



City of Roswell

38 Hill Street
Roswell, Georgia 30075

Meeting Minutes Mayor and City Council

Mayor Jere Wood
Council Member Nancy Diamond
Council Member Rich Dippolito
Council Member Kent Igleheart
Council Member Jerry Orlans
Council Member Betty Price
Council Member Becky Wynn

Monday, July 14, 2014

7:00 PM

City Hall

WELCOME

Present: 7 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Kent Igleheart, Council Member Jerry Orlans, Council Member Betty Price, and Council Member Becky Wynn

Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; Assistant City Attorney Robert Hulse; Community Development Director Alice Wakefield; Planning and Zoning Director Brad Townsend; Environmental/Public Works Director Stu Moring; Finance Director Keith Lee; Recreation and Parks Assistant Director Morgan Rodgers; Transportation Director Steve Acenbrak; Community Relations Coordinator Karen Zitomer; Water Resources Manager Alice Champagne; Police Officer Joseph Fortunato; Building Operations Technician Timothy Thompson; Digital Media Designer Joel Vazquez; City Clerk Marlee Press.

Pledge of Allegiance - Officer Joseph Fortunato and K-9 Unit "Leva"

CONSENT AGENDA

- Approval of the June 9, 2014 Mayor and Council Meeting Minutes (to replace the Council Brief approved on June 24, 2014); Approval of the June 24, 2014 Mayor and Council Meeting Brief.**
Administration

Approval of the Consent Agenda

Councilmember Orlans moved for Approval of the Consent Agenda.
Councilmember Wynn seconded. The motion carried by the following vote:

In Favor: 6

REGULAR AGENDA

Mayor's Report

1. **Recognition of the City of Roswell being awarded the 2014 Stormwater Management Program of the Year - Phase I MS4 Community Award from the Georgia Association of Water Professionals (GAWP).**

Environmental/Public Works Director Stu Moring recognized Water Resources Manager Alice Champagne and the Water Resources team. He announced that the City of Roswell had been awarded the GAWP award for the Stormwater Management Program of the Year at the annual meeting of the Georgia Association of Water Professionals a couple of weeks ago. He said Alice and her team have done many great things and it is nice to be recognized by your peers for those achievements. He recently learned that Alice and her team have gathered all the details for a second stream in Roswell that had not been meeting current standards that will be de-listed which means it now meets the standards. That was accomplished through improved monitoring and tracking and through programs that were implemented to improve the water sheds and it is a great tribute for Alice and her team and another "feather in the cap" for the City of Roswell.

Alice Champagne said she is honored to be a part of Roswell and the Stormwater Management team and they are all proud of the improvements to the City's water sheds.

Mayor Wood thanked Alice and her team for everything they have done.

2. **Recognition of the newest K-9 "Leva" joining the Roswell Police Department.**

K-9 Unit "Leva" was introduced and recognized for completing her training and reported for duty with K-9 handler and Officer Joseph Fortunato. Officer Fortunato said Leva is 17 months old and has graduated canine school and a 240 hour basic handler course and she is now a certified full service K-9. Councilmember Wynn asked him to talk about some of Leva's accomplishments. Officer Fortunato said in the last two months Leva has found a pound of marijuana, \$3,000 cash in a single vehicle stop, several other user amounts of drugs and successfully tracked and led to the apprehension of two suspects who fled from Police. One of those incidents was for the City of Alpharetta who contacted Roswell for mutual aid after their K-9 was off duty. Leva tracked the suspect and located him in the woods and that track led to the arrest of two other persons involved in a parts theft ring of motor vehicles in parking lots. Officer Fortunato said Leva enjoys her work and likes seeing what everyone is doing.

Councilmember Price asked if Leva can detect bombs. Officer Fortunato said she is not trained for explosives and that most service dogs that are certified for drugs are not certified for bombs. Leva gives a positive alert to something she is trained to detect but she cannot communicate what she finds therefore the handler would not know if what she detected was drugs or explosives. The drugs Leva is certified in are 100% illegal for anyone to possess so if she alerts on a car, police can legally search that vehicle for drugs. But it is not illegal for people to have weapons and things of that nature in the vehicle so the officer could not search a vehicle that had explosives

but they would not know if the alert was for drugs or explosives. Traditionally, K-9's will always be trained for either drugs or explosives, not both. Councilmember Price asked if he was saying that she might alert on a gun. Officer Fortunato said if she were trained on explosives she would alert to firearms but Leva has completed proof in training that she will not alert to any type of explosives; she is strictly drug trained.

