

Cheryl Greenway called the question. The motion passed unanimously.

**REZONING**

**11-0765**

**RZ11-17, CV11-07, CU11-09**

**CROSSVILLE VETERINARY HOSPITAL**

**40 East Crossville Road**

**Land Lot: 407**

Jackie Deibel stated that this property is located at 40 East Crossville Road. It is zoned R-1. It is located in the Parkway Village overlay district. The request of the applicant this evening is to the OP (office-professional) zoning. The request is for them to rezone the property to OP in order to use it as a veterinary clinic. The surrounding zoning as one can see, the property is zoned R-1. The surrounding zonings are also R-1, however these uses over here, which is Slope's Barbecue does have the Parkway Village overlay and is used as commercial. On the other side of the property is a residential home that is currently being rented. Across the street is a church and to the rear is the Macy office complex.

The applicant is asking for three variances with this request. A variance to the 50-foot setback requirement abutting the northern property line, which is the property abutting the Slope's restaurant. With also a variance to the required 40-foot buffer along the southern property line from 40 feet to 10 feet. This will allow for the new proposed driveway to go along the existing structure to the rear. So the second variance is on this side of the property. The first one is over here on the side.

According to section 10.8 of the zoning ordinance animal hospitals and vet clinics, structures and activities have to be located at least 100 feet from any property zoned or used for residential purposes. The existing structure does not meet the 100-foot requirement along the eastern property line abutting the house. So, the applicant is requesting a variance to that section also.

The staff has recommended approval to the rezoning, concurrent variance and the conditional use requests with the following conditions:

1. In accordance with the site plan received February 10, 2012 the veterinary clinic shall be used for interior only. No outside uses are allowed.
2. All signage on the property must conform to Parkway Village requirements.
3. The applicant shall remove the asphalt drive on the western property line prior to receiving a certificate of occupancy for business.

Cheryl Greenway asked Jackie Deibel to go back to the date she mentioned on that first item. In her book it says December 6, 2011. She thinks Deibel said a

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different date. Jackie Deibel stated she did not know where February 10<sup>th</sup> came from. It should read December 6<sup>th</sup>.

Cheryl Greenway asked if the Commission had any questions for the city.

Bryan Chamberlain asked what the reason was that the existing unused asphalt drive is to be eliminated.

Brad Townsend stated that in the effort to reduce pervious surface on any type of development they are adding some gravel parking areas in the back. So the city thought swapping this would even out their future storm water utility bills. They felt if it is not being used they would like to make sure that as many curb cuts off of SR 92 that they can eliminate as possible. It just helps in making sure that the traffic can flow if they can eliminate some driveways.

Mark Renier followed up by stating that it looks like on the plan that they are modifying the curb cut on the east side. And if that is true that would be a state DOT jurisdiction?

Brad Townsend and Jackie Deibel stated that was correct. Renier asked if staff knew if the applicant has talked to state DOT about the viability of that and the possibility of having to put in some decal lanes and some improvements there in the right-of-way. Townsend stated that he will ask the applicant. He does not know whether they have had those conversations as of yet.

Cheryl Greenway asked if there were any other questions for the city. Hearing none she thanked Jackie Deibel. Cheryl Greenway asked the applicant to please come forward.

Bill Colbrenner, 175 Sherwood Pass, Roswell presented the application. He represents the applicant. Rosa Denning, 1589 Ashford Drive, Marietta, GA was also present. Bill Colbrenner stated that he and Denning wanted to give the Commission of where they are since the last time that they met with the purpose of this request. Since then they have met with the public. They had their open hearing, no one attended, no one had any questions or objections. They stayed the allotted 20 minutes and then about 10 or 15 minutes after that. Some of the notes Colbrenner would like to address that staff had recommended during their process was that they meet with Danelle Volpe. Volpe had some concerns with regards to the water quality. They have had a face to face meeting. They have a plan in place that needs to be addressed that will be addressed at the end of this meeting in case there are any other modifications that need to be done. So, they are working with Volpe and she seemed to be very positive that they can accomplish what needs to be done.

The applicant has spoken with a representative from Georgia DOT. First indications verbally were that they don't really consider the need for an excel or

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decel lane but they did want to look into it and they would get back to the applicant sometime between now and then. Those conversations started approximately two and-a-half to three weeks ago. The applicant seems to be the ones that are making the effort to reach out as opposed to vice versa. So they are not going to let that fall short on their side. They are diligent and they will keep addressing those situations.

They did have the opportunity to meet with the Roswell arborist. Colbrenner stated that they had a very productive meeting. They expressed their concerns as to why they are asking for the special variances for their application. The big thing on the property if one is familiar with the property is the enormous, beautiful trees that have been there for quite some time and their efforts to try to preserve the integrity of those trees. That is why they are trying to do a little bit of odd things, shall we say, with the driveway.

