

Cheryl Greenway asked if there were any other questions for the applicant. Hearing none she asked the applicant to take a seat and she opened up the hearing to the public and then give Beckman a chance to comment on anything they have to say. Keri Beckman thanked Cheryl Greenway.

At this time Cheryl Greenway stated that she would like to open the meeting up first to the public for anyone who would like to speak in favor of the applicant. No one came forward to speak in favor of the applicant. Greenway opened up the meeting to anyone wanting to come and speak in opposition of the applicant. Again, no one came forward. With that Cheryl Greenway closed the public session and asked if there were any comments or a motion.

Bryan Chamberlain stated that he thinks it is great that the utilization like this is possible in that space. It has sat empty for quite a while. He is hoping that the sign can be used as it is. He has no idea on that but it has good visibility so that people can see to turn in there, so that people can see to turn in there. It is a little hard to see. He appreciates the applicant putting together that opportunity to assist those who are home schooled but also have that collective experience of getting together with other folks.

Cheryl Greenway asked if there were any other comments or a motion.

Motion

Joe Piontek made a motion that the Roswell Planning Commission approve CU2013-03673 Conditional Use of 1565 Holcomb Bridge Road for the Regina Caeli Academy given the staff recommendations 1 through 4.

Cheryl Greenway called for a second. Keith Long seconded the motion. Cheryl Greenway stated that they have a motion and second for approval with the conditions 1-4 listed in their materials. Greenway called the question.

The motion passed unanimously. 4-0.

CONDITIONAL USE

14-0036

CU 2014-00051, CV 2014-00070

ROSWELL AUTO PARTS

10469, 10471, 10473 Alpharetta Street

Brad Townsend stated that this is a proposed conditional use for Roswell Auto Imports. This is the proposed location. As one can see, it takes in three existing sites. Townsend stated that he is sure that those who have been around Roswell long enough remember at least two eating establishments and a dry cleaner were located on these. They have not been occupied for some time. The proposed auto dealer is currently in operation at the location and corner which would be purchase by the school board. The applicant's desire is to stay within the community. He is under contract to purchase the three properties. He would combine them and create a three-quarters of an acre piece of property, which is the minimum requirement for use automotive sales and it enable him to sell the remaining portion for some type of commercial use. This would be the property to the north.

The current zoning of the property is C-3. It has the industrial behind it which has the auto around the storage buildings behind it. The applicant wishes to use this as a used automotive, move his existing establishment to this location. He would use the auto cleaner building as his offices and would add onto the rear of that for some cleaning location.

Staff has recommended denial of this location for a conditional use. They do not feel that it is appropriate to start allowing any more used car dealers in this location as well as the request does include a variance request to not provide proper detention storage on-site for water quality and water detention, as well as a variance on the landscape strip. If the Commission chooses to recommend approval, staff has proposed seven conditions which are included in their backup material for this application.

Cheryl Greenway asked if there were any questions for Brad Townsend and the city.

Cheryl Greenway stated that she does have a couple of questions for Townsend. Looking at the picture he has up now, is she understanding correctly that they are going to keep the building that was the old dry cleaners? Townsend stated that was correct. Greenway continued that they would tear down the other ones that she thinks were all fast food type place? Townsend stated that was correct. With this being C-3 on this landscape issue, could Townsend expand on that a little more as far as the requirement and what they are wanting to do there?

Brad Townsend presented the proposed site plan. Some of the other changes that would take place if this was approved, there are three curb cuts on Alpharetta Highway. They would reduce that to two locations. One for whatever future development would end up in this location and the entrance into the used car area. This is the building that would remain. They are proposing some bio-retention in this area of the location and some landscaping in here and landscaping here. This is the five-foot not meeting the requirement along the rear so it is not really Alpharetta Hwy. exposure, it is more Norton Drive where they are not providing that. It narrowly gives them the circulation and as one can see it is set up as a used car...cars here, cars here, stack them in there as a location and once it gets established Townsend is sure this ends up two rows, two rows, two rows and to how many they put in there.

Cheryl Greenway clarified that one of the buildings that they are tearing down would just stay vacant for right now. Brad Townsend stated that was correct unless it was sold in another approval for some other development that meets the C-3 requirements would come in.

Bryan Chamberlain asked Brad Townsend if the total three-quarters of an acre requirement is satisfied by the composite of all three parcels or just the two. Townsend stated just the portion that they are showing that is three-quarters of an acre. This ends up a half of an acre left over that would develop into something else.

Chamberlain asked Townsend to refresh the Commission's memories about the position the city has on not wanting to expand more used car lots or car lots in that section of town. That is somewhat compliant with the whole future land use plan for that area, is that correct? Brad Townsend stated that was correct. Some years ago they established that used care establishments were a right that existed for any type of development in the C-3 location. They then changed that to a conditional use process and required a minimum of three-quarters of an acre for any new ones to establish. So, the desire is for used cars to find some other location

within the community besides this spot. Bryan Chamberlain clarified that that is generally is on north on Alpharetta Hwy. Townsend stated that was correct.

Cheryl Greenway asked if there were any questions for the city. Hearing none she thanked Brad Townsend and asked the applicant to please come forward.

