

Regular Meeting of the Mayor and City Council of the City of Sandy Springs was held August 1, 2006 at 7:00 PM, Mayor Eva Galambos presiding.

Invocation

Reverend Ron Gilreath, Mount Vernon Presbyterian Church gave the invocation.

Call to Order

Mayor Galambos called the meeting to order at 7:00 PM

Roll Call and General Announcements

Mayor Galambos requested that the City Clerk call the Roll.

City Clerk Marchiafava reminded everyone to silence their cell phones and pagers at this time. 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 Marchiafava called the roll.

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

Pledge of Allegiance

Mayor Galambos led the Pledge of Allegiance.

Approval of the Meeting Agenda *(add or remove items from agenda)*

City Clerk Marchiafava stated that the next agenda item is the approval of the Meeting Agenda. She requested that RZ06-019/CV06-011, RZ06-022/CV06-019 and RZ06-024/CV06-013/U06-003 be removed from the Zoning Agenda as they were deferred at the Planning Commission meeting held on July 31, 2006. Additionally included in the zoning information packet, but not on the agenda is the rezoning RZ06-011/CV06-010 at 400 Carpenter Drive from C-1 conditional to MIX for a development that will include retail, office, and residential, with 1 concurrent variance. This item was deferred by the Mayor and Council on June 6 and the Planning Commission heard this item at the July 31 meeting. There is also a request to add a resolution suspending the enforcement of a provision of section 33.5r of article 14, Zoning Ordinance relating to the prohibition of Caravan Real Estate Signs. Lastly, the City Attorney has requested an Executive Session to discuss litigation matters.

Mayor Galambos questioned if the Council had any additional items they wished to change on the agenda. There were none.

Motion: Councilmember Fries moved to approve the Meeting Agenda with the following changes:

Removal of RZ06-019/CV06-011, RZ06-022/CV06-019 and RZ06-024/CV06-013/U06-003

Addition of RZ06-011/CV06-010

Addition of a Resolution Suspending the Enforcement of a Provision of the Zoning Ordinance relating to the prohibition of Caravan Real Estate Signs

Addition of an Executive Session to discuss litigation matters following Public Comment

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

Consent Agenda

1. Approval of the July 5, 2006 Work Session Minutes
2. Approval of the July 5, 2006 Regular Meeting Minutes.

Mayor Galambos called for a motion on the Consent Agenda.

Motion and Vote: Councilmember Meinzen McEnerny moved to remove the approval of the July 5, 2006 Regular Meeting Minutes from the Consent Agenda for discussion. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion passed unanimously.

Vote: Council voted unanimously to approve the amended Consent Agenda.

Zoning Agenda

City Clerk Marchiafava stated that at the first 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.

The Planning Commission heard these items at their July 31, 2006 hearing. The Planning Commission's recommendations have been forwarded to the Mayor and City Council for consideration and disposition. The First Reading of this Zoning Agenda was heard by the Mayor and Council on July 18, 2006.

Demonstration of any sort within the chamber is prohibited, so please refrain from any applause, cheering, booing, or dialogue with the person speaking or outburst. Please show the same respect to the person speaking that you will expect to receive yourself.

In addition, the applicant shall not submit material to the Council during the meeting, unless requested to do so. All material that you wish to be reviewed by the Council in consideration of your application should be submitted to the staff of the Department of Community Development, to be included in the normal distribution of packages to the Council.

Text Amendment

RZ-06-036 – Approval of an Ordinance to Amend the City of Sandy Springs Zoning Ordinance to Prohibit Flag Lots. First Reading on July 18, 2006. (Second Reading)
Ordinance No. 2006-08-51

Assistant Director of Planning and Zoning Michael Zehner stated that RZ06-036 is an Ordinance to amend the City of Sandy Springs Zoning Ordinance to prohibit Flag Lots. Staff has worked with City Council and the Planning Commission. In addition to the Ordinances being proposed, in article 4, General Provisions, 4.2.10 Minimum Lot Width, the minimum lot width required for the zoning district shall be achieved at a distance no greater than the sum of the required minimum front yard/setback and minimum rear yard/setback. In addition, the minimum lot width shall be maintained through the depth of the buildable area. The Planning Commission recommended approval. In addition, the definition for flag lots and provisions for flag lots have been deleted.

Mayor Galambos asked for public comment.

Bill Grant, 2050 Old Dominion Road, stated that he is a developer. He expressed concerns regarding this ordinance because it does not allow builders to work with the land.

Dara Nicholson, 115 Hemmingwood Way, Dunwoody, commended the Planning Commission for supporting this ordinance. She concurred with Mr. Grant that some study should be done.

Chris Cramer, 5280 Long Island Drive, Atlanta, spoke in support of the proposed ordinance. He expressed concern regarding development in Sandy Springs. He requested that the Council approve this proposed Ordinance.

Penelope Malone, 4655 Lake Forrest Drive, Atlanta, stated that flag lots destroy the quiet enjoyment of the neighborhoods. She requested that the Council approve this proposed Ordinance.

Jo Rabaut Elliot, 5051 Lake Forrest Drive, stated that the Chastain Park Civic Association supports the proposal to prohibit flag lot development.

Public Hearing Closed

Mayor Galambos closed the public hearing for the proposed Flag Lot Ordinance.

Councilmember Meinzen McEnerny stated that this Ordinance will protect the integrity and character of the neighborhoods, continue to protect the fragile environment, and positively affect the problems here in Sandy Springs.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve an Ordinance to Amend the City of Sandy Springs Zoning Ordinance to Prohibit Flag Lots. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion passed unanimously.

Rezoning

RZ06-011/CV06-010 Carpenter Drive, Applicant, Masoud Zahedi, from C-1 conditional to MIX for a development that will include retail, office, and residential, with 1 concurrent variance. (Added by motion and vote) (Second Reading)
Ordinance No. 2006-08-52

City Clerk Marchiafava stated that the next agenda item is RZ06-011/CV06-010 added my motion and vote. This is located at 400 Carpenter Drive and the applicant is Masoud Zahedi. The request is to rezone from C-1 conditional to MIX for a development that will include retail, office, and residential, with 1 concurrent variance.

City Clerk Marchiafava conducted a Second Reading of an Ordinance to rezone property from C-1(Community Business District) to the MIX(Mixed Use District), property located at 400 Carpenter Drive. This item will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that a Second Reading was conducted at the June 6 meeting. At that time, the applicant decided to add a residential component to the application and the Mayor and City Council deferred the application back to the Planning Commission. The applicant has revised his plan to include four residential units in the structure without altering the square footage. Staff has provided conditions recommending approval and recommending approval of the one concurrent variance for the removal of one specimen tree. Staff is recommending to limit the property at 38,000 gross square to retail/office and four residential uses as proposed in the applicant's letter of intent; to the revised site plan; to pursuing inter-parcel access with the property to the west prior to the issuance of an LDP; limiting the two curb cuts; providing at least 15% open or greenspace; providing a directional sign indicating the location of the signalized intersection at Carpenter Drive and Roswell Road; dedicating 30 feet of right-of-way from the centerline of Carpenter Drive.

Councilmember Fries questioned if the residential component would be rentals or owner occupied. Assistant Director of Planning and Zoning Zehner stated that the applicant has not identified that yet.

