Regular Meeting of the Sandy Springs City Council was held Tuesday, May 2, 2006 at 7:00 PM, Mayor Eva Galambos presiding.

Invocation
Rabbi Ron Segal; Rabbi, Temple Sinai Congregation 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 Jeanette Marchiafava reminded everyone to silence their cell phones and pagers at this time. Additionally, those wishing to provide pubic comments, either during a public hearing or at the conclusion of the meeting, are required to complete a public comment card. They are located at the back counter.

City Clerk Marchiafava called the roll.

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

Pledge of Allegiance
Mayor Galambos led the Pledge of Allegiance.

Approval of Meeting Agenda
Mayor Galambos asked if there were any changes to the meeting agenda.

Motion to Amend Consent Agenda: Councilmember Meinzen McEnerny moved to amend the agenda by adding to the Consent Agenda the approval of the purchase of budgeted Panasonic Toughbook laptops for the Police Department patrol units.

City Attorney Wendell Willard requested that the intergovernmental agreement with Fulton County School Board be added to the regular meeting agenda.

City Manager John McDonough requested that agenda item 06-124, approval to purchase the Sungard HTE-OSSI Records Management and Intelligent Solutions Quarter Master Software for the Police Department, be removed from the Consent Agenda. Councilmember Greenspan questioned if this would be placed on the regular agenda. City Manager McDonough stated that staff is requesting that this item be removed until a later date.

Director of Operations Don Howell requested that agenda item 06-130, approval of a Resolution adopting a Utility Permits Policy, be removed from the Consent Agenda and placed on the regular agenda as the first reading of an ordinance.

Vote on Motion to Amend: The motion passed unanimously.

Mayor Galambos stated that the intergovernmental agreement with the Fulton County School Board, and the ordinance regarding utility permits is being added to the regular agenda.

Motion to Amend Regular Agenda and Vote: Councilmember Jenkins moved to approve the agenda as amended. Councilmember Fries seconded the motion. There was no Council discussion. The motion passed unanimously.

Consent Agenda

Approval of Minutes

1. Approval of the March 30, 2006 Work Session Minutes.
2. Approval of the April 10, 2006 Work Session Minutes.
3. Approval of the April 18, 2006 Regular Meeting Minutes.

5. Approval to purchase a Prisoner Transport Van for the Police Department.

6. Approval to purchase the Sungard HTE Mobile Wireless Software for the Police Department.

7. Approval to purchase the Sungard HTE - OSSI Records Management and Intelligent Solutions Quarter Master Software for the Police Department. (Removed by motion and vote at the request of staff)

8. Approval to purchase the Motorola Mobile Video Enforcer Digital Video Management System for the Police Department.

9. Approval of a partial road closure requested by Northwood Drive Community Association.

10. Approval of (60) 2006 City of Sandy Springs Alcoholic Beverage Applications.

11. Approval of a Resolution Creating a Committee to Draft a Governing Body Code of Ethics and/or Code of Conduct for the City of Sandy Springs.
    Resolution No. 2006-05-46

12. Approval of a Resolution Adopting a Streetlights Policy.
    Resolution No. 2006-05-47

13. Approval of a Resolution Adopting a Utility Permits Policy.
    (Removed by motion and vote at the request of staff)

14. Approval of the purchase of Panasonic Toughbook laptops for the Police Department patrol vehicles.
    (Added by motion and vote)

Councilmember Paul questioned if both items 6 and 7 were being removed. Director of Operations Don Howell stated that only item 7 was being removed for a future meeting.

Motion and Vote: Councilmember Paul moved to approve Consent Agenda items 1-6, 8-12, and 14. Councilmember Fries seconded the motion. The motion passed unanimously.

Zoning Agenda

Mayor Galambos requested that the City Clerk provide the rules of procedure for addressing the Mayor and Council on Zoning items. City Clerk Marchiafava deferred to Assistant Director of Planning and Zoning Michael Zehner to provide the rules of procedure.

Assistant Director of Planning and Zoning Zehner stated that both sides, in support and opposition, are limited to ten minutes. This includes the time the applicant uses to present the application and rebuttal time. It is requested that speakers are limited to those who have completed a comment card and submitted it to the Clerk.

Mayor Galambos questioned where the time is going to be registered. City Clerk Marchiafava explained the location of the timers and stated that speakers will be given a two minute warning and a one minute warning.

Rezoning/Modification Petitions

RZ05-002 - 5009 Roswell Road – A-1c/C-1 to C-1 - 2-story office building
City Clerk Marchiafava stated that the first zoning agenda item for consideration is RZ05-002 - 5009 Roswell Road – A-1c/C-1 to C-1 - 2-story office building and will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Kirbo Property Services represented by Nathan V. Hendricks. The applicant is requesting to rezone the property from A-1 (Apartment Dwelling District) conditional and C-1 (Community Business District) conditional to C-1 (Community Business District) for the purpose of developing a two-story office building over one (1) story of parking. Staff recommends that the application be approved conditional. Staff recommends that the variance request be denied. The Planning Commission recommended that the application be approved conditional subject to staff conditions and at a density requested by the applicant. The Planning Commission recommended that the variances be approved with the exception of variance number two.

The applicant has submitted a revised site plan and staff has revised the staff report. The applicant has dropped the variance request to reduce the 25 foot buffer on the south property line to a 10 foot landscape strip and has changed the request to convert the 10 foot improvement setback to a 10 foot landscape strip, maintaining a 25 foot buffer. On page 9, under recommended conditions, staff has revised condition 3(b) due to continuous talks with the applicant and the submittal of letters from abutting property owners regarding their desire not have a fence or wall along the property. Staff would like to note that there are six letters in support of the application and one letter in opposition.

Pete Hendricks, 6085 Lake Forest Drive, Sandy Springs, representing the applicant, stated that this involves a 1.85 acre tract on the east side of Roswell Road; commonly known as the Fairgood Apartments. We are proposing a two story with parking underneath; an office building with a total density of 36,000 sq. ft. which is 19,437.4 sq. ft. per acre. The only issue we disagree with staff on is the density issue. Staff is recommending 12,000 sq. ft. per acre. This comes from the overlay which says for this corridor, that residential density should be up to 5 units per acre, commercial office up to 10,000 sq. ft. per acre. Live/work would be applied on a parcel by parcel basis until further studies identify other approaches. Page 9-54, speaks to conduct the following studies for the Roswell Road from Cliftwood Drive to the City of Atlanta to do the study. We maintain that the study is completed. Therefore, we should look at this on a parcel-by-parcel basis. If you do that, what it contiguous to the east and south are 27.94 units per acre. If you calculate the size of the units, it comes to 36,322 sq. ft. per acre.

The apartment complex on Bell Isle is 37.67 units per acre where the plan recommended 5 units per acre. Building mass on this property is 30,000 sq. ft. per acre. At 5040 Roswell Road, there is an office building that has a square footage of 15,735 sq. ft. per acre.

On page 6 of staff's recommendation, they have seen fit to recommend approval based on the land plan. However, we are apart on the density. There is a concurrent variance that is well supported by the abutting property owners to take the areas designated in orange, and convert them from improvement setbacks to landscape strips. The other variance is in regard to two specimen pine trees.

Nancy Early, President of High Point Civic Association, stated that they have met with this applicant several times and are pleased with the resulting modifications. Since the Planning Commission meeting, they have agreed to restore all the buffers as the association insisted upon next to residential. This plan improves a deteriorated piece of property and reduces the two existing curb cuts on Roswell Road to one. We think the applicant's request for increased square footage should be approved. We think that his agreement to limit the facility to office use, greatly offsets any traffic impact increased density might have on Roswell Road. We do not think it will have a negative impact on the community in this, or any other way. We respectfully request that you support the application as it is submitted tonight with the provisions that were submitted to you.

Councilmember Meinzen McEnerny questioned the need to remove the specimen tree.

Applicant Tom Kirbo stated that this tree is in the area to be turned into a landscape strip. Councilmember Meinzen McEnerny questioned why it cannot remain in the landscape strip. Mr. Kirbo stated that the grading that needs to be done will be in the root zone of this tree. Even if we tried to leave it there, we would grade the tree to a point that it would die anyway. There is a question as to whether or not these stand-alone pine trees are specimen trees.

Councilmember Meinzen McEnerny questioned if any trees will be left on the property in the 25 foot buffer to the east and north. Mr. Kirbo stated that there is a 25 foot buffer on the north side, a 50 foot buffer on the east, and a 25 foot buffer on the south side. There are trees that are not specimen trees. These two trees are the only two specimen trees on the entire site.

Councilmember Meinzen McEnerny stated that the two specimen trees are very close to the undisturbed buffer. Mr. Kirbo stated that they were. Councilmember Meinzen McEnerny stated that theoretically 50% of their root zone will remain undisturbed. Mr. Kirbo stated that he did not know the answer to that question.

Motion and Second: Councilmember DeJulio moved to approve RZ05-002, 5009 Roswell Road, A-1c/C-1 to C-1, 2-story office building with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
   a. Office and institutional uses and associated accessory uses.
   b. No more than 22,200 gross square feet of the restricted uses at a density of 12,000 gross square feet per acre.
2. To the owner's agreement to abide by the following:
   a. To the revised site plan received by the Department of Community Development on April 27, 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. 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 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.
   b. The owner/developer shall install a six (6) foot masonry wall or wooden privacy fence along the north property line abutting residentially zoned properties. The wall or fence shall be located interior to the improvement setback or within the improvement setback, the type and location of which shall be subject to the approval of the Director of Community Development.
   c. External lighting in the development shall not have the light source directly visible from adjoining residential properties.
   d. Dumpster service shall not occur between the hours of 7:00 p.m. and 7:00 a.m.
   e. All dumpsters shall be located fifty (50) feet or greater from residential property lines.
4. The conversion of the improvement setbacks is subject to the approval of the staff through the administrative variance process.

