

## **Motion**

Harvey Smith made a motion that CU12-01, 720 Grimes Bridge Road, The Cottage School, that the conditional use be approved with the staff recommended conditions as stipulated. There are four conditions:

1. The hours of operation shall be Monday through Friday from 8 a.m. to 4 p.m. only.
2. The maximum number of clients at one time in the house shall be six.
3. There shall be no more than four cars parked in the driveway at this house.
4. The applicant shall install a barrier fence of some type along the property line to the end of the shop indicated on the survey submitted on January 17, 2012 with a bearing distance of 401.41 feet.

Joe Piontek seconded the motion.

Cheryl Greenway called the question. The motion passed unanimously.

At this time Cheryl Greenway stated that the Planning Commission will take a short, five-minute break and be back.

**12-0036**

**RZ12-04, CV12-01**

**DANE NESBIT**

**9050 Nesbit Ferry Road**

**Land Lot: 835**

Brad Townsend presented the application for RZ12-04, CV12-01. This piece of property was annexed into Roswell in 1999 from Fulton County. It had an underlying zoning of AG-1 Agriculture. The subject property has been through a request for rezoning in 2005 to build 25 town homes, which was denied by mayor and city council. The applicant filed a law suit to the city denying the application. The Plaintiff dismissed the action in May 2008. As one can see from the aerial photograph this is an approximate five-acre parcel. It is requesting a rezoning to build 19 town homes.

To the north, south and west are all city of Roswell, Devonshire town homes and single family attached. Those developments are approximately 40 acres in size with 251 total units in the Devonshire town home/single family development. East across Nesbit Ferry is the city of John's Creek. There is a town house development on 20 acres of property called Eagle Glen. That property is at 5.9 units to the acre.

Staff included six recommended conditions dealing with the proposed development. Staff is recommending approval of the proposed rezoning for single family homes. There are four concurrent variances that are requested with the rezoning:

1. To reduce the required interior front setback from 50 feet to 30 feet.
2. To reduce the corner/side yard interior street from 20 feet to five feet.
3. To reduce the required interior sidewalk requirement from both sides of the street to one side of the proposed street.
4. To allow an increase the imageable maximum lot coverage from 40 percent to 50 percent.

 **DRAFT**

Those variances are on page 13 of the application with the approximate 19 town homes on this proposed five acres. The density would be 3.8. The plans show a 24-foot private drive, a five-foot pedestrian sidewalk to give pedestrian access to Nesbit Ferry. There is also a detention/bio-retention area located in the southwest corner of the property.

The city arborist has been on site and reviewed the landscaping plan. He did concur that there were a couple of specimen trees that were in very, very poor health and shape and would recommend them be removed. But the remaining trees that are being shown in the tree save area are in good health and would recommend them be not disturbed or their critical root zone not be impacted by any development.

In summary, staff would recommend approval of this application. If the Commission has any further questions...

Cheryl Greenway asked if there were any questions for the city.

Cheryl Greenway stated that she would like to clarify that Brad Townsend mentioned the variance considerations that he was reading. But then they also have six recommended conditions. Greenway asked Townsend if the Commission needs to get those on the record too. Townsend stated that he can do that.

Brad Townsend stated the recommended conditions.

1. Reference to the site plan that staff received on February 7<sup>th</sup>.
2. Requirement for a bike path/sidewalk along Nesbit Ferry to be constructed prior to the first Certificate of Occupancy for any of the homes.
3. Demolition of the existing home. They wanted to make sure it did not impact any of the specimen trees in the area.
4. The preliminary plat would be required prior to issuance of a Land Disturbance Permit
5. A final plat shall be recorded at the completion of each of the blocks of the town homes that are connected.
6. All construction and equipment trailers shall stay out of the tree save area. That is to ensure that the critical root zone on those specimen trees is not damaged in any manner.

Cheryl Greenway asked if there were any questions.

Harvey Smith asked Brad Townsend to explain on the concurrent variances, No. 1 reduce the required interior front yard setback from 30 feet to 15 feet. That is going to...if Smith understands that correctly, they are going to be farther back from the garage. The garage will be closer to the street. The main body of the dwelling is going to be further back?

Brad Townsend stated that it was switched. The garage is pushed back but probably they will bump up some portion of the living room or some part of the house closer to the 15-foot setback.

Harvey Smith questioned the fourth variance request for an increase in the individual lot maximum coverage from 40 percent to 50 percent. If they are decreasing the density, why are they making that request?

 **DRAFT**

Brad Townsend stated that he would let the applicant deal with that but to Smith's first question...this is the garage, which is bumped back here. This is the portion of the home that is bumped closer to the road. That is kind of the way it is proposed.

Smith thanked Townsend.

Sidney Dodd asked Brad Townsend if he can tell him why what is being proposed in terms of the preliminary site plan off of ingress and egress, why is it a private drive as opposed to a dedicated street that the city would maintain?

Brad Townsend stated that the construction of the road needs to meet city standards but they don't need to dedicate 50 feet of right-of-way to the public.

Sidney Dodd asked Brad Townsend if he said that the proposed road is to city standards. Townsend stated that the construction of the width of the asphalt and the sub-base and things like that needs to meet city standards. But they will not be required to dedicate 50 feet of right-of-way to the public for the access ingress/egress. The private road is just the width of the asphalt. And then they get into the lot lines of the property right behind the asphalt. That is why they are asking for the sidewalks not to be included because there is no room for the sidewalk. They are squeezing a lot of property into this.

Cheryl Greenway asked if there were any additional questions for the city staff.

Lisa DeCarbo stated that she had a couple of quick questions. The third variance is to reduce the required interior sidewalk requirements for both sides of the proposed to what is indicated on the proposed site plan. It looks to her as if there are...unless she is reading this incorrectly, that there are no interior sidewalks. Is that correct?

Brad Townsend stated that there are no sidewalks adjacent to the buildings. The only sidewalk they are showing is this one connection out to Nesbit Ferry. DeCarbo clarified that the only place that variance consideration no. 2 applies to reducing the interior side/corner yard setback only effects units 11 and 16. Is that correct?

Brad Townsend stated that it also affects no. 19. Those are the three corners.

Lisa DeCarbo thanked Townsend.

Joe Piontek stated that he was new here but in one of the ones that they had done previously they talked about having kind of a flow for fire engines and they were requiring two cuts and making sure that....Why aren't they asking for that here?

Brad Townsend stated probably because there was no...in the last rezoning the Commission was dealing with there was thought process, is part of that plat showing a public right-of-way that had connected through this? If there has been, if there would have been...if the Devonshire development at some point had put a stub out of this connecting to that location, the city would be saying absolutely, make it connect. But that is not the case. They have a 100-foot buffer and a very large wall. They would have to give the easement or the right-of-way to dedicate as Devonshire. During the prior scenarios they had public right-of-way that went right to the property line which the city just needed to make sure they were trying to make the connections.

