Regular Meeting of the Sandy Springs City Council was held on Tuesday, December 4, 2012, at 6:00 p.m., Mayor Eva Galambos presiding.

INVOCATION

Reverend Chris Starr, Church of the Atonement, offered the invocation.

CALL TO ORDER

Mayor Eva Galambos called the meeting to order at 6:03 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 Eva Galambos present

Councilmembers: Councilmember John Paulson, Councilmember Dianne Fries, Councilmember Chip Collins, Councilmember Gabriel Sterling, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnerny present.

PLEDGE OF ALLEGIANCE

Mayor Eva Galambos led the Pledge of Allegiance

(Agenda Item No. 12-286)
APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Fries moved to approve the Regular Meeting agenda for December 4, 2012. Councilmember Paulson seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 12-287)

1. Meeting Minutes:
   a) November 6, 2012 Regular Meeting
   b) November 6, 2012 Work Session
   (Michael Casey, City Clerk)

(Agenda Item No. 12-288)

2. Mutual/Automatic Aid Agreement with DeKalb County
   (Wendell Willard, City Attorney)
   Resolution No. 2012-12-81

Motion and Vote: Councilmember Fries moved to approve the Consent Agenda for December 4, 2012. Councilmember Sterling seconded the motion. The motion carried unanimously.

PUBLIC COMMENT

Bruce Brown, 309 N. Highland Ave., Atlanta, GA, stated he represents Operation Tennis Inc. His company wrote a letter to the Mayor, City Manager, City Attorney, and Councilmembers that sets forth their position on the award for operations at the tennis center. Today he received the response from the City Attorney. He urged City Council to not view this as a closed matter. The City still has the opportunity to do the right thing. Three issues regarding this award are cost, qualifications, and integrity. He asked Council who they want doing work for the City of Sandy Springs and who they want attracted to the City. The winning contractor, Groslimond Tennis Services, Inc., was supposed to bring qualifications to the City as specified in the RFP. The performance confidence evaluations assessed the contractor's performance under previously awarded contracts. Groslimond presented references from their own associates. He urged the City to not move forward with Groslimond as the Tennis Center contractor. The City can make the right decision on this public contracting. There was a price increase included in the Groslimond contract as well. This contractor should not be chosen due to them not being honest.

PRESENTATIONS

1. Proclamation for Cub Scouts 50th Anniversary – Mayor Galambos

Mayor Eva Galambos asked the Cub Scouts to the front. She read the proclamation which states: Cub Scouts Pack 236 is celebrating its 50th Anniversary. The purpose of the Cub Scouts is to provide an educational program for boys and young adults to build character, learn citizenship and develop personal fitness. The Cub Scouts is a year-round family program that develops ethical decision-making skills for boys in the second through fifth grade. Activities include a focus on respectful relationships, personal achievement, friendly service and adventure. The Cub Scouts Motto is: Do Your Best. Previous Cub Scouts from Pack 236, now Boy Scouts, recently helped the City label more than 200 storm drains throughout Sandy Springs. The City of Sandy Springs recognizes and congratulates Cub Scout Pack 236 on its 50th Anniversary. She proclaimed December 4, 2012, Cub Scout Pack 236 Fiftieth Anniversary Day in the City of Sandy Springs.

Drew Evangelista, Cub Scouts Pack 236 Leader, thanked the Mayor and Council.

2. Final Report on North Fulton County Voter Initiative – Julia Reed, Fulton County Department of Registration and Elections

Julia Beatrice "JB" Reed, Esq., MBA, Voter Education Specialist for North Fulton County, stated with the November 6, 2012 election, this is hopefully just the first phase of the North Fulton County education and registration initiative. The initiative is a strategic endeavor that was started as a result of the 2012 Presidential election. Concerns from Mayors, Councilmembers, and the elections office were that the cities in North Fulton County are not receiving adequate services from the Department of Registration and Elections. This project was a collaborative venture that included the North Fulton Municipal Association, Greater North Fulton Chamber of Commerce, Commissioners Liz Houseman and Tom Lowe, as well as numerous businesses and residents. The final report summarizes the activities and results of the venture. There are recommendations to the various City Councils and the Mayors. When the plan was designed there was hope to lay a grassroots foundation for organizing and education among residents. There is also hope City officials will extend beyond the twelve month period of the initiative. She suggested the office of the City Clerk continue promoting voter registration, education, and participation activities. She hopes that the volunteers and others that have collaborated on the venture this year will continue in subsequent years. One of the challenges that occurred repeatedly was the lack of information the residents received. The various cities are encouraged to update their websites with more voter registration information. When new voters were registered in Sandy Springs, the residents were