Don Rolader, 11660 Alpharetta Hwy., Suite 630, Roswell, GA presented the application. Rolader stated that he is here tonight on behalf of Ramin Roohi who is the applicant. This application is simple. The application is for a conditional use permit for a used car sales facility. And it has two variances with it. The property is zoned C-3. It is the most intense commercial zoning category in the city of Roswell referred to as Highway Commercial. Rolader stated that he wanted to take a minute with the Planning Commission and explain to them how Ramin Rudy got here.

Ramin Roohi has been a business person in the city of Roswell at that same location for 16 years. He has run a good, clean, honorable business, never had a complaint, never had an issue. He raised his children and educated them from his business that is there. Through no choice of his own, the Fulton County Board of Education decided that the old antique mall shopping center, Thai House property and Roohi's property, which is on the bottom end of it, were going to be condemned for a new Fulton County School Board facility. The power of condemnation is strong, Roohi didn't have any choice. They said they were going to take his property, you are gone. So that puts Roohi at some risk. The school board people then contacted people in the city of Roswell, some discussions were held, further discussions were held and the piece of property the Commission is looking at tonight was identified. Subsequent to that there was what Rolader calls a big meeting or a big pow-wow that involved Kay Love and the city attorney and Alice Wakefield and Brad Townsend and representatives of the owner of the property, Mr. Orkin and a discussion was held at that point in time about relocating to this area. Nobody told Roohi at that point in time that they did not want him to leave there. That was not the discussion at all. The result of that last discussion was that this application was put on an accelerated time frame so that it might be considered rapidly so that Roohi could hopefully vacate his existing location in time for Fulton County to commence its construction activities. He is under the gun. It is the only reason that Roohi is here tonight. He didn't choose to do this. He loves the city and he loves his business. He sells generally imported cars. Nice cars, he has a good business. But that is how he got here.

Don Rolader stated that they are not increasing the number of used car dealerships in the city or along SR 9 if this conditional use permit is approved. They are simply replacing Ramin Roohi's existing business. It is kind of interesting when one has been in a place 16 years, he has made a good living, he is happy there, and he is uprooted. It is bad enough that they take his land, they pay him for that. They don't pay one a lot of money for his business. He can just go somewhere else. Roohi did not choose this site voluntarily, he was directed to this site. So if one looks around this property he will see just about every kind of intense commercial use he can and more than that. North is a restaurant and retail zone, C-3. South, which is behind Roohi is a self-storage facility. It is zoned I-1. That is what one use to call the old industrial district. That is probably the most intense zoning district in the city. The only neighbor Roohi has on Horton Drive is a gated, fenced, storage facility. It doesn't have occupants, it doesn't have people who live there, it doesn't have people look and go, "Oh Golly there is a used car lot." It is just a facility where people store their goods. To the east this property is zoned C-3. Part of it is used for office. And to the west, lo and behold is a used car sales facility zoned C-3.

Ramin Roohi seeks two variances with this. The first variance is along Horton Drive which is the back of the property. And it is to reduce the landscape strip in the back from 10 feet to five feet. It makes good sense. There is no negative impact to the community. The self-storage facility is not going to lose business if that landscape strip is five feet. On the frontage, along SR 9, Alpharetta Street the applicant intends to meet the standards so they are not asking for a variance that impacts the public, the view of SR 9 or the hopeful improvement of it. So, the request is in the rear and there is nothing back there but that self-storage facility.

The other variance relates to storm water drainage, storage and water quality. Presently that whole strip down through there doesn't have any. Basically, that whole area is a piece of pavement. They had already proposed a water quality treatment facility that would improve the treatment there. The city of Roswell is most insistent about actually doing storm water detention. Rolader would tell the Planning Commission that at this moment their request for that variance stands but they are taking that under consideration. Brad Riffle with AEC, who is Rolader's land planner and developer and with AEC Engineers is studying that. They hope to reach an agreement with the applicable people in the city of Roswell prior to the final hearing on this matter on March 10, 2014. So, Rolader stated that he would not wear that one out. He understands the need in the city for storm water detention. He understands that this is a very, very small site. If it were residential he does not think it would be an issue. But rather than make issue of it tonight, Rolader asked that the Planning Commission give their recommendation on that variance as they see fit. But they are facing it and dealing with it and seeing if they can't resolve it prior to the final hearing.

Don Rolader stated that he wanted to discuss the conditions briefly with the Planning Commission. There are seven conditions presently. One and two are simple. No. 3 says that there is no CO until the demolition of the two buildings proposed to be removed has been done and that the reconfiguration of the parking lot area will require a land development permit. They only challenge or questions those two conditions if they are not able to get a temporary occupancy permit. The gun is at the back of the head of Ramin Roohi. The county at some point is going to be moving out. Right now, that proposed move out date is May 1, 2014. Rolader does not know how that is going to come along but assuming this application were to be approved and that Brad Riffle could move at the speed of light, they are very challenged by a May 1 date to be able to occupy. They agree with the final result of both of those conditions but would ask the Planning Commission and ask the city council to consider a catch in them by saying that is fine but they would give Roohi a temporary occupancy permit so his cars have somewhere to go.