 **DRAFT**

Joe Piontek asked if as part of 2030 weren't they looking for this in all new developments. Brad Townsend stated that they were looking for as many connections as they could get. The issue they always are dealing with is, are there opportunities within the infill of doing these properties to do that? There have been other discussions as to it would make a lot of sense for this development to connect up to Champion's Parkway, but that is Devonshire ownership of property also. One is dealing with making sure...he is balancing the rights of the property. They have public access to Nesbit Ferry which they are accessing from but then they are isolated from connecting to the surrounding area. Townsend stated that if they could it, they would get it. Sometimes one just does not have that opportunity.

Lisa DeCarbo asked for a quick follow-up on the fire truck issue. In one of the other applications they had a couple of months ago they were requiring that a parking lot be reconfigured so that the truck could come in an turn around as opposed to even though there was room for it to back up. Here she does not see that.

Brad Townsend stated that the fire truck is able to get to the end and do a T-turn around. The cul-de-sac is the optimum for the fire truck. This is like the next level below that. Lisa DeCarbo clarified that this is the bare minimum that they will accept. Brad Townsend stated that was correct.

Sidney Dodd stated that he can't tell by the preliminary site plan that is the size of it, but is there a decel lane coming off of Nesbit Ferry Road that is part of this preliminary site plan? Brad Townsend stated that there is a northbound left turn lane coming into this. He does not believe there is a southbound deceleration lane. One of the real critical factors, and the applicant may be able to answer this better than Townsend, but there is a very large Georgia Power pole, one of the massive ones on Nesbit Ferry and he believes it is about here, it may be closer down there. So, that is kind of controlling...they can get the sidewalk in there but they then can get a south turn lane coming south in without having to move the pole and then take more right-of-way. That is kind of the width dynamic they are dealing with at least in that development area.

Harvey Smith clarified that the existing zoning is a Fulton County zoning classification, the FC-A. Brad Townsend stated that when properties are annexed from Fulton County they retain that Fulton County zoning and the city of Roswell puts on the zoning FC-A on top of that so that no rights are removed from that property owner when they are annexed into the city until that property comes forward through a rezoning process. Then it gets re-designated. Smith asked if it was primarily, is it AG-1 right now basically? If it was when the suit was brought forward? Brad Townsend stated that he would have Jackie Deibel answer that.

Jackie Deibel stated that when it was annexed into the city of Roswell the property was AG-1 and the conversion chart in the Roswell Zoning Ordinance converts it to E-2 basically though with AG-1 standards so one-acre lot sizes and everything else. Technically the underlying zoning is AG-1 Fulton County with the Fulton County annexed FCA from the city of Roswell.

Harvey Smith clarified that it was equivalent to Roswell's E-2, which is one acre. So presently, it would depend on the egress but one could build maybe four or five houses on the property. One will still have to rezone it to build any single family homes on the property.

Jackie Deibel stated that one would not have to rezone the property if he wanted to develop single family homes. He would have to do a preliminary plat or a division plat depending on the number of lots that his is doing. The E-2 zoning, city of Roswell E-2 normal zoning is 30,000 square-foot lots per acres. However, when this property was annexed in 1999 they placed it and stated it E-2

 **DRAFT**

but they made it one-acre lots. So anything in this area, anything that has the FCA zoning that is underlying AG-1, even though it converts to Roswell's E-2 still is required to have a one-acre lot size for a single family home should they choose to do single family homes on this property. A road has to be put in but they are also requiring enough storm water drainage, depending on the number lots. For four homes there has to be a lot for storm water. So they are looking at three or four houses.

Harvey Smith stated that they would get about three lots out of five acres.

Cheryl Greenway asked if there were any additional questions for the city. Hearing none she thanked Brad Townsend and asked the applicant to come forward and present their application.

Darrell Cook with Watts and Browning Engineers presented the application. He is the agent for the applicant, which is Eastland Capital. They have put together a plan. They have met with staff, they have met with council persons as well and they have also met with the adjacent homeowner's association for this property. Their first task was to find an appropriate zoning classification for this property. After meeting with the council members and staff they felt that the best approach was the town home community for this.

The product that the applicant is presenting is essentially a detached product but they will attach it to meet the code of the town home community. In so doing it is a larger product than the neighboring Devonshire subdivision, which is really a condominium. What they are trying to do is work with the code and not fight it too much. There is not a current code and there may not be for several years that might address a cottage-type of zoning, a cluster-type zoning that would be good for infill. And that is in discussions with staff and also with council.

What they have done is put together something that they think is relatively consistent with the surrounding neighborhoods. This is for all intents and purposes an infill type property. They are completely surrounded by the Devonshire development on three sides. Of course the fourth side is the Nesbit Ferry Road frontage.

The Commission has seen the presentation. Cook stated that he has taken some notes on some of the questions. Would that be appropriate? He also sees that they do have a lot of folks here tonight and he will leave time for folks to speak as well.

Cheryl Greenway stated that anything that Cook would like to comment on based on what he has already heard questions on to please go ahead and do...Cook thanked Greenway.

Darrell Cook stated that he had heard about the connectivity and they had spoken with the neighborhood as well. He tried to speak to them before submittal but it was very difficult to get through the HOA. Nevertheless, he wanted to approach them on connectivity and the response that he got back again was after the submittal. They had to go ahead and get it in before the deadline. They would be open to some connectivity but that had no interest in that connectivity. And again they are surrounded on all three sides other than the Nesbitt Road frontage. Additionally, the development that they could connect into is all private streets. There is no public right-of-way in there to connect to so as Brad Townsend said, there is no stub to it, no right-of-way for them to attach to.

So the design is in keeping with the immediate surrounding property which is private streets, no sidewalks and a similar type of configuration of roadways.

 **DRAFT**

As far as the fire turn around, Cook would not call a T-turn around a lesser. It may be from the city's perspective but from the fire department's perspective it is equal, on par with a cul-de-sac turn around. There are several different orientations that are approved or acceptable to the fire standard, international and national standards and that is one of those approved the way they created the T turn around at the end of the cul-de-sac.

The decel lane. There is a decel taper lane. Cook met with staff and this is what they had recommended, what is shown on the plan. Again, they are pinched by an incredibly major power pole that talking with the power folks, it is not going to move. That coupled with the sensitivity of the critical root zone of the trees that they are clearly going to protect. There are very nice trees out there so they are staying out of the critical root zone. Any way to try to get around that pole would just gravely impact the critical root zone of those trees. Keep in mind if one has driven by, the property also picks up rather quickly, so they have a grade issue.

Thus the reason for where the drive is located. It is the least impactful...where the road entrance is least impactful to the critical root zone of the trees. Cook thinks the previous rezoning had a different alignment with the subdivision across the street and that just greatly affected the critical root zone of the trees. That was a major sticking point to that zoning's denial.

They talked about sidewalks, again trying to be in keeping with the surrounding neighborhoods. Devonshire does not have internal sidewalks along its...if one looks at it they are completely surrounded. There are no sidewalks there on adjacent properties. They will do the one out front. They do have connectivity sidewalks interior but simply that is just more impervious area for a very small development of 19 lots. It will be slow traffic. They can even post it at a 5 mph speed limit because one just can't get up on such short streets much higher. So, they think it will be a safe walking community without interior sidewalks. Again, more impervious area that Cook believes is just plain unnecessary. So that is why they have asked for that variance.