They did meet with Andy Pittner and they discussed intently the existing driveway which they understand wholly in respect to what needs to be done. It was Colbrenner's comment that he thinks this driveway needs to come up. Pittner expressed a little bit of concern about removing that driveway because the roots to the existing large trees, not necessarily on their piece but the Slope's Barbecue piece. A lot of the roots are growing through the asphalt and Pittner's concerns were if they scrape that or remove that they are going to be getting into the tree roots and possibly damage those trees. With that said the applicant does not intend to use it, they don't want to use it. If Roswell wants it up they will certainly try to figure out a way to get it up. They just don't want to do so at the possible integrity of the trees.

Rosa Denning stated that the Commission was concerned about the permeability of the asphalt and it is pretty broken up already. She does not feel like there is going to be any run-off from that asphalt drive. It is not intact at all. Colbrenner agreed that it was pretty pervious. But, again they are not trying to be the fight. They are trying to work with Roswell in whatever needs to be done with that situation.

In the meantime Colbrenner stated that they did finally get a chance to meet with Bob White, the proprietor of Slope's Barbecue. He wanted to let him know first hand what their intentions were. White seemed to be all in favor of it. He said, "Bring it on, that is more customers coming to my restaurant."

Colbrenner stated that they did have a conversation that they weren't privy to but the adjacent landowner, who owns the house that is now being rented had apparently come in for another matter, issue with the city of Roswell that was brought to their attention what the intent was for this piece of property. Apparently it was, "Oh! That's great. I'll see you later. Thank you, good-bye." Colbrenner stated that they have tried to reach out to try to communicate what

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they are trying to do, again to no avail. He thinks that could probably back up that comment.

The applicant is in total agreement of considering the connectivity to the sidewalk and obviously with the fence and the posts per the requirements of Roswell. Colbrenner thought that took care of everything that was requested from staff from the notes and comments from the staff's side of things.

Colbrenner stated that there were a couple of things that he wanted to clarify with the staff recommendations. They have discussed the asphalt drive. Item no. 2 where it reads the veterinary clinic shall be used for interior only. No outdoor uses are allowed. It is their intent not to have a kennel, not to have dog run. That is not even in their methodology. There will be a time and he does not want to split hairs, he just wants to be clear that there may be a time where a procedure is performed in order of rehabilitation of the animal that is at the veterinary clinic, an overnight stay may be required per the doctor's requirements and that dog, cat, whatever the animal may be, may need to have a supervised walk on a leash to relieve themselves outside and to stretch and get some fresh air and then go right back in. Again, Colbrenner does not want to split hairs but the intent is no kennels. But will a dog be walking from the car to the clinic? Absolutely. Will there be a dog on a leash? By all means supervised. No unsupervised outdoor running around. He is probably splitting hairs but he wanted to be very clear on that.

Colbrenner stated that to his knowledge he thinks he has spoken all that he would need to at this point in time. He will make themselves available for questions and asked Rosa Denning if she had anything in follow up.

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

Harvey Smith stated that it seemed like he saw a note. Did Colbrenner talk with anyone during the presentation with Design Review Board that was from the Crossville Village Office Park behind the property, Macy Drive?

Colbrenner stated that he did. Smith asked if they had any concerns or comments. Colbrenner stated that he went over and talked with David Ivey, he is sort of the leader, the go-to person for the condominium association. Colbrenner sat down with Ivey and he expressed to him verbally what they were going to do and had dropped some information off at a later date just for review purposes. Ivey was in favor of it. His big concern was they were going to have outdoor kennels and dogs barking and how does that lend itself to the professional buildings behind. Colbrenner stated that he again extinguished those fears with the no outdoor storage and outdoor kennels. And to this point in time, to his knowledge Ivey has not expressed any further concerns. If he has expressed concerns he has not done so with Colbrenner. Ivey has Colbrenner's phone numbers, his fax numbers. He worked very closely with Ivey. Colbrenner stated

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that he is the developer/owner of one of the retail buildings that abuts the condominium association as well.

Harvey Smith asked for the record why they have a 40-foot buffer between this property and Slope's barbecue.

Jackie Deibel stated that the request to OP requires a 40-foot buffer with a 50-foot setback, one abutting any residential underlying zoning. Because Slope's has an underlying zoning of R-1 that requirement has to be met. Even though it is Parkway Village and it has used the Parkway Village status in order to develop the commercial it still has an underlying zoning of R-1. That is the reason for the 40-foot buffer and the 50-foot setback.

Harvey Smith asked if staff thinks the intent warrants a 40-foot buffer, of having this use next to Slope's Barbecue. He does not want to open a can of worms.