And the following conditions from the High Point Civic Association as follows:

- Change the Zoning to C-1 to allow for a 36,000 Sq. Ft. office building, with the use be conditioned only to O-I uses.
- Change the required 10' improvement setback along the site's north property line to a 10' landscape strip and keeping the required 50' buffer.
- Change the required 10' improvement setback along the site's east property line to a 10' landscape strip and keeping the required 25' buffer.
- Change the required 10' improvement setback along the site's south property line to a 10' landscape strip and keeping the required 25' buffer.
- Remove two (2) specimen trees
- Keep site lighting from "bleeding" onto adjacent properties
- See attached site plan dated 4-26-2006 and Site Lighting Plan dated 4-26-2006.

and for the density to remain at the original requested 36,000 sq. ft. gross, 19,437.40 sq. ft. per acre. Councilmember Fries seconded the motion.

City Attorney Wendell Willard explained that the manner in which zonings are coming up is an amendment to an ordinance and therefore constitutes being an ordinance. Under our Charter, all ordinances require two readings by the Council prior to final action. He suggested that this be the first reading. A vote can be taken tonight, but there will be a second reading, at which time, a second vote will be taken as the final vote of action by the Council. What we will begin doing on the 16th is have the applications coming up for rezoning in June read for the first time and then hold the public hearing in June. That is the normal procedure.

Mayor Galambos questioned which recommendations by staff do not fit into the scheme. Assistant Director of Planning and Zoning Zehner stated that the recommended density of 22,000 gross square feet of the restricted uses at a density of 12,000 gross square feet per acre with is 1b. That is the only condition, regardless of the variance request for the tree removal, and the conversion of the improvement setbacks to landscape strips.

Assistant Director of Planning and Zoning Zehner stated that staff has not received the agreement with High Point Civic Association. Mr. Zehner questioned if that included staff's recommendations. Also, the agreement with High Point Civic Association and staff's recommendations do not agree with one another. High Point and Mr. Kirbo have agreed to change the required 10 foot improvement setback along the site' north property line to a 10 foot landscape strip and keeping the required 25 foot buffer and change the required 10 foot improvement setback along the site's east property line to a 10 foot landscape strip and keeping the required 50 foot buffer. All of the required 10 foot improvement setbacks are allowed to be changed to landscape strips. Staff does not agree with this.

Councilmember DeJulio stated that he wanted landscape strips rather that the 10 foot improvement setback and the removal of two specimen pine trees.

Councilmember Meinzen McEnerny stated that she would like to, at this meeting, deny the 10 foot landscape strip with the understanding that staff, once they review the on ground conditions, can do an administrative variance that would allow them to proceed. The purpose is that when you do a landscape strip, you are allowed to grade that property, and when you grade it, any vegetation that might be on there would be removed. My thinking is staff would have the ability to review the area in question, and if there was vegetation that they preferred to save, they could save it here and allow the grading. That is only meant to give an additional review to protect any landscaping that the staff may believe is meritorious to save.

Councilmember DeJulio requested Mr. Hendricks comment to that request. Mr. Hendricks stated that he has not walked the entire piece of property. The Park North people have asked them to go into the undisturbed area to clean up because of the integrity of what is there. The communities, North Park and Dewberry along the west and Dewberry along the south, liked the conversion to landscape strips because by requirement that would not have anything in it. We have to come in and deliver a landscape strip to the standard of landscape strips in the City. Mr. Hendricks stated that they have no problem protecting things of integrity within those strips.

Councilmember Meinzen McEnerny questioned if staff felt this was workable by a field visit by the arborist if this is denied. Assistant Director of Planning & Zoning Zehner stated that if the improvement setbacks are converted to landscape strips, then it would be open to grading without any prohibition by staff. If they are not converted from improvement setbacks, then by ordinance the Department of Community Development can allow for access into those areas for grading and would allow for replanting of those depending on the arborist doing a site inspection. Councilmember Meinzen McEnerny clarified that the arborist could do an administrative approval following such review. The specimen trees were found to be close enough to the undisturbed buffer and had a greater than 50% possibility of survival. At that time, she would like to allow staff to make that kind of administrative variance as well.

Councilmember Paul questioned why staff's recommendation was made the way it was made.

Assistant Director of Planning and Zoning Zehner explained that the only thing that staff is not in agreement on is the conversion of the improvement setback to a landscape strip. The purpose of an improvement setback is to protect the roots of plants and trees that are in the required buffer. To allow grading areas, regardless of whether there are trees in the buffer or not, would defeat the purpose of the improvement setback. The ordinance does allow the flexibility for staff to make a judgment of whether or not any grading in that area would impact plants in the buffer.

Councilmember Paul stated that there is a significant difference in what staff is recommending. Assistant Director of Planning & Zoning Zehner stated that the comprehensive plan suggests that this area is appropriate for a live/work neighborhood designation at maximum of 5 units per acre plus 10,000 sq. ft. of office or commercial use. This is a single use proposed and the live/work area is not an additive number, the applicant's proposal far exceeds what the recommended density is under the comprehensive plan.

Councilmember Greenspan questioned the maximum gross density for this parcel on the land use plan. Assistant Director Zehner explained 5 residential units per acre and 10,000 sq. ft. of office and commercial. This is approximately 7 units per acre or 12,000 sq. ft. per acre. Their proposal would be 19,000 sq. ft. per acre.

Councilmember Jenkins questioned if you could bundle the density of all the uses only proposing one use. Assistant Director Zehner stated that you cannot add the densities together.

Councilmember DeJulio stated that several weeks ago, this was the site of a major narcotics bust. This property has been a blithe on Sandy Springs and Roswell Road for many years. As we have been encouraging the proper redevelopment of Roswell Road, we need to take this into consideration and allow this redevelopment.

Councilmember Greenspan questioned if Councilmember DeJulio would accept a friendly amendment of 22,000 sq. ft. gross density. Councilmember DeJulio stated that he would not accept this amendment. If we are going to encourage redevelopment, we need to do just that. The proposed redevelopment is very livable to this piece of property in this area.

Councilmember Meinzen McEnerny stated that she would like the Council to be mindful that the Comprehensive Land Use Plan that stipulates 10,000 sq. ft. per acre and 5 units mixed-use density was a community effort and is a roadmap for the development community. We will be relying of the Land Use Plan regularly. With this being the first before us, we are proposing to put the Comprehensive Land Use Plan aside.

Motion to Amend No. 1 and Vote: Councilmember Greenspan moved to amend the motion to approve the recommendation of staff with the modification that the gross density is 22,000 sq. ft. Councilmember Paul seconded the motion. The motion passed 4-2, with Councilmember DeJulio and Councilmember Meinzen McEnerny voting in opposition.

Motion to Amend No. 2: Councilmember Meinzen McEnerny moved to amend the motion to approve the application, but deny the concurrent variance request related to the 10 foot landscape strip, conditions pursuant to the High Point agreement. The motion died for lack of a second.

Vote on Main Motion: The motion passed 4-2, Councilmember DeJulio and Councilmember Meinzen McEnerny voting in opposition.

RZ06-001 - St. Joseph's Hospital (Johnson Ferry Road at Old Johnson Ferry Road) –R-2 to O-I - Consolidation of existing property with abutting 1.143 acre property

City Clerk Marchiafava stated that the next item is RZ06-001- St. Joseph's Hospital (Johnson Ferry Road at Old Johnson Ferry Road) –R-2 to O-I - Consolidation of existing property with abutting 1.143 acre property. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that RZ06-001 is an application by Dillard and Galloway for property located at 1430 South Johnson Ferry Road. This is a request to rezone the property from O-I and R-2 to O-I for the purpose consolidating the properties into the larger St. Joseph's Hospital parcel.

Mayor Galambos questioned if there was any opposition. There was none.

Mr. Galloway explained that this application concerns property located at the back of St. Joseph's. St. Joseph's acquired this property to make some road improvements. This will help facilitate traffic in the area. Most of the property is already zoned O-I. We are not asking for any density at this time. This is just to rezone it to consolidate the property and to allow the road improvements to take place.

We have met with the all the civic associations in the area, including the townhouse development across the street. We had some opposition and have worked through these issues.

Councilmember Meinzen McEnerny stated that if it is rezoned O-I and it has an existing 19,555 sq. ft. structure on it that entitles you to have additional density. She asked what would that density is? Mr. Galloway replied that would have to come back before the Council for approval. He stated that it is currently a 1,900 sq. ft. structure.

Harriet Mills, Ridgeview Neighborhood Civic Association, stated that they are in agreement to the application as it will facilitate traffic.

Motion: Councilmember Paul moved to approve RZ06-00, St. Joseph's Hospital (Johnson Ferry Road at Old Johnson Ferry Road), R-2 to O-I, consolidation of existing property with abutting 1.143 acre property with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:

a. Office and institutional uses and associated accessory uses, limited to the use of the existing 1,955 gross square foot structure at a density of 483.91 gross square feet per acre.

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

a. To the site plan received by the Department of Community Development dated received March 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 file a combination plat incorporating the rezoned property into the larger St. Joseph's Hospital of Atlanta tract.
b. The owner/developer shall complete all roadway improvements shown under Land Disturbance Permit LDP06-010003.
c. The owner/developer shall complete the abandonment of right-of-way for the realigned section of Old Johnson Ferry Road and dedication of new right-of-way, as shown under Land Disturbance Permit LDP06-010003.
d. Based on the subject property's combination with the larger St. Joseph's Hospital of Atlanta tract, the subject property shall be limited to a single free standing sign, monument in design, having a total structure size of ten (10) feet in height and seven (7) feet in width, and limited to maximum sign area of thirty-two (32) square feet.

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

RZ06-002/CV06-001 - 270 Summit Street – R-4 to R-5 - Development of 6 single family lots.

