

Cheryl Greenway mentioned that part of this process is a chance for both the member of the City to voice their feelings and their opinions and also for the Planning Commission to try to get some suggestions to try to take in all that they talked about tonight to help prepare the applicant for the meeting with the Mayor and City Council next year.

**14-096**

**RZ2014-03068 and CV2014-03069**

**PETSUITES**

**951 Mansell Road**

**Land Lot: 505**

Jackie Deibel stated that this request is not a true rezoning. It is a request to change the conditions from the original approved site plan from 2008. The location is 951 Mansell Road located on Mansell Road and Roswell Commons Circle. The property is zoned NX. The proposed site plan shows the proposed building of around 19,700 or 19,800 square feet. They are showing a play area in the rear, they meet all of the UDC requirements for the build-to zone. The zoning of the property is NX which was rezoned in 2008 for retail. The applicant is requesting a change of condition. They are asking for two variances. One is a variance to the building size, which in the NX zoning classification the maximum building size is 15,000 square feet. They are proposing 19,700 or 19,800 one of the two,

The second variance to the transparency requirement. Jackie Deibel believes the applicant may have discussed this with Kevin Turner in the zoning department. They may be able to meet this requirement. She believes they will address that at that time.

Staff is recommending approval of the change of conditions and the two concurrent variances with the following conditions:

1. That they shall dedicate the right-of-way as shown on the October 7<sup>th</sup> plan to the Roswell Transportation Department.
2. They shall extend the five-foot sidewalk along the entire property frontage along Roswell Commons Circle.
3. They shall provide an easement on the property for the sign at Roswell Commons neighborhood.
4. That sign shall not take away from any of the sign allowance for this. This condition was brought forward from the original 2008 approval.

Jackie Deibel asked if there were any questions for staff.

Bryan Chamberlain asked Jackie Deibel to speak to the 15,000 square-foot maximum building in NX. Jackie Deibel stated the NX zoning had been originally C-2 and under Roswell's old zoning ordinance, that maximum was 15,000. That was brought forward from the old code to the Unified Development Code and that is shown under the building mass section of the NX different building types listed. So, 15,000 square feet is the max, which the applicant is just requesting a variance to go almost 5,000 square feet more.

Bryan Chamberlain stated as an aside, is that 15,000 somewhat of an arbitrary number as it was brought into the NX and therefore should possibly be reviewed in the UDC for broader scope.

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Jackie Deibel stated that under the old code, which was C-2, which was neighborhood Commercial District, they were looking at retail buildings that might be going into neighborhood areas. So they put a maximum of 15,000 square feet on these buildings because they wanted them to remain small if they were going into areas that might be near a neighborhood or just outside one. So they brought that forward within the NX because it has basically replaced the C-2. At this location as one can see it is on a major road so the request for 4,000 square feet more...staff recommended the approval of that due to its location.

Bryan Chamberlain clarified that the fact that it is not in a close-knit neighborhood but out on a main street really is good justification. Jackie Deibel stated that was correct.

Cheryl Greenway asked if there were any other questions for the City.

Joe Piontek clarified that the pet motel is not a variance in use. Jackie Deibel stated that the variance is the size of the building and the transparency but the use is allowed. It is just a change of conditions based on the site plan.

Cheryl Greenway asked if there were any other questions for the City. Hearing no further questions she thanked Jackie Deibel and asked the applicant to please come forward.

Mark Vee stated that he represents the developer, Myers, Wyeth, Cooper Co. and he also has two representatives from the client PetSuites including the president of the company Ken May if anyone has any questions for the operator. May will be happy to address those. But, with respect to the Planning Commission's time and he knows they have a lot to cover tonight, May will not bore them with those details unless the Commission has specific questions for him.

As it relates to the two variances, Vee stated that yes, they are requesting a larger building footprint. The main reason why is it is a large lot. It is almost two-and-a-half acres so from a lane use perspective their amenity area is required to be 20 percent, which is about 21,000 square feet. So, their building is still going to be less than the amenity areas that they are dedicating on this lot. That is certainly one reason why Vee feels that it is an appropriate size request for that variance and the site plan that was approved in 2008 for retail use was over 20,000 square feet as well. It was about 20,000 square feet.

