



# City of Roswell

38 Hill Street  
Roswell, Georgia 30075

## Meeting Minutes Mayor and City Council Zoning

*Mayor Jere Wood*  
*Council Member Nancy Diamond*  
*Council Member Rich Dippolito*  
*Council Member Kent Igleheart*  
*Council Member Jerry Orlans*  
*Council Member Betty Price*  
*Council Member Becky Wynn*

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Monday, March 8, 2010

7:30 PM

City Hall

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### WELCOME

**Present:** 7 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Jerry Orlans, Council Member Kent Igleheart, Council Member Becky Wynn, and Council Member Betty Price

### Pledge of Allegiance: Judie Raiford

*Staff Present: City Administrator Kay Love; City Attorney David Davidson; Community Development Deputy Director Clyde Stricklin; Planning & Zoning Director Brad Townsend; City Planner Jackie Deibel; Community Information Coordinator Kimberly Johnson; Building Operations Technician Doug Heieren; and Deputy City Clerk Betsy Branch.*

### CONSENT AGENDA

1. **Approval of February 8, 2010 Zoning Meeting Minutes (detailed Minutes to replace Council Brief Minutes adopted on February 17, 2010) and approval of March 1, 2010 Council Brief Minutes**

#### *Administration and Finance*

1. *Approval of February 8, 2010 Zoning Meeting Minutes (detailed Minutes to replace Council Brief Minutes adopted on February 17, 2010) and approval of March 1, 2010 Council Brief Minutes*

**A motion was made by Council Member Becky Wynn, seconded by Council Member Betty Price, that this Item be Approved. The motion passed unanimously.**

### REGULAR AGENDA

**Mayor's Report**

*Mayor Wood introduced Mike Martin from the Chattahoochee Valley Poultry Association. Mr. Martin noted this poultry association located in Newnan, Georgia works with local youth and 4-H clubs. For the past four years, the Chattahoochee Valley Poultry Association has had the largest poultry show in the southeastern United States with a total of 2,170 birds from sixteen states entered this year. Mr. Martin noted that Mayor Wood and his wife Judie Raiford, entered their Wheaton Americana rooster and won first place in three separate categories. Mr. Martin presented their first place ribbons.*

1.

**Approval of appointment to the Planning Commission.**

*1. Approval of appointment to the Planning Commission.*

*Mayor Wood stated this was approval of Tom Wilson's appointment to serve on the Planning Commission. The Mayor invited Council questions regarding this nomination. No comments or questions were heard.*

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

**In Favor: 6**

**Community Development - Councilmember Betty Price**

2. **RZ09-18 Text Amendment regarding revisions to the Public Notice requirements for Rezoning and other applications. (Second Reading)**

*Presented by Bradford D. Townsend, Planning and Zoning Director*

2. RZ09-18 Text Amendment regarding revisions to the Public Notice requirements for Rezoning and other applications. (Second Reading)

*Planning and Zoning Director Brad Townsend stated this proposed text amendment relates to notification sections in both the Zoning Ordinance and the Code of Ordinances in which meeting notice letters are mailed out to property owners within 300 feet of the subject property; the proposal is to increase the notification area. Mayor and Council reviewed this proposed text amendment on February 8, 2010, and approved the first reading. The Planning Commission recommended approval. Recommended changes from the first reading are included in this second reading. Mr. Townsend stated Councilmember Price recommended additional changes; those proposed changes were provided to each Council member and are as follows:*

- *Section 1, Article 31, Section 31.1.21: "advertised" changed to "required"; 300 feet is maintained from the first reading; due to redundancy, the paragraph regarding each public notice sign pertaining to a conditional use was struck through and "additional language was added to Section 31.1.23 dealing with the language of identifying the sections of the zoning ordinance that are being proposed to be varied when we do the notice and the sign."*
- *Section 2, Article 31, Section 31.3.13: "zoning staff" changed to "zoning director."*
- *Section 7, Article 31, Section 31.6.3: "zoning staff" changed to "zoning director"; "clarifying the language for the information that is transmitted to the board for the appeal of an administrative decision"; "advertised notice" changed to "required notice"; "zoning staff" changed to "zoning director."*
- *Section 8, Article 12, Section 12.2.6: clarification of the variance notification.*
- *Section 9, Article 12, Section 12.2.10: "advertised" is replaced with "required."*
- *Section 10, Article 21.2, Section 21.2.6 (b): notification within "300 feet from the property lines of the subject property" to be replaced with "1,000 feet from the location of the proposed tower or antenna."*

