

Regular Meeting of the Sandy Springs City Council was held Tuesday, October 21, 2008, 6:00 p.m., Mayor Eva Galambos presiding.

Invocation

Rabbi Brad Levenberg, Temple Sinai offered the invocation.

Call to Order

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

Roll Call and General Announcements

Acting City Clerk Tye 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.

Acting City Clerk Tye called the roll.

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

Mayor Galambos led the Pledge of Allegiance.

Approval of Meeting Agenda

Motion and Vote: Councilmember Paul moved to amend Agenda Item 08-257, Meeting Agenda with the removal of Agenda Item 08-263, an Ordinance Amending Chapter 2, Article III, Division 2, Ethics of the Code of Ordinances of the City of Sandy Springs from the Consent Agenda and otherwise approve the Consent Agenda. Councilmember DeJulio seconded the motion. The motion carried 5-1, with Councilmember Fries voting in opposition.

Consent Agenda

1. Meeting Minutes:
 - a. October 7, 2008, Regular Meeting

2. Approval of a Resolution adopting the City of Sandy Springs Traffic Calming Manual.
Resolution No. 2008-10-56

(Agenda Item No. 08-260)
3. Approval of a Resolution Authorizing the Project Framework Agreement (PFA) with the Georgia Department of Transportation (GDOT) for the I-285 Underpass/Tunnel/ Interchange Project (Nos. CSMSL0009-00(159) and CSMSL0009-00(160), Fulton County, P.I. # 0009159 and 009160) Assessment and Engineering.
Resolution No. 2008-10-51

(Agenda Item No. 08-261)

4. Approval of a An Ordinance to Amend, Chapter 105-118, 119, 120, 121: Multifamily Rental Housing; of the Code of Ordinances of the City of Sandy Springs relating to fire hydrant inspections.
Ordinance No. 2008-10-53
(Agenda Item No. 08-262)
5. Approval of a Resolution Approving for Transmittal of the Annual Capital Improvements Element (CIE) Update to the Regional Development Center and State for Review and Comment
Resolution No. 2008-10-54

(Item removed from Consent Agenda)
(Agenda Item No. 08-263)
6. Approval of an Ordinance Amending Chapter 2, Article III, Division 2, Ethics of the Code of Ordinances of the City of Sandy Springs.

(Agenda Item No. 08-264)
7. Approval of Bylaws and Rules of Procedure for the City of Sandy Springs Board of Ethics.

Motion and Vote: Councilmember Paul moved to approve Consent Agenda as amended. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried 5-1, with Councilmember Fries voting in opposition.

Public Hearings

Zoning

Rezoning

RZ08-015/CV08-017 - 5335 Roswell Road (SR 9), Applicant: Steve Grubenhoff

To rezone the subject property from A-O conditional and C-1 conditional to C-1 to maintain the existing structures, with concurrent variances.

Patrice Ruffin, Interim Assistant Director of Planning & Zoning, stated that this is a rezoning application request to rezone the subject property from A-O (Apartment Office District) conditional and C-1 (Community Business District) conditional to C-1 (Community Business District) to maintain the existing Waffle House building and existing office building.

The applicant is also requesting three (3) concurrent variances. Staff is recommending approval conditional of the rezoning request.

The petition was heard at the June 24, 2008 Design Review Board meeting. The Board recommended approval. The petition was also heard at the August 21, 2008 Planning Commission hearing. The Commission recommended approval.

The Mayor and Council heard the application at the September 16, 2008 meeting and deferred the petition to allow staff additional time to review the policies of the Comprehensive Plan as they relate to the uses proposed for the property by the applicant.

Mayor Galambos questioned what staff's findings were regarding the Comprehensive Plan and what does staff recommend.

Patrice Ruffin, Interim Assistant Director of Planning & Zoning, stated that staff found that because the Comprehensive Plan said no retail is allowed in the node that this property is located in. The Zoning Ordinance defines retail use and service commercial uses under two different definitions. Staff has recommended uses that will qualify under the service commercial use but, not under the retail use.

Den Webb, 340 Pine Forest Road, Smith, Gambrell & Russell, LLP, spoke on behalf of the applicant. Mr. Grubenhoff is requesting to withdraw his application without prejudice. It is important to understand why this applicant requesting to withdraw.

There are two buildings on this property, a Waffle House and a very small commercial building. The client wanted to lease the commercial building for retail use as retail boutiques. At that time, the applicant revealed to staff of his plan and was staff told him it was fine but he would need to file for a rezoning application. The applicant filed the application and at a later date received a staff report that recommended approval of his application with retail uses. Both the Design Review Board and Planning Commission granted approval of the application with retail uses. A month ago, moments before the hearing, the applicant learned staff had changed their position, recommending approval but, no longer wanted to allow retail use on the site. This is when he became involved with the applicant. The applicant, Avondale Greenhill, LLC, understands there will not be a retail use at this site. The applicant no longer intends to follow this path and as does not need this rezoning any longer.

Mr. Webb recommended that before the applicant proceeds to seek any entitlements for this property; he needs to have a better definition of what the long term goals are for the site and, a better understanding of what the City's long term goals are for the area. Therefore, the applicant is requesting withdrawal without prejudice. The applicant is also requesting that City Council consider a refund of the application fees under the circumstances.

Motion and Second: Councilmember DeJulio moved to allow applicant to withdraw (Agenda Item 08-265), RZ08-015/CV08-017 - 5335 Roswell Road (SR 9), Applicant: Steve Grubenhoff without prejudice. Councilmember Jenkins seconded the motion.

Discussion on the Motion: Councilmember MacGinnitie stated Council should consider refunding the applicant's fees. It is his impression that this process would not have started but for some miscommunication about what was allowed in the node.

Motion to amend and Second: Councilmember MacGinnitie moved to approve a full refund of the application fees in the amount of \$1,400.00 to the applicant, Avondale Greenhill, LLC. Councilmember Meinzen McEnery seconded the motion.

Discussion on amended Motion: Councilmember Jenkins stated that staff hours were going to be spent either way once the application was filed. Staff hours have been spent doing everything that is involved with rezoning. She thinks it would be unfair on a withdrawal of application to allow the fees to be refunded. Staff hours have already been expended along with public hours and who ever had to attend the community meeting.

Councilmember DeJulio stated that the process never would have started but for the right advice at the time of the application.

Councilmember Jenkins stated that this was one of the nodes that was discussed in great length and in great detail in the Comprehensive Land Use Plan which states "No Retail" in the node. It was thoroughly discussed at all the public meetings and was never hidden from anyone.

Mayor Galambos explained that she does not remember reading in the Comp Plan the division between retail that sells goods and retail that offers services. Councilmember Meinzen McEnery agreed with Mayor Galambos' statement.

Councilmember MacGinnitie stated that his point is that when the applicant spoke with staff, staff told the applicant that they could move forward and what retail could be used. It is appropriate for the applicant to speak to staff before making an application. Councilmember MacGinnitie stated that his expectations would be for the applicant to talk to staff first and if he receives the right advice from staff, he would not have to read the Comprehensive Land Use Plan himself or be able to rely on staff, otherwise what is staff there for.

Councilmember Meinzen McEnery stated that in the discussions of the Comp Plan, Council always considered three uses, retail, office and residential when discussing mix of uses. In fact, it was her intention and remembrance that there were sections of the node that had two uses which would be residential and office. Excluding retail meant excluding all retail uses. She agrees with Mayor Galambos that it never should have had commercial in that section. To the point of the discussion tonight, but for as Councilmember MacGinnitie has said, staff's advice and staff working with the applicant indicated that retail was okay, and it was not until the City Council meeting that Council realized that retail was in there. She believes that it was miscommunication and even though staff has spent time on it they did not have all of the facts which kept this applicant in the process longer than anticipated. If identified earlier, the applicant probably would not have proceeded and would not have expended staff hours.

