

Regular meeting of the Mayor and City Council of the City of Sandy Springs was held March 20, 2007 at 7 PM, Mayor Eva Galambos presiding.

Invocation

Reverend Bruce Donnelly, 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.

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 led the Pledge of Allegiance.

Approval of Meeting Agenda

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

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

Consent Agenda

1. Approval of Minutes:
 - a. February 20, 2007 Regular Meeting minutes
 - b. March 6, 2007 Regular Meeting minutes
2. Acceptance of the Right-of-Way Improvements to Old Johnson Ferry Road and South Johnson Ferry Road
3. Approval of a Resolution adopting a new City Seal.
Resolution No. 2007-03-18
4. Approval to reschedule the May 17, 2007 Planning Commission Meeting to May 24, 2007.

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

Presentations

1. Presentation by the Chattahoochee Road Runners.

Mayor Galambos introduced Rich Garcia and Gary Jenkins who came forward and presented the Mayor and City Council with a memento commemorating the 2007 Chattahoochee Road Runners 10k.

2. Presentation to Sharon Griswold

Councilmember Jenkins introduced Ms. Sharon Griswold and her daughter, Grace. She explained that Ms. Griswold had been instrumental in raising funds to furnish the Fire Stations as well as feeding the Firefighters on moving day. Ms. Griswold explained that her family had experienced a house fire seven years ago. She stated that this is payback for what the Fire Department does.

Public Hearings

Zoning

City Clerk Rowland read the zoning rules.

Rezoning

RZ06-044/CV06-029, 9670, 9680, 9710 Roberts Drive, Applicant: Dave Lefkovits & Sam Katz from CUP to A for the development of 19 townhouse units.

City Clerk Rowland stated that the next agenda item is RZ06-044/CV06-029, 9670, 9680, 9710 Roberts Drive, an Ordinance to rezone property from the CUP District to the A District, property located at 9670, 9680, 9710 Roberts Drive. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Lefko Investments, LLC, represented by Carl Westmoreland with Powell Goldstein, LLP. The applicant has revised their plan that was originally heard by the Mayor and City Council on November 8, 2006. At that time, the Mayor and City Council deferred this for 120 days and requested that staff convene a community meeting between the applicant and concerned neighbors. This meeting was held on January 10, 2007. The neighbors expressed that they would only support a maximum of six units.

He stated that the applicant has submitted a revised site plan proposing to rezone the property from CUP conditional to A for the development of 19 detached dwelling units at a density of 5.94 units per acre. They are also requesting two concurrent variances to change the required 50 foot buffer and 10 foot improvement setback along the south property line to a 15 foot building setback and to change the required 25 foot side setback along the west property line to a 10 foot landscape strip.

Mr. Zehner stated that staff recommends approval with the conditions listed in the staff report for the 19 total units on the property.

Carl Westmoreland, 1201 West Peachtree Street, stated that this is 3.2 acres on the south side of Roberts Drive near Roswell Road. It is adjacent on the west side to office buildings and on the south side to Winding River Village. The original application was for 38 townhouses and was then amended to 26. It has since been amended to 19 single family units. All of the amendments and changes have not resulted in an agreement with the neighborhood. It is below the density suggested by the Land Use Plan which is 8-12 units per acre. It is now at 5.9 units per acre. He stated that all the applications that came before the Mayor and City Council were within the parameters of the Land Use Plan. It was deferred to receive more information regarding this product. The application was again amended to change not only the number of units, but also the type. They are no longer townhomes but are single family homes.

Displaying the aerial photograph, Mr. Westmoreland stated that the three homes that are the subject of this application are different from others on Roberts Drive. One, they adjoin office which fronts Roswell Road. Second is the proximity to Roswell Road. In addition, they are the only three homes that back up to Winding

River Village which is live/work/regional under the Land Use Plan. In terms of the suitability for continued viable single family homes that would complement the others on Roberts Drive and from the standpoint of providing for a transition from the development you would expect consistent with the Land Use Plan of Winding River Village it is appropriate that this be developed. This is less than the Land Use Plan suggests and is also a product that is not unique on Roberts Drive. There are detached houses on small lots as well as attached units along Roberts Drive.

Finally, with regard to the site plan, it complies with the River Corridor requirements. It has 52% open space and exceeds the requirements of the Tree Ordinance with respect to canopy replacement at 44%. There has been a lot of discussion with the staff in regards to elevations, specifically the rear elevation. He stated that those have been modified to comply with the staff conditions that Mr. Zehner referred to. He explained that there would also be a screen of Cypress to screen the units from Roberts Drive. He stated that Mr. Mark Lefkovits would like to speak, then one other person. He then reserved the remaining time for rebuttal.

Marc Lefkovits, 6705 Pine Mill Lane, Sandy Springs, stated that his wife grew up in Sandy Springs and his in-laws still live here as well. He has convinced his sister-in-law and brother to move to Sandy Springs. His parents will soon follow. He requested that the Council consider the following while making its decision: the Land Use Plan has reflected the 8-12 units per acre since 1992. The Sandy Springs Council of Neighborhoods has been very involved in the Land Planning process since well before Sandy Springs became a City. The three properties in question are the only three single family homes on Roberts Drive that back up to Winding River Village currently developed at over 10 units per acre. As you know, as approved by this body, it is designated living/working/regional which is the highest density in the City. Council deferred this in November to have staff facilitate sessions with the other party. Although the neighbors in opposition have continued to be uncompromising, the applicant has made further concessions to mitigate their concerns. The plan being considered consists of only 19 single family detached homes. It has a density of 5.94 units per acre, which is 50% below the original proposal and 25% below what the Land Plan suggests at its lowest point. It incorporates a robust landscape plan that provides visual screen for the neighbors and will maintain the look and feel of the neighborhood. It includes a tree canopy which is significantly higher than the 30% required. He requested that the property owners in support of this application stand.

He stated that the applicant hopes that the Mayor and City Council acknowledge the effort they have made to arrive at this plan. Even with an opposition that has been unwilling to compromise, they respectfully request that the Mayor and Council follow the recommendation of the professional City staff and uphold the Land Use Plan.

Barney Barreto, 341 Winding River Drive, Winding River Condominium Association President, stated that he lives between two of the homes that border directly south of the properties in consideration. He stated that he wishes to express their support of the rezoning of this property with the development of 19 detached single family homes. This project will be a better step toward revitalizing this community will be a positive change. This developer has made significant efforts to mitigate the concerns of the neighbors. The City Council voted in June 2006 to designate the node where Winding River and its surroundings currently lie as live/work/regional on the Future Land Use Plan. He reminded Council that this request is below the density accepted on the Land Use Map. If not approved, it will make it harder to bring true beneficial, long term change to this community which has been plagued by crime and unlawful elements. Please keep in mind that the future of the community is at stake. This will bring positive change to this area.

Jim Davis, 104 Lexington Place, Sandy Springs, stated that he is here at the request of the residents of Lexington Crossing Condominiums and at the direction of the Board of Directors, of which he is the Vice-President.

The consensus of their 54 residents is that they do not want this to pass and therefore respectfully request that the City Council deny the petition for rezoning as presented. The government of the people, by the people, and for the people was not the Federal government. It was the state and local government. It is where the rubber of citizenship meets the road of reality. He requested that they deny this petition.

Jim Stocksleger, 8685 The Fifth Green, Huntcliff Homeowners Association President, stated that his Board revisited this site last week. Every neighbor he could find visited and no one wants this to happen. Keep it the way it is. They support the purple node of live/work/regional area.

Trisha Thompson, 145 River North Drive, Zoning Chairman of the Sandy Springs Council of Neighborhood, searched the zoning records through an open records request. She submitted these documents for the record. It is demonstrated over and over that the Fulton County Board of Commissioners demanded that the south side of Roberts Drive be kept R-2. It is demanded and agreed to by the developer that this be kept R-2. In these records, it is clearly demonstrated that the south side of Roberts Drive is to be treated differently and protected from the higher densities. All of the higher densities were done with serious covenants in mind. The Future Land Use Map is not perfect. In her neighborhood, the corner of Johnsons Ferry Road at Riverside is shown as a townhome community. It is not. It is a park. She explained several locations on the map that are incorrect. When any doubts occur, the verbiage should supersede.

