

**Regular Meeting of the Sandy Springs City Council was held on Tuesday, December 18, 2012, at 6:00 p.m., Mayor Eva Galambos presiding.**

**INVOCATION**

There was no invocation.

**CALL TO ORDER**

Mayor Eva Galambos called the meeting to order at 6:01 p.m.

**ROLL CALL AND GENERAL ANNOUNCEMENTS**

**City Clerk Michael Casey** reminded everyone to silence all electronic devices at this time. Additionally, those wishing to provide public comment during either a Public Hearing or the Public Comment segment of the meeting are required to complete a public comment card. The cards are located at the back counter and need to be turned in to the City Clerk.

City Clerk Casey called the roll.

**Mayor:** Mayor Eva Galambos present

**Councilmembers:** Councilmember John Paulson, Councilmember Dianne Fries, Councilmember Chip Collins, Councilmember Gabriel Sterling, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery present.

**PLEDGE OF ALLEGIANCE**

Mayor Eva Galambos led the Pledge of Allegiance

**City Attorney Wendell Willard** stated in attendance this evening is Senator Hunter Hill, who represents part of Sandy Springs.

**Georgia State Senator Hunter Hill** stated he is proud to represent Sandy Springs and looks forward to being a resource for information. He would like to hear from the citizens about any issues that impact the City with which he could help.

**(Agenda Item No. 12-300)**

**APPROVAL OF MEETING AGENDA**

**Motion and Vote:** Councilmember Fries moved to approve the Regular Meeting agenda for December 18, 2012. Councilmember Sterling seconded the motion. The motion carried unanimously.

**CONSENT AGENDA**

**(Agenda Item No. 12-301)**

1. Meeting Minutes:
  - a) December 4, 2012 Regular Meeting
  - b) December 4, 2012 Work Session

*(Michael Casey, City Clerk)*

**(Agenda Item No. 12-302)**

2. Consideration of the Acceptance of the dedication of a Right of Way Deed as part of the zoning requirements - 5065 Highpoint Road  
(*Garrin Coleman, Interim Director of Public Works*)

**Resolution No. 2012-12-85**

**(Agenda Item No. 12-303)**

3. Consideration of the Acceptance of the dedication of a Right of Way Deed as part of the zoning requirements - 5055 High Point Road  
(*Garrin Coleman, Interim Director of Public Works*)

**Resolution No. 2012-12-86**

**Motion and Vote:** Councilmember Fries moved to approve the Consent Agenda for December 18, 2012. Councilmember Sterling seconded the motion. The motion carried unanimously.

**PRESENTATIONS**

1. Sparkle Sandy Springs Winners - Mayor Galambos and Councilmember Fries

**Mayor Eva Galambos** stated Sparkle Sandy Springs was a competition among all the businesses in the City for the best holiday decorations. The competition was sponsored by the City, Sandy Springs Hospitality and Tourism, and the Sandy Springs Perimeter Chamber of Commerce. The winner of Sparkle Sandy Springs was Red Bandana Pet Foods and Supplies. Mayor Galambos asked Red Bandana's representative to the front to receive the award. She presented an award to Hammocks Trading Company, who won for having the most creative decorations. Bean Head Toys won the award for expressions of theme. Sandy Springs Design Center won the award for best use of lighting. Slopes BBQ was recognized for its use of space.

Councilmember Chip Collins joined the meeting at this time.

**PUBLIC HEARINGS**

**City Clerk Michael Casey** read the rules for the Public Hearings segment of the meeting.

**Alcoholic Beverage License**

**(Agenda Item No. 12-304)**

1. Approval of Alcoholic Beverage License Application for Moderna Taqueria at 8540 Roswell Rd Ste 100 Sandy Springs, Georgia 30350. Applicant is Remus Rednic for Consumption on Premises Wine, Malt Beverage, and Distilled Spirits

**Revenue Supervisor Brandon Branham** stated this item is a new application for consumption on premises of wine, malt beverage, and distilled spirits. The applicant has met all requirements and staff recommends approval.