Substitute Motion and Vote: Councilmember Paul moved to approve a refund of one half of the application fee in the amount of \$700.00. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Vote on Main Motion: The motion carried unanimously.

RZ08-016 - 399 Hammond Drive, Applicant: Eddie Zhigaylo

To rezone the subject property from R-3 to R-4 for the development of two single family residential lots.

Patrice Ruffin, Interim Assistant Director of Planning & Zoning, stated that the applicant is requesting to rezone the subject project from R-3, single family to R-4 for the development of two single family residential lots at a density of 3.54 units per acre.

Staff is recommending denial of the application.

The petition was heard at the June 24, 2008 Design Review Board meeting. The Board recommended denial of the request. The petition was also heard at the September 18, 2008 Planning Commission hearing. The Commission recommended denial of the application.

The applicant or applicant's representative was not present for the hearing.

Mayor Galambos called for public comment in opposition of the application.

Nelson Farr, 5980 Hilderbrand Drive, lives directly behind the applicant's property and spoke in opposition of the rezoning. He stated that it is out of character with the neighborhood and not in keeping with the zoning plan for the neighborhood. He believes that there would be drainage problems if the zoning were approved because there is no direct sewer access for this property.

Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember DeJulio moved to deny Agenda Item 08-266, RZ08-016 – 399 Hammond Drive, Applicant: Eddie Zhigaylo. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ08-019/CV08-021 - 208 Sandy Springs Place, Applicant: Sandy Springs Executive Center, LLC

To rezone the subject property from C-1 conditional to C-1 for the development of a 24,611 square foot retail and office building, with concurrent variances.

Patrice Ruffin, Interim Assistant Director of Planning & Zoning, stated that the applicant is requesting to rezone the subject property from C-1 conditional to C-1 for the development of a 4-story, 24,116 square foot retail and office building. The applicant is also requesting one concurrent variance.

Staff is recommending approval conditional of the rezoning request and denial of the concurrent variance request. The petition was heard at the July 22, 2008 Design Review Board meeting. The Board recommended approval of the request as presented by the applicant.

The petition was heard at the September 18, 2008 Planning Commission hearing. The Commission recommended a 60 day deferral to allow the applicant time to continue work with the neighbors and with staff on the density proposed and the design of the building.

Pete Hendricks, 6085 Lake Forrest Drive, stated that the applicant engaged him subsequent to the Planning Commission hearing. The applicant's request at that time was to have this matter deferred back to the Planning Commission in order to give an opportunity to reach closure with the town home and condominium neighbors across from Sandy Springs Place. Mr. Hendricks respectfully requests that this application be deferred and sent back to the Planning Commission and then City Council.

Mayor Galambos called for public comment in opposition.

Howard Austin, 6039 City Walk Lane, City Walk Heights Town Homes, stated that the neighborhood would like for the property to remain C-1 conditional, the zoning that was given by City Council in 2006. One reason for wanting the subject property to remain C-1 conditional, is that there are limits on the use of the property. The neighborhoods do not want adult entertainment or an adult bookstore at this location. There were a number of other restrictions placed in the 2006 zoning the neighborhood would like to remain on the property. The neighbors would like a smaller building to be placed at the rear of the site, so the applicant would be able to coordinate as requested with the adjacent businesses. Parking is already a problem and the neighborhood would like to preserve their piece of the street which, in their mind, would suggest, the curb cut be moved back to Sandy Springs Drive, along with excavation of the property of landscape so that that the building is lower. Mr. Austin had no objection to the deferral of this application.

Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember Paul moved to defer Agenda Item 08-267, RZ08-19/CV08-021 – 208 Sandy Springs Place, Applicant: Sandy Springs Executive Center, LLC to the December 16, 2008 Regular Meeting of City Council. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ08-021/CV08-023, 173 Allen Road, Applicant: Arlington Funeral Home, To rezone the subject property from C-1 conditional to C-1 for the development of a 2,470 square foot addition on the existing 21,247 square foot funeral home building, with concurrent variances.
Ordinance No. 2008-10-53

Patrice Ruffin, Interim Assistant Director of Planning & Zoning, stated that the applicant is requesting to rezone the subject property from C-1 conditional to C-1 to construct a 2,470 square foot addition to the existing Funeral Home. The applicant is also requesting one (1) concurrent variance.

Staff is recommending approval conditional of the rezoning request and the concurrent variance.

The petition was heard at the July 22, 2008 Design Review Board meeting. The Board recommended approval as presented by the applicant. The petition was also heard at the September 18, 2008 Planning Commission hearing. The Commission recommended approval subject to removal of staff condition 3.b. relating to interparcel access.

Den Webb, 340 Pine Forest Road, Smith, Gambrell & Russell, LLP, stated that this is the property of H.M. Patterson & Son Funeral Home on the south side of Allen Road. The property is about 2.33 acres and is zoned C-1 and has been used as a funeral home for 15 years. The applicant plans to continue to operate the funeral home in the same building, in the same way it has operated the home for years and under the C-1 zoning category which now applies to the subject property. The applicant would like to construct a small addition on the existing building. The addition would be one (1) story and contain two (2) state rooms that would be combined to create a small

chapel. The applicant filed a petition to modify the zoning conditions on the subject property to allow for the expansion.

This property was rezoned in 1994 to a C-1 category to allow for a funeral home. At the time, there was a limitation for a funeral home to 23,000 square feet. The current building is 21,247 square feet and with the addition the existing building would be 23,717 square feet. The applicant is requesting to amend the zoning condition to allow for the additional 717 square feet.

The applicant has also filed an application to reduce the parking on site. The funeral home has had 120 parking spaces for 15 years. This addition gives the funeral home an opportunity to create 16 additional parking spaces for a total of 136 parking spaces. It now has to comply with the Main Street Overlay Streetscape requirements or it can not get to the 150 parking spaces that are required under the Ordinance. To demonstrate that the applicant can operate adequately with 136 parking spaces, Kimley-Horn and Associates did a parking study and submitted it to staff.

The applicant has received approval every step of the process, with staff approval and the approval from the Design Review Board and the Planning Commission.

The Planning Commission approved the application without Condition 3.b. Condition 3.b. was in the conditions by mistake and was taken out at the hearing. He would like verification from Council that condition 3.b. has been removed from staff's conditions.

Mayor Galambos called for public comment. There was no public comment.

Motion: Councilmember Fries moved to approve Agenda Item 08-268, RZ08-021\CV08-023, 173 Allen Road, Applicant: Arlington Funeral Home subject to the following staff conditions and the deletion of condition 3.b.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Funeral Home (Undertaking Establishments) and accessory uses, at a maximum density of 10,222.84 gross square feet of total floor area per acre zoned or a total floor area of 23,717 square feet, whichever is less.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated July 1, 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 thirty (30) feet of right-of-way from centerline of Allen 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.
 - b. To reduce the required number of parking spaces from 150 to 136 (CV08-023).

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

Use Permit

U08-013/ CV08-026 - Morgan Falls Road, Applicant: Sandy Springs Broadcasting, LLC, A use permit to allow for the construction of four (4) radio towers, with concurrent variances.

Ordinance No. 2008-10-54

Patrice Ruffin, Interim Assistant Director of Planning & Zoning, stated that the applicant is requesting a use permit to allow for the construction of four (4) radio towers at a maximum height of 303 feet at the Morgan Falls Golf Course. The applicant is also requesting three concurrent variances. Staff is recommending approval conditional of the use permit and concurrent variance request.

The petition was heard at the September 18, 2008 Planning Commission hearing. The Commission recommended approval of the request subject to staff condition.

