

Regular Meeting of the Sandy Springs City Council was held on Tuesday, April 20, 2010, at 6:00 p.m., Mayor Eva Galambos presiding.

INVOCATION

Pastor Nate Bednar with Metropolitan Baptist Church offered the invocation.

CALL TO ORDER

Mayor Eva Galambos called the meeting to order at 6:00 pm.

ROLL CALL AND GENERAL ANNOUNCEMENTS

City Clerk Michael Casey reminded everyone to silence cell phones and pagers at this time. Additionally, those wishing to provide public comments, either during a public hearing or during the Public Comment section 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 Clerk.

City Clerk Casey called the roll.

Mayor: Mayor Eva Galambos present.

Councilmembers: Councilmember John Paulson, Councilmember Dianne Fries, Councilmember Chip Collins, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio and Councilmember Karen Meinzen McEnery present.

PLEDGE OF ALLEGIANCE

Mayor Galambos led the Pledge of Allegiance.

(Agenda Item No. 10-089)

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Jenkins moved to approve the Meeting Agenda. Councilmember DeJulio seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 10-090)

1. Meeting Minutes:
 - a) October 6, 2009 Regular Meeting
 - b) October 6, 2009 Work Session
 - c) October 20, 2009 Regular Meeting
 - d) November 17, 2009 Regular Meeting
 - e) November 17, 2009 Work Session
 - f) December 15, 2009 Regular Meeting
(Michael Casey, City Clerk)

(Agenda Item No. 10-091)

2. Plats Identified for Ratification since the January 19, 2010, City Council Meeting
(Nancy Leathers, Director of Community Development)

(Agenda Item No. 10-092)

3. Approval of the Construction Bids for the PCID Peachtree Dunwoody (I-285 to Abernathy Road) Living Centers Initiative (LCI) Streetscape Project (CSSTP-0006-00(984))
(Tom Black, Director of Public Works)

(Agenda Item No. 10-093)

4. Approval of the Intergovernmental Agreement (IGA) For the MARTA Funded Projects Currently Programmed in the Transportation Improvement Plan (TIP)
(Tom Black, Director of Public Works)

Motion and Vote: Councilmember Fries moved to approve the Consent Agenda. Councilmember Jenkins seconded the motion. The motion carried unanimously.

PRESENTATIONS

1. Proclamation for Arthur E. Katz

Mayor Eva Galambos presented a proclamation to Arthur E. Katz, a 2010 inductee of the United States Coast Guard Academy's Wall of Gallantry Hall of Heroes in New London, Connecticut. This is an honor that serves as a reminder to Coast Guard Cadets and the public the scope of responsibilities and sacrifice demanded of Coast Guard Officers.

PUBLIC HEARINGS

(Agenda Item No. 10-094)

1. Public Hearing on Public/Private Partnerships
(Presented by City Manager, John McDonough)

Mayor Eva Galambos called for public comments pertaining to the City of Sandy Springs Public-Private Partnerships.

Matthew Huyser, 637 Corbin Lake Court, stated he was a resident of Sandy Springs for six years. The public-private relationship used by Sandy Springs to keep the City functioning has placed it in an envious position. The simple fact that the City relies on private contractors to perform an immense amount of work on the City's behalf grants us a level of versatility and flexibility that most cities can't match. He believes in the power of well-written and well-executed contracts between the public and private sector, as long as there is strong oversight by a public representative. His experience comes from working in a federal government program that spends over one hundred million dollars each year on pre-bid contracts to complete dozens of short term projects. Through this process they maintain the freedom to have the best experts on each project, the ability to send a contractor home when they fail to meet the terms of their agreement, and the ability to quickly bring in someone else to finish the job. He finds that the versatility to meet unanticipated demands or change direction under adverse conditions is an attribute that government cannot meet without contracting with the private sector. The alternatives are building more government offices, staffing them with more government employees, and thus establishing long-term commitments that may be outdated or unaffordable after several years. In 2008, a few candidates for Sandy Springs City Council and for Mayor expressed their displeasure with what they described as a public entity being controlled by a for-profit corporation. This view is both naïve and short-sighted. The public-private relationship in Sandy Springs provides immense opportunity for our City to manage public funds and public interests wisely over the long term. He trusts that this Council and City employees will work hard to shape contracts and select providers that will serve the best interest of our citizens. More

importantly, he urges Council to preserve the unique way to conduct City business for the benefit of future generations.

Wayne Thatcher, 850 Waddington Court, stated he has been a resident of Sandy Springs for 40 years. He was a member of the original task force that put together the initial RFP for the public-private partnership. The task force was shared by himself, Oliver Porter, Carol Thorup, and Al Pond. In six months they went through the process of selecting the contract and executed the contract in December of 2005. He encouraged Council to come back to the group that has the experience and got the City started. He and the team volunteered to help in any way with the new RFP process.

Mayor Galambos thanked Mr. Thatcher for his offer and asked the members of the task force to stand and be recognized.

There were no additional public comments.

Mayor Galambos closed the Public Hearing.

City Clerk Michael Casey read the zoning rules.

Rezoning

(Agenda Item No. 10-095)

2. **RZ09-012/CV09-020** - 1120 Hope Road, *Applicant: 1120 Hope Road, LLC*, to Rezone the subject property from O-I conditional to O-I to allow medical and adult day care use in the existing building, with concurrent variances

Assistant Director of Planning and Zoning Patrice Ruffin stated this rezoning request was heard by the Planning Commission on February 18, 2010, and the Commission recommended approval. On March 16, 2010, the City Council required a deferral to allow the applicant additional time to prepare a more detailed analysis of their parking needs. Following that meeting the applicant submitted a revised site plan, withdrawing the requested concurrent variances related to parking, and modifying the square footage of the uses that were proposed to meet the parking that is provided onsite. Staff is recommending approval conditional.

Laurel David, Dillard and Galloway, LLC stated she is representing the applicant. 1120 Hope Road is zoned O-I for 40,000 square feet of general office building. There is an existing building onsite that is 31,743 square feet. Medside Home Health Agency purchased the property to create a mix of uses to include general office, medical office, and adult daycare. In order to do this, the applicant is asking Council to approve the rezoning application for those uses. All the variances requested are to bring the existing property into conformity with the Sandy Springs ordinance. The request to reduce the parking has been withdrawn and the conditions have been changed to reflect the uses that actually match the existing property. The variance requests are highlighted in yellow in the Council packet. The site plan shows 52 spaces on the property and 13 in the basement currently. The existing building has 20,732 square feet of general office. The owner proposes to remove the spaces in the basement and convert the basement to heated space. In the rear of the building an additional 21 spaces can be put in, which has been confirmed by an engineer, and an additional two spaces by the garage door entrance. This will result in a total of 75 spaces in the parking lot outside the building. The conditions reflect a mixture of uses that meet the 75 space parking requirement, which is why the applicant withdrew the parking variance request. The applicant hoped to work with a traffic engineer and spoke to several which stated there is no methodology that recognizes adult daycare. The ITE standards don't have it as a category. In order to submit a parking study to support the variance request, the applicant would have had to find an existing

adult daycare and park in the parking lot. The applicant proposes to have the mixture approved as shown and in the future, if it is found necessary to have a variance, return to Council for approval. The other variance requests are to allow the existing parking to encroach into the front yard; to reduce the landscape strip along the front property line; to reduce the ten foot landscape strip along the south side of the property line to accommodate the retaining wall; to reduce the ten foot improvement setback and the 25 foot zoning buffer along the north side of the property to accommodate a picnic area with a railroad tie wall; and also a variance for the parking and landscaping requirement since the property is already heavily landscaped and has a lot of tree coverage. The last request is a variance from the stream buffer for an existing parking lot with pavement areas existing there. The area is vegetated, so water quality should not be affected. She asked for the support of Mayor and Council.

Mayor Eva Galambos called for public comments in support of this application.

Art Koblasz, 210 Aerie Court stated he was a professor at Georgia Tech for 32 years and a resident of Sandy Springs for 26 years. His home is about two blocks from where the adult daycare facility will be. He has a rehab background and he has known Victor since he was a student at Georgia Tech. He started a center at Georgia Tech in rehabilitation technology, a center at the VA Hospital in rehab R &D, he was head of the Neurology Department at Piedmont Hospital for several years, started a Rehab Engineering Department at the Shepherd Spinal Center, and co-chaired a committee in Washington that set up a national center under NIH. He was invited to run one of the National Institutes when George Bush, Sr. was president, but declined the offer because he is not a Republican. Adult day rehab is the best concept for taking care of elderly people. He looked at the demographics in Sandy Springs and there are about 85,000 people, with 8,000 over the age of 65. The fastest growing segment is the population over age 85. Adult day rehab allows someone to live at home while a van picks them up to go to the community center where they can socialize, be watched, fed, exercised, and then they go home at night, which is what most elderly people want. Victor is a medical doctor who was trained at Emory and is the CEO of Medside. If someone has a home in Sandy Springs, is over the age of 75, and needs help, then this is the best solution. These people will not be seen hanging around a pool drinking beer and they will not be visible. They will be carried in a van to be inside a building where they will be treated and taken care of. They are clients and not patients. The support of adult day rehab is very small, so it is not a get rich scheme to make a lot of money. It is actually a very philanthropic thing that Victor is doing.

Mayor Galambos called for public comments in opposition to this application. There were no additional public comments.

Mayor Galambos closed the Public Hearing.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 10-095, RZ09-012/CV09-020 - 1120 Hope Road, *Applicant: 1120 Hope Road, LLC*, to Rezone the subject property from O-I conditional to O-I to allow medical and adult day care use in the existing building, with concurrent variances and staff conditions. Councilmember Jenkins seconded the motion.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To General Office, Medical Office/Clinic, and Day Care Facility uses and associated accessory uses limited to the following gross square footages:
 - 10,366 gross square feet of General Office
 - 2,200 gross square feet of Medical Office/Clinic
 - 19,177 gross square feet of Day Care Facility

- b. To a 31,743 square foot building developed at a density of 12,531.78 square feet per acre.
 - c. The above condition 1.a. shall not prevent the existing 20,732 gross square foot building from being used for General Office as long as 62 spaces are provided and/or used for Medical Office/Clinic as long as 83 parking spaces are provided.
 - d. The above condition 1.b. may be amended to add an elevator to exterior of the subject building when required by the Americans with Disabilities Act and the Georgia Accessibility Code.
 - e. To limit the height of the building to no more than two (2) stories.
2. To the owner's agreement to abide by the following:
- a. To the site plan received by the Department of Community Development on December 4, 2009. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance to include the regulations for the design of off-street parking spaces, the Development Standards contained therein, and these conditions prior to the approval of a Land Disturbance Permit. The applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
 - b. The above condition 2.a. may be amended to add an elevator to exterior of the subject building when required by the Americans with Disabilities Act and the Georgia Accessibility Code.
3. To the owner's agreement to provide the following site development standards:
- a. Variance from Section 18.3.1.E of the Zoning Ordinance to allow existing parking to encroach fifteen (15) feet into the minimum forty (40) foot front yard (CV09-020).
 - b. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required twenty (20) foot landscape strip along the front property line to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on December 4, 2009 (CV09-020).
 - c. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required ten (10) foot landscape strip along the south side property line to a minimum of four (4) feet +/- to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on December 4, 2009 (CV09-020).
 - d. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required ten (10) foot improvement setback along the north side property line to zero (0) feet to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on December 4, 2009 (CV09-020).
 - e. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required twenty-five (25) foot zoning buffer along the north side property line to a minimum of twenty (20) feet +/- to the extent necessary for the existing structure(s) to comply in accordance with

the site plan received by the Department of Community Development on December 4, 2009 (CV09-020).