The landscaping which Don Rolader stated deals with conditions 5 and 6, again he will not make large issue with the Commission tonight. They have to preserve enough parking area to put the vehicles there to make the business operate. Presently, there is nothing much there except some trees along the perimeter. Again, Rolader will engage the proper people on the city staff and see if they reach a resolution of that that makes everybody happy. He is not saying that they violently disagree with either condition 5 or 6. But he is saying that he cannot wholeheartedly concur with them tonight until Brad Riffle goes along and talks with the people involved.

Condition No. 7, Double hedgerow of landscaping to meet the Unified Development Code requirements. Don Rolader does not think they are dealing with the Unified Development Code

yet. They are dealing with the city zoning ordinance in the city of Roswell. He cannot deal with future things that may or may not come to pass or when they come to pass is in doubt. And certainly the maps that will directly affect the UDC have not been approved. They are not even too far along. So, he challenges the decision of the city to make a condition on this zoning that reflects some future zoning ordinance that is not in effect and in law right now.

Those are Rolader's comments on the conditions. He would like to talk to the Planning Commission in summary a little bit. The summary goes this way. The applicant is entitled to a conditional use permit if he meets the criteria in Section 31.1.12 of the city zoning code. That basically requires that it bear a reasonable relationship to the public health, safety, morality or general welfare. Rolader does not think anyone will argue that the operation of an automobile sales facility is detrimental to the public health. There are 11 of them up and down that street right now. He does not think that it affects public safety. They have not heard traffic say, oh no, don't put a used car dealership in there, let's put a fast food restaurant and generate 25 times the traffic. He does not believe that is an issue. The morality? They are not operating an adult entertainment facility they are operating a lot that sells imported automobiles. Or does it interfere with the general welfare? Obviously not from the looks of the ones that are there.

What they do have is if the city denies this conditional use application, it takes away Mr. Roohi's business that he didn't want to hand over and voluntarily give up to start with. For the property owner, it leaves this property dormant. It has been dormant for seven years. Those old buildings are sitting there. The area no longer supports fast food uses. If one has been around here as long as Rolader and Cheryl Greenway have, they can remember all the ones that have been through there and have been in there and except for the Dairy Queen, they are just about all gone.

Point 2: Along Alpharetta Hwy. there are 11 used car sales facilities within one-half mile. Don Rolader stated that he has marked on here in orange, within a half-mile the existing facilities. That one right there is Ramin Roohi's existing facility. So Rolader's question is why are any those any different than this location? There is no difference. The review in the staff in criteria no. 6 said there is one nearby. Now, if they mean one abutting it Rolader will agree with them. He and Brad and Jackie have been friends for years. But if they say that there is only one used car facility around there it is not so. He rode down that strip tonight on the way to dinner, before he got here...there's a bunch of them. So the fact that the city envisions a pedestrian friendly shopping corridor known as the Midtown Roswell LCI, it is not a legal reason to deny this application. Furthermore, Rolader does not believe that that LCI will ever happen unless and until the city of Roswell buys a vast majority of that property, scrapes it clean and then reoffers it for development.

The reason he says that is based on 38 years of doing what he is now. It is not critical to the city, the city didn't generate this. But that strip of land on both sides of SR 9, south of Holcomb Bridge Road, is too narrow to attract any kind of intense commercial development from the private sector as it sits. On top of that, there are so many individual, little bitty tract owners that one could not hem them up. It would be like herding cats. So, the idea that that vision may come true to Rolader if at all and he is doubtful of that is way off in the future. And he does not think it is fair to hold this piece of property and Mr. Roohi hostage to some dream for the future.

Rolader suggests to the Planning Commission that granting of this conditional use application, allowing this dealership to go right where it wants to go, not increasing the number in the city at

all does some good things. It tears down two old obsolete buildings, it reduces a curb cut on there, it puts an active, operating business in there that generates sales tax and perhaps an increase in property taxes as well. It also gives the city the opportunity that should redevelopment come along, obviously Roohi is a normal human being, somebody offers him the price for that property that would allow it to be something spectacular, the price is going to be more than he paid for it. He is going to be one of the first guys to sign up. And that is not to tell one that that Rolader thinks for any shake of the imagination that LCI is a nearby vision. But he is saying to the Planning Commission that allowing Roohi to continue his business in a place that has plenty of what he does not cause any harm to the city. It does some good, it tears down two old buildings they don't need and reduces a curb cut. It puts it in operation and gives them something better than they have. It is not a perfect resolution, but it is a fair and constitutional and legal resolution.

If Roohi's business impacted public safety, if it impacted health, if it impacted the general welfare, or impacted the morals then Rolader could understand the Commission's decision would be no. Because it impacts those, they won't allow it. But Rolader does not believe it impacts any of those.

In real life Roswell today for Rolader and Roohi is endanger of losing his business of 16 years. That is his real risk. Mr. Orkin and his property continue the risk of sitting vacant head on into the future with no rent but having the opportunity to pay city, state and county taxes. There is no present offer for any other kind of use on the Orkin property which has sat there for seven years. Rolader does not think losing an independent, tax paying business owner in Roswell does anything to improve the city. The real solution is to approve this CU, knock down the two old buildings, put the property back into use and let future development come when it may. If they do that, that's a win-win situation. Roohi stays in business, the city gets revenue, the property gets developed, Orkin gets a sale and nothing is worse. Things are some better, not perfect, they are some better rather than sitting there for the next however long looking at those old buildings just sitting there.