told that Mayor Galambos would like anyone from Sandy Springs to identify that they are from Sandy Springs and not any other jurisdiction. An adequate job was done of notifying residents of three options for participating in the electoral process. The options include: voting by absentee ballot, voting early in person, and voting on election day. Sandy Springs was the first city to send direct mailings to the eligible but inactive voters. There is a tremendous voting power in North Fulton County, particularly in Sandy Springs. Generally only 9 to 12% of all eligible voters in Fulton County routinely vote in non-Presidential elections. North Fulton County has over 36% of the voting population for the whole county. If only half of the Sandy Springs residents voted, it would have a significant impact on the decisions of what happens in Fulton County, specifically North Fulton County. The first part of the report includes a summary of the evolution of the North Fulton voter initiative. The second part of the report addresses qualitative data. The twelve month voter initiative period was divided into three parts that included voter education, registration, and participation. Included in the report is a chart for each round. The report lists the type of activity, date of activity, location of activity, and whether the activity was region wide or unique to Sandy Springs. Regarding the qualitative data, the biggest challenge is that the business community needs to be involved more in the voter registration process. Voter registration is considered a solicitation activity by most businesses. Jay Saperstein and the Equinox Group allowed the first formal voter registration at the Sandy Springs Shopping Plaza. This voter registration can be used to build upon to get other businesses in Sandy Springs and North Fulton to recognize that voter registration drives near businesses is a very good thing. Every time she sent out a note to solicit Deputy Registrars, the first person to respond was Mayor Galambos. She thanked Mayor Galambos for participating in the voter registration. Between November 2011 and November 2012 the number of registered voters in North Fulton County increased by 18,886 or 9.2%. The number of inactive registered voters in North Fulton County decreased by over 4,000 or 12.5%. The estimated number of eligible voters decreased by almost 15,000 or 36%. Sandy Springs is the largest city in North Fulton County. The difference between November 2011 and November 2012 was almost 6,500 voters, which is 1/3 of the voters in the North Fulton County total. The number of inactive voters in Sandy Springs was decreased by almost 1,700 voters. On January 17, 2012, Sandy Springs signed a resolution to support the voter education initiative. On behalf of the Fulton County Department of Registration and Elections, she presented Mayor Galambos with a plaque which is a framed copy of that resolution.

Mayor Eva Galambos thanked Ms. Reed for all her hard work. There were many complaints when Sandy Springs residents were notified of their precincts, because they were addressed to Atlanta and not to Sandy Springs. The Sandy Springs precincts were listed as Atlanta as well. She hopes that this does not occur again.

Ms. Reed stated she will take this message back to the Director of the Fulton County Department of Registration and Elections.

PUBLIC HEARINGS

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

Alcoholic Beverage License

(Agenda Item No. 12-289)

1. Approval of Alcoholic Beverage License Application for Café Posh at 4920 Roswell Rd Suite 14 Sandy Springs, Georgia 30342. Applicant is Simona Edery for Consumption on Premises, Wine & Malt Beverage

Revenue Supervisor Brandon Branham stated this item is a new application for consumption on premises of wine and malt beverage. The applicant has met all requirements and staff recommends approval.

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

Motion and Vote: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 12-289, the Alcoholic Beverage License Application for Café Posh at 4920 Roswell Rd Suite 14, for Consumption on Premises of Wine & Malt Beverage. Councilmember Fries seconded the motion. The motion carried unanimously.

Rezoning

(Agenda Item No. 12-290)

2. **RZ12-009/CV12-011** - Northeast Corner of Spalding Drive at River Exchange Drive, *Applicant: Dunwoody Place Venture, LLC*, To rezone the subject property from C-1 (Community Business District) conditional to A-L (Apartment Limited District) to allow construction of a senior apartment building, with concurrent variances

Manager of Planning and Zoning Patrice Dickerson stated this item has been deferred a couple of times at the request of the applicant. The applicant is proposing a senior apartment building on the property. Staff is recommending approval conditional of the request to rezone and the three concurrent variances. The case was also heard by the Planning Commission and they recommend approval as well.

Kevin Curry, Representative of Selig Enterprises, stated the applicant is seeking a rezoning and three concurrent variances. The first variance is for the rezoning of an undeveloped parcel from C-1 conditional to A-L apartment limited. The project is a four story senior living facility with 130 units on about four acres of land. The economic impact is approximately forty permanent jobs and hundreds of construction jobs. The project will cost $10 million or more. The proposed use falls within the City's Comprehensive Land Use Plan of live/work communities. The project will have no school impact and marginal traffic impact. The applicant is requesting a parking reduction of 1.25 parking spaces per unit to .85. The applicant is also asking to allow for a small amount of parking within the front building line and reducing the front landscape strip from forty feet to twenty-two feet. There are two issues related to where the building is located, parking fields, and the drive isles. These issues are the basis of the variance requests. This property is located within the river corridor. In regards to the parking variance, historically about thirty-five percent of the residents will be active drivers. The landscaping area located at the front of the project will not be less than forty-five from the street curb to the parking curb. There is a minimum twenty-two foot landscape strip from the property line to the parking curb with most of the strip being twenty-eight feet or more. This would ensure adequate access for visitors. Approximately forty percent of the site is landscaped or undisturbed. There will be about four acres of undisturbed forest that is not within the site, but will permanently be undisturbed. The applicant thinks the project would be great for the City, community, and the owner. The project would be a great tax source with low impact on the infrastructure.

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

Motion and Second: Councilmember Paulson moved to approve Agenda Item No. 12-290, **RZ12-009/CV12-011** - Northeast Corner of Spalding Drive at River Exchange Drive, *Applicant: Dunwoody Place Venture, LLC*, to rezone the subject property from C-1 (Community Business District) conditional

to A-L (Apartment Limited District) to allow construction of a senior apartment building, with concurrent variances. Councilmember Fries seconded the motion.

Staff conditions:

1. To the owner's agreement to abide by the following:
   a. Senior housing and associated accessory uses at a density of 31.71 units per acre or 130 units, whichever is less.

2.

   a. To the site plans received by the Department of Community Development on August 28, 2012 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. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, 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 the first Certificate of Occupancy.

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

   a. Variance from Section 18.2.1. of the Zoning Ordinance to reduce the required off-street parking for an Residential Senior Housing from one hundred sixty-three (163) spaces to one hundred ten (110) spaces (CV12-011).

   b. Variance from Section 18.3.1.D of the Zoning Ordinance to allow parking within the required front yard setback. (CV12-011).

   c. Variance from Section 4.23.1.A of the Zoning Ordinance to reduce the required 40 foot front landscape strip to 22 feet. (CV12-011).

