



ZTA Petition No. 150

Date: January 20, 2010

STAFF REPORT TO THE PLANNING COMMISSION

SUBJECT: ZONING TEXT AMENDMENT NO. 150
APPLICANT: Jason D. White
PROPOSED: Text Amendment for Animal, Domestic

REPORT

Please find attached a proposed zoning text amendment initiated by Jason D. White, a City resident. Mr. White is requesting that the definition of "Animal, Domestic," be amended to include provisions to permit miniature pigs, and contends that a miniature pig is not a farm animal and therefore should be included in the definition of a domestic animal.

The questions are:

1. Is a miniature pig a farm animal?
2. If a miniature pig is not a farm animal, does it behave similarly to other domesticated animals and therefore could it be considered a pet?

The applicant has not specified wording for this amendment, but is requesting that pigs up to 45 pounds and 16 inches in height and perhaps limited to a specific breed, be permitted by right by inclusion in the definition of an "Animal, Domestic."

The discussion in this staff report relies primarily on information supplied by the expert opinions from swine specialists at Michigan State University (MSU), Cornell University, Penn State University, and Rutgers State University Departments of Animal Science. Observations from mini pig pet owners, as reported on their web sites, are also included as information in an effort to represent all aspects of the issue.

The City of Midland Zoning Ordinance defines ANIMAL, DOMESTIC and PET:

Article 2.00 Rules of Construction and Definitions, Section 2.01

ANIMAL, DOMESTIC: Any animal normally and customarily kept by domestic households for pleasure and companionship, such as dogs or cats, excluding farm animals.

PET: A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit or other similar animal that is commonly available and customarily kept for pleasure or companionship.

Miniature Pig defined: A definition of "miniature pig" is not supplied by the applicant nor is there one that staff can locate except that miniature pigs are smaller pigs that vary in size and are primarily used for research purposes. They do not include pot bellied pigs.

Farm Animal Defined: The Michigan Department of Agriculture uses the term "farm animal" and "livestock" interchangeably but only defines "Livestock."¹

287.705 Definitions; L to O.

(2) "Livestock" means those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camels, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

Swine specialists at each of the universities contacted defined swine as farm animals. However, one expert made the distinction between swine used for food production (farm animal), swine for research (research animal) and swine used as companionship (pet). The MDA notes that pot belly pigs are only kept as pets. All other breeds of swine are farm animals but some smaller ones are also kept as pets.

Purposes: Minipigs are primarily bred for research purposes and more recently have been owned as pets. Vietnamese pot bellied pigs of various sizes arrived in the United States in the 1980's as the original pig used for a pet. There have been a variety of pigs bred for use as pets since that time and there is a great deal of information available from pet breeders and owners discussing these pigs, their virtues and drawbacks. The request at hand does not include pot bellied pigs.

Issues to consider: An expert opinion from a swine specialist at MSU and the National Swine Resource and Research Center at the University of Missouri

¹ Animal Industry Act, P.A. 466 of 1988, as amended.

identified three issues that are of importance when evaluating the suitability of swine as pets.

1. **Size.** Miniature pigs vary in size and it is difficult to determine how large they will become. Some are as small as teacups² and others as large as 250 pounds. All experts agreed that it is very difficult to know exactly how big a pig will become due to their intrinsic nature to root and eat anything they can find on a continual basis.³

Swine experts noted that most small animal veterinarians in suburban settings do not have the training to treat a pig of any size and that it is unlikely that there are kennels that will keep pigs. Similarly, as an unusual pet that requires outdoor time, pigs may be subject to poor treatment by others if not supervised.

2. **Behavior.** Pigs can be litter trained, walked on a harness, and trained to perform some tricks and some tasks. Swine experts note that they cannot be trained like a dog to obey verbal commands.⁴ They are characterized as smart but not from a behavior standpoint. There were several nuisance aspects cited.

By nature they root, or dig up ground looking for food. This can result in escape from fencing and disturbance to gardens and lawns. Several experts noted that a poorly trained dog could do as much damage as a miniature pig in a yard and therefore prohibiting pigs does not prohibit poor pet care and maintenance.

The manure produced by a pig is greater than that of a dog of similar weight, although there are no available statistics to support this observation. Manure can be easily disposed of in household waste but must be picked up from yards on a regular basis, just like that of a dog.⁵

There were many concerns about the inability to contain a pig in a yard with traditional fencing. Pigs are diggers and several experts suggested that something similar to a rat wall might be necessary to prevent escape. All swine experts felt that pigs must have time outdoors and must be contained. Pigs will roam and cannot be taught to stay in their own yard. It is unknown if they can be contained with invisible fencing and other similar devices.