So, that is their presentation on this, Roohi coming into this meeting tonight was the most surprised man on earth. He gathered from the meetings that he had been to that he was being encouraged to put this dead piece of property in play, to buy it, and to bring his business there. So, when they received the recommendation last week, he was the most surprised guy in the place. Nobody told him ahead of time, "We don't like you, just go away." Rolader wonders why the city would have moved up his time frame and his time schedule to hurry up a denial of it. Rolader understands that the Planning Commission does not make the final decision, and he certainly does not ask them to. He knows that they make recommendations to council. But he asked in their recommendation that the Commission consider these important things that are important to the land owner, and important to the business owner, and important to the city because of the vacancy and stuff that is sitting there. And that they try to make their decision based on what the law says here and what is sensible and what is reasonable. Everybody doesn't want a lot more used car dealerships, Rolader can understand that. These are real people with real property and real businesses in a real city.

And so, on Roohi's behalf Don Rolader asked the Planning Commission's consideration and please let he and Brad Townsend answer any questions that they may have. They will try their best to do that.

Don Rolader reserved time for rebuttal.

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

Cheryl Greenway stated that she would like to know what the plans are, if this was approved, for delivering cars to the site from the standpoint of thinking of the big trailers that come in to unload cars and such.

Don Rolader stated that he would get that answer for Greenway. He stated that Roohi generally deals in one or two cars at a time. They do not have car transport vehicles deliver their vehicles. A lot of times it is a flatbed wrecker that one puts them up on top of. Sometimes it is one of those transit vehicles that one would see behind a pickup truck that might hold two or three cars. That is the way Roohi receives his inventory.

Cheryl Greenway thanked Don Rolader and asked if there were any other questions.

Bryan Chamberlain stated that he had questions for Don Rolader regarding the density of cars for sale on the proposed property. What is the expected number of cars to be there? Rolader asked Chamberlain to bear with him, he didn't count the spaces but he will get him an answer. On their submitted site plan lay out they have indicated 69 total spaces. There are three customer spaces, three employee spaces and 63 spaces for inventory.

Chamberlain asked if the expectation would be that there would be 67 cars or thereabouts on the property at most times. Rolader stated that he would generally assume that the inventory would stay fairly full, yes. Chamberlain asked about Roohi's current location. Is that just to the north of the paint store? Don Rolader stated that it was just to the south of the antique store, in that big, old shopping center. It is the one on the far side coming down this way. It says Roswell Auto Imports. It looked like to him, first thing in life that it was either a gas station or a tire store.

To some of Don Rolader's points earlier that making the point for doing this. What did he have, five points that if it was immoral, indecent, that kind of stuff, they shouldn't do it?

Don Rolader stated that 31.1.12 is the place in the code that addresses it. Bryan Chamberlain stated that several of the items dealt with public safety that he talked about. Public safety is one of those items there. He travels that corridor a lot coming in and out through some of the side streets. He comes past Roohi's current location a lot. His current location is not creating problems in terms of traffic that Chamberlain has to avoid. But the current location is as difficult if not slightly less difficult for view ability of someone coming off of Norton or coming off of the main street there just above him. So, he would challenge Rolader's position that public safety is not negatively impacted by this. He views it just the opposite.

Don Rolader stated that he appreciates it and asked to give Chamberlain a little response to that, which they discussed at dinner. If one took a standard C-3 use in here, whether it be a restaurant or a drive through restaurant or some kind of retail store and he compares this to it, Roohi has on a massive day a total of eight customers. On a rainy day he may have one or none. His average customer count per day is six and that is over a 14-hour span. So, compared to other uses they might put on the property, Rolader thinks Roohi is less of a public safety risk. He understands, as all of them do that SR 9 south of Holcomb Bridge Road is a busy, busy

place. They have done some median work in there and done some other things, but it is intense and Rolader agrees with Chamberlain. They would be losing one curb cut if they do this.

Bryan Chamberlain stated that in Rolader's presentation he also indicated that future development was quite limited because of the narrow nature of that corridor, which exacerbates the traffic issues as they are now. So he would continue to submit that public safety is negatively impacted not positively impacted just by point of reference. Chamberlain asked about how many vehicles does Roohi have on that lot at any time. Don Rolader stated about the same. Chamberlain clarified that it would be transferring about the same.

Chamberlain stated that going to the five-foot, the request to reduce the 10-foot landscape strip to a five-foot landscape strip, why is 10-foot not acceptable? Don Rolader stated because it is a minor street. It has very little traffic, it eats up usable space and causes them to have to compress this property when there is no compelling reason to do so. One would use a bigger landscape strip to restrict the view into the property. The self-storage facility doesn't have an issue with that. It doesn't have people that get the effectiveness of it.

