



City of Roswell

38 Hill Street
Roswell, Georgia 30075

Meeting Minutes Mayor and City Council

Mayor Jere Wood
Council Member Nancy Diamond
Council Member Rich Dippolito
Council Member Kent Igleheart
Council Member Jerry Orlans
Council Member Betty Price
Council Member Becky Wynn

Monday, December 13, 2010

7:00 PM

City Hall

WELCOME

Present: 6 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Kent Igleheart, Council Member Betty Price, and Council Member Becky Wynn

Absent: 1 - Council Member Jerry Orlans

Staff present:

City Attorney David Davidson; Fire Chief Ricky Spencer; Police Chief Ed Williams; Recreation, Parks, Historic and Cultural Affairs Assistant Director Morgan Rogers; Community Development Director Alice Wakefield; Community Development Deputy Director Clyde Stricklin; Planning & Zoning Director Brad Townsend; City Planner Jackie Deibel, Director of Transportation Steve Acenbrak; Community Relations Manager Julie Brechbill; and Deputy City Clerk Betsy Branch.

Pledge of Allegiance

Patrick Kramer

CONSENT AGENDA

1. **Approval of November 22, 2010 Council Meeting Minutes; approval of November 29, 2010 Open Forum Council Meeting Minutes; and approval of December 8, 2010 Special Called Council Meeting Minutes.**
Administration and Finance
Approved
2. **Approval for the Mayor to sign a letter regarding Comcast Digital Migration.**
Administration and Finance
Approved

3. **Approval of a Permanent Easement for Private Water Service Line by Holcomb Bridge Associates.**

Public Safety

Approved

4. **Approval of a Resolution to partner with Bike Roswell! and apply for the Bikes Belong: Advocacy Grant.**

Transportation

Approved

Enactment No:

Approval of the Consent Agenda

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

In Favor: 5

REGULAR AGENDA

Recreation and Parks Department - Councilmember Kent Igleheart

1. **Presentation of the Recreation and Parks Annual Report, and recognition of Roswell Boys Gymnastics teams and Roswell Ramblers Choir, the "Almost Singers."**

Presented by Joe Glover, Director

Morgan Rodgers, Deputy Director of Recreation, Parks, Historic and Cultural Affairs presented the Recreation and Parks Annual Report and introduced the Roswell Boys Gymnastics Team, the Roswell Girls Gymnastics Team, and the Roswell Ramblers Choir, the "Almost Singers." All participants were recognized for their awards received.

2. **Presentation by Roswell Reads.**

Presented by Morgan Timmis, Historic and Cultural Affairs Manager

Mayor Wood read the proclamation honoring the Roswell Reads City-wide reading program, the Roswell Library, the Friends of the Roswell Library, and many volunteers associated with the program.

Mayor's Report**3. Proclamation honoring Sam Evans.**

Mayor Wood read the proclamation honoring Sam Evans, a Roswell resident.

Community Development - Councilmember Betty Price**4. CU10-04 & CV10-02, 11000 Alpharetta Hwy., Andretti Indoor Karting & Games**

Presented by Bradford D. Townsend, Planning and Zoning Director

Councilmember Price introduced the item. Planning and Zoning Director Brad Townsend stated this application is for a conditional use and a concurrent variance for a commercial recreation facility outdoor, located in the C-3 zoning district. Mr. Townsend displayed an aerial map of the subject property located at 11000 Alpharetta Highway. The subject property is approximately nine acres; it contains an existing 98,000 square foot building and over 500 parking spaces. Mr. Townsend explained that the Board of Zoning Appeals (BZA) on Tuesday, December 14, 2010, would hear a request made by Mr. James Bradford, for an interpretation of Zoning Ordinance Chapters 10.0, 10.5, and 17.1.4, dealing with this property. This would be an administrative decision of two determinations that Mr. Townsend had made related to the site plans and dealing with setbacks of an active recreational facility as a principal use. The section in Chapter 17 deals with the interpretation of the parking code of the number of parking requirements for the Andretti site plan. This application has had extensive reviews. The application was reviewed by the Design Review Board on September 7, 2010 and the Planning Commission during their October 19, 2010 and November 16, 2010 hearings. Noise studies were conducted on September 14, 2010, November 4, 2010. The City hired Newcomb and Boyd to provide a peer review of both noise surveys. The applicant provided a response to the community dealing with inquiries of the noise information. Mr. Townsend displayed measured levels of noise from those surveys and the locations where the measurements were taken. He displayed and referred to a request made by the applicant related to hours of operation. Mr. Townsend noted "There are two specific dealings with school time as well as summer time. Most are of them are dealing from 11:00 a.m. to later in the evening, some of them ending at 12:00 or 1:00 a.m." He displayed a graphic of the site plan showing the layout of the proposed two tracks on the southern portion of the parking lot area along Houze Way; included was a graphic representation which was shown to the Design Review Board that indicated a look of the proposed facility under which the carts would be driven. He displayed the "parking breakdown" dealing with the uses that are currently established inside the existing building, as well as the outdoor course. Mr. Townsend stated "As you can see, they have provided 386 parking spaces. According to these calculations, it is my determination that they would only need 385." Mr. Townsend stated staff recommends approval of the application with 2 conditions.

Staff Recommended conditions:

1. The proposed tracks shall be built in accordance with the site plan entitled "Andretti Karting and Games" drawn by AEC, stamped "Received September 29, 2010 City of Roswell Community Development Department."
2. The lighting for the outdoor tracks shall match the existing lights within the parking lot area.

The Planning Commission recommended approval of this conditional use and variance request during their November 16, 2010 hearing with the following conditions:

1. No hours of operation after 11:00 p.m. outside.
2. If the administrative appeal is overruled, then the site plan is no longer valid.
3. That additional screening be considered by the Mayor and City Council so that the screening is visually appealing to the eye and safe.

Mr. Townsend clarified that if the BZA overturned his decisions, the site plan would be null and void. He noted that the 3rd Planning Commission condition dealt with screening for noise as well as landscaping of the area. Mr. Townsend noted staff recommended approval and the Planning Commission recommended approval of this application.

Mayor Wood called for Council questions.

Council questions:

Councilmember Price asked for clarification of the bearing of the BZA determination on Council's decision tonight and whether "If they go one way or the other does it make any difference what we do tonight." Mr. Townsend stated he would request City Attorney David Davidson to respond and added "My determination is that the site plan brought before you is in compliance with those sections of the Code. Mr. Bradford is indicating that he thinks my determinations are wrong. So, the site plan in front of you meets Code, as I have determined. If BZA rules in Mr. Bradford's favor, then the site plan doesn't stand the Code requirements and would require other variances to be before you." Councilmember Price asked if that meant this item would come back again. City Attorney David Davidson replied "The Council has expressed in the past the desire for all variances coming forward with a rezoning or a conditional use to be concurrent variances with that, to come to Council. However, we also do not allow site plans to be altered after ten days prior to a Council meeting. If the Council acts tonight, it would be a conditional approval; the applicant would have to come back, either to Council or to BZA, at the Council's consideration, however the Council would want to word the condition. If BZA rules in Mr. Bradford's favor, they would have to come back to you for the other variances that would be required. If they uphold Brad's decision (the zoning director's decision), then your approval could just go forward as is." No further Council questions.

Applicant:

Warren Fondu, Andretti Indoor Karting and Games, stated they are requesting Mayor and Council's approval to operate two outdoor go kart tracks in the Andretti south parking lot. Mr. Fondu noted that the information provided included sound studies, demonstrations, conceptual drawings. He stated the current site plan is in compliance, as determined by the City's zoning director. Mr. Fondu noted that Mr. Brad Riffel from AEC was in attendance to answer site questions. Dr. Ken Cunefare representing Arpeggio Acoustics, who conducted the first and second sound study was present for questions.