Pete Hendricks, 6085 Lake Forrest Drive, stated that subject property is presently zoned to the R-2 classification. The applicant is requesting a use permit for the Radio Tower/antennas on the property. The Comprehensive Land Use Plan suggests public recreational/conservation use on the property and the three (3) concurrent variances. The applicant requests a three part Concurrent Variance as follows: (1) Reduce the required setbacks for three of the four (4) towers respectively as follows: Tower (1) from a maximum height of 303' to a minimum setback of 233', Tower (2) from a maximum height of 303' Tower (2) 132', Tower (3) from a maximum height of 303' to a minimum setback of 77'. There is already a tall Fulton County EMC tower in place there so as a result of that, the applicant has to request that there be variance relief to be allowed to be within a quarter of a mile of that tower.

City staff's review of analysis whether the proposed use is consistent with the Comprehensive Land Use Plan and/or Economic Development Realization Plan proposed use is consistent at Public Recreation of Conservation use is appropriate. The use permit visions of the Zoning Ordinance would allow for the radio cellular towers as an accessory use to the golf course component on which it is to be located. Compatibility to land uses in zoning districts in the property for which the use permit is proposed, is compatible and currently existing in the Georgia Power Company power lines and A.M. Radio Tower in this location. The use proposed, will not violate any local, state and/or federal statues, ordinances or regulations. There is no harm to the health and safety of the general public. Staff is of the opinion that there is sufficient protected screening is in place and hours of operation 24/7 and lighting being in compliance with Federal Communications Regulations. The applicant, under the conditions has been required to put a restricting element at the top of these towers to get protection as far as the light source is concerned. The applicant has already stated that all best efforts to engage with Fulton County to get permission to go on the Fulton County tower to apply the very safe type of restrictive area. Comments have arisen as to the pipe line that is out there. There has already been direct communication with Colonial Pipeline on the pipeline that is out there.

The Station is unique in that it will truly be a Sandy Springs Station, saying WZDA, the City of Sandy Springs.

The reason there is four towers is that two of the towers, the upper creations of the northern part of the state, are there to accommodate and juice out in the day. During the evening hours it has to protect the same source coming out of Minneapolis and therefore, the other two towers kick in to diminish the amount of broadcast area. The evening time is when it gets to the Sandy Springs community because that broadcast area has been pulled down to Sandy Springs and other parts of Fulton County but not nearly the expansive area that goes on during the day. There are different areas the applicant is seeking to be able to obtain approval for this frequency. The City of Sandy Springs becoming a city accommodated the applicant's request to get approval to have the ability to secure this frequency. Mr. Frank McCoy is here to answer any questions City Council may have.

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

Mr. Hendricks asked for a show of hands from the audience in support of the petition. There were approximately 15 to 20 people in support of this petition.

Mayor Galambos called for public comment in opposition of the petition.

Tochie Blad, 7320 Hunters Branch Drive, Sandy Springs Council of Neighborhoods, stated their concerns with the Radio Tower are that it will set precedent in the City's park land to have towers. The question is "in compliance with the Comprehensive Land Use Plan" for parks. We see Morgan Falls with the advent of now putting in the Riverside Park and working with the conservancy and other things as being State Of The Art Park. The towers will not add to the esthetic beauty of the area. There are apartments and residential housing that are across the street from where the towers will be. The buffers are needed for safety, not 300 feet. If the towers come down it will hit something. The other question is they may never come down. Perpetuity and down the line technology will change and the City will still have the four towers with aviation lights. She questioned if this was going to render the driving range obsolete. There are no pictures of what the towers will look like or what the protective screening will look like. There are promises of local programming being broadcast; she is not sure what that is about. The application is precedent setting in nature. She questioned what it would do with the other utilities that are already out there. She questioned if there would be T.V. interference in the local immediate area, and if their guide wires would enter into the easement. Any of the sites can be used to determine the cap financial that needs to stay capped. Georgia EPD would need to be consulted if that is to happen. It is a long way to go to solve a lot of these unanswered questions.

Linda Bain, 2370 Kimbrough Court, Sandy Springs Conservancy, stated that the City is about to embark on a multimillion investment at Morgan Falls and the two properties will blacken this area where these radio towers will be. The City is enhancing the ball fields and building a Riverside Park. This can be a huge recreational corridor for Sandy Springs and she believes this is a problem in two ways. One way is that these towers will be visual blights to the area. Another way, as mentioned, it does set a precedent in terms of how we view our park land. The Conservancy is currently engaged in activity in Sandy Springs trying to identify more public park land and to connect what we have in the most efficient way possible. She questioned if this is how we want to treat future park land or current park land in addition to this site. She questioned if the City would be in a position where we are going to have to put this kind of accessory on the current parks or the future parks. She would like for City Council to consider this when making a decision on this application.

Trisha Thompson, 145 River North Drive, Chairman of Sandy Springs Council of Neighborhoods, stated since 1994, she has been working to accomplish what is going to come to fruition next month in November, with the inclusion of the Miles property for more green space for Sandy Springs. She has spent 14 long years fighting and working to get more green space for Sandy Springs. Council is always saying there is no green space in Sandy Springs and we need more. Our green space is so precious to us, every scrap is precious. All of the Council has been fighting for green space for more parks for the children of Sandy Springs. Right now there is a long term lease on this golf course. She questioned why a radio tower is being put there that will last and be blight on the community and take away the very green space the city has cried for. She questioned what other uses would this golf course owner come forward for in order to make her property more economically viable. Everyone in the community is for green space and she requested that City Council not approve the petition.

Mr. Hendricks rebuttal, showed pictures of the proposed towers and stated that given the constructed nature of the towers should they fall, they self implode and do not fall over in a linear fashion. The precedent is already in place with the Fulton County's towers as much in excess in height from the tower that is being proposed. The applicant is limited to a 40 year lease term which happens to be the same lease term as the golf course has.

Frank McCoy, 1311 Chuck Pawley Blvd., stated it was not a lease but an easement. The easement Fulton County is considering granting is designed to run concurrently with the golf course lease. The two will expire together and both are long term, 40 years.

To answer some of the publics concerns the towers are self supporting and do not have guide wires. They are designed to be as thin as is physically and constructually possible in order to make them as invisible as they can be. The towers are tapered from a footprint and in a couple of cases are only 10 feet across at the bottom, and are very small towers. The towers will be difficult to see at much of a distance.

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The radio station will have a duality of life. During the day, there will be 50,000 watt radio stations covered almost as well as WSB. It will cover most of north Georgia. The Federal Communications Commission requires that the station identify itself once an hour and will say: call letters-Sandy Springs, Georgia". There will be people all over north Georgia that will hear this. At night, because WCCO in Minneapolis is also on at 8:30, they have to reduce power and reduce coverage towards the north and really contract the coverage dramatically. At night, it will essentially be a dense coverage of Sandy Springs in the associated environment only. The only business revenue model that would work for them would be local coverage, local service, local advertising, local sports, and local schools. Most of the revenue would come from the day. Because it would have a revenue model, it would make it healthy and because the night time would be necessarily restricted to just Sandy Springs and close environments', it seems like a perfect fit.

The environmental process that they went through was exhausting. Literally, historical and cultural have been checked and have done sideline analysis from the proposed Morgan Falls Park. There was discussion at one time that it might be possible that utility towers that are currently there may come down. These would then be the only towers on the property at some point. It turns out that the Morgan Falls dam would try to be placed on the National Register as historic places. If Georgia Power wanted to opposed the removal of the dam that is how they would do it. It is not possible to bury wires that carry this sort of current. Those things will be there forever.

Mr. Hendricks stated that the towers would not be seen from any park the City is establishing. Information can be found in the Council packet. The applicant respectfully request approval of the application.

Mayor Galambos closed the public hearing.

Councilmember DeJulio questioned the 303'. Mr. McCoy stated that it had to do with the wave length of the frequency that they are using. Cellular towers are just a structure to hold the antenna way up in the air. In the case of A.M. Stations the tower itself is the antenna element; its length like a piano string has to be of a particular dimension in order for it to work.

Councilmember Jenkins stated she has concerns with Colonial Pipeline and questioned who they spoke with from Colonial.

