



# City of Roswell

38 Hill Street  
Roswell, Georgia 30075

## Meeting Minutes Mayor and City Council Zoning

*Mayor Jere Wood*

*Council Member Rich Dippolito  
Council Member Lori Henry  
Council Member Kent Igleheart  
Council Member Jerry Orleans  
Council Member Becky Wynn*

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Monday, August 10, 2009

7:30 PM

City Hall

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### WELCOME

#### Pledge of Allegiance - Deputy City Administrator Michael Fischer

**Present:** 6 - Mayor Jere Wood, Council Member Rich Dippolito, Council Member Lori Henry, Council Member Jerry Orleans, Council Member Kent Igleheart, and Council Member Becky Wynn

*Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; Assistant City Attorney Bob Hulse; Community Development Deputy Director Clyde Stricklin; Planning & Zoning Director Brad Townsend; City Planner Kenwin Hayes; Economic Development Manager Bill Keir; Director of Transportation Steve Acenbrak; Environmental/Public Works Director Stuart Moring; Community Relations Manager Julie Brechbill; Mayor's Executive Assistant Robyn Kenner; Building Operations Technician Doug Heieren; and Deputy City Clerk Betsy Branch.*

### REGULAR AGENDA

#### Mayor's Report

1. **Proclamation for Angel Flight of Georgia.**

*1. Proclamation for Angel Flight of Georgia.  
Mayor Wood conducted the reading of the proclamation. The proclamation honored Angel Flight founder James H. Shafer, pilots, and medical air staff. James Shafer founded Angel Flight in 1983 to fly blood and organs for the Red Cross and other health related agencies throughout the southern states. For the past twenty-six years Angel Flight of Georgia has been providing free air transportation for patients requiring medical treatment not available locally. The proclamation also recognized Roswell Police Sergeant Bill Anastasio, a Roswell Police officer of twenty-five years, who was inspired to coordinate the First Annual Tristan's Dice Run benefit ride with the Blue Knights Police Motorcycle Group to raise money for Angel Flight of Georgia, to be held on Sunday, August 16, 2009. The Mayor recognized the following people: Barbara Franklin, whose husband was an Angel Flight patient; Angel Flight Pilots: Richard Terrell, Doug Crosby, Marty Zoebel, Bill Moscow, Sharon Moscow, Ron*

*Hollis, Mark Olsen, Glenn Stoops, Dennis Woodfin, and William Evans; Angel Flight Staff: Bernadette Darnell, Charles Deloney, Patti Atkins, Pat McMaster, Donna Dalziel and Nancy Blasingame; Blue Knights spokesman: Chris Ehlbeck.*

### **Introduction of Peter Vanstrom - candidate for Council**

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*Mr. Vanstrom, a resident of the Inverness Subdivision, stated he would like to see the City of Roswell keep its infrastructure solid as the city ages; the city has redevelopment and transportation issues which need to be addressed. He said his goal is to keep Roswell beautiful and to address the "decay in the City which is not out of hand yet, but we just need to stay on top of it."*

### **Introduction of John Albers - candidate for GA State Senate**

*Introduction of John Albers - candidate for GA State Senate*

*Mr. Albers a resident of Roswell, works in Roswell, and is a fourth generation firefighter. Mr. Albers stated "It is time to end the complacency and the apathy and really get something done with water, transportation, the economy, Milton County, and much more." Mr. Albers stated it was over twenty years when the toll booths were put up on Georgia 400 to pay for that highway; the highway has been paid for so those toll booths should come down.*

### **Transportation Department - Councilmember Becky Wynn**

6. **Approval by the Mayor and/or City Administrator for Budget Amendment BA 1585CP 08-10-09 to move funds in the amount of \$24,950 from the South Atlanta Contingency Account into a new project account to fund the moving of the house at 426 South Atlanta Street.  
*Presented by Steve Acenbrak, Director***

*This item was called out of original agenda order.*

*6. Approval by the Mayor and/or City Administrator for Budget Amendment BA 1585CP 08-10-09 to move funds in the amount of \$24,950 from the South Atlanta Contingency Account into a new project account to fund the moving of the house at 426 South Atlanta Street*

*Director of Transportation Steve Acenbrak and Interim Community Development Director of Community Development Clyde Stricklin presented the item. Mr. Acenbrak stated the two departments were working together quickly with local businesses to help improve the South Atlanta Street corridor. The Community Development department commissioned a study several months ago, to review the status of historic properties along South Atlanta Street. Mr. Acenbrak noted that 426 South Atlanta Street is one of the properties impacted by the South Atlanta Street redevelopment; it is now under new ownership and undergoing extensive renovations in preparation for a new business venture. A graphic was displayed showing the plans for South Atlanta Street and the City's plans to move the building back fifteen feet on its site, so that it would "basically line up with the Sugo Restaurant and that facility which is just to the south of it." Mr. Acenbrak stated there is now an opportunity to move the facility at a very reasonable price. This request was to seek Council permission for funding the movement back of this property in order for it to be put online as a business and out of harms way, as far as the City's future redevelopment efforts are concerned for this area.*

*Council comment:*

*Councilman Dippolito noted that during the Blue Ribbon Committee meetings regarding this redevelopment, the committee looked at this property and its surrounding properties, anticipating some potential access from South Atlanta Street. He asked if interparcel access would be available with the move. Mr. Acenbrak replied yes, the parcels are fairly deep. Mr. Acenbrak pointed out the location on the graphic and noted the connections Mr. Dippolito referred to, as well as a possible parallel network to be built in that area, of which the final location for that has yet to be determined. Mr. Acenbrak stated "We believe that moving this property back still has long term value." Mr. Dippolito asked if there would be an opportunity to potentially get from a rear street out to South Atlanta Street and if it is being designed in such a way to provide for that. Mr. Acenbrak answered yes; on a photograph he pointed out South Atlanta Street, and the driveway leading to parking in the back showing "quite a bit of room in the back for future access and interparcel access."*