Brad Townsend stated that he did not think so. Jackie Deibel stated that she did not think so. If the use next door was residential then yes, but the use is already being used as commercial.

Harvey Smith stated that he just does not understand why they would have a 40-foot buffer abutting Slope's barbecue. That makes no sense to him. Jackie Deibel stated that the OP zoning requires it.

Brad Townsend stated that he thinks that is one of the conflicts they are going to see in their unified development code try to address. Townsend stated that in talking it over with the applicant staff would like to amend its condition no. 4 and indicate that the applicant shall remove the first 30 feet of asphalt. That way they get it out of the road right-of-way, back into the property and then the rest of it can just remain and bust up as it would naturally through normal growth of the trees.

Harvey Smith stated that he just remembered another question. In reading some of the detail comments to the Parkway Village district he thought how does this jive with the assemblage requirement that...was it five to seven acres?

Brad Townsend stated that the assemblage that they are looking at to create a village is a minimum of seven acres in size. Really how this jives with that is the Parkway Village overlay will not be going away. He thinks what differs in this is they are not constructing any new buildings and that if the buildings at such a time can be assembled there is not a deterioration of that requirement. So Parkway Village can still assemblage and a village be created. There is like three or four lots to the south of this that still have single-family homes on them. The difficulty of this is Townsend believes there are some stream buffers on the backs of those properties so the development might be impacted by those in that manner. He thinks what this does is it puts an appropriate use for the existing

structure, which can maintain itself for a number of years and maintain the property and be a good business for the community.

Harvey Smith asked why that would not be a concurrent variance to the Parkway Village requirement for seven acres. Why would they not stipulate that? Why is this eligible for that?

Brad Townsend stated that it would be eligible because the overlay doesn't away. They are in essence changing the underlying R-1 zoning to the OP zoning because that is the only use that allows for the veterinary clinic. Townsend thinks that should be cleaned up in the city's unified development code. One is going to hear Townsend say this a lot. He sees that use being compatible with Parkway Village. It probably should have been included.

Harvey Smith stated that he thinks this is a suitable use for the property and he knows that over the years they have been trying to assemble that. That is why he is curious if this would not be a precedent for some of these other individual parcels that are less than seven acres. That is his real questions.

Brad Townsend stated that it will make the assemblage more difficult because it will now have a viable zoning with a viable use on it instead of a single-family residence. Smith stated that was his point. They are going to set a precedent with this that they will have smaller parcels. It will make them more eligible for development.

Cheryl Greenway stated that she would like to check on a couple of things with the city. The no. 2 condition that was listed talks about the clinic shall be used for interior only, no outside uses are allowed. To help accommodate and to clarify could they change that to something that is referring to there shall be no outside kennels or runs. She agrees that they have got to be able to take the dogs out to potty if nothing else. Brad Townsend stated that was correct.

The other thing Cheryl Greenway was concerned about is she remembers there being something in there about asking them for the sidewalk, which the applicant indicated they would do. Should that be one of the Commission's conditions?

Brad Townsend stated that a sidewalk currently exists. Greenway stated that she thought they were asking the applicant to continue the sidewalk. Townsend stated that it goes all the way across the property. He thinks staff's big concern was that it doesn't have the standard three-rail white fence. That is what staff was really requiring. Greenway clarified that it was the fence, not the sidewalk. That is where she was confused. Does the Commission need to say anything on that here or is that considered part of the plan? Townsend stated that the Commission could add that as a condition. Cheryl Greenway stated that she was just asking. Townsend stated that it would be proper to add it as a condition. Greenway clarified the fencing, Townsend stated that was correct.

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Mark Renier stated that he would like the applicant to look into potentially, if Slope's would be agreeable and if it is not part of some reciprocal easement agreement that has 20 members to it, which it probably does, but continue their drive lane around the parking stalls to connect potentially back up with that rear driveway of Slope's. He thinks that if the clients or the customers of the vet clinic, they are going to come here, they are going to filter probably through that rear driveway just because. At least some of them will because they know it is a better way to get around. Renier would just look for that connectivity to be at least pursued. Not that he wants to make it a condition, but at least in the record for the city council to review.

Cheryl Greenway asked Brad Townsend if he had a comment to that. Brad Townsend stated that he was just wondering if it would be more appropriate to form it in a condition of some manner. They don't want to hold them up if the Slope's property is not amenable in any manner. But what they don't want is to lose a connectivity opportunity when they get them.

Cheryl Greenway asked if that gets them into too much impervious area. Brad Townsend stated that it adds more. Greenway stated that is what she is worried about. Townsend stated that it definitely does especially from knowing that they are extending the driveway. He pointed out the big trees that they are working around for the parking area. He pointed out the current Slope's parking area in the back. He pointed out the little buildings that are there in the back if the survey.

