



City of Roswell

38 Hill Street
Roswell, Georgia 30075

Meeting Minutes Mayor and City Council Zoning

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, January 11, 2010

7:30 PM

City Hall

WELCOME

Present: 5 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Jerry Orlans, and Council Member Betty Price
Absent: 2 - Council Member Kent Igleheart, and Council Member Becky Wynn

Pledge of Allegiance - Bruce Duane, Boy Scout Troop #1963.

Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Community Development Director Alice Wakefield; Community Development Deputy Director Clyde Strickland; Planning & Zoning Director Brad Townsend; City Planner Jackie Deibel; Fire Chief Ricky Spencer; Chief of Police Ed Williams; Community Information Coordinator Kimberly Johnson; Building Operations Technician Doug Heieren; and Deputy City Clerk Betsy Branch.

CONSENT AGENDA

1. **Approval of December 14, 2009 Zoning Meeting Minutes (detailed Minutes to replace Council Brief Minutes adopted on December 21, 2009); approval of December 21, 2009 Regular Meeting Minutes (detailed Minutes to replace Council Brief Minutes adopted on January 4, 2010); and approval of January 4, 2010 Regular Meeting Minutes.**

Administration

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

In Favor: 4

REGULAR AGENDA**Community Development - Councilmember Betty Price**

2. **RZ09-15, 1385 and 1389 Old Riverside Road, Land Lot 575**
Presented by Bradford D. Townsend, Planning and Zoning Director

1. *RZ09-15, 1385 and 1389 Old Riverside Road, Land Lot 575*
Councilmember Price introduced this item. Planning and Zoning Director Brad Townsend stated this rezoning application is for the requested removal of a pre-existing condition from Fulton County which restricts the property to one driveway. The subject property is approximately .85 acres, located on the Chattahoochee River; it is currently zoned FC-A (Fulton County Annexed). Mr. Townsend displayed an aerial photograph of the subject property and noted the location of the proposed driveway.

The conditions are as follows:

RECOMMENDED STAFF CONDITIONS:

It is recommended that this rezoning be approved with the following conditions:

1. *The owner/developer shall develop the property in substantial accordance with the site plan prepared by BH & D Engineering, Inc., stamped "Received October 6, 2009 City of Roswell Community Development Department," and consistent with these recommended conditions.*
2. *A division plat shall be submitted to the City of Roswell and recorded prior to any permits being issued.*

RECOMMENDED PLANNING COMMISSION CONDITIONS:

The Planning Commission recommended approval during their December 15, 2009 hearing with staff recommendations.

Mr. Townsend stated the Atlanta Regional Commission reviewed this rezoning application in reference to the Chattahoochee River Corridor pervious and impervious requirements. The subject property is within 2,000 feet of that corridor. Staff recommended approval.

Council comment:

Councilmember Price asked if staff conditions still applied. Mr. Townsend replied yes. No further comment.

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

In Favor: 4

3. **RZ09-16, Orchard Village, 295 Rucker Road, Land Lot 1282**
Presented by Bradford D. Townsend, Planning and Zoning

Director

RZ09-16, Orchard Village, 295 Rucker Road, Land Lot 1282

Councilmember Price introduced this item. Planning and Zoning Director Brad Townsend stated this rezoning application is for an amendment to a prior rezoning established under RZ03-10 and RZ04-28. The applicant has requested a dining area for the Alpine Bakery located at this address. The proposed amendment would allow restaurants without drive-throughs. The prior conditions for RZ03-10 and RZ04-28 were projected on the overhead screen. Mr. Townsend stated the proposed amendment relates to the following condition of RZ04-28:

2. The property shall be limited to the following allowed uses: retail trade establishments; offices; clinics; finance, insurance and real estate establishments; business service establishments not exceeding 2,500 square feet of gross floor area; and personal service establishments.

Mr. Townsend displayed an aerial photograph of the subject property and shopping center containing the Alpine Bakery, their proposed restaurant expansion, a hair salon and cleaners, an Edward Jones office, dentist, and a vacant 1,500 square foot bay. In addition, a proposed layout was displayed which would move Edward Jones, include bathrooms on the back side, and the new restaurant area for the existing Alpine Bakery. Mr. Townsend stated staff had received favorable comments from surrounding home owner associations regarding the location of the Alpine Bakery's proposed expansion. Staff recommended approval of amending RZ04-28 condition #2 to allow the restaurant for the Alpine Bakery expansion.