*Mayor Wood stated it was his understanding that the City is moving this building so that if the Council decides to "four lane" South Atlanta Street, this historic property will be far enough away to allow the City to do that. Mr. Acenbrak replied that was correct. Mayor Wood added Council has not yet made a commitment to widen South Atlanta Street, but this would provide the City the possibility to widen it without having to impact a historic property. Mr. Acenbrak replied "That is correct, or an online business at the time, since this property is currently vacant." No further discussion.*

*Motion: Councilwoman Wynn moved for Approval by the Mayor and/or City Administrator for Budget Amendment BA 1585CP 08-10-09 to move funds in the amount of \$24,950 from the South Atlanta Contingency Account into a new project account to fund the moving of the house at 426 South Atlanta Street. Councilman Dippolito seconded. No public comment was made. No further discussion by Council. The motion passed unanimously.*

**A motion was made by Council Member Becky Wynn, seconded by Council Member Rich Dippolito, that this Item be Approved. The motion carried by the following vote:**

**In Favor: 5**

**Community Development - Councilmember Richard Dippolito**

2.

**PV09-01 Parkway Village, Race Trac, 225 Crossville Rd.,  
Wendy Butler & Assoc., Land Lot: 430  
Presented by Brad Townsend, Planning and Zoning Director**

*2. PV09-01 Parkway Village, Race Trac, 225 Crossville Rd., Wendy Butler & Assoc., Land Lot: 430*

*Planning and Zoning Director Brad Townsend stated the item is within the Parkway Village district; the subject property is approximately 2.8 acres, located at 225 Crossville Road in front of the United States Postal Service facility. The applicant is requesting several variances including a stream buffer variance request. The applicant is proposing to construct a convenience store with 18 gas pumps; he reiterated that the subject property is within the Parkway Village Overlay District with an underlying designation of R-1 (Single Family Residential District).*

*Mr. Townsend noted there are seven variances requested dealing with the separation from residential by the fuel service by a minimum of 400 feet; a streetscape variance;*

*a stream buffer variance; an encroachment of interior buildings; variance related to the number of parking spaces; variance to allow for the frontage of less than 400 feet.*

*Parkway Village Variances*

- 1. Vary the requirement that the proposed building be at least 400' from the nearest residential district line pursuant to Section 12.2.8(11) of the City of Roswell Zoning Ordinance. The proposed development is approximately 315' from the nearest residential property line.*
- 2. Vary the 40' streetscape theme as required by Section 12.2.3(a).*
- 3. Increase the maximum number of parking spaces from 20-54. Eighteen (18) of the 54 are associated with the pumps.*
- 4. Allow encroachment into the 40' landscaped buffer area as required pursuant to Section 12.2.3(l) along the eastern property line.*
- 5. Allow encroachment into the 30' interior building setback required pursuant to Section 12.2.3(l) along the eastern property line adjacent to the 40' landscaped buffer.*
- 6. Allow encroachment into the 75' no impervious buffer and 50' no disturbance buffer from the stream bank required pursuant to Article 21.1.9(a) and (b).*
- 7. Allow a variance from the requirement that the PV property have 400' frontage. The subject property only contains 225' of frontage along SR 92.*

*Mr. Townsend stated staff recommended the denial of this application dealing with the impact to the existing stream, the encroachment to the 75' impervious buffer, the construction of the retaining wall within the 50' buffer, as well as the severe topographical change to the site which would impact the stream.*

*Mayor Wood asked the Assistant City Attorney, Bob Hulsey, to advise Council on the Standards of Review when a variance is requested under the Parkway Village Ordinance. Mr. Hulsey stated "The Standard of Review for any variance is that it must be a hardship; the applicant has to demonstrate that, for some very unusual or intractable topographical feature, they would not be able to develop the property." No further discussion.*

*Applicant:*

*Wendy Butler, 9875 Medlock Bridge Parkway, Johns Creek, GA, representing the applicant, the United States Postal Service, and RaceTrac Petroleum. Ms. Butler noted this is a very difficult site with a number of significant challenges. She noted the overall property is 12.45 acres but the developable portion is approximately 2.85 acres; there is a 75' stream buffer setback in the front; a 45' buffer would be required on the eastern property line coupled with the 30' setback. There is 70' on that side which leaves a very small portion of the property to put any kind of development on this particular piece of property. The subject property is located at a signalized intersection of Highway 92 and the access road for the 32,000 square foot postal service distribution facility. She stated this has approximately 130,000 square feet of impervious surface; a full 175' buffer along the perimeter of the property adjacent to residential. Ms. Butler stated that buffer will remain intact notwithstanding any development that is being proposed. She added there is significant tree coverage along that buffered area to provide dense coverage and screening for any proposed development. Ms. Butler stated "The substantial grade change referenced in the staff report is not being impacted by the development; the substantial grade change occurs in the middle of the stream. The substantial grade change being impacted by the development is only on the eastern side of the property where the access road is being proposed." She said that access road must remain exactly where it is because that is the only place providing access for this property and the adjacent property because of the pond and the stream which runs across the front portion of the*

property. She said the site is unusually narrow and shallow in its development envelope due to the stream along the front and the existing development along the rear; it is also "challenged to broaden the area to relieve that hardship because of the stream buffer that runs along the entire frontage and there is a large pond on the adjacent property." Ms. Butler displayed the proposed site plan and pointed out nine pump islands containing 18 pumps, two on each side; the rear has the existing 32,000 square foot postal facility; the property including the 75' buffer, which would remain; the arc represented the measurement of the 400' distance required between structures and residential property lines. Ms. Butler noted the applicant requested a number of Parkway Village hardship variances. She said the Parkway Village Ordinance states "the Mayor and Council may waive one or more of the specific requirements applicable to this site located in the overlay district; the applicant for any such waiver shall have the burden of showing that the proposed project with such waiver granted will be as good or better than the project developed in compliance with the overlay ordinance." Ms. Butler stated "I think that is a little bit different standard than what the City Attorney was mentioning. I think he might have been mentioning the general variance standard but this is a hardship variance request; in conjunction with Section 12.2.6 of the Zoning Ordinance."