Don Huffner, 9643 Roberts Drive, stated that he and one hundred percent of his neighbors are against this petition. He reminded everyone that the Consul General of Nigeria stood here in opposition to this proposal. The new Consul General is also in opposition. The Comprehensive Plan states "the preservation of existing high quality, low density single family units is paramount in an R-2 community." This petition is inconsistent with the existing neighborhoods on both sides. This is a clear example of spot zoning. He quoted Article 7.3.1(b) of the City's Zoning Ordinance.

He explained that the Character Area Committee voted to change the Future Land Use Plan for Roberts Drive to a protected neighborhood. The sub-committee reaffirmed this position. There has not been one public comment in opposition to this change of the Future Land Use Plan. In a recent rezoning petition, the Mayor and City Council voted against the Future Land Use Plan. The developers have refused to present any elevations.

Robert Hearn, 9705 Roberts Drive, lives directly across the street from this rezoning. He stated that he has not spoken to anyone in conjunction with this development.

Carl Westmoreland, 1201 West Peachtree Street, Atlanta, stated that there were no reasons given for the opposition. He stated that Mr. Davis lives in condominiums. Mr. Stocksleger supports the live/work designation of the property immediately to the south. Ms. Thompson spoke about the applicant's proposal to develop the property at Winding River or apartment density. These are not Winding River or apartment densities. It is less than six units per acre. There was discussion about the A category being inappropriate. This is conditioned on the plan and is not opening the door for apartment zoning or development along Roberts Drive. There are a variety of uses on Roberts Drive. There is discussion about changing the Land Use Plan; however the Land Use Plan has been in place for a long time. The applicant has tried to comply with it and have now come below the Land Use Plan. In summary, the applicant has tried to respond to comments of the staff and the neighborhood. Given the unique character of this property on Roberts Drive, this is an adequate transition and request approval.

Roger Rupnow, Chairman of the Planning Commission, requested that the record reflect that the Planning Commission did not have the opportunity to review the proposal before the Council this evening. There is a gap in the communication system.

Councilmember DeJulio questioned why the Planning Commission had not seen this. Mayor Galambos explained that had seen this petition however changes have been made that they have not seen.

Councilmember Paul questioned where the elevations were that they had requested.

Councilmember Meinzen McEnery questioned what density the Planning Commission reviewed and denied. Assistant Director of Planning and Zoning Zehner stated that they reviewed the 26 total units. Councilmember Meinzen McEnery stated that this is 7 less than that. Assistant Director of Planning and Zoning Zehner clarified that the Planning Commission reviewed the 38 total units.

Councilmember Paul questioned if every unit was going to look like the elevation provided. Mr. Westmoreland stated that these elevations were submitted with the conditions. Councilmember Paul questioned if every unit would look like this. Mr. Westmoreland stated that they were asked to submit the elevation to show the character. He questioned if they would like them to describe the materials and heights of the project.

Mayor Galambos questioned if the units were detached. Mr. Westmoreland explained that they are detached.

Councilmember Meinzen McEnery stated that Mr. Westmoreland felt that this development is an appropriate transition from the offices to the west and the condominiums to the south. She questioned why the applicant feels having 19 units is a good transition.

Mr. Westmoreland stated that from the west it is a transition from office and from the south, it is a transition from the existing condominiums. He stated that this is a moderate density that provides a transition similar to other locations in the City.

Councilmember Meinzen McEnery questioned why 19 units is a good transition to the northern properties that are two acre and greater home sites. Mr. Westmoreland stated that it is a density and type of product that is in the middle between attached and non-residential.

Councilmember Jenkins questioned if Mr. Westmoreland has had a chance to review the minutes submitted by Ms. Thompson. Mr. Westmoreland stated that he has not reviewed them.

Mayor Galambos questioned if the City Attorney had reviewed the documents submitted by Ms. Thompson.

Assistant City Attorney Cecil McLendon stated that he has reviewed the documents and it appears that the ultimate resolution was put into the covenant document. Through the minutes, an agreement had been reached that ultimately was converted into a covenant that may have been filed in 1968 or 1970. Georgia law allows these to run for 20 years therefore these have probably run their course unless it was renewed by the property owners.

Mayor Galambos opened the floor for public comments to allow the opposition to use their remaining 41 seconds.

Unidentified Speaker, stated that this does not abut the office building. They have always protected this neighborhood.

Trisha Thompson, stated that there is a fifty foot buffer. Councilmember Fries questioned when Ms. Thompson received these documents. Ms. Thompson stated that she began going through the document two or three weeks ago. She received the documents on Friday. Councilmember Fries requested that these type documents be submitted sooner. Ms. Thompson stated that staff should have these documents as they are part of the rezoning.

Unidentified Speaker, stated that Council has received his reasons via email and he does live in a condominium with a 250 foot undisturbed buffer zone between its closest building and Roswell Road.

Councilmember Greenspan stated that this issue has been before Council previously and they have received numerous emails and phone calls from folks on both sides of the issue. Now neither side is going to compromise. There is a difference between compromise and sacrifice. Both sides have compromised, however the neighborhood is unwilling to make a sacrifice.

Motion and Vote: Councilmember Greenspan moved to approve conditional the rezoning of the subject property from CUP conditional to R4A, single family dwelling, subject to the following conditions. Where these conditions conflict the stipulations offerings contained in the letter of intent, these conditions shall be superseded:

1. To the owners agreement to restrict the use of the subject property as follows:
 - a. A density of 1.88 units per acre or six (6) single family detached units, whichever is less.

2. To the owners agreement to abide by the following:
 - a. To a revised site plan to be submitted to the Department of Community Development. Said site plan shall be conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.

3. To the owner's agreement to provide the following site development standards:
 - a. The owner/developer shall dedicate thirty (30) feet of right-of-way from centerline of Roberts Drive along the entire property frontage or ten and one-half (10.5) feet from the back of curb, whichever is greater, to the City of Sandy Springs.

 - b. The owner/developer shall provide for a side setback of fifteen (15) feet along the east property line so long as the property to the east is zoned CUP conditional and required to be developed at R-2 standards.

 - c. No new public or private streets shall be installed to serve the property.

 - d. Driveways shall serve no fewer than two (2) lots.

 - e. There shall be no decks facing Roberts Drive and requiring front facades to face Roberts Drive.

Second: Councilmember Jenkins seconded the motion.

Friendly Amendment: Councilmember Meinzen McEnery offered a friendly amendment to condition 3b to add the sentence "The fifteen (15) foot side setback shall be planted to buffer standards as approved by the City of Sandy Springs Arborist." Councilmember Greenspan accepted this as a friendly amendment.

Discussion on the motion: Councilmember Paul questioned if this was acceptable to the applicant. Mr. Lefkovitz stated that at that density, it is not a viable project. Councilmember Paul stated that if the applicant is not agreeable to this rezoning, why rezone it at all. Why not deny the rezoning.

Councilmember Jenkins stated that this is the Council's opportunity to change the Land Use Map to what it should be on the south side of Roberts Road. Councilmember DeJulio stated that this is a spot zoning. This should be denied and let the developer come back after assembling a bigger parcel.

Councilmember Meinzen McEnery stated that if Council rezones this property, it gives the owners the opportunity to develop it. If it is denied, it will be one year before any rezoning action can be taken on that piece of property.

Councilmember Paul stated that with this motion, Council is arbitrarily making a zoning decision that has not been requested by the applicant. He stated that he assumes that if Council is not going to rezone it to what they are asking for; they would prefer it to be left alone.

Assistant City Attorney Cecil McLendon stated that it is appropriate in a situation like this to consider the evidence before the Council and look at intervening classifications.

Substitute Motion and Vote: Councilmember Paul offered a substitute motion to deny this petition. Councilmember DeJulio seconded the motion. The motion carried 4-2 with Councilmember Fries and Councilmember Jenkins voting in opposition.

