



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, April 8, 2013

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

Pledge of Allegiance - Webelos - Cub Scouts - Den 8\Pack 135

Mayor Wood invited the Cub Scouts Den 8 / Pack 135 to come forward to the podium to introduce themselves. Cub Scouts in attendance were: Luke Baker; Jack Fallon; Thomas Karoly; Dreux Hebert; Brock Maddux; Jack Mauldin; Jack Merrell; and Den Leader Tom Baker.

Presentation of the Flags: Sons of the American Revolution

CONSENT AGENDA

1. **Approval of March 11, 2013 Mayor and Council Meeting minutes (detailed minutes to replace Council Brief adopted on March 25, 2013); Approval of March 25, 2013 Mayor and Council Brief.**
Administration
Approved
2. **Approval for City Sponsorship of the Drake Walk on Saturday, May 4, 2013 from 9:30 a.m. to 11:00 a.m.**
Community Development
Approved

3. **Approval for the Mayor and/or City Administrator to sign a contract with Pond & Company for the HBR/SR400 Aesthetic “Pattern Book” Task in the amount of \$29,865.40.**
Transportation
Approved
4. **Approval for the Mayor and/or City Administrator to sign a change order to the Clark Patterson design contract for the Oxbo Realignment Project in the amount of \$28,300 and approval of budget amendment BA35042200-04-08-13.**
Transportation
Approved
5. **Approval for the Mayor and/or City Administrator to sign a change order to Mulkey Engineer's Design Contract for the Holcomb Bridge Multi-Use Trail in the amount of \$26,620.**
Transportation
Approved
6. **Approval for the Mayor and/or City Administrator to sign agreements with the Fulton County School Board to accept Right of Way and an Easement for the Holcomb Bridge Road Multi-Use Path.**
Transportation
Approved

Approval of the Consent Agenda

Councilmember Price called attention to Consent Agenda Item #3. She said the City will be soliciting citizen input for the “Pattern Book” for aesthetic improvements at Holcomb Bridge Road and SR400. Mayor Wood noted that this is about sidewalks, streetlights, and landscaping. He asked who is the contact at the City should any citizens have questions. Councilmember Price replied that Director of Transportation Steve Acenbrak would be the contact. Mayor Wood asked for date of the public information meeting. An unidentified speaker said the date had not yet been set. Mayor Wood noted that the meeting date would be posted on the website.

A motion was made by Council Member Orlans, seconded by Council Member Igleheart, to Approve the Consent Agenda. The motion carried by the following vote:

In Favor: 6

REGULAR AGENDA

Mayor's Report

1. **Reading of a Proclamation for Patriots Day.**

Mayor Wood conducted the reading of the proclamation stating April 19, 1775 is a momentous day in our nation's history. In the early hours of that day, three patriots, Paul Revere, William Dawes, and Dr. Samuel Prescott, rode through the streets of Massachusetts to warn fellow colonists that British troops had been assembled and were advancing with the intention of capturing patriot leaders and military stores. Answering this alarm, men and women congregated on the Village Green in Lexington on the morning of April 19, 1775, took up arms and commenced the struggle that would end England's control of the American colonies. "The shot heard round the world" was fired in Concord by determined patriots from the Middlesex countryside, who confronted the Redcoats and ultimately forced the British to turn back at North Bridge. Minutemen, militia and colonists from cities and towns throughout the commonwealth joined forces along the battle road at Menotomy, now known as Arlington and overpowered the retreating British. Mayor Wood said it is appropriate that we recognize the importance of this day in our history and pay tribute to the dedication of those assembled on the Village Green in Lexington for that decisive battle. The Piedmont Chapter of the Sons of the American Revolution, an organization of lineal descendants of the patriots of the American Revolution, reminds us of the courage and sacrifice of our founders who pledged their lives, fortunes and sacred honor to bestow the blessings of liberty upon this great state and nation. Mayor Wood proclaimed April 8th, 2013 as Patriots Day and urged all citizens to become more knowledgeable of the role the Revolution played in the history of our great nation.

Mr. Walt Woliver, President of the Piedmont Chapter of the Georgia Society Sons of the American Revolution said they are pleased to team up with the City of Roswell to honor Patriots Day and expressed their appreciation for this proclamation.

2. **Recognition of the City of Roswell achieving the status of Certified Wildlife Habitat Community from the National Wildlife Federation.**

Councilmember Igleheart said the Public Works Department had done a great job and asked Mr. Moring to come forward to talk about this recognition.

Environmental/Public Works Director Stu Moring referred to a banner that had been on display in the Council Chambers in recognition of Roswell becoming a Certified Wildlife Habitat Community. This banner will be adorned with the City of Roswell logo and displayed around town. Roswell is the third community in the State of Georgia and the 66th nationwide to achieve this distinction. This indicates that the City has a good environment that appropriately supports wildlife without pushing them out which often happens in urban areas. Mr. Moring noted that this has been a yearlong effort partnering with the Roswell Garden Club, Martins Landing Garden Club, and the City of Roswell Recreation and Parks Department. Mr. Moring recognized Environmental Education Coordinator Vicki Culbreth and Environmental

Programs Manager Janet Liberman for having been the driving force behind this effort through engaging the citizens, community entities, schools, the Chattahoochee Nature Center, and others. The City will receive the presentation at an invitational event from the National Wildlife Federation on Saturday, April 20, 2013 at 1:00 p.m. Mr. Moring noted the event is open to anyone who would like to attend, but please contact Vicki Culbreth or Janet Liberman to confirm their attendance. Janet Liberman stated the event will take place at Smith Plantation, two days before Earth Day. She said the City had hoped to be the second to receive this recognition but Johns Creek had slipped in ahead of Roswell about four months earlier. Ms. Liberman noted that Vicki Culbreth had been the main driving force in this National Wildlife Federation program; all the credit should go to her.

Administration and Finance Department - Councilmember Rich Dippolito

3. Approval for the Mayor and/or City Administrator to amend the Master Lease Agreement and sign a contract with Dell for the Mobile Data Terminals/Ruggedized Laptop Computers in the amount of \$265,875.92.

Presented by Michael Fischer, Deputy City Administrator

Councilmember Dippolito introduced this item and noted these computers are primarily for Public Safety employees.

Director of Information Technology Mishelle Rutledge presented this item stating that a proposal was issued for new Mobile Data Terminals (MDTs) for the City's public safety vehicles within the Police, Park Police, and Fire departments. Ms. Rutledge explained the proposals were evaluated along with employee input and field testing in the vehicles. The Dell Ruggedized XFR won out over the Getac Ruggedized laptops; Panasonic did not attend the field testing exercise and was eliminated.

Council Comment:

Councilmember Dippolito asked if this was the low bid. Ms. Rutledge replied yes. Councilmember Dippolito noted that this is an amendment to the Master Lease Agreement; he asked if it amends the City's contract for all of the leases on City computers. Ms. Rutledge replied it accompanies the current Dell 400 Desktop replacement program. Councilmember Dippolito stated that the contract refers to amending the lease agreement; he asked if that means it is amending the desktop lease agreement. Ms. Rutledge replied yes, and asked Finance Director Keith Lee to address that. Mr. Lee explained that there is a Master Lease Agreement with Dell that already has one amendment for the desktop computers, this will be a second; it becomes an amendment to the Master Lease each time there is a lease option with Dell.

There was no further Council comment. Public comments were invited. No public comments were made.

A motion was made by Council Member Dippolito, seconded by Council Member Orlans, that this Item be Approved. The motion carried by the following vote:

In Favor: 6

Community Development - Councilmember Nancy Diamond

4. **CU12-04, CV12-05, 275 Hardscrabble Rd., Land Lots 359, 360.**
(This item was deferred from the March 11, 2013 Mayor and City Council meeting)

Presented by Jackie Deibel, Planner III

Community Development City Planner Jackie Deibel stated this is a conditional use for World Harvest Church, 275 Hardscrabble Road. The applicant has requested deferral of this item until the May 13, 2013 Mayor and City Council meeting.

