

4. PV09-02, 11575 King Road, Marilyn Wankat - Sutton Country Day School, Ltd.

Planning and Zoning Director Brad Townsend stated the subject property is within the Parkway Village District across the street from the Publix Shopping Center. It is adjacent to a shopping center and the Roswell High School property. An existing day school is located on the property.

The applicant has requested two variances:

1. The applicant would like to eliminate the required 40' streetscape as required by Section 12.2.3(a). There is an existing structure that cannot meet this requirement.
2. The applicant would like to vary the maximum number of parking spaces allowed by Section 12.2.3 (c) from 29 to 43. This would allow for more parking for a day care as well as increase the marketability to include office uses.

The day care site plan shows the existing parking is in front. The proposed application indicates the playground at the rear of the property, a driveway access along the southern property line, and additional parking to the rear of the property. When this property was initially proposed for day care use in 1988, it went through rezoning from E-2 to R-2, for that designation; the Parkway Village Overlay occurred subsequent to that. The day care business has not been in existence at this property for over three months which has left the applicant unable to go back into the day care center business. The applicant's request for two variances is a result of the property being marketed for different use. Surrounding properties are within the Parkway Village District. Roswell High School is located to the north. Mr. Townsend stated staff recommends approval of the proposed application and the site plan brought forward to Council at this meeting; this site plan was received on September 30, 2009. This application requires two variances for this use dealing with parking spaces and the streetscape along King Road. Mr. Townsend stated staff recommended approval of the small tract status for this application.

Council comments:

Councilwoman Wynn asked if the two recommendations (comments) made by Environmental Department staff would be included as conditions of zoning. Mr. Townsend replied yes. Councilwoman Wynn directed Mr. Townsend to confirm whether or not the applicant was agreeable to those recommendations.

Councilman Orlans asked if there has ever been a variance granted to the forty (40) foot Parkway Village streetscape. He thought the 40' streetscape had been a requirement on everything in Parkway Village and there has never been a variance for that requirement. Mr. Townsend agreed.

Mayor Wood said he shared the same concern Councilman Orlans had when the forty (40) foot Parkway Village streetscape variance was brought to his attention. Since this is not new construction, the variance in essence, is already in effect. He hoped the Council would consider the fact that the parking lot is already within the 40' buffer.

Councilman Orlans stated the applicant is asking for additional parking, so he thought the applicant was looking at redoing the parking since it is not being used as daycare any longer. He was waiting to hear the applicant's thoughts regarding these issues. Councilman Orlans noted that the streetscape is one of the main points of the Parkway Village district.

Applicant:

Brad Riffel, AEC, Inc., representing the applicant, stated they were unaware of the conditions Councilwoman Wynn had earlier referred to and requested an opportunity to review them. The Mayor allowed the applicant time to review those conditions and moved the public hearing on to agenda Item #5.

Upon the meeting returning to PV09-02, the applicant had reviewed the conditions, Mr. Riffel stated they were agreeable to condition #1, regarding the use of porous pavement and noted they had planned to accommodate that condition, as their site plan indicated. Mr. Riffel in reference to condition #2 regarding a rain garden to the north of the building, stated "That is a portion of the playground being considered for the 150 square foot per child in this layout." He said the first variance request for the 40' landscape strip is quite obvious. The second variance request with the number of parking spaces is due to a greater market ability. Mr. Riffel added that many day care operators were saying "We simply can't operate with so few parking spaces." Mr. Riffel said they "decided to try to put as many parking spaces there as they could that would accommodate the daycare into the back; obviously the drive going to the back, knowing that we needed to accommodate so many square feet per child, and maximizing the number of square foot we could get, so they can as many children outside at one time." Mr. Riffel noted the owners and potential future day care operators request at least thirteen (13) spaces to the back. One reason for the up to forty-three (43) additional parking spaces was so that it could possibly be marketed for a doctor or a dental use. Mr. Riffel was not certain the rain garden condition could be accommodated because it is a playground area and is designated as such. He defined a rain garden as "A method to accomplish water quality from the runoff from either the building or the parking. It is depressed area with plant material and just a way to convey stormwater and cleanse the stormwater. Most of the time it is attached to downspouts from buildings." Mayor Wood asked if the applicant had considered pervious parking to the rear. Mr. Riffel responded yes; the site plan includes porous pavers but the drive to the dumpster does not because of the porous nature of those pavers. Standard asphalt would be necessary there. The remaining portion of the parking lot in the back would be a paver system or actual porous concrete.