*Mayor Wood asked if it would be grounds for protest if an oversight occurs and notice does not go to a property owner. City Attorney David Davidson replied yes, it could. Mayor Wood stated that creates a problem; errors could be made in the notification process which could then be a possible challenge of the rezoning; there needs to be certainty for the applicant. Mr. Davidson stated that if it is required that every property owner within 300 feet must be notified and one is missed, that could call it into question. Mayor Wood asked how the property owner will be determined, would this require a title search of every piece of property. Mr. Davidson replied that tax records would probably be used. Mayor Wood noted that technically, tax records indicate who is paying taxes but it does not necessary indicate the property owner. Mr. Davidson agreed. Mayor Wood stated that this is a second concern in that the City does not want to create a problem for rezoning; he understood the intent but did not want the intent to create an uncertainty. The Mayor suggested that the "lots of records for taxes, the tax payer of record, and the last known address as shown on that parcel, be reviewed to have a check off to know with certainty" because technically, it would require every title to be run, which would be impractical and there is a question whether it would include a current address to locate the owner. Mayor Wood stated he was not comfortable with the ordinance as it currently is drafted.*

*Council comment:*

*Councilmember Dippolito noted that originally, the 300 feet requirement was to be put*

in the Code rather than in the ordinance. Mr. Davidson clarified that originally, a resolution of Council was discussed which stated staff would notify everyone within 300 feet; staff did not want to put it in the Code. Mr. Davidson said that if done by resolution which would be a policy, then we try to inform everybody within 300 feet. Councilmember Dippolito asked if there is a "best efforts way" of accomplishing this. Mr. Davidson suggested the language "attempt to contact or notify," but it would not necessarily mean that everyone would be contacted.

Mayor Wood recommended that the proposed text amendment be deferred and not drafted on the "fly" at this meeting.

Councilmember Orlans noted that in the past, errors have been made in notifying the adjacent property owners; it did not create a problem. Mr. Davidson replied that State zoning procedures law is what was followed in the past which states "adjacent property owners as shown on the tax records." Mr. Davidson noted that tax records have always been used without any issues.

Councilmember Dippolito stated that at Committee there were Council discussions not to go beyond the 300 feet to 500 feet because it was thought that to go out that far it would be too onerous on staff. Councilmember Dippolito stated he was concerned about the 1,000 feet notification requirement for communication towers and asked if there was any concern on the part of staff going out that far since it seems significant. Mr. Townsend replied that 1,000 feet is a significant area but the impact of a tower is definitely different than rezoning of a property since it is regarding height. Considering the location of towers on the City's master siting plan, and existing towers, there will be less than half a dozen more locations. He added that with the interest in the Jones Road fire station site, the Crabapple commercial site, and the Lake Charles site, staff felt that notification within 1,000 feet distance is appropriate. Mr. Townsend said he had previously directed his staff to mail notification letters to property owners within 1,000 feet for the Lake Charles site; 100-125 letters were mailed. He confirmed for Councilmember Dippolito the mailing information was retrieved from the most current tax record. Councilmember Dippolito asked the city attorney if that would be an appropriate way to handle this. Mr. Davidson replied that state law allows the use of tax records although the tax records can often be wrong; it would solve the issue as far as who owns the property; language could be: "as shown on the tax records." Mr. Davidson noted the 300 feet notification requirement would be a Council decision.

Councilmember Diamond asked why this was now being done by ordinance rather than resolution; would going back to a resolution solve the problem. Mr. Davidson replied that from a legal standpoint a resolution would be preferable; it would just require a directive to staff.

Mayor Wood reiterated his recommendation to defer this text amendment and send it back Committee, unless there is urgency.

Councilmember Dippolito said "I believe the reason why we wanted to have this included was so that the applicants would be aware of who was being notified so there would be some sort of public information, somewhere for people to go to understand what kind of notice there was. If somebody from the community had concern that they weren't notified, we could at least point to an ordinance."

Mayor Wood asked if there was a motion to defer this item before the reading of the ordinance.

Councilmember Price said "There is nothing really substantively different from a

month ago with the exception of the cell tower; certainly we can modify that if need be." Councilmember Price confirmed for Mayor Wood that she wished to proceed with the reading of the ordinance.