City Clerk Marchiafava stated that the next item is RZ06-002/CV06-001-270 Summit Street-R-4 to R-5-Development of 6 single family lots. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that this application is by Charles Coulson for property on Summit Street. Staff recommends the application and concurrent variances be denied. Planning Commission recommended denial also.

Charles Coulson explained that he is trying to get an R-5 zoning which is transitional zoning between high density and residential. I want to change this to 50 ft. by 150 ft. lots. This is basically putting the lots back to what it used to be. This is transition. He displayed some slides of the existing property. You have already been presented the Dewberry property which is 30,000 sq. ft. per acre and 27.5 units per acre. That is the area we are transitioning to and I want to put 6 houses on that. Everybody has already denied it so he is guessing the Council will too.

Mayor Galambos questioned if there was any opposition to this application.

Nancy Early, High Point Civic Association, stated that she concurs with staff and the Planning Commission's recommendation. She requested that the Mayor and Council follow staff and the Planning Commission's recommendation.

Announcement:
Mayor Galambos announced that the Council Chambers are at capacity according to the Fire Marshal. She requested that those wishing to speak regarding items other than zoning please cede your seats to those waiting to speak regarding the zoning cases on the agenda.

RZ06-002/CV06-001 Continued...
Harshad Shah, Forest Hills Subdivision, expressed concerns regarding the retention pond and water run-off. He stated that Mr. Coulson has agreed to do some of the work requested by the homeowners association such as build a privacy wall all the way around his property. At this point, we must support staff and the Planning Commission's recommendations.

Mr. Coulson stated that he has met all the conditions placed by this Homeowners Association. The High Point Civic Association is the same one that approved that high density.

Harshad Shah, Forest Hill Subdivision, stated that they did have meetings with Mr. Coulson and came to an agreement on some issues, however, there are still some issues that have not been answered and at this time they have to concur with staff and the Planning Commission.

Motion and Vote: Councilmember DeJulio moved to deny RZ06-002/CV06-001, 270 Summit Street – R-4 to R-5, Development of 6 single family lots. Councilmember Paul seconded the motion. There was no Council discussion. The motion passed unanimously.

RZ06-003 - 4 Old Virginia Chase – R-2Ac to R-2A - Sale of a portion of a lot required to maintain a total lot area of 1 acre.

City Clerk Marchiafava stated that the next item is RZ06-003 - 4 Old Virginia Chase – R-2Ac to R-2A - Sale of a portion of a lot required to maintain a total lot area of 1 acre. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that this application is by Susan M. and Stanley E. Anderson. The applicant is requesting to rezone the property to R-2A for the removal of a portion of the subject property to convey to property located at 18 Layton Court. Current conditions for zoning require that the minimum lot size of the subject property be one acre in size. The conveyance of property would reduce the square footage of the subject property. Staff recommends approval and the Planning Commission recommends approval as well.

Susan Anderson, 4 Old Virginia Chase, stated that she had nothing to add and asked if there were any questions.

Mayor Galambos questioned if there was any opposition to this item. There was none.

Motion: Councilmember Paul moved to approve RZ06-00, 4 Old Virginia Chase, R-2Ac to R-2A - Sale of a portion of a lot required to maintain a total lot area of one acre with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:

a. The owner developer shall be allowed to divide the subject property. A 3,746 square foot portion of the subject lot shall be conveyed to the property on the north located at 18 Leighton Court, and the remaining 39,941 square foot lot shall be allowed to maintain a single residence at a density of 1.09 units per acre.

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

a. To the site plan received by the Department of Community Development on February 2, 2006.

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

a. The exterior of all concrete blocks will be coated with an architectural treatment (i.e. epoxy, stucco, brick veneer, etc.) or an alternate solution that may be approved by the Director of Community Development.

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

RZ06-006 - 461 & 435 Johnson Ferry Road – R-3 to R-5 - Development of 6 single family lots.

City Clerk Marchiafava stated that the next item is RZ06-006 - 461 & 435 Johnson Ferry Road – R-3 to R-5 - Development of 6 single family lots. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that RZ06-006 is property located at 461 & 435 Johnson Ferry Road. The petitioner is Jason Yowell and Metropolis Homes Inc. The applicant has revised their original request and is now requesting to rezone the property from R-3 to R-4 for the development of 5 single family residential lots at a density of 3.04 units per acre. You have before you, a revised site plan. Staff had a meeting with the applicant on Friday and revised conditions relative to the recommended zoning district. Staff originally recommended that the property be zoned R-4A. Staff is now recommending that the property be rezoned to R-4. In addition, condition 1(b), minimum lot size originally recommended by staff was 14,000 sq. ft. That is now been recommended at 11,500 to accommodate the detention areas. Condition 3(b), the minimum lot width shall be a minimum of 74.03 ft. has been revised to 72 ft. Planning Commission did recommend approval conditional of the application. Staff's recommendation is to approve conditional.

Jason Yowell, Metropolis Homes, stated that the original application was for R-5 with a density of 2.65 units per acre. We have worked with staff and revised the request to R-4 with a density of 2 units per acre. The Land Use Plan calls for 2 to 5 units per acre. We are at the low end of that range. Across the street from the subject property are community facilities, including a library, a church, and a school. That makes this a walk around neighborhood if you have the sidewalks to do it. The development that I built across the street at the corner of Glenwood and Johnson's Ferry is R-5 with 5 units per acre. They had only 50 foot wide lots that we were able to rear-load the garages with the houses fronting on Johnson's Ferry Road. It is important that when you are doing a new development in an established neighborhood, that you respect the street grid and that you don not have a walled compound. It is very important to have the fronts of the houses facing the existing street. It contributes to the streetscape. We did not have the opportunity to do rear-loading garages but they will be courtyard garages and will not face Johnson Ferry Road.

The opposition opposed a development on Glenridge with higher density and told the developer they wanted outward facing houses and lower density. Here it is. There are several developments at 5 units per acre and that is what is called for.

Mayor Galambos asked if there was any opposition. The following spoke in opposition:

Dick Farmer, 6080 Glenridge Drive, expressed opposition stating this is high-density, infill housing that is out of character for this area. He also expressed concerns regarding potential drainage problems.

Ellen Collins, President, Glenridge Hammond Neighborhood Association, stated that this petition is based solely on the Land Use Plan and stated that the citizens in this neighborhood were not represented during open discussion regarding this Land Use Plan and received no notification of meetings.

Doug Falciglia, 5925 Brookgreen Road, referred Council to the Zoning Impact Analysis and pointed out reasons to deny this application.

Thaea Lloyd, 570 Valley Lane, stated that they are a determined neighborhood. It is the Mayor and Council's job to protect neighborhoods as promised. Building a new City on technical loop-holes is not a strong way to build a foundation. If this application is approved, we will know you have fallen on your promise to preserve neighborhoods.

Jason Yowell stated that spot-zoning is illegal and there are certain criteria that constitute spot-zoning. One is that it does not conform to the land use plan. This application does. Second, is a non-conforming use to the adjacent property. R-3 and R-4 are very similar uses.

Mayor Galambos asked if there was anyone who would like to speak in support of this application. The following spoke in support:

Ginger Bradshaw, 415 Johnson Ferry Road, owns the property to the west and will be affected the most. She stated that she is in total support of this as it in the Land Use Plan as well as the Future Land Use Plan.

Miriam Blackburn, 471 Johnson Ferry Road, owns the property to the east and is in full support of this project.

Guy Taylor, 6136 Kayron Drive, stated that the back of his property is approximately 90 feet from this property. He, along with six other immediate neighbors on Kayron Drive are in agreement that is a good project for this site. There are many projects that have come before this one and left a stain on this project.

Roger Blichfeldt, 5855 Garber Drive, was part of the 2025 plan steering committee and worked on that for a year and a half. It is his opinion that this is the appropriate place for density along major transit corridors.

Charles Perry, 576 Hammond Drive, spoke in support of this application.

Councilmember Jenkins stated that she had received a copy of an agreement made between Mr. Yowell and the neighbors. This was not in the zoning packet.

Councilmember Jenkins read the conditions in the agreement:

1. Owner/developer will make every effort to save every tree possible on the property whether it be specimen or not.
2. Owner/developer will provide sewer laterals to neighbors where the sewer runs in front of their homes as well as adjacent neighbors on Johnson Ferry.
3. Air conditioner compressors will be installed on the sides on the homes rather than the rear.
4. The homes will have side entry courtyard type garages. The garages will be no more that 1 ½ story. The two homes on each end of the subject property will be 1 ½ stories maximum. The three interior homes will be two stores maximum with 1 ½ story garages.
5. Jason Yowell will retain architectural control for the subject homes. All homes will have front porches and a variety of building materials. The homes will be designed in the Southern vernacular as much as possible.
6. The detention facility will be decked instead of fenced. This will result in a safer, less intrusive appearance. The area will be landscaped resulting in a more please and useable area rather than an eyesore.

She questioned if Mr. Yowell would agree to allow this to go into these zoning conditions. Mr. Yowell agreed.

Councilmember DeJulio stated that if the applicant would consider going from 5 units to 4 units per acre, they would be the same size as the rest of the properties on Johnson Ferry Road. Mr. Yowell stated that is not viable.

Councilmember Fries stated that this is at the bottom range of the Comprehensive Plan. Mr. Yowell stated that this request is for 3 units per acre and the Land Use Plan is 3 to 5 units per acre. We are not asking for any variances. Staff has recommended conditions that are even more restrictive than the R-3 zoning.

Councilmember Meinzen McEnerny stated that staff's recommendation requesting a 10 ft. setback next to the existing zoning in the adjacent uses. Mr. Yowell stated that he has agreed to have 10 ft. side yard setbacks on all of the houses.

