

See Condition 3.f.

ON 12/6/91

91-RM-390 ZONING MODIFICATION #M91-0040 NFC, NESBIT FERRY ROAD (APPROVED)

Ms. Avarita Hanson, Clerk, presented the following memorandum:

TO: Avarita L. Hanson, Clerk to the Fulton County Commission

FROM: Nancy J. Leathers, Deputy Director, P&ED

DATE: November 27, 1991 (REVISED)

SUBJECT: Deferred Zoning Modification, December 4, 1991, Board of Commissioners Meeting

<u>Petition No. Related File</u>	<u>Location</u>	<u>Staff's Recommendation</u>
M91-040 NFC	Nesbit Ferry Rd	APPROVAL COND. (3.c. and 4.d.) DENIAL (3.d. and 3.f.)

INTEROFFICE MEMORANDUM

TO: Avarita Hanson, Clerk to the Commission

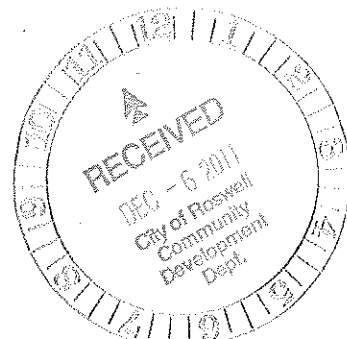
FROM: Nancy J. Leathers, Deputy Director, P&ED

DATE: November 27, 1991

SUBJECT: Deferred Zoning Modification M91-040 NFC (288-217 NFC), Nesbit Ferry Way, Conditions 3c, 3d, 3f and 4d, December 4, 1991 Board of Commissioners meeting

REGULAR MEETING, DECEMBER 04, 1991

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The above-referenced Zoning Modification was HELD by the Board of Commissioners at the October 2 and November 6, 1991, meetings first to allow the applicant an opportunity to meet with the adjacent neighbors, the surrounding neighborhood associations and the Planning Staff, then to allow the applicant an opportunity to come into compliance with his violations. When the Board voted to defer this petition, they also indicated that an additional public hearing is to take place for this petition when it came before them again.

A meeting was held at the North Fulton Annex on October 17, 1991. Representatives from Bishop's Gate subdivision, Horseshoe Bend subdivision, New Town Community Coalition, the adjacent property owners, the developer and the Planning Staff were present. The four conditions under review were discussed in the following order:

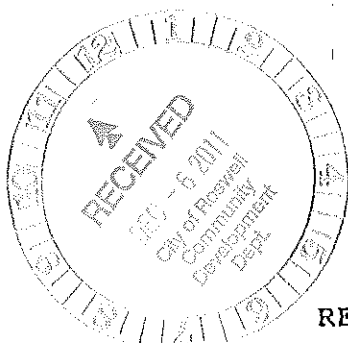
Condition 3.c. This condition requires a 50 foot natural undisturbed buffer with a 10 foot improvement setback along the entire length of the south property line. Staff notes that a "Stop Work Order" was issued by the Department of Public Works on October 15, 1991 due to a violation of this buffer and noncompliance with County Soil Erosion Control standards. According to staff discussions with the County Arborist, the developer encroached into the buffer approximately 25 feet along one-quarter of the property line.

The developer proposes to maintain the undisturbed buffer for a width of 25 feet, and provide a 25 foot landscape strip replanted to buffer standards interior to the buffer. The neighbors are also requesting that an opaque fence be placed interior to the replanted buffer.

Condition 3.d. As this condition involves the expertise of the Traffic Engineer who has determined that the condition remain as it exists, staff continues to recommend DENIAL of the modification of this condition.

Condition 3.f. The applicant is proposing this condition be deleted and the requirements of the Zoning Resolution prevail. The Zoning Resolution would allow one sign on each road frontage consisting of 64 square feet of surface area and 20 feet in height. The applicant anticipated that the individual buildings would also be allowed free-standing signs. However, staff notes that the zoning conditions pursuant to this case do not allow spin sites; therefore, signs for the individual buildings would not be permitted.

The neighbors had several opinions on the signage issue. The representatives from Bishop's Gate subdivision stated that a second sign for the shopping center may be appropriate if it were located further along Nesbit Ferry Road. The representatives from Horseshoe Bend stated



that they did not want a second sign, but that an increase in height might be appropriate. The applicant submitted a sign rendering which shows a 64 square foot sign, 16 feet in height to the staff on Monday, November 25, at which time staff asked the proposal be FAXED to the neighbors for their response. At the time of this writing, the general inclination from the neighborhood appears to be in opposition to an increase in size or height of the sign as it is not in accordance with the original agreement of the zoning conditions.

Condition 4.d. This condition deals with the location of on-site stormwater detention facilities. The applicant is proposing these be located underground. The Arborist has commented that she has no objection to that location provided they are not located under any buffer areas (including replanted buffers), and if located under landscape strips, they be at least 4 feet below grade for adequate rooting room. The neighbors do not object to this revision because it is primarily an engineering consideration.

The final issue discussed was the violation of soil erosion control requirements on the site. As mentioned earlier, a "Stop Work Order" was issued to the applicant due to the buffer encroachment and the lack of proper soil erosion control measures on the site.

