



Petition No. RZ11-16 and CV11-06

HEARING & MEETING DATES

Design Review
Board Meeting

N/A

Neighborhood Meeting

1/19/12

Planning Commission Hearing

2/21/12

Mayor and City
Council Hearing

3/12/12

APPLICANT/PETITIONER INFORMATION

Property Owners

Donald Voshall

Petitioner

Early Learning Property
Management

Representative

Mike Kerman

PROPERTY INFORMATION

Address, Land Lot,
and District

1240 Warsaw Road, Land Lot 525

Frontage and Area

189.91 feet on Warsaw Road; 1.354 acres

Existing Zoning and
Use

R-3 (Multi-Family Residential); Day care center

Overlay District
2030

Citywide design guidelines

Comprehensive
Plan; Future
Development Map

Suburban Residential

Proposed Zoning

C-2 (Neighborhood Commercial)

INTENT

In 2003, the zoning ordinance was updated and removed day care centers as permitted uses in the R-3 zoning district. The applicant would like to rezone the property to C-2 (Neighborhood Commercial) in which day care center are permitted uses.

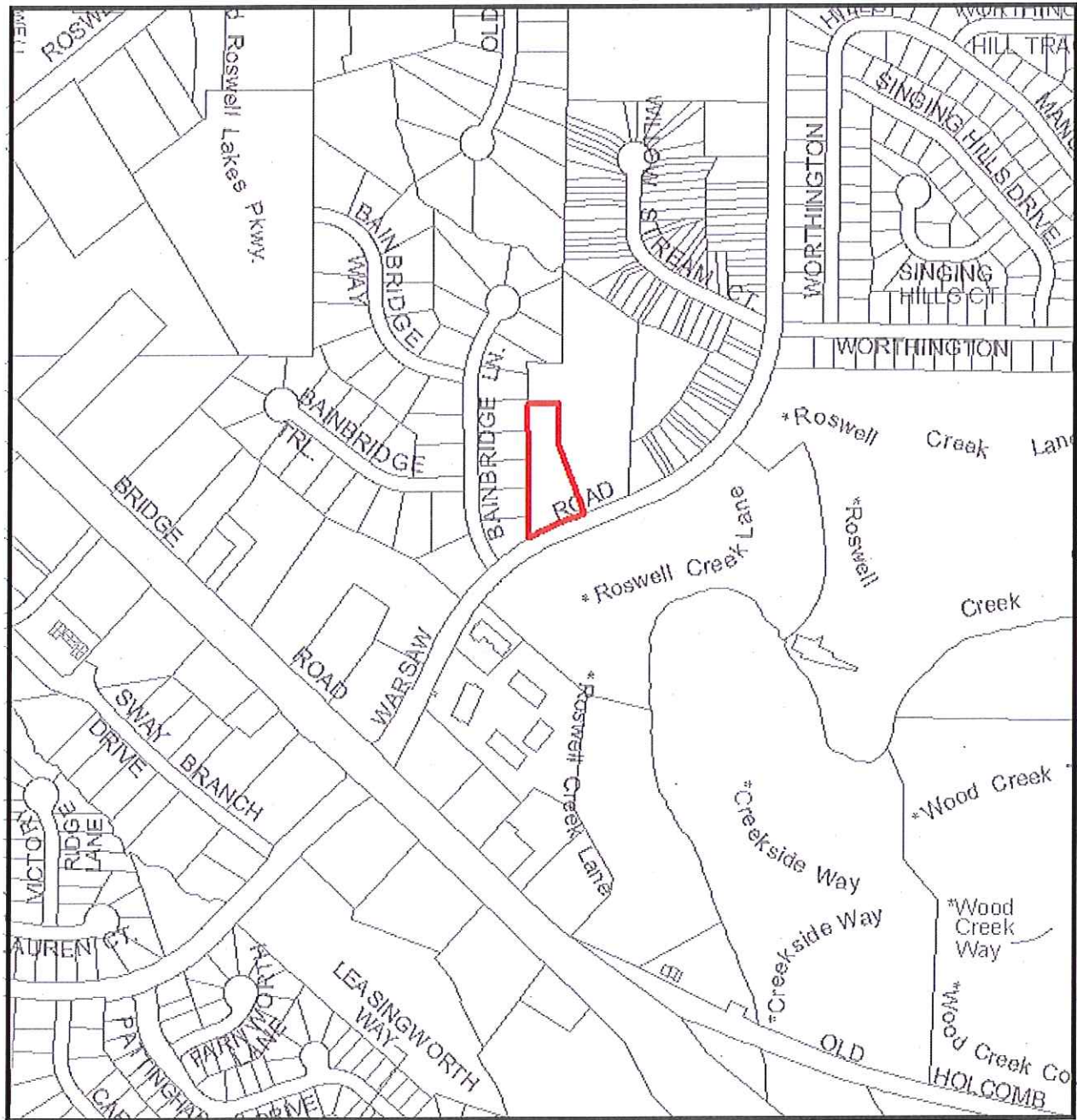
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