Community Development - Councilmember Becky Wynn

3.

PV 201401064, 205 W Crossville Rd., The Providence Group *(This item was deferred at the June 9, 2014 Mayor and Council meeting)*

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Brad Townsend presented this item stating the applicant is requesting a second deferral. Staff recommends the August 11, 2014 Mayor and City Council meeting. He presented a letter received on Friday from the applicant's attorney requesting the second deferral.

Mayor Wood asked what the applicant would be doing during the deferral period to get this ready for a hearing. Mr. Townsend said the applicant could address that.

Mayor Wood asked to hear from the applicant.

Applicant:

Don Rolader stated his address as 1865 Lockeway Drive, Suite 601, Alpharetta, Georgia 30004 and stated he is appearing on behalf of the applicant, The Providence Group. He said they have continued to meet with the Sterling Crossville townhomes who are the closest adjacent neighbor and after a second meeting with them, they requested certain additional work from the applicant including the elimination of the variance request against their buffer. The applicant has agreed to that and staff has requested that they re-draw the site plan to reflect that and resubmit the plan. The applicant continues to solicit input from the other neighbors but have had no success to this point. That is the reason for this request for deferral. Mr. Rolader completed his comments.

Mayor Wood opened the meeting for public comment.

Public Comment:

Kelly Altine stated her home address as 1200 Rome Drive in Orchard Lake directly adjacent to this proposed development and made the following comments. They oppose this development and believe the berm buffer requirements exist for a reason and exceptions should not be made for a builder for this. They have numerous other objections. The applicant will be removing or clear cutting specimen trees that violate density requirements. Other issues are increased traffic and noise, the environmental impact and concerns about stormwater management. Problems with erosion in their yards already exist and the applicant proposes to use the existing pond.

Mayor Wood said the applicant has requested a deferral and if Council grants the deferral, Council will hear this full issue but he wanted the public to have an opportunity to be heard tonight. He encouraged them to come back for the full presentation on 08/11/14 when a decision will be made by Council. Mayor Wood asked Ms. Altine if she had any other questions. Ms. Altine said they have met with The Providence Group and that meeting did not persuade them any differently so

they do not feel a need to meet with them again. Ms. Altime requested that the existing berm requirements be upheld.

Mayor Wood asked for clarification. He referred to the existing berm requirements that Ms. Altime talked about and asked Mr. Rolader which requirements the applicant has chosen not to request variances for. Mr. Rolader replied they will be waiving the variance request against the Sterling Crossville Townhomes which was a very minor reduction. Mayor Wood asked Ms. Altime if she understands what the applicant is not requesting at this time. Ms. Altime replied she understands but she is part of Orchard Lake directly adjacent on the opposite side and that is not being waived. Mayor Wood said it is clear to him now but he wants to be sure everyone understands what is being proposed.

Public comment continued.

Scott Carter stated he is the property manager for Sterling Crossville Townhomes and they are not opposed to the deferral but they do have a lot of concerns that they will bring up at the next meeting.

Denise Wood stated her home address as 501 Roswell Green Lane in the Roswell Green community located to the east of this property which is also on the opposite side from Sterling Crossing. She said they are opposed to the variance for the buffer and setbacks and have concerns about the stormwater system. Roswell Green has not had an opportunity to talk to the developer although the developer had contacted one of their board members this afternoon and left a message.

Mayor Wood requested that Don Rolader talk with Ms. Wood after a decision is made tonight on the deferral. He said Council would appreciate resolving any issues before this comes back. He encouraged Ms. Wood and others to attend the next meeting if their positions have not changed.

There were no further public comments. The public hearing was closed.

Mayor Wood called for a motion.

Councilmember Wynn said she had not planned to make a motion for deferral until she heard from Ms. Wood tonight that they had not talked with the applicant therefore she would ask for a deferral to August 11 to give the applicant an opportunity to speak to the concerned residents.

Motion: Councilmember Wynn made a motion that PV 201401064, 205 W Crossville Rd., The Providence Group be deferred in order to give the applicant an opportunity to speak to the concerned residents. This will be placed on the Mayor and City Council agenda for 8/11/2014. Councilmember Orlans seconded.

