

Call to Order

Mayor Galambos called the meeting to order at 6:05 p.m.

Roll Call and General Announcements

City Clerk Rowland called roll.

Councilmembers Present: Councilmember Tibby DeJulio, Councilmember Dianne Fries, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, Councilmember Karen Meinzen McEnery, and Councilmember Rusty Paul.

Pledge of Allegiance

Cadets from the Sandy Springs Civil Air Patrol presented the colors.

Mayor Galambos led the Pledge of Allegiance.

Approval of Meeting Agenda

Motion and Vote: Councilmember Fries moved to add a non-profit policy and agreements to the agenda. Councilmember Jenkins 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 DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Consent Agenda

1. Approval of Minutes:
 - a. July 10, 2007 Regular Meeting and Work Session Minutes
 - b. July 17, 2007 Regular Meeting Minutes
2. Approval of a Resolution appointing Bruce Alterman to the Hospitality Board to fill the unexpired term of John McDonough.
3. Approval to authorize the City Manager to execute a contract with Jordan, Jones & Goulding for concept design for the Johnson Ferry and Glenridge Drive earmark project (T-0011).
4. Approval of an agreement with Sandy Springs Middle School for use of their facilities.
5. AM07-008 - 800 Hammond Drive, *Applicant: Sheraton Hotel*, To delete condition 3.f. of Z85-0166/U85-0131, which requires that signage be limited to one (1) double-faced, four (4) foot tall monument sign.
6. Approval of an Ordinance amending Chapter 8, Recreation and Parks, Article 2, Regulation of Public Parks, Section 4, Prohibited Acts in Public Parks, Subsection (i) relating to off-leash pets.
7. Consideration of approval of an amendment to Chapter 9, Building Codes to more clearly specify requirements relating to the issuance of Multi-Phase/Level Certificate of Completion and Multi-Phase/Level Certificate Occupancy.

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

Presentations

Proclamation-Fetal Alcohol Spectrum Disorder Day

Proclamation-Sandy Springs Civil Air Patrol 40th Anniversary

Mayor Galambos read the Proclamation in honor of the Sandy Springs Civil Air Patrol 40th Anniversary.

Presentations by Police Chief Gene Wilson

Police Chief Gene Wilson presented plaques to American Pie Restaurant, The Brickery, U.S. Drug Enforcement Administration, Georgia Bureau of Investigation, and PrintMax.

Councilmember Jenkins thanked the Police Department for their help after her home was broken in to.

Public Hearings

Consideration of approval of a Resolution to authorize the use of Eminent Domain to condemn property located on Land Lot 87 of the 17th District, Lot 6, Unit One, Brandon Mill Woods Subdivision, City of Sandy Springs, Fulton County, Georgia

City Attorney Wendell Willard stated that this is the first condemnation from the Abernathy Road project. The City is acquiring property for the park.

Councilmember DeJulio clarified that this is due to the fact that the property owner is having difficulty clearing the title. Mr. Willard stated that is correct. He explained the issues with the Trust.

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

Motion and Vote: Councilmember Fries moved to approve a Resolution to authorize the use of Eminent Domain to condemn property located on Land Lot 87 of the 17th District, Lot 6, Unit One, Brandon Mill Woods Subdivision, City of Sandy Springs, Fulton County, Georgia. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Zoning

City Clerk Rowland read the Zoning rules.

RZ07-007 - 6058, 6068, 6078 Harleston Road - Applicant: Southland Development Group, LLC To rezone from R-3 to R-5 for the development of five single family lots.

Zoning Administrator Dennis Payne explained that the applicant is requesting to rezone from R-3 to R-5 for the development of five (5) single family lots. The Design Review Board recommended denial. The Planning Commission recommended approval of the application as presented with staff's conditions 2.a., 3.b., and 3.c. amended as follows and adding a condition limiting the minimum heated floor area to a maximum of 3,300 square feet: 2.a.) To the site plan received by the Department of Community Development dated February 22, 2007; 3.b.) Frontage improvements shall be installed prior to the issuance of a Certificate of Occupancy.

He stated that this was heard on July 17, 2007 by the Mayor and City Council and was deferred to this meeting.

Staff recommends approval with conditions.

Nathan Hendricks III, 6085 Lake Forrest Drive, Atlanta, stated that this involves a tract on the westerly side of Harleston and is currently zoned R-3. He explained that the Land Use Plan recommends residential on this tract at 2 to 3 units per acre. The application before the Council has a density of 2.81 units per acre. This is within the Land Plan. In addition, the minimum lot size is 15,000 square feet. Harleston is mostly one story ranches ranging from 1,800 to 2,100 square feet heated floor area. The applicant is requesting to develop single family detached with between 2,200 and 3,300 square feet heated floor area. To the west, the Land Plan calls for Live Work Neighborhood which allows up to 5 units per acre. The Citizens Advisory Committee recommended 5-8 units per acre. He stated that there are letters of support in the packet.

Jon Gallinaro, 6586 Wright Road, Atlanta, explained that they held several community meetings with the neighbors. Their biggest concern with this project was keeping the character of the neighborhood. He stated that through discussions, they thought they developed a product that would fit in the neighborhood. This went through Planning Commission and they thought it was great. They were asked to assemble the entire street and they tried diligently. They were not able to do that. The biggest problem with this development is the installation of the infrastructure associated with developing these lots. The cost associated would kill the deal for only four (4) lots. They feel five (5) lots would work well.

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

Ellen Collins, 593 Lorell Terrance, Sandy Springs stated she visited the homes on Harleston over the weekend. She found that there were 17 total, with 10 being lived in by the owners. The percentage of renters is not the 85% the developer claimed. Questioning the homeowners, she found that seven (7) of them were opposed to the development because of the character guidelines. She is concerned about the R-5 zoning. The land use plan is currently R-2 to R-3, if R-5 zoning were granted; the lot width would be reduced by almost 50%. Other changes would be 50 to 20 feet minimum, rear yardage would be 35 to 20 feet, and the interior line down to 5 feet. This would not be within character guidelines due to the developer building large homes on small lots. While the neighborhood is not against development, they simply request that the zoning not be changed to R-5. This will impede their neighborhood and not preserve it as it stands now. She asked the public in opposition of this proposal to stand, about 10 people stood. She submitted a petition with 122 signatures in opposition to this request.

Thaea Lloyd, 570 Valley Lane, Sandy Springs, asked that this application be denied. She noted the similarities in streets such as: Lorell, Timberlane, Patrick, and Valley Lane be removed from a major artery such as Hammond, Glenridge, Johnson Ferry, and Boylston.

Ms. Lloyd stated, if application passed similar situations would occur and investors would only purchase properties for rezoning. Though her neighborhood is not opposed to development, they would like to keep their lot size; while being opposed to the zoning.

Shannon Valentine, 6036 Kayron Drive, Sandy Springs stated that she is opposed to the application. She is afraid this will continue to happen throughout the interior of the neighborhoods.

Patty Berkovitz, 800 Crest Valley Drive, Sandy Springs, stated that she supports the neighborhoods. She stated, the developer said the sewage would go in the road. This is not the policy of Sandy Springs; sewers are put in the right-of-way. The reduction of the frontage of these properties will create an interesting situation.

Mr. Gallinaro stated that the 80% rental number came from the broker who put together the meeting for the assemblage. The home he currently has under construction, which is a part of an eight (8) lot assemblage, was purchased prior to this application. There were a couple of holdouts in round one and two; it was then decided to proceed with the construction of that home. The price of that home is going to be \$1,000,000 to \$1,200,000 which is not a price range they want to be in now. They do not feel it is within the character of Harleston Road.

Mr. Hendricks stated that the reason for the R-5 request is because of the issue over the development standards under the existing R-3 zoning. It is neither a lot size nor a density size; should council approve, it would be a minimum lot size of 15,000 square feet. The result of the density would be 2.81 units to the acre. If Council follows the recommendation of the Planning Commission, the square footage would range from 2,200 square feet to a maximum of 3,300 square feet, minimum heated floor area. Most of the homes are a one story single ranch, 1,800 to 2,200 square foot range. Coming into the neighborhood would be a fabric of construction which resembles the fabric of the development currently in the neighborhood. The developers decided to develop the properties on a one on one basis and update the necessary square footage to a set price point they are comfortable with. The applicant respectfully requests that Council deny the application because the applicant can not move forward and can not develop under the four (4) lots. There should be a total of five (5) lots. It does not make sense to do a zoning that would result in necessitating the sewer being brought to that property and not develop it.