- f. Variance from Section 4.23.2 of the Zoning Ordinance to delete the parking lot landscaping requirements (CV09-020).
- g. Variance from the Tree Conservation Ordinance, Administrative Standards, & Best Management Practices - Landscape Strips, Buffers, and Parking (F.1) to relieve the requirement of planting a large shade tree every 6 parking spaces for all new parking lots (CV09-020).
- h. Variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a minimum of five (5) feet +/- to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on December 4, 2009 (CV09-020).
- i. Any exterior illumination on the site shall not exceed 1.2 foot-candles on any property line adjacent to a residential use or zoning district, nor will the light source be directly visible from adjoining properties.
- j. The owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of Hope Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.

Councilmember Tibby DeJulio asked Mr. Koblasz if the facilities work better as independent facilities in a commercial area or as smaller facilities in residential areas. He is sure this is something that will continue to come to Council as the population gets older and there is a demand and need for these types of services.

Mr. Koblasz stated the mom and pop organizations that are set up in private homes generally have an accessibility problem, because they are designed to be homes. They are normally two stories with no elevator, the bathrooms may not be accessible, and back yard access may be impossible. For some houses and clients it would be good. They tend to be small, which is good, but the attended care could be pretty bad if it's only six people. They can't afford to have around the clock staff and very often these are 24 hour facilities. Adult day rehab is not that popular with mom and pop businesses, because they don't make much money and what it tends to be is a house that is set up for people to live in. There is a little more money in that, but not very much. He saw nursing homes from the view of his parents and watched how they were treated. It was the worst idea ever conceived. Assisted living is a good idea, but you have to be able to afford \$100,000 a year and people can't afford that. Adult day rehab is the low cost more popular solution, because a person gets to live at home. His parents were paying \$120,000 a year and every day they wanted to go back home. The best solution is to stay at home as long as possible and then spend days where you can have physical therapy and have people watch you and notice if something is wrong. This facility will have Victor, who has a medical degree, and his family who are also medical doctors. Most likely, there is not a facility like this in Georgia that has a medical doctor to watch the people to see if there is anything medically wrong.

Vote on the Motion: The motion carried unanimously.

(Agenda Item No. 10-096)

3. **RZ10-001/CV10-001** - 5815 Mountain Creek Road, *Applicant: Eugene and Mari Jo Grace/Carol Jane Reynolds*, To rezone the subject property from O-I (Office and Institutional District) conditional to O-I (Office and Institutional District) conditional, with concurrent variance(s), to initially allow a Group Residence with a future transition into a Personal Care Home

Assistant Director of Planning and Zoning Patrice Ruffin stated the applicant is requesting to rezone the subject property from O-I conditional to O-I to allow for initially a group residence with a transition into a personal care home. The applicant is also requesting three concurrent variances. Staff is recommending approval conditional of the rezoning request and the concurrent variances. The petition was heard by the Design Review Board and they recommended approval. The petition was also heard by the Planning Commission on March 18th and the Commission recommended approval subject to staff conditions with concerns over the residence's ability to properly house up to eight people.

Pete Hendricks III, 6085 Lake Forest Drive, Suite 200, stated he is representing the applicant. He asked Mayor and Council if this item and the next could be heard together as the properties are right next to each other with the same applicant and the same use.

Mayor Eva Galambos asked the City Attorney if the items had to be heard separately.

City Attorney Cecil McLendon recommended they be heard separately.

Mr. Hendricks stated the first application involves the singular property on Mountain Creek. It is zoned to the O-I classification that is recommended by the Comprehensive Land Use Plan as a Live Work Neighborhood. The application is a request from the owner of the property, who will continue to be the owner and operator of the property, to be able to have a group residence for up to a total of eight occupants. This particular structure has five bedrooms and three bathrooms. The packet contains the information for the refurbishing that will be done to the exterior of the property. The interior of the property will be reworked to include sprinklers. Staff has recommended conditions set forth in each stage cited as it starts out as a group residence. There has to be inspections and occupancy certificates for it to be a group residence. At such time the permitting is approved with the state, which will take well over a year, there will have to be further inspection and other occupancy confirmation that it has risen to compliance as to what is required for a personal care facility. The inhabitants of the property are folks with disabilities that are perfectly functional and gainfully employed, but do not have automobiles, which is why the proximity to Roswell Road is critically important in order to have access to bus transportation. Council is aware that the other homes in Mountain Creek are not owner occupied. They are all rental homes. This is a unique opportunity to come in and do a refurbishing of that pocket and fold into the fabric of the community of Sandy Springs a use that is sorely lacking. As a result of a personal need that arose in her family, the owner, Carol Reynolds, has come to the table with this kind of facility. There are three variances associated with the application and those variances involve in place and existing conditions, with the exception of a neighbor asking that the driveway and parking area be relocated from one side to the other. The applicant has accommodated those changes on the site plan. The concurrent variances are all applicable to the buffers, setbacks, improvement setbacks, and existing conditions. Staff has reviewed that the approval will be in basic harmony with the policy and intent of the Zoning Ordinance. There will be no detriment to the public and it is accommodating to the existing conditions. He then introduced Carol Reynolds.

Carol Reynolds, applicant, stated her professional and personal life has brought her to this point. She is a MAI Commercial Appraiser and does only senior housing and health care. Her career has allowed her to value many assisted living facilities, adult daycare, and group homes throughout the country. As of October 2009, her daughter was diagnosed with schizophrenia and she put her personal and professional

knowledge together to help people who are in need of some oversight. That oversight would be reminders to get up, helping them to eat, helping them to dress and getting them to work. The facility will be all female, it will have fire sprinklers, 24/7 staffing, ADA compliance, and 5815 is on sewer, so there are no septic issues.

Mayor Eva Galambos called for public comments in support of the application. There were no public comments.

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

Sharon Loser, 5795 Mountain Creek Road, stated she objected to the rezoning for group residence. A group residence with eight unrelated people in each house is allowing these small houses to become rooming houses. The introduction of 24 disabled people living in three houses without full-time supervision in each house puts the burden on the rest of the single families living on the street. The petition is for a group home that does not require 24 hour supervision in each house. The problem arises when it is up to the neighbors on the street to call the police for assistance. This is an unfair burden to place on the owners of these other homes. The future transition to a personal care home with a higher standard of care and supervision may never occur. These same homes zoned O-I also had conditions placed on them before, but were never followed. Street parking was a problem at 5800 despite the fact that she spoke to the people and wrote a note. They continued to block her driveway and caused an accident. The home at 5790 put gravel parking in the front yard even though the septic system is located there. The sewer department would never allow parking over a septic system, nor would they allow replacement of the drain field. Once again, if zoning is granted, the neighbors would have to handle the problems of the group home when they arise. The request for parking in the back of 5815 would require the removal of two beautiful old oak trees and make the backyard unsightly looking for the neighbors. The access to this backyard parking would be too close to the adjacent house, which has been addressed. She does not live in the home, but rents the home to a single parent with a small child.

Ann Day stated her mother, Barbara Kessler, owns 5805 Mountain Creek and she and her mother also own a portion of the proposed street. She is concerned about eight people in three different homes having just one care taker. She understands that the driveway will no longer run directly next to her home, but is concerned if there are enough barriers for the new driveway location, since the car lights will shine directly toward her bedroom window. The home is now a rental property, but her mother has owned the home for 58 years and she was the original owner. She grew up in the neighborhood and she knows the sizes of the houses. She has talked to DHR and once it becomes a personal care home, there only has to be 80 square feet for each person. For a group home there has to be 200 square feet. In her opinion, that is not quality care if the people are being moved into small areas. Three houses on one street are overwhelming for the street. The applicants Attorney stated that there are no owner occupied homes and that is not true. There is a woman in the audience that is still living in her house on that street. The people that live at the end of the street renovated their home and it is gorgeous on the inside. It would be very difficult for a young couple to move in knowing that there are three personal care homes on the street.

Mr. Hendricks stated each one of the residences will have a full-time employee 24 hours a day 7 days a week. All parking requirements are fully complied with as far as the use is concerned. The use is entirely appropriate with the designation of the Live Work neighborhood for this area. The applicant has full and complete intention of hopefully being able to give further acquisition in this corridor and continue to bring to this corridor the clean up and rework that would be evidenced by these three homes. This is not only an entirely appropriate use under the designation of the Live Work neighborhood, but it is also a critically needed use within the scope of the City of Sandy Springs. To deny this application would be going in the face of the renovation, rework and rejuvenation of this particular pocket, which has not

received a lot of upkeep and attention. It would also bring very appropriate use prospectively with the ability to gain further acquisition in this area by the applicant. As for the parking behind the residence, the way the topography runs behind this particular lot, it slopes in a downward way, so there is a slight retaining wall and in addition to that, there will be additional landscaping. There should be no issues with headlights.

Mrs. Reynolds stated with the enclosure of the carport and the finishing out of the lower levels, there will be approximately 450 square feet per resident, which is double what the state requires. There will be an ample amount of common area. Each home will have a designated common area that will include in one home a fitness area, in one home an ice cream parlor, and one will have a beauty/spa area for therapy and massages. There is ample square footage and the property at 5815 is on sewer.

Mr. Hendricks stated page 14 of the staff report goes through the zoning impact analysis with the appropriateness of the application spilling over to page 15. Page 16 is a review and analysis of each zoning request, the appropriateness of those requests, compliance with the standards that are required as far as harmony with the policy and intent of the ordinance, with no detriment to the public. The applicant respectfully asks for the approval from Council of the application for the rezoning and concurrent variances. The properties are presently zoned to the O-I classification and it is to the O-I classification that the applicant is requesting the rezoning.

Mrs. Loser stated it has been her understanding that a group home is different than a personal care residence.

Mayor Galambos stated that is true.

Mrs. Loser asked if the petition is for a group home.

Mayor Galambos stated the applicant would have to come back for something different.

Mrs. Loser stated with a group home, an individual is not required to be in each home.

Councilmember Dianne Fries stated that is correct, that is state requirements.

Mrs. Loser asked what the applicant is requesting now.

Councilmember Fries stated the applicant is asking for no state requirements.

Mrs. Loser stated the applicant is really not saying that someone will be in each house with the residents.

Mr. Hendricks stated immediately there will be an employee in each residence 24 hours a day 7 days a week.

Mrs. Loser asked if there would be eight residents.

Mr. Hendricks answered up to eight residents.

Mrs. Loser stated one person at all times.

Mr. Hendricks answered that is correct, that is what the applicant is asking for. There may not be a total of eight residents at the very beginning. There are five bedrooms and three bathrooms and there could be a total of five or six occupants, but not always eight occupants. The request is for up to eight occupants.

Mrs. Loser asked if the request is for the personal care home immediately.

Mr. Hendricks stated the request is for a group residence to then transition into a personal care facility. The applicant has gone on record as stating she will immediately move forward with the licensing requirements of the state.

Mayor Galambos stated the personal care application would have to come back before Council.

Councilmember Fries stated the request asks for both.

Assistant Director of Planning and Zoning Ruffin asked if staff could clarify the issues. The applicant is asking for both right now and the conditions would allow them to transition from the group residence to the personal care home.

Mayor Galambos said if they have state approval.

Assistant Director of Planning and Zoning Ruffin answered correct.

Mayor Galambos closed the public hearing.

Councilmember Fries stated she had a couple of issues with the application. The City's zoning definitions require personal care homes and group residences to have a state license. The state does not require a license on a group residence, but does on a personal care home. She realizes the applicant is striving for that, but she is uncomfortable with it not being state regulated. She does not love the location. She understands the applicant wants to be close to MARTA, but is worried about it being so close to I-285 and Roswell Road. She thinks the idea is wonderful. She didn't know about all females. She thinks it is a good plan, but since the applicant is striving to go to the state requirement, she would like to see that being the direction the applicant goes to start with.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 10-096, RZ10-001/CV10-001 - 5815 Mountain Creek Road, *Applicant: Eugene and Mari Jo Grace/Carol Jane Reynolds*, To rezone the subject property from O-I (Office and Institutional District) conditional to O-I (Office and Institutional District) conditional, with concurrent variance(s), with staff recommendations, to allow a Personal Care Home, rather than a Group Residence. Councilmember Paulson seconded the motion.

