

ITEM 3 CASE #08-02-UDC – HOLD PUBLIC HEARING REGARDING A UNIFIED DEVELOPMENT CODE AND CONSIDER A RECOMMENDATION FOR AN ORDINANCE

Receive public input and consider a recommendation regarding a request by the City of Euless to amend Code of Ordinances Chapter 84 “Unified Development Code” Section 84-7 “Definitions and work usage”, Section 84-84 “Permitted uses table”, and add Section 84-85 “Special conditions by use type” (aj) “Transient dwellings”.

Vice Chairman May reopened the public hearing.

Bradford Bullock, with the Law Offices of William M. McKamie, 13750 San Pedro, Suite 640, San Antonio, Texas 78232, representing the City of Euless, gave a brief description of the case. The Fair Housing Act requires cities to adopt and approve reasonable accommodations if requested by disabled individuals to give them the same opportunity to live in single family or multifamily dwellings as the nondisabled. The proposed amendments to the Unified Development Code would specifically identify individual land use categories that generally relate to accommodations for individuals with disabilities within the permitted use table and, as importantly, would establish the standards by which this city would provide “reasonable accommodations”. A new set of definitions would be adopted to provide clarification and a better understanding of these individual land use categories and related topics. It is through a clear understanding of how to classify these individual land uses, and which federal and state laws are applicable, that the city can establish the authority it needs to help preserve the residential character of single-family residential zoned property in the community. In accordance with federal and state fair housing laws, it is the purpose of this subsection to provide reasonable accommodations in the City’s zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability. An application would be made in includes the following information: Documentation that the applicant is: (i) an individual with a disability; (ii) applying on behalf one or more individuals with a disability; or (iii) a developer or provider of housing for one or more individuals with a disability.

1. The specific exception or modification to the zoning, subdivision or other land use provision, policy or practice requested by the applicant.
2. Documentation that the specific exception or modification requested by the applicant is reasonable and necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the residence.
3. Any other information that the Planning Director reasonably concludes is necessary to determine whether the finding required by Section 84-30(a)(1) can be made, so long as any request for information regarding the disability of

the individuals benefited complies with applicable federal law and the privacy rights of the individuals affected.

Commissioner Bearden asked if he were to open a probation home for parolee's would it be allowed in industrial zoning.

Mike Collins stated it would require a Specific Use Permit in the following zoning: C-2, TX-10, LI, I-1, and I-2.

Commissioner Bearden stated a home for parolee's that is not advertised but houses parolee's, such as a motel with TX-10 zoning, might house parolee's but it is not advertised as a parolee home.

Mike Collins stated the intent is to deal with primary land uses.

Bradford Bullock stated if a structure, regardless of who operates or owns it, houses 2 or more and is a paid entity with the purpose to house them for payment; then it is subject to this ordinance. Dealing with motels that happen to house parolee's could be subject to the ordinance but the owner might not have knowledge of the background of each tenant.

Commissioner Bearden asked if the ordinance clearly defines it as a land use rather than how many people are in a facility paying rent.

Mike Collins stated we would begin with the permitted use table to define the primary land use and then there would be further delineation in the special conditions by use type, which would provide definitions to determine the primary land use.

Commissioner Mennis asked if city staff was satisfied with the code.

Mike Collins stated that based on the recommendation of attorney Bradford Bullock staff is satisfied.

Commissioner Portugal stated an incredible amount of work has been put into this with good intentions.

Vice Chairman May asked if transient dwellings are permitted by right in any zoning.

Bradford Bullock stated it is permitted by right in single family up to a certain amount of transients. The dwelling is not subject to this ordinance until it reaches the seventh transient.

Vice Chairman May asked if there was any zoning that transient dwellings would not be permitted by right, such as in R-1 or R-2.

Mike Collins stated the term transient dwelling would be defined by what zoning category it is applied to. When you fall outside the single family it becomes a place of rooming and boarding.

Bradford Bullock stated the transient dwelling definition places responsibility on the owner to show that this definition does not apply to them.

Commissioner Bearden asked if a person sets up a parolee home or transient dwelling (group residential), would the city be allowed to regulate them in the first year if either had not turned over seven transients in a year.

Bradford Bullock stated a parolee home is not permitted in any single family zoning district.

Mike Collins stated if for example neighbors to a transient dwelling witnessed a turnover of six transients in a month's time frame it would not be necessary to meet the one year trial.

Commissioner Bearden asked if for example ten people moved into a dwelling for a 60 day treatment program and one person moves out, would that person count as one.

Bradford Bullock stated the person would be counted. There has to be guidelines to allow transient dwellings and a reasonable cut off of transients.

Mike Collins stated this ordinance has to meet a balance of privacy, the general welfare for the city as a whole, and meet the legal standards.

Commissioner Mennis made a motion to approve case #08-02-UDC. Commissioner Huffman seconded the motion. The vote was as follows:

Ayes: Vice Chairman May, Commissioners Huffman, Portugal, Bearden, Mennis

Nays: None

Abstention: None

The motion carried (5-0-0)