Ms. Butler stated the applicant's first variance request is regarding a building setback which must be 400' from the nearest residential property district. She said the site plan showed a very slight encroachment into the adjacent residential property; this piece of property is at the edge of the Parkway Village District. Ms. Butler stated the 175' buffer running along the perimeter of the property protects the property owners from this use and from the existing postal facility. Ms. Butler stated there would be no spillage of light with that buffer or sound going beyond this particular piece of property. Ms. Butler stated there is also a precedent set for this type of encroachment into the 400' setback; just west of this property is the Quick Trip located 266' from residential zoned property.

The second variance request is regarding the 40' streetscape theme along Highway 92, of which she said the entire intent of that provision and requirements will be met; this variance is necessary is "because you have a stream running through the 40' that runs along the frontage of this property." She added there will be adequate landscaping which is consistent with the requirements of the ordinance.

The third variance request is to increase the maximum number of parking spaces from twenty to fifty-four. Ms. Butler stated there was a precedent set and there is a provision of the ordinance that allocates each one of these gas pumps as a parking space; if there are nine pumping stations, that is eighteen parking spaces. Ms. Butler stated they are asking for fifty-four; up the street at the Quick Trip they have fifty-five. They have ten pumping stations, for a total of twenty pumps, which would absolutely max out the number of parking spaces that you could put on that gas station or any gasoline service station in the Parkway District."

The fourth variance request is for the encroachment into the 40' landscape buffer upon the eastern portion of the property. Ms. Butler stated it is combined with also a 30' interior building setback, for a total of 70' for the placement of any building or any structure within that side property line. She requested that the property be looked at in the context of the intent of the Parkway Village ordinance and the specifics as it relates to the topography and the size of the property. She stated the Parkway Village ordinance encompasses the philosophy of incorporating larger scale development. Using a visual display, she pointed out the grade change along the property line. Ms. Butler said "if you incorporated the piece of property to the east, there would be absolutely be the same amount of development and encroachment there as what is being proposed here; the encroachment is to allow a retaining wall

*because of the grade change and to allow access, the only access that could be provided on the eastern side of this piece of property.” She pointed out the proposed access road which would be adjacent to a large pond. Ms. Butler stated “There is no way, even if this piece of property was coupled with that larger property to the east, to put an access point to either one of these properties other than where it is shown here. With that access comes encroachment into the landscape strip that will be required along that property line.”*

*Ms. Butler stated they also requested a stream buffer variance; she brought along the applicant’s engineering and environmental experts to later discuss this variance. She stated they have spent a significant amount of time trying to understand how to deal with this stream buffer and how to be environmentally sensitive. She said this property is 225’ in width on Crossville Highway; the stream is piped on both sides of the property; there is approximately 155’ of an open stream which runs along the front of the property. The very narrow, and long and deep nature creates limited ability to develop this property, if at all, without dealing with the stream buffer. Ms. Butler stated they looked at piping the stream, as staff would suggest. She said the encroachment has been reduced to approximately 1500 square feet into the 50’ stream buffer. Ms. Butler said “There is encroachment into the stream buffer all the way up to the bank; what we are talking about is using hand tools to clear that property and then replant it. We are not talking about digging it out; we are not talking about adding to the grade. We are talking about, except for 1500 square feet into the stream buffer, everything up to the stream buffer from that would be reworked with hand tools and replanted.”*

*Ms. Butler stated their last variance is to vary the request for the 400’ frontage. She noted the property is 225’ in width and if coupled with an adjacent piece of property they could not change the location of the access point; “we are severely restricted by the access road that is signalized that already goes back here to the 32,000 square foot distribution facility and the pond that runs on the adjacent piece of property.”*

*Ms. Butler, referring to the staff report, stated “We appreciate that staff acknowledged that the proposed site plan employs aspects of the Parkway Village elements which serve to soften the impact on adjacent residential. The staff also recognized that this site plan helps carry out the purpose and intent of the Parkway Village Overlay by providing uses allowed within the district and by utilizing design criteria of the district.” She said the primary reasons for the recommendation of denial relate to the change in topography and the impact on the stream buffer and she thought there was confusion about the change in topography. Ms. Butler said the applicant was not proposing to change the topography for this service station or for the 5,000 square foot convenience store; the change in topography occurs in the middle of the stream. There is a steep slope on the eastern side of the property which must be dealt with. Ms. Butler stated they are agreeable to staff conditions, “including the mitigation for the stream impacts in the form of 300 linear feet of structural stream bank stabilization to be designed and installed at a location selected by the Community Development Department.” She said the applicant was agreeable to significant onsite and offsite mitigation regarding the streams. She briefly introduced Don Harkelroad of Harkelroad Engineering, John Vermont of Wetland and Ecological Consultants, Steve Manley of Manley Landscape Designs, Julie Bowen and Lesleigh Batchelor of RaceTrac.*

*Don Harkelroad, civil engineer, Harkelroad Engineering, stated the site will be graded so as to facilitate a flow across the pavement to a retention area located behind the store. The retention area currently exists; it was built in conjunction with the post office development. He said “We will be grading our site to flow from north to south toward the store, gathered in underground storage pipes along with, on each pipe, a*

Crystal Stream water quality device; a water quality device is an implementation that catches and helps clean the water as it comes across the parking lot; it removes 89% of suspended sediments, 98% of sand sized particles, it removes phosphorus and nitrates by 50% and 25%." The detention area in the back will be reconstructed; it exists but is overgrown and does not function properly. He said they will be going in as part of their development regrading, revamping; the pond will handle the 100 year storm event, it will handle channel protection, and will have a water quality feature; it will discharge from this pond through a controlled orifice out to the stream in front of the site; it will be a controlled discharge. Mr. Harkelroad, referring to the site plan, stated the extreme topographical change is at the driveway. He said "We are dealing with existing elevations of 1080' where the street elevation is at a 1090'; that is ten feet of change. The existing slope on that driveway right now is greater than a 10%. It just serves the back portion of this property; it is not suitable for traffic for a station of this size or for the safety of patrons." He noted tanker trucks would be utilizing this driveway and in order to have a safe environment for several different types of vehicles it would require raising the grade on the driveway to match the street grade. Mr. Harkelroad said retaining walls would be constructed on both sides so as not to slope into the stream buffer; "Without those retaining walls there you would be going out two times as high as the grade is, so you might be going out 10 to 15 feet into that stream buffer." The retaining wall running along the front of the site is to prevent any sloping into the buffer area; at the top of the slope.