As far as the variance for the transparency, there are two components of the transparency. The first is along Mansell Road where the transparency requirement in the UDC is 40 percent. They were at 41 percent in terms of transparency in architectural features. That includes the front entrance and a large window at the top and gables and all that. So, with that they do meet the 41 percent. It is along the Roswell Commons Circle where the transparency requirement is 20 percent. The applicant does not meet that as currently proposed. They feel that is acceptable given that road is the city limits with Alpharetta and the other side of the street is industrial zoned land. Vee realizes that it is Alpharetta and not Roswell but it is industrial-type buildings over there and he does not think that the reduced transparency will have an impact on the City of Roswell.

As far as the staff recommendations, Vee does want to address a couple of those as well if he may.

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1. The first one as far as dedication to the right-of-way, they are totally fine with that. They agree with that decision.
2. The sidewalk along Roswell Commons Circle, Vee would actually propose that they take it down to approximately where the road bends. When they met with the neighbors in the neighborhood meeting a month ago, there are a lot of mature trees on the south side of the property and they would have to take out about 8-12 of those trees to put the sidewalk on the south end of the property. The neighbors indicated to the applicant that they prefer to keep the mature trees on the site. It is pretty and it adds an additional buffer and the applicant is happy to do that because they aren't planning on using that land. So that is one thing that they would request.
3. As far as the neighborhood sign, the applicant has a couple of concerns with keeping that.
  - a. The first is when they dedicate the right-of-way as requested in the first staff recommendation that sign will now be partially in the right-of-way. So, they see that as an issue.
  - b. But the sign will also block where they propose their sign will be. And they certainly feel like they have a right and a need to have a sign for their business that is visible from Mansell Road.
  - c. Finally, the neighborhood has a sign on the other side of Roswell Commons Circle. So today, the neighborhood has two signs, one on each side of Roswell Commons. So even if the applicant removes the sign that is on their property, the neighborhood will still have another sign on the other side of Roswell Commons Circle that clearly indicates where their neighborhood is. The applicant feels that would be sufficient.

With that, Mark Vee stated that he does not know if anyone has any questions.

Bryan Chamberlain stated that speaking to the sign for a moment, he is a sign guy. The neighborhood has two signs, one flanking each side of the drive. Are either of those signs on easements for the signs?

Mark Vee stated that they were not. The sign on that was on his property does not have an easement today so technically, it is an illegal sign. He does not know the history behind it but obviously was erected and nobody complained and there it is. The sign on the other side of Roswell Commons Circle he believes, he said that the street was the city limits but it is actually about 10 feet off the street. And the neighborhood, the town homes own that little strip of land where their other sign is. They own the property.

Bryan Chamberlain asked Mark Vee to help him remember, is that sign double sided or visible only from east bound traffic? Vee stated that they are at an angle, a little bit of an angle, but he thinks one can still see it from both directions but it is not really double-sided to his knowledge. Chamberlain stated that even driving by there he didn't see that sign. He saw the one on Vee's property.

Cheryl Greenway stated that she would like to go back to the sidewalk for just a minute. If one looks at the drawing that the Planning Commission has on the screen, what the applicant is saying is that he would not put a sidewalk along the bottom part there but he would put it along the side.

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Mark Vee stated that was correct. They would extend it down roughly...looking at that drawing where the line is, roughly where that line goes horizontally, just straight down Roswell Commons Circle. And that is really where the trees begin. Vee stated that he has a drawing showing Roswell Commons Circle. They are fine with extending it down to here, wherever they go here but as one can see, this is all existing trees. They would have to take out roughly 8-12 of those trees to put in that sidewalk and that is just what the neighbors had indicated to the applicant that they didn't want.

Cheryl Greenway stated that speaking of the neighbors, has the applicant talked to them about the sign issue? Mark Vee stated that they have talked to the neighbors about the sign issue at the neighborhood meeting and they had a couple of thoughts. They would prefer to keep the sign, they understand that it is on the applicant's property and that it would block their sign. They indicated that one sign they thought would be sufficient. They talked about a couple of different ideas. Maybe putting something at the bottom of the applicant's sign that would point to theirs. He doesn't really know that they came to a resolution in the neighborhood meeting other than they said they would like to keep their sign. The applicant said that they weren't sure if they would be able to do that. The larger issue is that it is going to be in the right-of-way, which would cause a problem as well.