Masoud Zahedi, 5801 Roswell Road, Sandy Springs, applicant, stated that he was agreeable to all conditions.

Councilmember Fries questioned if these would be rental property. Mr. Zahedi stated that they would be sold.

Councilmember Meinzen McEnerny questioned where the greenspace would be located. Mr. Zahedi explained where the greenspace would be located. Councilmember Meinzen McEnerny clarified that this would all be replacement trees. Mr. Zahedi stated that he would try to save as many large trees as possible.

Councilmember Fries questioned if the Council should be concerned about reserves for the four owner occupied residential units.

City Attorney Willard stated that the fact that there will be four units on one parcel will require it to have a cooperative type of ownership or condominium ownership with the most common use being condominium and will by law require an association. He recommended that the requirement for reserves should be placed in the declaration of covenants and not something the City stipulates and has to police.

Councilmember Fries also requested that a stipulation that only 25% of the units be used as rental property. City Attorney Willard stated that this is also something that should be placed in the declaration of covenants and not made a condition on the property.

Masoud Zahedi agreed to the addition of these into the condominium association declaration of covenants.

Motion: Councilmember Fries moved to add a condition to staff's recommendation that there be a condominium association established with the condominium association board setting covenants which contain provisions for the establishment of a reserve for capital repairs and improvements and a covenant that there will be not more than 25% rental units permitted.

Second: Councilmember Meinzen McEnerny seconded the motion.

Discussion on the motion: Councilmember Greenspan questioned if there was adequate parking on this parcel. Assistant Director of Planning and Zoning Zehner stated that the applicant is within the requirements of the Main Street District with a total 77 parking spaces which is 2.02 spaces per 1,000 square feet. This meets the requirements of the Ordinance.

Vote: The motion passed unanimously.

Motion: Councilmember Fries moved to approve RZ06-011/CV06-010 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 a density of 57,575.75 gross square feet per acre or 38,000 gross square feet of building area, whichever is less.
 - b. To the retail, office, and four (4) residential uses as provided for in the Letter of Intent dated received by the Department of Community Development on July 10, 2006.
2. To the owner's agreement to meet the following site development standards:
 - a. To a revised site plan to be received by the Department of Community Development. 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.

- b. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the property to the west. Should the owner/developer not come to an agreement on interparcel access at this time with the property owner's to the west, 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 interparcel access to the properties immediately adjacent to the west of the property, prior to the issuance of an LDP.
 - c. The subject property shall be limited to a maximum of two (2) curb cuts on Carpenter Drive, one of which shall be utilized solely for ingress and egress to sub-grade or underground parking facilities and subject to location and sizing of openings as approved by the Department of Community Development.
 - d. At least 15% of the property shall be maintained as open/green space.
 - e. The owner/developer shall install a directional sign on the property indicating the location of a signalized intersection at Carpenter Dr. and Roswell Rd., meeting the approval of the Director of Community Development.
3. The owners agreement to include in the Declarations of Covenants and Restrictions, recorded for the residential condominium development of the subject property, and prior to issuance of any residential certificate of occupancy to the condominiums, the following:
 - a. A restriction limiting the number of units in the condominium development which can be used for rental units and non owner occupancy to a sum of not more than 25% of the total units.
 - b. To include in the covenants a provision requiring a reserve fund for building maintenance.
 4. To the owners agreement to abide by the following traffic requirements, dedications and improvements:
 - a. Dedicate at no cost to the City 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 the City of 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 Carpenter Drive.

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

RZ-06-016/CV06-008 – 70 Cliftwood Drive, SM Services, Inc., from O-I conditional to O-I for the development of a 6,000 square foot office building at a density of 14,634.15 square feet per acre, with 4 concurrent variances.
(Second Reading)

City Clerk Marchiafava stated that the next agenda item is RZ06-016/CV06-008, an ordinance to rezone property from O-I(Office and Institutional) District to O-I(Office and Institutional)District. The property is located at 70 Cliftwood Drive. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that this is a request to rezone from O-I conditional to O-I for the development of at 4,100 square foot office building at a density of 10,000 square feet per acre. The applicant is requesting three concurrent variances regarding reduction of zoning buffers and improvement setbacks and regarding a reduction in the parking requirements. The Planning Commission heard this on June 15 and deferred

the application for the applicant to make further revisions and meet with staff and the neighborhood. The applicant has done this and has revised the site plan to a total of 10,000 square feet per acre.

The Planning Commission recommended approval at their July 31 meeting with staff's conditions and the addition of a condition limiting the driveway to the most minimum size possible. Staff recommends approval conditional to the owner's agreement to restrict the use to 10,000 gross square feet per acre, to the uses permitted under O-I, with those excluded uses listed; to the site plan submitted on June 28, 2006; to the installation of a masonry wall screening the rear of the property; prohibition on the visibility of external lighting; condition the structure to a single family residential appearance; parking areas shall not be visible from residentially zoned property; landscaping consistent with the overlay district requirements; no signs identifying the business; limiting the height to two stories; no less than 5% of the site maintained as open greenspace; and to those concurrent variances previously stated.

Keith Sirockman, 5375 Cross Roads Manor, Atlanta, applicant, stated that he is agreeable to all the conditions and thanked the Mayor and Council for their consideration.

Councilmember Meinzen McEnerny stated that the Planning Commission requested that the 24-foot driveway be reduced. She questioned what it will be reduced to. Mr. Sirockman explained that the Planning Commission is looking at what they feel is acceptable.

Councilmember Meinzen McEnerny questioned if the Council could take action if the Planning Commission still has issues with this application.

Assistant Director of Planning and Zoning Zehner stated that the Planning Commission felt they had addressed all the items and left it to staff to work with the applicant to reduce the width of the driveway.

Transportation Planning Engineer Mark Moore stated that the City's transportation standards call for a 24-foot wide commercial development driveways. The next lower standard would be a 20-foot width similar to a residential street. That is typically the smallest that a Fire Department likes to see based on International Fire Codes for entrances into any type of commercial use. Through the LDP process, staff will have clear direction from the Planning Commission and the Mayor and Council.

Councilmember Meinzen McEnerny questioned if the applicant would be agreeable to a 20-foot driveway. Mr. Sirockman stated that he was agreeable to this.

Councilmember Fries stated that the original documents showed a 10,000 square foot structure and it has been reduced to 4,100 square feet and the driveway has been moved to the opposite side. Mr. Sirockman stated that is correct. Councilmember Fries questioned if any new renderings have been submitted displaying these changes.

Assistant Director of Planning and Zoning Zehner stated that the site plan in the packet is the 4,100 square foot building.

Councilmember Fries questioned the reason for changing the driveway. Mr. Sirockman stated that it fit on the property better that way.

Craig Rethwilm, applicant's engineer, explained that the driveway was moved for two reasons. The first is that it puts the driveway closer to another commercial zoning rather than a residential zoning. Also, based on the topography, that side is lower.

Councilmember Greenspan questioned what the square footage is of the existing building. Mr. Sirockman stated that the existing building is 3,100 square foot.

Mr. Sirockman explained that he and his wife work together in the house and they would like to reconstruct it so that all of the work is on the same level of the house.