RZ06-052/CV06-037/U06-007, 6780 Roswell Road (SR 9), Applicant: Homeland Self Storage, From A-O conditional to C-1 for the development of an office, retail and self storage development, with concurrent variances.

Ordinance No. 2007-03-20

City Clerk Rowland stated that the next agenda items is RZ06-052/CV06-037/U06-007, 6780 Roswell Road (SR 9), *Applicant: Homeland Self Storage*, rezoning from A-O conditional to C-1 for the development of an office, retail and self storage development, with concurrent variances.

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Homeland Self Storage represented by Steve Williams. The applicant is requesting to rezone the subject property from A-O conditional to C-1 for the development of an office, retail and self storage development.

Staff has recommended approval of the rezoning, concurrent variance, and use permit request. The Planning Commission recommended denial of the request with at 4-2 vote. The Commission found that the proposed self storage use was inconsistent with the surrounding area. The applicant has since submitted a revised plan. Staff has also made recommended conditions should Council see fit to approve the request.

Steve Williams, Keystone Development Services, 172 E. Shadburn Ave, Buford, represents the owner Bruce Weiner, a 14 year resident of Sandy Springs. He explained that they are requested rezoning of approximately 7.3 acres located at 6780 Roswell Road. The property is currently zone A-O which is a defunct zoning in the City of Sandy Springs. The applicant is requesting a rezoning to C-1, which is consistent with the Land Use Plan, as well as a use permit for a self storage facility and one concurrent variance for the setback.

The site is the old Bali's gymnasium, a 28,000-29,000 square foot facility with over 200 parking spaces with almost four acres of impervious surface. The proposed site plan shows two joined buildings for climate controlled self storage. These buildings will be a combined square footage of 133,600 square feet. Building C will be two-story mixed use. The first floor will be retail and the second floor will be Homeland Self Storage corporate office. Building B will be a single story, 9,600 square foot retail building. The applicant is proposing 122 parking spaces.

This development will also meet all the requirements of the Sandy Springs Overlay District for this area. There will be approximately 3.19 acres of impervious area. This is a half acre reduction. Detention will be provided if the engineering study warrants it. Storm Water quality will be provided.

They are proposing one driveway onto Roswell Road. They have met with Georgia Department of Transportation and this plan incorporates their comments.

This is consistent with the Land Use Plan and the surrounding development in the area. The concurrent variance requested is the reduction of the setback from 40 feet to 10 feet, moving closer to the road. This is not to get more square footage but to move the parking behind the building. The village look they are proposing is what Sandy Springs will want to move forward with on Roswell Road. The operating hours for the storage will be from 6:00 a.m. to 10:00 p.m. No lights will affect any residential property.

A sightline study has been done to show how this project will impact the single family residential to the west. The closest building will be about 700 feet from the closest single family residential and will be protected by the stream buffer. Additional trees will be planted in this buffer.

Neil Cunningham, 216 Brook Drive, Atlanta, stated that Sunny Brook Meadows is adjacent to this development. He stated that anything would be better than the Bali's however; a self storage facility is not right for this area. This needs more consideration.

Trisha Thompson, 145 River North Drive, Sandy Springs Council of Neighborhoods, commended this developer and stated that he has been a delight to work with. She stated that the Council of Neighborhoods is opposed to this development. This is not appropriate for Roswell Road. She gave a brief history of self storage denials.

Mark Mullinax, 6875 Sunny Brook Lane, does not support a storage facility.

Steve Williams, Keystone Development Services, stated that self storage is not the most exciting use. He questioned what is objectionable, the noise, the lighting, the traffic, the security, the drain on the existing water/sewer facilities. There will be no noise as it will close at 10:00 p.m. A light study has been provided and there will be no lights after 10:00 p.m. Self storage is one of the lowest traffic generators of any use. The security is a main concern. There will be two restrooms for the storage. That should not be a strain on the water/sewer facilities. Also, this will not be a drain on the Police or Fire Departments. This will have a state of the art sprinkler system and the nature of the development, this will not be a drain on either Department.

Mayor Galambos questioned how far from Roswell Road the storage building will be. Mr. Williams answered that it will be approximately 150 feet.

Mr. Williams stated that the buildings will be four sided brick with EFIS accents.

Councilmember Jenkins stated that the self storage has been pushed closer to the homes on Sunny Brook. She requested that the building be move back to the location on the site plan dated January 18. He explained the issues with the topography, buffer and parking.

Marlise Landeck, Design Review Board, stated that the Design Review Board has not reviewed this new plan.

Mary Wolff, 6860 Sunny Brook Lane, stated that this is a warehouse and does not belong in a residential area.

Councilmember Fries stated that she did some research relating to public storage. She is opposed to public storage however she visited every storage facility from Abernathy Road to the River. She was astounded to find that these units were 80 to 90 percent full. The benefit of this storage is that it is not visible from Roswell Road.

Mayor Galambos stated that she lives within one or two blocks of two storage facilities and they do not produce any children to go to the schools and they produce very little traffic. Architecturally, each one is better than the last.

Councilmember Fries stated that during her visits, she asked about crime and was informed that there has only been one incident and it involved someone trying to live in a unit.

Motion: Councilmember Paul moved to approve RZ06-052/CV06-037/U06-007, 6780 Roswell Road (SR 9) for Applicant: Homeland Self Storage, from A-O conditional to C-1 for the development of an office, retail and self storage development, with concurrent variances the following amended staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Self storage and accessory uses at a density of 18,296.36 square feet per acre or 133,600 square feet, whichever is less (U06-007).
 - b. Office and accessory uses at a density of 986.03 square feet per acre or 7,200 square feet, whichever is less.
 - c. Retail and accessory uses at a density of 2,300.74 square feet per acre or 16,800 square feet, whichever is less.
 - d. To a maximum height of 4 stories.
 - e. Businesses renting vehicles shall be prohibited from the subject property.
 - f. To limit public access to the storage facility to the hours of 6 a.m. to 10 p.m.
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 14, 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.
- b. To the building elevation received by the Department of Community Development dated March 20, 2007. All buildings proposed shall comply with that elevation subject to the approval of the Design Review Board.
3. To the owner's agreement to provide the following site development standards:
 - a. The owner/developer shall dedicate forty-five (45) feet of right-of-way from centerline of Roswell Road (SR 9) 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. Prior to issuance of a Land Disturbance Permit, the owner/developer shall attempt to provide interparcel access with the properties to the north and south. 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 interparcel access, prior to the issuance of a Land Disturbance Permit.
 - c. To the removal of the existing acceleration lane on Roswell Road (SR 9).
 - d. To reduce the required forty (40) foot front yard setback to ten (10) feet as shown on the site plan received by the Department of Community Development dated March 14, 2007 (CV06-037).
 - e. A maximum limit of 0.5 footcandles of light shall be prohibited along residential property lines abutting the subject property. The owner/developer shall submit a photometric study to the Department of Community Development prior to the issuance of a Land Disturbance Permit.
 - f. The owner/developer shall commence construction of Buildings C and D prior to or simultaneously with the construction of Buildings A and B as shown on the site plan received by the Department of Community Development dated March 14, 2007.
 - g. The owner/developer shall attempt to shift the location of Buildings A and B as shown on the site plan received by the Department of Community Development dated March 14, 2007 closer to the north property line if it is determined to be feasible. The relocation of these buildings shall be subject to the approval of the Design Review Board.

Second: Councilmember Jenkins seconded the motion.

Discussion on the motion: Councilmember Paul stated that he is responsible for the retail element as he requested it. He stated that this is an important step in the redevelopment of Roswell Road. This is the best solution environmentally. He commended the developer for being willing to work with the City.

Councilmember Meinzen McEnery commended the developer for working with the City. She explained that she fought against a storage facility which abuts her single family neighborhood. The benefit of this is that the frontage on Roswell Road looks more approachable and pedestrian. There is no retail anywhere around this development. She will not support this type of use.

Vote: The motion carried 5-1 with Councilmember Meinzen McEnery voting in opposition.

RZ06-059/CV06-044, 200 Sandy Springs Place, Applicant: W & M Associates, LLC, To rezone from C-1 conditional to C-1 to construct an 8,075 square foot addition on the existing 9,039 square foot office building.