Lot coverage. They have a larger product that they would like to put on these. These are effectively a detached home, which they will attach. And when one puts the property lines separating through the attachment it leaves them with basically a lot of home on that property which they think is a step up to the community. They think it is a benefit. They certainly can go with a smaller product and get to that 40 percent, but Cook doesn't think it would benefit the community to have that smaller product out there. They are trying to create an upscale, a step up in the product, a higher price point and that type of thing. That is the request for that.

If the Commission will look at the property itself, the overall property they are saving. They have so much open space, so much of the tree preservation area. If one then divides that over they have much larger lots. They have much less actual coverage on the property if one looks at it globally instead of each individual lot that is created. Cook thinks that by giving up so much to the tree protection area where they have their open space ultimately, their uncovered piece of property.

Lastly, on the density the surrounding properties are much higher density. The Devonshire is well north of six units per acre. There are apartments across Champion's Green that are higher than that across the street. Again, town homes that are in the six plus unit per acre so they really think this is appropriate.

Cook stated that he has probably said too much but if he has answered the Commission's questions...he appreciates it.

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

 **DRAFT**

Harvey Smith asked if the lot sizes are less than 7000 feet. About 6800, they are saying roughly from 40 to 50 percent. Did he see somewhere where they are proposing an 1800 square foot footprint? It seems like it would still work.

Darrell Cook stated that it was a two-story product effectively 38 feet wide by approximately 50 to 55 feet deep. So that is a pretty good size footprint. Again, they can go with the smaller product, they think this is more appropriate for that and they can start encroaching into at least lot areas into the open space area but they just didn't feel like that was appropriate. They thought it would be more appropriate to ask for the variance and keep the open space contiguous versus chopping it up and making it part of some lot. So that was thinking and Cook hopes that the Planning Commission will find that favorable.

Harvey Smith stated that he is a builder. He currently is building in a zero lot line community that are 3200 square foot lots and there are no sidewalks in there. It is an active adult community and it is not safe. There are no sidewalks on either side. Darrell Cook asked Smith how many units are in that development. Smith stated about 150 and they prohibit parking on the streets. But one has to pay attention when he is driving through there. He has to be careful and Smith thinks that is one of the benefits that the city of Roswell has done. He looks at some of the older communities like Brookfield West where they were not required. Smith stated that his night vision goggles aren't as good as they used to be. When there are joggers or people walking dogs or pets...that is just an observation. If a footprint, Smith could see it maybe, possibly being on one side of the street.

Darrell Cook stated that they can do that. It just means more impervious and just literally looks...right now with the driveways it is almost there so they are talking about just connecting a little bit. That can be done.

Harvey Smith stated that is why he is saying that Cook is netting out if he does not need that same size footprint to accomplish...it is 18, Cook says that he is stacking them, Smith thinks for that type product it will still work. Maybe on 50 percent of the sidewalks, not on both sides; it is not necessary to have it on both sides but he thinks it is a benefit to have them out of the street if they have people walking. He sees the connectivity of Nesbit Ferry, but why one has to walk the street to get to that sidewalk and off the T.

Darrell Cook stated that he is open to looking at that and see if there are some strategic spots to do that. Again, they just felt like the slow speed limit, the short street...actually one is not going to get up to a very high speed limit candidly on a street that is less than a few hundred feet long. But he is open to suggestions.

Cheryl Greenway asked if there were any other questions for the applicant. Hearing none she thanked Darrell Cook and opened the public comment portion of the meeting. She asked that if anyone would like to speak in favor of the application to please come forward. For the record no one came forward to speak in favor of the application. Greenway asked if anyone would like to come forward to speak in opposition to the application.

Greenway reminded the speakers to state their name and address.

 **DRAFT**

**Anthony Lynch**  
**Integrity Engineering**  
**3615 Braselton Hwy., Suite 201**  
**Dacula, GA 30019**

Anthony Lynch stated that some of the homeowners and the Board have asked him to introduce their thoughts and concerns to the Planning Commission tonight. There are several people here tonight that may want to speak also.

The Planning Commission may have in front of them a couple of things that were submitted. One is a petition that was put together by the homeowners. Lynch stated that he cannot remember the exact number of folks that signed it but there was a great deal of residents in the community that signed the petition. They listed their reasons for signing the petition against the rezoning. Lynch stated that he could read them but the Commission has probably already seen them. One can see that there is great percentage of the community that is against the rezoning.

Also, the Board got together and put together a list of conditions for the Planning Commission to consider. Because as in any large community there are some that would be totally against it or some that may be for it with some conditions. Lynch stated that he was not going to read those either, there are several. They can go through them if the Commission has any questions about any specific items but Lynch is here to articulate any of the reasons behind any of the conditions that were put forward.

But the one thing that Lynch wanted to talk about first before they get too deep into anything else is the drainage plan that was submitted. A couple of days ago, Lynch thinks it was, the Board had their attorney's review the application and the application proposes storm water discharge through the Devonshire subdivision. He thinks it is a piped discharge shown on the plan. The attorneys have instructed the board that in order for that to be approved by the board, 67 percent of the homeowners would have to agree to it in addition to 67 percent of the first mortgage holders would also have to agree to it.

Lynch stated that he was going to bring that up first because he thinks the Planning Commission can probably understand that could be very difficult to do, if not impossible to obtain an easement for that. So, he wants to bring that up first because there may not be any need for much further discussion on any of these conditions after they discuss that. Staff has seen that information. Lynch thinks they emailed it to them a couple of days ago and he believes the applicant has seen it as well. He thinks staff sent it to them but Lynch hasn't heard or seen any other proposal for storm water discharge for this development.

Lynch thinks they are bordered on three sides as was stated earlier by Devonshire. So, their only option for storm water discharge, without an easement, would be to Nesbit Ferry Road if it is any kind of point source discharge or anything that would need an easement.

Lynch stated that he just wanted to bring that up. If the Commission has any questions he will try to answer them. There may be other folks here that want to speak as well, but he figured they ought to talk about that first.

Harvey Smith stated that it sounds like Anthony Lynch is going to be the representative so the Commission won't be redundant with the questions, but if Lynch wants to elaborate on the three...the petition. Smith does not want to go into the conditions, the other more detailed but the environmental impact Lynch was talking about, the water discharge. It would increase traffic

 **DRAFT**



congestion. How did Lynch et al come to that conclusion? Lynch stated that he may have to have some of the homeowners speak to that. He did not put together this petition. That was homeowners specifically. He was not involved.

Harvey Smith asked Lynch if there were any engineering traffic studies done. They have three reasons down here. The third one, this change is not desired in the neighborhood. That is a subjective comment. The Commission is here to hear some...Smith wants to hear some objective reasoning behind this petition. Anthony Lynch stated that was understandable. Smith asked if Lynch can help him or if someone else can come forward and elaborate on it, that is what the Commission is here for.

Anthony Lynch stated that he should probably have some of the other homeowners come elaborate on that that put together the petition if that would be acceptable.