**Mayor Eva Galambos** called for public comments in support of or opposition to the application. There were no comments from the public. Mayor Galambos closed the public hearing.

**Motion and Second:** Councilmember Sterling moved to approve Agenda Item No. 12-304, Alcoholic Beverage License Application for Moderna Taqueria at 8540 Roswell Rd Ste 100, for Consumption on Premises Wine, Malt Beverage, and Distilled Spirits. Councilmember Paulson seconded the motion.

**Councilmember Dianne Fries** asked about Moderna Taqueria's signage for the building.

**Director of Community Development Angela Parker** stated Moderna Taqueria has been issued a NOV in regards to the sign and staff provided notice that the painting on the side of the building is not in compliance with City Code. The owner intends to repaint the signage.

**Vote on the Motion:** The motion carried unanimously.

**(Agenda Item No. 12-305)**

2. Approval of Alcoholic Beverage License Application for Rumi's Kitchen at 6112 Roswell Rd Sandy Springs, Georgia 30328. Applicant is Maryam Tabassian for Consumption on Premises, Wine, Malt Beverage & Distilled Spirits

**Revenue Supervisor Brandon Branham** stated this item is a transfer of location for consumption on premises of wine, malt beverage and distilled spirits. The applicant met all requirements and staff recommends approval.

**Mayor Eva Galambos** called for public comments in support of or opposition to the application. There were no comments from the public. Mayor Galambos closed the public hearing.

**Motion and Vote:** Councilmember DeJulio moved to approve Agenda Item No. 12-305, Alcoholic Beverage License Application for Rumi's Kitchen at 6112 Roswell Road, for Consumption on Premises, Wine, Malt Beverage & Distilled Spirits. Councilmember Collins seconded the motion. The motion carried unanimously.

**(Agenda Item No. 12-306)**

3. Approval of Alcoholic Beverage License Application for Westin Atlanta Perimeter North at 7 Concourse Pkwy Sandy Springs, Georgia 30328. Applicant is Lara Coppola for Consumption on Premises Wine, Malt Beverage, and Distilled Spirits

**Revenue Supervisor Brandon Branham** stated this application is due to change of management and is for consumption on premises of wine, malt beverage, and distilled spirits. The applicant met all requirements and staff recommends approval.

**Mayor Eva Galambos** called for public comments in support of or opposition to the application. There were no comments from the public. Mayor Galambos closed the public hearing.

**Motion and Vote:** Councilmember DeJulio moved to approve Agenda Item No. 12-306, Alcoholic Beverage License Application for Westin Atlanta Perimeter North at 7 Concourse Pkwy, for Consumption on Premises Wine, Malt Beverage, and Distilled Spirits. Councilmember Sterling seconded the motion. The motion carried unanimously.

**Rezoning**

**(Agenda Item No. 12-307)**

4. **RZ12-004/CV12-004** - 5975 Mitchell Road, *Applicant: St. James Anglican Church, Inc.*, Rezone from R-1 (Single Family Dwelling District) to R-5A (Single Family Dwelling District) with concurrent variances

**Manager of Planning and Zoning Patrice Dickerson** stated this item is a request to rezone the subject property from R-1 single family to R-5A. The petition was heard at the November 15, 2012, Planning

Commission meeting. Staff is recommending approval conditional of the rezoning request and the associated concurrent variances. The Planning Commission also recommends approval subject to staff conditions. Following the Planning Commission meeting, the applicant submitted a revised site plan reducing the number of lots from 13 to 12.

**Councilmember Dianne Fries** asked if the Planning Commission approved the thirteen lots.

Manager of Planning and Zoning Dickerson responded yes.

**Pete Hendricks, 6085 Lake Forrest Drive, Representative of the applicant**, stated this application started out as a townhouse residential application with nineteen units. The nineteen units were at the top of the suggested density scale of five to eight units per acre. The community commented they do not like townhomes and would prefer this space be used for single family detached homes. The application was then converted to an R-5A. The number of units has changed from fifteen to fourteen, then to thirteen, and now to twelve. Twelve units equal 5.07 units to the acre. That number is now at the bottom of the suggested density range. The applicant is in attendance this evening and will respond to any questions Council may have as to what has happened during the periods of deferment.