Ordinance No. 2007-03-21

City Clerk Rowland stated that the next agenda item is RZ06-059/CV06-044, 200 Sandy Springs Place, Applicant: W & M Associates, LLC, rezoning from C-1 conditional to C-1 to construct an 8,075 square foot addition on the existing 9,039 square foot office building.

Assistant Director of Planning and Zoning Zehner stated that the applicant is W & M Association, represented by Woody Galloway. The applicant is requesting to rezone from C-1 conditional to C-1 to construct an 8,075 square foot addition on the existing 9,039 square foot office building. The applicant is requesting one concurrent variance to delete the required 10 foot landscape island placed every six parking spaces. The Design Review Board reviewed that request and recommended approval 5-0 with the amendment that the trees that would be placed in the parking space area be planted in front of the parking space. Staff has added that condition and recommends approval of the rezoning the conditions listed in the staff report.

Woody Galloway, 3500 Lenox Road, Atlanta, representing the applicant. This is 0.59 acres located at Sandy Springs Place. The applicant is seeking rezoning to C-1 to change the conditions to allow an addition to the existing office building on the property. They have worked with the Design Review Board and addressed their issues. The trees will be added back to the site. The Planning Commission has recommended approval. This is consistent with the Land Use Plan.

Motion: Councilmember DeJulio moved to approve RZ06-059/CV06-044, 200 Sandy Springs Place, Applicant: W & M Associates, LLC, to rezone from C-1 conditional to C-1 to construct an 8,075 square foot addition on the existing 9,039 square foot office building 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 29,006.78 square feet per acre or 17,114 square feet, whichever is less.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated December 20, 2006. 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 Sandy Springs Place along the entire property frontage or ten and one-half (10.5) feet from back of curb, whichever is greater, to the City of Sandy Springs.
 - b. To delete the required ten (10) foot landscape island placed every sixth parking space (CV06-044). In lieu of the landscape islands, the owner/developer shall provide five (5) shade trees along the north property line in the required landscape strip and an additional two (2) shade trees behind the parking area on the Sandy Springs Place frontage along the south property line.

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

RZ06-060-5072 High Point Road, Applicant: James Raines, to rezone from R-2 to R-3 for the development of 2 single family lots.

City Clerk Rowland stated that the next agenda item is RZ06-060-5072 High Point Road, *Applicant: James Raines*, rezoning from R-2 to R-3 for the development of 2 single family lots.

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Ian Silverstone, represented by James Raines. The applicant has requested to rezone the property from R-2 to R-3. Staff has recommended denial of the petition. The applicant has requested to withdraw the application. The Planning Commission recommended approval of the withdrawal request.

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

Motion and Second: Councilmember DeJulio moved to deny RZ06-060. Councilmember Fries seconded the motion.

Discussion on the motion: Assistant City Attorney McLendon clarified that the applicant has requested to withdraw their application. Community Development Director Leathers stated that Council may either accept the withdrawal or make any other decision on the matter before you.

Councilmember Meinzen McEnery stated that to allow a division of that lot is inappropriate to the surrounding uses.

Vote: The motion carried unanimously.

Zoning Modifications

ZM07-001/CV07-006-5270 Greenland Road, Applicant: Southern Gentry Developments, LLC, To modify conditions 2.a., 3.b., and 3.i. of Z05-0024 to replace the approved site plan, to allow for the required buffer area to be included as a part of each individual lot, and to allow for detached garages behind the proposed residences, with concurrent variances.

Ordinance No. 2007-03-22

City Clerk Rowland stated that the next agenda item is ZM07-001/CV07-006, an Ordinance to modify conditions of a Resolution of the Fulton County Board of Commissioners approving petition Z05-0024 on September 7, 2005. Property is located at 5270 Greenland Road.

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Southern Gentry Developments, LLC, to modify conditions 2.a., 3.b., and 3.i. of Z05-0024 approved by Fulton County of September 7, 2005. Condition 2.a. is to adopt a revised site plan, condition 3.b. to allow encroachment into a stream buffer with proposed detention facilities and a required 25 foot wide undisturbed natural undisturbed buffer to be part of the individual lots rather than in common area. To modify condition 3.i to allow for detached garages behind the proposed residences. The applicant is requesting four concurrent variances to remove four specimen trees, encroaching on the critical root zone of five, to delete the required 20 foot landscape strip around the proposed detention facilities, delete the required 20 foot continuous access easement, and to allow portions of two proposed detention facilities to encroach into the required 25 foot impervious setback and 50 foot City stream buffer.

Staff recommends approval of the modification, denial of variance number one, denial of variance number two, denial of variance number three and approval of variance number four.

Robert Donner, Country Hills Estates, this has been designed to be a world class project and model development for the City. They voluntarily reduced their density from 59 units to 32 units. Since then, they have made significant progress and are half way through the development. They are proud of the conservation on the

site and have recycled most of the trees that were removed. Mulch from the trees is used on the property. The water leaving the site is cleaner than the water entering the site. Other conservation efforts have been provided.

He explained that there has been a hydrology issue because of the topography. The topography has presented an engineering challenge. The permitted plan called for seven detention ponds to deal with the water issue. They were not happy with that and have produced this list of variances to deal with the placement of those seven detention ponds with encroachment into stream, creek and tree buffers.

Since the time of the application, an engineering firm was hired and it was found that the number of detention ponds can be reduced to two. Conservation and natural means have been used to do this. There will be in-ground infiltration systems for all the homes. The water from the streets will be channeled into the detention ponds. The street is one hundred percent stone paver street so there is some porous nature to the street. The water being channeled to the detention ponds will first go through a Storm Septor system which is a water filtration device used in a lot of commercial developments. This improves the water quality before it gets to the detention pond.

The detention pond structure is a gabion type device which is a natural stone packaged together with wire mesh creating building blocks. The engineering firm is modeling this for the City's approval.

He stated that some of the requests are no longer needed. For example, they do not need to penetrate into the tree buffer. They need to penetrate into the 50 foot City stream buffer. They are requesting to put a very natural structure within that 50 foot buffer.

He stated that they are also requesting that the 25 foot tree buffer surrounding the property, on 20 of the lots be allowed to be included in the legal title of the property lines themselves. They are not asking to remove the zoning condition of the tree buffer.

Robin Beechey, 20 Willow Glen, Atlanta, Willow Glen Condominium Association, requested that the request to allow the homeowner title of the tree buffer not be approved. This should be the responsibility of the homeowners association.

Nancy Early, 5220 High Point Road, President, High Point Civic Association, stated that this land is in their incorporated area. She stated that they fought to keep the 50 foot buffer and requested that they remain at the 25 foot buffer. This will hinder the City in enforcement of this buffer. She expressed concerns regarding the south buffer. She stated that they do not approve of any encroachment into stream buffers.

Charlie Kontz, 905 Landmark Drive, Atlanta, Past President, High Point Civic Association, stated that this buffer is so important.

Patty Berkovitz, 800 Crest Valley Drive, President, Long Island Creek Watershed Preservation Association, stated that they have been working with Mr. Donner and he is wonderful. This is not the right application at this time.

Janet Wells, 302 Beachland Drive, stated that she is not opposed and knows the applicant has worked very hard regarding the watershed issue. She commended the applicant of his work. She expressed concerns regarding the buffer being placed in the hands of the homeowners.

Robert Donner, Country Hills Estates, stated that they are permitted for all seven detention ponds but it is in no one's best interest to build seven detention ponds. He has hired a very experienced engineering firm to look at this. Underground detention is cost-prohibitive. This is the next best thing.

He explained that in regards to the tree buffer, he is not advocating endangering the tree buffer in any way. It is in his best interest that the tree buffer be enforced. Having the buffer will help them sell the homes. This is a title issue. Mayor Galambos asked the City Attorney for an opinion.

Assistant City Attorney McLendon stated that as a zoning stipulation on the development that the buffer remain, the individual lot owners would be held accountable for any violation of that stipulation as they would be conveyed the property subject to this requirement. It would mean chasing down a lot of different owners as opposed to one group but it would be legally binding. Community Development Director Leathers added that the goal of having the homeowners association held responsible for the buffer is to be able to work with one group.

