

DATE: December 17, 2013
TO: Honorable Mayor & City Council
FROM: Richard Grady, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of December 16, 2013

**AGENDA ITEM NO. 7 - PUBLIC HEARING
ZONING CASE 2013-32
APPLICANT: CITY OF PLANO**

Request to amend Subsection 2.802 (ED-Estate Development) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses), and related sections of the Zoning Ordinance to consider modifications to animal restrictions in order to allow a wider variety of large animals, such as llamas, within the Estate Development zoning district.

APPROVED: 6-0 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are shown as strikethrough text.)

Amend Subsection 2.802 (ED - Estate Development) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) to incorporate the term, "livestock", in appropriate locations, and to clarify the meaning of Subsection 2.802.4.a.iii:

2.802 ED - Estate Development

3. Area, Yard, and Bulk Requirements

Description	Requirement
Minimum Lot Area	43,560 square feet, 85,000 square feet if any <u>livestock</u> large animals are kept

4. Special District Requirements

a. Animal Restrictions in the ED District:

i. Number

No more than two livestock ~~larger~~ animals, ~~specifically cattle, horses, sheep, and goats,~~ can be maintained per acre of lot area.

ii. Type

Livestock animals are limited exclusively to horses and other equine species, cattle, llamas, sheep, and goats. Swine and fowl are expressly prohibited. Domestic animals are allowed consistent with the Code of Ordinances. Other types of animals which introduce an unusual disturbance to the community or adjoining property owners shall not be maintained.

iii. Breeding

No livestock ~~large~~ animals, other than ~~horses~~ equine species, shall be kept for commercial breeding purposes.

FOR CITY COUNCIL MEETING OF: January 13, 2014 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

SS/dc

xc: Cliff Bormann, Permit Services Manager

CITY OF PLANO
PLANNING & ZONING COMMISSION

December 16, 2013

Agenda Item No. 7

Public Hearing: Zoning Case 2013-32

Applicant: City of Plano

DESCRIPTION:

Request to amend Subsection 2.802 (ED-Estate Development) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses), and related sections of the Zoning Ordinance to consider modifications to animal restrictions in order to allow a wider variety of large animals, such as llamas, within the Estate Development zoning district.

REMARKS:

On November 4, 2013, the Planning & Zoning Commission called a public hearing to consider amendments to the Zoning Ordinance regarding modifications to animal restrictions within the Estate Development (ED) zoning district.

The ED district is intended to provide areas for single-family development in a semi-rural or ranch-like setting, or where topography and/or utility capacities limit the use of the land. Provisions are made for limited ranching pursuits as well as those uses necessary and incidental to single-family living. The Zoning Ordinance includes special district requirements for the ED district which provide allowances and restrictions regarding the number, type and breeding of animals.

Currently, the ED district allows no more than two larger animals per acre of lot area, and the district restrictions specifically cites "larger animals" as including cattle, horses, sheep, and goats. Swine and fowl animal species are expressly prohibited. Other types of animals which could introduce unusual disturbance to the community or adjoining property owners are also not allowed.

Staff has received a request to allow llamas as "larger animals" within the ED district, but is hesitant to do so administratively due to the language defining larger animals as "specifically, cattle, horses, sheep, and goats." A letter from Sharon and Paul Brucato is attached, detailing their interest in the ordinance change.

Although the Brucato's request is specifically for llamas, staff further researched other related animal species to see if there might be others that the City should consider within this amendment.

Llamas belong to the taxonomic family of Camelidae which also includes alpacas, guanacos, vicuñas, and camels. Of these, only llamas, alpacas, and camels are considered domesticated. Based upon staff research, the size, behaviors, socialization, vocalizations, and sanitary habits of llamas and alpacas would be, in staff's opinion, no more intrusive in a semi-rural residential setting than those of other larger animals that are already allowed in the ED district such as horses, cattle, sheep, and goats. Camels, however, would likely be more difficult to contain due to their increased height, longer legs (particularly dromedaries), and tendency to assertively seek forage outside their enclosure which requires the use of taller, and sturdier, fencing than that typically used for horses and cattle. They also do not seem to be as suited to an urban or semi-rural residential setting for other reasons, not the least of which is their tendency to frighten horses. Since horses are commonly kept by residents in the ED district, this basic incompatibility between horses and camels may cause problems between neighbors and should, therefore, be avoided. Horses can also be initially frightened by llamas and alpacas, but staff's research revealed that horses more readily tend to accept llamas and alpacas after becoming familiar with them.