Mr. McCoy stated that the person responsible for these types of issues in this part of Georgia is Kevin Railey. They have exchanged information and communication back and forth. When the applicant gets to the point to begin excavation, then the applicant will layout the plan with Mr. Railey. First, Colonial Pipeline right-of-way is on the other side of the big Edison wires from where they plan to work. The applicant will use the same road that Sandy Springs uses to store its construction equipment. Pipeline did not have any issues with the location of the towers.

Councilmember Jenkins requested Mr. McCoy to speak more on the public benefit of the station. She questioned what kind of things could the Station broadcast that would benefit the City of Sandy Springs, other than just saying our name once an hour.

Mr. McCoy stated it would be easier to think of a radio station of this kind like a community newspaper. In order to survive and make its time valuable enough to be a working business entity it is going to have to work with local merchants in selling advertising time and in order to do that it has to engage with local issues. This is just how they work. There is no magic way to make radio stations make money except that the people that you cover and the people interested in what you are carrying. It is because of this interesting dichotomy, day time, very wide area to get national advertisers and then at night it contracts dramatically and becomes a close, local coverage.

Councilmember Jenkins questioned if the tower would interfere with the others towers such as 911 towers and T.V. towers. Mr. McCoy stated he has spoke with Rocky Moore, Fulton County E-911 and does not believe there is any issue but will have to work that out.

Councilmember Paul questioned if both towers were regulated by the Federal Communications Commission. Mr. McCoy stated they were. Councilmember Paul questioned if any particular conflict would be resolved regulatory by the federal government. Mr. McCoy stated that is correct.

Councilmember Fries stated that the station is a benefit to Sandy Springs.

Motion: Councilmember Fries moved to approve Agenda Item 08-269, U08-13/CV08-026, Morgan Falls Road, Applicant: Sandy Springs Broadcasting, LLC with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - b. To allow for the construction of four (4) radio towers/antennas (U08-013). The subject use permit shall expire on December 31, 2048.
 - c. The maximum height of each tower shall be 303 feet (CV08-026).
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated September 9, 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. To allow the four (4) proposed towers to be located within one-quarter of a mile of an existing telecommunication tower exceeding the maximum district height (CV08-026).
 - b. To reduce the required 303 foot setback for Tower #1 to 233 feet as shown on the site plan received by the Department of Community Development dated September 9, 2008 (CV08-026).
 - c. To reduce the required 303 foot setback for Tower #2 to 132 feet as shown on the site plan received by the Department of Community Development dated September 9, 2008 (CV08-026).
 - d. To reduce the required 303 foot setback for Tower #3 to 77 feet as shown on the site plan received by the Department of Community Development dated September 9, 2008 (CV08-026).
 - e. The owner/developer shall design any required tower lighting so that it is baffled or diffused in a manner so as to prevent a view of the light source or light spillover onto the neighboring residential properties.
4. Prior to the issuance of development permits for the construction of the radio towers, the owner/developer shall meet with the Director of Community Development to enter into an agreement as to amount of payment to be made for Impact Fee to the City.

Discussion on the Motion: Councilmember MacGinnitie stated that he was unable to find a listing for Sandy Springs Broadcasting or Sandy Springs Radio, LLC at the Secretary of State Office. Mr. McCoy stated it was a South Carolina, LLC. Councilmember MacGinnitie questioned the role of American Media Services. It is his understanding that he is an entity that does not operate radio stations but, in fact, develops and sells them.

Mr. McCoy stated that they have and everybody that has worked with his firm has been in radio for some number of decades. What happened overtime is that the radio bands, the a.m. and f.m. become very densely populated. It has become a specialized area of endeavor to figure out ways to put in new stations in places where they might be useful and this is what they do. They may operate the radio station for some period of time but in all probability it will be turned over to someone who is locally oriented.

Councilmember MacGinnitie questioned if the public benefits was in writing.

Mr. McCoy stated that it is codified in Federal Law. The Federal Commission has a list of things that is required of broadcasters. In addition, you are giving away the service for free. There are a number of different service requirements that they have to meet in order to renew their license.

Councilmember Meinzen McEnery stated that it was mentioned the fact that the Radio Stations primary benefit for this community would be in the evening and questioned the time. Mr. McCoy stated local sunrise/sunset would be the point at which that would change. Those hours would change every month.

Councilmember Meinzen McEnery questioned if they planned to have an office in Sandy Springs or are there any commitments for having jobs created in Sandy Springs.

Mr. McCoy stated the location of the studio is another technical question as much as it is a real estate and jurisdictional question. The Federal Communications Commission requires that the radio station studio would be what they define as the City grade coverage contour which is a larger area than Sandy Springs. Some things that go into that decision are the cost of rent, whether or not there is parking available. Usually the connectivity between the studio and the transmitter is a form of microwave of some sort and so you need a situation where you can see from the studio and the towers on the transmitter end. All of these overlay factors end up determining where it is going to go. He can not say that it will be in Sandy Springs for certain.

Mayor Galambos stated that she related to the Chamber of Commerce Board of Directors that this application was going to be heard tonight and they were thrilled with the idea of having a local station in Sandy Springs. This is an economic development tool for Sandy Springs. Our name is going to be heard far and wide and she would think a lot of advertisers would want to make use of that message coming out every hour. She believes this is a tool for drawing business to Sandy Springs and with all the empty places we have, the City could use it.

Councilmember Meinzen McEnery stated that she has very serious concerns about the public benefit of having a radio station operate in our community, in green space. She has heard that in return for four towers, with a variance that is required so that they can co-locate near some existing towers will give visual blight for 40 plus years. The potential offset is that we have a radio station that broadcast every hour on the hour our name and then perhaps in the evening, from sunset to sun up when a lot of folks except for the early evening are not listening. She does not see any jobs being created. She questioned what the rush is. This package came to Council without any comments from the Atlanta Regional Commission, the Fulton County Department of Planning and Environment and a host of others. For Council to make a decision of this magnitude on this use of the City's green space for industrial/commercial use, we should wait and get the information that is standard in Council packet for the feedback from those entities which are: Fulton County Board of Education, Fulton County Department of Environment and Community Development, Fulton County Department of Public Works, Fulton County Health Services, Sandy Springs Revitalization, Georgia Department of Transportation, City of Atlanta Department of Watershed Management, U.S. Postal Service, MARTA and Atlanta Regional Commission. Fulton County Emergency Management is still studying on this. The Sandy Springs Council of Neighborhoods is the only entity Council has heard from.

Councilmember Meinzen McEnery stated according to the State Supreme Court, every zoning case that comes before a community has to have the seven Steinberg questions answered in order to be valid. She will deal only with the very first question. "Does this application, whether the proposed use is consistent with the Comprehensive Land Use Plan and/or Economic Development Revitalization Plan adopted by the Council." Staff found that the proposed use is consistent with the future Comprehensive Land Map which designates the property as public recreation and conservation. The public recreation and conservation future land use designation includes public parks, open space and recreational facilities which the existing golf course meets. The use permit provision of the Zoning Ordinance would allow for radio and cellular towers as an accessory use to this type of facility. In other words, the staff went to the Zoning Ordinance to answer whether or not this application was consistent with the Comprehensive Land Use Plan.

She questioned staff on what documents they referred to when answering that question for "Joe, the plumber" as example. She questioned if this use was compliant with plain meaning the Comprehensive Land Use Plan. She questions why staff had to go to the Zoning Ordinance to say it was in compliance.

