

**CITY OF SUGAR HILL  
COUNCIL MEETING MINUTES  
MONDAY, MAY 9, 2005  
7:30 PM CITY HALL ANNEX  
4988 WEST BROAD STREET, SUGAR HILL**

**Call to Order** – The meeting was called to order by Mayor Pirkle at 7:30 p.m. Present were Mayor Gary Pirkle, Council Members Marc Cohen, Steve Edwards, Ron Johnson, Clint Thompson and Nick Thompson. Also present were City Manager Bob Hail, City Attorney Lee Thompson and City Clerk Jane Whittington.

**Pledge of Allegiance to the Flag**

**Invocation** – The invocation was given by Phil Olson, Pastor of Cross Connection Church.

**Approval of Agenda** – Agenda item #3 Stream Buffer Ordinance on the Consent Agenda was moved to #5 under New Business. Council Member Cohen motioned to approve the agenda as amended. Council Member Edwards seconded the motion. Approved 5-0.

**Approval of Minutes** – The Minutes of the Council Meeting of April 11, 2005 – Council Member Edwards motioned to approve the minutes as written. Council Member Cohen seconded the motion. Approved 5-0.

**City Attorney's Report** – no report for the public meeting.

**Council Reports**

**Council Member Clint Thompson** had no report.

**Council Member Marc Cohen** reported that for Planning & Zoning they issued 43 construction permits in April; 88 building and erosion inspections were performed in April; 5 erosion control inspections were performed, resulting in 1 stop work order; and the Land Use Plan is being prepared for transmittal to the DCA; the Town Center Master Plan is being reviewed. Maybe soon there will be development in the downtown corridor.

**Council Member Nick Thompson** had no report.

**Council Member Steve Edwards** had no report.

**Council Member Ron Johnson** welcomed Kurt Sands, Alyssa Sullivan and Josie Reader who recently won the Gwinnett County Chess Tournament. This is the first year for the chess club. Lisa Reader emailed and asked the Council for help in forming their new club. Mindy Clark and Council Member Johnson helped them to get it started. He went to the tournament a few weeks ago and stated that it was very intense. He and his wife met with the Governor a few weeks ago and he assured them that the Northern Arc will not come through Sugar Hill. This past weekend he went to the State

Republican Convention, where he and his wife were voting delegates. He got a chance to talk with the Governor, the state Senators, Saxby Chambliss and Johnny Isakson, and the Public Service Commissioner who asked if we had any problems up here. He along with ladies from Confetti Celebration, have gotten involved with the Gwinnett Clean and Beautiful contest. They are going to plant a Sugar Maple, and 75 plants and bulbs for cancer in the park. They are doing this sometime in May. The Council is working out a clean up day in Sugar Hill for the citizens. He thanked everyone for being at the meeting.

**Mayor's Report** – Mayor Pirkle had no report.

**City Clerk's Report** – The City Clerk Jane Whittington reported that we issued 31 new Businesses Licenses in the month of April. Out of the 31, 18 were home occupations and 13 were zoned for business use. The final delinquent notices have been sent to the remaining businesses that have not renewed for 2005. For property taxes, the millage rate for the City of Sugar Hill will be set in June and the property tax bills will be sent from Gwinnett County in July. The bills contain both the County's and the City's tax amounts due. The deadline to file homestead exemption was May 1<sup>st</sup>. You do not have to reapply each year if there have not been any changes in ownership. If you have become the senior citizen exemption age, you need to apply next year for this additional exemption. State Bill 393 changes the homestead filing dates for next year. You can now apply June 1, 2005 – March 1, 2006 for the 2006 year and 1/2/2006 – 3/1/2007 for all subsequent years (a 14 month filing period).

**City Manager's Report** – City Manager Bob Hail reported the following – See Attachment #1  
**Annexations to go to Planning Commission 5/16/05 & City Council 6/13/05.**  
AX-05-005, Tax Parcels 7-257-010, 010A & 009, Buford Highway, initiated by the City of Sugar Hill.

**Proclamations:**

1. **Leanne Luttrell, Sycamore Elementary School, 2004 Presidential Award for Excellence in Math** – Council Member Johnson asked Council Member Edwards to read the proclamation honoring Ms. Luttrell. She was presented with the proclamation.
2. **Andie Criminger, Lanier Middle School, Wal-Mart Teacher of the Year** – Mayor read the proclamation honoring Ms. Criminger. She was not able to attend the meeting tonight. The City Clerk will get the proclamation delivered to her.

