

**MINUTES OF THE  
ROSWELL PLANNING COMMISSION  
Tuesday, April 20, 2010  
7:30 p.m.**

**Members Present:** Loren Conrad, Susan Baur, Cheryl Greenway, Laura Light, Sarah Winner and Tom Wilson

**Members Absent:** Mark Renier

**Staff Present:** Brad Townsend, Jackie Deibel, Kenwin Hayes and Sylvia Campbell

Susan Baur, chairman of the Roswell Planning Commission brought the April 20, 2010 meeting to order at 7:34 p.m. The Planning Commission is comprised of volunteer citizens representing both the business and residential citizens of Roswell. The members of the Commission are appointed by the mayor and city council. The Planning Commission is a recommending body only. What the Commission reviews tonight will go before mayor and city council on the second Monday of next month, which is Monday, May 10, 2010.

Susan Baur stated that she would like to go over the order of the meeting. First a member of the city planning staff will present the application and give the staff's recommendation. Next the applicant will make a presentation. The public will then be invited to make whatever comments that they would like to share with the Commission. After listening to the comments from the public, the applicant will be given a chance for rebuttal. The Commission will then close the public portion of the meeting, have a discussion and make a recommendation.

If one is representing a group the Commission asks that they get together and discuss the points that he will be presenting. There is a 20-minute limit total for presentations by the public for those in favor of a project or issue and a 20-minute limit total for presentations by the public for those opposed to a project or issue.

If one wishes to speak in addition to others speaking on the same topic he should try to bring up new points and not repeat what others have said. This will maximize the use of the allotted time and allow the meeting to stay on track.

If one is a member of the public and wishes to speak he should fill out one of the comment cards located on the back table and give it to staff so they have the speaker's name and address for the record.

In the case of a rezoning the city has adopted 23 Critical Guidelines to evaluate a request. Some of the basic guidelines that the Commission will consider include

land use plan, surrounding property values, the surrounding neighborhoods, undeveloped land in the surrounding or immediate area and impact on city services. The burden of proof for a rezoning request is always on the applicant.

Please put all cell phones on vibrate or turn them off. This includes the members of the Planning Commission. Baur reminded the members of the Planning Commission to please state their names before speaking for the benefit of the audience as well as for those staff members recording the minutes of the meeting.

With that, Baur called the first item on the agenda.

**10-0128**  
**CONDITIONAL USE**  
**CU10-01**  
**NORTH FULTON LAND ACQUISITION, LLC**  
**1327 Holcomb Bridge Road**

Brad Townsend stated that this is an application for a conditional use at 1327 Holcomb Bridge Road. It is approximately one acre in size. The existing property is zoned C-3. In May of 2008 mayor and city council adopted a rezoning text amendment that required all conditional uses for used car dealers within the C-3 zoning district, which would be required to meet four criteria. Those criteria would be in excess of three-quarters of an acre, they would have to have an existing structure on the property, the parking lot would have to be striped. This would allow for the sale of a used automobile sales establishment as a conditional use. The application before the Commission this evening meets all of those requirements. Staff is recommending approval with four conditions, which are included as part of the staff recommendation dealing with bringing the site up to code landscaping wise as well as to improvements to a couple of portions of the sidewalk. As mentioned, the subject property is C-3. To the east, west and north of the property is also C-3. To the south of the property is OCMS zoning designation for hotels. The property around the subject property is developed with a Marriott Courtyard to the south, existing banks to the west, and a gas station across Holcomb Bridge Road to the north. In summary, staff would recommend approval of the conditional use with the recommended conditions.

Loren Conrad stated that he was looking at conditions three and four. He walked the site and where it says unsafe portions of the sidewalk, he only saw one place where there was a little lip and one side was gone. He is not sure how severe that is going to be. There are ADA ramps there. Every one of those sidewalks is already accessible.

Brad Townsend stated that they might be accessible but there is a new standard in which they provide the yellow rumble locations in the ramp. That is probably

the improvement that transportation is looking for in dealing with the ADA requirement. Conrad accepted that explanation.

Loren Conrad stated that most of it looks like landscaping, cleanup and replacement. Townsend stated that was correct.