Council Comment:

Councilmember Price said the Roswell Green Homeowners Association letter included some issues regarding traffic and transportation and that the Transportation Department has made a few comments but they are not in the same vein as the concerns that the homeowners have. She asked if that will be addressed in the interim or will the GDOT permit address that. She said one concern of Roswell Green is with the U-turn. She asked if there is a possibility that GDOT would not permit this to happen.

Transportation Director Steve Acenbrak said this is fairly typical. The issue they will probably have is the actual location of the access point onto SR 92. There are not a lot of options because of the lake. The issue becomes site distance, deceleration lanes and those sorts of things but they have worked through those with the applicant. Regarding a U-turn on a six lane divided highway, all the properties abutting that highway will have that same issue. The design of this particular layout for this instance is not an issue that would not be approved by GDOT; that is not an option.

Councilmember Price asked if they would perhaps specify that a deceleration lane would need to have more capacity. Mr. Acenbrak said they would and the City does that for them because they know it is an issue because of the speeds, particularly in this location being in a horizontal curve and also a vertical curve which is a compound situation of going downhill and into a curve. He said it will definitely require a deceleration lane but he did not think the applicant has a problem with that.

Councilmember Price said she might have misspoke; she actually meant would there need to be increased capacity in the U-turn lanes; will it require U-turns in both directions. Mr. Acenbrak said they do not typically get involved in those sorts of things. They have extended turn lanes at signalized intersections when they back up through the thru-lane but he was not aware of any queuing that occurs from any of those developments at any time of day that would require an increase in the turn-lane capacity. He said they will also always be aware of that and adding another development like this could be the tipping point where they need to increase it.

Councilmember Price asked if it is the City or GDOT who performs that analysis. Mr. Acenbrak said the City has never done it; GDOT has done it before. He did not think he has ever asked them to extend a turn lane because of excess capacity but they could work with GDOT on that.

Councilmember Price said she is concerned because their estimate of the numbers of cars is a potential problem. Mr. Acenbrak said it is a potential problem but would be very low on a scale of 1-10. Councilmember Price said but they will have a different set of facts to work with because presumably it will be less. She asked if the applicant would come back with a different proposal. Mr. Acenbrak said the applicant is revising the site plan and there will obviously be changes to the traffic study with whatever happens there. Staff will review that traffic study and make recommendations and work with GDOT to make sure the mobility of the entire network is preserved. Councilmember Price thanked Mr. Acenbrak.

There was no further Council questions.

Councilmember Wynn made a motion that PV 201401064, 205 W Crossville Rd., The Providence Group be deferred in order to give the applicant an opportunity to speak to the concerned residents. This will be placed on the Mayor and City Council agenda for 8/11/2014. Councilmember Orlans seconded. The motion carried by the following vote:

In Favor: 6

Enactment No: R2014-08-37

**4. Final Plat 201401625, Kingswood Subdivision, 12160 Etris Rd
EAHI Etris, LLC.**

*Presented by Bradford D. Townsend, Planning and Zoning
Director*

Planning and Zoning Director Brad Townsend presented this item stating this is the acceptance of a final plat. He referred to the plat on the overhead and pointed out the aerial view of the property prior to development and also the 26 single family homes. There are 25 homes on the west side of Etris Road and only one single family lot on the east side. The remainder is detention, the steep slope and stream buffer. He said staff recommends approval of the final plat.

Council Comment:

Councilmember Dippolito pointed out a future connection roadway sign on the northern edge of the property and asked if the applicant is dedicating the right-of-way all the way to the northern property line. Mr. Townsend said they are dedicating the right-of-way but they are building the road out of the buffer. The sign is put at the end of the asphalt but the right-of-way is dedicated completely to the end of the property. Councilmember Dippolito asked if a sign will be there indicating a future connection so potential home purchasers would know it is a potential connection. Mr. Acenbrak said that is correct.

Councilmember Orlans said he thought they were going to have three lots on the other side and asked what caused that change. Mr. Townsend replied that the size of the detention pond and their rezoning process was undersized. They actually had two locations on the west side of Etris Road for detention and they increased it on the east side to accommodate all of the water going under the road detaining before being released. By doing that, the applicant was able to remove one of the lots to the east side but could only have one single family lot. That single family lot has no available sewer so it needed to be at least an acre in size for septic tank if it was ever to develop.