Councilmember DeJulio questioned if they were planning any type of fencing to prevent the school children from coming onto the property. Mr. Sirockman stated that there are many trees and a retaining wall. They also have heavy security due to the crime in the area.

Councilmember Meinzen McEnerny stated that this particular office building is designed to look like a very upscale home. This is a considerable upgrade to the existing office uses on that property.

Councilmember Fries questioned what is on the other side of the street from this property. Assistant Director of Planning and Zoning Zehner stated that a rezoning application has been received for property across the street. He displayed the homes located in Sandy Springs Cove. Councilmember Fries expressed concerns with this being the only office located on this side of the street. There is a school being built behind this home and new homes just built across the street.

Mayor Galambos questioned if any of the homeowners have objected to this petition. Mr. Sirockman stated that the residents were concerned about having a commercial building across the street. Therefore, they hired an architect to ensure that this fit in with the design of the neighborhood across the street.

Councilmember Greenspan expressed his concerns regarding this commercial piece of property being surrounded by a school. Mr. Sirockman stated that the school has assured them that they do not need their property.

Councilmember Jenkins questioned if this met the Comprehensive Plan. She stated that what Council has in their packet shows a 6,000 square foot building. Now, the applicant is requesting to construct a 4,100 square foot building. Council does not have this revision. She explained that variances are not granted on self-imposed hardships.

Mr. Sirockman stated that at the Planning Commission meeting, they requested a 4,100 square foot building. He discussed this with his wife and they felt they could live with this.

Councilmember Meinzen McEnerny stated that personal opinion about whether this should be a part of the school site is immaterial and irrelevant.

Mayor Galambos questioned if any member of the Council was contacted by the School Board with an offer to buy this property. Councilmember Paul stated that he was contacted stating they did have an interest in it.

Councilmember Meinzen McEnerny stated that she was contacted and told that a letter was sent to the City Manager regarding this property.

Councilmember Fries stated that she has a problem with all the changes that have been made and the fact that there is no drawing of what it is going to look like.

Mr. Sirockman stated that the property owners across the street were fully aware of the zoning of this property.

Councilmember Paul questioned if this property is currently used as an office. Mr. Sirockman replied that it is. Councilmember Paul questioned that if this application is denied, would the structure still be used as an office. Mr. Sirockman stated that it would. Councilmember Paul clarified that there is going to be an office building on this site regardless.

Councilmember Paul questioned if the applicant would be agreeable to deferring this so that the revisions can be made. Mr. Sirockman stated that he was agreeable to this.

Councilmember Greenspan stated that he was also approached by the School Board which is how he knew about the other properties.

Mayor Galambos called for public comment. There was no public comment.

Councilmember Jenkins reiterated that variances cannot be due to self-imposed hardships. Mr. Sirockman explained that the variances are currently in place under the current O-I conditional zoning. They are not asking for anything new.

Craig Rethwilm, engineer, stated that this building is across the street from the new, nice homes, but also the other properties on that side of the street, just down from Mr. Sirockman's property, are not what one would consider upscale homes. They are older homes with full size parking lots in front of the houses. He displayed photos of surrounding properties.

Motion and Vote: Councilmember Paul moved to defer this item until the August 15, 2006 Council Meeting. Councilmember Fries seconded the motion. The motion passed 5-1, with Councilmember Meinzen McEnery voting in opposition.

Additional Comments on Flag Lot Ordinance

City Clerk Marchiafava stated that, at the request of the Community Development Director, Mr. Edward Weiler be allowed to address the Council regarding the Flag Lot issue.

Edward Weiler, 650 Windsor Parkway, Sandy Springs, apologized for being late. He stated that he was given the impression that his property could be developed in a certain way. Now an ordinance has been passed that will not allow his property to be developed in the same fashion as his neighbors.

Mayor Galambos recommended that Mr. Weiler meet with staff to review alternatives in the development of his property.

RZ-06-017 – 940 Dunwoody Club Drive, Dean D'Angelo, from AG-1 (Agricultural District) to R-3A (Single Family Dwelling District) for the development of three single family lots at a density of 2.52 units per acre. First Reading on July 18, 2006. (Second Reading) Ordinance No. 2006-08-53

City Clerk Marchiafava stated that the next agenda item is RZ06-017, property located at 940 Dunwoody Club Drive. She conducted the Second Reading of an Ordinance to Rezone property from AG-1 (Agricultural District) to R-3A (Single Family Dwelling District) for the development of three single family lots at a density of 2.52 units per acre. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the applicant is requesting to rezone from AG-1 to R-3A for the development of two single family lots at a density of 1.68 units per acre. Staff is recommending approval of the request but to R-2 for the development of one single family lot at 0.84 units per acre conditioned to a minimum heated floor area for dwelling units of 4,000 square feet; to a revised site plan; and to limit to one entry/exit onto Dunwoody Club Drive.

Dean D'Angelo, 924 Brooklyn Court, Norcross, read the following letter submitted by the applicant:

Dear Mayor and City Council Members:

My name is Daryl Cook. I am the owner and former resident of nearly two years of the property being considered for rezoning. I thank you for your time today and appreciate your thoughtful consideration on this request for rezoning.

I did not buy the property initially for any other purpose other than to live in the existing home. Only after having lived on the property, did I formally investigate the possibility of subdividing the property. I discovered that the adjacent property owner/developer had received approval for NUP zoning lots at 29,000 square feet minimum with an overall density exceeding the Land Use Plan of one lot per acre. I further discovered that the adjacent property to the west, called Hemmingwood had been developed at 18,000 square foot lots at a much higher density under the R-3 zoning category.

Even further investigation revealed that another development, Ball Mill, was approved as a CUP zoned tract with 34 minimum, 22,000 square foot lots on a 30.67 gross acres for a gross density of 1.11 lots per acre, approximately 25 net acres at a density of over 1.3 units per acre. That density is based on property outside the floodplain, wetlands, streams, and associated buffers, i.e. unusable land.

Adjacent to Ball Mill development, to the east, is a slightly older development called The Vineyards zoned CT conditional with minimum lot sizes of 15,000 square feet, 37 lots on 32.61 gross acres; gross density at 1.13 lots per acre. With a five acre lake, the net area is approximately 26 acres, dealing a net density of well over 1.4 units per acre. Thus, up and down Dunwoody Club Drive, within a stones throw of the subject site, are several developments with gross densities exceed the Land Use Plan and the net densities well over the Land Use Plan's allowable densities.

While some people think it might not be fair to mention the property across the street in Dekalb County, I believe it is germane to character of the area and I should mention that there are hundreds of lots in plain view; all zoned R-100; 15,000 square foot lots.

The development that abuts the subject property to the north, Spaulding Estates, is a flat lot configuration development that has been stacking up houses front to rear similar to the proposal to be considered today. All four of the lots for Spaulding Estates developments share a common driveway. Also, within a half mile radius of the subject property lays several relatively new developments called Whitehall, Spalding Springs, Spindlewick, Stratford Manner, and Dunwoody Place. All well over 1 unit per acre density zoning.

The above mentioned are factual, of public record and cannot all be swept under the rug as mistakes. The only mistake is that the Land Use Plan as adopted is not consistent with the surrounding properties and character of the neighborhood.

