

Regular Meeting of the Mayor and City Council of the City of Sandy Springs was held May 15, 2007 at 6:00 p.m., Mayor Eva Galambos presiding.

Invocation - Dr. John Bryan, Mt. Vernon Baptist offered the invocation.

Call to Order - Mayor Galambos called the meeting to order at 6:02 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 City Clerk.

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

Pledge of Allegiance

Mayor Galambos led the Pledge of Allegiance.

Approval of Meeting Agenda

Mayor Galambos asked if there were any changes to the agenda.

Motion and Vote: Councilmember Meinzen McEnery moved to move the Public Hearing items to the end of meeting agenda. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Motion and Vote: Councilmember Meinzen McEnery moved to meeting agenda with change. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Consent Agenda

1. Approval of Minutes:
 - a. May 1, 2007 Regular Meeting minutes
2. Approval of a Resolution accepting Right-of-Way in Land Lot 34 of the 17th District, Two Glenlake Parkway.

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

Presentations:

Recognition of Ridgeview Charter School students for their donation to the Sandy Springs Fire Department.

Mayor Galambos presented a Certificate of Appreciation to Ridgeview Charter School for their donation of 50 handmade blankets for the Sandy Springs Fire Rescue Department.

Public Hearing

Zoning

**RZ06-021/CV06-012/U06-004 (DRI) 5901-5909 Peachtree-Dunwoody Road, Applicant: Tishman Speyer request to rezone from O-I conditional to MIX for the development of 10 live-work office condominium units, 50,000 square feet of retail space, 524,200 square feet of office space, 200 residential units, and a 200 room hotel in conjunction with the existing office use.
Ordinance No. 2007-05-33**

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Alston & Bird, LLP represented by Harold Buckley. The applicant is requesting to rezone the subject property from O-I (Office and Institutional District) conditional to MIX (Mixed Use District) for the development of new residential, office, hotel, and retail components at this site. The applicant is proposing the addition of 10 live-work office condominium units, 50,000 square feet of retail space, 524,200 square feet of office space, 200 residential units, and a 200 room hotel at the site. In addition, the applicant is also requesting two (2) concurrent variances; 1) To allow for an encroachment by the proposed retail and office buildings into the required twenty (20) foot landscape strip along the west property line. 2) To allow for an encroachment by the proposed Road "E" into the required ten (10) foot landscape strip along the east property line. Additionally, the applicant is requesting a use permit to exceed the permitted height of 60 feet (4 stories) by constructing a condominium and hotel tower at a maximum height of 35 stories and an office building at a maximum height of 25 stories. This application was heard by the Planning Commission on February 15, 2007 and on April 19, 2007. After the first Planning Commission meeting the application was deferred for 60 days to require the applicant and staff to have discussions with the PCID and Dekalb County on transportation improvements in the area. This application is also a development of regional impact and it did receive approval by GRTA on the conditions as listed in staff report and that was on December 8, 2006 when approval was granted. Some of these conditions from GRTA have been incorporated into the staff report, other are system improvements which cannot be applied to the applicant. It is important to note that staff has also included some conditions that were recommended by the Sandy Springs Council of Neighborhoods. There were some conditions that staff did not feel appropriate to include. Staff recommends approval of the application from O-I to MIX with conditions as listed. The conditions that were added after the Planning Commission meeting would be conditions 3(o), P and Q. Those conditions deal with raised crosswalks, prohibitions on drive thru restaurants and a condition regarding signage. The Planning Commission also recommended approval directing staff to review those conditions recommended by the Council of Neighborhoods.

Harold Buckley, Alston & Bird, LLP, 1201 W. Peachtree Street, stated he is representing the property owner, Tishman Speyer. The property the owner is dealing with is the Palisades Office Development. The existing space totals approximately 627,000 square feet of office. There are two existing parking decks and surface parking spaces on the site to accommodate the tenants and visitors to the facility. The petitioner is proposing a redevelopment of this site to include other land uses to convert this from an office only development to a mixed use development. The site plan shows a hotel and multi family components. Staff is recommending approval of all of the components the applicant is asking for in his application with the exception of one and, that is the concurrent variance to allow their buildings to go into the 20 foot landscape strip along Peachtree Dunwoody Road. The reason the applicant is asking for this is because one of the goals they have for this facility is to encourage pedestrian movement to fortify the pedestrian environment. In order to do that they are providing retail along the street on three blocks and have the condo hotel building coming up to the street on the other block and to do that they would have to go into that landscape strip. They are requesting that Council approve their concurrent variance to allow them to maximize the quality of pedestrian way along Pedestrian way along Peachtree Dunwoody Road. In addition to that, they have one concern about the staff's condition that is proposed in the staff report, 3(f). One of the things they are adding to this site is a new road along the northern end and right now they have engaged jointly with Early Muntzing who owns the property to the north to design this road and also to design the interparcel connectivity for cars because that design process is ongoing they do not know exactly where this road is going to wind up because they have some difficult topography they are dealing with on the front of the site it slopes down from them to the property north of them about four (4) feet. In the back it slopes down about 12 feet in the very short horizontal distance. In order to move this road they would have to move it away from these buildings and down in grade and this would disrupt the pedestrian environment they are trying so hard to create. If this location for this road has to be moved that it can be addressed through an administrative change by the staff and not by requiring

them to have to go through the whole process what basically they feel is what the land use plan calls for which is to encourage pedestrian movement and interparcel connectivity. On the south west corner is their green space that currently exists, a large pond feature which serves as an amenity for the development. It is roughly 21% of the site and will be permanently maintained. In addition, Road A is designed so that they can provide a connection between this site and the Dekalb County fly over to facilitate cars moving off this site and onto this site in more than just these two connections on the Peachtree Dunwoody Road. They have support from the Dekalb County and the PCID for that to happen.

Early Muntzing, 1032 Elizabeth Court, spoke in support of this application.

Patty Berkovitz, 800 Crest Valley Drive, spoke in support of this application and asked that City Council not change any of the conditions that staff has recommended.

Councilmember Meinzen McEnery questioned if on condition 3(f) if it could be an administrative decision.

Assistant Director of Planning and Zoning Zehner stated that the Council of Neighborhoods recommendation on this application was without any changes to the conditions and he wants to make them feel comfortable with that. It could go either way on condition 3(f). Right now it reads, that it be located no more than five (5) feet from the northern property line. If there were field conditions or site conditions which require that it be located further than that, then condition 3(d) and 3(e) would still be in place that would require interparcel access that would take care of that. It could be removed if Council decided to do so. If it needs to be altered and was capped as a condition he feels it could be an administrative modification with the support of Mr. Muntzing.

Councilmember DeJulio stated that one of the things the City has been looking at is the interparcel connectivity and joining together these pieces of property. Mr. Muntzing is representing the property just directly north of this and has been considering redeveloping his property. He inquired if it would make sense to go ahead and join these roads together and make a single road that goes over to the fly over rather than have two separate roads to it.