The City Clerk read the following public comment card:

**Jerry Erbesfield, 27 Ridgemere Trace**, on behalf of Jerry Erbesfield, President, Ridgemere HOA:

With regard to the property at 5975 Mitchell Road, the Ridgemere Board has voted that it is in the best interest of Ridgemere to support Arrowhead's proposed development and the rezoning variances requested for the property. Ridgemere's primary concern in this matter is that the multiple and long existing issues on the property that directly affect Ridgemere will be corrected. Arrowhead has contracted with Ridgemere to satisfactorily address the issues directly affecting Ridgemere. Their proposed development will cure those issues and, we feel, will bring added value to Ridgemere and the surrounding neighborhoods. Alternately, Ridgemere cheerfully support the efforts of the group lead by Warden Lundquist, as long as they are able to actually carry out the plans Mr. Lundquist has voiced to Ridgemere for improving the property and satisfactorily taking care of the existing issues that directly affect Ridgemere. Warden Lundquist has told Ridgemere that their group wishes to make the area into a park like setting in keeping with the appearance of the surrounding neighborhoods, that complies with the city's codes and that corrects the issues that directly affect Ridgemere. We can only trust that will occur. Most importantly, Warden Lundquist has also said, in no uncertain terms, that his group absolutely will not sell the property. We can only assume they will keep their word and not sell the property regardless of any zoning determination that might be made. Accordingly, a decision in favor of Arrowhead's variance requests will not negatively affect Warden Lundquist's group IF Warden Lundquist's group is able to keep their promises and they do not sell the property. Alternately, if the zoning variances are approved and the property is eventually sold despite the best efforts of Warden Lundquist to make the church work, Arrowhead's development will then be able to move forward and the issues affecting Ridgemere best interests will be satisfactorily addressed. In the end, if the requested zoning variances are approved tonight, there is really no harm, no foul done to anyone. Warden Lundquist's group gets its chance to make a go of the church and Arrowhead is also protected. The positive will be that we can all move on, not have to keep revisiting this divisive issue and this matter will be behind us.

**Mayor Eva Galambos** called for public comments in support of the application.

**William Lundquist, 5975 Mitchell Road**, stated he is the senior Warden of St. James Anglican Church. His comments are not in opposition or support, but as a neutral confirmation of the situation at hand. St. James Church acknowledges a settlement agreement has been reached between St. James Church, its

boardmembers, and Arrowhead Realty Partners and Bryan Flint. According to the settlement agreement, the church is allowing the applicant to continue pursuing the rezoning.

Mayor Galambos called for public comments in opposition to the application.

**Sandy Sweeny, 535 Cameron Manor**, stated she represents the homeowners in Cameron Manor subdivision located directly behind the Mitchell property. The residents ask that Council carefully consider the facts and new information in this case. The original application for zoning of the Mitchell property was made under false pretenses between Arrowhead and Kasum Thakore. Kasum Thakore misrepresented herself as the owner of the property and falsified the application with her signature. She acted independently of the congregational church, which requires all members to vote on anything related to the church. She had no authority to sell the property. The City even questioned the legitimacy of Ms. Thakore's ownership of the property. Council deferred the decision on this matter until the ownership dispute could be settled. The ownership dispute has now been resolved. The petitioner, Arrowhead, now recognizes the fact that Ms. Thakore has no right to sell the property. The contract with Ms. Thakore and Arrowhead has been dissolved. Arrowhead now recognizes the rightful owner of St. James Anglican Church and has entered into a new agreement. The agreement terms include Arrowhead offering the church a large sum of money for the first right of refusal, should the church ever decide to sell the property. However, the rightful owners of the church have stated repeatedly that the property is not for sale and they have no intention of selling the property. The church continues to hold regular services, renovate, and maintain the property. It is a beautiful church that is rich in history. She requested the original application be rejected, as it is not in compliance with the City's zoning variance application procedure. The procedure requires an owner to state under oath that he or she is the owner of the property described in the attached legal description as part of the application. Original and notarized signatures of the property owners and applicant or notarized statement by the applicant as to the ownership are required at the time of application. The homeowners request Council reject making a decision on this matter until the petitioner, Arrowhead, submits a completed and corrected application for rezoning in accordance with the stated procedures with proper signatures. The property is not for sale, so why would the City rezone the property and violate its own application procedures by doing so. There were errors made in the notification process, policies violated regarding signage, and numerous other mistakes made on this case. The petitioner never demonstrated a proven hardship as to why he needed the property rezoned in the first place. The applicant could have easily built ten homes with the current zoning restrictions. Cameron Manor homes sell in the area of \$300,500 and Ridgemere homes sell in the area of \$300,000. She finds it hard to understand how the Planning Commission agreed that this plan is in harmony with these subdivisions. Cameron Manor homes sits on the same size lot as the proposed plan with ten homes. With all these issues in question and the property not for sale, why not ask the applicant to resubmit a new application, if the property is ever for sale, with the proper documentation and signatures. She asked what the rush is to zone the property now.

