

Regular Meeting of the Sandy Springs City Council was held Tuesday, February 17, 2009, 6:00 p.m., Mayor Galambos presiding.

Invocation

Kelly Barge, Rev SSUMC offered the invocation.

Call to Order

Mayor Galambos called the meeting to order at 6:01 p.m.

Roll Call and General Announcements

City Clerk Michael Casey reminded everyone to silence their cell phones and pagers at this time. Additionally, those wishing to provide public comments, either during a public hearing or at the conclusion of the meeting under the public comment section, are required to complete a public comment card. They 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

Councilmember's Present: Councilmember Doug MacGinnitie, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery.

Pledge of Allegiance

Page Joshua Noland led the Pledge of Allegiance.

Executive Session-Litigation

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss litigation. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Paul, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session began at 6:07 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Paul, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 6:18 p.m.

Approval of Meeting Agenda

Motion and Vote: Councilmember Paul moved to approve the meeting agenda. Councilmember Fries seconded the motion. The motion carried unanimously.

Consent Agenda

(Agenda Item No. 09-028)

1. Meeting Minutes:

- a. October 14, 2008 Work Session
 - b. December 2, 2008 Regular Meeting
 - c. January 6, 2009 Regular Meeting
- (Michael Casey, Interim City Clerk)*

(Agenda Item No. 09-029)

2. Approval of the acceptance of the Donation of the Temporary Construction Easement for the PCID / Peachtree Dunwoody Road: I-285 to Abernathy Road (LCI) Project (CSSTP-0006-00(984)).

Resolution No. 2009-02-11

(Angelia Parham, Director Public Works)

(Agenda Item No. 09-030)

3. Approval of the acceptance of the Donation of the Temporary Construction Easement for the PCID – Fulton PCID Intersections and Sidewalks, Phase I Project (CSSTP – 0006 – 00(657)).

Resolution No. 2009-02-12

(Angelia Parham, Director Public Works)

(Agenda Item No. 09-031)

4. Approval of the acceptance of the Donation of Permanent Construction and Utility Easements for the PCID Intersection and Sidewalk Project.

Resolution No. 2009-02-13

(Angelia Parham, Director Public Works)

(Agenda Item No. 09-032)

5. Adoption of a Hazard Mitigation Plan for Sandy Springs

Resolution No. 2009-02-14

(Jack McElfish, Fire Chief)

(Agenda Item No. 09-033)

6. Adoption of an Ordinance to amend Chapter 58, Article I of the City's Code of Ordinances to add a new Sec. 58-7 to place certain requirements on non-consensual towing carriers operating within the City and to implement a public electronic notification system to enhance the ability of the City and its citizens to locate vehicles towed within the City.

Ordinance No. 2009-02-05

(Wendell Willard, City Attorney)

(Agenda Item No. 09-034)

7. Consideration of approval of an Ordinance to Revise the City Ethics Ordinance

Ordinance No. 2009-02-06

(Wendell Willard, City Attorney)

(Agenda Item No. 09-035)

8. **AM08-005** - 6700 Powers Ferry Road, *Applicant: Ray's Powers Ferry, LLC* - To modify condition 3.a. (Zone 4) to clarify that the existing 2,400 square foot special event tent.

(Nancy Leathers, Director Community Development)

(Agenda Item No. 09-036)

9. **AM08-006** - 6901 Glenlake Parkway, *Applicant: Glenlake Apartments, LLC* - To delete condition 2, the overall concept plan in the original letter of intent of Z80-0015 by reference to the new site plan submitted to the Department of Community Development on September 26, 2008 to allow for the reconfiguration of the amenity area and driveway.

(Nancy Leathers, Director Community Development)

(Agenda Item No. 09-037)

10. **AM08-007** - 6135-6205 Barfield Road (17-0036-LL-071 and 17-0036-LL-066), Applicant: Griffin Cosmopolitan North Partners, LLC - To modify conditions 1.a., 1.b., 1.c. and 2.a., to change the density per acre zoned, due to the dedication of the Georgia Department of Transportation right-of-way and to amend the overall concept plan of Z05-0056 by reference to the new site plan submitted to the Department of Community Development on December 3, 2008 to allow for the re-development of the existing office building footprints (with minor modifications to the entrance, architectural elements, and connection of building, etc.).
(Nancy Leathers, Director Community Development)

(Agenda Item No. 09-038)

11. **AM08-008** - 200 Burdette Road, Applicant: James Radney - To the conditions of Z66-103 by reference to the R-2 zoning classification to reduce the required fifteen (15) foot side yard setback to thirteen and a half (13.5) feet along the northeast property line for the construction of a garage.
(Nancy Leathers, Director Community Development)

(Agenda Item No. 09-039)

12. **AM09-001** - 3908 Dahlwiny Court, Applicant: Capital Design Homes, LLC - To modify condition 3.a. of Z00-083 by reducing the required fifty (50) foot minimum rear yard setback for the construction of a single-family home.
(Nancy Leathers, Director Community Development)

(Agenda Item No. 09-040)

13. Resolution to Ratify Final Plats Approved Since December 1, 2005 and a Subsequent Schedule to Ratify Final Plats Approved Thereafter at Each Monthly Mayor and City Council Regular Session.
Resolution No. 2009-02-15
(Nancy Leathers, Director Community Development)

(Agenda Item No. 09-041)

14. Consideration of approval of An Ordinance Amending Chapter 109-19, ARTICLE II – Floodplain Management Ordinance of the Code of Ordinances of the City of Sandy Springs
Ordinance No. 2009-02-07
(Nancy Leathers, Director Community Development)

Motion and Second: Councilmember Paul moved to approve Consent Agenda. Councilmember Fries seconded the motion.

Motion and Vote: Councilmember Jenkins moved to amend the Consent Agenda, to remove the approval of Agenda Item No. 09-036, AM08-006 - 6901 Glenlake Parkway, Applicant: Glenlake Apartments, LLC from the Consent Agenda and add item to the end of Meeting Agenda. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Motion and Vote: Councilmember MacGinnitie moved to amend the Consent Agenda, to remove the approval of Agenda Item No. 09-034, an Ordinance to Revise the City Ethics Ordinance from the Consent Agenda and add item to end of meeting agenda. There was no Council discussion. The motion carried unanimously.

Vote on Main Motion: The motion as amended carried unanimously.

Public Hearings

Rezoning

RZ08-014/U08-008/CV08-012 - 1155 Hammond Drive, Applicant: Hammond Center Joint Venture - To rezone the subject property from O-I conditional to MIX for the development of 20,000 square feet of restaurants, 50,000 square feet of retail space, 20,000 square feet of restaurant space, 120-room hotel (existing), and 398 apartments, with concurrent variances and a use permit to exceed the maximum district height. Ordinance No. 2009-02-08

Assistant Director of Planning and Zoning Patrice Ruffin stated that the applicant is requesting a rezoning from the O-I district to the mixed use district for 20,000 square feet of office space, 50,000 square feet of retail space, 1,000 square feet of restaurant space, an existing 120 room hotel and 398 residential units. The applicant is also requesting a use permit to exceed the maximum district height by constructing the mixed use building at a height of 100 feet or six stories. Additionally, the applicant is requesting ten concurrent variances as outlined in the staff report. Staff is recommending approval conditional of the rezoning request, the use permit request and concurrent variances 1, 3-7, 9 and 10. The petition was heard at the November 20th Planning Commission Hearing and the December 16th Mayor and Council Hearing at which time the petition was deferred. The Planning Commission heard the case again at the January 15th Hearing and recommended denial of the request and provided comments outlined in the staff report.

Woody Galloway stated that I am here representing the applicant in this application for rezoning. This application concerns 7.22 acres of land located in the southeast quarter of the intersection of Peachtree Dunwoody Road and Hammond Drive. The property is currently zoned O-I. It has been zoned O-I for the last 20 years at a density of 509,600 square feet of office, retail and restaurant space, plus a 200 room hotel. The applicant is seeking a rezoning to the MIX classification to allow development of 90,000 square feet of office, retail and restaurant space, 398 apartment units and a 120 room hotel, which is located on the eastern side of the property. We have worked in the process of going through this application extensively with your staff, with PCID, with area property owners, as well as area homeowners associations relative in particular to the transportation improvements that are proposed along Hammond Drive in an effort to make this application fit in with the Hammond Drive improvements. There's a substantial amount of right of way that we were proposing to donate. This plan accommodates the improvements that are planned for Hammond, Peachtree Dunwoody, as well as, accommodates the transportation improvements that have been proposed associated with the Palisades development to the south including the east/west connector that runs from Peachtree Dunwoody Road over to the fly over bridge.

The plan before you tonight shows two points of access between the east/west connector and Hammond Drive, one of which provides direct access from the east/west connector to the new light just east of the Peachtree Dunwoody/Hammond Drive intersection and would line up with Acroman's internal drive, which will also provide a good network on the business side of this intersection. In addition, we have worked with entities such as ARC and GRETA, and they reviewed this, because it's a DRI, and recommended approval of the DRI. Staff, as Patrice has indicated, recommended approval of the request pursuant to conditions, which are acceptable to us. The Planning Commission recommended denial and the basis of their denial was it wasn't dense enough. The plan has 55 units per acre residential, 12,500 square feet per acre nonresidential, plus a 120 room hotel. This application is consistent with your comprehensive plan. Not only is it consistent because it is above 20 units to the acre within the live and work regional area plan, it is also consistent with the guidelines and policies of the PCID portions of the comp plan because it meets the access density open space and green space as well as their standards for streetscape, which will be incorporated into the front of this property. In addition, the property lies within the regional transit and activity center area of the comprehensive plan. Looking at page 32 of the comp plan shows that this area is out of balance with the number of jobs and housing. Concerted efforts will be made to balance the jobs and housing on existing properties. This application does that because it does provide a substantial amount of housing within the center of that area. What we plan to provide is a balance to the imbalance of the housing versus jobs. Within one mile of the site, there are approximately 25 to 28 million square feet of office space and also a lot of residential housing. This application will provide some housing and some attempt to correct that imbalance. The application is consistent with the comprehensive plan, it is consistent with staff's recommendation, it is consistent with ARC and GRETA's recommendation for the property, and the conditions outlined by staff,

including as they relate to variances, are acceptable to us. We've talked about concerns with the variances in detail. We can go through those one by one. If there are no questions, I would like to reserve the remainder of my time for rebuttal.

Mayor Galambos asked if there was anyone else who wished to speak on behalf of this application. Is there anyone here who would like to speak against this zoning application? I guess it is rebuttal time.

Woody Galloway stated he would be glad to answer any questions.

Mayor Galambos stated she thought it would be helpful if he showed staff examples of the work of the Oxford Group, which is the group that is going to develop this site, so we can see what they have done before.

Woody Galloway responded Bill Harget, who is with Oxford Properties, is here. He can address any particulars with regards to this development. The three photos on the left, including Riverside, were developed by Post Properties. All the principals of Oxford came out of Post Properties. They were involved in those developments, but the Mayor has a question of other developments that they have done that have stood the test of time. These developments are 8 to 10 years old and I think that if you have gone over to Post Riverside, you are aware of the fact that they have stood the test of time. These two developments are currently under development and are being constructed by Warners. They are also representative of the type of construction that we are proposing to do at this location. It is planned as residential with commercial restaurant space along the ground floor. There would be a condominium between the residential above and the retail below. Mr. Monson has owned this site for 20 years and he has to be the owner of the first floor development with the retail for him to remain in the deal.

Mayor Galambos asked for any questions. Is there any discussion?

Councilmember Meinzen McEnerny questioned what percentage of the property is going to remain green space.

Woody Galloway responded 20% of the property will remain green space and 26% will remain open space, so we meet the requirements of the comp plan's recommendation in that regard. One of the variances that we have asked for, which the staff is certainly in approval of, is to reduce the zero setback line along the southern boundary next to the east/west connector. What that will allow us to do is to take that 10 feet of green space, flip it and have it much more useable on the northern side of the public property.

Councilmember DeJulio stated I think that's a big improvement.

Mayor Galambos stated that she would like to congratulate him on the size of those beautiful trees and that he has done a great development.