**Christine Turner**  
**75 Cheshire Drive**

Christine Turner stated that she was the one who created the petition. She believes the change in use is not desired in the neighborhood because they would like it to stay as it currently is zoned, the one house per acre. They wouldn't mind one house per acre. That is why she stated it that way.

The traffic congestion because a lot of people are concerned with the car flow and the traffic because Nesbit Ferry is already hard to get in and out of as it currently is without the additional homes and cars right at that area.

Harvey Smith asked Turner if there was any hydrology study or anything been done. How did she come to the conclusion of the environmental impact? Turner stated that she was thinking about all of the trees that were going to be cut down that are currently in that area. Smith asked if she had done a tree survey? Turner stated that she has not.

Smith stated that he thinks that the specimen trees that are there are going to be preserved as part of the green space but he does not want to speak for the applicant. Turner stated that she knows also that they were talking about building; she doesn't understand it specifically, but the retention area for the water. She does not know what that is going to do to that area; bring mosquitoes or anything like that. She does not know technically what it will do but she just has a feeling it will bring mosquitoes and things like that.

Cheryl Greenway stated that Christine Turner mentioned that going back to the change is not desired. Can Turner be more specific other than just "we don't want it." Turner stated that she did not say that don't...the way it is currently zoned with like one house per acre would be great. That's fine. They don't mind that if it stayed that way.

Greenway asked Turner what she finds offensive regarding the new drawing, the new design. What is offensive of this to her? Turner stated that there are things that aren't concurrent with what Devonshire is like the 100-foot buffer from Nesbit Ferry Road to the Devonshire neighborhood. That isn't on their plans that she has seen. And it also goes beyond that Nesbit property as the 100-foot buffer from Nesbit Ferry Road to that. So Turner did not see that in their plans.

 **DRAFT**

Greenway stated that is what she is looking for. Something more specific other than just "we don't want it."

Christine Turner stated that there is that 100-foot buffer from Nesbit Ferry Road into the plan. They have a 50-foot buffer from the brick wall behind, that is on that Nesbit property, she does not know why, but that is Devonshire's property. She does not know why it is inside the Nesbit property. Why the wall isn't there? But that 50 feet is Devonshire's 50 feet and so she just really doesn't know why it isn't Devonshire's use.

Harvey Smith stated that he was curious that when...Turner is in the Devonshire development, correct? Turner stated that was correct. Smith stated that 6.2 units per acres as proposed development will have 3.8 and everything surrounding it is 6.2. Everything around it. Christine Turner stated that across the street there are separate homes. Right up the road there is a neighborhood that was just built.

Smith stated that the east side is 5.9 units. Turner asked if Smith was talking about immediately touching? Yes, that is Devonshire, yes. But across the street from Nesbit Ferry is Rivermont, which are separate homes. They are detached homes. There is a new home development that was just built about a half a mile away. They are separated homes.

Smith stated that he thinks what staff has given the Commission is the property that is contiguous to the subject property. It is all high-density development. Turner stated that was correct.

Cheryl Greenway asked if there was anyone else that would like to speak in opposition to the application.

Anthony Lynch stated that if the Commission has any questions regarding any of the conditions or anything that he brought up earlier they can discuss that as well.

Cheryl Greenway stated that she does have a question she thinks that Lynch can answer for the Commission. She clarified that the objection is to the storm water discharge onto the Devonshire property. Is this something where the discharge, the applicant is actually assuming that this is an easement that they are going to have that they need to get from the homeowners or have gotten from them? She is not quite sure how this was submitted.

Anthony Lynch stated that he was not sure if they have assumed that or not. And it is not necessarily an objection other than he is just bringing it up because it is something that the Devonshire Board would have to agree to; that they may not be able to get approval of all of the homeowners. And one can that there is a petition signed by a great deal of the homeowners and they have to have two-thirds of the homeowners to approve any easements in addition to the banks.

Cheryl Greenway clarified that that was based on their covenants for the homeowner's association. Lynch stated based on the governing documents for the homeowner's association, that is correct. So it is not necessarily an objection. They are just bringing it to the Commission's attention because it may not be possible.

**Brandon Smith**  
**74 Cheshire Dr.**

Brandon Smith stated that he lives right next door to Christine Turner. His main objection is when he bought the property back in 2001, the main reason of buying that particular house was that they back right up to the wall that is on the west side of the property in question. He looks over and in the winter months, one can see the Nesbit house clearly. So, when they do build those new units Smith will be looking directly into the back of the new units. That is his first concern.

The second concern is coming back to traffic. When Smith first moved in there was not a light there at Champion's Green and Nesbit Ferry. That was added after the fact and coming out on Nesbit Ferry from Devonshire, the actual main entrance onto Nesbit Ferry, it is very dangerous because people come flying around that corner and the concerns about the decel lanes and stuff is very warranted. He definitely can see an issue with people turning in and out of the new neighborhood.

Cheryl Greenway asked if there was anyone else that would like to speak in opposition to the application. And if there are others that want to speak they might want to come on up front to save time.

**Jacquelyn Breaux**  
**210 Buckland Drive**

Jacquelyn Breaux stated that she wanted to just discuss a few points. The comment made about the high density comparison, that is exactly what the issue is. She thinks they need more mixed density in the area and they do not need to add to anymore high-density into the area. There is already high density as was mentioned by Brandon Smith. There is high density all over the area so why not leave it at single family homes so that they can have more mixed density in the community and not add to the school population, not add to ...if there are four cars allowed for each home then multiply that by 19 and here we go with additional traffic flow on Nesbit Ferry and Champion's Green. Which leads to the traffic.

As was mentioned earlier, they didn't have traffic studies but Breaux was sitting here for the previous meeting and neither did any of them. So, they live there and they drive those streets every day and if there is an accident on Holcomb Bridge Road, if there is an accident on SR 400 and sometimes even if there is not an accident the traffic on Nesbit Ferry is really, really tight. And to add a community of that size with the potential of that many cars, potentially another bus stop for families of that size would just add to the traffic issues.

Breaux stated that she was not sure if anyone else mentioned it so far but the property values are a concern. There are a lot of homes in their development that have been for sale for a very long time. There are a lot of homes in the Roswell area that are just sitting there waiting to be sold and Breaux's concern is that these homes will be built and it is a shiny, new penny in the neighborhood and the homes that are in her development that are just sitting there waiting to be sold, families struggling, can't sell their homes, and it will be even harder for them to sell because there is something else that is in direct competition for the homes that are already there. There are just a lot of empty, not just residential but that Target shopping center that was built, even commercial property. They build up and then it is just sitting their empty. So, that is a concern for Breaux. Building and then the property is just sitting there with nobody to buy it.



**DRAFT**

Breaux stated that some comments were made about Devonshire and they are surrounding it on three sides and there is an issue with the drainage and if they could have an outlet for the fire trucks and have an outlet for the storm water drainage and all of these things as if Devonshire is the impediment, but the solution could simply be to leave the zoning as is. And if the area was left as is with the single family homes, then she does not think those would be issues. Because the space would be there to have the fire trucks go around like they need to go and have the storm water drainage properly drain and other things. So, when one puts that type of density on the property that is what is creating the other issues in Breaux's opinion.