Chris Miller, Deputy Director of Community Development, stated that staff looks at two different documents; the Comprehensive Land Use Plan. Staff looked at the future land use designation for the property which is public recreation conservation and then looked at the underline use which is the existing golf course. Those two are consistent with the future land use element. Because the Comprehensive Plan does not often include specific uses that go along with the future land use category, staff then looked at what the zoning says about this piece of property. The property has R-2 zoning category. Under the residential category, there is a use provision which allows these two types of towers as a use permit. As mentioned, there are approximately 10 things staff needs to look at to consider whether the use permit is a valid use within the City of Sandy Springs. Staff first looked at the Comprehensive Land Use Plan and also at the Zoning Ordinance as well. To make the determination of whether it matches the Comprehensive Plan, the first answer is sufficient as far as the use, which is the golf course; the underline use goes back to the Comprehensive Land Use Plan.

Councilmember Meinzen McEnery stated that the golf course use is consistent but that is not what is before Council. She questioned if he would say that the Comprehensive Land Use Plan, the Map and the Policy are unclear as to whether or not an accessory use to a golf course can include four radio towers.

Chris Miller, Deputy Director of Community Development, stated that is a difficult question to answer as yes or no. The Comprehensive Land Use Plan itself is a very general document. The Zoning Ordinance is much more precise, it lays out specific uses, the setbacks, the way you regulate certain uses within the City of Sandy Springs. Staff looked at both documents. The Comprehensive Land Use Plan is not unusual for this or other city does not spell out specific uses that would be considered a recreational use. In that case, staff looked at the Zoning Code to further evaluate.

Councilmember Meinzen McEnery stated that bifurcating the plain vanilla question, does it comply with the plan is not the intent of that question in her view and having to go to another document, the zoning ordinance, to say that radio towers are accessible in green space is a fraud argument and does not feel it is consistent. The City's Zoning Ordinance provide for standards so that we do not adversely impact the quality of living in our community and by those adjacent to this development or green space. That variance as the City does not allow radio towers or cell towers within a quarter ($\frac{1}{4}$) of a mile of each other. Council should at least honor that ordinance and not allow the towers within a quarter of a mile. She believes the towers will be a visual blight on the community and does not believe it complies with the Comprehensive Land Use Plan, especially the intent of it. Who would ever thought that the great citizens that work in this community for 16 months would have thought they would have had to specify that parks should not have uses such as radio towers.

City Attorney Willard requested that a condition be added.

Condition 4. Conditional upon applicant and Director of Community Development entering into an agreement as to amount of payment to be made for Impact Fee to the City.

City Attorney Willard stated this is something to be determined that has not yet been resolved.

Councilmember Fries stated that it is a landfill with towers on it and more and more towers on it. There is nothing on the property but golfers. There is not a better place in the City to put it. The towers are skinny, not very intrusive and the applicant is going out of his way to make them less noticeable at night. At night, she is up and listens to the radio and thanked the applicant for giving her something else to listen to. This is not property the City wanted, had it been the City would have bought it.

Motion to Amend: Councilmember Fries moved to amend previous motion to include Condition 4. Conditional upon applicant and Director of Community Development entering into an agreement as to amount of payment to be made for Impact Fee to the City. Councilmember Jenkins seconded the motion.

Discussion on Amendment: Councilmember MacGinnitie questioned if this use permit is in perpetuity, go on forever. Ms. Ruffin stated that it runs with the land. Councilmember MacGinnitie stated that his concern is that the lease is for 40 year. Mr. McCoy stated that it is an easement and runs concurrently with the golf course lease. Councilmember MacGinnitie questioned if it was possible to limit it for the 40 years. Ms. Ruffin stated a condition could be added that would be consistent with what the time period is on the easement agreement.

Councilmember Jenkins questioned if this could be done. City Attorney Willard stated that it could be as a condition but, normally it is a vested right. In this case the applicant has a land use right that is based upon a continuation of the lease so it would be tied to the term of the lease.

Motion to Amend Amendment and Vote: Councilmember MacGinnitie moved to amend previous amendment and add the following condition: To limit the use permit to a time period that is consistent with the easement agreement. Councilmember Fries seconded the motion. The motion carried unanimously.

Second and Vote on Main Motion: Councilmember Jenkins seconded the motion. The motion carried 5-1, Councilmember Meitzen McEnery voting in opposition.

Zoning Modification

ZM08-009 - Trillium Subdivision (Happy Hollow Road), Applicant: Capital Design Group
To modify condition 3.k. of Z00-0083 to allow for front entry garages in addition to side entry garages.
Ordinance No. 2008-10-50

Patrice Ruffin, Interim Assistant Director of Planning and Zoning, stated that the applicant is requesting a zoning modification to the conditions of Fulton County zoning case Z00-0083 as the following.

1. To modify condition 3.k. to allow for front entry garages in addition to side entry garages.

The applicant intends to continue construction of the residential subdivision.

This afternoon the applicant contacted the department after having talked to one of the neighboring subdivisions and wanted to add a condition to the application.

Condition 3.q.

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

- q. The owner/developer shall provide a permanent thirty-five (35) foot natural undisturbed buffer and ten (10) improvement setbacks adjacent to Spalding Green Subdivision. Said buffer shall be replanted where sparsely vegetated subject to the approval of the Sandy Springs Arborist.

Mr. Ruffin stated that this has been discussed with the applicant and the applicant is in agreement with the language of condition.

Donnie Chapman, Capital Design Group, 1235 Hightower Trail, stated that they have been developing and building Trillium Subdivision for a little over a year. The property had old zoning conditions placed on them. One of the conditions required side entry garages adjacent to the Spalding Green subdivision. The house plans have a third and fourth garage in addition to the side entry would be a front entry garage. They are requesting a zoning modification to allow the additional front entry garage. They have meet with the Spalding Green neighbors and have their support.

Mayor Galambos called for public comments in opposition. There were no public comments.

Mayor Galambos closed the public hearing.

Councilmember Fries stated that she prefers side or rear entry. She understands that there are some issues with this. She noted that there are some really dynamite garage doors and would like for the applicant to do an upgrade on their garage doors.

Mr. Chapman stated that they would update the garage doors.

Motion: Councilmember Fries moved to approve Agenda Item 08-270, ZM08-009, Trillium Subdivision (Happy Hollow Road), Applicant: Capital Design Group subject to the following staff conditions. To the owner's agreement to restrict the use of the subject property as follows:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Single family detached dwellings and accessory uses and structures.
 - b. No more than 26 total dwelling units at a maximum density of 2 dwelling units per acre whichever is less, based on the total acreage zoned.
 - c. The minimum lot size shall be 15,000 square feet.
 - d. The minimum heated floor area shall be an average of 3,500 square feet, and a minimum of 3,000 square feet. Each time building permits are issued, the average of minimum heated floor area shall be 3,500 square feet. Example: If one building permit is issued, the minimum shall be 3,500 square feet, but the average of the five shall be 3,500 square feet.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development on July 28, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the zoning resolution 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 the first Certificate of Occupancy.
3. To the owner's agreement to the following site development considerations:
 - a. Minimum Front Yard: 15 feet from back of curb
Minimum Side yard (interior): 10 feet
Minimum Side yard (Corner): 20 feet
Minimum Rear yard: 35 feet, except a minimum of 50 feet adjacent to Spalding Green Subdivision.
Minimum Lot Width: 75 feet, except the minimum lot width feet for lots 1 through 11 abutting Spalding Green Subdivision.
Minimum Lot frontage: 35 feet
Building Separation: 20 feet
 - b. Decks, patios or gazebos shall not encroach into the rear yard setback of lots adjoining Spalding Green Subdivision.
 - c. No more than 1 exit / entrance on Happy Hollow Road. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - d. No access shall be allowed from Wolf Brook Drive.