Pigs are not vicious by nature but will bite when threatened or bothered. Swine experts were concerned about the interaction among dogs, cats

² <http://www.teacuppiggies.com/>

³ Expert opinion from swine specialists at Penn State, Cornell and MSU.

⁴ Expert opinion from a swine specialist at Michigan State University.

⁵ Expert opinion from swine specialists at Penn State.

and miniature pigs, even if they are only showing curiosity for each other. This may result in attacks or threatening behavior. Similar concerns were noted for interactions with children that are unfamiliar with them. However, some university sources cautioned that they do not think of swine as pets and that pigs may be more approachable if treated as a pet rather than as a source of food or a research subject.

Excerpts from a pig owner's characterization follows:⁶

Firstly let me say miniature pigs are adorable, lovable, playful and mischievous. They are very intelligent, easy to house train and can provide a lot of enjoyment to their owners.

However, pigs are also very headstrong, demanding and persistent if they don't get their own way, and are always finding new ways to get into mischief!

Pigs love to dig and are absolute water monsters.

Pigs are also escape artists! Even the most "pig proof" enclosures seem to be no match for these cunning creatures. If they want to get out they will find a way (I did say they were intelligent didn't I?). Just when we think we have found all her escape routes, Truffles will miraculously appear in the adjoining paddock having raided the chook pen and eaten all of their seed and then, just to amuse herself, will chase all of our alpacas around.

Left unsupervised in the house, Truffles has upended the kitchen spreading its contents all over the floor, found the dog food container and gorged herself on its yummy contents, gotten into my handbag eating all of my throat lozenges and headache tablets, and has even eaten a rat bait showing absolutely no signs of feeling the slightest bit "off color" afterwards.

So, back to the original question "Do miniature pigs make good pets?" Well, if you are house proud, take pride in your manicured lawns and garden, or don't have time to devote to meeting the demands of your pet, then a pig is definitely not the pet for you.

- 3. Disease.** The primary concern regarding disease is the ability to transfer disease from pigs to other house pets and in some instances to humans.⁷ Experts agreed that this is highly unlikely that there will be disease transferred if the pig is always contained and does not come into contact with other pets or left to run wild.

There is a strain of psuedorabies in Michigan among wild pigs in the northern part of the state but not in the general swine herd population.⁸ This disease is always fatal in cats and dogs and can be transmitted to

⁶ <http://therealowner.com/exotic-unusual/miniature-pigs-as-pets/>

⁷ Expert opinion from a swine specialist at the University of Missouri National Swine Resource and Research Center.

⁸ Expert opinion from a swine specialist at Michigan State University.

humans. Miniature pigs from reputable breeders should be certified to be disease free.

There are communities, particularly on the west coast, that permit pigs as pets. Most do not regulate the size of the pig. Some regulate the size of the parcel in order to keep a pig.⁹ Some communities report difficulty with tearing up lawns and other aesthetic concerns resulting in neighbor disputes due to appearance.

ASSESSMENT

In accord with Section 30.03(C) of the Zoning Ordinance, the Planning Commission and City Council shall at a minimum, consider the following before taking action on any proposed zoning ordinance text amendment:

1. Is the proposed amendment consistent with the City's Master Plan?

Yes. The Master Plan provides the broad guidance for land use decisions and forms the basis for the zoning regulations. Clarity in the zoning regulations helps to carry out the goals of the Master Plan.

2. Have conditions changed since the Zoning Ordinance was adopted that justifies the amendment?

No. We are not aware of an influx of miniature pigs or requests for miniature pigs as pets in the City that would constitute a change in local conditions. However, since the importation of miniature pigs to the US in the 1980's, swine have become more common as pets.

3. Was there a mistake in the Zoning Ordinance that justifies the amendment?

No. The Zoning Ordinance has addressed the definition of ANIMAL, DOMESTIC and PET most recently in the revisions made in 2006. At that time there had been no requests for keeping miniature pigs as domesticated animals that staff is aware of.

4. Will the amendment correct an inequity created by the zoning ordinance?

Possibly. Should the Planning Commission choose to recommend to the City Council to amend the definition of "Animal, Domestic" it would be to address the conclusion that it is an inequity among pet owners to be able to keep a dog as a pet, for instance, but not a miniature pig.

5. Will the amendment merely grant special privileges?

No. The opportunity to keep a miniature pig as a pet will be open to anyone who chooses.

⁹ http://www.petpigzone.com/PPZpacket_info.asp

6. Will the amendment result in unlawful exclusionary zoning?

No. If this definition is amended, anyone may keep a miniature pig as a domesticated animal or pet.