Wendy Butler, Esq., 7000 Central Parkway, Atlanta, Georgia, 30328, stated she was counsel for Andretti Indoor Karting Operations. Ms. Butler noted the question has been raised about what impact the BZA decision would have. She urged Council to move forward with the vote this evening. Ms. Butler noted a conditional use has very specific standards by which it must be reviewed legally, as does a concurrent variance. She stated that this application has proceeded through the zoning process and includes 23 standards; the Planning Commission reviewed the application. Public concerns have been addressed by the applicant's experts. The City of Roswell had independent noise studies conducted. Ms. Butler stated that in the residential communities, the decibel levels will be inaudible and will be between 55 dba and 60 dba. Ms. Butler said she provided a chart of decibel levels of everyday sounds; daytime sound in a quiet neighborhood is 55 decibels; the issue of whether the proposed karting operations will be heard and have an adverse impact related to noise has been concluded by their experts and experts the city used. Ms. Butler stated the issue of whether or not whether this use is compatible with nearby zonings and nearby adjacent development has been determined by the city planning staff and the Planning Commission; the conclusions are sound with every standard having been met. Ms. Butler stated the question before Mayor and Council tonight seems to be addressing whether there should be a deferral until after the BZA hearing on December 14, 2010. She said Mayor and Council should not defer because "your standards are different than the standards for any application for an administrative appeal of an interpretation of an ordinance." Ms. Butler stated the applicant is comfortable that the BZA will rule is their favor, however if they don't it "muddies the water of all the standards of both of these applications."

Mayor Wood stated he would ask this Council to make a decision tonight regarding this application. She asked if she could continue her presentation. Mayor Wood replied he wanted her to continue but did not want her to spend too much time on the issue of deferral. Ms. Butler stated if the BZA tomorrow rules against the planning director, then if the Council rules tonight, the applicant knows that he must request a variance. Ms. Butler stated she would ask that the Council approve this application and approve it site plan specific and then it would be clearly known that legally, the only way to move forward with that site plan is to ask for a variance. That would be applied for with the BZA. Ms. Butler stated "However, if you don't and you defer tonight and they rule against the planning staff tomorrow, what do we do. We can't amend the application because you have a requirement that there must be a decision within 60 days of when the Planning Commission hearing occurs. We cannot amend the application. If you deny it, we cannot come back." She said the variance request would relate to a setback requirement that the applicant believes does not apply; in this district, the building is in the setback. She asked if that meant the building would be removed for purposes of this application; would a buffer be installed along Houze Way in front of a commercial corridor. Ms. Butler said the waters are being muddled if there is a decision on this application tonight based on anything other than the conditional use standards and the variance standards that are in the applications; it is a "burden and a hardship on this applicant legally and practically if there is not a decision and irrelevant on whether or not the BZA rules in favor or not on this application tonight." She said if the BZA rules does not approve, the applicant has a remedy and will apply for a variance.

Mayor Wood stated he thought it would be worthwhile to address not the deferral question but rather the standards that the applicant believes have been met and discuss the issues related to noise, rather than waiting for the rebuttal, so that the public would have an opportunity to respond to the applicant's position.

Ms. Butler stated she would discuss in the planning analysis general terms and noted the sound expert who conducted their sound studies was present. She said the issue before the planning staff is whether or not the conditional use is appropriate in light of adjacent and nearby uses and will it have an adverse impact on infrastructure such as traffic, schools, sewers. Ms. Butler stated the Andretti operation has been successful for many years with no impacts on any adjacent properties. From a zoning perspective, this site has been zoned C-3, heavy commercial corridor, since 2000 when it was brought into the city. It had been a Pace Warehouse before it became Andretti in 2003. Ms. Butler stated the proposed expansion relates to two outdoor tracks, a use of which has existed in the city in other locations without adverse impacts; that business has gone out of business. Ms. Butler stated the question tonight is will the outdoor track have an adverse impact on the industrial zoning adjacent, on the used car dealership across the street, on the heavy commercial corridor of Alpharetta Highway. The track is proposed at a topographic level that is much lower than Houze Road which provides a natural berm and is a sound barrier; there are only two points where the karting operation will be seen; the applicant proposes additional landscaping to enhance the aesthetics of the site and meet the updated landscaping code, and help with any distraction from the road. Ms. Butler stated a complete buffer along any commercial corridor can provide more of a traffic hazard than a karting operation. In addition, there is a question regarding noise. The applicant conducted a demonstration of the operation and conducted sound monitoring in the residential communities around this area.

Mayor Wood responding to repeated public outburst reminded everyone that out of order comments from the audience would result in an expulsion from the hearing.

Ms. Butler continued her presentation. She stated it is understood that there is a perception and a fear that the proposed outdoor karting operation will be a negative impact; there are sciences on these specific sound issues and a way to model these specific uses. Ms. Butler stated "The experts have confirmed clearly that there is no audible sound from the karting operations with the expansion outdoors from the karting operation in any residential neighborhoods." Mayor Wood stated he thought it would be appropriate during her presentation to hear from the expert rather than just her summary of his testimony. Ms. Butler agreed.

Council questions:

Councilmember Dippolito noted that Ms. Butler mentioned if Mr. Townsend's ruling was overturned, that the applicant could not submit a new site plan. Ms. Butler stated it was her understanding that in the City of Roswell, a final decision by City Council must be made within 60 days after the Planning Commission meeting, which is before the first week in January; it was her understanding that an amended site plan cannot be submitted this late in the process and have it reviewed. She added, if a site plan is submitted, and if the BZA does not rule in the applicant's favor tomorrow, the site plan would have to include additional variances; too late to amend the application to include the variances that would be necessary for the building in the setback; the site plan has to stay the same because a buffer cannot be put in the parking lot whether it is existing now or whether it has karting operations. In response to Councilmember Dippolito's request for a legal opinion, City Attorney David Davidson stated "The last day they could come back to Council is January 10, 2011. We allow plan revisions up to ten days prior to a Council hearing. This Council, if they defer it, could allow the applicant if they lose at the BZA hearing tomorrow, could allow them to apply for their variance in that interim time." He added that he did not know how close the time would be to any advertising requirements. Ms. Butler replied the site plan amendment is not the difficult part; it is where we are in the process and the public notification period for additional variances which have not been noticed.

Mayor Wood noted he hoped the Council would have the information to make a decision tonight based upon the facts before them since it is not in the benefit of those opposed or in favor to defer this item, unless there is a key piece of information needed, and if so, the Council should let him know.

Councilmember Dippolito stated the reason for the clarification was that it sounded like even if a decision was made tonight, then there is potential for the applicant to come back anyway. Mayor Wood asked City Attorney David Davidson to clarify if there is a decision tonight, whether it is conditional in support of this based upon that variance, or it is a denial, would it have to return to Mayor and Council. City Attorney David Davidson replied "The way that Ms. Butler worded it, if the Council made their approval site plan specific, then if the BZA overturns Brad Townsend's decision, then they would have to come back with a change to the site plan, to this Council. It would also have to get the variance from the BZA. It would have to come back before they could do anything on this property, if Council voted to approve this." Mayor Wood asked if Council votes to approve this tonight, and it is site plan specific, if it goes to the BZA and they deny the appeal, would it have to return. Mr. Davidson answered no. Mayor Wood asked, if BZA grants the appeal, then it might have to return. Mr. Davidson answered yes. Ms. Butler stated if the Council votes on site plan specific tonight, and if the BZA does not uphold Brad Townsend's decision, we do not have to come back to Council, but we have to request a variance in order to make the site plans conform with what the City Council approved. Mr. Davidson replied "No. If they approve it to the site plan, you are going to have to do a site plan amendment, and that comes to Council. If Brad is overturned, and they approve it site plan specific, you will have to come back to this body to change the site plan, even with a variance, because they made it conditioned on that site plan." Mayor Wood stated "If we deny this request, it is final. If we grant this request for a conditional approval, may or may not have to come back to us. I still think it is best to go ahead and make a decision tonight if the Council has all the information available to it."

Councilmember Dippolito asked, "If it is denied, does the hearing still occur tomorrow. In the event that the applicant would want to appeal that decision, do they still have their hearing tomorrow." Mr. Davidson replied "It would still go forward and that would be an interpretation question that we would use going forward from what they hear tomorrow night. It would not just apply to this application, it would be Brad Townsend's interpretation of the Code. If BZA overturns Brad's interpretation, then we would have a different interpretation of the Code at that time." Councilmember Dippolito asked if the hearing would be held regardless. Mr. Townsend replied "What needs to be understood is that tonight's hearing is about the use. Tomorrow night's BZA hearing is about an interpretation of two sections of the Code, not specifically the use, just parking numbers, buffers, and building setbacks." No further questions.