Councilmember Dippolito asked Mr. Townsend to refresh his memory on Kent Road. He said there was a lot of discussion about paving a portion of it or making improvements along Etris Road but it seems at a minimum that the improvements to the gravel road are sufficient. He asked Mr. Townsend if he recalls what the condition was. Mr. Townsend replied that the existing road is gravel and it was the desire of the homeowners on the other end of Kent Road for it to remain all gravel. That was the way it was conditioned and approved by Council during the rezoning. It is a current gravel road and it is to remain that way. Councilmember Dippolito said it does not look like the applicant is making any changes to the apron accessing Etris Road so it will remain exactly as is. Mr. Townsend replied it will remain as it is today.

Councilmember Price said they talked about this subdivision exhaustively a couple of years ago and she believes it was rezoned at that time. Mr. Townsend said it was rezoned to R-2 and then in the UDC, it became RS-12 which is the same as R-2. Councilmember Price said from the prior rezoning to the UDC, nothing has changed at all. Mr. Townsend said the only changes are those that were approved as part of the rezoning and conditioned as part of the discussions with the surrounding neighbors. This final plat conforms to those conditions. Councilmember Price said the property on the other side of the street is being used to average it out or asked if that is irrelevant at this point. Mr. Townsend said that is not consequential to this development; there was a total number of units allowed and this is actually less than that number. Councilmember Price said at this point. Mr. Townsend replied yes.

Councilmember Price asked how many units were originally requested. Mr. Townsend said he believed the original approval had 47 or 48 and now there are 26 total. Councilmember Price thanked Mr. Townsend.

There was no further Council comments. Public comment invited. None were made.

Councilmember Wynn made a motion for Approval of this Final Plat 201401625, Kingswood Subdivision, 12160 Etris Rd EAH Etris, LLC. Councilmember Dippolito seconded. The motion carried by the following vote:

In Favor: 6

Enactment No: R2014-07-29

5.

**Approval of a variance to Sections 12.2.8. (B) and (C) and Section 12.2.9. (C) of the Unified Development Code (UDC).
Presented by Alice Wakefield, Community Development Director**

Community Development Director Alice Wakefield presented this item stating this is a request for a variance to Section 12.2.8. (B) and (C) and Section 12.2.9. (C) of the UDC to allow for a septic system for two lots so the owner can build a single family home on each lot. This particular division plat was approved in 2008 by the City of Roswell and the septic was approved by Fulton County in the same timeframe. This is similar to what happened with the Litchfield Development that came before Council about two months ago. When the property owner came in to try to move this forward, it was discovered that this setback kicked in so the applicant is asking to reduce the required 150' setback to a 75' setback. At the time that the staff's write up was part of the packet, they had not heard from Public Works. Public Works has since talked to the applicant and they support the requested reduction from 150' to 75' for 1736 Cox Road as requested which is the front lot. For 1726 Cox Road which is the back lot, Public Works along with the City Engineer and the Community Development Department accepts the variance to reduce it to 75' with the understanding that the applicant has agreed to switch the primary drain field and the secondary drain field. The applicant will submit the plans at the time of building permits for that particular lot and that would be approved by Public Works. Staff recommends approval with that understanding.

Council Comment:

Councilmember Dippolito asked for the rationale for switching the septic fields. Ms. Wakefield replied that staff wants to get the primary field as far away from the stream as possible. It is highly unlikely that homeowners go to the secondary fields so that was the compromise with the applicant. Councilmember Dippolito asked if the 75' setback is consistent with the State requirement. Ms. Wakefield replied it is. Councilmember Dippolito thanked Ms. Wakefield.

Councilmember Price said she had a procedural question and said the applicant's request in their letter of June 27 was for variances to Sections 21.1.8 and 21.1.9 and said she assumes that is the old code. Ms. Wakefield said that is correct. Councilmember Price said that is basically the same thing as Sections 12.2.8 and 12.2.9. Ms. Wakefield replied it is the same word for word. Councilmember Price asked if their request is in the form of a letter. Ms. Wakefield said their request is in the form of a letter because this is not the usual variance request that would go before the BZA. They basically submit a letter with all of their documentation and staff puts that information together and forwards to the various departments asking for input which is similar to what they do with regular variance requests. Councilmember Price asked what the final legal result of this is if it passes. Ms. Wakefield said if this passes, staff will send the property owner a letter indicating the

approval and also any conditions that were approved as part of that along with a section of the summary of the minutes showing it was approved by Mayor and Council. That is then made part of the building permit record when the applicant comes in for the building permit.