Motion: Councilmember DeJulio moved to approve (Agenda Item No. 09-042) RZ08-014/U08-008/CV08-012 - 1155 Hammond Drive, *Applicant: Hammond Center Joint Venture* - To rezone the subject property from O-I conditional to MIX for the development of 20,000 square feet of restaurants, 50,000 square feet of retail space, 20,000 square feet of restaurant space, 120-room hotel (existing), and 398 apartments, with concurrent variances and a use permit to exceed the maximum district height subject to the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Office and associated accessory uses at a maximum density of 2,770.08 gross square feet per acre or 20,000 gross square feet, whichever is less.
 - b. Retail and associated accessory uses at a maximum density of 6,925.21 gross square feet per acre or 50,000 gross square feet, whichever is less.

- c. Restaurant and associated accessory uses at a maximum density of 2,770.08 gross square feet per acre or 20,000 gross square feet, whichever is less.
 - d. No more than 400 residential units at a maximum density of 55.12 units per acre, whichever is less.
 - e. To a maximum 120-room hotel.
 - f. The maximum building height shall be 6 stories or 100 feet, whichever is less, for the mixed use building. (U08-008)
 - g. The maximum building height shall be 5 stories for the existing hotel. (U08-008)
2. To the owner's agreement to abide by the following:
- a. To the site plan submitted to the Department of Community Development dated received October 17, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
- a. The minimum design standards are:
 - Minimum front yard (Peachtree-Dunwoody Road): 15 feet
 - Minimum side corner yard (Hammond Drive): 20 feet
 - Minimum side yard: 0 feet
 - Minimum rear yard: 20 feet
 - Minimum heated floor area per dwelling unit: 800 square feet
 - b. The owner/developer shall dedicate fifty-five (55) feet of right-of-way from centerline of Peachtree-Dunwoody 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.
 - c. The owner/developer shall dedicate right-of-way and provide improvements on Hammond Drive per the Hammond Drive Corridor Study, dated January 2008, by Kimley-Horn and Associates, to the City of Sandy Springs.
 - d. Install traffic signal at the location shown in the Hammond Drive Corridor Study, dated January 2008, by Kimley-Horn and Associates.
 - e. Install northbound right turn lane from Peachtree-Dunwoody Road onto Hammond Drive.
 - f. The owner/developer shall close existing access points on Peachtree-Dunwoody Road; no direct access to Peachtree-Dunwoody Road shall be allowed.
 - g. The owner/developer shall provide direct access to future roadway designated "East-West Connector" on adjacent property to the south and easements to allow access through Hammond Center development for traffic coming from adjacent property. Number and location of access points to be determined by the Department of Public Works at time of LDP.

- h. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the adjacent properties. Should the owner/developer not come to an agreement on interparcel access at this time with the adjacent property owners, the owner/developer shall provide documentation of such. In addition, if an interparcel access agreement is not obtained; permanent easements shall be recorded allowing for future inter-parcel access along the entirety of the common boundaries of the property, prior to the issuance of an LDP.
- i. There shall be no more than three (3) access points on Hammond Drive. Final curb cut locations shall be determined by the Department of Public Works at time of LDP.
- j. The owner/developer shall provide intersection improvements and signal upgrades as may be required by the Department of Public Works at time of LDP.
- k. To allow a second freestanding sign (Sign #1) along the Hammond Drive frontage with a maximum sign face of thirty-two (32) square feet and a maximum height of six (6) feet (CV08-008).
- l. To allow for internal signs to be used as directional signage for the development (CV08-008). Said signs shall have a maximum sign face area of 20 square feet and shall have a maximum height of 6 feet.
- m. To allow wall signs to be up to twenty-seven (27) square feet for tenant spaces with less than thirty (30) linear feet of store front (CV08-008).
- n. To allow wall signs to extend up to twelve (12) inches from a wall, building, or structure with letters placed on a raceway (CV08-008).
- o. To allow Sign #1 and Sign #4 as shown on the site plan submitted to be setback zero (0) feet from the right-of-way as shown on the site plan submitted to the Department of Community Development dated received December 19, 2008 (CV08-008).
- p. To allow for a double-sided, fifty (50) square foot projecting sign (Sign #3) on the proposed building between the second and third stories at the intersection of Hammond Drive and Peachtree-Dunwoody Road (CV08-008).
- q. To delete the parking lot landscaping requirement for a 10-foot landscape island with a shade tree every sixth parking space in the existing surface parking lot which serves the existing hotel as shown on the site plan submitted to the Department of Community Development dated received December 19, 2008 (CV08-008).
- r. To reduce the required ten (10) foot landscape strip along the south property line adjacent to the proposed east-west connector on the Palisades development property to allow for interparcel access as shown on the site plan submitted to the Department of Community Development dated received December 19, 2008 (CV08-008).

Second and Vote: Councilmember Jenkins seconded the motion. The motion carried unanimously.

RZ08-036/CV08-031 - 7640 Roswell Road (SR 9), Applicant: RBM of Atlanta - To rezone the subject property from C-2 conditional to C-2 to add 2,850 square feet to the existing Pre-Owned Sales building and realign an internal driveway, with concurrent variances.

Ordinance No. 2009-02-09

Assistant Director of Planning and Zoning Patrice Ruffin stated this application is to rezone the subject property from C-2 to C-2 for the 2800 square foot addition to the pre-owned sales building at the car dealership with two

concurrent variances. The petition was heard at the November 25th Design Review Board meeting and the Board recommended approval. The Planning Commission heard the application on January 15th and recommended approval conditional of the application, subject to staff conditions. Staff is recommending approval of the rezoning request and both concurrent variances.

Keith Franklin stated that he is here representing Mr. John Ellis, Jr. He owns both the property and the operating company, RBM of Atlanta, which is an authorized Mercedes Benz Dealership and has been at this location since 1988, and been in business in the Atlanta area since 1962. RBM is applying for a rezoning to change the existing zoning conditions to allow us to expand the pre-owned building. The back of the pre-owned building is highlighted in yellow on the plat. RBM would like to expand it by 2850 square feet. Under the current zoning, we would exceed the allowable square footage by approximately 2000 square feet. The original zoning maxes out at 54,800 square feet and the original parcel had 6.85 acres. In 1989, Mr. Ellis bought .95 acres to the north, which he shares with Capital City Cadillac, bringing the total property to 7.797. This expansion is a result of Mercedes Benz USA requiring existing dealerships to bring their dealerships up to the auto house standards. It is a branded and marketing requirement. In doing this, RBM will have to enlarge our showroom. It is our intention to expand the pre-owned building to accommodate the administrative staff and bring all of the salespeople into a larger showroom, which is still under the same roof as the existing new car showroom. RBM does not expect to increase the amount of employees as a result of this facility expansion, or generate additional traffic, unless, of course, more sales come about as a result of it. There are also two concurrent variances RBM is requesting. One is on the west back property line where we would like the existing landscape strip to remain. The second is on the southern property line, which is shared with another parcel that is owned by Mr. Ellis and is operated as RBM of Atlanta Express, and is to allow that landscape strip to remain as well.

Mayor Galambos called for public comment in support or opposition of this application. There were no public comments.

Motion: Councilmember Fries moved to approve (Agenda Item No. 09-043), RZ08-036/CV08-031 - 7640 Roswell Road (SR 9), *Applicant: RBM of Atlanta* - To rezone the subject property from C-2 conditional to C-2 to add 2,850 square feet to the existing Pre-Owned Sales building and realign an internal driveway, with concurrent variances, subject to the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. A car dealership and automobile maintenance facility not to exceed 57,935 square feet at a density of 7,423.75 square feet per acre, whichever is less.
2. To the owner's agreement to abide by the following:
 - a. To the site plan submitted to the Department of Community Development dated received November 4, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
 - a. The owner/developer shall dedicate 55 feet from the centerline of Roswell Road (SR9) along the entire street frontage or 10.5 feet from the edge of curb, whichever is greater.
 - b. To allow the existing 25 foot landscape strip to remain in the rear of the property in lieu of the required 50 foot buffer and 10 foot landscape strip (Section 4.23.1; Minimum Landscape Strips and Buffers).(CV08-031).

- c. To allow the existing landscape strip to vary from 20 feet to zero feet on the southern boundary of the property in lieu of the required 5 foot landscape strip (Section 4.23.1; Minimum Landscape Strips and Buffers) (CV08-031).
- d. The owner/developer shall install a concrete pad per MARTA's specification for the future installation of a bus shelter. The location of the concrete pad will be determined by Public Works at the initiation of the Land Disturbance Permit (LDP). The concrete pad, if warranted, shall be subject to MARTA and City of Sandy Springs approval at time of LDP.

Second and Vote: Councilmember MacGinnitie seconded the motion. There was no Council discussion. The motion carried unanimously.

Zoning Modification

ZM08-016 - 201 Mt. Vernon Highway, Applicant: SCI Georgia Funeral Services - To modify the existing site plan condition 2(a) of Z93-0030/CV93-0049/U93-0011 to allow an expansion of internal drives to access new burial areas and mausoleums throughout the existing site, with concurrent variances.
Ordinance No. 2009-02-10

Assistant Director of Planning and Zoning Patrice Ruffin said the applicant is SCI Georgia Funeral Services and they are looking to do some expansions throughout the property of their driveways and burial areas and possibly the mausoleums. The applicant is requesting a modification to the existing conditions on the property and is also requesting one concurrent variance. Staff is recommending approval conditional of the modification request and the concurrent variance request.

Carl Westmoreland, 1545 Peachtree Street, stated, as Ms. Ruffin said, this is for modification to a case, the current conditions of which were approved by Fulton County in 2000. The Cemetery of the South has been there since 1929. The present operator bought it in 1992. The darker green areas are the subject of this application because they were not shown as being developed on the previous plan and the request is that they be allowed to be developed with a combination of gravesites and mausoleums. If you will recall, there is a sidewalk fence all along the Mount Vernon frontage. The variance is from the streetscape standards of the overlay, which require more property. The problem is that there are graves immediately behind the fence and there is no way to move back any more off Mount Vernon. We have raised that issue with staff and, as Ms. Ruffin said, they recommend approval. We deferred this to have more meetings. We first met at a community meeting in November. We had another one in January. At the first meeting, residents of Mount Vernon and residents in the rear off Bonnie Lane and the other streets attended. There was a lot of discussion about conditions. I think that I have given staff a set of conditions that we added in addition to the restatement of the 2000 conditions, which the staff has recommended. Those things had to do with increasing the buffers and doing additional planning with the buffers. There was some concern from the Mount Vernon residents that we had too many mausoleums in the front. We deleted two of those. We have also provided that the others would not begin for a period of years after this; for 15, 20 and 25 years after approval of the application. Believing that it was satisfactory to them, we did not hear from the residents to the rear until yesterday, when I was contacted by Zach Taylor. We met with him tonight and discussed his concern with the mausoleums along the eastern property line to the rear. What we have agreed to do is move those four. They are in front of buildings J, K, L and M. They will be moved an additional 50 feet. They are current 65 feet and the additional 50 feet off the property line. If they cannot be relocated, then they will be eliminated. I believe that is consistent with what Mr. Taylor has asked for and I expect he will address that in a minute. Again as I said, most of the conditions remain the same so this really allows simply an expansion in the areas of the property that previously were not shown as being developed. I think there are two issues with regard to the staff conditions. One is they refer to the site plan dated January 23rd. I believe that should be January 30th. The difference is that after we met with the neighbors again on January 28th, we submitted a plan, which removed two more of the mausoleums in the front, so I think the 30th would be the correct reference to the site plan. Secondly is a condition that the City

came up with asking that we reserve an area along Mount Vernon for the eventual realignment of Long Island Drive. If you will recall, Long Island comes in not quite across from the entrance drive. I think that has been a problem at that intersection for some time. As we understand from Mr. Moore, the plan would be to move that to the west. I have already mentioned that for the same reason we cannot meet the streetscape standards, we cannot move it to the east because there are graves there. What the condition says is that we will reserve an area to the west for a period of time to see if the City eventually wants to realign that intersection and we would, of course, have to realign the entrance drive. The condition says to reserve an area extending 130 feet from the sideline. It does not specify a distance across our property, nor does it specify a time period. The question is whether we could tie this reservation of right of way down geographically. Also, is it five years? Is it seven years? Is it ten years before the city decides what they would want to do? I would like a response on those two items. Otherwise, we are fine with the conditions and I believe that we have responded to everything that the neighbors want as well.

Mayor Galambos asked, is there anyone else who wishes to speak on behalf of this application?

Zach Taylor, 105 Bonnie Lane, stated his residence is directly adjacent to the eastern portion of the property. I am here informally on behalf of a number of my neighbors. As it stands now, if they go in 50 feet and honor the natural slope of the property, then we are in support of the zoning modification for the applicant.