City Attorney David Davidson conducted the second reading of AN ORDINANCE TO AMEND THE PUBLIC NOTICE REQUIREMENTS IN ARTICLE 31 and ARTICLE 12 OF THE ZONING ORDINANCE OF THE CITY OF ROSWELL and ARTICLE 21 OF THE CITY CODE OF THE CITY OF ROSWELL stating: Now, therefore, be it ordained and it is hereby ordained by the Mayor and City Council of the City of Roswell, Georgia, pursuant to their authority as follows:

1.

Article 31, Amendments, Zoning Procedures and Permits, Chapter 31.1, Amendments and Zoning Procedures is hereby amended by add a new paragraph to section 31.1.21 and amending Section 31.1.23 Public Notice Signs, to read as follows:

*Section 31.1.21 Required Notice of Public Hearings*

*At least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before mayor and city council, the city shall cause to be published within a newspaper of general circulation within the city a notice of the public hearing before mayor and city council. The notice shall state the time, place, and purpose of the hearing.*

*Notice shall be provided to all abutting property owners as required by State law. Further, the zoning director shall make a good faith effort to provide notice of the public hearing to all properties within 300 feet of the subject property. Such notice shall be mailed to the address of the taxpayer shown on the county tax records and shall be mailed no less than ten (10) days preceding the date of the meeting. If the zoning decision of a local government is for the rezoning of property and the rezoning is initiated by a party other than the local government, then the notice shall include the location of the property, the present zoning classification, and the proposed zoning classification of the property.*

*Section 31.1.23 Public Notice Signs*

*For all applications involving an amendment to the official zoning map, application for conditional use, or application for a concurrent variance, the zoning director shall cause to have posted in a conspicuous location on said property one (1) or more sign(s). The public notice sign shall be erected not less than fifteen (15) calendar days prior to the public hearing before the mayor and city council pertaining to said application. Each public notice sign shall state the time, place, and purpose of the public hearing before the mayor and city council, and the location of the property.*

*In addition, each public notice sign pertaining to an amendment to the official zoning map shall state the present zoning classification and the proposed zoning classification of the property. Each public notice sign pertaining to a conditional use shall state the existing or proposed zoning classification and the proposed use of the property. Each public notice sign pertaining to a concurrent variance shall state the proposed zoning classification and the section or sections of the Zoning Ordinance proposed to be varied.*

2.

*Article 31, Amendments, Zoning Procedures and Permits, Chapter 31.2 Design Plans, Section 31.2.19, Appeal of Design Review Board Decision is hereby amended*

as follows:

*Appeals of decisions of the design review board shall be taken to the city council in the following manner. Any person or persons, jointly or severally, aggrieved by any decision of the Roswell design review board may within thirty (30) calendar days of the decision take an appeal to the Roswell city council upon payment of the required fee. The city shall fix a reasonable time for the hearing of the appeal by the Roswell city council and give at least fifteen (15) calendar days public notice thereof and due notice to the parties in interest and surrounding property owners as shown on the county tax records within 300 feet of the subject property. The Roswell city council shall make a decision within thirty (30) calendar days from the date of the hearing unless such time is extended with the approval of the appealing party. Decisions shall be made based on the record presented to the design review board and the substantial evidence standard shall apply. All decisions of the city council regarding appeals of decisions of the design review board shall be final and shall in all instances be subject to judicial review in the manner prescribed by law.*

*In reviewing a decision of the design review board, the city council may remand the matter to the design review board for further action. When a decision is made by the city council on appeal to approve a design plan, said approval shall constitute final design plan approval for purposes of this chapter.*

3.

*Article 31, Amendments, Zoning Procedures and Permits, Chapter 31.3 Certificate of Appropriateness, Section 31.3.13, and Notice to Surrounding Property Owners is hereby amended as follows:*

*Prior to reviewing an application for a certificate of appropriateness, the zoning director shall take such action as may reasonably be required to inform the owners of any property likely to be affected materially by the application and shall give the applicant and such owners the opportunity to be heard. At minimum, this provision shall be construed to require written notice of the time and date of the meeting of the historic preservation commission at which the application will be considered to all surrounding property owners as shown on the county tax records within 300 feet of the subject property, mailed to the address shown on the county tax records no less than ten (10) days preceding the date of the commission's meeting.*

4.