Applicant presentation continued:

Dr. Ken Cunefare, Arpeggio Acoustic Consulting, LLC, 947 Aspen Drive, NE, Atlanta, GA, stated an initial survey was performed in September 2010. This involved both a trial with go-karts in operation on the property and an extended duration survey at a location near the Brookdale Chambré Subdivision. In response to concerns that were raised in this process, the survey was repeated on November 4, 2010. Results of both surveys, including graphics, were included in the Council packet back-up material and displayed via the overhead projector. Mr. Cunefare stated the conditions for the survey on the night of November 4, 2010, were conducive for sound propagating to long range; ground level inversion trapping cold air near the ground and low wind speeds encourage sound to go to long range, in addition, most deciduous trees have dropped leaves. The survey on November 4, 2010 involved 20 karts represented by Andreotti as being the population of vehicles for the proposed

use. These karts were run in sustained operation heats, anywhere from 3-5 minutes, while they were taking sound measurements at the various locations. Mr. Cunafare stated the karts would then be idled down while measurements were continued to be taken to see the impact of the karts going from a quiet idle condition to full power on; measurements were taken from adjacent properties. Sampling was done on adjacent commercial properties there was a measureable impact and an audible impact. At the corner of Houze Way and Houze Road there was no measureable impact. The only audible evidence of karts could only be heard when there was no traffic on the adjacent roads. Measurements taken at residential areas should no measurable impact and no audible impact. Mr. Cunafare stated "Being conservative, I am not going to say that this Andretti's would be inaudible under all conditions. I can certainly tell you though that the conditions for which it to be audible much beyond Houze Road and Houze Way would require extremely quiet ambient conditions which are probably not going to exist under common conditions in your community. When we were out at these locations, we were hearing traffic on distant roads not even associated with Houze Road or Alpharetta Highway."

Council questions:

Councilmember Wynn inquired about the date and time of the second noise study. Mr. Cunafare confirmed the second survey was on Thursday night of November 4, 2010; it started at approximately 9:00 p.m. and finished at approximately 11:00 p.m. Councilmember Wynn asked what businesses had an audible impact. Mr. Cunafare replied he did know off the top of his head, but believed it was an auto dealer to the south, Roswell Bicycles, and an office complex /condominium complex. Councilmember Wynn noted she had received an email suggesting a traffic study be on a Sunday evening approximately 10:00 p.m. She also asked how certain weather and wind affect the study results and whether that was taken into consideration for these surveys. Mr. Cunafare confirmed the weather conditions were taken into account and were considered very carefully because excessive winds can cause problems for this type of noise study; that particular day the winds fell early enough that there were relatively calm conditions during the time of the survey. He noted that a clear sky provides very rapid ground level cooling and why during a clear sky noise can be heard; human activity noise is different at different times of day, weekday versus weekend; he could not guarantee inaudibility for all times under all conditions. He displayed noise measurements at the Brookdale Chambrel subdivision location from September 14 into the morning of September 15, 2010; he read the decibel levels for sampling locations, as stated in the survey results. Mr. Cunafare stated traffic on adjacent roads was louder than Andretti's sustained operation. Mayor Wood asked what the level of sound was at those locations without the karts in operations, during that same time period. Mr. Cunafare read the decibel levels for sampling location, as stated in the survey results.

Councilmember Igleheart referred to a September 16, 2010 letter from Arpeggio Acoustic Consulting, regarding audible noise of 20 go-karts at some outdoor locations. He said citizens have concern about the sound on weekends and weekend nights when people are outside in the summer; inside the sound may not be heard as much. Mr. Cunafare replied the report from September 16, 2010 did not have the benefit of all the sampling at each remote locations where they actually then got "an appreciation for the degree of other human activity impact sounds at each of these locations." Mr. Cunafare said "While true, those statements in that first report were not informed then of ambient levels that actually existed in the community." The environmental noise surveys that he has conducted in the Atlanta area, show that weeknights, Friday and Saturday nights are almost indistinguishable and level; Saturday mornings, Sunday mornings, and Sunday nights are distinguishable from the other days of the weeks but not the other nights. Councilmember Igleheart replied "As you said, there are numerous things that you can hear at different times

regardless of whatever efforts are made and tests, and that is the concern. We have tests that show all these things in this particular instance and this particular condition, but you cannot guarantee what the actual impact will be across the future." Mr. Cunafare replied "I can assert with confidence that the noise ordinance will be met and that the noise levels west of Houze Way will be under most conditions, immeasurably different than the ambient." He stated a human can pick out a sound which that human's hearing has become attuned to, even in the midst of background noise; whether it is necessarily a nuisance is an individual question and not something which can be ascribed to an entire population.

Councilmember Dippolito inquired about constant sound from these go-karts; how does that contribute to the overall noise pollution in the area. He asked if there are many items making a sound at the same decibel level, would that not make that sound more apparent. Mr. Cunafare replied yes, if he for instance, had ten karts running on a track and he measured or perceived a certain level of dba from the operation, if he doubled the number of karts to 20, the measured level would go up by 3 db, which might not be a level which could be perceived. It takes approximately a 5db difference in level for someone to actually perceive it as a noticeable difference in level; it is 3 db per every doubling of number of sources. Mr. Cunafare stated human hearing is such that it requires a 10db change in the noise level, approximately, before it is perceived as being twice as loud, which would require approximately 80 karts, which is not the operating condition of the use of this facility.

Councilmember Diamond said the Council packet states this use would be anywhere from 10 to 40 karts; she asked what maximum number is being discussed. Mr. Fondu said 20 is the absolute number of karts that would be running at any one time; 10 have the larger engine, 10 have the smaller engine. Councilmember Wynn asked how many of the 40 karts would be idling. Mr. Fondu replied they would have only 20 karts running; either idle or in full throttle; 40 karts may be available but they would not be operating all at the same time.

Councilmember Price asked what the distance is from there to the nearest residence. Mr. Fondu referred to the first sound study; the approximate distance from location one to location two 140 feet (not a residential area); from location one to Roswell Brookdale Chambrel is 900 feet. Councilmember Price asked if there are townhomes that are within closer distance and what the distance is from a previous karting business to any residence. Mr. Townsend replied the location of the Startime Karts across Commerce Parkway to the apartment complexes was anywhere from 120 to 130 feet.

Councilmember Wynn inquired about the request for summertime operating hours on Friday and Saturday until 1:00 a.m. She noted that Planning Commission recommended ending operating hours at 11:00 p.m. on all days. Mr. Fondu stated that was correct and noted that Planning Commission has stated the noise is a Code Enforcement issue. He stated that Andretti has demonstrated that they can and will operate within the noise ordinance. Mr. Fondu confirmed for Councilmember Wynn that should Council decide to place a condition related to the operating hours, they would still move forward with this proposed project.

Councilmember Diamond inquired about the barriers for the track. Mr. Fondu confirmed those are made of a hard plastic material, six foot in length and 20" tall and 18" wide, and sit on top of the surface. These are hollow but at certain areas on the track they will add gravel or perhaps water.

Councilmember Dippolito inquired about kart storage and noted he understood that the karts will operate under a tent. Mr. Fondu confirmed that was correct; the karts will be chained to the curb and to the ground; there is the potential to add walls to the canopy structure but that has yet to be determined. In their Florida operations, the karts live in the pit area but are secured where they are. Planning and Zoning Director Brad Townsend stated the outdoor storage is not an issue. Councilmember Dippolito stated that at the Startime kart business, there was a solid masonry block wall that separated the track from the residences. Mr. Townsend stated that was correct; the block wall was probably 6 or 8 feet tall on the Commerce Parkway side.

Councilmember Diamond inquired about the Andretti operations in Florida. Mr. Fondu replied there are three Andretti operations in Daytona Beach and one in Melbourne. The outdoor tracks in Melbourne are the exact tracks they propose for this project; there are condominiums on two sides, which he thought are single family residences; the Melbourne facility has been in operation for 13 years.

