

Regular Meeting of the Mayor and City Council of the City of Sandy Springs was held January 16, 2007 at 7:00 PM. Mayor Eva Galambos presiding.

Invocation

Dr. Terry Quick, Sr. Pastor, Sandy Springs First Baptist Church gave the invocation.

Call to Order

Mayor Galambos called the meeting to order at 7:03 PM.

Roll Call and General Announcements

Mayor Galambos requested that the City Clerk call the Roll.

City Clerk Rowland reminded everyone to silence their cell phones and pagers at this time. She introduced the City Pages; Erica Sheline and Alex Williams, both from Ridgeview Charter School. Additionally, those wishing to provide public comments, either during a public hearing or at the conclusion of the meeting under the public comment section, are required to complete a public comment card. They are located at the back counter and need to be turned in to the Clerk.

City Clerk Rowland called the roll.

Councilmembers Present: Councilmember Dianne Fries, Councilmember Karen Meinzen McEnerny, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, Councilmember Rusty Paul, and Councilmember Tibby DeJulio.

Pledge of Allegiance

City of Sandy Springs Council Pages led the Pledge of Allegiance.

Approval of Meeting Agenda

Motion: Councilmember Fries moved to amend the Meeting Agenda with the following change:

1. Move Sign Ordinance to end of Public Hearings.

Second and Vote: Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Motion to Amend and Vote: Councilmember Fries moved to amend the Meeting Agenda with the following changes:

1. Move Sign Ordinance to end of Public Hearings.
2. Add a Resolution to amend Section 6.02(b) of Article VI of the Charter so as to increase the transition period from thirteen months to the maximum twenty-four months.

Second and Vote: Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Motion and Vote: Councilmember DeJulio moved to approve the Meeting Agenda as amended. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

Consent Agenda

1. Approval of Minutes:
 - a. December 19, 2006 Regular Meeting minutes
2. Approval of a Resolution authorizing the Mayor to sign a lease agreement with Fulton County for the Morgan Falls ball fields.

Resolution No. 2007-01-01

3. Approval of a Resolution appointing members to the Sandy Springs Development Impact Fee Advisory Committee.
Resolution No. 2007-01-02
4. Approval of a Resolution approving the Master Agreement with Fulton Community Improvement District (CID)
Resolution No. 2007-01-03
5. Approval of a Resolution to approve the Project Framework Agreement for the Construction of an Interchange at Hammond Drive and SR 400.
Resolution No. 2007-01-04
6. Approval of a Resolution to approve the Project Framework Agreement for the Replacement of Bridge at Jett Road and Long Island Creek
Resolution No. 2007-01-05
7. Approval of a Resolution to approve the Acceptance of the Fee Simple Right-of-Way Donation in Land Lot 16 of the 17th District, Parcel 15, as part of the Perimeter Community Improvement Districts' (PCID) Medical Center Livable Centers Initiative.
Resolution No. 2007-01-06
8. Approval of a Temporary Construction Easement for Reconstruction of Driveway Improvements as Part of a Perimeter Community Improvement Districts (PCID) Project; Medical District Streetscape Project.
9. Approval of a Resolution to approve the Execution of a Quit Claim Deed for a gravel road known as Woodall Ferry Road owned by Insignia Holdings, LLC.
Resolution No. 2007-01-07

Motion and Vote: Councilmember DeJulio moved to approve the consent agenda. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Presentations

Proclamation for Martin Luther King, Jr.

Mayor Galambos announced that Sandy Springs had a wonderful celebration for Martin Luther King Memorial Day. She thanked Councilmember Fries and staff for putting the program together.

Mayor Galambos read the Proclamation for Martin Luther King, Jr.

Mayor Galambos stated that the Sandy Springs Humanitarian Award was presented to Nancy McCord, Sandy Springs United Methodist for organizing all the dinners for the homeless.

Recognition of Northside Hospital for donations to the Friends of Sandy Springs

Councilmember Jenkins recognized Russ Davis, Director, Marketing and Public Relations of Northside Hospital for donating two upgraded AEDs to the Fire Department. Each Sandy Springs patrol car has an AED in them. We are also going to be partnering with Leadership Sandy Springs to encourage doctor offices to get AEDs and give training.

Recognition of the Masonic Lodge of Sandy Springs for donations to the Friends of Sandy Springs

Councilmember Jenkins recognized Brett Goodnough, Master, Thomas Meets, Director of Work, Ken Howard, Chaplain and Ameer Makhoul, Jr, Steward for their donations. They generously donated a large TV, refrigerator and coffee pot to Fire Station #2.

Public Hearings

COMPREHENSIVE PLAN

JNCI

1/16/07

Public Hearing to receive additional public input regarding the Community Participation Program and the Community Assessment prior to submittal to the Atlanta Regional Commission and the Georgia Department of Community Affairs.

City Clerk Rowland stated this first item is a public hearing to receive additional public input regarding the Community Participation Program and the Community Assessment prior to submittal to the Atlanta Regional Commission and the Georgia Department of Community Affairs.

Deputy Director of Community Development McNeill stated as presented at the last Work Session, Phase I of the Comprehensive Plan development process is almost complete. This document has been prepared and subjected to considerable public review and comment. This public hearing is a final opportunity to hear from anyone who may have additional comments related to this work.

Mayor Galambos called for public comment.

Garry Post, 9695 Roberts Drive stated the concern comes from a report dated January 2, 2006, it states that 62 have to deal with articulating the City's intention of river and stream greenways, taking a strip of property along the river for a public park or access. It would affect every single property owner that lives in Sandy Springs. It would eventually destroy their property. The practicality of taking a section of it and making it public access would take their backyards would be unmanageable.

