

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 1 of 17

Regular meeting of the Mayor and City Council of the City of Sandy Springs was held September 18, 2007 at 6:00 p.m., Mayor Eva Galambos presiding.

Invocation

Dr. John Bryan, Mt. Vernon Baptist Church gave 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 Paul, Councilmember Dianne Fries, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnerny.

Pledge of Allegiance

Mayor Galambos led the Pledge of Allegiance.

Approval of Meeting Agenda

Motion and Vote: Councilmember Fries moved to add Memorandum of Understanding Agreement between the City of Sandy Springs and Heritage Sandy Springs to the agenda. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion carried unanimously.

Motion and Vote: Councilmember Fries moved to approve the meeting agenda as amended. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Consent Agenda

Approval of Minutes:

- a. Approval of the August 14, 2007 Regular and Work Session Meeting Minutes.

Approval of a Resolution to Adopt the City of Sandy Springs 2008 City Council Meeting Schedules.

Resolution No. 2007-09-44

Approval of a Resolution Reappointing a Member to the City of Sandy Springs Public Facilities Authority

Resolution No. 2007-09-43

Approval of the Acceptance of the Right-of-Way Located at 998 Hammond Drive, City of Sandy Springs, Fulton County, Georgia.

Approval of Authorization of the Mayor and the City Council to Accept the Temporary Construction Easements in the Vicinity of 6350 Peachtree Dunwoody Road, City of Sandy Springs, from Costco Wholesale Corporation.

Resolution No. 2007-09-47

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 2 of 17

Approval of Authorization of the Mayor and the City Council to Accept the Fee Simple Right-of-Way and Temporary Construction Easement Located in the Vicinity of 6400 Peachtree Dunwoody Road Being Donated by Home Depot U.S.A., Inc.

Resolution No. 2007-09-48

Approval to Offer Invitation to Bid to Pave Roads on the List of Roads for the 2007-2008 Capital Paving Program.

Approval of an Ordinance to Adopt Regulations for the Removal of Parked Vehicles from Private Residential Property.

Ordinance No. 2007-09-55

Approval of a Resolution Designating a Towing and Storage Company for the City of Sandy Springs for the Towing and Storage of Vehicles including Non-Consensual Towing

Resolution No. 2007-09-49

Approval of a Resolution Amending the City's Fee Schedule to Reflect Changes Associated with Revisions to the Alcoholic Beverage Licensing Ordinance

Resolution No. 2007-09-50

Approval of Amendments to Chapter 7, Alcoholic Beverage Licenses

Ordinance No. 2007-09-54

Approval of a Resolution to Delegate the Authority to Waive up to \$500 in Penalties and Interest on Occupational Tax Bills

Resolution No. 2007-09-51

Motion and Vote: Councilmember Paul moved to approve the Consent Agenda as presented. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Presentations

Proclamation – Constitution Week (September 17-23, 2007)

Mayor Galambos read the proclamation for Constitution Week and presented it to the Fort Peachtree Chapter of the National Society Daughters of the American Revolution and to the Piedmont Chapter of the Sons of the American Revolution.

Proclamation – Celebrate Animals Day

Mayor Galambos read the proclamation for Celebrate Animals Day and presented it to Bob Christiansen, Atlanta Animal Alliance.

Presentation of a Roswell Road Corridor Travel Time Study to Evaluate Signal Timing Improvements in 2006 and 2007.

Public Works Deputy Director Drysdale stated that in 2006 and 2007 the City retained the services of Dr. William Bachman and his firm to do a travel time study on Roswell Road from the city limits on the north and south side.

Quantify the benefits to signal timing improvements along Roswell Road in the City of Sandy Springs (9.4 miles)

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 3 of 17

- Collect "before" conditions and identify the locations and intensities of delays throughout the peak traffic periods (May 2006)
- Collect "after" data using same sampling methods (May 2007)
- Analyze the differences and estimate cost/benefits of change
- GPS equipped probe vehicles.
-

Mr. Bachman stated that the worst time frame is the north bound p.m. During this time frame there is significant congestion that goes from Johnson Ferry Road all the way past I-285. This section showed the most benefit. While the travel time improvements for the whole section of road only improved by 10%. This section shows significant improvement, the Q's are not nearly as long as they were.

Improvement in travel time

North Bound a.m.	41%	South Bound a.m.	-10%
North Bound p.m.	11%	South Bound p.m.	63%

Mr. Bachman stated that are ways to calculate the amount of fuel saved and the travel time saved which can be calculated into dollars and cents. Emission's improved with a reduction of 20%. His firm calculated the benefits from the vehicle hours saved and the gallons of gas saved and came up with the total annual benefit to the community of \$11,000,000 for the one year period.

Councilmember Paul questioned if there was anything that the City could do to improve the benefits derived from their research.

Mr. Bachman stated that what happens when major events occur outside of Roswell Road and how that impacts the travel, people getting off Georgia 400 and onto Roswell Road. In order to handle something like that the City really needs a responsive system where you are able to make adjustments. There are ways the City knows when these things occur and adjusting the signal timing or make some changes in the near time frame to account for that.

Councilmember Paul questioned if he observed anything about the impact of improving the travel time's east/west corridor on Roswell Road.

Mr. Bachman stated that it has not been done and is possible. If they turn the long green lights on Roswell Road and did not let anybody else on the road there would be significant travel time improvements. That is the suggestion for the cross streets study which will continue this year.