Councilmember Ashley Jenkins asked for an explanation of the difference between being immediately licensed by the state.

Councilmember Fries stated the City is not requiring the group residence to move forward in becoming a personal care home that is state regulated. The applicant is asking to start as a group home and while they are doing that, to work on this regulation from the state. Since the City does not have a way to require them to do so, the City can't give them one option and then require doing the other option in 20 days or four years. Since the City's zoning definition for these homes does require state requirements, she recommends approval, but with the condition that they are going to be state licensed from the start.

Mayor Galambos stated approve it conditional upon them receiving the state license.

Councilmember Fries stated approve it for a personal care home, rather than the group residence. They are two different categories.

Councilmember Tibby DeJulio stated this area is in his and Councilmember Meinzen McEnerny's district. It has been an area that they have long been looking for something to be done to, because it definitely needs some rehabilitation. He is afraid that this is a short term solution for a long term problem. One of the comments made was the people would not have vehicles, so they would have to have access to MARTA and the access to MARTA would be on Roswell Road. If the applicant examines the City's plan, the City is about to put a divider on Roswell Road at Carpenter Drive, so no one can cross Roswell Road. The residents are going to be able to get on Roswell Road going and coming north, but not going and coming south. He feels this is a short term solution for a long term problem. He thinks the applicant will be having some problems with the people that don't drive getting in and out of there. If you walk around Carpenter Drive to get to the traffic light, that is one heck of a hike. He's walked that area and he doesn't think this is the solution for this area. There are better long term solutions for the area.

Councilmember Karen Meinzen McEnerny asked the applicant if it would be feasible for the residents to exit the bus at Carpenter and Cliftwood and then walk on Carpenter, if they are coming south on the top loop of Carpenter to go all the way down to the location. There is a crossing there.

Mrs. Reynolds answered yes, that is feasible. Their services will provide transportation. They will not require the residents to walk down to Roswell Road to get to work. The service is all inclusive, except for medication management and assistance with activities of daily living, which are the regulations for a personal care home. They are allowed to provide anything under the group home. Part of the program will include transportation to get the residents to work.

Councilmember Meinzen McEnerny stated the applicant has heard Councilmember Fries recommendation to approve the operation of a personal care home. She asked if this is something that the applicant could live with.

Mrs. Reynolds answered yes, obviously she can live with it, but the downside to that is it would be a year, because it is taking the state that long to get through applications.

Councilmember DeJulio asked if the City's requirements include a transportation plan. This is the first he has heard about providing transportation. He thought the applicant meant using MARTA.

Mrs. Reynolds stated she would make sure the homes are run properly and that every resident has proper oversight and proper care, because that is what she wants for her daughter. She said look at it as a personal care home, with no medication management, and no assistance with activities of daily living, such as using the restroom, getting dressed, and taking a shower.

Councilmember Chip Collins asked what guarantees are in the law or zoning ordinance that there will be 24/7 care in each home.

Mr. Hendricks suggested the staff include a supplement to the conditions requiring each of the three residences to have a full time employee 24 hours a day 7 days a week.

Councilmember DeJulio stated to also include a transportation plan.

Councilmember John Paulson stated he had a concern about the group home because a group home designation doesn't have any official oversight. The City is going to end up having to manage the home and he doesn't want that to happen. The personal care facility is one way of getting the state license and following the regulations with the guidance that the state has put in place. That way, the City does not have to enforce this.

Councilmember Fries stated there is an elderly care next door. This is an interim use for group residence rather than personal care. It is described as interim for them, but there is no guarantee for the City that they have to go to a personal care home.

Motion with Additional Conditions: Councilmember Fries moved to approve Agenda Item No. 10-096, RZ10-001/CV10-001 - 5815 Mountain Creek Road, *Applicant: Eugene and Mari Jo Grace/Carol Jane Reynolds*, To rezone the subject property from O-I (Office and Institutional District) conditional to O-I (Office and Institutional District) conditional, with concurrent variance(s), with staff recommendations and conditions, to allow a Personal Care Home staffed with an employee onsite 24/7, and to include a transportation plan for the residents. Councilmember Paulson seconded the motion.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To a Personal Care Home.
 - b. To a 2,721.255 square foot building developed at a density of 5,233.18 square feet per acre.
 - c. To no more than eight (8) occupants (not including the on-site staff) at any given time.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development on March 31, 2010. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, the Development Standards contained therein, and these conditions prior to the approval of a Land Disturbance Permit. The applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
 - b. The required and/or provided landscape strip(s) and zoning buffer(s) shall be planted to meet the minimum standards as approved by the City Arborist.
 - c. Provide and maintain privacy screening along the southeastern edge of the proposed parking spaces as approved by the Director of Community Development.
 - d. To planting the required landscape strips and zoning buffers to meet the minimum standards as approved by the City Arborist.
 - e. To obtain a Certificate of Occupancy from the City prior to establishing the Personal Care Home use.
 - f. To provide at least one (1) on-site staff person on premises per building twenty-four (24) hours per day.
 - g. To provide a transportation plan for the operation of the Personal Care Home(s) before the issuance of any Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:

- a. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required Landscape Strip(s), Zoning Buffer(s) & Improvement Setback(s) to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on March 31, 2010 (CV10-001).
- b. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required Landscape Strip(s), Zoning Buffer(s) & Improvement Setback(s) to the extent necessary to allow for proposed All-weather surface/Driveway/Parking to comply in accordance with the site plan received by the Department of Community Development on March 31, 2010 (CV10-001).
- c. Variance from Section 8.1.3.C of the Zoning Ordinance to reduce the required twenty (20) foot minimum interior side setback(s) to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on March 31, 2010 (CV10-001).
- d. The owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of Mountain Creek Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.

Vote on the Motion: The motion carried 5-1, with Councilmember Meinzen McEnery voting in opposition.

(Agenda Item No. 10-097)

4. **RZ10-002/CV10-002** - 5790 & 5800 Mountain Creek Road, Applicant: Eugene and Mari Jo Grace/Carol Jane Reynolds, To rezone the subject property from O-I (Office and Institutional District) conditional to O-I (Office and Institutional District) conditional, with concurrent variance(s), to initially allow a Group Residence with a future transition into a Personal Care Home

Assistant Director of Planning and Zoning Patrice Ruffin stated this item is similar to the previous case in that the applicant is seeking to allow for a group residence with transition to a personal care home on the two properties. Staff is recommending approval conditional and the Design Review Board and Planning Commission also recommended approval conditional.

Pete Hendricks III, 6085 Lake Forest Drive, Suite 200, stated this application is a replication of the previous agenda item number 10-096. Given the comments that came from Council on the previous application, the applicant is satisfied with the action that was just taken. As noted in earlier discussion, these two properties do fall within the Live Work Regional. The homes are three bedrooms and two baths and the exterior will be set up as the previous property. The interior rework will include the full sprinkling and there will be full compliance with the Overlay requirements as far as streetscape and sidewalks are concerned. This matter did receive recommendation of approval by the Planning Commission and the Design Review Board.

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

Ann Day asked how long it would be before all of this would be done and the personal care home put into place. Would they have a time limit? No. Meanwhile, Council is not granting the group residence. She agrees that on three occasions as a neighborhood they have tried to sell this to a developer that wanted to put high density something in and in each case everyone agreed, but they were hit with hard economic times. It is a neighborhood that is hoping someday to comply with what Council wants for this area, but she is hoping that this won't affect the neighborhood being able to do that.

Mayor Galambos stated the Comprehensive Plan stands as it is, but we have to be realistic. There is an unbelievable glut of empty office space and the reality of what is in the Comp Plan about high density may be a little longer coming than originally thought.

Ann Day stated that the homes on the street aren't all run down.

Mayor Galambos closed the public hearing.

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 10-097, RZ10-002/CV10-002 - 5790 & 5800 Mountain Creek Road, Applicant: Eugene and Mari Jo Grace/Carol Jane Reynolds, To rezone the subject property from O-I (Office and Institutional District) conditional to O-I (Office and Institutional District) conditional, with concurrent variance(s), with staff recommendations and conditions, to allow Personal Care Homes with each residence staffed with an employee onsite 24/7, and to include a transportation plan for the residents. Councilmember Paulson seconded the motion.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To Personal Care Homes.
 - b. To one 3,432.559 square foot building and to a second 3,365.037 square foot building developed at a total density of 8,189.88 square feet per acre.
 - c. To no more than eight (8) occupants (not including the on-site staff) in each home (16 total) at any given time.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development on March 31, 2010. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, the Development Standards contained therein, and these conditions prior to the approval of a Land Disturbance Permit. The applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
 - b. The required and/or provided landscape strip(s) and zoning buffer(s) shall be planted to meet the minimum standards as approved by the City Arborist.
 - c. To planting the required landscape strips and zoning buffers to meet the minimum standards as approved by the City Arborist.
 - d. To obtain a Certificate of Occupancy from the City prior to establishing the Personal Care Home uses.
 - e. To provide at least one (1) on-site staff person on premises per building twenty-four (24) hours per day.
 - f. To provide a transportation plan for the operation of the Personal Care Home(s) before the issuance of any Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:

- a. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required Landscape Strip(s), Zoning Buffer(s) & Improvement Setback(s) to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on March 31, 2010 (CV10-002).
- b. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required Landscape Strip(s), Zoning Buffer(s) & Improvement Setback(s) to the extent necessary to allow for proposed All-weather surface/Driveway/Parking to comply in accordance with the site plan received by the Department of Community Development on March 31, 2010 (CV10-002).
- c. Variance from Section 8.1.3.C of the Zoning Ordinance to reduce the required twenty (20) foot minimum interior side setback(s) to the extent necessary for the existing structure(s) to comply in accordance with the site plan received by the Department of Community Development on March 31, 2010 (CV10-002).
- d. The owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of Mountain Creek Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.

Vote on the Motion: The motion carried 5-1, with Councilmember Meinzen McEnery voting in opposition.

Zoning Modifications

(Agenda Item No. 10-098)

5. **ZM10-001** - 1349 & 1369 Spalding Drive, *Applicant: Bill Long*, to modify condition 3.f. of petition U89-083 to allow vehicular connection from Spalding Dr. to the adjacent church property to the south.

Assistant Director of Planning and Zoning Patrice Ruffin stated the applicant is requesting a zoning modification to the conditions of U89-083 to modify condition 2.a. to revise the approved site plan, to modify condition 3.a. to allow a vehicular exit and entrance to not be limited to emergency and residential use only onto Spalding Drive, and to delete condition 3.f. which restricts vehicular connection at Spalding Drive to the church across the line in Dunwoody. Staff is recommending approval conditional subject to the conditions found in Council's package. Staff is requesting a revision for a typographical error to condition 4.a., which stated Riverside Drive and should say Spalding Drive.

Ken Snell, Executive Minister for North Atlanta Church of Christ, stated the church is a community church whose property is located in Dunwoody and Sandy Springs. Every Sunday there are 1200 people who gather for worship and 500 vehicles that exit the property on Roberts Drive between 11:35 and 12:05. Three hundred and fifty of the vehicles turn north on Roberts Drive to try and get through the Spalding light; some go on to GA-400, some go to Dunwoody Club, and some turn left on Spalding through that light. The church has purchased two properties, 1349 Spalding and the property next door. The request is to connect the drive from the property to Spalding to allow vehicles to get to Spalding more quickly. Two police officers are currently employed to monitor the Roberts Drive exit and the light at Spalding. If the request is granted, another officer would be employed to be at the new exit, which would be used for exit only. It would save a number of minutes. The church has created a traffic problem for the community, but it is necessary for everyone to get off the property. This would lower the level of frustration for the neighbors and the people passing by. It would also help the church members to

get back to their homes more quickly. He asked for Council to approve the application. It would be for exit only during the release of church with an officer present and blocked with a gate for non-entry.

