

Regular meeting of the Mayor and City Council of the City of Sandy Springs was held January 15, 2008 at 6:00 p.m., Mayor Eva Galambos presiding.

Invocation

Rabbi Bradley Levenberg, Temple Sinai offered the invocation.

Call to Order

Mayor Galambos called the meeting to order at 6:03 p.m.

Roll Call and General Announcements

Mayor Galambos requested that the City Clerk call the Roll.

City Clerk Rowland 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 Rowland called the roll.

Councilmembers 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 Fries moved to approve the meeting agenda. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Consent Agenda

1. Meeting Minutes:
 - a. November 20, 2007 Regular Meeting Minutes
 - b. December 11, 2007 Work Session Minutes
 - c. December 18, 2007 Regular Meeting Minutes
2. Approval of the First Amendment to the sub-lease between Fulton County and the City of Sandy Springs for Heard's Road Fire Station No. 22.
Resolution No. 2008-01-01
3. Approval to authorize the City Manager to accept funds from the Georgia Department of Transportation for the upgrading of signal equipment at 61 city intersections and corresponding budget amendment.
Resolution No. 2008-01-02
4. Approval of a Change Order for CH2M Hill for stormwater utility.

Mayor Galambos called for a motion on the Consent Agenda.

Motion and Vote: Councilmember Paul moved to approve the consent agenda. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Public Hearings

River Corridor Review

RC 07-06SS – 890 Edgewater Trail

Assistant Director of Land Development Dettwiler stated that RC 07-06SS, River Corridor Review for the property located at 890 Edgewater Trail. The applicant proposes the construction of one retaining wall associated with the existing single family residential home on lot 65; block "C", unit 3 of Riverside subdivision. The site is on 0.41 acres, located in vulnerability categories "C" and "E", with a maximum allowed area of disturbance at 10,041square feet and a maximum allowed area of impervious surface at 6,181 square feet.

The subject application was submitted to the Atlanta Regional Commission on November 9, 2007, and was found to be consistent by the ARC on December 6, 2007.

Matt Stanford stated that he represents Gudeger Surveying and has been working with Mr. Santa at ARC. They are clearing the impervious limits in both categories and are under compliance.

Motion and Vote: Councilmember Fries moved to approve RC 07-06SS-890 Edgewater Trail. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Alcoholic Beverage License

Consideration of approval of Alcoholic Beverage License Application for Imperial Investments dba Sheraton (004260) at 800 Hammond Dr Sandy Springs, GA 30328. Applicant is Nitin J Shah for Consumption on Premises Wine, Malt Beverage and Distilled Spirits.

Program Director Crace stated that this is an alcoholic beverage license application for Imperial Investments dba Sherat located at 800 Hammond Drive. The building lease is on file; the fire inspection has been completed; proper zoning has been confirmed. The facility has been inspected by the Fire Department. The owner and registered agent have both received acceptable GCIC background checks. The public hearing has been advertised as required by the Ordinance. Staff recommends approval of the application.

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

Motion and Vote: Councilmember DeJulio moved to approve the Alcoholic Beverage License Application for Imperial Investments dba Sheraton (004260) at 800 Hammond Dr Sandy Springs, GA 30328. Applicant is Nitin J Shah for Consumption on Premises Wine, Malt Beverage and Distilled Spirits. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of Alcoholic Beverage License Application for YEJ Enterprises Inc dba Sushi Huku Japanese Restaurant (008287) at 6300 Powers Ferry Rd Ste 700 Sandy Springs, GA 30339. Applicant is Nitin J Shah for Consumption on Premises Wine and Malt Beverage.

Program Director Crace stated that this is an alcoholic beverage license application for YEJ Enterprises Inc dba Sushi Huku Japanese Restaurant located at 6300 Powers Ferry Rd Ste 700. The building lease is on file; the fire inspection has been completed; proper zoning has been confirmed. The facility has been inspected by the Fire Department. The owner and registered agent have both received acceptable GCIC background checks. The public hearing has been advertised as required by the Ordinance. Staff recommends approval of the application.

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

Motion and Vote: Councilmember Paul moved to approve the Alcoholic Beverage License Application for YEJ Enterprises Inc dba Sushi Huku Japanese Restaurant (008287) at 6300 Powers Ferry Rd Ste 700 Sandy Springs, GA 30339. Applicant is Nitin J Shah for Consumption on Premises Wine and Malt Beverage. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of Alcoholic Beverage License Application for Whole Foods Market Restaurant (003221) at 5930 Roswell Rd Sandy Springs, GA 30328. Applicant is David Azzolino for Consumption on Premises Wine and Malt Beverage.

Program Director Crace stated that this is an alcoholic beverage license application for Whole Foods Market Restaurant located at 5930 Roswell Road. The building lease is on file; the fire inspection has been completed; proper zoning has been confirmed. The facility has been inspected by the Fire Department. The owner and registered agent have both received acceptable GCIC background checks. The public hearing has been advertised as required by the Ordinance. Staff recommends approval of the application.

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

Motion and Vote: Councilmember Meinzen McEnery moved to approve Alcoholic Beverage License Application for Whole Foods Market Restaurant (003221) at 5930 Roswell Rd Sandy Springs, GA 30328. Applicant is David Azzolino for Consumption on Premises Wine and Malt Beverage. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Rezoning

RZ07-021/U07-008/CV07-020 (DRI) - 5775 & 5795 Glenridge Drive, Applicant: MGLP Lakeside, LLP

To rezone the subject property from O-I conditional and R-2 to MIX for the development of 300 residential units, 1,125,000 square feet of new and existing office space, 50,000 square feet of retail space, and a 200-room hotel, with concurrent variances and a use permit to exceed the maximum district height.

