

Regular Meeting of the Sandy Springs City Council was held on Tuesday, August 19, 2014, at 6:00 p.m., Mayor Rusty Paul presiding

INVOCATION

Bishop Paul Abamonte, Church of Jesus Christ of Latter-day Saints, offered the invocation.

CALL TO ORDER

Mayor Paul called the meeting to order at 6:02 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 entrance 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 Sterling moved to approve the Regular Meeting agenda for August 19, 2014. Councilman Dishman seconded the motion. The motion carried unanimously.

CONSENT AGENDA

Meeting Minutes

(Agenda Item No. 14-177)

1. Meeting Minutes:
 - a) July 23, 2014 Special Called Meeting
 - b) August 5, 2014 Regular Meeting*(Michael Casey, City Clerk)*

Right of Way

(Agenda Item No. 14-178)

2. Acceptance of a Dedication of a Right of Way Deed as Part of the Zoning Requirements (6024 Roswell Road along Hammond Drive)
(Garrin Coleman, Director of Public Works)
Resolution No. 2014-08-73

(Agenda Item No. 14-179)

3. Acceptance of a Dedication of a Right of Way Deed as Part of the Zoning Requirements (6038 and 6024 Roswell Road)
(Garrin Coleman, Director of Public Works)
Resolution No. 2014-08-74

(Agenda Item No. 14-180)

4. Acceptance of a Dedication of a Right of Way Deed as Part of the Zoning Requirements (6038 Roswell Road along Sandy Springs Place)
(Garrin Coleman, Director of Public Works)
Resolution No. 2014-08-75

(Agenda Item No. 14-181)

5. Amendment to Section 38-186 of Litter Control, Article VII, Waste Control at Construction Sites, of the Code of the City of Sandy Springs
(Garrin Coleman, Director of Public Works)
Ordinance No. 2014-08-20

Motion and Vote: Councilman Paulson moved to approve the Consent Agenda for August 19, 2014. Councilman Sterling seconded the motion. The motion carried unanimously.

PRESENTATIONS

1. Presentation: Connect 400 - GA 400 Transit Initiative - Mark Eatman, MARTA Project Manager

MARTA Project Manager Mark Eatman started a PowerPoint presentation on the Connect 400 – GA 400 Transit Initiative.

MARTA Consultant Claudia Bilotto presented the portion of the PowerPoint pertaining to the federal funding opportunities.

MARTA Project Manager Eatman finished the presentation.

Councilman John Paulson thanked Mr. Eatman. A vast majority of the citizens think that extending MARTA is a good idea. He asked if the Clayton County MARTA expansion uses the same funds that will fund the GA400 expansion.

Mr. Eatman stated 50% of the funds will go into a separate escrow account that will go towards a future high capacity system. The remaining percent goes into the bus service program for the whole service area.

Councilman Gabriel Sterling stated the vast majority of citizens in Sandy Springs would like to see the MARTA rail extended on the west side of GA400. He is not sold on the concept that placing a MARTA station at Northridge is the best location.

Mr. Eatman stated the environmental study will help MARTA make the decision on the placement of the rail and station.

Councilman Sterling asked if light rail is cheaper than heavy rapid transit.

Mr. Eatman responded usually. If there is a brand new system light rail tends to be cheaper, because it is a smaller vehicle and the track itself is smaller. If light rail is bid out, it will have the same engineering impact in terms of cut and fill and number of structures needed. The new vehicles are not cheap at a cost

of about \$3 to \$4 million each. A vehicle maintenance facility would have to be built as well. The light rail would connect to the heavy rail at the North Springs station.

Mayor Rusty Paul called for public comments pertaining to the GA400 Transit Initiative.

Jim Comerford, Chairman for Sandy Springs Economic Development Advisory Committee (EDAC), stated the Committee had an opportunity in the spring to discuss and review documentation and contemplate the proposal of an additional MARTA station and its preferred placement. Following discussion and review, EDAC passed a resolution to support a new MARTA station in the north end of the City and that the station be located on the west side of GA400. The placement of the MARTA station on the west side will serve as an economic development strategy for the City.

Nancy Lesser, 695 Amster Green Drive, stated she is a homeowner and small business owner in the Northridge area. Her son that attends Sandy Springs Elementary School would be directly impacted by MARTA development to the east of GA400. She asked Council to support the extension of MARTA as long as it is developed on the west side.

Joan Rush, 330 Spindle Court, stated she has lived in the area for twenty-eight years and was involved in the original MARTA planning. MARTA agreed at that time if the rail were to be extended, it would go on the west side of GA400. She asked Council to vote that the rail be extended up the west side of GA400. She is concerned about traffic if a station is placed in the Northridge area.

David Centofanti, 1598 Northridge Road, stated the North Springs area is the most densely populated area in Sandy Springs. The area west of GA400 is primarily multifamily residences, commercial, and retail businesses. The area east of GA400 is primarily single family homes and schools. The west side of GA400 would be the better place to support a transit station. There are many benefits to the station being located on the west side of the highway, one being revitalization of the north side of the City.

Dave Ahlert, 325 Spindle Court, suggested that more than 1,000 residents need to be surveyed with the survey directed mainly at those most affected. He wonders what the decision criteria is for deciding on which side of GA400 the rail will be located.

Mayor Paul closed the public hearing.

2. Proclamation for the 40th Anniversary of the Community Development Block Grant Program (CDBG) - Mayor Paul

Mayor Rusty Paul stated he managed the CDBG program for eighteen months at the Federal level. The City receives about \$500,000 a year from this program. He recognized the CDBG program creator, Don Patch, who is a wonderful employee and person. He proclaimed August 22, 2014 as "Sandy Springs Community Development Block Grant Fair Housing Day" in the City of Sandy Springs and presented the proclamation to staff.

PUBLIC HEARINGS

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

Rezoning

(Agenda Item No. 14-182)

1. **201401173** - 5188 & 5208 Roswell Road, *Applicant: Halpern Enterprises, Inc.*, to rezone the subject property from O-I (Office and Institutional District) conditional and R-3 (Single Family Dwelling District) to MIX (Mixed Use District) to allow for a mixed use office and residential development, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item was heard at the July 15th City Council meeting and was deferred to allow the applicant to finalize the proposed site plan and continue to work with the neighbors. Staff is recommending approval conditional of the rezoning request and concurrent variances.

Ellen Smith with Holt Ney Zatcoff & Wasserman, representative of the applicant, stated the following individuals were in attendance: Steve West, Halpern's Vice President of Acquisitions and Development; Wes Kimbrall with David Weakley Homes; Carla Cooper with Primrose Schools; and Jerry Allison, representative of the existing property owner. She thanked Council for the deferral last month in order to work with staff and make compromises in response to community concerns. This is a 4.72 acre assemblage of 6 parcels at the southwest corner of Roswell Road and Mt. Paran Road. Changes to the application include: reduction of the single family density from 15 units to 11 houses; reduction of the height of the single family units from a mix of three and four story buildings down to forty feet; repositioning of homes along the western boundary of the property; a thirty-five foot setback along the park gate subdivision side to include a seventeen foot wide planted landscape strip and a berm along a particular portion of the property; reduced access points; provision for the installation of a right turn lane east bound along Mt. Paran; and an elevation change to reduce the institutional office character. There have been various comments on what the citizens want the building to look like. She asked that Council approve the application.

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

The City Clerk read into the record the following public comment card:

Janet Wells, 302 Beachland Drive, stated, "The Council decided to disband the Design Review Board and it was collapsed into The Planning Commission Board and the overall design of a property is now their responsibility. However, because of the fast track standard the Council has established, the new design will not be reviewed by the Planning Commission, which leaves it to you, the Mayor and Council to review. I am very concerned about the design and size of the office building. It is approximately 4000 square feet over the square footage allowed for the Glenridge node and the design of the 2 building options Mr. Halpern has proposed are stark, ugly, and not in keeping with the Glenridge node overlay for the neighborhoods along this corridor of Roswell Road, especially for Mt. Paran road neighbors. Please make sure all four sides are first class materials like brick, stone, wood, or stucco. Specimen trees should be spared. There are stately oaks on that corner at present. Please make sure there is quality landscaping and green space allowing pedestrians sidewalks with room on both sides. Instead of these boxes that are proposed, the building should be broken up for interest or design. As far as office buildings of quality around this plan there is the white mansion Law office directly across the street, and there is the design of Marjorie Knights award winning office buildings just south of the property which are all brick with tile roofs. These are very successful properties. This is an opportunity to tie this area together and not bring in more hodgepodge buildings that plague the Roswell corridor south of this intersection. This building will set a precedent we will all have to live with for many years to come. If there is not enough time to actually study this I would suggest postponement until the Planning Commission or you, the Council, can review the design."

Susan Yeosock, 785 Lake Summit Drive, stated she is the new District 6 representative for the Sandy Springs Council of Neighborhoods. This applicant has been fabulous to work with. She is struggling with a few concerns. The applicant is in a private agreement with Mrs. Umberger for landscaping on her property to help screen this commercial building. The building is now earth toned and has a softened look. She has issues regarding conditions and it is incumbent upon the residents to work with the developers to decide what is appropriate for Roswell Road. She mentioned condition 4a., dedication of

sufficient right-of-way along Mt. Paran and the additional turn lane. According to the applicant, it is now part of the site plan.

Ms. Smith stated the dedication is shown on the site plan and also included in Public Works comments.

Manager of Planning and Zoning Dickerson stated the dedication is not included in the conditions, because it is an automatic requirement.

Ms. Smith stated citizen Janet Wells has attended each meeting and her mind changes at almost every meeting on what type of building she prefers the applicant to build.

Mayor Paul closed the public hearing.

Motion and Second: Councilman Bauman moved to approve Agenda Item No. 14-182, 201401173 - 5188 & 5208 Roswell Road, *Applicant: Halpern Enterprises, Inc.*, to rezone the subject property from O-I (Office and Institutional District) conditional and R-3 (Single Family Dwelling District) to MIX (Mixed Use District) to allow for a mixed use office and residential development, with concurrent variances, including staff conditions presented at the meeting. Councilman Sterling seconded the motion.

Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Office and accessory uses at a density of 8,051.90 square feet per acre or 38,005 square feet, whichever is less.
 - b. Residential at a density of 2.33 units per acre or 11 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 28, 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. A seventeen (17) foot landscape strip planted along the length of the westerly property line including a berm and expanding along a curved line as shown on the Site Plan meeting the following standards:
 - i. The landscape plan prepared by ts3 Studio and received by the Department of Community Development dated June 5, 2014, showing a mix of evergreens and flowering evergreens as more particularly identified therein, **except that the minimum height of such initial plantings shall be 12 feet tall**
 - ii. All planting shall be installed prior to the issuance of the first residential certificate of occupancy.
 - iii. The installation of a 4-foot tall landscaped berm in the area generally shown on the site plan.
 - iv. All plantings shall be subject to the Sandy Springs Arborist.

- b. Residential units shall have a height limit of forty (40) feet.
- c. A minimum of a five (5) foot fence shall be installed along the perimeter of the residential portion of the project as shown in the landscaped plan received by the Department of Community Development dated June 5, 2014
- d. All residential units' facades shall be in accordance with the elevations dated received June 5, 2014.
- e. All garage doors on residences shall have a carriage style architecture and be generally in accordance with the elevations received by the Department of Community Development dated June 5, 2014.
- f. No multi-story or tiered decks shall be permitted. Decks shall be permitted only as attached to and accessed from the first story (main, street frontage level) of a residence. No deck shall extend from the 2nd story of a residence; provided, however, that balconies within the buildable area of a lot as shown on the elevations approved with the Application shall not be considered decks.
- g. The new office building at the corner of Mount Paran Road and Roswell shall be subject to the elevations dated July 29, 2014. Applicant agrees that aluminum fascia and window accents will be anodized aluminum of the same color, which color shall not be shiny aluminum "silver" and that the building will use insulated low E tinted glass (or an equivalent limited reflection glass).
- h. A Day Care with a total enrollment of no more than 210 students limited to operating Monday through Friday between the hours of 6:00 a.m. to 7:00 p.m.
- i. The Day Care shall provide copies of all state licenses and exemptions to the Director of Community Development by July 1st of each calendar year.
- j. By July 1st of each calendar year, the Day care shall provide an annual report detailing total enrollment by the uses (exemptions and/or licenses) detailed in conditions 3.h, 3.i, subject to the approval of the Director of Community Development.
- k. Variance from 4.23.1 to reduce the required twenty (20) foot front landscape strip to seventeen (17) feet to allow the encroachment of the new office building, where necessary to accommodate the portion of the encroachment only. (CV201401173 #1)
- l. Variance from 4.23.1 to reduce the required ten (10) foot side landscape strip to zero (0) feet to allow the encroachment of the sidewalks and parking spaces, where necessary to accommodate the portion of the encroachment only. (CV201401173 #2)
- m. Variance from 4.23.1 to reduce the required twenty (25) foot side buffer and ten (10) foot improvement setback to a five (5) foot/ten (10) foot landscape strip and a twenty (20) foot building setback. (CV201401173 #3)
- n. Variance from 4.23.1 to reduce the required fifty (50) foot side buffer and ten (10) feet to seventeen (17) foot replanted buffer and a thirty-five (35) foot building setback to allow single family homes. (CV201401173 #4)
- o. Variance from 8.2.3.G.2 to reduce minimum parcel size from ten (10) acres to 4.72 acres. (CV201401173 #5)

- p. Variance from Section 103-75 to reduce the required fifty (50) foot right-of-way to forty-four (44) feet. (CV201401173 #6)

- q. Variance from 33.22.C to reduce the required setback from three (3) feet to zero (0) as shown on the site plan dated July 28, 2014.

- r. Variance from 33.26.H.1.a to increase the number of monument signs from one (1) one on each frontage to two (2) on each frontage.

Councilman Andy Bauman commended the applicant, stakeholders, and Council of Neighborhoods in coming to agreements regarding this zoning. This is the type of development the Council wants in Sandy Springs.

Councilman Gabriel Sterling stated Primrose is very heavily conditioned and if Primrose moves to a new location, will another user have to apply for a different use permit.

Manager of Planning and Zoning Dickerson responded through a rezoning.

Councilman Sterling asked about the height of the landscape berm and the plantings.

Manager of Planning and Zoning Dickerson stated the twelve foot plantings will be on top of the berm.

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2014-08-21

(Agenda Item No. 14-183)

- 2. **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 is a request to rezone the subject property from R-1 to R-4. The applicant originally requested 16 lots, but has since reduced the site plan to 15 lots. The Planning Commission heard this item at their July meeting and recommended deferral based on a typo that was on the site plan presented by the applicant. The applicant has revised the site plan. Staff is recommending approval conditional of the rezoning request based on the fact that the plan is in the density recommended by the Comprehensive Land Use Plan. Staff is recommending withdrawal of the concurrent variance request at the request of the applicant.

Nathan Hendricks, representative of the applicant, stated the plan started out as 16 lots with concurrent variances and the lot widths were reduced to seventy feet. As soon as he received the staff report, he noticed there was a typo in the acreage amount. The initial amount was listed as 5.9 acres and it is actually 5.09 acres. He made staff aware of the error and the revised site plan was given to the Planning Commission. This change resulted in a lot reduction to 15 lots. The application is at 2.94 units to the acre. The community raised a number of issues and these have been given to Council. There was a meeting in his office on August 14th with the interested neighbors in the area. Dialogue continues with the neighborhood. Another meeting has been scheduled for August 27th.

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.

Hal Whiteman, 958 Manchester Place, stated his home is located south of the property the applicant is seeking to rezone. On this street there are about twelve homes and in the whole subdivision there are about twenty-one. He opposes this application because it is too dense. He asked that Council deny the

application or defer it. The neighborhoods have been trying to discuss issues regarding water runoff and the detention pond with the applicant.

Kathryn Harrison, 310 Long Grove Court NW, stated the Planning Commission moved to defer this zoning application to their September meeting because of a typo and due to frustration among the Commission members. They felt the last minute changes and lack of conversation with neighbors was disrespectful. Her neighborhood has been trying to work with the developer, but this has not occurred. From what she understands, two of the homes will be within thirty-five feet of her property line. She is concerned about this.

Bethany Diamond, 40 Ridgemere Trace, stated there has not been enough communication between the applicant and neighborhood. She requested that Council defer or deny the application.

Laurie Robbins, 24 Ridgemere Trace, stated she has concerns about the density and there needs to be more of a transition. From the neighborhood that arranged the meeting, only four of the residents were able to attend. There has been a lack of communication on the part of the developer. The neighbors have not seen the revised site plan. She requested that the application be denied or deferred.

Richard Kruse, 320 Long Grove Court, stated his backyard is along the Mitchell Property. He is the Secretary of the Long Island Walk Homeowners Association. The Association strongly opposes the application and requests that it be deferred. The density is too high compared to the adjacent neighborhoods. He requested denial or deferral of this request to allow more time to review the case.

Nelson Kramer, 5942 Mitchell Road, stated his property is contiguous to the proposed development and proposed detention pond. He attended every meeting, including the developer community meeting. He expressed severe concern about the pond. The applicant asked him to look at another one of their detention ponds at a development in DeKalb County. He took photos of the pond and submitted them to City staff. There has been no response regarding his concerns. The communication with the neighborhood has been very poor. He requested that the application be deferred or denied.

Tony Powers, 935 Manchester Place, stated Mr. Whitman spoke about his neighborhood which is south of the development. There will be a water runoff problem if the ground cover is removed. His neighbors already have water runoff issues. He requested that the application be deferred or denied.

Jeff Mitchell, 8 Braemore Drive, stated this rezoning is the second time the developer has misrepresented his projects and disrespected his community. A few years ago the St. James Church rezoning was approved even with major neighborhood opposition. The sellers were not the true owners and never had authority to sell the property. Everything that his community exposed and provided to the City was proven true. The false seller disappeared, the property is in grave condition, the church is holding services, and the property never sold. On the evening of the Planning Commission meeting the applicant revealed that their site plan was incorrect. He asked what the City's policy is regarding misrepresentation or incorrect zoning applications. He asked that Council deny this application.

Mr. Hendricks stated the original surveyed site plan listed 5.9 acres at 16 lots resulting in a density of 2.71. When he reviewed the metes and bounds legal description in the file, he recognized an error and that the number should be 5.09 acres. He brought this to the attention of the applicant, Brad Hughes. This information was updated with staff.

Brad Hughes, applicant, stated the communication with the neighborhoods from the last meeting to this evening has improved drastically. The package that was given to Council was emailed to all of the neighborhoods around the subject property. The 15 unit site plan has been on the documents from day one, which shows the landscape plan the neighborhoods requested. The Magnolia trees south of the

property will be left as is. Regarding him not responding to the neighborhood, he received an email last Thursday or Friday and he replied back. Rockhaven will install sidewalks all the way to Hammond Drive and address all the issues brought up by the neighborhoods. Part of the development plans that are required to be submitted are a pre and post hydrology study. The water runoff from the property post construction cannot be any more than what the pre-construction runoff is. Water runoff will be less and the water will be forced into the detention pond and released from the pond at a very slow rate. A meeting with the neighborhood is scheduled for next Thursday.

Mayor Paul stated he is struggling with the efficacy of a meeting being held on August 27th, if Council is being asked to vote tonight.

Mr. Hendricks stated this is being left up to the discretion of Council. The Planning Commission recommended a deferral of this application. The applicant is not saying Council should disregard what the Planning Commission recommends. The applicant wants to demonstrate there is ongoing dialogue with the neighborhoods. He asked that Council do what is within their judgment and what they believe is the correct action to take.

Mayor Paul closed the public hearing.

Motion and Second: Councilman McDonald moved to defer Agenda Item No. 14-183, 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 October 21, 2014, City Council meeting to allow the application to return to the Planning Commission for further evaluation. Councilman DeJulio seconded the motion.

Councilman McDonald stated he came very close to making a different motion tonight. He heard many comments about a lack of communication between the residents and the developer. He received many emails from constituents in opposition to the proposed development. He stressed to Rockhaven to do a better job in communicating and working with the neighborhood. In monitoring his emails over the last month he has seen recurring themes that include questions about the interrelation issue of the requested zoning district and the R2-3 land use classification. It is his understanding from looking at the City's Comprehensive Land Use Plan on page 20 that the applicant is not requesting what is in the land use plan, but instead is requesting R4 zoning.

Community Development Director Angela Parker stated that is correct.

Councilman McDonald asked why staff is recommending approval.

Community Development Director Parker stated the land use plan indicates it is a guide and not an official designation from the standpoint of the zoning districts that are compliant with the plan. The plan addresses density. When making a recommendation staff looks at if the density is consistent with the density range in the Comprehensive Plan. In this case, the 2.9 units per acre that the applicant is requesting is consistent with the density range of 2-3 units per acre.

Councilman John Paulson asked why R4 is on the request.

Community Development Director Parker stated the density the property is being developed at is at a density that is much lower than the R4. The R4 zoning allows for a minimum lot size of 9,000 square feet. This proposal is for a much larger lot. Some developers will apply for a higher density, because the setbacks are slightly different and it allows for flexibility for development.

Councilman Tibby DeJulio stated he is disappointed that Mr. Hendricks would bring this zoning to Council in this condition. The only power the citizens have when a zoning application comes up is to appeal to the City Council. To bring a zoning to Council that may be approved and then speaking to the citizens after is an affront to the citizens. The citizens would then have no authority and could not complain to Council, because the application would have already been approved.

Mr. Hendricks stated this item was advertised for a public hearing, so a public hearing was required this evening. The public hearing was held and Council knows what staff and the Planning Commission recommend. Based on the recommendation of the Planning Commission, there was a meeting to reach out to the neighborhood and some residents could not attend. As opposed to cancelling that meeting, the meeting was held. The next meeting that could be set will be held on August 27th. He was asked if he expects the application to be acted upon this evening and his response was it should be left to what Council feels is the appropriate course to take. He was acting in response to the recommendation of deferral, or a meeting would not have been set for next week.

Councilman Gabriel Sterling stated there is a lot between the neighborhood and developer to go through regarding this application. He heard great things such as building a sidewalk to Hammond Drive and the landscaping. Staff needs to work with the neighbors to get better ideas for screening. The aspects of the stormwater detention need to be discussed as well. The neighbors need to feel comfortable with the plan. He will support the motion to defer.

Councilman Ken Dishman asked when an applicant intends to defer, don't they state that up front and then Council does not hear the whole case. This case is not "fully baked". If a case is heard, a deferral would happen if something is discovered in the process that was previously unidentified. He will not support a deferral, because he believes this application should be denied.

Councilman Andy Bauman stated he is sympathetic to Councilman Dishman, except there is a staff recommendation of approval. He is concerned about the density. The 2.71 would be 13.8 units. He encouraged the neighbors to make it to the meetings and the Planning Commission to make an effort on both sides. He is concerned about the clear cutting and stormwater. This application is not ready and he supports the deferral.

Councilman McDonald stated every week City Council and the Mayor receive a report from the City Manager on events that have transpired in the last week. He read the July 31, 2014 report. The report involves 725 Langford Lane and 6209 Ferry Drive, a Rockhaven Home project in his district. "A stop work order was issued due to the need for maintenance on the construction exit silt fence and the tree fence and tree protection fence in need of repair." He understands over the past few months that may not be the only issue Rockhaven has had with Sandy Springs in terms of active projects. He suggested to Rockhaven that they improve the way they operate in the future.

Councilman Dishman stated the applicant should have chosen to state they are not ready and requested a deferral, but instead they brought the case forth and spent ½ hour of everyone's valuable time. He does not know how many times since January a deferral was allowed because an applicant did not have their case fully prepared. Council will need to put their foot down at some point or we will get continually run over, along with the citizens.

Councilmember Sterling stated he slightly disagrees with Councilman Dishman. There has not been a time where he has seen Council defer an item where the final product that came back was not better. The City has a system, but if Council wants to make a point to a developer, that is fine. Sometimes an application never reaches a conclusion with the neighbors, but generally most applications that come back are a better product.

Councilman McDonald stated he finds Councilman Dishman's position persuasive.

Withdrawal of the Motion: Councilman McDonald withdrew his motion. Councilman DeJulio accepted withdrawal of the motion.

Motion and Vote: Councilman Bauman moved to defer Agenda Item No. 14-183, 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 October 21, 2014, City Council meeting to allow the application to return to the Planning Commission for further evaluation. Councilman Paulson seconded the motion. The motion carried 4-0, with Councilmembers Dishman and McDonald voting in opposition.

(Agenda Item No. 14-184)

3. **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 an addition to the existing commercial building, with concurrent variances

Manager of Planning and Zoning, Patrice Dickerson stated this item was heard at the July Planning Commission meeting. The Planning Commission is recommending deferral of the case to allow the applicant time to clarify some aspects of the application related to fitting into the City Center Master Plan and streetscape. Staff is also recommending deferral of the case.

Masoud Zahedi, 5801 Roswell Road, stated there has been a small addition to the building. He requested a deferral of this item for sixty days.

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.

Mayor Paul asked if this is the same project that was deferred at the last Council meeting.

Mr. Zahedi responded no.

Mayor Paul encouraged Mr. Zahedi to have his plans in order before coming back to Council again. Too many of his projects have been deferred over the last few years.

Mr. Zahedi stated he had no opposition from neighbors for his proposed project.

Motion and Vote: Councilman Bauman moved to defer Agenda Item No. 14-184, 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 an addition to the existing commercial building, with concurrent variances, to the October 21, 2014, City Council meeting to allow the application to return to the Planning Commission for further evaluation. Councilman Dishman seconded the motion. The motion carried unanimously.

(Agenda Item No. 14-185)

4. **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 22-lot townhome development, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item was heard at the July Planning Commission meeting and the Commission recommended deferral. Staff is also recommending deferral of the case related to the applicant needing to revise the plan to meet the City Center Master Plan.

Mark Shaw, representative of Southtech Homes, said he is requesting a deferral in order to have an opportunity to meet with the neighbors to discuss the plan. His engineer met with the neighbors south of the subject property to discuss the detention pond. He still needs additional time to meet with the neighbors to the east.

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

David Osborn, 6090 Harleston Road, stated he owns the property directly behind the proposed development. He missed the first two neighborhood meetings. He was on vacation for the second meeting and did not receive notification for the first. He has not had enough time to review the plans. This lot is too narrow for the development. At this point is he opposed to the development.

Mayor Paul called for public comments in support of the application.

Trisha Thompson, 145 River North Drive, stated she is the Zoning Chairman for the Sandy Springs Council of Neighborhoods. This applicant was very wise in his presentation to the Planning Commission. The previous applicant received the worst attack by the Planning Commission she has ever seen. This applicant requested a deferral from the Planning Commission. Getting this application straightened out is a function of staff and their interaction with the applicants. This applicant deserves more time to straighten out the application. Glenridge/Hammond HOA is looking forward to working with him. She supports a deferral of this application back to the Planning Commission.

Mayor Paul closed the public hearing.

Mayor Paul stated there is nothing that is more annoying to him than a developer that is not prepared to move forward with his project. This item was advertised for ninety days and the applicant had plenty of time to meet with the neighbors. He expects the projects to be buttoned up when they arrive on the Council agenda. This evening, over half the agenda was deferred, because people were not prepared to move forward with their application. It is a waste of Council's time and effort, along with that of staff. He has told developers already to not put their items on the agenda, if they are not ready to move forward.

Mr. Shaw stated when he was before Council last time, there was no option to defer his application back to the Planning Commission. If the applicants had an option to go back to the Planning Commission, these issues would have been resolved.

Mayor Paul stated the applicants should have the discussions with the neighbors cleared up before going before the Planning Commission.

Motion and Second: Councilman McDonald moved to defer Agenda Item No. 14-185, 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 22-lot townhome development, with concurrent variances, to the October 21, 2014 City Council meeting. Councilman Dishman seconded the motion.

Councilman Graham McDonald stated he is concerned that Council is not receiving good information on what has been going on at the Planning Commission meetings. The information he was given was the Planning Commission recommended deferral because of a typo and the typo had been addressed. He asked staff to get as much unfiltered information to Council about the feedback from the Planning Commission as possible.

Councilman Gabriel Sterling stated deferrals from the Planning Commission are not allowed to go straight back to the Planning Commission.

Assistant City Attorney Cecil McLendon stated the City rules were changed several years ago in response to cases that were being deferred by the Planning Commission. The Mayor and Council at that time made the decision to have the cases come to the Mayor and Council, so they would have the ability to determine whether it was appropriate to continue the deferral process at the Planning Commission level.

Councilman Sterling stated if memory serves correctly, the Planning Commission was deferring items internally to the point where cases were languishing for a very long time.

Councilman John Paulson stated after hearing this information, it is more important that Council understand the context of what the Planning Commission has in mind.

City Manager John McDonough stated Council has raised some good points this evening. He will meet with staff and the City attorneys to see if there is a better way to deal with the deferrals, so the applications are not placed on the agenda if the cases are not ready.

Vote on the Motion: The motion carried unanimously.

Text Amendments

(Agenda Item No. 14-186)

5. **TA14-003** - An Ordinance to Amend Article 4, General Provisions, of the Sandy Springs Zoning Ordinance to add Multifamily Dwelling Unit Development Standards

Community Development Director Angela Parker stated the Council heard this item at the Work Session on August 5th. At that meeting, Council asked if the Economic Development Advisory Committee was a part of the development regulations for apartments and to speak to the rationale. Members of the EDAC committee are at this meeting to speak to these amendments.

Jim Comerford, Chairman of Economic Development Advisory Committee, stated one EDAC recommendation was to place a cap of only 5% for three and four bedroom apartments. This is an important recommendation in the context of the overall strategic objective of the City and its Economic Development plan to enhance the quality of housing redevelopment.

Kevin Moyer, Economic Development Advisory Committee member, stated this choice will impact development in the future.

Mayor Rusty Paul stated the committee members are representatives from the development community.

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

Trisha Thompson, 145 River North Drive, stated she does not agree with requiring the ground floor units to have the appearance of retail, if retail is not used. There was an issue with Steven Cadranel's apartment building on Allen Road. There were ground floor units that were required to have glass on the ground floor and that was a problem, because they were apartment units. When living in a city, apartments have ground floor units that have courtyards and shrubbery and do not look like retail units. She would like to see photos of what EDAC has in mind.

Mayor Paul closed the public hearing.

Motion and Second: Councilman Sterling moved to approve Agenda Item No. 14-186, TA14-003 - An Ordinance to Amend Article 4, General Provisions, of the Sandy Springs Zoning Ordinance to add Multifamily Dwelling Unit Development Standards, with the addition of the Economic Development Advisory Committee (EDAC) recommendation that multifamily dwelling units contain 5% or less three bedrooms units. Councilman McDonald seconded the motion.

Councilman Gabriel Sterling stated part of the reason for the moratorium on the C-1 classification is so Council has a say so on the development standards. If someone has a reason to build larger units, they can bring it to Council. Otherwise, the minimum standard sets a good precedent with the City.

Councilman Graham McDonald thanked and recognized the EDAC committee members in attendance. The City is currently in a sixty day moratorium on apartment permits involving C-1 and C-2 commercial zoning areas. He asked what EDAC's thoughts are regarding this.

Mr. Comerford stated the genesis of this issue dates back to code inherited from the Fulton County Commission during the creation of Sandy Springs. The issue should be addressed by moving away to the extent legally possible from any inherited C-1, C-2 statutory requirements left over from the Fulton County Commission. Perhaps local control can be exerted in a more temporary and effective fashion through consultation with Council in crafting definitions of what C-1 and C-2 are.

Councilman John Paulson asked if EDAC is in favor of removing apartments from C-1 and C-2 zoning. One choice is limiting the number of bedrooms or removing apartments completely.

Mayor Paul stated he recalls Mr. Munger stated if the City requires a developer to include retail in a mixed use apartment environment, they will write down the retail to zero and have no expectation to fill the retail.

Richard Munger, 550 Trowbrook Road, stated there are plenty of jurisdictions that have imposed retail and mixed use does work. In certain situations that has happened and that is something the City may encounter.

Councilman Tibby DeJulio asked if the developer may intentionally build retail with no expectation of filling it, so they can get the apartment use approved.

Mr. Munger stated with the financial underwriting there is the potential that the retail may not be at market rate and it may be a challenge to lease the units. If the retail is forced on that development, there is no guarantee it will be leased at market rate.

Councilman DeJulio asked if that will have a detrimental effect on the apartments.

Mr. Munger responded no.

Mayor Paul stated the City has a make to decision from a policy point of view. Does the City want the commercial property zoned for apartments? If the applicant asks for mixed use, the City has the opportunity to discuss the plan for filling the retail.

Councilman Sterling asked if a developer wanted to build apartments and wanted to have a retail section without having another institutional use, can the City's zoning allow that as it exists now.

Community Development Director Parker stated that can be done in the mixed use district.

Manager of Planning and Zoning Patrice Dickerson stated there was an amendment to the code a couple of years ago to address that. In a building, apartments can be above whatever is located on the bottom floor, and that will be MIX zoning.

Vote on the Motion: The motion carried unanimously.
Ordinance No. 2014-08-22

(Agenda Item No. 14-187)

6. **TA14-004** - An Ordinance to Amend Article 7, Two Family and Multifamily Dwelling District Regulations, Article 8, Multiple Use District Regulations, Article 9, Commercial District Regulations, and Article 11, Planned Unit District Regulations, of the Sandy Springs Zoning Ordinance to allow Townhouse Dwelling Units

Community Development Director Angela Parker stated there are a number of the City's zoning districts that allow single family and two family dwelling units, but they do not allow townhomes. Staff is recommending the districts be modified to allow townhomes. An example is a property that is zoned for apartments and in lieu of an apartment development a potential developer would like to be able to develop townhome units. Staff is in favor of this amendment.

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

Motion and Vote: Councilman Sterling moved to approve Agenda Item No. 14-187, TA14-004 - An Ordinance to Amend Article 7, Two Family and Multifamily Dwelling District Regulations, Article 8, Multiple Use District Regulations, Article 9, Commercial District Regulations, and Article 11, Planned Unit District Regulations, of the Sandy Springs Zoning Ordinance to allow Townhouse Dwelling Units. Councilman Paulson seconded the motion. The motion carried unanimously.

Ordinance No. 2014-08-23

(Agenda Item No. 14-188)

7. **TA14-005** - An Ordinance to Amend Article 9, Commercial District Regulations, of the Sandy Springs Zoning Ordinance to clarify Permitted Uses

Community Development Director Angela Parker stated currently the zoning ordinance allows apartments within the commercial zoning districts. These are subject to one standard to be above or behind commercial or office uses. This item was heard by Council at the Work Session on August 5th, but at that time staff did not receive clear direction on what Council prefers to be done with this item. Previously, this evening, EDAC spoke to this agenda item.

Mayor Paul called for public comments in support of the ordinance.

Trisha Thompson, 145 River North Drive, stated when commercial was located above and behind, it pertained to gas stations and a general store. This is not applicable and needs to be removed from the commercial use district.

Nathan Hendricks, 6085 Lake Forrest Drive, stated he understands the concept behind this ordinance, but staff needs to be very careful. The property that is on the east side of Peachtree Dunwoody Road above Cox Enterprise's corporate campus is zoned C-1 and it has retail on the first floor. If this ordinance is passed, it will render that property legal and nonconforming. If the property has a 60% or more causality loss, they will not be able to build back and will never be able to refinance the property. There are apartments above and behind the property.

Mayor Paul called for public comments in opposition to the ordinance. There were no public comments. Mayor Paul closed the public hearing

Councilman Tibby DeJulio asked about the property on the corner of Roswell Road and Hammond Drive that is now owned by Pacific Life. Staff negotiated with the property owner to place retail on the ground floor and apartments upstairs.

Community Development Director Parker stated that project is currently under review by staff for a permit.

Councilman Gabriel Sterling asked if there is a way a special zoning district can be created in order to cover Mr. Hendricks question regarding a casualty loss.

Assistant City Attorney Cecil McLendon stated there is a methodology for staff to do that. He suggested staff look at doing this in the right way.

Councilman DeJulio asked if there is the same type of zoning on Glenridge Drive that used to be the old Crawford and Company.

Mayor Paul stated staff is looking for direction from Council on how to address these issues.

Motion and Second: Councilman Sterling moved to defer Agenda Item No. 14-188, TA14-005 - An Ordinance to Amend Article 9, Commercial District Regulations, of the Sandy Springs Zoning Ordinance to clarify Permitted Uses, to the September 2, 2014 City Council meeting to allow the EDAC and staff to work to develop recommendations. Councilman Paulson seconded the motion.

Councilman John Paulson stated the reason this is being discussed is because C-1 properties are turning into apartment complexes. His concern is if apartment complexes are totally eliminated from this ordinance, he is not sure Council will be accomplishing what they want to accomplish. There are properties that are in existence that have apartments and some of them will be rendered nonconforming if Council approves the ordinance as it is. He asked how this can be accomplished without totally eliminating apartments.

Councilman Gabriel Sterling stated the Council saw a flood of commercial apartment zonings being submitted to the City. Some of the developments came to the City with a "fig leaf" of the leasing office being the retail, and that is not what the City wants. The City Center area is an area where bedrooms are wanted to reach the density needed for that area. There are properties zoned C-1 that are near MARTA stations and businesses. Properties already there can be protected from the potential "hit" they could take. The cleanest thing is in order to build an apartment in an area that makes sense, they will have to come to Council for a rezoning and not try to get under the legal allowance to rezone the property. There is not a real definition of what retail is. If this ordinance is changed, there will be no more arguments. The determination will be whether or not the project is the right project in the right place.

Councilman Paulson stated the ordinance should be modified so Council will receive what they want. He does not think removing apartments from the ordinance will fix this.

Councilman Sterling stated the following are two examples. A developer wants to utilize 5,000 square feet to the front of the property. Because of the way the lot is arranged, the property extends further back and the owner will have 200 units. The City will have no say in that project unless the City allows the applicant to go through a full rezoning. Another example is an owner has a five acre square lot of retail that wraps around the side and front of the property, which is exactly what the City wants. There is nothing that says the owner cannot rezone the property under the MIX designation. Councilman Sterling wants to protect the properties already zoned, but the easiest thing to do is to make sure all rezonings come to Council in order to assure the City gets the projects they want.

Richard Munger, 550 Trowbrook Road, stated the discussion that EDAC had was related to addressing this issue regarding nodes and when it is appropriate to have multifamily with regards to mixed use. He does not believe that EDAC was not supporting the multifamily use on C-1.

City Manager John McDonough stated he believes that staff has heard that Council wants to move in the direction of the removal of apartments from this ordinance. The concern lies with the legal nonconforming issue.

Councilman Andy Bauman stated he is torn on this issue and wants to see the proposal. He supports property rights, but also wants quality projects in the City. If apartment complexes are not allowed on some of the properties, retail being located on the properties may render the property worthless.

Councilman Sterling stated staff was looking at something similar to Councilman Paulson's idea in coming up with regulations defining what is wanted by Council. This would require a lot of staff time and expenditures to bring in outside consultants. If Council does not want to go that direction, he is not sure staff should be directed to do that. Councilman Bauman's worry may be that Council will say no to apartments in commercial areas. There are good commercial areas in the Roswell Road corridor where apartments make sense, but the applications need to come to Council. He asked about the outside consultant being a lengthy process.

City Manager McDonough stated the process will take months at a minimum.

Councilman Paulson stated Sandy Springs cannot be the first City that has faced this issue and others have figured out a way to deal with it.

Councilman Sterling stated the City of Atlanta ran into this issue in the Midtown area. He is not sure what they did to fix it.

Councilman Graham McDonald stated if apartments are wanted in C-1 or C-2, it should come to Council.

City Manager McDonough stated if that is the direction of Council, then staff will bring recommendations to remedy the legal nonconforming issue. If Council prefers Councilman Paulson's direction, the moratorium will likely be extended.

Councilman Ken Dishman stated his preference is staff speak to EDAC to formulate what is recommended and if a developer wants apartments, the request will have to come before Council.

Councilman Sterling agreed with Councilman Dishman.

Councilman Bauman agreed with Councilman Dishman's recommendation as well, and protecting the current property owners' rights.

There was a consensus of Council that apartments brought into C-1 should be required to be brought before Council for review.

Vote on the Motion: The motion carried unanimously.

(Agenda Item No. 14-189)

8. **TA14-006** - An Ordinance to Amend Section 7.2.3, Townhouse Residential District Development Standards, of the Sandy Springs Zoning Ordinance related to density

Community Development Director Angela Parker stated staff proposes changing the limit on the number of units that can form a single building from twenty to ten. The townhouse zoning district standards had a number of conflicting provisions that deal with density. Staff recommends that the actual density be governed by the amount of square footage per unit, which is 2,000, as well as the overall lot coverage.

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

Tochie Blad, 7320 Hunters Branch Drive, stated she represents the Sandy Springs Council of Neighborhoods. This change would be going from nine units per acre to apartments, which have a greater density. A townhome is recognized by less density per acre. The ten units per building have been micromanaged and divided into smaller than ten units due to topography and for aesthetic reasons. Nine units per acre is what distinguished townhomes from apartments.

Mayor Paul closed the public hearing.

Motion and Second: Councilman Paulson moved to approve Agenda Item No. 14-189, TA14-006 - An Ordinance to Amend Section 7.2.3, Townhouse Residential District Development Standards, of the Sandy Springs Zoning Ordinance related to density. Councilman Sterling seconded the motion.

Councilman Gabriel Sterling asked what the limit for townhomes will be for this designation with the 2,000 square feet per unit.

Community Development Director Parker stated in the range of twelve units per acre. A slightly higher density can be achieved. Staff is trying to encourage this type of development and it is a way of developing some of the apartment properties that are currently zoned.

Councilman Sterling asked if it would be more difficult to redevelop to townhomes when moving to a 2,000 square feet definition, versus the nine units per acre.

Community Development Director Parker stated 2,000 square feet will be the overall per unit minimum. At one point this was regulated as a minimum lot size in the ordinance.

Councilman Graham McDonald asked if by definition townhomes are owner occupied.

Community Development Director Parker stated there is no requirement that the units be owner occupied. The distinction between a townhome and apartment is there is no other unit above a townhome.

Councilman Andy Bauman stated sometimes there are townhome style units as part of an apartment complex.

Councilman Sterling stated the difference here is between what can be redeveloped and an apartment that can get the highest economic use, versus a townhome.

City Manager John McDonough stated the suggestion is for a lower density of a multifamily classification.

Councilman Tibby DeJulio stated one of Council's objectives is to have more owner occupied residences. He wonders if ten continuous units is the correct number. In the past, Council has asked some townhome developments to be below ten for aesthetic reasons.

Councilman Sterling stated when Council requested the number to be lower, it made sense at that time and the property was conditioned for that. The number of units for the property off Glenridge Drive by the medical building was reduced to give the neighborhood a more single family look.

Councilman Paulson asked if taking the 2,000 square feet per unit and adding the setbacks is how staff reached the number twelve.

Community Development Director Parker responded yes. The lot coverage and perimeter setbacks reduce the ultimate density that can be placed on the property.

Vote on the Motion: The motion carried unanimously.
Ordinance No. 2014-08-24

(Agenda Item No. 14-190)

9. **TA14-007** - An Ordinance to Amend Article 18, Off Street Parking and Loading, of the Sandy Springs Zoning Ordinance

Community Development Director Angela Parker stated this amendment simplifies the parking section of the ordinance in keeping with the industry standards.

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

Mayor Paul stated he spoke to the Mayor of Alpharetta and they have already changed their ordinance similarly and are happy with the results.

Motion and Vote: Councilman Sterling moved to approve Agenda Item No. 14-190, TA14-007 - An Ordinance to Amend Article 18, Off Street Parking and Loading, of the Sandy Springs Zoning Ordinance. Councilman Paulson seconded the motion. The motion carried unanimously.

Ordinance No. 2014-08-25

(Agenda Item No. 14-191)

10. **TA14-008** - An Ordinance to Amend Article 33, Signs, of the Sandy Springs Zoning Ordinance related to internally illuminated signs

Community Development Director Angela Parker stated this amendment deals with allowing the backlit signs. Staff is recommending this type of sign be allowed.

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

Motion and Vote: Councilman DeJulio moved to approve Agenda Item No. 14-191, TA14-008 - An Ordinance to Amend Article 33, Signs, of the Sandy Springs Zoning Ordinance related to internally illuminated signs. Councilman Dishman seconded the motion. There was no Council discussion. The motion carried unanimously.

Ordinance No. 2014-08-26

Resolution

(Agenda Item No. 14-192)

11. Resolution to Authorize the Transmittal of the Draft Annual Capital Improvements Element (CIE) Update to the Regional Development Center and State for Review and Comment

Community Development Director Angela Parker stated in order to maintain the City's qualified local government status the City has to annually submit a capital improvement element short term work program to the State. Staff is asking Council approve submittal of the draft. This item will be brought back to Council in October for final action.

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

Motion and Vote: Councilman Dishman moved to approve Agenda Item No. 14-192, Resolution to Authorize the Transmittal of the Draft Annual Capital Improvements Element (CIE) Update to the Regional Development Center and State for Review and Comment. Councilman Bauman seconded the motion. There was no Council discussion. The motion carried unanimously.

Resolution No. 2014-08-77

Abandonment Requests

(Agenda Item No. 14-193)

12. Public Hearing on Petition for Road and Stormwater Abandonment and Privatization Filed by Highland Valley Court Homeowner's Association

Assistant City Attorney Cecil McLendon stated the next three items were heard at the last Work Session. This request is for a subdivision that has approximately six homes in it. Each owner has signed off on the petition requesting the City abandon the right-of-way, so the road can be privatized and a community gate added. The property owners have been advised they will have to sign indemnification agreements with the City that will require maintenance responsibilities as well as stormwater infrastructure. This item was advertised for a public hearing. He asked that Council approve the resolution to allow staff to work with the applicants to finalize the process.

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

Motion and Second: Councilman Dishman moved to approve Agenda Item No. 14-193 the Petition for Road and Stormwater Abandonment and Privatization Filed by Highland Valley Court Homeowner's Association. Councilman McDonald seconded the motion.

Councilman Tibby DeJulio stated this is the first application that Council has encountered where people have wanted to close the road and place a gate at the entrance. He asked if there is any way of knowing if the homeowner's representatives have the assets to back up an indemnification agreement.

Assistant City Attorney McLendon stated in order for the property owners to do this, they will be required to have a binding HOA, which they already have. If the HOA does not maintain the road, they will be subject to property maintenance violations with the City. He has not discussed a bond with the HOA.

Councilman DeJulio asked what will happen if the HOA has a maintenance issue with the road and the City requires the HOA to repair the road, but they do not have the money.

Assistant City Attorney McLendon stated that would be brought to court for enforcement. At this point, the City has not required a bond, but that is something that can be required.

Councilman DeJulio stated requiring a bond is something staff should look at. The motion should be amended in order to protect the City's interests.

City Manager John McDonough stated this item should be deferred.

Councilman Gabriel Sterling asked if other jurisdictions do something similar to where they require a bond.

Assistant City Attorney McLendon responded no. There was a similar petition that occurred in Johns Creek, but he does not believe a bond was required.

Councilman Paulson stated this is not property, but is an HOA. If the members of the HOA just abandon the HOA and don't support it, the City will have no recourse against the HOA.

Assistant City Attorney McLendon stated the City should be able to enforce on this. He asked if the City approves a gated private subdivision how the road issue would be handled.

Community Development Director Angela Parker stated prior to recording the plat, staff looks at the homeowners association documents to make sure they cover maintenance of the detention facility and the roadways.

Councilman Sterling asked if there can be equal protection for already existing private roads if new roads, are treated differently.

City Manager McDonough stated the City is seeing the same issues with private detention ponds where communities do not have private HOAs. The City is in court to determine who is responsible.

Stephen Horgan, 5 Highland Valley Court, President of the Homeowners Association for Highland Valley Court, stated his community has been in the process of this for two years. The HOA is a bonded six house subdivision and looked at all the potential costs associated with the road and detention pond. This is a fairly affluent community. The reason for the gate is a security issue. The property is inside the Perimeter off Mount Vernon. The property has become a turnaround for construction and people that are lost. The subdivision receives about forty to forty-five vehicles per day that turn around in their cul-de-sac. When the community was first built, there were no children and there are now four children under the age of nine. The extra vehicles in the neighborhood have become a hazard.

Amendment to the Motion and Vote: Councilman Dishman amended his motion to defer Agenda Item No. 14-193, the Petition for Road and Stormwater Abandonment and Privatization Filed by Highland Valley Court Homeowner's Association, to the September 16, 2014 City Council meeting. Councilman McDonald seconded the motion. The motion carried unanimously.

(Agenda Item No. 14-194)

13. Public Hearing on the Application to Obtain Abandonment of Right of Way of Lake Allen Lane filed by JW Homes, LLC, Applicant of behalf of the Residents of Lake Allen Lane

Assistant City Attorney Cecil McLendon stated this abandonment is different because it is on the John Wieland subdivision development at Allen Road. There is an existing road at Lake Allen Court that is in the footprint of the subdivision as well as a small parcel that Fulton County acquired on the theory they were going to cul-de-sac Sandy Springs Circle. This first item is the abandonment of Lake Allen Lane.

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 Vote: Councilman DeJulio moved to approve Agenda Item No. 14-194, the Application to Obtain Abandonment of Right of Way of Lake Allen Lane filed by JW Homes, LLC, Applicant of behalf

of the Residents of Lake Allen Lane. Councilman McDonald seconded the motion. There was no Council discussion. The motion carried unanimously.

Resolution No. 2014-08-76

(Agenda Item No. 14-195)

14. Public Hearing on the Application to Obtain Abandonment of Right of Way of Sandy Springs Circle (a/k/a Allen Court) filed by JW Homes, LLC

Assistant City Attorney Cecil McLendon stated this item applies to the crescent area on Sandy Springs Circle that was acquired by Fulton County in the past.

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 Vote: Councilman DeJulio moved to approve Agenda Item No. 14-195, the Application to Obtain Abandonment of Right of Way of Sandy Springs Circle (a/k/a Allen Court) filed by JW Homes, LLC. Councilman Paulson seconded the motion. There was no Council discussion. The motion carried unanimously.

Resolution No. 2014-08-78

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

(Agenda Item No. 14-196)

1. Consideration of Approval of a Contract to Construct Projects T-7225 & T-7226, Powers Ferry Road at Northside Drive and Powers Ferry Road at New Northside Drive Intersection Improvements Subject to Validation and Approval by the Legal and Finance Departments

Director of Public Works Garrin Coleman stated this item is to award a contract in the amount of \$465,980 to R.J. Haynie and Associates for two intersection improvements. The engineer's estimate for these projects was \$497,171. The contract has a 150 day term limit. Mast arms will be installed at these two locations.

Motion and Vote: Councilman Bauman moved to approve Agenda Item No. 14-196, a Contract to Construct Projects T-7225 & T-7226, Powers Ferry Road at Northside Drive and Powers Ferry Road at New Northside Drive Intersection Improvements Subject to Validation and Approval by the Legal and Finance Departments. Councilman Sterling seconded the motion. There was no Council discussion. The motion carried unanimously.