Assistant Director of Planning and Zoning Zehner stated that you would only see one road. He imagines everyone will work to consolidate a single point of access. The way staff has worded this condition and because the City cannot apply conditions to another piece of property that is not part of this application. It basically allows Mr. Muntzing to grant access for interparcel access and it is to his benefit because he is gaining access to a road that he does not have to construct effectively. Mr. Moore with Public Works can probably confirm that Dekalb would only be considering that single access point to the fly over.

Planning Engineer Moore stated that in their discussions with Dekalb, PCID, the City and Tishman Speyer representatives there is only one location effectively for one road to extend all the way to the east to get to the Lake Hearn fly over. From the Public Works Transportation's standpoint, all of these conditions are to give the City opportunities to ensure that there is this type of interparcel connection. Ultimately if this could be provided to the fly over then this would be a benefit to everyone involved, including the property owners.

Mr. Buckley stated that the road on the northern part of their property is the only road that will connect through to the fly over even though they have two entrances off of Peachtree Dunwoody Road. Because of on site topography this road does not go all the way through, they just have the one point going through Dekalb County.

Councilmember Jenkins stated that she did want to talk about the fly over bridge. Her only concern was to make sure they were going to be able to do that. She questioned if they were going to allow him to have access.

Mr. Buckley stated that he does and, in their meeting with Dekalb County they talked about the fly over. In order to get from their property to the fly over, they have to cross two parcels. Dekalb County has stated that they would give them the land to locate the road and are willing to go as far as to act as their intermediary with the State Department of Transportation and to try to get some state funding for this road. The road cost would be approximately \$2,500,000 to

\$3,000,000 to make that connection. In addition, they met with Navar the new property owner close to him. They are still working out the route of this road but, right now they think a piece of it may cross the Navar piece and they wanted to make sure they had their support. They met with them and PCID and said that they did in fact support this connection and that they were willing to donate the road on their tract to them to make that happen. Based on the input from DeKalb County and from Navar, PCID stated that they were comfortable with this and are on board to make this happen.

Planning Engineer Moore stated that this is the City's understanding and PCID will play a big part in this.

Assistant Director of Planning and Zoning Zehner stated that from the coordination standpoint it is very important to mention that this meeting on behalf of the property owner, Public Works, PCID and Dekalb County allowed for some coordination that was not there before. This was heard by both the Planning Commission and the Council of Neighborhoods.

Mayor Galambos stated that she has read the recommendations from the Regional staff that additional right-of-way has to be allocated to this project so that the City can get lanes on Peachtree Dunwoody.

Assistant Director of Planning and Zoning Zehner stated that there are two implications here for this property owner and this development. There are also systems improvements beyond this properties frontage, largely those are on Hammond. There are conditions that apply to this property that would require dedication of right-of-way; we are meeting all of those conditions on this site frontage as recommended by GRTA. The larger conditions beyond this have some tentative commitments from PCID and understand their obligation for these. This is one of the biggest questions we have here because we do not have impact fees at this point. If this were to come through as a building permit, by the time they were to do so, impact fees would hopefully be in place but, being that they are not at this time we certainly are obligating ourselves to certain GRTA conditions that are not apart of anybodies CIP at this time. Mr. Moore can speak more to PCID's agreement on those improvements. It is also important to realize that there are several DRI's in this area, the Cousin's property across the street were tagged with the same conditions from GRTA. Unfortunately, the previous municipality did not see them as we do, and we really need to make sure these are enforced and met.

Planning Engineer Moore stated that the primary issues that were not addressed were system improvements verses on site improvements. Some of the suggestions for Peachtree Dunwoody at Hammond were included were: westbound right turn lane along Hammond, a northbound right turn lane at Peachtree Dunwoody and an additional northbound left turn light along Peachtree Dunwoody onto Hammond. At this point, these conditions are tied to the Concourse property and to the corporate campus property. The corporate campus is in a Phase III development at this point. Staff has spoken with them and they are aware that when this happens within the ten (10) year period ultimately waiting for site development work we are at the mercy of the private land owners as to when they come in and depending on which sites come in when some of this work would be done as their site improvements based on their requirements under their DRI's. Short of that, it would require some sort of capital improvement primarily at this intersection. PCID is aware of it and we have talked about this being part of their long range. They are in a streetscape project right now and are looking at this as a possibility. Right now there is no definitive answer as to what they are looking for.

Mayor Galambos questioned if the dedication in front of their property on Peachtree Dunwoody was taken care of. Mr. Moore stated that it was and the system improvement will have to wait until we have a funding source to take care our retrials which will depend upon all of these other parcels.

Planning Engineer Moore stated that if the other parcels were to come in, their portion would be a site improvement and a DRI requirement for them. We would get the developer to do it jointly; otherwise we are dependant on the funding source.

Mayor Galambos questioned the 25 and 35 story tower.

Mr. Buckley stated that the 25 story tower is the office building and the 35 is the residential.

Mayor Galambos stated that there is one thing she has stressed from day one and that is "we go high - we need green at ground level." She is very troubled about losing the landscape strip along Peachtree Dunwoody in order to have additional retail there. It seems to me that with the use permit to build the 25 to 35 stories we can expect to at least have our landscape requirements as a part of the city's zoning.

Mr. Buckley stated that the landscape strip is in the middle of the street and would come out if developed as it is on this plan. In the plan they show a new landscape strip on the side of the road adjacent to the sidewalk that is at least as wide as what is currently in the middle of the street. There would still have a green component to that segment of the roadway.

Mayor Galambos asked Mr. Zehner to comment on this and questioned if there would be a similar amount of green space in front of the building according to Mr. Buckley's comments.

Assistant Director of Planning and Zoning Zehner stated that there may have been some confusion in his comment. He does not believe that the median strip would be lost. The 20 foot landscape strip is from the property line inward on the property. They are basically asking to reduce the 20 foot to allow the building to be located adjacent to the sidewalk effectively. There would not be any green space between the building and the sidewalk.

Mayor Galambos stated that Cousin's property has 16,000 square feet per acre per office building and the applicant is going to have 50,000 square feet per office building. The city values the tremendous amount of green space that Cousin's property has. She is concerned about losing what little bit of green space as our requirements suggest.

Mr. Buckley stated that they are preserving a little over 21% which is the proposed green space package at this time. He is not sure how they could add more.

Councilmember DeJulio questioned if there would be green space from the curb of the street to the sidewalk or if from the curb there would only be ten (10) feet of sidewalk.

Mr. Buckley stated there would be the ten (10) feet of landscape area, decal lane, ten (10) feet of sidewalk and then the building.

Councilmember Meinzen McEnery stated because they are putting a decel lane in the south east corner of this development to Road A and, the 10 foot sidewalk to create energy at the retail, she can live with the ten (10) foot wide landscape strip at the lower portion that Mr. Buckley just discussed, in addition to the 21% green space that the quarry provides. She questioned Mr. Buckley if they were considering paying for that segment of the road or, is Dekalb going to work with DOT. Councilmember Jenkins comments were; "this is a lot of density, can you hook up to that wonderful road" but how long might it take to find the funding source to finish this connection.

Mr. Buckley explained that there have not been any firm commitments on what form the funding will take. What has been discussed so far is partial funding coming from three (3) entities; the owner of the subject property, a contribution from Dekalb County, possibly using state money and Mr. Muntzing has not made a commitment but may make a contribution from towards the connection. No commitments have been made. The estimate cost of that road segment is estimated to be between \$2,500,000 to \$3,000,000.