Planner Ruffin stated that this is a rezoning petition to rezone the subject property from O-I conditional and R-2 to MIX for the development of 300 residential units, 1,125,000 square feet of new and existing office and financial institution space, 50,000 square feet of retail and restaurant space, and a 200 room hotel. The applicant is requesting four (4) concurrent variances and a use permit to exceed the maximum district height.

The Design Review Board heard the petition on November 13, 2007, and recommended approval subject to the conditions listed in Council's packet. The Planning Commission heard the case at the December 20, 2007 meeting. The Commission recommended deferral of the petition for 90 days with remand to the Planning Commission subject to submittal of several items by the applicant.

Jessica Hill, 1545 Peachtree Street, stated that the applicant is requesting a 60 day deferral as opposed to a 90 day deferral. The Planning Commission has requested additional items.

Chris Scott, 375 Montevallo Drive, gave a brief overview of the applicants plan. The applicant has added a right in to the plan. There are a total of five (5) buildings on this site, three of which already exist and the applicant is proposing two new office buildings on this site which are 16 stories, 400,000 square feet each. There will be two (2) parking decks that will serve all the mixed uses on site and a 200 room, eight (8) story hotel and 50,000 feet of retail.

Ms. Hill stated that the community and the Planning Commission have a number of concerns related to the traffic. The applicant is trying to work through these issues and request a 60 day deferral.

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

Trisha Thompson, 145 River North Drive, Zoning Chairman of the Sandy Springs Council of Neighborhoods, stated that the Sandy Springs Council of Neighborhoods is looking forward to working with the applicant to see if they can come to a resolution on some of the issues they have.

Mayor Galambos commented on the density of the development and questioned if the units would be a minimum 750 square feet and questioned if there was more information about the distribution of the units between one, two and three bedrooms and if some could be larger.

Ed Hamilton, 7 Riverway, Houston, Texas, stated that the applicant proposes to develop a mix use project consisting of 300 residential units. These units will consist of one and two bedrooms only.

Councilmember Paul stated that he has a problem with the density on the development. There is nothing in the application showing the applicants plan to help mitigate the traffic impact. This area already has many traffic issues. He would like to see how the applicant plans to help move all the traffic that will be generated by his development.

Ms. Hill stated that they have already submitted the information on the traffic study. She has talked with the applicant and the traffic engineers and they believe at build out on the project, the traffic will be much better than it is today. The applicant has proposed traffic improvements including an additional lane. They have information they will provide to the City's traffic engineer that should address the Council's and the neighbors concerns.

Councilmember Paul explained that the applicant needs to figure out how to move the traffic from the impact of his project before receiving his support.

Mr. Scott stated that traffic impact is the biggest issue with the neighbors as well. The traffic engineer will be at the next hearing to speak on these issues. The applicant has agreed to pay for all the improvements that the DRI and GRTA have made. Additionally, they have agreed to pay for corridor improvements at Glenridge as well as expanding the west bound ramp. Their traffic engineer has met with Georgia DOT and this information will be included in Council's packet at their next hearing.

Motion and Vote: Councilmember DeJulio moved to defer RZ07-021/U07-008/CV07-020, (DRI) – 5775 & 5795 Glenridge Drive, Applicant: MGLP Lakeside, LLP for 60 days. Item to be heard by the Planning Commission at the February 21, 2008 hearing and by the City Council on March 18, 2008, regular meeting. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ07-039/U07-016/CV07-029 - 305 Carpenter Drive, Applicant: Masoud Zahedi

To rezone the subject property from A-L conditional to MIX for the development of 7,000 square feet of commercial space and 300 residential units, with concurrent variances and a use permit to exceed the maximum district height.

Planner Ruffin stated that this is a rezoning petition to rezone subject property from A-L conditional to MIX for the development of 7,000 square feet of commercial space and 300 residential units. The applicant is also requesting one (1) concurrent variance to delete the required 25 foot buffer and 10 foot improvement setback along the east property line adjacent to residential property. Additionally, the applicant is requesting a use permit to exceed the maximum district height.

The Design Review Board heard the application at the October 23, 2007 meeting. The Board recommended denial of the petition. The petition was heard at the December 20, 2007 Planning Commission hearing. The Commission recommended deferral with remand to the Planning Commission at the applicant's request. The applicant requested deferral due to additional discussions needed with the Sandy Springs Council of Neighborhoods. The applicant has since submitted a revised letter of intent indicating a reduction in the proposed height from 26 stories to 10 stories and a reduction in the total number of residential units from 300 to 170. The applicant has not revised the concurrent variance request to delete the required buffer and improvement setback adjacent to the apartment property to the east. The staff has not revised its original recommendation for a maximum of 100 units at 10 stories, with denial of the concurrent variance request.

Masoud Zahedi, 5801 Roswell Road, stated that this site is located on Carpenter Drive. The property consists of 1.19 acres zoned A-L. He intends to have mixed use; he has reduced the height of the building from 26 stories to 10 stories, three (3) story of parking above and underground, and 10 floors above parking. The first floor will contain 170 units of residential/independent living with a minimum heated floor area of 600 square feet. Staff has recommended a maximum of 100 units which he does not think is feasible in order to make this work. The proposed plan contains 290,000 square feet building. The comprehensive land use plan designates this site as commercial mixed use district. The property is a part the commercial zoning classification. The property is bordered on the west side by three story commercially zoned property, with current use of office buildings, Carpenter Drive to the north, commercial parking lot to the south and a nine (9) story apartment building to the east. The proposed use of this site is consistent with the existing adjacent properties.