Marie Latta, 6851 Roswell Road stated the primary concern is with accessibility and feels this issue should be included in the city's vision statement. We need to know what we want the city to look like in 5 years and 10 years from now. All information needs to be included in the document plan. Others issues that need to be addressed are pedestrian activity, portable housing, and transportation work with MARTA.

Public Hearing to inform the public of the purpose and process to be followed in the preparation of the Comprehensive Plan Capital Improvement Element, as well as to obtain input on community needs and goals.

City Clerk Rowland stated this is a public hearing to inform the public of the purpose and process to be followed in the preparation of the Comprehensive Plan Capital Improvement Element, as well as to obtain input on community needs and goals.

Deputy Director of Community Development McNeill stated Phase I is almost complete and staff is now moving on to Phase II, Creation of our Community Agenda. The development of the agenda involves core work in this process and consumer development of future policies related to the city. The Capital Improvement Element is pivotal part of that process and State Law requires an Impact Fee Advisory Committee be appointed to assist with this process and will work with the Citizens Advisory Committee that is overseeing the development of the Comprehensive Plan to develop the Capital Projects list to be included in the Capital Improvement Element. The study is for implementing those projects. The Committee will also assist in developing the city's future Impact Fee Ordinance and State Law also requires that a public hearing be held at the initiation of that process which is tonight. Later this week he will give Council an updated schedule on both the Community Agenda Process as well the Impact Fee Ordinance adoption process.

Mayor Galambos nominated the following people to be appointed to the Impact Fee Advisory Committee; J. David Nickles, Joel J. Griffin, William, F. Gannon, Neal L. Nodvin, Seth G. Weissman, Donna Gathers and Patrick Dennis.

Motion and Vote: Councilmember Fries moved to approve the list of appointee's to the Impact Fee Advisory Committee. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

ZONING

Rezoning

RZ06-030/CV06-015, 8475 Roswell Road (SR9) Applicant: Joe Ballato for Popeye's Corporation rezoning from C-2 conditional to C-2 remove the restriction of the use of the property as a gas station only and to allow for the development of restaurant with three concurrent variances.

City Clerk Rowland stated that at the second regularly scheduled meeting of the month, the Mayor and City Council consider a Zoning agenda. These items include rezoning petitions, modifications of zoning, use permits, and associated concurrent variances, in addition to ordinances, resolutions, and text amendments. The petitions will be heard in the sequence listed on the posted agenda and she would like to acquaint the public with some of the rules and procedures for this meeting.

The applicant, and all those speaking in support of an application, will be allowed a total of ten (10) minutes to present the petition. The applicant may choose to save some of the time for rebuttal following the presentation by the opposition. The opposition will be allowed a total of ten (10) minutes to present its position. If time remains, the opposition will be allowed to rebut. Since the burden of proof is upon the applicant, the applicant will be allowed to make closing remarks, provided time remains with the allotted time.

The City Clerk's staff will be keeping track of time and will inform you periodically of the remaining time for your presentation. Those called to speak will be taken in the order that the speaker cards were received by the City Clerk's staff prior to the beginning of tonight's meeting. All speakers will identify themselves by name, address and organization, if applicable, before beginning their presentation.

City Clerk Rowland stated Agenda Item No. 06-273 is for RZ06-030/CV06-015, 8475 Roswell Road (SR9) Applicant: Joe Ballato for Popeye's Corporation rezoning from C-2 conditional to C-2.

Assistant Director of Planning and Zoning Zehner stated that this application was originally heard by the Mayor and City Council on August 15, September 5, and October 3, 2006. At the last hearing October 3, 2006 the applicant requested that the petition be deferred for 90 days for additional research to be performed on the property. The applicant is here tonight to request a deferral for six months which would be the July 17, 2007 meeting. Staff is recommending approval of the application with the conditions listed in staff's report from C-2 to C-2 for the development of a restaurant at the requested square footage.

Joe Ballato, 260 Peachtree Street, Atlanta stated that the problem they have with the site has nothing to do with Popeye's. It has to do with the site itself and the environmental clean up on the site. The applicant is requesting an additional six (6) more months to give the owner of the land more time to deal with the environmental cleanup of the existing service station.

City Attorney Willard stated the EPD is requiring the property owner to investigate. Staff should receive a report at some point in the near future with the City.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Vote: Councilmember Greenspan moved to defer consideration of RZ06-030/CV06-015 to the July 17, 2007 meeting. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ06-048/CV06-034, 7820 Woodall Ferry Road, 7830 Woodall Ferry Road, and Woodall Ferry Road (06 0312LL025) Applicant: Insignia Holdings, LLC rezoning From AG-1 to R-3A for the development of eight (8) single family residential lots at a density of 1.84 units per acre, with two (2) concurrent variances.
Ordinance No. 2007-01-01

City Clerk Rowland stated Agenda Item No. 07-011 is for RZ06-048/CV06-034, 7820 Woodall Ferry Road, 7830 Woodall Ferry Road, and Woodall Ferry Road (06 0312LL025) Applicant: Insignia Holdings, LLC rezoning From AG-1 to R-3A for the development of eight (8) single family residential lots.

Assistant Director of Planning and Zoning Zehner stated this application was heard by the Planning Commission on November 16 and then again on December 21, 2006. At the original hearing before the Planning Commission the Planning Commission requested deferral of the application to allow the applicant to work with neighboring property owners. At the December 21, 2006 the Planning Commission recommended approval with staff's conditions, 5-0 vote. The Planning Commission found that the original condition 3-d was unnecessary due to the fact that the plan had been revised. Staff is recommending approval of the request from AG-1 to R-3A with staff conditions.

