

**Reading.** Councilmember Diamond seconded. There was no public comment. There was no further discussion by Council. The motion passed unanimously.

Mayor Wood expressed his appreciation for passing this amendment. The Mayor noted that he spoke with a gentleman from Decatur who is moving to Canton Street and will have a craft beer premises and that he was very pleased to hear we added beer tasting to the list.

Mayor Wood noted for the record that Councilmember Wynn was absent.

**8. Approval of the defeasance of the Series 2002 Bonds and Budget Amendment 8000-12-12-11 and Authorization for the Mayor and/or City Administrator to sign the necessary documents.**

Director of Finance Julia Luke said the Series 2002 Bonds first call date is on February 1, 2012. By depositing \$6,665,750 from Debt Service Fund Balance into escrow to defease, these bonds the City will realize a net cashflow benefit of \$501,862.50. Upon Approval of Budget Amendment 8000-12-12-11, \$6,575,000 will be available in Cost Center 8000, Account #58110 and \$90,750 will be available in Cost Center 8000, Account #584000. Upon approval, the Debt Service Fund will have a remaining Fund Balance of \$1,519,250.

Mayor Wood clarified that "defeasance" means paying off; the City will be paying off early the debt of \$6,665,750, which would normally have come due in 2014 and 2015 and saving the interest. Ms. Luke said the City will save over a half million dollars in interest by doing so.

**Council Comment:**

Councilmember Dippolito asked if this is the entire balance of the bonds outstanding. Ms. Luke replied yes, of these bonds, although the City still has another series still outstanding without a call date. Councilmember Dippolito asked what those bonds are. Ms. Luke confirmed that the bonds she was speaking of are the 2008 refunding bonds Council approved in 2008. Councilmember Dippolito asked if this is the balance of the ten years old bonds. Ms. Luke replied these are the 2002 bonds.

Mayor Wood asked if this is approved by Council and the City pays off \$6M worth of debt what would be the remaining bonded indebtedness of the City. Ms. Luke said she was not prepared to answer that question; the only bonds remaining are those from 2008, which will be able to be paid off in 2014.

There was no further council discussion.

**Motion:** Councilmember Orlans made a motion for **Approval of the defeasance of the Series 2002 Bonds and Budget Amendment 8000-12-12-11 and Authorization for the Mayor and/or City Administrator to sign the necessary documents.** Councilmember Dippolito seconded. There was no public comment. The motion passed unanimously.

**Community Development – Councilmember Betty Price**

**9. PV11-03, Parkway Village Small Tract, 300 East Crossville, Land Lot 447, Kevin Attarha.**

Planning & Zoning Director Bradford D. Townsend said this is a proposed request for Parkway Village Small Tract status. The subject property is 1.94 acre. The proposal is for three office buildings; two of the proposed office buildings are one-story, the third office building on the front will include a half basement. Total square footage for the three offices is 13,500 square feet. The proposal includes the required number of parking spaces. The applicant requests small tract status because it is included in the Parkway Village, which has an underlying zoning of R-1 with the Parkway Village overlay, which allows them to ask for small tract status. As required by Section 12.2.10(a) of the Zoning Ordinance, the applicant has presented a plan for the Mayor and Council to review. Should the Council find that "(i) the tract of land cannot be feasibly combined with abutting properties to

create a larger tract, or (ii) development of the tract of land will result in a better land use if the small tract were combined with the abutting property," the Council may approve development of the proposed plan. This application previously was denied by Council on July 12, 2010; subsequent applications prior were denied small tract status. The subject property is currently developed with an existing home and storage shed on the rear of the property. There is development to the east and west, and single-family homes to the north; Crossville Road is south of the subject property. Mr. Townsend displayed the proposed draft site, indicating the building locations, landscaping, detention areas, and parking. He noted the 150-foot setback from the northern property line, which would be a normal requirement under the Parkway Village Large Tract status if it were combined. Mr. Townsend stated the applicant has not sufficiently supplied staff information that this parcel cannot be feasibly combined. Mr. Townsend stated that it is for that reason that staff recommends denial of the application.

#### **Council Questions:**

Councilmember Price noted that the zoning ordinance had been amended. She asked if that basis for denial that Mr. Townsend referred to is only one part that could be used. Ms. Price asked if the applicant could qualify under the "or" section of the ordinance. Mr. Townsend confirmed that there is an "or" section and noted that it would be Council's determination as to whether the land use would be best suited for the property. Councilmember Price asked if he had the wording for that. Mr. Townsend read Section 12.2.10(a) stating: "The tract of land cannot feasibly be combined with abutting property to create a larger tract of land, or development of the tract as proposed will result in a better land use than if the small tract were combined with abutting property." Councilmember Price asked if Council determines either of those is acceptable, then it is acceptable. Mr. Townsend replied that is for Council to determine. Councilmember Price said "But if neither is, it would have to be neither, would it not?" Mr. Townsend said he would defer to the City Attorney. David Davidson said, "It is either-or, so if it doesn't meet either, then it would be cause for denial." Councilmember Price asked if "either is cause for denial." Mr. Davidson replied, "No, both." Councilmember Price replied, "It would have to be both for denial." Mr. Davidson replied, "That's for approval. Either one of them you could approve, for either one of the reasons. For either one of those two reasons, you could approve the small tract status."