Mayor Eva Galambos called for public comments in support of the application. There were no public comments.

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

Jay McDonald, 7910 Stratford Lane, stated he is a twelve-year resident of Sandy Springs and is the President of Stratford Manor Property Owners Association. Stratford Manor has 45 homes and 90 plus voters who live within 300 feet of this proposed rezoning. This church is an excellent church and used to be in Sandy Springs on Mount Vernon. When it outgrew that space it moved to Dunwoody. There are traffic issues at Roberts Drive and Spalding. That intersection has a traffic light and it is effectively commercial. It has the fire station on one corner and the school on the opposite corner. The neighborhood feels to zone this property as commercial, even though it is right now proposed to be a restricted drive, would void the integrity of a beautiful residential neighborhood. This is a heavily wooded tree-lined street sectioned between the fire station at Roberts and Pitts Road, which is the next intersection. Those are nice residential homes on the south side of Spalding and beautiful residential communities of half a million to a million dollar plus homes on the opposite side of Spalding. Moving the exit just transfers the problem a few hundred feet. People coming out that exit go north toward GA400, go east on Dunwoody Club, east on Spalding and west on Spalding. They do this at Roberts Drive now and if the application is approved it will be done only 300 feet away, but they will still go in the same directions. There will still be the same traffic problem at Roberts Drive and Spalding, but there will be an even greater problem at Pitts Road, because there will be people there now. The other fear is that this area will become slightly commercial and there will be issues as stated in the previous petition. Over time the area will become completely commercial. The church has other activities that subject them to traffic from 5:45 a.m. until 11:00 p.m. five days a week. Over time the driveway will be used for other things. The physical facilities of this property are all in Dunwoody and DeKalb County. The expansion, since it has moved to Dunwoody, has been approved by the DeKalb County Commission. Sandy Springs will have no control over the expansion of this church.

Les & Laura Woodside, 1255 Spalding Drive, stated they have been residents of Sandy Springs for 40 years and have lived on Spalding for over 15 years. The biggest reason for opposition is that over 30 trees have been lost in the past month with the expansion and widening of the road. It seems like a lot of destruction to save people fifteen minutes on a Sunday.

Mr. McDonald stated he does appreciate the concerns and they have tried to address them in neighborhood meetings. It has been specified that it will be used as egress and not entrance, and that is part of the petition. Any change would require coming back to Council. The application also specifies that the entrance would not be used without a police officer to direct traffic. They have a history in the community. They have a church in Forsyth County that has over 500 members. They want to be good neighbors. The members have been taking their time and will continue to take their time to get onto Roberts Drive. The concern is that all the people who are neighbors are struggling to get through that intersection. This is something that can be done to lower the frustration for the neighbors and also save five to eight minutes for people to have to wait in traffic on Sunday.

Rex Bray, Planners & Engineers Collaborative, 2801 Rangewood Drive, stated this is a not a rezoning, but a zoning modification. There is no plan to dig up the driveway. There is an existing driveway at 1349 Spalding Drive that the applicant would like to leave in place for the parishioners to use for exit only on Sunday mornings. The intent is not to take any trees down because it is a beautiful lot. It is their belief that it will relieve traffic at the intersection of Spalding and Roberts Drive.

Mayor Galambos closed the public hearing.

Motion and Second: Councilmember Fries moved to deny Agenda Item No. 10-098, ZM10-001 - 1349 & 1369 Spalding Drive, *Applicant: Bill Long*, to modify condition 3.f. of petition U89-083 to allow vehicular connection from Spalding Dr. to the adjacent church property to the south. Councilmember Jenkins seconded the motion.

Councilmember John Paulson stated he knows this area and it is crowded on Sunday morning. He can't support this for a 50 car benefit and five to eight minutes. He is in favor of the denial.

Councilmember Ashley Jenkins stated one of staff's recommendations, if approved, was to upgrade the driveway to a regular size road, so there would be several trees knocked down to standardize this street to make it passable. Once the road goes in, the concern is that it will be used for special events also, which is not what it is intended for. It will end up being a commercial road, which is not its intention.

Councilmember Dianne Fries stated she agrees with Councilmember Jenkins. It is absurd to think that money would be spent on the driveway for exit only. It is going to be difficult for Council to regulate, since it is in Dunwoody.

Councilmember Karen Meitzen McEnerny asked if the additional egress would help the traffic at the corner.

Transportation Planner Mark Moore stated the people that would logically use the driveway would be the people going westbound on Spalding through the Pitts-Spalding intersection. That would be 50 people that would not be going through the intersection at Spalding and Roberts and would be taken out of that equation. That would improve the queue at that intersection. Those same people that are going through the intersection now would be driving by the same point if they were coming out of the proposed driveway.

Vote on the Motion: The motion carried unanimously.

(Agenda Item No. 10-099)

6. **ZM10-002** - 6690 Sunny Brook Lane, *Applicant: SSC Abernathy, L.P.*, a Georgia Limited Partnership, to modify condition 3.s. of petition Z86-200 to allow the main building closest to the north & west property lines to operate from 5 a.m. to 11 p.m.

Assistant Director of Planning and Zoning, Patrice Ruffin stated the applicant is requesting a zoning modification to the conditions of Z86-200 to allow alternate hours of operations for a portion of one of the buildings within the shopping center. Staff is recommending approval conditional. Staff provided for Council a revised set of conditions which include changes to condition 3.f. and the addition of condition 3.u., which has been negotiated between the applicant and the neighbors, and staff is comfortable with those conditions.

Woody Galloway, Dillard and Galloway, LLC, stated he is representing the applicant. The application concerns the Sandy Springs Crossing Shopping at the northwest quadrant of the intersection of Roswell Road and Abernathy. The property is currently approved for a shopping center that was zoned in 1986. One of the original conditions of zoning limited the hours of operation of the shops within the northern and western portions of the shopping center from 7 a.m. to 11 p.m. The Sports Authority location has been vacant for some time. There are fitness related uses that would like to come into that space, but need an additional two hours of operation. They open at 5am to serve the needs of their customers. They have

worked with the adjacent property owners and do have their support for this request. There has been some change to the language that staff has incorporated into their conditions.

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

Mayor Galambos stated she received an email from one of the members of the community indicating that they had come to an agreement. She asked if there was something in writing in reference to this agreement.

Mr. Galloway stated a copy of various portions of that agreement has been provided to staff, since the parties are in various states. The agreements are being compiled and can be submitted to staff.

Mayor Galambos closed the public hearing.

Motion and Second: Councilmember Collins moved to approve Agenda Item No. 10-099, ZM10-002 - 6690 Sunny Brook Lane, *Applicant: SSC Abernathy, L.P.*, a Georgia Limited Partnership, to modify condition 3.s. of petition Z86-200 to allow the main building closest to the north & west property lines to operate from 5 a.m. to 11 p.m., with staff conditions. Councilmember Jenkins seconded the motion.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail and service commercial and accessory uses at a maximum density of 9,862 square feet of total floor area per acre zoned or a total floor area of 135,000 square feet, but excluding fast food restaurants with drive-through service, service stations and commercial amusements, to be contained within 2 buildings. The Main Building containing 99,000 square feet, more or less, and a specialty building containing 36,000 square feet, more or less.
 - b. Limit the height of the buildings to no more than 2 stories.
2. To the owner's agreement to abide by the following:
 - a. To the Site Plan received by the ~~Zoning~~ Community Development Department on ~~11/5/86~~ February 1, 2010 and to submit to the Director of Public Works for his approval, prior to the approval of a Land Disturbance Permit, a revised Site Plan based on a certified boundary survey of the property, incorporating the stipulations of these conditions of zoning approval and meeting or exceeding the requirements of the Zoning Resolution.
 - b. To submit to the Director of Public Works for his approval, prior to any defoliation or alteration of the site, a Land Disturbance application which shall include a grading plan including phasing, a hydrological study, a separate soil sedimentation and erosion control plan, and proposed provisions for permanent storm water retention and the method of continuing maintenance of these facilities.
 - c. To submit to the Director of Public Works for his approval, prior to the approval of a Land Disturbance Permit, a detailed landscape plan for all required landscape strips. Said landscaping for each phase of development shall be in place within 90 days after the issuance of a Certificate of Occupancy or the connection of permanent power for each phase provided, however, that all landscaping shall be in place prior to the issuance of a

Certificate of Occupancy or the connection of permanent power for the final phase of the development.

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

- a. Provide a landscaped area, undisturbed except for approved access, utility crossings, improvements and replantings where sparsely vegetated, adjacent to the following property lines and in the widths shown and subject to the approval of the ~~Fulton County~~ City Arborist and the Director of ~~Planning and Economic~~ Community Development (the width of buffers shall be measured from the limits of construction for existing and proposed public roadways as applicable):

50 feet wide on the west and north property lines except on the northeast corner as shown on the site plan referenced in 2.a.

- b. Provide a minimum 75 foot building setback from the north and west property lines as indicated on the site plan referenced in condition 2.a.
- c. Provide a 20 foot wide landscape strip outside of the new dedicated right-of-way of Sunny Brook Lane to be planted with plant material which will attain a height of 6 feet in 2 years, subject to the approval of the ~~Fulton County~~ City Arborist.
- d. Provide a landscape strip adjacent to the following property lines in the widths shown:
- 10 feet wide outside the newly dedicated right-of-way of Abernathy Road.
- 10 feet wide on the southeast property lines adjacent to the Fulton County or City owned property.
- e. Provide an 8 foot high fence or wall for security and visibility subject to the approval of the Director of ~~Planning and Economic~~ Community Development along the entire length of the west and north property lines (except for approved access crossings), said improvements to be located outside of any public right-of-way and interior to required buffers or landscape areas.
- f. Any exterior illumination on the site shall not exceed 1.2 foot-candles on any property line adjacent to a residential use or zoning district, nor will the light source be directly visible from adjoining residential properties. Any lighting fixture located within 160 feet of the north property line shall be no higher than 3 feet.
- g. No more than 3 exit /entrances (2 public and 1 private) on Abernathy Road, public entrances to be located at least 275 feet from centerline to centerline of each other.
- h. No exit/entrances shall be allowed on Roswell Road or Sunny Brook Lane.
- i. The exterior of all concrete blocks shall be coated with an architectural treatment (e.g., epoxy, stucco, brick veneer, etc.) or an alternate solution as may be approved by the Director of ~~Planning and Economic~~ Community Development.
- j. Limit the free-standing project identification signage on the entire property to no more than two double-faced monument signs adjacent to Abernathy Road, one having no more than 60 square feet of surface area per face and the second having no more than 20 square

feet of surface area per face, and further each not to exceed a height of 15 feet from finished grade measured from the base of the sign structure.