Mayor Galambos asked if he would tell everyone how the GPS was used to calculate traffic travel time.

Mr. Bachman explained that the GPS global positioning system is a device in which you can buy almost anywhere now and put in your car for navigation. They have their own devices and they record every second the position of the vehicle as they drive. They would have a number of drivers that would drive through this section of road multiple of times throughout typical work days when there are no accidents or events occurring to capture average traffic times. The GPS will record the position every second from the beginning to the end. The drivers are instructed not to pull off anywhere but to drive as much as they can as the average vehicle on that road and during the multiple times you develop an average travel time for those time periods. Drivers drive in the morning, evening and mid-day.

Public Hearings

Rezoning

City Clerk Rowland read the zoning rules into the record.

City Attorney Willard reviewed the legal requirements for Campaign Contribution disclosure. He explained that there is a provision in law that addresses anyone who has made a campaign contribution, either an applicant or

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 4 of 17

someone responding to an application for rezoning is required to disclose that information on the City's Speaker Card. Another issue concerns the ability of Councilmembers who may have received a contribution as having the ability or inability to vote on zoning matters. The position is that a Councilmember does have a right to consider and vote on a zoning matter if you have received a campaign contribution. This is not a violation of the City's Code of Ethics. The City's Charter states that Councilmembers are not only expected but required to vote on all matters unless they recuse themselves for a conflict of interest. If a councilmember feels that a contribution either having made to them by an applicant or responded to an application they may consider that question in their own mind as to whether or not they should under the circumstances recuse themselves or go forward with the voting. If there is to be a recusal the proper conduct is that the councilmember recognizes at that time as the application comes up that they should be recused and announce that fact. At that point be excused from further consideration on that pending application.

Councilmember Paul questioned how far back and what offices.

City Attorney Willard stated that the question addresses if you feel in your own mind that the person who has presented this contribution to you did so with an understanding or any intent that may influence your decision making matter coming before the Council. That is the question you have to address as a Councilmember. The circumstances under which this contribution to a campaign may have been made regardless if the person is speaking in favor or in opposition of zoning.

RZ07-010/CV07-010 - 5270 Greenland Road, Applicant: Southern Gentry Development, LLC, To rezone from CUP conditional to CUP to allow for the development of 31 single family residential lots and a church, with concurrent variances.

Zoning Administrator Payne stated that the applicant is requesting to rezone the property from CUP conditional to CUP to allow for the development of thirty-one (31) single family residential lots and a 10,500 square foot church. The applicant is also requesting two (2) concurrent variances. 1) Relief from the required 20 foot landscape strip around the proposed detention facilities 2) To allow the proposed detention facilities to encroach into the required 25 foot impervious surface setback and the 50 foot undisturbed natural stream buffer. The Planning Commission recommended approval. Staff recommends approval conditional of the petition for rezoning and the concurrent variances request.

Woody Galloway, 3500 Lenox Road, Atlanta, applicant's representative, stated that this is a request to rezone to CUP to allow development of a place of worship and rectory of Lot 2 of the Country Hills Estates subdivision. This proposed place of worship and rectory would be for the Legionaries of Christ which is a conservative order of Catholic priests. An integral part of the Legionaries of Christ lifestyle is to live in communities with one another as family, and work, and worship, and support each other in their calling of service. This place of worship/rectory is designed to serve that purpose. It would appear as a large home which will be consistent with the other homes within the neighborhood. The homes will range in the \$2,000,000 and \$3,000,000 price range. This home will appear the same as the other buildings in the subdivision. It will be built on Lot 2 which has another single family detached home on either side of it. It has an area of a passive park behind it giving it a buffer between the proposed place of worship/rectory and any adjacent property. The applicant recognizes there is opposition to this request and he will try and work with the opposition throughout the period of time this is pending. The applicant has not been able to reach an agreement with everyone; however, he has reached an agreement with a substantial number of people. The applicant reached an agreement with High Point Civic Association that details a number of conditions that includes covenants and other restrictions that allow them to enforce, as a private entity, that Council can not as a public entity and provide protection for the area. He stated that within CUP, a place of worship and as an accessory use, a rectory is an allowed use. The ordinance does recognize the uses are compatible with the other uses that are allowed in the CUP district.

Robert Donner, Southern Gentry Developments LLC recognized the people in complete support of his petition in which an agreement has been reached; Nancy Early, President, High Point Civic Association, represents approximately 1,700 households, Martha Patterson, Green Laurel community, represents 20 households, 5 households are adjacent to subject property; Ernie Johnson, Willow Glen represents 70 households, Tom and Janet

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 5 of 17

Wells, Paul Sachetti - residential owners adjacent to western site border, Ms. Wells, President of HARC organization, represents 35 streets in the general area, Richard Gunter, owns a majority of property on the eastern border of property, Sarah Boone, (not in attendance) represents Elden Drive, 67 households along entire southern border of property. Earl and Vick Petit and Brian Hammell represent 2 of the 4 households are in the community that is in opposition to his petition. They represent three of the properties that are most adjacent and closest to his property and are in support of his petition. They have donated the house to the Legionaries Community, represented by the fathers and brother priest.

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

Richard Holland, 285 Ledgemont Court, President HOA, stated that Mr. Donner came to him a year ago when he bought this piece of property and asked for neighborhood support. The homeowners gave him 100% support because he was building 32 luxury homes with a gate in front. Mr. Donner gave him a document that had nothing in it that stated there would be a rectory, boarding house, or church built on this site and the entrance gate would be on the front. The Homeowners Association had a meeting three weeks ago, 16 of 21 homeowners showed up, 12 voted in favor and 4 voted against. Their subdivision is most affected by this petition and no one has given them any justification as to what benefit it will be to Ledgemont.