Council comment:

Councilman Dippolito asked where the storm water is currently detained. Mr. Riffel referred to the site plan and stated the location is at the front southwest corner. Councilman Dippolito asked if a water quality facility currently exists there. Mr. Riffel replied no; when this building was constructed in 1989, there were no requirements for that. Councilman Dippolito asked if the rain garden is "an attempt to have some water quality." Mr. Riffel replied that the applicant intends to fully comply with all the requirements for detention and water quality, but he was not certain it could be accommodated in a rain garden. He said "the very fact of doing a lot of it in porous pavement will accommodate some of that but then we will have to find some other means in which to take care of the drive around the side." Councilman Dippolito stated that he had not previously seen the request for a rain garden. He asked staff if they had spoken with the Environmental department regarding it. Mr. Riffel said "The idea is good; however, since that is a playground, it wouldn't go very well, that application, with the playground." Councilman Dippolito asked how much area would be needed. Mr. Riffel replied that would depend on the contributing pervious area. It could be quite small or be a "decent" size, just depending on the contributing area. Councilman Dippolito asked if it would be possible to relocate it someplace else on the property. Mr. Riffel replied that it is possible, knowing what the current potential operators are looking for in terms of their parking needs; they are looking to do the back 13 spaces, which is the current plan. In essence, it would be removing a bay of 11(spaces) and a bay of 4 (spaces), and therefore the footprint of the playground could be increased. A space could probably be kept between the playground fence and the curb that establishes the drive to those spaces. Mr. Riffel said "It is quite possible that we could provide some very linear form of a rain garden, more of a bio-retention area as opposed to a rain garden. It would be more applicable as a bio-retention area." Councilman Dippolito asked if this is planned to be a school or a medical office, since Council has heard both. Mr. Riffel replied that it is currently set up as a day care; the applicant has received a letter of intent from the operators for day care use. However, others have looked at it for medical or dental use and so the applicant wanted to be sure that use could be accommodated as well.

Councilman Orlans also questioned whether the applicant was going for day care or medical office use. Councilman Orlans noted the Parkway Village streetscape and the forty foot streetscape setback which comes in the middle of the driveway which goes around the edge. He asked what the distance is to the front five parking spaces and if they came up to the curb of the driveway which goes around the south side, could it accommodate the removal of the five parking spaces and a shorter Parkway Village streetscape. Mr. Riffel referred to the site plan and stated the current landscape strip is approximately 10 feet and the parking space is about 20 feet, so in essence, it would be 30 feet. It could be accommodated but it would shift the five spaces to the back which would then require some manner of reconfiguration. Councilman Orlans stated the applicant was proposing so many additional parking spaces that maybe not all 28 new spaces will be needed. Mr. Riffel replied "Again, it is trying to get close to a medical-dental ratio of parking that the industry is desiring. In case the day care operation does not succeed, then they have the ability to market it to the medical or dental industry." Councilman Orlans stated he understood this is an existing place, but his concern was that this would set a major precedent for the whole Parkway Village area and why he was trying to find a compromise. Mr. Riffel replied that this is the district boundary; delineation of the line is next to the school. Councilman Orlans noted the applicant had designed the proposal to cover both daycare and medical-office use. For daycare use, the playground is needed and a few less parking spaces, for medical-dental office, more parking spaces are needed and no playground. He said that with the potential contract for daycare, if the five parking spaces were eliminated in the front, there would be enough spaces with 23 additional to cover the need. If in the future, this ended up as medical-dental use, the five spaces could be carved out of the unneeded playground area.

No further Council comments. Public commented invited; none was heard.

Motion: Councilman Dippolito moved to approve PV09-02, 11575 King Road, Marilyn Wankat - Sutton Country Day School, Ltd. with the first condition: porous concrete shall be replaced with porous asphalt or pavers; a second condition: to add a rain garden where appropriate to accommodate the flow from the roof of the building. The rain garden can be another structure as approved by the Environmental department. The property shall be developed in accordance with the site plan stamped "Received December 30, 2009 City of Roswell Community Development department" with the exception of the removal of the existing five spaces on the front of the property and with the following variances: Reduce the required forty (40) foot streetscape as required by Section 12.2.3(a) to thirty (30) feet; Vary the maximum number of parking spaces allowed by Section 12.2.3(c) from twenty-nine (29) to forty-three (43).