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

Trisha Thompson, 145 River North Drive, Zoning Chairman of the Sandy Springs Council of Neighborhoods, stated that this application was reviewed last week and they had asked for a deferral so that it could be sent back to the Planning Commission for review. Should this application be approved tonight, the Council of Neighborhoods would like to be on record as saying that with a reduction of the height to 10 stories, the Council of Neighborhoods would agree with Mr. Zahedi's proposal. The Council of Neighborhoods is also asking that there be no use conditioned on this property so the applicant can have the ability to do whatever he wishes with this property. The Council of Neighborhood has no objection to most of Mr. Zahedi's proposal and asked that this application be approved with staff's recommendation.

Councilmember Fries questioned who Mr. Zahedi was teaming up with.

Phil Kennedy, 5561 Arundel Drive, stated that he is the President of the American Opportunity Foundation. The foundation has done a number of Independent Living projects in California. Recently they met with Mr. Zahedi to work on the details and now are in the process of doing the market study.

Councilmember Fries questioned the size of the 10 story building. Mr. Kennedy stated that they would not do a project less than 150 units. The one bedroom unit size could be 550 to 600 square feet, 800 square feet in a two bedroom unit. Councilmember Fries explained that Sandy Springs has a large population of seniors and stated that larger units are needed. She questioned the size of a three bedroom unit. Mr. Kennedy stated that it would be in the 800 square foot range.

Councilmember Fries also had a concern with the setback.

Mayor Galambos explained that the City's policy is that if a developer builds high, they give green space. Mr. Zahedi stated that his project will have 25% greenspace on the back and side of the building. Councilmember Jenkins explained that staff has said that his greenspace is not useable and residents will not be able to use it.

Patty Berkovitz, 800 Crest Valley, made a request that a list of questions be sent to the Planning Commission. Mayor Galambos stated that the Planning Commission could get a transcription of the meeting.

Motion and Vote: Councilmember DeJulio moved to defer RZ07-039/U07-016/CV07-029 - 305 Carpenter Drive, Applicant: Masoud Zahedi for 60 days. Item to be heard by the Planning Commission at the February 21, 2008 hearing and by the City Council on March 18, 2008, regular meeting. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ07-040/CV07-030 - 5619 Lake Forrest Drive, Applicant: Paragon Development Group, LLC

To rezone the subject property from TR conditional to O-I for the development of a 22,000 square foot office building, with concurrent variances.

Ordinance No. 2008-01-01

Planner Ruffin stated that this is a request to rezone the subject property from TR conditional to O-I for the development of a 22,000 square foot office building. The applicant is also requesting one concurrent variance to reduce the required front yard setback from 40 feet to 20 feet adjacent to the I-285 right-of-way. Staff is recommending approval conditional of the request at a lower density than what is requested by the applicant.

The petition was heard at the October 23, 2007 Design Review Board meeting. The Board recommended approval of the proposal as submitted by the applicant and recommended that the building be constructed of brick and the applicant attempt to maintain as much of the tree canopy on the property as possible.

The petition was heard at the December 20, 2007 Planning Commission hearing. The Commission recommended approval subject to the applicant's requested density and site plan, the remainder of staff conditions, and an additional condition limiting outdoor lighting.

Patrick Leonard, 355 Ivy Knoll, stated that he is the applicant, not the owner of the property. They are proposing a small office building for this property at the corner of I-285, Lake Forrest and Northwood. The 2006 Comprehensive Land Use

Plan calls for this site to be developed as Live/Work/Neighborhood which staff has designated. The 2007 Land Use Plan changes to Live/Work/Community. The density went up on the plan Council approved in November. Application was submitted prior to November which is why staff used the 2006 Plan. The site is within the boundaries of the Sandy Springs Urban Overlay District. This project will meet the requirements of the O-I zoning district and design criteria. The Land Use will allow up to 25,000 square feet per acre for commercial office and up to 20 units per acre of residential. They are proposing a 2.5 story brick office building at the corner of Northwood Drive. They are a small company and will keep some of it for their office and plan to sell eight or nine smaller spaces of the condominiums to local businesses. They are marketing for Architects and Engineers and believe this is a very good project. A letter from the surrounding neighbors has been submitted to the Community Development Department.

Martha Yoder, 45 Northwood Drive, stated that she lives directly across from Lake Forrest and has owned the property for 25 plus years. She has seen many changes. Ms. Yoder expressed her support of the applicant's petition.

Mayor Galambos called for public comments in opposition of this application.

Pamela Jeter, 5680 Lake Forrest Drive, stated that commercial zoning is not the best use for this corner parcel. She looks to the Planning Commission to make the most sensitive decision that will bring people to Sandy Springs for its social and environmental beauty. She is opposed to this petition because it compromises the Lake Forrest neighborhood residential architectural continuity. She believes that townhomes live or live/work is more fitting for the transition. Commercial development promotes awkwardness in transitioning from neighborhood to commercial. She would like to see it as live/work/community with greenspace available linking the communities together on Northwood. She asked Council to make the best decision for the community.

Sandra Hill, 5595 Kingsport Drive, stated that when she first saw this plan she supported it. However, the tunnel may come through this area and create additional traffic. All the things she has loved about Sandy Springs is now changing. She is opposed to the applicant's petition.

