ORDINANCE NO. 2007-08-52

RZ07-024

Reading: August 21, 2007

STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE TO AMEND ARTICLE 28, REZONING AND OTHER AMENDMENT PROCEDURES, OF THE CITY OF SANDY SPRINGS ZONING ORDINANCE

WHEREAS, the Mayor and City Council of the City of Sandy Springs find that from time to time it is necessary to amend sections of the Zoning Ordinance to correct, clarify, and update the provisions of the Ordinance; and

WHEREAS, the Mayor and City Council have determined that it is necessary to include zoning procedures, consistent with state mandated procedures, in the Zoning Ordinance; and

WHEREAS, the Mayor and City Council have determined that it is necessary to modify review procedures to ensure both thoroughness and efficiency; and

NOW, THEREFORE, to accomplish the foregoing, the Mayor and City Council of the City of Sandy Springs, Georgia, pursuant to their authority, do hereby adopt the following Ordinance:

1.

Article 28, *Rezoning and Other Amendment Procedures*, Section 28.3, *Public Hearing and Notice Requirements*, of the City of Sandy Springs Zoning Ordinance, is hereby deleted in its entirety and a new section shall be inserted therefor to read as follows:

28.3. PUBLIC HEARING AND NOTICE REQUIREMENTS.

28.3.1. PUBLIC NOTICE REQUIREMENTS. Notice of the City Planning Commission and City Council hearings shall be given simultaneously at least 15 days but not more than 45 days prior to the date of the City Council' public hearing and shall be published in a newspaper of general circulation. Renotification is not required when a petition is deferred by the City Council.

The applicant or agent shall post a sign as issued by the Department of Community Development in a conspicuous location on each public street frontage of the subject property not later than 8:30 a.m. on the 20th day prior to the Planning Commission hearing.

The sign shall be mounted and posted as specified by the Department of Community Development. Property that is not posted on the 20th day before the scheduled first hearing date will be administratively removed from the agenda.

When the City Council defers a petition, the applicant is required to post an updated sign with new hearing dates 20 days prior to the next scheduled hearing date. When a petition is deferred by the City Council for less than 20 days, posting an updated sign is not required.

The Department shall give notice by regular mail to all property owners within 300 feet of the boundaries of the subject property who appear on the tax records of Sandy Springs as retrieved by the County's Geographic Information System. The notices shall be mailed a minimum of 15 days prior to the hearing date. Renotification by mail is not required when a petition is deferred by the City Council.

The published and mailed notices shall contain the time, place, and purpose of the hearing, the location of the property, and the present and proposed zoning classifications and/or requested use permit. The posted sign shall include all of the items required in the published notice except the location of the property. Notice shall not be considered inadequate if the mail is not delivered.

28.3.2. PUBLIC HEARING REQUIREMENTS. Before adopting any change to the Zoning Maps or text of the Zoning Ordinance, the City Council shall hold a public hearing following the public hearing by the City Planning Commission where a recommendation was made on the petition.

Any public hearing required by this Article shall be called and conducted in accordance with the following procedures. For purposes of this Section, the term "hearing body" shall refer to both the Mayor and City Council and the Planning Commission. Nothing contained in this Section shall be construed as prohibiting a presiding officer or hearing body from conducting a public hearing in a fair, orderly, and decorous manner.

1. Presiding Officer. The presiding officer shall preside over the respective public hearing. In the case of the Mayor and City Council, the Mayor shall preside, or in the absence of the Mayor the Mayor Pro Tempore, or in the absence of both the Mayor and Mayor Pro Tempore, another member of the City Council shall be designated to preside over the public hearing. In the case of the Planning Commission, the chairman of said commission or board shall preside, or in the absence of the chairman, the vice chairman if designated, or if neither is present to preside, another member of the commission or board shall be designated to preside.

2. Opening of Public Hearing. The presiding officer shall indicate that a public hearing has been called on one or more applications made pursuant to this Article and shall open the public hearing. Thereupon, the presiding officer shall call the first case and the hearing body shall consider each application on an individual basis in succession as printed on the published agenda or as otherwise approved by the hearing body; provided, however, that the presiding officer may at his or her discretion call and consider more than one application simultaneously when more than one application involves the same piece of property, and when proceedings would be efficiently completed by combining the hearing and discussion on more than one scheduled matter.

3. Report of the Director of Community Development. Upon opening the public hearing, the presiding officer shall recognize the Director or his/her designee, or other agents or representatives of the city, who shall provide a summary of the application and present any recommendations or results of investigations. In the case of public hearings before Mayor and City Council, unless a member of the Planning Commission is present and is authorized and willing to speak for the Planning Commission on the subject application, the Director or his/her designee shall also summarize the recommendations made by the Planning Commission and if applicable the Design Review Board. Any member of the hearing body upon recognition by the presiding officer may ask questions of the Director or his/her designee or other city representative providing the report or recommendations.