Councilmember Fries questioned if the sewer would be going up the street. Public Works Director Angelia Parham stated that is decided on a case by case basis. Assistant City Manager Al Crace stated that because of the narrow right of way, this would have to be placed in the street. Community Development Director Nancy Leathers stated that through the rezoning process, the applicant, if approved, would get 10 ½ feet from back of curb as part of the rezoning processes and would have the opportunity to place the sewer in the right of way instead of under the road.

Councilmember Fries questioned if the possibility of having the sewer in the right of way changes the need for five lots.

Jon Gallinaro stated that it does not change this need.

Motion and Second: Councilmember Fries moved to approve RZ07-007 with the stipulation that the property remain zoned R-3 for the development of four (4) single family lots; the front lot width be a minimum of 75 feet; the front setback to be 50 feet; the side setback to be 10 feet; the rear setback to be 25 feet; the owner/developer shall dedicate 25 feet of right of way from centerline of Harleston, along the entire property frontage or 10 ½ feet from the back of the curb; frontage improvements including curb, gutter and sidewalk must be installed prior to issuance of any building permits for any lot in this development along with remaining staff conditions. Councilmember Jenkins seconded the motion.

Councilmember Meinzen McEnery stated that the proposed lots are 15,000 square feet and the R-3 lots are 18,000 square feet. Mr. Hendricks stated that the current and proposed Land Plans call for 2-3 units per acre. This application is for 2.81 units per acre.

Mr. Hendricks reiterated that if this application can not be approve at five (5) lots, they then request denial.

Councilmember Jenkins stated that the developer can not build out to the 2-3 units per acre without the variances.

Councilmember DeJulio questioned if the developer could do these homes on septic. Mr. Gallinaro stated that it would depend on the soil tests but probably. Councilmember DeJulio explained that Council has promised to protect the interior of the neighborhoods. In certain perimeter areas, they have had to make exceptions.

Councilmember Meinzen McEnery questioned if Councilmember Fries' variance to lot width would set a precedent. City Attorney Willard stated that Council should look at what is the best use of the property recognizing the planning tools available. Community Development Director Leathers stated that variances do not set a precedent because they are specific to property.

Substitute Motion and Vote: Councilmember Paul offered a substitute motion to deny this application. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried 4-2 with Councilmember Greenspan and Councilmember Fries voting in opposition.

RZ07-015/CV07-016 - 6030, 6050, 6060, 6080, 6090, 6100, & 6116 Glenridge Drive, Applicant: Metropolis Homes, To rezone the subject property from R-2 & R-3 to R-5 for the development of 28 single family lots, with concurrent variances.

Zoning Administrator Dennis Payne explained that the applicant is requesting to rezone the subject property from R-2 and R-3 to R-5 for the development of twenty-eight (28) single family lots at a density of 3.85 units per acre. The applicant is also requesting five (5) concurrent variances. The Design Review Board heard this item on May 22, 2007. The Board deferred the petition to the June 12, 2007 meeting and made the following comments regarding the applicant. The Board would like to hear the initial comments from neighbors of the proposal from the Community Zoning Information Meeting. The petition was again heard by the Design Review Board at the June 12, 2007 meeting. The Board recommends approval of the request subject to the following conditions.

1. The Board recommends that a new site plan, reflecting the inclusion of Lot 20 (as shown on the site plan received by the Department of Community Development date May 30, 2007) in the proposed park area to allow for a larger park around the Historic House”.

2. The Board recommends that the density of the development be capped at three (3) units per acre allowing for twenty-one (21) total units.
3. The Board recommends that the proposed the minimum heated floor area be increased.

The Planning Commission heard this petition on July 19, 2007 and recommended denial. The Commission found that the proposal was too dense in relation to the surrounding area.

Staff recommends approval with conditions.

Jason Yowell, 5010 Old Oak Trace displayed a map and stated he is on a high traffic corridor, with a traffic count of 23,000 vehicles per day. According to his map, the purple area is greater than (5) five units per acre, the blue area (4) four to (5) five units per acre, the green area (3) three to (4) four units per acre, includes the zoning done last year on Johnson Ferry Road, 3.05 units per acre. The yellow area represents high intensity public uses, which is the most used parking area in the City of Sandy Springs. Included in this study is a school, pre-k through 12th grade, a MARTA Bus Stop in front of this property, (5) five churches within walking distance, (1) one synagogue, and a variety of office complexes and hotels. Four acres are being set aside for the Park as recommended by the Design Review Board. The structure which is being preserved is one of the oldest in the city of Sandy Springs. The trees being preserved are perhaps the oldest, one being a 49 inch Beech Tree, one of the most spectacular specimens in Sandy Springs. The density is 2.79 units to the acre. The applicant would like to develop 28 units and the Park constitutes 13.5% of the overall development. This development will be a compliment to his previous development on the other side of Johnson Ferry Road. The houses will have direct walks onto public sidewalks which will be their infrastructure of improvements. There will be an opaque fence that is three (3) feet high by two (2) foot brick wall. The houses will have individual gates consisting of stone, poles with gas lanterns and wood gates. He has worked closely with the neighborhood groups and has a lot of support from them. The existing older neighborhood will be the most impacted because the park is the first thing they will see as they pull out of their neighborhood.

There will be a discussion by the people who are opposed to this development concerning water quality. The developers will be taking seven (7) houses off of septic systems and there will be a drastic reduction of storm water discharge during peak storm water events. The drainage will go partially into an existing catch basin on Glenridge Drive and the rest will be discharged to a dry ditch that currently gathers all of the water that comes off the site, presently. He is seeking three (3) variances; the sidewalk variance alone has three variances. The houses at the front of Glenridge Drive will have a public sidewalk in front of them and he is looking to add a variance to the ones which will be on the private road. There is going to be a sidewalk on the other side of the private road and he does not see the need to have unnecessary impervious surface. Mr. Yowell stated, "Should Council want to take that away from him, that is fine, but it is just more impervious surface and that is three of the variances."

Another request is for a cul-de-sac variance which would allow hammerheads to be done. He changed the site plan and he has worked with members of the Fire Department so he will not need the variance and will not need the cul-de-sac. This had been addressed and this variance can be removed from the table.

The final topic is the right-of-way variance on a private road. A right-of-way by definition is public property adjoining a road that is available for the installation of utilities. If the right-of-way is created from a private road, which is private property; is owned by the Homeowners Association and the utilities are ran by easements. It would be the same easement if the property owners owned it from the back of the curb. By granting this variance, it will increase a buildable area to make the houses actually buildable and also pulls them further away from the tree line at the back of the property and makes it easier to save the existing trees. Staff recommends a 55 foot reservation on Glenridge Drive with a 10 foot landscape strip which makes it functionally a 65 foot reservation that is excessive; which pushes back 10 feet and makes his lots on Glenridge Drive unbuildable. He feels that 55 feet is adequate but, the 10 foot landscape strip is excessive. The staff recommends a lot count of 21 rather than 28, to limit his lots on the back of the property by increasing the lot size

beyond the requirement of R-5 that functionally shows his project just as much as limiting his lot count because it is a limitation on the lot count. A quarter of a mile of public infrastructure, curb, gutter, paving, and sidewalks and street lights would be installed as part of the Sandy Springs Overlay. He will also preserve a historic house and create a

conservation easement and provide the funding to bring it up to standard and to maintain it. This can not be done with less than 28 lots. The density in the Land Use Plan is three (3) to five (5) units per acre which is still only 3.79 units per acre. There is a possibility that the land where the historic house is located, if three (3) units per acre were obtained four (4) houses could be put on that property. It will not save the trees and it will not restore the historic house. He does not think that three (3) units per acre are in the best interest of the community. There will be two single developments all the way down because this is a very difficult piece of property to assemble. It will not be assembled again anytime soon and he believes this to be sound open planning, has a lot to offer and has a tremendous amount of community support. Mr. Yowell asked the public in support of his application to stand. A very large group of people in the audience stood.