Councilmember Meinzen McEnerny stated that we are committed to preserving neighborhoods and we understand that the southern neighborhood, the interiors, and the Comprehensive Land Use Plan reflects R-2 to R-3. This particular developer is bending at the lower range of the existing Comprehensive Land Use Plan. In the future, we will be changing and bringing to the community, the possibility of converting that strip that you are talking about on the north to 2 to 3 units per acre. Should that be done this development would still be in compliance.

Motion and Second: Councilmember Paul moved to deny RZ06-006, 461 & 435 Johnson Ferry Road, R-3 to R-4, Development of 6 single family lots. Councilmember DeJulio seconded the motion.

Discussion on the Motion: Councilmember Paul stated that he loves this particular neighborhood. It is an older neighborhood and the kind of neighborhood that typifies the spirit that created this City. There is not a group of neighborhoods that have been under more assault than this particular neighborhood. They have been abused, had their area zoned and rezoned and torn up. They have areas where development began and was then abandoned. These folks need some relief. They supported the City of Sandy Springs because they believed that we cared about preserving our neighborhoods. We have plenty of places that we want our development friends to come work. Roswell Road is an ideal location. We need affordable housing. When it comes to transportation, this area cannot handle any more density right now. We need more infrastructure there before we make these kind of changes.

Councilmember DeJulio stated that this area is the transition area between his district and Councilmember Paul's district. This whole district has gone through a lot of assault. This neighborhood is being revitalized. The older homes are being bought by young families and restored. He asked that we encourage this restoration and protect the neighborhoods.

Councilmember Jenkins stated that the older homes are great homes that people want to stay in and add to. They are sitting on top of septic tanks right now. They can only add on over the septic tanks. This applicant is bringing in a sewer line, which is very expensive that will allow them to tap in at a much lower cost. These are not huge high-rises, but will blend with the surrounding homes.

Councilmember Meinzen McEnerny stated that she lives in District 6, one of the older developed communities. She is seeing very little rehabilitation of existing homes. What she does see is tearing down with tremendous pressure on our environment as a result of the scraping of the lots. One of the reasons, she will be supporting this development is because this is a major arterial road. The second reason she will be supporting it is that the density the developer is bringing it compatible with the adjacent uses. The Comprehensive Land Use Plan is the development community's road map. However, should we make a change in the next month or so through the due process of public hearing, she expects that that strip will be re-designated to R2-3 units per acre. If that happens, this development will also be in compliance. For those three reasons, she is going to support this application.

Motion and Vote: Councilmember Paul moved to call the question. The motion to call the question passed unanimously.

Mayor Galambos stated that she is totally committed to preserving the interior of your neighborhood. If anybody should try to come and change the zoning on the interior, she will stand up and fight against it. The arterial streets are a little different and she thinks a zoning of 3 units per acre, given the Land Use Plan says that, is not an intrusion into the interior of the community which we are committed to preserving.

There was no further discussion.

Vote: The motion failed 3-4, with Councilmember Jenkins, Councilmember Fries, and Councilmember Meinzen McEnerny voting in opposition, and Mayor Galambos breaking the tie vote voting in opposition.

Motion: Councilmember Jenkins moved to approve RZ06-006, 461 and 435 Johnson Ferry Road, R-3 to R-4, development of six single family lots with the six conditions provided by the applicant, Jason Yowell, and the conditions placed by staff:

Staff Conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:

a. Five (5) single family residential lots at a density of 3.04 units per acre.
b. The minimum lot size shall be 11,500 square feet.
c. The minimum house size shall be 1,600 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 meet the following site development standards:

a. The minimum side yard shall be 10'.
b. The minimum lot width shall be a minimum of 72' along the entire length of the lot.
c. To a 35' building line adjacent to the south property line.
d. There shall be a minimum 10' building setback adjacent to all other properties zoned R-3 (Single Family Residential District).
e. To provide shared driveways that will provide access to a maximum of two residences.
f. No driveway shall be located less than 10' from properties zoned R-3 (Single Family Dwelling District).
g. No garage doors shall face Johnson Ferry Road.
h. To use brick and/or other masonry material on the walls of the detention pond facing properties zoned R-3 (Single Family Dwelling District), subject to the approval of the Design Review Board.

Applicant Conditions:

7. Owner/developer will make every effort to save every tree possible on the property whether it be specimen or not.
8. Owner/developer will provide sewer laterals to neighbors where the sewer runs in front of their homes as well as adjacent neighbors on Johnson Ferry.
9. Air conditioner compressors will be installed on the sides on the homes rather than the rear.
10. The homes will have side entry courtyard type garages. The garages will be no more that 1 ½ story. The two homes on each end of the subject property will be 1 ½ stories maximum. The three interior homes will be two stores maximum with 1 ½ story garages.
11. Jason Yowell will retain architectural control for the subject homes. All homes will have front porches and a variety of building materials. The homes will be designed in the Southern vernacular as much as possible.

12. The detention facility will be decked instead of fenced. This will result in a safer, less intrusive appearance. The area will be landscaped resulting in a more please and useable area rather than an eyesore.

There was no further discussion.

Second and Vote: Councilmember Meinzen McEnerny seconded the motion. The motion passed 4-3, with Councilmember Greenspan, Councilmember Paul, and Councilmember DeJulio voting in opposition, and Mayor Galambos breaking the tie voting in support.

RZ06-007/CV06-003 - 4724 East Conway Drive – R-3 to R-4A - Development of a single family residence.

City Clerk Marchiafava stated that the next item on the agenda is RZ06-007/CV06-003 – 4724 East Conway Drive – R-3 to R-4A – Development of a single family residence. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that RZ06-007/CV 06-003 is a rezoning request for property located at 4724 East Conway Drive. The application is requesting to rezone this property from R-3 to R-4A for the purpose of creating a legal lot to construct a new single family dwelling. The concurrent variance request is to reduce the minimum lot width from 85 feet to 70 feet. Staff recommends that the application and concurrent variance be approved conditional. The Planning Commission recommended that the application and concurrent variance be approve conditional subject to staff conditions with the deletion of staff condition imposing setbacks consistent with R-3 zoning district. Upon resubmittal of additional supporting documents, staff has dropped a condition that would have required additional setbacks along the rear and north side property line that would have been consistent with the R-3 zoning district.

Mayor Galambos recognized the applicant, Jeffery Tacca.

Jeffery Tacca stated that he has nothing to add. Mayor Galambos questioned if the applicant agreed to all the conditions made by staff. Mr. Tacca stated that he agreed.

Councilmember Meinzen McEnerny stated that this section of East Conway had been subdivided 30 or so years ago and it affected approximately 12-13 lots on both side of East Conway. The effect of those subdivisions created non-conforming, illegal lots in that the lots are less than the required 18,000 sq. ft. minimum for their current R-3 zoning. What that means is that the existing houses with their existing density, if a fire or a tree should render the house uninhabitable, there would be no way for those 12 owners to rebuild. Mr. Tacca came in to request a building permit to take the existing home down, the planning staff identified this issue. The densities are not changing on East Conway. All we are doing is changing the densities on the Comprehensive Land Use Plan to 2-3 units per acre so that when a rezoning comes in like Mr. Tacca, it will be in compliance to the Comprehensive Land Use Plan. We did meet with the neighbors and they are in support of this rezoning application.

Motion: Councilmember Meinzen McEnerny moved to approve RZ06-007/CV06-003, 4724 East Conway Drive, R-3 to R-4A, development of a single family residence with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:

a. One single family dwelling and associated accessory structures and uses.

2. To the owner's agreement to meet the following site development standards:

a. To a minimum lot width of seventy (70) feet. (CV06-003)

There was no further discussion.

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

RZ06-008/CV06-002 8701 Winding River Drive & 100 N. River Parkway – Ac to A-Conversion of rental townhouse use to condominium use.

City Clerk Marchiafava stated that the next agenda item is RZ06-008/CV06-002 - 8701 Winding River Drive & 100 N. River Parkway – Ac to A-Conversion of rental townhouse use to condominium use. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that RZ06-008/CV06-002 is a request to rezone 8701 Winding River Drive known as Silvertree Apartments from Ac, medium density apartment district-conditional to A, medium density apartment district for the purpose of remove a condition limiting the use of the property to rental units. Additionally the concurrent variance request involves six variance requests pertaining to existing conditions and to legalize those conditions. Referring to the revised staff report, there is a change on page 9, to the statement under condition 2 that reads "To the owners agreement to provide the following:" has been changed to "to abide by the following:" in regard to the site plan. The Planning Commission recommended approval with a cap on the number of leased units at 25% and requiring the addition of sprinklers in the kitchen off the domestic water supply.

Robert Stein, ATT Investments, stated that he is seeking to rezone this property. This is fairly straight forward. It is an existing 35-year old property with conditions that limit it to apartments. The applicant intends to convert it to condominiums. The applicant intends to invest $5 million, 40,000 per unit, to upgrade the kitchens and baths and for other site improvements. They will leave fences and walls. They agree to each of staff's conditions including the additional two regarding the 25% leased units and requirement for additional sprinklers. The language needs to be modified to clarify as to the units to be converted to condominiums. There is always a possibility that this will remain as apartments or certainly phases of them as the condominium process takes place. Mayor Galambos questioned what maximum number that can be rented. Mr. Stein answered 25% and stated that the language in the conditions is correct. Some language that it being as to the converted units needs to be added.

Councilmember DeJulio questioned where the 25% came from as the cap on rental units in condominium complexes. Mr. Stein stated that the 25% comes somewhat from Fannie Mae and Freddy Mac which is 30%.

Mayor Galambos questioned what the average cost of the condominiums will be. Mr. Stein stated that the average cost will be $150,000.

City Attorney Wendell Willard questioned what will be the event occurring by which the restriction will be put on for the 25%. Mr. Stein answered the recording of the condominium declaration.