Councilmember Karen Meinzen McEnerny stated she is thrilled to see how much greenspace the applicant will include in the project. She supports the use of the property for senior living. She asked why the applicant decided to reserve so much land for greenspace.

Mr. Curry stated the applicant wants to make the property convenient for walking to the adjacent properties.

Councilmember Dianne Fries asked if the applicant will have a sidewalk that goes to the shopping center.

Mr. Curry responded yes.

Councilmember Tibby DeJulio asked when the project is anticipated to start.

Joe Rogers, applicant, stated he will submit for the LDP as soon as the rezoning is approved.

Councilmember Gabriel Sterling asked if this property will be zoned only to be a senior living facility.

Manager of Planning and Zoning Dickerson responded yes, that is included in the conditions.

Councilmember Chip Collins asked how senior living is defined in the conditions.

Manager of Planning and Zoning Dickerson stated the property would have to be deed restricted based on the approved conditions.

Vote on the Motion: The motion carried unanimously.
Ordinance No. 2012-12-36

Zoning Modification

(Agenda Item No. 12-291)

3. **201202129** - 5730 Glenridge Drive, *Applicant: 5730 Glenridge Partners LLC*, To modify conditions 4 & 6 of Z79-0074 to allow driveway access onto Glenforest Road

Manager of Planning and Zoning Patrice Dickerson stated this item is a request to modify conditions 4 and 6 of Z79-0074 to allow driveway access onto Glenforest Road. Staff does not have a recommendation at this time due to pending litigation.

Pete Hendricks, Representative of the applicant, stated the applicant went through discussions with MetLife across the street. Ed Ellis submitted the proposed plan on how the driveway would operate. The focus is no intrusion or invasion to the residential neighborhood. Also submitted to the City on November 28, 2012, was a letter that discussed other City policies for which the traffic improvement would be a fit. A private agreement was entered into between the neighbor and the applicant in regards to a wall and the signage to be placed at the Glenridge property by the applicant.

Ed Ellis, Kimley-Horn and Associates, stated in 2010 traffic counts were performed at the medical center driveway during a full business day. The volumes were fairly low and primarily orientated towards I-285. There were traffic counts for the neighborhood from the MetLife project as well. The conclusion is the volumes combined are very low and less than thirty per hour. Primarily in the morning the medical center traffic is inbound and the neighborhood is outbound. The reverse occurs in the afternoon. The compatibility for the project is there and the traffic volumes are low. When the MetLife project begins, he believes the green light time for the traffic signal will increase on the MetLife side. Three policies adopted by the City are very much in line with the proposal. These policies deal with connections and congestion. At this access point, the traffic from the medical center will not pass any homes or any driveways to homes. He referenced the map pointing out the center line that will be a raised curb a vehicle cannot cross.

Councilmember John Paulson asked if the Councilmembers have a copy of the map that is being referenced.

Councilmember Dianne Fries responded no, Council just received this document.

Mr. Ellis stated the applicant is proposing to build a driveway off the parking lot of the medical center building to create a driveway to Glenforest Road.

Mayor Eva Galambos asked if this area is the parking lot on the front of the property or at the rear of the property.

Mr. Ellis responded the front. The green area is a raised island that a vehicle could not cross. The line in the middle of the drawing would be a raised curb. No vehicle would be able to turn left from the medical center driveway because the curb could not be crossed. As a vehicle comes into the driveway it would

narrow to the point where it would be impossible to turn right. These types of projects have been completed on driveways for residential areas. If one was driving through the neighborhood it would be impossible to turn right into the driveway, but one could turn left.

Councilmember Karen Meinzen McEnerny asked if a car could turn into the neighborhood.

Mr. Ellis responded no. A vehicle could not drive over the raised curb. The curb will be higher than a normal six inch curb to not allow even a large vehicle to drive over it. The curb would be marked and signed properly. The driveway does not pass by the front of a house, but is all orientated towards Glenridge Drive. When the drivers try to turn left out of the medical center driveway, it is extremely difficult. The traffic out of the office complex backs up in the afternoon.

Mayor Galambos asked if the drivers coming out of the medical center parking lot have any effect on Glenforest neighborhood drivers trying to get onto Glenridge Drive.

Mr. Ellis responded no, because the traffic volume is not that heavy.

Mayor Galambos asked what the traffic count is for entering and exiting the subdivisions at various times of day.

Mr. Ellis stated the medical center driveway was counted for eleven hours in one day and the Glenforest Subdivision was counted for the same eleven hours. The project would improve safety and not have a negative impact on the neighborhood.

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

Ralph Edwards, Owner of the medical building, stated it is important to keep the value of the medical center and to provide access to the building. He has tenants in the building that will not locate in a facility where safety is at risk. He cannot lease the building if he cannot provide adequate access on a long term basis, which includes safety. The building is seventy percent occupied and needs to be ninety percent occupied. He cannot lease the rest of the space unless he can provide assurance that the tenant's clients can access the building safely.