Guy Weiss, Casey Gilson Leibel, PC stated the applicant has worked very close with city staff to develop this plan and all issues have been addressed. At this point, the applicant would like to bring the development to fruition and bring it inline with what is already around the neighborhood. The density is going to be 1.64 units per acre with eight (8) lots on it. Originally, their request was to remove four (4) specimen trees. After submitting the application, the City Arborist informed them that two of the trees were not specimen tree. The applicants request is to remove only two (2) specimen trees, Tree C and Tree D.

Mayor Galambos called for public comment. There were no comments from the public.

Assistant Director of Planning and Zoning Zehner stated that Condition 3(b), only two (2) of the specimen trees have been determined to be healthy enough to require a variance. Condition 3(b) should be revised to read: "the removal of two (2) specimen trees, Trees C and D as shown on the site plan received by the department on December 12, 2006.

Motion and Vote: Councilmember Greenspan moved to approve RZ06-048/CV06-034, 7820 Woodall Ferry Road, 7830 Woodall Ferry Road, and Woodall Ferry Road (06 0312LL025) from AG-1 to R-3A with the following amended staff conditions for the development of eight (8) single family residential lots at amended density of 1.64 units per acre, with two (2) concurrent variances.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Eight (8) single family residential lots at a density of 1.64 units per acre.
 - b. The minimum heated floor area per dwelling unit shall be 4,000 square feet.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated December 12, 2006. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, the Development Standards contained therein, and these conditions prior to the approval of a Land Disturbance Permit. The applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
 - a. The owner/developer shall dedicate twenty-five (25) feet of right-of-way from centerline on Nesbit Ferry Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.
 - b. The removal of two (2) specimen trees (Trees C-D) as shown on the site plan received by the Department of Community Development received December 12, 2006 (CV06-034).

- c. To a twenty-five (25) foot side yard setback and a forty (40) foot rear yard setback along all property lines abutting property zoned AG-1 (Agricultural District) and along Nesbit Ferry Road.

Second and Vote: Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ06-050/CV06-035, 5006 Roswell Road (SR 9) and 153 & 165 Spruell Springs Road Applicant: Montrose Enterprises, LLC rezoning From C-1 (Community Business District) and R-4 (Single Family Dwelling District) to MIX (Mixed Use District) for the development of a mixed use restaurant, retail, and townhome development, with concurrent variances.

City Clerk Rowland stated that Agenda Item No. 07-012 is RZ06-050/CV06-035, 5006 Roswell Road (SR 9) and 153 & 165 Spruell Springs Road. The applicant is Montrose Enterprises, LLC rezoning from C-1 (Community Business District) and R-4 (Single Family Dwelling District) to MIX (Mixed Use District) for the development of a mixed use restaurant, retail, and townhome development, with concurrent variances.

Assistant Director of Planning and Zoning Zehner stated that this application was heard by the Planning Commission on December 21, 2006. At that time, the Planning Commission did recommend approval of the application, 3-2 vote. Staff is recommending approval of the rezoning application and the concurrent variance request with those conditions listed in staff report. That will be a rezoning to MIX (Mixed Use District).

Dan King, 305 Trimble Crest Drive stated the application involves a 7.1 acre tract of land located on the corner of Roswell Road and Spruell Springs. He and his wife own the property. Atlanta Center for Cosmetic Dentistry is located at 5014 Roswell Road, immediately north of the subject property. The request is to rezone from C-1 and R-4 to a Mixed Use development. An Italianate style building sits close to Roswell Road. The restaurant will be on the first floor, office building on the second floor, with a residential component. They already have a tenant lined up for the restaurant. They are also requesting seven (7) concurrent variances to be at the rear and final shape of the property. City's zoning staff has stated that these variances are to be warranted.

The Design Review Board, Planning Commission and Sandy Springs zoning staff recommends approval. When this application was before the Design Review Board, they asked them to respond to three issues. 1) The applicant must provide a shared parking agreement with the office building to the north. 2) The applicant must provide letters of no objection from the neighborhood to the west concerning the concurrent variances request to reduce the required buffer. 3) The applicant should consider changing concurrent variances request #5 to five feet (5') instead of zero (0') feet. He then submitted a revised site plan, a parking agreement, and letters of no objection as requested by the Board. The Board heard the application at the November 28, 2006 meeting, and made a recommendation for approval, subject to the following: 1) Every effort made to save specimen Oak tree by adjusting building and grounds layout. 2) Parking easement (25 years) established with 5014 Roswell Road due to the property currently having a common owner with the subject site. 3) Possible crosswalk to site from 5014 Roswell Road. They have agreed to all staff recommended conditions which include 3(n) which states "The service shall not occur within the areas of the critical root zone that did not previously contain other and pervious features such as the house foundation and driveway."

One suggestion that the Arborist had that would help the viability of the Oak tree is to move the townhomes either further away on the site, further to the back or even moving the residential component to the top of the restaurant structure. That would effectively eliminate the need to prune branches for construction. It is acceptable to them to make this modification. This option has also brought support from the few neighbors that were in opposition. They have had discussions and input from the Arborist and with William Clay who has shown great interest in the project. It has become clear to them that the option of moving the residential component as a third story, on top of the restaurant structure is a preferable option instead of the townhomes. They have received assurances from staff that making such modifications would still be within the scope of the zoning they are seeking and could be handled administratively. With those changes they are not aware of any further opposition of their proposal. The proposed project will be great for the neighborhood and will have the support of Sandy Springs. Therefore, he requests City Council approve this application pursuant to staff's recommendation. It is the opinion of the staff that the proposal is conforming to the Comprehensive Plan Policy and the Future Land Use Plan as the proposal conforms to the character of this

neighborhood. Therefore, based on these reasons the staff recommends approval conditional of the petition for rezoning the associated concurrent variances.

Mayor Galambos called for public comment.

William Clay, Jr., 27 Spruell Springs Road spoke in opposition of application. Petition submitted, signed by 15 Residents and Home Owners of Hardeman and Spruell Springs Road.