Resolution No. 2014-08-79

(Agenda Item No. 14-197)

2. Consideration of the Acceptance of the Agreement to Purchase Right of Way on the T-0039 Capital Improvements Project / Spalding Drive at Mt. Vernon Road Intersection Improvements

Assistant City Attorney Cecil McLendon stated this is a contract to purchase real estate at the intersection of Spalding Drive and Mount Vernon Road. This will allow the City to complete the traffic improvement project in this location. The contract price is \$150,000. Upon Council's approval, staff can move forward with closing the transaction.

Motion and Vote: Councilman Paulson moved to approve Agenda Item No. 14-197, Acceptance of the Agreement to Purchase Right of Way on the T-0039 Capital Improvements Project / Spalding Drive at Mt. Vernon Road Intersection Improvements. Councilman Dishman seconded the motion. There was no Council discussion. The motion carried unanimously.

Resolution No. 2014-08-80

(Agenda Item No. 14-198)

3. Proposed Property Exchange between the City and Mrs. Susan Strother

Assistant City Manager Bryant Poole stated this item is a property exchange with Mrs. Strother. She owns a home at the intersection of River Valley and Johnson Ferry Road. When GDOT built the road, they gave her access on the backside of River Valley, but did not formally give her rights to use the driveway. She approached the City to see about exchanging properties in order for her to have access off of the drive. Through surveys, agreements, and appraisals, the City has worked out an exchange of .04 acres. The radius in the area gives the City a larger right-of-way in case additional traffic poles, a traffic signal, or a turn lane are needed.

Councilman Graham McDonald asked is Mrs. Strother's house faces Johnson Ferry.

Assistant City Manager Poole responded yes. Mrs. Strother will receive an exit off of her property onto River Valley.

Motion and Vote: Councilman Sterling moved to approve Agenda Item No. 14-198, the Proposed Property Exchange between the City and Mrs. Susan Strother. Councilman Dishman seconded the motion. The motion carried unanimously.

Resolution No. 2014-08-81

(Agenda Item No. 14-199)

4. Soil Erosion, Sedimentation and Pollution Control Code Amendments

Community Development Director Angela Parker stated these amendments were briefed to Council on August 6th at the Natural Resources Special Called Meeting. Staff recommends approval of these amendments.

Motion and Second: Councilman Sterling moved to approve Agenda Item No. 14-199, Soil Erosion, Sedimentation and Pollution Control Code Amendments. Councilman Paulson seconded the motion.

Councilman John Paulson stated one discussion point during the meeting was the creation of a simple guidebook for properties.

Community Development Director Parker stated after the meeting she made a task list of what staff needs to work on.

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2014-08-27

(Agenda Item No. 14-200)

5. Amendment to Chapter 22, Article II of the City of Sandy Springs Code of Ordinances ("Code") to provide for the inspection and maintenance of private fire hydrants in the City

Fire Chief Jack McElfish stated this item was discussed at the last Work Session. This ordinance will give the City the authority to enter private properties in order to inspect fire hydrants.

Motion and Vote: Councilman DeJulio moved to approve Agenda Item No. 14-200, Amendment to Chapter 22, Article II of the City of Sandy Springs Code of Ordinances (“Code”) to provide for the inspection and maintenance of private fire hydrants in the City. Councilman Dishman seconded the motion. There was no Council discussion. The motion carried unanimously.

Ordinance No. 2014-08-28

REPORTS

1. Mayor and Council Reports

Councilman John Paulson stated an informal town hall meeting called by the neighbors was held in District 1 about a week ago due to concerns with emergency services response times in District 1. There have been several instances where the response time was eleven to twelve minutes. One of the challenges is it is a long way from Fire Station 1 to the end of District 1 near Holcomb Bridge Road and Spalding Drive. There is a senior citizen home that is being constructed that will have 180 residents, which is at the far end of District 1. Eighty-three residents attended the town hall meeting. The Police Department and Fire Department representatives were in attendance and discussed the challenges of District 1. The Fire Department staff sent him an email letting him know they are looking at this area’s response time again and will provide recommendations to Council on ways to improve response time. There was a question about the bridge on Spalding Drive that floods periodically. He asked if this is a deficient bridge.

Director of Public Works Garrin Coleman stated staff can research that location. The City receives information regarding City bridges from GDOT every two years. The City has a bid document currently out for maintenance on seven bridges inside the City.

2. Staff Reports

a) June 2014 Financial Report – Finance Director Karen Ellis

Finance Director Karen Ellis stated in the agenda package is the June financials, which are an unaudited version for the complete fiscal year 2014. Expenditures were better than expected and the revenues came in at target. Items that are over or under budget will be brought to Council next month for an end of year budget amendment.

Councilman Gabriel Sterling asked about the recreation program fees being 20% below budget when there are a record number of children that participate in the programs.

Finance Director Ellis stated the Recreation and Parks Department over planned for programs that did not happen. The City budgeted needing about \$9 million from fund balance to balance the budget and the surplus is a little over \$1 million.

b) City Center Project – City Manager John McDonough

City Manager John McDonough stated there will be a Special Called City Council meeting held on August 27, 2014 to hear the following items: site planning, park and open space, proposed performing arts center and meeting space, retail, and the project budget. The City will engage the community in soliciting input on what they would like to see regarding retail on the City Center site.

There was a consensus of Council to reschedule the first City Council meeting in September from September 9th to September 2nd.

PUBLIC COMMENT

Susan Paul, 6010 Nesbit Ferry, submitted a public comment card to the City Clerk's office that is on file. Her public comment was in regards to the insufficient police and emergency services response times in District 1.

Jason White, 4687 Dudley Lane NW, stated he hopes changes can be made to the sidewalk policy. Sidewalks should be built where people want to walk, where they meet the City's goals of connectivity, and where it is not safe to walk. Safety is not a factor in the CIP scoring system. Dudley Lane is an unsafe road due to it being narrower than other roads. It is highly used and receives many intoxicated drivers that drive to and from the Chastain Amphitheater. The scoring of the sidewalks focuses on ease of building by looking at right-of-way, anticipated utility relocations, and constructability. Those three categories should be merged into one and then look at cost after ranking things such as demand, safety, and City goals. Even if Dudley Lane does not currently rank or will not rank high in the future, he asked that the City fund the neighborhood sidewalk program.

Bill Gannon, 505 Taunton Way, stated there is no penalty to applicants that make false applications. He recommended that the Council not allow the Planning Commission the authority to defer items. There have been many changes to meeting dates of the Council that can cause issues with the public being able to attend.

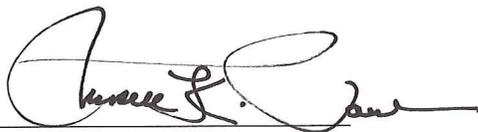
EXECUTIVE SESSION

There was no Executive Session.

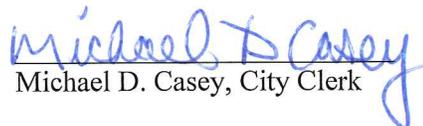
ADJOURNMENT

Motion and Vote: Councilman DeJulio moved to adjourn the meeting. Councilman Paulson seconded the motion. The motion carried unanimously. The meeting adjourned at 9:41 p.m.

Date Approved: September 2, 2014



Russell K. Paul, Mayor



Michael D. Casey, City Clerk