When meeting with Fulton County staff, I was told that my request was a "no brainer" and that staff would certainly support a request to much smaller lots and higher density zonings. So I hired an attorney that I had confidence in to assist me through the laborious and unfamiliar process. She filed application and letters went out to the neighborhood and adjacent property owners. Almost immediately, my attorney received a phone call from the adjacent developer, Bill Grant, the beloved Grand Marshall of the DHA's Fourth of July Parade, saying that he would fight or oppose the request for rezoning. Shortly thereafter, a prominent member of the DHA called my attorney as well and stated that the DHA too would oppose the rezoning and her client should "just give up now and sell the property to the developer next door, Bill Grant".

We realized then, that there the "no brainer" would be a serious political opposition, not on the merits of the request but on some other premise. The DHA and the adjacent developer was able to muster only a handful of homeowners in Dunwoody to stand up and oppose the zoning. All portraying me as the greedy developer just out for a quick profit. I wonder if Bill Grant develops and builds homes without any profit motivation.

I was not given a fair opportunity to present my case to DHA, in my opinion, as during my presentation, there was interruptions as well as rude and malicious cat calls. I must emphasize that I am not a developer by trade. I am an engineer and homeowner. I do not appreciate the treatment or the badgering my family and I received last night.

Take the emotion out of it and look at my request to rezone at 51,248 square foot piece of property into two 25,000 square foot lots when it is surrounded by 18,000 square foot lots to the west, 15,000 square foot lots to the south, and 29,000 square foot lots to the east.

It boils down to the point that the County Commission did not wish to allow the rezoning based on the merits of the request, i.e. the adjacent smaller lots and denser surrounding developments. But rather took on

the scare tactic propagated by the DHA that to allow this rezoning would open the flood gates to other folks applying for rezoning on their one acre lots in Dunwoody.

To my knowledge, there are no other one acre lots in Dunwoody that have even remotely similar circumstances relative to the adjacent properties, i.e. the adjacent smaller lots and denser surrounding developments.

My request was not judged on the individual merits, but on a perceived threat of the flood gates being loosed on other one acre lots.

In regards to City of Sandy Springs comments, there is not lack of problem with drainage associated with my request. This drainage scare tactic is often used with rarely a problem with proper engineering during the permitting process. Additionally, the staff's suggestion that variances would be required to develop the property as two lots, i.e. specimen tree removal is inaccurate and unfounded. No specimen tree need be removed under this proposal, nor would there be any adverse environmental impact. Those statements are false, biased and disingenuous as well as inflammatory.

I believe my original request to Fulton County was not given a fair shake so I responded with emotion by painting my home in orange and blue. I did check with Fulton County environment and community development prior to the paint job as well as everything else I did on site to be sure that it was legal and within code. I got the green light from the staff at every turn.

They too feel that I was not given a fair shake. Steven Cover, the former director of Fulton County Planning would be happy to testify that the denial was unfair. I felt that my actions were justified even if my motivated by my emotions related to my frustration with the process and the opposition. Remember I painted my house. I took down my trees after having the Fulton County arborist give me the green light. I put farm animals on my agricultural zoned property. I did not paint anyone else's house, cut down there trees, or pin critters on their properties. Call me spoiled, selfish or whatever you want, I feel that I was well within my rights and I have received many, many letters and emails in support for my actions in response to the illogical denial of my request for rezoning.

I also feel it is my civic duty to stand up for the little guy when wronged by the highly powerful and political organizations that opposed this simple, harmless, and reasonable request. All said it was about time someone stood up to these oppressive organizations and I felt that I had to do it.

Furthermore, it was a lesson in sticking up for my individual rights. I truly believe that not approving this request for rezoning is absolutely unfounded and wrong and clearly selective zoning since the developments adjacent and within a short walk exceed the one unit per acre Land Plan. The adjacent developer did ask for many more lots than he actually settled for but did end up with a density over one unit per acre and one more lot than the Land Use Plan would allow and this with his property totally surrounded by property zoned AG-1.

My property, on the other hand, is totally surrounded by smaller lots and higher densities. My request is reasonable, justified and fair. Additionally, the timing of the proposed prohibition on flag lots is clearly an attempt to close this rezoning request on yet another front. There are multiple examples of such flag lots within the developments in the vicinity. Clearly the Comprehensive Plan policies are being ignored by staff and the Planning Commission where the Comprehensive Plan clearing states that plan policies call for the protection of existing neighborhoods and new developments to be developed on a scale similar to surrounding properties.

My request completely satisfies that mandate of the Comprehensive Plan policy. The overall plan which states that no more than one unit per acre for my tract is selective and arbitrary when many developments adjacent and nearby exceed said density.

Thank you for your thoughtful consideration of this proposal.

Frank Farrell, 7705 Brigham Drive, Sandy Springs Council of Neighborhoods, stated that this property should stay consistent with the surrounding R-1 and R-2 zoning districts. There is opposition from the neighbors and therefore the Sandy Springs Council of Neighborhoods recommends denial of this petition and supports the recommendation of the planning staff.

Greg Kearney, 1575 Spalding Drive, stated that the surrounding land owners' opposition was solid and uniform while this was being dealt with by Fulton County. They wanted to maintain the current density. The Dunwoody Reserve Homeowners Association is opposed to this application.

Patricia Decraene, 7965 Innsbruck Drive, Atlanta, expressed her opposition to this application.

Bill Grossman, 5061 Hidden Branches Drive, Dunwoody, Dunwoody Homeowners Association, stated that this is a good example of why the Mayor and Council are where they are now. The Dunwoody Homeowners Association supports the Land Use Plan. This does not fit with the Land Use Plan.

Bill Grant, 2050 Old Dominion Road, stated that he rezoned the land next door and put five units on 4.85 acres and down the street built 34 lots on 32 acres. Both of these adhere to the spirit. This application is too high density and needs to be turned down.

Joan Dwoskin, 5711 Bend Creek Road, Atlanta, expressed concerns regarding the sediment that comes off the development on Dunwoody Club Drive. She explained the problems with soil erosion into her pond.

Public Hearing Closed

Mayor Galambos closed the public hearing for this agenda item.

Motion: Councilmember Greenspan moved to approve RZ06-017 as presented with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. One (1) single family residential lots at a density of 0.84 units per acre.
 - b. The minimum heated floor area per dwelling unit shall be a minimum of 4,000 square feet.
2. To the owner's agreement to abide by the following:
 - a. To a revised site plan to be received by the Department of Community Development. 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.
3. To the owner's agreement to provide the following site development standards:
 - a. The subject property shall be limited to one exit/entry drive onto Dunwoody Club Drive.

Second: Councilmember Fries seconded the motion.

Discussion on the Motion: Councilmember Jenkins questioned if the silt issue is addressed in the staff conditions. Assistant Director of Planning and Zoning Zehner referring to page six and stated that Mr. Cook references a comment from the Engineering Plan Reviewer that states that the owner/developer shall provide storm water management in accordance with Georgia Storm Water Management Manual Standard requirements at the time of development. This should address her concerns.

Vote: There was no further Council discussion. The motion passed unanimously.

RZ-06-018/CV06-018 – 208 Sandy Springs Place, Jennifer Blackburn, Troutman Sanders, LLP, from C-1 conditional to C-1 to remove the condition of the use of the property as veterinary clinic only with a concurrent variance for parking reduction. First Reading on July 18, 2006.

