

Regular meeting of the Mayor and City Council of the City of Sandy Springs was held April 17, 2007 at 7 PM, Mayor Eva Galambos presiding.

Invocation

Rev. Chris Barbieri, Sandy Springs United Methodist Church offered the invocation.

Call to Order

Mayor Galambos called the meeting to order at 7:00 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. She introduced Council Pages Austin Jobe from Atlanta Academy and Preston Thompson from Ridgeview Charter School.

City Clerk Rowland called the roll.

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

Pledge of Allegiance

Mayor Galambos asked the Council Page to come forward and lead the Pledge of Allegiance.

Approval of Meeting Agenda

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

Motion and Vote: Councilmember Paul moved to approve the meeting agenda. Councilmember DeJulio seconded the motion. The motion carried unanimously.

Consent Agenda

1. Approval of Minutes:
 - a. March 13, 2007 Work Session minutes
 - b. March 24, 2007 Special Called Meeting minutes
2. Approval of a Resolution Accepting the Right-of-Way in Land Lot 19 of the 17th District (.024 acres more or less) as part of the PCID/Perimeter Center West Project
Resolution No. 2007-04-20
3. Approval of a Resolution Accepting the Permanent Construction Easement of Land Lot 16 of the 17th District, Parcel 6, as part of the Perimeter Community Improvement District's Medical Center Livable Centers Initiative.
Resolution No. 2007-04-21
4. Approval of a Resolution amending the Rules of Procedure for City Council Meetings and Public Hearings.
Resolution No. 2007-04-22

5. Approval of a Resolution opposing the current proposal to extend the one percent sales tax for MARTA.
Resolution No. 2007-04-19
6. Approval of an Intergovernmental Agreement with Dekalb County relating to permitting of the expansion of the Chattahoochee River Raw Water Pump Station.

Mayor Galambos noted that the March 20, 2007 minutes had been removed from the printed agenda and were therefore not approved. She also noted the Resolution opposing the current proposal to extend the one percent sales tax for MARTA.

Motion and Vote: Councilmember Jenkins moved to approve the Consent Agenda as presented. Councilmember Fries seconded the motion. The motion carried unanimously.

Presentations

Mayor Galambos read the Proclamation for Patriots Day and presented it to the Piedmont Chapter of the Sons of the American Revolution.

Mayor Galambos read the Proclamation in recognition of Atlanta Board of Realtors and presented it to Mr. Jim Alexander.

City Manager McDonough introduced Mr. Jeff Woodward, GDOT Area Engineer and Mr. Mark McKinnon, District Communications to provide an update on the Georgia Department of Transportation's Construction Projects at Roswell Road / Dunwoody Place and at Roswell Road / Northridge Road. Mr. Mark McKinnon stated that these projects were scheduled to be completed last year. He stated that this had been pushed back due to utility relocations and issues with the contractor regarding contract compliance. He stated that they meet regularly with the utility companies. They seem to be moving at this point. They are also meeting with the contractor to resolve the claim so that it does not go into litigation.

Mr. McKinnon stated that an additions right turn lane has been added from Dunwoody Place to Roswell Road. He addressed the issue relating to the entrance to Hanover Park Road.

Councilmember Fries questioned if the City could put forth a letter asking the Commissioner to end their services with the Lions Group and re-bid the project.

Councilmember Greenspan requested that a list of utilities located in the right of way be forwarded to the City to ensure there is an existing Franchise Agreement.

Public Hearings

City Clerk Rowland read the zoning rules.

Rezoning

RZ07-001/CV07-001/U07-001, 5275 Roswell Road (SR 9), *Applicant: Kirbo Property Services, LLC*, To rezone from C-1 conditional to MIX for the development of a residential, retail, and office project, with concurrent variances.

City Clerk Rowland stated that the next agenda item is RZ07-001/CV07-007/U07-001, an Ordinance to rezone property from the C-1(communitary business district) to the MIX(mixed use district), property located at 5275 Roswell Road. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the applicant is Kirbo Property Services, LLC represented by Pete Hendricks. The applicant has submitted a letter requesting to withdraw the application. Staff recommends acceptance of the withdrawal.

Mr. Tom Kirbo came forward and requested to withdraw the application.

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

Motion and Vote: Councilmember Jenkins moved to accept the withdrawal of this petition. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Use Permits

U07-002/CV07-002, 5065 High Point Road, *Applicant: Congregation Beth Tefillah, Inc.*, A use permit to allow for the addition of a 7,576 square foot preschool at the existing synagogue, with concurrent variances.