There were no comments from Council. Public comments were invited. No public comments were made.

A motion was made by Council Member Diamond, seconded by Council Member Orlans, that this Item be Deferred and placed on the Mayor and City Council agenda for 5/13/2013. Council members Orlans, Igleheart, Wynn, Dippolito, and Diamond voted in favor. Council member Price was opposed. The motion carried by the following vote:

In Favor: 5

Opposed: 1

5. **RZ12-11, CV12-06 & CU12-05, 2715 & 2725 Holcomb Bridge Rd., Tapestry House Expansion, The Jennings Group, Land Lot: 824.**

Presented by Jackie Deibel, Planner III

Community Development City Planner Jackie Deibel presented this item stating this is a request for Rezoning 12-11, Concurrent Variances 12-06, and Conditional Use 12-05, located at 2715 and 2725 Holcomb Bridge Road. The applicant is requesting a rezoning from Fulton County Annexed to O-P (Office Professional) with conditional use request and several variances. Ms. Deibel displayed an aerial view of the property. She pointed out Holcomb's Pond Apartments to the northwest; Seven Pines Apartments to the east; Holcomb Springs, Holcomb Bridge Middle School, an office south across Holcomb Bridge Road; west of the property is WeedPro's office as well as a recently approved new medical clinic. Ms. Deibel displayed the zoning map of the property indicating the Fulton County Annexed area. She displayed the proposed site plan and indicated the existing building built under the Fulton County zoning classification, and the new proposed building.

Ms. Deibel said the applicant is requesting several variances for the property. Two of the variances relate to the setback and buffer of the existing building. Due to the zoning approval by Fulton County, the setback and buffer are based on those zoning districts. However, with an O-P zoning classification, the building setback would be 50' with a 40' buffer. The third variance relates to height as the applicant is requesting 3 stories with a basement. She referred to the proposed site plan drawing with a visual description of the height limitations shown in Sections A, B and C and said the applicant would address questions related to the height during their discussion. She displayed a list on the overhead of the requested variances for height to allow for three stories, a basement, and a 40' buffer and a 50' setback due to the existing building. She said staff recommends approval with two conditions:

- 1. The owner/developer shall develop the property in accordance with the site plan*

stamped "Received March 7, 2013 City of Roswell Community Development Department."

2. A combination plat for the two parcels shall be completed and recorded prior to the issuance of the Land Development Permit.

She said the Planning Commission recommends approval with staff's two conditions.

Council Comment:

Councilmember Dippolito asked if the variance for the height is just due to the number of stories or actually not a variance but a height itself. Ms. Deibel replied that is correct. She said the limit is 40' and three stories under the O-P zoning, so it is three stories with a basement. Councilmember Dippolito said it is within the 40' measured from the street because from the street it is only 1.5 stories. Ms. Deibel said yes; the drawings show only two stories looking out from the drive on Holcomb Bridge Road. Councilmember Dippolito said the Design Review Board (DRB) made a lot of comments about a site plan and thought this was different from the site plan that the DRB reviewed. Ms. Deibel said that is correct; she thanked him for pointing that out. She said the applicant changed the entire site plan and had moved the building up. They have met the fire code requirements. They have completed what Transportation asked for by changing three curb cuts that was originally shown as two. They have fulfilled the environmental and stormwater requirements. She noted that the applicant has met with the staff and worked through the plan, listened to what the DRB said, and changed their plan to meet those requirements. Councilmember Dippolito said he likes the way the building lays out now, and is less obtrusive on the street; it appears the applicant was consistent with the DRB comments.

Councilmember Dippolito noted there are a number of very large specimen trees along the front of the property which he wondered if any could be saved. He suggested islands within the parking lot and shifting portions of the parking for tree preservation. Ms. Deibel said the arborist had reviewed the plan. The applicant is in compliance with the tree plan, some of the trees would come out; however, due to the stream buffer area the applicant has met the requirement. Councilmember Dippolito said they have met the requirement as far as replacement but it is always a shame to remove a specimen tree when it can be avoided. He said in the past, they have requested that applicants try to work around the specimen trees. He said he is aware there are grading challenges on this particular site and only so much room for the building and the parking. He asked where the specimen trees are located and if the applicant could address a way to put one or two islands in the current parking area, perhaps putting parking somewhere else in order to preserve some of the trees that are worthy of saving; that might be a question for the arborist. Ms. Deibel said she would look at the arborist's comments while the applicant was giving his presentation.

Ms. Deibel said Transportation had also requested a sidewalk from Holcomb Bridge Road through the parking lot area to the existing sidewalk as shown on the site plan; that has not been addressed by the applicant but they had addressed all other requests. Mayor Wood asked her to point out the sidewalk gap on the plan. Ms. Deibel displayed the plan on the overhead and pointed out the area. Mayor Wood said then there would be a sidewalk to the structure from the sidewalk along the road. Ms. Deibel said yes from Holcomb Bridge Road through the parking lot to connect with the sidewalk that is proposed by the applicant.

Applicant Presentation:

Tim Watford, Peacock Partnership, said they are a design firm hired by Insignia Senior Living to develop a design for this project. He said they have been through the process with staff and the Planning Commission and are here tonight seeking approval of this rezoning. He said Ms. Deibel has already provided some of the

history of the project as it relates to Fulton County and O-P. He stated that from a project perspective, this is an existing 32 bed facility that was in Fulton County and approved for up to 75 beds. The current owner purchased the property next door and combined the two properties into a single plat of 5.95 acres. The owner is requesting a total of 100 beds which is an increase of 68 beds over the existing 32 beds. He said they were correct in noticing that in the previous plan when they went through the first phase with the DRB, the facility was 100,000 square feet with five stories and a 132 bed maximum occupancy. He said they have since made a lot of changes in response to the DRB and staff.

Mr. Watford said originally they planned three access points to the site : one for WeedPro where there is a shared easement, one at the main entrance, and one for Tapestry. Those have been combined through the Fire Marshal and there are now two instead of three. This project has a good solid tax base with very low impact on traffic, no impact on the school system, low utility consumption, with good quiet neighbors.

Mr. Watford said he would address the point about the specimen trees and displayed a site plan on the overhead and said the entire site is covered in trees. He pointed out the 4-5 large oak trees they had worked with the arborist to try to save but there is a challenge of putting them together from a tree ring perspective and trying to stay out of the tree ring. He noted that the previous property owner had a concrete and masonry company that resulted in concrete and parking lots of varying styles that currently go around all of those trees and all of that must come out. He said the disturbance would be too impactful on them; the arborist has concerns that the trees would not survive but added that they have met all the requirements for recompense. The entire back side of the property is heavily wooded with many large specimen trees that will remain; there is a fairly large undisturbed buffer. He said they also pushed the building back as far as possible from Holcomb Bridge Road and turned it in order to create a different presence when marrying the two buildings. The existing building is single story and sits somewhat down on the property and might not even be noticed when passing by. Mr. Watford said the applicant is requesting approval on the zoning for this expansion plan.

Council Questions to Applicant:

Councilmember Diamond said there was a request from staff to put a dumpster pad on the new site but she did not see that on the site plan. Mr. Watford said they are making improvement to the existing dumpster as this is a single property and it currently sits on the parking lot top. He said there will also be an enclosure and it will tie into the sewer system to meet all of the City's requirements. He said currently there is not a detention facility which previously was not required, but they will be adding detention for the entire property that will tie into the new facility that will pick up the stormwater that currently runs off into a gully behind the existing building.

Councilmember Diamond asked the applicant to talk about staff's sidewalk request. Mr. Watford said staff requested tying the sidewalk along Holcomb Bridge Road to the front of the building. He said their plan is to put striping across the parking lot versus concrete in the paving to tie it together so there is a clear accessible path from Holcomb Bridge Road.