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

Martha Mersereau, 5890 Pinebrook Road, Sandy Springs, spoke in opposition of this application and asked Council to deny this petition. On September 2005, Fulton County recommended denial of a similar project on the same property. She asked City Council to stand by the City's policy of limiting density in this corridor for three (3) units per acre. While the developer is promoting a higher density than three (3) units per acre, it is based on projects in the area that was approved by Fulton County. The only precedent set by the Sandy Springs City Council regarding density are two houses across from the Mt. Vernon Presbyterian Church that are at three (3) units per acre. She hopes City Council will stand by the planning staff recommendations to limit density to three (3) units per acre. Higher density will require clear cutting of the land and replacing trees, green space with tar, concrete, and shingles. It will also remove the natural buffer from Glenridge for the interior of their neighborhood. It will increase the storm water management problem and will set a precedent. She hopes City council will stand by the planning staff recommendation. She asked all people in the audience in opposition of this request to stand. An estimate of 15 people from the audience stood.

Gerald Monash, 5795 Timberlane Terrace, Sandy Springs, stated that Timberlane Terrace is a very similar street backing up to Glenridge Drive and Lorell. Mr. Monash stated, if staff recommends certain things and Council approves it. His home backs up to a very nice area and this entire section of Sandy Springs is becoming more dense. He requested Council to deny this application.

Ellen Collins, 593 Lorell Terrace, Sandy Springs, stated that Mr. Yowell mentioned that the Aberdeen residents were in support of this. They live across the street and the only time that they would see this development is when they actually drive by it. She and many of her other neighbors live on Lorell Terrace. She is only one house away from the proposed development. When Mr. Yowell asked people to stand up in favor of this proposal, she is sure there are brokers in the audience that also stood up. This proposal and the people that are in favor of it are understandably as any business is driven by money in the pocket. She expressed concerns regarding the density of this development. They are not against development and certainly not against Mr. Yowell as a developer, but they are asking Council to honor the Land Use Plan, seriously consider the staff recommendations and reduce the density. If Mr. Yowell would go back and work on his plan, rework his deals with the people who are selling the property, then so be it. Please help preserve the neighborhood, maintain what you voted on last year for a Comprehensive Land Use Plan and work to decrease the density of this proposal.

Patty Berkovitz, 800 Crest Valley Drive, Sandy Springs, Sandy Springs Council of Neighbors, stated that the board voted unanimously to support the Glenridge/Hammond Neighborhood tradition and asks City Council to deny the variances, support staff recommendation of 21 lots and are very concerned with the need for this water being directed across from someone's property from this project. The board request City Council to deny this application.

Lynn Wyatt, 5735 Kayron Drive, Sandy Springs, stated that it is hard for her to turn left from Hammond onto Glenridge. She does not think that by adding 28 homes will significantly impact her commute, but she is concerned if we do 28 homes today, will we do 28 across the street tomorrow and then 30. She has spoken with many neighbors, and they do not disagree that development for Sandy Springs is a bad thing, she welcomes it. She welcomes what Mr. Yowell wants to do and thinks he produces a very nice product. She does not want to see us start sacrificing why she came to Sandy Springs. She loves her big lot and loves her big trees and would like to see us keep those things as part of the character that we call Sandy Springs.

Mayor Galambos closed the public hearing.

Mr. Yowell stated that eight (8) out of ten (10) houses concerning the assemblage have written letters of support. The discharge of the storm water across somebody else's property has an easement agreement to buy that easement. He forgot to mention in his presentation that staff wants him to move a traffic box that Fulton County placed in the location place on the other side of the intersection is an excessive and unreasonable stipulation because it will cost \$200,000. He did not put it there and should not be punished to move it.

Councilmember DeJulio stated that what he likes most about this development is getting rid of the curb cuts and making a single curb cut. He likes the way the plan looks.

Councilmember Paul stated that he took the comment about the wagon house as a threat by saying that we could wind up with four houses on the wagon wheel. That is not the way to approach this council. Only one piece of his property is zoned by the City, the one marked Oliver Road at 3.05 units per acre. The piece of property the applicant bought across the street stood stripped for about two years and now that he has requested new zoning two Shell Stations have gone up. One of the things that were on here was the credit for the park. We are giving the applicant credit for the Park per the city's policy. Even though his parcel is seven (7) acres of which applicant is giving a one acre park we are still counting the seven acres in the amount of zoning given. Last year, this City Council voted to limit the density of this property to three (3) units per acre. The applicant wants to protect the interior and we realize that we have to enhance exterior more than we do the interior. Council made it very clear last year that we intend and want the exterior of this to be three (3) units to the acre. For that reason he is going to be in support of the Planning Commission's and staff's recommendation which is three (3) units per acre.

Motion and Second: Councilmember DeJulio moved to approve RZ07-015/CV07-016 at a maximum density of 21 homes, and the donation of the wagon wheel house and one acre of land to the City with staff conditions. Councilmember Paul seconded the motion.

Friendly amendments: Councilmember Fries offered the following friendly amendments:

1. That the ten (10) foot landscape strip should be included in the fifty (50) foot reservation area.
2. That the wall be included in the reservation with an indemnification agreement with the City.
3. That the applicant not be required to move the signal cabinet.
4. There shall only be one set of sidewalks on the interior of the development.

Councilmember DeJulio and Councilmember Paul accepted the friendly amendments.

Discussion on the motion: Councilmember Meizen McEnery made a request to the applicant to characterize his facts on his statement of his knowledge of a contract on a portion of property he will assemble. Mr. Yowell stated that it is a letter of intent for the one parcel. Councilmember Meizen McEnery asked him to explain the term of the letter of intent. Mr. Yowell stated that it is his understanding that they want to do four houses which would conform to three units to the acre on the Wagon Stop property. She stated that she did not consider that a "threat" to the Council. This is a high traffic corridor of over the 23,000 vehicle trips per day. It is very commendable to save one acre of green space permanently as well as preserve a historic structure. For that reason she will not be voting with the motion because of the green space involved.

Substitute Motion: Councilmember Jenkins offered a substitute motion to approve RZ07-015/CV07-016 as presented with the friendly amendments offered by Councilmember Fries and the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Twenty-eight (28) single family residential lots at a density of 3.79 units per acre, whichever is less.

- b. The existing single family structure shown on the lot labeled "PARK" as shown on the site plan received by the Department of Community Development dated June 12, 2007 shall be limited to use in conjunction with the park and shall not be used as a residence.
2. To the owner's agreement to abide by the following:
 - a. To a revised site plan to be submitted to the Department of Community Development. 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 Glenridge 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 thirty (30) feet of right-of-way from centerline of Johnson Ferry Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.
 - c. Reserve for the City of Sandy Springs along the necessary property frontage of the following roadways, prior to the approval of a Land Disturbance permit, sufficient land as necessary to provide for compliance with the Comprehensive Plan. All building setback lines shall be measured from the dedication but at no time shall a building be allowed inside the area of reservation, except that a masonry entry wall shall be allowed in the area of reservation subject to an indemnification agreement filed by the owner/developer with the City of Sandy Springs.

Fifty-five (55) feet from centerline of Glenridge Drive

Forty-five (55) feet from centerline of Johnson Ferry Road

- d. The owner/developer shall upgrade the intersection of Glenridge Drive/Johnson Ferry Road/Glenair Drive to full pedestrian accommodations. This shall include installation of ADA ramps, crosswalks, and pedestrian signals. All work must be completed and approved by Public Works prior to final plat approval.
- e. No garage shall be visible from Glenridge Drive.
- f. To allow hammerheads to be installed as a part of the proposed private street rather than the required cul-de-sacs (CV07-016 #1).
- g. Variance from Section 34.5.3 of the Zoning Ordinance to delete the required sidewalk improvements along the southwest side of the proposed internal road of the subject property (CV07-016 #3).
- h. Variance from Section 8.2.4 of the Sandy Springs Subdivision Regulations to delete the required sidewalk improvements along the southwest side of the proposed internal road of the subject property (CV07-016 #4).
- i. Variance from Chapter 16 of the Sandy Springs Code of Ordinances to delete the required sidewalk improvements along the southwest side of the proposed internal road of the subject property (CV07-016 #5).

Second: Councilmember Greenspan seconded the motion.

Transportation Planner Moore stated that the Fire Department has concerns with getting their vehicles turned around in the hammerhead. From the public works perspective the city standards for streets call for a cul-de-sac termination and nothing else. It is a safety concern design feature so you do not have to back up, you do not have to do 3 point turns to get around within the neighborhood. Public Works is concerned about the general residential vehicular traffic and that is the standard in the City to put in and terminate these streets with Hammerheads would require some type of variance.

Mr. Yowell stated that cul-de-sacs introduce an unnecessary amount of impervious surface that creates oddly shaped lots and would make it impossible to save the wagon house. The cul-de-sac is very large and it functionally destroys lots if he puts it no further than where the hammerhead is.

