



LS # 12-0036

RZ Case #: RZ 12-04  
12020091

CV Case #: CV 12-01  
12020100

CU Case #: \_\_\_\_\_

## ZONING APPLICATION

### TYPE OF REQUEST:

- ☒ Rezoning  
☒ Concurrent Variance  
☐ Conditional Use  
☐ Text Amendment  
☐ Other (Explain)

Present Zoning FC-A  
Requested Zoning RTH-A  
Proposed Use Residential  
Total Acreage 5.03

### PROJECT

Nesbit Ferry Road Tract

Name of Project 9050 Nesbit Ferry Road Roswell, GA 30076  
Property Address/Location 835 1st 2nd Suite/Apt. # City State Zip Code  
Land Lot District Section Property ID 12-2930-0822-025-9

### APPLICANT/OWNER

Dane Nesbit  
Applicant 633 Pawley Place, Sandy Springs GA 30328  
Company

Mailing Address Suite/Apt. # City State Zip Code

Phone 404-343-2728 Cell Phone 404-981-4040 Fax Phone 404-931-1890 E-mail danenesbit@gmail.com

### REPRESENTATIVE

Daryl R. Cook, Watts and Browning Engineers, Inc.

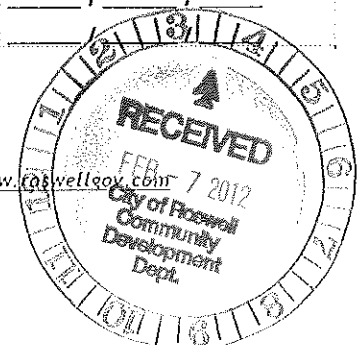
Contact Name and Company (Owner's Agent or Attorney) 5582 Peachtree Road Atlanta GA 30341  
Contact Mailing Address 770-451-7453 404-354-9188 Suite/Apt. # City State Zip Code  
Phone Cell Phone Fax Phone E-mail dcook@wbengr.com

I hereby certify that all information provided herein is true and correct

Applicant Signature: Property Owner or Owner's Representative

Date: 02 / 06 / 2012

OFFICE USE Fee: \$ \_\_\_\_\_ ☐ Cash ☐ Check # \_\_\_\_\_ ☐ CC - Visa/ MC Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
☐ Approved ☐ Denied By: \_\_\_\_\_ Date: \_\_\_\_\_





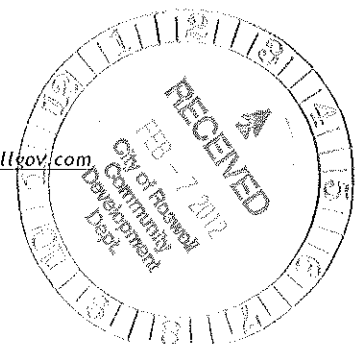
### Analysis Requirements

**REZONING APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 6 pursuant to O.C.G.A. 36-67-3. Further, please complete criteria 7 through 23, as noted below.

**CONCURRENT VARIANCE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 23. Complete also the Concurrent Variance Justification, questions 1 – 7 at the end of this section.

**CONDITIONAL USE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 8; also 13, and 18 through 22. Criteria 9 through 12, and 14 through 17, and 23 are NOT required to be completed for a Conditional Use Application.

1. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.  
The proposed use of attached single family homes is nearly identical use to that of the surrounding property developed as Devonshire. The proposed density is lower than the adjacent property with homes priced somewhat higher than those in Devonshire. Across Nesbit Ferry Road are two older communities, Eagle Glen and Nesbit Place, both townhome developments.
2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.  
In my opinion, the proposed rezoning will not adversely affect adjacent properties. This tract is separated by an 8' high wall and 50 buffer on three sides and bounded by Nesbit Ferry Road to the east.
3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned.  
The property is effectively zoned Agricultural which currently does not provide a reasonable economic use of the property. The overlying Roswell E2 zoning would require minimum 1.0 acre lots, which are basically non existent in the surrounding communities and thus not economically feasible nor justifiable given historical data of similarly developed properties within this area of the City of Roswell.
4. Whether the proposal will result in a use which would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.  
The proposed use will not, in my opinion, result in a use which would cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools. Based on recent research the streets, utilities and schools are not currently over capacity, per se, nor would they likely feel any adverse impact of the proposed 19 new homes proposed.





5. Whether the proposal is in conformity with the policy intent of the Comprehensive Plan including land use element.

The proposal is in conformity with the polity and intent of the current Comp Plan including land use element in that the proposed residential use and low density proposed is consistent with the approved plans for this area of Roswell

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

This property is bounded by fully developed, higher density properties. This property is no longer occupied and is in a state of disrepair due to the current zoning and limited use of this property. The existing condition of the property may continue to deteriorate. The only sensitive areas of the property are intended for preservation (trees) in this proposal.