*Article 31, Amendments, Zoning Procedures and Permits, Chapter 31.3, Certificate of Appropriateness, Section 31.3.14, and Public Hearing is hereby amended as follows:*

*In all applications involving the demolition of a structure that is subject to the requirements of this chapter, provisions shall be made for a public hearing before the historic preservation commission. In other cases, the commission shall hear from the public, as appropriate and as directed by the chairman, without the necessity of advertising a public hearing. In the event a public hearing is required pursuant to this section, notice of said public hearing shall be provided at minimum as follows:*

*At least ten (10) days' notice of the time and place of each public hearing involving the demolition of a structure shall be given by the zoning director as follows:*

*(a) In writing to the applicant and surrounding property owners as shown on the county tax records within 300 feet of the subject property.*

*(b) By publication at least once in the form of an advertisement in a newspaper of general circulation within the city.*

(c) *By sign posted on the property.*

5.

*Article 31, Amendments, Zoning Procedures and Permits, Chapter 31.3 Certificate of Appropriateness, Section 31.3.18, Appeals, is hereby amended as follows:*

*Appeals of decisions of the historic preservation commission shall be taken to the city council in the following manner. Any person or persons, jointly or severally, aggrieved by any decision of the historic preservation commission may within thirty (30) calendar days of the decision take an appeal to the Roswell city council upon payment of the required fee. The city shall fix a reasonable time for the hearing of the appeal by the Roswell city council and give at least fifteen (15) calendar days public notice thereof and due notice to the parties in interest and surrounding property owners as shown on the county tax records within 300 feet of the subject property. The Roswell city council shall make a decision within thirty (30) calendar days from the date of the hearing unless such time is extended with the approval of the appealing party. Decisions shall be made based on the record presented to the historic preservation commission and the substantial evidence standard shall apply. All decisions of the city council regarding appeals of decisions of the historic preservation commission shall be final and shall in all instances be subject to judicial review in the manner prescribed by law.*

6.

*Article 31, Amendments, Zoning Procedures and Permits, Chapter 31.4, Variances, is hereby amended by adding a new paragraph 31.4.5 Required Notice of Public Meetings to read as follows:*

*Section 31.4.5 Required Notice of Public Meetings.*

*Notice shall be provided to all abutting property owners as required by State law. Further, the zoning director shall make a good faith effort to provide notice of the public hearing to all properties within 300 feet of the subject property. Such notice shall be mailed to the address of the taxpayer shown on the county tax records and shall be mailed no less than ten (10) days preceding the date of the meeting.*

7.

*Article 31, Amendments, Zoning Procedures and Permits, Chapter 31.6, Appeals of Administrative Decisions, Section 31.6.3, Procedures, is hereby amended as follows:*

*Any appeal received and all papers constituting the record relating to the action appealed shall forthwith be transmitted by the zoning director to the board of zoning appeals for a hearing within thirty-five (35) days of receipt by the zoning director.*

*A reasonable time for the hearing of appeals shall be fixed, and there shall be at least fifteen (15) days public notice thereof and due notice to the parties in interest and surrounding property owners as shown on the county tax records within 300 feet of the subject property. Specifically, the appeal hearing shall follow required notice of public hearing procedures specified in section 31.1.21. At a hearing, any party may testify in person, or by agent or by attorney.*

*The board shall make findings and render a decision in writing within thirty-two (32) days after the initial hearing on the administrative appeal. The zoning director shall notify the applicant, in writing, of its decision within five (5) days after the board has rendered its decision.*

8.

*Article 12, Parkway Village, Section 12.2.6 Variances for Hardships, is hereby amended as follows:*

*The mayor and city council may waive one (1) or more of the specific requirements applicable to sites located in the overlay district in accordance with this section. The mayor and city council may approve any variance to the minimum extent necessary to allow the project to be constructed. Specifically, any notification of a variance shall follow the required notice of public hearing procedures specified in section 31.1.21. 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 a project developed in compliance with the overlay district regulations in terms of environmental compatibility and traffic considerations. In order to qualify for a variance under this chapter, the applicant must demonstrate an undue hardship imposed on a tract by the Parkway Village overlay district regulations or the cumulative effect of such regulations, due to the peculiar configuration, topography, size or location of the tract.*

9.