(Clerk's note: This petition has been made a part of the record)

John Sullivan, 136 Hardman Road spoke in opposition of application. He is opposed to any commercial encroachment into his neighborhood. There is already a great deal of traffic going down their street and this would only bring more.

Maurice Nazzaro, 110 Spruell Springs Road stated there was no reason to rezone this lot to commercial if the townhomes are going to be moved above the restaurant. Anything that is done on that piece of property is going to encroach on that tree. He expressed concerns regarding traffic and the curb cut. He feels that curb cut is too far into the residential neighborhood. He would like it to be moved further up, either across the street where the curb cut is now, or utilize the existing curb cut on Roswell Road to keep that traffic off of Spruell Springs.

Councilmember Meinzen McEnerny questioned what conditions would staff have to change if Council approved the revised site plan with the residential units added as a third story.

Assistant Director of Planning and Zoning Zehner explained that Condition 1.a. and 1.b. should be combined to read; "To a single building with residential, office, restaurant and associated accessory uses at of a density 10,140.85 square feet per acre or 7,200 square feet, whichever is less, and two residential units at a density of 2.82 units per acre". That would be condition 1(a). Condition c then would become condition b which would read; "to a maximum building height of three (3) stories. Condition 2.a. would be changed to a revised site plan to be submitted to the Department of Community Development. Said site plan shall be conceptual only" and the rest of the conditions should read the same. Council would then approve the variance request with the exception of variance request three which would change condition 3.i. to read; "to a 25 foot buffer and 10 foot improvements setback along the west property line" instead of the normal 50 foot requirement. If Council were to approve the conditions he just read then the applicant would only be able to have a single buildings, and it would take a rezoning to spread those units out. The standard curb cut location is approximately 200 feet off of Roswell Road and this is about 110 feet. It is as far east and west as it can probably go. By rule, it should move further west but, it probably is in the best location. The tree save area is going to have to be temporarily fenced.

Councilmember Greenspan questioned if this would require sidewalks on the entire property.

Assistant Director of Planning and Zoning Zehner stated they would be required to install them along Spruell and Roswell Road. They will have to meet streetscape requirements on both frontages. One of the variances is to taper some of the streetscape requirements on Spruell and are intended to better accommodate the tree position from commercial, the wider sidewalk along Roswell Road to the less wide sidewalk along the residential street. The Design Review Board does support this.

Mayor Galambos questioned if the top units would be owner occupied, or was the intent to sell or rent.

Mr. King explained that would be their preference but, he has not looked at all the legalities of that structure. There are some issues with that. They need the flexibility to maximize the use of that property.

Mayor Galambos stated in the original site plan, there was not much greenspace, now there is more. The greenspace will enhance the appearance of the whole project. The city's standards on traffic island greenspace needs to be maintained. The applicant is reducing the number of trees here in the parking space that would ordinarily be required.

Assistant Director of Planning and Zoning Zehner stated that the applicant is requesting a variance to change the requirement of the 10 foot landscape island placed every six (6) parking space to a ten (10) foot landscape island placed no more than every eight parking space.

Mayor Galambos explained this can not be change tonight but, urged applicant to go back and put the landscape islands in.

Mr. King requested staff to reduce the 10 foot landscape strip where the townhomes are in Condition 3.

Assistant Director of Planning and Zoning Zehner stated staff is recommending that it be required that he have a 25 foot buffer and a 10 foot improvement setback in that location in lieu of the townhomes units.

Mr. King requests a deferral. In front, they are going to have virtually the entire lot as a setback, at its deepest perhaps 40 or 50 feet. This is the root zone and they are not going to disturb it where the Oak tree drip line is. They need the flexibility in the back part of the lot to still maintain the 10 foot landscape buffer, because the plan did show parking in there and they still need flexibility to put parking there.

Assistant Director of Planning and Zoning Zehner stated they could still achieve two parking spaces in front of the unit. We can not push the setback any further into that buffer.

Mr. King explained what he is asking is to maintain the ability to be able to put some cars in the back area of the lot. Essentially, he is putting a substantial portion of a lot to greenspace and the back portion he is asking for a 10 foot landscape strip. He believes that would give him another six (6) to eight (8) spaces for the restaurant. There would still be greenspace in front of the cars and would make the neighborhood happy.

Assistant Director of Planning and Zoning Zehner explained he could not add spaces because there is not enough room for it to be functional and he would only gain two spaces.

Motion and Vote: Councilmember Fries moved to defer consideration of RZ06-050/CV06-035 to the February 6, 2007 meeting. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

City Clerk Rowland introduced Sandy Springs Pages; Alex Williams and Erica Sheline, Ridgeview Charter School. Mayor Galambos presented each with a Certificate of Appreciation.

RZ06-051, Mount Vernon Village, Applicant: City of Sandy Springs Department of Community Development
requesting From A conditional to A to allow for two additional units within the existing retirement condominium.
Ordinance No. 2007-01-02

City Clerk Rowland stated Agenda Item No. 07-013 is for RZ06-051, Mount Vernon Village. Applicant is the City of Sandy Springs, Department of Community Development. The request is to rezone from A conditional to A to allow for two additional units within the existing retirement condominium.

Assistant Director of Planning and Zoning Zehner stated this is a petition by the City of Sandy Springs. This petition was heard by the Planning Commission on December 21, 2006. Staff is recommending approval with conditions, from A conditional to A to allow for the additional units with the existing seventy (70) unit retirement condominium building.

Mayor Galambos called for public comment.

Andrew D. Porter, 6490 Burdett Drive has lived in Sandy Springs since 1969, and has spent many years fighting zoning cases. This one comes from the City of Sandy Springs and violates the Comprehensive Land Use Plan. This is apartment zoning. In a meeting it was stated that this request came from a Councilmember. These individuals, not neighborhood petition will gain a lot of money with the additional unit. This is bad zoning and sets a bad precedent and makes bad government.