Ordinance No. 2007-04-28

City Clerk Rowland stated that the next agenda item is U07-002/CV07-002, an Ordinance to allow for a use permit for a preschool at a church, temple, or place of worship, property located at 5065 High Point Road. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that this item and the next agenda item can be heard together. He explained that the first application is for a 7,576 square foot pre-school, the second for the addition of a mikvah at 2,000 square feet toward the rear of the property. The petitioner is Congregation Beth Tefillah, Inc. represented by Stanley Daniels. In addition, the applicant is requesting three concurrent variances to reduce the 100 foot building setback to 92 feet along the south property line for a distance of 51 feet, to allow for an encroachment into the 100 foot building setback adjacent to residential zoned property along the north and south sides of the building for the existing synagogue, and to allow for the encroachment into the required 25 foot buffer and 10 foot improvement setback along the north property line.

Staff recommends approval of both use permits. Staff has recommended denial of variance one and approval of variances two and three. The Planning Commission recommended approval of the application with additional landscaping.

Stanley Daniels, 1201 Peachtree Street, presented the project to the Mayor and Council. He explained that they would be moving the existing house and trailer further from the property line and would not be making any changes to the configuration of parking and are reserving a place for a future ritual bath. He stated that the only variance they are asking for other than those currently existing is to encroach into the 100 foot setback line approximately 8 feet for a distance of about 40 feet. This allows them to create an activity area within the school without enlarging the building.

Mayor Galambos questioned what the enrollment for the pre-school would be. Mr. Daniels stated that the capacity will be 128 students.

Councilmember Greenspan questioned how detrimental the variance is to the facility. Mr. Daniels stated that this allows for enough space inside for an indoor activity room in addition to the class rooms. Without the encroachment, the activity area would only be the width of a hallway which would not be suitable.

Councilmember Meinzen McEnery questioned if they were planning any outdoor playground space. Mr. Daniels pointed this area out on the drawing.

Mayor Galambos called for public comment.

Dawne Morgan, 120 High Point Walk, Atlanta, stated that her home backs up to this property. She stated that they have some concerns regarding the expansion of the parking lot and the lighting for that. She is also concerned about the location of the playground as well as the noise from the playground. She also expressed concerns regarding the landscaping buffer.

Jean DiLuzio, 125 High Point Walk, Atlanta, expressed concerns regarding the noise and requested a buffer to help lessen the noise.

Mayor Galambos questioned what the Planning Commission suggested in regard to the plantings. Mr. Zehner stated that the Planning Commission recommended that the north property line be planted to buffer standards.

Assistant Director of Planning and Zoning Zehner stated that the southern property line would have to be planted to buffer standards.

Mr. Daniels stated that the Chairman of the Planning Commission requested that they add some planting along the northern property line. At the point that they were heard by the Planning Commission, they had heard nothing from the neighbors. Subsequently a meeting was held with the neighbors at which time they expressed concerns regarding plantings. They are not changing the parking lot.

Mr. Daniels stated that the current zoning requires a 25 foot undisturbed buffer. He stated that they would add more trees in this area. He agreed to the suggested three inch caliper.

Councilmember Meinzen McEnery clarified that the enrollment would be 128. Mr. Daniels stated that is correct. He stated that there will be eight classrooms with a capacity of 15 to 20 children.

Councilmember Meinzen McEnery questioned if the parking lot lighting would have any changes. Mr. Daniels stated that if any changes were made in the lighting, it would be lighting that is shielded so it does not impact the neighbors.

Assistant Director of Planning and Zoning Zehner stated that condition 3b had been added to read "the light source of new external lighting in the development shall not be directly visible from adjoining residential properties."

Councilmember Meinzen McEnery questioned if the height of the new planting would be higher than the decks on the residential properties. Mr. Daniels stated that he did not know how high the decks were but assumed the trees would be ten to twelve feet in height at the time they are planted.

Councilmember Paul questioned if the lighting requirement was for new or existing lighting. Mr. Zehner stated that this would be for all lighting. Councilmember DeJulio questioned if the applicant had any objection to screening the existing lighting. Mr. Daniels stated they wanted to be good neighbors but they have not examined the lighting in great detail at this point. He stated that he feels it would be unfair to the synagogue to force them to spend an extensive amount of money on new lighting when there is existing lighting. Mr. Daniels pointed out that the synagogue was there prior to this development therefore the neighbors knew what the site looked like. This will only improve the site.

Assistant Director of Planning and Zoning Zehner stated that staff would be agreeable to limiting the footcandles at adjoining property lines to 1.2 footcandles between the hours of 11:00 p.m. to 7:00 a.m. Mr. Daniels stated that they would be agreeable to this.

Motion: Councilmember DeJulio moved to approve U07-002/CV07-002, an ordinance to allow for a use permit for a preschool at a church, temple, or place of worship, property located at 5065 High Point Road with the following amended staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:

- a. Synagogue, mikvah, and associated accessory uses at a density of 4,323.06 square feet per acre or 21,036 square feet, whichever is less (U07-003).
 - b. Preschool and associated accessory uses at a density of 2,794.90 square feet per acre or 13,600 square feet, whichever is less (U07-002).
 - c. To a maximum of 128 students.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated January 16, 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 owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of High Point 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. The light source of new external lighting in the development shall not be directly visible from adjoining residential properties.
 - c. To allow for an encroachment into the 100 foot building setback adjacent to residentially zoned property with the existing synagogue along the north and south sides of the building (35 feet on the north; 10 feet on the south) (CV07-002).
 - d. To allow for an encroachment into the required twenty-five (25) foot buffer and ten (10) foot improvement setback along the north property line with the existing driveway (CV07-002).
 - e. To reduce the required 100 foot building setback to 92 feet adjacent to residentially zoned property along the south property line for a distance of 51 feet for the development of the preschool building (CV07-002).
 - f. The owner/developer shall plant the required twenty-five (25) foot buffer and ten (10) foot improvement setback along the north and south property lines to buffer standards as required by the Zoning Ordinance. Said plantings shall be subject to the approval of the Sandy Springs Arborist prior to the issuance of a Land Disturbance Permit.

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

U07-003, 5065 High Point Road, *Applicant: Congregation Beth Tefillah, Inc.*, A use permit to allow for the addition of a 2,000 square foot mikvah at the existing synagogue.

Ordinance No. 2007-04-29

Clerk's note: This item was discussed in conjunction with the previous item.

Motion: Councilmember DeJulio moved to approve U07-003, an ordinance to allow for a use permit for a preschool at a church, temple, or place of worship, property located at 5065 High Point Road with the following amended staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Synagogue, mikvah, and associated accessory uses at a density of 4,323.06 square feet per acre or 21,036 square feet, whichever is less (U07-003).
 - b. Preschool and associated accessory uses at a density of 2,794.90 square feet per acre or 13,600 square feet, whichever is less (U07-002).
 - c. To a maximum of 128 students.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated January 16, 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 owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of High Point 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. The light source of new external lighting in the development shall not be directly visible from adjoining residential properties.
 - c. The owner/developer shall plant the required twenty-five (25) foot buffer and ten (10) foot improvement setback along the north and south property lines to buffer standards as required by the Zoning Ordinance. Said plantings shall be subject to the approval of the Sandy Springs Arborist prior to the issuance of a Land Disturbance Permit.

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

Text Amendments

RZ07-004, An Ordinance to Amend Article 12B(1), Perimeter Community Improvement District, of the City of Sandy Springs Zoning Ordinance.

Ordinance No. 2007-04-30

City Clerk Rowland stated that the next agenda item is RZ07-004, an Ordinance to amend Article 12B(1), Perimeter Community Improvement District, of the City of Sandy Springs Zoning Ordinance. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that this was presented at the work session last week. He stated that is his understanding that the Mayor and City Council wanted to change the designation of Peachtree-Dunwoody Road, north of Abernathy to an avenue instead of thoroughfare. He stated that the PCID is in support of that change.

Councilmember Meinzen McEnery stated that she had requested that the specifications for the tree wells be reviewed to see if they comply with the City's Tree Ordinance. Community Development Director Nancy Leathers stated that she had spoken with the PCID in this regard. They would like to leave the trees as they are currently designated but will meet the standards for tree wells in the Tree Ordinance.

Councilmember Paul questioned the difference between an avenue and a thoroughfare. Mr. Zehner explained the difference.

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

Motion and Vote: Councilmember Jenkins moved to approve the revised Ordinance to amend Article 12B(1), Perimeter Community Improvement District, of the City of Sandy Springs Zoning Ordinance and map dated April 16, 2007. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

Alcoholic Beverage Licenses

Consideration of Approval of an Alcoholic Beverage License Application (005841) for Charlie Mopps Public House 5830 Roswell Road, Sandy Springs, GA 30328. Applicant is Jason Patrick Chapman for consumption on the 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 an Alcoholic Beverage License Application (005841) for Charlie Mopps Public House at 5830 Roswell Road, Sandy Springs, GA 30328. Applicant is Jason Patrick Chapman for consumption on the premise Wine, Malt Beverage and Distilled Spirits. Councilmember Fries seconded the motion. There was no Council discussion. The motion carried unanimously.

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

Assistant City Manager Al Crace explained that due to some changes at the location discovered during a subsequent Fire Department inspection, staff recommends deferral of this application.

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

Motion and Vote: Councilmember Fries moved to defer consideration of an Alcoholic Beverage License Application (005423) for Quick Pick Food Mart at 7355 Roswell Road, Sandy Springs, GA 30328. Applicant is Salim B. Surawi for Retail/Packaged Wine and Malt Beverage to the June 19, 2007 meeting. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Mayor Galambos recognized Council Pages Preston Thompson and Austin Jobe and presented each with a certificate.