Bryan Chamberlain stated that he follows Don Rolader's position, but once again an alternate view traveling along there, he is no less desirous of a nice view than if he is one Alpharetta Hwy desiring a nice view. Anyone traveling there he does not think needs to be penalized with a less than nice view. And if they have the opportunity as a developing city in an area that is redeveloping, to in fact improve upon how it currently looks, he thinks that is somewhat of a task of this panel. He is looking at 67 cars with six people a day coming in and saying does not having...if one cuts that down to four spaces that are lengthwise rather than pull in, nine pull-ins and have a 10-foot landscape strip. Is there anyone really harmed by that in that he is not selling 67 cars a day or over a two-day period or even a week's period.

Don Rolader stated that he understands.

Joe Piontek stated that he had a couple of questions here and he appreciates that Rolader is not that guy from Wiseman who like to tell him what he can and can't consider because he is going to ask Rolader some different questions.

Joe Piontek stated that Don Rolader had mentioned the constitutionality of the applicant's right to be able to open the same sort of business that he had before. Piontek stated that he had a couple of questions. What is the inventory of cars now? Rolader stated that 63 is what is put on the plan. Piontek asked how many employees work at the company. Rolader stated that three are planned for at any one time. What is the size of the old lot? Rolader stated that it was six-tenths of an acre. Does Roohi provide financing or insurance services? Ramin Roohi stated that he provides financing.

Piontek clarified that what this business comes down to is a car dealership is inventory, real estate and ancillary revenues like financing and insurance products. Roohi is on a lot now that he was apparently paid...Piontek asked the applicant to tell him about this condemnation. Was he paid a fair price for the property that he sold? Don Rolader stated that he is not aware of what the price was. He was paid a price for the property. Piontek stated that he was not asking what the price was at all. He is just asking if it was a fair price. Rolader stated that he did know. The property was condemned and Roohi has settled with the school board is Rolader's understanding. He was not involved in it. Piontek stated as a real estate attorney, could Rolader

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tell him how a condemnation works. Does one have to receive a fair price for the property though, right? One cannot just take it and give him back,

Don Rolader stated that he thinks the words in the code section are "just and adequate compensation." One cannot take a person's property without just and adequate compensation. That is the general statement. Piontek clarified that one can assume that he received just and adequate compensation. Rolader stated that he cannot assume that, he does not know.

Joe Piontek stated that he did not have any further questions.

Don Rolader stated that he thinks at the time that it was resolved they were all under the understanding that the location that Roohi has applied for today was going to be part of the equation. And that the school board made some concessions with the city of Roswell on development issues in that site that they took that were contingent upon this agreement. So, Rolader's concern for Roohi and the reason that he does not want to make a statement that he cannot stand up to is if everybody thought it was apples and now it is oranges, then he is not sure how that all worked out. That is his concern because it was kind of, this is going to work, that is going to work, we are all happy, here we go. And now that that is going to work Rolader doesn't know the nuts and bolts of it. Roohi had another attorney that did the condemnation for it.

Joe Piontek asked if he could follow up to say that just and adequate compensation that the applicant received for his old lot, which in today's current code that Don Rolader mentioned as well would not be approved because it is a car lot and because it is less than the required three-quarters of an acre, was enough money to purchase a larger lot. But Piontek can assume that that was not part of the contract for condemning the property that he be allowed to re-open another car lot in Roswell. It may have been an understanding but it certainly wasn't ready.

Don Rolader stated that his understanding is, and again he was not involved but it was part of the negotiation of the entire transaction because Roohi's statement was, "Well that is great, you are going to take my property. Now where do I go? I have been here 16 years?" Rolader stated again that he was not involved in that but he knows that at that point in time the Fulton County School Board commenced contact and discussions with the city of Roswell and that those were ongoing for a good period of time and involved multiple meetings. So, he does not know what the twist was in there, he does not know what the final resolution was but he has to assume that making this move was involved in the consideration of how they resolved the entire matter. That's why he was surprised that he is put on an accelerated track to, and his idea is to get this done, and instead what they have is a denial. The variance they can discuss ad infinitum and Rolader understands everybody's input and outgo so he does not have an issued with that. But on the issue of granting the conditional use it was germane in the discussions and negotiations that Roohi had with the school board Rolader believes.

Cheryl Greenway stated that Roohi is free to come up whenever he wants to.

Ramin Roohi, 1197 Alpharetta Street, Roswell, GA. His house is at 8 Wieuca Trace, Atlanta, GA. The imminent domain, he is not sure if the Planning Commission knows exactly how it works. They don't pay for one's business, they just pay for the property and they just pay market value according to their appraisal. That is what they call market value. The market value is based on the use of the property, not just the dirt price. That is the money he received, the dirt

price. They did not pay for his business. They promised him that they would relocate him to a new location. This location was brought up to Roohi from the Fulton County School Board and then he is here today looking at denial.

Cheryl Greenway asked if when Roohi says that they said they would pay for him to relocate. Are they paying for him to move? Roohi stated that imminent domain, the only thing they pay one is the market value of his property but they do pay for relocation. The relocation was this site that they brought it to Roohi's attention. Greenway clarified that they are going to help pay for Roohi to physically move the cars. Roohi stated to relocate, yes. Relocate means moving, he guessed inventory, the staff, and stuff like that.

Don Rolader added not the land price. Cheryl Greenway clarified just the physical moving from point A to point B. Ramin Roohi stated that usually when ones sells a business, he sells the property, the business, the income approach of it, the whole nine yards. When they take it from one, they just pay him for the land. That is about it. Greenway stated that she understood.

