

Regular Meeting of the Mayor and City Council of the City of Sandy Springs was held February 6, 2007 at 7:00 P.M., Mayor Galambos presiding.

Invocation - Reverend Brad Bunn, Youth Minister, Sandy Springs United Methodist offered the invocation.

Call to Order

Mayor Galambos called the meeting to order at 7:00 p.m.

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; Rebecca Heyliger, Sandy Springs Middle School and Alex Williams, The Galloway 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 Ashley Jenkins, Councilmember Rusty Paul, and Councilmember Tibby DeJulio. Councilmember Dave Greenspan joined the meeting at 8:00 p.m.

Pledge of Allegiance

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

Consent Agenda

1. Approval of Minutes:
 - a. January 9, 2007 Work Session minutes
 - b. January 16, 2007 Regular Meeting minutes

Motion and Vote: Councilmember Paul moved to approve the Meeting Agenda. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously

Presentations

Proclamation for A Day for Hearts

Mayor Galambos read the Proclamation for a Day for Hearts

Councilmember Paul recognized Susie and Sara Ann Voyles and presented them with the Proclamation.

Recognition of Marcus Kellum

Mayor Galambos recognized Marcus Kellum, Code Enforcement Officer who has been included in the ninth edition of *Who's Who in Black Atlanta*.

Recognition of High Point Civic Association for donation to Friends of Sandy Springs

Mayor Galambos recognized and thanked the High Point Civic Association for their donation.

City Clerk Rowland stated that 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.

Public Hearings

Zoning

RZ06-046/CV06-032-4579 Roswell Road (SR 9), 261 Hedden Street, and Windsor Parkway (17 00940001020), Applicant: Slavic Evangelic Christian Church, From R-4 to C-1 to maintain the existing church structure and to convert the existing accessory building into an art/auction gallery, with six (6) concurrent variances. Ordinance No. 2007-02-08

City Clerk Rowland stated that Agenda Item No.06-381 is RZ06-046/CV06-032-4579 Roswell Road (SR 9), 261 Hedden Street, and Windsor Parkway, Applicant is Slavic Evangelic Christian Church. An Ordinance to rezone property from the R-4 (Single Family Dwelling) District to C-1 (Community Business) District, property located at 4579 Roswell Road (SR9), 261 Hedden Street, and Windsor Parkway. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated the petitioner for the application is Paul Brown, represented by Pete Hendricks. The application was heard by the Mayor and City Council on December 19, 2006 and a deferral was requested at that time so the applicant could work with the community. The applicant is requesting to rezone from R-4 to C-1 to use the existing property as an art and auction gallery. In addition, the applicant is requesting ten (10) concurrent variance to allow the property to be maintained as its existing state. Staff is recommending approval with those conditions listed in the staff report. The applicant has provided staff with a revised site plan that increases the buffer area between the R-4 area and also added the 20 foot landscape strip along Hedden Street. These are agreements with the community. The applicant has also provided a letter of agreement signed by the president of High Point Civic Association, Windsor Buckhead Homeowners Association and Windsor Park Community Homeowners Association. In that agreement there are also six (6) stipulations; five (5) of those stipulations staff feels could be included as conditions of the approval, memorizing the changes made on the site plan. He reviewed these stipulations. The removal of impervious surfaces along the eastern property line. The addition of a 20 foot wide landscape strip along Hedden Street. The owners/developers agreement to relocate the dumpster located on the southeast corner of the property to a location central to the property. The owner/developers agreement to restrict access to the property from both Hedden Street and Windsor Parkway. The owner/developer agree not to have display of "for sale" items on the property within view of Roswell Road.

Pete Hendricks, 5085 Lake Forest Drive stated this is a 2.05 acre tract east side of Roswell Road between Hedden and Windsor. They deferred for purposes of engaging the community. They have been able to enter into a letter agreement with three (3) affected community associations. The Exhibit A commitments under that letter agreement which they respectfully request as indicated be included in the final conditions of zoning together with the site plan filed with staff on Friday. Last time they were here, he worked through the staff recommendation and comment as the

appropriateness of the application, recommendation of approval that has come forward from City staff, with that and the support of the community they respectfully request the application be approved as it has been submitted by the applicant and as it has been agreed to with conditions and stipulations with the community and the modified and amended site plan to reflect those matters particularly the buffering to which the applicant has agreed.

Mayor Galambos called for public comment.

Nancy Early, High Point Civic Association, stated that they have entered into an agreement with the applicant and are happy to support this application.

Rebecca Radvak, 276 Windsor Pkwy, Atlanta, (read into record) President of WBHOA representing the majority of members, have come to an agreement with Paul Brown.

Susan Heard, 286 Windsor Pkwy, Atlanta, (read into record) Windsor Buckhead Homeowners Association has come to an agreement with Paul Brown.

Councilmember DeJulio commended the applicant on working with the community to reach such agreements.

Assistant Director of Planning and Zoning Zehner requested that condition 2a be changed from January 23, 2007 to February 5, 2007.

Councilmember Meinzen McEnery stated that the agreement with High Point Civic Association requested an overlay standard on the Roswell Road side of the property. She questioned if they would consider not planting additional trees in the overlay if the Arborist suggests this would promote the survivability of the existing trees. The applicant stated that he would discuss this with the Arborist.

Councilmember Meinzen McEnery questioned if the applicant would agree to remove the asphalt that is mulching up to the trunk of the tree on the northern side. The applicant stated that it was his plan to have the Arborist look at this tree. He would take the Arborists suggestion. The applicant explained the location of the trees and stated that it is two or three parking spaces. He stated that if he needed to chip up some asphalt to protect the trees he will do so. Mr. Zehner explained that the applicant cannot reduce the parking any further because the variance has been advertised for the amount of parking shown. Mr. Hendricks stated that 68 spaces are required and 90 spaces are shown. Mr. Hendricks requested that the Arborist determine what is necessary for the health of that tree. Councilmember Meinzen McEnery stated that was fine.

Motion: Councilmember DeJulio moved to approve an Ordinance rezoning property located at 4579 Roswell Road, 261 Hedden Street, and Windsor Parkway from R-4 (Single Family Dwelling District) to O-I (Office and Institutional District) with the following staff conditions as amended:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To an art/auction gallery and accessory uses in the existing church and accessory building at a density of 10,976 gross square feet per acre or 22,500 gross square feet, 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 February 5, 2007. 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.

