

- (B) Rezoning and Annexation – Land Lots 331, 332, 389 and 390 – Cooper Lake Road near East/West Connector - Southeast Fontaine, LLC and Fontaine Lakes, LLC

Mr. Wright stated the applicant is requesting rezoning of the subject property for construction of 45 single-family residences at a density of 2.78 units per acre. Mr. Wright stated that PZB and staff recommend approval of rezoning the subject property to R-12 Conditional subject to a number of conditions.

1. Public Hearing - Rezoning Request Z06-009 – LI and R-15 to RAD Conditional – 16.18 Acre Tract - Land Lots 331, 332, 389 and 390 – Southeast Fontaine, LLC; Fontaine Lakes, LLC

Mayor Bacon stated this is a public hearing and asked for public comment, and the oath was administered to a number of persons by Mr. Cochran.

Mr. Wood recognized Mr. Mark Shaw, representing Southeastern Real Estate Acquisitions, LLC (SRE), and Mr. Shaw provided details to those present concerning SRE's plans for the subject property. Mr. Shaw stated the planned structures will be built in a neo-traditional craftsman style. Mr. Shaw stated that open space will comprise approximately 52% of the project. Mr. Shaw stated the planned development will feature amenities which will probably include walking trails for use by the residents. Mr. Shaw stated SRE will donate an acre of land near Cooper Lake Road and Old Cooper Lake Road for public purposes.

Mayor Bacon recognized Mr. Ron Fennell (phonetic) and Mrs. Cindy Fennell, and Mr. Fennell stated he has consulted with Mr. Shaw to help make certain adequate access to property he owns nearby is maintained. Mr. Fennell stated he would like to obtain an agreement with the applicant as part of the record. Mr. Fennell commented favorably on the applicant's plans for the subject property. Council Member Lnenicka asked Mr. Fennell if he has a written copy of the agreement he believes he has reached with the applicant. Mr. Fennell provided details to those present regarding his discussions with Mr. Shaw. Mr. Fennell stated his counsel, Ms. Ann Callaway (phonetic) is present, and Mr. Fennell stated he would like for his counsel to discuss this matter further with Mr. Shaw's counsel. Council Member Lnenicka asked Mr. Fennell if he is requesting that this rezoning request be tabled until a subsequent time. Mr. Fennell stated he wants the council to understand that there is as yet no agreement with SRE on the matter of access to his property. Council Member Lnenicka stated a copy of an agreement is needed in order to make it a part of the record. Mayor Bacon commented favorably about Mr. Shaw's honesty and reliability. Mr. Shaw stated an agreement document will be recorded with the property deed, and that a rezoning should not affect Mr. Fennell's rights in this matter. Mr. Shaw asked Ms. Callaway if this is acceptable. Ms. Callaway stated the reason that she and Mr. and Mrs. Fennell are present at this meeting is to go on record. Ms. Callaway stated that if a copy of the agreement was available she would probably like to have it included in the record. Ms. Callaway stated this is a forum for public comment, and that she and Mr. and Mrs. Fennell wanted to go on record and make certain it is understood that she and her clients want to work with the developer. Ms. Callaway stated that she and her clients did not want to just sit at this meeting and be silent. Council Member Wood asked Mr. Cochran if it would be possible to condition approval of this rezoning request subject to an appropriate agreement between SRE and Mr. and Mrs. Fennell concerning access to Mr. and Mrs. Fennell's property. Mr. Cochran stated there is presently no specific stipulation to enter. Mr. Cochran stated the inclusion of the parties' representation in the record has been made, and that the developer and Mr. and Mrs. Fennell can arrive at some agreement separate and apart from the rezoning. Council Member Lnenicka stated a specific site plan will be approved for this rezoning. Mr.

Shaw stated no significant changes to the site plan are anticipated.