Council comment:

Councilmember Dippolito noted that sit down restaurants allow for the entire building to potentially be a restaurant. He asked if this is being restricted to a particular square footage. Mr. Townsend replied this has not been restricted with this particular condition but it would be appropriate if Council so chose. Mr. Dippolito asked what the parking requirement is for restaurants; he thought that within a strip center there is no special consideration for restaurants. Mr. Townsend replied that if it is determined on shopping centers it would be under a different category; the code reads: restaurants normally require a minimum of one parking space for every 125 square feet. He stated that if it considered as part of a shopping center, the shopping center overall criteria is one parking space for every 275 square feet, minimum. Mr. Townsend confirmed for Councilmember Dippolito that there is adequate parking for this particular space

to become a restaurant. Mayor Wood asked if there would be adequate parking if other spaces were allowed restaurants. Mr. Townsend stated that with the current square footage it would be necessary for staff to analyze it; there is sufficient parking with the current request.

Mayor Wood asked if this passes without any restrictions, would staff still have to review the parking. Mr. Townsend replied every business license would have to be reviewed to be certain it meets compliance with the parking requirement; restaurant proposals would be reviewed by staff to ensure sufficient parking. Mayor Wood asked if that would ensure that we do not exceed the parking requirements if we permitted another restaurant. Mr. Townsend replied that was correct.

Applicant:

Don Goodman, 2990 Windrose Drive, Marietta, GA, president of Equitable Management Corporation, and managing agent for the owner, MPARC, LLC., confirmed for Mayor Wood that he is the landlord of the subject property. The property owner was not present at this meeting. Mr. Goodman did not have any statements or comments to add to the staff presentation.

There were no Council comments or questions.

Mayor Wood invited public comment. No comments from the public were made.

Motion: Councilmember Price moved to approve RZ09-16, Orchard Village, 295 Rucker Road, Land Lot 1282 with recommended staff conditions and recommended Planning Commission conditions. Councilmember Dippolito seconded. No further discussion. The motion passed unanimously.

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

In Favor: 4

4. RZ09-17, Text Amendment to Article 22, Section 22.7 of the Roswell Zoning Ordinance regarding nonconforming signs (First Reading)

Presented by Bradford D. Townsend, Planning and Zoning Director

RZ09-17, Text Amendment to Article 22, Section 22.7 of the Roswell Zoning Ordinance regarding nonconforming signs (First Reading)
Councilmember Price introduced the item. Planning and Zoning Director Brad Townsend stated this is a proposed text amendment to the nonconforming section of the sign code. The amendment would remove dismountable material as a material that is allowed to be substituted; it also includes wording not to allow structural changes dealing with technology for a nonconforming sign. Mr. Townsend stated the Planning Commission reviewed this proposed text amendment; it was redrafted as the Planning Commission requested. Mr. Townsend stated staff recommended approval.

City Attorney David Davidson stated this proposed text amendment arose out of litigation in which short comings in the City's sign ordinance were presented. This proposed text amendment will address those issues.

Mr. Davidson conducted the first reading of AN ORDINANCE TO AMEND ARTICLE 22, SIGNS, OF THE ZONING ORDINANCE OF THE CITY OF ROSWELL stating it is hereby ordained by the Mayor and Council of the City of Roswell, Georgia, pursuant to their authority as follows:

1.

Article 22, Signs, Section 22.7 Nonconforming Signs, of the Zoning Ordinance of the City of Roswell, Georgia is hereby amended by deleting subsections (a) in its entirety and substituting therefore a new subsection (a) to read as follows:

(a) a nonconforming sign shall not be replaced by another nonconforming sign including face material except that the substitution or interchange of poster panels or painted boards on nonconforming signs shall be permitted. All nonconforming signs shall be maintained in a safe manner and in good repair.

2.

Article 22, Signs, Section 22.7 Nonconforming Signs is further amended by deleting subsection (b) in its entirety and substitution therefore a new subsection (b) to read as follows:

(b) Minor repairs and maintenance of nonconforming signs shall be permitted. However, no structural repairs, structural changes and/or changes in the size, shape or technology currently being used on the sign shall be permitted except to bring the sign out if its nonconforming condition and into compliance with the requirements of this Article. To the extent that this section is alleged to conflict with O.C.G.A. § 32-6-83 or the Georgia Constitution, this section shall be deemed to provide affected parties the minimum protections provided by O.C.G.A. §32-6-83 and the Georgia Constitution as both may be amended from time to time.

Mr. Davidson stated that if approved, this would be the first reading of the ordinance.

Motion: Councilmember Price moved to approve RZ09-17, Text Amendment to Article 22, Section 22.7 of the Roswell Zoning Ordinance regarding nonconforming signs (First Reading). Councilmember Dippolito seconded.

Council comment:

Councilmember Price requested assurance from Mr. Davidson that the comments made by Planning Commission member Susan Baur were addressed, and also that there were no other sections which needed changes for congruency. Mr. Davidson replied "Ms. Baur was addressing subsection (c) in the same section which has to do with signs that are damaged. That section basically says they can restore the sign; they cannot make any changes to it. I think she is addressing the second sentence in there which is basically the same language that was in subsection (b), that we are changing. But in subsection (c) that language does not need to be in there, but it is not a problem that it is there. All it allows is for restoration of a sign; it does not allow for any changing of the sign." Councilmember Price asked if there could be appropriate wording to reduce redundancy before the second reading. Mr. Davidson explained that the wording is not really redundant. It was rewritten to stress that there will not be any structural repairs or change in the shape or size if the sign is damaged; it is not really pertinent, but stresses that no changes to the sign will be allowed, only restoration of the sign.