- b. The owner/developer shall submit to the City of Sandy Springs a combination plat, which will be filed with the Fulton County Tax Assessor's Office and recorded with the Clerk's Office of the Superior Court of Fulton County.
3. To the owner's agreement to provide the following site development standards:
 - a. The owner/developer shall dedicate fifty-five (55) feet of right-of-way or ten and one-half (10.5) feet from back of curb, whichever is greater, from centerline of Roswell Road (SR 9) along the entire property frontage to the City of Sandy Springs.
 - b. The owner/developer shall dedicate thirty (30) feet of right-of-way or ten and one-half (10.5) feet from back of curb, whichever is greater, from centerline of Windsor Parkway along the entire property frontage to the City of Sandy Springs.
 - c. The owner/developer shall dedicate twenty-five (25) feet of right-of-way or ten and one-half (10.5) feet from back of curb, whichever is greater, from centerline of Hedden Street along the entire property frontage to the City of Sandy Springs.
 - d. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the properties to the north and south. Should the owner/developer not come to an agreement on interparcel access at this time, the owner/developer shall provide documentation of such. In addition, if an interparcel access agreement is not obtained, permanent easements shall be recorded allowing for future inter-parcel access, prior to the issuance of an LDP.
 - e. To reduce the required forty (40) foot front setback along Hedden Street to thirty-four (34) feet to allow the existing accessory building to remain (CV06-032).
 - f. To change the required twenty-five (25) foot buffer and ten (10) foot improvement setback to a two (2) foot landscape strip abutting property zoned R-4 (Single Family Dwelling District) along property line S00°57'44"E 147.73' (CV06-032).
 - g. To delete the required twenty-five (25) foot buffer and ten (10) foot improvement setback abutting property zoned R-4 (Single Family Dwelling District) along property line S86°05'11"E 50' (CV06-032).
 - h. To change the required twenty-five (25) foot buffer and ten (10) foot improvement setback as shown on the site plan submitted abutting property zoned TR (Townhouse Residential District) along property line S05°45'01"E 162.71' (CV06-032).
 - i. To delete the required twenty-five (25) foot buffer and ten (10) foot improvement setback abutting zoned TR (Townhouse Residential District) along property line S81°45'02"E 90.75' (CV06-032).
 - j. To delete the required five (5) foot landscape strip abutting property zoned C-1 (Community Business District) along property lines S82°31'34"W 106.65', S50°39'13"W 138.88', and S78°43'49"W 133.55' to allow the existing paving and parking to remain (Section 4.23.1, Minimum Landscape Strips and Buffers).
 - k. To allow the existing monument sign to encroach into the required ten (10) landscape strip along the Roswell Road (SR 9) frontage (CV06-032).
 - l. To delete the required five (5) foot landscape strip abutting property zoned C-1 (Community Business District) along property line N84°23'53"E 193.52' to allow the existing driveway, paving, and parking to remain (CV06-032).

- m. To delete the required five (5) foot landscape strip abutting property zoned C-1 (Community Business District) along property lines N07°50'57"E 46.30' and N00°32'03"E 151.82' to allow the existing driveway to remain (CV06-032).
- n. To reduce the required number of parking spaces from 113 to 99 (Section 18.2.1, Basic Off-street Parking Requirements).
- o. Impervious surfaces shall be removed along the easterly property line with areas to be replanted to buffer standards as shown on the site plan received by the Department of Community Development dated February 5, 2007. Said site plan reflects an asphalt access drive crossing the south end of this area to be so replanted as well as an existing fence along portions of the easterly property line. The existing fence shall be replaced as needed and shall be maintained by the owner/developer.
- p. A twenty (20) foot wide area along the southerly side of the Hedden Street frontage and commencing on the easterly side of the access drive to the property from Hedden Street as shown on the site plan received by the Department of Community Development dated February 5, 2007 shall be planted to buffer standards.
- q. The owner/developer agrees to relocate the dumpster presently located at the southeast corner of the property as shown on the site plan received by the Department of Community Development dated February 5, 2007 to a location central to the property and removed from close proximity to the residential uses to the east of the property.
- r. The owner/developer agrees to restrict access to the property from both Hedden Street and Windsor Parkway for the purpose of avoiding cut through traffic.
- s. The owner/developer agrees not to have any display of "for sale" items on the property within view of Roswell Road (SR 9).

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

RZ06-050/CV06-035-5006 Roswell Road (SR 9) and 153 & 165 Spruell Springs Road, Applicant: Montrose Enterprises, LLC, 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.

Ordinance No. 2007-02-09

City Clerk Rowland stated that the next agenda item is RZ06-05/CV06-035-5006 Roswell Road (SR 9) and 153 & 165 Spruell Springs Road, 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. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Montrose Enterprises, LLC represented by Pete Hendricks. The applicant is requesting to rezone from C-1 and R-4 to MIX for the development of a mixed use restaurant, retail, and townhome development, with seven (7) concurrent variances.

The petition was heard by the Mayor and City Council on January 16, 2007 and was deferred to allow the applicant to revise the plan. The applicant has revised the site plan that removed two units on the western portion of the property. Those have been incorporated into the building allowing for a three-story building. The applicant has provided staff with a revised site plan that pulls the parking off the west property line and provides for a twenty (20) foot buffer and a ten (10) foot improvement setback. It is expected that the applicant will pursue

encroaching on the ten (10) foot setback which is allowable if the Arborist determines that it will not hinder any trees in that area.

Pete Hendricks, 6085 Lake Forrest Drive, stated that this is a 0.71 acre tract that forms the southwest corner of the intersection of Spruell Springs and Roswell Road. The two townhomes that were originally along the western edge will now serve as a third story on the building. There will be a 3,600 square foot Italian Restaurant on the first floor, 3,600 square foot office space on the second floor, and a third floor of 3,600 square foot to accommodate two townhomes. They have worked with the community regarding the western property line and have established this undisturbed buffer together with the six parking spaces being pervious to protect the trees.

He requested that staff condition 2a be amended to change the date to February 6, 2007.

Assistant Director of Planning and Zoning Zehner stated that staff is agreeable to that amendment and recommends approval of the application.

Mayor Galambos called for public comment.

William Clay, Jr., 27 Spruell Springs Road, stated that he is agreeable to what the applicant has come up with now.

Councilmember Meinzen McEnerny questioned if six pervious parking spaces under the tree is going to ensure the continued health of that tree. City Arborist Michael Barnett stated that there was already a house on this location. He feels this is the best option.

Motion: Councilmember DeJulio moved to approve an ordinance to rezone property located at 5006 Roswell Road (SR 9) and 153 & 165 Spruell Springs Road from C-1 (Community Business District) and R-4 (Single Family Dwelling District) to MIX (Mixed Use District) with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To a single building with residential, office, restaurant and associated accessory uses at a density 10,140.85 square feet per acre or 7,200 square feet, whichever is less, and two (2) residential units at a density of 2.82 units per acre.
 - b. To a maximum building height of three (3) stories.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated February 6, 2007. Said site plan shall be 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.
3. To the owner's agreement to provide the following site development standards:
 - a. To a twenty-five (25) foot buffer and ten (10) foot improvement setback along the west property line adjacent to residentially zoned property.
 - b. The light source of all external lighting in the development shall not be directly visible from adjoining residential properties.