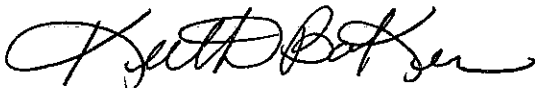
STAFF RECOMMENDATION

Upon careful review of the requested zoning change staff recommends denial of Zoning Petition No. 150. It is the opinion of staff that a miniature pig could be considered a nonfarm animal but does not exhibit enough of the characteristics of a domesticated animal due to nuisance characteristics to be considered a pet. We find that this request is inconsistent with the goals of the Master Plan and intent of the Zoning Ordinance.

PLANNING COMMISSION ACTION

Staff currently anticipates that the Planning Commission will set a public hearing on this matter at their January 26th meeting for February 9th, 2010. It will formulate a recommendation to City Council during its regular meeting of February 9th. We further anticipate that on February 15, 2010 the City Council will set a public hearing on this matter. Given the statutory notification and publication requirements, the City Council hearing will likely be scheduled for March 8, 2010. Please note that these dates are merely preliminary and may be adjusted due to Planning Commission action and City Council agenda scheduling.

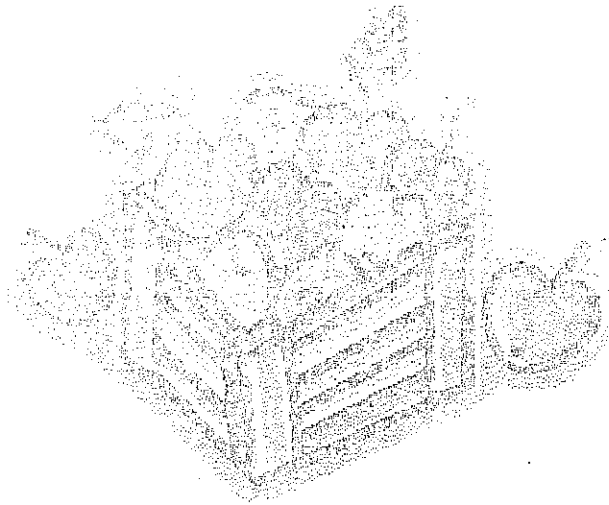
Respectfully Submitted,



Keith Baker, AICP,
Director of Planning & Community Development

/cw

Pig in a Poke



**A request for council review of the City of Midland Zoning Ordinance
as it pertains to the guardianship of "non-traditional"
domesticated animals.**

Presented by

Jason White
1313 W. Hines St.
Midland, MI 48640

COPY

JASON D. WHITE

1313 W. Hines St.
City of Midland
Midland County
48640
(989) 835-1653

September 30, 2009

Midland City Council
333 W. Ellsworth Street
Midland, MI 48640

Dear Esteemed Council Members;

I'm writing you at this time in the hope that I can convince you to re-examine the City of Midland Zoning Ordinance in relation to how it negatively effects a very specific situation regarding my family. The ordinance of which I speak has to do with the ownership or, more accurately, guardianship of animals within city limits. As the ordinance currently stands, my family cannot obtain the household pet that we would like to have without violating the law. However, we would be doing so not by owning a violent or dangerous animal but simply by choosing an animal that falls (barely) outside of a predefined definition as to what is normal or customary.

Within the following pages I would ask that you please permit me to plead my case. I will do my best to present my argument as effectively as I can. In doing so I can only pray that you will take the time to review the ordinance and perhaps see my side of things.

I look forward to hearing from you very soon.

Sincerely,

Jason White

THE LAW

As I am sure you know, the current City of Midland Zoning Ordinance restricts "pet" ownership within city limits as follows (as taken from Article 2: Section 2.02 within the Rules of Construction, Definitions) :

- ANIMAL, DOMESTIC: Any animal normally and customarily kept by domestic households for pleasure and companionship, such as dogs or cats, excluding farm animals.

With farm animals (as referenced above) defined as follows:

- ANIMAL, FARM: Any animal normally and customarily used in farming operations such as horses, cows, goats, pheasants, chickens, ducks, geese, sheep, hogs, potbellied pigs or other poultry or fowl, and any other non domestic animal.