- e. No access shall be allowed from Dunwoody Club Drive.
 - f. No lot shall be allowed direct access to Happy Hollow Road.
 - g. No lot shall be allowed direct access to Dunwoody Club Drive.
 - h. All utilities shall be underground.
 - i. All street lighting shall be installed with an underground feed.
 - j. Stone or brick veneer is to be used on the exterior side of all exposed walls, associated with the detention pond, facing Spalding Green Subdivision. Fencing around the detention pond is subject to the approval of the Sandy Springs Engineer.
 - k. There will be no rear-entry garages on any lot adjoining Spalding Green Subdivision.
 - l. An undisturbed area along the common boundary line with Spalding green Subdivision shall be 50 feet in depth throughout construction until the issuance of a certificate of occupancy.
 - m. Plant a minimum of 4 hardwood trees with a minimum 4 inch caliper in each lot. Two trees shall be installed in the front yard, and 2 trees shall be installed in the back yard. Trees shall be spaced a minimum of 30 feet and shall be planted a minimum of 10 feet from any property line. If the Sandy Springs Arborist has determined that trees cannot be planted in the rear yard, due to the presence of the existing trees, the preservation of existing trees will fulfill the requirements of this condition.
 - n. A brick entrance wall shall be constructed along Happy Hollow Road at the subdivision entrance.
 - o. Exterior siding material shall be brick, stucco or stacked stone on the sides facing Spalding Green and on at least three sides of each of the remaining homes.
 - p. All recreational and other areas which may be held in common shall be maintained by a mandatory homeowners association, who's proposed documents of incorporation shall be submitted to the Director of Community Development for review and approval prior to the recording of the first final plat. The developer shall include in the homeowners association covenants that membership in the incorporated into the covenants of the new subdivision.
 - q. The owner/developer shall provide a permanent thirty-five (35) foot natural undisturbed buffer and ten (10) improvement setbacks adjacent to Spalding Green Subdivision. Said buffer shall be replanted where sparsely vegetated subject to the approval of the Sandy Springs Arborist.
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 the following right-of-way, and dedicate 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 right-of-way are being improved:
 - 30 feet from the centerline of Happy Hollow Road.
 - 30 feet from the centerline of Dunwoody Club Drive.

- b. Improve roadway(s) along the entire property frontage with curb and gutter per Fulton County standards or as may be approved by the City of Sandy Springs Traffic Engineer and/or the Georgia Department of transportation.
 - c. Permanently cul-de-sac Wolf Brook Drive as approved by the City of Sandy Springs Traffic Engineer. A cul-de-sac is not required at the end of Wolf Brook Drive should the stub of Wolf Brook Drive be abandoned by the City of Sandy Springs.
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 with the Department Community Development, to meet with the City of 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 the application for a Land Disturbance Permit with the Department Community Development, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with Sandy Springs Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for a land Disturbance Permit.
 - c. To contact the Public works Department, Water Service Division, prior to the application for a Land Disturbance Permit (LDP) with the Department of Community Development, to meet with the Sandy Springs Engineer on-site.
 - d. The engineer/developer is required to submit along with the application for a Land Disturbance Permit (LDP) signed documentation verifying the storm water concept plan approval.
 - e. Provide at the LDP approval documentation (such as cross- section, profile, etc.) describing all existing natural streams, creek, or draws geometry, within the proposed development boundary and provide the appropriate bank erosion protection for the conveyance system after development.
 - f. The developer/ engineer is responsible to demonstrate to the City by engineering analysis at the Land Disturbance Permit application that the proposed development surface water runoff conditions are controlled at the minimum predevelopment level, so that downstream conveyance system may not be impacted, aggravate existing flooding or drainage problems nor creates new flooding or drainage problems off-site.
 - g. Prior to the application for a Land Disturbance Permit, the developer/engineer shall submit to the Department of Public Works, surface Water Section, a project Storm Water concept plan. This concept plan shall be preliminary drawing describing (but not limited to) the proposed location of project surface water quality and quantity facilities/Best Management Practices (BMP's); the existing downstream off-site drainage conveyance system that the proposed development runoff will impact; the discharge path(s) from facilities/BMP's outlet through the downstream conveyance system downstream and any potential surface water implications.
 - h. The developer/engineer is responsible to conceptually describe to the City at the Storm water concept plan approval phase post development structural Best Management Practices (BMP's) to be utilized to reduce surface water pollution impact associated with the proposed development. The detail engineering analysis and specifications of BMPs shall be included as a part of the LDP storm water submittal.

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

ZM08-012/CV08-024 - 5975 Roswell Road (SR 9), Applicant: The Simpson Organization, Inc. To modify the existing site plan for the Hammond Springs shopping center, with concurrent variances relating to signage.

Ordinance No. 2008-10-51

Patrice Ruffin, Interim Assistant Director of Planning and Zoning, stated that the applicant is requesting a zoning modification to modify the existing site plan for the Hammond Springs shopping center to show the location of proposed three standing signs on the property. The applicant is also requesting three (3) signage variances. Staff is recommending approval conditional of the zoning modification and the concurrent variances.

The petition was heard at the September 9, 2008 Design Review Board meeting. The Board recommended approval of the request.

Chris Hardy, the Simpson Organization, 1401 Peachtree Street, stated that the organization is in the process of renovating the Hammond Springs shopping center. Improvements of the streetscape have been done on Hammond Drive. An agreement was reached with Georgia Department of Transportation in conjunction with the City of Sandy Springs Planning Department; the owner is required to relocate the Roswell Road entrance of the shopping center approximately 22 feet to the south. The shopping center was built in 1983 and the existing signs that are there now were built in 1983. They are trying to put this center into the 21st century and bring it into compliance and into the spirit of the City of Sandy Springs intentions. They are also trying to protect their tenants. They are competitive with other tenants and other centers along Roswell Road. As a part of the approvals and plans from the city, they agreed some time ago to relocate and alter the primary entry to the center on Roswell Road. The existing entrance has a deceleration and acceleration lane. GDOT requires that they take them out and expand the sidewalk towards the street. As part of that change, the current primary entrance involves a greater than 90 degree right turn into the center. The existing pylon stands within this new entry way and must be moved. The current sign on Roswell Road is almost 18 feet high and four (4) feet wide. Their request is to make that sign 12 feet high by eight (8) feet wide. They are reducing the existing sign by 55% and move it from the south side of the entrance to the north side of the entrance which is a better safer design in terms of vehicles exiting the center. The new sign is designed to complement the architectural improvements being made to the center without causing any detriment to the public.

The existing Hammond Drive Pylon sign encroaches slightly over the north property line along Hammond Drive. It is their intention to relocate the sign approximately 87 feet to the east of the existing sign and place the new 12' high by eight (8) feet wide sign ten feet back from Hammond Drive property line to bring it into compliance with setback guidelines indicated on the site plan. Relocating the sign behind the setback in its existing location will cause root damage to an existing tree. In addition, the sign would not be visible to west bound traffic, due to the existing Georgia Power transformer box and dumpster enclosure immediately adjacent to the east side of the sign., Placement of the new sign nearer to the middle of the Hammond Drive property line, will cause no detriment to the public, and in fact, will improve the safety of sight lines for vehicles existing from the center.

Mayor Galambos closed the public hearing.

Councilmember Jenkins stated that it is eight (8) feet height. Ms. Ruffin stated that staff looked at some similar development in the area and recommended what was recommended previously and recommended eight (8) feet in height rather than the 12' on both frontages. The signs would be eight (8) feet x eight (8) feet.

Councilmember Jenkins questioned how staff came up with the eight (8) feet in height. Ms. Ruffin stated that staff looked at the Prado Development and Corporate Campus and both are larger developments. The Corporate Campus Development was allowed an eight (8) feet high sign. The Prado on the Roswell Road side was allowed 10'. Based on that information, this development was looked at and it was determined that because they do have frontage on two major roadways through the City, eight (8) feet would be sufficient for them.

Councilmember DeJulio questioned the applicant if the eight (8) feet in height for sign would work. Mr. Hardy stated that it would not and this is the first he has heard about the size being only eight (8) feet. The Prado property has extensive visibility from Roswell Road. He looks at the competition to Hammond Springs, which are Parkside and the Sandy Springs Plaza existing centers. The Parkside pylon sign is currently over 40' wide and higher. The

Exchange is 15' high by 9' wide and Sandy Springs Plaza is over 20' wide. An eight (8) foot tall sign significantly limits what they can do with the number of tenants they have and the readability at looking at the individual tenant panel signs. Eight (8) feet in height will not allow signs to be seen along Roswell Road in the way that 12 feet does. This would be a significant impact on the property.