Cheryl Greenway thanked Jacquelyn Breaux and asked if anyone else would like to speak in opposition. She stated that they have about five minutes left.

**Kari Jaspert**  
**267 Devonshire Drive**

Kari Jaspert stated that she absolutely agrees with everyone here and what they have said. She wanted to add one more thing to that. She has lived in the community for two-and-a-half years and over those two-and-a-half years they have actually had a lot of theft, vehicle theft. They will break into the cars; they will try to see if they are unlocked as well as homes. In the last 12 months Jaspert would say they have had people kicking in the front doors to steal stuff within the homes. She would just hate to see this community having higher price tags on these homes bringing that unwanted attention back to the area. It has probably been a good six months or so and they haven't seen anything happen, so they are keeping their fingers crossed. But Jaspert just wanted to add that one other thing.

**Dale Nesbit**

Dale Nesbit stated that she used to reside on this property and will give the Commission a little bit of the answers as to why they have these problems that they have. It was never contemplated that this piece of property would be developed for anything other than single family homes. It is the record replete from Fulton County. If one puts the site plan back up, he will see that the brick wall, which in some places exceeds 20 feet was put there to protect Nesbit property from multi-family that was zoned. Some of it was zoned in error in Fulton County. It is a huge history. So that is how they ended up with that spot there. Nesbit's mother actually owned the surrounding property. There is a 100-foot buffer there not by accident. It was required by Fulton County to have it not only to the street. Rivermont across the street she thinks has 75-80 feet.

Devonshire had it. The Devonshire people had to have an additional, about \$1000 added to the cost of their homes just to build that brick wall to protect the homes. One does not build an eight-foot high at grade brick wall, some places 20 feet high to protect other multi-family. The reason they don't have the tie in of the T over there is because it wasn't wanted. Because it was said, this is not going to be multi-family, it is not going to be developed, they are not going to require the tie in. Fulton County used to require tie-ins all of the time. Had that not been said, they could have easily made it so that there was an access there so that one could tie into that T.

The other part of it is one has an easement across the front of the property that is Georgia Power. For one to have a landscape strip there within the easement, he will never be able to keep anything there. They go through with herbicide all of the time, it is crazy.

The storm water detention area. Nesbit says detention because that is what they contemplated. One did not need anything other than a hole in the wall to Devonshire to their little covered culvert because that was going to contain the water that would come off of that property.

Dale Nesbit stated that she does not have a financial interest in the property. Her five siblings do. She was divested of hers through a private agreement with them and the administrator of the estate because she would not agree to a rezoning. This has been before the Planning Commission before. They denied it in 2005. The city council denied in 2005. It is not structurally really different. There are a couple of numbers that are different but the amount that was put out to settle it was 22. They had dropped the units years ago to 22 to try to settle that law suit, which was eventually dropped.

The people in Devonshire also have 50 feet of their property inside of an 8-20 foot high brick wall. Why would one do that? To protect multi-family? No. But Nesbit would say to the Commission that they have a zoning here today that while her siblings have every legal right to bring it forward; in her personal opinion it is not a moral thing to do. They know that that is not the way that it was planned. They have the right to bring it forward. But Nesbit would ask the Commission to turn it down because right now with her not in the picture, they have five heirs, five owners, five plus acres. Those five plus acres can be used in the way that has been contemplated for the last 30 years and is the record for the last 30 years as that was going to be the use. And it is an infill. It will fit in that area and there are large lots in Rivermont across the street and Nesbit will say that within the area they do have multi-family that is in foreclosure. They do have larger subdivisions that are being built that the homes are selling in and they do have a precedent within the last month or two of the city of John's Creek turning down an equally dense zoning as this.

The last thing Dale Nesbit will say is as variances are given to minimum requirements of the code the only reason one needs these variances here is because they are trying to "squeeze in, squoosh" and there was another word that she missed. But, that is what happens when one tries to do something on something that was not contemplated, but there were reasons why everything was done. But just yourself, multi-family doesn't need a brick wall to protect it. It certainly doesn't need 50 feet interior to that brick wall to protect it. This was planned over time.

Nesbit stated that she loves her siblings, they have a right to ask for what they want on it, and they have a right to make as much money as they can. But it is not a taking of their property. They have known this and never once in all of the public hearings in that period of time did one of them ever get up and object to this in a public hearing. Any of the conditions and say, "no, that is not what they wanted to have happen."

The last thing that Nesbit will add is the easement across the front. Tom Wilson, who was the director of planning in Roswell for a while was a witness at the special master hearing where they were looking at the taking of the property. The family was compensated for the taking of that property quite well and most of it was based upon the impact that that easement would have upon the entrance as well as any kind of a buffer that would be required. And Wilson had a letter that he had prepared. He never made it as far as testifying. He had a letter that was prepared to enter into that record that said that the city of Roswell may well put in place that 100-foot buffer. And any 100-foot buffer would have to be outside of that easement. That fact was used as a way to get compensation for the family for that easement. Nesbit stated that they started off when the people first started at \$400 and it ended up well into five figures.

So, there have been things that have transpired over the years but to Dale Nesbit, it is wrong to go back on a zoning or to create a denser zoning adjacent to people who have already given. She believes and she cannot remember the number, Dick Wilson was the attorney. But she wants to say that the wall was in excess of \$256,000. And Devonshire, when it was built was not built what it was zoned. Its actual unit is below that and when they made that petition to Fulton County at the same time they asked to have the wall removed and the wall was not removed. Why? To protect single family development and they were well aware of the fact that that could possibly be one per acre. The standards have changed on one per acre but there is nothing saying they can't come back with a petition that would allow the development of one per acre. Basically, five units. If one can ask for variances to get 19 units on here, he can ask for some variances to get five.

Dale Nesbit asked the Planning Commission to do as they did in their wisdom in 2005 and deny this and send it to city council with a recommendation for denial because there is nothing of substance that has really changed. And staff actually had a recommendation approval in 2005, too. And this Commission chose not to uphold it.

Nesbit thanked the Planning Commission and stated that she hoped they turn it down.

Cheryl Greenway stated that with that they have reached their time limit on discussion. The applicant has a chance to come back now and comment on the items that have been discussed over the last few minutes.

Darrell Cook stated that he picked up on a few items. The drainage easement issue. They had contemplated thinking that the Devonshire folks would want an underground conveyance rather than an at grade conveyance. So they simply proposed piping from the detention to their storm drain structure. All the water drains there anyway to that point. They were just simply thinking that that connectivity would be something that they desire so much so that one of their conditions is: "Ye shall connect with an underground pipe." They don't want any above ground discharge. Only to find out a few days later that, "good luck getting an easement from them." Cook stated that they can easily accommodate at grade discharge from their detention facility. That is a non-issue in his view. The water is going there now and there is a well-defined swale at that point. They will discharge into that. They think it will be better for them on their standpoint, but not a problem. They can discharge without getting an easement and putting in an underground pipe at that point.

As was discussed, there is an awful lot of traffic on that road. Given these 19 units will have little if any noticeable impact to that, it is a cut through, it's a connector. There is no doubt about it. But in the numbers that are put together, this adds up to less than one percent maybe even less than one-tenth of a percent impact to that, a tenth of one percent impact to that so it is infinitesimal.