Mayor Galambos asked if there was any opposition to this application.

Trisha Thompson, 145 River North Drive, expressed concerns regarding current building codes, single water metering, live/work designation, changes to the Land Use Map and made no recommendation on this matter.

Councilmember DeJulio stated that there are more and more condo conversions in Sandy Springs. On one hand, he likes the idea of condo conversion because we need to have more affordable housing in Sandy Springs. But he has some concerns about this. He referred to the people who are buying these units and asked are they going to be homeowners or investors. That is why the 25% maximum cap on rentals is much too high. Secondly, these buildings are 35 years old and he worries about the people who are going to be buying them. He asked does the developer plan to leave these people with a reserve that is going to be adequate to repair these units as needed. He stated that we need affordable housing in Sandy Springs, but he is also concerned about those living in them. He would be more in favor of 10% renters.

Mr. Stein stated that the roof is 5-7 years old. His client intends to spend $40,000 on average to renovate and update the units. This is going to be a significant expenditure into a community that will create opportunities for a range of folks who have housing in Sandy Springs at this price. As far as the 25% leasing restriction, this is the standard in the industry. He does not know of any research with a other lower figure that changes the character of a community. A 10% figure is simply unmanageable for any developer. He feels that this is an opportunity for Sandy Springs to convert an older apartment community. This particular community has a lot of great things going for it because of the money that has already been spent by the current owner and the investment to be made by the developer.

Councilmember DeJulio again questioned if the developer will be funding a reserve and to what extent. Mr. Stein did not have that answer. A reserve is not a requirement under the Georgia Condominium Act.

Councilmember Fries questioned if the applicant would be receptive to having new wording regarding the 25% and "of those units to be converted" written into the covenants. City Attorney Willard stated that it had to be.

Councilmember Meinzen McEnerny echoed Councilmember DeJulio's comments and stated that the State of Georgia does not require minimum reserves for condominium associations. That is her greatest concern about this project being 30 or so years old - that it will be inadequately reserved such that at some future time, we are going to be dealing with 300 condo owners with functionally obsolescent metering. This could be problematic to us in the future. As a general comment, she could support a higher density than that is on the site. With that said, she has no grounds to deny this request.

Councilmember Jenkins stated that she also has concerns about the water system that is there. She requested that staff look at forcing any of these condo conversions to be individually metered. She does appreciate that the sprinklers were put in. She questioned if CDBG funds could be used to set up a first time home buyers program.

Councilmember Greenspan questioned what type of reserve would be adequate. Councilmember DeJulio stated that he was unsure how that was calculated, but it is set aside on a per unit basis.

Mayor Galambos questioned if this Council had any right to make that condition. City Attorney Willard stated that he doubted it, but he would have to do some further research. We can ask them to include it as a condition, but we cannot require it.

Motion: Councilmember Fries moved to approve RZ06-008/CV06-002, 8701 Winding River Drive and 100 N. River Parkway, Ac to A-Conversion of rental townhouse use to condominium use with the following staff conditions and changing the wording as requested by Mr. Stein about those units to be converted:

1. To the owner's agreement to restrict the use of the subject property as follows:

a. Multi-family residential uses and associated accessory uses.
b. To a maximum of 133 units, or a density of 9.11 units per acre, 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 on February 7, 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 approval of the concurrent variance to allow the existing fence/wall to be located in the public right-of-way shall be subject to the approval and issuance of an indemnification agreement, as approved by the Sandy Springs Department of Transportation (CV06-002).
b. Prior to issuance of a Certificate of Occupancy on any converted unit, the owner/developer shall have received an indemnification agreement allowing the location of the existing fence/wall in the public right-of-way or shall have removed said improvements from the public right-of-way (CV06-002).
c. To allow an existing fence to be located closer to the right-of-way than three (3) feet (CV06-002).
d. To allow an existing fence to be located in a required three (3) foot landscape strip (CV06-002).
e. To allow an existing sign to project into the right-of-way (CV06-002).
f. To allow an existing structure to have a side setback of 24.9 feet where 25' is required (CV06-002).
g. To restrict the amount of leased units in the development to a maximum of 25% of the 133 total number of units to be converted.
h. The owner/developer shall provide two (2) sprinkler heads in the kitchen of each unit, to be supplied from by the domestic water line.

Second: Councilmember Meinzen McEnerny seconded the motion.

Discussion on the motion:
Councilmember Paul questioned how to enforce the covenant once the 25% is reached. City Attorney Willard explained that is enforceable by a property owner because the covenant is an agreement between the property owners.

There was no further discussion.

Vote: The motion passed unanimously

ZM06-001 - 135 Foxridge Road – Request for a modification of the zoning conditions of Z72-096 restricting garages from facing the street to allow a detached garage addition to be constructed facing the street.

City Clerk Marchiafava stated that the next agenda item is ZM06-001 – 135 Foxridge Road – Request for a modification of zoning conditions of Z72-096 restricting garages from facing the street to allow a detached garage addition to the constructed facing the street. Assistant Director of Planning and Zoning Michael Zehner will present this item.

Assistant Director of Planning and Zoning Zehner stated that this a zoning modification for property located at 135 Foxridge Road. The condition of zoning in zoning case Z72-096 restricted garages from facing the street. The applicant is proposing to put a detached garage addition that will face the street. In addition, that detached garage encroaches on this front building setback line. The applicant is requesting a variance to reduce that front building setback from 60 to 30 feet. In addition, the applicant is requesting a concurrent variance for a guest house to be located 20 feet from the rear property line. The requirement is 40 feet. Staff has submitted a revised staff report that adds conditions 5(a) and 5(b) relative to the concurrent variances requested.

Mayor Galambos asked if the applicant was present.

Steve Markey, Harrison Design Associates, stated that he represented Robert and Tammy Crewdson. The Crewdsons live on a cul-de-sac lot that is a relatively small street. They have a large piece of property, a little over one acre, but because of the way the property adjoins the cul-de-sac, their front setback actually wraps all the way around the side of their property, cutting off quite a bit of buildable land. There is a precedence next door with a home that is built with the garage facing the street. The Crewdsons wanted to develop that with a more compound feel to reduce the impact on the rest of the neighborhood. They have three children, in-laws, and no garage. The in-law suite is in the rear of the property. They do not want to pave the entire property; they want to leave some greenspace. In keeping with the Williamsburg concept, a garden will separate the house from the garage and they will let the guest house enjoy that as well. This will keep the new additions lower than the existing home.

Mayor Galambos asked if there was any opposition to this petition. There was none.

Councilmember Meinzen McEnerny questioned if the reason the applicant did not have a garage is because they enclosed it. Ms. Crewdson stated that it was her understanding it was enclosed by the original owners of the home during construction.

Councilmember Meinzen McEnerny questioned if there was anyone present who lives in one of the two homes on Mt. Vernon behind this property. Ms. Crewdson stated that *(name inaudible)* live directly behind their property and wrote a letter in support.

Councilmember Meinzen McEnerny stated that the addresses are 495 Mt. Vernon and 515 Mt. Vernon and one of those two is the lady directly behind this property because this will go into her 40 foot setback. They are not here tonight. She asked where is the residents for 575 Mt. Vernon. They opposed the application. Ms. Crewdson stated that they are diagonal to their property in the back.

Mr. Markey stated that they do not actually adjoin the property line.

Motion: Councilmember Meinzen McEnerny moved to approve ZM06-00, 135 Foxridge Road, Request for a modification of the zoning conditions of Z72-096 restricting garages from facing the street to allow a detached garage addition to be constructed facing the street subject to the replanting of the fifteen non-specimen trees as approved by the City of Sandy Springs Arborist with the following staff conditions:

1. The petitioner's Letter of Intent received by the Zoning Department May, 24, 1979, with the exception that the language prohibiting garages from facing the street shall not apply to the property considered under the subject application.

2. *(Clerk's note: This number was omitted from the staff report)*

3. The subject property shall be limited to the site plan received by the Department of Community Development dated received March 7, 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.

4. The owner/developer shall provide landscape planting along the rear property line to screen and buffer the detached guest house addition from adjoining properties, to be approved by the City of Sandy Springs Arborist and Landscape Architect.

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

   a. To allow a proposed garage to be setback 30' from the front property line where a 60' setback is required (CV06-005).

b. To allow a proposed detached guest house addition to be setback 20' from the rear property line where a 40' setback is required (CV06-005).

Discussion on motion: Mr. Markey stated that he is not aware of staff conditions 5(a) and 5(b). Councilmember Meinzen McEnerny read them for the record. Mayor Galambos questioned if the applicant was agreeable to these conditions. Mr. Markey stated that he felt they are appropriate, but requested to place a shrub type of tree, approved by the arborist, that is more of a screen planting.

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

Discussion continued: Patty Berkovitz, 800 Crest Valley Drive, questioned why this has not been on the Board of Zoning Appeals calendar or Planning Commission calendar. Assistant Director of Planning and Zoning Zehner explained that this is a zoning modification and concurrent variance and does not require approval by either board. He explained the difference between a zoning modification and a zoning change.

ZM06-003 - 7275 Roswell Road – Request for a zoning modification to delete the site plan dated received September 27, 2005 which proposes 300 units pursuant to ZM05-0075 and replace it with the site plan dated received April 12, 2006 which proposes 377 units.

City Clerk Marchiafava stated that the agenda items is ZM06-003 - 7275 Roswell Road – Request for a zoning modification to delete the site plan dated received September 27, 2005 which proposes 300 units pursuant to ZM05-0075 and replace it with the site plan dated received April 12, 2006 which proposes 377 units. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner stated that ZM06-003 is a request for 7275 Roswell Road. The petitioner is Jolly Development Corporation represented by Nathan V. Hendricks. The request is to enact a new site plan to modify the conditions of zoning under case.

