and Council. Commissioner Clarington seconded the motion; all in favor and was unanimously approved.

2. Update of HUD Complaint against the City of Perry (Not on agenda)

Mr. Beecham informed the Commission the HUD complaint against the city has been withdrawn. It will no longer be necessary to schedule an interview between the Commission and HUD.

3. WRATS Citizens Advisory Committee Appointees (Not on agenda)

Mr. Beecham informed the Commission that Mayor and Council appointed Mr. Calvin Middlebrooks and Ms. Rosella Cooper to represent the City of Perry on the WRATS Citizens Advisory Committee.

ADJOURN: There being no further business Chairman Beeland adjourned the meeting at 7:25pm.