Assistant Director of Planning and Zoning Zehner stated that the applicant has not submitted a revised site plan showing only two detention ponds. Mr. Zehner recommended deferral until a revised site plan is submitted.

Robert Donner stated that he is simply removing five detention ponds. He has already deferred for six months.

Assistant Director of Building and Development White stated that his staff has not reviewed as plan with only two detention ponds. He has only had a conceptual discussion regarding the gabion walls and detention strategy.

Robert Donner stated that he will just keep the seven detention ponds.

Councilmember DeJulio questioned if the applicant had to build seven detention ponds if this is approved.

Assistant Director of Planning and Zoning Zehner stated that he could build up to seven depending on the engineering.

Councilmember Jenkins questioned if this applicant is coming before Council again in June. Mr. Zehner stated that he has applied for a rezoning and will need all these variances again. Mr. Donner stated that is a different matter.

Councilmember Meinzen McEnery read the following statement: "I may have a potential conflict of interest in the Zoning Modification on Greenland Road in that a principal in a company that contributed to my campaign before I was elected has a financial interest in the subject property. However, I know I can otherwise participate fairly, objectively, in a manner consistent with public interest."

Clerk's note: This document is dated March 20, 2007 and signed by Councilmember Meinzen McEnery and is a file of record.

Councilmember Meinzen McEnery stated that the legal opinion is that the obligation for the undisturbed buffer goes with the property. She would like the homeowner's association held responsible as well. The applicant agreed to this. Mr. Zehner suggested that be put into an easement. The applicant agreed to this.

Councilmember Meinzen McEnery stated that these gabions will be placed on top of the soil. This is not a matter of zoning. This is a positive improvement for the community.

Motion: Councilmember Meinzen McEnery moved to approve ZM07-001/CV07-006-5270 Greenland Road, Applicant: Southern Gentry Developments, LLC, to modify conditions 2.a., 3.b., and 3.i. of Z05-0024 to replace the approved site plan, to allow for the required buffer area to be included as a part of each individual lot, and to allow for detached garages behind the proposed residences, 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. Single family detached dwellings and accessory uses and structures.
 - b. No more than 32 total dwelling units at a maximum density of 1.61 dwelling units per acre, whichever is less, based on the total acreage zoned. Approved lot/unit totals are not guaranteed. The developer is responsible through site engineering (at the time of application for a Land Disturbance Permit) to demonstrate that all lots/units within the approved development meet or exceed all the development standards of the City of Sandy Springs. The total lot/unit yield of the subject site shall be determined by this final engineering.

- c. Provide a minimum lot size of 10,000 square feet.
 - d. The minimum heated floor area per dwelling unit shall be a minimum of 3,000 square feet for lots adjacent to the perimeter common area and a minimum of 2,800 square feet for the remainder.
2. To the owner's agreement to abide by the following:
 - a. To a revised site plan to be received by the Department of Community Development. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, the Development Standards therein, and these conditions prior to the approval of a Land Disturbance Permit. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, the applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
 - b. All areas which are not part of an individual lot and held in common shall be accessible via dedicated roadways, easements, sidewalks, etc. and shall be maintained by a mandatory homeowners association, whose proposed documents of incorporation shall be submitted to the Director of Community Development for review and approval prior to the recording of the first final plat.
 3. To the owner's agreement to the following site development considerations:
 - a. The minimum design standards are:

Minimum lot width at building line: 40 feet
Minimum front yard: 10 feet
Minimum side corner yard: 10 feet
Minimum rear yard: 15 feet (10 feet of which is to be an improvement setback for properties along the perimeter of the project)
Minimum side yard: 0 feet
Minimum Building Separation: 14 feet
 - b. Provide a natural buffer, common area which is not a part of any lot, undisturbed except for approved access and utility crossings, improvements, and replantings where sparsely vegetated and subject to the approval of the Fulton County Arborist, adjacent to the following property lines and in the widths shown:

25 feet wide along the entire length of the north, south, and west property lines with no improvement setback; except for a 12 foot encroachment into the buffer area by Detention Ponds #6 and 7 as shown of the site plan received by the Department of Community Development dated February 8, 2007.
 - d. Provide a natural, undisturbed open space/common area on the east side of the property as shown on the site plan referenced in condition 2.a. Replant where sparsely vegetated subject to the approval of the City of Sandy Springs Arborist. Allow approved access and utility crossings, detention facilities, and nature paths in the common area.
 - e. No fencing is allowed in the common areas referenced in conditions 3.b., 3.c., or 3.d., except as required around detention facilities and swimming pool.
 - g. No more than one (1) exit/entrance on Greenland Road. Curb cut location and alignment are subject to the approval of the City of Sandy Springs Traffic Engineer.
 - i. No garage shall be visible from the street.

- j. To the removal four (4) specimen trees (Tree #2, 3, 7 and 9) as shown of the site plan received by the Department of Community Development dated February 8, 2007 (CV07-004).
 - k. To encroach into the critical root zone of five (5) specimen trees (Tree #1, 4, 5, 6, and 8) as shown of the site plan received by the Department of Community Development dated February 8, 2007 (CV07-004).
 - l. To encroach into the critical root zone of four (4) specimen trees (Trees #1, 5, 6, and 8) as shown of the site plan received by the Department of Community Development dated February 8, 2007 (CV07-004).
 - m. To allow portions of Detention Ponds #3 and 4 to encroach into the required twenty-five (25) foot impervious setback and the fifty (50) foot City stream buffer as shown of the site plan received by the Department of Community Development dated February 8, 2007 (CV07-004).
 - n. To delete the required twenty (20) foot landscape strip around the proposed detention facilities (CV07-004).
 - o. To delete the required twenty (20) foot wide continuous access easement around the proposed detention facilities (CV07-004).
 - p. To allow portions of two (2) of the proposed detention facilities to encroach into the required twenty-five (25) foot impervious setback and the fifty (50) foot City stream buffer (Chapter 14, Article 6, Section 5, *Land Development Requirements*).
4. To the owner's agreement to abide by the following requirements, dedication and improvements:
- a. Dedicate at no cost to the City of Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Fulton County such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

25 feet from the centerline of Greenland Road.
 - b. Provide a traffic impact mitigation plan to reduce the number of vehicular trips generated by the development to the City of Sandy Springs Traffic Engineer at the concept review phase.
5. To the owner's agreement to abide by the following:
- a. Prior to submitting the application for a (LDP) with the Department of Environment and Community Development, Development Review Division, arrange to meet with the City of Sandy Springs Traffic Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
 - b. Prior to submitting the application for an LDP, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the City of Sandy Springs Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for an LDP.
 - c. Prior to submitting the application for an LDP, the developer/engineer shall contact the Department of Community Development and arrange to meet on-site with an engineer, who is responsible for review of Storm Water Concept Plan submittals.
 - d. Prior to submitting the application for an LDP, the developer and/or engineer shall submit to the SWMP, through the Department of Community Development, a project Storm Water Concept Plan. This concept plan shall indicate the preliminary location of the storm water management facilities intended to manage the quality

and quantity of storm water. The concept plan shall specifically address the existing downstream off-site drainage conveyance system(s) that the proposed development surface runoff will impact, and the discharge path(s) from the outlet of the storm water management facilities to the off-site drainage system(s) and/or appropriate receiving waters. As part of the Storm Water Concept Plan submittal, a preliminary capacity analysis shall be performed by the engineer on the off-site drainage system(s) points of constraint. The capacity analysis shall determine the capacity of all existing constraint points, such as pipes, culverts, etc. from the point of storm water discharge at the proposed development site boundary downstream to the confluence of the receiving drainage course at a point where the drainage area is at least ten times the proposed development site area and the next downstream drainage area having a drainage area of fifty acres or more. The critical capacity points shall be selected based upon the engineer's field observation, professional judgment, and limited field survey data. The analysis shall identify the downstream properties pre and post-development 100-year water surface elevations, and for any post-development water surface elevation increase exceeding 0.05 feet, the developer shall acquire the applicable offsite drainage easement to accommodate the 100-year storm flow through impacted properties. Where Fulton County has completed a model of the basin, it shall be used by the developer in the analyses.