*Article 12, Parkway Village, Section 12.2.10, Non Single Family-Small Tract Requirement, is hereby amended as follows:*

*A non-single-family use on a small tract which is less than seven (7) acres in size or has less than four hundred (400) feet of road frontage may be developed in accord with applicable development standards of this chapter, and the following:*

*(a) A petition by the proposed owner must be filed with the zoning director and presented to the mayor and city council for consideration as a small tract use. Specifically, the hearing shall follow required notice of public hearing procedures specified in section 31.1.21. Petitioners shall present sufficient evidence to the mayor and city council to (i) verify that the property is configured in such a manner that it is not physically feasible to combine and develop the small tract of land with abutting property to create a larger tract of land, so that even if a parcel of land seven (7) acres in size with four hundred (400) feet of road frontage cannot be assembled, the resulting assemblage of the tract with abutting property will result in the largest tract which is feasible to combine, or (ii) present a site plan of the proposed improvements and a tree protection plan together with sufficient information that the development of the tract as proposed will result in a better land use than if the small tract were combined with abutting property;*

*Upon a finding by the mayor and city council that (i) the tract can not feasibly be combined with abutting property to create a larger tract of land, or (ii) development of the tract as proposed will result in a better land use than if the small tract were combined with abutting property, the petitioner shall receive approval to develop in accordance with this section subject to such reasonable conditions as may be imposed by council, and shall be entitled to develop as a small tract use.*

10.

*Article 21.2, Standards for Wireless Communication Facilities, Section 21.2.6 (b), Approval Process, of the Roswell City Code is hereby amended as follows:*

*(b) If the proposed tower or antenna is not included under the above described expedited approval uses, or the application does not on its face satisfy the development standards and other criteria specified herein, then a public hearing before the mayor and council shall be required for the approval of the construction of a wireless transmission facility in all zoning districts. Applicants shall apply for a public hearing through the community development department and pay the required*



*five-hundred-dollar fee at such time. Applications, when complete, shall be placed on the next available agenda of the mayor and council at which zoning matters are considered. At least thirty (30) days prior to any scheduled hearing, the community development department shall cause a sign to be posted on the property and the publication of a public notice in a newspaper of general circulation and notice sent to surrounding property owners as shown on the county tax records within 1,000 feet of the proposed tower or antenna. Said notice shall state the nature of the application, street location of the proposal and height of the proposed structure.*

*Mr. Davidson noted that if approved, this would be the second reading of this ordinance.*

*Motion: Councilmember Price moved to approve RZ09-18 Text Amendment regarding revision to the Public Notice requirements for Rezoning and other applications.*

*Mayor Wood inquired if the motion included the current definition of "property owner" and a notice to the tax payer. Councilmember Price replied "Amend that to attempt."*

*Mayor Wood suggested that City Attorney David Davidson advise Council with the necessary language regarding who the notice should be sent to. Mr. Davidson suggested the language: "property owners as shown on the Fulton County tax records." Mayor Wood, referring to "where the ordinance states mail no less than 10 days preceding the date of the meeting," his suggestion is that it be mailed to the address shown on the tax records. Mr. Davidson confirmed that would be appropriate. Councilmember Price said "Are you saying the previous wording, when it just simply said 'abutting' was also inadequate?" Mayor Wood replied that it states "surrounding property owner" and the suggestion is "surrounding property owner, as shown on the most current Fulton County tax records." Councilmember Price added the prior ordinance stated "abutting" with "no specificity as to exactly how those people were to be determined." Mr. Davidson stated that was correct because the previous wording followed the state law directly; under state law it was defined as being the owner of record by the property taxes. Mr. Davidson said that with this change, it may take us out of that category a little bit and it would be better to state that it is the owner as shown on the tax records.*

*Councilmember Price asked that the suggested wording be clarified. Mr. Davidson replied "as identified on the county tax records." Mayor Wood reiterated "To the property owner at the address shown on the county tax records." Councilmember Price replied that within this ordinance in all the appropriate locations, these terms should be added: "as identified by the county tax records, mailed no less than 10 days preceding the date of the meeting to the address of the property owner shown on that tax record." Mayor Wood stated that was correct. Councilmember Price said that would be her motion. Mayor Wood inquired about the cell towers decision and whether it would be 1,000 feet. Councilmember Price replied the City is apparently engaged in that practice. She clarified that her motion would leave it at 1,000 feet.*

*Mayor Wood stated the motion included the change for the area the notices are sent to and the address as being shown on the county tax records.*