Detention-mosquitoes. It is going to be designed so that it won't have that and in fact be more higher tech designed than Devonshire's own detention facility, which is rather large and may very well have some issues. But any mosquitoes they would experience would like come from their facility. This will be a pretty high tech facility for infiltration.

Cook stated that he and staff found nothing about a 100-foot buffer historically being called for. It is their understanding that that was brought up during the rezoning. Cook was around during the rezoning and was part of that, the Devonshire property. It was just another ask to have more setback. It is his understanding that that was property sold by the Nesbit family by the matriarch of the Nesbit family sold to Pulte Home Corporation to develop Devonshire. But Nesbit wanted

 **DRAFT**

to live there the rest of her life and wanted to, for her lifetime to protect herself from that development that she sold to Pulte Home Corporation to develop. So, the issue of that being contemplated always to be, yes, it was going to while Mrs. Nesbit was surviving, that she would live out her life there. But it was not contemplated in perpetuity to be and this is Cook's understanding, to always be single family. It was for while she was there to reside there until her passing and that was the extent of that. And Cook thinks that is reasonable. That is fair.

The wall was imposed by the gal that had stood up here before. She was living at the time as well and wanted some of these things and fought really hard for those and didn't want the wall on the property line. She wanted on the other side of the buffer. So, for her to discuss why it was done that way, she in Cook's understanding, dictated that it was instrumental in that while being placed there. So, it is interesting to hear that kind of comment after the fact.

As far as competition of homes, this will be a larger home, substantially actually larger than those homes. It is Cook's understanding and he is not a real estate expert or agent but his belief is that higher price homes will actually elevate the home prices of the adjacent property to their benefit, not to their detriment.

As far as the issue of this being considered to be single family, detached, one acre lots in perpetuity Cook would ask if Dane Nesbit would like to speak to this because it was said that no one would speak to it. And Cook would like to have one of the family members speak.

Dane Nesbit stated that he grew up here in Roswell and he is the property owner. He has maintained roots here in the north Fulton community throughout his life. Also present is his brother Darrell and his sister, Dawn. They three are owners of the property. His sister who came before the Commission was never an owner. She did reside in the home for 50 some odd years. And she did care for Nesbit's mother. She sought through court order to have the property in her name and her name alone. The court saw fit to remove her, evicting her from the property and to entrust the property into their names and their names alone. And what the Commission has heard is simple vindictiveness. Nesbit's mother, throughout her entire life, if one notices the name of the road is Nesbit Ferry Road, their last name is Nesbit. It was a place that she called home. They heard from a family earlier that had lived on their property for 40 some odd years and had seen the encroachment of development from a school. Nesbit's mother lived there some odd 60 years. It is 2012. He thinks the property was bought in the 1950s. Anyone would wish to maintain their quality of life but time moves on. There are five other children who have their names on the property and yes, Nesbit guessed they could divide it up and each one of them get one-fifth of the property. That is not the proper use for that property. They would not be able to preserve the trees. That was one of the great concerns. The trees have been preserved.

When Nesbit said that the law suit was dismissed, he dismissed the law suit. He took the executor to court; he came to the settlement agreement with the executor of which the law suit against the city of Roswell was dismissed. It was not because the Fulton County administrator wanted to dismiss it. It was not for any other reason than Nesbit said it was time to move on, to put forth in front of the city of Roswell a proper plan with developers who will work diligently to maximize the use of the property.

And when they talk about specimen trees, he hates to think he is this old, but on that tree save map, four of the specimen trees Nesbit planted when he was in high school and he truly does not feel like he is a specimen yet. They are renewable resources but those great oaks are something that need to be preserved and they need to act now because quite frankly, Nesbit does not have the money to go in and preserve those trees in their state. There was a fire on the property last

year damaging the largest of the oaks. These developers can come in utilizing the techniques that they have discussed with the arborist to maximize the survivability and to preserve that property as an asset for the city of Roswell and not a detriment.

Nesbit thinks they have seen a good product, a larger product that should improve the values of the neighborhood homes at the public hearings. Nesbit has had that broached to him. And he said that if the people who come to look at these properties are anything like him, he generally looks at what he would like to live in and then he drives out and drives around the corner and finds the home that he can afford. It will be a wonderful boom in that area to have new construction. People like to go where they see progress, where they see growth. This will assist the people in Devonshire. It will assist the city of Roswell and its tax digest and it is a wonderful use for the property as it sits.

Dane Nesbit stated that he appreciated the Commission's time this evening.

Harvey Smith asked Dane Nesbit if he could share...he is looking at the 23 points that the Planning Commission uses when they try to make a recommendation. If the property was not rezoned, does he have an appraisal of what; just give a percentage of what the present value would be compared to the proposed rezoning. Is that a fair question to ask?

Dane Nesbit stated that he was not really sure exactly what...Smith stated that if Nesbit does not obtain the rezoning and it stays one acre, which from a lot yield he thinks the engineer could probably...he is not going to get five lots out of five acres. Nesbit stated not with the tree preserve area. Smith stated that was correct and he would guess that he might get three lots. Smith's question to Nesbit is if it were not rezoned what is the property worth as is compared to the proposed rezoning.

How is Nesbit impacted as a family? Smith understands that there is a family history there obviously. But no. 11 in part of the criteria that the Commission uses the question is asked to the extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification. So to determine whether the property is impacted or to what valuation...has there been an appraisal done as is?

Dane Nesbit stated that Fulton County just reassessed the property from their assessed...2011 assessment was \$252. It is now at \$60,000. That is because of the loss of the home. So they are not talking about a lot of value in raw land and Nesbit does not know of any agricultural property that he could even compare it with. He does not think there is any agricultural property in north Fulton. There is a barn on their property; he guessed that he could put some chickens in there. But then again...maybe pigs instead.

Harvey Smith stated that he thinks it is safe to say that the property value is diminished due to the existing zoning. Dane Nesbit agreed that it had tremendously. Around him is property that has double the density of what they are asking for. They are not asking to put high rises and double-wide, double-deep. They are asking for a nice product that will enhance the neighborhood, not detract from it.

Cheryl Greenway asked if there were any further questions for Dane Nesbit. There were none. She asked if she heard a little while ago that there was a question for the city.

 **DRAFT**



Joe Piontek stated that he had a question about this piped water, the run off from the detention facility. Is that something that the city of Roswell requires or is that just something that would be nice?

Brad Townsend stated that he would think that it could be engineered either way. He thinks that the city engineer, in reviewing the way they proposed it was to put a pipe from the detention pond connecting through. There was a hydraulic study submitted which was sent to public works/environmental. They have reviewed that preliminary information determining whether an easement is granted or not. If the zoning is approved prior to a land disturbance permit, if they had the easement then they could put the pipe. If they don't have the easement then they have to do whatever it takes to properly drain the property. If that means detaining more on the property and then it sheet flows into a ditch....

Joe Piontek stated that he thinks that for an above grade discharge, an easement is not required. Brad Townsend stated that was correct.