- e. Where storm water currently drains by sheet flow and it is proposed to be collected to and/or discharged at a point, such that the discharge from the storm water management facility outlet crosses a property line, such discharge shall mimic pre-development sheet flow conditions. A description of the method proposed to achieve post-development sheet flow conditions shall be provided as part of the Storm Water Concept Plan. Should the method to achieve sheet flow across an external property line be unsuccessful, the developer shall acquire an easement(s) from the point of discharge to a point down gradient at a live dry weather stream sufficient to contain the 25 year storm flow or other location as approved by the Director of Community Development or his/her designee. This condition will not apply when the storm water management facility is designed and approved to discharge directly to a stream or watercourse.
- f. A draft of the Inspection and Maintenance Agreement required by Fulton County Code Section 26-278 shall be submitted to the Department of the Community Development with the Storm Water Concept Plan.
- g. The Inspection and Maintenance Agreement shall provide that all storm water management/detention facility outlet control structures shall be inspected, photographed, and cleaned, if necessary, on a monthly basis, by the owner. The Inspection and Maintenance Agreement shall require that the design engineer shall prepare an operation and maintenance guidance document, for use by the owner and/or any professionals retained by the owner, to plainly describe the basic operational function of the facility(ies), including a description of a permanent marker post(s) which shall indicate that the level of sediment which, if exceeded, requires sediment removal. The Inspection and Maintenance Agreement shall require an annual operation and maintenance report for all storm water management/detention facilities be prepared by a licensed design professional and submitted to the SWMP. The annual report shall include monthly inspections, photographs, and documentation of the cleaning of storm water management/detention facilities outlet control structure(s) as well as an operational assessment of the facilities indicating that they do, or do not, function as described in the design guidance document (described above), and if they do not, a description of the specific actions to be taken to allow the facilities to function as intended.
- h. The required Inspection and Maintenance Agreement shall be recorded with the Clerk of Superior Court prior to issuance of an LDP, Grading Permit, or Building Permit associated with the development.
- i. The engineer/developer is required to submit, along with the application for an LDP, signed documentation verifying approval of the Storm Water Concept Plan.
- j. Where paved parking areas (including access aisles) are proposed to exceed 5,000 square feet, the storm water management facilities shall be designed to reduce pollutants such as oil, grease and other automobile fluids that may leak from vehicles. A general description, or concept, of the storm water management facilities proposed to achieve the removal of such pollutants shall be submitted with the Storm Water Concept Plan. A detailed design of such facilities shall be included in applicable documents for a land disturbance permit.

- k. With the application for an LDP, provide documentation (such as channel cross-sections, centerline profile, etc.) describing the geometry of those existing natural streams, creeks, or draws within the proposed development boundary which in the design engineer's judgment are at risk of erosion due to increased flow, provide a description of the basis utilized in judging areas to be at risk, and provide details on the Storm Water Management Plan of the post-development channel bank protection measures.
- l. The developer/engineer shall demonstrate to the City of Sandy Springs by engineering analysis submitted with the LDP application, that the discharge rate and velocity of the storm water runoff resulting from the development is restricted to seventy-five percent (75%) of the pre-development conditions for the 1-year frequency storm event, up to and including the ten (10)-year frequency storm event.
- m. Drainage from all disturbed areas shall be collected and conveyed to a storm water management facility provided as part of the development. The Storm Water Concept Plan shall identify any proposed areas with incidental and minor release of storm water not conveyed to such facilities, subject to the approval of the Director of Public Works. Plans for any land disturbance permit shall show all proposed drainage patterns for the proposed development after its completion. Any incidental release of unmanaged or untreated storm flows from any disturbed portion of the developed property shall be allowed only with the approval of the Director of Public Works. Other than minimal incidental flows shall be specifically approved by the Director of Public Works. Bypass flows will not be permitted except from undisturbed areas within a buffer or other protected easement. Final plans shall provide for collection, conveyance and treatment of all approved incidental flows from developed lots or parcels, individual residences or building structures.
- n. Storm water management facility(ies) volumes shall be designed to achieve water quality treatment, channel protection, over bank flood protection and extreme flood protection, in accordance with the Georgia State Storm water Manual, except that the duration of release for water quality treatment shall be 48 hours.

Second: Councilmember Fries seconded the motion.

Discussion on the motion: Councilmember Greenspan stated that he wants facts not ifs. He wants to vote on facts. Mayor Galambos clarified that if the applicant decided to build fewer than seven detention ponds, he would have to have approval of the City's engineering department. The applicant stated that is correct.

Councilmember DeJulio questioned of Councilmember Meinzen McEnery can ethically make a motion to approve this.

Assistant City Attorney McLendon stated that the contribution was not from the applicant and therefore this not an actual conflict. However, disclosure has been made prior to this.

Vote: The motion carried unanimously.

ZM07-002/CV07-004-Abernathy Road at Barfield Road (17 0035LL072, 17 0035LL073, 17 0035LL092), Applicant: Lane Southeast, LLC, To modify condition 2.a. and 3.a. of Z99-0101/CV99-0165/U99-0051 to replace the approved site plan and to require a 10 foot landscape strip along Abernathy Road and Barfield Road, with concurrent variances.

Ordinance No. 2007-03-23

City Clerk Rowland stated that the next agenda item is ZM07-002/CV07-004, an Ordinance to modify conditions of a Resolution by the Fulton County Board of Commissioners approving petition Z99-0101 on July 5, 2000, property located at Abernathy Road at Barfield Road (17 0035LL072, 17 0035LL073, 17 0035LL092).

Assistant Director of Planning and Zoning Zehner stated that the petitioner is Lane Southeast, LLC represented by Mr. Pete Hendricks. The applicant is requesting to modify condition 2.a. Staff recommends approval. The applicant is requesting to modify condition 3.a. Staff recommends approval. The applicant is requesting a

concurrent variance to allow the placement of hard surface elements within the required 10 foot landscape strip along Abernathy Road. Staff recommends approval with conditions listed in the staff report.

Pete Hendricks, 6085 Lake Forrest Drive, Sandy Springs, stated that Mr. Zehner has artfully set out what the request is. He stated that they have no opposition to staff's conditions and recommendations.

Motion: Councilmember Jenkins moved to approve ZM07-002/CV07-004-Abernathy Road at Barfield Road (17 0035LL072, 17 0035LL073, 17 0035LL092), Applicant: Lane Southeast, LLC, to modify condition 2.a. and 3.a. of Z99-0101/CV99-0165/U99-0051 to replace the approved site plan and to require a 10 foot landscape strip along Abernathy Road and Barfield Road, 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, institutional, retail and service commercial, and accessory uses, including all exterior food and beverage service areas, at a maximum density of 50,000 gross square feet per acre zoned or a total of 570,500 square feet, whichever is less.
 - b. No more than 150 total dwelling units, at a maximum density of 13.15 units per acre, based on the total acreage zoned, whichever is less. Development of these units must be upon property owned by a Condominium Association with evidence of the Association to be submitted to the Director of the Department of Community Development prior to the issuance of the final Certificate of Occupancy.
 - c. One 400-room hotel.
 - d. One maximum 6-story detached parking deck, as depicted on the site plan referenced in condition 2.a.
 - e. Limit the height of the office buildings to no more than 18 stories. Mechanical penthouse shall not count as one of the stories. (99U -051 NFC)
 - f. Limit the height of the hotel to no more than 16 stories. Mechanical penthouse shall not count as one of the stories. (99U -051 NFC)
 - g. Limit the height of the residential building to no more than 6 stories. Mechanical penthouse shall not count as one of the stories. (99U -051 NFC)
 - h. The minimum heated floor area per dwelling unit shall be 1,000 square feet.
2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development dated January 31, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Resolution 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 the first Certificate of Occupancy.
3. To the owner's agreement to the following site development considerations:
 - a. Provide a 15-foot building setback along Abernathy Road and a 20-foot building setback along Barfield Road and landscaping within these setbacks. Said landscaping shall be planted with trees and shrubs so as to meet the specifications as set forth in the Fulton County Tree Preservation Ordinance. Plantings and specifications shall be subject to the approval of the Fulton County Arborist. To allow for the following encroachments into the 20-foot building setback along Barfield Road:

Seven (7) feet for a distance of fifteen (15) feet on the southwest side of the proposed building as shown on the site plan received by the Department of Community Development dated January 31, 2007

- Three (3) feet with the balconies for the residential units at the southwest corner of the building as shown on the site plan received by the Department of Community Development dated January 31, 2007 (CV07-004)
- b. Plant trees along the east property line adjacent to Georgia 400 as shown on the site plan referenced in condition 2.a.
 - c. Provide for a rear yard building setback of zero, along the site's south property line identified as N 0027'20" E on the site plan referenced in condition 2.a. (99VC-165 NFC, Part 3)
 - d. Delete the requirement for a 5-foot wide landscape strip, along the site's rear property line, identified as N 0027'20" E on the site plan referenced in condition 2.a. (99VC-165 NFC, Part 2)
 - e. Delete all required interior buffers adjacent to residential uses within the development. (99VC-165 NFC, Part 4)
 - f. No more than 1 exit/entrance on Barfield Road. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - g. No more than 1 right-in/right-out exit/entrance on Abernathy Road. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - h. No direct access shall be allowed from Georgia 400.
 - i. All parking structures shall be constructed so as provide at a minimum 50% visual screening of all parked vehicles. Screening shall be accomplished either through architectural means so that parking decks resemble the style of the surrounding office buildings and therefore are not discernable from those buildings or through additional landscape treatments as part of the parking structures themselves. Said landscape treatments shall also provide a minimum 50% visual coverage of all parked vehicles. A combination of architectural and landscape treatments may be used provided that the minimum 50% visual screening of all parked vehicles is achieved.
 - j. No neon or electronic or flashing signage on retail storefronts facing Abernathy Road, Barfield Road, or Georgia 400.
 - k. To allow the placement of hard surface elements (e.g. pedestrian ramp, steps, sidewalks, planters, and retaining walls) within the required ten (10) foot landscape strip along Abernathy Road as shown on the site plan received by the Department of Community Development dated January 31, 2007 (CV07-006).
4. To the owner's agreement to abide by the following requirements, dedication and improvements:
- a. Reserve for Sandy Springs along the necessary property frontage of the following roadways, prior to the approval of a Land Disturbance permit, sufficient land as necessary to provide for compliance with the Comprehensive Plan. All building setback lines shall be measured from the dedication but at no time shall a building be allowed inside the area of reservation. All required landscape strips and buffers shall straddle the reservation line so that the reservation line bisects the required landscape strip or buffer. At a minimum, 10 feet of the required landscape strip or buffer shall be located outside the area of reservation. All required tree plantings per Article 4.23 shall be placed within the portion of the landscape strip or buffer that lies outside the area of reservation.

Georgia 400 - As may be required by the Georgia Department of Transportation.

- b. Dedicate at no cost to Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost

to Sandy Springs such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

Georgia 400 - As may be required by the Georgia Department of Transportation;

60 feet from centerline of Abernathy Road; 60 feet from centerline of Barfield Road.

- c. Traffic and sidewalk improvements shall commence before the issuance of any Land Disturbance Permit for site development and shall be completed before any final Certificate of Occupancy is issued, subject only to delays beyond the reasonable control of the developer.
- d. Improve roadways along the entire property frontages with curb and gutter per Sandy Springs standards or as may be approved by the Sandy Springs Traffic Engineer and/or the Georgia Department of Transportation.
- e. Provide a deceleration lane for each project entrance or as may be required by the Sandy Springs Traffic Engineer.
- f. Provide a left turn lane for each project entrance or as may be required by the Sandy Springs Traffic Engineer.
- g. Provide additional turn lanes on Barfield Road and Abernathy Road as approved by the Sandy Springs Traffic Engineer.
- h. Provide signalization as required by the Sandy Springs Traffic Engineer.
- i. The developer shall be required to submit a plan for a shuttle service to a surrounding area transit station in conjunction with the issuance of a Land Disturbance Permit, be it a joint effort with surrounding sites or an individual service. Shuttle service scheduling and service locations shall be as determined by the Sandy Springs Traffic Engineer. The shuttle service would be provided during A.M. peak, P.M. peak, and lunch hours.
- j. Shuttle plan and written agreement with service provider shall be presented to and accepted by the Sandy Springs Traffic Engineer prior to the issuance of any Land Disturbance Permit for the hotel or an office building. Shuttle service shall commence operation prior to the issuance of a Certificate of Occupancy for the hotel or an office building.
- k. Provide interparcel access as approved by the Sandy Springs Traffic Engineer.
- l. Provide MARTA shelters and safe pedestrian access to the shelters on Abernathy Road and Barfield Road.
- m. Provide sidewalks along Abernathy Road from Barfield Road to the east side of Georgia 400. If remaining sidewalks from Georgia 400 to Peachtree Dunwoody Road, across from the entrance to the Sandy Springs MARTA station, have not been completed by the issuance of the final Certificate of Occupancy on developer's project, the developer agrees to fund the construction cost of said sidewalk, along with the cost of a cover for such sidewalk, between Peachtree Dunwoody Road and the east side of Georgia 400. Sidewalks are to be built within Sandy Springs right-of-way as approved by the Sandy Springs Traffic Engineer.
- n. Provide a traffic impact mitigation plan to reduce the number of vehicle trips generated by the development to the Sandy Springs Traffic Engineer at the Land Disturbance Permit phase.
- o. Allow shared parking as provided for by Article 18.2.2 of the Zoning Ordinance.
- p. Obtain Georgia DOT approval for and fund the cost of pedestrian intersection improvements at Peachtree Dunwoody Road and Abernathy Road that include pedestrian signalization, cross walks, and islands that create

"safe harbors" for pedestrians.

5. To the owner's agreement to abide by the following:
 - a. To contact the Director of Public Works, prior to the application for a Land Disturbance Permit with the Department of Community Development, to meet with the Sandy Springs Traffic Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
 - b. Prior to the application for a Land Disturbance Permit with the Department of Community Development, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the Sandy Springs Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
 - c. To contact the Director of Public Works, prior to the application for a Land Disturbance Permit with the Department of Community Development, to meet with the Sandy Springs Drainage Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
 - d. At the time of submittal for a Land Disturbance Permit and after the approval of the Preliminary Plat, the engineer/developer is required to provide written documentation verifying on-site evaluation and any other necessary downstream constraints.
 - e. Provide documentation (cross-section, profile, etc.) as to the existing conditions for all natural streams/creeks within the boundary of the project. Show, by documentation, the appropriate erosion protection of the storm water conveyance system.
 - f. The developer/engineer is responsible to demonstrate to the City by engineering analysis, that the developed land use (proposed development) storm water runoff conditions are controlled at the maximum pre-developed land use level, so that downstream properties/conveyance systems are not impacted or aggravates existing flooding/drainage nor creates new drainage/flooding problems off-site.
 - g. Prior to application for a Land Disturbance Permit, the developer/engineer shall submit to the Department of Community Development a storm water concept plan. The storm water concept plan shall be preliminary drawings describing the proposed location of storage facilities, discharge paths, downstream and upstream constraints and other matters with potential storm water implications.

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

Text Amendments

RZ07-002-An Ordinance to Amend Article 3, Definitions, of the City of Sandy Springs Zoning Ordinance. Ordinance No. 2007-03-24

Assistant Director of Planning and Zoning Zehner stated that this is an Ordinance to amend Article 3, Definitions of the Sandy Springs Zoning Ordinance. This removes the sign definitions from Article 3 because they are duplicated in Article 33 of the Zoning Ordinance regarding signage. The only insertion would be, see Article 33, Signs for all definitions for signage. That is a recommendation from the Planning Commission.

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

Motion and Vote: Councilmember Fries moved to approve an Ordinance to Amend Article 3, Definitions, of the City of Sandy Springs Zoning Ordinance. Councilmember Jenkins seconded the motion. The motion carried unanimously.