Pete Hendricks, 6085 Lake Forrest Drive, Suite 200, Sandy Springs, stated that the application involves a 27.766 acre tract on the easterly side of Roswell Road and southerly side of Dalrymple Road. It was originally zoned in 1963 for a total of 419 apartment units which is a density of 15.09 units per acre. At the end of last year, the property went through a couple of new site plans for proposed development. What is presently on the table is a site plan that was adopted on September 27, 2005 for a total of 300 units which is a density of 10.80 units per acre.

The request of the applicant is for a revised site plan for 377 units for a density of 13.58 units per acre. There are a couple of concurrent variances that go with this. There is a sprinkling of some specimen trees on the property and a development requirement that says that any pool equipment needs to be 100 feet away from an interior street or residential structure. Given the narrowness and confining configuration of this property, we are asking for that to be reduced to 15 feet. Your staff has recommended approval of the modification request and both concurrent variances.

Warren Jolly, Jolly Development Corporation, explained the issues regarding the topography of the property. There is also a need for several different price points to get the absorption level that is needed. The stacked condominiums will have a price point of $250,000-$350,000. This is similar to what they did at the corner of Sandy Springs Circle and Hammond. The big difference is that we will not be staggering these. The Roswell Road side will be the taller side.

Mayor Galambos asked what is the current density on the site. Mr. Jolly stated that the current density is 15.09 units per acre and they are requesting 13.58 units per acre. Mayor Galambos clarified that there would now be 377 units as opposed to 419 units.

Mr. Hendricks respectfully requested approval of this request as petitioned for and recommended for by staff.

Mayor Galambos questioned if there was any opposition. There was none.

Councilmember Jenkins clarified that the maximum rental would be 10% for this piece of property. Mr. Hendricks stated that is correct. Councilmember Jenkins stated that she appreciated the way they have worked with the Spaulding Woods Homeowners Association. The units that will back up to the homes on Spaulding Woods are the larger, more expensive units. It has been agreed that they will put in a nice aluminum fence.

Assistant Director of Planning and Zoning Zehner stated that staff has updated their report to include a reference to the agreement between the neighborhood and the applicant. That would be conditions 1(b), 1(c), 2(c), 2(d), and 2(e).

City Attorney Willard requested that those be read into the record. Mr. Zehner read the following conditions:

1(b) The developer shall market the project for sale to owners who will occupy the proposed condominium units. Marketing materials shall not target investor owners.
1(c) The percentage of total units allowed to be leased at any point in time shall not exceed 10 percent. This limitation shall not apply to the Developer, Builder or Declarant.
2(c) A 5-foot high aluminum fence shall be installed along the property line adjoining the Spalding Woods subdivision. A staggered row of magnolias and hollies shall be planted 15 feet on center between the fence and the condominium units in this portion of the development.
2(d) The developer shall plant interior street trees at least 4" DBH at the time of planting.
2(e) The development shall have private streets and may be gated at Developer's election.

City Attorney Willard stated that the 10% rental maximum should also be included in the Declaration of the Condominium. Assistant Director of Planning & Zoning Zehner stated that could be added. Mr. Jolly agreed to this, but requested that it also be included in the Homeowners Association.

Trisha Thompson, Sandy Springs Council of Neighborhoods, stated that she has enjoyed working with Warren Jolly and Mike Smith. They have agreed to the Council's requests.

Councilmember Meinzen McEnerny asked if the Council would consider a friendly amendment to the provision regarding the replanting of 4" trees. She would like to add that the 4" trees be determined by the City's arborist. Mr. Jolly agreed to this request.

Motion: Councilmember Jenkins moved to approve ZM06-003, 7275 Roswell Road, Request for a zoning modification to delete the site plan dated received September 27, 2005, which proposes 300 units pursuant to ZM05-0075 and replace it with the site plan dated received April 12, 2006 which proposes 377 units with the following staff conditions as well as the condition requested by Councilmember Meinzen McEnerny:

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

a. All references to the site plan referenced in the applicant's original Letter of Intent received by Fulton County on July 31, 1963, and the site plan dated September 27, 2005 approved under ZM05-0075, pertaining to the subject site shall be deleted. The subject property shall hereby be conditioned to the site plan received by the Department of Community Development dated received April 28, 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.

b. The developer shall market the project for sale to owners who will occupy the proposed condominium units. Marketing materials shall not target investor owners.
c. The percentage of total units allowed to be leased at any point in time shall not exceed 10 percent. This limitation shall not apply to the Developer, Builder or Declarant.

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

a. To remove ten (10) specimen trees as shown on the site plan dated received April 28, 2006 (CV06-007, Part 1).
b. To reduce the required 100' swimming pool and associated equipment setback to 15' feet as depicted on the site plan dated received April 28, 2006 (CV06-007, Part 2).
c. A 5-foot high aluminum fence shall be installed along the property line adjoining the Spalding Woods subdivision. A staggered row of magnolias and hollies shall be planted 15 feet on center between the fence and the condominium units in this portion of the development.
d. Developer shall plant interior street trees at least 4" DBH at the time of planting.
e. The development shall have private streets and may be gated at Developer's election.

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

Approval of a Resolution amending the City of Sandy Springs Fee Schedule regarding temporary signage and special event permit fees, and the exemption of religious and nonprofit organizations.
Resolution No. 2006-05-51

City Clerk Marchiafava stated that the next agenda item is the approval of a Resolution amending the City of Sandy Springs Fee Schedule regarding temporary signage and special event permit fees, and the exemption of religious and nonprofit organizations. This will be presented by Assistant Director of Planning and Zoning Michael Zehner.

Assistant Director of Planning and Zoning Zehner explained that there is not currently a fee for temporary signage and special event permits. There is also no exemption and we are requesting to exempt religious, nonprofit organizations, and homeowners associations.

Motion and Vote: Councilmember Paul moved to approve a Resolution amending the City of Sandy Springs Fee Schedule regarding temporary signage and special event permit fees, and the exemption of religious, nonprofit organizations and homeowners associations. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion passed unanimously.

New Business

Public Hearing

Approval of a resolution adopting the City of Sandy Springs Hotel Motel Fund budget for the fiscal year to begin on December 1st and ending on June 30th; and direct the City Manager to implement the budget for fiscal year 2006.
Resolution No. 2006-05-50

City Clerk Marchiafava stated that the next agenda item is a public hearing for the Approval of a resolution adopting the City of Sandy Springs Hotel Motel Fund budget for the fiscal year to begin on December 1st and ending on June 30th; and direct the City Manager to implement the budget for fiscal year 2006. This will be presented by Finance Director Steve Rapson.

Finance Director Rapson stated that this is simply a measure to make sure we properly adopt the Hotel/Motel Budget for the first seven months. As you are aware, we adopted the first three budgets when we went through the process.

Mayor Galambos asked if there were any questions regarding this resolution.

City Attorney Willard stated that an agreement with the Georgia World Congress Center dealing with the payments of the funds that we have been holding since the first of the year will be forthcoming. We are under statutory obligation to pay these funds to the Congress Center for the Dome. There is also forthcoming the nonprofit corporation known as the Sandy Springs Hospitality Board.

Mayor Galambos stated that is not what is before us tonight. City Attorney Willard stated it is not, but you can make appointments at this time. Mayor Galambos questioned if the board members should be appointed when the resolution is adopted. City Attorney Willard stated that is fine.

Mayor Galambos asked if there were any comments from the public. There was none.

Hospitality Board
Mayor Galambos announced that we will be forming this Hospitality Board who will administer this fund. Mayor Galambos nominated the City Manager or is designee, the Mayor, Councilmember Fries, Gabriel Sterling, and Art Schultz.

Approval of an Ordinance to Amend Chapter 7, Alcoholic Beverages, Article 2, Section 5, (b) and (f) 4, Hours, and Article 3, Section 3, Hours, Article 9, Section 1, Excise Taxes, of the Code of Ordinances for the City of Sandy Springs. (First Reading)

Mayor Galambos stated that the next agenda item is regarding the Alcoholic Beverage Ordinance. Given the time, 10:00 PM and the expectation that a good number of the people in this room will have to work tomorrow, we are setting a time limit of 20 minutes for each side. There will be another public hearing on this item on May 16, 2006.

City Clerk Marchiafava stated that the next agenda item is the approval of an Ordinance to Amend Chapter 7, Alcoholic Beverages, Article 2, Section 5, (b) and (f) 4, Hours, and Article 3, Section 3, Hours, Article 9, Section 1, Excise Taxes, of the Code of Ordinances for the City of Sandy Springs. This will be presented by City Attorney Wendell Willard.

City Attorney Willard stated that an Alcoholic Beverage Ordinance Committee was formed and has met several times over the last few months. They have reviewed several items in the ordinance specifically the hours of operation and the implementation of alcohol awareness training for management and servers. Another concern was defining that establishments must have a kitchen, in addition to other requirements, for the sale of distilled spirits or beer and wine. Reading the language used, the provisions as far as the standards and obligations for holding a license. In addition to other requirements under this ordinance, a licensed premise for the sale of distilled spirits or for beer and wine by the drink shall comply with the following:

Must be open for at least five days each week.
The licensed business shall be open for business not later than 5:00 p.m. the days it is opened.
The licensed business shall offer to its patrons, prepared food and meals during the hours it is open.
The licensed business shall have a fully equipped kitchen, including cooking range, oven, refrigeration, food preparation areas, sink and other items for the preparation of food and meals to be served on the premises.

The last condition was to also comply with all requirements of Article 1, General Provisions, Section 3 relating to the manner in which the premises shall be maintained. That specifically addressed the requirement that after closing, within three hours, there is to be a policing of the parking area surrounding the right-of-way.