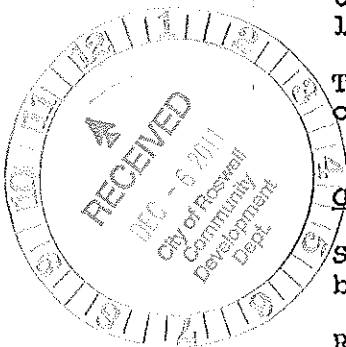
Since the November 6, 1991, Board meeting, the applicant has met with Public Works staff to determine what measures need to be taken to correct the soil erosion and buffer encroachment problems. According to staff of the Public Works Department in a memo dated November 26, 1991, the erosion and sediment control is in good condition as inspected on November 25, 1991. The perimeter silt fence is properly installed and hay balls are placed at concentrated flow areas in natural drain as a secondary defense to retain silt on the site. The applicant is in the process of re-grassing disturbed areas of the site, and is scheduled to be completed by 12/1/91.

The question of how much silt in the downstream lake actually came from this project is a matter of private dispute, according to Public Works staff, and is presently under investigation via private pre-siltation and post-siltation studies. However, staff did not see evidence of silt leaving this site and migrating approximately one-half mile into the lake.

Therefore, staff makes the following recommendations for each of the conditions:

Condition 3.c.

Staff is of the opinion that a denial of this condition would be to the detriment of the adjacent property owners and the



neighborhood association since part of the buffer has already been disturbed. The approved Grading Plan indicated a 50 foot buffer along the south property line. Therefore, staff recommends that this condition be modified to require a 25 foot undisturbed buffer with an additional 25 foot landscape strip replanted in a recomensatory manner subject to the approval of the Fulton County Arborist by no later than January 31, 1992, and a 6 foot high fence interior to the landscape strip to provide additional screening for the loss of the buffer material.

Staff recommends this condition be APPROVED CONDITIONAL and the revised condition read as follows:

3. To the owner's agreement to the following site development considerations:

- c. Provide a 25 foot natural buffer, undisturbed except for approved access and utility crossings, improvements, and replantings where sparsely vegetated along the south property line, with an additional 25-foot landscape strip located interior to the natural buffer which shall be replanted to buffer standards and shall remain as a natural undisturbed area for a total of 50 feet. Plantings and specifications shall be recomensatory for the loss of vegetation in this area and subject to the approval of the Fulton County Arborist, and shall be planted no later than January 31, 1992.

In addition, provide a minimum 6-foot high, 100% opaque, solid wooden fence or masonry wall, subject to the approval of the Fulton County Arborist and the Director of Planning and Economic Development, along the entire length of the south property line. Said fence/wall is to be located interior to the required 25-foot landscape strip, or as may be approved by the Director of Planning and Economic Development and the Fulton County Arborist. The finished side of said fence/wall shall face the exterior property lines.

Condition 3.d.

As this condition involves the expertise of the Fulton County Traffic Engineer, staff continues to recommend DENIAL of this request. Should the Board choose to approve this request, staff recommends the following language:

- 3.d. No more than two exit/entrances on Holcomb Bridge Road to be located a minimum of 250 feet from the new dedicated right-of-way of Nesbit Ferry Road or any other curb. The easternmost curb cut shall be restricted to right turn movements only. Curb cut location and alignment are subject to the approval of the Fulton County Traffic Engineer.



Condition 3.f.

Staff continues to believe that the approved zoning reflected a "village concept" shopping center and that no spin sites were approved. Any increase in the number or size of signs would violate the original intent of the zoning conditions. Therefore, staff recommends DENIAL of this request.

Should the Board choose to approve this condition, staff recommends the height limit for the sign be increased to 16 feet and the surface area be increased to 64 square feet as consistent with the applicant's request, and be conditioned to the rendering submitted with this application.

- 3.f. Limit the free-standing project identification signage on the entire property to no more than one double-faced pole sign/monument sign adjacent to Holcomb Bridge Road having no more than 64 square feet of surface area per face and further not to exceed a height of 16 feet from finished grade measured from the base of the sign structure, consistent with the rendering received by the Zoning Department on November 26, 1991.

Condition 4.d.

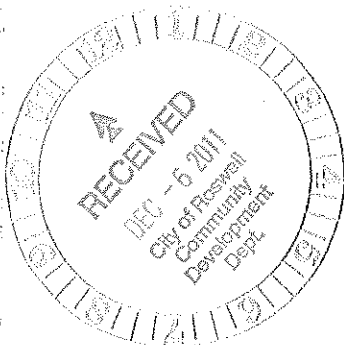
Because this condition involves only technical engineering considerations and the neighbors do not object to its modification, staff recommends this condition be APPROVED CONDITIONAL and revised to read as follows:

4. To the owner's agreement to abide by the following requirements, dedications and improvements:

- d. Design required on-site storm water detention facilities such that they are not located beneath any required undisturbed or replanted buffers. Underground detention may be provided under landscape strips or under required parking and loading areas provided that construction of these facilities will not disturb any vegetation that could otherwise be preserved. Additionally, the detention vaults must be a minimum of four feet (4') below finished grade so as to provide adequate rooting space, subject to the approval of the Fulton County Arborist.

[CLERK'S NOTE: AT THIS POINT OF DISCUSSION, THE TAPE BECAME INAUDIBLE]

The motion made by Commissioner Farris, seconded by Commissioner Lowe, to hold this item carried by a vote of 3-2-1. Commissioners Farris, Hightower and Lowe voted "yes," Commissioners King, and Lomax voted "no," Commissioner Boxill abstained and Commissioner Joyner was absent Therefore, the MOTION FAILED.



The motion made by Commissioner Hightower, seconded by Commissioner King, to approve staff's recommendations for Zoning Modification #M91-040 NFC and to permit applicant's withdrawal of condition 3.f (signage) carried by a vote of 4-1-1. Commissioners Boxill, Hightower, King, and Lomax voted "yes," Commissioner Lowe voted "no," Commissioner Farris abstained and Commissioner Joyner was absent.

Hearing no objections, it was so ordered.