John Vermont, Wetland and Ecological Consultants, stated that as currently designed, the stormwater detention basin which serves the post office towards the rear of the site currently does not meet water quality standards. Mr. Vermont stated they would revamp that detention basin to meet the contemporary water quality standards not only for the service station site but for the post office facility as well, so that it drains about the front half of their facility; it would include roof and parking area. Mr. Vermont stated as an added benefit they would include water quality for the post office or at least half of their property as well; he stated they are not required to do that but as staff had recommended they would do that as part of this project. Mr. Vermont stated the stream in the front is actually 174' of open stream; it is a tributary to Hog Waller Creek; as it currently exists, there are six or seven large trees of which two or three are in poor shape; the larger trees in good shape will remain. Referring to a site plan drawn to scale, Mr. Vermont referred to the stream buffer, the v-shaped valley, the RaceTrac facility. He noted that the buffer is predominately covered with invasive species, Chinese privet, Japanese honeysuckle, English ivy, Bradford pear trees, and others. The proposal from the top of the rested vegetation line out to the where the buffers are measured, out to the 25' state water buffer, the buffers would be reworked by hand labor to clear the overgrown invasive material. A landscape plan has been developed which includes native species; there is enough grade that as on the street looking into the station, the overall valley is about 15' feet; 10-12' tall native shrubs could be incorporated in that area after several growing seasons of work and maintenance to close back in over the stream, maintain shading and help stabilize the bank; they would not remove the root structure, just cutting off at ground level over time, and replacing it with new vegetation. Mr. Vermont stated City staff had been particularly accommodating and met with them on several instances for discussion. There were discussions regarding the idea of offsite mitigation and discussed that with City staff; those were included in the potential conditions. Mr. Vermont noted the applicant has a core permit to pipe the entire 174' of stream but they realize now realize they "will abandon that permit to rework the buffer from 0-25; from 25 out to 50 will be a more manicured look but it will be vegetative for the most part with the exception of a couple of thousand square feet in there." He said they think they can get it looking good in about two years; it would be quicker to grub, root rake, and then rebuild it, but they understand that due to the permitting constraints it will be necessary to do it by hand.

Steve Manley, landscape architect, Manley Land Design, referred to the landscape plan and stated they are able to meet density requirements, frontage requirements. They have met interior landscape requirements for the parking lot save the eastern boundary that has not been met. Mr. Manley noted that the applicant will recompense for two good specimen trees; there are three specimen trees in the stream bank which will be saved. He noted that the native material to be planted in the stream buffer will take up the majority of the area that in front of the store; those will include native large shrubs which will offer shade to the stream, and native smaller shrubs, the majority will be native grasses. Mr. Vermont referred to a three dimensional site plan, drawn to scale, which showed the street elevation on Highway 92; with the larger trees left there, the view will be over top of that stream valley and it will not be possible to see the valley or see the shrubs which will be planted because there is 15' of grade change in there. From the street they are able to maintain several of the larger trees from the front, and still allow the applicant to get those necessary views on approaching traffic from east to west to get the brand recognition and pull into the station.

No further discussion by the applicant.

*Council comment:*

Councilman Orlans requested clarification as to how the post office acquired this site. Planning and Zoning Director Brad Townsend confirmed for Councilman Orlans that local governments normally do not have anything to say in the Federal government's choice of location for the United States Post offices.

Councilman Orlans requested clarification on the applicant's comment about the 400' buffer as indicated from the structure to the property line; he asked if that was the requirement of a 400' buffer in Parkway Village dealing with gas stations and would that not be from the gas station property line. Mr. Townsend responded that the 400' is measured from the structure apparatus of the gas station to the residential zoning line, which is how it was shown, and required to be 400' separated. Councilman Orlans asked if it is from the structure. Mr. Townsend stated that was correct. Councilman Orlans referring to the Quick Trip on Crabapple Road, asked "Weren't those residences part of the Parkway Village and part of the overall development on the whole QT project, so that the 400' would not have applied to those residents." Mr. Townsend replied that he was not familiar with that situation. Councilman Orlans replied he was on the Council at that time and that was what happened; the residents and townhomes that are part of that were part of the overall development which the entire part became included in the Parkway Village. Councilman Orlans stated that if he remembered correctly, the 400' was designed to the outside of the Parkway Village. Councilman Orlans asked Assistant City Attorney Bob Hulsey if he could comment on that. Mr. Hulsey replied that he did not specifically remember that.

Councilwoman Henry stated she understood that the Federal Government exercised eminent domain for the post office. She asked if any history was available on this property such as site plans, permitting. Mr. Townsend replied that the City had no jurisdiction over that, no history would exist. Councilwoman Henry stated a detention pond maintenance ordinance exists; she asked if the post office can exercise eminent domain on maintenance. Mayor Wood requested Environmental and Public Works Director Stu Moring answer the question. Mr. Moring replied that this is not an issue which the City has yet had to deal with and so he would defer to Mr. Hulsey on the question of the City's authority. Mr. Moring added that the Federal Government would be subject to federal water quality standards and may not be subject to enforcement action by the City of Roswell but would certainly be subject to EPA enforcement action. Councilwoman Henry suggested that it be looked at for the



*maintenance of that detention pond.*

*Councilman Dippolito stated with respect to the 400' separation from residential districts, there is an adjacent piece of property currently zoned residential which is in the Parkway Village. He asked if this project were to go through would that preclude any residential from occurring within 400' of the building on the adjacent property. Mr. Townsend replied yes. Councilman Dippolito stated it would significantly impact the adjacent property owner. Mr. Townsend replied that was correct.*