Bubba Pollock, 505 Enlave Circle, stated that he attended the Planning Commission meetings; there were three deferrals, one approved in behalf of Mr. Donner 4-3. He has attended a lot of private meetings as well with Mr. Donner. He has yet to hear anyone mention that Mr. Donner is doing a wonderful job. He has heard that 20 lots have been sold and he believes they were sold to builders, and maybe one or two individuals. When they were in support of this petition, the original site plan did not show the church or rectory. City Council approved his rezoning on March 20, 2007 to replace the approved site plan, because he was in violation of the buffer area. Mr. Donner re-drew the site plan, and did a reconfiguration of the lots, and enlarged the four lots that are outside the gate. He filed again on March 7 a revision of the site plan showing his rectory building.

Carolyn Kresly, 320 Ledgemont Court, representing Ledgemont HOA, stated that there is no benefit for anybody in the surrounding neighborhoods. Mr. Donner is the only one who will benefit from this by getting a \$3,000,000 tax write off and the City will get no taxes. She stated that this is a misapplication of the zoning law and the Georgia law defines a church as a place exclusively used for religious worship, this is not being used as such. She explained that there are two situations that Georgia law recognizes a church; a property owned and operated exclusively as a church and a property owned by a religious group and used only for a single family residence. She feels that the presence of this boarding house in their neighborhood will hurt the marketability of their homes and that this will become the national headquarters for the Legionnaires of Christ. She explained that if this application is approved, this will be zoned as a church and when the Legionnaires of Christ no longer use it, other religious groups can buy it and use it. She stated that Highpoint Civic Association has only 300 dues paying members has only one interest which is that there only be one point of exit and only one point of entrance, Greenland road. This is a precedent the City is considering and should not be allowed.

Betty Crawford, 535 Enclave Circle, stated that because there is a chapel in the home and priest live there does not make this a church.

Patty Berkovitz, 800 Crest Valley Drive, stated that the Board of the Sandy Springs Council of Neighbors voted unanimously against this application. She stated that the IRS standards state that a church must serve the community at large. This, if approved, will be set a precedent for developers.

Mr. Donner stated that all three lots next to the priest house are under contract and one of the houses is completely designed and ready to build and is also a 10,000 square foot house. The four lots on the bottom are estate lots and are different than the other 28 lots. Mr. Donner asked that the other Sandy Springs residents in support, who do not live within the neighborhood to stand, approximately 30 residents stood. He explained that they have the majority of community support, several hundred residents adjacent to their property, plus High Point Civic Association support and the staff and Planning Commission support.

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 6 of 17

Mr. Galloway explained that they have never called this a church but a place of worship. These priests gather together at least four times per day to worship and pray together. Mr. Galloway explained that this property was originally approved for 51 lots. This application is only for 32 houses therefore, it will not increase traffic. He explained that they have agreed to some very substantive conditions including a total square footage of 875 square feet per resident. This fits within the CUP classification totally.

Mr. Galloway explained that there are covenants that the applicant has agreed to that would restrict any expansion. If this property is ever sold, it would revert back to the property owners association and could not be used as anything other than single family residential.

Councilmember Paul questioned whether or not this is a church. Mr. Galloway stated that it is a place of worship which is allowed under CUP. Councilmember Paul questioned why the applicant is drawing a distinction between the two. Mr. Galloway stated that a place of worship falls within the ordinance and a church would fall within the definition of a place of worship. He questioned why this was not placed in the documentation. Mr. Galloway stated that it is in the letter of intent.

Councilmember Fries stated that it does not matter that these are priests. She questioned if Mr. Donner provided any compensation or benefit of any kind to any of these neighborhoods. Mr. Donner stated that the only agreement is that after an agreement is signed with High Point Civic Association, they have agreed to donate to the High Point Elementary School in the amount of \$7,500.

Councilmember Fries questioned if the High Point Civic Association has received any compensation or favors for the Association's support for Mr. Donner's project. Ms. Early stated that they have not received any compensation. Ms. Early stated that the Board of Directors reviewed the application on its merits and voted not to oppose the application. She stated that they then asked the developer to make a contribution to the community, not the association. She stated that they have done this in the past. She explained the process in which the association reviews applications.

Councilmember Fries stated that a donation for a neighborhood school is a consideration and it muddies up the representation of the Association.

Councilmember Fries stated read a portion of the agreement with High Point Civic Association. She stated that she also received a copy of a letter from another neighborhood that requested a \$90,000 gate be installed. The applicant would only commit \$10,000 and therefore this neighborhood would not support the application. This is bad direction. The perception in Sandy Springs is that the developers are being held hostage.

Councilmember Paul stated that Mr. Donner stopped by his office yesterday and he questioned if Mr. Donner had paid any gratuity or any amenity to any neighborhood association in return for their support. Mr. Donner stated that Councilmember Paul did in fact ask this question and he answered that they have not paid any gratuity or amenity to any neighborhood association. Councilmember Paul questioned why Mr. Donner did not disclose this yesterday during their meeting. Mr. Donner stated that he is making a civic donation to an elementary school for a project of his choosing. Councilmember Paul stated that he had asked this question and Mr. Donner stated that he was not making any contributions. Mr. Donner stated that his understanding of the question was if he was making any contribution to anyone who is supporting this application. Mr. Donner explained that High Point Elementary is not supporting the application. Mr. Donner stated that the High Point Civic Association made a request that he make a donation to the elementary school.