- k. No roof signs are permitted.
- l. Provide landscape islands throughout the parking areas, including a minimum 10 foot wide landscape island at the end of each parking bay and a minimum 5 foot wide landscape island for each 225 feet of continuous bay length.
- m. To provide and maintain off-street parking on the subject property during the entire construction period.
- n. To prohibit any outdoor paging/loudspeaker system.
- o. All trash receptacles shall be located at least 100 feet from the north and/or west property lines and shall be screened with a minimum 6 foot high 100 percent opaque fence or other visual barrier as may be approved by the Director of ~~Planning and Economic~~ Community Development. Trash pickup will be limited to 9:00 a.m. to 6:00 p.m., Monday through Friday.
- p. Storm water retention shall be provided in accordance with ~~Fulton County~~ the City's Chief Engineering ~~Department standards~~ and will meet or exceed the requirements of the ~~Fulton County~~ City's Storm Water Retention Ordinance and will not be contained in the 50-foot landscape buffer area shown on said plat.
- q. ~~Provisions shall be made for the permanent maintenance of~~ All required landscaped setbacks and other landscaped areas and zoning buffers ~~and a copy of those provisions shall be submitted to the Homeowners~~ maintained as approved by the City Arborist.
- r. Deliveries will be limited to between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday.
- ~~s. The hours of operation of any business located within the 35,987 square foot portion of the main building, which is adjacent to the north property line, shall be limited to between 7:00 a.m. and 11:00 p.m. The hours of operation of any business located within the 60,642 square foot portion of the main building, which is adjacent to the west property line, shall be limited to between 5:00 a.m. and 11:00 p.m.~~
- s. The hours of operation of any business located within the 35,987 square foot portion of the main building which is adjacent to the north property line or within the 60,642 square foot portion of the main building which is adjacent to the west property line shall be limited to between 7:00 a.m. and 11:00 p.m., Monday through Sunday, except the hours of operation for any fitness center, health club, or fitness related retail uses located within the space formerly occupied by Sports Authority and shown as Suite 200 on the drawing attached hereto as Exhibit "C-1", shall be limited to between 5:00 a.m. and 11:00 p.m., Monday through Sunday.
- t. Any on-premises sale of liquor will be ancillary to the service of food. The Main Building shall contain not more than 6,000 net leasable square feet of restaurant space.

- u. Perform annual non-mechanical clean up of trash which accumulates within the buffer area along the north and west property lines, and maintain the fence referenced in condition 3.e. above in accordance with all applicable Sandy Springs, Georgia standards and requirements.
4. To the owner's agreement to abide by the following requirements, dedications and improvements:
- a. Dedicate at no cost to ~~Fulton County~~ the City of Sandy Springs prior to the approval of a Land Disturbance Permit the following rights-of-way, and dedicate at no cost to ~~Fulton County~~ the City such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:
 - 55 feet from center line of Roswell Road.
 - 55 feet from centerline of Abernathy Road.
 - 40 feet from centerline of Sunny Brook Lane.
 - b. Improve the following roadways along the entire property frontage from the center of road to back of curb as follows:
 - 38 feet from centerline of Abernathy Road to the easternmost curb cut and 26 feet along the remainder of the frontage.
 - 45 feet from centerline of Roswell Road.
 - c. Owner agrees to pay up to \$276,000 for the following improvements along the property and to the intersection of Roswell and Abernathy Road within the existing right-of-way:
 - (i) Provide an additional west bound lane on Abernathy Road from the intersection of Roswell Road to Wright Road;
 - (ii) Provide an additional and exclusive right turn lane from Sunny Brook Lane along Roswell Road to Abernathy Road;
 - (iii) Reconstruct the island located at the intersection of Roswell and Abernathy Road to allow for an additional lane on Abernathy Road through the intersection;
 - (iv) Provided existing right-of-way is sufficient, to provide an exclusive right turn lane along the Western Electric property onto northbound Roswell Road;
 - (v) Provide deceleration lanes for a distance of 200 feet and a 50 foot taper from all project entrances;
 - (vi) To provide 2 left turn lanes from westbound Abernathy onto northbound Roswell Road, provided, the approval of ~~Fulton County~~ the City is obtained.
 - d. Connect to metropolitan water and public sanitary sewer available to the site as well as pay all required tap-on fees, front footage assessments and the pro-rated share of the cost

of public utility extensions and the cost of the Marsh Creek sewer relief system as determined by the Department of Public Works.

- e. Provide designated fire lanes adjacent to all structures and provide water mains, fire hydrants and access for fire-fighting equipment as required by the ~~Fulton County~~ City's Fire Department.
 - f. Design required on-site storm water detention facilities such that they are not located within any required buffers, landscape strips or on required parking areas or as may be approved by the Director of Public Works.
 - g. Construct sidewalks along entire property frontages on Roswell Road, Abernathy Road and Sunny Brook Lane. Said sidewalks shall be in place prior to the issuance of a Certificate of Occupancy or the connection of permanent power for the development.
5. To the owner's agreement to abide by the following:
- a. To contact the ~~Director of Public Works~~ City Arborist prior to the submittal of a revised site plan, to arrange ~~with the County Arborist~~ an on site evaluation of existing ~~specimen~~ trees/stands, or tree protection zones within the landscaped areas.
 - b. To provide such plans and documents as may be found necessary to locate all ~~specimen~~ trees/stands, or tree protection zones within landscape area boundaries for the implementation of a tree protection plan.
 - c. Activity involving direct interaction with the paying customers of all shopping center businesses shall be prohibited behind the Main Building(s), adjacent to the northern and western property lines.

Vote on the Motion: The motion carried unanimously.

Text Amendments

(Agenda Item No. 10-100)

7. **TA10-001** - An Ordinance to Amend Article 12B, Sandy Springs Overlay District, of the Sandy Springs Zoning Ordinance

Assistant Director of Planning and Zoning Patrice Ruffin stated this item was presented at the Work Session Meeting to describe the changes proposed to the Overlay District including a reduction of the number of overlays from four to two, and changes to the standards of the areas that the overlay covers.

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

Motion and Second: Councilmember Fries moved to approve Agenda Item No. 10-100, TA10-001 an Ordinance to Amend Article 12B, Sandy Springs Overlay District, of the Sandy Springs Zoning Ordinance. Councilmember Jenkins seconded the motion.

Councilmember Karen Meinzen McEnery asked staff if there were three areas versus two.

Assistant Director of Planning and Zoning Ruffin answered no; there will be the Main Street District and the Suburban District.

Vote on the Motion: The motion carried unanimously.

Ordinance No. 2010-04-09

(Agenda Item No. 10-101)

8. **TA10-002** - An Ordinance to Amend Article 33, Signs, of the Sandy Springs Zoning Ordinance

Assistant Director of Planning and Zoning Patrice Ruffin stated this item was presented at the Work Session Meeting. Staff made the change that Council requested regarding the 10 foot sign setback changing it to three feet and applying that only to the Main Street District.

Councilmember Karen Meinzen McEnerny asked if staff looked into sign standards.

Assistant Director of Planning and Zoning Ruffin stated staff will bring back to Council the sign ordinance with sign standards for review.

Councilmember Dianne Fries stated this is for Main Street only and this can be made clear on the motion.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 10-101, TA10-002 an Ordinance to Amend Article 33, Signs, of the Sandy Springs Zoning Ordinance applying a three-foot sign setback in the Main Street District only. Councilmember Jenkins seconded the motion. The motion carried unanimously.

Ordinance No. 2010-04-10

Resolution and Ordinances

(Agenda Item No. 10-102)

9. A Resolution to Amend the Local Roadway Functional Classification Map of the City of Sandy Springs Transportation Master Plan

Assistant Director of Planning and Zoning Patrice Ruffin stated this item was presented at the Work Session Meeting. It is to officially adopt the Functional Classification Map in the Comprehensive Plan.

Motion and Vote: Councilmember Jenkins moved to approve Agenda Item No. 10-102, a Resolution to Amend the Local Roadway Functional Classification Map of the City of Sandy Springs Transportation Master Plan. Councilmember Paulson seconded the motion. The motion carried unanimously.

Resolution No. 2010-04-30

(Agenda Item No. 10-103)

10. A Promulgated Ordinance to Replace the Existing Erosion and Sedimentation Ordinance Chapter 109, Article VI

Environmental Compliance Officer David Schmid stated this item is to adopt the Promulgated Ordinance that is required by the state in order for the City to keep their Local Issuing Authority.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 10-103, A Promulgated Ordinance to Replace the Existing Erosion and Sedimentation Ordinance Chapter 109, Article VI. Councilmember Fries seconded the motion. The motion carried unanimously.

Ordinance No. 2010-04-11

(Agenda Item No. 10-104)

11. To Amend Chapter 103, Article XIII Grading and Drainage, Section 103-105 - Erosion Control, to include Minimum Standards for any Land Disturbance Activities Exempt from Chapter 109, Article VI

Environmental Compliance Officer David Schmid stated this item is to adopt language into the Grading and Drainage Ordinance that will require any land disturbance that is over 5,000 square feet to require a land disturbance permit and to apply best management practices to any land disturbing activity within the City of Sandy Springs.

Councilmember Ashley Jenkins asked if the best management practices are a state requirement.

Environmental Compliance Officer Schmid answered no, they are not.

Councilmember John Paulson asked if it is more stringent than the state requirements.

Environmental Compliance Officer Schmid stated it is more stringent than the state requirements in that Sandy Springs requires a land disturbance permit for 5,000 square feet, which is allowed by the state.

Councilmember Jenkins asked if she is in her back yard digging, would she have to get a permit from the City.

Environmental Compliance Officer Schmid answered no, if the land disturbance is not over 5,000 square feet, which is currently in the Erosion Ordinance.

Councilmember Jenkins asked if she rented a Bobcat to redo things in her backyard, would she then have to get a permit.

Environmental Compliance Officer Schmid answered yes, if it was over 5,000 square feet of disturbance.

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

Motion and Vote: Councilmember Meizen McEnery moved to approve Agenda Item No. 10-104, To Amend Chapter 103, Article XIII Grading and Drainage, Section 103-105 - Erosion Control, to include Minimum Standards for any Land Disturbance Activities Exempt from Chapter 109, Article VI. Councilmember DeJulio seconded the motion. The motion carried 5-1, with Councilmember Jenkins voting in opposition.

Ordinance No. 2010-04-12

The Council took a five minute break at this point in the meeting.

(Agenda Item No. 10-105)

12. Application for Department of Community Affairs Opportunity Zone Program

Director of Community Development Nancy Leathers stated this item was deferred from the April 6, 2010, Council Meeting. It is the proposed Opportunity Zone for the South Roswell Road/I-285 Corridor. The item was advertised, a public hearing was held, and it was heard by Council on April 6, 2010. She gave the City Clerk a copy of the hearing advertisement for the record. Under the state law, an income tax job credit of up to \$3,500 per job, for qualifying properties that create two or more jobs, is available in areas that are designated as Opportunity Zones. In order to have an Opportunity Zone, the area must be

either in an enterprise zone or in a redevelopment area approved by the Department of Community Affairs of the State of Georgia. Since the meeting on April 6, 2010, staff has conducted one public meeting, which was held on April 12, 2010, and sent out a survey to non-residential properties in the proposed area. Because of the short timeframe, there was not a large response from the non-residential properties. However, of those who responded, 86% indicated that they favored and may want to take advantage of the tax credit. In addition to the results of that meeting, staff recommends that all owner occupied and single family units be deleted from the Opportunity Zone designation. That map was presented to Council as part of the supplemental package. The revised map has been placed on boards and Council has received copies of this map. Lastly, staff would recommend the language throughout the report and the resolution be modified to delete references to slum and blight and only to reference the requirements and findings of the state code paragraphs that set out the law. The law which permits the Urban Redevelopment Plan is from 1955 and the terminology is not current. The project came to the staff late and has been fast tracked because the Department of Community Affairs proposes to change its requirements at its Board Meeting on May 5, 2010. Those changes include five years of records, which this staff would not be able to provide, because records would have to come from Fulton County, along with the City records and a number of the items they are requesting would not be available in the necessary form, particularly from the County, because of the nature of their data collection. Certainly, if there were more time, staff would have preferred to go through a more thorough process. At the meeting on April 6, 2010, Council requested that staff hold a public meeting, which was held on April 12, 2010, and asked for staff to get information from an appraiser on the impact of the designation on residential property values. Dennis Carr, MAI appraiser, has reviewed the document reports and he indicates he does not expect any significant impact in area residential properties, because this does not propose a change to land uses in the area. It was also asked for staff to assess other cities that had used the Opportunity Zone as to its effectiveness. Because the state law changed two years ago, the Opportunity Zones that were done prior to 2008 were done primarily in rural areas. Staff did not feel those were appropriate to bring before Council, but there have been four metro area Opportunity Zones identified which were approved in 2008 and 2009 that are in Marietta, Union City, Griffin, and Norcross. In addition, Roswell's Opportunity Zone has just been approved. In the case of Marietta, which was approved November of 2009, four businesses have been approved in the area and DCA is still reviewing the job certification applications. In Union City the Opportunity Zone was approved in December of 2008. One business has been approved, one business is pending, eleven jobs have been created, which have qualified, and they have two additional businesses that are looking to relocate to Union City, one from within the state and the other is from out of state. Griffin had their application approved by DCA in December of 2008 and two businesses have been approved and ten jobs have been created. Norcross is still awaiting the review of their submitted application and Roswell has not had an opportunity to submit its material.

Mayor Eva Galambos stated the normal rules for a public hearing will apply with ten minutes for each side.

Councilmember Karen Meinzen McEnerny asked Mayor Galambos if she would consider additional time, since there were a lot of people in the audience.

Mayor Galambos answered no. Council has had huge numbers before. This is the second public hearing plus there was a meeting held and several of the people in the audience were at the meeting and expressed themselves then. Ten minutes will be plenty of time.

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

Councilmember Chip Collins asked Mayor Galambos if Council could limit each speaker's time to allow as many people as possible to speak.

Mayor Galambos stated the speakers need to work that out among themselves.

Councilmember Collins asked each speaker to try and limit their comments to 30 to 45 seconds.

Robert Broome, 5784 Lake Forest Drive, stated he is the Director of Governmental Affairs for the Atlanta Board of Realtors and the Commercial Board of Realtors. Council would be crazy if they do not pass this legislation. The Opportunity Zone Job Tax Credit is like a pitch that is coming over the plate. If you watch that pitch sail by, you will regret it later. There has been a lot in the press lately about what impact this will have on the residential property values. It is very unfortunate that law makers in 1955 chose to use the word slum in the original authorizing legislation for the designation of Opportunity Zones. It was a poor word choice on their part. The authorizing legislation for this Jobs Tax Credit is not that 1955 legislation. It is the 2008 Legislation, which states if an area is part of an enterprise zone or where a redevelopment plan has been adopted by the local government, like the situation before Council tonight, and the area displays pervasive poverty, underdevelopment, general distress, or blight, then this tax credit can be used as an economic development tool for the area. The pitch is coming right down over the plate and it's time for the City of Sandy Springs to swing. Pass this legislation and concentrate on bringing some new jobs in. This will have no deleterious effect on property values in the City of Sandy Springs. If this was going to have a negative effect on property values, the Board would be the first ones urging Council to not pass the legislation, but nothing could be further from the truth. This is about encouraging development and bringing new jobs into existing commercial properties in Sandy Springs where those properties are under performing.

Rusty Paul, 1005 Riverside Trace, stated he was here on behalf of the Perimeter Chamber of Commerce. He has a unique perspective on this issue because his old boss, Jack Kemp, came up with one of the original ideas on Opportunity Zones when they were at HUD. He called them Enterprise Zones. The goal was to take areas that are under performing economically and create incentives for investment and watch them blossom. It didn't pass in their tenure, but he had another chance to watch history when he was at the National Governors' Conference and Bill Clinton, then Governor of Arkansas, got on the elevator and said "Kemp come here I want to see you" and then he watched as Clinton pumped Jack for all the ideas. Then Clinton passed one of the original Opportunity Zone bills in 1992 that become the centerpiece of his economic redevelopment plan, and it worked. The concept is simple. Jack said instead of drawing a redline around an area, which is what banks used to do when they would designate an area not for development, they would create tax incentives and other opportunities for businesses to come in and redevelop and reinvigorate the area. So they changed the concept from redlining to greenlining. Unfortunately, as heard before, some of the terminology that has crept into this legislation goes back to the day of urban renewal. Words like blighted and slum have worked their way into the statute's terminology. In reality, this program is designed to allow a City to be proactive, rather than reactive; to green line an area before it begins to deteriorate and prevent slum and blight, rather than waiting until it happens and then trying to fix it. The goal is to concentrate on areas that could go either way economically and be proactive to fix those problems before they occur, rather than waiting until they deteriorate and trying to resurrect them, which is much more difficult, much more costly, and often times doesn't work. He asked how many people believe that any portion of Roswell Road is living up to its full potential. In many ways most of Roswell Road is under performing economically, but put aside terms like blight and slum for a moment, which do not apply to Roswell Road in a physical sense. They probably apply in a functional sense, which means the buildings and infrastructure there don't support the kind of businesses that people want to see in their communities. Unless you change the dynamics in that community, it is going to continue along with benign neglect. One of the City's original goals, that everyone believed in and ran on, was the redevelopment of Roswell Road. It is one of the few tools that cities have to be able to go out and designate an area and say we are going to make this area better and have the tools to allow businesses to come in and really work as your partners to do that. He understands the neighborhoods' concerns. If he had terms like blight and slum applied to his area, it would scare him.

As many may know, his early political career was in Stone Mountain. He lived right off of Memorial Drive. Memorial Drive was one of the most vigorous commercial corridors in Metro Atlanta. Drive through there now. The causes and problems were a little bit different, but today there are aging, decaying, store fronts with third and fourth tier businesses that people don't want to shop in. This is an opportunity, one of the few tools the federal and state government will allow the City to do something proactive. Take the opportunity. Don't let this opportunity pass you by. Who knows, Roswell Road's future may depend on it.

Scott Smith, 5470 Shiver Summit, stated he is the co-president of the High Point Civic Association. The Association supports the Opportunity Zone. Hopefully, the stipulation to the language pertaining to the owner occupied residential properties is eliminated from the proposal. The Association supports those changes which make us more competitive with the surrounding communities. They believe that refining the affected area may be necessary. They primarily believe it is paramount to this process to maintain property values and neighborhood viability. Incentives work better than enforcement and they are relying on their City Councilman, Tibby DeJulio, assertions that various existing neighborhood objections will not be encroached upon during this process. They are extremely hopeful that the incentives will be sufficiently beneficial to overcome the distress the City has caused by the perception of circumventing the public engagement process in the lack of notification.

Pamela Jeter, 5680 Lake Forest Drive, stated she lives on the corner of the Lake Forest Drive and it is a very active area. Every month they get an email through various members in the neighborhood on the houses in Lake Forest being broken into. It is very scary and she hates coming home at night. They constantly have people walking on their lawns and depositing trash. She is encouraging Council's support in revitalizing the area.

Daniel King, 260 Trimble Crest Drive, stated he is a homeowner and a small business owner in the area including ground central south of I-285 on Roswell Road. He has some property in the Spruill Springs/Roswell Road intersection. They have demolished three dilapidated buildings and built a first class, award winning health care facility on Roswell Road. There is another empty, obsolete building located there that they've marketed for business for some time. There are many barriers to development in the City of Sandy Springs, including putting in nine foot sidewalks, brick work and all the treatments everyone loves, but that does pose a significant barrier for redevelopment and demolition of that area. That area does qualify under the code listed in the material. The only question is if the City is going to take advantage of it. He feels this opportunity will incentivize people to do that.

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

Jan Rabinowitz, 55 Ozner Drive, stated she is not against redevelopment. There is no deadline for this program or a need to rush it through. No one is against redevelopment, but this program is designed for businesses. Why should the neighborhoods and communities be branded as blighted, poverty ridden, and a slum, as is necessary to meet the requirements of this program? All that does is upset homeowners. Why doesn't the City instead engage public support to address these properties? Not using these actual words doesn't resolve the issue. The neighborhoods are still in the urban redevelopment area. All properties south of the Prado and Glenridge should be removed from this designation, as they are not appropriate for this program. These are not businesses, they are homes used as commercial property and condominium complexes. These are not the kind of places that are going to be used by businesses to create jobs and if they are, it will be difficult for the businesses to create two jobs.

Trisha Thompson, Zoning Chair of Sandy Springs Council of Neighborhood, stated she was asked to read comments from Beverly and Dave Chenault at 10 Maryanna Drive. Based on their limited research, the proposal does not make sense for the following reasons. The program was designed to help

rural communities, not to label parts of the suburbs as blighted. The cost benefit ratio is completely askew. To reduce property values across the board, so that Waffle House can get \$3,500 for hiring an additional waitress or for AT&T to hire another custodian at the Central Office doesn't make sense. The Opportunity Zone boundaries are too expansive. Sandy Springs needs to focus on Roswell Road in the heart of the City from Lake Placid to Abernathy. Continue to make the core of the city accessible, economically sound and interesting. Don't reduce the value of the neighborhoods that feed the core. Whether this is a good idea or bad idea, it has been extremely unpleasant to listen to this Council tell the community that they don't understand what is trying to be accomplished. Whose fault is that? The City has worked on this since February and has deliberately chosen not to educate the affected neighbors.

Robin Beechey, 20 Willow Gen NE, stated he was representing the Willow Glen Condo Association. The agenda item doesn't even mention the urban redevelopment area in its title. The urban redevelopment area is the elephant in the room that worries all the people. All the talk has been about the tax credits. The tax credits require certain things to be done before anyone can become eligible for them. An urban redevelopment area shouldn't just be cooked up behind closed doors subject to minimal public consultation, totally disregarding the state's guidance on consultation. Someone at the meeting last Monday described the urban redevelopment plan as a big deal. The plan gives the power of eminent domain, it gives the Council the opportunity to relax its zoning regulations, and it gives the opportunity to change the Comprehensive Land Use Plan without the approval of the public. Those things are worrying people. He does not accept that the notice in the Fulton Report that was given complies with section 7(c) of the Act. Is the Fulton Report a newspaper having a general circulation in the area of operation of the municipality? There was an item in the Sandy Springs Neighbor and the Northside Neighbor on the 31st of March which was six days before the Council Meeting. It is not a public notice. There has been no official notice to the public. He thinks the City is opening itself up for a legal challenge on that alone. Why has the item not gone before the Planning Commission? The City has made a mockery of public participation and as a result it has had bad publicity. The least that could be done for most of the citizens is to not just delete the purple shading in their neighborhood, as High Point Civic Association seems to suggest, because that would achieve very little change. They will all still live within the blue line, which is all included in the redevelopment area. It is the urban redevelopment area that is worrying people, not the tax credit which everyone supports. Most of the citizens will go home reasonably satisfied this evening, if there is a roll back in the southern boundary of the redevelopment plan to somewhere north of the Prado and north of the Scientology site on the east side of Roswell Road. That's the area that most people think belongs in the urban redevelopment area. It won't do much damage to the job credit to take out the area south of Glenridge, which is what was proposed by Councilmember Meinzen McEnery and Councilmember Fries at the last meeting. People will still go home pretty unhappy even if they get the change in the area, because of the way the matter was handled. It badly affected the trust between the City and the citizens and it is going to take some time to repair that trust because of the high handed way in which this matter was conducted behind closed doors, without proper public participation, and without taking the citizens into the Council's confidence. He is not against economic development; he is for it and for transparency, open government, and compliance with the law. Those are the things lacking from this.

Felicity Vaughan, 5203 Glenridge Drive NE, stated she moved from Brookhaven six weeks ago and was thrilled to live in Sandy Springs until she found out about the Opportunity Zone. She lives in the Glenridge Townhomes and is not sure if her home will be included in the Opportunity Zone. She would be absolutely horrified if this item is passed and her property value is affected. She won't forgive any of the Councilmembers. She has many friends her age looking for property in Sandy Springs and she will tell them not to move to Sandy Springs if this item is passed. She had no notice about this item, but received word from a neighbor.