Sidney Dodd asked as a point of clarification, is the single family dwelling that was situated on the subject property, has it been razed, or is it no longer a habitable? He is trying to understand that progression from...

Brad Townsend stated that his understanding is it is no longer habitable. Dodd asked if that is why Fulton County's valuation from 250 to now just a pure land value of \$60,000. They don't consider the single family dwelling to be an improvement that has more than nominal value? Townsend stated that he would agree that that is a yes. It is no longer a single family dwelling, it is only raw land. And that is the taxable value that it has.

Lisa DeCarbo stated as a follow up to the storm water question, if they are going to allow the surface run off, since there is going to be so much more considering how much impervious surface is here. Public works would require that there was enough treatment on the property to slow that flow so that it did not increase from what is going across there now.

Brad Townsend stated that was correct. He stated that DeCarbo created a question in Joe Piontek's mind. The way drainage works is one cannot allow any more water today to cross the property line when he puts development there. So what Lisa DeCarbo's correct assumption was they would have to detain more. Which means maybe the walls have to be a foot or more higher to detain more in a smaller outlet of that water to slow it down. So whatever is draining out today is not ever increased for the development.

Joe Piontek asked if that was not what they were looking at on the plan. Brad Townsend stated that it was.

Cheryl Greenway asked Darrell Cook if he wanted to come back up and make a comment. Brad Townsend stated that Cook was the engineer and he could probably answer it better than he can.

Darrell Cook stated that the detention of the outflow is the same whether it is piped or over land. It makes no difference. The outflow rate that would be required to be detained makes no difference. They have got to do it either way, piped or otherwise. It was just a matter of they thought it would be preferred to do that. Their conditions even requested that but then they came back and said that they may not be able to get them that. So, it is not a problem.

 **DRAFT**

Harvey Smith stated that condition no. 4, and this is sort of for the city and to Darrell Cook. The preliminary plat, which is going to address any of the engineering questions. They are not engineers here tonight. They are just trying to conceptually agree to move it forward or can it. But these types of questions are going to be answered before the land disturbance permit is issues. So, for everybody to relax and say that there is more work that has to be done if this moves forward.

Brad Townsend added that numerous approvals subsequent if the rezoning is actually granted.

Sidney Dodd stated that he had a question for staff. Is there a plan in place to diversify the type of housing in a given area in terms of the future comprehensive plan? For instance, what if they had all multi-family or what if they had all zero lot lines? What if they all five-acre minimum single family dwellings? Is someone coming monitoring by district or by zone the diversity of product type in a given area to ensure that there is harmony in the neighborhood?

Brad Townsend stated that harmony in the neighborhood was a good qualification. The 2030 plan did identify that the city of Roswell needed to diversify its housing stock in a couple of different areas. Aging in place, there was a desire to have cottage housing, which is a single story, smaller scale of housing for seniors and ones that get older to be able to put back into the community so they did not have to move out of Roswell but age. With the adoption of the new mixed used Grove Way ordinance there was a desire to provide some alternative type of multi-story housing. Not apartment complexes, single story flats or things of that nature. There is a desire for some of their vacant retail and empty commercial spots to redevelop as a mixed use component which would have some type of housing stock. In that, the staff feels that would help diversify. He thinks in the process of doing the unified development code they are going to struggle with what are the components of a housing that they don't have that they need to include in some manner. They don't have a number. They don't monitor district by district or location by location.

With the city of Roswell being 98 percent developed, they are dealing with very few green fields in which to build up from. So they have to tear it down first before they redevelop it. So that is another economic component they have to deal with. Brad Townsend thinks they will probably have some of those tough discussions within the next 18 months to two years in dealing with what they put in their unified development code and indicated that they need to take their bigger large lots and do they need to divide them and what do they need to divide them into. Or do they need to have bigger lots in certain areas that have more larger single family homes?

Sidney Dodd clarified that staff's observations or recommendations are not in consideration of that. Brad Townsend stated that was correct. He thinks their recommendation for this particular piece of property was in conjunction with the compatibility of its surrounding neighbors. In it being an infill that they felt most appropriate for this type of development.

Sidney Dodd thanked Brad Townsend.

Cheryl Greenway asked if there were any additional questions for the city or the applicant. Cheryl Greenway stated that she had a question for Brad Townsend. If the rezoning was approved so that they are out R-TH-A but the variance requests were not approved. How many homes could be put on this property?

Brad Townsend stated that he could not imagine that one could even get half. If they don't grant the front setback of 30 feet, if they 30 feet out of either side he can't imagine they could get half. Cheryl Greenway clarified that it would roughly cut it in half on the number of homes. Townsend stated that he would assume so and that would be tricky, even then. It is a tight product, down to

 **DRAFT**

the foot. To be able to save those wonderful trees out front one really squeezed it from the south and squeezed it from the east line and the north line and tried to work every way he can into the product.

Cheryl Greenway asked if there were any additional questions before she closes the public section.

Lisa DeCarbo stated that Darrell Cook talked about initially what he had thought about doing was looking at a cottage-style zoning. How does this differ from that? When she thinks of a cottage style she thinks of things that are more the one story and that there would be still potentially more room between the units. Can Cook tell her how they went from that to this particular look?

Darrell Cook stated that the city of Roswell does not have any type of zoning that would allow cottage-type or one or two-story. That is the other thing. The difference here is they are only looking at two-story versus a three-story product, which Cook thinks was proposed before. But there is nothing that would come close to that in the code. He thinks that if they go detached the minimum lot size is almost 12,000 square feet, the dead minimum. And then when one looks at the required setbacks on that. They are probably back to no more than three or four lots when one starts meeting that. And of course the code says one cannot vary the square footage of the lot. So they found no category that would work. So then they looked at what they could do to get a nice product on this property. Much nicer than what was presented before and to some extent nicer than some of the surrounding property because they see this as an upscale potential. Something to help with the neighborhood. But that is the issue. Again, as Brad Townsend stated they are trying to get a reasonable use. One has to have a certain number to justify the infrastructure improvements. Three, five, eight, ten just doesn't justify that. So they need to get a certain number if they are going to save those trees and work as well as they can with the surrounding neighborhood.

Lisa DeCarbo stated that is what she was trying to get at. She just wondered if there was a way to group these as attached homes, get 12 in there and have it more like the actual cottage layout. But Cook is saying that the tree save is still kind of the issue.

Darrell Cook stated that it was the tail wagging the dog right now. They have read through the zoning issue before and that seemed to be a big sticking point. So, they felt like they should let that be. They should work with that and then work around that because that seemed to be a big sticking point and let's be honest, they are nice trees.

Harvey Smith stated that creates a question for him. He just realized that they are creating like a hybrid type zoning classification. Because what is an attached single family home? That is like an oxymoron. He is looking at the site plan.

Darrell Cook stated that he sees that. They are starting off as detached product, but they will be attached. Harvey Smith stated that per the site plan they are attached. What will that plan look like? Cook stated that they will put in architectural...the city does have a strict interpretation of what constitutes attached. In other words they can't just put a wall or something or a fence up or something. They will have to create an architectural and they have architects working on that now because they want to work with these footprints, get rooflines just right, effectively next door in Devonshire sheds, attached. Basically it is a common shed area that is what attaches the units in Devonshire. So they are looking at something a little nicer than that.