Councilmember Dippolito inquired about a grading plan to show how this site plan would work with the adjoining properties. Mr. Townsend responded there was no grading plan submitted with this application but the site plan indicates detention both on the front as well as on the rear of the property. Mr. Townsend stated that because of the way the land is currently developed, it "crowns in the middle" and would slope to the back and to the front. Councilmember Dippolito said we have an indication of how stormwater might work but we do not have any indication of how the grades would work with the adjoining property. Mr. Townsend replied, "No." Councilmember Dippolito inquired where it would go if the detention facilities drain out toward Crossville Road. Mr. Townsend replied it would have to drain to the west because the front slopes west. Councilmember Dippolito asked if that is how it is currently permitted, and would it require a pond at the front. Mr. Townsend replied there would have to be some kind of detention and then they would have to deal with the adjoining properties as to how it would drain to the west. Councilmember Dippolito asked if that appeared to be feasible. Mr. Townsend said he would let the applicant respond to that. Councilmember Dippolito noted the tree save areas showed several specimen trees and asked about the impact to the critical root zones. Mr. Townsend explained the specimen trees would probably be considered lost; using the standard minimum of 25% or more impact to the critical zone of the tree, it is considered lost. He added that some of the trees would probably survive because they are impacted today by a driveway and are being driven on in those locations but depending on the grade changes, those trees probably would be considered lost. Mr. Townsend confirmed for Councilmember Dippolito that the applicant had not submitted a tree replacement plan as part of this current plan; but prior applications had tree count units they would be required to maintain.

Councilmember Igleheart asked if the detention question had been resolved. Mr. Townsend replied the applicant would need to speak to what efforts he has made dealing with detention but there has to be some relationship as to how the water gets across the property to the west. Councilmember Igleheart asked if it needs to be resolved before it is approved. Mr. Townsend deferred the question to the City Attorney. Councilmember Igleheart asked

if that is the best practice. Mr. Davidson replied that was for Council to decide. Councilmember Igleheart said by practice if it is not resolved then it causes a problem after the fact, and that is always the case. Mr. Davidson responded yes it does.

Mayor Wood said for somebody to actually go through the engineering for detention ponds, when the property owner does not know if it is feasible to go forward or not, would be burdensome. The Mayor suggested the possibility that Council could have a conditional approval, it that is the only issue, if there are other issues, Council could turn it down or approve.

Councilmember Igleheart asked what would happen if they cannot. Mayor Wood replied they would have to do the engineering for it but there would be a fair expense for doing the engineering for detention pond; with an applicant that has not been more successful with Council to ask them to go through that expense to find out if Council was inclined to grant it, would be burdensome. Councilmember Igleheart asked Mr. Davidson if all the elements in Council packets in terms of prior minutes and court decisions were automatically entered into the record. Mr. Davidson said yes, everything that is included in Council's package for this item.

Councilmember Orlans noted that staff recommendation is denial based on not being able to physically combine the properties after this has been attempted for multi-years. He asked Mr. Townsend to provide background information as to why staff came to this recommendation. Mr. Townsend replied, "With the understanding of Council's denial four or five times that there was a desire by them to have this property combined to the three or four properties to the west to create a village. I mean we are trying to maintain the Parkway Village criteria assuming things that can assemble will be assembled." Councilmember Orlans said he understood that and asked how long do we make people wait to try and do this and asked if staff has any recommendation on that. Mr. Townsend deferred the question to the legal department. Mr. Davidson said he did not have any recommendation. Councilmember Orlans noted that Mr. Townsend stated that the detention would be at the back and front so they are indicating retention be at the front; he asked if it was correct that nothing had been engineered for it. Mr. Townsend replied, correct, no engineering has been done. Councilmember Orlans asked if he had any idea as to whether it would work or not. Mr. Townsend replied no.

There were no further questions for staff.

**Applicant:**

**Kevin Attarha**, stated he had been before Council several times five or six times. He said he has worked on this for several years and the feasibility of combing this property has been impossible; neighbors to the east and west have been able to perform and use their property rightfully so, he has just been "locked in." Mr. Attarha stated, "If you approve this tonight it does not stop "somebody from coming along and putting this property together. To the west of us a small tract has been granted to that property owner and we ask that you do the same for us."