Councilmember Price stated she attended the second sound study and was impressed that nothing could be heard far from the property. She said there was a significant difference in the karts and understood that the applicant wishes to have an adult circuit and a children's circuit; she asked about the horse powers. Mr. Fondu confirmed the plans are for those types of two tracks. The children's outdoor track (starting at 8 years old) will be using a slower kart with a smaller engine with 6.5 horsepower Honda engine. The adult track will use a 9 horsepower Honda engine. He said the difference between the two karts is the size of the engine. Councilmember Price asked what size engine was used in the second sound study. Mr. Fondu stated 10 karts were brought from a Florida operation for the second sound study; they did not have the smaller karts in Atlanta. He confirmed that the larger engine is a bit louder than the smaller engine. Mr. Fondu confirmed for Mayor Wood that 20 karts were part of the sound study; 10 karts with 6.5 horsepower engines and 10 of the 9 horsepower engines.

Councilmember Price asked if the usage for this proposed project is approved, would it still go before the Design Review Board for buffers and berms. Planning and Zoning Director Brad Townsend replied yes.

Councilmember Dippolito asked the applicant to explain what events would occur at this facility. Mr. Fondu stated the outdoor tracks would be used in the same way that the indoor tracks are used; 75% of this business is for family entertainment; 25% is corporate or social planned events; league usage occurs every other weekend. He clarified that go-karts are not a spectator sport. Participants may not bring their own karts but may bring their own approved helmets.

Planning and Zoning Director Brad Townsend discussed the sound survey comments from consultants Newcomb & Boyd, hired by the City; survey comments were provided in the Council packet back-up material. Mr. Townsend stated questions Newcomb & Boyd had related to the first sound survey were answered by the second survey conducted. Newcomb & Boyd came to the conclusion, based upon reviews of both noise survey reports provided by Arpeggio Acoustic Consulting, LLC, that these reports provide an accurate analysis of the acoustical impact of the proposed Andretti Speed Lab outdoor go-kart track.

Public comment:

Kevin Tallant, attorney and resident counsel for Chambrel, 2002 Triple Gap Road, Cumming, GA, spoke the following:

- *Chambrel is considered residential area with a commercial component because it has an independent living facility with an assisted living facility.*
- *Presented opposition petition from Chambrel; 206 residents.*
- *Questioned how sound study was conducted; type of karts used in sound study; loop versus proposed serpentine track, squealing tires; ambient sound; taking sound measurement away from Houze Road inside neighborhoods; there is no hardship regarding whether or not there is outdoor go-kart racing at this site; traffic impacts; lighting; exhaust from go-karts.*

Richard Wacker, 945 Litchfield Place, spoke on the following:

- *Represented Whitehall Subdivision HOA, and other HOAs; opposed.*
- *Read opposition letter from Touchstone Homes.*
- *Read opposition letter from Greenlawn Cemetery.*
- *Concerns regarding traffic impacts; lighting; exhaust from go-karts.*
- *Petitions signed, including businesses.*

Denise Rauch, 170 Charleston, Circle, spoke on the following:

- *Represented Charleston Oaks HOA, Inc.; opposed.*
- *Concerns regarding impact on property values; sound from go-karts.*
- *Read letter from Susan Wesley of Keller Williams Realty.*
- *Outdoor go-karts not commercial consistent use with other retail businesses in a town this size; proposed project should be shielded from businesses and residential areas.*

Richard Leake, 985 Windsor Trail, spoke on the following:

- *Represented Windsor Forrest Neighborhood Association (Windsor Forrest and Morris Manor neighborhoods); opposed; petitions signed.*
- *Concerns regarding noise and sound limits; traffic; congestion; crowd congregation; property values; amusement park type attractions should be confined to the Commerce Parkway area.*

James Bradford, 600 Houze Way, spoke on the following:

- *Represented North Fulton Executive Square, 135 feet west of the Andretti property.*
- *Concern regarding impact on commercial property values.*
- *Concern regarding noise impact and sound studies; sound study indicated decibel levels of above 70 decibels at locations 1, 2, and 3; city noise ordinance; outdoor speakers not permitted at Jackson Acura to the south, as a condition of zoning.*
- *Concern regarding lighting and impact on residential areas.*
- *Filed appeal with the Board of Zoning Appeals, to be heard on December 14, 2010.*

Rohn Newman, 2030 Darrien Park Drive, spoke on the following:

- *Represented Darrien Park HOA; opposed; petitions, signed.*
- *Concern regarding measureable sound and objectionable sound;*
- *Image of historic Roswell, parks, bike trails.*

Barry Mansell, no address given, spoke on the following:

- *Represented Mansell Properties.*
- *Concern regarding impact on commercial property values; unsightliness of the proposed addition to the Andretti property; sound study was not conducted on his property.*

Jane Copkey, Chambrel resident, spoke on the following:

- Concern regarding flawed sound studies; what is recourse
- Concerned about traffic

Mayor Wood explained once this is zoned if it exceeds the noise ordinance, then the City would respond; once it is zoned the City cannot remove that zoning. The Mayor explained that traffic is generated by business; the City cannot prohibit someone from generating business and traffic.

Margaret Scalley, 2005 Estate Court, Woodstock, spoke on the following:

- Condo owner at North Fulton Executive Square.
- Concern regarding sound study results; noise could be heard at the back of this complex.

John Frazer, 11335 Cranwood Cove, spoke on the following:

- In favor of the proposed project for the go-kart tracks at Andretti; member and previous board member of Georgia Sprint Karting Association.
- Andretti is a good, unique existing business in a commercial district in Roswell.
- Noise is an enforceable code issue; Andretti has agreed to the terms of the noise ordinance.
- Existing 4 lane highway already can handle any extra traffic; maybe an extra 200 or 300 cars; Andretti parking lot can handle.

Jim Gebhardt, 10903 Alpharetta Highway, spoke on the following:

- Owner of California Car Company located a distance of 158 feet directly across Alpharetta Highway; opposed.
- Concern regarding sound survey; decibel levels of many go-karts running at once; exhaust fumes; bright lighting; traffic accidents at this intersection.

Barbara Flam, 11200 Hembree Springs Drive, spoke on the following:

- Opposed; proposed project is counterproductive to beautification of Alpharetta Highway.
- Concerns regarding noise study results; study not conducted in her neighborhood; impact on property values.

Richard Bentley, 2070 Darrien Park Drive, spoke on the following:

- Opposed; go-karts business is inconsistent with the character of Roswell; Alpharetta Highway road noise is clearly heard in Darrien Park at night; residents within a reasonable distance will hear the go-karts on the track.

Kathryn Williamson, 2020 Darrien Park Drive, spoke on the following:

- Opposed; requested business case study to back-up claims that running 20 go-karts per day, per month will bring in "X amount" of revenue as compared to current revenue.

Mayor Wood stated the applicant could address the question during rebuttal.

Kathleen Kludt, 820 Whitehall Way, spoke on the following:

- Opposed.
- Could hear go-karts from Andretti approximately 4 months ago, late at night.
- Questioned the erection of a permanent tent structure.