Assistant Director of Planning and Zoning Zehner stated that at the time the applicant filed his application; Peachtree Dunwoody would have been classified as an "avenue" in the PCID Overlay. It would have required a five (5) foot area for the furniture zone with decorative pavers effectively and beyond a ten (10) foot sidewalk. All of this property would be located in the public right-of-way. Beyond that the 20 foot landscape strip would have been required and the applicant is seeking a variance. By these standards there would not have to be a landscape strip in the sidewalk.

Councilmember DeJulio stated that if you wanted to increase pedestrian traffic on a piece of property like this, you would have to move the buildings further towards the sidewalk.

Assistant Director of Planning and Zoning Zehner stated that he would agree.

Councilmember DeJulio stated that this would accomplish what the Council wants by encouraging pedestrian traffic.

Assistant Director of Planning and Zoning Zehner stated that there is limited connectivity to the south and this would be the area to encourage pedestrian traffic.

Councilmember DeJulio questioned if the sidewalk would be going all the way down to the quarry.

Mr. Buckley stated that right now they do not have the sidewalk extended along the quarry side of the development because they did not want to disturb the green space. He further stated that he does not believe it would be a significant problem if the city wants them to extend the sidewalk along that segment.

Councilmember DeJulio stated that if there is a sidewalk there it would facilitate foot traffic.

Assistant Director of Planning and Zoning Zehner stated that if this is all one piece of property and he believes it is that by the time they pulled a land disturbance permit it would be for the entire piece.

Councilmember Paul stated that it cost \$2,000,000 to \$3,000,000 to build a road. He questioned applicant if he was to trade all of the variances for having them build the road. Should Council approve this tonight they would be getting a lot of density in that area and it seems to be a small price to pay for all that density.

Mr. Buckley stated that this connection is being looked at by a number of parties. The applicant would like to continue along the same process in which he started and have discussion with them. What the applicant is proposing here is to appropriate according to the land use plan which designates this to a regional live/work node. What they have brought in is consistent with the vision set forth in the comp plan for this area.

Councilmember Paul stated that the transportation piece is a little too high in the sky for him.

Mr. Buckley stated that if this gets approved they will be investing a substantial amount of money in improving this development. He further stated that in order to maintain the attractiveness and marketability of this development this is going to be a crucial link.

Councilmember Paul agreed that the applicant will be investing a lot in the property but, in return they will be reaping a lot of return on the investment. He questioned what the applicant would do to ensure there would be transportation capability to serve the density he is creating.

Mr. Buckley stated that that applicant is moving along with the others and does not know if they can agree to these conditions of zoning.

Mayor Galambos stated that he could not guarantee the other parties would contribute but, could agree somehow to get it done.

Mr. Buckley stated it would not be a problem if all of this were on the applicant's property even if it was an adjacent piece of property they owned but ,since they cross two other pieces of property in which they do not own they are sort of at the mercy of the other folks.

Mayor Galambos questioned how long it would take to get an answer from Dekalb County.

Mr. Buckley stated that Dekalb County has told city staff they are committed to pursuing the funds from the state but does not know what there time frame is.

Councilmember DeJulio questioned if the city could condition them to put a sufficient amount of money in escrow and go ahead and make the capital improvement when the requisite approvals come in.

Assistant Director of Planning and Zoning Zehner stated that the applicant is anticipating they will have an ability to connect to the fly over, however, they may not. If in the future they have that ability Council would like to have some money put into an escrow. This would solidify their ability to do the connection if approved.

Councilmember DeJulio stated that they don't actually have to put the money up as long as they commit to it. He wants to make sure the money will be there when this comes up.

Assistant Director of Planning and Zoning Zehner stated that they are not being conditioned necessarily to provide the connection but, too have the funds there.

City Attorney Willard stated that there could be a contractual obligation as a condition.

Councilmember DeJulio questioned if the applicant would be agreeable to this in case Dekalb can not get the state to put up the money or the PCID, he questioned if the applicant would agree to put up the \$3,000,000 to build this road.

Mayor Galambos questioned if the applicant could guarantee the \$3,000,000 will be there if Dekalb does not come up with it.

Mr. Buckley questioned how it would work.

Councilmember DeJulio stated that the city could have a contractual agreement with Tishman Speyer to provide that money.

City Attorney Willard asked staff to work with the applicant to work out the terms of this and then bring it back to City Council for review and approval. In order to do this, this item would need to be deferred.

Councilmember Paul questioned if Council could approve the zoning conditional to an agreement.

City Attorney Willard stated that he would be more comfortable if there were a document of this nature because of the unusual circumstances trying to work out a financial commitment.

Councilmember DeJulio questioned if this would cause an undue hardship should Council defer request for 30 days or until such agreement could be worked out.

Mr. Buckley stated that it would because the applicant submitted his application last June and in this process for about a year now. At the end of the 30 days, should Dekalb County say they can not work out the terms and still agree with the arrangement and then there would be another deferral.

Councilmember Jenkins suggested writing the agreement up in assuming Dekalb and Navar gives permission across their properties, at that point somebody is coming up with \$3,000,000 to build that road.

Assistant Director of Planning and Zoning Zehner stated that condition 3(d) states: "Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the properties to the north and east. Should the owner/developer not come to an agreement on interparcel access at this time with the property owners to the north or east, the owner/developer shall provide documentation of such. In addition, if an interparcel access agreement is not obtained; permanent easements shall be recorded allowing for future inter-parcel access along the entirety of the northern and eastern boundaries of the property, prior to the issuance of an LDP." Effectively, prior to their issuance of a land disturbance permit they are going to have to seek Dekalb County and other property owners out in that area and, if Dekalb County is agreeable to it then they are going to grant it. This condition actually came through on a variance

case today. The property owner next door agreed and so the applicant basically has to provide for that interparcel access. This is a similar situation. If the contract were written that the money would be available, that still would not obligate Mr. Buckley or the owner or developer of the property that they have to get access from Dekalb. They are still in obligation of Dekalb. This condition 3(d) deals with it, that if Dekalb says yes, they will have to come up with some kind of financial arrangement.

Councilmember DeJulio stated that would be before a land disturbance permit could be issued, they would have to come to that.

Assistant Director of Planning and Zoning Zehner stated that he would assume so and Dekalb County based on our meeting is agreeable to this. He thinks Dekalb County will say yes and ask to see our plans and that they are going to have some sort of obligation prior to issuance of the LDP to come up with detailed plans about how they are going to accommodate this connection.

Mayor Galambos stated that his point is that the City of Sandy Springs will not issue any LDP until we know there is access to the fly over.

Assistant Director of Planning and Zoning Zehner stated that is correct or not access as the case may be. It may be that Dekalb says no, that they can not do it at this time.

Councilmember Meinzen McEnery stated that the point is funding which was her initial question. It is common sense that adjacent property owners will want to get access to the fly over but, construction road building money is so tight that where is the \$2,000,000 to \$3,000,000 going to come from. It should rightly come from the impacted developments Navar and Midland and this development.