(Second Reading)

Ordinance No. 2006-08-54

City Clerk Marchiafava stated that the next agenda item is RZ06-018/CV06-018 for property located at 208 Sandy Springs Place. She conducted a Second Reading of an Ordinance to rezone property from C-1(Community Business District) to C-1(Community Business District), property is located at 208 Sandy Springs Place. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Troutman Sanders, LLP represented by Jennifer Blackburn. The application was heard by the Planning Commission on July 31. The Planning Commission recommended approval of the subject application and concurrent variance to reduce the parking requirements. Staff is recommending approval of the concurrent variance and the request petition limiting to maintaining the existing building at 7,213 square feet at a density of 11, 449 square feet. To the uses permitted under the C-1 except those excluded uses listed. To the site plan dated received on April 26, 2006. To reduce all minimum yards, improvement setbacks, landscape strips and undisturbed buffers to the extent necessary for existing structures to remain. To reduce the required parking from 36 parking spaces to no fewer than 16 spaces.

Jen Blackburn, 600 Peachtree Street, Atlanta, Troutman Sanders, stated that the applicant is requesting the removal of the condition on the property that restricts the property to only be used as an animal clinic. The current tenant lease is up and the owner would like to release or sell the property without having that restriction.

Councilmember Paul questioned where Dr. Lavender is going. Ms. Blackburn stated that she believed he is moving across the street.

Mayor Galambos questioned what this property will be used for. Ms. Blackburn stated she did not know because the owner has not started marketing it yet. Reducing the parking on the property will eliminate the heavier uses.

Assistant Director of Planning and Zoning Zehner stated that staff is recommending that the property be limited to C-1 uses excluding the following: adult bookstores; adult entertainment facilities; any type of automotive repair or service center, garage, or parking lot; bars; church, temple, or other place of worship; funeral homes; garden center/plant nurseries; gymnasiums; hotels, motels; medical offices; millinery or similar trade; parking garage/decks/lots; pawn shops; restaurants; spas; stadiums; and, theaters. These uses do not fit into the character of the area. Also the current parking on the site does not accommodate these uses. The uses left to be allowed are mainly office uses. There is also on street parking near this business as well.

Councilmember Meinzen McEnerny questioned if the property has any existing variances. Assistant Director of Planning and Zoning Zehner stated that there are no existing variances, but there are existing conditions on the property.

Councilmember Greenspan question if reducing the parking allowed would diminish the resale value. Ms. Blackburn stated that what is being requested is the actual number of existing parking spaces on the property.

Motion: Councilmember Jenkins moved to approve RZ06-018/CV06-018 with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To maintain the existing 7,213 square foot structure developed at a density of 11,449 square feet per acre.
 - b. To the uses permitted under the C-1 (Community Business District) zoning classification excluding the following: adult bookstores; adult entertainment facilities; any type of automotive repair or service center, garage, or parking lot; bars; church, temple, or other place of worship; funeral homes; garden center/plant nurseries; gymnasiums;

hotels, motels; medical offices; millinery or similar trade; parking garage/decks/lots; pawn shops; restaurants; spas; stadiums; and, theaters.

2. To the owner's agreement to abide by the following:

a. To the site plan received by the Department of Community Development on April 26, 2006.

3. To the owner's agreement to provide the following site development standards:

a. Reduce all minimum yards, improvement setbacks, landscape strips and undisturbed buffers to the extent necessary for existing structures to remain.

b. Reduce the required parking from 36 parking spaces to no fewer than 16 spaces. (CV06-018)

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

RZ-06-019/CV06-011 – Ison Road, Nathan V. Hendricks, III, from R-2 conditional to CUP for the development of 54 single family lots at a density of 2.25 units per acres with a concurrent variance for specimen tree removal. First Reading on July 18, 2006. (Second Reading)

(This item was removed by motion and vote)

RZ-06-020 – 5965 Riverside Drive, Ebrahim Mahdavi, from R-1 to R-2 for the development of one (1) single family lot at a density of 0.90 units per acre. First Reading on July 18, 2006.

(Second Reading)

Ordinance No. 2006-08-55

City Clerk Marchiafava stated that the next item is RZ06-020 at 5965 Riverside Drive. She conducted a Second Reading of an ordinance to rezone property from R-1(single family dwelling district) to R-2(single family dwelling district), property located at 5965 Riverside Drive. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the Planning Commission heard this item on July 31. The Planning Commission recommends approval of the request for the applicant to rezone property from R-1 to R-2 for the development of one single family lot at a density of 0.90 units per acre. Staff is recommending denial of the request however should the Mayor and Council decide to approve the request, a list of conditions have been prepared by staff for consideration. In addition, the Planning Commission recommended a condition requiring access only from Coldstream Court. Conditions are to one single family lot at 0.90 units per acre; to a maximum heated floor area at 4,500 square feet; a maximum building height of two stories. To the site plan dated May 2, 2006; to the dedication of right-of-way equaling 30 feet from the center line of Riverside Drive. Dedication of right-of-way equal to 25 feet from the center line of Coldstream Court and no direct access to Riverside Drive.

Ebrahim Mahdavi, 5965 Riverside Drive, applicant, stated that his original plan was for 9,800 square feet. Staff conditioned the property to 4,500 square feet and he is asking for 3,000 more square feet for the basement. This will not be visible from Coldstream Court. It will look like a one story house. This additional 3,000 will be heated floor space in addition to the 4,500 square feet.

Mayor Galambos called of public comment. There was no public comment.

Councilmember DeJulio requested that the applicant clarify the square footage being requested. Mr. Mahdavi stated that he originally requested 9,800 square feet. He was then told by staff that he could only have 4,500 square feet. He explained that he is requesting an additional 3,000 square feet.

Councilmember Fries questioned what the setbacks would be on this property. Community Development Director Nancy Leathers stated that this is a one acre lot so this house will fit on it. The reason this is before the Council is

because this was zoned R-1. This property and the property behind it were illegally subdivided in the 1980's. This is before the Council so that he can get a building permit.

Mr. Mahdavi explained that two of the abutting properties have over 7,000 square foot homes.

Councilmember Greenspan questioned if this would be a daylight basement. Mr. Mahdavi stated that it would be a daylight basement on one side.

Councilmember Paul stated that it was his understanding that larger lots are required on Riverside Drive. Assistant Director of Planning and Zoning Zehner stated that there are no lots on Riverside Drive north of I-285 smaller than two acres.

Councilmember Paul questioned if this was on septic or sewer. Assistant Director of Planning and Zoning Zehner stated that this is on septic. He stated that the applicant has provided staff with a letter indicating that the property does perk and according to Fulton County, you need a one acre lot with at least 30,000 square feet of clear area for a septic system. The applicant will have to get a permit for the septic from Fulton County if he gets a building permit.

Councilmember Fries questioned if the applicant had the 30,000 square feet for the septic system. Assistant Director of Planning and Zoning Zehner stated that he had plenty of area.

Councilmember DeJulio questioned what is currently on the property. Assistant Director of Planning and Zoning Zehner stated that the footers for the house that burned are on the property. The applicant received a demolition permit from Fulton County and has met with staff several times since December. The applicant researched the property records and found that the property was illegally subdivided in the early 1980's resulting in these two lots.