Councilmember Price asked if the number of parking spaces is what they felt was necessary for the structure or was it an imposed number based on some formula. Mr. Watford said it is based on the formula in the code which is one per four units total, plus staff. He said there are currently 25 spaces, adding staff of about 20 would then be about 45 spaces. He said they are at 68 as a total so they should be well parked. He said the impact as far as the square footage is fairly low.

Councilmember Price said she thought possibly there are too many spaces and asked if it is possible to have fewer spaces. Mr. Watford replied certainly. Councilmember Price advised that they have the minimum number they think they will ever need since most of the people are probably not driving and as long as they are meeting the City's minimum requirements unless they are expecting to have large events, she hoped this could be done with as few spaces as possible. Mr. Watford agreed and said they could do that.

Mayor Wood asked if the site plan is changed to reduce the number of parking spaces will this have to come back to Council or can it be done at staff level. There was an inaudible response. Mayor Wood said that was good.

Councilmember Igleheart said if they are able to reduce the parking, hopefully that would allow some of the things Councilmember Dippolito had talked about in terms of saving some of the trees. He asked the applicant if that is possible. Mr. Watford said they will work on reducing the number of parking spaces in order to save some of the trees. He added that all the tree rings begin to touch and it would be quite a challenge, but they would certainly try.

Councilmember Dippolito said in an area on the western portion of the property there are ten parking spaces and two trees, a 23" and a 26" oak are impacted by those spaces. He said eliminating a few of the spaces might be enough to have minimal impact on the trees and would also save the applicant money. Mr. Watford replied they would like to work with the arborist on a plan.

Mayor Wood asked for further Council questions for the applicant. There were none. He noted the applicant would have an opportunity for rebuttal after public comment.

Public comments were invited. No public comments were made.

Further Council Comment:

Councilmember Igleheart referring to the number of parking spaces asked if they need to allow that as an option to reduce it if it is under the 68 required number of spaces.

Ms. Wakefield replied, "When back to this body, I can get them approval that they can reduce it as long as they do not go below the required number of spaces." Councilmember Igleheart asked what the required number is. Mr. Watford said that the code simply says, one per four units, plus staff.

Ms. Deibel said, "With the new addition there would be 100 units so that would be 25 parking spaces they would need for the beds, plus staff and that doesn't really indicate that. That's the one before. The max is one per three and that would be 33 parking spaces. So, they are proposing an additional 44 to bring them up to 68. So, if they drop 10 or 15 spaces, they will be fine."

Councilmember Igleheart said the bottom line is that we don't have to make any specific change on that.

Motion: Councilmember Diamond made a motion for approval of RZ12-11, CV12-06 & CU12-05, 2715 & 2725 Holcomb Bridge Rd., Tapestry House Expansion, The Jennings Group, Land Lot: 824 with the following Conditions:

1. The owner/developer shall develop the property in accordance with the site plan stamped "Received March 7, 2013 City of Roswell Community Development Department."
2. A combination plat for the two parcels shall be completed and recorded prior to

the issuance of the Land Development Permit.

3. The owner/developer will tie in a sidewalk from Holcomb Bridge Road through the parking lot to connect to the building.

Mayor Wood asked staff if striping would be enough to make the sidewalk tie-in. Ms. Deibel replied yes.

Further Council Comment:

Councilmember Dippolito asked if they need to clarify and condition the potential saving of trees and removal of parking spaces; is that to be approved and coordinated with staff. Ms. Wakefield replied they will do that based on the conversation as part of the public record to make sure that occurs. Councilmember Dippolito asked if that needs to be an additional condition. Ms. Wakefield replied that staff will handle it but Council might be more comfortable making that part of the conditions.

Amendment to Motion:

Councilmember Dippolito proposed an Amendment to add a Condition #4 for the applicant to review the potential saving of trees by removing some parking spaces to be reviewed and approved by staff.

Mayor Wood clarified that the purpose of this amendment is that it is to be approved by staff and would be staff's discretion as to what they approve. Councilmember Dippolito replied yes, that would be his recommendation. Mayor Wood asked if that is clear for staff. Ms. Wakefield replied yes.

Mayor Wood said there is a motion to make this condition upon staff's reviewing the reduction of parking and that reduction being to staff's discretion.

Councilmember Orlans said they have already established that the minimum number of spaces needed is 44-45 and the applicant has 68 on the application. He said Councilmember Diamond asked the client about what they could come down to and they are talking about 10-15. He said he does not know that they need to clarify it with conditions. Mayor Wood said they are not trying to put a specific number on it but giving staff discretion as to what that will be based on the site and the arborist review; it is leaving staff flexibility to encourage the applicant to save money and trees.

Second to Motion: Councilmember Orlans seconded the motion.

Mayor Wood asked for a second to the amendment.

Second to Amendment: Councilmember Wynn seconded the amendment.

Mayor Wood asked for discussion on the amendment. There was none.

Vote on Amendment: The amendment passed unanimously.

Restated Motion: Councilmember Diamond made a motion for approval of RZ12- 11, CV12-06 & CU12-05, 2715 & 2725 Holcomb Bridge Rd., Tapestry House Expansion, The Jennings Group, Land Lot: 824 with the following Conditions:

- 1. The owner/developer shall develop the property in accordance with the site plan stamped "Received March 7, 2013 City of Roswell Community Development Department."*
- 2. A combination plat for the two parcels shall be completed and recorded prior to the issuance of the Land Development Permit.*

3. The owner/developer will add the striping for the sidewalk.
4. The owner/developer will review saving some of the specimen trees and reducing parking on the site as approved by the Community Development Department.

Vote on Restated Motion: The motion passed unanimously.

A motion was made by Council Member Diamond, seconded by Council Member Orlans, that this Item be Approved with the following Conditions:

1. The owner/developer shall develop the property in accordance with the site plan stamped "Received March 7, 2013 City of Roswell Community Development Department."
2. A combination plat for the two parcels shall be completed and recorded prior to the issuance of the Land Development Permit.
3. The owner/developer will add the striping for the sidewalk.
4. The owner/developer will review saving some of the specimen trees and reducing parking on the site as approved by the Community Development Department.

The motion carried by the following vote:

In Favor: 6

Enactment No: R2013-04-18

6.

Rezoning for RZ12-05, CV12-02, 12160 Etris Road, EAH Investments, Land Lot 1236.

Presented by Alice Wakefield, Community Development Director

Community Development Director Alice Wakefield presented this item stating this is a request from the applicant to rezone 16.69 acres of property along the intersection of Etris Road and Kent Road from an R-1 to an R-1 and R-2 for a single family development of 27 lots. Ms. Wakefield displayed a series of materials on the overhead: a location map indicating the property outlined in red; the Future Development map showing suburban residential; the zoning map showing the FC-A Fulton County zoning; and an Aerial map of the property as being currently heavily wooded. She noted that this property is surrounded by a number of FC-A Fulton County zonings. The property is surrounded on the north by single family residential on large tracts of land; the Wexford subdivision is to the south; Edenwilde to the east; and Hamilton Commons to the west.

Ms. Wakefield said this property was zoned in August by Mayor and City Council to an R-1 zoning district. The applicant filed a lawsuit within the 30 days required by state law. Since the filing of the lawsuit, the applicant has been working on a settlement with some of the property owners and that settlement is before Council tonight. She displayed the proposed 27 lot layout site plan on the overhead. She indicated to the east along Edenwilde where the applicant is maintaining three lots they are requesting be zoned R-1 District. She indicated the lots across Etris Road that would be zoned R-2 that requires 12,000 square feet lots. She indicated another area on the map along the subdivision where the applicant is requesting 18,000 square feet lots. She said the backup materials submitted to Council include the agreement with the community with 29 conditions along with additional requirements that are to be included in the HOA covenants. The applicant also agreed that Edenwilde would be added to item #11 of the covenant requirements which is a penalty cost for encroachments into the buffer.