Councilmember Paul stated that it seems he is trying to shoe horn this project into a piece of land that will not fit the city's standards. He questioned why he was before Council tonight at this point when he has not finished the ones the city rezoned for him a year ago. Mr. Yowell explained that it took the builders a long time to get the building permits and a long time to get the final plan approval.

Councilmember Greenspan stated that he did not take the applicants comment on the wagon house as a threat. This is an exterior property where we have an opportunity to increase green space which is one thing this city wants. He does not have an issue with the way the applicant has proposed. We gain a park, we preserve the interiors of the neighborhood and give up a little density on the exterior preserving the interior.

Councilmember Paul stated that if Public Works thinks this is a safety issue we need to have the cul-de-sacs in there.

Mayor Galambos explained to applicant that he is getting additional land with the removal of all the sidewalk requirements and the landscape strip being included.

Councilmember Fries stated that it is important to stay with the City's standards.

Councilmember Meinzen McEnery stated that this is a 60 foot circle or a 15 foot difference. We are on the verge of possibly losing one acre of green space. It is a very important point to allow a 15 foot difference in the turn around. If it takes the hammerheads to save that one acre in perpetuity she feels that it is a benefit.

Mayor Galambos suggested that Council vote separately on the variances.

Motion: Councilmember Paul moved to deny variance number 1 which would allow the use of hammerhead turn-arounds. The motion failed for lack of a second.

Motion and Vote: Councilmember Jenkins moved to approve variance number 1 to allow for the use of hammerhead turn-arounds. Councilmember Meinzen McEnery seconded the motion. The motion carried 4-3 with Councilmember Greenspan, Councilmember Paul, and Councilmember DeJulio voting in opposition. Mayor Galambos broke the tie voting in favor of the motion.

Motion and Vote: Councilmember Fries moved to deny variance number 2 relating to the right-of-way. Councilmember Paul seconded the motion. The motion carried unanimously.

Motion and Vote: Councilmember Jenkins moved to approve variance numbers 3, 4, and 5. Councilmember Meinzen McEnery seconded the motion. The motion carried 4-2 with Councilmember Paul and Councilmember DeJulio voting in opposition.

Community Development Director Leathers request that Council put the number of units supported, staff recommendations for modification for condition 3(c), 10 foot landscape strip inside the right-of-way and deletion of relocation of signal cavity in condition 3(b).

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

RZ07-017 - 7700 & 7710 Nesbit Ferry Road, Applicant: Telmo Bermeo, To rezone the subject property from AG-1 to R-3A for the development of 4 single family lots.

Zoning Administrator Payne stated that the applicant is requesting to rezone the subject property from AG-1 to R-3A for the development of four (4) single family lots at a density of two (2) units per acre. The petition was heard at the July 19, 2007 Planning Commission hearing. The Commission recommended deleting staff condition 1 (b) regarding the minimum heated floor area and amend condition 2 (a) to condition a development to the site plan dated May 31, 2007. Staff recommends approval of conditions and rezoning from AG-1 to R-3A subject to the following conditions, where these conditions conflict with the stipulations and offering to contain in the letter of intent. These conditions should be superseded unless specifically stipulated by the Mayor and City Council.

Telmo Bermeo, 5770 Garber Drive, Sandy Springs stated they currently have 2.001 acres on Nesbit Ferry Road and are proposing to rezone from AG-1 to R-3A. They are proposing four (4) lots that fully comply with the R-3A ordinance. The proposed lot size is 17.41% larger than the R-3A minimum lot size requirement, proposed heated area of 3,500 to 4,000 square feet. The price will range from the high \$800,000 to low \$900,000.

Dan Simpson, 135 Bayvale Court, Sandy Springs stated the parcel on 7700 and 7710 on Nesbit Ferry Road is bounded to the south by the River Park subdivision which is currently zoned R-4A. To the north which was recently rezoned to R-3A. There is a limited number of trees on the property which will have minimal impact on the tree canopy. The property as proposed meets all the current ordinances for R-3A. They are in compliance with the height regulation with the plans they intend to build. The front yard setback of 50 feet, minimum side yard setback of 10 feet and minimum rear yard setback of 35 feet will not be a problem. Under R-3A the minimum lot area is 18,000 square feet; Lot 1 - 23,769 square feet, Lot 2 - 20,695 square feet, Lot 3 - 21,449 square feet and Lot 4 - 21,264 square feet. They meet the minimum lot width requirement and while the R-3A ordinance requires a minimum of heated floor space of 16,000 square feet on the ground level in order to market the houses in the price range they intend to mark them, much greater in size and they are proposing 3,500 to 4,000 square feet. In the package they submitted to Council are letter of support that include adjoining property owners both across the street. They respectfully request approval of their request.

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

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

Mary Susan Paul, 6010 Nesbit Ferry Lane, Sandy Springs, requested that City Council to go with the staff's original recommendation of the three (3) lots on the two (2) acres, instead of the four (4) lots. The applicant contacted some of her neighbors and has given them a preprinted letter to send in recommending this. She does not believe they knew how this is going to be broken up and how many houses there are going to be and leaves very little space.

Mr. Simpson stated that the plan is consistent with the land use plan. The new developments have just been rezoned into smaller lots than what they have at the same zoning.

Mr. Bermeo stated they met with the neighbors one on one that signed the letters.

Councilmember Greenspan stated that he met with some of the neighbors on the Chan property and received no opposition from any of his phone calls. The R-3 zoning is consistent with the western side of Nesbit Ferry with what we did with the Woodall Ferry property as well as the park and the property that is currently zoned on Spalding as well. He would support the petitioner.

Motion and Second: Councilmember Greenspan moved to approve RZ07-017 with staff conditions. Councilmember Fries seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnery asked Ms. Leathers to explain why staff feels a three (3) lot subdivision is more appropriate.

Community Development Director Leathers stated that there are two major reasons why staff supports three (3) rather than four (4). The first, (RZ06-048) is that the density under this would be consistent with that which was approved to the north. The second is because the lot width across the street in R-2A is 120 feet in width and if you put four lots on the frontage the lots would not have much more than 100 in width, there would be some distinction in the character of the lots facing each other.

Substitute Motion: Councilmember Meinzen McEnery offered a substitute motion to approve RZ07-017 with three single family lots with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Four (4) single family residential lots at a density of 2.00 units per acre.
 - b. The minimum heated floor area per dwelling unit shall be 4,000 square feet.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated May 31, 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 twenty-five (25) feet of right-of-way from centerline of Nesbit Ferry Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.
 - b. To a twenty-five (25) foot side yard setback along all property lines abutting property zoned AG-1 (Agricultural District). This condition as it relates to an abutting AG-1 (Agricultural District) property becomes null and void if such abutting property is rezoned. In such an event, the required setbacks along the abutting rezoned property will revert to the normal setbacks of an R-3A zoned property.
 - c. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the properties to the north. 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.

Second and Vote: Councilmember Paul seconded the motion. The motion carried 4-3 with Councilmember Greenspan, Councilmember Fries, and Councilmember Jenkins voting in opposition. Mayor Galambos broke the tie voting in favor of the motion.

Discussion on the Motion: Councilmember Greenspan stated that what will happen now whether it is three (3) or four (4) there will be sidewalks from the far end of Nesbit Ferry all the way through to Spalding Drive with the exception of where you see the property just south of the subject property. He would like for the City to fund the sidewalk development to fill that gap.

Councilmember Fries stated that Council has asked the City Attorney to look into that and has not yet been finalized.

Councilmember Greenspan made a request for this portion of the sidewalk to be put on the list for the city to do.

Mr. Simpson stated that one of the issues they talked with the neighbors in the surrounding areas was about the sidewalk and continuing the sidewalk in front of their houses and all the way up to the park. That is one thing they told the neighbors they would work on allowing them to bare the burden of putting the sidewalk in to Whitley Park if they could get the four (4) houses.

Motion to reconsider: Mayor Galambos moved to reconsider RZ07-017. Councilmember DeJulio seconded the motion. The motion carried unanimously.

Mayor Galambos requested that the applicant explain the sidewalk issue.

Mr. Simpson stated that in their development with four (4) lots would put sidewalks across there four and would adjoin the new subdivision and then they would continue the sidewalk to Whitley Park which is the end of the current sidewalk.