Mayor Galambos questioned if there would be any green buffer around this house. Assistant Director of Planning and Zoning Zehner stated that there is not a required buffer, but there is a 60-foot setback off of Riverside Drive, a required 30-foot setback off of Coldstream, and a required 15-foot setback off the north property line. In addition, the applicant will be impacted by a stream buffer along the rear of the property.

Councilmember Meinzen McEnerny questioned if the applicant was planning to heat the 3,000 square foot basement in addition to the 4,500 square foot recommended by staff. Mr. Mahdavi stated that staff is recommending approval of the 4,500 square feet of heated floor space, but he is requesting to add the 3,000 square foot basement as heated floor space.

Councilmember Jenkins clarified that the applicant is not agreeable to staff's conditions.

Mayor Galambos called for public comment. There was no public comment.

Councilmember Meinzen McEnerny stated that the situation here is that there is a nonconforming lot. This is similar to the situation on East Conway where, in the past, there were a lot of people who had illegally subdivided. It would seem that limiting the building of a smaller house would be reasonable; otherwise, he would have no ability to develop the property because he cannot acquire two acres.

Councilmember Greenspan questioned what staff would be agreeable to. Assistant Director of Planning and Zoning Zehner stated that staff's conditions are perfect for the neighborhood with the size of the house. Staff is recommending denial because of the consistency of the lot size along Riverside and the precedent this could set. However, it is an existing condition and the property has been developed in this manner since the early 1980's. This is against the Land Use Plan.

Councilmember Fries questioned what the applicant's options would be if this was denied. Assistant Director of Planning and Zoning Zehner stated that the applicant could sue the City or he could appeal to the State Court. In addition, the City recognizes this lot and the property to the east as one lot, but technically this lot property needs to be combined as it is currently zoned for the City to observe anything on the property.

Motion and Second: Councilmember Paul moved to deny RZ06-020. Councilmember Jenkins seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnery questioned if the City could grant a variance to the zoning and keep it at R-1 and give the applicant variances on the side. Assistant Director of Planning and Zoning Zehner explained that a variance cannot be granted to lot size. Councilmember Meinzen McEnery questioned if there was any way to prevent this from setting a precedent. Assistant Director of Planning and Zoning Zehner stated that it was his opinion that an approval could stipulate that this was due to a hardship and not to set precedent.

Councilmember Jenkins, speaking to the hardship, stated that it would be one thing if the applicant lived in the house when it burned but he did not. He purchased the property as a developer knowing that it was illegally subdivided and is now coming to the Council asking to let him put a 7,000 square foot house on it. Assistant Director of Planning and Zoning Zehner stated that the applicant did not know it was illegally subdivided.

Community Development Director Nancy Leathers stated that she believed the applicant was unaware of this when he acquired the lot. She stated that she was not even sure if the previous owners were aware of this.

Councilmember Jenkins stated that the applicant's real estate attorney should have researched this and any recourse should be on the real estate attorney or title search company. It is not Council's responsibility to clear title for the applicant. Mayor Galambos stated that is not on the table at this time.

Councilmember Meinzen McEnery offered that this be approved with staff's conditions and legal language that this is for a hardship and not a precedent setting.

Mr. Mahdavi stated that he was unaware of the illegal lot separation. He was told by an attorney that he had to sue the previous owner and sue the City. He explained that the previous owner is a senior citizen who had no idea this had been done. This is not his only business but he has never had to sue anyone. He explained that he is not a builder. He explained that he did not want to sue the previous owner.

Councilmember Fries offered that this be approved with staff's conditions limiting it to 4,500 square foot of heated floor space. Councilmember Meinzen McEnery added that language regarding not setting a precedent be included and requested that Mr. Zehner clarify the language.

Assistant Director of Planning and Zoning Zehner stated that those making a motion and those voting in favor of the motion are doing so to correct this situation and maintain the preexisting situation of a house on this property.

Withdrawal of Motion: Councilmember Paul withdrew his motion to deny. Councilmember Jenkins withdrew her second to this motion.

Motion: Councilmember Paul moved to approve RZ06-020 with the following staff conditions and noted that this is not a precedent setting move and it is being done solely to remedy a hardship created prior to the formation of the City of Sandy Springs on December 1, 2005:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. One (1) single family residential lot at a density of 0.90 units per acre.
 - b. The maximum heated floor area per dwelling unit shall be 4,500 square feet.
 - c. The maximum building height shall be two (2) stories.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development on May 2, 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.

3. To the owner's agreement to provide the following site development standards:
 - a. The owner/developer shall dedicate 30' of right-of-way to the City of Sandy Springs along entire property frontage along Riverside Drive.
 - b. The owner/developer shall dedicate 25' of right-of-way to the City of Sandy Springs along entire property frontage along Coldstream Court.
 - c. There shall be no direct access to Riverside Drive.

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

Mayor Galambos requested a motion to suspend consideration of the Zoning Agenda and proceed to New Business due to guests present.

Motion and Vote: Councilmember DeJulio moved to suspend consideration of the Zoning Agenda and proceed to New Business. Councilmember Paul seconded the motion. There was no Council discussion. The motion passed unanimously.

RZ-06-022/CV06-019 – 4969 Roswell Road (SR9), Bridget O'Donnell, from C-1 conditional to C-1 to allow for the development of a new 29,447 square foot retail building at the existing shopping center with two concurrent variances. First Reading on July 18, 2006. (Second Reading)
(This item was removed by motion and vote.)

**RZ-06-023 – 5229 Rowell Road (SR9), John Sanders, Permits Plus, from O-I conditional to O-I to allow for use of an events facility in the existing building. First Reading on July 18, 2006.
(Second Reading)
Ordinance No. 2006-08-56**

City Clerk Marchiafava stated that the next agenda item is RZ06-023 for 5229 Roswell Road. She conducted a Second Reading of an Ordinance to rezone property from O-I (office and institutional district) to O-I (office and institutional district), property located at 5229 Roswell Road (SR9). This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the applicant, Permits Plus represented by John Sanders, is requesting to rezone the property from O-I conditional to O-I to use as an events facility in the existing building. The application was heard by the Planning Commission on July 31. The Planning Commission recommended approval subject to staff's conditions and an added condition limiting the closing hours to 12:00 a.m. Staff is recommended approval subject to the conditions that the property be developed at the existing building at 4,102.56 square feet per acre; to be allowed O-I uses except those listed; to the site plan submitted on May 2, 2006; to the owner/developer providing a shared parking agreement with the property to the south; providing pedestrian access with property to the south; dedication of 55 feet from center line of right-of-way on Roswell Road; and prior to the issuance of a Certificate of Occupancy, the owner/developer is required to install streetscape improvements to Sandy Springs Overlay District standards along the entire length of the property frontage on Roswell Road (SR 9).

John Sanders, 1316 Scott Blvd., Decatur, representing applicant, stated that the office was previously used as office space for Harry Norman Realtors. As part of the plan for the development of the building, there is going to be separate offices. One will be on the lower level in the back and 101 Concepts will have an office in the front. The remainder of the building will be used as an assembly hall and meeting space. The applicant has agreed to all the conditions and additional parking. They have met with the neighborhood groups and have come up a good plan to move forward.