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- c. The owner/developer shall dedicate fifty-five (55) feet of right-of-way from centerline of Roswell Road (SR 9) 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.
 - d. The owner/developer shall dedicate twenty-five (25) feet of right-of-way from centerline on Spruell Springs 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.
 - e. There shall be no curb cuts on Roswell Road (SR 9).
 - f. No less than 5% of the site shall be maintained as open/green space.
 - g. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the property to the south. Should the owner/developer not come to an agreement on interparcel access at this time with the property owner's to the north and south, the owner/developer shall provide documentation of such. In addition, if an interparcel access agreement is not obtained, permanent easements shall be recorded allowing for future inter-parcel access to the properties immediately adjacent to the north and south of the property, prior to the issuance of an LDP.
 - h. To reduce the required five (5) foot landscape strip along a portion of the east property line to three (3) feet as shown on the site plan received by the Department of Community Development dated February 6, 2007 (CV06-035).
 - i. To change the required twenty-five (25) foot buffer and ten (10) foot improvement setback along a portion of the south property line to a five (5) foot landscape strip as shown on the site plan received by the Department of Community Development dated February 6, 2007 (CV06-035).
 - j. To change the required fifty (50) foot buffer and ten (10) foot improvement setback along the west property line to a twenty (20) foot buffer as shown on the site plan received by the Department of Community Development dated February 6, 2007 (CV06-035).
 - k. To reduce the required nine (9) foot sidewalk and ten (10) foot landscape strip along the north property line to a six(6) foot sidewalk and five (5) foot landscape strip as shown on the site plan received by the Department of Community Development dated February 6, 2007 (CV06-035).
 - l. To reduce the required ten (10) foot landscape strip along the east property line adjacent to Roswell Road (SR 9) to five (5) feet as shown on the site plan received by the Department of Community Development dated February 6, 2007 (CV06-035).
 - m. To change the requirement of a ten (10) foot landscape island placed every sixth parking space to a ten (10) foot landscape island placed no more than every eighth parking space as shown on the site plan received by the Department of Community Development dated February 6, 2007 (CV06-035).
 - n. The owner/developer shall provide documentation of a shared parking agreement with the property immediately to the north, known as 5014 Roswell Road (SR 9), prior to the issuance of a final Certificate of Occupancy. Said agreement shall be provided through a 25-year easement which shall be filed with the Fulton County Tax Assessor's Office and recorded with the Clerk's Office of the Superior Court of Fulton County.
 - o. To encroach into the critical root zone of a 51 inch Red Oak specimen tree located along the west property line on an adjacent property (CV06-035). Disturbance shall not occur within areas of the critical root zone that did not previously contain other impervious features such as the house foundation and driveway. Said disturbance shall be subject to the approval of the City Arborist.

- p. The parking lot and proposed buildings shall be located as far from the 51 inch Red Oak specimen tree as possible, or within areas that were previously occupied by the house foundation. No negative changes in grade shall take place outside of the previous house footprint.
- q. Tree protection shall include a minimum of, but shall not be limited to, temporary 6' high chain link fence. Said tree protection measures shall be subject to the approval of the City Arborist.
- r. Hardscape improvements should be minimized or eliminated within the critical root zone, including sidewalks, walls, and features requiring a footing.
- s. The owner should retain the services of an ISA certified arborist, who is qualified in Construction and Tree Preservation techniques, to monitor the tree's health and to prepare Best Management Practice recommendations as needed during the duration of the project.

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

Mayor Galambos stated that in both of these applications, staff has spent a great deal of time to save the existing trees.

Solid Waste

To receive public comment pertaining to proposed amendments to the City's Solid Waste Ordinance (Ordinance #2006-04-20).

City Clerk Rowland stated that the next agenda item is a Public Hearing to receive public comment pertaining to proposed amendments to the City's Solid Waste Ordinance. This will be presented by Deputy Director of Public Works John Drysdale.

Deputy Director of Public Works John Drysdale stated that this will be discussed in detail at the next work session. He explained that the original ordinance was passed in April 2006. A part of this created a committee to review the ordinance and make recommendations. Their recommendations are in the document. He reviewed the following changes: Definitions were added and enhanced to clarify service provision. One distinct change was the addition of apartment communities to the "commercial units" definition. These communities were not explicitly defined in previous versions. Language was added to improve the process for firms to acquire variances from specified collection hours. Additionally, sections were added to ensure proper customer service between the firm and its clients, including the provision of a customer service number, more complete invoice information, and education of customers regarding best practices for waste disposal. Changes were made regarding driver safety and improved practices related to use of City streets. Language was added to require proper maintenance of disposal containers. Language was added to require proper clean-up of spillage. Language was added to clarify invoicing and use of infrastructure maintenance fee. Language was added to clarify insurance requirements.

Mayor Galambos called for Public Comment. There were no public comments.

Alcoholic Beverage License Applications

004821- Approval of Alcoholic Beverage License Application for Los Ranchos Mexican Restaurant located at 5899 Roswell Rd. Sandy Springs, GA 30328. Applicant is Ana Leddon for Consumption on premises Wine, Malt Beverage and Distilled Spirits.

City Clerk Rowland stated that the next agenda item is for the Approval of Alcoholic Beverage License Application for Los Ranchos Mexican Restaurant located at 5899 Roswell Rd. Sandy Springs, GA 30328. The applicant is Ana

Leddon for Consumption on premises Wine, Malt Beverage and Distilled Spirits. This will be presented by Assistant City Manager Al Crace.

Assistant City Manager Crace explained that this is a new application. They have their temporary license. Staff recommends approval.

Mayor Galambos called for public comments. There were no public comments.

Motion and Vote: Councilmember Fries moved to approve the Alcoholic Beverage License Application for Los Ranchos Mexican Restaurant located at 5899 Roswell Rd. Sandy Springs, GA 30328. Applicant is Ana Leddon for Consumption on premises Wine, Malt Beverage and Distilled Spirits. Councilmember Jenkins seconded the motion. The motion carried unanimously.

005127- Approval of Alcoholic Beverage License Application for On the Rocks Tavern located at 7285 Roswell Rd. Sandy Springs, GA 30328. Applicant is Hjalmar Nelson for Consumption on premises Wine, Malt Beverage and Distilled Spirits.

City Clerk Rowland stated that the next agenda item is the Approval of Alcoholic Beverage License Application for On the Rocks Tavern located at 7285 Roswell Rd. Sandy Springs, GA 30328. The applicant is Hjalmar Nelson for Consumption on premises Wine, Malt Beverage and Distilled Spirits. This will be presented by Assistant City Manager Al Crace.

Assistant City Manager Crace explained that this is a new application. They have their temporary license. Staff recommends approval.

Mayor Galambos called for public comments. There were no public comments.

Motion and Vote: Councilmember Jenkins moved to approve the Alcoholic Beverage License Application for On the Rocks Tavern located at 7285 Roswell Rd. Sandy Springs, GA 30328. Applicant is Hjalmar Nelson for Consumption on premises Wine, Malt Beverage and Distilled Spirits. Councilmember Fries seconded the motion. The motion carried unanimously.

000684-Approval of Alcoholic Beverage License Application for TD's of Sandy Springs "Taqueria Delgado" at 215 Northwood Drive Suite 5, Sandy Springs, Georgia 30342. Applicant is Frances Briceno for consumption on premise Malt Beverage.

City Clerk Rowland stated that the next agenda item is for the Approval of Alcoholic Beverage License Application for TD's of Sandy Springs "Taqueria Delgado" at 215 Northwood Drive Suite 5, Sandy Springs, Georgia 30342. The applicant is Frances Briceno for consumption on premise Malt Beverage. This will be presented by Assistant City Manager Al Crace.