Mayor Galambos asked, is there anyone else who wishes to speak on behalf of this application? Anyone who wishes to speak against it? Mr. Westmoreland, do you want to come up and see if there are any questions? Does anybody have any questions?

Councilmember Jenkins asked Mr. Moore if he could address the issue that we should give them either a time period or a distance.

Transportation Planner Mark Moore stated I was going to clarify this. 130 feet effectively brings us to the end of this sort of internal island. The idea from the discussions, even going back to the Athletic fields, if we remember from Holy Spirit and the long-standing concerns about the intersection of Long Island and Mount Vernon is such an extreme skew. The way to fix the skew ultimately would be to move this drive to the west, which would increase our offset. We probably would not be able to remove enough of an offset and while the cemetery is probably not a very extremely high volume generator, when there are funeral processions and so forth, having that skewed intersection will be a problem. As Mr. Westmoreland indicated, if you were to ever bury people in there then you would effectively pin down the location forever. The thought originally was to try to move it back and not having a plan, I am not sure what the distance would be. The condition that I apparently did not get clear enough was to the property line.

Councilmember Jenkins questioned 130 feet by what? How far into their property?

Transportation Planer Mark Moore stated approximately to this line. It is just beyond this. If you can see this sort of moving island that exists right now in the drive, it would take that and follow along to their western property line. You would say 130 in from their entrance west to their western property line adjacent to whatever this property would be, so it would take this sort of rectangle out. As far as the time frame goes, I have no way of being able to commit to that because I don't know what you all would want to allocate the funds to do such an intersection improvement.

Councilmember Jenkins stated I just want to make sure it is clear enough that they do not put any graves in that location.

Transportation Planner Mark Moore responded staff understands.

Mayor Galambos commented that we really need to come up with a time.

Councilmember Jenkins responded yes, but I meant geographical area so that they can sort of block it off, because they can put stakes out there, or pins or something.

Mayor Galambos commented that we have got to come up with a time.

Councilmember Jenkins responded yes, I am not talking about the time period.

Transportation Planner Mark Moore stated here is what was actually written. Reserve an area extending 130 feet from the centerline of Mount Vernon Highway from the vehicular entrance southwest to the property line adjacent to 211 Mount Vernon Highway as future right of way. A reserved area may not include any permanent structures or burial plots. This is what Patrice just handed me. It will be up to you all, obviously, as to what you thought was reasonable.

Councilmember Meinzen McEnery stated I am just going to throw out a number, maybe 10 years. We have got 10 years of opportunity to do intersection improvement. Maybe that is a good number. I do have a question of Mr. Westmoreland. Mr. Taylor mentioned that he was in agreement with your plan/compromise that you worked out as long as you honor the existing slope of the property. Is that something that you could agree to?

Mr. Westmoreland answered we are agreeable to that. I think the reason they wanted it moved is because they get over a ridge back there and I think that his point was we do not want you to go with a ridge and then build up the grave. We are agreeable to that. I appreciate you bringing up the distance. I maybe did not read exactly what the staff had written. We understand now that it goes all the way to the property line. If we can get a limitation on time, then we know we have got to stay out of that back 130 feet for a certain period of time.

Councilmember Meinzen McEnery questioned is ten years is something that you think your client would find reasonable?

Mr. Westmoreland responded I would think so and it was just open ended and I did not want someone to be back up here in 20 years asking you about that.

Mayor Galambos asked, are we ready for a motion? Does the clerk know the language that was discussed about 130 feet?

Assistant Director of Planning and Zoning Patrice Ruffin stated it has included in your packages.

Councilmember Jenkins asked that we just need get the time limitation included in there.

City Attorney Wendell Willard stated let me be clear, Mayor, if we can, on what we are doing with that number of variances that are being approved as recommendations by staff. Were things modified from the written document that Mr. Westmoreland has addressed here?

Assistant Director of Planning and Zoning Patrice Ruffin answered no there is not. The only change that will be made is the discussion about the time limitation on the reservation area.

City Attorney Wendell Willard asked, and the footage set back of the mausoleums?

Assistant Director of Planning and Zoning Patrice Ruffin answered it is 130 feet from the property line.

City Attorney Wendell Willard said I want to have it stated that if we've got anything that's changing from the documents in here as far as staff recommendations on the variances that we recognize what those changes are going to be.

Assistant Director of Planning and Zoning Patrice Ruffin responded right. We would have to add the language about the additional 50 feet for the mausoleums along the east property line.

City Attorney Wendell Willard questioned which item that was.

Assistant Director of Planning and Zoning Patrice Ruffin answered it will be a new condition. It will be 3JJ.

Mayor Galambos stated a new item.

City Attorney Wendell Willard stated let us do that by stating what it will be as a part of the motion.

Councilmember Paul stated Madam Mayor I move approval with all the variances and I am going to put a comma here in my motion and allow Patrice to fill in a JJ.

Assistant Director of Planning and Zoning Patrice Ruffin stated condition 3JJ would require a setback of 85 feet for the mausoleums along the east property line adjacent to the properties on Bonnie Lane.

Councilmember Fries questioned isn't it fifty feet?

Carl Westmoreland, 1545 Peachtree Street, stated he thinks it is 115 feet. Is that correct?

Councilmember Paul started erase that and start over with my paragraph.

Assistant Director of Planning and Zoning Patrice Ruffin stated the original conditions had been 50 feet from that property line.

Councilmember Fries stated the total is to be 115 feet from the property line and to honor the existing slope.

Councilmember Paul stated erase, delete and start over again.

Assistant Director of Planning and Zoning Patrice Ruffin stated the condition 3JJ will state that the mausoleums along the east property line adjacent to the properties on Bonnie Lane will be no closer than 115 feet of the property line and the existing slope will remain the same.

Councilmember Paul stated add that to my motion.

Mayor Galambos questioned about the 10 years.

City Attorney Willard stated what was being done as far as an item being changed about the setback requirements and that will disappear after ten years of required as right of way.

Assistant Director of Planning and Zoning Patrice Ruffin stated that will be added to Condition 3BB.

Councilmember Paul said 3BB will be, Patrice:

Assistant Director of Planning and Zoning Patrice Ruffin stated reserve an area extending 130 feet from the centerline of Mount Vernon Highway from the vehicular entrance southwest to the property line adjacent to 211

Mount Vernon Highway as future right of way. The reserved area may not include any permanent structure or burial plot. The subject area shall be required for a period of 10 years.

Councilmember Paul stated and that is my motion.

Motion: Councilmember Paul moved to approve (Agenda Item No. 09-044), ZM08-016 - 201 Mt. Vernon Highway, *Applicant: SCI Georgia Funeral Services* - To modify the existing site plan condition 2(a) of Z93-0030/CV93-0049/U93-0011 to allow an expansion of internal drives to access new burial areas and mausoleums throughout the existing site, with concurrent variances, subject to the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property to the following:
 - a. A Cemetery and Mausoleums, and accessory structures (U93-011).
 - b. Administrative offices and sales offices incidental to the use described in condition 1.a., for a total gross square footage, including existing structures, not to exceed 7,500 square feet.
 - c. Funeral establishments shall be prohibited.
 - d. The manufacturing of vaults shall be prohibited. Storage of vaults shall be allowed.
2. To the owner's agreement to abide by the following:
 - a. To the Site Plan received by the Zoning Department on February 3, 2009 and to submit to the Director of Public Works for approval, prior to the approval of a Land Disturbance Permit, a revised Site Plan based on a certified boundary survey of the entire property zoned, incorporating the stipulations of these conditions of zoning approval and meeting or exceeding the requirements of the Zoning Resolution. (ZM08-016)
3. To the owner's agreement to the following site development considerations:
 - a. No vehicle traffic shall come within 25 feet of residential property, except along existing paved roadways permitted within the said setback pursuant to this petition.
 - b. Replant to buffer standards the area between the existing Oak Hill Drive and the north property line. Arlington Memorial Park will replace 17 pines next to the fence line behind 460 Riverhill Drive with 23 hollies. Species of holly to be determined by the City of Sandy Springs Arborist. Plantings shall be completed prior to issuance of a Land Disturbance Permit (LDP).
 - c. Replant to buffer standards the area between the existing drive and the property line (by the Masonic, Cross, and Monument sections).
 - d. Provide a 50-foot setback for all buildings and above ground burial structures of every kind, excluding those existing, as shown on the site plan referenced in condition 2.a. except for headstones and identification monuments in Area 2 and the area adjacent to Area 2 identified on the site plan referenced in condition 2.a. (V93-049)
 - e. No more than the two existing exits/entrances on Mt. Vernon Highway. Curb cut location and alignment are subject to the approval of the City of Sandy Springs Traffic Engineer.
 - f. No access shall be allowed from Long Island Drive where it adjoins the northern property line.

- g. Replace the existing fence with a new fence along Mount Vernon Highway and angled back on the west side of the main entrance as it currently exists on the property as referenced on the maps showing the surveyed fence location submitted to the Department of Community Development on May 22, 2000. The fence must be located a minimum of 10.5 feet from the back of curb. The new fence shall be composed of black metal. It shall be 6 feet in height, consisting of 3 rail, 2-inch post and 8-foot panels. The fence shall be installed by September 1, 2000.
- h. Provide a setback for graves along Mount Vernon Highway in Area #1 from the right-of way line to the fence line on the east side of the main entrance as shown on the revised site plan submitted to the Department Community Development on February 3, 2009.(2000VC-0062 NFC-Part 1). On the west side of the main entrance, the setback shall be 60 feet and no graves shall be allowed at the 60- foot setback line and within the area up to the fence as shown on the site plan.
- i. Provide a 10-foot side yard setback for graves in Area #2 as shown on the revised site plan submitted to the Department of Community Development on February 3, 2009. (2000VC-0062 NFC-Part 2)
- j. Provide a 5-foot side yard setback for graves in Area #3 as shown on the revised site plan submitted to the Department of Community Development on, February 3, 2009. (2000VC-0062 NFC-Part 3)
- k. Provide a 5-foot rear yard setback for graves in Area #3 as shown on the revised site plan submitted to the Department of Community Development on, February 3, 2009. (2000VC-0062 NFC-Part 4)
- l. Provide a 20-foot side yard setback for graves in Area #4 for a distance of 313 feet as shown on the revised site plan submitted to the Department of Community Development on, February 3, 2009. (2000VC-0062 NFC-Part 5)
- m. Provide a landscape strip along Mount Vernon Highway in Area 1 in varying widths from the fence line to the property line on the east side of the main entrance as shown on the revised site plan submitted to the Department Community Development on February 3, 2009. In areas where the fence line and property line overlap, a landscape strip shall be planted 3 feet into the right-of-way subject to approval from the Department of Public Works. The City of Sandy Springs will not be responsible for maintaining the landscaping. Should the County need to provide maintenance that eliminates the landscaping; the City of Sandy Springs will not be responsible for restoring the landscaping. The area on the west side of the main entrance shall remain an undisturbed buffer between the angled fence and the property line. Landscape strip shall be completed by March 31, 2001. (2000VC-0062 NFC-Part 6)
- n. The landscape plan for Area 1 shall be submitted to the Department of Community Development for review by the City of Sandy Springs no later than August 1, 2000. Planning Staff shall convene a meeting with the City of Sandy Springs Arborist, the applicant and representatives of the community to review the landscape plan within 30 days after approval from the City of Sandy Springs Arborist.
- o. The applicant shall provide a performance bond to The City of Sandy Springs at the time the landscape plan for Area 1 is approved. An appropriate indemnification agreement should be drafted to satisfy the County Attorney.
- p. Provide a landscape strip planted to buffer standards in the following widths shown. Said plantings and specifications shall be subject to the approval of the City of Sandy Springs Arborist. (2000VC-0062 NFC-Part 7)

Area #2- Ten feet

Area #3- Five feet (along property line labeled for a distance of 340 ft)

Area #4-Twenty feet (along property line labeled for a distance of 313 feet)