**Consent Agenda:**

1. **Resolution to Update Land Use Plan** – The City contracted with PBS&J to update the current Land Use Plan. The text and map will be transmitted to the state where the Department of Community Affairs and the Atlanta Regional Commission will review it and make recommendations for the final adoption.
2. **Moratorium West Broad Street/Alton Tucker Blvd.** – Extends the existing moratorium until June 15, 2005 to allow time for adoption of the Downtown Master Plan.
3. **Stream Buffer Ordinance** – The following 4 ordinances are housekeeping and make the City's ordinances more in line with State and County requirements. **Removed to New Business #5.**
4. **Amendment to Floodplain Management Ordinance**
5. **Illicit Discharge and Illegal Connection Ordinance**
6. **Amendment to Development Regulations**

The Mayor read the items on the Consent Agenda and explained them. Council Member Johnson motioned to approve the Consent Agenda without #3 Stream Buffer Ordinance. Council Member Cohen seconded the motion. Approved 5-0.

## **Unfinished Business**

## **Citizens and Guests Comments**

### **New Business:**

At this time **Council Member Nick Thompson excused himself from the room.** He gave a written explanation to the City Clerk, and stated that he has a direct interest in AX-05-002. He represents 9 property owners comprising 36 acres.

1. **PUBLIC HEARING - AX-05-002**, Summerall Development Company, LLC, Tax Parcels 7-3320A-019, 7-321-001, 050, 068, 034, 037, 044, 7-321-016B, 032, 038; 36.36 acres, Old Cumming Rd. and O'Rouke Rd., R-100 in Gwinnett City proposed for City RS-100/PRD for Single Family Homes – Hail explained the application. He read the chart explained the requests from the applicant verses the staff recommendations and the Planning Commission recommendations. The staff recommended that all the lots be 70' wide. The applicant revised the plat to accommodate this request and now has 111 lots, all being at least 70'.

Mayor opened the Public Hearing and Bill Cornell spoke on behalf of the applicant, Summerall Development Co. This development includes a strong amenity package including a pool, gazebo and tennis courts. Council Member Johnson expressed concerns about the road abandonment. If the road was not abandoned then the project would not be eligible for annexation. The City Attorney stated that the staff accepted the application so it has to touch the city to be eligible. The City Attorney explained that if they are within 50' of the City then they can annex. Highway 20 right of way is ignored. Council Member Johnson further stated that he walked the creek bed there and it was dry.

Ms. Monica Hennessy, 5670 Manuel Place spoke in opposition to the project. She represents the residents on Manuel Place which are adjacent to this project. She has been a resident in Emerald Lakes for 12 years. They want the 10 – 15' buffer to be undisturbed. As for the stream, she stated that Council Member Johnson must be looking at the wrong one. She talked with the River Keepers and they suggested that she get an Environmental report. They are also concerned that all the trees will be cut down. The lot size is not consistent with what is there. They each have ½ an acre. Her other concerns include the traffic on Georgia Highway 20, and the schools are busting at the seams. She asked the Council to take a closer look at what is going on and seriously consider the issue she brought up. Summerall has done a fine job in their presentation and they are a reputable company.

Debbie Violick lives on O'Rouke Road, on the opposite side of the development and represents the O'Rouke family. Her questions are regarding the natural tree barrier. Will the trees be left on the back side of the development? There are a lot of mature trees there and even with a privacy fence they want to see the trees saved. Could a representative be named from O'Rouke Road to designate the trees saved? The Mayor asked Mr. Hail if the condition applied to all exterior property or just the property bordering Emerald Lakes. Mr. Hail stated that it is just the property bordering residential. O'Rouke would be a road, not a residential property, but if the Council decides to they can add this as a condition.

Mr. Cornell stated that there is a stream running through this property and they can't build within 25' of it. They have over 3 acres of green space. He requested that the Council approve this project with the Planning Commission recommendations, not the staff recommendations. Council Member C. Thompson pointed out that the only difference between the two is the house size.

Council Member Edwards asked Mr. Cornell to explain the buffer one more time. There would be a 5' undisturbed buffer around the back and right side and an additional 10' to 15' to save mature or nice looking trees. They agreed to walk with the representatives and make every effort to save them. There will be an enhanced evergreen border along the O'Rourke property. A fence will go all the way around the property.