Ms. Wakefield stated staff recommends approval of the revised site plan for RZ-12-05 and CV-12-02, the concurrent variances to the front yard setback and is an

internal setback for the structures with the 29 conditions. The Planning Commission recommendation is that this item be moved forward to Mayor and Council with no recommendations.

Council Comment:

Councilmember Dippolito said Ms. Wakefield had referred to this as a settlement and asked City Attorney David Davidson if this is a court ordered settlement or essentially an offering by the applicant to withdraw their lawsuit if this is approved. Mr. Davidson replied that through discussions via email to the applicant they have agreed to dismiss the lawsuit if this zoning is approved, but it is not court ordered, it would be a mutual settlement. Councilmember Dippolito said then it is a mutual agreement.

Councilmember Dippolito asked Ms. Wakefield about condition #12. He said there is a requirement for the developer to build a stub-out street to the property line and the plat shows the stub-out going to the setback line which is 30' and that was a request of the adjoining property owner. He asked if that was inadvertently left in condition #12. He asked if that should not be within 30' of the property line. Ms. Wakefield said condition #12 is supported by the Department of Transportation because they often run into situations where subdivisions are built out and they don't stub the street all the way to the property lines so the abutting neighbors are under the impression that the road is never going to go through and that becomes their green space. She said based on this agreement that staff believes if it is stubbed-out, if or when it comes through for development, it will connect through the stub to the adjacent property. She said she is not aware if that is something the abutting property owner or any of the property owners has a problem with. Councilmember Dippolito said the applicant requested a 30' setback and perhaps cutting down the trees to put in a stub-out would be inconsistent with what was requested and it is also inconsistent with the plat. This needs to be figured out. Ms. Wakefield said the plat before Council is a concept; it is not the preliminary plat which would have to show all of the improvements based on the conditions that are approved tonight. They would review those conditions based on the land disturbance subdivision plat that is submitted and the conditions of the approval and be certain they are adhered to. She said it is not often that the plat presented at the time of zoning is 100 percent in sync with the conditions; that is the situation here. Councilmember Dippolito said he would like to hear more about this from the applicant and if the adjacent property owner is present, he would like to hear from them as well.

Councilmember Price said she was curious about the access to Kent Road and asked if there is ingress and egress onto Kent Road. Ms. Wakefield said an emergency access through Kent Road is proposed. She said the Transportation Department may have some concerns about that not being a full access but she would rely on them to address that question. She said the current proposal by the applicant is that it be an emergency access. Councilmember Price asked if that is desired by the applicant or something that is decided by the City. Ms. Wakefield clarified that what is before Council is part of the agreement with the applicant, and his discussion and negotiation with the property owners in the area. Councilmember Price said then this is a mutual desire. Ms. Wakefield replied from those two parties. Councilmember Price asked Steve Acenbrak to comment on this.

Transportation Director Steve Acenbrak said he would like to non-concur and said they believe access to Kent Road should be full access and not fire only. Councilmember Price asked if it is paved at that point. Mr. Acenbrak replied not to his understanding but they believe it should be.

Applicant:

Paul Corley, CEO of Edward Andrews Homes said they originally applied for an R-3A

site plan that included 44 homes on smaller lots. They revised that plan to 38 lots and ultimately zoned for 22 lots which did not allow them to go forward with their vision for the project which was to be the developer as well as the builder of the homes in the community. They envisioned that this community would be very high quality with homes in the \$400-500,000 price range. When they were zoned for 22 units, they had some discussions afterwards with several Councilmembers; he thought that in the entire process they had not looked at what the quality of the development was going to be. He said for example what seemed to be a big sticking point was the square footage minimum requirement for R-1 that was a lot size of 1,500 square feet, but they have offered to increase that to 2,600 square feet. He thanked Councilmember Diamond, members of the staff, and the representatives from Wexford, Edenwilde, and Hamilton Commons and said this has been a very long process working together to come up with a plan to increase the lots from 22 to 27. He said the original plan was 44, then revised to 38, then zoned for 22, and they are now asking for 27. He said in return for that they have offered 29 conditions that would increase square footage and guarantee a higher quality home in terms of architecture; they are also offering 13 conditions to be included in the HOA documents. He said there would be landscape buffers to the adjacent communities, and pointed out that the pie shaped lot that backs up to Hamilton Commons that is an R-1 lot and was zoned R-1 also now includes a landscaped living fence. He said they have also included design landscape plans on the entrance along Etris Road and along Kent Road as well as a small pocket park inside the community. He said the plan that is being presented tonight has taken months of working with City Council and staff and many of the neighbors. They tried to satisfy the vision of the neighbors in developing a community that everyone will be proud of with a maximum of 27 homes and lots and an increased square footage minimum from 1,500 to 2,600.

Mr. Corley said he wanted to point out some important points in the conditions. He referenced condition #6 and said there is a very nice landscape plan by B+C Studio that addresses the frontage along Etris Road and Kent Road. He referred to condition #9 and said they worked with the Transportation Department on the sidewalk plan out front and are dedicating right-of-way on condition #10. Condition #19 is about the landscaping and fencing plan along Etris Road and behind specific lots which will go before the Design Review Board. They have provided plans for all of their ponds that will meet City of Roswell requirements. They have a 30' buffer along Hamilton Commons and a 35' buffer along Edenwilde. Condition #23 refers to the living fence with mature trees that will buffer the neighbors they directly abut and condition #25 includes a small pocket park on the new plan. He said there was also a request to increase the maintenance bond to three years; that has been done.

Mr. Corley referred to the list of homeowner documents/covenants and said as he understands, these are not things that can be a zoning stipulation, but he can be mandated to put them into HOA documents so that they are recorded in a legal document. He said 50 percent of the homes will have side entry garages and 50 percent will have a basement. There will be a mix of brick, stone and hardy plank siding. He read item #4: "There shall be no exposed concrete on sides of homes. All water tables shall be brick or stone." He said many builders do not pay attention to the basement side of a house and leave the concrete exposed, but they will make them brick or stone. Additionally, the homes will have nine foot ceilings, granite counter tops, stainless steel appliances and architectural shingles.

Mr. Corley said their whole purpose has been to give Council and the neighbors; a sense of their commitment to this development and from the beginning they have intended for it to be high quality. He said he is not proud of how the zoning started and believes there was a lot of confusion due to the R-3A. What is currently before Council is a revised plan with 5 more homes, 29 conditions and 13 regulations in the

HOA covenants that will result in a community that everyone in the area will be proud of with homes that are consistent with the area. He said the lot sizes are a mix of R-2 on the interior but all exterior lots are R-1; staff reports show there is a mix of R-2 and R-1 size lots all around this property. He said their lot sizes are consistent and their homes will be very high quality.

Mr. Corley said he would like to explain his understanding of the Kent Road issue stating that the Transportation Department had requested an entrance off Kent Road. Mr. Corley said he thought there was a lot of "push back" from the neighborhood in that they did not want to see Kent Road with an access point off of Kent Road. He noted that he was neither for nor against it, however due to the neighbor's concerns they do not have an entrance on Kent Road except for the ingress and egress for public safety with a break-away gate. The requirement is connectivity with a sign that says this could eventually be connected at some point in the future. Mr. Corley said the adjacent neighbor who has a two acre piece of property was opposed to any type of connectivity to this property.

Mayor Wood said the applicant would have opportunity for rebuttal following public comment.

Council Comment:

Councilmember Dippolito noted that this is going to be zoned a combination of R-1 and R-2; he asked how that breaks out. Ms. Wakefield said a portion of the property will be zoned R-1 which is the three lots with a stream coming in and a buffer; the remaining lots will be zoned R-2 but conditioned such that the lots that abut the subdivision will be 18,000 square feet. Councilmember Dippolito referred to the three lots at the top of the site plan along with the large lot that appears to be mostly stream buffer and asked if that is only a buffer, not a lot, and if it would be untouched. Ms. Wakefield displayed the site plan and pointed out the area that would be zoned R-1 and R-2; she indicated an area on the property line and said all of those lots would be conditioned to 18,000 square feet.