- q. Provide a 5-foot landscape strip planted to buffer standards in Area #3 along property line labeled for a distance of 635 feet. (2000VC-0062 NFC-Part 8)
- r. Reduce setbacks to extent necessary to allow existing driveways, paths, buildings and structures to remain.
- s. Demarcate existing and future grave sites along all interior property lines, interior to any required landscape strip, buffer, improvement setback or tree save area whichever applies as follows. The replacement fence will serve as demarcation in Area 1 for existing and future graves along Mount Vernon Highway. Areas 2, 3 and 4 as identified on the site plan shall be demarcated with 6" x 6" flush markers every 50 feet that are painted and readily identifiable. In undeveloped areas, a 4-foot high above ground metal fence post shall be installed every 50 feet with the top of post painted and readily identifiable subject to the approval of the Director of Community Development.
- t. The tree save area as identified on the site plan received by the Department of Community Development on February 3, 2009 shall be demarcated with 6x6 flush markers on all corners that are painted and readily identifiable subject to the approval of the Director of Community Development.
- u. All demarcation shall be in place no later than March 1, 2009.
- v. Demarcation plan subject to the approval of the Director of Community Development must be posted within public view no later than March 1, 2009 in the Arlington Park sales office and shall be maintained there at all times.
- w. Provide a 35-foot side yard setback for a distance of 213 feet for graves in Area #4 starting beyond the 313 feet referenced in condition t. as shown on the revised site plan submitted to the Department of Community Development on February 3, 2009.
- x. Provide a tree save area as shown on Exhibit 1 submitted to the Department of Environment and Community Development on May 31, 2000, subject to the approval of the City of Sandy Springs Arborist. A separate map of the tree save area shall be posted within public view no later than September 1, 2000 in the Arlington Park sales office and shall be maintained there at all times.
- y. Plant one (1) row of 6 plants to be approved by the City of Sandy Springs Arborist behind 430 Riverhill Drive beginning at the edge of the residents' south property line and running north for a distance of 50 feet. Plantings shall be completed prior to issuance of a Land Disturbance Permit (LDP).
- z. Arlington Cemetery shall maintain the required planted buffers and landscape strips as conditioned pursuant to zoning modification 2000ZM-0021 NFC and concurrent variances 2000VC-0062 NFC, Parts 1-8.
- aa. To allow the applicant an exemption from the requirements of the Urban Overlay District Streetscape standards for planting strip, sidewalks, street trees and lighting due to the existence of graves along the majority of the property line along Mt. Vernon Highway. (CV08-028).
- bb. Reserve an area extending 130' from the centerline of Mt. Vernon Highway from the vehicular entrance southwest to the property line adjacent to 211 Mt. Vernon Highway as future right of way. The reserved area may not include any permanent structures or burial plots. The subject area shall be reserved for a period of 10 years.

- cc. No above ground monuments will be placed within the 50-foot building setback.
 - dd. Prior to each major phase of expansion, construction fencing shall be installed along all clearing limits and inspected by the City of Sandy Springs prior to clearing. Said fencing shall be subject to the approval of the City of Sandy Springs Arborist.
 - ee. Planting of trees in compliance with the City of Sandy Springs shall be made in buffer areas along the property lines, as practically as possible, to enhance the existing vegetative buffer. Said tree planting plan shall be subject to the approval of the City of Sandy Springs Arborist.
 - ff. Proposed mausoleums shall not exceed 35 feet in height and shall not be located closer than 65 feet to any property line.
 - gg. Any security lighting on mausoleums shall have a controlled footprint and be screened from adjacent residential areas.
 - hh. The relocated maintenance building shall not exceed 35 feet in height, shall not be located closer than 70 feet to the closest property line and be painted a dark or neutral color to limit its visibility from surrounding residential areas.
 - ii. Construction shall not commence on the mausoleums identified as mausoleums A,B and C on the site plan dated January 30, 2009 prior to the date specified for each:
 - A. 15 years from the date of approval of this application.
 - B. 20 years from the date of approval of this application.
 - C. 25 years from the date of approval of this application.
 - jj. Proposed mausoleums located along the eastern property line adjacent to properties fronting Bonnie Lane shall be set back 115 feet. Said mausoleums shall be located consistent with the existing grade of the land in this area.
4. To the owner's agreement to abide by the following requirements, dedications, and improvements:
- a. Dedicate at no cost to the City of Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide at no cost to the City of Sandy Springs 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.
 - b. Improve Mount Vernon Highway along the entire property frontage with curb and gutter per City of Sandy Springs standards.
 - c. Provide a deceleration lane for each project entrance or as may be approved by the City of Sandy Springs Engineer.
5. To the owner's agreement to abide by the following:
- a. To contact the Director of Public Works, prior to the application for a Land Disturbance Permit, to arrange with the County Arborist an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries.

- b. To maintain as a minimum, the tree density requirements as prescribed by the City of Sandy Springs Tree Preservation Ordinance Administrative Guidelines, either through the retention of existing trees, or tree replacement in perpetuity.
- c. Analyze the downstream effect from stormwater management structures and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point where development represents less than 10% of the total watershed at this point.
- d. Evaluate the downstream ditch stability and bank erosion protection potential of existing downstream conveyance system. Provide all necessary documentation to the Department of Public Works at construction drawing phase.
- e. Provide downstream analysis of the flood discharge timing effect on the existing conveyance systems due to each storm frequency.
- f. All natural streams within the limit of project must be stable and be expected to remain stable under ultimate development or provide appropriate erosion protection for the streams subject to the approval of the Department of Public Works.
- g. The design discharge at the outlet of drainage system shall not result in velocities that equal/exceed the erosive velocity or the existing velocity of the receiving channel/draw, unless dissipation and erosion protection measures are placed at the outlet. Provide Public Works with documentation.
- h. Detention must be provided subject to the approval of Public Works.
- i. To contact the Drainage Basin Engineer prior to any application for a Land Disturbance Permit, subsequent to this petition, to arrange an on-site visit evaluation as to the location, stormwater discharge path of detention pond and other downstream constraints.
- j. Lots should generally be graded in such a manner that the surface runoff does not affect downstream lots or flow through lots shall be collected and conveyed in appropriate storm drainage system. (Provide documentation at the construction drawing phase and subject to the approval of Public Works.
- k. Conditions c, d, e, f, and g are subject to the approval of the Drainage Engineer.

Second and Vote: Councilmember Jenkins seconded the motion. The motion carried unanimously.

ZM08-017/CV08-032 - 5600 Roswell Road (SR9), Applicant: The Prado, LLC - A request to modify conditions 2.a and 3.m of Z05-0050 to change the main street entrance to be a private road and to allow a third freestanding sign (menu board) on Roswell Road (SR9) for the Starbucks drive-thru, with concurrent variances.

Ordinance No. 2009-02-11

Assistant Director of Planning and Zoning, Patrice Ruffin, stated the applicant is requesting to modify the existing conditions for the Prado Development to allow the main street into the development to become a private road. This was partially a request from the Department of Community Development to allow addressing off of that street rather than off of Roswell Road for those buildings. Additionally the applicant is requesting concurrent variances to reduce the setbacks adjacent to that private road and to also have a third freestanding sign which will be the menu board for the drive thru for the proposed Starbucks building on the property. Staff is recommending approval conditional of the modification request and the concurrent variance request. The application was heard at

the December 23rd Design Review Board Meeting and the Board recommended approval subject to the landscaping and screening of the menu board from Roswell Road.

Pete Hendrix, 1685 Lake Forrest Drive, stated it's the 25.08 acre track southwest corner of Lake Placid and Roswell Road. The request is pretty simple. We're asking that under condition 2A that the oldest January 2007 site plan referenced there be deleted and the December 2, 2008 site plan that we've filed be substituted and placed in lieu of that.

In terms of the signage issues, this is the area where the signage in question is asked under 3M to be allowed to have an additional sign, and then we get to your development standards. It was interpreted by staff, even though we're dropping down the hill and even though we will have maturity of landscaping when all of this is finished it will technically, totally mask out that sign. Right now on paper this menu sign, that as you turn the building and use it to do your ordering from outside, on paper technically it is considered to be in view of Roswell Road. So we've got to ask for relief from that. Under the development standards, we've also got to ask for an additional monument sign along Roswell Road.

The last concurrent variance, as Patrice stated, was strongly suggested by your staff and I think makes an abundance of sense, is privatizing the main entry drive into the development. Those buildings are in place, so that the relief that we're asking for is by doing that, we now are faced with what otherwise would be a 40 foot front yard setback. We are asking that that front yard setback on either side of the main entry drive be reduced in keeping from the distances that the buildings that are sitting there, in fact, sit back from that main entry drive. So that pretty much lays out what we are asking of you. Scott McLane is here to answer to answer any questions. He did meet earlier with Trisha Thompson.

Mayor Galambos asked if he could show Council a picture of what the additional sign would be, not the little Starbucks sign, but the additional sign.

Councilmember Jenkins stated that is if it qualifies as a monument sign. That's why they need relief.

Pete Hendrix stated it's one in the same.

Mayor Galambos asked is there anyone else who wishes to speak to this application.

Trisha Thompson, Chairman of Sandy Springs Council of Neighborhoods, stated we've been meeting with Scott McLane who has been very kind. We've had several meetings now about various different aspects of this proposal as it comes forward. This is one that we support, one that Scott has taken the time to walk us through and show us. Again, we are in support of this and hope that you will support it as well.

Mayor Galambos asked if there was anyone else who would like to speak on behalf of this application. Is there anyone who wishes to speak against this application? Are there any questions that anyone would like to ask of the applicant? We are ready for a motion.

Motion: Councilmember Meinzen McEnery moved to approve (Agenda Item No. 09-045), ZM08-017/CV08-032 - 5600 Roswell Road (SR9), *Applicant: The Prado, LLC* - to modify conditions 2.a and 3.m of Z05-0050 to change the main street entrance to be a private road and to allow a third freestanding sign (menu board) on Roswell Road (SR9) for the Starbucks drive-thru, with concurrent variances, subject to the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas, at a total of 341,485 square feet over the 25.08-site, and including no

more than one freestanding fast food restaurant with or without drive thru, a financial institution with a drive-thru and a drug store with a drive-thru. Convenience stores with gas pumps and commercial amusements are excluded.

- b. Limit the height of the buildings to no more than 3 stories with structured parking up to 5 levels.
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 2, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, the applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
 - b. To the Landscape Plan known as (Exhibit B) along the south property, line adjacent to Carriage Gate submitted the Department of Community Development on August 11, 2006.
 3. To the owner's agreement to the following site development considerations:
 - a. No more than two (2) exits/entrances on Roswell Road (SR 9). Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - b. No more than three (3) exits/entrances on Lake Placid Drive. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - c. Reduce the number of required parking spaces to no less than 1,333. (2005VC-0105 NFC, Part 4)
 - d. Allow shared parking pursuant to Article 18.2.2.
 - e. Provide streetscape standards consistent with the Main Street district in the Sandy Springs Overlay District along Roswell Road (SR 9) and along the main boulevard of the project as shown on the site plan received by the Department of Community Development dated August 11, 2006.
 - f. Provide a 10-foot front yard along Lake Placid Drive. (2005VC-0105 NFC, Part 1)
 - g. Provide a forty-five (45) foot landscape strip planted to buffer standards along the south property line of the overall Prado development adjacent to the Carriage Gate townhomes. (2005VC- 0105 NFC, Part 2) Prior to the issuance of a Land Disturbance Permit, the owner/developer shall submit a landscape plan to the Department of Community Development. Said landscape plan shall be subject to the approval of the Sandy Springs Arborist.
 - h. Delete the requirement of a tree island every 6th parking space. (2005VC-0105 NFC, Part 3)
 - i. Delivery hours for Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a. shall be 7:00 a.m. to 10:00 p.m. Monday through Friday and 9:00 a.m. to 8:00 p.m. Saturday and Sunday.