Mark Sampl, 130 Steward Drive, stated that this zoning request does not fit with the Land Use Plan and is inappropriate for the area. Lake Forrest should remain residential zoned inside the Perimeter. He asked Council not to allow this property to start commercial development in the residential corridor, and to deny applicants request.

Terry Morris, 45 Steward Drive, stated that he is opposed to the zoning change for three reasons. It represents spot zoning which has potential issues later down the road. It is going from the current zoning status to O-I and which sets a precedent. It needs to be consistent with the existing residential nature. Commercial activities should be kept on Roswell Road and not further south inside I-285. The traffic will be significantly greater than it would be in the residential zoning.

Patty Berkovitz, 800 Crest Valley Drive, stated that this is one of the areas that was changed from live/work/neighborhood to live/work/community. Townhouses would be a perfect choice for abutting I-285. She does not agree with the argument that people will not buy residential along I-285. There are million dollar homes being built along Georgia 400 and I-285. The Planning Commission and Design Review Board were not elected to support the neighborhoods; Council was elected to support the neighborhoods and to protect them. This type of zoning is not wanted in their neighborhood.

Trisha Thompson, 145 River North Drive, Zoning Chairman of the Sandy Springs Council of Neighborhoods, stated that a tunnel is being proposed and there will be a visibility study. Opposition or support received on the tunnel will be determined based on the decision made tonight. The neighborhoods are asking Council to deny applicants petition.

Mr. Leonard stated that there is no market for townhouses and the seller has been trying to develop townhomes there for many years and has not received any interest from anyone. They would be happy to add a living component, but it would max out the density on this property, which they really do not want. The current ten townhomes that were approved at this site are 30,000 square feet or a 22,000 square foot office building. The townhouses are three stories and this office building is two story. Their footprint and facade is significantly smaller than the townhomes and have a lot more greenspace. This is a good project and is consistent with the Land Use Plan.

Councilmember Fries stated that she agrees with the Planning Commission and appreciates the applicant coming and starting the revitalization on this street. She believes that residential office folks make very good neighbors. She questioned Ms.

Leathers about the comment made on Live/Work/Neighborhood versus Live/Work/Community. It is her understanding that all three uses do not have to be on the single parcel, only in the area. Ms. Leathers stated that is the staffs understanding of what the policy is. She has not seen anything in the document nor has there been any discussion with the Advisory Committee that all three uses had to be on a single parcel. Staff would expect to have the full mix on large parcels. It does not make sense to have three uses mixed on the small parcels.

Councilmember Meinzen McEnery stated that staff needs clarification on whether or not small parcels like this one should be reasonably expected to include two or three uses. If this parcel would have been larger then most likely it would have had a residential component on the corner. The intention of mixed uses is to get a mixture of uses. What she is hearing from the community is that because of the size of this site they are only utilizing one use and putting the applicants request for office directly inside the residential area. The plan has it as live/work/neighborhood and only work/community. She questioned the applicant if there could be a residential component on this site. She believes that he could move the commercial over and put the residential closer to Lake Forrest which would mitigate the neighbors concern. She questioned the applicant on where he would put residential on site if he had it.

Mr. Leonard explained they would love to have more density but they are not going to maximize the site. They could build up to four stories in height and have a parking deck or underground parking. There are opportunities to do underground parking and there are opportunities to make this bigger. They have looked at a maximum plan with apartments, office and retail uses but it made it very crowded on the site.

Mayor Galambos stated this would be discussed at the next Work Session.

Main Motion: Councilmember Fries moved to approve RZ07-040/CV07-030 - 5619 Lake Forrest Drive, Applicant: Paragon Development Group, LLC, to rezone the subject property from TR conditional to O-I for the development of a 22,000 square feet office building, with concurrent variances and subject to the following Planning Commission's 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 density of 17,107.31 square feet per acre or 22,000 square feet, whichever is less.
2. To the owner's agreement to abide by the following:
 - a. To the site plan to be received by the Department of Community Development dated November 11, 2007. 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 Lake Forrest Drive 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. The owner/developer shall dedicate twenty-five (25) feet of right-of-way from centerline of Northwood Drive 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. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with all adjacent properties. Should the owner/developer not come to an agreement on interparcel access at this time, 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, prior to the issuance of an LDP.

- d. To reduce the required front yard setback from forty (40) feet to twenty (20) feet adjacent to the I-285 road frontage (CV07-030).
- e. The light source of all external lighting in the development shall be screened and shall not be directly visible from adjoining residential properties.
- f. To a maximum illuminance level of 0.5 footcandles along all property lines abutting residentially zoned property.
- g. At the time of application for a Land Disturbance Permit, the owner/developer shall be required to submit a photometric study detailing the illuminance level as outlined in condition 3.d. and illustrating the proposed lighting fixtures.

Second: Councilmember Jenkins seconded the motion.

Substitute Motion: Councilmember Meinzen McEnery moved to amend staffs conditions to include a requirement for a residential component. Motion failed for lack of second.

Vote on Main Motion: The motion carried 4-3, with Councilmember Meinzen McEnery, Councilmember DeJulio, and Councilmember Paul voting in opposition. Mayor Galambos broke the tie voting in favor of the motion.

RZ07-041 - 4815 Peachtree-Dunwoody Road, Applicant: Anne T. Parr

To rezone the subject property from R-2 to R-3 for the development of two single family residential lots.

Ordinance No. 2008-01-02

Planner Ruffin stated that the applicant is requesting to rezone the subject property from R-2 to R-3 for the development of two single family residential lots at a density of 1.87 units per acre. The staff has recommended approval conditional of the request.

The petition was heard at the December 20, 2007 Planning Commission hearing. The Commission recommended approval subject to staff conditions.

Kay Quigley, 4999 Peachtree Dunwoody Road, stated that the owner is requesting that the current lot be rezoned from R-2 to R-3 for a two single family home. The impact of the requested rezoning on adjoining properties is minimal and is in line with the comprehensive plan. To date, they have not received any opposition to applicant's request.

Mayor Galambos called for public comment. There were not comments in support of opposition of this request.

Motion and Vote: Councilmember Fries moved to approve RZ07-041 - 4815 Peachtree-Dunwoody Road, Applicant: Anne T. Parr to rezone the property from R-2 to R-3 for the development of two single family residential lots at a density of 1.87 units per acre. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ07-042 - 9670, 9680, & 9710 Roberts Drive, Applicant: City of Sandy Springs

To rezone the subject property from CUP conditional to R-1 or R-2 or R-2A or R-3 or R-3A or R-4A or R-4 or R-5 or R-5A or R-6 or CUP or TR or A.

Ordinance No. 2008-01-03

Planner Ruffin stated that the City Council initiated this rezoning. Staff recommends approval conditional of the staffs proposal for the subject property to be rezoned to the R-3 zoning classification with a total of six (6) units at a density of 1.1 units per acres with conditions.

Mayor Galambos called for public comment in support of application.

Garry Post, 9695 Roberts Drive, stated that he lives directly across the street from site. This issue has been going on now for a year and a half and has come a long way. The neighbors want to preserve their nice neighborhood and would like for it to remain as is. This is an acceptable compromise and he is in support of the petition. City staff has done their work and recommends a total of six (6) units. The Planning Commission has done their work and recommends two (2) units per acre for a total of six. He respectfully requests that City Council follow suit and accept the staff's and Planning Commission's recommendation. Mr. Post requested additional conditions at the Planning Commission hearing and the Commission accepted the conditions. Mr. Post read the requested ten (10) conditions into the record for the R-3 Zoning Conditions.

Trisha Thompson, 145 River North Drive, Zoning Chairman of the Sandy Springs Council of Neighborhoods, stated that Katherine Feeman is the District Director for District 1, and has been working with the neighborhoods on this project. SSCN supports the Roberts Drive neighborhood's position on rezoning to R-3.

Mayor Galambos called for public comments in opposition of this petition.

Bill Griffith, 9580 Roberts Drive, quoted Harold Chatham "Live in nice homes that will last for generations is one thing, but if you design and build with a vision for a community of people, you will always have houses that feel like homes and you will have homes that appreciate in value." In 1968 Mr. Chatham had control of about 200 acres of this property that is being discussed tonight. The 200 acres of land was bordered on the west by Roswell Road, on the north by Roberts Drive and on the south by Dunwoody Place and connected all the way over to Georgia 400 and connected back to Dunwoody Place, all of it was zoned R-2, one house per acre. Mr. Chatham wanted to rezone that property, part of it to commercial and part of it to apartments. Fulton County approved the zoning request in 1968. Mr. Chatham had the vision to leave the property on the south side of Roberts Drive at R-2, one house per acre. His application for zoning provides for that property to be R-2. Forty years later this is being discussed and not one property owner has stood up and requested this petition. He believes that this petition is in response to the lawsuit that was filed by the previous applicant last year when they were denied the 12 units per acre, modified it to eight (8) units per acre and again the final modification was at six (6) units to the acre which Council denied. The applicant, at that time stated that less than six (6) units per acre were not feasible. At that time, the staff recommended approval of eight (8) units to the acre. Staff is now recommending approval of two (2) units per acre. Since that time, nothing has happened with this property. It appears to him that these two units per acre are preempting negotiation with the previous applicant to settle this lawsuit. Should the City lose the lawsuit, Council will have to rezone this property at a higher density. The Comprehensive Land Use Plan provides for development to be consistent with the adjoining property. If the City loses in court and has to rezone to the three (3) or four (4) units an acre, it will not be consistent with the neighboring property. The properties to the east and across the street are one house per acre. Mr. Griffith strongly opposes this rezoning of subject petition.

Donald Huffner, 9643 Roberts Drive, spoke in support of applicant's petition. Mr. Griffith pointed out that the current zoning is valid and does not cause a detriment to the property owners. The surrounding property is zoned R-2. Based on value, use or occupancy this is suitable for single family homes. The City staff believes it to be economically viable as is. The Comprehensive Plan that was in place at the time calls for protecting the existing neighborhoods. Any zoning above two units per acre is an inappropriate transition to the current neighborhood. As he sees it, Council has three options and two choices: option one, go with the legal basis and leave the existing zoning intact. The majority of his neighborhood would be happy to leave everything the way it is. Option two and choice two, go with staff, Planning Commission and Council of Neighborhoods recommendation and include the conditions set forth by Gary Post. Staff considered all the residential zoning possibilities for this request. At the first hearing, the Planning Commission voted unanimously to keep it zoned as is, which is two per acre. The majority of his neighborhood feels that Mr. Griffith is right about the legal issues. The third option would be to do something arbitrary and capricious in nature, whatever, sets aside the staff recommends and set aside the Planning Commission's recommendations. That is an option but, does not believe it is a choice. Council should approve as recommended by staff and Planning Commission and include the conditions set forth by Gary Post. He requested that the City Attorney opine on the legality of defensibility of both alternatives prior to Council's vote.

Mayor Galambos closed the public hearing.

Councilmember MacGinnitie stated that the staff recommendation fits the Land Use Plan recently adopted by Council. Staff has spent a lot of time going back over this and has done an economic analysis of the neighborhood. Council's decision should be based on that.

Motion: Councilmember MacGinnitie moved to approve RZ07-042 - 9670, 9680, & 9710 Roberts Drive, Applicant: City of Sandy Springs to rezone to the R-3 zoning classification with a total of six (6) units at a density of two (2) units per acre subject to the following Planning Commission conditions.

1. Six (6) single family residential lots at a density of 1.88 units per acre.
2. The minimum heated floor area per dwelling unit shall be 4,000 square feet.
3. To the site plan proposed by the Department of Community Development dated December 13, 2007. 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.
4. The owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of Roberts Drive 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.
5. All six (6) single family residences should appear as only two (2) stories high from Roberts Drive.
6. All six (6) single family residences shall be oriented with their fronts facing Roberts Drive.
7. The owner/developer shall provide buffered, irrigated, landscape strips along Roberts Drive, the east property boundary and the south property boundary. Said landscape strips shall be subject to the approval of the Sandy Springs Arborist.
8. Subject to the approval of the Sandy Springs Arborist, the owner/developer shall attempt to maintain as much of the existing tree canopy as possible.
9. All utilities shall be installed underground. Placement of said utilities shall be subject to the approval of the Department of Public Works at the time of application for a Land Disturbance Permit.
10. Should a retention structure be required, no exposed steel, untreated, or unpainted concrete shall be permitted.
11. No access from North River Parkway shall be permitted.

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

Zoning Modification

ZM07-010 - 1100 Johnson Ferry Road, Applicant: Duke Realty Corporation

To modify conditions 1.a., 2.a., and 3.e. of Z83-0185 to change the permitted net leasable floor area to gross floor area, to substitute the approved site plan, and to delete the impervious surface requirement.

Planner Ruffin stated that this is a zoning modification to the conditions of Fulton County zoning case Z83-0185. The applicant is requesting to modify condition 1.a. to change the permitted net leasable floor area to gross floor, to modify condition 2.a. to substitute the plan originally approved with the site plan submitted as part of this request and to modify condition 3.e. to delete the impervious surface requirement. The applicant intends to convert 170,000 gross square feet of the existing 381,000 gross square feet from general office space to medical space. The staff is proposing that condition 3.f. be modified to delete the requirement for signalization of the entrance into the project. This requirement was approved by Fulton County but was never enforced. Upon review by Public Works, it is no longer required. The staff recommends approval conditional of the request by the applicant including staff's recommendation regarding condition 3.f.

Michael Prochaska, 3950 Shackeford Road, Duluth, Development Services Manager with Duke Realty Corp., stated that Duke Realty Corporation purchased this property at the end of June 2007. This project is adjacent to St. Joseph's hospital. In response to the market conditions and the need for additional medical office space near the hospital, they proposed to convert 170,000 square feet of general office to medical office. In order to accomplish this, they will need to add 79 additional spaces to comply with the code.

Mayor Galambos called for public comment in opposition.

Bryan Kovacs, 31 Johnson Ferry Parkway, President of Johnson Ferry Homeowner's Association, stated Glenridge Creek was not notified about this zoning and questioned why. The applicant has a sign up for this medical center, as if it has already been approved. Johnson Ferry Homeowner's Association is opposed to the General Office to Medical Office space zoning modification request due to traffic safety issues. He explained that it is already difficult to get out of Johnson Ferry Park Townhomes on to Johnson Ferry. Adding additional medical office traffic volume is only going to make it worse. As a condition of zoning, a traffic signal should be put in and the developer should pay for it. If no traffic lights are installed, Johnson Ferry Homeowners Association is opposed to applicants request to modify zoning. If the zoning modification is approved without the condition of a traffic light being installed, there will be fatalities and there, and it will all be on the Mayor and Councils shoulders when it happens. All this can be avoided with a traffic light.

Trisha Thompson, 145 River North Drive, Zoning Chairman of the Sandy Springs Council of Neighborhoods, questioned how many trips per day would there be coming out of Johnson's Ferry Park.

Mr. Prochaska stated that there are currently three access points into the site; two (2) on Johnson's Ferry and a third access point at Peachtree Dunwoody, additionally there is an interparcel access through the Marriott site. He understands the residents concerns but, most of the issues raised is the traffic coming up and down the road, which creates a problem for them to come in and out and not necessarily their medical space. Duke Realty has been at the building for six months now and has not received any complaints from tenants saying about the ingress and egress.

Councilmember Paul questioned if he would mind closing one of the access points to the medical office. Mr. Prochaska stated that he could not give an answer at this time. Councilmember Paul advised him that it would either be closed or put in a traffic light.

Transportation Manager Moore stated Community Development sent him a list of the neighbors' concerns and that they wished to have a signal conditional to this rezoning. Staff went out and looked at the location. The entrance drive is approximately 900 feet from Johnson Ferry at Peachtree Dunwoody. It is barely over 600 feet from the new intersection to the east of it. The guidelines used by the City are shared at the state and national levels for signal spacing, which is a minimum of 1,000 feet. It is simply not a matter of timing signals but, also a matter of being able to queue the cars and stacking and length. Staff has not done any studies on this area and does not have the information on the average daily at this time. He can give trip generated numbers and address some of the medical office in general terms. It does produce slightly higher overall average trips on a 1,000 per square foot basis compared to a 1,000 square feet of general office. It is not a huge increase; general office tends to get all of its trips in very peak periods in the morning and in the afternoon, which typically increases a need for a signal. Medical office tends to take that same high number of trips and spreads it out more throughout the day. In many ways it would be less of an issue for peak time than it would right now for general office.

