

IN THE SUPERIOR COURT OF WHITE COUNTY  
STATE OF GEORGIA

2009 JUN 11 PM 6:01  
CW42 188-99

BILL HOLTZCLAW, TERESSA HOLTZCLAW, )  
DELBERT GREER, NANCY GREER, )  
CITIZENS TO RESTORE THE PEACE; )

Petitioners, )

v. )

CITY OF HELEN, GEORGIA, GREG ASH, )  
DONA BURKE, JACK CHAMPAGNE, DAVID )  
GREER AND HELEN WILKINS; )

Respondents. )

Civil Action File No.

2009-CV-0377-MM

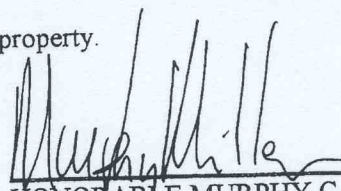
ORDER GRANTING WRIT OF MANDAMUS

The above and foregoing Petition having come before the court for a hearing on June 11, 2009, the parties being present and represented by counsel, and the court having reviewed the exhibits and considered the briefs and arguments of counsel;


It is the finding of this court that the site plan that was submitted by Bill Adcock as part of the application for the conditional use permit in 2003 limits usage on the subject property to the uses shown thereon and that the public had a right to rely on the uses shown on that site plan in 2003 in determining whether to oppose the permit. The only use shown on that site plan was for a mini golf course. There was no use shown for helicopter rides. City of Helen Ordinance, Section 34-131.2(b), prohibits a permit from being issued for any use not shown on the site plan. Therefore helicopter rides were not noticed and there was no public hearing for helicopter rides on the property in 2003 and it is not a permitted use of the subject property under the 2003 conditional use permit. This

issue being dispositive, the court need not reach any of the other issues raised in the Petition.

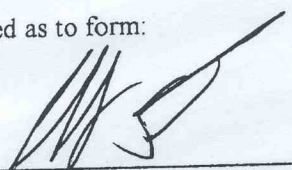
THEREFORE IT IS HEREBY ORDERED that a Writ of Mandamus is granted requiring a new application for a conditional use permit for any use other than a mini golf course be processed under all provisions of the Zoning Procedures Law before any additional use can be allowed on the subject property.

  
HONORABLE MURPHY C. MILLER  
JUDGE, ENOTAH CIRCUIT  
WHITE COUNTY SUPERIOR COURT

Presented by:

  
David D. Blum  
Georgia Bar No. 064500  
Attorney for Petitioners

Approved as to form:

  
Carl S. Free  
Georgia Bar No. 275190  
Attorney for Respondents