Public Comments – Did not Speak

Lanier Coutler, Dorough & Dorough, LLC, representing the Cloisters Condominium Associates, Inc.

Carolyn Hyde, 63 Willow Glen NE, stated Sandy Springs has the reputation of being a very affluent community in Fulton County. She has worked for the homeless in many blighted areas, and nothing like this exists in Sandy Springs. The definition of blight does not allow esthetic considerations. It will harm the community much more than it could ever help.

Albert Gruensfelder, 32 Willow Glen Dr, NE, opposes the Opportunity Zone.

Howard Gruensfelder, 33 Willow Glen, NE, opposes the Opportunity Zone.

Janet Wells, 302 Beachland Drive, stated the Opportunity Zone designation is a dangerous description for his neighborhood and businesses and is not needed for business in the area. Sandy Springs is not a poverty area.

Fred Allen, 5425 Glenridge Drive, Unit 68, opposes the Opportunity Zone.

Mayor Galambos closed the public hearing.

Motion and Second: Councilmember DeJulio moved to approve Agenda Item No. 10-105, an Application for Department of Community Affairs Opportunity Zone Program to adopt the proposed resolution and the South Roswell Road/ I-285 Corridor Redevelopment Plan including all findings; the map deleting the owner occupied and condominium parcels; subject to legal review replacing the language in the report referencing slum and blighted areas with reference to indicate the required conditions existing in the identified redevelopment area as described in O.C.G.A § 36-61-2(18). Councilmember Fries seconded the motion.

Mayor Galambos reiterated that the motion by Councilmember DeJulio eliminates all owner occupied residential properties from the proposal.

Councilmember Tibby DeJulio stated Rusty Paul was correct when he indicated that one of the top concerns when Sandy Springs became a City was the redevelopment of Roswell Road. This is an opportunity to help with that redevelopment that has no downside risk. The worst that could happen is that five years from now no parcels have ever been developed and nothing has changed. The City Council gets no additional powers nor loses any powers. The citizens of Sandy Springs gain no powers nor lose any powers. Any project that comes up for redevelopment on Roswell Road in the commercial area designated by this still has to go through an entire vetting process, meaning it has to go before the Planning Commission, open hearings, and City Council. Sandy Springs does not have power of eminent domain, which is not allowed in Georgia except for cases where it is going into public use. The City is not looking at this as an opportunity to make ourselves happy, but as one of the things that was planned on and complained about for years: how Roswell Road can be redeveloped and made into a community that is worthy of itself. Several weeks ago everyone saw one of the national publications came out and stated that Sandy Springs was the seventh or the ninth richest community in the country. Eighteen percent of the people had incomes of over \$200,000 and yet Roswell Road is full of pawn shops and liquor stores and similar businesses because people haven't had the incentive to redevelop it. Dan King had a property that he tried to make into a restaurant and the numbers wouldn't work. Across the street from that, at Spruill Springs, there is a brand new building that was built about three or four years ago, but is completely vacant. Somebody can now go into this brand new building, put employees in there, get tax credits that have proven to work in the past, and there is no reason why they won't work in the future as they have been proven to work in other jurisdictions. Roswell has just been smart enough to put in this Opportunity Zone. The North Fulton Chamber is in favor of it and he thinks the City would be missing a

tremendous opportunity if they don't go ahead and utilize this money. The country is in a recession, City revenues are down, revenues were down last year, and they are going to be down next year. This is a way for us to move the City ahead and leverage government money for the public good.

Substitute Motion and Second: Councilmember Meinzen McEnery moved to approve Agenda Item No. 10-105, an Application for Department of Community Affairs Opportunity Zone Program incorporating the language provided by Councilmember DeJulio; to truncate the redevelopment area boundaries South of Glenridge and South of the Prado; and to incorporate the Map Labeled Exhibit 2: Sandy Springs South Roswell Road/I-285 Corridor Redevelopment Area and Opportunity Zone Parcels Below Glenridge Drive Deleted. Councilmember Collins seconded the substitute motion.

Councilmember Meinzen McEnery stated due to the fact that the Council has heard from many of the impacted residents in the area south of Glenridge, there was not adequate notice in her opinion. While legal, the Daily Reporter is the City's formal mechanism of alerting the public, but it is not in general circulation nor widely read other than by attorneys in Atlanta. The City could have done a better job and needs to do a better job in the future. For that reason, she supports the sentiments of Rusty Paul, who was very eloquent in his support for incentivizing areas that truly need redevelopment. The census block that is 100% in her district goes all the way down to Long Island Drive, but that doesn't mean that the criteria of 15% or greater would include properties south of Glenridge. Council has heard very clearly and concisely from the people that spent time and effort in researching all the documentation, including the guide of the Department of Community Affairs that highly suggested working with the key stakeholders providing consensus, which unfortunately was a document that was not uncovered. She has heard, she has listened, and she thinks taking the residential areas out of the map was a good step by the staff.

Councilmember Dianne Fries directed a question at Robert Broome. She asked if he was with the Atlanta Board of Realtors.

Mr. Broome answered yes; he is with the Atlanta Board of Realtors and the Commercial Board of Realtors.

Councilmember Fries asked if he was representing all the commercial and residential realtors in Atlanta.

Mr. Broome answered yes.

Councilmember Fries asked for his opinion on this subject.

Mr. Broome stated he was in support of the ordinance. He spent some time with Brian Benzer, the Director of Development with the City of Marietta. Brian was very gracious in walking him through their process regarding the Opportunity Zone and allowing him to tour some of the sites on Franklin Road that are included in their Opportunity Zone. In the past few weeks, they inked a deal with First Data to create 350 new jobs. These are not retail or service jobs, but higher paying jobs that we want to recruit to these corridors. He asked Mr. Benzer if there had been any comments from the residents of Marietta as to any negative effects on their property values. Mr. Benzer stated no, it is going in the other direction. It goes back to the issue of what the City is trying to do with this legislation. The goal is to create jobs in the City of Sandy Springs and turn the non-performing properties into performing properties; to take those non-performing properties that are not adding to the revenue base at their full potential and turn those into performing properties; and to get taxpaying businesses into the City to act as a relief valve on the tax obligations of all the residential owners in Sandy Springs. In talking about the issue of valuation with real estate professionals and particularly the concern of stigma, no one wants to be known as living in a slum. That is not what this Legislation does. Furthermore, there is nothing in the multiple listing service data base, which is used by all real estate professionals for residential properties, where a property is

designated in an Opportunity Zone, Enterprise Zone, or any other of these types of designations. The only place that could possibly be indicated would be in the general comments about the property. He has spoken with several realtors over the past few days and asked if they had ever heard of a residential property purposely listed as being in an Opportunity Zone. It's just not done as a matter of practice. There is no stigma attached to a property being adjacent to or within an Opportunity Zone. It simply does not exist. If he were a real estate licensee marketing a property, it would actually be a positive stigma or a positive reputation for a property within the Opportunity Zone or adjacent to it, because what that would indicate to him is that the City that authorized the Opportunity Zone had taken a forward thinking approach to redeveloping the commercial property that had been blighted near that property. He would see that as an area in transition moving in a positive direction and having a positive impact on property values.

Mayor Galambos asked Councilmember Fries if that answered her question.

Councilmember Fries stated she understands the citizens being upset, but she wishes more people would listen to what Mr. Broome said, because he is a professional when talking about property value.

Councilmember Collins stated Council has heard a lot about this process inducing a lack of trust between the citizens and the City. Councilmembers are citizens too. No one should feel that something bad has happened. This should make people proud of the City. The City has great professionals on the staff that did exactly what they were supposed to do, which is find ways to make the City better and identify a tax incentive, an ability to take advantage of state law. They found something that would be beneficial and help redevelop Roswell Road, which is in need of redevelopment and staff tried to do it as expeditiously as possible. Don't condemn staff, they did their job by bringing it to Council and it was put on the agenda two weeks ago. The Citizens did their job and looked at the item, mobilized, did their homework, gave Council useful information, made their voices heard and showed up. He commended every citizen for doing those things. In his opinion, the City Council did their job. Two weeks ago Council heard that people felt this was rushed and they wanted more time to study the item. Council unanimously granted a deferral and scheduled a public hearing so more work could be done and to hear more from the citizens. Council listened to the concerns. He has received several emails and read every one of them and talked to a lot of people. He received a call from his old secretary who lives in Sandy Springs and she asked if she should sell her property and if the City was going to take her property. One problem with email is that sometimes rumors can spread faster. There has been some misinformation and he hopes some of that has been cleared up tonight. He wishes the process could have been different. He wishes there had been more notice. He wishes that the neighborhoods had been on board. He thinks with enough time the neighborhoods would be on board. We all would do things different, but we are where we are. He thinks this is a good proposal for the entire stretch as originally proposed. He thinks it would help the entirety of Roswell Road. It would help all the residential areas around it. That being said with the short notice and the process, he doesn't think any potential benefit to this justifies passing it over the overwhelming opposition by the residents south of Glenridge Drive. He has heard only negatives in that portion and has not heard directly from any of the business owners in that last little stretch. He supports Councilmember Meitzen McEnery's motion, however, he would like to explore including the Southern Trace Apartment Complex, which is south of Glenridge. Since, we are under a time crunch; he can only support it up to Glenridge, with possibly adding Southern Trace Apartments.

Councilmember Jenkins asked staff how many parcels are taken out if the area is truncated.

Director of Community Development Leathers stated she does not have an exact number. She showed the Council a larger map to view the area better.

Councilmember Jenkins stated it looks like thirty parcels.

Councilmember Fries asked as an example if Shimen Divi was removed, would that take the blue line away from them and then move it up to Roswell Road.

Director of Community Development Leathers answered it would. If Council wanted to take some of the residential areas out or move in some of the commercial frontage even though it was not shown in purple that could be done.

Councilmember Jenkins thought the blue line was the redevelopment area.

Director of Community Development Leathers stated the blue line was not modified. The Opportunity Zone properties were modified, which deleted all the residential properties. If Council would like, staff can pull the redevelopment boundary back to the residential and apartment boundaries within that southerly area.

Councilmember Meinzen McEnery clarified her motion. Everything outlined in blue on Exhibit 2 is the new Urban Redevelopment Area. It does truncate at Glenridge and south of the Prado and all the residential property.

Mayor Galambos asked if Council understood the substitute motion and then asked for a vote on the substitute motion.

Vote on Substitute Motion: The motion carried 4-2, with Councilmember DeJulio and Councilmember Fries voting in opposition.

Resolution No. 2010-04-31

Mayor Galambos stated she thinks this has been an open process and hopes everybody feels more informed as a result of the information received tonight.

NEW BUSINESS

(Agenda Item No. 10-107)

1. Consideration of Approval of the Intergovernmental Agreement (IGA) For the Partnership between the Cities of Roswell and Sandy Springs to Design and Build a Pedestrian/Bicycle Bridge across the Chattahoochee River

Transportation Planning Division Manger Garrin Coleman stated at the February 16th Work Session Meeting the City of Roswell gave a presentation on the earmark funding they obtained and are interested using to purse a joint venture with Sandy Springs. In the meantime, the Intergovernmental Agreement has been drafted and their Project Framework Agreement (PFA) has been received by GDOT. Staff brought this item forward for further discussion and consideration for the amount of match money and if there are any changes Council would like to make to the IGA or PFA.

Mayor Eva Galambos asked which portion of the map would be funded by Sandy Springs contribution. Is it the red area?

Transportation Planning Division Manager Coleman stated the west side of the bridge, the 12 -foot wide bridge for pedestrians and bicycles.

Mayor Galambos asked about the part that extends into Sandy Springs, shown in yellow on the map.

Transportation Planning Division Manager Coleman stated the City would be responsible for that portion of the bridge.

Mayor Galambos stated that is not included in the \$360,000.