Councilmember Paul stated that during their meeting yesterday, Mr. Donner had stated that Ms. Leathers had recommended to him that he not disclose to the Council that he is planning a church on this site. Community Development Director Leathers stated that is untrue. She explained that during the application process, she indicated that she would have to evaluate the legal process. She determined that this was the most appropriate vehicle under the law and suggested that this is the way he should file. She never suggested that he not mention this to Council.

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 7 of 17

Mr. Donner stated that he completely agreed with what Ms. Leathers stated. He stated that he may have misspoken on what Ms. Leathers had said to him. He stated that she said she was going to research this and get back to him.

Councilmember Fries questioned a portion of the agreement between the applicant and High Point Civic Association. Mr. Galloway explained that is boilerplate language. There was no actual money exchanged. Mr. Galloway stated that the applicant and the High Point Civic Association have reached an agreement on the terms based on the merits of the request prior to a request for any contribution. The contribution is not to High Point Civic Association. This is for the school and not to benefit High Point Civic Association.

Mr. Galloway explained that Ledgemont approached the application and stated that they wanted to see some benefit to their neighborhood. They requested the same level of improvements along the front of their community as is proposed for this community. Mr. Donner was not willing to pay \$90,000 for the support of this community. That would be improper.

Councilmember Fries questioned of Ms. Kresly if Mr. Donner was willing to pay any amount to the community. Ms. Kresly stated that they felt it was a waste of time. She stated that they requested certain covenants and deed restrictions. None of these would matter unless there was a foreclosure on the property. They then requested assistance in landscaping. She stated that Mr. Donner offered as much as \$10,000.

Councilmember Fries stated that she hopes the homeowners associations and developers understand that Council does not want this going on.

Councilmember Jenkins stated that she felt the applicant is trying to twist the use into the CUP classification. She stated that this is not a place of worship. She questioned why this home was a 10,000 square foot home but the other homes in the neighborhood are 4,500 square foot homes. Mr. Galloway explained that the homes on either side of the rectory are of comparable size. He explained that the builders are building varying sized homes. This is an allowed use within the CUP.

Councilmember Jenkins questioned if they would be conducting business. Mr. Galloway explained that this is not the principal place of business. These priests serve the community.

Councilmember DeJulio stated that he worked the last 20 years working with the High Point Civic Association. He stated that he is only aware of two cases, since the City was incorporated, where the High Point Civic Association took payoffs. Those were the last two zonings in their district. He stated that previously, the zoning committee of the High Point Civic Association was very effective in negotiating zonings without having to have good and valuable consideration. He stated that this questions the credibility of the High Point Civic Association. He stated that it also makes him question the developer who would have to pay organizations off.

Councilmember DeJulio stated that other concerns were that they would be conducting a business in this residential area. He stated that this is simply a group home. Referencing condition 3 from a letter submitting by the applicant, Councilmember DeJulio questioned what moral turpitude meant and why this is referenced in the letter. Mr. Galloway stated that this was requested by the opposition.

Councilmember Meinzen McEnery questioned if the applicant, Southern Gentry, LLC, provided any funding to anyone on the City Council. Mr. Donner stated that he did not. Councilmember Meinzen McEnery stated that there was plenty of support for this application and questioned why he chose lot 2 for this rectory. Mr. Donner stated that he did not pay anyone any money. He stated that these priests are great friends and this is the best material possession he owns. He wanted to give them the best lot in the best neighborhood in Sandy Springs.

Councilmember Meinzen McEnery questioned what the distinction is between church and place of worship in the CUP ordinance. Ms. Leathers read the definition of church, temple, or place of worship as "a facility in which persons regularly assemble for religious ceremonies. This shall include, on the same lot, accessory structures such as minister's and caretaker's residences, and other uses that are identified under the provisions for administrative use permits."

Councilmember Meinzen McEnery questioned the City Attorney if this would set precedence for future applicants who have a place of worship/rectory in the CUP zoning and adhere to the conditions proposed.

City Attorney Willard stated that precedence is something that is done contrary to the established zoning. He explained that this is an application for CUP zoning and this is a permitted use. This will not be setting precedence.

Mayor Galambos closed the public hearing.

Councilmember Meinzen McEnery stated that the staff supports this application. She stated that the Planning Commission, after some time, is in support of the application. There is substantial support of the community. Yet, there are still concerns as to the intentions of the applicant. She stated that she is disturbed by this.

Councilmember Fries stated that Mr. Donner has a good product. This is an inappropriate use in the middle of a development of very expensive homes. She expressed concerns about business being conducted at this location. The house is too massive.

Motion and Second: Councilmember Fries moved to deny RZ07-010/CV07-010, Southern Gentry Development, LLC. Councilmember DeJulio seconded the motion.

Councilmember Paul, addressing the priests, stated that he hopes they do come to Sandy Springs. He stated that they would be a tremendous asset to this community. He explained that his objection relates to his conversation with Mr. Donner. He stated that Mr. Donner builds a great product. He stated that Mr. Hanna, who he believes is an investor in this project, phoned him. He does not like being misled.