Mayor Wood asked if this extra language would make the Council's intent clearer if it was up to a judge's interpretation. Mr. Davidson replied that the extra language is not addressed in this ordinance. The two subsections which this proposed ordinance addresses are (a) and (b). Ms. Baur's comments related to subsection (c), which is not addressed in this ordinance. Mr. Davidson stated the language is fine as it is, but the second sentence could be removed if Council preferred. Councilmember Price noted she wanted to be certain the problem was addressed, and also certain that it was not compounded. Mr. Davidson replied that the proposed language would take care of the issue. Councilmember Price thanked Mr. Davidson.

Mayor Wood invited public comment. No comments from the public were made. No further discussion by Council.

A motion was made by Council Member Betty Price, seconded by Council Member Rich Dippolito, that this Item be Approved on First Reading and placed on the Mayor and City Council Zoning agenda for 2/8/2010. The motion carried by the following vote:

In Favor: 4

5. **Initiation of a Text Amendment to Article 22.3 of the City Code and Section 10.23 of the Roswell Zoning Ordinance.**
Presented by Bradford D. Townsend, Planning and Zoning Director

Initiation of a Text Amendment to Article 22.3 of the City Code and Section 10.23 of the Roswell Zoning Ordinance.

Councilmember Price introduced the item. Planning and Zoning Director Brad Townsend stated this proposed initiation of a text amendment to Article 22.3 of the City Code and Section 10.23 of the Roswell Zoning Ordinance relates to the parking of commercial vehicles in residential areas. The Community Development and Transportation Committee previously reviewed an issue related to commercial vehicles being parked in residential areas. The Committee requested the initiation of this text amendment to control the use of commercial vehicles parked on residential property. Initial language drafted by staff for discussion, which would be included in Section 22.3.4 of the Roswell City Code and part of Section 10.23.4 of the Home Occupation section, states that any commercial vehicle in excess of 10,001 pounds would have to be completely screened from abutting property and street view or located within an enclosed building except when actually engaged in loading and unloading. Mr. Townsend stated similar language was utilized to control the parking of recreational vehicles on individual residential lots.

Mayor Wood suggested that staff check into expanding the text amendment language to include the words "while engaged in" some sort of operation or activity because it is possible that some activity other than the loading and unloading of materials from a vehicle will be done.

Council comment:

Councilmember Orlans stated that along with the Mayor's suggestion, moving vans may fit into the description of lawfully operating.

Councilmember Price noted that part of the reason for the initiation of this text amendment was to address an issue of vehicles in yards which were being used for business purposes under Home Occupation. She asked if there might be some other sentences in Section 10.23.4 which might either be deleted or altered and taken into consideration. Councilmember Price said the sentence in this section which says "The transporting of goods by truck is prohibited" almost sounds like it is more onerous on somebody who has business in their home than the average resident who sees the UPS truck a couple of times a week; she asked if that could be putting a larger burden on somebody with a home occupation. Councilmember Price also asked staff to consider the sentence "Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation" for clearer definition; she added there have been work vehicles self categorized as passenger vehicle because it had a bench seat when in fact it was really more like a business usage. Councilmember Price said "When the average person sees that in the ordinance and wonders why we don't enforce it, we should probably either enforce it or remove it." Mr. Townsend confirmed that staff would review those sentences.

Mr. Townsend confirmed for Mayor Wood that if the initiation of this text amendment was approved, it would go before the Planning Commission before it returns to Mayor and Council for approval.

Councilmember Dippolito referring to the sentence "The transporting of goods by

truck is prohibited” asked if the word “truck” is a defined term in the city’s ordinance and if it should be changed to “commercial vehicle.” Mr. Townsend replied he did not think it is defined and would work on definition lanuage.

Motion: Councilmember Price moved to approve Initiation of a Text Amendment to Article 22.3 of the City Code and Section 10.23 of the Roswell Zoning Ordinance and the other needed changes to that as just discussed. Councilmember Dippolito seconded. No further discussion. The motion passed unanimously.

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

In Favor: 4

Adjournment

Mayor Wood noted for the record that Councilmember Igleheart and Councilmember Wynn were absent, excused.

After no further business, the Regular Meeting adjourned at 7:52 p.m.

Mayor and Council reconvened for a work session regarding the Groveway Community Charrette Report; 2010 Economic Update; Discussion of FY 2011 Budget Process and Mayor and Council Goals.