Sarah Winner asked Brad Townsend if once the Commission grants this conditional zoning or this conditional use, is that grandfathered in then, or how does that apply if this particular tenant decides to leave and another used car dealer wishes to use the property.

Brad Townsend stated that conditional use runs with the property.

Winner clarified that once it is granted it is there for perpetuity. Townsend stated that was correct unless specifically limited by council as condition of approval. Winner stated that she was not sure she understood what Townsend just said. Townsend explained that if city council chooses to have it for only this one particular applicant then they would have to determine...in most instances, in grandfathering the use, the way the current code allows it is if the use is vacated for three months or more then it is lost.

Sarah Winner asked if it was not also permissible without having legal challenges to say that the Commission giving this conditional use for these types of vehicles to this particular tenant. But should this person leave or should they decide that there is going to be different types of vehicles there that the conditional use will no longer be in place?

Brad Townsend stated that could be a valid condition placed on this approval.

Sarah Winner stated that given the concerns of many of the local residents who are concerned about a proliferation of used cars dealerships the same way they have seen them expand along the Alpharetta Hwy. corridor. Perhaps that would give a feeling of some type of protection to the local residents who don't want to see every empty commercial building with an adequate parking lot just waterfall into a series of used car lots along Holcomb Bridge Road.

Brad Townsend stated for the Commission's knowledge, it is the staff's understanding that the applicant or the proposed tenant for this location has relocated to another municipality.

Sarah Winner clarified that they are asking for the zoning without really knowing who is going to be using this property. Brad Townsend stated that was correct. It is not zoning the use they are asking for the conditional use...Sarah Winner stated that once the use is approved they could have somebody pull in there with \$200 cars for sale if that is what they chose to sell based on the conditions that

are listed here right now. Brad Townsend stated that was correct. Winner stated that would go over real well.

Susan Baur asked Brad Townsend if he said that if it was vacated for three months or longer they would have to reapply for the conditional use? Townsend stated that is the way the current non-conforming use section of the code is currently written. Baur asked what if city council approves it and it remains vacant for several months. It doesn't ever get a tenant, a used car tenant and then perhaps it gets one six months down the road. Does it have to go through this again? Townsend stated that was probably more of a legal question. His understanding is if a conditional use is granted, it usually runs with the property unless there are special stipulations that are changed. That is why it goes through the conditional use process. Because there may be some circumstances in which one would feel that it would be appropriate but there are other circumstances that he finds inappropriate. That is why one places conditions on that land for its tenants to be controlled that way.

Tom Wilson stated that he had a question about parking. He noticed in the report that there are 29 spaces, maybe it was 27 and that each car for sale is required to be in a striped space. Brad Townsend stated that was correct. Wilson asked what a provision is there in this for spaces remaining unoccupied for customers. Townsend stated that there are currently no stipulations related to that. That could be another appropriate condition that the Commission might place that five to seven of the spaces be open continually for customers coming in and out of the property looking at the cars that are located there. Wilson stated that he asked that because he does see on many of these car lots, they are really parked with display automobiles from one side to the other and there is no place for customers really to park other than in the street.

Wilson's next question would be what does Townsend think is an appropriate amount of spaces to reserve for customers of a business like this? Townsend stated that in review of the site plan it would probably seem appropriate that there are two handicap spots next to the building. There is probably five parking spaces in this bank or location there. Those could be designated as customer areas, which would probably be at the appropriate location because the viewing cars are on Holcomb Bridge Road so coming off of Holcomb Bridge Road into the site and out of the site that would probably be the most appropriate location to make that bank of five spaces identified as customers only.

Laura Light asked Brad Townsend if there was a formula that was used for businesses of a certain size. It has to have a certain number of parking spaces. Brad Townsend asked if she meant the parking calculation based on square footage. Townsend stated that there is a parking requirement of one parking space for 400 square feet of showroom and office area.

Tom Wilson asked if that was for car dealerships. Brad Townsend stated that was for auto sales.

Laura Light clarified that it was for 400 square feet. Brad Townsend stated that was the minimum requirement. Light clarified that it was one per. Townsend stated that was correct. Light concluded that the size of this...Loren Conrad stated that he thinks it is 4000 square feet. Light stated that would require them to have 10. So the five plus the two would only be seven. Townsend stated that they would be picking up three spaces somewhere else. Light stated that if they were going to go that direction they might want to consider even 10.