**Council questions:**

Councilmember Dippolito asked Mr. Attarha if the grading had been explored and how that would work, as it seemed he was within fifteen feet of the adjacent property and there are significant grade differences and it could be difficult to make that work. Mr. Attarha said he took the same position as Mayor Wood had stated; they spent much money previously submitting detailed plans for landscaping, civil, and grading and were denied; should Council approve this application they meet all the requirements of the City before a Land Disturbance Permit (LDP) is approved. Mr. Attarha said, "We will accept all the recommendations or conditions that the Council puts on the application and we will accept that if we cannot put the detention in the front or the grading then there would be no LDP and we could not build on it." He said the property to the west has an outdoor detention pond inside the City street buffer and the City likes to see some type of regional water management. He asked Mr. Townsend to display the site plan on the overhead and indicated the proposed detention pond. Mr. Attarha said there is an existing detention pond that is in the street buffer that has been granted to Mr. Caldwell's property. Mr. Attarha stated, "There is nothing to stop us from doing a regional water management. For water management

we will have to do a study and will meet with the City planners and with the right departments and bring in our engineering crew. If it doesn't work, we are not going to get an LDP."

Councilmember Dippolito said he understood his explanation for the detention but was still struggling with the grading; in two dimensions the plan makes sense to combine the properties because you could build something similar on either side. The problem is Council does not understand how it would work three dimensionally. His concern is that there are such grade differentials between the various properties that it could not be feasibly combined later. He said if there was some sort of a preliminary grading plan, not necessarily fully engineered, then perhaps it could be understood how these properties could be combined. Mr. Attarha replied, "We have done some initial studies and have walked the property and took civil engineers there. On the previous application, we indicated some connection with parking lots towards the back and center but the density was so high, Mayor and Council did not approve it and the residents did not like it being such a big development in that area. It would be burdensome for us." Councilmember Dippolito said he was not talking about doing a full grading plan just something that would help understand what that would look like. Mr. Attarha said they hired EDT Engineering Design Technologies who said it will work. Mr. Attarha said they will save the trees; the neighbors are concerned about the large trees being impacted; he said one of the trees is dead and the City has issued a permit to remove that tree. Councilmember Dippolito asked if they have done any tree calculations. Mr. Attarha said the tree calculations on the landscaping is more than what is required; the required landscaping area is 15% and we have allowed for 11,000. Councilmember Dippolito said that is assuming the specimen trees survive. Mr. Attarha responded yes. He said we believe most of them are going to survive; there is an existing driveway by some of the trees with cars going over it, but this is a single story building without a foundation and will not disturb the land that much and that fifteen feet away from Mr. Caldwell's property is enough to get this buildings erected.

Councilmember Price referred to Mr. Attarha's letter to Council dated November 4, 2011, the second page, the sentence reads, "Applicant has met all criteria set up in Article 12, Section 12.2.10 for approval of use of the property as a Small Tract within the Parkway Village District." She said there is an area of difference there if staff indicates that you do not meet some; she asked if that was because he took the second "or" or is he claiming he had met everything based on the first item as well. Mr. Attarha responded it has been impossible to assemble these properties; it is not feasible or possible. He said they have made several other attempts with the property owner, Mr. Caldwell, both east and west, and have offered to purchase. Councilmember Dippolito sat in on a meeting at City Hall, and it has just been impossible. Councilmember Price said then you are claiming compliance with number one. Mr. Attarha replied he is in compliance with number one and two, simply because the improvement to this property does not stop a future combination. He said they are claiming both that we can't feasibly do it right now with the current team members; prior site plans were huge 20,000 square foot buildings and would have been economically impossible to combine it. The improvement we are proposing here is probably less than what has already been done to the west of us on a small tract by Five Oaks Nursery owned by Mr. Caldwell. We are claiming both that yes it is not feasible right now and again if you allow us to do this, we have not economically severely damaged the possibility. We believe it is still doable should a larger developer come along and put these three properties together because certainly us and Mr. Caldwell either cannot or do not have the means financially to put that much money in to putting it together. We do not take away your "or"; we still allow you to combine it. Councilmember Price inquired about the applicant's compliance with staff report items A-G. Mr. Townsend confirmed that the proposed site plan would comply with B-G.

Councilmember Diamond said that in December of 2010, a meeting Mr. Attarha and Mr. Caldwell had perhaps scheduled was cancelled at the last minute. She asked if they had discussion since that time. Mr. Attarha replied, "I believe that was Mr. Dippolito's meeting that we held here and Mr. Caldwell was present with his attorney, simply did not happen. The amount of finances required for us to acquire his property was twice what we would take for ours. We offered to sell ours for "x" amount of dollar. He offered to sell his for twice that amount. It was impossible to work it. I don't know if his position has changed since then but no contact has been made. We have been at this literally over five years and I'm not sure even combining these; the neighbors have had a lot of problems even with such a small development on these lots and I'm not sure what the impact would be then. We

certainly could not do it.” Councilmember Diamond asked what year the applicant purchased the property. Mr. Attarha replied he became a partner in this LLC in 2007, was involved since then, and been before Council at least four times.