Types of Animals Allowed

The ED zoning district currently restricts "larger animals" allowed to "specifically, cattle, horses, sheep, and goats." The city's Code of Ordinances, however, currently includes llamas and alpacas in the following definitions:

"Domestic animal means any animal that may be kept as a pet or as livestock within the City of Plano so long as all of the required provisions of this chapter are met, ownership of said animal is not prohibited by any international, federal, local, or state law, and it is not a wild animal, as defined herein, including but not limited to the following animals:...

- Mammals – Any mammal commonly kept as pets or livestock including, but not limited to, dogs, cats, ferrets, rabbits, guinea pigs, hamsters, hedgehogs, rats, mice, chinchillas, sugar gliders, horses, cows, alpacas, and llamas."

"Livestock means or includes, regardless of age, sex, or breed: horses, consisting of all equine species including mules, donkeys and jackasses; cattle, consisting of all bovine species; sheep, consisting of all ovine species; llamas or alpacas; goats, consisting of all caprine species; rabbits; chickens; and pigs or hogs, consisting of all swine species."

For the purpose of regulating "large animals" within the ED district, staff is not comfortable utilizing either of these Code of Ordinance terms exclusively in the ED district due to the inclusion of fowl and swine species in both of them, which would conflict with the current ED prohibition against those types of animals. Additionally, rabbits may be considered both as livestock and domestic animals, creating a potential

conflict. Therefore, staff recommends utilizing the term “livestock” to address the need to regulate “large animals” within the ED district since it is a more specific term than “larger” animals. However, use of this term necessitates a specific limitation on the type of livestock allowed in the district, which has been provided. Staff also finds it may be helpful to clarify that domestic animals are allowed similar to other residential uses, specifically due to the inclusion of rabbits in both “domestic animal” and “livestock” Code of Ordinances definitions.

Breeding

Finally, during analysis of the ED district’s special requirements pertaining to animals, staff noticed that Subsection 2.802.4.a.iii (Breeding) Subsection 2.802 (ED-Estate Development) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) was vague in that it might be misconstrued to prohibit the owner of a non-equine domestic livestock animal from breeding for personal, or not-for-profit, purposes. To address this potential issue, staff also recommends modifications to that subsection to allow breeding of allowed livestock for personal or non-profit use, consistent with the numeric limitations on the ED district. Horse breeding will remain allowed for personal, non-profit, or commercial purposes.

RECOMMENDATION:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are shown as strikethrough text.)

Amend Subsection 2.802 (ED - Estate Development) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) to incorporate the term, “livestock”, in appropriate locations, and to clarify the meaning of Subsection 2.802.4.a.iii:

2.802 ED - Estate Development

3. Area, Yard, and Bulk Requirements

Description	Requirement
Minimum Lot Area	43,560 square feet, 85,000 square feet if any <u>livestock</u> large animals are kept

4. Special District Requirements

a. Animal Restrictions in the ED District:

i. Number

No more than two livestock ~~larger~~ animals, ~~specifically cattle, horses, sheep, and goats,~~ can be maintained per acre of lot area.

ii. Type

Livestock animals are limited exclusively to horses and other equine species, cattle, llamas, alpacas, sheep, and goats. Swine and fowl are expressly prohibited. Domestic animals are allowed consistent with the Code of Ordinances. Other types of animals which introduce an unusual disturbance to the community or adjoining property owners shall not be maintained.

iii. Breeding

No livestock ~~large~~ animals, other than ~~horses~~ equine species, shall be kept for commercial breeding purposes.

Zoning Case 2013-32

An Ordinance of the City of Plano, Texas, amending Subsection 2.802 (ED-Estate Development) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to allow modifications to animal restrictions within the Estate Development zoning district; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 13th day of January, 2014, for the purpose of considering a change in the Zoning Ordinance; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 13th day of January, 2014; and

WHEREAS, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Subsection 2.802 (ED - Estate Development) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended to allow modifications to animal restrictions within the Estate Development zoning district, such portion of subsection to read as follows:

Section 2.800 District Charts

Subsection 2.802 ED – Estate Development

3. Area, Yard, and Bulk Requirements

Description	Requirement
Minimum Lot Area	43,560 square feet, 85,000 square feet if any livestock animals are kept

4. Special District Requirements

a. Animal Restrictions in the ED District:

i. Number

No more than two livestock animals can be maintained per acre of lot area.

ii. Type

Livestock animals are limited exclusively to horses and other equine species, cattle, llamas, sheep, and goats. Swine and fowl are expressly prohibited. Domestic animals are allowed consistent with the Code of Ordinances. Other types of animals which introduce an unusual disturbance to the community or adjoining property owners shall not be maintained.

iii. Breeding

No livestock animals, other than equine species, shall be kept for commercial breeding purposes.

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 13TH DAY OF JANUARY, 2014.

Harry LaRosiliere, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY