

Regular Meeting of the Sandy Springs City Council was held on Tuesday, October 21, 2014, at 6:00 p.m., Mayor Rusty Paul presiding.

INVOCATION

Reverend Danny Gulden, Sandy Springs Christian Church, offered the invocation.

CALL TO ORDER

Mayor Paul called the meeting to order at 6:00 p.m.

ROLL CALL AND GENERAL ANNOUNCEMENTS

City Clerk Michael Casey reminded everyone to silence all electronic devices at this time. Additionally, those wishing to provide public comment during either a Public Hearing or the Public Comment segment of the meeting are required to complete a public comment card. The cards are located at the back counter and need to be turned in to the City Clerk.

City Clerk Casey called the roll.

Mayor: Mayor Paul present

Councilmembers: Councilman John Paulson, Councilman Ken Dishman, Councilman Graham McDonald, Councilman Gabriel Sterling, Councilman Tibby DeJulio, and Councilman Andy Bauman were present.

PLEDGE OF ALLEGIANCE

Mayor Rusty Paul led the Pledge of Allegiance

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilman DeJulio moved to approve the Regular Meeting Agenda for October 21, 2014. Councilman Dishman seconded the motion. The motion carried unanimously.

CONSENT AGENDA

- (Agenda Item No. 14-229)**
 1. Meeting Minutes:
 - a) September 16, 2014 Regular Meeting
 - b) October 7, 2014 Regular Meeting
 - c) October 7, 2014 Work Session

(Michael Casey, City Clerk)
- (Agenda Item No. 14-230)**
 2. **201402256** - 6111 Peachtree-Dunwoody Road, *Applicant: Homeside Properties, Inc.*, to modify delete 3.h. of Z81-0151 related to signage for the property
(Angela Parker, Community Development Director)
- (Agenda Item No. 14-231)**
 3. Regulation of Small Cell Technology in the Public Right-of-Way
(Cecil McLendon, Assistant City Attorney)
Ordinance No. 2014-10-33

Motion and Vote: Councilman Sterling moved to approve the Consent Agenda for October 21, 2014. Councilman Paulson seconded the motion. The motion carried unanimously.

PRESENTATIONS

There were no presentations.

PUBLIC HEARINGS

City Clerk Michael Casey read the rules for the Public Hearings segment of the meeting.

Rezonings

(Agenda Item No. 14-232)

1. **201402388** - 200 Hannover Park Drive, *Applicant: QuikTrip Corporation*, to rezone the subject property from O-I (Office and Institutional District) conditional to C-1 (Community Business District) for the construction a gas station, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item is a request to rezone the subject property to C-1 for a gas station. Staff and the Planning Commission are recommending withdrawal of the request based on the applicant's request.

Mayor Rusty Paul called for public comments in support of or in opposition to the application. There were no public comments. Mayor Paul closed the public hearing.

Motion and Second: Councilman Dishman moved to approve the request for withdrawal of Agenda Item No. 14-232, 201402388 - 200 Hannover Park Drive, *Applicant: QuikTrip Corporation*, to rezone the subject property from O-I (Office and Institutional District) conditional to C-1 (Community Business District) for the construction a gas station, with concurrent variances. Councilman Paulson seconded the motion.

Councilman Gabriel Sterling asked if this is the property where the owner clear cut the property and did not get any permits to provide for it to be a buildable property.

Manager of Planning and Zoning Dickerson stated the applicant did not get permits to cut the trees. She is not sure when the original tree cutting occurred.

Councilman Sterling stated the applicant specifically violated City laws for developing the property and he wonders if this item is something that should be denied as opposed to allowing a withdrawal.

Vote on the Motion: The motion carried unanimously.

(Agenda Item No. 14-233)

2. **201300687 (DRI)**** - Tax Parcel 17-0019 - LL-059 (Abernathy Road, Peachtree Dunwoody Road, Mount Vernon Highway, GA 400), *Applicant: Hines*, to rezone the subject property from O-I (Office and Institutional District) conditional to MIX (Mixed Used District), with a use permit to exceed the maximum district height and concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item was previously heard by the City Council. At this time, staff is recommending an additional deferral.

Nathan Hendricks, representative of the applicant, stated the application was originally filed in March 2013. There was dialogue and engagement with GDOT over right-of-way issues and this item began to

move forward in March 2014. This item was before Council in July 2014 and was deferred for 60 days. When the item was before Council in September, it was deferred again for another 30 days for further evaluation of traffic issues. The applicant has been engaged with the office market. The applicant has been contacted by some Fortune 500 prospects. Those discussions are on the table, but the problem they have is being able to point with certainty to exactly the way this property is zoned. The applicant is trying to bring closure to this and requests a 30 day deferral.

Kathy Wile, 451 The North Chace, submitted a public comment card to the City Clerk's office in opposition to the rezoning and design due to traffic flow concerns and volume.

Trisha Thompson, 145 River North Drive, stated this item was not adequately posted. The signs on Saturday afternoon indicated that there was to be a September public hearing. No public hearing notification was sent for this evening. She asked that Council not hear this item this evening.

City Attorney Wendell Willard stated the sign did not have the appropriate date for the hearing to occur this evening. That is a flaw in the notice requirements under the City ordinance and Council can allow deferral or withdrawal of this item.

Mayor Paul asked how long the sign has to be posted.

City Attorney Willard responded a minimum of twenty days. The earliest time this item can be heard again is thirty days from today.

No Public Hearing was held on this item due to proper public notice not being given.

(Agenda Item No. 14-234)

3. **201401601** - 5950 Mitchell Road, *Applicant: Rockhaven Homes*, to rezone from R-1 (Single Family Dwelling District) to R-4 (Single Family Dwelling District) for the development of a 15-lot subdivision, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item was heard at the August 19th City Council meeting and was deferred back to the Planning Commission to allow the applicant time to finalize some changes to the plan and to continue discussions with the neighbors. Staff is recommending approval conditional of the rezoning request and concurrent variance and the Planning Commission recommended approval subject to staff conditions.

Nathan Hendricks, representative of the applicant, stated there has been numerous meetings with the applicant and neighbors on a weekly basis during the period of deferral. Of the sixteen points of accommodation put forward by the applicant, responses to issues brought up by the community were based upon being able to achieve a total of fifteen lots on this property. The applicant has agreed to the sixteen conditions and all of these conditions are included in staff conditions. One of the conditions was with 15 lots the applicant would provide underground detention. If there are less than 15 lots, regular detention would be created. North of the property at Surrey Place the density is 5.40 units to the acre. Contiguous to the east is 5.07 and further east and south on Mitchell the density is 3.88 units per acre. The idea is to transition with higher density going north on Mitchell. The applicant's density is 2.95 units to the acre. Staff's analysis is that the application meets all the policies of the Land Use Plan. The only issue that is not in agreement with the community is the number of lots and the density.

Mayor Rusty Paul called for public comments in support of the application. There were no public comments.

Mayor Paul called for public comments in opposition to the application.

Jeff Mitchell, 8 Braemore, stated he has handouts that he gave to the City Clerk. He represents thirteen homes in Braemore. Although each speaker may bring up different points tonight, they are all in agreement. The City has received opposition letters from over forty citizens from seven different neighborhoods. He is speaking about consistent errors to site plans that purport to be compliant. Fifteen homes do not fit on this site and Rockhaven has no hardship. There is also an error on the current site plan. The frontage required for R-4 is thirty-five feet, as shown on the plan. However, lots nine and ten have frontages that are not compliant. The neighbors feel this should require another variance which was not requested. This again shows that fifteen homes do not fit. They are also unhappy that Rockhaven is requesting a forty percent lot width reduction on almost half of the development. There are two discrepancies in the staff report. Previously public comments and items have been forwarded to Council from the Planning Commission packet. This time many items and comments from that packet have been omitted. The only item forwarded was the lone support letter. Nothing was reported from the opposition point of view. The second discrepancy is what Mr. Hendricks submitted in the September 12th amendment in the staff report. The neighborhood is not in agreement. They feel the community has worked in good faith from twelve homes, which was 2.42 units to the acre as recommended by the Land Use Plan, then to fourteen homes, with underground retention, and with a density of 2.75. However, Rockhaven has not agreed to any of this. From the beginning this has been a major issue. He asked Council to vote no to the fifteen homes rezoning or approve with staff conditions for the fourteen homes.

Nelson Kramer, 5942 Mitchell Road, stated his property is contiguous to this development. He asked staff to show the detention pond on the overhead screen. His home is also contiguous to the proposed detention pond. He referenced the photo of another detention pond from a Rockhaven development. Rockhaven stated they would do underground detention, but it was conditioned on there being fifteen homes. All of his neighbors are in opposition to fifteen lots and want it to be fourteen. Since the detention pond would be lower than the elevation for his home, he would look down into a detention pond. The pond will be seven or eight feet from his property line. He asked that the plan be changed to fourteen lots with underground detention or deny the application.

Hal Whiteman, 985 Manchester Place, stated his home is located south of the proposed development. He opposes the development. He gave the City Clerk eight emails from neighbors that could not attend this evening. His neighborhood has no HOA. The neighbors have an issue with the density. The neighbors appreciate the conditions in the zoning, but not the fifteen homes. The proposed are single family detached homes and should not be compared to the townhomes at Surrey Place in terms of what is appropriate zoning. The appropriate density would be 2.5 units to the acre and with fourteen homes it would be 2.75. The lower density would create less traffic and less noise. He asked the applicant to amend the site plan to fourteen homes and include the conditions for Council approval or that Council deny it.

Laurie Robbins, 24 Ridgemere Trace, stated she is a thirty-five year resident of Sandy Springs and has had a business in the City for fifteen years. She opposes the density of fifteen houses. The density needs to be similar to Manchester Place and Long Island Walk. She supports fourteen homes and 2.71 houses per acre, not 2.95. The detention pond should be underground and further away from the adjacent neighbors than ten feet. There needs to be more landscaping around the detention pond to screen it from the adjacent neighbors and Mitchell Road, because she believes as proposed it will be visible from Mitchell Road. She supports the City's recommendation for sidewalks in the development along Mitchell Road to Hammond Drive. The landscaping in the plan is not sufficient to screen the development from the neighbors' houses. The trees need to be larger at installation and closer together to grow quickly to form a screen from the clear cut property. From day one the plans have shown only one entrance along Mitchell Road for this development. However, the City has been requiring before a land development permit is issued that driveways be on Mitchell Road for two of the houses. This needs to be clarified, because her neighbors have been told there will be only one entrance on Mitchell Road. She has attended almost every meeting with Rockhaven since she was appointed the Ridgemere representative and she has

been organizing the neighbors in an orderly manner to meet with Rockhaven. There have been many meetings with Rockhaven, but Rockhaven insisted they will not change the plan from fifteen houses and the underground detention. At one point the neighbors were told if they could come up with \$700,000 the applicant would be happy to make it fourteen houses. She supports fourteen houses, underground detention, the sidewalk extension on Mitchell and additional landscaping. There are many neighbors in support of what she just stated.

Bruce Snyder, 115 Grosvenor Place NW, stated he represents the thirty-five homes in the Grosvenor Homeowners Association. The HOA supports the previous speaker positions.

Mr. Hendricks stated the landscape treatment and height of the trees will be eight feet replacement if they died. The drip system outside and enhanced landscaping at the entryway all came from the dialogue with the community. Staff can confirm that the variance requested came from the property owners that are contiguous and to the west of the property. There is a letter in the staff file from Katie Harrison affirming the accommodation that was made. The variance request allows the homes to be closer to the cul-de-sac and has nothing to do with the amount of lots. There has been imposed a thirty-five foot minimum setback around the outside of the lots.

Brad Hughes, applicant, stated he has met several times with the neighbors since the last time before Council. He referenced a map with the zoning densities of the properties surrounding the subject property. The density in the area is on average 3.4 units to the acre and he is asking for 2.9 units to the acre. This would be a great fit for the area and property. He has agreed to sixteen conditions the neighbors have asked for, including the sidewalk to Hammond Drive. He met with Surrey Place and discussed how to accomplish this. Fifteen units is appropriate for this lot and he asked that Council approve this application. The site plan shows the landscape plan that shows the screen plantings around the property and detention pond. The front entrance shows the setbacks the neighbors have asked for with an increase from twenty-five feet to thirty-five feet.

Brent Story, 4000 North Stratford Road, stated he appreciated the meetings held with the neighborhood. To Mr. Kramer's point, the photo that he displayed was a community that was already developed in historic Brookhaven with \$1.5 million sales price homes that Rockhaven is building, but the land was not developed by Rockhaven. The pond hopefully will be a moot point anyways, since the applicant has agreed to place it underground.

Mayor Paul closed the public hearing.

Motion and Second: Councilman Sterling moved to approve Agenda Item No. 14-234, 201401601 - 5950 Mitchell Road, Applicant: Rockhaven Homes, to rezone from R-1 (Single Family Dwelling District) to R-4 (Single Family Dwelling District) for the development of a 15-lot subdivision, with concurrent variances. Councilman Paulson seconded the motion.

Councilman Gabriel Sterling asked about the driveways. The site plan has no driveways onto Mitchell Road.

Manager of Planning and Zoning Dickerson stated that is a typo and should say "shall not have driveways on this road". That is not a standard comment from Public Works. They would typically require all of the lots to come off of the side streets.

Councilman Sterling asked if Ridgemere is a single family homes community.

Manager of Planning and Zoning Dickerson responded yes.

Councilman Sterling stated Ridgemere is 33.7% higher density than the proposed request.

Manager of Planning and Zoning Dickerson stated the Ridgemere destiny is 3.88 units to the acre.

Councilman Sterling stated the applicant's request is for 2.9, which puts Ridgemere 34% higher. He asked about the forty percent width reductions.

Manager of Planning and Zoning Dickerson stated for the lots along the west property line the applicant has moved the front setback closer to the cul-de-sac and the rear setback accordingly with that. The original lot width request was withdrawn. Because the front setback is being moved closer, the reductions are required. This was done for the neighbors on the west side to go from twenty-five feet to thirty-five feet for a better buffer.

Councilman Sterling stated if there is underground detention, it takes the whole discussion of screening the detention pond away all together. The Land Use Plan is for two to three units per acre and this plan is at 2.9 units to the acre. The argument seems to be over one house and he believes the application should be approved.

Councilman Tibby DeJulio stated it was mentioned that two of the homes do not have the required frontage and if so, why was a variance not requested on those.

Manager of Planning and Zoning Dickerson stated the minimum lot frontage for single family lots is thirty-five feet and all of the lots meet that requirement.

Councilman Andy Bauman asked about what Mr. Mitchell was referring to.

Councilman DeJulio asked the City Clerk to pass out the handouts that Mr. Mitchell provided.

City Attorney Wendell Willard stated whatever the applicant does, the final plat has to meet the code requirements and be approved by the Planning Department. The boundary lines and setbacks of a plan have to meet the code requirements, unless the Development has been granted a variance by the zoning.

Director of Community Development Angela Parker stated that is correct. Some plans that are submitted as part of the rezoning application do not meet all of the requirements. There are changes along the way with the plans. Prior to issuing a land disturbance permit, the applicant has to meet the current code requirements.

Councilman Sterling asked if the variance for 663(b), to reduce from thirty-five to twenty-five, covers the three lots where this was to be done.

City Attorney Willard asked what the rules are for the setbacks on a cul-de-sac lot.

Manager of Planning and Zoning Dickerson stated the way it is shown on the map, lot nine and lot ten do not meet the thirty-five foot frontage requirement, but they do meet the requested setback requirement and the lot width requirement. With approval of this item, Council would not be allowing a variance for the frontage. The ordinance does not allow giving a variance for that and the applicant would have to correct that. The applicant may lose a lot, if they cannot meet the requirement.

Councilman Bauman stated the property can be zoned for this use or a plan that works. Council has a right to condition the application to a specific site plan.

Manager of Planning and Zoning Dickerson stated staff conditions everything to conceptual plans and then the project has to meet all the conditions and requirements of the City code. The applicant will have to comply with the thirty-five feet whether or not it was shown on this plan.

Councilman John Paulson asked what the original plan was.

Manager of Planning and Zoning Dickerson stated the plan has changed several times since it has been in the process. Originally, it was seventeen or sixteen lots and now it is down to fifteen.

Councilman Paulson stated there were several other things discussed that were not in the agenda package.

Manager of Planning and Zoning Dickerson stated when staff has a case like this with hundreds of opposition letters received, staff will usually just reference how many letters were received and not include all the attachments.

Councilman Ken Dishman asked what the frontage was for sixteen homes. He is curious how to make this plan work. He assumes the applicant knows what the ordinance requires for frontage. He is concerned it is a moot point to have fifteen houses on the property and suggested why not approve fourteen and make it work.

Mr. Hendricks stated the adjustment and frontage is there. The applicant is in compliance for up to fifteen lots. The applicant would be left up to making that adjustment.

Councilman Sterling asked what the density is at Grosvenor.

Councilman McDonald stated there are a number of undeveloped parcels on Mitchell Road. He is thinking of one specifically that has not been developed, yet, that may come before Council in the future.

Councilman DeJulio stated there was controversy about two to three years ago on Mitchell Road where the church property was.

Manager of Planning and Zoning Dickerson stated regarding Grosvenor, those two subdivisions are zoned under the same case and were combined. The whole green area shown is 3.88 units to the acre.

Councilman Sterling stated the area is denser further south, but less dense near Manchester Place. There is higher density going closer to Hammond Drive.

Vote on the Motion: The vote on the motion tied 3-3, with Councilmen Paulson, Sterling, and Bauman voting in favor; and Councilmen DeJulio, McDonald, and Dishman voting in opposition. The motion failed 3-4, with Mayor Paul voting in opposition to break the tie.

Motion and Vote: Councilman DeJulio moved to reconsider Agenda Item No. 14-234. There was no opposition to the motion.

Motion and Vote: Councilman DeJulio moved to defer Agenda Item No. 14-234, 201401601 - 5950 Mitchell Road, Applicant: Rockhaven Homes, to rezone from R-1 (Single Family Dwelling District) to R-4 (Single Family Dwelling District) for the development of a 15-lot subdivision, with concurrent variances, to the November 18, 2014 City Council meeting. Councilman Sterling seconded the motion. The motion carried unanimously.

(Agenda Item No. 14-235)

4. **201401611** - 5801 Roswell Road, Applicant: Zahedi, Inc., to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) for the development of to allow an addition to the existing commercial building, with concurrent variances

Community Development Director Angela Parker stated the applicant is seeking an addition to an existing building and is requesting three concurrent variances. The Planning Commission recommended denial, because they have concerns with the reduction in parking and the applicant is requesting a streetscape variance. Staff recommends approval of the zoning and initially recommended approval of the variances. However, upon further review and due to dialogue with the Planning Commission, staff

recommends denial of the variances. The applicant indicated that he can accommodate one of the variances, the reduction of the landscape strip on the east property line. The way the City ordinance is written, an applicant that meets the streetscape requirements would then have a reduction in the parking requirement. Therefore, if Mr. Zahedi meets the streetscape standard, he would be able to obtain the parking variance.

Masoud Zahedi, the applicant, stated the Farsi Jewelers operates in this building and he is part owner of the building. The business has since moved to The Prado shopping center and a new tenant has moved into the building which is a medical spa. He has a small office in the building and was using the restroom in Farsi Jewelers, which is now being rented to someone else. He is requesting to build a restroom in his office and expand his office. The parcel of land is about 645 square feet. He is willing to build more streetscape. He has not received any opposition to this proposal and he believes the code requires a restroom. The density is below what is required compared to the nearby neighboring properties. He has more than enough parking spaces. Two years ago he did streetscape improvements on the Carpenter Drive side. One of the Planning Commission members told him that the building is one of the best looking buildings on Roswell Road. In the past he gave twenty feet of right-of-way to Fulton County for the MARTA bus stop right in front of his property. He asked staff member Linda Abaray if he will have to change his sign to a new standard. He was told no, he was not to move it.

Mayor Rusty Paul called for public comments in support of or in opposition to the application. There were no public comments. Mayor Paul closed the public hearing.

Motion and Second: Councilman DeJulio moved to approve Agenda Item No. 14-235, 201401611 - 5801 Roswell Road, *Applicant: Zahedi, Inc.*, to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) to allow an addition to the existing commercial building, with denial of the requested concurrent variances. Councilman Paulson seconded the motion. There was no Council discussion.

Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Commercial uses at a density of 24,583.33 square feet per acre or 5,900 square feet, whichever is less.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated May 5, 2014. 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.

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2014-10-35

(Agenda Item No. 14-236)

5. **201401682** - 6079 Boylston Road, *Applicant: Southtech Homes, LLC*, to rezone from R-4 (Single Family Dwelling District) to A (Medium Density Apartment District) for the development of a 17-lot townhome development, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item was heard at the August 19th City Council meeting at which time Council deferred the item back to the Planning Commission. Staff is

recommending approval conditional of the rezoning request and variance numbers one through three and five and denial of variance number four. The Planning Commission recommended approval subject to staff conditions, also including variances.

Mark Shaw, Representative of Southtech Homes, stated he asked for and was granted deferral at the last meeting in order to finalize the site plan and meet with the neighbors to garner their support. There has been progress with getting where they want to be, but they are not quite there with a couple of items and he is requesting a deferral of thirty days.

Mayor Rusty Paul called for public comments in support of the application. There were no public comments. Mayor Paul called for public comments in opposition to the application.

Doug Falciglia, 5925 Brookgreen, stated he is a resident of the Glenridge Hammond Neighborhood Association. There has been good progress with Mr. Shaw and they are in support of a deferral.

Mayor Paul closed the public hearing.

Motion and Second: Councilman McDonald moved to defer Agenda Item No. 14-236, 201401682 - 6079 Boylston Road, *Applicant: Southtech Homes, LLC*, to rezone from R-4 (Single Family Dwelling District) to A (Medium Density Apartment District) for the development of a 17-lot townhome development, with concurrent variances, to the November 18, 2014 City Council Meeting. Councilman DeJulio seconded the motion.

Councilman Gabriel Sterling stated he would like to be more comfortable with the streetscape, since this is near the City Center. He would be happier if this item came back to Council after the deferral time and there was a single entrance and the road connection is moved to the backside. Instead of having a series of backyards, there would be a larger shared courtyard area. That would be better for traffic long term and for the beauty of it for the City.

Vote on the Motion: The motion carried unanimously.

(Agenda Item No. 14-237)

6. **201402052** - 120 & 130 West Wieuca Road, *Applicant: JW Homes, LLC*, to rezone the subject property from A-O (Apartment Office District) conditional to A (Medium Density Apartment District) for the construction of a townhouse development, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item was heard at the September Planning Commission meeting where the Commission recommended approval subject to staff conditions, as amended. Following the Planning Commission meeting the application submitted had revised site plans to address comments that were raised. Based on that, staff is recommending deferral of this case.

Nathan Hendricks, representative of the applicant, stated the subject property is contiguous and to the west of the JLB gateway project. There have been issues interfacing with JLB and alignment issues with their parking deck and how the property is being accessed. There were several items brought forward by the City's transportation staff. The applicant tried to deal with each request regarding the interior road and line of sight alignment with JLB's parking deck. There were individual site plans that addressed each of the concerns, but no site plan that would address all of them. He met with staff on October 16th and changed the site plan to be discussed with JLB, and it meets the desires of the City's transportation department. Staff believes a thirty day deferral is needed in order for staff to further review the site plan.

Mayor Rusty Paul called for public comments in support of the application. There were no public comments. Mayor Paul called for public comments in opposition to the application.

Patty Berkovitz, 800 Crest Valley Drive, stated she represents the Watershed Alliance of Sandy Springs. The Alliance requests denial of the project due to the project not being good for this site in combination with the JLB project. The DRI was designed for what was planned on the JLB site. There is a stream in the area. JLB swore to her they would protect that stream and they did not. The stream is filled with silt and they have received citations for the damage to the stream, but they have yet to clean the stream out.

Mayor Paul closed the public hearing.

Motion and Second: Councilman Bauman moved to defer Agenda Item No. 14-237, 201402052 - 120 & 130 West Wieuca Road, *Applicant: JW Homes, LLC*, to rezone the subject property from A-O (Apartment Office District) conditional to A (Medium Density Apartment District) for the construction of a townhouse development, with concurrent variances, to the November 18, 2014 City Council meeting. Councilman Sterling seconded the motion.

Motion: Councilman DeJulio moved to defer Agenda Item No. 14-237, 201402052 - 120 & 130 West Wieuca Road, *Applicant: JW Homes, LLC*, to rezone the subject property from A-O (Apartment Office District) conditional to A (Medium Density Apartment District) for the construction of a townhouse development, with concurrent variances, to the December 16, 2014 City Council meeting. The motion failed for a lack of second.

Vote on the Original Motion: The motion carried unanimously.

(Agenda Item No. 14-238)

7. **201402366** - 358 Mount Vernon Highway NW, *Applicant: Mount Vernon Estates, LLC*, to rezone from R-1 (Single Family Dwelling District) to R-2A (Single Family Limited District) for the development of three (3) single family dwelling units, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this is a request to rezone the subject property to be incorporated as a Phase II development that was previously approved by Council. Staff is recommending approval conditional of the rezoning and concurrent variance request. The Planning Commission is recommending approval subject to staff conditions.

Nathan Hendricks, representative of the applicant, stated this item is a request to rezone the subject property in order to incorporate the property to an adjacent property for the purpose of redevelopment. The applicant has previously brought a rezoning application to Council for rezoning of a nearby property and that was approved. Since that time the subject property became available to purchase and will become part of the development.

Mayor Rusty Paul called for public comments in support of or in opposition to the application. There were no public comments. Mayor Paul closed the public hearing.

Motion and Second: Councilman McDonald moved to approve Agenda Item No. 14-238, 201402366 - 358 Mount Vernon Highway NW, *Applicant: Mount Vernon Estates, LLC*, to rezone from R-1 (Single Family Dwelling District) to R-2A (Single Family Limited District) for the development of three (3) single family dwelling units, with concurrent variances. Councilman Dishman seconded the motion. There was no Council discussion.

Staff conditions:

1. To the owner's agreement to provide the following site development standards:
 - a. Variance from Section 6.3.3.B. to reduce front yard setback from sixty (60) feet to forty (40) feet for lots 4 and 5 (CV201402366 #1)

Vote on the Motion: The motion carried unanimously.
Ordinance No. 2014-10-36

(Agenda Item No. 14-239)

8. **201402384** - 6860 Peachtree-Dunwoody Road & 1001 Peachtree-Dunwoody Court, *Applicant: Edge City Properties, Inc.*, to rezone the subject property from O-I (Office and Institutional District) conditional to A (Medium Density Apartment District) for the construction a 38-unit townhouse dwelling unit development

Manager of Planning and Zoning Patrice Dickerson stated this item is a request to rezone the subject property to allow for a townhouse development. Staff is recommending approval conditional of the rezoning and concurrent variances. The Planning Commission recommended approval subject to staff conditions.

Mike Dye, representative of Edge City Properties, stated the subject property is a little more than three acres located on Peachtree Dunwoody Road. The MARTA station nearby is zoned office and industrial and the two parcels that are part of the application are currently the Kadampa Meditation Center and a vacant house. This will potentially be a downzoning from the future land use plan. He is seeking apartment density under a fee simple townhome. The land use plan calls for the property to have twelve to twenty units. His proposal is twelve units to the acre. He received very little opposition to the project. He referenced an elevation for this project. Ashton Woods is scheduled to be the builder on this project. The project is requesting four variances, partly because of a stream north of the subject property. Staff recommended approval of all four of the variances.

Mayor Rusty Paul called for public comments in support of the application. There were no public comments. Mayor Paul called for public comments in opposition to the application.

Trisha Thompson, 145 River North Drive, stated she is the Zoning Chairman of the Sandy Springs Council of Neighborhoods. This property is on a septic tank and will now have to hook up to a sewer line. She asked where the sewer line will go, where it will hook up and if the applicant will possess the easements necessary.

Mr. Dye stated the Kadampa Center is on septic and he would be required to connect to public sewer. The sewer is located 135 feet from the Dunwoody Place Apartments. He has agreed to an easement for the sewer. He does not believe his zoning is conditional on him having a signed easement, but an easement will be required before he starts building.

Mayor Paul closed the public hearing.

Motion and Second: Councilman Sterling moved to approve Agenda Item No. 14-239, 201402384 - 6860 Peachtree-Dunwoody Road & 1001 Peachtree-Dunwoody Court, *Applicant: Edge City Properties, Inc.*, to rezone the subject property from O-I (Office and Institutional District) conditional to A (Medium Density Apartment District) for the construction a 38-unit townhouse dwelling unit development. Councilman Paulson seconded the motion.

Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - b. Townhouses at a density of 12.29 units per acre or 38 units, whichever is less.
2. To the owner's agreement to abide by the following:

- a. To the site plan received by the Department of Community Development dated July 1, 2014. 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. Streetscape to reduce the required front and side corner landscape strip from forty (40) feet to zero (0) feet (CV201402384 #1)
 - b. To reduce the front yard setback from forty (40) feet to five (5) feet. (CV201402384 #2)
 - c. To reduce the side setback from forty (40) feet to five (5) feet along Peachtree Dunwoody Court and twenty (20) feet for the rest of the property. (CV201402384 #3)
 - d. To reduce the rear yard setback from twenty-five (25) feet to twenty (20) feet. (CV201402384 #4)

Councilman Gabriel Sterling stated this property is in the Future Land Use Map at twelve to twenty units per acre. This project is at the lower end of the density range. This is a good downzoning for this property. When coming up the hill on Peachtree Dunwoody, going north, there is a double stacking turn lane to go left into the office complex and a two vehicle stacking lane to turn left onto Peachtree Dunwoody Court. This is a dangerous back up area for traffic. He asked if there is any City plan to examine making changes in this area to improve safety.

Director of Traffic Transportation Brad Edwards stated currently there are no plans to do road improvements at that location. There is additional pavement width that could provide some areas for restriping or reconfiguration in the future. There are constraints to the south of the property. This would be a long term project for staff to address.

Councilman Sterling asked if there will be stacking issues with adding the additional residential use.

Director of Traffic Transportation Edwards stated compared to the current number of trips, the extra traffic will be marginal.

Councilman Sterling stated he hopes that staff is looking closely at this area and when it will be restriped.

Director of Traffic Transportation Edwards stated all the striping is rescored every year and when it comes up on the ratings to be restriped, it will be done.

Vote on the Motion: The motion carried unanimously.
Ordinance No. 2014-10-37

Zoning Modifications

(Agenda Item No. 14-240)

9. **201401133** - 305 Carpenter Drive, *Applicant: Masoud Zahedi*, to delete all conditions related to senior living in Sandy Springs zoning case RZ08-012

Community Development Director Angela Parker stated this item is a request to delete the senior housing conditions that are currently on the property. The property is currently zoned for 170 units with 142 units to the acre for senior housing. The Council deferred this item on September 16th. Staff was

asked to look more closely at the Comprehensive Land Use Plan in terms of what is called for in the area and also to look at surrounding densities in the area. The plan designates this area as above twenty units to the acre. There is a section of the plan that provides for higher densities. There are four items it focuses on in this area that include sites that are four acres or larger, combining properties, increasing greenspace, and enhancing the City's transportation network. In terms of development in the area, staff looked at other actions taken by Council in the area. In Node 7 there is a senior project that has seventy-four units to the acre. Council has taken a recent action on zoning on the west side of Roswell Road to approve the Allen Road apartments at fifty-eight units to the acre. The impact of removing the senior living condition from this application, even though the applicant is requesting fewer units, is that it will be significantly higher than other densities in the area and also fails to meet several Comprehensive Land Use Plan conditions for approving higher density. For that reason, staff now recommends denial of the application.

Masoud Zahedi, applicant, thanked Councilman DeJulio for meeting with him at his property. He stated the notice date on the public hearing signs were reversed, so there was lack of proper notice for this hearing.

Manager of Planning and Zoning Patrice Dickerson stated the item that Council did take an action on was properly posted and that was confirmed with Mr. Zahedi last week. Staff is checking on the sign posting for this item.

Motion and Vote: Councilman Sterling moved to table Agenda Item No. 14-240, 201401133 - 305 Carpenter Drive, *Applicant: Masoud Zahedi,* to delete all conditions related to senior living in Sandy Springs zoning case RZ08-012. Councilman Paulson seconded the motion. The motion carried unanimously.

(Agenda Item No. 14-241)

10. **201402827** - 301 Johnson Ferry Road, *Applicant: Sandy Springs Christian Church,* to modify condition 3.a. of U84-0107 to allow development of accessory structures within the required buffer, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this is a modification request for the existing church property to allow accessory structures within the required buffer. Staff recommends denial of the request.

Bruce Lady, applicant, stated he is the facilities trustee for the church. He is requesting withdrawal of the application.

Mayor Rusty Paul stated the public just heard the request to withdraw the application. The public has a right to speak, but their concerns may be resolved faster if Council is allowed to vote first.

Mayor Paul called for public comments in support of the application. There were no public comments. Mayor Paul called for public comments in opposition to the application.

Josh Marks, 130 River Springs Drive, stated he is a neighbor of the church and represents the Wyndham Hill Homeowners Association. The association supports the request to withdraw the application. He encouraged the applicant and Council to pursue other alternatives on the site that do not impact the buffer or setback.

Mayor Paul closed the public hearing.

Motion and Vote: Councilman Sterling moved to approve the request for withdrawal of Agenda Item No. 14-241, 201402827 - 301 Johnson Ferry Road, *Applicant: Sandy Springs Christian Church,* to

modify condition 3.a. of U84-0107 to allow development of accessory structures within the required buffer, with concurrent variances. Councilman Dishman seconded the motion. The motion carried unanimously.