Councilmember Price asked Mr. Attarha what had materially changed since the last time he submitted a request; and if there were variances requested previously. Mr. Attarha replied, “No we didn’t ask for any variance before. I believe if the water management wasn’t going to work we were going to ask for the same treatment as was offered to the property to the west of us, which was put the detention pond in the street buffer, which is already in existence today. Therefore, we didn’t ask for any variance. What has changed, we have simply reduced the amount of development in order to satisfy the neighbors in the back. I believe that Mayor Wood had mentioned that on these narrow lots they would like to see 150 foot setbacks and so we came back 150 feet leaving enough land to protect the residents back there and make it a smaller footprint so we stay away from the boundaries of each property at least 15 feet. For a single story building, our engineers tell us there is not much digging and not much land disturbance in order for us to shore it up. What has changed is, I believe, about 12,000 square feet on two-acres; typically you allow 10,000 per acre, so we have reduced the amount of square footage for the total property, saved the trees and allowed for two and one-half times the amount of landscape. We have just reduced the scale.” Councilmember Price said in 2007 or 2008, the City arborist and landscape architect indicated there were six specimen trees and three might be effected and you are saying one is dead; she asked if the configuration of the request was significantly different so that would change. Mr. Attarha replied, “Absolutely, yes. On the previous plans, the road was coming straight by the trees and most of them were going to be gone. Right now, we have taken all the roads away to the west and we stay away from those trees; we believe they are going to be saved. Of course the arborist would do some studies.” Councilmember Price said they addressed it but offered no comment.

Councilmember Dippolito said Councilmember Price had said the arborist had not commented on the trees but Mr. Townsend had just said staff’s opinion was that all of the trees would not survive. Mr. Townsend clarified that he had met with the City arborist today; the arborist determines if the impacted critical root zone exceeds 25%. If it exceeds 25%, then the tree is considered a loss; the tree may survive the development occurring, but is considered a loss when the calculations are done. Mr. Townsend stated where the buildings, parking lots, and driveways will go, it will definitely impact at least 25% of the critical root zones of those trees. Councilmember Dippolito confirmed with Mr. Townsend that this was not in the staff report because it was discussed in conversation with the arborist today.

#### **Public Comment:**

**Kevin Caldwell**, resident and owner of four properties in Roswell, said he has lived in Roswell nearly half his life and loves Roswell. He said last week he “got a renewal of that love of Roswell when his house caught on fire” and the Roswell Fire Department and neighbors had been very generous. He said he gave that as background because he finds flaw in our zoning ordinances and the reason why we are here for the fourth or fifth time. Mayor and Council have seen this applicant present, and even seen him sue the City over presentations with similar concepts; the same principles continue to apply to the same site plan. We keep going through it again and again and the City ordinance allows an applicant to come back once a month and reapply despite suing the City and losing. Mr. Caldwell that this is wasting the City’s valuable time and assets. He suggested reviewing the City’s zoning ordinance in regards to this type of situation; there should be some limit to how many times an applicant can come back and ask for virtually the same type of thing. He said perhaps the applicant feels he will wear us down until we give up and says it is not feasibly assembled. Mr. Caldwell said the applicant failed to discuss this particular plan with him and his wife who own both the adjacent properties; this is the first time he has had a chance to address this with Mr. Attarha. Mr. Caldwell said the extreme gradient change of this site and the bordering sites does not provide reasonable inter-parcel access. There are multiple civil engineering issues. There is inadequate piping currently under Highway 92 to handle the increased water volume. He said he found out that the GDOT failed to provide their own plans to be built with a 24” pipe going under the road; he had to re-engineer his ponds out front because of the 15” pipe that is almost inadequate for what he has. It is certainly not

going to accept any other water going through it coming from the front of their property, which would also have to cross his property to the east. He asked why, if water is to cross his property, would all this area not be graded, cut and filled to create a better overall elevation and cohesive development. Tree preservation on this site continues to be in question. Mr. Caldwell noted that he is an arborist and an expert in his field. Every one of those trees will die; he clarified that there are six trees currently living there. Mr. Caldwell said, "If this development does not work within the intent of the Village Parkway zonings, then it should not be allowed. We shouldn't be worn down by another proposal with things moved around and then if it is approved it will force me as the adjacent property owner to perform extreme site work as my site might be redeveloped. That would put an undue burden on any future; not to mention these buildings will have a higher elevation as it relates to the neighbor's properties. This area has a slight incline on it and a slight mounding and is not going to relate to the adjacent properties. I don't have a problem with the applicant making approved improvements to the existing buildings and land forms and I believe the ordinance says something to that effect in the Village Parkway. Although, recently they started unapproved renovations to a garage that was stopped by the City because they were not permitted and right now, there is construction that is incomplete on the garage that was done without the City's approval. The applicant has attempted to prove but unable to prove that all the adjacent properties cannot be reasonably assembled." Mr. Caldwell asked Council not to improve the plan but to encourage reasonable improvements to the existing landforms and buildings. He asked Council if there is actually a need and is the occupancy such that it would demand this kind of development in this area at this time. Mr. Caldwell said that he and his tenants currently generate about \$5.5-6M dollars in total gross sales with only improving the aesthetics of the Roswell Village Parkway and its existing landforms.