Motion: Councilmember Greenspan moved to approve RZ07-017 as presented with sidewalk connectivity and the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Four (4) single family residential lots at a density of 2.00 units per acre.
 - b. The minimum heated floor area per dwelling unit shall be 4,000 square feet.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated May 31, 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 twenty-five (25) feet of right-of-way from centerline of Nesbit Ferry Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.
 - b. To a twenty-five (25) foot side yard setback along all property lines abutting property zoned AG-1 (Agricultural District). This condition as it relates to an abutting AG-1 (Agricultural District) property becomes null and void if such abutting property is rezoned. In such an event, the required setbacks along the abutting rezoned property will revert to the normal setbacks of an R-3A zoned property.
 - c. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the properties to the north. 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. The owner/developer shall install standard sidewalk from the subject property across the property to the south at 7660 Nesbit Ferry Road (PIN 06 0312 LL029) to connect with the existing sidewalk at the Whitley Park subdivision. Said sidewalk improvements shall be subject to the approval of the Public Works Department.

Discussion on the Motion: Councilmember Meinzen McEnery asked for clarification if the applicant would be required to put the sidewalk on the southern most lot that is not his.

Community Development Director Leathers stated that would be added as a condition. The applicant accepted this condition.

Councilmember Meinzen McEnery stated that what this is doing is trading a potential change in the character on the stretch of the road with just one lot and trading it for a little piece of sidewalk. She believes this to be an inappropriate condition and should keep the density in line with the three (3) lots.

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

RZ07-018/CV07-014/U07-006 - 6890 & 6860 Peachtree-Dunwoody Road, Applicant: PDC, LLC, To rezone the subject property from O-I conditional to MIX for the development of 163 residential units, 43,400 square feet of office space, and 9,500 square feet of retail space, with concurrent variances and a use permit to exceed the district height.

Zoning Administrator Payne stated that the applicants request is to rezone the subject property from O-I to MIX for the development of 163 residential units, 43,400 square feet of office space, and 9,500 square feet of restaurant space. The applicant is also requesting one (1) concurrent variance as listed in staff report. Additionally, the applicant is requesting a use permit to exceed the permitted height of 60 feet as listed in staff report.

The petition was heard at the July 19, 2007 Planning Commission hearing. The Commission recommended approval of the petition subject to staff conditions and amended as follows.

1. The applicant will revise the proposed site plan to show the proposed pedestrian connectivity to the North Springs MARTA station.
2. Drive-thru restaurants shall be prohibited.

The staff recommends approval conditional of the rezoning from O-I (Office and Institutional District) conditional to MIX (Mixed Use District) subject to the following conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council. Conditions are listed in staff report.

Nathan Hendricks III, 6085 Lake Forest Drive, Atlanta, stated this is a 2.95 acre tract on the northwest corner of Peachtree Dunwoody Court and Peachtree Dunwoody Road from O-I. The applicant's request is to rezone from O-I to MIX for the development of 163 residential units, 43,400 square feet of office space and 9,500 square feet for a restaurant. The applicant is willing to modify up to 150 units, 43,400 square foot of office space, to modify up to 48,000 for office, and retail for restaurant to modify to 7,000 square feet. The applicant has submitted a letter of withdrawal on this variance request. The only variances are for a 1) 100 foot swimming pool within 100 feet of residential building and 2) a tennis court within 100 feet of the residential buildings. The Comprehensive Land Use Plan recommends Regional/Live/Work of level of developments suggest over 25,000 square feet for office retail, densities for residential at access of 20 units to the acre. This is also within the PCID and that recommendation is for development of high density and mixed uses around the MARTA station. Staff received a letter from Tony Peters, Director of PCID which states that the PCID agrees that this project is consistent with PDIC LCI plan dated March 2005. Infrastructure improvements proposed by the original group are also consistent with the PCID Public Space Standards adopted by the City of Sandy Springs City Council. An issue has been raised on how this will be achieved. They have engaged directly with MARTA on that issue. A letter was received by MARTA confirming an exchange of conversations between applicant and MARTA on ownership of that property. There will be pedestrian access to the station. The applicant is asking for residential at 55.25 units to the acre and also retail at a total of 18,000 square feet per acre. The Roberts property on the

other side of the MARTA station from the development propose has a density of 27,000 square feet per acre for office and retail, residential at 36.18 units to the acre, building height of 10, 12 and 14 stories. The property that is contiguous and to the north is a very important piece of property because it is directly next to applicant's property. That property was zoned in 1985 for a total of 27.7 acres for a minimum 74,760 square feet. There is entitlement to 1,074,760 square feet of office. The property has also received a MARTA station. The MARTA station area is not docked; it is not taken out of that full entitlement that is on that piece of property. MARTA has put out an RFP for the balance of their property which is 15 acres. In other words, out of the 27.7, 12.7 acres has been taken up by the MARTA station leaving 15 acres for the balance of that development. You take that acreage and divide it by the total entitlement and you come to 71,560 square feet per acre. If you were to apply that to this particular piece of property of 2.95 acres you would have an entitlement matching exactly what the MARTA station property has of 211,469 square feet. What you would then do is back out of the request for the 43.4 for office, the request for the 95,000 retail and that would leave you the square foot that there would be entitlement to as far as the residential development is concerned. Staff and the Planning Commission has made a recommendation of approval of this application.

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

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

Tochie Blad, 7320 Hunters Branch Drive, Sandy Springs, spoke of behalf of the Greater Branch Neighbor Association. She stated that as staff has calculated it is 38,800 square feet per acre that is currently zoned for MARTA. The zoning for the City of Sandy Springs is 22 units to the acre at Dunwoody Place apartments and north of the MARTA is 21.9 acres, Charlie Roberts was zoned at 12 units for condos, 24 units for apartments. This is double of anything that is currently zoned and these two zonings she quoted on the apartments were zoned under the same original plan that this applicant has filed. Beyond density is the fact that this land is zoned O-I, a viable, economic use for this land. If you take the 2.95 acres the applicant is proposing you will see a flood of rezoning from land that is currently under developed or not developed on Peachtree-Dunwoody Road before you. She asked that City Council not et this precedent. There is a 40 foot drop from the top of the stream bank to the creek. The land is tough to build on and accessibility to MARTA is not there.

Ken Klatt, 415 Otter Creek Court, Sandy Springs, President of Glen Meadow Homeowners Association, stated that the Glen Meadows Subdivision is very close to the subject property. All members of this association recognize that this property will be developed. Over the years they have worked with a number of developers successfully and unfortunately have not been able to with this applicant. They have been meeting with the developer and this Council since late May. They urge development of lesser density than what is proposed, other than lowering the density they would support density comparable with the surrounding multi family development, up to six (6) stories. The developer offers no alternative and no compromise. They do not think this is smart development and there is no real access to the MARTA station. The planning of this includes a four (4) story parking deck. It should be a transition in to MARTA from the surrounding residential areas. This density is greater than North Park and greater than everything else in this part of the Peachtree Dunwoody corridor. He asked that City Council not to repeat the mistakes of Fulton County. He asked that everyone in opposition of this application to stand. There were approximately 30 people who stood.

Sharon Griswold, 240 Meadow Court, Sandy Springs, stated that staff stated in report that there are no single family residential units in the immediate vicinity of this project. The distance between the Glen Meadow property and this development is 349 feet. From the front of the Bentley property to the back of the Bentley property is 453 feet. Her neighborhood is closer to this proposed development than the front of the property is to the back of the property. Her neighborhood needs to be considered when making the decision on this. They have talked with the developer and then came back with a compromise; six (6) stories from a seven (7) lane Peachtree Dunwoody with a density similar to the Charlie Roberts property. The developer replied back that they would not consider changing the density. Also, we have told the developer from the very beginning that we do not want a restaurant. The developer assured her that the restaurant would be for the residents and office workers of the development. She questioned why the traffic study showed that restaurants would generate 400 car trips. There is no money in the budget to widen Peachtree Dunwoody Road. The biggest concern about the traffic study that was provided to them is that they have taken the projected traffic study and added all the proposed improvements to Peachtree Dunwoody Road which are unplanned and unbudgeted.

There is no way people can walk to the MARTA until it is developed. A precedent has been set here. She asked City Council to deny this application.

Mary Vorus, 1120 Charles Towne Square, Sandy Springs, spoke in opposition with the following areas of concern; additional traffic congestion, character of the neighborhood, safety, density and long term planning. She made request to City Council to deny this application.