Resolution

(Agenda Item No. 14-242)

11. A Resolution for the Adoption of the Annual Capital Improvement Element (CIE) Update

Mayor Rusty Paul thanked Manager of Planning and Zoning Patrice Dickerson for her service to Sandy Springs and gave her best wishes for her new position.

Manager of Planning and Zoning Patrice Dickerson stated this is the adoption of the capital improvement element for the update to the Comprehensive Land Use Plan related to the impact fee program. Staff recommends approval.

Mayor Paul called for public comments in support of or opposition to the application. There were no public comments. Mayor Paul closed the public hearing.

Motion and Vote: Councilman Sterling moved to approve Agenda Item No. 14-242, A Resolution for the Adoption of the Annual Capital Improvement Element (CIE) Update. Councilman Dishman seconded the motion. There was no Council discussion. The motion carried unanimously.

Resolution No. 20174-10-95

UNFINISHED BUSINESS

Motion and Vote: Councilman Sterling made the motion to take Agenda Item No. 14-240 from the table for consideration. Councilman DeJulio seconded the motion. The motion carried unanimously.

City Attorney Wendell Willard stated there is no clear evidence regarding the dates on the sign posted for the public hearing. The recommendation is to defer this item to allow for proper posting of the date of the meeting, which will be November 18th.

Motion and Vote: Councilman Paulson moved to defer Agenda Item No. 14-240, 201401133 - 305 Carpenter Drive, *Applicant: Masoud Zahedi*, to delete all conditions related to senior living in Sandy Springs zoning case RZ08-012, to the November 18, 2014 City Council meeting. Councilman DeJulio seconded the motion. The motion carried unanimously.

NEW BUSINESS

There was no new business.

REPORTS

There were no reports from the Mayor, Council, or Staff.

PUBLIC COMMENT

Bill Gannon, 505 Taunton Way, stated he emailed a page of comments to all of Council and submitted a copy to the City Clerk. There is confusion with the citizens on what is the City's policy on redeveloping old apartments on Roswell Road. The Council has told the development community that if they assemble over five acres, height bonuses are allowed. Some individuals are referring to the Comprehensive Land

Use Plan while others are referring to the DRI study. He asked that Council clarify to the development community what the City development policies are.

Nancy Woodruff, 6700 Roswell Road, stated she resides in the Raleigh Square Condominiums. She only found out about the dual left turn lane extension at Roswell Road and Abernathy Road southbound through a newsletter she received from Councilman McDonald. That greatly concerns her, because her community was directly affected when the turn lanes and concrete median were first introduced at the corner of Abernathy and Roswell Road. The ability to turn into her complex from the north bound lane onto Roswell Road was not available at that time. After meeting with Council, a turn lane was then created. She urged staff to meet with the condo board of directors to address the possible traffic issues.

Assistant City Manager Bryant Poole stated there is no extension of the median. The left turn lane is being extended by removing some of the concrete to allow for more vehicle storage. The actual turn lane that was provided to the community by the action of Council will remain.

Patty Berkovitz, 800 Crest Valley Drive, stated she received a disturbing call from a neighbor last night about a young deer buck that attempted to jump a fence and was impaled on top of the fence. The deer was left hanging on top of the fence. She asked Council to please revisit fencing regulations. This is obviously dangerous for animals and people as well.

EXECUTIVE SESSION – Litigation and Real Estate

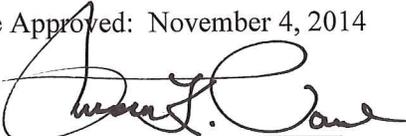
Motion and Vote: Councilman DeJulio moved to enter into Executive Session to discuss litigation and real estate matters with the City Manager and City Attorney included. Councilman Paulson seconded the motion. The motion carried unanimously, with Councilman Paulson, Councilman Dishman, Councilman McDonald, Councilman Sterling, Councilman DeJulio and Councilman Bauman voting in favor of the motion. Executive Session began at 7:48 p.m.

Motion and Vote: Councilman Sterling moved to adjourn Executive Session. Councilman Dishman seconded the motion. The motion carried unanimously, with Councilman Paulson, Councilman Dishman, Councilman McDonald, Councilman Sterling, Councilman DeJulio and Councilman Bauman voting in favor of the motion. Executive session adjourned at 8:15 p.m.

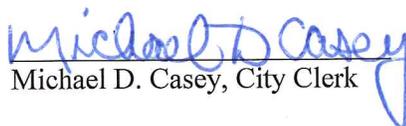
ADJOURNMENT

Motion and Vote: Councilman Sterling moved to adjourn the meeting. Councilman Paulson seconded the motion. The motion carried unanimously. The meeting adjourned at 8:15 p.m.

Date Approved: November 4, 2014



Russell K. Paul, Mayor



Michael D. Casey, City Clerk