Council Member Edwards asked what would be the buffer along O'Rourke Road. The developer stated that they would have to get in there to remove existing driveways but they could leave the 15' tree buffer as well.

Council Member Johnson asked if the fence would go along the inside or outside of the buffer. It would be inside the buffer. He would not want whoever bought the home to cut the trees down.

Council Member Edwards asked about the stream Ms. Hennessy referred to. He only sees one stream in the plan. Mr. Hail explained that once this project is approved the engineers go in and check to see if the streams are there or if they are dry beds. If they find other streams then they still have to have the plan approved by the state water and erosion.

Council Member C. Thompson stated that he is sensitive to Ms. Hennessy's concerns regarding the 3 to 1 lots, and would like to see the lots wider. The City Attorney explained that if it was just RS100 then they could not condition the lot size but because it is PRD they can specify it. The City Attorney recommended that if they wanted to set a width that they set a specific width in writing. Council Member C. Thompson would also like to see a staggered buffer, such as the one approved for the Bellaggio project, along Mr. O'Rourke's property.

Council Member C. Thompson motioned to approve AX-05-002 with conditions as stated by staff, adding a requirement for 80' wide lots abutting the Emerald Lakes properties and a 15' buffer with mature and good looking trees marked and saved. Council Member Johnson seconded for discussion. He wants to add something regarding the creek, if there is a second one. The Mayor stated that if there is a second creek, then it would be subject to the regular 25' buffer required by the state, and asked the City Attorney to clarify. Lee Thompson stated that the Stream Buffer Ordinance would dictate the buffers. Currently it is 25' undisturbed buffer on each side of the creek and there is a definition of a creek in the ordinance. If it meets that definition then it will have to have one. The ordinance that is proposed for passage tonight makes it 50' with another 25' where you can't have impervious surface. If you put a condition then that is what will apply no matter what the current ordinance says. If you put nothing then the current ordinance will apply and it will have to be signed off on by the State. The City Manager explained that before they get their soil and erosion plan approved by the state they have to delineate all creeks, setbacks and everything else on that SES Review.

Council Member Johnson withdrew his second. Council Member Edwards seconded the motion. Approved 4-0.

### **Council Member Nick Thompson returned to the room.**

The next three applications are part of one project so the Public Hearing was combined into one allowing 30 minutes for each side.

2. **PUBLIC HEARING - AX-05-003**, Bowen Family Homes, Tax Parcels 7-340-003 & 005A; 2.86 acres, Suwanee Dam Rd., R-100 in Gwinnett proposed in City RS-100/PRD for Single Family Residential to be added to AX-04-012 RS-100/PRD development adopted June 14, 2004. Will be a part of RZ-05-003

3. **PUBLIC HEARING - AX-05-004**, Bowen Family Homes, Tax Parcel 7-340-006, 012 & 013; 10.01 acres, Kendrix Rd., Currently R-100 in Gwinnett County proposed in City RS-100/PRD for Single Family Residential to be added to AX-04-012, RS-100/PRD development adopted June 14, 2004. Will be a part of RZ-05-003

4. **PUBLIC HEARING - RZ-05-003**, Bowen Family Homes, Tax Parcels 7-340-003, 005, 005A, 006, 012 & 013; Rezoning Modification for 40.2 acres, Suwanee Dam Rd. and Kendrix Rd. for RS-100/PRD Single Family Residential. On June 14, 2004, 27.324 acres was annexed and zoned RS-100/PRD. This modification incorporates AX-05-003 & AX-05-004

The City Manager explained the applications and the chart of conditions; what was approved previously as RS-100/PRD, what was requested by the applicant, what the Planning Commission recommended and what the staff recommended. This project was previously approved as Cheeley Walk in June, 2004. The conditions for all three will be the same since it is one project. When Cheeley Walk was approved the minimum lot width could be 50'. The staff and the Planning Commission are both recommending 65' and the sides (5') and rear (25') are the same. There is a 10' buffer all the way around the property.

The Mayor opened the Public Hearing. Bill Cornell represented the applicant Bowen Homes. There will be 105 lots and the density has been reduced from 4.3 to 2.6. He can go along with what the Planning Commission recommended but asked for one thing, that the stream buffer be grandfathered in at the 25' buffer because there are 2 creeks running through the property and that is why the Cheeley Walk project could not be developed as approved.