**Joe Creech**, 275 Putting Green Lane, said he is the adjacent residential property owner. Mr. Creech said there is already one piece of property adjacent to him that is small tract status. He indicated an area on the site plan and said there is another adjacent to those three spots that is adaptive use. He asked if it would remain small tract if it is resold. Mayor Wood stated that a small tract status, if granted, would transfer with the property. Mr. Creech said then the next property owner may look at the 40' setback and think they don't have to abide by the 150' setback that was promised with this plan. Mayor Wood replied that was not correct; the next owner would have to comply with the conditions of the small tract status and would have no greater or less rights than the applicant. He said looking at the Parkway Village Large Tract, if someone builds a building on that large tract if those properties were combined then there would have to be a 150' setback minimum according to Table 12.2.2; he asked if they do a small tract it only has to be 40' and is quite a difference and impact on that residential area when that happens if all three of those pieces of property only have to be a 40' setback. He said he appreciates that there will be a 150 foot setback provided for in this plan but it is not guaranteed. He said also in Table 12.2.2 there is a phrase that says, "The location of water detention or retention areas or utility easements is discouraged in the setback area." He said it appears the detention plan in this particular proposal is in the setback area or certainly within that 150' area. Mr. Creech said he hoped Council would consider the impact this will have on the residential neighborhood behind when taking three pieces of property like that out of the Parkway Village requirements and putting them in small tract status.

**James Hogue**, 265 Putting Green Lane, said he resides directly behind the property. He noted that the applicant has communicated with him and has been willing to change his plan but he is concerned about the 150' setback and insects that would develop in the retention pond that is going to be behind the property where he lives with his family, and the elevation of the new building affecting his view when looking at that structure from his home.

#### **Applicant Rebuttal:**

**Kevin Attarha** stated that Mr. Caldwell talks about this site being the same. Mr. Attarha said, "How is that possible because we have reduced the amount of square footage and allowed for a 150' setback, which is required under the combination of larger tracts. As far as the water management is concerned, we have repeatedly said we are going to address that if we can't meet and satisfy. If the neighbors would like to put a condition on the

approval we certainly accept it, if it is not acceptable to them. Certainly, there is a big process in the City for the Design and Review Board who tells us what type of look, what the elevation should be and a single-story building 150' feet away from, especially with our plan to put trees back there would make sure Mr. Hogue's view is protected. We are not proposing to put a detention pond in the back. The site plan says 'should it be necessary' and we don't know that tonight. We are only saying additional water management back there if necessary. We are asking for the same consideration that was offered to Mr. Caldwell to have an outdoor detention pond on the west. Mr. Caldwell was granted that and he was able to use his property and we ask you to grant us the same."

**Further Council Discussion:**

Councilmember Diamond said she wanted to clarify if there was any attempt made of discussion between the applicant and the next door properties on this plan. Mr. Attarha said "Simply not. I have left the plan at his property and whether or not he received it he could not speak to that. The issue of purchasing and combining, I have talked with Mr. Caldwell and his indication is that 'I am not going anywhere, I have my business here and I am going to stay here until the larger development happens.' He has also gone as far as saying he doesn't think I will ever get approval for this property."

Councilmember Igleheart requested clarification on the stormwater issue. He noted that if we make sure a detention not being done does not allow an LDP, then that may deal with one aspect. He said the staff comments from the Water Resource Engineer reads, "The site plan does not appear to allow adequate space to address stormwater requirements for the project. The PW/ENV department does not support the site layout since a stormwater pond is likely not an appropriate solution to the stormwater requirements." Councilmember Igleheart said if that is all still true it would seem it does not matter if you allow a stormwater detention pond in the front, from this it says it is not an appropriate solution anyway. He asked if that was all still true. Mr. Townsend explained that the statement is also true in reference to how they want stormwater detention to be handled. He said the Public Works/Environmental engineer is saying there needs to be another method looked at to deal with the detention, if it is not a pond. Councilmember Igleheart said that is still a very big concern but we have already been told that is probably not the way, regardless.

