

Dane E. Nesbit

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Sandy Springs, GA 30328

404-931-1890

5-2-2012

To the City of Roswell:

On April 17th, 2012 an application for rezoning which I submitted was heard before the Zoning Commission. As part of that meeting and prior to that date, the city received communications both written and in email form from Cathy Murphy purporting to represent the Devonshire Homeowners Association. These communications were labeled "Conditions of Rezoning for 9050 Nesbit Ferry Road Proposed by Devonshire Home Owners Association" and the later email regarding the preceding was sent by Cathy Murphy to Jackie Deibel under the signature "Cathy Murphy, Devonshire HOA".

At the Zoning Commission meeting Anthony Lynch with Integrity Engineering was allowed to speak as and represent the above communications as conditions approved by the Devonshire Board of Directors on behalf of the community they represent.

After meeting with Ms. Roth and residents of the Devonshire community in an attempt to see if there could be a "Meeting of the minds", it was disclosed that no Board of Directors meeting has been held for "several months" and no vote or formal approval was ever given to create or submit such conditions or document. Furthermore, no gathering of the membership of the Devonshire HOA has been held and no formal vote or discussion ever held.

This deliberate misrepresentation to the City of Roswell is and was used to effectively communicate mass opposition to the rezoning application and rather represented the views of a minute fraction of the property owners of the community. Much can be expressed by the fact that neither the property owners nor the board of directors felt the need to convene a meeting to discuss the application.

It is my belief that this occurrence unfairly prejudiced members of the Zoning Commission and their thoughtful deliberation of the matter at hand. I believe the City of Roswell should investigate what I consider a breach of moral and ethical behavior (and perhaps criminal) to both prevent such behavior happening in the future and to address any harm which may have come at this time.

Sincerely,

Dane E. Nesbit

Applicant for Rezoning of 9050 Nesbit Ferry Road Property



Conditions of Rezoning for 9050 Nesbit Ferry Road

Proposed by Devonshire Home Owners Association



1. The proposed development shall be in substantial conformance with the site plan that is ultimately approved during the rezoning process.
2. Developer agrees to demolish existing brick wall and remove all debris from the site. Wall site will be graded, sodded or seeded and strawed. Developer will construct a new brick wall of identical quality, height, width, and architectural appearance on the property line between Devonshire and subject property. Wall can be constructed within 5 feet on the Devonshire side of the property line if grading becomes an issue. Exact location to be surveyed and final approval given by Devonshire HOA.
3. At a minimum, lot 1 shown on the rezoning plan completed by Watts & Browning Engineers, Inc., dated 2/13/2012, shall be eliminated to provide for a greater throat distance from Nesbit Ferry Rd.
4. A 100-ft vegetated buffer, shall be provided along Nesbit Ferry Rd to be in keeping with the buffer provided by the Devonshire subdivision along the road. If buffer does not meet City of Roswell buffer standards, the Developer will submit buffer with variety of plants to meet buffer standard.
5. A minimum of 30-ft shall be required from the back of curb to the front of the garage to allow for stacking of 2 small cars per "lane" on each driveway.
6. Developer will install an "overflow" parking area for the development as there will be minimal on street parking available.
7. The proposed deceleration lane and taper provided on Nesbit Ferry Rd shall be per GDOT or the City of Roswell design standards, whichever is greater.
8. The proposed landscape plan shall be completed by a licensed landscape architect and provide a greater variety of trees than the plan completed by Watts & Browning Engineers, Inc., dated 2/13/2012. Proposed deciduous trees shall be a minimum of 4-inch caliper. Evergreen trees, bushes, shrubs shall be a minimum height of 10-ft.
9. All homes shall have a façade of brick or stone on 3 sides minimum. Architectural accents, or any other materials, will not exceed 15% of the overall side.
10. The proposed detention/water quality pond area shall be completely screened with a dense evergreen hedge on all sides except for a pond maintenance access point. Minimum 7 gallon in size, no more than 4 feet on center.
11. Proposed storm water discharge that enters the Devonshire property shall be piped from structure to structure. No open channels or sheet flow shall be permitted onto the Devonshire property. A drainage easement must be secured from the Devonshire Home Owners Association.
12. All lot setbacks shall be per the current city zoning code for the designated zoning. No setback variances should be approved.
13. Each home shall be a minimum of 2,400 heated square feet and a maximum height of 30-ft.
14. All homes shall be "detached" as allowed per Section 5.6.1 of the city zoning code.



From: Cathy Murphy [mailto:murphy0112@gmail.com]
Sent: Monday, April 16, 2012 6:47 AM
To: Jackie Deibel
Subject: Nesbit Property Rezoning

Hi Jackie,

Our attorneys reviewed the documents and Devonshire conditions for rezoning. There is new information below regarding the drainage easement required per the current plan.

The rezoning plat as well as the conditions of rezoning proposed by the Devonshire community both indicate that the developer will need a drainage easement over a portion of the Association Property to facilitate storm water drainage and runoff from the newly proposed townhome community. Pursuant to Article III, Section 5 of the Declaration, any encumbrance of the Association Property requires the affirmative vote of: (a) owners of no fewer than sixty-seven percent (67%) of the Homes; and (b) the holders of no fewer than sixty seven percent (67%) of the First Mortgages existing in regard to the Homes. Based on our past experience, it will be virtually impossible for the Association to obtain the approval of sixty seven percent (67%) of the mortgage holders in the community.

Please call me at [770.630.6918](tel:770.630.6918) if you have any questions related to this issue before our meeting Tuesday evening at 7 p.m.

Sincerely yours,

Cathy Murphy

Devonshire HOA