Councilmember Meinzen McEnery stated that she is recusing herself from this vote because she believes that an investor in this development donated to her campaign. Mr. Donner stated that he has no investors. Councilmember Meinzen McEnery stated that she then did not have to recuse herself. She stated that Mr. Donner has not given her any campaign contributions.

Councilmember DeJulio stated that the last time this was before the Council, Councilmember Meinzen McEnery made the same statement and Mr. Donner did not indicate that he had no investors. The Council was led to believe that he had investors at that time. Mr. Donner stated that he is 100% owner of Southern Gentry Developments II. He went to the bank, got a loan, and bought the property. He has no partners.

Motion and Vote: Councilmember Jenkins moved the question. Councilmember Paul seconded the motion. The motion carried unanimously.

Vote: The motion carried 4-1 with Councilmember Meinzen McEnery voting in opposition.

RZ07-019/CV07-017 - 5600 Roswell Road (SR 9), Applicant: The Prado, LLC, To rezone a 2.07-acre tract of the overall Prado property from C-1 conditional to C-1 for the development of a 20,331 square foot retail building, with concurrent variances.

Zoning Administrator Payne stated that the applicant is requesting to rezone a 2.07 acre tract of the overall Prado property from C-1 conditional to C-1 for the development of a 20,331 square foot retail building at the southeast corner of the overall site. This has already been approved to be redeveloped with 345,000 square feet of retail and office space. The overall project square footage will be 17,116 square feet. According to the applicant, this net change is due to under-utilized space including in the previously approved project square footage. The applicant is requesting one concurrent variance. The Design Review Board recommended approval with conditions listed. Staff recommends approval with staff conditions adding item f which requires that the owner maintain the shopping carts on the site.

Nathan Hendricks, 6085 Lake Forrest Drive, requested that the Zoning Modification be heard at the same time.

Zoning Administrator Payne stated that the applicant is requesting to modify the legal description of the subject property to remove a 2.07 acre tract in which the applicant has submitted a rezoning application for. The applicant is also requesting to modify conditions 2a and 3g of Z05-0050 and ZM06-010. The amendment to condition 2a is to substitute the site plan submitted as part of this request with the plan originally approved. The amendment to 3g is to provide for a forty-five (45) foot landscape strip planted to buffer standards along the south property line.

The Design Review Board recommended approval of the Zoning Modification. Staff also recommends approval with conditions. The Planning Commission does not hear Zoning Modifications.

Nathan Hendricks, 6085 Lake Forrest Drive, stated that these applications are for rezoning with concurrent variances and a zoning modification. The petition for rezoning and concurrent variance comes to Council with a recommendation of approval from the Design Review Board, the Planning Commission and Staff. The zoning modification comes to Council with the recommendation for approval by the Design Review Board and Staff. The 2.07 acre parcel is at the southeast corner of the overall tract that was originally rezoned in 2005. They are requesting to rezone that to a little over 20,000 square feet for the development of a Circuit City.

He stated that the applicant is requesting that the site plan be replaced with one having the 2.07 acre tract removed. When this was rezoned, there was an agreement to increase the landscape strip planted along the southerly property line to a width of thirty-five (35) feet. That was not placed into the conditions of zoning. The applicant is requesting that be placed in the conditions of zoning. The concurrent variance request is to reduce the parking from 102 to 72 spaces.

He stated that they understand that the large issue has been the streetscape look and feel of this development for Roswell Road. He stated that the applicant plans to have at least four more meetings with community representatives to receive further input.

Dave Bauer, architect, stated that this is not the final plan. They will be working with community representatives who are part of the design team to complete this design. Mr. Bauer displayed the plans for this project and explained each individual portion of the plan for the entire development. He explained that this would be mostly masonry.

Nathan Hendricks, 6085 Lake Forrest Drive, stated that, at the time of zoning, there was a letter agreement with Carriage Gate that confirmed how the parapet on the Target building would be treated. They have done a modification and an amendment to that letter agreement as to the development standards, interior to this development, extending to the two acre parcel the same things in the original letter agreement. This will be executed and recorded in the deed records of Fulton County.

Trisha Thompson, 145 River North Drive, Sandy Springs Council of Neighborhoods, stated that she is pleased to work with Sembler and the architects on this project. They would like to see a variety of design. She requested that Council proceed with their request for a reduction in parking. However they would like to see some security lighting. She stated that Carriage Gate Condominiums is in agreement with the accord they have negotiated.

Dennis Lange, Co-owner of Five Seasons Brewing Company, stated that he has not been notified of any community meetings. He expressed concerns regarding the reduction of parking. He explained that the plans do not show any existing restaurants.

Nathan Hendricks, 6085 Lake Forrest Drive, stated that the existing restaurants are on the property and they have not been vaporized. They will receive some exterior improvements.

Trisha Thompson, 145 River North Drive, Sandy Springs Council of Neighborhoods, stated that the treatment of existing businesses will be something discussed during the community meetings.

Councilmember Paul suggested that Mr. Lange be invited to these meetings.

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 10 of 17

Mayor Galambos questioned if the reduction in parking is something that staff can live with. Ms. Leathers that that staff is recommending approval on this variance.