Bryan Chamberlain clarified that the applicant was looking for additional locations or a different place to be, is the property that they are looking at here the only one that Roohi considered? Roohi stated that he would love to stay in Roswell since he was a Roswell businessman for 16 years. He bought this piece of property from Mr. Dan Ebolt, he does not know if anybody knows him, back in 1998. And since then Roohi has been operating the business there. He has no complaints, the city has no complaints and everything is good. He has a lot of repeat business from the city of Roswell and also Alpharetta, so he likes to be in this area. And that is why this property was recommended to him. He has been looking at some other locations but there is really not any other location to move to unless if he totally moves to Stone Mountain somewhere, which he does not want to.

Bryan Chamberlain clarified that in the overall land use plan and sort of the future direction of Roswell and where they are trying to get various kinds of businesses to be. Up farther on Alpharetta Hwy. is considered kind of the car zone. Did Roohi look up there?

Ramin Roohi stated that he did look up there. The problem with up there is the land which exceeds his financial limits. There are big places. There is a Jaguar dealership right on Hembree Road and that is a \$10 million project going on. Roohi is a pretty small businessman and he does not have the funds to do something like that. This piece of property has been sitting there for a long time. The land owner kind of worked with Roohi as far as being here to try to get the zoning for another one. He does not see any problem for him to move two blocks down. He has been in the same location for 16 years. What can of harm can he do to the society for moving down three blocks? He just does not understand that part of the denial.

Don Rolader stated that to further answer Bryan Chamberlain's question, the reason Roohi didn't go looking for other properties was that it was his understanding up to recently and to this point was that this location was available and that that location was acceptable to it. It wasn't like he said he was never going to go look anywhere else. He assumed based on the discussions everyone had that it was acceptable. So, Roohi said, "Well okay. I can do that. It is three blocks from where I am." Rolader stated that it is not that he said, "The heck with y'all, I am never going to look again." He did not have a compelling reason to until about a week ago.

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Bryan Chamberlain stated that Don Rolader if in his representations to the Planning Commission, he is not sure whether he heard him say that the city of Roswell represented to the applicant in the meetings that, oh yeah, he can move to this spot or that they didn't.

Don Rolader stated that he was not at those meetings, he can't tell Chamberlain. But he can tell him that the implication was that there was interest. There was no discussion about what variances were needed and he does not want to make the staff look bad there because that is not his intention. But as far as the use, nobody ever came to Roohi and said at any point in those meetings or until they got this report, that they don't want him to go to this location. Roohi's question would have been, "Why am I doing this if that had been a statement made?" While nobody may have said this is a guaranteed slam dunk, they assure him he could do this, there was representation made, "let's get this application in, let's get it rolling, let's get it on an accelerated schedule and let's go that way." So, Rolader does not want to make any more of it than was there because he wasn't there at all. But, Mr. Major, the Realtor was there, Ramin Roohi was there, and lots of other people with the city of Roswell were there. Rolader is as curious as Chamberlain is. Something doesn't make 2+2 here and go together to be four.

Bryan Chamberlain asked Brad Townsend if this would be an appropriate time to ask him questions. Brad Townsend stated probably not.

Cheryl Greenway stated that she had a comment that she would like to get the applicant's response to. And it is one that gives her concern in the car lots in that frequently what they have seen for the used cars, if that is literally as many cars as one can cram into a space or put there? It is like a jigsaw puzzle watching them have to move them to get one car out because they are all so packed in there. With what the applicant is presenting here, there are parking spots, but what concerns Greenway is it may start that way but then again they go to the same thing where more and more cars are crammed in there even though there is not parking spaces for them.

Don Rolader stated that he understood. If the city of Roswell were disposed to create a condition that required the inventory for sale be put in designated parking places, Rolader does not think it would bother Roohi and he thinks that would control it from the city's standpoint. How they enforce that in other places, Rolader doesn't know but the reason they have Brad Riffle draw that outline is so that they know what they have and can manage it. So they would not be opposed to a condition that says, "Inventory for sale has to be in a designated space." At any one time over on the bottom side of that building there may be a car or two that is under repair that did not come in in condition to be sold. There is an area back there that was created for the express purpose of bringing those cars up to condition. So, there may be one or two in there that is not a designated space, but they are not for sale. The inventory that is for sale is designed to go in designated spaces.

Cheryl Greenway stated that the problem with that is the enforcement of that is difficult. The Planning Commission has seen it in other places where she knows they have approved it before for use car lots and they have talked to them about that. She is not saying that this gentleman would, but it is a common problem the city is having that they continue to keep doing it. Someone complains, they go out and cite them, they move the cars. A week later they are all back, here we go again and they never make any progress. Greenway stated that it is just a concern. Don Rolader stated that he understood his concern.

Cheryl Greenway asked if there were any other questions. Hearing none, Greenway thanked Don Rolader. At this point she stated that she would like to open the meeting up to the public session. If there is anyone who would like to come up and speak in favor of the applicant, she asked that they please come forward. For the record no one is coming forward. She asked anyone who would like to speak in opposition of the applicant to please come forward. Please come up and state his name and address. For those who want to talk there are cards up here and there are cards in the back if one would fill those out and give them to the staff, the Planning Commission would appreciate it.