Assistant Director of Planning and Zoning Zehner stated this complex when constructed was sixty-eight (68) units and was conditioned to be sixty-eight (68) units. Two of those units were to be suite type units. They are larger than the other units and were sold as such. They were permitted by Fulton County in error and were allowed to be used that way. Since construction they have been in violation of the zoning ordinance. This is not a change in construction. This is a situation that has been in place since 1982. This is more a matter of perception than what is actually on the ground and what has been on the ground since that time. The situation is compounded by the fact that this is a condominium development and is owned by multiple entities. In order for the owners to sell these units, it would require the signatures of all the property owners in the complex. This would create an excessive burden on all property owners. Staff initiated this request to City Council.

Mr. Porter expressed his concerns regarding the owners not being named as co-petitioners.

City Attorney Willard stated it would not change the vote. First, the covenant would have to be changed in order for the vote to change. Two, you have existing property and if you change the zoning it is not going to change the reality of what is already out there. Sometime in the past, there were Certificates of Occupancy that gave them the right to use in this matter. Contrary to the zoning it is now a vested right.

Director of Community Development Leathers stated staff has found a number of circumstances where building permits were issued to do construction inside buildings, which allowed more units than were allowed in zoning. Staff has had this on a number of occasions. This is another one of those circumstances. In many cases, because of multiple owners it is not possible for them to do a zoning petition to make it legal. Fulton County allowed it in error. This is probably the fourth one of these cases staff has received where Fulton County has allowed more use on a piece of property than was allowed in the zoning. Staff can not go back since this is more than 20 years old in terms of the construction. Staff is bringing this before Council to allow the existing situation to continue.

City Attorney Willard stated the city is not really involved with the changes of zoning, only a change of conditions that are already applied to the property from 68 units to 70 units.

Assistant Director of Planning and Zoning Zehner stated that is correct. The zoning classification is remaining the same.

Mayor Galambos thanked Mr. Porter for bringing this to Council's attention. The City is not adding any value by this action. The value has been there in the fact that these units have been used as double units. The economic value has been garnered over the years.

Assistant Director of Planning and Zoning Zehner stated any zoning request initiated by the City staff must forward request to the Council person for that district. This happens to be in Councilmember Paul's district. Councilmember Greenspan also initiated a request as well as Councilmember Meinen McEnery. The owners of these units are Martha Michelle and Becky Hill. The file is a matter of public record and Mr. Porter could have asked for that at any time.

Mr. Porter request that in the future, individuals be named as co-petitioners.

Mayor Galambos stated Council would consider whether or not that should be done in the future with the advice of the City Attorney.

Motion: Councilmember Fries moved to approve RZ06-051, rezoning Mount Vernon Village from A conditional to A to allow for two additional units within the existing retirement condominium with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To a density of 9.42 units per acre or seventy (70) units, whichever is less.
2. To the owner's agreement to abide by the following:

- a. To the site plan received by the Department of Community Development dated October 3, 2006. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. The applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.

Second and Vote: Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

Zoning Modification

ZM06-013/CV06-041, 335 Colewood Way, Applicant: The Epstein School, To replace the site plan approved under ZM05-0035 to reconfigure the proposed new parking area, with a concurrent variance to encroach into the critical root zone of 11 specimen trees.

Ordinance No. 2007-01-03

City Clerk Rowland stated that this Agenda Item No. 07-014 is for ZM06-013/CV06-041, 335 Colewood Way, an Ordinance to modify conditions of a Resolution by Fulton County Board of Commissioners Approving Petition U94-0005 on May 4, 1994, property located at 335 Colewood Way.

City Planner Patrice Ruffin stated this item is ZM06-013/CV06-041, 335 Colewood Way, Applicant is the Epstein School. In 1994, The Epstein School received the original use permit from the Fulton County Board of Commissioners. Subsequently in 2005, they received a zoning modification to add parking spaces along the front portion of the property. In 2006, the applicant submitted a Land Disturbance Permit application with the city which did not meet the site plan that was approved in 2005. This request is to address those concerns with regard to the number of parking space at which they are proposing along the front property line. Staff is recommending approval conditional of the request to modify the condition of U94-0005 and the concurrent variance request to encroach into the critical root zone of five (5) specimen trees. In the staff report that Council has, it is listed as 11 specimen trees, however the site plans show there are actually five (5) specimen and five (5) that are not specimen. Staff is recommending that condition 3(g) be revised to read, "To encroach into the critical root zone of five (5) specimen trees, E, F, G, I and J and into the critical root zone of five (5) non specimen trees, A, B, C, D and H."

Councilmember Meinzen McEnerny questioned the type of material used under the critical root zone of the tree and if that could be a condition if anticipated as GO Web.

City Planner Ruffin stated it is not spelled out that way, but can be added as part of the variance condition.

Alex Cook, Landscape Architect explained that it will be a pervious pavement. The GO Web is an expandable rubber type of framework that holds aggregate paving in place. The GO Web keeps aggregate from migrating, in effect running out in the middle of the parking lot.

Mayor Galambos called for public comment.

Barbara Malone, 240 Colewood Way spoke on behalf on neighborhood in opposition. The neighborhood has concerns with the parking at the school. The City should look harshly on the violations of the covenant.

Myles Gould, 185 Colewood Way had concerns about the buffer on property.

City Clerk Rowland read into the record comments from **Jill Coolik, 6360 Bridgewood Valley Road** – "Oppose any and all rezoning of 335 Coleway Way."