RZ11-16 and CV11-06 - Approval

PLANNING COMMISSION RECOMMENDATION


The Planning Commission recommended approval of the rezoning to C-2 (Neighborhood Commercial) with the concurrent variances during their February 21, 2012 public hearing with the following conditions.

1. The property shall remain developed as shown on the survey stamped "Received December 5, 2011 City of Roswell Community Development Department."
2. The use of this property shall be limited to a day care center.



1 in = 500 ft

Location

 1240 Warsaw Road

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STAFF RECOMMENDED CONDITIONS

It is recommended that this application for rezoning RZ11-16 and CV11-06, the concurrent variances for a reduction in the setback and buffer abutting the R-1 and R-3 side property lines and to allow for an individual establishment exceed the 5,000 square foot requirement in the C-2 zoning district, be approved with the following conditions:

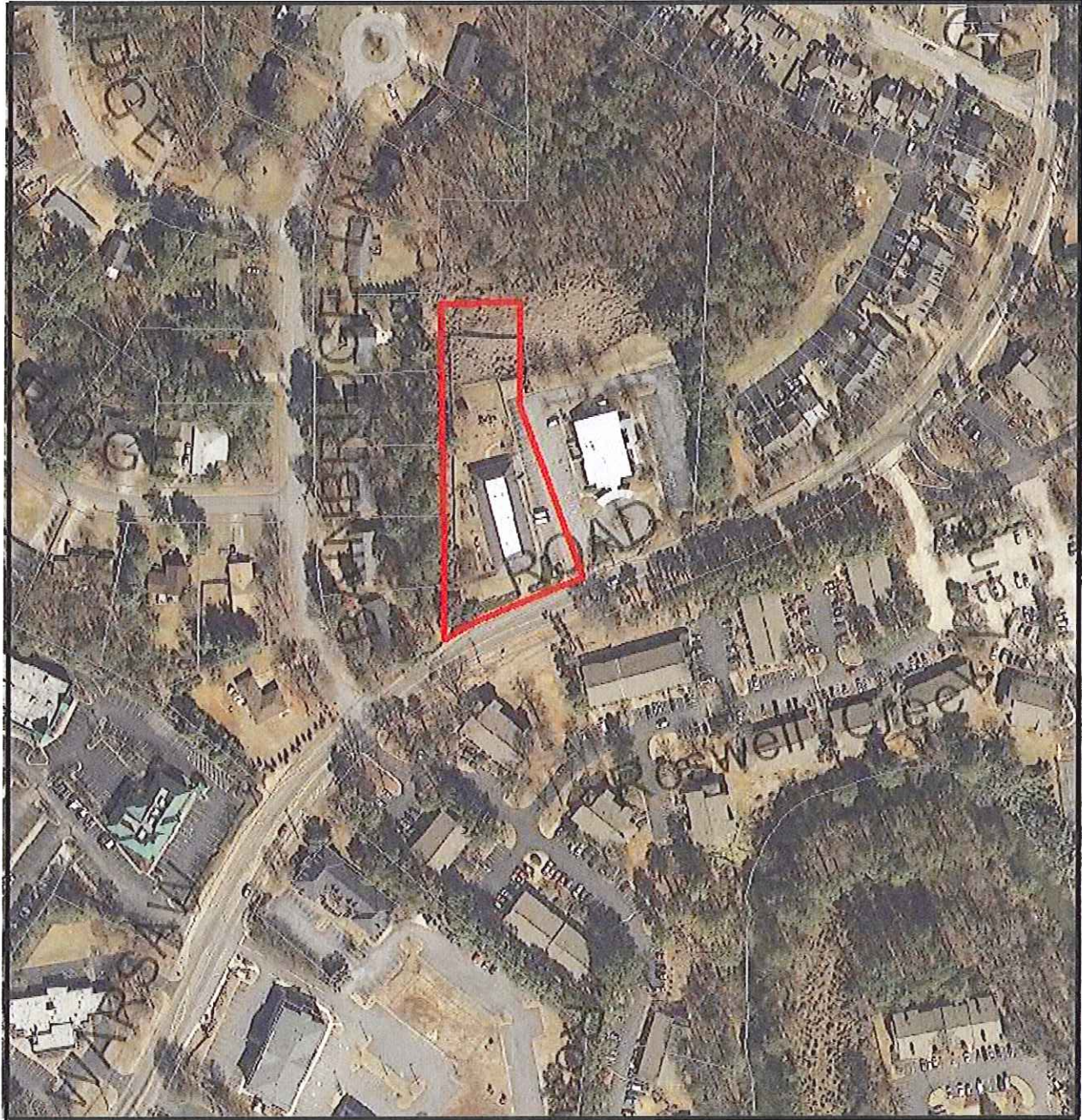
1. The property shall remain developed as shown on the survey stamped "Received December 5, 2011 City of Roswell Community Development Department."
2. The use of this property shall be limited to a day care center.