Cheryl Greenway asked Brad Townsend if staff had any comment about the sign. Brad Townsend stated that the difficulty with the sign is the City does not allow off premise signs so it is illegal non-conforming and he thinks they open themselves up to a lot of ancillary issues when allowing the sign. Staff took the conservative approach and there was a condition on the prior approval that was agreed to at the time. It is fine with staff if the Board feels comfortable in removing that as a condition. They wanted to make sure that the new owner and the residents of the subdivision understood what they were going to end up with at the end. Maybe it is approving their existing sign on the other side so that it is more readable or so it is double sided or something of that nature. But staff would prefer not to have an off premise, they cannot allow an off premise sign in any way, shape or form.

Cheryl Greenway stated that she had a couple of other questions for the City and she knows that this is going to sound a little crazy. There were some conditions on the original approval that she understands why they were there because it is right on Mansell, but it is also close to the subdivision, that she wanted to see if the applicant would have any problem with the Planning Commission putting these conditions also on his. They really don't apply to him for what he is looking to use the property for but if for some reason down the road it got sold, Cheryl Greenway would like to that those conditions are still there to protect the neighborhood. The two conditions that she is thinking about are, one says that there shall be no restaurant use of any kind on this establishment, and the other one was no loud speakers or outdoor audio equipment. Mark Vee stated that they would be fine with both of those. Cheryl Greenway stated that those were important in the original approval and she thinks they need to stay with the property. Vee stated that they would certainly be willing to accept that. Greenway stated that again that was just her opinion but she wanted to ask that.

Keith Long stated that he had a comment regarding the sidewalk on that southern side. Actually, on the plan it doesn't show any trees between the right-of-way and the back of the curb. Did the applicant not have those surveyed?

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Mark Vee stated that they are on this plan that he is showing on the overhead. He does not know if the Commission can see the overhead. The reason why they aren't on the other plan is because that shows the build-to zone so they have a couple of different civil engineering documents.

Keith Long stated that the Commission has a tree surveyed that is not labeled. Is the one that is in their book consistent with what he is showing here? Mark Vee stated that it was. Long stated that there are actually no trees showing in between the right-of-way and the back of the curb.

Mark Vee stated that the sidewalk could be inside that. One has to have five feet of grass and then a five-foot sidewalk 9 or 10 feet inside of the right-of-way and some of those trees would then have to be removed. It is also worth noting that the sidewalk goes nowhere. There are no sidewalks within the development of the town homes and he thinks that was part of why the residents said they wanted the sidewalks. The applicant originally had the drawing where the sidewalk stopped just past their entrance and they asked that they extend it all the way down at the neighborhood meeting and Vee said that was fine. But they wanted to just extend it straight down but then to keep the trees.

Bryan Chamberlain stated that from the standpoint of connectivity, which he thinks included sidewalks in the UDC, help him get some continuity here on....he has a discomfort with cutting the sidewalk off part way down with a whole neighborhood south of there regardless of whether they do or don't have sidewalks at this point. It is a new development of this property and relative to the UDC and walkability. It just seems to Chamberlain to be proper that there would be sidewalk all the way long. Correct him if he is missing something.

Brad Townsend stated that is why staff put the condition in to extend the sidewalk all the down to the property and take it around the corner to there. They understand the issue that there are mature trees on their property in this location but truly, there are no trees in the right-of-way. The sidewalk may impact the critical root zones of some of those trees to some degree, but it is not going to be digging down and cutting a lot of those locations. He thinks they are in a quandary as to they are stressing connectivity and stressing sidewalks in certain place and now they are saying that because the community doesn't find it acceptable. He understands that it doesn't connect into a sidewalk in the community but that is because at the time there wasn't that requirement at all. Townsend is not sure, he will probably have to talk to the Transportation Department to see if they have an alternative, maybe the issue is they move it on the other side of the street. There needs to be some discussion and there will be prior to Mayor and City Council where it is at. For staff's recommendation at this point, they would like to leave it in as it is and deal with that with Transportation and get their feedback as to where they feel appropriate and maybe make a different recommendation to Mayor and Council.