Councilmember Dippolito said he also had remaining concerns about the feasibility of this project as Councilmember Igleheart has talked about the detention. In addition, the grading on this plan and prior plans and the ability for these plans to actually be built in their current form is still questionable. Councilmember Dippolito said, "In a typical rezoning case, Council requires a lot more information and I understand that at Parkway Village we are trying to expedite things and make it easier but at some point we don't get enough information and we can't fully understand the impact. Mr. Creech's comment about the fact of having three small tracts or potentially four adjacent to a residential neighborhood really belies the whole reason for having this Parkway Village in the first place. Rather than having a cohesive project that was the goal of Parkway Village and to protect the neighborhoods, we could wind up with a scenario where we have very little buffer and we have something very intense and in fact is the opposite of the intent of Parkway Village. There are too many unanswered questions at this point."

Councilmember Price requested clarification by the Legal department as to whether the site plan is part of this discussion or if the issues could be separated, such that we are discussing the small tract status regardless of the site plan. She asked for legal comment. Mr. Davidson said, "If you are going under the second criteria you have to have the site plan because it has to be the plan. If you are going under the first criteria that it is not feasible to combine, the City has always made a site plan a condition of every small tract status since I have been here, which is about eleven years. It doesn't say there has to be a site plan criteria however, the applicant has already said that he did not contact Mr. Caldwell, which is the property owner on both sides about combining on this application; he has previously but he didn't on this application. To me the question comes down to the second part of it which would require the site plan."

**Motion:** Councilmember Price moved to approve the PV11-03, Parkway Village Small Tract, 300 East Crossville, Land Lot 447, Kevin Attarha with the site plan as presented that accommodates and responds to all staff conditions including a stormwater management plan, a 150' setback, compliance with all recommendations of engineering, fire, transportation and DRB. Councilmember Orlans seconded for purposes of discussion.

Councilmember Igleheart asked if the conditions would require a detention area approved by the City, in order for issuance of the Land Disturbance Permit. Mr. Davidson explained that the applicant will need the City engineer's approval for their stormwater. It is not a direct condition. Councilmember Price incorporated their comments but those were not conditions. If Council wanted to make it a condition that they are in compliance, and they will have to be anyway before it gets approval for a Land Disturbance Permit, but it is not a condition of this approval. Councilmember Igleheart stated he wanted to make sure that is ultimately what happens. Mr. Davidson said it would not hurt to put it in there. Councilmember Igleheart asked if that would require a second condition. Mayor Wood asked if it is correct that in order to obtain a Land Disturbance Permit, a detention pond must be approved by the City engineer. Mr. Davidson replied that was correct, but it would not be a condition of the small tract status, it would be a condition of developing the property. Councilmember Igleheart asked if that was ultimately the same thing. Mayor Wood said it would still be required whether or not it is placed as a condition.

Councilmember Price said staff comments indicate that it is not that this site plan is unworkable but only that it has not gone through the proper discussions; perhaps the better course is to defer until those discussions have been had to ensure that this site plan is workable. Councilmember Igleheart responded that was also his concern because we are talking about all the stuff that ultimately could force this site plan to change in order to make this work, and then where are we versus what you just said.

Councilmember Orlans asked Mr. Davidson if what he had just described is a condition of the zoning and if it does not meet the condition, it loses its small tract status. Mr. Davidson explained that if it is a condition of the approval of the small tract status and the applicant does not meet the conditions then he does not get the small tract status. Councilmember Orlans replied that was what he thought he understood him to say, which may be the better way to do it.

Councilmember Price asked if it would ever come back to Council or would it "all stay in the hands of staff." Mr. Davidson explained that if the applicant does not meet the condition, he would have to come to have that condition removed, if he wants to have the small tract status. Mayor Wood said, "On the other hand, if you pass this with that condition and he met that condition, it wouldn't come back to Council. You suggested two different things; one is a conditional approval and the other is approval without a condition and the third is a deferral. Your motion is to approve, with no condition and no deferral, but you also have discussed two other alternatives." Councilmember Price said, "No, the motion had a number of conditions." Mayor Wood said, "There was no condition for a detention pond. I think Councilmember Orlans was correct in saying you would have small tract status and would have to meet the engineering but if you place it as a condition and he didn't show that, he would lose the small tract status altogether. Councilmember Orlans you are correct, it does ultimately have a different disposition." Councilmember Price said she would like to amend her motion. Mayor Wood said she could if Councilmember Orlans agreed to the amendment.

**Amendment to Motion:** Councilmember Price amended the motion requesting the submittal of a tree protection plan. Mayor Wood asked if it had any conditions regarding the detention pond because that was the whole discussion. Councilmember Price said yes. Mayor Wood asked that the motion be completely re-stated for clarification.