*Councilmember Dippolito seconded the motion. No public discussion.*

*Council comment:*

*Councilmember Orlans asked Mr. Davidson what language could be used regarding a rezoning which might be affected, or a requested appeal, if someone is not notified. Mr. Davidson replied that Council could use the wording: "shall attempt to send."*

Mayor Wood suggested the words "a good faith effort" could be added if Councilmember Price wished to add that. Planning and Zoning Director Brad Townsend confirmed for the Mayor that it is the city's responsibility to mail the notice. Mayor Wood stated the word "mail" should not need to be defined; he added "this does not change it a lot either way; the city should do its job but this would provide some wiggle room." Councilmember Orlans suggested that the language of the ordinance should be cleaned up so that an appeal is not received based upon one person not receiving notification.

*Amended Motion:* Councilmember Orlans amended the motion to include the wording "on a good faith attempt of notification." Councilmember Price seconded the motion. The amended motion passed 5:1. Councilmember Orlans, Councilmember Price, Councilmember Igleheart, Councilmember Wynn, and Councilmember Diamond were in favor. Councilmember Dippolito was opposed.

Councilmember Dippolito said he voted in opposition because the additional language "waters down" the intent. The City has the responsibility to send notification letters, although there will always be some people who will claim they did not receive it; regardless, it remains the city's responsibility to get the notices out, "wiggle room" is not appropriate.

Mayor Wood asked if any Council members wished to change their vote.

Councilmember Orlans said he did not disagree with Councilmember Dippolito's comment that the city should take the responsibility. He explained that over the years he has seen an occasion when a notice did not get into someone's hands, or in their mind it was not sent to them even if it was sent but somehow was lost; he would hate to see an applicant have to go through the entire zoning process again because of that. Councilmember Orlans added "We do need to make the attempt, but I don't think we are trying to water that down at all or that staff will not follow through on that approach."

Councilmember Dippolito said he agreed with Councilmember Orlans in that he would not want an applicant to go through the process twice especially for an administrative error. He stated the ordinance as currently written has no "wiggle room" included and reiterated that it would not be appropriate to add it.

The Mayor called for discussion of the motion as amended before he took a second vote on it; there was no further discussion.

*2nd Vote on Motion as Amended:* The motion to amend passed 5:1. Councilmember Diamond, Councilmember Wynn, Councilmember Igleheart, Councilmember Price, and Councilmember Orlans voted in favor. Councilmember Dippolito was opposed.

Councilmember Dippolito noted that he was completely in favor of the notice requirements and even helped with the initiation, but opposed this change made at the end.

**Councilmember Betty Price moved to approve RZ09-18 Text Amendment regarding revisions to the Public Notice Requirements for Rezoning and other applications. (Second Reading). Councilmember Richard Dippolito seconded.**

**A motion was made by Council Member Jerry Orlans to Amend the Motion to include the wording "On a good faith attempt of notification" , seconded by Council Member Betty Price, that this Item be Approved on Second Reading. The motion carried by the following vote:**

Councilmember Nancy Diamond, Councilmember Becky Wynn, Councilmember Kent Igleheart, Councilmember Betty Price, Councilmember Jerry Orlans voted in favor. Councilmember Rich Dippolito opposed.

In Favor: 5

Opposed: 1

Enactment No: ORD No. 2010-03-06

3.

**RZ10-04 Text Amendment regarding companion animals.**

*Presented by Bradford D. Townsend, Planning and Zoning Director*

3. *Initiation of a Text Amendment regarding companion animals. Planning and Zoning Director Brad Townsend stated this text amendment will amend Article 3 of the Code of Ordinances. The Community Development and Transportation Committee recommended that any owner of dogs, potbelly pigs, and pygmy goats in a residential district be limited to a maximum number of three (3). Redrafted language received today from Councilmember Price will be sent to the Legal department for review which includes a limitation of companion animals within the definition, a simplification of the definition, and cross reference as requested at Committee. Staff recommended the initiation of this text amendment. The Planning Commission will review the draft text amendment before it returns to Mayor and Council for first reading.*

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

In Favor: 6

4. **Initiation of a Text Amendment regarding real estate directional signs for agent caravans.**

*Presented by Bradford D. Townsend, Planning and Zoning Director*

4. *Initiation of a Text Amendment regarding real estate directional signs for agent caravans.*