In the process of doing these two changes to the signs, one because of an agreement they reached together with the GDOT and the City to relocate the existing entrance, their sign would be substantially smaller than the competition.

Mayor Galambos questioned if the Design Review Board reviewed staff recommendation of eight (8) feet. Ms. Ruffin stated that at the time these applications were reviewed by the Design Review Board, staff did not have a recommendation finalized. When the applicant's representative came in, staff did discuss with him that they would be looking at different signs and areas and would use that as comparison.

Councilmember DeJulio stated that the City has encouraged revitalization and the applicant facility is beginning to look nice and such a tremendous improvement of what it was before. The City needs to continue to give businesses incentives to go ahead and not be disincentive by penalizing them. He appreciates what the applicant has done and finds this to be a very nice addition to the center portion of Sandy Springs by making a significant investment there.

Mayor Galambos allowed public opposition speakers to make comments at this time.

Trisha Thompson, 145 River North Drive, Sandy Springs Council of Neighborhoods, stated the reason for the sign ordinance is to decrease the signage on Roswell Road in visual positions. She stated that there have been major developers that had to adhere to the sign guidelines. Everyone wants a big sign for their property. The Council of Neighborhoods understands what the applicant is asking and understands what the applicant feels to be a hardship. However, the Council of Neighborhoods is working to improve the appearance of Roswell Road. The Council of Neighborhoods respectfully request that City Council adhere to staffs guidelines.

Mayor Galambos closed the public hearing.

Motion: Councilmember DeJulio moved to approve Agenda Item No. 08-271, ZM08-012/CV08-024 - 5975 Roswell Road (SR 9), Applicant: The Simpson Organization, Inc. shopping center, with a reduced signage to 12 feet and subject to the following staff conditions:

1. To the site plan received by the Department of Community Development dated August 5, 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. (ZM08-012)
2. To allow for a second freestanding sign on the subject property. One (1) located along Roswell Road (SR9) frontage and one (1) located along Hammond Drive frontage, as shown on sign elevation plan dated August 29, 2008. (CV08-024)
3. To limit the height of the two (2) freestanding signs to twelve (12) feet. (CV08-024)
4. To allow a maximum 41 square foot freestanding sign face along Hammond Drive and allow a maximum 47 square foot freestanding sign face along Roswell Road (SR9), as show on sign elevation plan dated August 29, 2008. (CV08-024)

Discussion on the Motion: Councilmember Fries questioned what the Design Review Board recommended. Ms. Ruffin stated that the Board recommended 12 feet.

Councilmember Meinzen McEnery stated that she was able to hear Mayor Galambos in a state of the city address to the Perimeter Chamber. One of the things that the two of them agree on is how wonderful our city is looking. As you leave the City of Atlanta going north on Roswell Road, it looks cleaner and does not have the billboard issue that the City of Atlanta has. The City is getting the smaller signs. The community worked hard with Target and Sembler to get the smaller signage at a much larger development at the Prado. She believes that the capital that this organization is putting into that development is a good decision and she does not think by taking four (4) feet off of the height of their sign is going to have any adverse effect on the success of that center. It is a beautiful location and well designed. It is a process and the City has to keep adhering to the Sign Ordinance and eventually Roswell Road will be cleaner. She can not support the motion.

Substitute Motion: Councilmember Meinzen McEnery moved to go with staff recommendation on the concurrent variance request to allow the proposed signs to be constructed at a height and width of eight (8) feet on Roswell Road and Hammond Drive. Motion failed for lack of second.

Councilmember Jenkins stated she appreciates what the applicant has done with cleaning up the property and how nice the buildings look. When talking about the processes in the City of Sandy Springs, the Design Review Board approved this application at 12 feet. There had to be a reason the Design Review Board approved the application for 12 feet. She believes that 12 feet is needed at that location so that he can place his tenants on the sign and also so people can see the sign when driving up and down Roswell Road and that is why she made a second to the motion.

Second and Vote: Councilmember Jenkins seconded the motion. The motion carried 4-2, with Councilmember Meinzen McEnery and Councilmember MacGinnitie voting in opposition.

Text Amendments

Councilmember Paul raised a point of personal privilege in that the next agenda item involves the Sandy Springs overlay districts and the requirements governing it. As a land owner in the overlay district, he feels that he should recues himself in any involvement on the discussion.

RZ08-028-An Ordinance to Amend Article 12B, Sandy Springs Overlay District, of the Sandy Springs Zoning Ordinance. Ordinance No. 2008-10-55

Deputy Director of Community Development, Chris Miller, stated that this is an amendment to the overlay district to require street trees and pedestrian lights to be located at the back of the sidewalk. This is for safety purposes and to give a precise look to the entire overlay district. Staff is also seeking approval to alter the final pedestrian light spacing as the City did with Georgia Power. Staff will come back before City Council with a more cohesive look of the entire overlay district standards. Tonight's discussion is for street trees and pedestrian lights only.

Councilmember Paul withdrew his request to recues himself.

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

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 08-272, RZ08-028- An Ordinance to Amend Article 12B, Sandy Springs Overlay District, of the Sandy Springs Zoning Ordinance. Councilmember Jenkins seconded the motion. The motion carried unanimously.

RZ08-030 - An Ordinance to Amend Article 8.2, Mixed Use District, of the Sandy Springs Zoning Ordinance. Ordinance No. 2008-10-56

Patrice Ruffin, Interim Assistant Director of Planning and Zoning, stated that this is a text amendment to the Mixed Use Zoning Classifications to reflect previous discussions about the live work category and be specified as associated of each level of the designation.

This text amendment was heard at the September 18, 2008 Planning Commission hearing. The Commission recommended approval as presented by staff.

Mayor Galambos called for public comment.

Roger Blichfeldt, 5855 Garber Drive, stated that the Council and the community have worked very hard on the land use plan for a long time. Modifications concern him. There have been a few problematic zoning cases that have caused this to come up where someone wanted to squeeze a whole lot on a small parcel. His concerns are that the City is just changing some guidelines in the land use plan but turning this over to the Zoning Ordinance. This sounds like overkill to him. He does not have any objection to the City being more specific, maybe giving stronger guidance to developers who come before the City in trying to do mixed use or doing uses in live/work areas. A lot of these small work areas are areas that everyone wants to see redeveloped. From his perspective, being in the real estate business and having gone through a lot of this process with the City, he sees placing these restrictions on minimum lot sizes in various areas as just another stop sign for developers. It is hard enough to get people to come in with good projects when it states in the land use plan that there is a minimum lot size. Then backing it up in the zoning ordinance seems to be overkill to get to where you want to go. There are many small parcels that are going to be very difficult to assemble in Sandy Springs to get the kind of development that you want. In the areas of live/work, even in the regional areas, it would be impossible to get 10 acres. Not only would the developers have to come in and not only ask for something that is opposition to a land use plan but also have to request variances.

Mayor Galambos stated that she would like for staff to explain why it has to be in the zoning ordinance.

Chris Miller, Deputy Director of Community Development, stated the process of talking about what the appropriate parcel size would be for a mixed use project started a few months ago. A one acre parcel is an adequate size to do a drugstore. Staff discussed having a three (3) acre minimum for the live/work/neighborhood zoning category going on with the mixed use. The intent is to encourage assemblages of properties to get the maximum uses and maximum intense and densities that the land use plan encourages on this property by requiring through the zoning category to do minimum lot sizes. Also, to give guidance through the zoning ordinance and the land use plan to let them know where the Mayor and Council stand on minimum parcel sizes. Staff can make suggestions but it has to be codified within the Zoning Code and within the Land Use Plan. This is the reason why it is before City Council tonight.