BACKGROUND

The subject property has always been zoned R-3 (Multi-Family Residential). Prior to April 14, 2003, day care centers were permitted by right in R-3 zoning districts. A day care center has been operating at this location since 1993.

EXISTING LAND USE AND ZONING OF ABUTTING PROPERTY

SUBJECT PETITION RZ11-16	Requested Zoning	Proposed Use	Land Area (Acres)	Number of Units	Density (Square Footage per Acre)
	C-2	Daycare	1.354 acres		6,560 SF per acre
Location in relation to subject property	Zoning	Use	Land Area (Acres)	Square Footage or Number of Units	Density (Square Feet or Units Per Acre)
North	R-3	Senior Center	4.4 acres	Not applicable	Not applicable
South	R-3 and R-4	Apartments	12.4 acres	173 units	13.9 units per acre
East	R-3	Senior Center	4.4 acres	Not applicable	Not applicable
West	R-1	Single family homes	2.03 acres	5 homes	.40 per acres

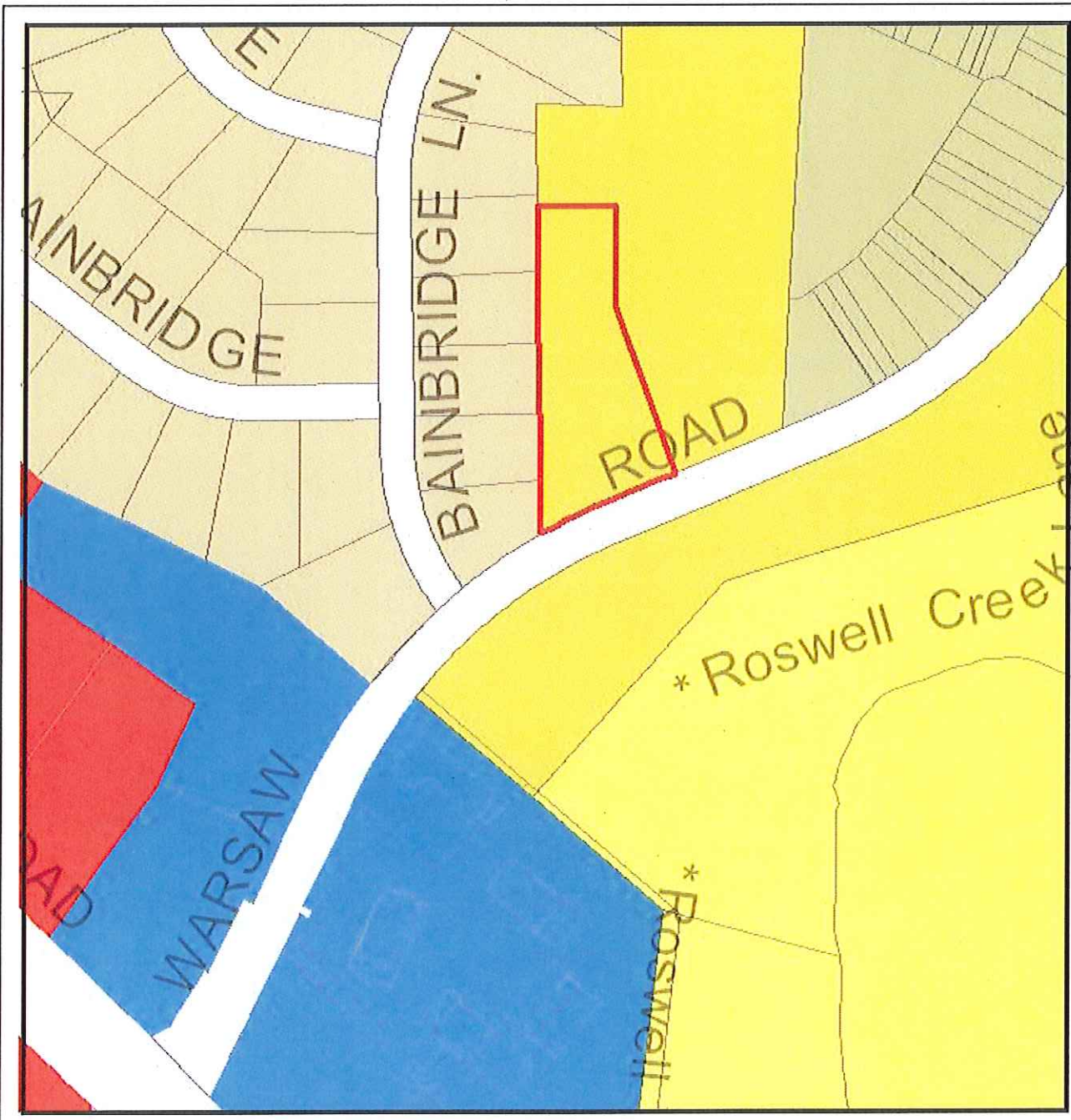


1 in = 200 ft

Aerial

1240 Warsaw Road

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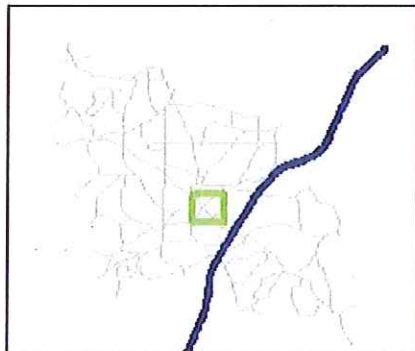
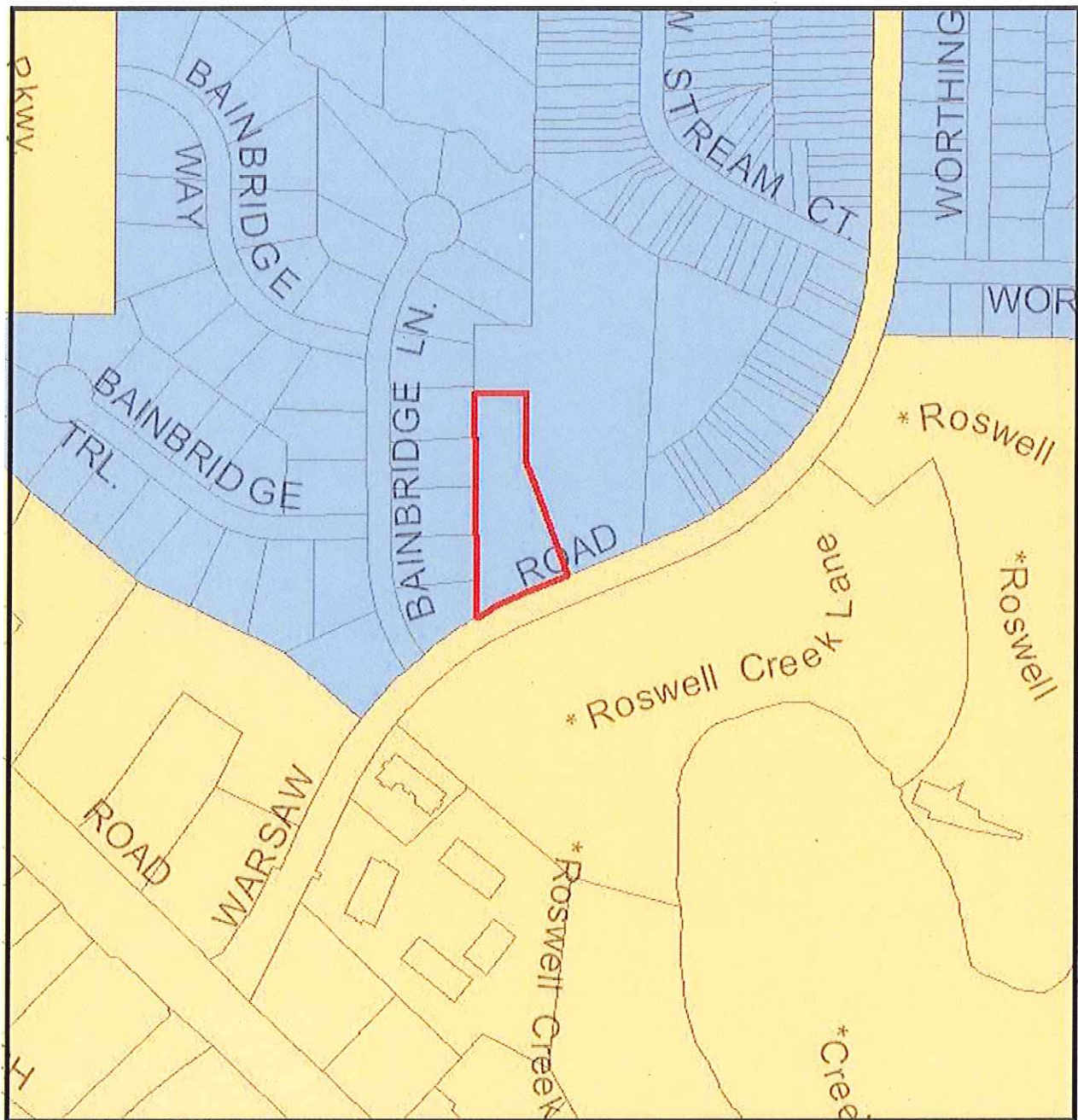
Zoning



1 in = 200 ft

- 1240 Warsaw Road
- C-3 - Highway Commercial District