Councilmember Dippolito said there are conditions in the resolution, there are conditions that were put together in a memo from Brad Townsend, and there are final settlement conditions that appear to be from the applicant. He said he assumes that the conditions in the resolution condense all of those into one convenient location. Ms. Wakefield replied the resolution lists all 29 conditions. There were only two changes made by staff from what was submitted by the applicant as part of the final settlement. In condition #21 the word "northern" was changed to "western." There was also a change in condition #23 from "Nellie Stevens Magnolia" to "Nellie R. Stevens Holly."

Councilmember Dippolito asked how the requirements included in the Homeowner Documents are part of this approval. Ms. Wakefield replied that the City cannot enforce those but they will become part of the homeowner covenants. Before the applicant gets his land disturbance permit, as part of his preliminary plat process, he will submit that document to the City. Councilmember Dippolito said the City does not have that as a condition but as part of this public hearing. Ms. Wakefield replied yes, it is part of the records. She said for example, if there were not stainless steel appliances in one of the units, then the HOA would have the ability to take legal action for that. Councilmember Dippolito said he was less concerned about the interior of the house but there are a lot of exterior items. Councilmember Dippolito said condition #16 that references the HOA documents implies that this list was included under the settlement document that lists those requirements. Ms. Wakefield replied yes, that document will be presented as part of the final plat process. Mayor Wood referring to the access to Kent Road, said he understands the concern

about having a paved road accessing a dirt road and perhaps making it an emergency access only. He said he could remember when Holcomb Bridge Road was a dirt road and over time, especially over a number of years, conditions change. He said he could support this if it said as long as this remains a dirt road it is emergency access only, but if at some time in the future it is paved, it would then be appropriate to make this connection. He does not want a future Council to have to face the question of whether this road should be opened up once it is paved. The Mayor asked Council to consider making sure this is dedicated to the public and that the curb and gutter and the pavement are installed so in the event this road is paved it is not a matter of coming back to Council for approval; it should simply be that prior Council said it is emergency access only until the road is paved and then it automatically comes down.

Public Comment:

Darren Horvath, 376 Kent Road, thanked Mr. Corley for his cooperation getting this project to this point. He said speaking on behalf of many of his neighbors, they do not like the idea of having open access onto Kent Road or even making it conditioned on whether it is paved and then automatically opens onto Kent Road. There are many neighborhoods in the City of Roswell with far more houses than this project that have cul-de-sacs or dead ends that do not have any access to another road and yet here for some reason, there is going to be access from this little loop from Etris Road onto Kent Road in a neighborhood that has 24 houses. It is unnecessary and not even close to what exists in other parts of Roswell. Brookfield West which is nearby, has many houses, has a break away gate similar to this along Cox Road and it has never had access. In order to get to that area someone must drive all the way around and come out on either King Road or at another entrance onto Hardscrabble Road. There is also a safety concern because Kent Road is a little dirt road and it has had a rash of accidents due to some people driving extremely fast. There have been a lot of issues there with at least two or three rollovers in the period of eight years that he has lived there. His concern is that if this neighborhood develops into what it is believed to be, children will be riding their bicycles there and it will give them a false sense of security to ride on that road, but that issue would not exist with a gate. He asked Council to seriously consider not approving this with access to Kent Road except for the breakaway gate for public safety.

Barbara Hampton, 360 Kent Road, said the first time around with this particular zoning many people expressed their concerns and were very passionate about the conditions. She said they have now reached a negotiated settlement and to change something at the last minute for this small group would be disingenuous to the entire process. She thanked Mr. Corley for his cooperation and said this is a good compromise between not having any access at all and having access for what is required for emergency purposes. She asked Council to consider that a lot of people had come together on this and it would not be right to change something now without all parties knowing.

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

Mayor Wood said he did not think rebuttal was necessary on any of the public comments and asked Councilmember Price for her comments before entertaining a motion.

Councilmember Price asked for an update on the lawsuit. She asked if there was any cost to the City and if it would immediately be dismissed if this were approved. City Attorney David Davidson responded that the applicant filed suit and the City filed an answer; it had cost the City nothing so far, it was all handled in house.

Councilmember Igleheart said he had a question for Mr. Davidson about condition #15 that states, "The open space within the subdivision shall be listed in the Homeowner's Association covenants related to the maintenance of the area." He said the Planning Commission minutes include a great deal about whether or not that should be deeded to the HOA to make it more of a legal property for them. Councilmember Igleheart asked if that condition deals with that or is it just out there to hopefully be dealt with. Mr. Davidson replied that it will be on the record; this is the same kind of requirement as with detention ponds where the City requires them to file and record those items that are maintained by the HOA. Councilmember Igleheart replied it does then deal with that.

Councilmember Wynn asked Mayor Wood if he would clarify what he had said about Kent Road. She said her understanding is that he was not saying to do full access now, but only when Kent Road becomes a paved road. Mayor Wood said if and when it became a paved road he thinks it should be public access at that time. Councilmember Wynn asked if that happens would it still be up to Council at that time to consider. Mayor Wood replied no, if Kent Road is paved it would automatically become public access. He explained that one of the worst mistakes made in this town has been the dead end or cul-de-sac mentality which the City is now trying to reverse to create connectivity. Conditions have changed since Brookfield West and Martins Landing were built and the need for connectivity is now recognized. Mayor Wood clarified that in the future the City needs to recognize that when a road is paved then the reasons for not creating a connection disappear.

Councilmember Price said a number of homeowners on Kent Road have been interested in having it paved so the possibility of that happening could be imminent but no one knows when exactly that might happen. She said at such time it should be dealt with then and not as part of today's discussion.

Councilmember Dippolito expressed appreciation to Councilmember Diamond, Mr. Corley, and the many homeowners and homeowner associations that together had spent hundreds of hours to create a workable solution for everyone; it was a long road with a good outcome. They are down to one issue which is whether there is a breakaway gate. He noted his preference to solve the issue now.

Mayor Wood said he supports the current settlement but thought the settlement should include language which states that if the road is paved in the future then it would become public access, unless the Council at that time makes the determination that it is appropriate to keep it closed. The Mayor clarified that it is appropriate to say today that it is a breakaway gate.

Councilmember Orlans said the last time this came before Council he had expressed some concerns at the end of the meeting. He thanked Mr. Corley, the residents, and board members for their involvement in working through this, which he now believes is a much better project.

Councilmember Diamond said there has been some discussion about this being a lawsuit; before they had discussions they verified that at that point, the lawsuit was not in the picture. She said that for legal expediency they want to make sure that there is no lawsuit at the end of this process; that was not the impetus for doing this; this was truly the developer and the neighbors coming together to find a better solution for everyone. She noted that this process has been a wonderful experience with a very impressive group that lives in the area that she enjoyed getting to know. She said her impression of the Kent Road breakaway gate issue is not so much that it is a dirt road but that it is an access and a safety issue. Whether it is paved or not does not figure into this. She said she would be more comfortable if that discussion

was had in the presence of all effected neighbors in that area.

Councilmember Diamond asked Mr. Davidson if it is necessary to read all of the conditions for the record. Mr. Davidson replied that she could refer to the list.

Motion: Councilmember Diamond made a motion for approval of A Resolution that the Mayor and City Council grant approval for property located in Land Lot 1236 of the 1st District, 2nd Section for a rezoning with concurrent variances to allow for 27 single family homes per Case # RZ12-05 and CV12-02 located at Etris Road and Kent Road with the 29 conditions referenced by staff with the following changes: Condition #12 - The owner/developer shall have connectivity to the parcel located to the north on the tract one side of the property for future development. The developer shall completely build the stub-out street to the 30' buffer line to be finished prior to the final plat. (The word "west" was changed to "north.")