Applicant:

Mr. Riffel noted that one of the owners had pointed out that the front spaces are highly coveted for front door pick up and drop off of the children. Functionality of the daycare would be more difficult if there is elimination of the spaces; it would burden the parents by sending them all the way to the back requiring them to deal with a long circuitous walk to the front door.

Mayor Wood asked Councilman Dippolito if his motion stood. Councilman Orlans asked if there were not still eight parking spaces in the front for the purpose of drop off and pick up. Planning and Zoning Director Brad Townsend interjected for clarification purposes and stated "The variance was from the 29 spaces to 43. With the elimination of the five spaces in the front, that number should go to 38." Councilman Dippolito replied the intent was to follow Councilman Orlans' lead that they could

reconfigure the parking lot to get the additional spaces and do it. Planning and Zoning Director Brad Townsend replied "In the back, if that is the clarification, that's fine, ok."

Mr. Allen Wankat, stated he and his wife are the property owners and have been in the child care business ten years. Mr. Wankat stated the morning drop-off and evening pick up is generally within a one hour period, by as many as 140 parents. Going behind the center and walking up the driveway adds "a huge safety issue and is somewhat fearful for an operator." No further comment. No Council comments or questions.

Mayor Wood asked Councilman Dippolito if his motion stood. Councilman Dippolito stated that based on the discussion he would suggest this be deferred for further study. He asked if that would be acceptable to the applicant. Mr. Wankat replied that since they reside in Jacksonville, Florida, a deferral would be somewhat of a hardship for them. Councilman Dippolito referring to the five parking spaces shown on the site plan, said "The applicant had noted that a lot of children would have to walk down this asphalt but there is only fifteen (15) spaces in the front right now anyway. We are only eliminating five cars so there still would be a significant number of cars in the back. Wouldn't you accommodate a back entrance into the daycare?" Mr. Wankat replied that daycare is required by law to check children in and out, and to make certain that an authorized person is who picks up the child. Councilman Orlans stated that based on what is there currently, those additional five spaces, and speaking about 140 parents, there will most likely still be people parking in the back. Mr. Wankat replied that they envision most of the back use as employee parking. Councilman Orlans asked if there still would not be some overload which will require some parents to park in the back and walk back and forth. Mr. Wankat replied "At fifteen we are about the right number but pick-up and leaving happens in bunches based on commute time to and from work."

Councilman Dippolito stated "It seems to me that the flow of this is not working well, based on this discussion. I would like to see the applicant go back and take another look at the site plan for a way to get it to function better to address the concerns this Council has expressed and potentially get the layout to work better from a daycare standpoint, possibly running a drive around the building to provide better access." Mr. Riffel noted that he also had concern regarding the circulation. He said "This is only a one acre site so it is very tight and given we have to accommodate 150 square foot per child." They have tried to maximize the playground; the playground there right now is huge. Going around the building with another drive would require removal of two very nice oak trees. Mr. Riffel said three more front parking spaces at the front would probably be lost by virtue of the drive coming around to the side.

Councilwoman Wynn shared Councilman Orlans' concerns regarding the forty foot landscape strip. In addition, she had concern whether this would be daycare or medical-dental office use. She supported Councilman Dippolito's motion for deferral.

Mayor Wood stated the difficult issue for Council regarding this application is the attempt to accommodate two different uses on this very small lot. Council could come to a solution if the applicant could choose one or the other use.

David Hyman, stated he and his wife are the potential operators of the future daycare business. The facility could be licensed for 140 children. All front spaces would be necessary for the pick up and drop off of the children. Bright From the Start, the daycare licensing organization in Georgia, will not license daycare facilities where children are "having to be moved up and down a drive." The parking spaces needed in the back will be just used for thirteen staff employees, plus one for his wife.

Mayor Wood asked if this property was made just for a daycare center and they were not trying to accommodate additional parking spaces for a potential medical office, how many of the parking spaces to the rear could be eliminated. Mr. Hyman replied they have to have thirteen in the back. Mayor Wood asked how many currently exist back there. Mr. Hyman stated there are currently more than that shown on the drawing. Mayor Wood stated he was trying to find a solution and perhaps if some of the parking spaces to the rear were eliminated, maybe Council would accept that. The Mayor further stated that if Council is saying picking one use or the other and so if daycare is selected, what could be changed on the site plan to make Council more amenable to accepting this site plan where the parking spaces are in front. Mr. Riffel stated "They wanted the back 13 spaces but they are also saying as a daycare, these five spaces are highly coveted."