N/A

An applicant for an amendment to the official zoning map may decline to provide any information related to criteria seven (7) through twenty-three (23) if he or she completes, signs, and notarizes the following statement:

*"I do not regard the information required by the City, or any portion thereof as indicated, as necessary or relevant to the City Council in their consideration of my application for rezoning. I stipulate that such information shall not be relevant to the City Council in their deliberations or to any court in its review of the decision on my application for rezoning."*

Owner of Property (Signature)

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

*The above named individual personally appeared before me, and on oath states that he/she is the \_\_\_\_\_ for the foregoing, and that all above statements are true to the best of his/her knowledge.*

Notary Public (Signature)

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

My Commission Expires:

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

7. An explanation of the existing uses and zoning of subject property.

The property is currently zoned FC-A which requires a rezoning for any proposed of the property from its current limited use of a single single-family residence on the 5 acre parcel. The property has been vacant and in an declining state.

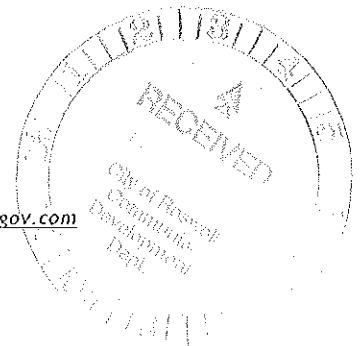
8. An explanation of the existing uses and zoning of nearby property.

The adjacent properties are zoned for similar use of single family attached homes via A (Apartment) zoning for the adjacent Devonshire community at a density of approximately 6 units per acre.





9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification.  
The value of the property is limited to that of other nearby single family detached homes on 5 acre parcels (few exist), but can only realistically be compared to a property of much smaller lot size which severely limits the actual "value" of this property.
10. Whether the property can be used in accordance with the existing regulations.  
Currently the property can only be used as is in accordance with existing regulations. The existing use is a single small, outdated and deteriorating home on the 5 acre parcel.
11. The extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification.  
The current zoning and use of the property severely limits the value as nothing can be done to improve the property without a rezoning. The current single single-family home is not a desired use for this property such that the value is diminished.
12. The value of the property under the proposed zoning district and/or overlay district classification.  
The value of the property under the proposed zoning will be more in line with the adjacently developed and similarly zoned (residential attached townhomes) properties. Ultimately the "market" determines the value of the property.
13. The suitability of the subject property under the existing zoning district and/or district classification for the proposed use.  
The current zoning of the property offers no reasonable use beyond the current use of one single single-family home on the 5 acre tract.
14. The suitability of the subject property under the proposed zoning district and/or overlay district classification.  
The subject property is of an appropriate size and location (relatively to similarly developed properties) such that it is well suited to the proposed zoning of 19 single family attached homes.





15. The length of time the property has been vacant or unused as currently zoned.  
The property has been unoccupied for several months.
  
16. A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district.  
It is the applicant's understanding that the property has been properly "listed and posted" for the past several years.
  
17. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts.  
Since the proposed zoning is compatible with the adjacently zoned property, the possible creation of an "island" is not likely.
  
18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district.  
The proposed zoning's use and density is consistent with the character of the zoning district.
  
19. Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.  
Since the adjacent properties are fully developed as attached residential townhomes and since the proposed homes will likely have a significant higher price, the proposed rezoning will have do detrimental effect on adjacent properties.
  
20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.  
The development's proposed layout has been designed to limit any detrimental impact to the environment though design and development techniques utilizing appropriate state, local and federal regulations. The cluster of specimen trees along Nesbit Ferry Road will be preserved, a bio-retention facility is proposed to handle on-site stormwater management and appropriate sediment and erosion control BMP's will be employed to ameliorate sediment runoff.



21. The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given as to whether or not the proposed change will help to carry out the purposes of these zoning regulations.

The proposed zoning and development's layout is consistent with the intent to protect the natural resources of the City of Roswell as well as protect its citizens while affording the owner and applicant with reasonable use of said property.

22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

Great pains have been made to preserve the trees and street frontage character of the property while accommodating the City's requirements for road improvements, sidewalks, bike lanes and landscaping.

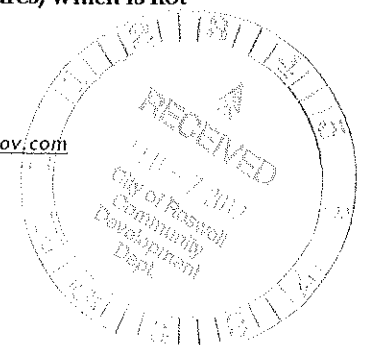
23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.

To the best of applicants knowledge this is a unique tract and and is unaware of similarly situated tracts.