Condition #16 - The Homeowners Association documents, including items 1-13 in the settlement documents, must be recorded in conjunction with the final plat and prior to the issuance of the first single family home building permit.

Referencing Condition #16 is Item #11 of the Homeowner Documents/Covenants that reads, "EAH Investments will include a provision in the Homeowner's documents outlining the 30-foot wide buffer abutting Hamilton Commons and the 35-foot wide buffer abutting Edenwilde is a natural buffer and must not be disturbed. The HOA documents will include a provision establishing a \$2,500 penalty if the buffer is disturbed." (The words "and the 35-foot wide buffer abutting Edenwilde" were added.)

A motion was made by Council Member Diamond, seconded by Council Member Dippolito, that this Item be Approved with the following conditions:

- 1. The owner/developer shall develop the property in substantial accordance with and in accordance with the revised site plan dated 11-26-2012 revision and attached hereto. (Stamped Received March 4, 2013 Community Development Department).**
- 2. The project will include a maximum of 27 homes/lots.**
- 3. The minimum allowable square footage of homes will be 2,600 square feet in lieu of the zoning requirement of 1,500 square feet. The maximum lot coverage in the section zoned R-2 will be 35% and the maximum lot coverage in the section zoned R-1 will be 30%.**
- 4. Prior to commencement of land disturbance, the owner/developer will provide proof that sewer taps have been obtained.**
- 5. The owner/developer will provide screening around all detention ponds as required by the City of Roswell and determined by the City Landscape Architect.**
- 6. The entrance and frontage landscaping to be consistent with plan designed by B+C Studio dated 10-3-2012 and attached hereto.**
- 7. The owner/developer shall remove the cul-de-sac at the end of Public Street A in order to have access from Kent Road. The developer must install a break away gate.**
- 8. The owner/developer will install a break away gate on Kent Road for emergency purposes only.**
- 9. The owner/developer shall install a five (5) foot sidewalk along the entrance as required by the City of Roswell Transportation Department. The owner/developer shall dedicate right-of-way to the City of Roswell to encompass said sidewalk.**
- 10. The owner/developer shall dedicate sufficient right-of-way at the time of the final plat at the corner of Kent Road and Etris Road as required by the Roswell Transportation Department.**

11. The shared drive for the three lots shall be a one-way drive and connect to Etris Road as required by the Roswell Transportation Department.
12. The owner/developer shall have connectivity to the parcel located to the north on the tract one side of the property for future development. The developer shall completely build the stub-out street to the 30' buffer line to be finished prior to the final plat. The stub-out street shall be shown on the preliminary and final plans. The owner/developer shall place a 4' x 4' sign identifying the end of the street as future connectivity.
13. A preliminary plat shall be completed and approved before submittal for the Land Development Permit.
14. The preliminary and final plat shall indicate a no access easement for all lots along both sides of Etris Road and for the lots along Kent Road.
15. The open space within the subdivision shall be listed in the Homeowner's Association covenants related to the maintenance of the area.
16. The Homeowner's Association documents, including items 1-13 in the settlement documents, must be recorded in conjunction with the final plat and prior to the issuance of the first single family home building permit.
17. A steep slope analysis shall be submitted and approved by the City of Roswell prior to the submittal for the preliminary plat.
18. The owner/developer shall make appropriate lot adjustments to sufficiently comply stormwater management requirements best management practices in a manner approved by the City of Roswell prior to the submittal of the preliminary plat.
19. The owner/developer shall provide a landscaping and fencing plan along the western side of Etris Road behind lots 1-7, 22-24 and pond #2. The landscaping and fencing plan shall be approved by the City of Roswell Design Review Board.
20. There shall be a 20-foot landscaped easement along the western side of Etris Road to be controlled and maintained by the Homeowner's Association. The easement must be shown on the final approved site plan, recorded plat, and recorded as an easement for enforcement.
21. There shall be a 30-foot side buffer along the western property line of the western parcel on lots 11,12,16,17,19, 20 and 21.
22. There shall be a 35 foot buffer between the subject property and Edenwilde Subdivision.
23. The owner/developer will provide a living fence similar to photos attached of plantings at Crabapple Manor. This fence or planting option will apply to areas along property lines in Hamilton Commons and Edenwilde where homes in new development abut existing homes. Trees planted within the 30 foot buffer must start at 6-7' tall, planted in groups of 5, 2 deep and staggered 12' centered (as per the photos provided, which is consistent with the "living fence" in Crabapple Manor.) The specific trees chosen will be a combination of the following, due to their potential height: Green Giant Arborvitae, Bracken Brown Magnolia, or Nellie R Stevens Holly.
24. The landscaping plan, per B+C Studio, will also pertain to Kent Road as required by the Land Development Plan and as approved by the City's Landscape Architect.
25. There shall be a pocket park, in the specified location as indicated on the site plan, dated 11-26-2012 as attached hereto.
26. Minimum street front setbacks: R-2 zoned properties shall be 25 feet and R-1 zoned properties shall be 25 feet.
27. Three year Maintenance Bond held by the City of Roswell.
28. All drainage design will comply with the City of Roswell regulations.
29. All construction activities will adhere to the City of Roswell Code of

Ordinances, Section 5.1.13, Construction Activities Restricted to Certain Hours.
The motion carried by the following vote:

In Favor: 6

Enactment No: R2013-04-19

7.

SB-201300500, 900 Myrtle St., AEC/Steven Rowe.
Presented by Jackie Deibel, Planner III

City Planner Jackie Deibel presented this item stating that this property is located at 900 Myrtle Street and is bounded by Myrtle and Forrest Streets on either side. An aerial map was displayed on the overhead. Ms. Deibel pointed out a pipe located on the northwestern portion of the property that goes from the back portion of the City property onto this property. She said the applicant is proposing to redirect the pipe to the stream along the southern property line. She referred to the stream buffer variance shown on the site plan and said the applicant is asking for a stream buffer variance to the entire 50' undisturbed buffer and the 75' impervious setback to allow for the proposed single family home development. The applicant has requested the variance through the state EPD; they are currently in review of the proposal. The variance will allow for the applicant to improve the vegetation which is located within the buffer and which will then in turn help improve the condition of the creek. She said she has spoken with both the City Engineer and the Stormwater Water Resources Engineer; they both walked the site, reviewed the creek and condition of the vegetation; both recommended approval of this variance request with the following two conditions:

- 1. The applicant/developer shall provide a stabilization plan for the stream conforming to Streambank and Shoreline Stabilization Guidance Level 1 techniques.*
- 2. The applicant/developer shall provide analysis and streambank stabilization as needed to provide a non-erodible stream channel for the diversion of stormwater from the flowing stream to the stream channel along the southern property line.*

Ms. Deibel said staff recommends approval of this stream buffer variance request with these two conditions from the City Engineer and Stormwater Water Resources Engineer.

Council Comment:

Councilmember Dippolito asked if the variance is to eliminate the stream buffer all together because there will no longer be a stream once it is piped. Ms. Deibel replied that is correct. Councilmember Dippolito asked what would happen if they don't get approval from the state. Ms. Wakefield explained if the applicant does not get approval from the state they will not be able to develop as proposed. The applicant would either have to walk away from the development or redesign in a way that works around the state buffer. Councilmember Dippolito said it is reasonable to eliminate the buffer if the pipe is relocated but City approval would need to be made contingent upon state approval because if that doesn't occur then the situation changes. He asked if the applicant could address that issue.

Mayor Wood said he would like a better understanding of what is occurring on this site other than the swale; he asked for an overall view of the development in order to put it into perspective.

Applicant:

Dave Schmit, the property developer said this is their first opportunity to develop with the Form Based Code. He said the site plan has been set in conformance with the code and they have reviewed it with Community Development. He displayed the proposed site plan and said there are 21 houses with 40' wide lots and 30' wide houses all in a cottage style product. He said lots 1-6 and 11-18 face out to the road

and will have porches along Myrtle Street and Forrest Street and the garage entrances are from the rear. Upon entering the development from the side on Myrtle Street, you would be in the back of lots 1-6 and 11-18. He said lots 7-10 and 19-21 face an interior park area; garages will face that but that view will not be seen from the public road.