*Public comment:*

*Bob Boone, 731 Thornington Drive, spoke on the following:*

- Resident of the Crabapple Commons Townhome community. His unit is the closet residential homes to the proposed development.*
- Street lights from the post office facility access road originally had been a problem but has been corrected by the post master.*
- Concerned about the street lights from this proposed convenience store and gas station.*
- Concern regarding how this proposal will impact the value of their property.*
- Requested denial of the RaceTrac proposal.*

*Tom Watkins, 900 Thornington Place, spoke on the following:*

- Resident of Crabapple Commons; Represented owners from three adjacent neighborhoods.*
- Concerned about the Code of Ordinances related to variances; applicant's reduction in required distances.*
- Residents' quality of life; lighting issue.*
- Noise level from Highway 92 will increase with a reduction in the trees and vegetation.*
- Close proximity adjacent to the residential neighborhood will further endanger real and personal property values.*
- Request for denial petition contains over 200 signatures.*

*Leo Griffin, 310 Kendamere Pointe, spoke on the following:*

- Resident of Crabapple Pointe; residents are concerned about the value and depreciation of their properties.*
- Lighting concern.*
- Noise concern.*
- Concern regarding environmental impact on the area; controlled release; retention walls.*
- Requested denial of the application and suggested RaceTrac select an area in need of revitalization for their operation.*

*Michael Wing, 275 Crossville Road, on behalf of his mother, Dot Wing and the adjacent land owner Betty Queen, spoke on the following:*

- Supports the development and the granting of the variances; this development will use this land in just about one of the only ways it can be used.*
- His family has resided there since 1969; other neighbors much longer term residents; "burden of progress and zoning, and the burden of the Parkway Village concept has fallen squarely on the shoulders of the oldest and most reliable citizens that exist in Roswell."*
- Development is the price of progress; witnessed the development on both ends of Highway 92 but not middle portion where their property is; widening of Crossville Road in 1992; "a couple of years ago a proposal came before this Council to grant a variance for town homes on the property that my mother owns; it was denied based on five-foot balcony, or something of that effect."*
- Parkway Village concept proposes to support development as long as it is the*

*right kind of development; "Supporting development in principle is not much help if you are trying to sell land if the people supporting development in principle oppose development when it comes down to any practical application of it."*

- *Highway 92 is a dangerous highway due to the speed; numerous cars have runoff the road in front of his mother's home and they have been rear ended turning into their property.*

*Steve Gustin, 890 Windsor Trail, president of the Windsor Forrest Homeowners Association, spoke on the following:*

- *Windsor Forrest home owners oppose RaceTrac proposal; 90% surveyed signed petition in opposition.*
- *Concerned this development would lower property values.*
- *Buffer at Quick Trip is different; residential is buffered by offices.*
- *Sympathetic to previous speaker's issues but RaceTrac is not the appropriate type of development for a residential area and the Parkway Village District.*

*Nancy Red, Hidden Lake Condominiums, spoke on the following:*

- *Inquired why there is a need for RaceTrac or another gas station in this location.*

*Unidentified speaker, 125 Bent Grass Drive, spoke on the following:*

- *121 signatures collected in opposition from his neighborhood which is two homes away from the proposed site.*

*Ed Sheredy, Crabapple Commons, spoke on the following:*

- *Roswell resident for 31 years.*
- *Concerned about this proposed business being a 24 hour service station.*

*Kevin Caldwell, Crossville Road property owners, spoke on the following:*

- *Concerned about the impact this proposal will have on neighbors; will limit ability to potentially develop adjacent properties as residential properties; this facility does not belong in a major intersection in Parkway Village District.*
- *Council and DRB approved a similar development at corner of Mansell Road and East Crossville Road which was rezoned and has not yet been built on; concerned about the RaceTrac proposal being considered at this time.*
- *Understood this property is under contract for \$450,000; the City should not have the burden to approve this project because the property is "a really great buy."*

*John Albers, 530 Junction Point, spoke on the following:*

- *Opposed to proposal; concerned about public safety and car accidents related to the location of this facility; this area has six service stations within one mile of this property.*

*Unidentified speaker, 1910 Barrington Place, spoke on the following:*

- *Newer resident of Roswell; proposed usage is neither passive or tranquil; concerned about the vehicular activity, lights, fuel tanks; questioned need for several gas stations in such close proximity to each; zoning change not appropriate.*
- *City representatives should "respect our property against any encroachment to its value" and "guarantee and maintain quality of our lives."*

*Karen Gilbert, 170 Brickleberry Drive, president of the Brickleberry Homeowners Association, spoke on the following:*

- *Brickleberry home owners are opposed; this proposal would be more appropriate in a revitalized area or redevelopment, not new development; not every parcel of land is meant for development; this parcel of land could accommodate a "very small service industry."*

*Jessica Kapour, 290 Bent Grass Drive, spoke on the following:*

- *Bent Grass Drive is major cut through road for many of the neighborhoods there; concerned about more cut through traffic with the development of RaceTrac at this intersection.*

*There were no further requests from the public to make comments. No further discussion.*

*Applicant rebuttal:*

*Steve Manley, landscape architect, Manley Land Design, referred to the landscape plan stated a buffer is included. Much of the buffer includes hard wood; there is good growth of young pines which would offer some evergreen mix into the buffer. Mr. Manley stated that on the western portion of the property, there is twenty to thirty feet of mostly a grassy area which could be landscaped heavily with tall evergreen material which would offer protection from overspill of light and sound.*

*No further points of rebuttal made by the applicant.*

*Council comment:*

*Councilwoman Wynn stated the Public Works and Environmental department is opposed to granting these variances to the stormwater buffer ordinance mainly due to the fact that Hog Waller Creek is listed as an impaired stream. Councilwoman Wynn quoted Public Works and Environmental department report "This plan to 'rework' the buffer and eliminate the impervious buffer has serious negative impacts on overall stream health." She stated this would not be good; she did not agree with the applicant's suggestion to help with the stream buffer.*