Councilmember Igleheart said if this is approved as written, it only makes the minimum 75' as opposed to 150'. He asked if there is a way for the Public Works staff to maximize that if there are opportunities. If they say it can be 75' then that is probably what is going to happen. But some of the correspondence from staff shows that they would prefer it to be further away if possible. Ms. Wakefield replied yes and she referred to the site plan and pointed out the primary field and the secondary field that is closer to the property line and said the applicant has agreed to switch those. That pushes the primary field as far away from the stream as possible. She said as she mentioned before, when the applicant comes in to build the lot, staff will make sure that Public Works reviews it to make sure.

Councilmember Igleheart asked if there is a mechanism at that time or could the applicant simply say "well you gave us 75' so that's all we have to do." Ms. Wakefield said staff will always try to push it back as far as possible. She said from looking at the site plan, she is not sure how far away it can be gotten other than switching the two fields. Councilmember Igleheart said what he is saying, more for Councilmember Wynn, is that at whatever point, they could give staff flexibility to be able to push that if possible. Ms. Wakefield said it would also have a lot to do with the County and the perk test and that type of thing.

Environmental/Public Works Director Stu Moring said in this particular circumstance, it is in the applicant's best interest to keep the drain fields as far from the creek as possible. They have had some discussion and the applicant is oriented that way and his designers have already taken all the steps to keep the drain fields as far from the creek as possible. He said he understands what Councilmember Igleheart is saying and he had the same question but for practicality if at some future date they might need to exercise the secondary drain field, they would not have to come back for a permit. It is unlikely that there will be a way for staff to be involved in the process so at that point it would probably be up to the health department. The hope is that at some future point in 20-25 years, if there is a need to go to a secondary drain field, there will be new technology that will allow them to orient it a little bit differently in order to stay further away. He said the applicant has expressed interest in doing that.

Public comment invited. None were made.

Further Council Comment:

Councilmember Igleheart said he had one comment to make. He said clearly they have just started the UDC and they are already giving a variance but this is a very specific reason for this one location because there are a lot of factors involved. He said for the record, Council is doing this for specific reasons but that does not mean that someone else can come along and say they want it also. There are a number of factors going into this that make sense.

There was no further Council comment.

Councilmember Wynn made a motion that the 75 foot variance for 1736 Cox Road and the 75 foot variance for 1726 Cox Road to Sections 12.2.8. (B) and (C) and Section 12.2.9. (C) of the Unified Development Code (UDC) be approved and that the applicant will switch the primary and secondary drain fields and will submit revised plans to the staff to reflect the switching of the two drain fields. Councilmember Diamond seconded. The motion carried by the following vote:

In Favor: 6

6. Approval of a License for Land Use for 14 Elizabeth Way.
Presented by Alice Wakefield, Community Development Director

Community Development Director Alice Wakefield presented this item stating that the owner of Real Fix Pizzeria to be located at 14 Elizabeth Way is requesting a License for Land Use to allow for outdoor dining in the rear of the building. This particular property backs up to the East Alley. There is no sidewalk or any real provision for a sidewalk café thus the reasons for the License for Land Use. She said this is probably the reason that staff came before Mayor and Council asking to do the East/West Alley Master Plan because there was an interest in developing or allowing for outdoor seating in the alleyway.

Ms. Wakefield said staff recommends approval for the License for Land Use with the following conditions:

- 1. That the approved site plan is stamped "Received" by the City of Roswell Community Development Department on May 23 2014.*
- 2. That the applicant meets the standards in Section 9.7.15 of the UDC which lays out the standards for a sidewalk café.*
- 3. That changes based off the East/West Alley Master Plan can be implemented to this space without any additional costs to the City of Roswell.*
- 4. That the barrier and all furniture must match all specifications included on the pre-approved list included in the sidewalk café application.*
- 5. That there must be two chains between each set of columns in order to meet ADA accessibility requirements.*

Ms. Wakefield referred to photographs on the overhead showing that the applicant has moved forward with improvements not only to 14 Elizabeth Way but also to 16 Elizabeth Way.