Mayor Galambos called for public comment.

Kevin King, High Point Civic Association, expressed their support for this use. He expressed concerns regarding the parking.

Motion: Councilmember DeJulio moved to approve RZ06-023 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 4,102.56 square feet per acre or 4,800 square feet, whichever is less.
 - b. To the uses provided for in the O-I (Office and Institutional District) zoning district, excluding the following: assembly halls; automotive parking lots; automotive specialty shops; church, temple, or other place of worship; convalescent center, nursing, hospice; day care facilities; garage, automobile repair; group residences; gymnasiums; hotels; motels; personal care homes; plant nurseries; service stations; stadiums; recycling centers.
2. To the owner's agreement to abide by the following:
 - a. To the site plan dated received by the Department of Community Development May 2, 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.
3. To the owner's agreement to provide the following site development standards:
 - a. The owner/developer shall provide documentation of the shared parking agreement allowing the use of 22 parking spaces obtained from the property to the south of the site prior to the issuance of a business license for the operation of an events facility. Said agreement shall be provided for through a lease that is to run concurrently with the tenant's lease on the subject property.
 - b. The owner/developer shall provide interparcel access to include pedestrian access connecting the subject property to the adjacent property to the south where shared parking is proposed.
 - c. The owner/developer shall dedicate 55' of right-of-way to the City of Sandy Springs along entire property frontage along Roswell Road (SR 9).
 - d. Prior to the issuance of a certificate of occupancy the owner/developer shall be required to install streetscape improvements to Sandy Springs Overlay District standards along the entire length of the property frontage on Roswell Road (SR 9).

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

RZ-06-024/CV06-013/U06-003 – Peachtree-Dunwoody Road, Joseph Foltz, The Kessler Enterprise, Inc., from O-I conditional to C-1 for the development of a hotel and restaurant development at a density of 115,489.66 gross square feet per acre (296,000 gross square feet) with six concurrent variances. First Reading on July 18, 2006. (Second Reading)
(This item was removed by motion and vote.)

Unfinished Business

There was no unfinished business.

New Business

Resolution authorizing negotiations between the City of Sandy Springs and the new cities Johns Creek and Milton for collaboration on services.

(Clerks note: This item was considered prior to the conclusion of the Zoning Agenda following a motion and vote)

City Clerk Marchiafava stated that the next agenda item is a Resolution authorizing negotiations between the City of Sandy Springs and the new cities Johns Creek and Milton for collaboration on services. This item will be presented by City Attorney Wendell Willard.

City Attorney Willard introduced the nominated and to be elected Mayor of Johns Creek, Michael Bodker. The staff has proposed a resolution for approval that will authorize the Council to move forward and discuss collaboration with Johns Creek and Milton. This would be for ways that the City of Sandy Springs can help the new cities.

Councilmember DeJulio questioned who will represent the City of Sandy Springs in these discussions. City Attorney Willard answered that the City Manager will represent the City.

Motion and Vote: Councilmember Paul moved to approve a Resolution authorizing negotiations between the City of Sandy Springs and new cities, Johns Creek and Milton for Collaboration on Services. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion passed unanimously.

Michael Bodker, Candidate for Mayor of the City of Johns Creek, stated that he is in awe watching the Mayor and Council in their meeting tonight. He is certainly learning from watching them. He thanked the Mayor and Council for their assistance and support.

Approval of an Ordinance to Authorize the City of Sandy Springs to Abandon a parcel of land; to offer to sell the parcel of land to the adjoining property owners; to specify the terms of any offer; and to authorize the Mayor to execute a Quit Claim Deed to complete any sale.

(First Reading)

City Clerk Marchiafava stated that the next item is the approval of an Ordinance to Authorize the City of Sandy Springs to Abandon a parcel of land; to offer to sell the parcel of land to the adjoining property owners; to specify the terms of any offer; and to authorize the Mayor to execute a Quit Claim Deed to complete any sale.

City Attorney Willard stated that Pat Chester with Ackerman Company is here. He explained that Ackerman is buying the MARTA parking lot at Barfield and Abernathy. It will be a major development in our City. Ackerman has a need to buy a small triangle of property that is a part of our right-of-way. This property is unusable to the City. The City can sell this property at \$22.00 per square foot which is approximately \$68,000.

Pat Chester explained where the property is located. He explained that the applicant was zoned in 2000 for mixed use. The project includes 570,000 square feet of class A office, 400 hotel rooms, and 150 condo units. There may be 15,000 to 20,000 square feet of retail in the 570,000 square feet of office space. There would be no big box commercial.

City Attorney Willard explained that this will be a Limited Warranty Deed.

City Clerk Marchiafava conducted a First Reading of an Ordinance to Authorize the City of Sandy Springs to Abandon a parcel of land as provided by O.C.G.A. 36-37-6; to offer to sell the parcel of land to the adjoining property owners; to specify the terms of any offer; and to authorize the Mayor to execute a Quit Claim Deed to complete any sale. The Second Reading is scheduled for August 15, 2006.

Resolution Suspending the Enforcement of Sections of the Zoning Ordinance relating to the prohibition on window signs and the size thereof.

Resolution No. 2006-08-68

City Clerk Marchiafava stated that the next agenda item is a Resolution suspending the enforcement of Sections of the Zoning Ordinance relating to the prohibition on window signs and the size thereof. This item will be presented by City Attorney Willard.

City Attorney Willard explained that this was requested as a result of some confusion in the business community addressing what will or will not be permitted as far as signs in windows. A revision of the Sign Ordinance is underway. This will suspend enforcement of this portion and does not change any other parts of the Ordinance.

Councilmember DeJulio questioned what this could do to the enforcement of the entire ordinance.

City Attorney Willard explained that this is something that is now under revision and the Council may decide that during this time of revision to suspend enforcement.

Councilmember Greenspan questioned what would happen to those who have already been sited. City Attorney Willard explained that would be up to the Judge, but the Council could make a recommendation.

Community Development Director Nancy Leathers stated that they would generally recommend that the court dismiss the tickets.

Councilmember Jenkins expressed concerns regarding those who might abuse this. She cautioned those who might do this that Council will be taking action at some point.

Motion and Vote: Councilmember DeJulio moved to approve a Resolution suspending the Enforcement of Sections of the Zoning Ordinance relating to the prohibition on window signs and the size thereof. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion passed unanimously.

Approval of an Ordinance to Amend the City of Sandy Springs Code of Ordinances, Chapter 11: Business Occupation, Tax, Licenses and Regulations, Article 11, Section 4. (First Reading)

City Clerk Marchiafava stated that the next agenda item is an Ordinance to Amend the City of Sandy Springs Code of Ordinances, Chapter 11: Business Occupation, Tax, Licenses and Regulations, Article 11, Section 4. She conducted a First Reading of an Ordinance to Amend the City of Sandy Springs Code of Ordinances, Chapter 11: Business Occupation, Tax, Licenses and Regulations, Article 11, Section 4. This will be presented by Director of Operations Don Howell.

Director of Operations Don Howell stated that this is a housekeeping matter. All license fees and regulatory fees are set by Resolution of Council. This has been accomplished. In reviewing some of the Ordinance language, they found that this Ordinance still had a fee for taxi cabs. This action would remove it from the Ordinance.