*Planning and Zoning Director Brad Townsend stated this is an initiation of a text amendment to allow real estate directional signs for agent caravans on Tuesdays. The proposed recommendation would add language to the current ordinance so that signs may be placed between 6:00 p.m. on Monday and 5:00 p.m. on Tuesday with the current rules and regulations established on the weekend. Staff recommended initiation of the proposed text amendment.*

*Motion: Councilmember Price moved to approve the Initiation of a Text Amendment regarding real estate directional signs for agent caravans. Councilmember Diamond seconded.*

*No public comment.*

*Council comment:*

*Councilmember Orlans inquired how the City will know if there is a caravan or not. Mr. Townsend replied that it will not be known unless staff finds signs remaining until Wednesday morning. City Administrator Kay Love explained that it is traditional for real estate agents to have a caravan, but from a staffing standpoint, we do not do any checking to see if that in actuality occurred over the weekend or not; the City would not know if the real estate company had a caravan or not unless we attended ourselves or someone told us. No further discussion.*

**A motion was made by Council Member Betty Price, seconded by Council Member Nancy Diamond, that this Item be Approved. The motion carried by the following vote:**

**In Favor: 6**

5. **SC09-06, Sidewalk Cafe License, I.N.C. Street Food, LLC, 948 Canton St.**

*Presented by Bradford D. Townsend, Planning and Zoning Director*

5. SC09-06, Sidewalk Cafe License, I.N.C. Street Food, LLC, 948 Canton St. Planning and Zoning Director Brad Townsend stated this is a new restaurant. A photograph of the subject property was displayed. He explained that barriers would be placed on the top of the walkway areas to create the defined area necessary to allow the serving of alcohol within this location. Proposed Phase I and Phase II site plans were displayed showing the barrier and table locations. Mr. Townsend stated Phase II includes the removal of the stone brick area; placement of additional tables along the bricked area to the east; maintaining the handicapped access to the south in the lowered area. The applicant has complied with the licensing requirements. Staff recommends approval of the application.

Mayor Wood reviewed the photograph and inquired about the changes in the location of the raised area and whether it would be sunken. Mr. Townsend replied that was correct; steps and a handrail would be removed. Mayor Wood asked if these changes needed the Historic Preservation Commission (HPC) approval. Mr. Townsend replied "As part of the sidewalk café requirements, we went to HPC and got a standard fence as well as a standard table and chairs, which the applicant is proposing to use." Mayor Wood asked if the applicant would pay all costs. Mr. Townsend replied that the applicant would be required to get a permit from Roswell Department of Transportation (RDOT) to work in the public right of way since this is the City's public sidewalk.

*Council comment:*

Councilmember Orlans noted the City owns the sidewalk. Mr. Townsend confirmed that was correct. Councilmember Orlans said he thought the Mayor's question was whether the HPC had reviewed these plans to tear out all the bricks to flatten it. Councilmember Orlans said the City needs permission to change its whole look and contour; the HPC should provide their input before Council gives authorization to the applicant to remove the stones. Mayor Wood said the stones are not original to the site and therefore, he was personally fine with the applicant removing all the stones. The Mayor noted the proposed changes would be an improvement, but it is a procedural issue as to whether this should return to the HPC for approval. Councilmember Orlans replied that since it is changing the look of the street and City sidewalk property then the HPC should review the proposal. Mayor Wood stated he understood.

Mayor Wood explained that a café sidewalk license is not a permanent right. These proposed changes would be at the applicant's expense; those changes would become City property. The Mayor further stated that there is no vested interest for the applicant in this area; in the future, if the City should decide to change its rules in this area the applicant could possibly lose the investment for those changes.

*Applicants:*

Hicham Azhari and Lawis Hren, applicants, stated they both understood the Mayor's explanation regarding the sidewalk café license on City property. Mr. Hren stated they would not be changing the walkway; their proposal is to remove the big stones in the area.

*Council comment:*

Councilmember Diamond asked if the applicant was only asking for approval related

to Phase I. Mr. Hren replied that was correct, to install the chain at the top to confine that area. Councilmember Diamond replied that would allow time to work on the second phase.

Mayor Wood asked if Council would consider approving Phase II subject to the HPC approval so that the applicant would not need to return a second time.