Mr. Cook stated the zoning modification passed in 2005 has almost this exact same plan, in the same exact location in the critical root zone of the trees, minus five (5) parking spaces being implemented in the asphalt parking lot. This was allowed to go through with no variance application. This modification of the site plan will save the trees and will not
or

create any extra runoff. Also, this will maximize the number of cars that are brought in from parking on Coleway and Rivershore Estates and brought on campus and off of the streets.

Stan Beiner, 335 Colewood Way stated the total number of students listed on website includes both campuses the school has. In terms of parking, most days the count is between 15 and 25 cars that end up being parked on the street. This will solve this problem Monday through Thursday. Usually on Friday they have more because parents come to see their children. They have turned the back of the playground into a parking lot and believe this will alleviate that.

Councilmember Greenspan inquired about the schools future plans in relation to parking.

Mr. Beiner stated they are working on that now and have hired a firm to work with them. The school has the same concerns as the neighborhood and the goal is to work with the neighbors to make this a win-win situation.

Discussion and Vote: Councilmember Paul moved the Question. Councilmember DeJulio seconded the motion. The motion carried unanimously.

Motion: Councilmember Paul moved to approve consideration of ZM06-013/CV06-041, to replace the site plan approved under ZM05-0035 to reconfigure the proposed new parking area, with a concurrent variance to encroach into the critical root zone of 5 specimen trees and 5 non-specimen trees.

1. To the owner's agreement to restrict the use of the subject property to the following:
 - a. A private school for elementary and middle school grades at a maximum density of 10,251 gross square feet per acre zoned or a total gross floor area of 114,806 square feet, whichever is less.
 - b. Restrict the number of students to 650.
 - c. To abide by the conditions of U87-008 NFC for a preschool for 200 students, except as otherwise required in these conditions.
2. To the owner's agreement to abide by the following prior to commencement of operation of the private school:
 - a. To the Site Plan received by the Department of Community Development on January 4, 2007 and to submit to the Director of Community Development for his approval, prior to the approval of a Land Disturbance Permit, a revised Site Plan based on a certified boundary survey of the entire property zoned, incorporating the stipulations of these conditions of zoning approval and meeting or exceeding the requirements of the Zoning Ordinance.
3. To the owner's agreement to the following site development considerations:
 - a. Provide a natural buffer, undisturbed except for approved access and utility crossings, improvements, and replantings where sparsely vegetated and subject to the approval of the City of Sandy Springs Arborist, adjacent to the following property lines and in the widths shown:

25 feet wide adjacent to all property to the east property line with an additional setback for all improvements of 10 feet or as may be approved by the Director of the Department of Community Development. The existing parking lot, existing building, and play area fence shall remain as shown on the site plan referenced in condition 2.a. (94VC-037 NFC, Part 4)

25 feet wide adjacent to the west property line with an additional setback for all improvements of 10 feet or as may be approved by the Director of the Department of Community Development.

50 feet wide adjacent to the north, northeastern, and the northwestern property lines with an additional setback for all improvements of 10 feet or as may be approved by the Director of the Department of

Community Development.

- b. Provide a 20-foot wide landscape strip outside of the new dedicated right-of-way of Colewood Way. Said landscape strip shall be planted with shrubs, a minimum size of 3 gallons upon installation, planted at a minimum spacing of 3 feet on center, and trees, a minimum 3 inch caliper upon installation, planted at a maximum spacing of 30 feet on center. Plantings and specifications shall be subject to the approval of the City of Sandy Springs Arborist.
 - c. Provide a 100-foot setback for facilities and service areas and active outdoor recreation areas. Existing building, service areas, and active outdoor recreation areas may remain adjacent to the east property line and the northwestern property line identified as N42°E41'00" 273.00' as shown on the site plan referenced in condition 2.a. (94VC-037 NFC, Parts 1, 2, and 5.)
 - d. Provide a 50-foot setback for parking adjacent to the eastern property line. Existing parking may remain adjacent to the east property line as shown on the site plan referenced in condition 2.a. (94VC-037 NFC, Part 3)
 - e. No more than 3 exits/entrances on Colewood Way. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - f. To allow 23 new parking spaces within the front yard setback along Colewood Way. Said parking spaces shall be constructed on pervious material (05VC-199 NFC)
 - g. To encroach into the critical root zone of five (5) specimen trees [Trees E, F, G, I, and J] and into the critical root zone of five (5) other trees [Trees A, B, C, D, and H] as shown on the site plan received by the Department of Community Development dated November 17, 2006(CV06-041).
4. To the owner's agreement to abide by the following requirements, dedications, and improvements:
- a. Dedicate at no cost of Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Sandy Springs such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved.

30 feet from centerline of Colewood Way.
 - b. Improve Colewood Way along the entire property frontage with curb and gutter per Sandy Springs Standards.
 - c. Provide a deceleration lane for each project entrance as approved by the Sandy Springs Traffic Engineer.
 - d. Align the parking lot entrance with Rivershore Parkway.
 - e. Provide a four-way stop at the intersection of Colewood Way, Rivershore Parkway, and the newly aligned entrance of the parking lot.
5. To the owner's agreement to abide by the following:
- a. To contact the Director of Public Works, prior to the application for a Land Disturbance Permit, to arrange with the City Arborist an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries.
 - b. To maintain as a minimum, the tree density requirements as prescribed by the Sandy Springs Tree Preservation Ordinance Administrative Guidelines, either through the retention of existing trees, or tree replacement, in perpetuity.

- c. Prior to the submittal for a Land Disturbance Permit, the engineer/developer must contact the Department of Public Works to arrange an on-site visit and evaluation as to the location of stormwater facilities, discharge path of detention/retention pond(s) and other downstream constraints.

At the time of submittal for a Land Disturbance Permit and after the approval of the Preliminary Plat, the engineer/developer is required to provide written documentation verifying on-site evaluation and any other necessary downstream constraints.