- O-P - Office - Professional District
- R-1 - Single-Family Residential District
- R-3 - Multi-Family Residential District
- R-4 - Multi-Family Residential District
- R-TH - Fee Simple Townhouse District (Multi-Family)

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1 in = 300 ft

Future Development

- 1240 Warsaw Road
- Future Land Use**
- GA 400/Holcomb Bridge Node
- Suburban Residential

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View of property



View of property



View of the property



View of the property



View of the senior center



View of the Single family home



View of SF home buffer to the



View of the property across Warsaw Road



View of the property



View of the property



View of the property



SITE PLAN ANALYSIS

The site plan shows the existing building to be 8,883 square feet. The density of the site is 6,560 square feet per acre. It is a one-story building and the property contains twenty-five (25) parking spaces. The day care center is to remain as it exists. There is a gazebo located in the northern area of the property and the day care center has three separate play areas located on the property.

DRB/HPC comments and Design Guidelines

Not applicable

LANDSCAPE PLAN ANALYSIS

Not applicable

VARIANCE CONSIDERATIONS

The applicant is requesting variances due to the dimensional requirements in the C-2 zoning district. The variances requested are as follows:

1. The applicant is requesting a variance to the fifty foot setback for a building when abutting an R-1 (Single Family Residential) district. The existing building sits at its closest point 28 feet from the property line abutting the R-1 zoning district.
2. The applicant is requesting a variance to the forty (40) foot buffer when abutting an R-1 (Single Family Residential) district.
3. The applicant is requesting a variance to section 6.3.1, Purpose and Intent, that no individual establishment shall exceed 5,000 SF in the C-2 zoning district. The current building is 8,883 square feet.
4. Additionally, the applicant is requesting a variance to the setback and buffer abutting the R-3 property line abutting the senior living center. Under our current zoning ordinance, when a C-2 district abuts any other "R" district, the setback is fifty (50) feet and the buffer is forty (40) feet.