*Councilwoman Wynn stated there are seven external variances requested with this application, all of which are major variances. This is too much development for this parcel of land. The hardships RaceTrac speaks of have been caused by themselves. Councilwoman Wynn noted that a service station will need underground tanks and have delivery of gasoline. She noted RaceTrac's own admission that they would not pipe the stream. Councilwoman Wynn remained concerned that regardless of how careful they would be, a spill would jeopardize Roswell's streams with hazardous waste. Councilwoman Wynn said she was proud that the City of Roswell does everything possible to maintain the environmental integrity of our streams. Councilwoman Wynn stated she would vote against the approval of this development because it would not protect the integrity of the environment.*

*Councilman Dippolito thanked RaceTrac for their efforts working with city staff to try to make the site work. He said they formed an "A" team of consultants. Unfortunately, this particular site is not conducive for the development they are proposing. It is a challenging site but is more challenging with the type of development being proposed. Councilman Dippolito said "I think RaceTrac is an excellent company and I would love for them to locate a station in Roswell. We have heard some ideas of potential redevelopment. I think that Council would welcome an opportunity to see some additional redevelopment in our community but I do agree with the comments made by Councilwoman Wynn." He stated there are a lot of issues with this particular proposal and he agreed with many of the public comments made tonight. The variance from 400' down to 315' will have a significant impact on the surrounding community and not something which can be tolerated. The increase in the number of parking spaces, even if 18 for the gas pumps are subtracted, the number of parking spaces would still be doubled, significantly increasing the amount of impervious area; it has been difficult to try to find a way to make the encroachment into the stream buffer work; this stream is already experiencing negative impacts and the Public Works and Environmental department is extremely concerned about any*

further impact to it.

*Motion: Councilman Dippolito recommended denial of PV09-01 Parkway Village, Race Trac, 225 Crossville Rd., Wendy Butler & Assoc., Land Lot: 430. Councilman Dippolito clarified for Mayor Wood that his motion was for denial. Councilman Igleheart seconded the denial.*

*Further discussion:*

*Councilman Igleheart expressed appreciation that RaceTrac put forth the effort to come up with mitigations for the variances, especially for the offsite stream bank stabilization. He encouraged them to try to find a more appropriate place in Roswell for a similar project. Councilman Igleheart expressed appreciation for Mr. Wing's heartfelt comments and his situation. This location is not suitable for this project; therefore, he would support the motion for denial.*

*Councilwoman Henry agreed with Councilman Igleheart's comments. She said the Parkway Village has a lot of latitude and uses and was designed so that it would be possible to have a residential property and have offer many other uses for it. Variances are generally granted if the spirit and the intent of the ordinance is met. Councilwoman Henry agreed with Councilwoman Wynn's comments regarding the variances; the number of variances on this property "is like trying to put a square peg in a round hole." She expressed appreciation to RaceTrac for their efforts and also encouraged them to possibly consider two other locations in Roswell.*

*Councilman Orleans also thanked the applicant for their efforts and for working with city staff to find solutions. He noted his agreement with the previous comments made by Council; this is not the right piece of property for this project. He stated the Parkway Village does have a lot of flexibility. The city's encouragement is to put seven acres or more together and 400' frontage. While this started with twelve acres, Council had no say in the post office taking up most of it, leaving a 2.5 acre parcel. Councilman Orleans stated he supported the motion.*

*Mayor Wood said "It is anticlimactic but I would like to make my comments but I want to particularly address Mr. Manley. I helped draft the Parkway Village ordinance; the intent was not to stop development but a compromise between residential properties outside of the Parkway Village district and to allow development in the district. I can't think of a higher intensity use than a filling station in the Parkway Village district nor a more environmentally sensitive piece of property than this one. It is not a good fit. This Council is not telling Dot Wing that she can't sell her property and develop it, it simply is that this is not the appropriate development. We have seen a lot of residential development in the Parkway Village district that has been successful and I think that would be an appropriate use of this property." The Mayor stated he did not remember the zoning that Mr. Wing spoke of which was turned down. He said "It is not this Council's intention to prohibit all development in the Parkway Village district, it has been a very successful mixed used district but this use on this piece of property doesn't fit, and I support the motion."*

**A motion was made by Council Member Rich Dippolito, seconded by Council Member Kent Igleheart, that this Item be Denied. The motion carried by the following vote:**

**In Favor: 5**

**3.**

**Sidewalk Cafe License application SC09-02, 946-Nine South, 946 Canton Street.  
Presented by Brad Townsend, Planning and Zoning Director**

*Sidewalk Cafe License application SC09-02, 946-Nine South, 946 Canton Street. Planning and Zoning Director Brad Townsend stated Council had been provided two proposals, Option and B. Mr. Townsend noted conditions exist related to Option B:*

*1. The existing flagstone shall be replaced with brick that matches the adjacent sidewalk.*

*2. The applicant shall obtain a license for land use from the City of Roswell and all applicable permits from the City of Roswell prior to construction.*

*A photograph of the existing sidewalk café using the sidewalk on Canton Street was displayed. Mr. Townsend said that as recently as the afternoon of this meeting discussions had occurred regarding design issues which possibly needed to be addressed. He stated there had been some discussions with the applicant regarding their possible wish to defer for thirty days to work out some of the issues brought up recently. Mayor Wood questioned if tonight the applicant was requesting a deferral. Mr. Townsend replied "They have asked that but they would like every issue brought out on the table, if there is a gentleman who would like to speak on the issue." Mayor Wood replied that person could speak, however he wanted to confirm if the applicant was requesting a deferral tonight. Mr. Townsend replied yes. Mayor Wood noted for the record that the applicant was requesting a deferral.*

*Public comment:*

*George Kerner, 90 Cliffside Crossing, spoke on the following:*

- Owner of adjacent business at 944 Canton Street*
- Was not aware of proposal A and B but located the sketches on the city website.*
- Recently had building damage which was inspected by insurance company; insurance company would work to replace siding; wrote letter to Council regarding a major tree in front of the building.*
- Insurance adjusters inquired if he is operating a restaurant or planning to operate a restaurant; he replied he was not; insurance company is concerned with the ingress and egress.*
- Sent letter to adjacent business owner regarding the removal of tables, signs, pots, plants from sidewalk.*