Mr. Schmit referred to the issue about the stream buffer variance and pointed out an area on the site plan, a line that runs through the property where the current pond is. He said the main pond will be at the east and south corner of the property nearest the church. They will need to do some water quality to design and detail the center portion of the property but most of the water will be detained in the southeast corner. He said they are simply routing the pipe around to open that area up for further development. The stream is essentially a manmade ditch and not a stream in terms of what they would want to preserve. The southern and eastern bank was built when City Hall was constructed; the pipe was run through during that time and dirt was placed to create the banks so they are not natural. Currently, the conditions are deteriorated at the bottom of the ditch. By routing it around, everything else on the site could be cleaned up and the water that goes onto the site and then leaves the site will be far cleaner than today.

Mayor Wood asked what is between lot #13 and #14. Mr. Schmit replied there is a small pedestrian access to the road. Mayor Wood asked if it would be available for the public to cut through. Mr. Schmit replied it can be. Mayor Wood asked if it is suitable for bicycles. Mr. Schmit replied it would be a little narrow for bicycles but they could look at widening it and said they have not gotten to that level of the design at the stream buffer variance. Mayor Wood encouraged the applicant to look into that and said it would be attractive to people to not have to go all the way out to a paved road to get back to another road. He said people need shortcuts even more than cars and this is another way of getting away from the cul-de-sac dead-end mentality. Mr. Schmit said they would support that.

Further Council Comment:

Councilmember Dippolito asked Mr. Schmit what happens if approval is not received from the state. Mr. Schmit replied if they don't get that approval then they will not buy the property so there would be no development and that can be a contingency of the Council. He added there are three levels of approval: the "corps," the state, and the City. He said the "corps" has approved it but not the EPD. Councilmember Dippolito asked if it would be acceptable to the applicant if the Council conditions this upon approval from the state. Mr. Schmit replied yes.

Councilmember Igleheart asked if the stream is moved to the other side, would that create a buffer requirement for the other properties along that side, or would that eliminate it for either side if they get the EPD variance. Mr. Schmit replied when they go from lot #14 south to lot #18 to the edge and then to the east and they open up the pipe for about 200' of piping which is allowed by the application to the state, then the buffering has to hit back again and they would have to open up. Once they are in that area they will be away from the houses and the other areas. Councilmember Igleheart said then it does not impact the properties to that side because of the new stream. Mr. Schmit replied no because there will be no development on that side anyway so their buffer would be the same as it is now. He said they still have that buffer and currently there is a creek that runs down the southern property line. He said actually two creeks are on the property, the large one that traverses the large pipe and a small one that runs along the southern edge and that will still be there so they have that condition today. The applicant will pipe a portion of it which would actually give them less buffer but when it opens up again, the same condition exists as today.

There was no further Council comment. Public comments were invited. No public comments were made.

A motion was made by Council Member Diamond, seconded by Council Member Dippolito, that this Item be Approved with the following conditions:

- 1. The applicant/developer shall provide a stabilization plan for the stream conforming to Streambank and Shoreline Stabilization Guidance Level 1 techniques.**
- 2. The applicant/developer shall provide analysis and streambank stabilization as needed to provide a non-erodible stream channel for the diversion of stormwater from the flowing stream to the stream channel along the southern property line.**
- 3. The applicant/developer must receive approval for their variance request from the State.**

The motion carried by the following vote:

In Favor: 6

Enactment No: R2013-04-20

8.

RZ12-10 Text Amendment to Section 15.4.1 of the City of Roswell Zoning Ordinance regarding the exclusion of single family and duplex residential lots from minimum tree density requirements contained in Article 15 Tree Protection. (Second Reading)

Presented by Alice Wakefield, Community Development Director

Community Development Director Alice Wakefield presented this item stating this is a request to amend the Zoning Ordinance as it relates to tree density on single family and duplex lots that exceed one acre. This amendment would allow the staff Planning Director flexibility to work with applicants that come in for permits for residential lots that have been vacant without any trees for over ten years. The ordinance currently states that when there is more than one acre then the tree density requirement must be abided which can be quite cumbersome and costly. This amendment is supported by the arborist and it was the arborist's suggestion that some relief be provided for those home builders. She said staff recommends approval of this amendment on the second reading.

City Attorney David Davidson conducted the second reading of AN ORDINANCE TO AMEND SECTION 15.4.1 OF THE CITY OF ROSWELL ZONING ORDINANCE REGARDING THE EXCLUSION OF SINGLE FAMILY AND DUPLEX RESIDENTIAL LOTS OF ANY SIZE FROM MINIMUM TREE DENSITY REQUIREMENTS CONTAINED IN ARTICLE 15 TREE PROTECTION, stating: pursuant to their authority, the Mayor and City Council adopt the following ordinance:

1.

The City of Roswell is hereby amending Article 15 TREE PROTECTION of the City of Roswell Zoning Ordinance, Chapter 15.4.1 Minimum Tree Density Requirements, as follows:

Section 15.4.1 - Minimum Tree Density Requirements

(a) Requirement. A basic requirement of this article is that all applicable sites, including

all single family and/or duplex residential lots one (1) acre or greater in size, shall maintain a minimum tree density of thirty (30) units per acre. The term "unit" is an expression of basal area, and is not synonymous with "tree." The density requirement

must be met whether or not a site had trees prior to development for the issuance of a development permit. Notwithstanding the foregoing, the Zoning Director may grant an exemption for single family and/or duplex residential lots one (1) acre or greater in size, if the applicant for the exemption demonstrates that the lot has not met the minimum tree density requirements for ten (10) years before the year the application is made and that the lot has never been a part of a previous site plan subject to the tree density requirements.

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

Council Comment:

Councilmember Igleheart asked how someone would prove there have not been trees for ten years. Ms. Wakefield replied that the City has aerial photography that goes back many years and they can use that to prove what a lot was like for the last ten years.

Councilmember Price asked if any part of this relates to redevelopment or in the Comprehensive Plan are there any areas that are going from commercial to residential. Ms. Wakefield replied not that she is aware of but that could happen; usually if something changes from commercial to residential then it is very high density residential because you use the commercial property cost factor into that. She said there is not anything in the Comprehensive Plan for changing commercial property to residential.

Public comment was invited. No comments were made.

A motion was made by Council Member Diamond, seconded by Council Member Orlans, that this Item be Approved. The motion carried by the following vote:

In Favor: 6

Enactment No: ORD 2013-04-01

9.

Approval of an appeal to the Article 7.1, Standard Construction Specifications, Section 2.1.6A of the City of Roswell Code of Ordinances.

Presented by Alice Wakefield, Director of Community Development

Director of Community Development Alice Wakefield presented this item stating the applicant is asking to appeal that section of Article 7.1 to allow for a second curb cut. She said the applicant is requesting to defer this item to the April 22, 2013 Mayor and City Council meeting.

There were no questions from Council. Public comment was invited. No comments were made.

A motion was made by Council Member Diamond, seconded by Council Member Orlans, that this Item be Deferred and be placed on the Mayor and City Council agenda for 4/22/2013. The motion carried by the following vote:

In Favor: 6

10. Approval of an amendment to the fee schedule to clarify the fees for Land Disturbance Permits (LDP) for single-family lots and other minor wording changes.

Presented by Alice Wakefield, Community Development Director

Director of Community Development Alice Wakefield presented this item stating this is a request to approve a resolution amending the fee schedule as it relates to land disturbance permits to clarify the fee for single-family lots that will only be \$50 and for land disturbance properties under one acre to become \$125 as opposed to \$250. There was a great gap between the \$50 and \$250 fees. She said staff recommends approval of the amendment and also for minor wording changes as shown in the document.

There were no questions from Council. Public comments were invited. No comments were made.