DEPARTMENT COMMENTS

City of Roswell Environmental Department	No comment
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City of Roswell Engineering Division	No comment
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Fiscal Impact	Not applicable
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Archaeological	Not applicable
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City of Roswell Fire Department	No comment
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City of Roswell Transportation Department	No comment
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Georgia Department of Transportation	Not applicable
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City of Roswell Arborist & Landscape Architect	No comment
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CHRONOLOGICAL LISTING OF PLANS SUBMITTED

Original plans submitted on December 5, 2011.

STANDARDS OF REVIEW

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

The proposed C-2 zoning will allow for the existing day care center to remain. A day care center has been operating at this location since 1993. It is a suitable use in relation to the development surrounding the site.

2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The existing day care has been operating for a number of years. The change in zoning may not adversely affect the existing use of the adjacent properties. The daycare is remaining.

3. Whether the property to be affected by the zoning proposal may have reasonable economic use as currently zoned.

The property as currently zoned has reasonable economic use. The concern is that the use is considered a non-conforming use in the R-3 zoning district due to the update to the zoning ordinance in 2003.

4. Whether the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools.

The change in zoning will not cause an excessive or burdensome use of the existing streets, utilities, transportation facilities, or schools.

5. Whether the zoning proposal is in conformity with the policies and intent of the future development plan.

The subject property is located in the suburban residential character area of the city as indicated on the future development plan; however, it is currently being used for a daycare facility.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

The condition affecting this property is that with the change of the zoning ordinance in 2003, day care centers were removed from the R-3 zoning classification and placed in the commercial zoning classifications. The applicant would like to rezone the property so that the use complies with the zoning.

7. Existing use(s) and zoning of subject property.

The use operates as a daycare and it is zoned R-3 (Multi-Family Residential).

8. Existing uses and zoning of nearby property. (See page 5).

9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification.

The applicant has indicated in the application that the price which was paid for this property in June 2011 represents likely a fair market value for the property under the R-3 zoning classification.

10. Whether the property can be used in accordance with the existing regulations.

The property can be used under the R-3 zoning classification as long as a day care center remains. Should a day care center close at this location and no new daycare is established within 3 months, then the nonconforming clause in Section 14.3.3 related to discontinuance will apply.

11. The extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification.

Since the day care use is considered non-conforming due to the change in the zoning ordinance, section 14.3.3, Discontinuance, would apply. This section states that a non-conforming use shall not be re-established after discontinuance for three (3) months.

12. The value of the property under the proposed zoning district and/or overlay district classification.

The request for C-2 (neighborhood commercial) zoning would allow for the established day care use to be permitted by right.

13. Suitability of the subject property under the existing zoning district and/or overlay district classification for the proposed use.

The property can continue to be used as a day care center under the R-3 zoning classification as a non-conforming use.

14. The suitability of the subject property under the proposed zoning district and/or overlay district classification.

The subject property would be suitable under the C-2 zoning district since day care centers are permitted uses in the C-2 district.

15. The length of time the property has been vacant or unused as currently zoned.

The property has been used as a day care center since 1993. From 1993 until present, the center has had several different owners.

16. A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district.

The current owner bought the property in June 2011 and according to the zoning application they have not attempted to sell the property.

17. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts.

The rezoning to C-2 will create an isolated zoning district; however, the use of a day care is not changing.

18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district or overlay district.

The requested change of zoning to C-2 (Neighborhood Commercial) will not change the use of the structure.

19. Whether the proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.

The requested rezoning is to change to zoning to allow for the existing day care use to comply with the zoning ordinance. It will not be a deterrent to the adjacent properties as a day care has existing there since 1993.

20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

Since the property is developed there will be no impact to the environment.

21. The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will carry out the purposes of these zoning regulations.

The request for C-2 zoning will be a change to the zoning scheme of the area; however, the use of a day care is remaining the same

22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

At the time the day care was developed under the R-3 zoning classification, a twenty-five foot buffer was required when abutting single family residential. Under the current C-2 zoning, there must be a forty foot buffer with a fifty foot setback for the building. The current location of the building does not meet this requirement and therefore is requesting a variance.

23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.

There is no undeveloped land in the general vicinity that is currently zoned C-2 (neighborhood commercial).