CHUCK CLAYTON
1505 Oakfield Lane

Chuck Clayton stated that his residence is up Alpine and take the first right. He is right there. He has two small kids and a dog. They constantly have and Bryan Chamberlain commented on it, the traffic that is coming up through there now, that hill...they cannot get out of Alpine. Sometimes it is completely blocked up. They have to then get into that middle lane and then try to get over. He has seen trucks parked in there and this is one of the questions Clayton had. There is a car lot right on the other side of Norton that cuts that way. There is a car lot that sits right there now. He is parking all of his cars over into the lane. Clayton asked him about it earlier and they said he might be renting it. Then there is another lot where they are parking cars at, and he is not sure whose cars those are. But what is going to happen to those cars when they have to be moved? Somebody else is going to be out of business. He sees that whole area and Chamberlain talked about the transportation. Clayton does not know the whole plan for that. But somehow they are going to have to widen that road up through there with Holcomb Bridge Road up there. They need a bigger turning lane.

So, Clayton's fear is right now, and he agrees. He thinks that tearing down the buildings that are there is nice but he thinks they need another car lot like they need a hole in the head. If somebody had, and he did not hear the exact number within that four mile stretch there. If somebody had 20 strip clubs, would the city allow them to open up another strip club just because it is the same number of strip clubs? He is not saying that the car lot is in the same realm as the strip club, but it still is a concern and Clayton thinks that they had a time there...he thinks Hugo's is there. He feels like they are starting to come down from the city now. The development is starting to come down and there is some good opportunity there. He does not want to see that go to another car lot. He is afraid for the transportation purposes. He is afraid that just the overall ambience that it gives it down through there. If they go down to Alpharetta do they see 20 mom and pop car dealers down the road in Alpharetta? No. And they are doing the development right down through there.

Clayton is hoping that is the way Roswell can eventually send it up to Holcomb Bridge Road.

Chuck Clayton thanked the Planning Commission for their time.

Cheryl Greenway thanked Clayton and asked if there was anyone else who would like to speak in opposition of the applicant. No one else is coming forward. She asked Don Rolader if he had any other comments that he would like to make.

Don Rolader stated that he would be very brief with his comments. He will try to address them to rebuttal. Traffic impact from this use as compared to a retail use, a restaurant use is exceptionally less. Therefore it is better for the city. As to the decision of how many car lots can

one have it is a free market society. It is a free country he thinks to this point, sometimes Rolader wonders. But they don't control the number of grocery stores, they don't control the number of department stores, they don't control the number of fast food restaurants. They allow the economy to dictate what it will do. He does not think that taking a position of, "well we have too many used car dealers" is any different than any of those. He thinks one has to base it on fair and reasonable criteria and he outlined those and what the city code said.

Rolader stated that his last point on this is they are not adding any used car lots. They are replacing the one that Mr. Roohi lost involuntarily. He is a solid citizen, upstanding businessman here for a long time so Rolader's theory is if there is a way to help him, why punish him? He appreciates the Planning Commission's time and their consideration of this on a Tuesday night and he looks forward to their recommendation.

Cheryl Greenway thanked Don Rolader. With that she will close the public session. She asked if there were any comments or a motion.

Cheryl Greenway stated that she will start off by making a few comments. She is not trying to harm anybody trying to do a business but she also feels that they have got to, and they are trying to redevelop an area, follow the guidelines that have been setup. And those guidelines are dictating landscape buffers. They are dictating drainage issues and she thinks the whole purpose of setting these up was to help build a better Roswell. She wants everybody that has a business in Roswell to do well, but she thinks they have got to stick with the guidelines that they have set up. The requests for variances aren't because of topography or other issues that she can justify that there is good reason for having that variance. So, from that standpoint Greenway stated that she would have to agree with the denial.

Bryan Chamberlain stated that he, too would not want to limit another businessperson's ability to make a living in the city of Roswell. It is unfortunate that with the advent of Fulton County schools taking over that area that Mr. Roohi's business is impacted. Along the same lines that Cheryl Greenway talked about the city is working hard to improve its overall look, efficiency, walkability in those areas that are to be walkable, and utility value in those areas that need to have larger businesses such as the car area farther north on Alpharetta Hwy. So, Chamberlain is less inclined to feel that not approving this area denies him the ability to do business. Roohi just needs to find another location preferably within the city of Roswell that is more appropriate for the city of Roswell and its development plan. And for Roohi to have a good flow of customers. When someone builds as an example a McDonald's on a corner they don't bet against another business like Burger King or some other fast food business going on another corner. They encourage it because foot traffic at one business creates foot traffic at another business. So, that business that he currently operates may in fact be served better by moving up closer to some of the other car lots presuming that there is affordable space available up there. Chamberlain stated that he is not understanding the issues that were insinuated...that may not be the totally appropriate word but there were a lot of inferences that someone or some entity made representations to Roohi that they have not gotten to the bottom of and that he is choosing to ignore that issue because of the vagaries of it. He does not think it is appropriate for the Planning Commission to be drawn into that and made to choose sides over who they think wronged another person without evidence.