Council Member Cohen asked Mr. Cornell if he was amenable to 2400 square foot minimum dwelling size. Mr. Cornell stated that the reason that they asked for 2000 square foot minimum is because the one story homes are on a 50' pad. Council Member Johnson stated that Mike Phetts showed him and the Twin Creeks

Homeowners Association plans for 2400 square foot homes. Mr. Cornell does not have a problem with it because they will mostly be 2 story with basements. Council Member Cohen asked what amenities they have and Mr. Cornell stated that there are none. The northeast corner is a detention pond and there are walking trails around it. Council Member Cohen stated concerns because that is where the Wild Timbers common area is.

Rosanna Teta, 271 Double Gate Court, in the Twin Creeks subdivision, stated concerns regarding school overcrowding. The children who hold class in trailers have to go the main buildings at least twice a day. If the weather is bad they have to walk in it. This is the first time in years that there is space in the schools. The Council should consider doing what Lawrenceville is doing and ask that the developers build in phases to allow the school time to catch up. We need to do more than just let the schools know. Control the development and work with the schools.

Paul Egan, 6282 Mountain Ridge Circle, in the Twin Creeks subdivision stated reasons why the Bowen project is better for the Twin Creeks Subdivision. He questioned why they would be allowed variances to the standards. The Council should consider holding off on the development until Highway 20 is widened and the schools can catch up. He requested that there be a 15' buffer all the

way around instead of 10' with the same provision for the mature trees. He requested that the work time be limited to stop at 8:00 p.m. as well as no work on Sundays. If the trees that are going to be saved could be encircled with silt fence instead of paint or ribbons, it would work better. If they are going to put amenities on the property could there be a fence to separate them from there amenities area.

The Mayor closed the Public Hearing. Council Member Cohen stated that he wants the condition of 2400 square foot homes minimum. Council Member C. Thompson asked about the fence along the Twin Creeks border. The Council was in agreement that the stream in this area would make it impossible for fencing. It would not fit. The condition #16 take out landscaped, if it is undisturbed landscaped does not apply. Council Member C. Thompson asked what is the difference between conditions #12 and #16. The City Manager explained that they could have combined into one. Condition #16 identifies the replanting requirements if the buffer is disturbed.

Council Member Edwards motioned to approve AX-05-003, AX-05-004 and RZ-05-003 with the staff recommended conditions, with condition #19 being minimum 2400 square feet, allow 25' stream buffer aligning with the current Stream Buffer Ordinance, and the work time be limited from 7:00 a.m. to 8:00 p.m. Monday through Saturday, no working on Sunday. Council Member Johnson seconded for discussion. He requested on condition #16 evergreen be removed and add sugar maple. Council Member Edwards amended the motion to include this change. Council Member Johnson seconded the motion. Council Member Cohen requested to add a 5' tree buffer. Council Member Edwards amended the motion to include the additional 5' tree buffer. Council Member Johnson seconded the amendment. The City Attorney clarified that the conditions were stated as staff conditions but are the same as the Planning Commission conditions stated on staff's chart. Also condition #4 just states that the other materials may be used in addition to the 40% minimum, but are not required. It could be 100% brick, stucco or stone. The amended motion was approved 5-0.

**5. Stream Buffer Ordinance** – Council Member Cohen requested that an effective date be put in the ordinance. The approved projects cannot get their permits in fast enough. The City Attorney stated that there would need to be an effective date. Some of the projects already approved are PRD's and site specific. If you change the stream buffer requirements then you would change the site plan. Council Member N. Thompson asked if it can state any application approved but not accepted by Council. The Council agreed to give any already approved zonings until August 1<sup>st</sup> to get their development permits in under the current Stream Buffer requirements. Further discussion was held to clarify the intent of the Council and it was determined that any project approved for rezoning by the Mayor and Council after May 9, 2005 would be subject to the provisions of the ordinance and would not be grandfathered under any prior ordinance.

Council Member Cohen motioned to approve the Stream Buffer Ordinance to include anyone that has an approved zoning prior to todays date has until August 1, 2005 to get their development permits. After August 1, 2005 they will have to comply with the current ordinance. Council Member Edwards seconded the motion. Approved 5-0.

**Executive Session: Legal, Real Estate and/or Personnel:** No Executive Session was held.

**Adjournment:** The meeting was adjourned at 9:50 p.m.

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Gary Pirkle, Mayor

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Jane Whittington, City Clerk