Tom Wilson stated that in that case the Commission really would need to make a condition of zoning that the zoning ordinance would prevail. Brad Townsend agreed. Wilson stated that maybe it would be helpful just to maximize or put a maximum number of display spaces just to make sure that that was well-known to the applicant.

Laura Light stated that in thinking through that logically, some of those parking spaces she would think would be for employees. They could say that a certain number have to remained open for clients. Because when that formula is done it is not done just for customers it is done for employees of the building as well. Brad Townsend stated that is correct.

Susan Baur asked if there were any other questions for staff.

Sarah Winner stated that she just wanted to clarify and make sure that she heard this correctly. Right now, and she guessed they can ask the applicant this when they come up, there is not a tenant currently ready to move onto this property as they had assumed when this came up for discussion a couple of weeks ago. Brad Townsend stated that was correct. Winner stated that though they would like to be able to market it as a used car lot instead of just as a commercial building. Townsend stated that was correct.

Hearing no further comments from staff Susan Baur stated that the Commission would now hear from the applicant.

Teresa Devoe stated that she had with her Dan DeCraney. Devoe represents the owners of the building at 1327 Holcomb Bridge Road and DeCraney has worked with them for many years in assisting them with leasing and marketing of the property. Devoe thinks that DeCraney will be able to answer some of the Commission's questions as well. Devoe stated that they are present to make a request for conditional use zoning for the property. The property is zoned for commercial use as Brad Townsend mentioned. But, in May of 2008 an ordinance was passed that for the sales of pre-owned cars one now needed to seek approval for conditional use zoning. Devoe stated that it is important to note that in May of 2008 the property was occupied by a tenant that was selling luxury pre-

owned cars. At the time Devoe did not know about the change in zoning and had not received notification but they continued with this for a number of years. She thinks that is why. She will get to why they learned about this later. Devoe knows that the Commission has been presented with the staff report so she does not want to go through all of the details again for them but she does want to summarize that the building sits on 1.078 acres and it is at the intersection with Market Boulevard. It has 3969 square feet, right at the 4000 square feet. It is surrounded by a variety of commercial uses including a bank, shopping center, hotel, another nearby automobile dealership and then next door is a vacant gasoline station.

The property was purchased by their ownership in August 2001 and a doctor leased the property until September 2004. Following that and with Dan DeCraney's assistance they have re-leased the property to several resellers of luxury used cars. The first beginning in November 2004 up until December 2008. Devoe pointed that out because she does not think that was intentional. It was just that the highest and best use of the property kept attracting those types of tenants because of the location. But they have had a broad base marketing campaign for the property over the years.

The building has been vacant since March 2009 and they have not received any rent since December 2008. They did recently enter into a lease with a similar business called Autohaus Webb. They had signed the lease and they were prepared to move forward. They were leasing another property on Alpharetta Highway and again, Devoe was not aware of the change in the zoning or she would not have gone that direction. But that is where they were. When Autohaus Webb went to apply for their business license to transfer from their Alpharetta Highway location to their Holcomb Bridge Road location that is when Devoe learned of the change. They wanted to continue with this and they were here for the neighborhood meeting last month. It was just last Thursday that they notified Devoe that they don't want to continue with this.

Devoe wants to continue and move forward in hopes that the Commission will recommend approval of this to the city council so she can get back out and start marketing the property again.

As stated in the staff report, the property does meet the conditions for special use such as the site is within the defined definition of a site that should be allowed for conditional use approval. It is 1.079 acres. Devoe wanted to take a moment to point out that the owners have been very careful in selecting and dealing with the various lease applicants. They are scrutinized and Dan DeCraney can probably speak to that. They check all financial records, they look for personal guarantees. There is a lot of detail. Devoe wants the Commission to have a comfort level in knowing that they are trying to work with the city of Roswell in finding a qualified tenant for the property. Someone who represent the city and Devoe's firm as well. She is afraid that by denying them this opportunity they might run the risk of

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losing another tenant to another municipality because that is what this tenant has chosen to do.