*Mr. Townsend provided a drawing specifying the location of 944 and 946 Canton Street. Mr. Kerner stated his insurance company has informed him that tables and chairs could not be put at his business (944 Canton Street) because his insurance does not cover that. Mr. Kerner noted that between 946 and 944 Canton Street there is a planter and roping, which makes sense. He stated "People walking from 944 Canton Street to 946 Canton Street will be going in and out of a restaurant; they will cross my property to get to a restaurant." Mr. Townsend clarified that is public property. Mayor Wood stated "We have tried to defer to each storefront to sort of control his own frontage." Mr. Kerner agreed; he said "Proposal A has the steps in the middle at the 946 Canton Street entrance, which is currently the way it is." Mr. Townsend confirmed for Mayor Wood that in the original Option A, the applicant was maintaining that the main access in the center, with ADA access through the sloped ramp, as shown on the diagram he had displayed. Mr. Townsend referring to the diagram further stated that Option B encloses the stair location, providing stairs up to it, and tables on the top; the main access would be from the south, ADA access would be on the ramp. Mayor Wood asked Mr. Kerner which option is he preferred. Mr. Kerner replied that Option B made sense to him. Mayor Wood stated that he could not speak for each Council member, but the city's goal is to try to make sure that each storefront owner "sort of controls his frontage" and it would be helpful if both Mr. Kerner and the 946 Canton Street owner could work out an understanding, the ADA accessibility, and then sidewalks would be worked out. Mr. Kerner replied that he had sent a letter to the owner of the restaurant noting that tables and chairs from the restaurant could not be set on his property due to the liability and that he is not insured for that. Mayor Wood clarified that the city is giving each storefront an option*

to use part of the sidewalk in front of their business but the city does not want anybody infringing upon their neighbor.

*Council comment:*

Councilman Orleans noted that Mr. Kerner had stated he preferred Option B; he asked Mr. Kerner to explain again which option he preferred and why. Mr. Kerner referring to the drawing replied there is a definite line of demarcation (where the red circles were drawn); where his building begins that line is definitive. Councilman Orleans stated Option B would not have that line and clarified that on Option B, that would be the entrance coming into the restaurant. Mr. Kerner agreed that he preferred Option A after he again checked the drawings. Mayor Wood requested that it be clarified to be certain everyone understood. Councilman Orleans referred to the drawing stated pedestrians will not be walking right in front of Mr. Kerner's doorway to go down into the restaurant; they will be walking around the way they do now and will come into the center; it will be somewhat closed off to Mr. Kerner's property (as shown on this example). Councilman Orleans asked if he had expressed his concerns to the restaurant owner. Mr. Kerner reiterated that he had sent a registered letter; he said that hopefully the restaurant owner and he could work this out together. Councilman Orleans agreed with the Mayor's suggestion that both parties try to find a workable solution regarding the use of the sidewalk relating to this sidewalk café application.

Councilwoman Henry inquired about the ADA access requiring a chain to be removed for ADA access. She asked how the pedestrians will know to ask to have the chain removed for ADA accessibility and how to maneuver; will it be possible to meet the intent of the law if it is chained off and necessary to request that it be opened up for ADA access.

Assistant City Attorney Bob Hulsey stated he did not have a clear understanding of what Mr. Townsend meant when he said "the chain to be removed for ADA access." Mr. Townsend replied "The chain is there to define the alcohol barrier issues. That is the only sloped down to the access into the complete restaurant. We could not remove it completely so our thought process was the chains there might have a small sign on it 'to be removed for ADA access.'" Mayor Wood noted that staff should be certain that whatever the final result is for this location, they must make sure it is ADA compliant. Councilwoman Henry stated she did not have any particular issue with lifting up the chain and moving it over for ADA access, particularly if there is no ADA access around, "if the only time you have to lift that chain up is to go into this particular restaurant."

Councilwoman Wynn inquired about the distance between the curb and gutter and to the proposed chain. Mayor Wood stated the drawing indicated it is a distance of four feet. Councilwoman Wynn stated that when Ceviche Restaurant had appeared before this same Council there was discussion that four feet was "really tight and we required them five feet." Mr. Townsend stated that was correct. Councilwoman Wynn's concern was that Council was not being consistent with the width. Mayor Wood commented that it would not be possible to allow more than four feet on the outside part; at this location it is not handicap accessible because there are stairs. He suggested that it would be necessary to look at the engineering of this; if five feet is required in this case, they would eliminate the possibility of it working for alcohol sales because pedestrians would have to walk straight through the middle, and the stairs would still be an issue for handicap accessibility. Councilwoman Wynn replied that she understood that but still suggested it be looked into so that consistency is applied for each of the restaurants.

Councilman Dippolito suggested that the section be lowered to have all the tables at one grade with a railing adjacent to the sidewalk to make the sidewalk function better

as a dining area and would make it safer by not having a difference of eighteen inches in height.

*Applicant:*

*Kellie Clark, owner of 946 South Restaurant, stated there are lamp posts which make the width four feet. She said they were instructed to place the planters and the chains to meet state requirements for alcohol service; later they were told to enclose everything except for the entrance. Ms. Clark stated they proposed to close the entire front and only have customers enter at the stairs. The planters are at the top of the stairs and are located where the chain had been located; tables are no longer placed up there. Ms. Clark stated that she had asked to have this application deferred tonight so that she could discuss Mr. Kerner's concerns and discuss the requirements with Mr. Townsend.*

*Public comment:*

*Martine Tremblay, 130 Victoria Way, suggested a committee be formed to develop and discuss issues related to downtown Roswell establishments. Ms. Tremblay expressed concern regarding traffic on Canton Street during Alive at Five events. Mayor Wood replied that city staff works with the Roswell merchants association. The Mayor stated this is the last sidewalk café application of the three which were up for approval; Council felt they would handle the approvals rather than create another institution to deal with these three sidewalk café applications for Canton Street.*