At Council Member Wood's request, Mr. Miller read the special conditions of the rezoning request under consideration into the record as follows:

Special Conditions

15. Minimum floor area shall be 2,200 square feet.
16. Per the Fire Marshall, rear alley pavement width shall be 20' to provide adequate fire truck access to the rear of each unit. The minimum curbline radius at the intersection of roads and rear alleys shall be 25'.
17. The development shall maintain the following setbacks:
 - Front – 22' from back of curb
 - Side – 3' (Minimum 10' Between Houses)
 - Rear – 20'
 - Driveway – 19' minimum length from building face to the back of sidewalk
18. The developer and City of Smyrna shall cooperate and use all reasonable efforts to engineer the property designated as part of Village B located at the intersection of Cooper Lake Road relocation and Old Cooper Lake Road consisting of approximately one acre on the site plan titled Mitchell Fontaine Road Tract dated October 26, 2005 last revised April 7, 2006 and submitted to the City of Smyrna on April 7, 2006, this site sufficient for the City of Smyrna's proposed municipal fire station. Should the City of Smyrna decide in its sole determination that the site is suitable for a municipal fire station developer agrees to dedicate this site for that purpose. The City shall be responsible for all permitting and grading of the site to its requirements and specifications. In addition to the dedication land developer also agrees to provide up to \$50,000 in funds necessary to complete the engineering and grading of the site required by the City of Smyrna. Developer also agrees to provide full material for the site to the extent it is available for the land remaining on the site plan. Should the City of Smyrna decide in its sole determination that the site is unsuitable for a municipal fire station or any other public purpose, developer shall retain ownership of the site.
19. In accord with the traffic study submitted by the applicant, the developer shall bond for their pro-rated share to construct a southbound and westbound right turn lane at the intersection of Cooper Lake Road and the E-W Connector.
20. Gate entrances shall include adequate space to safely stack three automobiles. A turnaround shall also be provided to allow visitors who are denied entrance in to the subdivision a way to enter the exit lane. The developer shall install an emergency gate access system, subject to approval by the City Fire Marshall.
21. All single-family residential lots shall provide the following at the time of certificate of occupancy: either two 3" caliper trees or one 2" caliper and one 4" caliper trees. The following species of trees may be used: Nuttall Oak, Swamp Chestnut Oak, Allee Elm, and Village Green Zelkova. Other species may be used if approved by the City.

22. The developer shall have the ability to alter the connection to Cooper Lake Road via new inter-parcel access with the previously approved Jolley development to the north. Any new or altered connections will need to be approved by the City Engineer.

Mr. Miller stated the City's recommendation in this case is for approval of an R-12 Conditional zoning for the same site plan. Council Member Scoggins asked Mr. Wood if it is correct that the rezoning under consideration is for construction of 45 single-family residences, and Mr. Wood answered in the affirmative. Council Member Scoggins asked Mr. Wood how much the proposed houses will sell for, and Mr. Wood stated it is his understanding that the new houses will have selling prices of over \$400,000 each. Council Member McNabb asked Mr. Shaw if part of stipulation 20 concerning a gated community could be omitted. Mr. Shaw stated he would like to have the option of making this development a gated community. Council Member Pritchett commented favorably about gated communities.

2. Public Hearing - Annexation Request (60% of owners requesting annexation) – 14.73 Acre Tract Land Lot 331, 332, 389 and 390 – Southeast Fontaine, LLC; Fontaine Lakes, LLC; Whistlestop Properties, LLC

Mr. Wright stated the legal description of the subject property was reviewed by the city engineer and found to be in order. Mr. Wright stated the application for this annexation request was validated at the April 3, 2006 council meeting.

Mayor Bacon stated this is a public hearing and asked for public comment. There was none.

MOTION: Council Member Wood made a motion to approve the annexation request for a 14.73 acre tract in Land Lots 331, 332, 389 and 390 for Southeast Fontaine, LLC; Fontaine Lakes, LLC; and Whistlestop Properties, LLC to become a part of Ward 7 with an effective date of June 1, 2006. The motion was seconded by Council Member Newcomb. Motion was approved 6 – 0, with Council Member Smith abstaining.

3. Final Vote - Rezoning Request Z06-009 – LI and R-15 to RAD Conditional – 16.18 Acre Tract - Land Lots 331, 332, 389 and 390 – Southeast Fontaine, LLC; Fontaine Lakes, LLC

MOTION: Council Member Wood made a motion to approve Rezoning Request Z06-009 from LI and R-15 to R-12 Conditional for a 16.18 acre tract in Land Lots 331, 332, 389 and 390 for Southeast Fontaine, LLC and Fontaine Lakes, LLC. The motion was seconded by Council Member Newcomb. Council Member McNabb stated he is not in support of gated communities in the City. Motion was approved 5 – 1, with Council Member McNabb in opposition and Council Member Smith abstaining.