- e. Provide documentation (cross-section etc.) as to the existing conditions for all natural streams/creeks within the boundary of the project. Show, by documentation, the appropriate erosion protection of the stormwater conveyance system.

Second and Vote: Councilmember Jenkins seconded the motion. The motion carried unanimously.

Text Amendments

RZ06-058-Consideration of approval of an ordinance amending Article 33, Signs, Article 12A, Overlay District Authority, and 12B, Sandy Springs Overlay District of City of Sandy Springs Zoning Ordinance.
Ordinance No. 2007-01-04

(Council's note: This item was moved to the end of Public Hearings)

River Corridor Review

RC 06-03SS – 5000 Riverview Road – Action Outdoors, Inc., c/o Mr. Mark Sutherland– Yellensa & Sutherland Engineers, Inc.

City Clerk Rowland stated that Agenda Item No.07-015 is for RC 06-03SS located at 5000 Riverview Road.

Assistant Director of Planning and Zoning Zehner stated this is for the River Corridor 06-03SS located at 5000 Riverview Road. The owner of the property is proposing to develop four two-acre lots for the construction of four single family residential homes. The property is located within the Chattahoochee River Corridor and therefore must comply with the Metropolitan River Protection Act managed by the ARC. This plan has been before the Atlanta Regional Commission and has met their approval and is consistent with City regulations. Therefore, staff recommends approval of the proposal. The applicant is here tonight should Council have questions.

James Jartrampf, 1684 Huntingdon Trail, stated the site is 8.78 acres and the owner is dividing it into four lots in excess of two acres each.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Vote: Councilmember Fries moved to approve RC 06-03SS River Corridor Review located at 5000 Riverview Road. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

RC 06-04SS – 1405 North Riverside Circle – Mr. Robin Rakestraw

City Clerk Rowland stated Agenda Item No.07-016, is for RC 06-04SS located at 1405 North Riverside Circle.

Assistant Director of Planning and Zoning Zehner stated River Corridor 06-04SS located at 1405 North Riverside Circle. Mr. Robin Rakestraw, owner of property is proposing to develop the property for the construction of one (1) single family residential home. The site is 1.53 acres, and is located within the Chattahoochee River Corridor. The property is subject to the Metropolitan River Protection Act administered by the ARC. It has been before the Atlanta Regional Commission for their review and was approved. Staff is recommending approval consistent with the ARC approval and the applicant does meet the requirements of the City.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Vote: Councilmember Fries moved to approve RC 06-04SS River Corridor Review located at 1405 North Riverside Circle. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Alcoholic Beverage License Applications

SAL004335- Approval of Alcoholic Beverage License Application for Carro De Boi Restaurant located at 8612 Roswell Rd. Sandy Springs, GA 30350. Applicant is Erlon Sousa for Consumption on premises Wine, Malt Beverage and Distilled Spirits.

City Clerk Rowland stated Agenda Item No. 07-017, SAL004335, is for the approval of an Alcoholic Beverage License Application for Carro De Boi Restaurant located at 8612 Roswell Road. Applicant is Eron Sousa for Consumption on the Premises, Wine, Malt Beverage and Distilled Spirits.

Assistant City Manager Crace stated that this applicant has been through all the proper procedures and staff recommends approval.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Vote: Councilmember Fries moved to approve the SAL004335- Alcoholic Beverage License Application for Carro De Boi Restaurant located at 8612 Roswell Rd. Sandy Springs, GA 30350. Applicant is Erlon Sousa for Consumption on premises Wine, Malt Beverage and Distilled Spirits. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

SAL000657- Approval of Alcoholic Beverage License Application for Happy Sumo Restaurant located at 1155-A Mount Vernon Hwy Sandy Springs, GA 30338. Applicant is Dae Sik Shoung for Consumption on premises Wine, Malt Beverage and Distilled Spirits.

City Clerk Rowland stated Agenda Item No. 07-018, SAL000657, is for the approval of an Alcoholic Beverage License Application for Happy Sumo Restaurant located at 1155-A Mount Vernon Highway. Applicant is Dae Sik Shoung for Consumption on the Premises, Wine, Malt Beverage and Distilled Spirits.

Assistant City Manager Crace stated that this applicant has been through all the proper procedures and staff recommends approval.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Vote: Councilmember Jenkins moved to approve SAL000657- Alcoholic Beverage License Application for Happy Sumo Restaurant located at 1155-A Mount Vernon Hwy Sandy Springs, GA 30338. Applicant is Dae Sik Shoung for Consumption on premises Wine, Malt Beverage and Distilled Spirits. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Executive Session-Pending Litigation

Motion and Vote: Councilmember DeJulio moved to go into Executive Session to discuss pending litigation. Councilmember Fries seconded the motion. The motion carried unanimously with Councilmember Dave Greenspan, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio and Councilmember Karen Meinzen McEnerny voting in favor. Executive Session began at 9:21 p.m.

Motion and Vote: Councilmember Paul moved to end Executive Session. Councilmember DeJulio seconded the motion. The motion carried unanimously with Councilmember Dave Greenspan, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio and Councilmember Karen Meinzen McEnery voting in favor. Executive Session ended at 9:35 p.m.

RZ06-058-Consideration of approval of an ordinance amending Article 33, Signs, Article 12A, Overlay District Authority, and 12B, Sandy Springs Overlay District of City of Sandy Springs Zoning Ordinance. Ordinance No. 2007-01-04 This item was moved by motion and vote of the City Council.