~

HOW THIS PERTAINS TO THE MATTER AT HAND

The animal that I am trying to obtain as a household pet for my family is a breed of swine called a "mini-pig". For those of you who may not be familiar with this particular breed, please allow me to introduce this animal to you. Mini-pigs are exactly what they sound like, miniature pigs. They only obtain a height of about 16 inches and a max weight of about 45 lbs. It's important to note that these are not pot-bellied pigs. Pot-bellied pigs, even at their smallest, can easily reach weights of over 100 pounds. Think of a pig the size of a cocker spaniel and you have a pretty good estimation of a mini-pig. Like their full size cousins, mini-pigs have no fur which means that there is no excessive shedding to worry about nor is there concern over fleas and ticks. Like any animal, each mini-pig will have their own personality but as a general characteristic this breed is well behaved and great with children. Most of the research I have done has indicated that most people compare their mini-pigs to lap dogs or a more interactive version of a house cat. Much like a dog or cat, mini-pigs can be easily litter trained as well. Rather clean animals, the mini-pigs will consistently maintain their "potty" habits in an effort to keep their potty area well separated from their living and eating area. They do need to have some outdoor time, but not nearly as much as their full size cousins. This equates to considerably less stress on the yard. Whereas a regular or pot-bellied pig would need to spend the majority of it's time outside (resulting in much more lawn consumption and burrowing in the soil) a mini-pig would only require only brief periods outside for grazing, sunning and bathing in the sprinkler on hot summer days. Here are some comments regarding mini-pigs that were taken from a few websites dedicated to the breed:

"They are wonderful pets as they are very quick to learn. They can be leash-trained and litter-trained as well as be taught to perform tricks. They are very loyal, affectionate, and intelligent requiring a lot of human interaction. Most piggies are hypoallergenic so they make great pets for people with allergies. They are easy keepers as they don't require a lot of pig feed. A minimal amount of feed twice a day as well as some fresh fruit and vegetables will do. They are able to graze in the warm weather but must have plenty of fresh water and shade in the summer and warmth in colder weather".

"Mini-pigs are an ideal pet for children who suffer allergies to other animals, since they are an allergy free suitable pet. Your new pig will bond with you over a few days. Once bonded to you and your family, it is good to establish a daily routine".

"Mini-pigs are very hardy, easy to care for, no trouble to house train, are calm and cause no pet allergies".

MY ARGUMENT IN SUPPORT OF MINI-PIG GUARDIANSHIP

WORDING:

I. CHALLENGES OF A RIGID "FARM ANIMALS" DESIGNATION

- A. According to TheFreeDictionary.com, a farm animal is defined as "any animals kept for use or profit". Our mini-pig would be kept for niether.
- B. According to the USDA [FN89], farm animals include "any species of cattle, sheep, swine, goats, llamas, or horses which are normally and have historically been kept and raised on farms in the United States, and used or intended for use as food or fiber, or for improving animal nutrition, breeding, or production efficiency, or for improving the quality of food or fiber". The mini-pig breed have not been commonly found or used on farms for such purposes. Mini-pigs have historically been bred primarily for use as research animals and only recently as house pets.
- C. Within the final stanza of the City of Midland Zoning Ordinance regarding the FARM ANIMAL designation, it is stated that such animals are "non domestic". However, a quick Wikipedia.org search can bring up a compiled list of domesticated animals which includes the pig and states that domestication of this animal is believed to have taken place as far back as 9000 BC in ancient China.

II. SUPPORT FOR A "DOMESTIC ANIMAL" DESIGNATION

- A. Please refer back to subheading I : section C. above.
- B. According to TheFreeDictionary.com, a domestic animal is "any of various animals that have been made tame and made fit for a human environment". Once again, the sheer fact that mini-pigs have primarily been bred for research purposes (and more recently as house pets) proves that they fit this criteria.
- C. According to Dictionary.Reference.com, a domestic animal is "an animal, as the horse or cat, that has been tamed and kept by humans as a work animal, food source, or pet, esp. a member of those species that have, through selective breeding, become notably different from their wild ancestors". This definition works to defy the City of Midland Zoning Ordinance's definition of FARM ANIMAL by including the horse as a domestic animal. In addition, this definition also supports the specific breeding practices of the mini-pig as inherent to domestic animal populations.
- D. According to the National Parks of Canada Domestic Animals Regulations, domestic animals are defined as "an animal of a species of vertebrates that has been domesticated by humans so as to live and breed in a tame condition and depend on humankind for survival". Certainly a hallmark trait of any animal being kept as a pet is the dependence upon their human providers. Mini-pigs are no different.

- E. According to subsection 823.041 of Title XLVI of the Florida Statutes, "Domestic animals shall include any equine or bovine animal, goat, sheep, swine, dog, cat, poultry, or other domesticated beast or bird". Here again is another source citing the pig as a domestic animal and not merely a farm animal.