Assistant Director of Planning and Zoning Zehner stated that is staffs point exactly. If Dekalb County says yes, they are not getting their LDP until they provide for that access.

Councilmember DeJulio stated that in order to get it without Dekalb County, they will have to show documentation of it being rejected.

Assistant Director of Planning and Zoning Zehner stated that the city would push hard for Dekalb County to accept it as well as the PCID would be doing the same.

Councilmember Meinzen McEnery stated that the developer is providing three (3) additional right decal lanes on Peachtree and, they are also creating two (2) new roads on this site which demonstrates their interest to facilitate traffic improvements in that area. She does agree that they have to connect to the fly over.

Motion: Councilmember DeJulio moved to approve an Ordinance to rezone property located at 5901-5909 Peachtree-Dunwoody Road from O-I conditional to MIX for the development of 10 live-work office condominium units, 50,000 square feet of retail space, 524,200 square feet of office space, 200 residential units, and a 200 room hotel in conjunction with the existing office use with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Office and associated accessory uses at a density of 50,139.37 square feet per acre or 1,151,200 square feet, whichever is less.
 - b. Retail uses at a density of 2,177.70 square feet per acre or 50,000 square feet, whichever is less.
 - c. Residential uses at a density of 9.15 units per acre or 210 units, whichever is less.

- d. Hotel use at a density of 8.71 rooms per acre or 200 rooms, whichever is less.
 - e. To a maximum building height 25 stories for the office building as shown on the site plan received by the Department of Community Development dated March 20, 2007.
 - f. To a maximum building height of 35 stories for the condominium and hotel tower as shown on the site plan received by the Department of Community Development dated March 20, 2007.
2. To the owner's agreement to abide by the following:
- a. To the site plan received by the Department of Community Development dated March 20, 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. 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 a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
- a. The minimum design standards are:
 - Minimum front yard: 5 feet
 - Minimum side yard: 15 feet
 - Minimum rear yard: 0 feet
 - Minimum internal setback: 15 feet
 - Minimum landscaping and buffering between uses: 5 feet
 - Minimum heated floor area per dwelling unit: 800 square feet
 - b. The owner/developer shall dedicate fifty-five (55) feet of right-of-way from centerline of Peachtree-Dunwoody Road along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs. Further, the owner shall dedicate all right-of-way and provide easements, both temporary and permanent, required by the Peachtree-Dunwoody streetscape improvement project currently programmed by the Perimeter Community Improvement districts.
 - c. No less than 20% of the site shall be maintained as open/green space.
 - d. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the properties to the north and east. Should the owner/developer not come to an agreement on interparcel access at this time with the property owners to the north or east, the owner/developer shall provide documentation of such. In addition, if an interparcel access agreement is not obtained; permanent easements shall be recorded allowing for future inter-parcel access along the entirety of the northern and eastern boundaries of the property, prior to the issuance of an LDP.
 - e. Roads "C", and "D" shall be constructed with stub ends at the northern property line. Road "A" will be constructed with a stub end at the eastern property line.
 - f. Road "A" shall be constructed so the back of curb is located no more than five (5) feet from the northern property line for the entire length of the road. Should it be determined that site features on the subject property prohibit the construction of Road "A" five (5) feet from the northern property line, this requirement shall be removed through the administrative modification process subject to the approval of the owner of the property to the north.

- g. Provide an additional left turn lanes for northbound and southbound Peachtree-Dunwoody Road at Palisades driveway/Concourse Parkway (creating dual left turn lanes). The median along Peachtree-Dunwoody shall be maintained at its existing width throughout the entire property frontage.
- h. Provide two receiving lanes eastbound along Palisades driveway and westbound along Concourse Parkway at the intersection with Peachtree-Dunwoody Road.
- i. Provide westbound left turn lane along Palisades driveway onto Peachtree-Dunwoody Road.
- j. Provide exclusive right turn lane for driveway #2 northbound along Peachtree-Dunwoody Road.
- k. Provide an exclusive northbound right turn lane along Peachtree-Dunwoody Road between the I-285 westbound off ramp and Palisades driveway. This lane shall be an additional channelized right turn lane off the I-285 westbound off ramp.
- l. Upgrade the signal at Peachtree-Dunwoody Road and Palisades driveway/Concourse Parkway to accommodate the required geometric changes. All signal design and equipment must conform to the Perimeter Community Improvement District standards. All changes must be approved by the City of Sandy Springs Department of Public Works.
- m. Upgrade the signal at Peachtree-Dunwoody Road and the I-285 westbound off ramp to accommodate the required geometric changes. All signal design and equipment must conform to the Perimeter Community Improvement District standards. All changes must be approved by the City of Sandy Springs Department of Public Works and the Georgia Department of Public Works.
- n. To allow for an encroachment by the proposed Road "E" 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 dated March 20, 2007 (CV06-012).
- o. The site plan received by the Department of Community Development, dated March 20, 2007, shall be revised to incorporate raised crosswalks to the extent deemed practical by the applicant.
- p. Drive-thru restaurants shall be prohibited.
- q. All animated, flashing or signs containing changing display elements will be prohibited. In addition, light-emitting diode ("LED") signs, neon signs and signs consisting of, or including, internally illuminated individual letters will be strictly limited to those allowed under the Sign Ordinance of the City of Sandy Springs as the same may be amended from time to time without any request for variance.
- r. To allow for an encroachment by the proposed retail and office buildings into the required twenty (20) foot landscape strip along the west property line (CV06-012).

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

RZ06-055/CV06-039 5620 Glenridge Drive, Applicant: BTIC Glenridge, LLC, request to rezone from O-I conditional to MIX for the development of 198 residential units, 15,000 square feet of retail space, a 5,000 square foot bank, and 23,500 square feet of additional office space at the existing 87,444 square foot office development, with concurrent variances.

Ordinance No. 2007-05-34

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Powell Goldstein, LLP and represented by Jessica Hill. The application request is to rezone the property from O-I conditional to MIX for the development of 198 residential units, 15,000 square feet of retail space and a 5,000 square foot bank, and 23,500 of additional office space. In addition there are two concurrent variances to delete the required bicycle lane standards and to change the twenty-five (25) foot buffer and ten (10) foot landscape strip. Additionally, the applicant is requesting a use permit to exceed the permitted height of 60 feet by constructing the new buildings at a maximum height of 75 feet. The application was heard by the Planning Commission on January 18, 2007, February 15, 2007 and, April 19, 2007. At the last meeting the Planning Commission recommended approval based on staff's conditions as well as based on the addition of conditions that were agreed upon the applicant and High Point Civic Association. Over the last two weeks staff has worked out the conditions and added conditions staff felt appropriate for the City to do. Staff needs for Condition 1 (c) to change and is recommending 168 residential units not townhouse residential units. Staff is recommending less residential units than the applicant is proposing. The agreement reached between High Point and the applicant is in support of the proposed units by the applicant. The applicant is in general agreement of the majority of the conditions with the exception of a portion of condition (b) which does not allow for the free standing bank building as currently drafted. Condition 1 (c) regarding the number of units staff is recommending approval of and staff's denial of the concurrent variance for the buffer and improvement setback reduction. Recently the applicant has submitted a revised site plan which references the out parcel building not to be a retail bank building but to be solely a bank building. Staff's reasoning for not recommending approval of that originally was largely based on the Comprehensive Plan requirement that retail in this area be accessory to the residential and office uses. If the Council is agreeable to allowing the bank building being that it is not necessary a retail use, he can help with some wording of the conditions allowing a free standing financial establishment which is not necessarily an office but is not necessarily a retail.

