

Memorandum

To: Geneva City Council
From: Matt Horn, City Manager
RE: Use of OEO Property by Proposed Egg Co-Operative
Date: February 14, 2011

At its regular meeting on February 2nd, City Council directed staff to compile, for evaluation, information on alternatives and required Council action relative to the proposed use of the OEO site for an Egg Co-Operative operation in downtown Geneva.

Project Description

As has been presented in recent months, local entrepreneurs Jeff Henderson and James-Emery Elkin are proposing the development of an egg production co-operative. The overall thrust of the operation of this project is that approximately 30 hens would be kept in a mobile cart on the site. These hens would be tended to by a corps of volunteers, who would be charged with feeding and care of the hens, as well as general maintenance of the site.

Hens would produce eggs, which would be distributed according to co-operative operating tenets.

Prohibition (Generally) on Keeping of Chickens in the City Limits

The Geneva City Code (Section 77) expressly prohibits the keeping of chickens and other fowl within the City limits in all zoning districts except Agricultural Residential (AR) and the Industrial District (F). In these districts, no chicken may be housed within 200 feet of any residence (except the owner's), church, apartment building, school, hospital or other building customarily occupied by humans.

The current proposed site is immediately adjacent to several occupied buildings, including apartments, and is in close proximity to a daycare facility that also would meet the definition of a school.

Current Planning/Zoning at OEO Site

The OEO site is located along Exchange Street in the Lakefront Commercial District of downtown Geneva. The site is contemplated in the zoning text and in long range plans, including City Council's most recent master plan amendment, as a location rooted in the development of a water-centric, tourism-driven economic revitalization strategy.

Options for Facilitation

While this is not a “by the book” zoning discussion, the primary basis of zoning, which is segmentation of uses across various “zones” of the community, applies. To that end, the municipal code effectively provides a “zoning direction” in the prohibition of a certain use (in this case, raising/keeping of poultry). While traditional zoning processes may not apply, the standard pitfalls, including opening ourselves to challenges on the basis of “spot zoning,” are rampant.

The only alternative for facilitating use of the OEO site in this manner is amendment of the municipal code. Council may choose to amend the code to provide for the use in all of the Lakefront Commercial District. This district effectively encompasses all of the City’s lakefront property south of Lake Street, and the east side of the Exchange Street corridor from Franklin Square to the Geneva Recreation Complex.

The implication of this decision is that the raising of poultry and fowl is compatible with other uses in the district. City Council would also have to amend the minimum distance requirement, as the proposed siting of the facility would fall well within prohibited spacing. This could have implications in the AR and F districts, as residences are found there as well.

Relative to these implications is the potential that City Council’s decision could open us up to challenges on two additional fronts. First, property owners in the district may claim that this use is detrimental to their property value, hence bringing a challenge in the form of damages. Second, property owners in other districts may raise issue with the methodology Council employed in selecting “compatible” districts. They may claim that their property is just as suited to this use as Lakefront Commercial.

While we can certainly debate the validity of either of these types of claims, the cost associated with answering the claims through the administrative or judicial processes could be significant.

Recent news releases indicated a desire by this operation to engage in beekeeping in future phases, another activity that is expressly prohibited in all zoning districts in the City.

Previous discussions about administrative remedies to zoning, including variances, do not apply here, as we are not dealing with outright zoning.

In order to amend the municipal code, Council would need to pass an ordinance on two readings.

Staff Recommendation

It is the recommendation of staff that Council take no action at this time. The use itself is permitted in two significant zoning districts in the City; both of which will achieve the stated objectives.

Finally, this use does not appear to conform to the economic development vision or to Council’s adopted Policies on Lakefront and Downtown Development, which state that:

“any development activity in this area will be reviewed for its economic contributions to downtown and the general Geneva market...be subject to rigorous architectural standards designed to complement the existing downtown stock...”

It would appear that the economic contributions afforded by this project to the area are relatively low, given the critical nature of the OEO site to our overall economic development program. Additionally, while initial renderings (attached) indicate that architectural treatment would not be harsh, it would certainly contrast, as opposed to complement, the mass and scale of the current built environment.

I welcome your comments.