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

Doug Falciglia, 5925 Brookgreen Road, stated he is the President of the Glenridge Hammond Neighborhood Association. The owners of the Glenridge medical building knew exactly what they were buying when they purchased the property in 2005. The owners have purchased millions of dollars of property over the country and did their due diligence prior to buying this property. The owners knew the zoning conditions prohibited access to Glenforest and the twenty-five foot undisturbed natural buffer was required. The applicant knew what the traffic conditions along Glenridge were and they are no different today. The neighborhood knew that the Lakeside development across the street could change and become denser, which would mean greater traffic along Glenridge Drive. The City's 2004 Land Use Map shows the Lakeside property as a live/work designation as it is today. A changed use of the property from office with an a.m./p.m. commute to retail/medical increased traffic throughout the day. The medical office building owner took risks that apparently were not the best decisions. The property owner is now appealing to the City to fix the problem at the expense of a protected neighborhood. There are no new buildings on the Lakeside property. No one will know the extent of the impact on the Glenridge medical building until the commercial office property is fully developed. The residential component will have little if any impact on the Glenridge medical situation. Traffic studies done for the Lakeside property indicated the highest concentration of additional traffic will occur at the end of the day. A simple solution

is to hire a traffic police officer for a couple of hours in the afternoon when traffic is the heaviest. Many nearby neighbors have expressed concerns about neighborhood safety. When Sandy Springs became a City, the citizens were assured the neighborhoods would be protected. Neighborhood protection is written in the City's Comprehensive Plan Policy and is included in the original zoning conditions of the parcel. He asked that Council follow through with protecting the neighborhood and deny this request.

Nancy Leathers, Leathers Consulting, stated she is a consultant to the neighborhood. In 2007, Council adopted the Comprehensive Land Use Plan and Glenforest was defined as a protected neighborhood. Also discussed at that time was that the residential neighborhoods are the heart of Sandy Springs. This neighborhood was defined as protected because it is a single family neighborhood that provides a range of houses for a range of ages. Staff has done a good job in the staff report of indicating the Land Use policies that apply to the property. The policies regarding protected neighborhoods that are particularly helpful are the protection of the character and integrity of the existing neighborhoods. The protection of neighborhoods would maintain firm and visible boundaries for the protected neighborhoods, preventing encroachment. In addition, discussed were transitional areas, which includes the medical office building, that transition from the high intensity uses across the street towards the neighborhood. The Land Use plan provides that when a rezoning or use permit is received in a transitional area, staff should stipulate and regulate through conditions the location of parking, the placement of accessory uses, buffers, tree protection, and anything else that may protect the neighborhood from a more intense use. The Land Use plan discusses screening, separations, and buffers in transitional areas and vehicular access. Egress from businesses onto residential streets is strongly discouraged, if not prohibited. The proposed curb cut has two major impacts on the neighborhood. The curb cut would place commercial traffic on the subdivision street. There is no way to prevent that traffic if there is a curb cut at this location. There is a twenty-five foot buffer condition that has been in place since 1979, from Fulton County, to protect the neighborhood from the impact of non-residential use. The curb cut would make the property look commercial to someone coming into the subdivision. The standard would be set for the subdivision with a commercial driveway. The policy of not allowing commercial access onto residential streets has been in place since the City adopted the Comprehensive Land Use Plan. This issue has been dealt with before along Roswell Road for commercial uses that have requested access onto subdivision streets. Council did enforce the prohibition of providing commercial access to the residential streets as a way of protecting the neighborhoods. There is a need to provide protection for the neighborhoods. People are investing in their homes, partly because Council has supported this policy over the years since Sandy Springs became a City. As a result, there are new investments in the Glenridge Forest - Hammond Hills neighborhood that might not have occurred if that protection were not provided. She asked that Council support the City's existing policies and not approve this request.

Gerald Monash, 5795 Timberlane Terrace, stated he will address the applicant's concern that the building cannot be leased with the existing access and traffic. He has been in the real estate business for thirty years and has a CCIM designation and owns a commercial real estate company. In order to accurately analyze the position of the property, one needs to understand the market. The subjects micro market consists of eleven buildings totaling over a million square feet of comparable Class B medical space. The applicant is advertising the building as Class A, but it is not. The King and Queen building are considered Class A. The medical building is considered by appraisers and real estate professionals to be Class B. The total third quarter occupancy of buildings within this micro market ranges from 21.6% to 100%, with an average of 75.9% percent. The applicant has stated his building is 70% leased. The average lease rate of available space within the same micro market area is $21.03 per square foot. The last lease completed at the GM building in February 2011 was Atlanta Ophthalmology Associates for 11,000 square feet at $25 per square foot. The conclusions reached by this data are obvious. The GM building is performing at or slightly above its comparable market in respect to occupancy and rent. If the property was suffering as a result of access or traffic, it would reflect negatively in the statistics. In fact,

the property owners have repositioned the GM building to a medical office building. The owner took the building in 2008 from zero occupancy to 70% occupied currently.

Steve Oppenheimer, 5815 Pine Brook Rd NE, stated he is going to share concerns from his neighbors, Jim and Alisa Bruscotta, who could not attend this evening. The Bruscotta's have three children that are eleven, nine, and six years old. Due to the traffic there is great concern when the children are riding their bicycles and walking their dog. There are speed bumps on Glenforest Road already, which is recognition that there is cut through traffic.

Mr. Hendricks stated he does not believe this is a subdivision street, but instead a public road that goes from Glenridge Drive to Hammond Drive. The applicant is very respectful that the neighborhood is a protected neighborhood. The owner purchased the property in 2005 and that was before the approval of the zoning for the MetLife property. As far as policy is concerned regarding land use and protected neighborhoods, it states to protect the character and integrity of existing neighborhoods while also meeting the needs of the communities. The property owner is part of this community and has needs for the property, and the needs have been exacerbated by the approval of the MetLife zoning. He asked that Council work with the applicant and not put the applicant in a worse situation.

Mr. Ellis stated traffic engineers try to avoiding having a police officer work traffic duty at locations due to traffic queuing.

Mayor Galambos closed the public hearing.

Motion and Second: Councilmember Collins moved to deny Agenda Item No. 12-291, **201202129** - 5730 Glenridge Drive, *Applicant: 5730 Glenridge Partners LLC*, To modify conditions 4 & 6 of Z79-0074 to allow driveway access onto Glenforest Road. Councilmember Meinzen McEnerny seconded the motion.

Councilmember Tibby DeJulio stated he has had many discussions with the residents of this neighborhood. Throughout the history of this property there have been negotiations in bad faith. Mr. Hendricks stated the property owner would live up to the agreement of installing the wall at just over six years after the agreement was signed. The agreement was signed November 9, 2006. He appreciates people living up to their word, but six years is too much time. This property was rezoned and conditions were placed on the property. The residents have to feel they can trust commitments that are made by the Council and restrictions placed on zoning. This application should not keep coming back to Council on a continual basis. The City has repeatedly promised citizens in residential areas that their quality of life will not be decreased. Yet, approving this application would decrease the citizen's quality of life. There are many neighborhoods in Sandy Springs that could have commercial intrusion. The applicant is trying to blackmail Council into approving this application. This is the first time where a zoning application and lawsuit were filed against the City at the same time. If that is the case, the developers in Sandy Springs will submit a zoning application and file a lawsuit so that Council will approve the application. He does not feel that the City or Council should be blackmailed into approving zoning. This is a precedent that will destroy the City, if every real estate attorney and developer realized all they have to do is sue the City to get what they want. Based upon these points, he is in favor of denying this application.

Councilmember Gabriel Sterling stated he is torn in two different directions on this application. He appreciates the concerns of the neighborhood and also the medical office building owner. He will offer a substitute motion to allow the two parties to try to renegotiate.

Substitute Motion and Second: Councilmember Sterling moved to defer Agenda Item No. 12-291, **201202129** - 5730 Glenridge Drive, *Applicant: 5730 Glenridge Partners LLC*, To modify conditions 4 &

6 of Z79-0074 to allow driveway access onto Glenforest Road, to the January 15, 2013 City Council meeting. Councilmember Fries seconded the motion.

Councilmember Sterling stated Council received new information today regarding the application that had not been reviewed, yet. He would like to review this information first. If a negotiation between both parties is reached, he wants the agreements placed in the conditions. He asked if the conditions were not met, why didn't City staff say they were not met.

Councilmember Fries stated there was a private agreement that was not part of the conditions.

Councilmember Sterling stated the private agreement should be included as part of the conditions, so the City can oversee the conditions.

Councilmember Meinzen McEnerny asked if the pending litigation could be described.

Assistant City Attorney Cecil McLendon stated City Attorney Wendell Willard is handling the litigation. There has been litigation filed regarding the property in relation to the approval of the Lakeside project and the allegation that the project has a detrimental impact on the property rights of the medical office building. The issue is pending litigation against the City based upon the approval of the zoning case across the street from the applicant's property.

Councilmember Meinzen McEnerny asked if the pending litigation deals with the applicant's request to add an entrance.

Assistant City Attorney McLendon stated he does not believe that is the case.

Councilmember Meinzen McEnerny stated she feels the City is being blackmailed. The City's Comprehensive Land Use Plan is not being respected by the community of developers. The proposed application does not protect the neighborhood. There are agreements in place and the homeowners do not want a commercial entrance. The property owner has an above average leasing rate at $25 per square foot for 11,000 square feet. The property owner is doing very well and the interior renovations have been well received in the community. To destroy a residential neighborhood's access through a pending litigation is objectionable.

Councilmember Fries stated this is a difficult decision for her to make. If this item is deferred by Council, she suggested to the applicant that the left turn into the office complex be removed. The City should follow its own comprehensive plan as a guide. The neighborhoods are important to the City. She lives in a neighborhood that has access to a shopping center from the residential street, and it is not a problem. She does understand the concern the neighbors have. Having only a right hand turn onto the street would help alleviate concerns, along with a long center island that would allow no drivers to cut through the neighborhood. She feels different in regards to the blackmail. This situation is awkward and she does not like it, but it will not affect how she votes on this item. She will vote based on what she truly believes is best for the building, neighbors, and the City.

Councilmember Chip Collins stated the building is beautiful and Mr. Edwards has done a great job with this building. He does not see this item as a close call. Council does need to be consistent, so the public and developers can make decisions based on what Council has done in the past. Approval of this item would be an inconsistent with Council's previous decisions. Council approved the zoning at the Lakeside property because the case was settled. The case was settled presumably because Council thought the neighborhood approved of the changes for the zoning. The neighborhood would never have approved of the Lakeside zoning if this application was part of the deal. Therefore, Council would not have approved

the Lakeside zoning. When the Lakeside property owner first came to Council with a traffic study, it was stated their development would not impact this intersection. This was due to the additional lane for I-285. Council needs to ensure the neighborhoods are preserved. There was a suggestion of a deferral for this item. He asked what has been happening for the last 120 days while this application has been going through the process. He received a call this evening about a potential compromise between the neighborhood and property owner. Both sides have had that chance. If this item is denied, the applicant can reapply in six months. He does not support this application and will vote for a denial.

Councilmember Sterling asked how long an applicant has to wait to submit another application after one is denied.

Manager of Planning and Zoning Dickerson responded six months.

Councilmember John Paulson stated he is familiar with the policy regarding intrusions into a neighborhood and understands it. Many years ago there was an eleven acre development along the north east corner of GA400 and Northridge Road. The developer had bought one of the lots in the neighborhood to turn into a cut through. There would have been entrances and exits off Northridge Ridge Road, but also a side entrance that came off the property and through the neighborhood. The emails he has received discuss the traffic from the office complex entering the neighborhood. The concept of a right hand turn only at this intersection will cause no more traffic to enter into this neighborhood. He agrees with the suggestion that there not be an entrance from Glenridge Forest into the medical office complex. He struggles to see the intrusion into the neighborhood by putting a right hand turn only exit from this development to the traffic light.

Councilmember Fries asked if there was a right hand only turn out of the office complex, would there be enough room to move the turn closer to the main road.

Ms. Leathers stated there is a twenty-five foot buffer on the north property line. There is property that can be dedicated, if property is taken from the curb cut to the east. There may be remaining buffer on the west side of the property. A driving lane could be fit into this area and vehicle stacking would occur in the parking lot as opposed to on the street. Council is trying to provide protection for the neighborhood by keeping as much of the twenty-foot buffer on the north of the property as possible. What is shown on the proposed map would remove the buffer. Almost anything that is done in terms of a curb cut does away with the buffer providing protection to the residential properties and makes the area look like a commercial intersection.

Councilmember Meinzen McEnerny stated the tree cover is very important to this neighborhood. Originally, there were representations made as to trees that would be saved in this buffer area. It is not just the buffer, but the tree buffer that been lost. This has been done despite the understanding from the neighborhood that some of the trees would be saved. This is more than reconfiguring a commercial entrance. This is taking away greenspace that has mature trees on it.

Mayor Galambos stated she drove to the property yesterday and spent quite some time walking to the rear parking lot. She does think the subdivision needs a better buffer. She is upset that there is no elegant entrance into one of the best neighborhoods in Sandy Springs. The homeowners have the most beautiful, large, heavily wooded lots for young families, but no elegant entry. It is about time the homeowners have an elegant entry. The neighborhood does not have good traffic calming and it needs to be improved. She sailed right over the speed bumps, because they were not high enough. This is an opportunity for the neighborhood to negotiate with the applicant for a nice entrance. She envisions flowers near this entrance. Traffic can be improved if the left turns can be stopped leaving the front of the building. If a curb cut is constructed, left turns should not be made out of the front entrance. There are a lot of things

that can be negotiated between the neighborhood and the applicant that have not been pursued. There was an agreement between the applicant and neighborhood that was not part of the zoning conditions. She does not want that to occur again. She wants any agreement to be included in the conditions, so the City can ensure trees and shrubs are in place for a transition. She will vote in favor of the deferral in the hope the neighborhood will speak to the applicant for a negotiation.

Vote on the Substitute Motion: The vote was split 3-3 with Councilmembers Collins, Meinzen McEnerny, and DeJulio voting in opposition to the motion. Mayor Galambos voted in support of the motion to break the tie. The motion carried 4-3.

Council took a ten minute break at 7:33 p.m.

CDBG Public Hearing

(Agenda Item No. 12-292)

4. Community Development Block Grant (CDBG) Program Update and 2013-2017 Consolidated Plan Public Hearing

Manager of Planning and Zoning Patrice Dickerson stated this program is overseen by the U.S. Department of Housing and Urban Development. The program funds local community development activities such as affordable housing, anti-poverty programs, and infrastructure development. The City is required to meet one of three national objectives. Under the previous five year plan, the City decided to benefit low to moderate income persons. As a part of the consolidated plan for the next five years the City is required to use data collection that includes public hearings and public meetings on community needs. The City has been a CDBG entitlement community since 2008. The 2008 to 2012 consolidated plan is the multi-year sidewalk project, which is currently under construction. The sidewalk project included two phases. One phase was from Dalrymple Road to Northridge Road along Roswell Road. The second phase is from Northridge Road to the Chattahoochee River. The project also included a section of sidewalk on Hightower Trail. To date, the City has received about $2.7 million in CDBG funds. The City's CDBG fund balance is about $950,000. The invitation to bid for the first mile and a half of phase one was put out in May 2011. The project was substantially complete as of June 2012. There is about $217,000 left to spend to complete this portion of the project. Phase two from Northridge to the Chattahoochee River will take about $1.25 million to complete.

Councilmember Dianne Fries asked how much money is in the CDBG fund.

Manager of Planning and Zoning Dickerson stated the fund balance is $950,000.

Councilmember Fries asked if that balance is after the City pays the $217,000.

Manager of Planning and Zoning Dickerson responded no.

Mayor Eva Galambos asked if the second phase of the project has been funded.

Manager of Planning and Zoning Dickerson stated the remaining funds will be used towards phase two. The initial recommendation from staff is to continue the project in the next two to three years of the new five year plan, which would cover the remaining portion of phase two. HUD adopted a new electronic consolidated planning software that began this year and the City is required to use that system to prepare their plans. Including this public hearing, staff will have an open house regarding the new consolidated plan and a needs assessment with the community and various agencies in January. The final plan is required to be submitted to HUD in 2013.

Councilmember Fries asked how long it will take the City to collect enough money for phase two of the project.

Manager of Planning and Zoning Dickerson responded until 2015. The funds through 2015 should cover phase two.

Councilmember Fries asked if there is a mechanism to keep the project moving before the City receives the money, but knowing that the funds will be received by the City.

Mayor Galambos stated staff does not know if the City will receive the money, which is part of the budget negotiations in Washington.

Councilmember Tibby DeJulio asked if the City is allowed to finance the project and obtain reimbursement from the government.

Manager of Planning and Zoning Dickerson stated the City would be eligible to be reimbursed, but the City has to go through the five year consolidated plan to do that.

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

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

(Agenda Item No. 12-293)

1. Request Waiver of Late Fees and Penalties for 2010, 2011 & 2012 Business Occupational Tax Certificate for Resurgens Surgery Center at 5671 Peachtree Dunwoody Rd Ste 800 Sandy Springs, GA 30328

Revenue Supervisor Brandon Branham stated Resurgens Surgery Center was previously part of Resurgens P.C. The business was transferred to the City's business accounts from Fulton County in 2006. Resurgens P.C. was paying and is still paying the business tax. However, Resurgens Surgery Center separated in 2010 and obtained their own tax ID, requiring them to pay business taxes. Resurgens Surgery Center did not know this at the time. In 2012, once the business discovered they are required to pay taxes, they came to the City and applied for a business license.

Councilmember Tibby DeJulio asked what has been done in the past when similar situations have occurred. He asked if the City waived the penalties, but not the interest.

Revenue Supervisor Branham stated in the past Council approved waiving half of the fee and penalties for each year.

Councilmember Dianne Fries stated the company that is being referenced did not come to the City voluntarily as Resurgens Surgery Center did.

Mayor Eva Galambos stated there was a mistake on the address for the notice that was sent to one of the companies.

Councilmember Fries stated it still amazes her that people do not realize when they have a business they have to pay a tax.

Councilmember Chip Collins stated this situation is different because the company was part of a business that was paying taxes and continues to pay a taxes.

Motion and Vote: Councilmember Collins moved to approve Agenda Item No. 12-293, Request for Waiver of Late Fees and Penalties for 2010, 2011 & 2012 Business Occupational Tax Certificate for Resurgens Surgery Center at 5671 Peachtree Dunwoody Rd Ste 800 Sandy Springs, GA 30328. Councilmember DeJulio seconded the motion. The motion carried unanimously.

(Agenda Item No. 12-294)

2. Consideration of a Resolution Reappointing Two Members to the Board of Ethics of the City of Sandy Springs for a Second Three Year Term

Mayor Eva Galambos recommended reappointing Stuart Steinmark and Ted Sandler as members of the Board of Ethics for second terms.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 12-294, Resolution Reappointing Two Members to the Board of Ethics of the City of Sandy Springs for a Second Three Year Term. Councilmember Fries seconded the motion. The motion carried unanimously.
Resolution No. 2012-12-82

(Agenda Item No. 12-295)

3. Consideration of Acceptance of the Donation of a Sculpture for Allen Park

Director Recreation and Parks Ronnie Young introduced North Fulton attorney, Jay Block. A couple months ago Mr. Block requested to be allowed to make a donation on behalf of his late son, David Robert Block. Council is being asked to consider Mr. Block's donation of a sculpture of two kids playing on a turtle. The sculpture would be placed in Allen Road Park in memory of his son. Mr. Block will pay the expenses for the 40 X 60 cement base for the sculpture and a 6 X 3 memorial plaque.

Councilmember Karen Meinzen McEnerny asked if the sculpture would be located near the stream.

Director Recreation and Parks Young stated the sculpture would be located above the stream on the flat area adjacent to the playground along Allen Road.

Councilmember Tibby DeJulio asked what the sculpture is made of.

Director Recreation and Parks Young responded bronze.

Councilmember Dianne Fries asked what is in the child's hand.

Mr. Block stated he believes what is in the child's hand is something to urge the turtle forward.

Councilmember Meinzen McEnerny stated she drives by the park quite often. She thanked Mr. Block for such a generous gift.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 12-295, Acceptance of the Donation of a Sculpture for Allen Park. Councilmember Paulson seconded the motion. The motion carried unanimously.

(Agenda Item No. 12-296)

4. A Resolution to Adopt the City of Sandy Springs 2013 Planning and Zoning Schedules

Manager of Planning and Zoning Patrice Dickerson stated this item is the annual adoption of the annual planning and zoning schedules that takes place after adoption of the City Council meeting schedule.

Councilmember Dianne Fries asked about the City Council meeting on election day in 2013 that was rescheduled.

Manager of Planning and Zoning Dickerson stated the Planning and Zoning meetings do not occur on the same evenings that City Council meetings are held.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 12-296, A Resolution to Adopt the City of Sandy Springs 2013 Planning and Zoning Schedules. Councilmember Fries seconded the motion. The motion carried unanimously.
Resolution No. 2012-12-83

(Agenda Item No. 12-297)

5. Approval for the Mayor to sign the List of Roadways for submittal to GDOT for funding under the Local Maintenance and Improvement Grant

Interim Director of Public Works Garrin Coleman stated the City has a $574,000 grant that staff would like to use for road paving in the next paving cycle beginning in early spring. There is a list of roads with approximately twenty-five projects that equal 4.6 miles. Some of the roads Pavement Condition Index (PCI) ranges in the 20's, but most of the roads are in the 30's. Staff has looked at including the worst streets and any side cul-de-sacs. There is a thirty percent local match required which is approximately $172,000. The total list of roads has an approximate construction value of $815,000.

Councilmember Dianne Fries asked when the paving will begin for the roads.

Interim Director of Public Works Coleman responded early spring 2013.

Councilmember Gabriel Sterling asked if the money has been budgeted.