Motion: Councilmember Meinzen McEnery moved to approve RZ07-019/CV07-017 with the following staff conditions as amended:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail and associated accessory uses at a density of 9,821.74 square feet per acre or 20,331 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 June 5, 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. No more than two (2) exits/entrances on Roswell Road (SR 9). Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - b. Provide streetscape standards consistent with the Main Street district in the Sandy Springs Overlay District along Roswell Road (SR 9).
 - c. Dedicate at no cost to Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Sandy Springs such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

50 feet from the centerline of Roswell Road (SR 9) or as may be required by the Georgia Department of Transportation.
 - d. Provide a traffic impact mitigation plan to reduce the number of vehicular trips generated by the development at the Land Disturbance permit phase.
 - e. The developer shall be responsible for complying with the requirements of the document entitled "Fulton County Driveway Manual" adopted by the Fulton County Board of Commissioners on May 18, 2005.
 - f. The owner/developer shall implement a program to ensure that all shopping carts for the businesses at the shopping center remain on the subject property at all times. Documentation of said program shall be submitted to the Department of Community Development prior to the issuance of the first Certificate of Occupancy and shall be subject to the approval of the Director of Community Development.
 - g. Variance from Section 18.2.1 of the Sandy Springs Zoning Ordinance to allow for a reduction in the total number of parking spaces from 102 to no less than 74 (CV07-017).

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

Zoning Modifications

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 11 of 17

ZM07-005/CV07-018 - 5600 Roswell Road (SR 9), Applicant: Prado, LLC, To modify conditions 2.a. and 3.g. of Z05-0050/ZM06-010 to amend the approved site plan and to increase the landscape strip planted to buffer standards along the south property from 20 feet to 45 feet, with concurrent variances.

Motion: Councilmember Meinzen McEnery moved to approve ZM07-005/CV07-018 with the following staff conditions as amended:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas, at a total of 341,485 square feet over the 24.29-site, and including no more than one freestanding fast food restaurant with or without drive thru, a financial institution with a drive-thru and a drug store with a drive-thru. Convenience stores with gas pumps and commercial amusements are excluded.
 - b. Limit the height of the buildings to no more than 3 stories with structured parking up to 5 levels.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development on August 1, 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. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, the applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
 - b. To the Landscape Plan known as (Exhibit B) along the south property line adjacent to Carriage Gate submitted the Department of Community Development on August 11, 2006.
3. To the owner's agreement to the following site development considerations:
 - a. No more than two (2) exits/entrances on Roswell Road (SR 9). Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - b. No more than three (3) exits/entrances on Lake Placid Drive. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - c. Reduce the number of required parking spaces to no less than 1,333. (2005VC-0105 NFC, Part 4)
 - d. Allow shared parking pursuant to Article 18.2.2.
 - e. Provide streetscape standards consistent with the Main Street district in the Sandy Springs Overlay District along Roswell Road (SR 9) and along the main boulevard of the project as shown on the site plan received by the Department of Community Development dated August 11, 2006.
 - f. Provide a 10-foot front yard along Lake Placid Drive. (2005VC-0105 NFC, Part 1)
 - g. Provide a forty-five (45) foot landscape strip planted to buffer standards along the south property line of the overall Prado development adjacent to the Carriage Gate townhomes. (2005VC- 0105 NFC, Part 2) Prior to the issuance of a Land Disturbance Permit the owner/developer shall submit a landscape plan to the Department of Community Development. Said landscape plan shall be subject to the approval of the Sandy Springs Arborist.

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 12 of 17

- h. Delete the requirement of a tree island every 6th parking space. (2005VC-0105 NFC, Part 3)
 - i. Delivery hours for Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a. shall be 7:00 a.m. to 10:00 p.m. Monday through Friday and 9:00 a.m. to 8:00 p.m. Saturday and Sunday.
 - j. No dumpsters shall be allowed within the area between the southern property line and rear wall of Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a.
 - k. The south wall of Anchor A retail store as shown on the site plan referenced in condition 2.a. shall be comprised of masonry material.
 - l. The exterior lighting for the Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a. adjacent to Carriage Gate along the south property line shall be placed on the retaining wall to the south of the building facing the Anchor A and Anchor B buildings and not on the roof of the Anchor A building.
 - m. To allow for an additional monument sign along the Roswell Road (SR 9) frontage of the property and to allow for an additional monument sign along the Lake Placid Drive frontage of the property as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
 - n. To allow for an encroachment into the twenty-five (25) foot impervious setback of the required stream buffer along the west side of the property as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
 - o. To delete the required five (5) foot landscape strip along all property lines between the "Anchor A Tract" and the remainder of the subject site as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
 - p. To delete the required twenty-five (25) foot building setback along the south property line for the "Anchor A Tract" as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
 - q. The owner/developer shall implement a program to ensure that all shopping carts for the businesses at the shopping center remain on the subject property at all times. Documentation of said program shall be submitted to the Department of Community Development prior to the issuance of the first Certificate of Occupancy and shall be subject to the approval of the Director of Community Development.
4. To the owner's agreement to abide by the following requirements, dedication and improvements:
- a. Dedicate at no cost to Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Sandy Springs such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:
 - 50 feet from the centerline of Roswell Road (SR 9) or as may be required by the Georgia Department of Transportation.
 - 30 feet from the centerline of Lake Placid Drive
 - b. Provide a traffic impact mitigation plan to reduce the number of vehicular trips generated by the development at the Land Disturbance permit phase.