James Hargreaves, 1195 Fallstaff Drive, spoke on the following:

- *Opposed.*
- *Questioned the erection of a permanent tent structure; outdoor storage of go-karts; visibility of tracks and go-karts.*
- *Consultant's engagement memorandum to complete a peer review.*
- *Concern regarding sound studies south and east of the subject property; decibel levels; transmitted sound and frequencies; establish point source volume of each kart to determine a theoretical value of the maximum number of karts; noise ordinance.*
- *Visual distractions; lighting; traffic impact.*

David McDonald, 2040 Lancaster Square, spoke on the following:

- *Sound study location at Fallstaff Drive saw an increase of approximately 15 db from the noise.*
- *Report comment regarding "all engines off to all engines on" increase of 30 to 40 db in sound; 1,000 to 10,000 times more noise; constant noise.*

Allison Hector, 1020 Wellers Court, spoke on the following:

- *Whitehall resident.*
- *Illumination ordinance; visual distraction; traffic impact.*

Linda Steindorf, 1120 Fallstaff Drive, spoke on the following:

- *Opposed.*
- *Concern regarding sound study results; impact on property values.*

Jim Ware, 765 Barren Gate Drive, Lawrenceville, GA, spoke on the following:

- *Works as a sound consultant; teaches a course on environmental noise to municipalities; explained that 10 decibel increase is twice as loud; it will take 10 karts to make 10 more decibels from one kart.*
- *City's noise ordinance.*
- *Showed measurement examples using Honda lawn mower engines sound from website, for comparison to study results.*

Karen Smith, Hembree Springs Drive, spoke on the following:

- *Asked what Mr. Roswell King would say.*

Applicant Rebuttal:

Mr. Conafare noted that they were in the neighborhoods conducting sound studies and that more than half of these measurement locations were out in the neighborhoods folks had been speaking about. Mr. Conafare stated an assertion was made that they did not measure to the south; he replied they did measure to the south as shown by the measurement for site #2, which was to the south. In response to the question why sound was not measured to the east of Alpharetta Highway, he replied that due to the traffic on that road there was no point. Mr. Conafare thanked the individual who displayed the annual daily traffic data for Alpharetta Highway; 34,000 Average Daily Traffic. He said sites to the east are going to be impacted by Alpharetta Highway to greater extent than anything Andretti could possibly do. The track surface will be an open course or course asphalt, which will reduce the severity of tire squeal. He displayed noise measurements to the location west and noted the noise impact of the karts versus traffic noise measurements. In regards to an assertion of a 15 db level impact at Fallstaff Drive, he displayed measurement data for Fallstaff Drive and Hembree Springs and stated that Andretti was not contributing out at Fallstaff Drive in anyway; he explained that data showed the same could be said for Darrien Park and Hollyberry Court. Mr. Conafare stated he agreed with Mr. Bradford that the first report indicated there would be excessive levels at locations 1, 2, and 3, but the first report did not have the information that was gained from then actually measuring the surveys out in the communities, as in the second survey. The

data that Mr. Bradford cited was an estimate, from the first report; the measurements from December 4, 2010 are actual real data showing they had overestimated the impact at locations 2 and 3. The December 4, 2010 report showed that moving further away from Houze Way and that masking source, that the masking source would be lost but there are enough other environmental impacts which will prevent that; Alpharetta Highway turns out to be a much more significant masker.

Mr. Fondu, applicant, stated Andretti is not proposing the creation of a side of the road loud and obnoxious go-kart tract. He thanked Mayor and Council for their consideration of this conditional use application.

Council questions:

Councilmember Wynn inquired about Andretti's go-kart leagues and the composition of go-karts for leagues, social, and corporate use of the facility. Mr. Fondu confirmed there are adult and junior leagues; the track design permits a maximum of 10 karts on each track. Mr. Fondu confirmed that during league, social, or corporate use it will be the same composition; the tracks will be designed differently for different speeds they must be designed differently; there will be a smaller track that the smaller karts will run on and there will be a bigger track that the bigger karts will run on; the bigger karts will not physically be able to run on the smaller kart track. No further Council questions.

Mayor Wood called for a motion.

Councilmember Igleheart thanked the Andretti business, residents, and businesses, for their time in attempting to mitigate the impacts. The challenge is to maintain balance between commercial and residential. Councilmember Igleheart noted that Council has always had issues resolved before an item moved forward to Mayor and Council; he was concerned that the BZA issue for this item had not yet been resolved and somewhat hesitant to allow this to move forward.

Councilmember Igleheart stated he did not think that there would be a constant impact from the sound but that it would be detectable, and some sounds will be objectionable. It is likely that the objectionable times will be on weekends and weekend nights. In his opinion, sound from the go-karts would adversely affect the existing use or usability with adjacent or nearby properties; Council should consider that affect, as stated in #2 of the standards. Since a residential area is established along this commercial corridor, #22 of the standards should be considered: the consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. He was concerned about the possible loss of property sales due to this proposal. Councilmember Igleheart stated "The point was made about the totality of the impact of this project and while noise has been the biggest one, I don't think it is the only one. In our code, Section 31.1.12, regarding zoning procedures, the analysis requirements for map amendments and conditional uses, states 'The applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in Table 31.1.4 (the 22 Standards). The zoning map or amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or the general welfare and after consideration of the analysis requirements.'" This has shown that Council follows its own rules and has gone by at least #2, #19, and #22 of the Standards; this proposal does have an impact that would be detrimental to businesses and home surrounding. Councilmember Igleheart stated he thought Council did wish to help Andretti; he was concerned about the impact to the surrounding area.

Councilmember Wynn agreed with Councilmember Igleheart's comments. She noted that Andretti, as well as the stakeholders and residents gave an informative without emotion presentation. Councilmember Wynn noted that the November 4, 2010 sound study stated "Subjectively, the karts were only plainly audible at locations 1, 2, 3, and 5"; page 3 states: "Evaluation of the plots and Appendix A, indicates that the karts had measurable impact at Locations 1, 2, 3, and 5, but no measureable impact at Locations 4 and 6 through 13." She clarified that those locations are business; the city should be sensitive to the existing businesses and not do anything that could be detrimental to their success; these noise studies indicate could possibly happen. Councilmember Wynn noted her concern that the noise study of September 16, 2010 indicated "assuming typical construction and closed windows, go-karts sound was not expected to be audible inside residences at the community." Residents should not be impacted by go-kart noise while outside or with open windows at their homes.

Councilmember Diamond expressed her appreciation to the citizens and the Planning Commission for their time and efforts spent on this item. She said that in this case, accommodating this business seems to be at the expense of the surrounding businesses; Highway 9 is definitely a commercial corridor but is not as high a density of commercial corridor as this type of use generally is located in and is why conditional use is in the ordinance for requiring consideration in the city's processes; Roswell's C-3 use is not unlimited use, like some C-3 areas are. She noted her appreciation of Andretti using this property and that it is a viable business; she has been a customer of Andretti in the past and hopes to continue to support them in the future, but could not support this application.

Councilmember Dippolito expressed his appreciation to the residents for their time and effort spent on this item and thanked Andretti for investing in the community. He also was concerned with the Standards of Review that Councilmember Igleheart had mentioned. Referring to Standard #1, Councilmember Dippolito asked how something is evaluated as to whether it is suitable in view of the use of the adjacent properties. He noted there are four parks in the metropolitan area that operated open go-karts tracks: American Adventures/White Water located between I-75 and Cobb Parkway at the Marietta Loop, at a higher intensity commercial area; Malibu Grand Prix, abuts I-85, located south of the Indian Trail intersection in Norcross, primarily an industrial area; Mountasia abuts I-575 and Barrett Parkway in Marietta, a high intensity commercial area near Town Center Mall; Dixie Land Fun Park, located outside of Fayetteville with basically nothing around it except for an industrial park. Councilmember Dippolito stated all four of these parks have different situations. The Andretti facility located in Melbourne, Florida is also located in a very intense commercial area that includes stadiums, fields, and other similar activities. He noted that each of these other parks are commercial shielded from less intense uses and less intense uses are further out, which is not the case at this location in Roswell. He pointed out that next door to Andretti is a bike shop, a cemetery, veterinarian office and professional offices and high end car dealership; for the most part this area of Roswell is a low intense area and not really high intensity; this use is more suited for a more high intense commercial industrial area.

Councilmember Dippolito referring to Standard of Review #19, "Whether the 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," noted several people expressed concern about the Touchstone Homes letter which stated evidence exists that a sale was lost due to the "idea" of this track coming; Susan Wesley, a Keller Williams Realty professional also submitted a letter of concern regarding the impact on property values in the immediate area; many nearby businesses have raised concern that this type use would have a negative impact on their business; this type of use would have a negative impact in some of the areas of the noise impacts.

Councilmember Dippolito referring to Standard of Review #18, "possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district or overlay district," reiterated that this area is really a low intensity commercial area; this project would be a shift away from that and a shift toward a more high intensity commercial use which could possibly then invite other high intensity uses. The amount of vacant land adjacent to the Acura dealership could be a high intensity use; the shopping center to the north is a great opportunity for redevelopment. He asked if high intensity commercial use is really wanted there; do we want this to change into an entertainment district when it really is the entrance to a residential district. This could potentially be the beginning of a change in character for the area. Councilmember Dippolito stated he would rather see Highway 9 develop with shops and restaurants, not outdoor entertainment occur in this area; he would not support this proposal.