Holcomb Bridge Road is a heavily traveled commercial corridor so it is highly suitable for this type of business. Restricting the owner's ability to lease...that is not the sole tenant that they are seeking but they want to have a broader ability that if that is who come to them they have the ability to lease to them. Those restrictions are reducing their value. They have already had to reduce their rental rates because of the current economic conditions. And the more restrictions they place on who they can lease to, they continue to reduce the value of the asset.

Devoe also believes that having an occupied building that is well cared for is much more beneficial for all of them than to have a vacant building. Given the current economic environment it has just been difficult to find quality, reputable differences so they are trying to make it as broad as they can so that they can find them. She believes that their request is a win-win. It is a win for them and it is a win for the city. Devoe stated that she appreciates the conversations that they have had with the staff and their desire to move forward with this, even though they had the tenant back out at the last minute. She appreciates the Commission's willingness to listen to them as they try to move forward.

Dan DeCraney stated that he had talked to the tenant just yesterday and they had signed the lease back in January. They had put a caveat in the lease that it was subject to them getting a business license. Again, DeCraney did not know that it was going to be this drawn out process. They thought that within in a month they would be up and running. There are two owners of this business and when DeCraney talked to them they were tired of waiting. They didn't know if it was going to get approved, they have kids in college. The lease was signed in January, they didn't anticipate these problems. They are looking somewhere else right now and are pretty close to finalizing a deal off of Peachtree Industrial. DeCraney stated that they have attracted a lot of different tenants to this property. The values have gone down. He has been doing real estate for 25 years and three years ago they were getting \$6500 a month on that property and the lease that they had negotiated presently was \$4000 a month. They were also talking with a jeweler that would have been a good tenant because there is a vault in the building but because of the economy he was hesitant to sign a lease longer than six months going forward and that just wasn't acceptable to the owners. It is a retail building so they are not interested in dealing with regular office tenants there. The regular office tenants can't afford to pay the higher rent there because of the location. So they are after a different clientele. They have had calls from restaurants and it is just not a very good restaurant site just because of the shape of the building. They have had interest from medical clients, dental clients but the owners have now wanted to do a lease longer than five years because of the market here knowing that it is going to be better in five years. So it has chased away some of the people that need to put improvements into the building because they don't want to have the lease pulled in five years

and have to move out of there. So it is kind of a specialized building right there. The tenants that have been in the building have sold high end cars, Mercedes, BMW, Lexus. The last tenant was leasing Bentleys and Mazaratis. It is not a clientele that DeCraney does not think the Commission would be proud of.

Loren Conrad stated that he heard Dan DeCraney say that the owners are very particular about who they lease to and that sort of thing. Is there any way the Commission could condition this to have some insurance that there will be a high-end car dealer in there and not someone selling junkers?

Dan DeCraney stated that he would be happy with that in there. Teresa Devoe agreed. Loren Conrad asked the applicants if they were okay with the conditions as they are listed in the report.

Teresa Devoe stated that they are okay with the conditions. They do need clarification. Like Conrad, she walks the sidewalk and she was not sure what was being requested. She just needs to get clarification as to what is being requested and as far as she knows they are ADA compliant. She needs someone just to give them guidance as to what is requested.

Loren Conrad clarified that Devoe could buy off on the rest of the conditions tonight but if they could find one that would somehow assure both of them that they are going to end up with a high-end car dealer there, she is okay with that. Devoe stated that she was.

Cheryl Greenway asked if they could put in the conditional use the words they used a few minutes ago, "luxury pre-owned cars". Would that be a good description? DeCraney and Devoe thought that would be fine.

Loren Conrad stated that luxury is a good word to use there. Devoe added that pre-owned is a nice word.

Tom Wilson asked the applicants if they were aware of the parking requirement for public parking, the 10 spaces. The second part of his question is knowing that there are only 17 display spaces; is this still a viable opportunity for them? Dan DeCraney stated that he guessed that he didn't really know of the public parking there. The past two tenant users there, they didn't have 10 people there. The previous two tenants only had two people. When one only has 25 cars he does not need a whole lot of sales people there. The first one, AGM was a husband and wife and the second one was two gentlemen that were there.