Councilmember Fries question the possibility of having a right in/right out and eliminating the left hand turns.

Transportation Planner Moore stated that since they have multiple access points he is not sure that would be an issue. He explained that if someone were going west bound out of the townhouses then whoever is making the right turn would have the right-of-way. If a right in/right out is put there as opposed to full access, he does not see a significant disadvantage. The question to staff was, should there be a signal at this intersection and given what is already on the ground now in the amount of traffic being generated, he would not recommend a signal at this time. If there are concerns with this, he would be happy to meet with the applicant and address all the concerns the City has received. Council may want to defer this item for 30 days in order for staff to work with the applicant to see if there is a way to modify the site that would address the neighborhoods concerns.

Mayor Galambos questioned the applicant if he posted a sign before getting approval for his zoning.

Jason Hinkel, 370 Shall Crossing, stated that they are in the business of leasing space but does not know how the signs were advertised.

Mayor Galambos explained that he has the right to change space anyway he wants, as long as it does not change the zoning. Once it changes the zoning, it becomes a little different. Given that is a bit of a problem, she questioned if they would be willing to work with staff in finding a traffic solution that will facilitate the traffic as it comes out against the development across the street. Mr. Hinkel stated they could meet with staff.

Motion and Vote: Councilmember Paul moved to defer ZM07-010 - 1100 Johnson Ferry Road, Applicant: Duke Realty Corporation for 30 days. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

ZM07-011 - 370 Kelson Drive, Applicant: Chad & Sonja Holder

To modify item #5 of the Letter of Intent of Z78-0046 to reduce the required side yard setback from twenty (20) feet to fifteen (15) feet.

Ordinance No. 2008-01-04

Planner Ruffin stated that the applicant is requesting a zoning modification to the conditions of Fulton County zoning case Z78-0046, to modify item #5 of the original Letter of Intent to reduce the required side yard setback from 20 feet to 15 feet. The applicant intends to add a garage to the existing residence. The staff recommends approval conditional of the request.

Matt Stanford, Representative for applicant, stated that the owners of this property would like to add a garage to the existing residence which needs to reach within 15' of the side property line. This would deviate from the conditioned site building line of 20' as filed with the property in 1978.

Mayor Galambos called for public comment.

Sandy Hill, 595 Kingsport Drive, questioned if there would be any impact on any of the trees. Mr. Stanford stated that none of the trees would be impacted.

Councilmember Fries questioned if he had received any comments from the neighbors. Mr. Holder stated that the neighbors do not oppose this modification.

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

Motion: Councilmember Meinzen McEnerny moved to approve ZM07-011 - 370 Kelson Drive, Applicant: Chad & Sonja Holder, to modify item #5 of the Letter of Intent of Z78-0046 to reduce the required side yard setback from twenty (20) feet to fifteen (15) feet subject to the following staff conditions.

1. The petitioner's original Letter of Intent received by the Zoning department June 6, 1978, signed by Tom Bleick in which he agreed to submit a detailed grading plan and hydrological study prior to grading, as well as to provide soil sedimentation and erosion control during construction and water retention after construction; to dedicate at no cost to Fulton County 40 feet of right-of way from the existing centerline of Northside Drive as well as to provide necessary construction easements; to pay for the materials necessary for the construction of sidewalks along the property frontage; to allow no exposed concrete block as an exterior building material; to allow the Fulton County Archeologist the opportunity to survey the property; to pay his pro-rated share of the cost of sewer extension, front footage assessment and tap-on fees; and to comply with Fulton County regulations relating to street light requirements.
2. The petitioner's Site Plan received by the Zoning Department June 6, 1978, which includes the 4.5 acres located the intersection of Old Powers Ferry Road and Northside Drive. It should be noted that approval of this Site Plan does not negate the requirement for the property to be submitted through the Subdivision Review process.
3. The undersigned agrees to submit a detailed Site Plan and Grading Plan prior to defoliation.

4. The undersigned agrees to provide a hydrological study prior to grading.
5. The undersigned agrees to provide soil sedimentation and erosion control during and after construction, to provide water retention as required, and to indicate the method of continued maintenance of these structures.
6. The total property site is 7.5 acres.
7. The total number of units will approximately be 14 lots overall; the price range would vary upwards from \$65,000; the minimum square footage would be 1,700 for a one-story, and 1,800 for a two-story; the minimum lot size would be 27,000 square feet; building corner setback line would be 60 feet, height not to exceed two and one-half stories or 35 feet with front, side, and rear yards of 60 foot, 15 foot, and 40 foot, respectively; and the development will not include mandatory attachment of garages, but will include mandatory attachment of carports.
8. Maximum height of all structures shall not exceed 35 feet.
9. We agree to dedicate at no cost to Fulton County necessary right-of-way for the future widening of County roads; to provide any necessary construction easements while the right-of-way being improved; and to provide acceleration and deceleration lanes where requested by the Public Works Department.
10. We agree to pay for materials used in the construction of sidewalks where the development is within a mile and a half of any existing or proposed public school site or commercial development.
11. We do not plan any recreational areas or other property for use in common by the residents, at this time.
12. We hereby state that exposed concrete block will not be used as an exterior building material.
13. We hereby agree to allow the Fulton County Archeologist to examine the property for possible historical significance.
14. There is no square footage or percent of the area within the 100 year floodplain.
15. No part of the tract is within a floodplain.
16. We agree to pay tie pro-rated share of the cost of extension of sewer lines, front footage assessment for water lines and/or street improvements, and sewer tap-on fees, where these are applicable.
17. We agree to comply with the Fulton County regulations pertaining to street light requirements.
18. This land site is not applicable to the MARTA Corridor or the Chattahoochee River Corridor.
19. This application is made for land between R-2A Conditional Zoning and adjacent to a shopping center, and it would be good planning and use, to place it in an R-2A Residential Single-Family dwelling district.

