



Staff Report

DISCUSSION AND DIRECTION REGARDING AN AMENDMENT TO THE MUNICIPAL CODE SECTION 5-28 TO EXEMPT PYGMY GOATS FROM THE PROVISIONS OF CHAPTER 5, ARTICLE II

Honorable Mayor and Council Members:

Summary

The City Council is considering an amendment of the Belmont Municipal Code to allow a property owner to keep at their residence located at 2734 Montserrat Ave. two male neutered pygmy goats. Currently, Belmont Municipal Code Sections 5-28 and 5-33 prohibit the keeping of any goats unless the lot size is at least one acre.

Background

On May 16, 2005, staff received a written request from residents Kevin and Loretta Mar to keep two male neutered pygmy goats on their property located at 2734 Montserrat Avenue. The Council placed the item on the May 24, 2005 City Council agenda as an Item 9 and directed staff to return with a report. Attached hereto as Exhibit A are copies of the applicants' correspondence.

Discussion

Chapter 5 of the Belmont Municipal Code regulates the keeping of animals and fowl within the City. The entire Chapter was recently amended in 2003 to conform to new county animal control regulations. Article II, entitled "Keeping Domestic Fowl or Livestock", generally regulates the keeping of certain animals within the City. Section 5-28 states as follows:

The animals and fowl coming under the provisions of this article are any chicken, goose, duck, turkey, pigeon (except homing pigeon), dove, squab or similar fowl, or hare, rabbit, monkey, cow, sheep, llama, horse or goat.

Section 5-29 declares it unlawful and a nuisance for any person to keep and maintain such animals and fowl unless they are kept and maintained pursuant to provisions of Article II. Specifically, Section 5-33, entitled "Special Requirements for Keeping Horses, Cows, Sheep,

Llamas or Goats” states as follows:

Notwithstanding anything herein contained to the contrary, it is hereby declared unlawful and a public nuisance for any person or person to keep, maintain or possess a horse, cow, sheep, llama or goat within the city unless, in addition to all other conditions of this chapter, the following requirements are met:

- (1) The minimum lot area upon which any horse, cow, sheep, llama or goat may be kept shall be one (1) acre; and two (2) of such animals may be kept on such a parcel.
- (2) The minimum distance of the stable from any neighboring house existing at the time of issuance of the permit shall be one hundred (100) feet.
- (3) The minimum distance of the stable building from any neighboring property line shall be forty (40) feet.
- (4) The minimum distance of the corral from the neighboring property line or street line shall be twenty-five (25) feet.
- (5) The minimum distance of the stable from the residence on the same lot shall be forty (40) feet.
- (6) One (1) additional horse, cow, sheep, llama or goat may be kept on each one-half (½) acre in addition to the one-acre minimum.
- (7) Minimum distance of stable from street or front of property line shall be seventy-five (75) feet.
- (8) Subject to the approval of the planning commission, horses, cows, sheep, llamas or goats may be kept in a pasture containing two (2) or more acres.

(Ord. No. 983, Section 1, 2-11-03)

Section 5-35 specifically prohibits billy goats:

It is hereby declared unlawful and a public nuisance for any person or persons to keep within the limits of the city any stallion, swine, bull, ram or billy goat.

On May 25, 2005, staff sent a question through the City Planner’s list serve regarding pygmy goats. Of the three jurisdictions that responded, two noted that their code would outlaw such

animals. The third response indicated that they experienced a problem with pygmy goats based on noise and odor, resulting in the removal of the goats. Attached as Exhibit B are copies of the responses received.

Staff believes the Council should proceed cautiously on this item. Since only one request has been received to allow pygmy goats, the City would be amending the code city-wide for a single request. Further, as noted above, the existing ordinance requires a minimum setback of 100 feet between any stable building and a neighboring dwelling (Section 5.33-2). This is a common way to assure that the potential nuisances of noise and odor associated with non-domesticated animals would not be imposed on the neighbors. It would be difficult, if not impossible to achieve such a setback on most lots in the City, yet it would be waived for all lots by amending the code, as requested.

Amendment of the municipal code is a legislative function. Should the Council wish to amend the ordinance, staff recommends that language be inserted in Section 5-28, that would exempt male neutered pygmy goats from all provisions of Article II.

Fiscal Impact

No Fiscal Impact.

Public Contact

Posting of City Council Agenda.

Recommendation

Staff does not recommend amending this ordinance, which could have City-wide effects. On the other hand, there does not appear to be any other way to accommodate this particular applicant's individual request.

Alternatives

1. Deny the request to amend the code.
2. Grant the request to amend the code as indicated, and direct staff to prepare an ordinance code amendment.

Attachments

- A. Correspondence from applicant.

B. Responses to staff inquiries.

Respectfully submitted,

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Planning Director