Tom Wilson stated that he realizes that they may not need that many spaces but the ordinances as they are written today require that. And in knowing that, is 17 spaces still a viable opportunity for them? Teresa Devoe stated that it was. She was not aware so she was looking at the site plan while they were going over it and she believes there are some areas to the back that they could add spaces

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that would accommodate the employees and the clients. It was once a bank building so there is a drive through banking window that is not used anymore. It was closed in by a prior, so she was looking at that thinking that maybe there are some places on the sides that they could align some parking. They would have to look at it carefully but she thinks there is probably some more area that is not marked now.

Dan DeCraney stated that there were three lanes back there for the drive through banking and he knows the previous tenant had just used that to wash cars back there and then put them back on the lot.

Tom Wilson stated that the city of Roswell has standards for parking and parking lots and they would have those spaces, although they may be able to be striped back there, they would have to meet all of the standards of the city's detailed plans of that.

Teresa Devoe stated that she thinks there is enough area that they should be able to meet...they could look at the site plan if the Commission would like but she needs to know what the standards are before she can say definitively that they can. But if they can they would.

Tom Wilson asked Teresa Devoe if there was some way she could get that information before the Commission makes this decision. Teresa Devoe asked Brad Townsend if he could help them look at the site plan.

Cheryl Greenway clarified that according to the information the Commission has, there is 29 parking spaces instead of 27.

Tom Wilson apologized and stated that he did misspeak so that would be 19 display spaces and 10 reserved spaces not for display. Plus any additional spaces that they might stripe for display that met the city standards.

Brad Townsend stated that what is being discussed is this area in the back of the building. There is probably sufficient room to get five or six parking spaces if they just do four parallel at least on that angle or they could put at least three along the building. This is a one-way drive. There is room enough to get seven or eight parking spaces back there for employees if that is the choice of the Commission.

Cheryl Greenway clarified that the seven or eight spaces that Brad Townsend is talking about are in addition to the 29 that were already identified. Townsend stated that was correct.

Loren Conrad clarified that this was a 4000 square foot building, an auto dealership. Does that anticipate some display inside? Dan DeCraney and Teresa Devoe stated that it did not. Conrad confirmed that the parking places are predicated on just the size of the building. Brad Townsend stated that it was just

the size of the building. When it was designed as a bank that was the criteria that they were utilizing at the time.

Teresa Devoe stated that currently, as she understands it they have 26 spaces. Is that correct? 27? Cheryl Greenway stated that the plan shows 29. Devoe stated that includes the handicap spaces. So they have 29 and they need... Tom Wilson asked if the site plan says 27. Devoe stated that she did not count in the two handicap; she was just doing it in her head.

Susan Baur asked if there were any further questions for the applicant. Hearing none she opened the meeting up to public comment. She asked if there was anyone present who would like to speak in favor of the application to please step forward. Seeing no one, Baur asked if there was anyone who would like to speak in opposition to the application.

**Bob Argroves**  
**434 Teal Court**  
**Roswell**

Bob Argroves stated that he has some real concerns about this area that is going to be a parking lot. One of course is that there is another one already there and that whole area is full of things like auto related. There are two or three filling stations; there is an Express-O just up the street. There are all kinds of that kind of thing on Holcomb Bridge Road. Everyone up there should be aware of how congested Holcomb Bridge Road is. His understanding is that that area was going to be considered as a gateway to Roswell so they would be redeveloping some of that area. In any event, he is opposed to it for a variety of reasons. One of which is not just the fact that they don't want a whole line of car lots there. He does like the fact that the Commission has conditioned it so that it would be luxury as opposed to just any car that could be there. But Argroves does think that whole entire area there needs to be redeveloped and that they have more of an access to it than they currently have. As one knows Holcomb Bridge Road only goes one way that way. There is no exit out of there other than coming back around to Holcomb Bridge Road and going on SR 40, that's it. In short, Argroves does not want it turning into another Alpharetta Hwy. where they have all of that congestion, all of that traffic and all of the stuff that they are trying to do in the city to better that and having that area turn into the same thing.

Susan Baur thanked Argroves and asked if there was anyone else from the public who would like to come forward. Seeing no one, Baur closed the public portion of the meeting.