Gene Hollis, 201 Abingdon Way, Sandy Springs, President of Oaks of Dunwoody Condo Association, stated that his concern is with the six (6) story building becoming 11 or 12 stories, a monument that Sandy Springs does not need.

Mary C. Cannon, 708 Vicksburg Place, Sandy Springs, stated that she is familiar with 1990 corridor study which included the North Springs MARTA Station. The data is from the Fulton County and DeKalb County Planning Department. The study shows office as 2,900,000 square feet proposed, 191,000 office/condominiums, hotel 440,000 square feet proposed, housing 666 units/multi family. They are proposing an increase density of proposed office space around the MARTA Station site and increase housing density as proposed given the post property of development.

Steven French, 5577 Burrett Drive, Dunwoody, stated that he has 30 years of Planning experience and a practitioner and as a Planning Professor. He is currently employed as a City Engineer Planning Professor at Georgia Tech. He believes the City should consider changing the current O & I zoning to mixed development. He does not feel that it is appropriate to compare it to other properties along Peachtree Dunwoody Road. You need to consider its relationship to the MARTA Station. The project exactly fits the woodwork "regional" designation to the City's Comprehensive Land Use Plan. The project is consistent with the policies and the perimeter of community improvement district and encouraged high density and mixed uses around MARTA Station. Both the staff and the Planning Commission recommended approval. The City will lose a significant opportunity to create a mixed use development around the MARTA Station if you do not fully utilize the site.

Public Comments in opposition, read into record:

John Batchelor, 6871 Peachtree Dunwoody Road, Sandy Springs, Traffic Congestion does not support such development.

Eugene Witt, 1065 Charles Towne Square, Sandy Springs, I oppose this rezoning due to an increase in traffic congestion and I consider this to be an eyesore. I see this as negative impact on my property value.

Katherine Witt, 1065 Charles Towne Square, Sandy Springs, I oppose the rezoning of the said property to Mix. I drive and walk my dog daily along Peachtree Dunwoody and the traffic impact alone would be immense. Also, I believe the style of construction is not in keeping with the current residential look.

Ed Ellis, 817 W. Peachtree Street, Atlanta, Huey Horn & Associates, Firm –Traffic Study. Mr. Ellis stated that his firm did the Traffic Study for this project. They did the study consistent with the GRTA standards. They estimated more trips than they thought would actually occur to create the worst case scenario. They looked at a number of improvements along Peachtree Dunwoody which some are needed now and some will be needed in the future. Some of the specific areas that they know is of concern is the left turn lane going north bound. The Peachtree Dunwoody Court is very short and believed to adequate and will accommodate this project. There are less than two cars per minutes on average only in the peak hours that will be added to that left turn. The added traffic to that left turn is not anything like they are suggesting it is. There is an opportunity for a ride in only driveway and hopefully that can be worked out with the Engineering staff.

Mr. Hendricks asked the public in support of this proposal to stand, about 10 people stood. Mr. Hendricks stated that it is important to note the townhomes facing the residential building gives a town home step back and town home would come in and would literally step back to the residential building. The other thing they have done is take a curb close evaluation of how you do actual access to MARTA. Applicant respectfully request City Councils approval.

Councilmember Jenkins stated that in the traffic study, Mr. Ellis stated that the City would have Peachtree Dunwoody with a four lane and median. Mr. Ellis stated that they suggested that it was an appropriate improvement. Councilmember Jenkins stated that the City does not have program money for that.

Councilmember Jenkins questioned Mr. Ellis if he included any of the numbers from the Robert's development based on the density approved by Fulton County. Mr. Ellis stated they included a background growth rate that would include the development anticipated in the area, not specifically Robert's development because he has been zoned for a long time as well as the MARTA property. Councilmember Jenkins stated he did the 3% background growth rate only. They did not include the MARTA property in their study.

Councilmember Jenkins questioned Transportation Planner Moore if he had a chance to pull out the improvements and rerun his intersection improvements.

Transportation Planner Moore stated that he did. The existing conditions today are for levels of service at Spalding: D – a.m. peak, F – p.m. peak and stays at D & F and do not drop below F. The existing conditions at the North Park signal are a C & D which drop to a C and E. They do not change at there is no signal. In the afternoon it is a D coming out and an A on the main run. In the morning it is an E coming out and a B on the main line. The main line does not stop for anything because of no signal and it remains at A. The only police officer that would matter is the one north of North Park and that is primarily for the afternoon. If anything would have a more detrimental effect on North Park itself, with the presence of police officers on the main line would.

Councilmember Jenkins questioned the MARTA letter. The applicant says he is going to provide access; her concern is with the topography problem on the MARTA site. The MARTA site is currently undeveloped.

Motion and Second: Councilmember Jenkins moved to defer consideration of this application until the October 16, 2007 meeting. She included the requirement of a letter from MARTA and a new traffic study prior to the October 16, 2007 meeting. Councilmember Fries seconded the motion.

Discussion on the Motion: Councilmember Jenkins stated that she would like to get a letter in writing from MARTA that says exactly how the residents and the office workers from Revision are going to access the loading platform. Show her the path they are going to take across that topography, how are they going to go up this hill, down this ravine and access the loading dock. She wants to see a map with a topography and the ravine, she wants to know who is building the bridges over the ravine and when they will be built, who is going to build the bridge over the ravine in front of the MARTA loading platform, when will that be built, how are the residents and the office workers going to access the loading platform during the construction of the MARTA property with the alternative plan because clearly they can not go through a hard hat area. She wants a concrete proposal, not just a promise. She wants to see exactly how the plan works and the pathway that these people will take and any improvements that are needed and who are going to build them and when are they going to be built.

Councilmember Jenkins stated that on the traffic study she would like the traffic study by Kimberly Horn rerun and produce a study that does not include any improvements on Peachtree-Dunwoody that will assume the City will build. Secondly, produce a study that does include the Roberts property based on the density that was just by MARTA, he is in his LDP's stage and has finished moving the dirt around and he is about to start building and she wants to see the impact on the intersections level of service. Also, when you rerun everything she would like an evaluation on Peachtree-Dunwoody and Peachtree-Dunwoody Court intersection and the staking on Peachtree-Dunwoody Road. All of these people that are in here and the thousand homeowners that signed letters opposing this drive this street. Drive the street at 7:30 to 8:30 a.m. which is what you are saying is your peak hour. It does not work.

Councilmember DeJulio stated that Mr. Hendricks made a statement earlier about Fulton County giving MARTA a density of 1,074,760 square feet on the property and the property was 25 plus acres and now the amount of property they have is 15 acres which makes about 71,000 or 72,000 square foot to the acre of the adjoining property. He questioned if Mr. Hendricks was correct saying that the MARTA property they are putting the RFP for is zoned for approximately 71,000 square feet per acre. Council gave someone credit just a few moments ago for the entire piece of property even

though they are building on a portion of it. He questioned what the density is on the MARTA property going out for RFP.

Community Development Director Leathers stated that the original zoning was approved at 38,800 square feet per acre. It was also approved with a specific site plan that identified buildings and locations. The MARTA station is located which takes up several buildings and bisects several building shown on site plan. The site plan that was approved clearly is not buildable in its current form. It would have to be modified just to take that existing case on the remaining property. The way staff would address this issue is if MARTA was going to have construction over a station then the density would apply over the station as well. If they only had development adjacent to the station then the density would apply only to the acreage that is actually being disturbed. Council would see a modified site plan come before them which would replace these buildings. Generally, staff could take a position in the absence of a site plan that is relevant that we would apply the density the 38,800 square feet per acre to each acre that was coming in for development.

Councilmember Paul stated that if you are half a mile from the MARTA station you need to have a serious transit component in your proposal. A serious transit component does not involve just building a 600 to 800 pathway between the buildings. You have to force people to use it and part of that is reducing the number of parking spaces you have there so that people can not park there and have to use the transit system to get there. That is a serious transit solution. If you are going to put this kind of density in there you are going to have to move it by rail, you can not move it by the street. If the applicant is serious about a transit component come in with some variances reducing the parking spaces, a serious commitment to it, being able to move shuttles back and forth. He would like to see a complete plan on how you are going to move people from the property and not just by a pathway but a serious commitment to putting people on that transit system. He is not satisfied that it is there right now.

Councilmember Meinzen McEnery agrees with Councilmember Jenkins comments regarding the traffic study. She would support a deferral on this item until the traffic study can be cleared up. The stacking at Peachtree Dunwoody Court that is south bound going left into the Alta Building needs to be addressed because there is only room for three vehicles going north bound going into Dunwoody Court and the Alta people have to get in. She questioned if the traffic study analysis included the Alta intersection.