**Restated Motion:** Councilmember Price moved to approve the PV11-03, Parkway Village Small Tract, 300 East Crossville, Land Lot 447, Kevin Attarha conditional upon receipt of a tree protection plan that the arborist has agreed with, that there is a stormwater management plan that satisfies Public Works and the



City Engineer, that there is a permanent 150' setback and that there is compliance with all recommendations of engineering, fire, transportation and the DRB. Mayor Wood asked for staff clarification that Councilmember Price's reference to stormwater management is actually the detention pond. Mr. Townsend replied yes. Councilmember Orlans asked Mr. Davidson if he heard that as a condition of the zoning. Mr. Davidson replied he heard that as a condition of the small tract status. Councilmember Orlans seconded the motion.

**Further Council Discussion:**

Councilmember Dippolito said when looking at the criteria there are two items. One is that "the tract of land cannot be feasibly be combined with abutting property to create a larger tract of land." Staff has said that is feasible. There were some discussions several years ago between the property owners but there has been little to no dialogue since then to try and make that happen. He agreed with staff that it still is feasible for them to be combined. There have been a lot of changes economically for everyone and the scenario is very different today than it was several years ago when this was originally looked at, and even then the properties can be physically combined. He asked if the goal of Parkway Village to provide for larger tracts that have cohesive developments or is it to "chop it up" into small tracts. He thought the goal of Parkway Village when it was originally done, is to have large tracts that protected the neighborhoods and provided adequate buffers. This does exactly the opposite, it chops it up into a bunch of small tracts. The small tract clause is in there for things such as some of the properties immediately to the west of this that are too small and too shallow, which cannot be combined, and have to be used for something else; that is not what this property is. This is a large tract and it should fit into the large tract status of Parkway Village. The second criteria is that "development of the tract as proposed will result in a better land use than if the small tract were combined with abutting property." Councilmember Dippolito said, "Ultimately, we can all look at this piece of property and say if there was a cohesive development across all four of these tracts and I am including the other remaining one that hasn't even entered into the discussion here, we would have a much nicer development. Something much nicer for Parkway Village, which really is the goal of this overlay in the first place. I think on both counts it doesn't meet that criteria and I don't see how we can approve it."

Councilmember Diamond stated it definitely has come a long way from the last time. The 150' buffer is a huge concession. She said, "If engineering wise, we are just borderline figuring it out, will it ever combine with the properties on either side. Until we know engineering wise that can happen, it just makes me a little uncomfortable to put something out there that we are going to have to live with forever, and not be sure that it can be done. Until I known how those pieces would work together I have a hard time eliminating the possibility."

Councilmember Igleheart stated he had the same concerns. He said, "One reason I asked about the previous records submitted was because I did not want to go through it all; we have said many of these same things over and over, and been to court over and over, and still here we are today. It concerns me that we would consider approving something that has less information and less certainty of how that particular plan would work out. There is no question that once you put something in that slot, you do eliminate anything else happening along the rest of that. This was never meant to be immediate, granted the property owner I am sure would like to have it sooner than later, but as soon as we let that one go, the rest of it is gone. It does become immediate at that point, but that is not the goal of what the Parkway Village was intended to do." He noted the small tract status which exists next to the subject property, was approved because it was more of an adaptive re-use. It was a parking issue as to why it went through that way; it is still the same building; that building could be torn down and "do whatever you need to on a bigger property." Councilmember Igleheart stated that with this plan, someone might possibly tear down and rebuild, but is not likely to happen. Councilmember Igleheart stated, "You are again locking out what the intention is here. I think clearly, neither one of the either-or, one or two, works here. It really concerns me that a year and a half later, we are considering doing this all over again, when not that much has changed, I do appreciate the effort that has been made to make some of the changes, but ultimately it would not make sense to continue."

Councilmember Price said it was her understanding that if all three of these parcels were combined, it still would not be a large tract by definition; it would still be a small tract status. She stated, "We are not creating a large tract, we are creating a larger tract, possibly, but it still doesn't satisfy the basic requirements of a large tract status. According to the City's Strategic Economic Development consultant, this type of development of this type of office structure is actually something we are short of in the City, would be desirable and an enhancement of the City. Those two things also bear consideration."

Councilmember Orlans stated the last time this came before Council, the main issues other than the feasibility of joining the properties, was the density involved and the fact that there was not the 150' buffer in the rear. He stated that it appears on the plan that the density has been cut in half for the three smaller office buildings and tried to set it up so that it could be expanded if there is a combination of parcels in the future. It guarantees 150' buffer which would have been there had a larger tract been put together. Councilmember Orlans stated, "It comes back again to the question of feasibility of putting them together. That is tough. Councilmember Dippolito tried to get both applicants together the last time this came around. So, the question comes back that I have asked before, is with the other improvements, how long do we hold any particular property owner, in forcing these combinations. We have done it in the past for a particular period of time and then we moved on and done other things. That still is the main question. Maybe the applicant was totally frustrated from the last round of questions; there hasn't been any discussions on this particular site plan. As the thought was thrown out before by Councilmember Price, perhaps we should defer this to give them a chance to discuss this site plan and the feasibility of putting together or even setting it up for future development across the other lots and confirm to the residents behind that this buffer is going to be in place at 150'." He suggested that a deferral for those two things to happen to at least bring it further along.