Joe Piontek stated that he has a suggestion that they could split the baby here. That the applicant just puts sidewalks in the City of Roswell but not in the City of Alpharetta. It appears that the city line cuts off right where he wants to stop putting sidewalks, where the neighborhood wants him to stop putting sidewalks. That is the city line, right?

Jackie Deibel stated that the city line is on the other side of Roswell Commons Circle. So, their property is totally in the city limits of Roswell. It is the boundary line. So, on the other side of the street is the City of Alpharetta. So, the sidewalk will be totally within the city limits of Roswell.

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Joe Piontek asked what that CL line is that he is looking at there that cuts around those trees. Is he looking at the tree survey? On the tree survey there is a CL that seems to cut down the side of the street, around the trees and behind his property. And that just struck him as "city line".

Jackie Deibel stated that a CL normally stands for centerline. Joe Piontek asked behind the trees? Cheryl Greenway asked if they could say that is a tree protection line. Joe Piontek stated that those look like X's to him and it is probably a tree protection fence. Cheryl Greenway stated that it is on all of them, it is just easier to read on some. Joe Piontek asked if CL was something in Latin.

Mark Vee stated that it is not the city line. Jackie Deibel is correct, the city line is on the other side of Roswell Commons Circle. Joe Piontek clarified that those trees are in Roswell. Mark Vee stated that was correct. Cheryl Greenway clarified that Vee's entire property is in Roswell. Vee stated that it is. The entire property is in Roswell and as is Roswell Commons Circle, the road itself is entirely in the City of Roswell. The city limits are on the other side of Roswell Commons, about 10-feet past Roswell Commons Circle.

Brad Townsend stated that on the grading plan the CL is probably chain link, so that controls the construction and grading location so they stay out of the trees.

Lisa DeCarbo stated that would be the limits of construction or the tree protection fence. The question she has though is adjacent to that is the property line that divides the applicant's property and what takes up most of that curve is actually property of Roswell Commons.

Mark Vee stated that it is all the same property. There is a property line there but it is all the same ownership and they have both under contract as one entire parcel. That southern tip, the little tear drop is part of the Roswell Common's homeowner's association surprisingly, but it is an odd kind of piece of land but it is all part of what they are requiring.

Cheryl Greenway asked if there were any other questions for the applicant.

Mark Vee stated that he had one other quick point. The Transportation Department had a couple of comments around the drive length being 25 feet and retains a curb line at basically the two entrances. The concern the applicant has is if they meet those department comments of the Transportation Department it would force their building out of the build-to zone. So, there is a slight conflict between the Transportation Department's comments and the UDC build-to zone. He just wanted to state that for the record that their plan is to keep the building in the build-to zone per the UDC. But that would require a little give and take from the Department of Transportation.

Jackie Deibel stated that staff will inform RDOT of that before the Mayor and City Council meeting. Cheryl Greenway clarified that Jackie Deibel will get with Transportation on that issue. Deibel stated that she would on their comment.

Cheryl Greenway asked if there was anyone who would like to speak in favor of the applicant. This is on Mansell Road. For the record no one came forward. She asked if there was anyone here to speak in opposition to the applicant. For the record no one came forward.

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Cheryl Greenway asked if there were any final questions for the applicant or anything else the applicant would like to say, any questions from the Commission.

Hearing no further comments or questions, Cheryl Greenway closed the public section of this meeting for this one application. She called for a motion or discussion.

### **Motion**

Joe Piontek made a motion that the Planning Commission approve RZ2014-03068 and Conditional Variance 2014-03069 at 951 Mansell Road. He includes the staff recommendations as laid out in the plan.

Lisa DeCarbo seconded the motion.

Joe Piontek added with the two provisos from the previous zoning that the chairman laid out that it not be allowed to become a restaurant and there will be no loud speakers outdoors.

Cheryl Greenway stated that these are numbers 2 and 12 of the previous conditions.

Cheryl Greenway stated that there is a motion and a second. Clarification has been asked about no. 3 on the conditions recommended by the City regarding the sign. Joe Piontek clarified not the sidewalk but the sign. Cheryl Greenway stated that it is a non-conforming sign.