#### **Concurrent Variance Justification If Required**

An applicant requesting consideration of a Concurrent Variance to any provision of the Zoning Ordinance shall provide written justification that one or more of the following condition(s) exist:

1. There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape, topography that are not applicable to other lands or structures in the same district. YES, PLEASE SEE LETTER OF INTENT
2. Any information whereby a literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the applicant's property is located.
3. Any information supporting that granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located. YES, PLEASE SEE LETTER OF INTENT
4. Any information that the requested variance will be in harmony with the purpose of the intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. YES, SEE LETTER OF INTENT
5. Any information that special circumstances are not the result of the actions of the applicant. YES, SEE LETTER OF INTENT
6. Any information that the variance request is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
7. Any information that the variance shall not permit a use of land, buildings, or structures, which is not permitted by right in the zoning district or overlay district involved.





### Application Signature Page

Please complete this Applicant Signature Page for ALL applications. READ CAREFULLY BEFORE SIGNING.

- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the *Roswell Zoning Ordinance*) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.
- I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My signed Campaign Disclosure Statement is included with this Application (required for rezoning only).
- I understand that due to a sewer allocation system controlled by Fulton County, sewerage capacity may not be available. I agree to arrange sewer service separately from this application. The method of sewage disposal that is planned for this property is:

Check one:

☒ Sanitary Sewer

☐ Septic Tank

*I respectfully petition that this property be considered as described in this application*

From Use District: FC-A To Use District: RTH-A

Wherefore, applicant prays that the procedures incident to the presentation of this petition be taken, and the property be considered accordingly. Additionally, applicant further acknowledges and fully understands all above statements made by the City of Roswell.

#### APPLICANT SIGNATURE (REQUIRED FOR ALL APPLICATIONS)

*I hereby certify that all information provided herein is true and correct.*

[Signature]  
Owner of Property (Signature)

633 Pawley Place Sandy Spring GA 30328  
Street Address, City, State, Zip

2/6/12  
Date  
404-343-2728  
Phone

#### NOTARY

Personally appeared before me the above Owner named Dane Nesbit who on oath says that he/she is the Applicant for the foregoing, and that all the above statements are true to the best of his/her knowledge.

[Signature]  
Notary Public (Signature)

2/6/2012  
Date

12/03/2015  
Date Commission Expires

#### ATTORNEY/ AGENT (IF APPLICABLE)

[Signature]  
Attorney/ Agent (Signature)

582 Peachtree RD A/C 30341  
Street Address, City, State, Zip

02/07/12  
Date  
4-354-9188  
Phone



### Campaign Disclosure Ordinance

Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting a Rezoning, Concurrent Variance, or Conditional Use.

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

\*38069 Code, 36-67A-3

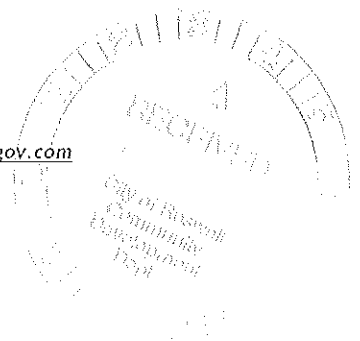
### CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

#### 36-67A-3 Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)

*Official Code of Georgia Annotated Copyright 1982 - 2000 State of Georgia.*







### APPLICANT CAMPAIGN DISCLOSURE STATEMENT

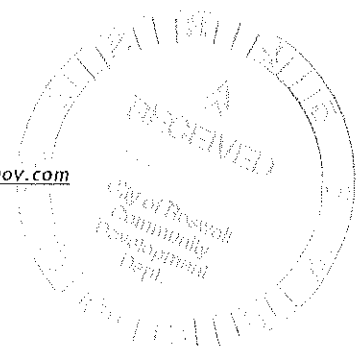
Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Roswell City Council or a member of the City of Roswell Planning Commission?

☐ YES ☒ NO

Dana Nash 2/6/12  
Applicant/Owner of Property (Signature) Date  
633 Pawley Place S. Spring Sp 30324  
Street Address, City, State, Zip

If the answer is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount





**Planning & Zoning Director Acceptance Stamp**

- ☒ Rezoning
- ☒ Concurrent Variance
- ☐ Conditional Use

RECEIVED BY THE CITY OF ROSWELL

ZONING OFFICE Feb. 7, 2012  
Date

APPROVED FOR INITIATION OF A ZONING  
AMENDMENT TO THE ROWELL ZONING  
ORDINANCE AND ZONING MAP BY THE  
ZONING DIRECTOR.

Bradford D. Downes  
Zoning Director

TIME: 10:16 DATE: Feb. 10, 2012

THIS APPLICATION SHALL BE CONSIDERED  
AND MAY BE REFERRED TO AS REZONING  
PETITION NUMBER \_\_\_\_\_

R212-04, CV12-01