Mayor Wood noted that there was a motion and a second, not to defer, but to approve.

Mayor Wood said he agreed with Councilmember Orlans that the "real" issue is feasibility. Mayor Wood said "Councilmember Price to go to your point, even if you are not able to assemble to make a seven acre tract, the goal is to try to do as much assemblage as possible to eliminate curb cuts and to try to have inter-parcel access; a better development with less problems on a larger size. I think it comes back to the question of feasibility and that is a judgment call for this Council."

Councilmember Diamond suggested a deferral until there is more information regarding the engineering of this proposed site plan. She said, "The way I understand it, the owner bought the property after Parkway Village was in place, knowing that he would need small tract status approval to do anything on this property. I would like to see some evidence that there is a feasible plan that could work with all three or all four, down the road. I would like that opportunity later, if that is agreeable."

Mayor Wood replied, "As Mr. Caldwell has pointed out, under our current status, that opportunity is always available even if you deny this." The Mayor noted there was a motion and a second. If the Council wished to defer, it would require another motion by a Councilmember. He said that it was appropriate to make a decision tonight but a deferral would not be voted on unless that motion was made."

**Motion for Deferral:** Councilmember Orlans moved to amend the motion for Deferral of PV11-03, Parkway Village Small Tract, 300 East Crossville, Land Lot 447, Kevin Attarha. Councilmember Price seconded.

**Further Council Discussion:**

Councilmember Price suggested that the applicant and the affected property owners have formal discussions to determine if there is any common ground to move forward. Councilmember Price stated, "If not, I get the sense, in the near future, there may be movement on this otherwise."

Mayor Wood requested clarification of which Mayor and Council meeting this item would be deferred to; he suggested that it not be deferred beyond the next month. Councilmember Orlans suggested this item be deferred until the second Monday in February to allow plenty of time for this item to be worked out. Councilmember Price confirmed her agreement to defer until February 13, 2012. No further discussion.

The motion to defer PV11-03, Parkway Village Small Tract, 300 East Crossville, Land Lot 447, Kevin Attarha until the Mayor and City Council meeting on 2/13/2012 passed unanimously.

**10. RZ11-11 Text Amendment to amend the sign ordinance regarding the "Find it all Roswell" campaign and the use of temporary signs. (Second Reading)**

Planning and Zoning Director Bradford D. Townsend, stated this would be the second reading for the "Find It All Roswell" campaign, to include that program in the 2012 calendar year.

City Attorney David Davidson conducted the second reading of an ORDINANCE TO AMEND THE CITY OF ROSWELL SIGN ORDINANCE REGARDING "FIND IT ALL IN ROSWELL" CAMPAIGN AND THE USE OF TEMPORARY SIGNS WITHIN THE CITY OF ROSWELL stating: pursuant to their authority, the Mayor and Council adopt the following ordinance:

1.

Article 22, of the *City of Roswell Zoning Ordinance, Signs*, Section 22.12 Temporary Signs, is amended by changing the year from 2011 to 2012 in the following subsection 22.12 (a) (3):

**Section 22.12 Temporary Signs**

- (3) For the period from September 15, 2009 through December 31, 2012, a business may receive an economic development permit for use of a temporary sign for an additional forty (40) days of advertising per year, cumulative to the 40 days granted in subsection (a) above and subject to the same requirements and limitations set out in (a) above. This subsection (3) shall be automatically repealed on December 31, 2012.**

Mr. Davidson noted that if approved, this would be the second reading.

Mayor Wood asked if there is any expense involved. Planning and Zoning Director Brad Townsend replied there is no expense involved. He confirmed for the Mayor that this proposed text amendment is to allow the continued banner signs for an additional 40 days for the "Find It All Roswell" campaign. Mayor Wood suggested that a better way be found to hang these signs to prevent them from drooping. The Mayor encouraged the Roswell Business Alliance to help with a better method for hanging these signs.

**Motion:** Councilmember Price moved for approval of RZ11-11 Text Amendment to amend the sign ordinance regarding the "Find it all Roswell" campaign and the use of temporary signs. (Second Reading) Councilmember Diamond seconded. No further discussion. The motion passed unanimously.

**Public Safety - Councilmember Nancy Diamond**

**11. Approval of Budget Amendment 3800-11-28-11 for the E911 Center in the amount of \$321,194.28.**

Dwayne Orrick, Chief of Police stated several months ago, a feasibility study was conducted regarding the ChattCom Communication Center assuming City of Roswell dispatch operations. Chief Orrick stated after the ChattCom presented their proposal, Fire Department staff met with Administration to review the proposal and recommended against moving forward with consolidation. Chief Orrick noted that as part of that study for this