Assistant City Manager Crace explained that this is a new application. They have their temporary license. Staff recommends approval.

Mayor Galambos called for public comments. There were no public comments.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve the Alcoholic Beverage License Application for TD's of Sandy Springs "Taqueria Delgado" at 215 Northwood Drive Suite 5, Sandy Springs, Georgia 30342. Applicant is Frances Briceno for consumption on premise Malt Beverage. Councilmember Fries seconded the motion. The motion carried unanimously.

New Business

RZ06-061-An Ordinance to Amend Chapter 12, Offenses and Violations, of the Code of Ordinances to Adopt the City of Sandy Springs' Noise Ordinance.

Motion and Vote: Councilmember Fries moved to amend the agenda by moving this item to a point in the agenda when Councilmember Greenspan arrives. Councilmember Paul seconded the motion. The motion carried unanimously.

City Clerk Rowland stated that the next agenda item is RZ06-061, an Ordinance to amend Chapter 12, Offences and Violations of the Code of Ordinances to Adopt the City of Sandy Springs' Noise Ordinance. This item will be presented by Director of Community Development Nancy Leathers.

Motion and Vote: Councilmember Jenkins moved to place the alternate Noise Ordinance, dated January 30, 2007, on the table for consideration. Councilmember Fries seconded the motion. The motion carried unanimously.

Director of Community Development Leathers explained that it is staff's recommendation to approve the proposed amendments to the Noise Ordinance, including amendments to the construction hours.

Mayor Galambos called for Public Comment and announced that speakers must have turned their public comment cards into the Clerk who will call them three at a time. She stated that a 30 minute time limit is being set unless someone has something different to offer.

City Attorney Willard informed the Mayor and City Council of the adopted Rules of Procedure for public participation.

Motion and Second: Councilmember Paul moved to suspend the rules of procedure to allow members of the public to speak for a maximum of two (2) minutes each. Councilmember Fries seconded the motion.

Councilmember Meinzen McEnery expressed concerns regarding suspending the Rules of Procedure.

Vote: The motion carried 5-1 with Councilmember Meinzen McEnery voting in opposition.

Ann Olevith, 5604 Colton Drive, Atlanta, 30342, expressed opposition and concerns regarding noise from construction and the proposed hours for this.

Nina Cramer, 5280 Long Island Drive, Atlanta, 30327, expressed concerns regarding enforceability of decibel levels.

Dr. Evan Torch, 5555 Whitner Drive, Atlanta, 30327, expressed concerns regarding using only decibel levels in the ordinance and concerns regarding continuous noise. He expressed concerns regarding distance requirements of electrical or gas motors or pool pumps from homes.

Kathrine Feeman, 840 Jett Ferry Manor, Atlanta, 30350, represents the Sandy Springs Council of Neighborhoods, expressed concerns regarding the construction hours.

Harriet Mills, 975 W. Kingston Drive, Sandy Springs, 30342, (read into record) oppose Noise Ordinance as written.

Janet Wells, 302 Beachland Drive, Atlanta, 30342, (read into record) Amend the Noise Ordinance to reduce the hours to 11 ½ hours per day not 13 ½ hours. We come home from work to relax. The community deserves peace and quiet in this very busy city. Vote for our quality of life.

Motion and Second: Councilmember Jenkins moved to approve an Ordinance to amend Chapter 12, Offences and Violations, of the Code of Ordinances by adding Article 6 as the City of Sandy Springs' Noise Ordinance. Councilmember Fries seconded the motion.

Motion to Amend No. 1: Councilmember Jenkins moved to amend Section 4(10), Construction or Repairs, amending the hours of work to read as follows:

Before 7:30 a.m. or after 7:30 p.m. on weekdays, and before 8:00 a.m. or after 5:00 p.m. on Saturdays, and at any time on Sundays and/or legal holidays. Councilmember Paul seconded the motion. The motion carried unanimously.

Motion to Amend No. 2: Councilmember Jenkins moved to amend Section 4(10) by adding subsection ii to read as follows: Landscape Contractor using any type of motorized mowers or mechanical blowers and other equipment which create loud and excessive noise shall be prohibited, during the following times:

Before 7:30 a.m. or after 7:30 p.m. on weekdays, and before 8:00 a.m. or after 5:00 p.m. on Saturdays, and at any time on Sundays and/or legal holidays. Councilmember Paul seconded the motion. The motion carried unanimously.

Motion to Amend No. 3: Councilmember Jenkins moved to amend the proposed ordinance by reinserting Section 9, Exemptions, and amending Section 9(a)i, to read: Noise from power tools, lawn mowers, and other lawn equipment when operated by the resident(s) and no more than two (2) non-residents, who shall not be conducting the work under commercial employment. Councilmember Fries seconded the motion. The motion carried unanimously.

Motion to Amend No. 4: Councilmember Jenkins moved to amend Section 4(2) of the proposed ordinance by inserting the phrase "on weekdays and between the hours of 12:00 a.m. and 7:00 a.m. on weekends" after 7:00 a.m. in the existing sentence so that it reads:

"The operation of any set, instrument, phonograph, machine, or device between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and between the hours of 12:00 a.m. and 7:00 a.m. on weekends and holidays in a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section". Councilmember Paul seconded the motion.

Discussion on the Motion: Mayor Galambos questioned what can be done about loud music prior to 11:00 p.m. on weekdays and 12:00 a.m. on weekends. City Attorney Willard explained that nothing can be done.

Vote on Motion to Amend No. 4: The motion carried unanimously.

Friendly Amendment No. 1 to Motion to Amend No. 4: Councilmember Meinzen McEnerny moved to amend the amendment so that the audibility of the prohibited noise be measured from property line of adjacent properties or the public right-of-way of the property. Councilmember Paul seconded the motion. The motion carried unanimously.

Councilmember Fries questioned if Sunday was included in the definition of the weekend. Councilmember Paul stated the weekend is defined as Friday, Saturday, and Sunday.

Friendly Amendment No. 2 to Motion to Amend No. 4: Councilmember Fries moved to amend the motion so that Sunday is not included in the definition of weekend for this ordinance. Councilmember Paul seconded the motion. The motion carried unanimously.

Councilmember Meinzen McEnerny stated that she continues to hear complaints from her constituents regarding frequent and loud continued noise emanating from mechanical equipment.

Motion to Amend No. 5: Councilmember Meinzen McEnerny moved to amend Section 4 of the proposed ordinance be amended by adding subsection (17) Domestic Mechanical Equipment to read as follows:

It shall be unlawful to maintain domestic mechanical equipment which creates excessive noise. For the purposes of this section, excessive noise shall constitute noise exceeding 65 decibels as measured at the property line of any adjacent property or the public right-of-way. This section, however, shall not apply to any generator operating during a power outage affecting the property. Councilmember Paul seconded the motion.

Discussion on the motion: Mayor Galambos questioned if there were any plans to amend where these units could be located in the future. Community Development Director Leathers explained that there are plans to amend this in a future ordinance amendment. This would only affect future development.

Councilmember DeJulio suggested that neighbors talk to each other about these types of issues.