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 13 of 17

- c. The developer shall be responsible for complying with the requirements of the document entitled "Fulton County Driveway Manual" adopted by the Fulton County Board of Commissioners on May 18, 2005.
5. To the owner's agreement to abide by the following:
- a. Prior to submitting the application for a (LDP) with the Department of Community Development, Development Review Division, arrange to meet with the Sandy Springs Traffic Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
 - b. Prior to submitting the application for an LDP, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the Sandy Springs Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for an LDP.
 - c. Prior to submitting the application for an LDP, the developer/engineer shall contact the Public Works Department and arrange to meet on-site with an engineer, who is responsible for review of Storm Water Concept Plan submittals.
 - d. Prior to submitting the application for an LDP, the developer and/or engineer shall submit to the Development Review Division, a project Storm Water Concept Plan. This concept plan shall indicate the preliminary location of the storm water management facilities intended to manage the quality and quantity of storm water. The concept plan shall specifically address the existing downstream off-site drainage conveyance system(s) that the proposed development surface runoff will impact, and the discharge path(s) from the outlet of the storm water management facilities to the off-site drainage system(s) and/or appropriate receiving waters. As part of the Storm Water Concept Plan submittal, a preliminary capacity analysis shall be performed by the engineer on the off-site drainage system(s) points of constraint. The capacity analysis shall determine the capacity of all existing constraint points, such as pipes, culverts, etc. from the point of storm water discharge at the proposed development site boundary downstream to the confluence of the receiving drainage course at a point where the drainage area is at least ten times the proposed development site area and the next downstream drainage area having a drainage area of fifty acres or more. The critical capacity points shall be selected based upon the engineer's field observation, professional judgment, and limited field survey data. The analysis shall identify the downstream properties pre and post-development 100-year water surface elevations, and for any post-development water surface elevation increase exceeding 0.05 feet, the developer shall acquire the applicable offsite drainage easement to accommodate the 100-year storm flow through impacted properties. Where Sandy Springs has completed a model of the basin, it shall be used by the developer in the analyses.
 - e. Where storm water currently drains by sheet flow and it is proposed to be collected to and/or discharged at a point, such that the discharge from the storm water management facility outlet crosses a property line, such discharge shall mimic pre-development sheet flow conditions. A description of the method proposed to achieve post-development sheet flow conditions shall be provided as part of the Storm Water Concept Plan. Should the method to achieve sheet flow across an external property line be unsuccessful, the developer shall acquire an easement(s) from the point of discharge to a point down gradient at a live dry weather stream sufficient to contain the 25 year storm flow or other location as approved by the Director of Public Works. This condition will not apply when the storm water management facility is designed and approved to discharge directly to a stream or watercourse.
 - f. A draft of the Inspection and Maintenance Agreement required by Sandy Springs shall be submitted to the Department of Public Works with the Storm Water Concept Plan.
 - g. The Inspection and Maintenance Agreement shall provide that all storm water management/detention facility outlet control structures shall be inspected, photographed, and cleaned, if necessary, on a monthly basis, by the owner. The Inspection and Maintenance Agreement shall require that the design engineer shall

- prepare an operation and maintenance guidance document, for use by the owner and/or any professionals retained by the owner, to plainly describe the basic operational function of the facility(ies), including a description of a permanent marker post(s) which shall indicate that the level of sediment which, if exceeded, requires sediment removal. The Inspection and Maintenance Agreement shall require an annual operation and maintenance report for all storm water management/detention facilities be prepared by a licensed design professional and submitted to the SWMP. The annual report shall include monthly inspections, photographs, and documentation of the cleaning of storm water management/detention facilities outlet control structure(s) as well as an operational assessment of the facilities indicating that they do, or do not, function as described in the design guidance document (described above), and if they do not, a description of the specific actions to be taken to allow the facilities to function as intended.
- h. The required Inspection and Maintenance Agreement shall be recorded with the Clerk of Superior Court prior to issuance of an LDP, Grading Permit, or Building Permit associated with the development.
 - i. The engineer/developer is required to submit, along with the application for an LDP, signed documentation verifying approval of the Storm Water Concept Plan.
 - j. Where paved parking areas (including access aisles) are proposed to exceed 5,000 square feet, the storm water management facilities shall be designed to reduce pollutants such as oil, grease and other automobile fluids that may leak from vehicles. A general description, or concept, of the storm water management facilities proposed to achieve the removal of such pollutants shall be submitted with the Storm Water Concept Plan. A detailed design of such facilities shall be included in applicable documents for a land disturbance permit.
 - k. With the application for an LDP, provide documentation (such as channel cross-sections, centerline profile, etc.) describing the geometry of those existing natural streams, creeks, or draws within the proposed development boundary which in the design engineer's judgment are at risk of erosion due to increased flow, provide a description of the basis utilized in judging areas to be at risk, and provide details on the Storm Water Management Plan of the post-development channel bank protection measures.
 - l. The developer/engineer shall demonstrate to the City by engineering analysis submitted with the LDP application, that the discharge rate and velocity of the storm water runoff resulting from the development is restricted to seventy-five percent (75%) of the pre-development conditions for the 1-year frequency storm event, up to and including the ten (10)-year frequency storm event.
 - m. Drainage from all disturbed areas shall be collected and conveyed to a storm water management facility provided as part of the development. The Storm Water Concept Plan shall identify any proposed areas with incidental and minor release of storm water not conveyed to such facilities, subject to the approval of the Director of Public Works. Plans for any land disturbance permit shall show all proposed drainage patterns for the proposed development after its completion. Any incidental release of unmanaged or untreated storm flows from any disturbed portion of the developed property shall be allowed only with the approval of the Director of Public Works. Other than minimal incidental flows shall be specifically approved by the Director of Public Works. Bypass flows will not be permitted except from undisturbed areas within a buffer or other protected easement. Final plans shall provide for collection, conveyance and treatment of all approved incidental flows from developed lots or parcels, individual residences or building structures.
 - n. Storm water management facility(ies) volumes shall be designed to achieve water quality treatment, channel protection, over bank flood protection and extreme flood protection, in accordance with the Georgia State Storm water Manual, except that the duration of release for water quality treatment shall be 48 hours.
 - o. The owner/developer, as agreed to at the October 3, 2006 Mayor and City Council hearing, shall provide for the required tree islands within all surface parking lots.