Bryan Chamberlain stated that he, too would like to see that corridor along there look nice. It does not look nice with the intensity of the number of cars at the various car lots that are just

parked one on top of the other. If this plan came in and had half the number of cars in an orderly fashion with nice landscaping all the way around and an inviting environment that looks professional for people to come and say, "I am going to go buy a high-end car and I am going to want to look at a place that looks high end versus one car stacked on top of the other." He has no idea what this place is planned to be like, but 67 cars in that little space looks awful crowded to Chamberlain. That does not represent what he would like to see in terms of the city of Roswell improving the look along there. It is much too intense. So, he too, relative to the variances that are requested is not in support of lessening the impact of what the city has put together for improving the water quality and improving the overall look through landscaping. He would come down on the side, he doesn't know how, of the whole case.

Joe Piontek stated that he did not want to pile on here. The fact that there are 11, 12, 16 car dealerships up there, he knows exactly which car dealership this is. And it is actually one of the more attractive ones. And if the Planning Commission were looking to remove any car dealerships on that road, it would have been the guy across the street. But the fact is that the best properties go first and Fulton County needed that property for the school. Roohi's property was on the edge of that. He was paid for the plant, he was paid for his building, he was paid for his property and he gets to keep the cars.

Piontek will say that there is a foreign auto dealer up the street. His son makes him take him in there all of the time so he can rub his fingers along the cars. He would dare say that that foreign auto dealer could locate anywhere within 150 miles of here and have exactly the same amount of traffic that he does now. They sell those space car looking Lamborghinis and stuff. So he thinks that the business is a good business but he thinks that this is not what they are looking for on redeveloping these properties. They have turned down a car dealership across the street in that Bank of North Georgia building. There was another car dealership that almost went out when the guy was going to put the 12 houses in there but he had the stream in the back yard. Piontek thinks this is the development that they are looking for and he hopes that the applicant finds a place to put the dealership where he can relocate the 63 cars, get the same amount of business that he has now. Roohi runs a good shop, and Piontek wished him well, but he is also going to come down on the side of denial of this.

Keith Long stated that ironically enough he designs Car Maxes for probably seven or eight years so he knows the challenge the applicant is up against going into any municipality trying to get a used car dealership. But the thing that Car Max did that put themselves above and beyond everyone else including the Jaguar dealership right across the street and the Cadillac's was they raised the standard in going for the variances on the landscape and the detention is an absolute deal killer for Long. He understands the concept that they are not gaining a used car shop, they are just going a couple of miles or not even a mile down the street. But as Long drove down Horton or Norton today he almost got killed coming out of there trying to make a right turn because one cannot see for all of the cars right up at the front on the adjacent dealership. That is not the applicant's problem but the issue is and Long stated that he will not repeat what everyone else has said, but the density of the cars that are constantly put on the used car lots, the lack of the landscaping/environmental issues that the city has embraced and sure, this is three currently three vacant sites and they want it to be developed. But the whole purpose in going through the UDC and the redevelopment is trying to correct some of the wrongs that they have had in the past. They really need to bring this site and all of the sites along Alpharetta Hwy. up to muster if one will.

Cheryl Greenway asked with that if she could have a motion please.

Motion

Bryan Chamberlain stated that regarding CU2014-00051, CV2014-00070 Roswell Auto Imports, 10469, 10471 and 10473 Alpharetta Street he would recommend for denial as laid out by Brad Townsend in the presentation.

Joe Piontek seconded the motion. Cheryl Greenway called the question. The motion was approved unanimously.

PRELIMINARY PLAT

14-0061

2013-03750

PULTE HOMES CORP. / Matt Stokes

12055 Houze Road and Rucker Road

Jackie Deibel stated that this is a preliminary plat for the Houze Road/Rucker Road. It actually has a new name called Brookdale at Crabapple. It is a development consisting of 44 single family detached homes on 16.1 acres. It was rezoned to R-3A Multi-family residential under the case 2013-01339 that the Planning Commission saw last summer. The preliminary plat has been reviewed by all departments and staff recommends approval.

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

Bryan Chamberlain stated that last summer, he believes it was, when the Commission saw this the road that connects from Houze to the property, at the time there was some contention about whether that could occur relative to the detention pond that would be on the north side of that road between the property and Houze Road. Has all of that been worked out? Jackie Deibel stated that it has.

The applicant moved the road north for the neighbors to the south in Crabapple Woods but yes, all of the detention and everything has been worked out with all departments.

Bryan Chamberlain stated that Item No. 2 relates to roads also. The little neighborhood off of Rucker Road to the west of this proposed neighborhood has...he is trying to remember the name. Sully Drive?

Jackie Deibel stated that was the Reserve at Crabapple. They did not want interparcel access and as one can tell, there is no interparcel access on the plat.

Bryan Chamberlain asked Jackie Deibel to help him with that as it relates specifically to connectivity and Roswell's desire as a city to adhere to those kinds of things from here moving forward.

Jackie Deibel stated that from here moving forward, the Unified Development Code once it is adopted and effective will require connectivity whereas currently it is requested by transportation and reviewed with every application. During the rezoning process the neighborhood indicated that they would not like it to go through the Sully Drive. Then they agreed to a possible

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