Vote on Motion to Amend No. 5: The motion failed 1-5 with Councilmember Greenspan, Councilmember Fries, Councilmember Paul, Councilmember Jenkins, and Councilmember DeJulio voting in opposition of the motion.

Vote on Main Motion: The motion carried unanimously.

Mayor Galambos recognized the City Council Pages at this time.

Consideration of Approval of an Ordinance amending Chapter 12, Article 1, Section 2, Offenses against public morals.

City Clerk Rowland stated that the next agenda item is an Ordinance amending Chapter 12, Article 1, Section 2, Offences against public morals. This will be presented by City Attorney Willard. He deferred to City Solicitor Riley.

City Solicitor Riley explained that this ordinance provides City level sexual offences dealing with the issues of prostitution, solicitation of sodomy, and pandering in public areas which could include streets, sidewalks, restaurants, and bars. He requested that the Mayor and City Council approve this amendment.

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

Motion and Vote: Councilmember DeJulio moved to approve an Ordinance amending Chapter 12 of the Code of Ordinances of the City of Sandy Springs by replacing Article 1, General Provisions. Councilmember Fries seconded the motion. The motion carried unanimously.

Consideration of Approval of an Ordinance amending Section 6.02(b) of Article VI of the City of Sandy Springs Charter. (First Reading)

City Clerk Rowland stated that the next agenda item is an Ordinance amending Section 6.02(b) of Article VI of the City of Sandy Springs Charter. She conducted a First Reading of an Ordinance to amend Section 6.02(b) of Article VI of the Charter of the City of Sandy Springs relating to the transition period allowed for the orderly transition of various government functions from Fulton County to the City of Sandy Springs. This will be presented by City Attorney Willard.

City Attorney Willard explained that this Ordinance would allow for the transition period to be changed from thirteen months to twenty four months. He explained that an issue has arisen with the Department of Community Affairs dealing with our Comprehensive Land Use Plan. He explained that the City adopted the Fulton County Comprehensive Land Use Plan however there is some question from DCA regarding this matter. The City is working on a Comprehensive Land Use Plan at this time however it is a lengthy process.

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

Consideration of approval of a Resolution Approving the City's Application for the Atlanta Regional Commission's Community Choices Technical Assistance Program.

Resolution No. 2007-02-10

City Clerk Rowland stated that the next agenda item is the consideration of approval of a Resolution Approving the City's Application for the Atlanta Regional Commission's Community Choices Technical Assistance Program. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that this Resolution is to approve the City's Application for the Atlanta Regional Commission's Community Choices Technical Assistance Program. He explained that the Public Works Department and the Community Development Department have identified two programs in which the City could benefit from the Atlanta Regional Commission's participation. This comes at no cost to the City. The Public Works program is an access management plan. The Community Development Department has identified the possible need for assistance for the overlay district and the design guidelines.

Motion and Vote: Councilmember DeJulio moved to approve a Resolution Approving the City's Application for the Atlanta Regional Commission's Community Choices Technical Assistance Program. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Consideration of approval of Purchase Order for Police Vehicles

City Clerk Rowland stated that the next agenda item is the consideration of approval of a Purchase Order for Police Vehicles. This will be presented by Finance Director Steve Rapson.

Finance Director Steve Rapson explained that this is the 34 vehicles that were a part of the mid-year budget review.

Motion and Vote: Councilmember Fries moved to approve the Purchase Order for Police Vehicles. Councilmember Jenkins seconded the motion. The motion carried unanimously.

Consideration of Approval of a Resolution authorizing staff to initiate the process to modify the 2025 Interim Land Use Plan.

City Clerk Rowland stated that the next agenda item is the Consideration of Approval of a Resolution authorizing staff to initiate the process to modify the 2025 Interim Land Use Plan. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that this modification would change the designation of the property on the south side of Roberts Drive from 8-12 units per acre to 1 units per acre. This will not alter the Land Use Plan in affect at the time of the application for the property.

Motion and Vote: Councilmember Fries moved to table consideration of a Resolution authorizing staff to initiate the process to modify the 2025 Interim Land Use Plan. Councilmember Paul seconded the motion. The motion carried unanimously.

Councilmember Meinzen McEnery stated that this is what the citizens want.

Motion to reconsider: Councilmember Meinzen McEnery moved to reconsider this resolution. The motion failed for lack of a second.

Unfinished Business

Consideration of Approval of an Ordinance granting a Franchise to Georgia Power Company.

City Clerk Rowland stated that the next agenda item is the Consideration of Approval of an Ordinance granting a Franchise to Georgia Power Company. This will be presented by Assistant City Attorney McLendon.

Assistant City Attorney McLendon stated that this agreement is a standard form used by Georgia Power through out the state. A letter agreement is incorporated which address our issues such as the tree trimming policy and limitation of work in some right-of-way areas. He stated that they have broadened certain provisions of the agreement as it relates to the relocation of distribution lines. This is a 35 year contract.

Councilmember Paul questioned what affect any currently proposed legislation would have on this agreement. City Attorney Willard stated that the State cannot void a contract.

Mayor Galambos called for public comment. There were no pubic comments.

Motion and Vote: Councilmember Paul moved to approve an Ordinance granting permission and consent to Georgia Power Company and its successors, lessees, and assigns (hereinafter referred to collectively as the "company") to occupy the streets and public places of the City of Sandy Springs, Georgia (hereinafter referred to as the "city") in constructing, maintaining, operating, and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity and for other purposes. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

Consideration of Approval of the Tree Conservation Ordinance and Administrative Guidelines.

City Clerk Rowland stated that the next agenda item is the consideration of approval of the Tree Conservation Ordinance and Administrative Guidelines. This will be presented by Community Development Director Nancy Leathers.

Community Development Director Leathers stated that an Advisory Committee was appointed by the Mayor and confirmed by the City Council on July 7, 2006 to advise the staff, Mayor and Council on the preparation of the Ordinance. Mr. Ed Macie, ASLA, was retained to do the technical work on the ordinance in consultation with the Advisory Committee. Council reviewed the Ordinance on November 16, 2006 and November 21, 2006. At that time, it was deferred and staff asked that there be additional Advisory Committee and public meetings. The Advisory Committee meetings were held on December 11, 2006 and January 22, 2007 and the public meetings were held on November 20, 2006 and January 11, 2007.

The proposed Tree Conservation Ordinance emphasizes the retention and expansion of tree canopy. All trees are counted in the canopy calculation. All properties that require a tree removal permit will be required to meet the minimum canopy requirements. Boundary trees are defined as protected trees on neighborhood properties and if the critical root zone extends to a subject property they have to be addressed as a part of the development. Single family applications would not require a permit if there is an absence of Landmark Trees, 27" DBH. It also provides an Administrative Standards and Best management practices guide which allows for more coherent administrative practices in implementing the ordinance. This also creates a tree bank.

The Alternate Tree Conservation Ordinance before the Council incorporates many of the proposed amendments to the Ordinances. It identifies an number of categories of protected trees: Landmark Trees 27" DBH or more, Dogwoods and Redbuds of 10" DBH or more; Boundary trees 18" DBH or more located on an adjacent property; Buffer trees 18" DBH or more in the minimum required setbacks of the existing property; Protected trees 18" DBH or more located anywhere on the property including the buildable area. The removal or destruction of any Landmark tree requires a tree removal permit. The ordinance separates single family developments into those where there are large permits and those where there are minor improvements. Single family property in which a large permit is not involved, the process is simple. She explained this process.