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

New Business:

**Consideration of approval of an Ordinance amending Chapter 9, Building Codes regarding sub-metering.
Ordinance No. 2008-01-05**

Assistant Director of Building and Permitting Wesserling stated that this revision to the Building Codes will require separate water metering for multi-unit residential properties. This will require apartment buildings to independently meter each unit. It would also require each independent unit to be billed separately.

Councilmember DeJulio questioned if this would include complexes. Mr. Wesserling stated that it would.

Motion and Second: Councilmember Jenkins moved to amend the City of Sandy Springs City Ordinance, Chapter 9 to require separate metering for new construction. Councilmember Paul seconded the motion.

Substitute Motion and Vote: Councilmember Fries moved to amend motion, Section 2: Other Standards to read; The owner or operator of a building containing residential units shall install equipment to determine the quantity of water that is provided to the tenants and used in the common areas of such a building; and the owner of such building may charge tenants separately for water and waste –water services based on usage as determined through the use of such equipment or allocation methodology. Councilmember Jenkins seconded the motion. The motion failed 4-2, with Councilmember MacGinnitie, Councilmember Paul, Councilmember Jenkins and Councilmember Meinzen McEnery voting in opposition.

Discussion on Substitute Motion: Mayor Galambos explained that would be against water conservation and, the only way to get people to save water is to have them pay the bill for the water that they use.

Councilmember DeJulio stated that he owns a senior living facility. In senior living facilities, the water and utilities are included for senior citizens. If the language was changed to “may” rather than “shall” for the senior citizens, they would be able to do that and keep it simple. Councilmember Jenkins stated that is happening to the seniors in the apartment in town. They are billed now on allocation. If they live in a two bedroom apartment beside a family of four, they will get the same exact billing and would hurt the seniors more.

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

Reports and Presentations:

Mayor Galambos announced the names of the members she has appointed to the City’s Stormwater Advisory Team. Members are: Robert Donner, Lonnie Mimms, Brad Hicks , Patrick Dennis, Lawrence Frank, Jim Lynch, Toni Simon, and Michael Toner. There are two other names to add, she is waiting to hear back from them.

Councilmember Meinzen McEnery stated that she finds the elimination of Patty Berkovitz from the list, to be a significant oversight. She believes Ms. Berkovitz is one of the most qualified individuals in this community on Stormwater Management issues. She was also a member of the Fulton County Stormwater Utility for over seven years. Ms. Berkovitz is very active in this community. She protects the watershed and attends all the BZA meetings. Councilmember Meinzen McEnery stated if there is a vacancy on the committee, Ms. Berkovitz should be added to the list.

Councilmember Fries announced that the Martin Luther King Celebration will be held on Monday, January 21, 2008 at 9:00 a.m. at City Hall. Commissioner Thurman will be the speaker and refreshments will be served after that. She invited everyone to attend.

Director of Community Development Leathers introduced the new Deputy Director of Community Development, Chris Miller. Mr. Miller worked on the redevelopment of the town center for the City of Smyrna, as well as a number of other activities.

City Manager McDonough introduced Noah Reiter, the new Assistant City Manager. Mr. Reiter will be helping with the start up of E-911 and in the City’s transition in ambulance service from Fulton County.

Public Comment

Patty Berkovitz, 800 Crest Valley Drive, stated that she would like to be on the Stormwater Advisory Team. She explain how she became president of the Long Island Creek Watershed Preservation and served for four years. The Watershed would like to be represented and someone from the Watershed should be a member of the advisory team. She would like to be reconsidered as a member of the Stormwater Advisory Team

Executive Session - Pending Litigation

Motion and Vote: Councilmember Paul moved to enter into Executive Session to discuss pending litigation matters. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. There was no Council discussion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session began at 8:15 p.m.

Motion and Vote: Councilmember Paul moved to adjourn Executive Session. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 8:35 p.m.

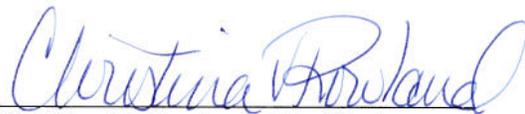
Adjournment

Motion and Vote: Councilmember Paul moved to adjourn the meeting. Councilmember Meinzen McEnery seconded the motion. After no further discussion, the meeting adjourned at 8:40 p.m.

Date Approved: February 5, 2008



Eva Galambos, Mayor



Christina V. Rowland, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

January 15, 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 15th day of January, 2008, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

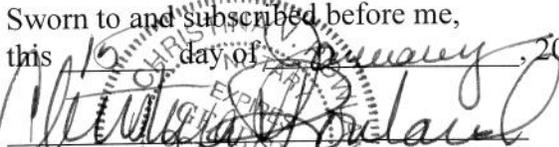
Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any 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 15th day of January, 2008.



Notary public (SEAE)