Interim Director of Public Works Coleman responded yes, and there are cost savings money left from phase two that was just completed. This money will fund some of the project.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 12-297, For the Mayor to sign the List of Roadways for submittal to GDOT for funding under the Local Maintenance and Improvement Grant. Councilmember Paulson seconded the motion. The motion carried unanimously.
Resolution No. 2012-12-84

REPORTS

1. Mayor and Council Reports

   a) Addition of Member to Economic Development Advisory Committee – Mayor Galambos

Mayor Eva Galambos stated Charlie Roberts was moved to the Design Review Board, which left a vacancy on the Economic Development Advisory Committee. She recommended Richard Munger fill the

position. Mr. Munger is a North American Properties Manager and has apartment management knowledge.

Motion and Vote: Councilmember Fries moved to approve the nomination of Richard Munger to the Economic Development Advisory Committee. Councilmember Sterling seconded the motion. The motion carried unanimously.

2. Staff Reports
   a) Report on 150 Hilderbrand Drive – Assistant City Attorney

Assistant City Attorney Cecil McLendon stated this item is an update on the status of a property acquisition authorized at a previous meeting. Included in the agenda package is relevant documentation regarding the transaction, which includes the purchase and sale agreement, settlement statement, and deed of assent.

   b) Update on Permit Go! – Director of Community Development

Director of Community Development Angela Parker stated this item is an update on changes that have been made to the permitting process as well as an overview of the Permit Go! System. The new system allows citizens to check the status of permits online. Over the last few months staff has had an ongoing review of the development review and permitting process. A number of changes have been made without compromising quality, safety, and the environmental standards the City has. Staff focused on identifying projects to move through the process more quickly. This provides better guidance in the beginning, so those who apply for permits know what the requirements are. An example of this is "Call Before You Draw" advertised on the City's website. This encourages those who are going to apply for a permit to call and schedule a meeting with staff to go over the requirements prior to drawing. The Thursday review meetings have been extended as well. The Planner and Engineer of the day triage simple projects and move them through the review process more quickly. In many cases, staff is able to permit these projects the day of the application. To reduce construction waits, the call-in time for a next day inspection has been extended. There are projects that required special inspections that were not needed and this process has been modified. Staff has looked at home to combine the permit requirements along with the other requirements. These changes have allowed staff to reduce the permit review times. There are a few other improvements that are in process, but have not been completed. Staff has received feedback that some small businesses do not know what the requirements are for a permit. Staff is working on providing better information for this on the website.

Councilmember John Paulson stated the biggest issue citizens have is they do not know what is required for a permit application. The process was delayed due to a lack of documents that were submitted with the application. If the process is streamlined, the permit application process will go more quickly.

Director of Community Development Parker stated staff has had an ongoing dialogue with the Perimeter Chamber of Commerce. A survey was done from the sampling of those who had applied for permits over the last two years asking for comments or improvements that could be made. Now when an applicant picks up their plans, they are given a card with a QR code to scan that allows the applicant to give the City feedback on the process. The Permit Go! system is an online status system. This system will allow the applicant to check the status of their permit anytime of the day. City Plan Review Engineer Nathan Ippolito developed this system, which takes information from Munis, the City's permit tracking system, imports that information into Crystal reports, imports the information into Excel, and then it is placed online. Currently, the system will not work on an Apple product such as an iPhone. Staff is working on getting a quote that would allow Apple products to review this information. The system will work for the many different ways a user can enter a street address. Any project that has been permitted in the last six

months or a project currently in process will be in the system. If a citizen wants to come to City Hall and research permits, the entire permit history that can be researched on a computer at the front counter.

Councilmember Gabriel Sterling asked if when an online request is made it will pull the report at that time.

Director of Community Development Parker stated the system is not completely live, but it is refreshed daily. Ideally, staff would like the system to be live sometime in the future.

Councilmember Dianne Fries asked if there is a disclaimer on the website stating the system will not work with an iPad or other Apple product.

Director of Community Development Parker stated she will see that a disclaimer is added to the website.

Councilmember Karen Meinzen McEnerny thanked staff for their work on this project.

PUBLIC COMMENT

There were no public comments.

(Agenda Item No. 12-298)
EXECUTIVE SESSION – Land Acquisition and Litigation

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss land acquisition and potential or pending litigation. Councilmember Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnerny voting in favor of the motion. Executive Session began at 8:19 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Sterling seconded the motion. The motion carried unanimously, with Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnerny voting in favor of the motion. Executive session adjourned at 8:57p.m.

(Agenda Item No. 12-299)
ADJOURNMENT

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Sterling seconded the motion. The motion carried unanimously. The meeting adjourned at 8:57 p.m.

Date Approved: December 18, 2012

Eva Galambos, Mayor

Michael Casey, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

December 4, 2012

AFFIDAVIT FOR EXECUTIVE SESSION

Personally comes Eva Galambos, Mayor of the City of Sandy Springs, who on oath says that to the best of her knowledge and belief, on the 4th day of December, 2012, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

Discussion or voting on real estate matters pursuant to O.C.G.A, 50-14-3(b)(1);

Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved, pursuant to O.C.G.A. 50-14-2(1).

and that except for the foregoing, no portion of the closed meeting involved discussion, presentation, or action on any other matter.

Eva Galambos

Eva Galambos, Mayor

Sworn to and subscribed before me,
this 4th day of December, 2012.

Kelly L. Bogner

Notary public (SEAL)

KELLY L. BOGNER
NOTARY PUBLIC
MY COMMISSION EXPIRES OCTOBER 20, 2014
FULTON COUNTY, GEORGIA