Buffer trees are more protected and the Arborist must determine if the removal is warranted. Where a building permit is required, a Site Tree Conservation Plan is required. Landmark trees are protected unless they are within the building footprint or the Arborist determines that the permitted land disturbance requires the removal of such trees. Boundary trees are protected and must be shown as part of the Site Tree Conservation Plan. Protected trees and Buffer trees can be removed where the tree canopy does not go below the benchmark level.

All protected trees that are removed that go below the benchmark, must be replaced. If they cannot be replaced, payment must be made to the tree bank. There is a permit fee incentive in this ordinance for projects where people want to put back more trees and go above this canopy. There is recompense for that in an amount equal to a third of the value of the increased tree canopy up to a total of no more than fifty percent of the building permit fee.

Non-residential developments are handled very similarly to single family residential except that the canopy level is at forty percent for commercial properties. The Zoning Ordinance provides for a number of places where trees are required.

Mayor Galambos called for public comment.

April Atkins, Greater Atlanta Home Builders Association, stated that she is speaking on behalf of the Home Builders Association's representing approximately 3,800 members. They commend Sandy Springs for the inclusion of incentives in the tree ordinance. By allowing builders and developers to achieve credits for the building permit cost for going above and beyond the tree canopy requirements; this will encourage them to add more trees to the city's stock. The Home Builders' Association is committed to providing green construction as well as protecting the environment. The Home Builders' Association has been hosting meetings with the City of Sandy Springs to encourage its members to follow the codes of the City of Sandy Springs to ensure they are doing the right thing. They have been promoting the training session that will be taking place next Monday.

Patrick Dennis, 4705 Lake Forrest Drive, Atlanta Realtors, stated that he is an active participant of the Citizens' Advisory Committee and also represents Atlanta Realtors. He stated that the Atlanta residential realtors and commercial realtors comprise the membership organization of 11,000 people. He does not know if they are all citizens of Sandy Springs but they are business constituents which are very valuable. He stated that realtors have asked him to communicate to the Council that they have a strong commitment to the new City of Sandy Springs. Contrary to popular belief, realtors are not just selling houses. They are interested in promoting a neighborhood or a community. The community needs to be diverse and have careful consideration of environmental parameters. Trees are a natural amenity and are very important and make us a beautiful City. The number one issue to all realtors is private property rights. If there is an issue, the deciding factor is always on the side of the property owners. Realtors support the very logical, balanced tree ordinance and the 30% tree canopy seems to be sufficient. They support the incentives in place of the tree bank and feel the incentives will increase the canopy. If there is a need to legislate more in the future, they encourage the Mayor and City Council to do so but sometimes less is best.

Jahnee Prince, VP of Policy for the Council for Quality Growth, 6500 Sugarloaf Parkway, Duluth, stated that she is a long time City Planner. She expressed the support of the Council for Quality Growth for this proposed Ordinance. She stated that this is a tough ordinance. It is flexible and it is fair. The end result will be the preservation of a lot of existing trees. With the tree bank and incentives, this gives a lot of flexibility to the builders.

Alva See, Jr., 598 Chestnut Oak Court, Atlanta, stated that when he came here in 1982, he went to the tallest building and looked out on this beautiful city with the trees. Since then a lot of those trees have disappeared. In Savannah, they have changed the streets to go around the trees. He stated that trees help the erosion and cut out the sound. When he first moved into his home, you could hear the freeway and you cannot anymore. He has been told that his roof will last two extra years because of the shade of the trees and certainly help the value of the property. They are a precious resource. He stated that this is a great ordinance and congratulated those who worked on it.

Gary Unell, 5 Highland Valley Court, stated that he has been a resident of Sandy Springs for 30 years and has been building and developing in Sandy Springs for 30 years also. He was appointed to be on the Tree Advisory Board and was glad to serve. It has been a long 6 or 7 months and there have been many compromises from many sides; the homeowners, developers, builders, City Council. In the end he expressed support of the proposed ordinance with the 30 % canopy. He requested that the Council vote in favor of this alternate ordinance.

Chris Cramer, 5280 Long Island Drive, speaking on behalf of the Long Island Drive Coalition in opposed to the draft ordinance before the Mayor and Council. He requested those in opposition of this ordinance to stand. He stated that there are a very large number of concerned citizens in Sandy Springs. In fact, this public opposition is unprecedented in this city's very brief history. Seven months of discussion by the Tree Advisory Board and few, if any, of their recommendations are included in the final draft. Some people are drawing the conclusion this consultation process was for appearance sake only. There is real concern that the community is not being listened to and in fact being ignored. He is not aware of anyone in the room tonight that is against appropriate development or to dilute individual property rights. They are not militant tree huggers. They see the Tree Ordinance as a pragmatic set of guidelines to improve the community; working principles to protect and preserve the environment. That seems not to be the outcome unless the Mayor and City Council take the time and compromise this evening. The Mayor and Council have a very distressed community around them. He takes great pride in becoming a U.S. Citizen last year and is dismayed that it seems that the electorate is not being listened to and the dropping of this new ordinance has not been accompanied by a spirit of compromise. Those people who emailed the Mayor and Council are not some mob against change. The Mayor and Council will have their deepest gratitude if they take the time tonight to compromise. Even the squeaky wheels in the room would thank you.

Larry Young, 260 Riverhill Drive, President of the Sandy Springs Council of Neighborhoods, stated that he understands a great deal of effort has gone into crafting an ordinance that attempts to balance the needs of the community with the rights of individual property owners. This may be a perfect example of the saying that it is not a good thing to watch sausage or legislation being made. He stated that after considerable give and give back, the Council of Neighborhoods believes that the proposed alternate tree ordinance shows considerable progress toward a workable ordinance. They appreciate the distinctions drawn between the commercial and residential permit process. While it still does not contain all the recommendations of the Advisory Committee, the Council can support the alternate if two changes are made. He requested that the Mayor and Council reduce the threshold for the protected tree, buffer tree, and boundary tree from the current 18 inches to the recommended 12 inches. The higher threshold covers only 5 to 10 percent of trees on most sites. That leaves some 90 percent of all trees unprotected. The 12 inch threshold might increase the coverage from a reasonable 30 to 40 percent even though some 60 to 70 percent remain at risk. While they would like to see the recommended canopy requirement be set at the recommended 50 percent, they are willing to accept the same 40 percent as required for commercial and industrial sites. There is not reason why residential sites should have less tree coverage than an industrial or commercial site. A consistent requirement for all categories should be understood and enforced. They understand that the Advisory Committee was appointed to advise the Mayor and City Council and not to make a decision. However, if the Council could adopt those two recommendations from the Advisory Committee, this would be showing considerable respect for the months of volunteer work performed by that committee and encourage others to follow that example.