Jessica Hill, 1545 Peachtree Road, Representative stated that this site is located at 5620 Glenridge Drive, at the intersection of I-285 with Glenridge Drive, right at the intersection of Glenridge Drive – Johnson Ferry. The applicant is proposing a variety of uses on the site. On the western side of the site the applicant proposes to have 198 residential units, located underneath the residential units propose 15,000 square feet of accessory retail. There is a 5,000 square foot financial institutional bank freestanding in front of Glenridge Drive and there is a 23,500 square foot office expansion anticipated by the site plan. There have been a few deferrals before tonight and she explained why there has been such a delay in the process. When the applicant first started meeting with the Planning staff and Transportation staff the traffic was a major concern, in particular, the intersection at Glenridge Drive and Johnson Ferry. The applicant has agreed and is reflected in the staff conditions that the applicant would reconfigure this intersection from a sideway intersection to a four way intersection. This will require the existing site driveway be moved over to accommodate a site driveway as opposed as coming out at the light. As Mr. Zehner had mentioned, they are a part from the staff conditions on three issues. The first is the number of residential units proposed; the reasoning by the staff is that the residential units proposed exceed the requirement of the land use plan at 20 units an acre. They are proposing approximately 23 ½ units per acre. One thing to note is that the non residential uses on the site are far below what is permitted by the land use plan designation. They are just under 16,000 square feet an acre as opposed to 25,000 square feet permitted by the land use plan. Originally, the applicant filed an application that did meet all the square footage requirements by the land use plan, however, when the intersection was reconfigured and the site driveway was moved this office component pad was squished to some extent. In efforts to mitigate, they have increased the number of residential units and provided a small retail component. The second issue where they differ from staff is the request to incorporate the free standing bank into the existing retail. The applicant feels that this request is not appropriate based on the fact that it is a bank as opposed to a retail use incorporated therein. Last, there is a request for denial of the variance which request to covert the buffer and the improvements setback to a ten (10) foot landscape strip along the left property line. The paving on this site goes all the way to the edge of the property. Currently, the property along the western portion improved with a surface parking lot. The applicant proposes to provide instead of the surface parking lot a ten (10) foot improvement setback and then the fire access lane will go through and provide the amenities at the edge. The first variance they that are requesting, would be an improvement to what is there now. The second variance would prevent applicant in providing the adequate fire access.

Mayor Galambos called for public comments in support.

Kent Levenson, 3618 Tuxedo Road explained some of the things that ended up going against the Comprehensive Land Use Plan. They are working on things that would be compatible and are willing to work with the neighborhood. At the same time, not be too financially destructed to make it worthwhile and to make it happen. They came up with a use reducing the density, have kept 60 feet of green space along Glenridge Drive and, have agreed to screen a section with trees and planters on Glenridge. They have also agreed to the conditions with the neighborhood and share their amenities. Currently they have agreed that if in the future should the neighbors next door need interparcel access other than for security reasons, they would welcome that. They have endeavored and gone through many plans in iterations and feels very good about this. He feels this is something that will work for the neighborhood and work for this entire area.

Nancy Early, 5220 High Point Road, President of High Point Civic Association, stated that they have worked with this developer for a long time. They have tried to tailor this project to this special site and the result is an attractive plan with seasonal architectural features and one that will allow neighbors a place to walk and get something to eat instead of getting in their car to drive somewhere. It is definitely in the Live/Work concept. They support the additional residential units and feel that it is a very good trade off with having less office square footage at this site. There are already a lot of offices around here and the peak traffic hours are intent in the a.m. and p.m., they do not want more office but, would like to have more residential. The residential and office that is in this area would definitely support this small amount of retail and they are willing to accept the many restrictions agreed to by the developer. There is a generous setback from the Glenridge Drive that is greater than the required setback of both open space and for green space on this development. They would like for Council to approve the buffer reduction between them and the townhomes because currently there is an asphalt parking lot. This will be an improvement and will allow the applicant some room to push the residential building and retail underneath and back further from Glenridge and still have the extra green space with the nice walkway. They are not opposed to the financial institution and find it acceptable due to the nature of the institution. It would be open Monday through Saturday, 10:00 a.m. to 4:00 p.m. This type of traffic will not be as intense in the a.m. and p.m. peak hours. They would like for Council to tie traffic improvements to the development. This will help the intersection because it will allow synchronization of the light through the strip which is not available now because this is a five (5) prong intersection and are reducing it to a four (4) prong intersection. They request approval from Council on the conditions that have been mentioned by the developer, as submitted by the developer in addition to staff conditions as presented.

Mayor Galambos called for public comment in opposition.

Janet Wells, 302 Beachland Drive, stated she is a member of a group called HARC which is Homeowners Adjacent to Roswell Road. She spoke in opposition because of the density and the retail space on Glenridge. Traffic and curb cuts are issues as well. She requests that the Mayor and City Council deny this application.

Lon Cypert, 688 Warrior Court expressed that his concern is with the traffic along Glenridge. He had assumed that Glenridge would have opened up a bit between the Carl Lyle Ridge Condo and the Cingular Wireless building intersection and, be opened up to four (4) lanes coming out of LaVista Drive onto Blue Ridge. There is a potential for serious accidents and some have occurred there.

Jessica Hill, 1545 Peachtree Road, Representative stated that with respect to the concerns about the density, they are consistent and, follow the land use plan on the non residential uses and slightly over on the residential use but, think those net out to be consistent to the land use plan. With respect to the retail uses the applicant is proposing only accessory retail uses. A lunch spot in this area is highly needed. They have restricted the retail uses with the High Point Association and have provided that no use is more than 10,000 square feet.

Councilmember DeJulio stated that on the plan dated March 2, 2007 there were eight (8) specimen trees listed, of which three (3) were going to be eliminated. Today he received a new plan and there were no trees listed. He questioned if they were pulling out all the specimen trees now.

Yi Lo, 1000 Abernathy Road stated that the new Tree Ordinance does not require any estimation of what they are putting up or putting out. They did not list any specimen tree on this site plan but are maintaining eight (8) out of the eleven and removing four (4). The applicant is preserving more green space on the new plan.

Councilmember DeJulio questioned how much green space is now on the plan.

Mr. Levenson stated that the actual green space on the plan is about 20%, which includes all the area inside the right-of-way, tennis court and the amenity areas are open space. This would end up being a minimum of 10%, the requirement is 10% open space but, it would be a minimum of 10% green and minimum of 26% of open space. He then explained that the Tree Ordinance passed after the applicant filed his first plan.