III. SUPPORT FOR A "COMPANION ANIMAL" DESIGNATION

- A. Under the heading of PET within Section 2.02 of Article 2: Rules of Construction, Definitions in the City of Midland Zoning Ordinance, the following definition can be found: "A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is commonly available and customarily kept for pleasure or companionship". Couldn't it be said that any pet, any true pet and not work animal, is being kept for pleasure and companionship? If you allow that statement to stand, and if you take into consideration that a mini-pig (or pig) is a domesticated animal, is it not reasonable to assume then that a mini-pig could be classified as a "companion animal"?
- B. According to the ASPCA website, "The ASPCA believes that companion animals should be domesticated or domestic-bred animals whose physical, emotional, behavioral and social needs can be readily met as companions in the home, or in close relationship with humans". I don't see anything here which restricts the type of companion animal to only a few select breeds.
- C. Closely tied into the position of the ASPCA spelled out in the above section, the Michigan Bar weighs in on the matter via their position as stated in Section 9.100: subsection (j). "Domesticated Companion Animal means an animal that has traditionally, through a long association with humans, lived in a state of dependence upon humans or has been traditionally kept as a household pet, including but not limited to: dogs, cats, hamsters, gerbils, ferrets, mice, rabbits, parakeets, parrots, cockatiels, cockatoos, canaries, love birds, finches, and tropical fish". I believe the key words here are "but not limited to". Also, should a governing body have the right to determine what kind of companion a person wants or desires?

IV. SUGGESTIONS FOR A POSSIBLE SOLUTION

- A. Rezone the city. **Impossible**
- B. Rezone my neighborhood. **Impractical**
- C. Revise the city ordinance to (in writing) characterize pigs as domestic animals, thereby making them legal to own within the city. Perhaps this could be done utilizing a breed designation. Those swine breeds of a certain size (the smaller breeds) could be allowed within the city while the remaining, much larger breeds would still be restricted to the agriculturally designated zones.

- D. Institute a Domestic Animal Permit Program. The Charter Township of Bridgeport, Michigan has one such program. See the Domestic Animal Ordinance of the Charter Township of Bridgeport, Michigan ordinance number 76-3 effective 05/05/76 and revised in 06/09/03. Under this program individuals may own "non-traditional" domestic pets providing they apply for and obtain a permit for each animal. These permits are valid for two years and are contingent on the animal's guardian fulfilling certain mandated criteria for the care of the animal. The city still retains the right to step in and revoke a permit should it be discovered that the animal is being abused, neglected, or is becoming a nuisance to surrounding property owners. It appears to be a successful program and one that generates additional revenue for the city / county.

Conclusion:

Based upon the information presented, it is my belief that a mini-pig is in fact a domestic animal at the very least and a companion animal at it's best. That having been said, it is also my belief that as a domestic animal the mini-pig should be entitled to the same allowances as more traditional household pets enjoy.

WHY THIS IS SO IMPORTANT TO ME

My wife and I have an eight year old son, Ethan. Ethan is an energetic, imaginative, truly incredible little guy - the real joy of each and every one of my days. He also happens to be an only child. That having been said, my wife and I have always wanted to surround Ethan with pals to play with - be that other kids or companion critters. It was much easier when he was little. A goldfish in a bowl did just fine. But as he got older, much like any other boy his age, Ethan began to desire a more "interactive" pet. After all, you can't really play with a fish now can you. But that is also the time we began to discover that Ethan was exceedingly allergic to most traditional pets. The fur and dander proved to drive his eyes and nose crazy. Not that we didn't try. We currently have a pet rabbit that has been with us for over a year now. Yet sadly enough, our rabbit is sequestered to the basement as Ethan can only be in his company for very brief period of time. So that is when I began to do research on less traditional pet options.

When I discovered the mini-pig I figured I hit pay dirt. Here was an animal that my son could play with without having a sneezing fit and yet it was still small enough to keep in the house. In addition, by being able to handle the mini-pig without an allergic reaction the animal could serve yet another purpose that my wife and I had been hoping for - a teaching tool. We've always wanted to give Ethan every opportunity to grow and take on more responsibility and we thought a pet would be a fun way to do so.

So here I am. I finally found what I believe to be the best pet for my family. I have one available to me from a reputable source. I have the ability, know-how, and interest to take excellent care of such an animal. And yet I can't bring it home without facing infractions and fines. I hope you can see how frustrating this would be. I'm obviously not trying to start a farm here. I just want to bring home a little addition to our family that we can all enjoy. I'm asking you... no, I'm pleading with you to help me do this for my family. It would mean so much.

Thank you for your time and consideration,

Jason White