Councilmember Price expressed appreciation to the residents for their time and effort to make their voices heard, and thanked Andretti for investing in this community. She noted some comments made had been based on incorrect information. The Standards of Review cannot be ignored because they are absolutely the key to Council's judgmental decision which is not as specific as the Planning Commission's and staff's decision, which has been business friendly and to the letter of the law. In making her decision regarding this proposal, she had questions related to the Standards of Review #2, 13, 18, 19, 20, and 22.

Motion: Councilmember Price moved to deny CU10-04 & CV10-02, 11000 Alpharetta Hwy., Andretti Indoor Karting & Games. Councilmember Wynn seconded the motion. No further discussion. The motion to deny passed unanimously.

A motion was made by Council Member Betty Price, seconded by Council Member Becky Wynn, that this Item be Denied. The motion carried by the following vote:

In Favor: 5

5. **CU10-05, Zion Missionary Baptist Church of Roswell, Inc.,
944 Myrtle St., Land Lot 425.**
*Presented by Bradford D. Townsend, Planning and Zoning
Director*

Brad Townsend, Planning and Zoning Director, stated this is a request from the Missionary Baptist Church to use the .36 acre property at 944 Myrtle Street as a youth center. This application requires a variance to Chapter 10.11 which for this proposed use would require a building set-back of 50' and a buffer of 25'. Mr. Townsend showed aerial photographs of the location and explained the surrounding area. The current zoning is for office and is surrounded by R2, single family zoning district. Mr. Townsend stated staff and the Planning Commission recommend denial of this request. If Council recommends approval, staff would recommend three (3) conditions to be placed on the property; one would deal with overnight functions; activities to cease by 9:00 p.m.; a fence to be installed along the property lines meeting the height restrictions of the Zoning Ordinance.

Staff Recommended Conditions:

- 1. This structure shall not be used for overnight functions.*
- 2. All activities shall cease by 9:00 p.m.*
- 3. The church shall install a fence along the property lines which meets the height restrictions of the City of Roswell Zoning Ordinance.*

Public comment:

Reverend Lewis, the applicant, said the church is requesting the building to be used for a youth center to eliminate some teen vagrancy in the area. He understands the neighbor owning the duplex adjacent to the property has concerns about the property being used as a youth center and the hours of operation. The church is willing to make concessions, but currently are not willing to make all the concessions the neighbor raised last time before the Commission. The church is at the liberty of what pleases the Council.

Council questions:

Mayor Wood asked Reverend Lewis what conditions the church would accept if Council allowed the youth center. Reverend Lewis replied the church doesn't see the need of putting up a fence nor closing by 9:00 p.m. Mayor Wood asked if the church has heard from the neighbors. Reverend Lewis replied only one (1) neighbor. Mayor Wood asked what their position is. Reverend Lewis replied they want the request denied.

Councilmember Wynn stated one of the reasons staff is recommending denial is because they feel the church has other single family homes that are closer to the main church that could be used for the same function, and asked the applicant if that information is correct. Reverend Lewis replied there isn't any other building closer to the church. Councilmember Wynn asked if it was the only vacant building or building owned by the church. Reverend Lewis replied it is the closet building that is owned by the church. The church owns two vacant buildings; one on Zion Circle and one on Myrtle Street.

Councilmember Price asked about previous discussions regarding land swap, and asked if there was any property that comes to mind that might be closer or more suitable. Reverend Lewis replied there has not been any discussion regarding land swap, and the church does not have any land to swap at this point that would be suitable for a youth building. Councilmember Price asked about a scenario, "if she owned that house and had people over every Wednesday for bible study if that would be permissible as a homeowner", and asked if the church could do this activity as defining it as such. Reverend Lewis replied it is the requirement of the city that the church defines it has a youth center.

Councilmember Wynn asked if the three (3) recommended conditions were the same conditions put on the Pleasant Hill Church when they wanted to turn one of their houses into a youth center. Mr. Townsend replied yes.

Public Comment:

Donna & Michael Obarry, stated they own the property south of the property at 944 Myrtle Street. They are asking Council to deny the request for the following reasons; they are concerned the location of a youth center next to their duplex will have a tremendous impact on their ability to get quality tenants, and feel most people will not purposely seek out a place to live that is right next to a youth center/hang out. Mayor Wood asked if they had any examples of people deciding not to move in next to a youth center. Mrs. Obarry replied no, because it is currently empty for upgrades and they have not tried to rent it since this situation has come up. Mrs. Obarry stated they are real estate investors, and she works for one of the largest foreclosure agents in the city. She doesn't have proof or statistics, but knows a number of people could come in and talk about it. There are concerns on the application that they questioned at the neighborhood meeting that were unable to be answered and the neighbors would like more concrete information of what the church is planning on doing. Such items were: what the church considered a small group, the answer maybe 7-10, but the Community Development Report stated 20-25 people; what the age limit would be, and was told "not sure it might be 18"; what the timeframe would be, and were told "not sure what the timing will be"; asked what the activities would be; were told "the intentions is for it to be study period." They asked at the meeting if there were rooms at the main church or another of the church's buildings that the youths could meet, and the gentleman at the meeting replied yes they did. They were concerned the hours have not been established for the youth center. There were also several things on the application they disagree with; the proposed use of nearby properties, and feels nearby means really close like across the street or 2 or 3 lots down, and those are all residential, it does have a mix and the building the church is referring to is behind the property and up on another street. They were concerned the church feels the suitability to be compatible with the existing classifications; but the existing classification is single family residents, and they disagree that a youth center would do that. A big concern is the impact of property values and rent; she stated in the real estate world, if there is a residential environment and a piece of property goes commercial, it has a negative effect on the other properties being used for a residence. The Community Development Department has requested denial on this request and from their comments, another concern is the parking shared between the church and this property, and at the neighborhood meeting when asked if the church's intention was to share the parking between the church and this property the gentleman said yes, that is their intention, that if they get the youth center, the over flow parking from the church will be able to park at 944 Myrtle Street. Mrs. Obarry stated this is the church she votes at and noticed there has never been a lot of people during the week, and feels that a few youth should be able to gather there in one of the many rooms the big building has. In the application the church states they are only going to park in the driveway; this would be good, but doesn't want them to be able to park on the grass. The church

talked about the neighborhood being in transition, and she would like to see it, but says it has been in its current state for the past 6 yrs. Ms. Obarry stated the Community Development comments were that the church owns several residential properties in the vicinity and another structure may be better suited; mainly residential homes in the area, and a youth center may change the dynamics of the area. Future land use plan indicates high density residential on this property and the proposed use is not in compliance with that. She has lived in the area for the past six (6) years and has owned the duplex over 3 years and has never seen a "for rent" sign and from the outward appearance there doesn't seem to have been any attempt to use it as a personal single family residence, and disagrees with #16 that says: the description of all efforts taken by the property owners to use the property or sell the property under the existing zoning. If Council does pass this they would like to request a few things to help mitigate the issues; one is a fence, which would be a clear definition of boundaries. Would like parking to be required on the existing driveway only, and no additional surfaces be allowed to be structured on the property, and used for youth activities only, and not to be used for extra parking for the church. Would like activities during the week to stop at 7 p.m. and not used on the weekends, and limit the age (preferring the younger ages), and would like a limited number of people allowed. If approved, she feels the church should be required to go through the variance process to see if the property does support the use. She suggested the church use the property as a single family residence for a needy church member or community family.

Cheryl Greenway, 365 Knoll Woods Terrace, stated she owns the office building 935 Forrest Street. She does not have a problem with the property being used as a youth center. She is more concerned about the conditions that have been set out, and would like to see a limit of number of people at a time that can be at the facility. She would like clearer perimeter as to the operations.

Harvey Smith, 12695 Old Surrey Place, commented that Reverend Lewis is a humble man. He serves on the Planning Commission, and feels it is an excellent use of the property. There is precedence on Mimosa; there is church row and youth centers adjacent to residential areas already, and feels the proper use could be made with conditions.