Assistant Director of Planning and Zoning Zehner stated that staff's condition is no less than 10 % of the site shall be maintained to the green space because that is what was conveyed by the applicant to be maintained as green space, that is the minimum. He clarified that open space is a minimum of 25%, open space includes green space. Open space and green space do not count any areas that are in the right-of-way. Also not counted are the parking areas, drive aisle, sidewalk in the right-of-way and, landscape strips in the right-of-way. With these conditions they would be obligated to provide 10% on the site of green space and 25% of open space which could include plaza's, courtyards, tennis court area but, it would not include off site features.

Councilmember Meinzen McEnery questioned if they could have only one tennis court and try to save one of the specimen trees. She and Councilmember DeJulio are concerned with the percentage of the property he is grading and replanting. She questioned how many specimen trees would remain on site plan.

Mr. Levenson stated that they are keeping about five (5) to six (6) specimen trees. They added the additional tennis court to create an additional amenity and make available to the neighborhood and their residents. The plan shows about 30% open space and 20% green space.

Councilmember Meinzen McEnery stated that she and Councilmember DeJulio would like to add a condition of zoning that the applicant must save five (5) to six (6) specimen trees.

Councilmember Paul stated that the applicant is saving eight (8) specimen trees.

Councilmember Meinzen McEnery stated that she has a concern about the financial bank outparcel building. The High Point Civic Association agrees with staff that this area should be Live/Work Community with office and residential only with no commercial component allowed. She would like to allow him the 20,000 square feet per acre for accessory but, not have an out parcel because, it would destroy the integrity of this section. A request to provide a bike path with the extensive sidewalk system along High Point would be a wonderful way for people to get to this community and utilize retail. It is a great idea to leave the bike path in there. She agrees with some of the comments the Mayor made about trading green space at ground level for density. She has no problem with him increasing the height of the building from five (5) to some other number in order to get that green space to the ground level. The zoning condition could be changed to require a 20% green space in return for granting additional height on the parking deck.

Mr. Levenson stated that the additional height request is to make some architectural parfaits and roof treatments that look more attractive. The additional height they have asked for is not to increase their density. They have reduced the density from the Comprehensive Land Use Plan by over 70,000 to 80,000 feet than what is currently under the Comprehensive Land Use Plan. He is not trying to get a 35 or 50 story building and is not trying to dense this to the max. From the original plan they have reduced the density in order to make this intersection work. The traffic department of Sandy Springs had a problem with this and he has tried to solve it. He stated that when you build an office building it takes approximately 25,000 square foot, foot plate to be competitive in the leasing market. You can not do that and put the road at this location. The only way to do that is the correct use that does not require a fixed footprint and does not require the tearing down of a landmark building and that is how they came up with a combination of residential and retail. If he came to Sandy Springs today and bought a piece of property and zoned it office, IO, he

could put a financial institution in that zoning. The issue for them is to try and figure out if reduce the density, spend the money to correct the problem, how can he pay for it and having a bank here is a means of doing that. He is not sure now in their new plan where the specimen trees exist. If conditioned to keep the eight specimen trees he is not sure if he can get the buildings in there. He can save five (5) of the specimen trees. They have tried to make this more neighborhood, have increase open space and green space. There has never been a traffic light at High Point before but, now there will be. With the advent of this traffic light you cannot successfully move traffic in a synchronized fashion without getting rid of this. He respectfully asked City Council to approve his application as submitted. He requested that the City Council assist him in this improvement by granting the financial institution.

Motion: Councilmember DeJulio moved to approve an Ordinance to rezone property located at 5620 Glenridge Drive from O-I to MIX for the development of 168 residential units, 20,000 square feet of retail space, and 23,500 square feet of additional office space at the existing 87,444 square foot office development, with concurrent variances with the following staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Office and associated accessory uses at a density of 13,206.99 square feet per acre or 110,944 square feet, whichever is less.
 - b. Retail, service commercial, and associated accessory uses at a density of 2,380.84 square feet per acre or 20,000 square feet, whichever is less. Said retail and service commercial uses shall be contained within either the office building or the residential building. The following uses shall be excluded: adult entertainment establishments; bar with food sales being less than 50% of its gross sales volume; liquor store; fast food restaurants.
 - c. 168 residential units at a density of 20 units per acre, whichever is less. No more than 80 residential units may have a minimum heated floor area of less than 750 square feet. No less than 80 residential units may have a minimum heated floor area of less than 1,200 square feet.
 - d. To a maximum building height of seventy-five (75) feet (U06-008). The residential/retail building will be 3 stories of residential over 1 level of retail along the Glenridge Drive frontage of the subject property, and will not exceed 62 feet in height in that area. In addition, the residential/retail building will be set back at least 100 feet from the property line. The residential/retail building may be up to 5 stories where not over retail.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated April 6, 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. 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 a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
 - a. The minimum design standards are:
 - Minimum front yard: 25 feet
 - Minimum side yard: 10 feet
 - Minimum rear yard: 10 feet
 - Minimum internal setback: 10 feet
 - Minimum landscaping and buffering between uses: 10 feet
 - Minimum heated floor area per unit: 750 square feet
 - Maximum building height: 75 feet

- b. The light source of all external lighting in the development shall not be directly visible from adjoining residential properties.
- c. The owner/developer shall dedicate forty-five (45) 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.
- d. No less than 25% of the site shall be maintained as open space.
- e. No less than 10% of the site shall be maintained as green space.
- f. The current Crawford signal and intersection will be reconfigured to a four-legged intersection, per the approval of Public Works. This may include realignment of curb, gutter, roadway, and signal equipment.
- g. Signalization shall be updated to accommodate new roadway configuration at Crawford entrance. All changes are subject to the approval of the Public Works Department.
- h. Prior to issuance of an LDP, the owner/developer shall attempt to provide interparcel access with the properties to the west and across the entrance drive to the adjacent property to the east. 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.
- i. The owner/developer shall retain at least five (5) of the existing specimen trees located on the subject property.

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

RZ07-008/CV07-008 367 Hammond Drive, Applicant: Michael Siegel, To rezone from O-I conditional to C-1 to allow for the addition of a greenhouse at the existing office site, with concurrent variances.

Ordinance No. 2007-05-35

Assistant Director of Planning and Zoning Zehner stated that the petition is by Michael Siegel, represented by Kevin King. Previously, the applicant was requesting to rezone from O-I conditional to C-1 to allow for the addition of a greenhouse. There have been miscommunication between the applicant and staff about the true intent of the greenhouse. After speaking with the applicant's representative we have come to an agreement to where staff is agreeable rezoning the property from O-I conditional to O-I conditional to allow for a greenhouse to be constructed on the site. Staff recommends approval of that rezoning and concurrent variance to maintain the existing structure. Basically, staff's recommended conditions would allow the existing house to be used as an office only and allow the greenhouse to be constructed at no more than 1,600 square feet total to be allowed for personal use effectively only. No retail sales or wholesale activities or activities that were involved growing of plant, planted off site in association with any business. He has spoke with Thea Lloyd and she spoke with a Doug Segli of Hammond/Glenridge neighborhoods and they were in support of this agreement. They felt that it was a compromise that benefited all parties. The applicant has some concern about some of staff's conditions, mainly the condition regarding the setback for the greenhouse of 40 feet on condition 1(b) as well as the requirement for the installation of a six foot water mason fence along the east and south property lines, 3(6).