The main issue we have had is the hours of operation for pouring licenses. The Committee has put forth the following recommendation:

> The sale of distilled spirits or beer and wine by the drink for consumption on the premises shall be permitted only during the following hours and days of the week as indicated:
>
> (a) Monday through Saturday, from 9:00 a.m. until 2:00 a.m. of the following day.
>
> (b) Sunday from 12:30 p.m. until 2:00 a.m. of the following day, provided, however, any licensed establishment which serves alcohol on Sunday shall derive at least fifty percent (50%) of its total annual gross sales from the sale of prepared food or meals [see O.C.G.A. § 3-3-7 (j)(l)].

There were some other issues addressed such as the age limit which is addressed by State law. This has been cleaned up. We also had some changes in the excise tax provision to provide better control of the means by which we will be collecting our excise tax and simplified the provisions. The excise tax has not changed but was simply reworded.

Councilmember Fries provided some background on this ordinance and the changes and problems that the City has had in the last several months. At the very beginning of city-hood, it was realized that there was a provision in the Charter for emergency ordinances that could have taken place at the midnight meeting on December 1. We elected not to have radical changes, similar to this one, without due process of the citizens of Sandy Springs. We felt it was important to go through the process. We actually approved some ordinances that had changes that we did not realize. We passed the Fulton County ordinance with the understanding that we were going to have an Alcohol Committee of the citizens and representatives of the bars, restaurants, hospitality, attorneys, and Council. She was on this Committee. We did our homework and investigated a lot of information from bar owners, restaurant owners, citizens, other municipality's police departments, and other elected officials. The Committee members wanted to have as much information as possible prior to making these decisions. This issue regarding changing the hours from 2:00 a.m. to 4:00 a.m. is a difficult one and we understand that there are a lot of people that have a different cocktail hour than the majority of people. This is purely based on a safety issue for the citizens of Sandy Springs. She thanked each and every one who worked on the Alcohol Committee.

Councilmember Greenspan requested that in addition to stating each persons' name and address for the record, he asked if each person would state if they are being compensated for their presence and comments. He would like that included in the protocol.

Councilmember Paul requested that each person who speaks be sworn in by the City Attorney. City Attorney Willard recommended that this be requested of each person, but not required.

Public Hearing

Mayor Galambos opened the public hearing and requested that those in favor of the ordinance amendment come forward. She reminded them that they must have completed a comment card.

Mark Thomas, 505 Avignon Ct, Sandy Springs, stated that he is being compensated as the Director of the Sandy Springs Hospitality Association. He stated that there was a great deal of information to review and thanked the Council for the opportunity to be involved.

Wilton Hegliger, 503 Dalrymple Road, Sandy Springs, expressed disappointment regarding the demonstrating in front of City Hall.

Greg Adams, Mt. Vernon Woods, Sandy Springs, stated that, as a detective with the criminal investigation division, he has investigated many crimes here in Sandy Springs. One incident was a stabbing here in Sandy Springs at about 2:30 a.m. where the gentleman almost bled to death. This gentleman reported that they had left Buckhead when their bars closed to come to Sandy Springs. He has investigated a number of these type crimes.

Trisha Thompson, Sandy Springs Council of Neighborhoods, explained that she handed out the cards to those in support of the 2:00 a.m. closing and spoke to each of them prior to giving them one. She is not being compensated and is in favor of the 2:00 a.m. closing.

James Hale, Sandy Springs Council of Neighborhoods, stated that he is not being compensated. One of the key concerns of the Committee is that Buckhead and Roswell both have 2:00 a.m. closings and we did not want Sandy Springs to become the dumping grounds for people who want to party all night.

Police Chief Gene Wilson stated that what the Committee found from statistics received from Fulton County is that 27.5% of all the daily calls received were between the hours of 2:00 a.m. and 4:00 a.m. In the next two hours after closing, there were many serious calls as well. We are double staffed until 2:00 a.m. and the City does not have the staff to remain double staffed around the clock. His recommendation to the Committee is that bars need to close at 2:00 a.m. The only other municipality around us that stays open until 4:00 a.m. is Doraville and the unincorporated areas of Fulton and Dekalb Counties. For the good of the community, he recommended that we close at 2:00 a.m.

Charlie Konik, High Point Civic Association, questioned how many people stay awake until 4:00 a.m. We would like our City to reflect our neighborhood. We would like to see the bars closing at 2:00 a.m.

Mayor Galambos asked those in opposition to come forward at this time.

Alan Begner, Attorney, stated that he is speaking for five late night establishments. He is a lawyer and he is being compensated. These five establishments were licensed by Fulton County as late night establishments. This is a destruction of their businesses, personal affairs, and lives. These five establishments cater to black and Hispanic citizens. This is the first time the City Council is facing the question of race. There was a consensus to keep the closing time at 4:00 a.m. until the Chief of Police said he had statistics that showed a correlation between more trouble from 2:00 to 4:00 a.m. During the adult ban on alcohol and nude dancing, so little was thought of Fulton County Police call statistics and it was claimed that they were to be both false and perhaps procured by bribery. Regardless of your intention, they are going to be looked at as a City that is going to exclude blacks and Hispanics from the way of life that they think life should be. The City ran for city-hood on the proposition that it was going to be the kind of place that we want to live in. To keep these businesses and Hispanic and black cultures alive, 4:00 a.m. is little to give up.

Jim Langlais, Alston & Bird, stated that he is being compensated by American Pie. Richard Tyre asked him to speak. He submitted for the record, approximately 500 statements of patrons and citizens of Sandy Springs who are opposed to the reduction of hours. He did serve on the Committee, but was not present at the meeting in which the information was submitted regarding the police calls. The 4:00 a.m. to 2:00 a.m. closing is going to have a devastating impact on his client.

Kevin Wood, Attorney, Sandy Springs, stated that he is not being compensated, but assured the Mayor and Council that he is the most expensive lawyer in the room. He is here to support American Pie. There are normally more police officers at American Pie than at the North Annex.

Chris Anthony, American Pie, submitted a couple of letters regarding what he does to raise money for cancer. It is not all about booze and food. This may affect their ability to raise money. The people they help by raising money are being compensated.

John Csima, 490 Gerry Lane, stated that he does not fault the Council for erring on the side of safety, but there are other ways to approach it. This is going to force these businesses out of their buildings. There are already too many vacant buildings.

Mark Whitaker, The Line @ 285, stated that growth and business does not just happen during daylight hours. A variety of people come in after 2:00 a.m. Not everyone wants to hang out at Waffle House to get a good meal. He was compensated because this directly affects the money that goes into his pocket because he does own the bar.

Scott Stanton, 370 Amberidge Trial, Sandy Springs, stated that when he moved here, he was pleased to find the extended business hours. The Sandy Springs area has a great selection of late night entertainment regarding alcohol service. Some of our neighbors in Cobb County also appreciate this night life.

Leigh Carlson, The Line @ 285, stated that she does not support the 2:00 a.m. closing because it will directly affect her business, life, livelihood, family. She will have to change everything and stands to lose about $100,000 per year in direct revenue. There are actually quite a few Fulton County Police Officers that signed these petitions which she submitted for the record. She asked was the increase in police on July 1 taken into consideration and do we get to see this report? She expressed concerns regarding her family and her employees' families.

Peter Hayes, Rusty Nail Pub owner, stated that the Rusty Nail has been in Sandy Springs for 26 years and they are a 4:00 a.m. bar. They all understand the Council's desire to eliminate the bad elements in Sandy Springs. He does not agree with the procedure. This penalizes bar businesses as well as the residents of Sandy Springs who happen to work odd hours. So what happens with the 2:00 a.m. closing? Businesses go to Dekalb County, Sandy Springs employees lose jobs and income, and the City loses the sales tax and excise tax.

Public Hearing Closed
Mayor Galambos closed the public hearing for this agenda item.

City Clerk Marchiafava conducted the First Reading of an Ordinance to Amend Chapter 7, Alcoholic Beverages, Article 2, Section 5, (b) and (f) 4, Hours, and Article 3, Section 3, Hours, Article 9, Section 1, Excise Taxes, of the Code of Ordinances for the City of Sandy Springs.

Approval of an Ordinance Amending Chapter 2 Administration, Article 7, Purchasing, and approval of the related purchasing policy. (First Reading)

City Clerk Marchiafava stated that the next agenda item is the Approval of an Ordinance Amending Chapter 2 Administration, Article 7, Purchasing, and approval of the related purchasing policy. This will be presented by Finance Director Steve Rapson.

Finance Director Steve Rapson explained the proposed changes to Chapter 2, Article 7, and the purchasing policy. The first change is setting the payment terms 2% net 20 for the City. The second change is adding a subsection regarding grants and donations. The third change is the addition of national co-ops, US Canadians and collaborative purchasing agreements to also be a way that the City could piggyback in regards to other municipalities and State agencies.

Councilmember Greenspan questioned if the 2% meant on demand. Finance Director Rapson stated that was correct.

Councilmember Paul questioned if the City has provisions to procure items off the State contracts with vendors of the State of Georgia. Finance Director Rapson stated that the co-op is a Statewide co-op, and in addition to that there is also collaborative purchasing agreements that we want to add.

Mayor Galambos invited public comment at this time. There was no public comment.

City Clerk Marchiafava conducted a First Reading of an Ordinance Amending Chapter 2 Administration, Article 7, Purchasing, Section 1, definitions, sub-section a-n; Section 3, General Procurement, Subsection d, n and Section 6, Emergency Purchases, subsection (c); Section 7, Informal Purchases, subsection (a); Section 8, Formal Purchases; Section 9, Competitive Bidding, subsection (b), sealed bid procedures (v) and subsection (c); Section 10, Competitive Sealed Proposals, subsection (b), Procedures for Sealed Proposals (iii) and (v); Section 11, Multi-step Competitive Sealed Procurement of the Code of Ordinances of the City of Sandy Springs, Georgia.