RZ07-003-An Ordinance to Amend Article 4, General Provisions, of the City of Sandy Springs Zoning Ordinance.

Ordinance No. 2007-03-25

Assistant Director of Planning and Zoning Zehner stated that this is an amendment to Article 4, General Provisions of the City of Sandy Springs Zoning Ordinance. This ordinance proposes several actions. It indicates that the city is also a party to when the city makes a lot nonconforming that the lot is maintained as a legal non-performing lot due to right-of-way taking or other actions or similar actions. In addition that accessories site features and this includes generators, mechanical equipment for dwelling units, air condition equipment that is required to meet the same setbacks as other accessory structures and also requires that those be screened either through a wall or a landscaping or fencing. In addition, the lengthily new Tree Conservation Ordinance to the Zoning Ordinance also requires that three (3) inch rather than two (2) inch caliper shade tree be planted in landscape islands and parking lots it specifies the location of those landscape islands.

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

Motion and Vote: Councilmember Jenkins moved to approve an Ordinance to Amend Article 4, General Provisions, of the City of Sandy Springs Zoning Ordinance. Councilmember Fries seconded the motion. The motion carried unanimously.

RZ07-006-An Ordinance to Amend Article 34, Development Regulations, of the City of Sandy Springs Zoning Ordinance.

Ordinance No. 2007-03-26

Assistant Director of Planning and Zoning Zehner stated that this is an amendment to Article 34 of the City of Sandy Springs Zoning Ordinance. This indicates that the city is the collecting body for funds to ensure the completion of necessary project improvements. It does not address the question of sureties or performance bond at this time. That will come before City Council at a later date. This also indicates that private streets be required to meet a similar setback of public street. At present only public streets are required to be setback 50 feet from residential property line, would apply that 50 foot setback to private streets as well. This would eliminate the required 40 foot additional setback from pipeline easements. This would maintain the existing 125 foot additional setback or use of more hazardous in nature. Staff has discussed this with Pipeline companies and they are in support of this. Staff feels they put an adequate easement in place and there might be some concern for, this is a taking in line and input some property liability on the pipeline companies.

Councilmember Jenkins questioned what staff is pushing the setbacks to.

Assistant Director of Planning and Zoning Zehner stated that there are no additional setbacks. There is an easement in place and the easement is at whatever width that is determined to be appropriate by the pipeline company. It varies depending in the diameter of the pipeline. Generally, it is about a 50 foot total easement.

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

Motion and Vote: Councilmember Fries moved to approve an Ordinance to Amend Article 34, Development Regulations, of the City of Sandy Springs Zoning Ordinance. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

ALCOHOLIC BEVERAGE LICENSES

Consideration of Approval of an Alcoholic Beverage License Application (005435) for Chin Wong Corporation dba La Movida at 6600 Roswell Road, Suite 2, Sandy Springs, GA 30328. Applicant is Shu Lien Wong for consumption on the premise Malt Beverage and Distilled Spirits.

Assistant City Manager Crace stated that staff has reviewed this item and the application is in order. In the future staff would like to get these matters connected to the police department and add to ordinance of those type issues.

Councilmember Paul stated that this location has been the site of multiple shootings over the last couple of years.

Assistant City Manager Crace stated that when the city started the primary criteria was to try to transfer the existing businesses and move them forward. The criterion was written from an administrative point of view. The city didn't have a police department at that time and didn't have a police agency to really make these types of inquiries to. That all changed in July. Additional criteria need to be added to the ordinance.

Police Chief Wilson stated that there is a gap in what they do. When renewals are done the process hasn't been developed for the renewal. Mr. Crace, Mr. McDonough and he have come up with a process once developed he can then pull up an address and tell Council everything that has happened there since July.

Assistant City Attorney McLendon stated that Council has to operate under the terms of the ordinance that is currently in place. If your ordinance does not provide for this review and they have otherwise met the criteria, Council needs to move forward with it.

Councilmember Jenkins questioned how quickly this ordinance can be amended.

Assistant City Attorney McLendon stated that it is only minor additions to put in the code section and could be done rather quickly.

Councilmember Paul questioned if this was a renewal or change of ownership for this business.

Motion and Vote: Councilmember Paul moved to approve a ninety (90) day temporary license for Chin Wong Corporation dba La Movida at 6600 Roswell Road, Suite 2, Sandy Springs, GA 30328. Applicant is Shu Lien Wong for consumption on the premise Malt Beverage and Distilled Spirits. Councilmember Greenspan seconded the motion. The motion carried unanimously.

Consideration of Approval of an Alcoholic Beverage License Application (005290) for Pig N Chik at 4920 Roswell Road, Suite 45A, Sandy Springs, GA 30342. Applicant is James H. Graddy for consumption on premise Malt Beverage.

Assistant City Manager Crace stated that this application is for Consumption on the Premises for Malt Beverage and Distilled Spirits.

Councilmember Jenkins questioned if this was a new owner.

Assistant City Manager Crace stated that he did not have all the back up information with him but would bring it with him to future meetings.

Motion and Vote: Councilmember DeJulio moved to approve a ninety (90) day temporary license for Pig N Chik at 4920 Roswell Road, Suite 45A, Sandy Springs, GA 30342. Applicant is James H. Graddy for consumption on premise Malt Beverage. Councilmember Greenspan seconded the motion. The motion carried unanimously.

Unfinished Business

New Business

**Consideration of approval of an Ordinance amending Section 14(g) of Article 1 of Chapter 7 relating to transfer of location applications.
Ordinance No. 2007-03-27**

City Clerk Rowland stated that the next agenda item is the consideration of approval of an Ordinance amending Section 14(g) of Article 1 of Chapter 7 relating to transfer of location applications.

Assistant City Attorney McLendon stated that this amendment is so not to allow a licensee to apply for a transfer of location without going through the entire process. This will allow staff to verify distance requirements.

Motion and Vote: Councilmember Fries moved to approve an Ordinance amending Section 14(g) of Article 1 of Chapter 7 relating to transfer of location applications. Councilmember DeJulio seconded the motion. The motion carried unanimously.

Reports and Presentations

- a) Mayor and Council Reports
- b) Staff Reports
 - 1. Update on Comprehensive Plan

Deputy Director of Community Development McNeill stated that the committee is in the process of reviewing the Land Use Map. He stated that they will be considering 42 proposed revisions.

Public Comment

There were no public comments.

Executive Session-Attorney-Client Consultation, Pending Litigation

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss pending litigation. Councilmember Paul 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 9:57 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Paul 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 adjourned at 10:17 p.m.

Motion: Councilmember DeJulio moved to amend the agenda by adding the following:

Consideration of approval of a Settlement Agreement regarding pending litigation over Stormwater issues.

Consideration of approval of a Consent Agreement and the issuance of a Temporary Occupational Tax Certificate.

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

Consideration of approval of a Settlement Agreement regarding pending litigation over Stormwater issues.

Motion and Vote: Councilmember DeJulio moved to approve a Settlement Agreement regarding pending litigation over Stormwater issues. Councilmember Greenspan seconded the motion. The motion carried unanimously.

Consideration of approval of a Consent Agreement and the issuance of a Temporary Occupational Tax Certificate.

Regular Meeting of the Sandy Springs City Council

Tuesday, March 20, 2007 at 7:00 PM

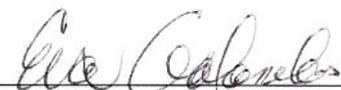
Page 25 of 25

Motion and Vote: Councilmember DeJulio moved to approve a Consent Agreement and the issuance of a Temporary Occupational Tax Certificate for TitleMax of Georgia, Inc. Councilmember Meinzen McEnery seconded the motion. The motion failed 2-4 with Councilmember Greenspan, Councilmember Fries, Councilmember Jenkins, and Councilmember DeJulio voting in opposition.

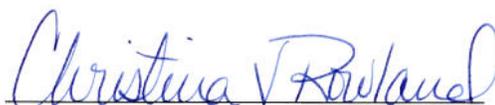
Adjourn

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously. The meeting adjourned at 10:20 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

March 20, 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 20th day of March, 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)