Cheryl Greenway stated that she had a question for Brad Townsend. If she should make a motion to approve the application with the luxury pre-owned cars stipulation, would it be acceptable to also mention then that the third and fourth

condition would need to be discussed in more detail between Townsend and the applicant to resolve what those outstanding issues are? Is that acceptable?

Susan Baur asked if there were any more questions for the applicant at this time.

Tom Wilson stated that he had a question for Brad Townsend. Susan Baur stated that if there were no more questions for the applicant and anymore questions for staff that is fine. Wilson asked what the definition of pre-owned luxury car. Are they getting themselves into something that they don't have a good definition for or should they bolster that definition somewhat so that they know exactly what that is?

Brad Townsend stated that what he would recommend is to use that term and use the term "such as" and give it terminology that the Commission feels appropriate in dealing with defining pre-owned luxury cars.

Tom Wilson stated that he would feel comfortable with Townsend working with the applicant between now and the city council meeting to determine what brands, what models, what price range. He would feel pretty comfortable doing that. Brad Townsend stated that he could handle that.

Susan Baur asked if there were anymore questions for staff. Hearing no further questions she closed the public hearing, have a discussion and make a motion.

Loren Conrad feels that they have an empty building there that had been previously occupied by a car dealership. If they can get this thing filled with a car dealership that will keep care of it and make it an attractive location he thinks it is far better than what they have there now. And to the gentleman's response about redevelopment, Conrad stated that should that time come that property will increase in value to the point that whoever is in there probably the lease would expire and the Pinnacle Company would want to sell it or whoever. He does not think that would be an issue if it comes to a redevelopment situation. Conrad stated that he would support this with a motion that they add the pre-owned luxury car stipulation or condition to it and from there he likes it.

Susan Baur asked if there was any other discussion. Baur stated that she thinks there are an awful lot of used car dealerships in Roswell and she is not excited about seeing a used car dealership come into this space. She would much rather see something else if that is possible. But the applicant meets all of the criteria for the used car dealership on this property. The fact that they had a potential tenant with a well-established reputation of high-end vehicles was more appealing. Now they don't know what they might get but she thinks adding a condition about the high-end luxury used vehicles would satisfy that in her mind.

Sarah Winner stated that she thinks it is pretty common knowledge that a lot of the residential areas over there are concerned about the empty buildings. They

are also concerned about a proliferation of businesses that maybe aren't as desirable as they might want for the gateway to Roswell. Having said that, they are all sensitive to the fact that the economic conditions and realities are now that some rent coming in is better than no rent and given the number of parking spaces they are going to have to sell either a whole bunch of cars or cars at a higher price point to even justify the rents they were talking about. So, as long as the applicant is amenable to some kind of a condition on the type of quality of cars so that it is not Uncle Eddie's \$200 drive off specials she agrees with Loren Conrad that when the economy eventually picks back up the rents will dictate what kind of tenants will come in there. Hopefully at that point everyone will see the used car lots go by the way side. As long as they are okay with the luxury car as defined by consumer reports or whatever they decide is going to be their definition, then Winner can support this even though she knows a lot of the residents around there are somewhat concerned about another used car lot.

Susan Baur asked if there was any further discussion or a motion.

Cheryl Greenway stated that she concurs with her fellow members of the Commission. She thinks it will be a little better accepted if it is the luxury pre-owned rather than used cars of a lesser value. Right now in these economic times they have got to do what they have to do and she agrees that as times get better that will take care of itself. With that, she will try to make the motion and cover every thing.

### **Motion**

Cheryl Greenway made a motion that the Commission approve the conditional use of CU10-01 with the understanding that there are four conditions that go with this approval. Three and four of the four conditions still need to be discussed with Brad Townsend and resolved as to exactly what is being requested to be done. Also adding a condition that this would be only luxury pre-owned cars, which also needs to be resolved as to what exactly that means. For her own reference point, Greenway is thinking of like the person the applicant was getting ready to rent to who in their shop they have Jags, collector-type vehicles. Very high quality vehicles. She is hoping they can find a good definition for the luxury pre-owned cars. The other condition to put with this is the understanding that they have the 10-space requirement of 10 parking spaces that need to be reserved for customers and employees.

Tom Wilson seconded the motion. The motion passed unanimously. It will go forward to mayor and city council next month.

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