- j. No dumpsters shall be allowed within the area between the southern property line and rear wall of Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a.
 - k. The south wall of Anchor A retail store as shown on the site plan referenced in condition 2.a. shall be comprised of masonry material.
 - l. The exterior lighting for the Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a. adjacent to Carriage Gate along the south property line shall be placed on the retaining wall to the south of the building facing the Anchor A and Anchor B buildings and not on the roof of the Anchor A building.
 - m. To allow for two additional monument signs along the Roswell Road (SR 9) frontage of the property and to allow for an additional monument sign along the Lake Placid Drive frontage of the property as shown on the site plan received by the Department of Community Development dated December 2, 2008.(CV08-032).
 - n. To allow for an encroachment into the twenty-five (25) foot impervious setback of the required stream buffer along the west side of the property as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
 - o. To delete the required five (5) foot landscape strip along all property lines between the "Anchor A Tract" and the remainder of the subject site as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
 - p. To delete the required twenty-five (25) foot building setback along the south property line for the "Anchor A Tract" as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
 - q. The owner/developer shall implement a program to ensure that all shopping carts for the businesses at the shopping center remain on the subject property at all times. Documentation of said program shall be submitted to the Department of Community Development prior to the issuance of the first Certificate of Occupancy and shall be subject to the approval of the Director of Community Development.
 - r. To reduce the required forty foot (40') front yard setback to vary according to the site plan for existing buildings submitted on December 2, 2008 on the main entry drive to the development which shall be designated a private road for the purpose of individual addressing for businesses located on that road (CV08-032).
 - s. To submit to the City of Sandy Springs a plat showing all property divisions, incorporating the new private road, and existing structures on the site, which shall be filed with the Fulton County Tax Assessor's Office and recorded with the Clerk's Office of the Superior Court of Fulton County.
4. To the owner's agreement to abide by the following requirements, dedication and improvements:
- a. Dedicate at no cost to Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Sandy Springs 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:

- i. 50 feet from the centerline of Roswell Road (SR 9) or as may be required by the Georgia Department of Transportation.
 - ii. 30 feet from the centerline of Lake Placid Drive
 - b. Provide a traffic impact mitigation plan to reduce the number of vehicular trips generated by the development at the Land Disturbance permit phase.
 - c. The developer shall be responsible for complying with the requirements of the document entitled "Fulton County Driveway Manual" adopted by the Fulton County Board of Commissioners on May 18, 2005.
5. To the owner's agreement to abide by the following:
 - a. Prior to submitting the application for a (LDP) with the Department of Community Development, Development Review Division, arrange to meet with the Sandy Springs Traffic Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
 - b. Prior to submitting the application for an LDP, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the Sandy Springs Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for an LDP.
 - c. Prior to submitting the application for an LDP, the developer/engineer shall contact the Public Works Department and arrange to meet on-site with an engineer, who is responsible for review of Storm Water Concept Plan submittals.
 - d. Prior to submitting the application for an LDP, the developer and/or engineer shall submit to the Development Review Division, a project Storm Water Concept Plan. This concept plan shall indicate the preliminary location of the storm water management facilities intended to manage the quality and quantity of storm water. The concept plan shall specifically address the existing downstream off-site drainage conveyance system(s) that the proposed development surface runoff will impact, and the discharge path(s) from the outlet of the storm water management facilities to the off-site drainage system(s) and/or appropriate receiving waters. As part of the Storm Water Concept Plan submittal, a preliminary capacity analysis shall be performed by the engineer on the off-site drainage system(s) points of constraint. The capacity analysis shall determine the capacity of all existing constraint points, such as pipes, culverts, etc. from the point of storm water discharge at the proposed development site boundary downstream to the confluence of the receiving drainage course at a point where the drainage area is at least ten times the proposed development site area and the next downstream drainage area having a drainage area of fifty acres or more. The critical capacity points shall be selected based upon the engineer's field observation, professional judgment, and limited field survey data. The analysis shall identify the downstream properties pre and post-development 100-year water surface elevations, and for any post-development water surface elevation increase exceeding 0.05 feet, the developer shall acquire the applicable offsite drainage easement to accommodate the 100-year storm flow through impacted properties. Where Sandy Springs has completed a model of the basin, it shall be used by the developer in the analyses.

- e. Where storm water currently drains by sheet flow and it is proposed to be collected to and/or discharged at a point, such that the discharge from the storm water management facility outlet crosses a property line, such discharge shall mimic pre-development sheet flow conditions. A description of the method proposed to achieve post-development sheet flow conditions shall be provided as part of the Storm Water Concept Plan. Should the method to achieve sheet flow across an external property line be unsuccessful, the developer shall acquire an easement(s) from the point of discharge to a point down gradient at a live dry weather stream sufficient to contain the 25 year storm flow or other location as approved by the Director of Public Works. This condition will not apply when the storm water management facility is designed and approved to discharge directly to a stream or watercourse.
- f. A draft of the Inspection and Maintenance Agreement required by Sandy Springs shall be submitted to the Department of Public Works with the Storm Water Concept Plan.
- g. The Inspection and Maintenance Agreement shall provide that all storm water management/detention facility outlet control structures shall be inspected, photographed, and cleaned, if necessary, on a monthly basis, by the owner. The Inspection and Maintenance Agreement shall require that the design engineer shall prepare an operation and maintenance guidance document, for use by the owner and/or any professionals retained by the owner, to plainly describe the basic operational function of the facility(ies), including a description of a permanent marker post(s) which shall indicate that the level of sediment which, if exceeded, requires sediment removal. The Inspection and Maintenance Agreement shall require an annual operation and maintenance report for all storm water management/detention facilities be prepared by a licensed design professional and submitted to the SWMP. The annual report shall include monthly inspections, photographs, and documentation of the cleaning of storm water management/detention facilities outlet control structure(s) as well as an operational assessment of the facilities indicating that they do, or do not, function as described in the design guidance document (described above), and if they do not, a description of the specific actions to be taken to allow the facilities to function as intended.
- h. The required Inspection and Maintenance Agreement shall be recorded with the Clerk of Superior Court prior to issuance of an LDP, Grading Permit, or Building Permit associated with the development.
- i. The engineer/developer is required to submit, along with the application for an LDP, signed documentation verifying approval of the Storm Water Concept Plan.
- j. Where paved parking areas (including access aisles) are proposed to exceed 5,000 square feet, the storm water management facilities shall be designed to reduce pollutants such as oil, grease and other automobile fluids that may leak from vehicles. A general description, or concept, of the storm water management facilities proposed to achieve the removal of such pollutants shall be submitted with the Storm Water Concept Plan. A detailed design of such facilities shall be included in applicable documents for a land disturbance permit.
- k. With the application for an LDP, provide documentation (such as channel cross-sections, centerline profile, etc.) describing the geometry of those existing natural streams, creeks, or draws within the proposed development boundary which in the design engineer's judgment are at risk of erosion due to increased flow, provide a description of the basis utilized in judging areas to be at risk, and provide details on the Storm Water Management Plan of the post-development channel bank protection measures.

- l. The developer/engineer shall demonstrate to the City by engineering analysis submitted with the LDP application, that the discharge rate and velocity of the storm water runoff resulting from the development is restricted to seventy-five percent (75%) of the pre-development conditions for the 1-year frequency storm event, up to and including the ten (10)-year frequency storm event.
- m. Drainage from all disturbed areas shall be collected and conveyed to a storm water management facility provided as part of the development. The Storm Water Concept Plan shall identify any proposed areas with incidental and minor release of storm water not conveyed to such facilities, subject to the approval of the Director of Public Works. Plans for any land disturbance permit shall show all proposed drainage patterns for the proposed development after its completion. Any incidental release of unmanaged or untreated storm flows from any disturbed portion of the developed property shall be allowed only with the approval of the Director of Public Works. Other than minimal incidental, flows shall be specifically approved by the Director of Public Works. Bypass flows will not be permitted except from undisturbed areas within a buffer or other protected easement. Final plans shall provide for collection, conveyance and treatment of all approved incidental flows from developed lots or parcels, individual residences or building structures.
- n. Storm water management facility(ies) volumes shall be designed to achieve water quality treatment, channel protection, over bank flood protection and extreme flood protection, in accordance with the Georgia State Storm water Manual, except that the duration of release for water quality treatment shall be 48 hours.
- o. The owner/developer, as agreed to at the October 3, 2006 Mayor and City Council hearing, shall provide for the required tree islands within all surface parking lots.
- p. The owner/developer shall develop the property in accordance with the detailed streetscape amenities plan as submitted at the October 3, 2006 Mayor and City Council hearing.
- q. The filtering system installed at the outfall from the detention pond shall be selected on its ability to concentrate the removal of oils and petrochemical pollutants. Said system shall be maintained two (2) times yearly with records available for inspection.
- r. The filtering system shall be selected for its sensitivity to nitrates, phosphates, and other chemicals that might be used in a gardening or agricultural environment and shall be placed specific to the gardening center.
- s. The owner/developer shall provide trench drains with grates to be installed across the roadways at every other catch basin on all interior roads with downhill slopes. The interior roads with downhill slopes, as identified on the site plan received by the Department of Community Development received August 11, 2006, are as follows:

Road A (Service Drive)
Road B (Internal Road Parallel to Roswell Road [SR 9])
- t. To allow the proposed "Anchor C" building to encroach into the required ten (10) foot landscape strip along the east property line as shown on the site plan received by the Department of Community Development on August 1, 2007 (CV07-018).

Second and Vote: Councilmember MacGinnitie seconded the motion. The motion carried unanimously.

Resolutions

Consideration of approval of a Resolution to impose and collect a fee on wire line telephones for the provision of enhanced 9-1-1 services

Resolution No. 2009-02-07

City Attorney Wendell Willard stated the three resolutions you have are part of the process we are going through with the establishment of a 911 service. Part of what we need to do is have Council recognize that the amount of fee that is required under Georgia Law will be imposed by the City for the wire line telephone. That is the first resolution. As to the wireless telephones, one is ground wires, and the third one is what we call the voice over internet protocol type connections, which a lot of businesses use as well as more and more people in their residences. Through these three resolutions, we are establishing the fact that the City will be imposing a fee. We can then notify the State Department of Community Affairs and other agencies of our intent to collect those fees.

Mayor Galambos stated I think we should make clear that these are not new fees upon the public, but these are fees that were paid and received by Fulton County and now they will be received by Sandy Springs. So it is not a new fee.

City Attorney Wendell Willard stated good point Mayor.

Mayor Galambos stated we vote on one of these at a time.

City Attorney Wendell Willard stated that they do require a public hearing, too Mayor.

Mayor Galambos asked if anyone out in the audience wishes to speak for or against the Resolution regarding the fees, the first one being the wire line telephones. All right, we need a motion

Motion and Vote: Councilmember Jenkins moved to approve (Agenda Item No. 09-046), a Resolution to impose and collect a fee on wire line telephones for the provision of enhanced 9-1-1 services. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of a Resolution to impose and collect a fee on wireless telephones for the provision of enhanced 9-1-1 services

Resolution No. 2009-02-08

City Attorney Wendell Willard stated we have the same form of resolution. This will be as to the wireless telephones and wireless would be those that are located through their acquired wireless system in the City limits of Sandy Springs.

Mayor Galambos asked if there was anyone who wished to speak for or against this.

City Attorney Wendell Willard stated it goes based on billings.

Mayor Galambos stated we are ready for a motion.

Motion and Vote: Councilmember Fries moved to approve (Agenda Item No. 09-047), a Resolution to impose and collect a fee on wireless telephones for the provision of enhanced 9-1-1 services. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of a Resolution to impose and collect a fee on voice over Internet protocol connections for the provision of enhanced 9-1-1 services

Resolution No. 2009-02-09

City Attorney Wendell Willard stated this one continues collection of the fees of the telephones for the voice over internet protocol operations.

Mayor Galambos called for public comment. There were no comments from the public.

Motion and Second: Councilmember Fries moved to approve (Agenda Item No. 09-048), a Resolution to impose and collect a fee on voice over Internet protocol connections for the provisions of enhanced 9-1-1 services by billing address. Councilmember Meinzen McEnery seconded the motion.

Councilmember Paul stated that he had a question for the City Attorney. How are the fees collected? What is it based on? The internet is a rather anonymous medium.

City Attorney Wendell Willard stated I'm told you have 200 phone providers, which include the services of voice over internet, and my guess is it would be based on the location by address where the line service is being recognized to use by the computer.

Councilmember Meinzen McEnery stated Mr. Reiter was shaking his head so I think he might be able to add.

Assistant City Manager Noah Reiter stated that Mr. Willard is correct in that. It is going to be billed and accessed very similar to the way wireless phones are. There are over 200 of what is known as competitive local exchanges or voice over internet providers. Most of them provide the same enhanced 911 service which means they provide the telephone number and the actual location where the person is calling, not the home location, because a lot of these phones are portable just as though a wireless phone would be, so for those vendors or providers who offer that enhanced service, it will go by the billing address. It is very similar to wireless.

Vote on Motion: The motion carried unanimously.

Mayor Galambos stated that in the paper she saw that Verizon was going to offer a combination where you can have wireless and a land line for five dollars, so are you going to charge them two fees?

Assistant City Manager Noah Reiter stated I don't know that the state contemplates that scenario, but I think that if they're offered both land line or wire line and wireless, I'd have to guess that we would have the ability to collect on each, but I'm not certain.

New Business

**Consideration of approval of a Resolution to Amend and Approve for Submission the Service Delivery Strategy for Fulton County and the Municipalities within Fulton County
Resolution No. 2009-02-10**

City Attorney Wendell Willard stated the next item is a Resolution amending the Fulton County Service Delivery Strategy Agreement regarding the South Fulton Municipal Regional Water and Sewer Authority. This addresses the current Service Delivery Strategy Agreement that is in affect that was done back in the earlier part of this decade. What occurred is that there was an establishment of an authority for South Fulton and the purpose of the authority is to provide water to several of the municipalities: Union City, Fairburn and Palmetto in South Fulton County. To do so, they have to get the Service Delivery Strategy Agreement amended. It requires a signature of all participants of that agreement. The City of Sandy Springs is recognized as a City now and even though we are not on the document, we are recognized as a City existing in Fulton County since that document was signed. Therefore, we need to be a party approving that change. Interesting enough is I'm aware that they have already sold the bonds to raise the monies to build what is their reservoir for this purpose as part of the treatment plants too.

So they are in need of getting this approved, if they can, before we have to go through the negotiations for a new Service Delivery Strategy Agreement, which is coming up very shortly. On behalf of the City, I recommend that we do this.

Mayor Galambos responded the interesting thing is that we all desperately need more water supplies. This jurisdiction in conjunction with some more jurisdictions are getting a new reservoir, which will take some of the load off of the Atlanta Water Systems. But guess who is opposing this? The City of Atlanta. This is why they have to get this resolution from all the other Governments.

We need to support this, help them out, and when it comes our turn to ask for something from the Service Delivery Act, we will get this reciprocity.

Motion and Vote: Councilmember Paul moved to approve (Agenda Item No. 09-049), a Resolution to Amend and Approve for Submission the Service Delivery Strategy for Fulton County and the Municipalities within Fulton County. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

**Consideration of approval of a Resolution for Request by Board of Education for Transfer of the Ridgeview Middle School Access Road along Georgia 400 to the Board of Education
Resolution No. 2009-02-16**

Community Development Director Nancy Leathers stated in January of this year the Mayor received a letter from the Chairman of the Board of Education requesting that the City assist the Board of Education in transferring the right of way for this road from Georgia Department of Transportation, where it is an access road, to the Board of Education, so that they can do a sidewalk along that road that doesn't meet the standards that GDOT requires for the construction of sidewalks.

On January 29th we had a community meeting. Members of the Board of Education were present along with their staff. Councilmember DeJulio was there and a number of staff members from the City. There were about thirty people who attended. The Board of Education staff explained their proposals and their alternatives. There was general support by the community for allowing this to go forward. An appointment was being proposed. There were some folks who did not want to have to do a major construction project to put this sidewalk in. Staff, therefore, has prepared a resolution, which would allow the City Manager to carry out your vote, should you choose to do it. Also present here tonight are, Patrick Burke, who is from the Staff of the Board of Education, and Frank Gustadio, who is the Program Manager with Parsons for the Board of Education should you have any questions for them.

Mayor Galambos asked if any of the Council members have any questions that they would like to pose to the Board of Education.

Councilmember DeJulio asked if they could bring up the pictures of that. I think it would be quite interesting for the City Council to see that, because I think it is quite a unique endeavor the way you plan on doing that.

Councilmember Jenkins asked please, because I couldn't understand it reading the packet.

Patrick Burke explained this is the school area up in here. The access road comes off of Burke Circle here on 400. What's being proposed is in this area the elevations on the side of the homes are above the road where we have to cut back and put in a regular sidewalk. Then we hit an area that is basically a drop down to the stream that would have to be spanned. It comes around back up to the top that would be again an elevation. Three different approaches were proposed on how we would put the sidewalk in the spanned area. First, the Department of Transportation wanted us to remove a large portion of trees, put a large sliding scale retaining area so that we would hold the pressure of kids on any bicycles basically on that slope. We opposed that. The Board of Education did not

want to do that. If we remove too many trees, it would impact the park. The second would be to remove a small section of trees, put a large retaining wall in, fill it up and then put the sidewalk on that. For cost purposes and also for not having to get into the encroachment areas of the water, we chose to go to with driving pylons down. It will be at the same level of the road that the sidewalk will go along. We'll put pylons down for structural support and concrete deck just like a regular sidewalk all the way across. From the road surface you would see one long sidewalk, but if you looked at it from one side it basically would be on the ground, then spanned across this area and then on the ground again.

Councilmember Jenkins stated so it is not located above the road, it's just that pylons go up to show that they are going down.

Patrick Burke explained that just shows you how it would be. We have to leave an area so that water can drain off. There's no curb and gutter and the water drains naturally down into that creek. It would be slightly raised but the water can continue.

Councilmember Meinzen McEnerny stated that is a great, creative plan.

Mayor Galambos stated Mr. Gustadio we're having some troubles with sidewalks in various areas of Sandy Springs. Maybe you could help us with some of those problems.

Mr. Gustadio responded we would be happy to offer our suggestions Madam Mayor. The sidewalk would be a six foot wide sidewalk and have guard rails on both sides.

Councilmember DeJulio stated if I remember correctly it will also be a guard rail for vehicles in addition to the hand rails for protecting the sidewalk.

Mr. Gustadio responded it was our plan to leave the existing guard rail, do the repairs to it, but there is already a vehicular guard rail. We would put a normal hand rail for the kids and then one on the other side. So yes, you will have two guard rails in addition to the street rail that is already there.

Councilmember DeJulio asked and this road is going to remain open to the public?

Mr. Gustadio responded I think I'll leave that up to Mr. Burke to address.

Mr. Burke responded yes that is the current plan as it is.

Councilmember Jenkins verified to leave it open?

Mr. Burke responded yes.

Mayor Galambos asked if there were any other questions.

Motion and Second: Councilmember DeJulio moved to approve (Agenda Item No. 09-050), a Resolution for Request by Board of Education for Transfer of the Ridgeview Middle School Access Road along Georgia 400 to the Board of Education with the provision that the school allow access from South Trimble Road through school site to Baroque Circle and Northland Drive and that we give the authority to the City Manager to complete that. Councilmember Meinzen McEnerny seconded the motion

City Attorney Willard stated there is nothing in the current Resolution dealing with the issue about leaving this open to the public and I might suggest we add that as one of the things that if there is ever a desire or need to close it to the public, that the School Board come back and address that to City Council before taking the action.

Councilmember DeJulio stated that he accepts that 100 percent.

City Attorney Willard stated we will prepare the Resolution with that in mind.

Motion and Vote: Councilmember DeJulio moved to approve (Agenda Item No. 09-050), a Resolution for Request by Board of Education for Transfer of the Ridgeview Middle School Access Road along Georgia 400 to the Board of Education with the addition of the provision that they would have to come back before Council if the road should ever have to be closed. Councilmember Fries seconded the motion. There was no further Council discussion. The motion carried unanimously.

(Item removed from Consent Agenda by motion and vote.)

AM08-006 - 6901 Glenlake Parkway, Applicant: Glenlake Apartments, LLC - To delete condition 2, the overall concept plan in the original letter of intent of Z80-0015 by reference to the new site plan submitted to the Department of Community Development on September 26, 2008 to allow for the reconfiguration of the amenity area and driveway.

Councilmember Jenkins stated she asked that this be put at the end of the Agenda and not on the Consent Agenda because this is an existing apartment complex. Obviously you can see that from the Z80. They are going to go in, redo their amenities and a bunch of other things, which is fine, but that's the only section along Glenlake Parkway that doesn't have sidewalks and they start at Glenridge Drive and then they go to the church. They start on the other side at UPS and go all the way back to Abernathy, so there is one section of missing sidewalk. The old zoning condition, number 16, said that the apartment complex would pay back Fulton County if Fulton County put the sidewalks in within five years. That needs to come out, because now, when they pull their LDP for the amenities, they have to put the sidewalks up.

Public Works Transportation Planner Mark Moore stated Councilmember Jenkins is absolutely correct that Glenlake Parkway and Glenridge Drive are both in the Sidewalk Master Plan.

Mayor Galambos asked why this didn't come up in the Work Session before going on the Consent Agenda.

Councilmember Jenkins stated she thinks that it was just an old zoning that she happened to catch because it was something in her district.

Assistant Director of Planning and Zoning Patrice Ruffin stated these are administrative modifications that we bring to you just for confirmation. They are handled in the department.

Mayor Galambos responded okay.

Motion: Councilmember Jenkins moved to approve (Agenda Item No. 09-036), AM08-006 - 6901 Glenlake Parkway, Applicant: Glenlake Apartments, LLC –the overall concept plan in the original letter of intent of Z80-0015 by reference to the new site plan submitted to the Department of Community Development on September 26, 2008 to allow for the reconfiguration of the amenity area and driveway, with the deletion of condition 16 on page 3, and subject to the following staff conditions:

1. To the petitioner's agreement that the subject property in conjunction with the property contained in the petition number Z-80-14-FC, shall not exceed 484 units.
2. To the site plan received by the Department of Community Development dated September 26, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy. (Z80-0015).

3. To the petitioner's agreement to submit to the Director of Community Development for approval, prior to the issuance of a grading permit, a site plan which is based on a certified boundary survey, incorporating the stipulations of these conditions of approval, and meeting the minimum requirements of the zoning district.
4. To the petitioner's agreement to submit to the Director of Community Development for records, prior to the issuance or the grading permit, a revised overall concept plan incorporating the approved site plan(s).
5. To the petitioner's agreement to submit to the Director of Community Development for approval, prior to any defoliation or alteration of the site, a grading plan incorporating the berm alternate and such other engineering documents as may be required by the Department of Public Works including a hydrological study to be submitted prior to grading, soil sedimentation and erosion controls while the project is under development, and provisions for water retention, and the method of continuing maintenance of these facilities is required. This condition applies to the developer, to all builders, and to any and all subcontractors, as well as material and equipment suppliers associated with development and building.
6. To the petitioner's agreement to submit the Director of Community Development for approval, prior to the issuance of a grading permit, an executed agreement with adjoining property owners wherein the petitioner intends to retain water.
7. To the petitioner's agreement to provide retention for the 50 year frequency storm.
8. To the petitioner's agreement to submit the Director of Community Development for approval, prior to the issuance of a certificate of occupancy or permanent power, a detailed landscape plan. And further, to the petitioner's agreement that said landscaping is approved by the Director of Community Development shall be in place within six (6) months after the issuance of the certificate of occupancy or the connection of the permanent power.
9. To the petitioner's agreement that the exterior of all concrete blocks will be coated with an architectural treatment (i.e., epoxy, stucco, brick veneer, etc.) or an alternate solution that may be approved by the Director of Community Development.
10. To the petitioner's agreement to provide a 50 foot wide, natural, undisturbed buffer, replanted where sparsely vegetated, adjacent to the north property line as well as an additional 10 foot setback.
11. To the petitioner's agreement to create a 100% visual screen of earth and vegetation wherein the apartments, viewed from six feet above the crown of Glenridge Drive, would be effectively screened; said screen area to be a minimum of 100 feet wide, extending from the north property line along Glenridge drive to the south line of Land Lot 33 and excluding any private drive or public right-of-way. Said screen may be reduced to 50 feet if it can be demonstrated by the applicant that the performance standard is being met. Subject to the approval of the Director of Community Development.
12. To the petitioner's agreement to provide a 40 foot wide landscaped area that shall serve as a setback outside of the dedicated right-of-way of Glenridge Drive beginning at land Lot 33/34 and extending to the southernmost end of the subject property, said landscaped area to exclude any private drives or parking areas.
13. To the petitioner's agreement to pay all necessary tap-on fees, front footage assessments, and the pro-rated share of the cost of sewage extension as determined by the Sandy Springs Public Works Department.
14. To the petitioner's agreement to connect any available public sanitary sewer and metropolitan water.
15. To the petitioner's agreement to provide designated fire lanes adjacent to all structures and fire hydrants as required by the Sandy Springs Fire Department.
16. To the petitioner's agreement that all access to the subject property will be from the proposed Barfield Road.