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 15 of 17

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- p. The owner/developer shall develop the property in accordance with the detailed streetscape amenities plan as submitted at the October 3, 2006 Mayor and City Council hearing.
- q. The filtering system installed at the outfall from the detention pond shall be selected on its ability to concentrate the removal of oils and petrochemical pollutants. Said system shall be maintained two (2) times yearly with records available for inspection.
- r. The filtering system shall be selected for its sensitivity to nitrates, phosphates, and other chemicals that might be used in a gardening or agricultural environment and shall be placed specific to the gardening center.
- s. The owner/developer shall provide trench drains with grates to be installed across the roadways at every other catch basin on all interior roads with downhill slopes. The interior roads with downhill slopes, as identified on the site plan received by the Department of Community Development received August 11, 2006, are as follows:
- Road A (Service Drive)
Road B (Internal Road Parallel to Roswell Road [SR 9])
- t. To allow the proposed "Anchor C" building to encroach into the required ten (10) foot landscape strip along the east property line as shown on the site plan received by the Department of Community Development on August 1, 2007 (CV07-018).

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

Text Amendments

**RZ07-028 - An Ordinance to Amend Article 12B, Sandy Springs Overlay District, of the City of Sandy Springs Zoning Ordinance
Ordinance No. 2007-09-56**

Community Development Director Leathers stated that this is an amendment to the Sandy Springs Overlay District. She explained that at Council's request, staff has prepared an amendment which prohibits certain automobile oriented uses and uses that may serve to inhibit pedestrian activity within the overlay district. The amendments requested have been made in regard to storage facilities. Staff recommends approval.

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

Motion and Vote: Councilmember Meinzen McEnery moved to approve an Ordinance to amend Article 12, B, Sandy Springs Overlay District, of the City of Sandy Springs Zoning Ordinance. Councilmember Fries seconded the motion. The motion carried unanimously.

Unfinished Business

Consideration of approval of a Memorandum of Understanding with Heritage Sandy Springs for maintenance of property and facilities.

City Attorney Willard stated that the blank on page 2 b should read "July 1".

Motion and Vote: Councilmember Fries moved to approve a Memorandum of Understanding with Heritage Sandy Springs for maintenance of property and facilities with the attorney's amendment. Councilmember Paul seconded the motion. The motion carried unanimously.

Reports and Presentations

Regular Meeting of the Sandy Springs City Council

Tuesday, September 18, 2007

Page 16 of 17

Mayor Galambos announced that as a very new city, the City's finance department received an award for Excellence in Reporting. The auditor commented that they have never seen a new city receive an award so quickly. Councilmembers congratulated Assistant City Manager Steve Rapson.

Assistant City Manager Rapson stated that Cobb County gave the City accolades for the "Post Office Incident".

He stated that the Fire Department had another save. This was at the Dunwoody Country Club. An employee engaged an AED prior to Fire Rescue arriving to transport him to the hospital.

He further stated that an amendment for a lease agreement for FY2008 budget public safety equipment will be on the October 2, 2007 meeting for Council's approval.

Public Comment

Gary Post, 9596 Roberts Drive, requested that Council would consider the wishes of the people of District 1.

Executive Session - Pending Litigation

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss pending litigation. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously with Councilmember Paul, Councilmember Fries, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session began at 8:28 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Jenkins seconded the motion. The motion carried unanimously with Councilmember Paul, Councilmember Fries, Councilmember Jenkins, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 8:38 p.m.

A Resolution to approve the Initiation of Rezoning for 9670, 9680, and 9710 Roberts Drive, Sandy Springs, Fulton County, Georgia.

Resolution No. 2007-09-52

City Attorney Willard stated that Council will consider a Resolution to approve the Initiation of Rezoning for 9670, 9680, and 9710 Roberts Drive, Sandy Springs, Fulton County, Georgia. This will authorize the application for rezoning.

Motion and Second: Councilmember DeJulio moved to approve a Resolution to approve the Initiation of Rezoning for 9670, 9680, and 9710 Roberts Drive, Sandy Springs, Fulton County, Georgia. Councilmember Paul seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnery stated that this Resolution allows the original applicant to re-apply for rezoning. All public hearings will be conducted. She stated that this sends the wrong message to the community. The City is caving in to a lawsuit. This sends the wrong message to the public.

Councilmember Paul stated that this lessens the likelihood that a judge will require this be done. This keeps it totally within the control of this Council.

City Attorney Willard stated that this was his recommendation to Council as their attorney.

Vote: The motion carried 4-1 with Councilmember Meinzen McEnery voting in opposition.

Adjourn

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Jenkins seconded the motion. The motion carried unanimously and the meeting adjourned at 8:40 p.m.

Date Approved: October 16, 2007



Eva Galambos, Mayor



Christina V. Rowland, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

September 18, 2007

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 18th day of September, 2007, 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 _____ day of _____, 2007.

Notary public (SEAL)