Mr. Ellis stated that it did. This will add about 100 cars, turn left north bound on Peachtree Dunwoody into the Peachtree Dunwoody Court. On average are less than two cars per minute. They did the methodology based on GRTA's Standards for DRI's. The difference in the level of services is not very big. This is not a big project in terms of what is going on in that area. There are existing problems that need to be addressed. There are deficiencies in the system that exist today that should be addressed. Councilmember Meinzen McEnery directed his attention to Page 7 of the report. In this table, you identified the number of trips per day that the residential component would provide. Generally, you will see that you would have ins and outs of 565 trips per day. Further in the table you go down the number of trips by shared parking and the bottom line was you projected for the entire project residential retail and office approximately 999 trips entering and exiting per day. Half of those 2000 trips a day is residential. Next she looked at the spreadsheet showing how much parking would be needed and residential only had 222 spaces. If you take 1,000 in and outs per day for residential and divide that by the 222 spaces you have each unit coming in and out 4 ½ times a day. That does not seem to indicate that those people are using the MARTA.

Mr. Ellis stated that they did not take a MARTA reduction because they wanted to be more conservative in their analysis and wanted to show a worse case scenario. Had they been closer to MARTA then they would have taken the reduction. They wanted to be conservative. There is no question that there are going to be reductions because of MARTA and other things. For example, they went out and counted the trips that are on Peachtree Dunwoody Court right now and using these projections they counted the existing multi family development that is on Peachtree Dunwoody Court and generates half the trips that they are using for projections on this in terms of trips per unit. Their numbers are very conservative and there is no doubt that they are higher than they are going to be. They always try to be conservative so the operations occur they will be what they predict. They did not make a specific MARTA reduction only because they wanted to be conservative. If they did a MARTA reduction it would only be about 10%. The Lindbergh MARTA Station and the Lindbergh development is the most transit oriented development that we have in all of this region and it

only took a 10 to 15% reduction for the residential. It will make a difference; they did not want to show Council numbers lower than they might be.

Councilmember Meinzen McEnergy questioned why they analyzed the peak hours by different intersections and limits them to one hour and why do the intersections have different peak times.

Mr. Ellis stated that the standard way is based on the highest one hour period in the morning and highest one hour period in the afternoon and whatever the four highest consecutive 15 minute periods are they determine the peak hour of the day.

Councilmember Meinzen McEnergy stated that she calculated the Roberts property site to be about 63,000 square feet per acre. She asked Ms. Leathers to get an analysis for her.

Community Development Director Leathers stated that is not the information she has. Staff would not normally calculate density per acre for residential development because trips are not generated by square footage but by unit. There may be some confusion of what that is. She will provide the analysis to her.

Mayor Galambos asked if Council could make a condition on this zoning about the transit connection between this development and the MARTA Station to be approved by the Community Development Department.

Director of Community Development Leathers stated Council could, she request that Council give as many details as possible to assist staff; when to be constructed, timing, is it generated by the MARTA Development, etc. The more information staff has, the better job staff can do.

Mayor Galambos inquired if this proposal would reduce the number of parking spaces from what is usually required.

Director of Community Development Leathers stated it is does with shared parking.

Councilmember Jenkins stated that MARTA should be the most dense property on this corridor. She does not believe the applicant's proposal should come in any higher than 38,800 square feet per acre. If you do bring residential back she would encourage the applicant to do a 1,000 square feet minimum on the units. There is a six story height limit and she would also encourage applicant to take off some of the height. She would like to see the topography issue worked out when they come back before Council. She stated that the applicant has about 50% green space and she wants to be sure that it is used as green space and not stuck in the back of his property over the ravine. She questioned if this was something the neighbors could use or is this going to be hidden and tucked away in the back. She asked the applicant to work with the neighbors and talk to them about the things that actually matter like the architectural standards. Also, limit the number of rentals to 10% or less within the development. You can put that in the covenants and it helps all of the units. If the owners know that no more than 10% at any time can be rentals. She would urge the applicant to consider these things before coming back before Council.

Community Development Director Leathers stated that it is difficult for to respond to the material received before meeting and made a request to Council to instruct the applicant that all reports should come back to the staff two weeks prior to that meeting so staff can do the analysis.

Motion and Vote: Councilmember Jenkins moved that the traffic study be redone and resubmitted. Councilmember Fries seconded the motion. The motion carried 5-1 with Councilmember DeJulio voting in opposition.

Motion and Second: Councilmember Jenkins moved that a letter be submitted by MARTA explaining exactly how the access will work and the timing of the building of the bridges. Councilmember Meinzen McEnergy seconded the motion.

Substitute Motion and Vote: Councilmember Paul offered a substitute motion that the developer bring a plan to the staff that would discuss how they would implement a significant transit component to the programming of this particular project. This would include a pedestrian access and other elements that staff would evaluate to determine their efficacy

in providing incentives to move people from this facility to MARTA station. Councilmember DeJulio seconded the motion for discussion. The motion carried unanimously.

Vote on Main Motion: The motion carried unanimously.

RZ07-024 - An Ordinance to Amend Article 28, Rezoning and Other Amendment Procedures, of the City of Sandy Springs Zoning Ordinance.

Director of Community Development Leathers explained that the next two items were discussed by Council in last weeks work session. The amendment to Article 28 is only a procedural change which is required in order to incorporate the state requirements. The second amendment is in regards to the recommendation of the Planning Commission and the fact that a case would not be held but rather come to City Council with one of six recommendations from the Planning Commission.

Mayor Galambos called for public comments.

Bob Wiley, 845 North Island Drive, Sandy Springs, stated that the Planning Commission has looked at this seriously and agrees with everything except paragraph 28.3.2.8, where it is mandated if they defer case that it automatically comes to the City Council. They feel that it will take all the power that they have out of their commission and will revert down to exactly what Fulton County has a very ineffectual zoning commission. There are some comments on absenteeism and all bylaws state that Commission members must attend 2/3's of the meetings in a calendar year. He does not believe anyone has missed more than four.

Patty Berkovitz, 800 Crest Valley Drive, Sandy Springs, commented on the following issues; it is dangerous to change a policy that works because of one case, taking this step away reduces the level of accountability by the developer, by skipping the process you end up with big mistakes that this community will have to live with, disregard for the recommendation and time and effort of the community and deferral needs to be honored and details worked through before it comes before the Mayor and Council.

Councilmember Meinzen McEnery suggested changing the Planning Commission's bylaws such as if due to absenteeism there are an even number of people at that meeting for the Planning Commission that the chairman not vote and then you will have a decision. That will address her concern about what happened on one case. If there was an even number and a 4-2 vote to defer, then we could allow deferral in that instance.

City Attorney Willard explained that there has to be finality in a zoning case. The courts have addressed that the length of time a government body may hold a case during a zoning, is a statement of denial when you keep having continuances. His concern with tie votes is that it constitutes an action to come forward to Council for a resolution. There is a limit that you can not have more than one deferral. If something comes up and there are questions, go back, resolve it, work with the homeowners association and then come back and let there be finality to the review by the Planning Commission so it goes to Council at some point. If there is a tie vote it will constitute a action vote and also would come forward.

Mr. Wiley stated that is what the Planning Commission has requested of staff to present awarding of that so we can get past this obstacle.

Community Development Director Leathers stated she is not sure staff understood that as being the action of the Planning Commission. According to staff notes, Planning Commission indicated that no action when they were unable to reach consensus would constitute a recommendation for deferral, but there was no limit on the number of deferrals, we are in the same position.

City Attorney Willard explained that it has to come forward with a recommendation of some kind of action from the Planning Commission. Should the Planning Commission recommend a deferral, Council could.

Mr. Wiley stated that the Planning Commission feels it should come back to them and not Council.

Mayor Galambos made a suggestion that this item go back to the Planning Commission to see if there is a way to resolve this.

Community Development Director Leathers stated staff would take this issue back to the Planning Commission.

Councilmember Fries stated that it is recommendations Council is looking for from them. Any type of recommendation from the Planning Commission should automatically move forward to City Council. Should an item be deferred by the Planning Commission it needs to move forward without sitting there waiting for action. Councilmember Jenkins agreed with Councilmember Fries.

Motion: Councilmember Meinzen McEnery moved to change the Planning Commission bylaws such that if there is a tie vote, the application moves forward to Council.