Kevin King, 90 Northglenn Court, Representative, stated that this greenhouse will have no electricity, no plumbing and will not make any noise or give off any light at night. The greenhouse is going to be used to grow tomatoes, cucumbers and peppers. There will be no customers, no retail or wholesale customers and the greenhouse will be in the back. Staff wants the greenhouse to be moved about 40 feet which is too far and necessary. Staff would also like a fence along the east side property line which would be six (6) foot high made of wood and cost several thousand dollars

and will be inside a 15 foot landscaping strip. If the plant and the landscaping strip grow then the only person to see the fence is Mr. Siegel. He does not see how this would be a benefit. On the south side of this property, the property faces Henry Glenn which is this high rise building with the air conditioner outside. It is the applicant's property that needs protection from that building. On the east side of this property there are houses and a large long backyard that abuts the property. You can not see the houses from this property so therefore, the greenhouse could not be seen from the adjacent property. He requested that City Council not require the applicant to put up referenced fence.

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

Councilmember Jenkins stated that all this came about because there were complaints from the Hammond Glen Senior high-rise that backs up to the back of this property. The City is trying to protect them from what is going on this site; burning debris, landscape company trucks coming in and out. Their concern is not to have the landscape trucks everywhere. If staff could restrict the amount of landscape trucks going in there to a maximum of three (3) she does not think they will have an issue with the greenhouse. They get upset from the noise of trucks, debris and the burning of debris.

Mayor Galambos questioned if O-I supports the landscape business.

Assistant Director of Planning and Zoning Zehner stated that it supports the office but, not storage of materials. Vehicles could be kept there, not anything beyond trucks and cars. Staff issued a Notice of Violation, not a citation. Upon the issuance of this violation Mr. Siegel immediately came in and met with City Code Enforcement staff and Nancy Leathers. Staff informed him that he would have to clean up the property and would have to follow the rezoning and he did both of these immediately. Mr. Siegel has worked very hard to accommodate staff's request.

Mr. Siegel stated that the complaint was about the garbage truck because the air conditioning units are loud. He does not have any equipment there so therefore no one can hear him. The burning was "open fire burning" during open and fire burn season and he no longer does that. He has talked with the Manager there and she would like to see this done.

Councilmember Jenkins stated that she only wants to make sure that he does not have a lot of landscape trucks back there and limit it to a maximum of three (3) landscape trucks at anytime on subject property. Mr. Siegel stated that he could comply with that about 95% of the time.

Councilmember Meinzen McEnery stated that the applicant was very persuasive in his photograph regarding the fence. The fence does not seem to be doing anything positive and she would support a recommendation to delete the requirement for the fence. She questioned staff about why the fence was included in conditions. Mr. Zehner stated that it is a standard condition that staff implements or recommends when there is abutting property that is zoned differently when there is in convening areas.

Councilmember Meinzen McEnery requested Mr. Zehner to read the conditions into the record.

Assistant Director of Planning and Zoning Zehner stated that recommended on staff's recommended conditions with the elimination of Condition No. 3(b) regarding the installation of the fence. Sentence No. 2 & 1(b) be removed.

Motion: Councilmember DeJulio moved to approve an Ordinance to rezone property located at 367 Hammond Drive from O-I to O-I to allow for the addition of a green house with the following staff conditions:

- a. To the owner's agreement to restrict the use of the subject property as follows:
- b. To office uses in the existing 1,980 square foot structure. No modifications will be made to the exterior of the structure, other than normal maintenance.

- c. To a greenhouse at a density of 1,758.24 square feet per acre or 1,600 square feet, whichever is less. No retail sales or wholesale activities shall be permitted on the site. Plants grown on-site shall not be used to support off-site business activities.
- d. 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.
 - e. To the owner's agreement to provide the following site development standards:
 - j. The owner/developer shall dedicate forty-five (45) feet of right-of-way from centerline of Hammond 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.
 - k. All landscape areas shall be replanted to buffer standards, subject to the approval of the Sandy Springs Arborist.
 - l. To change the required twenty-five (25) foot buffer and ten (10) foot improvement setback to a fifteen (15) foot landscape strip along the east property line for a distance of thirty-five (35) feet adjacent to residentially zoned property to allow the existing structure to remain as shown on the site plan received by the Department of Community Development dated February 22, 2007 (CV07-008).

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

RZ07-009/CV07-011 7250 Roswell Road, Applicant: Title Max, To rezone from C-1 conditional to C-2 to allow for the use of the existing 3,000 square foot building as a title pawn office, with concurrent variances.

Assistant Director of Planning and Zoning Zehner stated that this is an application to request the rezoning of the subject property from C-1 conditional to C-2 to allow the existing 3,000 square foot building to be used as a title pawn office, in addition, two concurrent variances. Staff recommends denial of the rezoning request and the concurrent variance request. The Planning Commission also recommended denial. Mayor and City Council should have been provided with a letter dated May 15, 2007 from Mark Forsling requesting that the application for rezoning and concurrent variance be withdrawn. Staff has entered this letter into the record. The applicant spoke with Nancy Leathers earlier and indicated that in lieu of submittal of this letter that they would not be attending the meeting.

Mayor Galambos called for public comment.

Michael Weber, 1403 Brighton Point, stated that the community does not want a Title Max on Roswell Road or in the area. He is President of the Elizabeth Heights Homeowners Association and they look forward to discussing what will be going there in the future.

Judith M. Hiles, 335 Earlson Drive, North Springs Homeowners Association, stated that the Title Max Pawn business is inappropriate to the redevelopment and renewal of the area. They would like to see some attractive businesses and have the shopping center upgraded. At this time there is no green space in that area.

City Attorney Willard stated that he has talked with Title Max's attorney and was told that there was going to be a request to withdraw the application. The agreement that was reached between the applicant and the city back in March provides for the fact that Title Max, under Section 2, agreed to pursue the rezoning application in accordance with requirements of the City of Sandy Springs Zoning Ordinance until such time as the city shall take final action on that

application. A condition of that, in the event the rezoning application is granted, the city agrees to issue Title Max the permits necessary to continue operation. Another condition in agreement that in the event the rezoning application is denied, Title Max ceases to conducting his title on business at the property within five (5) days of the city's final action and they would not seek any claim for damages. The concern is Title Max has agreed to pursue the application. It is a condition that they have to go, until action is taken. The dismissal of it would not be in the proper interest of the spirit of this agreement because it leaves it dangling as to what now is a condition under which Title Max would have the right to continue the operation.

Motion and Vote: Councilmember Paul moved not to accept the Applicants request for withdrawal and to the deny petition. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Alcoholic Beverage License

Consideration of approval of an Alcoholic Beverage License for Tony's Sports Bar and Grill at 8610 Roswell Road, Suite 450 Sandy Springs, Georgia 30350. Applicant is Nader Mahroum for Consumption on premise Wine, Malt Beverage, and Distilled Spirits.

Assistant City Manager Al Crace explained to Council that after the administrative reviews additional issues have come up. Staff would like to go ahead and have the public hearing but, would like to work with the Attorney and the Police Chief to resolve all the open issues before recommending final action to City Council.