17. To the petitioner's agreement to dedicate at no cost to Sandy Springs the necessary right-of-way for the proposed Barfield Road Extension as well as to improve the right-of-way subject to the subdivision standards of Sandy Springs and approval of the Public Works Department.
18. To the petitioner's agreement that, should the proposed road be bifurcated, a maintenance agreement, subject to the approval of the Director of Community Development and the Public Works Department, shall be executed before the road is approved.
19. To the petitioner's agreement to a minimum 40 feet building setback from the 50 year pool elevation of any retention pond.
20. The petitioner will be tied down to any conditions or agreements made in the Planning Commission public hearing.

Second and Vote: Councilmember DeJulio seconded the motion. The motion carried unanimously.

(Item removed from Consent Agenda by motion and vote.)

**Consideration of approval of an Ordinance to Revise the City Ethics Ordinance
Ordinance No. 2009-02-06**

Councilmember MacGinnitie stated that he is okay with the Ordinance as it is currently drafted so that we do not have dual proceedings; one in front of the Ethics Board and one in front of the chain of command at the Department level. What I would like to know or have some clarity on is that there is a mechanism in the City's structure that allows either City employees, be that Police, Fire or City employees or employees of our contractors to be able to surface ethical issues outside of that chain of command if, for whatever reason, they are not being addressed. It would seem to me there would be some kind of mechanism to either bring them to the attention of the Mayor, the City Attorney, the Ethics Board or some independent entity. This is, of course, not to impugn anybody at the City, but to recognize that as organizations are set up having that sort of failsafe mechanism is very important. My question is how does this mechanism work today and is there such a mechanism that would, at least, address my concern? I don't know if it is shared by anybody else, but at least my concern.

City Manager McDonough stated as things currently work today in the City of Sandy Springs, under the employee handbook which governs the conduct of our City employees, there is a complaint procedure and a grievance process that both explain how an employee would raise an issue of this type which you have asked about. First of all, they have the ability to contact the Human Resources Manager, which is not even in the chain of command. Go through the Human Resources Manager and then it will be raised to the City Manager if it is an issue at the Department Level. If there is a complaint against the City Manager, that same process would be in place whereby an employee could go to the Human Resources Manager and then would raise that complaint to the Mayor and ultimately the City Council. So you have those processes in place. Of course you have your chain of command, as typically how we deal with employee issues, through the chain of command at the department level. If they are not dealt with at the Department level, there is the ability to raise those issues to my office. A good example is an incident that occurred this past summer. That very thing happened related to an issue along these lines, so we've got confidence that our chain of command works. If our chain of command were to break down, then we've got the failsafe method of where an individual can go to the Human Resource Manager. I know our employees are not bashful about mentioning how we operate on a day to day basis here with our City Council members. Not only do you have your Human Resource Department, you have open access to every member that sits before me this evening. I think we've got a good failsafe program in place to address that concern.

Mayor Galambos asked does that answer your concerns, Mr. MacGinnitie.

Councilmember MacGinnitie responded yes it does and just to put a fine print on it to make sure that it is explicitly spelled out that in the event that they don't get satisfaction at the HR level or you that they feel comfortable going to the Mayor, that that is spelled out explicitly as opposed to implicitly.

City Manager McDonough stated it's not explicitly spelled out that way, Mayor, and I think I may have some particular issues with that. Regarding employee discipline, the buck stops with the City Manager. If there is an ethical issue that involves the City Manager or there's a perception that we have an ethical problem that I have not dealt with, then, of course, I think it can be raised to the Mayor and the Council. As far as employee disciplinary matters are concerned, they fall under the purview of the City Manager.

Councilmember MacGinnitie responded I agree.

Councilmember Meinzen McEnerny commented that she would just like clarification from the City Attorney. We have created our Ethics Commission and they have spent considerable amount of time reviewing the changes in the Ordinance and they have consistently come back saying that the definition of public servant, as written in our charter, includes employees. I would just like to read this. Mr. Wendell Willard, would you comment please? The powers and construction section of our charter, which we cannot change, except with legislative approval of the Georgia legislature, section 1.039, reads as follows: Ethics - We have the powers and construction on Ethics to adopt Ethics Ordinances and Regulations, governing the conduct of Municipal elected officials, appointed officials and employees, establishing procedures for Ethics complaints and setting forth penalties for violations of such rules and procedures. I would like definitive statements of your opinion, Mr. Willard, that we are not contravening our charter by modifying the Ethics of Ordinance to exclude employees. I do support the issue of dual representation. Are we contravening our charter?

City Attorney Willard responded Councilwoman McEnerny, what you've read is correct. It speaks of Ordinances and Regulations and I suggest to you that what is in hand, as far as, what is spoken by Mr. McDonough, the handbook part of it constitutes a form of Regulations and how they will handle issues of employees' matters on Ethic issues only as to employees. The purpose behind what we're doing is still having the Ordinance broad enough where it covers the elected officials and those who are appointed individuals. As the City Manager pointed out, there is within what we're doing, considered Regulations of adopted or promulgated by him to cover the day to day employees.

Motion and Vote: Councilmember Fries moved to approve (Agenda Item No. 09-034) an Ordinance to Revise the City Ethics Ordinance. Councilmember MacGinnitie seconded the motion. There was no Council discussion. The motion carried unanimously.

City Manager McDonough stated Mayor if we could, before we move into to Council Reports, we have a couple of guests this evening with us, Mr. Don Howell and Herb Washington. I'd like to ask them to stand. Herb is the new Director of Operations for the CH2M Hill operation here in Metro Atlanta. So we did want to recognize them. Herb, I don't know if you want to say anything, hello or introduce yourself, but please come forward.

Mayor Galambos added welcome Mr. Washington and we're glad that you were able to attend a Council meeting tonight. I didn't see you back there or I would have recognized you earlier.

Director of Operations for CH2M Hill Herb Washington responded thank you very much Mayor and Council members. I'm indeed honored to be in your presence this evening to hopefully add some additional administrative support from our company, from our staff. Thank you very much.

Mayor Galambos added we look forward to working together constructively.

Reports and Presentations

City Manager John McDonough stated my only report is that I sent you a budget calendar and workshop. Everyone please take a look at that and let me know of any conflicts. It very closely follows the process that we

went through last year and the proposed retreat date would be March 27, which is a Friday. If this is a problem for any of you, please let me know.

Councilmember Jenkins stated that she would be out of town on June 9th. There will still be a quorum here.

City Manager John McDonough responded that is one of the mandatory hearings that we have.

Councilmember Jenkins responded that's my 10 year anniversary, so I'm actually taking vacation.

Mayor Galambos stated some of us may be gone for one or the other. Mr. McDonough I thought that you were going to ask staff to report regarding what happened at BZA.

Discussion to instruct the Board of Zoning Appeals to act within thirty (30) days of February 17, 2009 on the Lake Forrest Drive variance request for the City initiated sidewalk improvement project.

Deputy Director of Community Development Chris Miller stated I'm here to answer any questions the Council has. As you may or may not know, the BZA voted on Thursday night for up to a 90-day deferral on the Lake Forrest Drive sidewalk variance application. The deferral was based upon public comment received during the BZA meeting. At two separate times during the meeting staff cautioned the BZA that they are very narrowly confined as far as what they should and shouldn't look in the variance application process. After the presentation by Public Works on the alternatives on Lake Forrest Drive, which would be on either side, this is the opinion of Public Works based upon their charge from the Mayor and Council through City policy to locate sidewalks on our trails and collector's within half a mile of local schools (public schools). They looked at those alternatives and staff has recommended approval of the sidewalk on the western side of Lake Forrest Drive and that is what the variance request was last Thursday before the BZA. The BZA looked at different alternatives on the east and the west side. Staff is available to answer questions. Public Works and their consultants fielded all the questions on how they looked at the sidewalk, what the impacts were, because of where the stream buffer variance request that was before them, and what the implications were, whether it be on the east side or the west side. There may have been some questions on the BZA's part as far as what could be considered an alternative approach. Was it an alternative where you look at either of the road or could other roadways within the network near Lake Forrest Drive be considered an alternative as well? And they did decide to defer their decision for up to 90 days and they have asked staff to come back with some more analysis on different alternative roadways as opposed to a sidewalk on the western side of Lake Forrest Drive.

Councilmember Paul stated Madam Mayor I've got some real concerns about this. In having discussed with your City Manager and City Attorney, I've discovered that we've got a flaw in our processes. We have an appointed Board who appears to have the ability to override a City Council decision. The City Council set the policy that we would close these gaps around the schools. Set the policy, and then we would allow our Engineering staff, the Public Works folks, to make the most efficacious decision about the placement of that. We've got two issues here. One is the politicization of these issues, which I think we've talked about a number of times in this room that we try to avoid that process. Secondly, I've got a deeper concern that our process does allow one of our appointed Boards in essence to have a certain degree of veto power over these policy decisions and the fact that they would defer a decision by Council to move forward with this after we have spent, what, in excess of \$100,000.00 so far on the design of this? We've gone back, at Council's request and looked at alternatives. The alternative that was presented was unequivocally the best engineering decision. And then to have an appointed Board get involved in this process and then, in addition, try and politicize this from the point of view of input by elected Officials after the majority of Council has spoken on this issue. We've gone back, evaluated it again and then gone back and said the west side of Lake Forrest is the best place. Staff agrees with it, the majority of Council agrees with it. Then to have the BZA come in and in essence veto this decision is of great concern to me. Not only the decision to in essence veto a decision by Council, but the process with which that was arrived at, by the obvious politicization of this process, which we have said over and over and over again that Council would set the policy. We set the policy

and that we would leave it up to staff to make the engineering decisions about the most cost effective place to put that, and now that process has been muddled again. I just do not understand why this happens. One, I've got process issues, but I've also got concerns about the politicization of these decisions when we said that this is the policy, please go do it, staff does their work and then a very small minority get involved and then override the rule of the majority. That causes me great concern and I would like our City Attorney or somebody to develop a process to make sure that the appointed Boards don't have the ability to override, veto or usurp the responsibility and the policies of the elected officials of the City of Sandy Springs.

City Attorney Willard stated let me divide up what you are asking about in several categories. As I understand this application was an application by Council, initiated by Council. The Ordinance can be modified to recognize that Council, when it has a need for a variance, may take care of that variance within its own body. It doesn't have to defer it to a, in this case, and that could be an exception made to the Board of Zoning Appeals. We are getting ready to do some modifications of the Board of Zoning Appeals Ordinance itself. The other thing is I'm concerned about the deferral of 90 days. That is unreasonable as a time frame. Did they state any justification why they went for 90 days?

Councilmember Meinzen McEnerny questioned it was up to 90 days, wasn't it.

Deputy Director of Community Development Chris Miller answered correct it was up to 90 days. It was based upon some community value issues that the BZA thought were present.

Councilmember Meinzen McEnerny asked was it about the stream buffer?

Councilmember Jenkins stated the whole variance was supposed to be addressing the stream buffer.

Deputy Director of Community Development Chris Miller stated that is correct.

Councilmember DeJulio questioned what the community value issue was.

Deputy Director of Community Development Chris Miller answered I'm trying to paraphrase what the BZA stated during their conversations. From what I can gather, they were concerned over some safety issues or perceived safety issues on their part. Whether people would have to travel using a sidewalk wrapped across Lake Forrest Drive on more than one occasion to reach the new sidewalk and, of course, staff has already looked at that issue.

Mayor Galambos questioned is it that part of their charge to look at the safety issues?

Deputy Director of Community Development Chris Miller answered no ma'am

Mayor Galambos questioned was their charge limited to looking at the stream buffer issue?

Deputy Director of Community Development Chris Miller answered it is. It is very, very narrowly looking at the variance before them.

Mayor Galambos stated because implicitly we have looked at the other issues, those values have been considered by the Council.

Councilmember Paul stated we had evaluated those. We had looked at three different alternatives as I recall on an informal basis. This was done and we went back and evaluated and again determined by staff, by professionals, the engineers who were hired by this City and the City Council, to make these decisions that the original location recommended by staff was not only the most cost effective, it was also the safest and most efficacious solution that

was possible. Why did BZA feel it was necessary for them to inject their opinions and ideas in the area the elected officials had already ruled on?

Deputy Director of Community Development Chris Miller responded I can't answer that.

Mayor Galambos stated it's putting Mr. Miller in a very difficult position.

Councilmember Paul responded I understand. I understand that they put the staff in a very uncomfortable position.