Mayor Wood asked for Council questions. There were none. Mayor Wood asked to hear from the applicant.

Applicant:

Hamid Azhari stated his address as 14 Elizabeth Way and said he is representing the applicants Hicham Azhari and Fikret Kovac and is present tonight to hear what Mayor and Council has to say and will relate that information to the applicants.

Council Comment:

Councilmember Wynn said she would be holding off on the comments she was going to make. She said for clarification, the improvements that have been done to 14 Elizabeth Way extended to 16 Elizabeth Way which is not part of the applicant and asked if that is correct. Ms. Wakefield said that is correct. Councilmember Wynn said the improvements that were done at 14 Elizabeth Way and 16 Elizabeth Way were not permitted by the City. Ms. Wakefield said that is correct. Councilmember Wynn said it is not known if those improvements meet engineering plans or regulations for stormwater, grading, ADA or construction and asked if that is correct. Ms. Wakefield replied that is correct.

Mayor Wood asked for the record who is the owner of the property in the area in which this work was done. Ms. Wakefield replied the City of Roswell. Mayor Wood said it is his understanding that the City did not give permission to make any of these improvements. Ms. Wakefield replied that is correct.

Councilmember Wynn said it was supposed to come before Council tonight to hear the presentation and decide if a Land Use application approval was warranted. She said she would wait until other Councilmembers make their comments or she could make a motion at this time.

Mayor Wood said it is appropriate to make a motion at this time.

Councilmember Wynn said she has a motion and stated again that she is not making the comments that she had written down.

Motion: Councilmember Wynn made a motion that the License for Land Use for 14 Elizabeth Way be deferred until the East/West Alley Master Plan is approved by Mayor and Council and once the Master Plan gets approval this application is vetted through the City's permitting process as required. Councilmember Orlans seconded.

Public comment invited. None were made.

Further Council Comment:

Councilmember Dippolito asked which would come first, the Land Use approval or the permits requesting the work be completed.

Ms. Wakefield said it would be HPC approval but given that this is unique and not a typical sidewalk café, staff had talked about letting the Land Use approval go forward so they would know it was approved because they did not want the applicant to spend a lot of money engineering or designing something that would not be approved. At that time, staff would send it to HPC for their approval and staff would also review it to see if any additional permits were triggered. They would look at stormwater, slope of the patio and slope for the accessibility.

Councilmember Dippolito said assuming this deferral passes then the applicant would come back at the appropriate time and request a Land Use approval and would then go through the permitting and HPC approval process. He asked if that is correct. Ms. Wakefield said that is correct.

Councilmember Diamond asked for clarification and said that Councilmember Wynn's motion is to not consider this at all until after the approval of the East/West Alley Master Plan. Councilmember Wynn said given the track record, yes. She said she understands that it is pushing it aside but she thinks if they are spending this amount of money on an East/West Alley Master Plan, then they need to make sure that everybody knows exactly what needs to be done. She said that is why she is making the motion to wait until after approval of the master plan.

Councilmember Diamond said given that we are now looking at approval and then HPC which is two to three months; she asked if Councilmember Wynn would consider doing approval contingent on approval of this and let it go concurrently.

Councilmember Wynn said she does not see how it could go to the HPC if the East/West Alley Master Plan has not yet been approved by Mayor and Council. They would not know how to approve what was being submitted that would be a part of the overall Master Plan if they have not seen that Master Plan.

Councilmember Wynn stated that her motion stands.

Mayor Wood said there is a motion with a second. He called for a vote.

Vote: Mayor Wood said there are five in favor.

Councilmember Price asked for a point of clarification before voting. She said she sees that staff has recommended approval for a License for Land Use. She said Councilmember Dippolito just clarified the steps for that but she has a question about the area that has already been improved. She asked if it extends beyond the area in the concepts that they were looking at earlier tonight. She asked if any of those road possibilities could still occur.

Ms. Wakefield said they do not know because the Master Plan has not been finalized or accepted by Mayor and Council. She said this property is part of the study area.

Councilmember Price referred to a drawing on the overhead and pointed out the line red where the arrow tip is at the top and asked if that extends beyond the property line or if the property line was ever identified.

Ms. Wakefield replied it does not extend beyond the property line. That is the City's property.