**DRAFT**

Harvey Smith clarified that they are just going to make them touch so that they are almost technically a town house but Cook wants to call them a single family detached house.

Darrell Cook stated that was not correct. He says that because that is where they are starting. They have a footprint that effectively today is a detached product. But they are going to attach them so that they do have a town home product.

Smith clarified that was to make it fit within the Roswell zoning classification right now. He is trying to create something that fits within what they have. Darrell Cook stated that they talked with the council folks and they said and staff said it is probably years before such another opportunity would come up where they would have a different zoning category. And that is even if it has gone through...

Harvey Smith stated that he has read some of the comments. It has been to the Design Review Board coming first right, and he thinks that was kind of a nebulous question that was...and it is not but this is not unusual for other jurisdictions. Because he is familiar with it and that is what he is looking at. He realizes that it is attached but they are trying to make it fit.

Cheryl Greenway asked if there were any other questions for the applicant or the city. Hearing none Greenway closed the public section and asked for discussion or a motion.

Harvey Smith stated that his impression is that obviously, he thinks the property as is has a diminutive value if it is not rezoned regardless of whether or not the house is burned down. To think that one could buy an acre of land in Roswell for \$10,000 he would grab all he could. He knows that the tax assessor, even though that is not an accurate valuation, but obviously he thinks that is part of the 23 points that the Planning Commission looks at when they make a recommendation. The property has sat there in disrepair, it is not marketable in the present condition, it is not marketable in the present zoning. Smith thinks personally when one is surrounded by higher density he thinks they are kind of calling the grips of where they are annexed from Fulton County and what Fulton County did. They can't correct all of the sins of the past. But one has to look at what is the highest and best use for the property. He thinks that when one asks somebody to say that should be a natural green space because they like to look at that. That is considered an unfair taking. Smith does not think the surrounding communities, if they had an accurate appraisal of the property, if they wanted to collectively do a special assessment and everyone in the three communities buy that property and keep it like it is. He is sure the developer might consider that. But Smith has not heard that offer made on the table.

But aside from that, Harvey Smith thinks the request is reasonable. He would make a change to one of the concurrent variances. He would like to see a sidewalk added on one side of the street just for safety reasons. He thinks they could figure out how to make that work. That is an engineering, technical detail that can be taken care of later.

Cheryl Greenway asked if there was any other discussion.

Sidney Dodd stated that he just had a general comment. He tries to approach these things with a degree of balance. Property values throughout north Fulton and all of the Atlanta metro area have suffered over the past five years. He is pretty certain that the diminution in value for the subject property is not due to a zoning classification. It is more due to liquidity from the ability to borrow. Once one takes out leverage from any real estate transaction and he is dealing with all equity or all cash, it changes the equation substantially. Certainly Harvey Smith is the most experienced on this staff in terms of construction. But Dodd stated that he is a real estate financier

 **DRAFT**

and he can tell the Commission that 90 percent of all transactions that are being done are being done on an all equity basis today. There are others that leverage within the capital markets that are existing financial relationships and my ring out a construction loan here or there. But that is why they are in the position they are in today in terms of property values.

Back to the question of balance. Dodd understands why R-TH-A is being requested here. But then he looks at the number of variances that are being requested with that to make this preliminary site plan work and he does not get that feel of balance anymore. They can consider the R-TH-A. Now they have got to consider all of these variances to make this site plan work. That seems to be an imbalance. That seems to be a way to make this project work and Dodd thinks their greater sense of obligation here is to make sure that there is balance between the developers and the homeowners and the community at large to make sure that this process is reasonable. Dodd, for one is sitting on the other side of reason right now because of so many requests that are coming in to make this site plan work.

Lisa DeCarbo stated that she has some questions in terms of simply the way the things are laid out. She wonders what the market is really going to be for units that are this size. If they are talking about a 3600 square foot unit, they are talking about a family. Now, are people with a large family going to want something that is this dense? Are they going to want to have the next house 20 feet away from them for their entire sidewall? She just wonders what the experience will be living in these things when one can almost literally reach out the side and touch his neighbor. She thinks that will be an issue. She does not know that the way it is laid out, the way the homes themselves are configured, she does not know if they are going to be as attractive as the Commission might hope for them to be. They are going to have an experience from the front along the street side of something that is very monolithic. It is going to be like town homes from the front but then they have this odd configuration along the back and at the sides. She just wonders if that really is the best value and if they are doing something that is kind of a hybrid type. Is this really as attractive as they want it to be?

Joe Piontek stated that he drives this road all of the time and goes back and forth to Centennial and goes back and forth to Crème de la crème. The traffic is crazy. There is a bunch of little schools in there and there is a five-acre lot over on Scott Road that was started to be developed and it was dumped. So who is to say? Piontek stated that he was not a real estate financier or a builder or anything. He does not do any of that stuff. He is just saying that it seems like this is kind of a stretch. That is his impression.

Cheryl Greenway stated that she is feeling much as some of the rest of the Commissioners. She can see a need for a rezoning for the property as opposed to the original zoning as is right now. But, she has a problem with this extent of variance request and also as Lisa DeCarbo mentioned, the size of how this would work out. So, Greenway has a concern they are all select. She can understand the need for some type of change to the zoning but she thinks this is maybe taking it a little too far.

With that, Cheryl Greenway asked if she has a motion from anyone.

#### **Motion**

Lisa DeCarbo made a motion to deny the application as presented. Sidney Dodd seconded the motion for RZ12-04. The motion passed 4-1. Lisa DeCarbo, Cheryl Greenway, Joe Piontek and Sidney voted in favor of the denial. Harvey Smith was opposed to the motion for denial. The motion was approved for denial of the application.

 **DRAFT**

This will come back up before city council on May 14, 2012.

Cheryl Greenway thanked the applicant for his time and patience tonight.

#### **APPROVAL OF MINUTES**

Joe Piontek made a motion to approved the February 21, 2012 minutes as read. Lisa DeCarbo seconded the motion.

The minutes were approved unanimously.

Brad Townsend stated that the next meeting is important. The Unified Development Code is going to be kicked off. They are going to have the meeting Monday with mayor and city council. Then Code Studios out of Austin, TX will be here to meet with the Planning Commission. They will probably be over in Room 220, work session style.

Jackie Deibel stated that there is one item on the agenda, which is the Short Term Work Program and should take them about 10 minutes. Once they are done with the meeting they will move downstairs to the community development conference room. They will be meeting with the consultants at that time.

Brad Townsend stated that they will be laying out 18-24 month type process for the Commission so that can understand the big picture.

The meeting will consist of one item and then they will go downstairs. The meeting starts at 7 p.m. It should not go later than 8:30 or 9 p.m. It is very quick.

**ADJOURN:** The meeting adjourned at 9:43 p.m.

---

Cheryl Greenway, chairman  
Roswell Planning Commission

mayor and city council  
community development  
applicants' files

 **DRAFT**