Councilmember Wynn stated she preferred to have both phases approved together; the HPC should review these proposed changes. She asked if the applicants intended to remove all flagstones. Mr. Azhari replied "No, on top of the stairs would be the width going all the way through, the wall would still stay." Mr. Townsend clarified that the top step width would still remain the whole length. Mr. Azhari confirmed for Councilmember Wynn that it would all be sunken except for the border. Councilmember Wynn noted there had been drainage concerns in that area. Mr. Azhari replied that they had reviewed the drainage issue and realized that there is an existing drain along the stair and that another drain was added next to the restaurant. Councilmember Wynn stated if Council approves this application that it also be subject to the HPC's approval.

Mayor Wood referred to the photograph stated the discussion for Council approval was regarding the removal of one of the step downs; the other step down services another store front which is not part of Phase I or Phase II. Mr. Townsend confirmed that was correct, "it stops about at the light post." Mayor Wood suggested that staff speak with the adjacent property owner regarding their interest in also making these changes. Councilmember Orlans disagreed that staff should be making the inquiry.

Councilmember Dippolito, referring to both Phase I and Phase II drawings, questioned the railing placement; he stated "the top portion comes down through the lowered area, which would not work because the railing would not have a wall to sit on." Mr. Hren replied "In Phase I we are just doing the divider and therefore, serving alcohol and food in that area. After we build this wall, the posts will be made where they are removable in the sleeve; we will reconfigure the poles in this area so they follow the contour of the wall." Councilmember Dippolito said that would not be possible because the chain is required to be consistent with the premises, but perhaps the wall does not get cut out as much as the site plans show. Mayor Wood said the Phase II drawing shows it as encroaching on the adjacent premises. Mr. Townsend agreed that the drawing appeared that way; he clarified that the applicant cannot encroach more than their store's boundary line and therefore, the applicant would have to pull that area back and change the site plan. The applicant agreed to accept that change.

Councilmember Wynn stated she wanted to be certain that Phase I elevations were revised because it shows new pavers. She requested that Phase I include only the installing of the post and chain. Mr. Townsend replied that could be a condition of the license approval.

Councilmember Orlans asked if the applicants also own the Red Salt restaurant. Mr. Azhari said that was correct. Councilmember Orlans stated he wanted to be certain that it is understood this sidewalk access and the alcohol beverage license are both privileges given by the City, and that state law prohibits anyone from going outside the fenced area with alcohol beverages. He stated there have been issues with patrons carrying alcohol beverages outside the defined area and asked the applicants if they were prepared to take control and to manage that issue with their patrons. Mr. Azhari replied "We have been trying to enforce that since we first opened. We enforce that at the Alive after Five even though other businesses serve their drinks in plastic cups, we serve our drinks in glasses and we try as much as we

can to enforce, not for anybody to take the drink outside.” He said the I.N.C. restaurant has provided more seating area for patrons to sit inside with their drink, not have to wait or attempt to go outside when someone is not watching. Councilmember Orlans stated it has been apparent there has been no attempt at controlling this during Alive after Five events; the City will be addressing this issue in the future. Mr. Azhari promised to follow the rules. Mr. Haren said the area at I.N.C. will be a better confined area. No further discussion.

*Motion: Councilmember Price moved to approve SC09-06, Sidewalk Cafe License, I.N.C. Street Food, LLC, 948 Canton Street, Phase I construction of post and chain as a method to adhere to the state alcohol requirements and contain drinking to that area; all portions of Phase II be completed at a future time, subject to the approval and conditions of the Historic Preservation Commission.*

*Mayor Wood questioned if the motion included Phase II modification directly in front of the building. Councilmember Orlans answered that is clarified in the City’s ordinance. Councilmember Orlans and Councilmember Diamond seconded the motion.*

*Council comment:*

*Councilmember Wynn asked City Attorney David Davidson if Councilmember Price’s motion language regarding Phase I would be adequate. Mr. Davidson replied yes; the motion stated “Phase I consists of only of the posts and chains going in.” Mr. Townsend added that it also includes two tables. Mr. Davidson agreed. Councilmember Wynn said she wanted to be certain that it did not include new pavers.*

*Mayor Wood invited public comment; no public comments were made. No further discussion.*

**A motion was made by Council Member Betty Price, seconded by Council Member Jerry Orlans, that this Item be Approved with Conditions. The motion carried by the following vote:**

**In Favor: 6**

### **City Attorney's Report**

6. Recommendation for closure to discuss acquisition of real estate.

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

**In Favor: 6**

### **Adjournment**

*After no further business, the Zoning Meeting adjourned at 8:28 p.m.*