Trish Thompson, 145 River North Drive, spoke on behalf of the Sandy Springs Council of Neighborhoods. The Council of Neighborhoods supports this change and encourages assemblages on these small parcels. It encourages small stand alone businesses rather than large multi use areas, and it also encourages multiple curb cuts on Roswell Road and the roads being fixed in Sandy Springs. Sandy Springs Council of Neighborhood supports staff's recommendation.

Councilmember Paul stated that the intent of what the City was trying to do with those parcels was being totally misunderstood by many in the development community and this step was desperately needed to clarify what Council intended for those larger areas where mixed use is wanted.

Motion and Vote: Councilmember Meinzen McEnery moved to approve Agenda Item No. 08-273, RZ08-030 - An Ordinance to Amend Article 8.2, Mixed Use District, of the Sandy Springs Zoning Ordinance as presented by staff. Councilmember Paul seconded the motion. The motion carried unanimously.

RZ08-031– A Resolution to Amend City of Sandy Springs 2027 Comprehensive Plan (Minor/Local Amendment).

Resolution No. 2008-10-53

Patrice Ruffin, Interim Assistant Director of Planning & Zoning, stated that this is the sister amendment to the previous item to make the same change in the Comprehensive Plan under the land use policies for live/work area.

The Planning Commission heard this item at the September 18, 2008 hearing. The Commission recommended approval of the amendment as presented by staff.

Mayor Galambos called for public comment.

Roger Blichfeldt, 5855 Garber Drive, stated that he is in agreement with what the City is trying to accomplish. There are several locations throughout the City where it will not be possible. He would like to see these kinds of uses at major intersections, MARTA Station and places where there is transit. People can live and work there.

Councilmember DeJulio explained that this is a guide and does not mean that someone can not come to Council with a proposal. Council could consider changing a particular parcel if it were for the public's interest.

Mr. Blichfeldt stated that he did not mind strengthening the guidelines in the Comp Plan, but carrying it over to the Zoning Ordinance and tying them together makes it much more difficult to convince City Council that something that is proposed to the land use plan is not quiet in synch with it and is against the Zoning Ordinance. It makes it a much more difficult process for a developer and makes it a hard sell to get people to come in and do these things.

Motion and Vote: Councilmember Meinzen McEnery moved to approve Agenda Item No. 08-274, RZ08-031 – A Resolution to Amend City of Sandy Springs 2027 Comprehensive Plan (Minor/Local Amendment). Councilmember Paul seconded the motion. The motion carried unanimously.

New Business:

Consideration of Approval of a an Intergovernmental Agreement (IGA) for the Activation of the Joint Public Safety and Judicial Facilities Authority for the Cities of Sandy Springs, Georgia and Johns Creek, Georgia for the provision of 911 Communications services in the Cities of Sandy Springs and Johns Creek.

City Attorney Willard stated before City Council is a Resolution that is required to be adopted by the City Council in order to activate the statutory authority pursuant to the provisions of O.C.G.A. § 36-75-1, et seq. to create certain type of public safety facilities in Fulton and DeKalb County and has the ability to do this by two cities or county and city, whatever combination is coming together adopting it. In this case we find a use to help the City of Sandy Springs and Johns Creek create its own 9-1-1 Service. The cities have to also enter into an intergovernmental agreement with the City of Johns Creek for the creation of a joint public safety and judicial facilities authority that both cities would enter and file with the Secretary of State and the Department of Community Affairs showing the cities have activated the authority.

The initial term of the Agreement is five years, beginning July 1, 2009. The Agreement may not be cancelled by either city prior to the end of the term. The Agreement is renewable in five year terms upon resolutions of the governing bodies of each city.

Mayor Galambos questioned if the Board of Directors were two people.

City Attorney Willard stated that in the Bylaw an arbitration clause that if they can not reach a decision, there will be a mechanism by which arbitration is triggered and there will be three arbitrators, one from each of the parties and the third will be selected by the two arbitraries to have a panel resolve whatever that dispute is.

The bylaws will come back to City Council for review and approval at a later date.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 08-275, an Intergovernmental Agreement (IGA) for the Activation of the Joint Public Safety and Judicial Facilities Authority for the Cities of Sandy Springs, Georgia and Johns Creek, Georgia for the provision of 911 Communications services in the Cities of Sandy Springs and Johns Creek. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

**Consideration of Approval of a Resolution to Activate the Joint Public Safety and Judicial Facilities Authority for the City of Sandy Springs and the City of Johns Creek, to Appoint a Board of Directors, and to Provide for Filing with the Georgia Secretary of State and the Department of Community Affairs Pursuant to O.C.G.A. § 36-75-1, ET SEQ.
Resolution No. 2008-10-52**

City Attorney Willard stated a Resolution needs to be adopted by both cities as a mean of activating the Joint Public Safety and Judicial Facilities Authority.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 08-276, a Resolution to Activate the Joint Public Safety and Judicial Facilities Authority for the City of Sandy Springs and the City of Johns Creek, to appoint a Board of Directors, and to provide for Filing with the Georgia Secretary of State and the Department of Community Affairs. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Reports and Presentations:

Motion and Vote: Councilmember Paul moved to amend the Agenda and accept the Appointing Members to the Sandy Springs Board of Ethics. Councilmember DeJulio seconded the motion. The motion carried unanimously.

(Added by Motion and Vote)

**Consideration of Approval of a Resolution Appointing Members to the Sandy Springs Board of Ethics.
Resolution No. 2008-10-55**

Mayor Galambos appointed Dick Isenberg and Kirk Childs to the Ethics Board for a three year term. She appointed Susan Langley and Kevin King as Alternates to the Board with a three year term.

Motion and Vote: Councilmember Paul moved to approve the appointment of Dick Isenberg and Kirk Childs to the Ethics Board for a three year term and Kevin King and Susan Langley as Alternates serving a three year term. Councilmember Fries seconded the motion. The motion carried unanimously.

Public Comment

Jennifer Steele, 4827 Kitty Hawk Drive, President, Cherokee Park Civic Association, stated that she was very excited to see the Traffic Calming Manual submitted and approved because it gives everyone a great foundation. This gives her newly formed traffic committee a better understanding of what the City expects. The Committee's question to Council is, when the criterion has been met and it is determined that traffic calming measures need to be taken on behalf of an established neighborhood. She understands it to mean that the neighborhood is required to put up 50 % of the cost. She questioned what would happen if it was something that the City sees as necessary, who would be burdened with the funding?

Mayor Galambos stated that the City does not have its portion of the funds in the budget at this time. Until funds are available in the budget, the city can not meet its 50% portion. If and when funds are available it will be 50/50 from each.

Regular Meeting of the Sandy Springs City Council

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Ms. Steele expressed her concerns regarding adding traffic lights and crosswalks at Long Island Drive, Franklin Road and Roswell Road which may have a negative impact on the flow of traffic and affect them getting in and out of their neighborhood.

She expressed her gratitude to the City's Public Works, Fire and Police Departments for their professionalism in helping the neighbors in a situation that occurred in her neighborhood.

Executive Session – Pending Litigation

Motion and Vote: Councilmember Paul moved to enter into Executive Session to discuss Pending Litigation. Councilmember Jenkins 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 8:19 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Paul 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 8:50 p.m.

Adjournment:

Motion and Vote: Councilmember Paul moved to adjourn the meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously. The meeting adjourned at 8:51 p.m.

Date Approved: November 18, 2008



Eva Galambos, Mayor



Tracy J. Tye, Acting City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

October 21, 2008

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 21st day of October, 2008, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

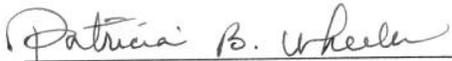
Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any 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 29th day of October, 2008.



Notary public (SEAL)