Reverend Lewis stated they have not worked out the exact number of people to be using this facility, but proposes this being a teen facility not a young adult. The house has been used in the past for Katrina evacuees, and has been renovated. The church will make whatever concessions need to be made.

Council comment:

Councilmember Dippolito asked Brad Townsend if the number of people allowed in this facility would be governed by the Fire Marshall. Mr. Townsend replied Fire and Building Code would determine the occupancy, because there would need to be renovations relating to handicap access and bathrooms. Councilmember Dippolito asked if staff knows the number. Mr. Townsend replied no.

Councilmember Diamond asked Mr. Townsend how is this different and where is the line drawn if the youth director was living in the house and he invited kids over. Mr. Townsend replied when it is determined it is used on a regular weekly basis for assembly, which then is governed by different fire codes as well as building codes. If it is a youth pastor inviting them over for pizza is one thing, but that is not their intentions, they want to be able to set up a regular meeting schedule and it has to do with how it impacts the adjoining neighbors.

Councilmember Wynn asked the City Attorney if Council can condition age requirements on a youth center. City Attorney David Davidson replied that is something that could not be enforced, and recommended against it. She asked how this is different from the Pleasant Hill. Mr. Townsend replied the Pleasant Hill situation was dealing with a youth center and a food pantry, both of those locations are directly adjacent to their main church structure, and there was one neighbor in between the homes that felt the fence provided protection in that location, and staff felt because of the adjacency to the existing main structure it was appropriate to make those as conditional uses.

Councilmember Diamond asked if all parties could get together to discuss a system they would all be comfortable with, and has this been done. Reverend Lewis replied no, he has not met with the neighbors. Mayor Wood asked all parties if they feel this would help. Mayor Wood suggested a deferral, and stated he feels a church facility is an amenity for the community and a church recreates community.

Councilmember Price stated she thought there was new information about the difficulties with setbacks. Mr. Townsend replied it was mentioned in the staff report that one of the code sections that would apply to this once the youth center changes to an accessory to a church requires 50' setbacks and 25' buffer setbacks. She asked how that could be overcome. Mr. Townsend said it is a concurrent variance that has to be agreed to in changing it to a youth center.

Motion: Councilmember Price motioned to defer CU10-05, Zion Missionary Baptist Church of Roswell, Inc., 944 Myrtle St., Land Lot 425 until the January 10, 2011 Mayor and Council Meeting. Councilmember Wynn seconded the motion. No further discussion. The motion passed unanimously.

A motion was made by Council Member Betty Price, seconded by Council Member Becky Wynn, that this Item be Deferred and placed on the Mayor and City Council agenda for 1/10/2011. The motion carried by the following vote:

In Favor: 5

6. **RC10-02R Metropolitan River Protection Act Certificate, 115 North Shore Court.**

Presented by Bradford D. Townsend, Planning and Zoning Director

Brad Townsend, Planning and Zoning Director, stated this is a river corridor certification that is requested for the construction of a pool and deck that will be approximately 1400 sq. ft. This has been reviewed by the Atlanta Region Commission and staff recommends approval.

Motion: Councilmember Price moved for the approval of RC10-02 Metropolitan River Protection Act Certificate, 115 North Shore Court. Councilmember Diamond seconded. No further discussion. No public comments were heard. The motion passed unanimously.

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

In Favor: 5

7. **RZ10-08 Text Amendment regarding a revision to Chapter 10.39, Sidewalk Cafes (Second Reading)**

Presented by Bradford D. Townsend, Planning and Zoning Director

Brad Townsend, Planning and Zoning Director, stated this is the second reading for the Sidewalk Cafes code defining the 5' requirement in which in all of the current Sidewalk Cafes are in compliance with. Staff recommends approval.

City Attorney David Davison read "this an Ordinance of the City of Roswell to amend the Zoning Ordinance, Article 10, Specific Use Requirements dealing with the Sidewalk Café development standards and criteria. Article 10, Specific Use Requirements, Chapter 10.39 Sidewalk Cafes, Section 10.39.5 Development Standards and Criteria are amended as follows; Text which is incorporated herein by reference and if approved would be the second reading."

Motion: Councilmember Price moved for the approval of RZ10-08 Text Amendment regarding a revision to Chapter 10.39, Sidewalk Cafes (Second Reading). Councilmember Dippolito seconded. No further discussion. No public comments were heard. The motion passed unanimously.

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

In Favor: 5

8. **Approval of an Ordinance to amend the City of Roswell Sign Ordinance regarding "Find It All in Roswell" Campaign and the use of temporary signs within the City of Roswell. (Second Reading)**

Presented by Bradford D. Townsend, Planning and Zoning Director

Brad Townsend, Planning and Zoning Director, stated this is second reading of the ordinance that extends the "Find It All Roswell" Program to expire on December 31, 2011. Staff and Committee recommend approval.

City Attorney David Davidson read "this is an ordinance to amend the City of Roswell's Sign Ordinance requiring the Find It All Roswell Campaign in the use of temporary signs within the City of Roswell. Article 22 of the City of Roswell's Zoning Ordinance Sign Section 22.12 Temporary Signs is amended by changing the year from 2010 to 2011 in the following subsection 22.12A3. Text which is incorporated herein by reference and if approved would be the second reading."

Council comment:

Councilmember Price stated she has two concerns about this ordinance; one is the human signs and wonders if it is appropriate to add this amendment to it, i.e. the temporary sign period, "it may be permissible to use human signs provided the wording is limited to the name of the establishment."

Mayor Wood asked Councilmember Price if she is proposing an amendment. Councilmember Price replied yes.

1st Amendment: Councilmember Price motioned to amend the Ordinance to amend the City of Roswell Sign Ordinance regarding "Find It All Roswell" Campaign and the use of temporary signs within the City of Roswell to include "the temporary sign period, it may be permissible to use human signs provided the wording is limited to the name of the establishment". (Second Reading) Motion failed for lack of a second.

Mayor Wood suggested bringing this back to Committee.

Councilmember Dippolito asked for clarification and interpretation by the City Attorney. It says "that the 40 days is accumulative," and asked if that meant if someone does not use their 40 days in the first year, they get 80 days in the second year. Mr. Davidson replied no, it is accumulative throughout the year. Councilmember Dippolito asked if that is the way it reads. Councilmember Price replied, it says calendar year. Mr. Davidson said it would be from September 15, 2009, so yes it would be accumulative for both years. Dippolito said he thought the intent was just to extend it for an additional year, and feels it needs to be revised to say September 15, 2010. Councilmember Diamond asked for clarification of it saying "additional per year." Mayor Wood said he thought the original intent was January 1 through December 31, and if so, it needs to be clarified. Mr. Townsend asked if staff needed to change the date from September 15 to January 1, 2011. Mayor Wood stated there hasn't been a motion yet asking for that change. Councilmember Dippolito said he thought the intention was to add 40 days of advertising for the year 2011. However, it needs to be amended to be clear.

2nd Amendment: Councilmember Dippolito motioned to amend the Ordinance to amend the City of Roswell Sign Ordinance regarding "Find It All Roswell" Campaign and the use of temporary signs within the City of Roswell to be reworded to add 40 additional days of advertising. (Second Reading)

Councilmember Price asked for clarification. Councilmember Dippolito replied to amend this to add 40 days for the year 2011. Mr. Townsend replied requesting the period of time of September 15, 2009 be changed to January 1, 2011. Mayor Wood said that would give the 40 days up to 2011 that could not be carried over from 2010. Councilmember Price asked if this doesn't already cover that. Mayor Wood replied no, not the way it is written. Mr. Townsend clarified the September date was picked because that was the initiation of the program.

Councilmember Price stated some of the temporary signs are pathetic and feels there needs to be a standard defined for temporary signs. The wording they came up with "Temporary Signs in disrepair, dilapidated, or haphazardly erected would be subject to immediate removal. Mayor Wood replied that becomes a judgment call, and asked staff to come up with better language. Councilmember Dippolito asked if Code Enforcement has any mechanism for that. Mr. Townsend replied the signs are re-used and over time the signs start to wear out. Mayor Wood asked Councilmember Price if this could be deferred. Councilmember Price replied she would hate to see this go through the entire process again when it is something Council put onto without a lot of effort. Mayor Wood asked Mr. Davidson if this could be deferred. Mr. Davidson replied yes.