Bob Wiley, 845 North Island Drive, stated that he represents the Long Island Creek Watershed Association. He is licensed Professional Engineer and deal in hard numbers rather than emotions. His concern is that this ordinance is that it has been developed by politicians with no understanding of, or basis in scientific data, just opinions. For example, how much tree canopy does Sandy Springs have? What is the effect of allowing the removal of unlimited numbers of certain diameter trees being removed and not replaced? For instance, what is the canopy cover of Sandy Springs and what is the effect of canopy removal on global warming? Councilmember Meinzen McEnerny sent the Mayor and Council a list of data extracted from the Environmental Impact Statement done by Georgia Department of Transportation for the Georgia 400 extension in 1987. That Study measured every single tree in 5 sample areas south of I-285, much of which is in Sandy Springs. This study showed that if you allow cutting of all trees less than 18 inches you would eliminate 95.6% of all the trees. The majority of your constituents want the trees in the 12 to 18 inch group to also be protected. This would only affect 3.5% and bring the percentage to 92.2%. He has also heard your comments that it is ok to cut trees because they will grow back quickly. But is that really the case? I prepared some visual aids so you can see what I am talking about. He displayed a 12 inch diameter Ash that was 45 years old, a 17 inch Maple that was 39 years old, a 28 inch Specimen Poplar that was 58 years old. They are asking that the ordinance be changed to show their concern and put the maximum diameter that can be cut without a permit to 12 inches.

John Gillin, 4546 Harris Trail, stated that he is the founder of the Northside Woods Neighborhood Association and founder of the Long Island Watershed Coalition. They strongly object to the removal of Pine Trees from Landmark

Tree protected status. They are talking about preserving old, non-threatening Pines. He stated that they could be taken down if they are too close to the house. But leaving old, specimen Pine Trees to anyone's chainsaw is shortsighted. Pines are a vital part of the Georgia ecosystem, they prevent soil erosion. They are not trash trees. Whether we like it or not, they are a community resource.

Mark King, Sandy Springs, (Councilmember Jenkins read into record) "I have heard continuing rumors that the BZA is overloaded and/or frustrated with hearing variances associate with the Tree Ordinance. I would like to dispel any such rumors. So today I polled all the BZA members and a majority (some members have yet to respond) are both willing and able to continue to hear variance cases involving removal of trees."

City Attorney Willard expressed an objection to this comment and poll. This was sent to the City Clerk for the record.

Nina Cramer, Long Island Coalition, Sandy Springs Council of Neighborhoods, stated that she is not going to repeat things. She requested that the Council compromise on the size of the trees. This is critical. She went around her yard which has many trees, most are below 18 inches. She is concerned about the Mayor and City Council takes away the Board of Zoning Appeals' ability hear the Landmark tree cases. The Mayor and City Council has done a good job of protecting those trees but those are the less than 2 percent of the trees in Sandy Springs. The BZA is doing a good job. Michael Barnett is overloaded. In this document, his title is mentioned many, many times. She stated that 40 percent tree canopy is a standard by the U.S. Forestry Department. That is a study done by the American Forestry. Below 40 percent in an urban community, the tree canopy begins to lose it's ability to provide the benefits that it provides which include air quality, heat index, prevents noise pollution, prevents water runoff. Please consider these issues and especially the 40 percent canopy requirement in residential. She stated that she loves Pine trees but not those that are dangerous.

Ric Mayfield, 4805 Kitty Hawk Drive, stated that he is confused because he came here prepared to oppose the ordinance, but hearing the environmentalists, he is opposing the ordinance for a different reason. He moved here from Gwinnett County in 1999. They chose the future City of Sandy Springs but not for an over-burdensome set of ordinances. They have heard comments that 95 percent of the trees would be removed automatically. He stated that as a property owner, and even if allowed to do so, he is not going to run out and start cutting down his trees. He loves his trees, but last year they removed some trees to give more sunlight in their backyard. It is a matter of quality of life for them. They are not going to clear cut their yard and do not need a tree ordinance. He expressed opposition to any proposed tree ordinance due to overburdening on citizens.

Jennifer Steele, 4827 Kitty Hawk Drive, stated that she and her husband relocated to Georgia approximately 18 months ago. This is a life changing decision for them and took great financial risk to do so. Their home is a 1958 Chatham ranch on approximately $\frac{3}{4}$ acres in Cherokee Park and they love it. As with all homes and properties of this age, it has its charm and idiosyncrasies. Maintaining the mature landscaping requires vision and fiscal responsibilities. They were willing to take on these risks at the purchase of their home. Today, they see their yard in a different perspective. The passing of this ordinance will not only limit their creativity, but will create undue financial burden. Their property has landscaping issues and space constraints which already affect their gardening practices. Their planned landscaping and home improvement projects could fall by the wayside affecting their personal enjoyment and personal financial investment in their home and property. With all due respect, they are not trying to disrupt the sanctity of individuals who have established homes and residences. They are for individual property rights and believe in keeping neighborhood character. The City should not assert what residents can and cannot do. The City of Sandy Springs will be judged by the sum of its actions.

Dan Schaffer, 4784 Kitty Hawk Drive, Sandy Springs, stated that he understands environmental activism. He spent several years on the non-profit Board of Directors for the Atlanta Clean Air Campaign. He respects nature and has advanced degrees in environmental engineering and water resources. He does not like the properties where all the trees have been removed. However, a property owner has a right to do what they wish with their property. He supports a property owner's liberty to make their own unique choices and is outraged by any government regulation that requires property owners to be like everyone else. He believes in individual's right to choose what is best for their

property and fully supports a property owner's right to plant or cut down whatever tree they wish regardless of his personal wishes. The Sandy Springs City Council does not have the right to force the standard definition of beauty and conformity upon the population. He respects an individual's right to create the urban garden of their dreams. He hopes that the Council respects individual property rights and votes against this ordinance. He suggested to the environmentalists to change people's behavior through education.

Wilson McClure, 5271 Lake Forrest Drive, Atlanta, stated that they moved here 56 years ago because of the beauty of the area. They have moved once onto a full acre tract and he dared any of the builders to cut any of the trees. He would like to commend the Mayor and City Council for hiring the Arborist that the City currently has. He has been very helpful. It broke their hearts when a builder torn down a house to the side of them facing another street and cut down a beautiful Oak tree. He would like to ask the Mayor and Council to let citizens live in a group of trees if they want to. He requested that they narrow the width of the protected trees.

Eric King, 259 Dartmore Circle, stated that he is a landscape architect and a board member on the Georgia Urban Forest Council and has worked with several local counties on their Tree Ordinances. He commended the Mayor and City Council for the direction taken and trying to look at the canopy coverage as opposed to tree density units. He addressed the emphasis on native plants. He suggested that it is also important to take into consideration when removing trees it is important to protect all trees as equal. Sometimes the tree canopy that is saved is actually producing other trees that are having a negative impact on the environment. He stated that it is good to look at the long range picture. He is also a big supporter of Pine Trees. He stated that this is going to be an evolution. He has worked on Tree Advisory Committees before and the Georgia Urban Forest Council is working hard to provide tools to communities and Tree Boards to assess the ongoing Ordinances and the key is to get something in place that is better than what is currently in place. He recommended getting a Tree Board and make changes down the road.