Approval of an Ordinance Approving a franchise agreement with BellSouth Telecommunications, Inc. (First Reading)

City Clerk Marchiafava stated that the next agenda item is the approval of an Ordinance approving a franchise agreement with BellSouth Telecommunications, Inc. This will be presented by Director of Operations Don Howell.

Director of Operations Howell explained that what was just handed out is a minor amendment from the work session. The agreement before would expire December 31, 2006 unless there is an agreement put in its place. We will be working on a longer agreement. They will get a permit prior to trimming or cutting tree. In the event of an emergency condition, they will be allowed to trim trees without waiting on a permit in order to restore service. They were in agreement to make payment within thirty (30) days following the end of each quarter. They asked that during this short term period, until we can determine the actual cost that we incur in reviewing their plans for placing equipment in the right-of-way and inspecting that work, that they not be required to pay any permit fees. It is customary and it is in the Georgia Power franchise agreement that once they pay their franchise fees, they are not required to pay any additional permit fees. You may require that in the longer term agreements.

Councilmember Greenspan questioned if they would still be required to go through the utility permitting process. Director of Operations Howell stated that they are still required to obtain a permit to work in the right-of-way. The question was regarding paying additional fees. The last change is that they will accept the franchise agreement within thirty (30) days instead of the original ninety (90) days. If approved by Council, this will become effective on May 16, 2006.

Mayor Galambos asked if there were any comments from the public. There was no public comment.

City Clerk Marchiafava conducted the First Reading of an Ordinance approving a franchise agreement with BellSouth Telecommunications, Inc. by the City of Sandy Springs, Georgia.

Approval of an Ordinance Approving a franchise agreement with TWTC of Georgia, LP (Time Warner) (First Reading)

City Clerk Marchiafava stated that the next agenda item is the approval of an ordinance approving a franchise agreement with TWTC of Georgia. LP (Time Warner). This will be presented by Director of Operations Don Howell.

Director of Operations Howell stated that their infrastructure is in place in many places in Sandy Springs and they would like to connect their first customer. They have requested a franchise. The only issue is that we may want to alter the fee structure. They are guided by the same parameters that BellSouth is limiting the percentage of revenues for the telecom business, but they also provide a number of other services that BellSouth does not. We are requested to modify the fee structure between now and second reading.

Councilmember Jenkins questioned if they were similar to Comcast. Director of Operations Howell stated that they are a hybrid and the City received more information regarding their services today.

Mayor Galambos asked if there were any comments from the public. There was no public comment.

City Clerk Marchiafava conducted a First Reading of an ordinance approving a franchise agreement with TWTC of Georgia. LP (Time Warner).

Approval of an Ordinance Approving a franchise agreement with Comcast of Georgia, Inc. (First Reading)

City Clerk Marchiafava stated that the next agenda item is the approval of an ordinance approving a franchise agreement with Comcast of Georgia, Inc. This will be presented by City Attorney Wendell Willard.

City Attorney Willard stated that this provides for a 5% franchise fee to be paid based upon the standard service provided in the City. This is 1% less than what was being paid under the Fulton County agreement.

Mayor Galambos asked if there were any comments from the public. There was no public comment.

City Clerk Marchiafava conducted a First Reading of an ordinance approving a franchise agreement with Comcast of Georgia, Inc. by the City of Sandy Springs, Georgia.

Approval of a Resolution supporting the extension of the Intergovernmental Agreement (IGA) with Fulton County for Fire and EMS Services, and 911 Emergency communications services and for an IGA 800MHz system access.
Resolution No. 2006-05-45

City Clerk Marchiafava stated that the next agenda item is the approval of a resolution supporting the extension of the Intergovernmental Agreement (IGA) with Fulton County for Fire and EMS Services, and 911 Emergency communication services and for an IGA for 800 MHz system access. This will be presented by City Manager John McDonough.

City Manager John McDonough stated that these intergovernmental agreements (IGAs) were discussed at the work session and they are very straight forward. This will be presented to the County Commissioners at their meeting tomorrow. The term of these agreements will expire on December 21, 2006. On December 21, the City will take over these services and transfer the provision of 911 and dispatch services to the City of Roswell.

Councilmember Jenkins questioned if this is at the same cost we are paying now. City Manager McDonough stated that is what we requested.

Councilmember Greenspan questioned if our precedence of having an IGA be able to carry us forward to support HB36.
City Attorney Willard stated that the argument you have from the county's side is they believe it is open to negotiation of amounts. His position is we have not waived the transition time under the statute.

Councilmember Greenspan questioned if the County could deny this. City Attorney Willard suggested that they will not be able deny the provision of the services. There may still be an argument as to the value of those services.

Councilmember DeJulio questioned why the agreement expires on December 21. City Manager McDonough explained that staff would rather not have it expire on New Year's Eve.

Councilmember Greenspan requested that the City Manager's office conduct a few public meetings explaining what the fire department will look like, what the service level will be, and what their roll out and transition plan is. City Manager McDonough stated that they have already begun to do this.

Motion and Vote: Councilmember Greenspan moved to approve a Resolution supporting the extension of the Intergovernmental Agreement for the provision of Fire and EMS Services, and the Intergovernmental Agreement for the provision of 911 Emergency Communications Services for a period of approximately six (6) months from July 1, 2006 through December 21, 2006 and for an IGA 800MHz system access. Councilmember Fries seconded the motion. There was no further discussion. The motion passed unanimously.

Approval of a Resolution establishing a City of Sandy Springs Facilities Authority.
Resolution No. 2006-05-49

City Clerk Marchiafava stated that the next agenda item is the approval of a resolution establishing a City of Sandy Springs Facilities Authority. This will be presented by City Manager John McDonough.

City Manager John McDonough stated that a City of Sandy Springs Public Facilities Authority Act was passed by the 2006 General Assembly in anticipation of the City heading up public safety organizations. What this Act does is establish that this Council will serve as the Authority. That will let us get around the limitation for local governments to enter into lease agreements for longer than one year. This will allow the City to contract with the authority for a multi-year lease. Staff recommends approval.

Motion and Vote: Councilmember Jenkins moved to approve a resolution establishing a City of Sandy Springs Facilities Authority. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion passed unanimously.

Approval of the terms for a lease agreement for Police/Municipal Court space.

City Clerk Marchiafava stated that the next agenda item is the approval of the terms for a lease agreement for Police/Municipal Court Space. This will be presented by Police Chief Wilson.

Police Chief Wilson stated that staff is requesting approval to continue negotiations to sign a lease for the property located at 5995 Barfield Road. Mayor and Council was briefed on this at the Work Session.

Motion and Vote: Councilmember Jenkins moved to approve the terms for a lease agreement for Police/Municipal Court Space and authorize the City Manager to negotiate and enter into a lease agreement. Councilmember Fries seconded the motion. There was no Council discussion. The motion passed unanimously.

Approval of an agreement with the Fulton County School Board as an Intergovernmental Agreement (IGA) and upon their acquisition of the property the City of Sandy Springs agrees to abandon the right-of-way to be known as Forestwood Lane, Woodgreen Drive, and Sandy Springs West Loop. (This item was added to the agenda by motion and vote)

City Attorney Willard explained the request from the Fulton County School Board for an Intergovernmental Agreement. The purpose of the agreement will be to give assurance to Fulton County that upon the acquisition of the property, the City will agree to go forward with the abandonment of the requested right-of-way. There are three parcels on Cliffwood that are not to be acquired. Those lots will remain.

Councilmember DeJulio questioned who pays for the cost of the removing the infrastructure existing on the abandoned property. City Attorney Willard stated that is the responsibility of the School Board.

Motion and Vote: Councilmember DeJulio moved to approve the agreement with the Fulton County School Board as an Intergovernmental Agreement (IGA) and upon their acquisition of the property the City of Sandy Springs agrees to abandon the right-of-way to be known as Forestwood Lane, Woodgreen Drive, and Sandy Springs West Loop. Councilmember Jenkins seconded the motion. There was no further discussion. The motion passed unanimously.

Approval of an Ordinance Adopting a Utility Permits Policy. (First Reading) (This item was added by motion and vote)

City Clerk Marchiafava stated that the next agenda item is the approval of an ordinance adopting a utility permits policy. This will be presented by Director of Operations Don Howell.

Director of Operations Howell stated that a presentation was provided at the April 25 work session. This will establish performance standards for construction permits in the right-of-way, as well as a number of other things. This does include some penalties on permittees and, therefore, needs to be an ordinance. Andrew Thompson has work extensively on this and can answer any questions you might have.

Councilmember Fries stated that she did not see that her concern was addressed regarding permits for maintenance.

Utility Coordinator Andrew Thompson explained that there is a $200 review fee for all permit submissions. Director of Operations Howell stated that there is a provision in the policy that refers to other agreements such as franchise agreements. Utility Coordinator Thompson stated that he would review this prior to the second reading.

Councilmember Meinzen McEnerny requested discussion regarding the work in the right-of-way relative to critical root zones of trees. Utility Coordinator Thompson stated that was addressed in a revision.

Mayor Galambos asked if there were any comments from the public. There was no public comment.

City Clerk Marchiafava conducted a First Reading of an ordinance adopting a utility permits policy for the City of Sandy Springs, Georgia to provide for guidance and administration of such policy and for other purposes.

Public Comment

Pat Hagan expressed concerns regarding the garbage pick-up at Spaulding Drive Elementary School and asked that it be changed from 3:30 a.m. to 7:00 a.m.

Don Hodges requested that the alcohol beverage ordinance be placed closer to the beginning of the agenda.

Adjournment

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

After no further discussion, the meeting adjourned at 11:13 PM.

Date Approved: June 6, 2006

Jeanette R. Marchiafava

Jeanette R. Marchiafava, City Clerk

Eva Galambos

Eva Galambos, Mayor