Joe Piontek stated that he made the motion including all of the staff recommendations, including the one about the sign.

Lisa DeCarbo stated that she would like to amend that motion. Cheryl Greenway stated that since Lisa DeCarbo seconded the motion she cannot amend it. She can ask Joe Piontek if he would amend his motion and tell him what she would like to have amended.

Lisa DeCarbo stated that it was the same thing that Bryan Chamberlain just asked for. She thinks that since it is an illegal off premise sign she did forget that that was one of the conditions there when she seconded. She does not think that is something that the Planning Commission can or should ask. The only thing she would want to do in lieu of that, at the most she would ask this developer if he would be willing to contribute part of the cost in at the most, retrofitting the existing sign on the east side of the sidewalk so that it was visible from both sides.

Cheryl Greenway stated that she does not know if the Planning Commission can do that. Joe Piontek stated that he does not think that they can ask the applicant to do that. Cheryl Greenway stated that she does not think the Commission has the authority to do that.

Lisa DeCarbo stated that she would rather just strike that as one of the conditions.

Cheryl Greenway stated that Joe Piontek has been asked to amend his motion and strike no. 3 on the conditions from the City. Is Piontek agreeable to that? Joe Piontek stated that he agreed. Cheryl Greenway stated that Joe Piontek agrees with that and Lisa DeCarbo still agrees with her second.

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Cheryl Greenway stated that there is a motion and a second. She called the question. The motion passed unanimously.

Cheryl Greenway stated that the Planning Commission will take a five-minute break at this time.

**14-0497**

**TZ2014-30394 and CU2014-03096**

**COLEMAN ROAD TRACT – WAYNE LAMAR**

**Coleman Road and Marietta Highway**

**Land Lots: 233 and 234**


Brad Townsend stated that this is a petition on Coleman Road and Marietta Highway. A proposed single family subdivision under the NX Neighborhood Mixed Use is also requesting to rezone two RS30 properties to NX to add into the subdivision. A conditional use is required for single family to be allowed under the NX zoning designation.

Brad Townsend presented an aerial photograph as one can see SR120/Marietta Hwy. to the south angle and Coleman Road more to the east. As one can see it stretches to that location. The RS30 properties are the two northern properties that are being included in this proposal. On the zoning map the fuchsia color (pink) is the NX designation. The yellow color is the two RS30 parcels that are being included to the NX to allow for the single family development. This is a proposed site plan for the subdivision. The majority of the lots adjacent to the RS30 are larger lots, they are the 10,000 or more along Coleman Road as well as the RS30. There only 7,200 square-foot lots, there are five or six of them that back up to the SR120 property, right-of-way. The majority of the lots internal of the subdivision are in excess of 8,000 to 9,000 square-foot lots. So, the majority of the lot sizes are getting larger as one goes closer to the RS30 designation. The smallest lots are adjacent to the Marietta Hwy/SR120.

This is proposed property in NX and RS30. They are proposing a single family subdivision for 36 homes. There are 9000 square-foot lots in the Hampton Bluff interior as well as abutting. The final 10,000 square-foot lots are adjacent to the RS30.

Staff is recommending approval of the rezoning to NX (Neighborhood Mixed Use) allowing for the conditional use of this property for single family homes with the conditions that are included in the Commission's backup material.

Brad Townsend noted that during the discussions of the Unified Development Code there was some discussion as to as one goes adjacent to Marietta Hwy/SR120 there are several subdivisions that are created that are RS9 at the time. They are 9,000 square-foot lot subdivisions. Staff was directed by Council to take those...there are larger lots that are undeveloped and staff felt it was appropriate to make the whole SR120 corridor RS9. Council in its wisdom felt that those needed to come through the neighborhood review process and rezoning reprocess as individual subdivision applications. That also was the discussion as to this piece of property for several years was discussed as to will it be developed commercially. Is there a need for more commercial on this property? It was zoned C2 at the time and the City had several inquiries for local grocery stores in trying to figure out whether they would lend themselves to this piece of property. Townsend thinks the issue one has when he goes from SR120 to Coleman, there is such a grade change in that location that it really doesn't lend itself to a commercial type of development that needs to go in and flatten it to create some

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