Transportation Planning Division Manager Coleman answered correct.

Mayor Galambos stated the \$362,572.50 would only be for the bridge, the red portion.

Transportation Planning Division Manager Coleman answered correct.

Mayor Galambos stated none of the bridge is in Sandy Springs.

Councilmember Dianne Fries stated the red portion that is in Roswell that loops around is not included in this. The money can only be spent on the bridge itself. The loop section on the Roswell side of the bridge going toward Azalea is not part of the project.

Mayor Galambos asked if the City would be sharing the cost for the red portion across the river.

Councilmember Fries answered yes, it stops as soon as the cement stops.

Transportation Planning Division Manager Coleman stated the earmark can only be spent on the bridge.

Councilmember Tibby DeJulio asked what portion of the \$362,572.50 is going to be spent in Sandy Springs.

Transportation Planning Division Manager Coleman stated he believes 20% of the bridge is inside the City limits and the other portion of the bridge is in the City of Roswell.

Councilmember Ashley Jenkins stated they are not at that point. The money tonight is not for construction, it is for design.

Mayor Galambos stated it is for both.

Councilmember DeJulio stated his understanding was it is for construction and design. He asked why Sandy Springs is paying 50% to build a bridge that is 80% in Roswell. Why aren't they paying 80% and Sandy Springs paying 20%?

Councilmember Jenkins stated it would be the Sandy Springs residents who would ride into Roswell to use the bike lanes.

Councilmember DeJulio asked if the citizens of Roswell would use it.

Councilmember Jenkins stated Roswell citizens would not come to Sandy Springs, because there are no bike lanes.

Councilmember Fries stated the fight over the bridge started many years ago, because no one wanted to pay for taking care of it. Normally a bridge is in the middle and it is half and half. The truth is one person out of one hundred will use the bridge to come to Sandy Springs. The City will benefit from it much more than Roswell. Roswell has bike lanes that go east, west and north away from Sandy Springs. This will be the first one coming to Sandy Springs. Roswell not connected to Sandy Springs, because

Sandy Springs has nothing to offer. This gives the City a start. Her understanding is the \$50,000 is a commitment for the design of the bridge. If it then goes to construction, Sandy Springs won't have to come up with the money for two years; maybe even more depending on the environmental items. Don't use the argument that Roswell will use the bridge more than Sandy Springs, because that is not going to happen.

Mayor Galambos stated she feels differently talking about \$50,000 as opposed to \$362,572.50.

Councilmember Jenkins asked if the amount to be considered at this time is \$50,000.

Transportation Planning Division Manager Coleman stated the IGA is for design and construction. An additional agreement is not needed, but a stipulation can be included to say the City will participate up to the design point and then make further decisions at construction time.

Mayor Galambos stated she is worried that \$362,572.50 is a large amount of money. She would like to see the item compete when the City gets ready to prioritize other Capital Projects instead of pulling this out of the hat before starting the budget process. If it were a smaller amount, there would not be a concern. This is large enough so that she feels it is premature to put that much money into this project without weighing all the other priorities.

Councilmember John Paulson stated he agrees with the Mayor. This was talked about a month ago and it bothered him that the City was spending half instead of 20%. If the decision to spend \$362,572.50 has to be made tonight, he is not in support of it. If it can be broken into steps, then he would be in support of it. The \$50,000 to start the design process is not as bothersome. Can it be split?

Transportation Planning Division Manager Coleman stated a similar process was completed on the ATMS project, which is T-0013 in the CIP program, and that was in conjunction with Roswell and Alpharetta. That was done in the past with similar language in the IGA.

Councilmember Paulson stated that makes this more palatable.

Councilmember Chip Collins asked if the item could wait one more month to be prioritized with the other budget items.

Transportation Planning Division Manager Coleman stated he didn't see a reason why it could not wait.

Councilmember Fries stated it was already mentioned that the budget was coming up and it would be more appropriate to have this conversation during that time. She asked if there are any time frame issues that wouldn't allow this to wait until May or June.

Rich Dippolito, Roswell City Councilmember, stated there is not a time frame on this. It is actually an earmark that they've had for some time, so there is a concern that the money will get pulled eventually. Roswell would like to at least get a little bit of the project started. He thinks it is a great project. For anyone who has been involved in the North Fulton Comprehensive Transportation Plan, one of the projects identified this week was a plan to have a bike pedestrian way all the way from Forsyth County down to the City of Atlanta going along SR-9. It is still up for discussion to be added to the short list of projects, but is something the consultants have identified that Fulton Cities want to put together. This would be an important piece of that. The consultant said one of the constraints for enabling this bike pedestrian path to happen is at this bridge. If all the Cities get together and decide this is something everyone wants to do, then we need to move forward and take advantage of the federal funds that are available.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 10-107, Consideration of Approval of the Intergovernmental Agreement (IGA) For the Partnership between the Cities of Roswell and Sandy Springs, to Design and Build a Pedestrian/Bicycle Bridge across the Chattahoochee River subject to starting with \$50,000 for the design cost and having the remainder of the project go through the budget approval process in May. Councilmember Paulson seconded the motion. The motion carried unanimously.

Resolution No. 2010-04-32

(Agenda Item No. 10-106)

2. Intergovernmental Rental Agreement with the Board of Regents of the University System of Georgia, for the Georgia Institute of Technology's Canoe/Kayak Club

City Attorney Cecil McLendon stated this item was on the agenda previously regarding the boat houses located at Overlook Park. This is a proposed agreement with the Board of Regents to allow the Georgia Tech Kayak and Canoe Club to utilize the boat house location closest to the lake. The agreement is a one year agreement with five automatic renewals. The compensation as set forth in the proposed agreement is \$600 per year, which would be \$50 a month. The critical provisions are located on page ten of the agreement and are labeled special stipulations, which are based on comments at previous Council meetings. The stipulations limit use of the property to ten parking spaces at one time. If there is an event in excess of twenty-five attendees, they have to have approval from the Parks and Recreations Director. They have to provide volunteers four times a year to work on river cleaning and debris pick up, cooperate if the City chooses to sponsor a kayak and canoe day at the park, and they acknowledge that their use of the park, other than the premises, is subject to the public use. The public use will take priority in this relationship for everything except the boat house area.

Councilmember Karen Meinzen McEnerny asked what the two red boxes are on the lease attachment labeled Exhibit A-1.

City Attorney McLendon stated they represent the boat houses and that designates it's the northern one.

Councilmember Dianne Fries stated the City has been working with Georgia Tech for a while on this and they are very familiar with this agreement and are very pleased with it. She added that Georgia Tech has given \$12,000 to the Conservancy for the enlargement of the dock.

Councilmember John Paulson asked if the rent is \$50 a month.

City Attorney McLendon stated \$50 a month is incorporated in the agreement.

Councilmember Fries asked if the Board of Regents would sign the agreement.

David Goodman, 943 Peachtree Street, NE #713, stated he was representing the Georgia Tech Canoe/Kayak Club. After discussions with the City's real estate attorneys, the Georgia Institute of Technology is comfortable with signing a single year agreement, instead of the Board of Regents.

Councilmember Fries asked if the City Attorney was in agreement.

City Attorney McLendon stated the preference is for the Board of Regents to be the controlling body with any rental agreement. He will discuss the issue with the Institute and the Board of Regents and come to an agreeable resolution on who will sign the agreement.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 10-106, Intergovernmental Rental Agreement with the Board of Regents of the University System of Georgia, for the Georgia Institute of Technology's Canoe/Kayak Club. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Resolution No. 2010-04-33

(Agenda Item No. 10-108)

3. Stream Buffer Variance for T-0026 Peachtree Dunwoody Road Intersection Improvement

Transportation Planner Mark Moore stated this item will need to have a Public Hearing, since it is a variance request. His understanding is this will need to go through all the processes for a variance where Council will hear the item instead of the Board of Appeals. This is the first variance request staff is asking approval for; a City sponsored Capital Improvement Project. It is for T-0026, Peachtree Dunwoody and Spalding Intersection Improvement Program.

Mayor Eva Galambos asked if the item was properly on the agenda for a Public Hearing.

Transportation Planner Mark Moore stated his understanding is that it is on the agenda properly.

City Attorney Wendell Willard stated it was not advertised as a Public Hearing.

Council agreed to defer this item to a future meeting to allow for advertising for a Public Hearing.

(Agenda Item No. 10-109)

4. Policy Regarding Requests for Assistance from Non-profit Entities

Grant Administrator Eden Freeman stated this is the same policy that was handed out at the last meeting. There was additional clarification made to the policy per direction provided at the last meeting. Letters have been prepared for the Blood Drive and will be delivered to the church to mail, so the City will not incur any postage cost, which will maintain compliance with this draft policy. She asked if there were any questions.

Motion and Vote: Councilmember Paulson moved to approve agenda item no. 10-109, Policy Regarding Requests for Assistance from Non-profit Entities. Councilmember Jenkins seconded the motion. The motion carried unanimously.

Resolution No. 2010-04-34

REPORTS AND PRESENTATIONS

- a) Mayor and Council Reports
- b) Staff Reports

PUBLIC COMMENT

Mayor Eva Galambos called for public comments.

Patty Berkovitz stated she was prepared to speak about the Stream Buffer Variance. When this was passed at the April 6, 2010, Council Meeting, there was never any public comment allowed. The item was pulled from the agenda the month before and she was prepared to make comments then. There are citizens that do wish to speak on the item. The information in the packet on the stream buffer is

inadequate. She believes that the City has a good variance board. It is a mistake for Council to hear stream buffer variances and not leave them to be heard by the variance board. The citizens do not feel they will ever get a fair hearing on stream buffer and CIP cases. At the very least, there should be a packet prepared that is up to the same standards that the variance board receives, which includes photographs, engineering drawings of what is being proposed, and in-text statements. With stream buffers you have to prove that there is a hardship. Just because it is in a CIP project doesn't mean that there is a hardship. She gets weekly reports from the EPD on applications for stream buffer variances and she has not received this one yet. She is not sure when this went in, but there is a 30 day period that allows public comment to the EPD. She asked if it is prudent for the City Council to be voting on the buffer prior to the EPD's approval.

Bill Gannon, 505 Taunton Way, stated the vote tonight was unfortunate for the way the map was done for the Opportunity Zone. He cannot explain to his neighbors why economic improvements and tax credits north of Glenridge were approved, but the City is not for improving south of Glenridge. He cannot explain why there is no economic activity at the Harris Teeter Property, which no one wants. The Fish Monger is closed. The lady with the Italian restaurant is in City Walk. Do we not want economic development in some of those new buildings? He doesn't understand the logic behind indentifying Southern Trace and saying the City wants to encourage economic development there, when there is not going to be development unless someone puts up a sky scraper. Council approved zoning for an Italian restaurant at Spruill Springs on Roswell Road and that place is a dump. The City of Roswell came out last night with their press release and it said the same thing that Sandy Spring wanted to say. They've been a city for many years and they don't have as many new challenges as Sandy Springs does. Council was inconsistent this evening and blinked. He hopes that maybe Council can go back and amend what was passed to include all of Roswell Road. It is a free gift. The people that were in the audience were against it, but the voters of Sandy Springs that elected Council without opposition won't bother you with 5,000 emails in favor of something, because of common sense. Council should have listened to what the High Point Civic Association said. They came in against it last night, but in the end they were all for it, because they used logic. He hopes in the future all of Roswell Road is included because it looks silly to pick out only certain areas.

EXECUTIVE SESSION

There was no Executive Session called.

(Agenda Item No. 10-110)

ADJOURNMENT

Motion and Vote: Councilmember Fries moved to adjourn the meeting. Councilmember Paulson seconded the motion. The motion carried unanimously. The meeting adjourned at 9:14 p.m.

Date Approved: August 3, 2010



Eva Galambos, Mayor



Michael Casey, City Clerk