Councilmember Orlans said so it does extend beyond their property line.

Ms. Wakefield replied it does not extend into their property line; it is the City's.

Mr. Townsend said the determining factor will be whether Canton Street will be a one-way or a two-way and what the width of the road right-of-way is. There has been discussion about some pedestrian area in the back of these locations but the specific width will not be known until the roadway width, curbs, and locations of sidewalks are all determined.

Mayor Wood said they do not know what the turn radius is, etc. Mr. Townsend said that is correct.

Councilmember Price said realistically none of that is going to happen this summer. Mr. Townsend asked if she was referring to the improvements to the alley.

Ms. Wakefield said it is not going to happen this summer but as development occurs with the Master Plan there will be an opportunity for that development to consult the Master Plan in terms of making various improvements. In this case, it is in the City right-of-way and it would have to have approval from the Mayor and Council.

Councilmember Price asked for clarification on the wording of the motion.

Mayor Wood repeated the motion for clarification. He said the motion is to defer until after there is a decision on the Master Plan. He asked if that is the gist of the motion.

Councilmember Wynn said that is correct but that she added a little bit more embellishment but that is the gist of it. She also noted that this does not deter the restaurant from opening. They can still operate within the existing walls of the building. Mayor Wood said but they would not be able to use this patio. Councilmember Wynn said that is correct; they could not use the patio but the business itself can still get a Certificate of Occupancy and operate out of the existing four walls at 14 Elizabeth Way. They cannot use the back alley. Mayor Wood said they cannot use property which they do not own. Councilmember Wynn said exactly, sir. She said this does not hinder them from opening their business. Mayor Wood said they can use their property but not the City's property. Councilmember Wynn said that is correct.

Councilmember Price asked if they were saying that the entire red circle shown on the drawing is City property or just the eastern portion.

Ms. Wakefield said the portion shown in red is City property. Councilmember Price asked if that includes the entire red portion. Ms. Wakefield said that is correct.

Mr. Townsend said the shaded area is the whole alley but the portion in red indicates the work that the applicant did within the City's property. They also did work behind 16 Elizabeth Way.

Councilmember Price asked if the square area shown in green is private property. Ms. Wakefield said no. Councilmember Price said that is what she said earlier and she said yes. Mayor Wood said they probably misunderstood her question. Councilmember Price said okay then this is not private property at all. Mr. Townsend said no.

There was no further Council discussion. Mayor Wood called for a vote.

Final Vote: The motion passed unanimously.

Mayor Wood said there is a message to take back from this for those who own property on the Canton Street alley or adjacent to it. He said the City is not opposed to improving this alley. In fact the City supports improvement of this alley and is glad to see an interest in it. The message is that a property owner should not move forward with changes on someone else's property until they have permission. The City is looking at other changes at this time and is saying an owner must wait for approval until after the City completes the plans. The City is diligently moving forward on this.

Mayor Wood asked for the schedule of the work sessions on the Master Plan. Ms. Wakefield said they are planning a work session in August and then bringing it forward to Mayor and Council for consideration on September 10, 2014. Mayor Wood asked if there is a potential for approval of this on 09/10/14. Ms. Wakefield replied that is correct.

Councilmember Price asked if when staff recommended approval for this if they were considering this to be a temporary situation and approval would potentially be granted. She asked what was their rationale for recommending approval of this on City property. Ms. Wakefield said their recommendation to approve was based on staff's intent to not deter or hold up a business owner. However, staff included the condition that the business owner may have to make some changes at no cost to the City depending on the final outcome of the Master Plan. Councilmember Price asked if tables are placed at this location this summer, would a citation be issued. Ms. Wakefield replied there would be a citation.

There was no further Council comments.

Councilmember Wynn made a motion that the License for Land Use for 14 Elizabeth Way be deferred until the East/West Alley Master Plan is approved by Mayor and Council and once the Master Plan gets approval this application is vetted through the City's permitting process as required. Councilmember Orland seconded. The motion carried by the following vote:

In Favor: 6

City Attorney's Report

7. Recommendation for closure to discuss personnel, litigation and real estate.

Councilmember Dippolito moved for closure to discuss personnel, acquisition of real estate and litigation. Councilmember Igleheart seconded. The motion carried by the following vote:

In Favor: 6

Adjournment - Meeting adjourned at 7:52 p.m.