Councilmember Diamond asked if this is deferred will it affect the advertising that has been done that says it renews on January 1st,, and is this part of this ordinance or something more in the definitions of what is a temporary sign. Councilmember Diamond said this is something to address in the definition of temporary signs and code enforcement when they see shabby signs can tell people to clean it up. Mayor Wood replied this could be approved and amended later to tighten it up. Councilmember Price stated her concern they would have to go through the process all over again. Mayor Wood asked how much is required. Mr. Townsend replied depending on the extent of the amendments, usually if it has a material change it has to go back through. Councilmember Price replied she would rather defer it until December 27, 2010.

Motion: Councilmember Price motioned to defer until December 27, 2010. Motion fails for lack of a second.

Councilmember Wynn questioned why Council is voting on extending the Find It All in Roswell tonight. Mayor Wood replied no, voting on this particular ordinance. Councilmember Wynn said it is to extend the advertising period if you use the Find It All in Roswell sticker, and has nothing to do with the state of the sign, and suggested to pass this amendment and look at the ordinance for tacky signs.

Councilmember Dippolito agreed with both Councilmembers Wynn and Diamond that it accomplishes more by putting the tacky sign ordinance in with the temporary sign section that way it doesn't just apply to these particular signs it applies across the board.

Mr. Davidson replied there is already in the codes section 22.15 Maintenance that says "all signs shall be maintained in good condition as to present a neat and orderly appearance. The zoning director may cause to be removed after due notice any sign that shows gross neglect, becomes dilapidated or the ground area around it is not well maintained."

2nd Motion: Councilmember Price moved to approve the approval of an Ordinance to Amend the City of Roswell Sign Ordinance regarding "Find It All in Roswell" Campaign and the use of temporary signs within the City of Roswell. (Second reading) Councilmember Wynn seconded. No further discussion. Motion passes unanimously.

A motion was made by Council Member Betty Price, seconded by Council Member Becky Wynn, that this Item be Approved on Second Reading. The motion carried by the following vote:

In Favor: 5

9. **RZ10-09 Text Amendment to the Zoning Ordinance regarding distance restrictions between Precious Metals and Gem dealers locations and Pawnshops and/or check cashing locations. (First Reading)**

Presented by Bradford D. Townsend, Planning and Zoning Director

Brad Townsend, Planning & Zoning Director, stated this is a proposed amendment to Chapter 10.28 Precious Metals and Gems, and deals with providing an existing Precious Metals and Gems will not be located within 5000 ft. of another Precious Metal and Gems Dealer or an existing Pawn Shop or an existing check cashing establishment. This is the proposed language and the ordinance would be added to Chapter 10.28. This application was reviewed by The Planning Commission; they had concerns with the limitations dealing with this type of use, and felt it was inappropriate to have these separation requirements so they recommend denial. The Committee recommendation was for approval. This is the first reading of the text amendment.

Mr. Davidson read "this is an ordinance to amend the City of Roswell's Zoning Ordinance regarding the distance restrictions between Precious Metals and Gems Dealers location within the city limits of Roswell. Zoning Ordinance of City of Roswell is hereby amended by adding to Article 10 of the City of Roswell Zoning Ordinance adding to the existing Chapter 10.28 Precious Metals and Gems Dealers as follows. Text of which is incorporated herein by reference, and if approved this would be the first reading."

Councilmember Dippolito stated his concern about the language might be precluding jewelry stores, typical retail jewelry stores, which are not the intent of this ordinance; the original intent was to limit the gold purchasing type stores that do not add value to the community, and asked if there was any way to isolate those types of stores. Mr. Townsend replied after discussing with the Legal Department, this was the best they could come up with. Councilmember Dippolito stated this is problematic and it limits jewelry stores and will create more an issue than it solves.

Motion: Councilmember Price moved to deny the passing of RZ10-09 Text Amendment to the Zoning Ordinance regarding distance restrictions between Precious Metals and Gem Dealers locations and Pawnshops and/or check cashing locations. (First Reading) Councilmember Dippolito seconded the motion. No further discussion. No public comments were made. The motion passed unanimously.

A motion was made by Council Member Betty Price, seconded by Council Member Rich Dippolito, that this Item be Denied; the first reading did not pass. The motion carried by the following vote:

In Favor: 5

10. **Initiation of a text amendment for sign code changes to allow additional ground signage and wall signage for properties with 1200 feet of road frontage in C-3 Zoning district. Review of changeable copyboard sign regulations. Presented by Bradford D. Townsend, Planning and Zoning Director**

Brad Townsend, Planning and Zoning Director, said this has been discussed at Committee a couple of times. It was requested that staff bring this initiation forward. Staff is trying to control changeable copy signs in C-3 Zoning Districts where properties have frontage in excess of 1200 feet would be allowed a free standing sign of 15 feet. The initiation also deals with the wall signage; there was discussion at Committee to allow wall signage of one (1) foot per linear foot of store frontage. Staff is seeking direction from Council as to the maximum square foot they would allow. There is currently a maximum of 96 square footage for the ground sign and 128 square footage for the wall sign.

Council comment:

Councilmember Wynn stated she thought this was discussed and Council gave direction at Committee, and asked if Council needed to come up with a number tonight for a maximum size of a sign. Mayor Wood said no, this would be an initiation. Mr. Townsend stated he will come back with a number when it goes through the process if that is what Council is comfortable with. Councilmember Wynn replied yes, and suggested that staff look at other ordinances and how they deal with multiple wall signs.

Councilmember Price asked if the minimum setback from right-of-way is standard; she thought right-of-way was the point at which someone could do what they wanted. Mr. Townsend replied the right-of-way is the property line between the road and what they own, and the standard 10 ft. is throughout the whole code, and keeps them away from putting them right up to the sidewalk and allows for site distances.

Motion: Councilmember Price moved for the approval of the Initiation of a text amendment for sign code changes to allow additional ground signage and wall signage for properties with 1200 feet of road frontage in C-3 Zoning district. Review of changeable copy board sign regulations. Councilmember Dippolito seconded. No further discussion. No public comments were made. The motion passed unanimously.

Council comment:

Councilmember Price asked if this item would be coming back through the committee again. Mr. Townsend replied it will start to go through the approval process, but if Council chooses it can come back to Committee. Councilmember Price replied it should come back every time until it is passed.

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: 5

11. **CU10-06, Kings Court Chapel, SE Corner of Willeo Rd. & Highway 120. (Request deferral)**

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Brad Townsend stated this was a request for deferral.

Motion: Councilmember Price moved for this item to be deferred and placed on the Mayor and City Council Agenda for January 10, 2010. Councilmember Dippolito seconded. No further discussion. No public comments were made. The motion passed unanimously.

A motion was made by Council Member Betty Price, seconded by Council Member Rich Dippolito, that this Item be Deferred and placed on the Mayor and City Council agenda for 1/10/2011. The motion carried by the following vote:

In Favor: 5

Transportation Department - Councilmember Rich Dippolito

12. **Approval to control the dust on Lum Crowe Road with a tar and gravel surface treatment.**

Presented by Steve Acenbrak, Director

Steve Acenbrak, Director of Transportation, said transportation has been approached by property owners on Lum Crowe Road requesting dust control on the gravel road. Staff recommends using a solution called a "surface treatment", it is a wearing course that will utilize the existing base and control the dust minimizing maintenance efforts and will keep the rural look of the road and the cost is under \$30,000.

Mayor asked how often the solution will need to be reapplied. Mr. Acenbrak replied it would depend on the level of traffic every 5 to 8 years.

Motion: Councilmember Dippolito moved for the Approval to control the dust on Lum Crowe Road with a tar and gravel surface treatment. Councilmember Wynn seconded. No further discussion. No public comments were made. The motion passed unanimously.

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

In Favor: 5

City Attorney's Report

13. Recommendation for closure to discuss personnel.

A motion was made by Council Member Kent Igleheart, seconded by Council Member Becky Wynn, that this Item be Approved. The motion carried by the following vote:

In Favor: 5

Adjournment

After no further business, the Mayor and Council Meeting adjourned at 12:04 a.m.