Deputy Director of Community Development Chris Miller responded staff and especially Public Works went through an entire presentation for about half an hour, on the route that was selected, why it was selected and the fact that Lake Forrest Drive was considered, the road that was to be studied, not other roads. It was part of an overall network of sidewalks as well. It wasn't just a sidewalk segment all unto itself. It was part of an overall network of sidewalks. The Mayor and Council had directed staff to take care of this. I'm positive the BZA was clear what the reasons were for the variance. Whether they chose to look at other issues is for them to answer.

Councilmember Meinzen McEnery stated Mayor I have a question of staff as well. Did not one of the members of the Board of Zoning Appeals directly ask Mr. Moore, who was making the presentation, whether or not the City Council had voted on which side of the road, if any, to put on Lake Forrest?

Deputy Director of Community Development Chris Miller answered yes, that was a question posed to Mr. Moore, and I think what he answered was it was part of the overall policy direction that was from the Mayor and Council; to look at streets that do not have sidewalks, that were collectors or arterials within half a mile of the local public school and that is where Lake Forrest came into play.

Councilmember Meinzen McEnery asked didn't Mr. Moore say no, the Council did not directly vote on that matter? Did he not say that?

Transportation Planner Mark Moore answered I honestly don't recall

Councilmember Meinzen McEnery stated that I followed up, because I've got the next question.

Transportation Planner Mark Moore responded okay.

Councilmember Meinzen McEnery stated and now I can make my statement, if I can. I've heard the word politicization of decision tonight from Councilmember Paul. I've also heard that the Council evaluated the location of the Lake Forrest on an informal basis. I was also personally asked following Mr. Moore's answer to the affirmative that the City Council did not vote on whether or not, which side of the road, if any, to put the sidewalk on. I think that our main Charter as the Council is to preserve the safety and the welfare of our citizens. In this particular instance, it appeared to me, since I was asked to speak, that the common sense was that the crossing of the road in two different locations was not only perceived to be unsafe, but was unsafe and none of the other Boards that met on this, the Design Review Board nor this particular Board of Zoning Appeals, were in support of the application. Now there was a technicality at the Design Review Board in which they failed to get a motion approved to approve the location, so they didn't support it. They just didn't finish their motion. I think safety primes an informal review, when we didn't have the detail. Politicization of decisions, in terms of the safety of children crossing the streets, I don't think is politicization. In conclusion, we also have submitted in the package to the Board of Zoning Appeals, a letter from the state, the School Board representative of this region specifically recommending that we put the road in a safer location on Allen Road.

Councilmember Paul stated that if the school board would like to have it placed in a particular location, he would invite them to pay for it. He asked staff if, in their evaluation of the potential locations for the sidewalk, safety was one of the factors considered.

Transportation Planner Mark Moore stated that safety is the first and paramount factor in any roadway.

Councilmember Paul questioned if Mr. Moore determined if it was the safest way?

Transportation Planner Mark Moore stated that it is the safest way. The question he was trying to answer to the BZA as he understood it, were the Mayor and Council aware of the project, the design specifications and the particulars of the project as to which side of the road it was on and was Council in agreement with it. Whether or not a vote was or has been taken, he would have to go back and look at his notes to see if Council had voted on it since then. As with all of the City's Capital Improvement Projects, he believes the Mayor and City Council through City Management had been made aware of the specifics of the project and staff will continue to proceed under Council's orders.

Mayor Galambos stated that she would like to corroborate what he just said. Council may not have had a formal vote on which side of the road to put the sidewalk, but had continuing emails, discussions, and disagreements and so on. In the end, Council was given an analysis by staff, which showed the differential cost of doing it the way staff had proposed and the other way. The Council stood behind the original design by saying Council empowers the staff to make these judgments. She believes that Council did give its nod of approval, even though it did not come up as a formal ordinance vote.

Councilmember Paul stated that Councilmember Meinzen McEnery raised these issues with him and he agreed that Council should take another look at them. He asked staff and Mr. McDonough agreed, and they went back through and evaluated the cost, the safety, the efficacy, and all the benefits of where to place it. Staff did those evaluations as Council requested, came back with a determination and showed Council the figures.

Councilmember Meinzen McEnery stated that the costs were less on Allen Road.

Councilmember Paul stated that Allen Road is not part of this project and does not serve any of the residents. It is the least impactful place you could put it, as far as being able to generate foot traffic on residential areas. That is a commercial area and is largely vacant today. In essence, Council had set the policy. The staff, under Council direction, had done exactly what Council asked them to do. The real concern is that when the majority speaks, whether we agree with the Council's decision or not, we have an obligation to abide by the final decision of this body. All of us do. That is a fundamental aspect of our system of government that once that decision is made and we've looked at it again at your request, we've re-evaluated it and came back to the same conclusion. I am extremely disappointed that you would see fit, then, to go and try to continue to undermine that. It disturbs me greatly. We have had this conversation time and time again about we are going to set the policy, we are not going to have individual members of Council trying to impose their views or make these decisions. We are going to set the general policy, agree with it and let the professionals who are trained and equipped to do that to make these decisions. A majority of us have agreed to that. It is disappointing that we have to go through this again and again and again on those projects that you don't agree with us on.

Councilmember Fries stated that she would like clarification on something that she understood when we began this City, when being trained on how we should do this job. She remembers clearly City Attorney Willard saying that Council should not go to these other meetings. If you have to go, sit in the back and don't speak. She questioned if that was still what Council should be doing.

City Attorney Wendell Willard stated that this body only speaks as a group. It does not speak by individual for the body. Council takes action as a body as to what the position of the body is going to be. He will address some of these issues with Councilmember Meinzen McEnery after the meeting.

Councilmember Fries stated that what upsets her is that not everyone is following the same rules.

Councilmember Meinzen McEnery stated that she does not understand how there was evidence of implicit agreements on which side of the road Council was looking at. She was not privy to any of those. She had asked Councilmember Paul to respond to her emails. She also had asked all City Council members to call her, because she had heard from the Mayor that this type of discussion might occur tonight, and gives her the courtesy of explaining their view points to her. She heard from Councilmember DeJulio and Councilmember MacGinnitie and thanked them. She also read the Charter of Sandy Springs and it specifically allows in Section 2.13., Boards, commissions and authorities. (b) No member of any board, commission, or authority of the city shall hold any elective office in the city. That has nothing to do with this. Councilmember's and the Mayor, however, may serve as ex officio members of such boards, commissions, or authorities, without a vote. First of all, let the record reflect that she did not speak on behalf of the Council. She was asked two direct questions; did we have a policy on sidewalks and had the City Council voted on this matter. The rest of all her comments were personal and represented what she sees her constituent's belief is on this particular matter. She agrees with Councilmember Fries that when the Board of Zoning Appeals is a quasi-judicial body, they are absolutely interpreting the City's policy. It doesn't go any further than the BZA. The Planning Commission is another story, because they are actually reviewing rezoning and ordinances that Council in the future will be voting on. She has never once attended one Planning Commission meeting, so that she wasn't seen as unduly affecting the Planning Commission. However, the Board of Zoning Appeals is interpreting the City's existing policy. She has from time to time gone to Board of Zoning Appeals meeting and most recently on February 12, 2009.

Councilmember DeJulio stated that this just underlines what our City Attorney has said to us as elected officials who have the final vote on matters of this City. It is very important that Council does not vote twice, once by going to these meeting and once by voting up here. Council has talked about his before and he thinks it is very important not to go to these meetings. Council is provided copies of the minutes, if you want to know exactly what's been said at the meeting. If you want to attend a meeting and sit in the back to listen and someone asks a question, you should say that you are only there to listen and observe. Council does not need to be at any of the other meetings in order to be able to evaluate things objectively.

City Attorney Wendell Willard stated that it may be appropriate for Council to pass a Resolution asking the Board of Zoning Appeals to expedite the matter and reach a decision at the next meeting.

Motion and Second: Councilmember Paul moved to instruct the Board of Zoning Appeals to act within thirty (30) days of February 17, 2009 on the Lake Forrest Drive variance request for the City initiated sidewalk improvement project. Councilmember Fries seconded the motion.

Discussion on the Motion: Councilmember Paul stated that Council can instruct the BZA to make a decision, but cannot instruct the board to make a particular decision. He questioned what recourse Council would have if the Board decides not to authorize the variance and allow the will of Council to move forward.

City Attorney Wendell Willard stated that City Council could also adopt a position of what the will of the Council is as far as the location of that sidewalk.

The Board of Zoning Appeals is an autonomous body for a very good reason. It has to make final decisions and in making those final decisions they are then appealable to the Superior Court of Fulton County. If you set it up where once that decision is made and is now to come before Council for further decision as another step, then they have really come back to being more or less a recommendation body. It would be up to Council to finally consider

those cases that they have already heard. Part of the reason the City set up the Board of Zoning Appeals is that they are taking things which are general development variances based upon issues of topography, sidewalks etc., that the Council felt would be appropriate for another appointed body to handle without taking up the time of Council.

Councilmember Paul stated that his real issue is to include some mechanism for this body to reach back into that decision making process, and if we find that one of the appointed boards is in essence usurping the role of this body in over riding a decision made by this body, what recourse does Council have other than to see our own appointed board in Superior Court of Fulton County?

City Attorney Wendell Willard stated that the Ordinance could be changed where if Council is making decisions as to variances on public right-of-way of the City, that it be able to do that by itself without going through the Board of Zoning Appeals.

Councilmember Paul stated that he has a concern about this, but a greater concern about the larger issue of an appointed group being able to somehow reverse a decision made by the elected officials. He would start with Council reserving the right to control its own variances and then maybe look at it further.

Mayor Galambos stated that she does not think Council will agree tonight on how to change the BZA procedure. Council would like to instruct the City Attorney to bring Council possibilities to address Council's concern.

Councilmember Jenkins stated that what she heard from Councilmember Meinzen McEnery and from staff is that there was a question from the Board, "Is this the direction of Council?" She believes Council needs to give the BZA a document that says "the opinion of this Council is that we want it on Lake Forest". There was some confusion and Council needs to give BZA full direction.

Vote: The motion carried unanimously.

(Item added)

Discussion to affirm the location of the sidewalk on the west side of Lake Forrest Drive as recommended by staff

Motion and Second: Councilmember Paul moved to affirm the location of the sidewalk on the west side of Lake Forrest Drive as recommended by staff. Councilmember DeJulio seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnery reminded everyone that the entrance to the school is on the eastern edge. The sidewalk will be crossing at two different locations on Lake Forrest, which will require a Crossing Guard to be provided. Secondly when you get them across the road the second time to Cliftwood, they have no sidewalk except the sidewalk that takes them all the way to the eastern end. You are building a sidewalk where the accessibility of the school, the entrance is not located. Secondly, the high cost of the \$750,000 included approximately \$125,000 or \$150,000 of intersection improvements at Hammond and she would suggest that come out of intersection improvements and not sidewalks. This is a safety issue and not a political issue at all. This is a safety issue for those little kids crossing that street and walking up and down that heavily traveled road and that is why she will not support this resolution.

Mayor Galambos stated that she communicated and suggested to the school board members that it is a lot less costly to the school board to get some crossing guards and reduce the number of buses and reduce the number of school bus drivers and that we should maybe have a reduction in the number of school children riding the bus.

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

Public Comment

Andy Porter, 6490 Burdett Drive, stated that Council members are meeting with boards and individuals too often and are creating an appearance of partiality with applicants having more access to the Council than constituents.

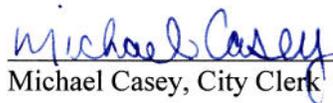
Adjournment

Motion and Vote: Councilmember Fries moved to adjourn the meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously. The meeting adjourned at 8:17 p.m.

Date Approved: July 21, 2009
Date Corrected: September 24, 2009



Eva Galambos, Mayor



Michael Casey, City Clerk

The Feb. 17, 2009 Minutes
were corrected per direction
from Community Development
(Patrice Ruffin) regarding
Approval of Rezoning -
RZ08-14/U08-008/CV08-012
to correct clerical errors.
Okay per Cecil McLendon.

Michael Casey
9/24/2009

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

February 17, 2009

AFFIDAVIT FOR EXECUTIVE SESSION

Personally comes Eva Galambos, Mayor of the City of Sandy Springs, who on oath says that to the best of her knowledge and belief, on the 17th day of February, 2009, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

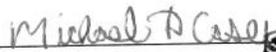
Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any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

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



Eva Galambos, Mayor

Sworn to and subscribed before me,
this 24TH day of FEBRUARY, 2009.



Notary public