*Motion: Councilman Dippolito moved for deferral of Sidewalk Cafe License application SC09-02, 946-Nine South, 946 Canton Street until September 14, 2009. Councilwoman Wynn seconded. The motion passed unanimously.*

**This matter was Deferred to the Mayor and City Council Zoning, due back on 9/14/2009.**

**In Favor: 5**

**4. Text Amendment regarding the Expanded Use of Business Banners. (First Reading)  
Presented by Brad Townsend, Planning and Zoning Director**

*4. Text Amendment regarding the Expanded Use of Business Banners. (First Reading)*

*Planning and Zoning Director Brad Townsend stated this text amendment if approved would allow a business forty (40) additional days of advertising per year for the use of temporary banners when associated with the "Find it All – Roswell, GA" campaign. The text amendment includes the sunset provision which automatically repeals it on December 31, 2010. This text amendment was discussed at Committee and at the Planning Commission meeting on July 21, 2009; Planning Commission minutes were included in Council packets. Assistant City Attorney Bob Hulsey conducted the first reading of ORDINANCE TO AMEND THE CITY OF ROSWELL SIGN ORDINANCE REGARDING "FIND IT ALL IN ROSWELL" CAMPAIGN AND THE USE OF TEMPORARY SIGNS WITHIN THE CITY OF ROSWELL stating WHEREAS, the Mayor and Council have instituted a campaign to promote economic development within the City of Roswell during the current recession entitled "Find It All - Roswell, Ga" encouraging Roswell residents to patronize local Roswell businesses whenever possible; and WHEREAS, the Mayor and Council find that an increased use of temporary signs for a limited period may help generate more sales for businesses and benefit all citizens of Roswell: NOW, THEREFORE, Article 22, of the City of Roswell Zoning Ordinance, Signs, Section 22.12 Temporary Signs, is amended by adding the following subsection (a) (3) to it: Section 22.12 Temporary Signs: (a)  
The following types of signs or advertising devices shall be permitted only by*

issue of a special permit allowing usage of this type advertising for a period consisting of ten (10) consecutive days. No such special permit shall be issued for the same premises more than forty (40) days per year. No business shall be issued a special permit for more than one sign or device per road frontage to be located on the premises at any one time. Each individual establishment within a multi-tenant center shall be considered to have one (1) road frontage. All signs or advertising devices must be set back out of the right-of-way.

(1) Air- or gas-filled balloons or other devices which have a capacity for air or gas which does not exceed three (3) cubic feet.

(2) Flags, signs, or banners, maximum size of thirty-two (32) square feet, except official government flags.

(3) For the period from September 15, 2009 through December 31, 2010, a business may receive an economic development permit for use of a temporary sign for an additional forty (40) days of advertising per year, cumulative to the 40 days granted in subsection (a) above and subject to the same requirements and limitations set out in (a) above. This subsection (3) shall be automatically repealed on December 31, 2010.

Mayor Wood inquired if someone who applies for a permit will receive a ten day permit. Mr. Townsend replied "That is the maximum, correct." Mr. Townsend confirmed for the Mayor that the application fee is twenty-five dollars. The Mayor clarified that the City of Roswell is not trying to raise revenue with this twenty-five dollars application fee; it is an administrative fee. He asked that Council consider allowing business owners the ability to apply for a series of permits, rather than just one at a time, with lower fees and not \$25 fee every permit.

Council comment:

Councilwoman Henry asked if Mayor Wood was suggesting that the permit fee be waived for one fee for the "Find it All – Roswell, GA" but the existing ordinance for banners will still have individual fees or was the Mayor proposing that existing banners and the "new ones" all be done away with the fees. Mayor Wood clarified that he was not suggesting that the fees be eliminated but to possibly allow a lower fee for additional permits applied for. Councilwoman Henry stated that in the past we looked at fees in conjunction with the cost in order to provide the service.

Councilwoman Henry stated she agreed with the Mayor that if a business owner comes to the City with the dates they wish to have the banners, they should be able to fill out one form and receive any additional stickers at that time with no additional staff time involved. Councilwoman Henry suggested that staff should look into the cost involved before this text amendment returns for the second reading. No further discussion.

Motion: Councilman Dippolito moved to approve Text Amendment regarding the Expanded Use of Business Banners. (First Reading). Councilman Orlans seconded. No public comment made. No further Council discussion. The motion passed unanimously.

**This matter was Approved on First Reading to the Mayor and City Council Zoning, due back on 9/14/2009.**

In Favor: 5

5.

**Initiation of a Proposed Text Amendment regarding Pawn Shops and Check Cashing stores.  
Presented by Brad Townsend, Planning and Zoning Director**

5. Initiation of a Proposed Text Amendment regarding Pawn Shops and Check Cashing stores.



*Planning and Zoning Director Brad Townsend explained that this is an initiation of the pawn shop and check cashing stores text amendment which will include a distance requirement for any new location to be at least five thousand feet from the existing locations; he provided a map of the existing locations. Mr. Townsend stated the text amendment will go to the Planning Commission and return to Council for first and second readings during public hearings. Mr. Townsend stated staff recommended approval of the initiation of this text amendment.*

*Motion: Councilman Dippolito moved to approve the Initiation of a Proposed Text Amendment regarding Pawn Shops and Check Cashing stores. Councilwoman Wynn seconded. No further discussion. The motion passed unanimously.*

**A motion was made by Council Member Rich Dippolito, seconded by Council Member Becky Wynn, that this Item be Approved. The motion carried by the following vote:**

**In Favor: 5**

## **CONSENT AGENDA**

1. **Approval of August 3, 2009 Council Brief Minutes.**  
***Administration***

*Consent Agenda:  
This item was called out of agenda order.*

**Council Member Jerry Orlans moved to approve the Consent Agenda. Council Member Becky Wynn seconded. The motion passed unanimously.**

**Adjournment - With no further business, the Zoning meeting adjourned at 9:51 p.m.**