A motion was made by Council Member Diamond, seconded by Council Member Orlans, that this Item be Approved. The motion carried by the following vote:

In Favor: 6

Enactment No: R2013-04-21

11. Approval of an Amendment to Chapter 5, Building and Construction, Section 5.3.1 (a) - Building and Technical Codes, of the City of Roswell Code of Ordinances (First Reading)

Presented by Alice Wakefield, Community Development Director

Director of Community Development Alice Wakefield presented this item stating this is the first reading of an amendment to Chapter 5 to adopt the national Green Building Standards. As indicated in the draft code, this is voluntary for applicants seeking green certification. She said staff is asking for approval of the first reading of this amendment and to move it to the April 22, 2013 Mayor and City Council meeting with the intent to have this adopted and approved so it will count towards the City's green recertification with Atlanta Regional Commission (ARC). She pointed out that if anyone in the City wants to build green this is the ordinance they would abide by whether or not it is adopted by this Council; it is a state code and voluntary only.

City Attorney David Davidson conducted the first reading of an ORDINANCE TO AMEND CHAPTER 5 – BUILDING AND CONSTRUCTION, SECTIONS 5.3.1 (a), OF THE CITY OF ROSWELL CODE OF ORDINANCES, stating: pursuant to their authority, the Mayor and City Council adopt the following ordinance:

1.

Article 5.3.1(a), Building and Technical Codes – Adopted by Reference of the Roswell Code of Ordinances is hereby amended by adding the following to read as follows:

*Section 5.3.1 (a) - Building and Technical Codes—Adoption by Reference.
The following code is adopted insofar as it does not conflict with the Georgia State Minimum Standard Codes.*

(13) National Green Building Standards - voluntary for those applicants seeking green certification.

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

There were no questions from Council. Public comments were invited. No comments were made.

A motion was made by Council Member Diamond, seconded by Council Member Wynn, that this Item be Approved on First Reading and placed on the Mayor and City Council agenda for 4/22/2013. Council members Orlans, Igleheart, Wynn, Dippolito, and Diamond voted in favor. Council member Price was opposed. The motion carried by the following vote:

In Favor: 5

Opposed: 1

Enactment No: ORD 2013-04-02

12.

Approval of the Tree Care Planting and Replacement Master Plan - 2004 to 2014.

Presented by Alice Wakefield, Community Development Director

Director of Community Development Alice Wakefield presented this item stating this is a request to approve the tree care planting and replacement master plan to extend it from 2004 to 2014. This plan was first approved in 2004. Due to the drought, it was extended to 2008 and then again to 2012. She displayed a list on the overhead and said they have completed quite a few replacement plantings, three are remaining. She said staff will come back to Mayor and Council for a new tree planning plan next year. She said staff recommends approval.

Public comments were invited. No comments were made.

Motion: Councilmember Diamond made a motion for Approval of the Tree Care Planting and Replacement Master Plan - 2004 to 2014. Councilmember Price seconded.

Council Comment:

Councilmember Dippolito said that he had some questions in Committee and hoped that they have now been answered in regards to the Canton Street tree replacement; he asked if it is known which trees those are and their locations. Ms. Wakefield replied no, when she talked to the arborist they had focused on midtown but she could get the information to Councilmember Dippolito tomorrow. Councilmember Dippolito asked about the midtown streetscape. Ms. Wakefield replied it is for replacement of trees that have either died or are too small that were part of the midtown project. She said staff has not moved forward with that because the amount needed exceeds the amount available in the fund at this time. They will need to work with Transportation on a new plan to determine which trees should be replaced. Ms. Wakefield noted that it will come back to Mayor and Council for consideration.

Mayor Wood said this is a master plan and asked if these specific projects will come back to Council for approval before they go forward. Ms. Wakefield replied that items 1-35 have already taken place. Mayor Wood suggested it would be appropriate before expenditures are made to come to Committee for guidance. Ms. Wakefield replied that would be done.

Councilmember Dippolito noted that some of the midtown trees are only about a year old and asked if they were under warranty. He asked if this is just replacing some of

the smaller trees with larger ones. Ms. Wakefield replied yes.

There were no further questions from Council.

A motion was made by Council Member Diamond, seconded by Council Member Price, that this Item be Approved. The motion carried by the following vote:

In Favor: 6

Transportation Department - Councilmember Betty Price

- 13. Approval for the Mayor and/or City Administrator to sign a construction contract with R.J. Haynie & Associates for the Holcomb Bridge Road/ SR92 Advance Traffic Management System (ATMS) Construction Project in the amount of \$1,714,222.55.**

Presented by Steve Acenbrak, Director of Transportation

Councilmember Price introduced the item and said this is something that she ran on in 2009 and is excited to see it nearing completion.

Director of Transportation Steve Acenbrak presented this item stating this is two projects converted into one which is Holcomb Bridge Road that is SR-140 from the Gwinnett County line to SR-9 and then at that point SR-92 goes over the Cobb County line.

There were no questions from Council. Public comments were invited. No comments were made.

Councilmember Price added that they did not lightly enter into the expenditure of this money; it was properly bid and they had chosen the lowest bidder. Mr. Acenbrak confirmed that is correct and said there were three bids and is within budget.

Mayor Wood said he was confident in the procedure that was involved.

A motion was made by Council Member Price, seconded by Council Member Orlands, that this Item be Approved. The motion carried by the following vote:

In Favor: 6

- 14. Approval for the Mayor and/or City Administrator to sign a construction contract with Northwest Georgia Paving, Inc. (NWGP) for the 2012 Local Maintenance and Improvement Grant (LMIG) Road Resurfacing Contract in the amount of \$559,170.41.**

Presented by Steve Acenbrak, Director of Transportation

Director of Transportation Steve Acenbrak presented this item stating they received eight bids; they were above the Local Maintenance and Improvement Grant (LMIG) amount. LMIG from the Georgia Department of Transportation (GDOT) is based on a formula of center line miles and population. The grant amount is \$497,000; the bids came in significantly above that. Staff is recommending that they bid each road individually and are proposing to resurface Mountain Park Road from Old Mountain

Park Road to Hwy 92 and Grimes Bridge Road from the roundabout past the bridge to Dogwood Road. These two projects would cost the City \$559,170.41; the difference is \$62,170.41; staff proposes taking that out of the existing resurfacing budget.

Council Comment:

Councilmember Price said a number of people are probably disappointed that Woodstock Road has been taken off the list for this year. She asked if that means they have to find another funding source or is it appropriate to be funded in this way next year. Mr. Acenbrak replied it will be rolled over to next year's funding.

Councilmember Dippolito asked if either of these roads has enough width to provide bicycle shoulders. Mr. Acenbrak replied that they added some shoulders to Mountain Park Road which goes through a ridge line and had been under pressure over the years and some of the edges had collapsed so they pulled some of that back, repaired the drainage and added a binder to act as an area that will receive a wider portion. They have done an enormous amount of work along that entire corridor in areas that do not have curb and gutter which restricts ability to add bicycle shoulders, but as it is repaved there will be bicycle shoulders. He said Grimes Bridge Road is different because there is existing curb and gutter through the entire length; however it is fairly wide and when it is repaved it will be restriped for narrower lanes to get as much bicycle shoulder as possible.

Councilmember Dippolito thanked Mr. Acenbrak saying that is an important part of the City's cycling program to have bicycle shoulders wherever possible.

There were no further questions from Council. Public comments were invited. No comments were made.

A motion was made by Council Member Price, seconded by Council Member Orlands, that this Item be Approved. The motion carried by the following vote:

In Favor: 6

City Attorney's Report

15. Recommendation for closure to discuss litigation and real estate.

A motion was made by Council Member Wynn, seconded by Council Member Orlands, that this Item be cancelled. The motion to cancel closure carried by the following vote:

In Favor: 6

Adjournment - With no further business, the Mayor and Council meeting ended at 8:48 p.m.