Lau. Henderson gave a general introduction on the sign ordinance amendment. The sign ordinances are an ever changing item. There are always court opinions coming out that look at language and find it problematic. It is important for cities to keep the review ongoing and to make amendments to sign ordinances over time. Sandy Springs started with an ordinance that came from Fulton County. The City has kept most of the regulatory provisions including the setbacks from the roadway, the size limits, the heightening and so forth. Those correspond pretty much to what is already on the books. Staff has tried to make this a neutral ordinance because regulation gets into the conscious of signs. Staff has modified the conditions with that goal in mind. Staff has also incorporated the subsistent regulations with the Sandy Springs Overlay district into the sign article of itself so they are all found in one place.

City Attorney Willard stated this is the requested matter dealing with the right of a review board to have at least advisory input to sign applications. It will be placed under section 12B.3.C.6 - The DRB may review applications for sign permits to make advisory comments to the Director of the Department of Community Development regarding whether the proposed signs comport with the standards set forth in Article XXXIII of the City of Sandy Springs Zoning Ordinance. Such review shall not be binding on the Director of the Department of Community Development. Such review shall not delay or otherwise affect the time requirements set forth in Article XXXIII of the City of Sandy Springs Zoning Ordinance. This language is suggested in this format because we do not want someone who is applying for a sign to have a right to challenge the ordinance based on any delays that may be coming about or have a third party, a veto power when we have very specific standards in which sign applications are to be processed and signs granted. Staff would suggest color scheme or something of that nature.

Ms. Henderson stated there are additional things the ordinance does that benefit the City. One, it gives the city staff another set of eyes, so if a technical detail is missed that is in violation, there is another group that can see that and point it out to staff. The other thing is to let them know what is coming through the city and this puts them in a position to make recommendations to Council for a change in the text of the ordinance. This allows them to be up to speed on everything.

Mayor Galambos announced that the Design Review Board is now fully acquainted with the amendment and will be involved in an advisory level.

Motion: Councilmember Fries moved to approve RZ06-058, Sign Ordinance as amended adding the following language:

Article XII (12), 12B, *Sandy Springs Overlay District*, Section 12B.3, *Sandy Springs Design Review Board*, C. DRB, *review for compliance with adopted development standards*, of the City of Sandy Springs Zoning Ordinance, is amended by the addition of the following Section 6

12B.3.C.6 The DRB may review applications for sign permits to make advisory comments to the Director of the Department of Community Development regarding whether the proposed signs comport with the standards set forth in Article XXXIII of the City of Sandy Springs Zoning Ordinance. Such review shall not be binding on the Director of the Department of Community Development. Such review shall not delay or otherwise affect the time requirements set forth in Article XXXIII of the City of Sandy Springs Zoning Ordinance.

Second and Vote: Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

City Attorney Willard made recommendation to Council that a Resolution and motion be made to terminate the moratorium.

Motion and Vote: Councilmember Jenkins moved to end the moratorium on billboard signs. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of a Resolution of the City of Sandy Springs Mayor and City Council authorizing the transmittal of the Community Assessment and Community Participation Program to the Regional Development Center and State for Review and Comment pursuant to State of Georgia Local Planning Requirements Chapter 110-12-1-.08.

Resolution No. 2007-01-08

City Clerk Rowland stated Agenda Item No. 07-019 is the consideration of approval of a Resolution of the City of Sandy Springs Mayor and City Council authorizing the transmittal of the Community Assessment and Community Participation Program to the Regional Development Center and State for Review and Comment pursuant to State of Georgia Local Planning Requirements Chapter 110-12-1-.08.

Deputy Director of Community Development McNeill stated that this is a Resolution for the Mayor and City Council to authorize the transmittal of the Community Assessment and Community Participation Program to the Regional Development Center and State for Review and Comment.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Vote: Councilmember Greenspan moved to approve Resolution of the City of Sandy Springs Mayor and City Council authorizing the transmittal of the Community Assessment and Community Participation Program to the Regional Development Center and State for Review and Comment pursuant to State of Georgia Local Planning Requirements Chapter 110-12-1-.08. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of Approval of a Resolution to amend Section 6.02(b) of Article VI of the City Charter.
Resolution No. 2007-01-09

City Attorney Willard stated that this is a Resolution to amend Section 6.02(b). This is what set up the 13 month transition period. He is recommending to Council to amend the charter to go for the full 24 months which is permitted under general law. The reason being is there has been a question raised about us not having the future Comprehensive Land Use Plan from ARC. In order to resolve that to give us ample time staff is recommending an amendment to the charter to go for the full two years.

Motion and Vote: Councilmember DeJulio moved to approve a Resolution to amend Section 6.02(b) of Article VI of the Charter so as to increase the transition period from thirteen months to the maximum twenty-four months. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Public Comment

City Clerk Rowland read the following public comment card into record.

Howard Sachs, 5975 Riverwood Drive. "What is the responsibility of Sandy Springs regarding the maintenance of the easements that they acquired from Fulton County?"

Adjournment

Motion and Vote: Councilmember Meinzen McEnery moved to adjourn meeting. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously. The meeting adjourned at 9:45 p.m.

Date Approved: 2/16/07


Christina V. Roland, City Clerk


Eva Galambos, Mayor

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

January 16, 2007

AFFIDAVIT FOR EXECUTIVE SESSION

Personally comes Eva Galambos, Mayor of the City of Sandy Springs, who on oath says that to the best of her knowledge and belief, on the 16th day of January, 2007, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

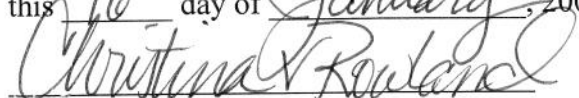
Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved, pursuant to O.C.G.A. 50-14-2(1).

and that except for the foregoing, no portion of the closed meeting involved discussion, presentation, or action on any other matter.



Eva Galambos, Mayor

Sworn to and subscribed before me,
this 16 day of January, 2007.


Notary public (SEAL)

CHRISTINA V. ROWLAND
Notary Public, Fulton County, GA
My Commission Expires Oct 30, 2010