Mayor Wood noted that he did not know what Council would accept but he was looking for what might be another alternative which provide a solution tonight rather than a deferral. Mayor Wood asked how many parking spaces are to the rear. Planning and Zoning Director Brad Townsend replied there are 28. Mayor Wood asked if it would make a difference if there are 15 spaces to the rear. Mr. Hyman replied they could accept 20 spaces. Mayor Wood asked if that would make a difference to Council. No response was heard from Council.

Councilman Orlans suggested that it be looked at as a deferral so that staff could consider the application from a safety standpoint.

Mayor Wood asked the applicant to consider if Council eliminated only 3 parking spaces on the front (those to the south) instead of 5 spaces, leaving the two on the front, would that be a compromise. Mr. Hyman replied that would be a compromise they could work with. Mayor Wood asked Council to consider that compromise.

Councilwoman Wynn replied that it was her understanding that the reason the motion was made to eliminate all 5 parking spaces was to take the landscape strip from 40 feet to 30 feet and at least have some type of landscape strip. She further stated that if the 3 parking spaces to the south are removed and the 2 parking spaces to the north remain, there would still be a landscape strip variance needed in that area. Mayor Wood replied that he was looking for compromises that Council would accept and that he is a staunch defender of the Parkway Village District and the 40 foot greenbelt along that stretch but in this case, we are starting off with an existing 10 foot greenbelt; we are expanding it to 30 feet. The Mayor said there currently are a lot empty stores and businesses hurting in Roswell and why he would like to see some empty spaces filled.

Councilman Orlans asked City Attorney David Davidson if he had any thoughts about a precedent being set regarding the future of the Parkway Village District and the three parking spaces. Mr. Davidson stated that because these spaces already exist and this use has previously been there, he did not think this would set any precedent in the Parkway Village District to allow them to stay or to remove three parking spaces. This is a very different circumstance than normally exists in the Parkway Village. The forty foot is required in most of the Parkway Village District along Highway 92. This property is off King Road so there is a little bit of a difference there. Mr. Davidson added there are reasons Council could do it although he did not know if Council wanted to.

Councilman Orlans stated that he also wanted to help the applicant as much as possible but wanted to consider both sides and how to protect the city as well. Councilman Orlans stated "If you could work it out with three spaces and we could use that to fulfill it to the driveway, coming from the shopping center

on the corner, and it brings that streetscape straight up and then it doesn't jump over to the other two."

Mr. Hyman noted that one of the reasons for the other front spaces is due to smaller daycare busses which need the front space to maneuver; these buses handle the before school and after school business.

Mayor Wood asked Mr. Hyman if he could work with the elimination of three spaces rather than five spaces.

Councilman Igleheart stated he was concerned about the justifications of the parking spaces after this discussion of smaller busses needing the space to turn around which also would mean that parents could not park in there.

Helene Hyman, potential operator of the future daycare business, referred to the site plan and stated that one parking space would be removed where the drive is located. Two of the spaces are handicapped spaces which leaves 9 parking spaces. There will be 140 children in this daycare that parents will need to come in and pick up. A drive around the building will cause the children to cross the road, which Bright From the Start will not approve.

Councilman Dippolito stated it did not seem Council and the applicant could reach an agreement at this meeting. He did not recommend that the applicant to try to do this "on the fly." It also makes it difficult for staff to understand what is being accomplished.

Restated Motion: Councilman Dippolito moved to defer PV09-02, 11575 King Road, Marilyn Wankat - Sutton Country Day School, Ltd. until November 9, 2009. Councilman Orlans seconded.

Mayor Wood asked whether the applicant could make it on November 9, 2009. Mr. Wankat, stated he has a previous commitment that day and would not attend on November 9; Marilyn Wankat will attend in his absence. Mrs. Wankat stated they had operated this daycare for eighteen years and were unaware the zoning was taken away. Their request is for a few parking places in the back. She said they have been working on the playground area and the per child square footage and have tried to do everything they could in order to comply; the playground should take a lot of the drainage and run-off. Mayor Wood noted the City appreciates all their efforts.

Councilman Dippolito noted this application was brought in as small tract for medical office use. He asked if it is used for daycare, and since it currently exists as daycare, does it even need to be rezoned or do they just have a site plan change under R-2. Councilwoman Wynn noted this is a non-conforming application. No further discussion.

The motion for deferral passed unanimously.