Robert Schulz, 4820 Merlendale Drive, Atlanta, stated that he has lived here for 20 years. He stated that it has been very eloquently stated regarding the issue of personal property rights. The owners should be given the benefit of the doubt. He stated that he lives on approximately 1 ¾ acres and 30 to 40 percent of their trees are large trees. The alternate ordinance compels them to maintain a greenspace or park indefinitely. They are told that in addition to having to get a permit to remove large trees, they will also have to get permission of the Arborist. The Arborist has to find that they meet certain criteria in order to do that. They also then have to replace those trees with other plantings up to the decided upon percentage or pay a tree tax. He stated that if the City wants to legislate a 30 percent tree canopy, make everybody get a 30 percent tree canopy and give a tax exemption to those that have over 30 percent.

Jimmie Walters, 755 Mt. Paran Road, Sandy Springs, (read into record) I am not in favor of clear cutting trees, and I think to allow to take three trees per year is ridiculous. Atlanta has lost 50,000 trees in the last two years and they have some laws. I was born in West Texas where they have to plant trees.

Janet Wells, 302 Beachland Drive, Atlanta, (read into record) Please listen to your voters, community, letters, and thousands of emails. Amend and strengthen the tree canopy to a required 50% inches in diameter with BZA approval.

Motion and Second: Councilmember Fries moved to approve the alternative Ordinance to amend Article 8, Tree Protection Ordinance, of Chapter 14, Land Development and Environmental Protection of the City of Sandy Springs Code of Ordinances. Councilmember DeJulio seconded the motion.

Motion to Amend No. 1 and Second: Councilmember Fries moved to amend the Section 4(a)(ii) of the proposed ordinance by removing "and canopy potential as" and replacing with "and with canopy potential of 150% of the canopy of the Landmark tree to foster the enhancement of the tree canopy". Councilmember Jenkins seconded the motion.

Substitute Motion: Councilmember Meinzen McEnery offered a substitute motion that the ordinance be amended so that replacement of a Landmark tree equate to the number of inches removed. This motion failed for lack of a second.

Vote on Motion to Amend No. 1: The motion carried 5-1 with Councilmember Jenkins voting in opposition.

Motion to Amend No. 2 and Vote: Councilmember Fries moved to amend Section 12(a) of the proposed ordinance to add the sentence "Each offense shall further be subject to a maximum of six (6) months imprisonment." Councilmember Greenspan seconded the motion. The motion carried 5-1 with Councilmember Jenkins voting in opposition.

Motion to Amend No. 3: Councilmember Meinzen McEnerny moved to amend Section 6 of the proposed Ordinance so that properties undergoing major permitting activity be required to replant trees, post development, such that the property meets the canopy requirements as set forth in Table 1 at the completion of the project. This motion failed for lack of a second.

Motion to Amend No. 4: Councilmember Meinzen McEnerny moved to amend Table 1, Exhibit "A" of the proposed ordinance, so that the residential properties classification be increased from 30% to 50% pursuant to the Citizen's Advisory Committee recommendation. This motion failed for lack of a second.

Motion to Amend No. 5: Councilmember Meinzen McEnerny moved to amend Table 1, Exhibit "A" of the proposed ordinance, so that the residential properties classification be increased from 30% to 40% pursuant to the Citizen's Advisory Committee recommendation. This motion failed for lack of a second.

Motion to Amend No. 6: Councilmember Meinzen McEnerny moved to amend the definition of a Landmark Tree include: Pine Trees which: (1) exceed 30 inches in diameter, and (2) are not within thirty (30) feet of a structure. Section 2 regarding understory Landmark trees be amended to include the language "such as dogwoods, redbuds, and the like".

Substitute Motion and Vote: Councilmember Paul offered a substitute motion to amend the definition of a Landmark Tree to include Pine trees that exceed 30 inches in diameter and are not within 30 feet of any structure. Councilmember Meinzen McEnerny seconded the motion. This motion carried 4-3 with Councilmember Fries, Councilmember Jenkins, and Councilmember DeJulio voting in opposition. Mayor Galambos broke the tie vote voting in favor of the motion.

Substitute Motion and Vote: Councilmember Paul offered a substitute motion to include in the definition of Landmark Tree, dogwoods, redbuds, and a list of native trees, ten (10) inches or larger, developed by the Arborist and submitted for a subsequent vote by this Council at the next meeting prior to the approval of the minutes. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

(Clerk's note: This motion and vote was later withdrawn by motion and vote)

Motion to Amend No. 7: Councilmember Meinzen McEnerny moved that the definition of Protected Tree, Buffer Tree, and Boundary Tree be amended so that the protected trees in each category begin at 12 inches DBH. This motion failed for lack of a second.

Motion to Amend No. 8: Councilmember Meinzen McEnerny moved that the removal of any Landmark tree requires a Use Permit to be issued by the Board of Zoning Appeals in accordance with the present practices of the City. This motion failed for lack of a second.

Motion to Amend No. 9 and Vote: Councilmember Meinzen McEnerny moved to amend Section 2(n) by removing the phrase "or any part of the tree". Councilmember Fries seconded the motion. The motion carried 5-1 with Councilmember Jenkins voting in opposition.

Motion to Amend No. 10: Councilmember Meinzen McEnerny moved to amend section 3(f) to add the phrase "from a certified arborist" after the word documentation. This motion failed for lack of a second.

Motion to Amend No. 11 and Vote: Councilmember Meinzen McEnerny moved to amend the proposed Ordinance Section 4(a)i(3) to change read as follows: "The existence of significant tree canopy in common areas appurtenant to the property mitigating the tree loss".

Councilmember Jenkins seconded the motion. The motion failed 2-4 with Councilmember Greenspan, Councilmember Fries, Councilmember Paul, and Councilmember DeJulio voting in opposition.

Motion to Amend No. 12 and Vote: Councilmember Meinzen McEnerny moved to amend Section 4(a)i(4) by removing the words "pedestrian or vehicle" leaving in "traffic". Councilmember Fries seconded the motion. The motion failed 2-4, with Councilmember Greenspan, Councilmember Paul, Councilmember Jenkins, and Councilmember DeJulio voting in opposition.

Motion to Amend No. 13 and Vote: Councilmember Paul moved to withdraw the language included in the substitute motion to include in the definition of Landmark Tree, dogwoods, redbuds, and a list of native trees, ten (10) inches or larger, developed by the Arborist and submitted for a subsequent vote by this Council at the next meeting prior to the approval of the minutes and make the effective date of this ordinance be upon adoption. Councilmember Fries seconded the motion. The motion carried unanimously.

Vote on Main Motion: The motion carried 5-1 with Councilmember Meinzen McEnerny voting in opposition.

Reports and Presentations

There were no reports.

Motion and Vote: Councilmember DeJulio moved to appoint Mr. Lawrence Humphrey to the Impact Fee Advisory Committee. Councilmember Paul seconded the motion. The motion carried unanimously.

Public Comment

There were no public comments.

Adjourn

Motion and Vote: Councilmember Paul moved to adjourn the meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously.

After no further discussion, the meeting adjourned at 10:41 p.m.

Date Approved: March 6, 2007


Eva Galambos, Mayor


Christina Rowland, City Clerk