Councilmember Paul stated for the record that he would like for the applicant to explain why flyers were put on all cars at City Hall today and, why they did not follow the City of Sandy Springs Litter Ordinance.

Assistant City Manager Al Crace stated that is a question that has come up since staff review of application.

Nader Mahroum, Applicant, 8610 Roswell Road, apologized for the incident and assured Council it would never happen again.

Councilmember Jenkins questioned if this business had swings and, who used them and how the employees dressed when swinging. She then questioned if there were two employees on the swings at the same time and did they kiss or touch one another.

Mr. Mahroum stated that they do have swings at their business and that the employees used them only to swing.

Mayor Galambos stated that these are items that are under investigation and this is the reason Council will not be voting on this application tonight.

Mr. Mahroum stated that he would take the swings down if it was going to affect his liquor license.

Motion and Vote: Councilmember Paul moved to defer the consideration of the application for Alcoholic Beverage License for Tony's Sports Bar and Grill at 8610 Roswell Road, Suite 450, Sandy Springs, Georgia 30350 to the July 17, 2007 Council Meeting and to extend their temporary license to such date. There was no Council discussion. Councilmember DeJulio seconded the motion. The motion carried unanimously.

Consideration of approval of an Alcoholic Beverage License for La Rumba at 6317 Roswell Road, Sandy Springs, Georgia 30328. Applicant is John S. Woo for Consumption on premise Wine, Malt Beverage, and Distilled Spirits.

Assistant City Manager Al Crace explained that since the administrative review questions of ownership and residency needs to be verified. Staff requests a 60 day extension in order to get all matters verified. This item has been advertised and staff request that the public hearing still be held

City Attorney Willard stated that the applicants Registered Agent lives in Suwanee, Georgia and his zip code is not in Fulton County.

Mayor Galambos called for public comment.

Joe Woo, Applicant, 6317 Roswell Road, stated that if the City requires the operational manager of the restaurant be a resident of Fulton County, that would not be a problem. He will have a manager in place that does reside in Fulton County.

Motion and Vote: Councilmember DeJulio moved to defer the consideration of the application for Alcoholic Beverage License for La Rumba at 6317 Roswell Road at 8610 Roswell Road, Sandy Springs, Georgia 30350 to the July 17, 2007 Council Meeting and to extend their temporary license to such date. Councilmember Greenspan seconded the motion. There was no Council discussion. The motion carried unanimously.

Unfinished Business *(None)*

New Business

Consideration of approval of a Resolution appointing Scott Carter as a Municipal Court Judge.

Mayor Galambos stated that Mr. Carter has experience in running Municipal Court in Doraville which is very similar to what is needed in Sandy Springs Court.

a. Administer Oath of Office

City Manager McDonough explained that staff's intent is to have sessions in July and plan on buying the equipment which would enable the Municipal Court to run a second court, dual courts at the same time. For example, traffic court and environmental court at the same time. We have been going through a stream lining of our court processes, personnel dealing with failures to appear and clearing up those issues, have added personnel at the check out counter to try and provide the level of customer service that Council expects across our organization. This is just another step in continuous process improvement and trying to improve customer service so, we are taking steps in that direction. Our goal is to drive down the number of people that actually show up in court to around 150 in a session instead having a 300 or 400 numbers that we have today. Court will also be held in the morning which is going to be new to us so that we can have morning sessions, afternoon sessions and dual sessions and given the fact that we have three practicing attorneys right now. We may find ourselves in a situation perhaps where we may need to add another Judge so that we have a pool of qualified judges to sit for all these sessions. The Police Department is just now in the process of standing up that Traffic Enforcement Division. Staff will be coming forward with a recommendation as part of the FY08 budget to add additional police officers. He does not believe there will be a reduction in the number of cases coming through Municipal Court.

Motion and Vote: Councilmember Jenkins moved to approve Resolution appointing Scott Carter as a Municipal Court Judge for the City of Sandy Springs, for a term of four (4) years commencing May 16, 2007. Councilmember Meinzen McEnergy seconded the motion. There was no Council discussion. The motion carried unanimously.

Scott Carter was sworn in by City Attorney Willard.

Consideration of approval of a Resolution appointing members to the Board of Ethics.

Mayor Galambos explained that there has been one resignation on the Board of Ethics. She nominated Susan Dew who has been very active in the past with Fulton County/Sandy Springs Schools. Ms. Dew was on the Board of Directors for the Committee of Sandy Springs and very helpful in helping the City get the Referendum passed.

Motion and Vote: Councilmember DeJulio moved to approve Resolution appointing Susan Dew to fill the unexpired term of Andrew Heyward for a term of three (3) years. Councilmember Paul seconded the motion. There was no Council discussion. The motion carried unanimously.

Reports and Presentations

Mayor and Council Reports

There were no reports.

Staff Reports

City Manager McDonough stated that the city now has the equipment to support the Fourth of July Celebration or could participate in the Dunwoody Fourth of July Parade and Celebration. He asked for direction from City Council. City Council chose to participate in the Dunwoody Celebration.

City Manager McDonough announced that Steve Rapson, Director of Financial Services has been promoted to Assistant City Manager over Administration and Financial Services.

Mayor Galambos thanked Mr. Rapson for all his wonderful financial services he has given the city.

Public Works Director Parham gave an update on the status with the School Board on the Lake Forest School and traffic situation.

Mayor Galambos recognized and welcomed students from the Riverwood World History Class and the Boy Scout Troop #463.

Public Comment

There were no public comments.

Executive Session

Personnel and Pending Litigation

Motion and Vote: Councilmember DeJulio moved to go into Executive Session to discuss pending litigation. Councilmember Greenspan seconded the motion. There was no Council discussion. The motion carried unanimously with Councilmember Dave Greenspan, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio and Councilmember Karen Meinzen McEnery voting in favor. Executive Session began at 9:05 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Greenspan seconded the motion. There was no Council discussion. The motion carried unanimously with Councilmember Dave Greenspan, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio and Councilmember Karen Meinzen McEnery voting in favor. Executive Session ended at 9:44 p.m.

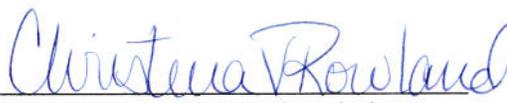
Adjourn

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Paul seconded the motion. After no further Council discussion, the meeting adjourned at 9:45 p.m.

Date Approved: June 19, 2007



Eva Galambos, Mayor



Christina V. Rowland, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

May 15, 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 15th day of May 2007, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

Discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee, but not receiving evidence or hearing argument on charges filed to determine disciplinary action or dismissal of a public officer or employee, pursuant to O.C.G.A. 50-14-3(16); and

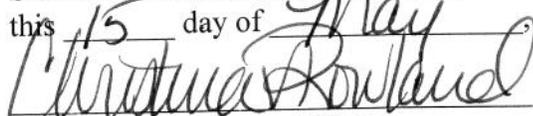
Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any 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 15 day of May, 2007.



Notary public (SEAL)

CHRISTINA V. ROWLAND
Notary Public, Fulton County, GA
My Commission Expires Oct 30, 2010