Mayor Galambos called for public comment. There was on public comment.

An Ordinance to Approve Amendments to the International Property Maintenance Code. (First Reading)

City Clerk Marchiafava stated that the next agenda item is an Ordinance to approve amendments to the International Property Maintenance Code. She conducted a First Reading of an Ordinance deleting sections 106.2, 106.4, and 107.1 in their entirety and adopting new sections 106.2, 106.4, and 107.1 to the International Property Maintenance Code as adopted on 12/31/05.

Chief Enforcement Officer Marcus Kellum stated that the proposed amendments will enhance the compliance official's ability to encourage compliance. The sections of the Code address penalties for violations dealing with repeat offenders and empowers the compliance officers to issue an instant citation if necessary. It also allows the ability to subpoena people and documents for investigative purposes.

Community Development Director Nancy Leathers explained that the City Solicitor worked to help develop and recommend this language.

Mayor Galambos called for public comment. There was no public comment.

Approval of a Resolution Suspending the Enforcement of a provision of the Zoning Ordinance of the City of Sandy Springs relating to the prohibition of Caravan Real Estate Signs. (Added by Motion and Vote)
Resolution No. 2006-08-69

City Clerk Marchiafava stated that the next agenda item is a Resolution suspending the enforcement of a provision of the Zoning Ordinance of the City of Sandy Springs relating to the prohibition of Caravan Real Estate Signs. This item will be presented by City Attorney Willard.

City Attorney Willard stated that this resolution will suspend enforcement of the prohibition of Caravan Real Estate Signs on Tuesdays. They will be allowed from 8:00 a.m. to 8:00 p.m.

Motion and Vote: Councilmember Fries moved to approve the Resolution Suspending the Enforcement of a provision of the Zoning Ordinance of the City of Sandy Springs relating to the prohibition of Caravan Real Estate Signs. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion passed unanimously.

Approval of the July 5, 2006, Regular Meeting Minutes. (Removed from the Consent Agenda by motion and vote)

City Clerk Marchiafava stated that the next agenda item is the approval of the July 5, 2006 regular meeting minutes, which was removed from the Consent Agenda.

Councilmember Meinzen McEnerny stated that she would like to change the draft minutes relating to the comments that she made at the City Council meeting for clarification to demonstrate her intent.

Councilmember Meinzen McEnerny stated that the process is that a verbatim transcript is made and then the staff does an excerpt from the verbatim minutes. She stated that the excerpt did not adequately reflect the verbatim transcript. She would like to clarify a contradiction that was in the verbatim.

Councilmember Paul questioned if she was alleging that the minutes are in error. Councilmember Meinzen McEnerny stated that she was not. She is alleging that the excerpt that was made from the verbatim comments is not correct. Councilmember Paul clarified that she is alleging an error in the minutes. Councilmember Meinzen McEnerny stated that she is alleging that the verbatim comments that she made need to be clarified because her verbatim comments were in contradiction to each other. The staff picked up on of the statements, but not the other and she would like this clarified.

Councilmember Paul requested a ruling from the parliamentarian on what grounds are allowed to change minutes. It is his understanding that the only way to change the minutes is if they are in error.

City Attorney Willard explained that minutes are to be done according to the actual transaction of business at the formal meeting. The minutes should reflect actual statements. It is the right of the Council, by its vote, to correct error. Councilmember Paul clarified that in order for these changes to be made, she would have to state that in her opinion those minutes are in error.

Councilmember Meinzen McEnerny stated that the practice has been to have the verbatim minutes transcribed.

City Clerk Marchiafava stated that staff does not do verbatim minutes. Staff does excerpts stating the facts and the motions or action taken. She explained that at the request of a councilmember, staff did transcribe, verbatim, that portion of the meeting that Councilmember Meinzen McEnerny is referring to.

Councilmember Meinzen McEnery stated that there was inconsistency between the two. She explained that she wants to clarify a statement she made.

City Manager McDonough stated that it has been his experience that minutes could be addressed by the Council.

City Attorney Willard provided information from "Roberts Rules of Order" regarding how to amend minutes. This is primarily for an error in the minutes.

Motion and Vote: Councilmember Paul moved to allow Councilmember Meinzen McEnery to revise and extend her remarks made on July 5 at the City Council meeting to ensure that her intent is clear. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion passed unanimously.

Councilmember Meinzen McEnery stated that she would like the July 5, 2006 Regular Meeting minutes to read as follows: *"Councilmember Meinzen McEnery stated she would like to have the opportunity to discuss this in a work session and have the opportunity to provide names. She stated that three Councilmembers did not have an opportunity to participate so it is the process, not the people selected. She suggested a special work session to discuss this issue."*

Reports and Presentations

Mayor and Council Reports

Mayor Galambos stated that there were two members who were unable to participate on the Tree Advisory Committee. She is nominating Bill Harrison, an architect and Ed Applefield, a builder.

Motion and Vote: Councilmember Paul moved to approve the appointment of Bill Harrison and Ed Applefield to the Tree Ordinance Advisory Committee. Councilmember DeJulio seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnery stated that the Council has the ability on Committees to ratify the Mayor's suggestions. In the last Council meeting, she asked that the Mayor provide Council with adequate notice so that they have the opportunity to understand the background of the people that she is recommending. In this case, this is the very first time we have heard who her suggested recommendations are. She submits that this is not enough time for the Council to do its due diligence to make sure the people she is recommending have the suitable qualifications and characteristics to handle their task. Therefore, on the matter of process, she will not be supporting these recommendations. It has nothing to do with the qualifications of the people. She does not know who they are.

Mayor Galambos stated that she thought Councilmember Meinzen McEnery knew Mr. Harrison because they discussed it on the phone two days ago. Councilmember Meinzen McEnery stated that she does know who Mr. Harrison is, but not Mr. Applefield.

Vote: There was no further Council discussion. The motion passed 5-1, with Councilmember Meinzen McEnery voting in opposition.

Public Comment

There was no public comment.

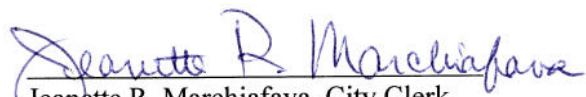
Motion and Vote: Councilmember DeJulio moved to adjourn into Executive Session to discuss potential litigation and real estate matters. Councilmember Meinzen McEnery seconded the motion. The motion passed unanimously with Councilmember Tibby DeJulio, Councilmember Dianne Fries, Councilmember Karen Meinzen McEnery, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, and Councilmember Rusty Paul voting in favor of the motion.

Adjourn

Motion and Vote: Councilmember Fries moved adjourn the meeting. Councilmember Paul seconded the motion. The motion passed unanimously.

After no further business, the meeting adjourned at 10:14 PM.

Approved: September 5, 2006


Jeanette R. Marchiafava, City Clerk


Eva Galambos, Mayor

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

August 1, 2006

AFFIDAVIT FOR CLOSURE

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 1st day of August, 2006, 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).

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 1st day of August, 2006.


Notary public (SEAL)

JEANETTE R MARCHIAFAVA
Notary Public, Fulton Co., GA
My Commission Expires August 29, 2009