Withdrawal of Motion: Councilmember Meinzen McEnery withdrew her motion.

Motion and Second: Councilmember DeJulio moved to defer consideration of an amendment to Section 28.3.2.8 back to the Planning Commission to allow them time to develop a suggestion to solve this problem. Councilmember Meinzen McEnery seconded the motion.

Discussion on the Motion

Community Development Director Leathers stated that the recommendation before Council is that deferral recommendation would come to Council as a recommendation. Council can choose to send it back to the Planning Commission and they would send it forward we presume, with reapply.

Vote: The motion carried 4-3 with Councilmember Greenspan, Councilmember Fries, and Councilmember Jenkins voting in opposition. Mayor Galambos broke the tie voting in favor of the motion.

Motion and Vote: Councilmember Greenspan moved to approve the remainder of the amendment. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

RZ07-025 - An Ordinance to Amend Article 4, General Provisions, of the City of Sandy Springs Zoning Ordinance

Community Development Director Leathers stated that this is an amendment to the home occupation provision to provide for some limitations on home occupations within multi-family developments and to require written authorization from the owner or the manager for such subject facility.

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

Motion and Vote: Councilmember Greenspan moved to approve an Ordinance to amend Article 4, General Provisions, of the City of Sandy Springs Zoning Ordinance. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Alcoholic Beverage Licenses

005290- Approval of Alcoholic Beverage License Application for Pig N Chik at 4920 Roswell Rd Ste 45A Sandy Springs, GA 30342. Applicant is James H. Graddy for Consumption on premise Malt Beverages. Assistant City Manager Al Crace stated that the application is complete and staff recommends approval.

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

Motion and Vote: Councilmember DeJulio moved to approve the Alcoholic Beverage License Application for Pig N Chik at 4920 Roswell Rd Ste 45A Sandy Springs, GA 30342. Applicant is James H. Graddy for Consumption on premise Malt Beverages. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. The motion carried unanimously.

005435- Approval of Alcoholic Beverage License Application for Chin Wong Corporation dba La Movida at 6600 Roswell Rd Ste 2 Sandy Springs, GA 30328. Applicant is Shu Lien Wong for Consumption on premise Malt Beverage and Distilled Spirits.

Assistant City Manager Al Crace stated that the application is complete and staff recommends approval.

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

Motion and Vote: Councilmember Greenspan moved to approve the Alcoholic Beverage License Application for Chin Wong Corporation dba La Movida at 6600 Roswell Rd Ste 2 Sandy Springs, GA 30328. Applicant is Shu Lien Wong for Consumption on premise Malt Beverage and Distilled Spirits. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of Approval of Alcoholic Beverage License Application 005423for Quick Pick Food Mart at 7355 Roswell Rd Sandy Springs, GA 30328. Applicant is Salim B Surawi for Retail/Packaged Wine and Malt Beverage.

Assistant City Manager Al Crace stated that the application is complete and staff recommends approval.

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

Motion and Vote: Councilmember Paul moved to approve the Alcoholic Beverage License Application 005423for Quick Pick Food Mart at 7355 Roswell Rd Sandy Springs, GA 30328. Applicant is Salim B Surawi for Retail/Packaged Wine and Malt Beverage. Councilmember Meinzen McEnery seconded the motion. The motion carried 5-1 with Councilmember Jenkins voting in opposition.

Consideration of Approval of Alcoholic Beverage License Application (007508) for Carro De Boi at 8612 Roswell Rd Sandy Springs, GA 30350. Applicant is Petre Paduraru for Consumption on premise Wine, Malt Beverage and Distilled Spirits.

Assistant City Manager Al Crace stated that the application is complete and staff recommends approval.

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

Motion and Vote: Councilmember Paul moved to approve the Alcoholic Beverage License Application (007508) for Carro De Boi at 8612 Roswell Rd Sandy Springs, GA 30350. Applicant is Petre Paduraru for Consumption on premise Wine, Malt Beverage and Distilled Spirits. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Unfinished Business:

New Business:

Consideration of approval of a Resolution adopting a non-profit policy and a Memorandum of Understanding between the City of Sandy Springs and Heritage Sandy Springs and a Memorandum of Understanding between the City of Sandy Springs and Leadership Sandy Springs. (added by motion and vote)

Councilmember Fries stated that Heritage Sandy Springs does not want to enter into a contract with the City for concerts; they want to handle it themselves.

Councilmember Fries stated that in the guide lines, where it talks about the various non profit organizations needs to be very basic. The numbers (1) through (6) are okay. These guidelines cover everything discussed in the work session except the removal of (5) where it talked about entering into a contract for services for special events. That does not need to be included in this because this is in the City's policy and we are already doing it.

Councilmember Meinzen McEnery explained that neither she nor Heritage Sandy Springs are prepared for this item to be heard tonight. Councilmember Meinzen McEnery read for the record an email today that was addressed to Councilmember Fries. "Dianne, I would like to move forward on the MOU regarding the utilities as listed but, I don't know how we can do that when your staff and ours and the lawyers are still working on what should be included. Wendell specifically asked last week that this item not be on this weeks agenda because the turn around was too tight for him." AKS is comfortable with an MOU and they attended the work session and planned on being her to make comments and were surprised to learn that this item was put on the agenda.

Motion: Councilmember Meinzen McEnery moved to defer this to the next meeting. The motion failed for lack of a second.

Councilmember Fries read into the record an email received at 9:00 p.m. tonight, "Dianne, I would like to move forward on the

MOU but I don't know how you can do that with our staff." Councilmember Fries responded to the email and explained that the MOU does not contract them to anything. This is only the City moving forward and Council giving staff direction on the MOU.

Motion and Vote: Councilmember Paul moved to approve a Resolution adopting a non-profit policy striking "whereas" 1, 2, & 3 and amending number 1 to read "The City shall not provide financial support to any non-profit organization with any kind of a religious affiliation." Councilmember Fries seconded the motion. The motion carried unanimously.

Memorandum of Understanding with Heritage Sandy Springs (Heritage Green Property)

Councilmember Fries stated as discussed in the work session meeting this policy will take care of the structure and the utilities. The City will continue to use the City's contractors for the maintenance of the grounds, the gardens and janitorial. The City has budgeted \$75,000 to take care of the structure and pay the utilities and the other will be that the City will reimburse them for taking care of the grounds and janitorial type stuff.

Motion and Second: Councilmember Paul moved to approve the Memorandum of Understanding between the City of Sandy Springs and Heritage Sandy Springs. Councilmember Jenkins seconded the motion.

Friendly Amendment: Councilmember Fries offered a friendly amendment that 2B read as follows: "As to the park property, the City shall be responsible for the maintenance of the structures located on this property, including the batting cage area, and any repairs and fixture replacement, which may become necessary to the structures." Councilmember Paul accepted this friendly amendment.

Friendly Amendment: Councilmember Fries offered a friendly amendment that 2C read as follows: "As to the Heritage Green property, the City shall be responsible for both inside and outside maintenance, repairs, and fixture replacement, as necessary, with reference to the buildings and structures located on this property. Heritage will be responsible for the grounds, gardens, janitorial services and supplies." Councilmember Paul accepted the friendly amendment.

Friendly Amendment: Councilmember Fries offered a friendly amendment to add trash service to 2D. Councilmember Paul accepted the friendly amendment.

Friendly Amendment: Councilmember Fries offered a friendly amendment to add item 3 to read as follows: "The City will provide funding up to \$75,000 in exchange for providing the above listed services." Councilmember Paul accepted the friendly amendment.

Mayor Galambos stated that this MOU still needs additional work before City Council approval.

Withdrawal of Motion: Councilmember Paul withdrew his motion. Councilmember Jenkins withdrew her second.

Memorandum of Understanding with Leadership Sandy Springs.

City Attorney Willard explained that the next MOU is between the City and Leadership Sandy Springs and is for a three (3) movie series which is scheduled for Fall 2007 in the amount of \$15,000.

Motion and Vote: Councilmember Paul moved to approve a Memorandum of Understanding with Leadership Sandy Springs. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. The motion carried unanimously.

Public Comment

There were no public comments.

Adjournment

Motion and Vote: Councilmember Paul moved to adjourn the meeting. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously and the meeting adjourned at 10:20 p.m.

After no further discussion, the meeting adjourned at 10:20 p.m.

Date Approved: October 2, 2007



Eva Galambos, Mayor



Christina V. Rowland, City Clerk