New Business

Consideration of approval to participate in the MARTA bus shelter advertising program.

City Manager McDonough stated that several points have been raised regarding this matter. He stated that MARTA has given the City a deadline for participation in this program. He recommended that they explore some additional, more creative options.

Motion and Vote: Councilmember Meinzen McEnery moved to defer consideration of approval to participate in the MARTA bus shelter advertising program to the May 1, 2007 meeting. Councilmember Fries seconded the motion. The motion carried unanimously.

**Consideration of approval of an Ordinance amending Chapter 11, Business Occupation Tax, Licenses, and Regulations to include provisions for Special Events.
Ordinance No. 2007-04-31**

City Clerk Rowland stated that the next agenda item is the consideration of approval of an Ordinance amending Chapter 11, Business Occupation Tax, Licenses, and Regulations to include provisions for Special Events. This will be presented by City Attorney Wendell Willard.

City Attorney Willard stated that this was removed from Chapter 8 and is being placed in Chapter 11 which is a more appropriate place for the applicant to file an application for a special event. This Ordinance also allows the City Manager discretionary authority for granting variances for issues contrary to what is in the Zoning Ordinance such as signage.

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

Motion and Vote: Councilmember Jenkins moved to approve an Ordinance amending Chapter 11, Business Occupation Tax, Licenses and Regulations of the City of Sandy Springs Code of Ordinances by adding Article 12, Special Events. Councilmember Paul seconded the motion. The motion carried unanimously.

**Consideration of approval of an Ordinance amending Chapter 11, Business Occupation Tax, Licenses, and Regulations, Article 1, Section 6 and Section 10.
Ordinance No. 2007-04-32**

City Clerk Rowland stated that the next agenda item is an Ordinance amending Chapter 11, Business Occupation Tax, Licenses, and Regulations, Article 1, Section 6 and Section 10. This will be presented by City Attorney Willard.

City Attorney Willard this has come about as a need of the City's inspectors in the business license area as well as code enforcement. This will allow them the right, as a part of the condition of holding the business license, to go onto the premises and into the buildings, and where necessary, photograph and video as a means of preserving vital evidence.

Councilmember Fries stated that this is a great idea as there was recently a need to be able to get into some apartments for inspection.

City Attorney Willard stated that the civil liability will be the loss of the license. This is not an automatic suspension or revocation. The City Council would then hear it and make a determination.

Motion and Vote: Councilmember Fries moved to approve an ordinance to amend Chapter 11, Business Occupation Tax, Licenses, and Regulation, Article 1, Business and Occupation Taxes, Section 6, Inspection of Records, and Section 10, Transfer, Suspension, Revocation of the City of Sandy Springs Code of Ordinances. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Reports and Presentations

City Manager McDonough stated that Finance Director Steve Rapson and Grant Administrator Sonja Fillingame are present to give an update on the library van project.

Finance Director Rapson gave a brief history of this program initiated by Smyrna. He explained that staff has spoke to Fulton County to see if they want to take over the program. The City has not received an answer from them yet.

Grant Administrator Fillingame stated that Publix is still interested. They are trying to get a status of funding. Discussion followed regarding an agreement with Publix.

City Manager McDonough stated that staff needs direction on what to do with the van and the books. There was a consensus that more information was needed to make a decision at this time. Mayor Galambos requested that staff pursue Fulton County to see if they would be interested in the program.

Public Comment

There were no comments from the public.

Executive Session-Attorney Client Consultation

Motion and Vote: Councilmember Meinzen McEnery moved to enter into Executive Session for Attorney-Client Consultation. Councilmember Jenkins seconded the motion. The motion carried unanimously with Councilmember Dave Greenspan, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery voting in support of the motion. Executive Session began at 8:25 p.m.

Motion and Vote: Councilmember Paul moved to adjourn Executive Session. Councilmember Fries seconded the motion. The motion carried unanimously with Councilmember Dave Greenspan, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery voting in support of the motion. Executive session ended at 8:40 p.m.

Adjournment

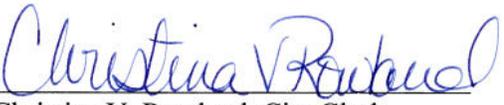
Motion and Vote: Councilmember Paul moved to adjourn the meeting. Councilmember Fries seconded the motion. The motion carried unanimously.

After no further discussion, the meeting adjourned at 8:41 p.m.

Date Approved: May 1, 2007



Eva Galambos, Mayor



Christina V. Rowland, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

April 17, 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 17th day of April, 2007, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved, pursuant to O.C.G.A. 50-14-2(1).

and that except for the foregoing, no portion of the closed meeting involved discussion, presentation, or action on any other matter.



Eva Galambos, Mayor

Sworn to and subscribed before me,
this _____ day of _____, 2007.

Notary public (SEAL)