Mark Renier stated it was just like Brad Townsend said; an opportunity for connectivity is always a good thing. With pervious pavers and pervious materials being created to last 10 years it certainly is something worth at least investigating for that connectivity through the rear drive lane. Because that rear drive lane if Renier remembers goes all the way over to Crabapple doesn't it. Brad Townsend stated that one can get through there back over to Crabapple.

Harvey Smith stated to Mark Renier that he wouldn't want to put that as a condition without having talked to that property owner. Renier stated absolutely not. He would like it to be just investigated. Smith stated that he knows how that office park works and also...

Brad Townsend stated that he thinks they will ask the applicant to pursue any opportunities if they become available. Smith stated that as good.

Cheryl Greenway clarified that as they would classify that as pursue the opportunities because it could be that Slope's says no. Brad Townsend stated that was correct. Greenway stated that should not be put on their problem.

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Cheryl Greenway stated that the applicant did want to say something. She will go ahead if they do want to add something about that since the Commission has brought up a whole new issue.

Rosa Denning stated that just at looking at the property lines. The Macy Drive was the one that made more sense when she was looking. That Parkway Village wanted connectivity so she was looking at that and hoping to those owners in the future if they made it through this process. She will get in touch with them and hopefully they can do that because she thinks it will be better for her customers as well and an easier way to get in and out without having to make u-turns.

Cheryl Greenway asked if there were any other questions. Hearing no other questions Greenway called for a motion.

### **Motion**

Harvey Smith made a motion that the resolution for rezoning RZ11-17 and CV11-07 and CU11-09 be approved with the following conditions:

1. That it be developed in accordance with the site plan stamped December 6, 2011 by the city of Roswell Community Development Department.
2. They amend the condition that the veterinary clinic use shall be for interior only. No outside uses. Cheryl Greenway stated that she thinks what they are trying to add there is to say no kennels and no runs. Harvey Smith stated that condition no. 2 shall read that the veterinary clinic use shall be for interior use only. No outside kennels or runs.
3. All signage on the property must conform to the Parkway Village requirements.
4. The applicant shall remove the asphalt drive, the first 30 feet from the western property line prior to receiving a certificate of occupancy for the business. Cheryl Greenway stated that the other item that was discussed was the fencing
5. Brad Townsend stated that the applicant shall comply with the Parkway Village fencing criteria. Harvey Smith stated that the applicant shall conform or comply with the Parkway Village fencing requirement.

Lisa DeCarbo seconded the motion.

Mark Renier stated that they discussed the elimination of the buffer. That was not part of their request originally, correct? The 40-foot natural buffer? Brad Townsend stated that it was not part of their original request so it needs to be either added as a condition or if the Commission chooses to do that or not.

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Harvey Smith stated that he thought that was part of the concurrent variance right now. Not on the north side, not to the south side, the existing. He is thinking about the Slope's side, that is the north side.

Jackie Deibel clarified that the side that Mark Renier is discussing is the side next to Slope's and there is not a variance requested on that portion of the property. Mark Renier stated that was correct. Deibel stated that if they want to add something to reduce it or to eliminate it, they can do so at this time.

Cheryl Greenway stated that her question to Harvey Smith is does he want to add that as a condition. Harvey Smith stated that he does not think it is necessary to add that as a condition since it wasn't requested.

Lisa DeCarbo stated that her second still holds.

Cheryl Greenway asked if there was any further discussion. Hearing none she called the question.

The motion passed unanimously.

#### **REZONING**

**11-0767**

**RZ11-18**

**SHERWIN WILLIAMS PAINT**

**2830 Holcomb Bridge Road**

**Land Lot: 824**

Jackie Deibel stated that the subject property is located at 2830 Holcomb Bridge Road. It is currently zoned FC-A (Fulton County Annexed) with an underlying of C-1. There is no request for a rezoning. The applicant is requesting to remove a condition, which was placed on the property in 1988 from Fulton County when it was in Fulton County. At that time this entire tract, which is here as a rectangle that Deibel is outlining, was rezoned for commercial use. And in that rezoning they conditioned them to one monument sign for the entire tract.

The applicant is requesting that that condition be removed or allow them for this tract where Sherwin Williams is currently located, would like to have a monument sign on the property. Currently there are two signs on the entire tract. There was one sign located here, which was the sign that was permitted via the 1988 zoning and there is one other ground sign that is located here, which was permitted by the city of Roswell after the annexation took place. That was permitted in early 2000.

Currently there are two ground signs located on the property. The applicant is requesting the removal or a change in that condition in order for the Sherwin Williams property to have their own monument sign. All of the properties are

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