   A limited supply of copies of findings of the initiating party, Director, and Planning Commission shall be available at the hearing or meeting and available on request to interested members of the public in accordance with O.C.G.A. 36-67-3.

4. Applicant. When an individual application comes up for hearing, the presiding officer may ask for a show of hands of those persons who wish to appear in support of the application. If it appears that the number of persons wishing to appear in support of the application is in excess of that which may reasonably be heard, the presiding officer may suggest that a spokesperson for the group be chosen to make presentations. Following the report of the Director or his/her designee, the presiding officer shall recognize the applicant or his or her agent, spokesperson, or each of them, who shall present and explain the application. There shall be a minimum time period of ten (10) minutes per application at the public hearing for the proponents to present data, evidence, and opinions; the city shall not be obligated to provide the full ten-minute period to the proponents if they elect not to use that much time. Any member of the hearing body upon recognition by the

presiding officer may ask questions of the applicant or agent of the applicant, or both.

5. Public. At the conclusion of the applicant's presentation, the presiding officer shall initiate the public comment portion of the public hearing. When an individual application comes up for review, the presiding officer may ask for a show of hands of those persons who wish to appear in opposition to, the application. If it appears that the number of persons wishing to appear in opposition to the application is in excess of that which may reasonably be heard, the presiding officer may suggest that a spokesperson for the group be chosen to make presentations. There shall be a minimum time period of ten (10) minutes per application at the public hearing for the opponents to present data, evidence, and opinions; the city shall not be obligated to provide the full ten-minute period to the opponents if they elect not to use that much time.

   Prior to speaking, each speaker will identify him or herself and state his or her current address. Each speaker shall speak only to the merits of the proposed application under consideration and shall address his or her remarks only to the hearing body. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration. The presiding officer may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this procedure.

   Any member of the hearing body upon recognition by the presiding officer may ask questions of the person giving testimony.

6. Applicant's Rebuttal. At the conclusion of public testimony, or upon the expiration of time allotted for public testimony, the applicant or his or her agent, or both, shall be allowed a short opportunity for rebuttal and final comment, and the time devoted to any rebuttal shall be counted toward the total ten (10) minutes allotted to the applicant under paragraph 4. above. Any member of the hearing body upon recognition by the presiding officer may ask questions of the applicant, his or her agent, or both.

7. Close of Hearing. After the above procedures have been completed, the presiding officer will indicate that the public hearing is closed. Upon the closing of the public hearing, the applicant or his agent and any member of the public shall no longer address the hearing body in any way, including hand waving or motions for attention; provided, however, that at any time considered appropriate the presiding officer may reopen the public hearing for a limited time and purpose.

8. Decision. After the public hearing is closed, the hearing body shall deliberate and subsequently vote on the application. The Planning Commission shall move to recommend one of the following actions to the Mayor and City Council:

a. Approval
b. Approval with conditions
c. Denial
d. Withdrawal
e. Deferral
f. Deferral and remand to the Planning Commission

Should the Planning Commission fail to pass a motion as set forth in subsections (a) through (f) above during the meeting at which the land use petition is scheduled, such petition shall automatically be forwarded to the Mayor and City Council for consideration with the failure to pass a motion being deemed a recommendation for Deferral from the Planning Commission.

A recommendation by the Planning Commission to the Mayor and City Council for deferral or deferral and remand to the Planning Commission shall not delay the application from being held at the advertised public hearing before the Mayor and City Council, nor does it prohibit the Mayor and City Council from taking a final action on the subject application.

The Mayor and City Council may move to approve, approve with conditions, deny, withdraw, defer, or defer and remand to the Planning Commission. A deferral or deferral and remand to the Planning Commission by the Mayor and City Council requires the posting of an updated sign consistent with this Article.

28.3.3. SECRETARY. The Director or his/her appointee shall serve as Secretary to the Planning Commission. The Secretary shall keep minutes of proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of evidence, examinations and official actions, all of which shall be filed and shall be a public record.

2.

All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

3.

Severability. Should any court of competent jurisdiction declare any section of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

4.

Repeal of Conflicting Provisions. It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

5.

This Ordinance is effective August 21, 2007; and

ORDAINED this the 21st day of August, 2007.

Approved: August 21, 2007

Eva Galambos, Mayor

Attest:

Christina Rowland, City Clerk
(Seal)