**Lisa Hoff, 12 Braemore Drive NW**, stated the church warden just petitioned for the application of rezoning.

**Charlotte Marcus, 5996 Mitchell Road NW #25**, stated she has been stressed over the possible rezoning of St. James Anglican. There are three reasons why this application should be denied. One reason is because it is a religious site, it is a historic site, and it is an environmental wonder with a tree that is 600 years old. This location is also a place of God.

**Jeff Mitchell, resident of Braemore subdivision**, stated the staff report contains errors. City staff and Arrowhead Realty claim this is a narrow lot. This area is a normal sized lot. The staff report claims the developer's original site plan did not require any variances. The original townhome site plan submitted by Arrowhead on March 13, 2012, requires numerous variances and maximized density. The

neighborhood asks that Arrowhead build within the 5A zoning with no variances. The neighbor's biggest concern has always been setbacks with no variances. There have been questions regarding the legal validity of the application. He asked what the City's policy is on incorrect rezoning petitions. The petitioner and Arrowhead have signage violations. The community has documented that the petitioner violated the City's policy by not updating the signage two consecutive times. The City's zoning ordinance states that if the petitioner or agent fails to post notice on two consecutive occasions for a petition, it shall be considered willful disregard of the petitioner's obligation to comply with the zoning ordinance. In such an event, the petition shall be denied. City staff states they updated the signage and that the notification requirements have been satisfied.

Mayor Galambos asked Director of Community Development Angela Parker to address the signage issue.

**Director of Community Development Angela Parker** stated the applicant failed to post signage on the property twice. The first time staff updated the sign, which is something staff customarily does. The second time neither staff nor the applicant posted the sign. The zoning ordinance does state that the applicant or his agent shall update the sign. The update of the sign is a directive. The fact that staff updated the sign one of those times did meet the posting requirements. The posting of the sign by staff was discussed with the City Attorney and does not deem the application invalid.

Mr. Hendricks stated a comment was made about the applicant demonstrating a hardship for the rezoning. Demonstration of a hardship is not needed for rezoning. The rezoning should fit the Comprehensive Land Use Plan, which it does. Through the transition and modification of the application, the eight units per acre has been reduced to 5.07 units per acre. Developments to the north and south of the subject property are in closer proximity to the common property line than what is being proposed with the variance request. The original variance request along the north property line was modified and amended to change the number from forty to thirty-five feet. Staff found that variance is agreeable with the zoning ordinance. He asked Bryan Flint to discuss the dialogue with the church.

**Bryan Flint, applicant,** stated in regards to the property, there has never been a question as to who owns the property. The property is owned by St. James Anglican Church. Title research in February 2012 showed on the Georgia Secretary of State's website the church has the authority to file the rezoning. He has reached out to both groups and there are no omissions by any party involved in the transaction. He will be entering into a new option agreement with the church.

Mayor Galambos closed the public hearing.

**Councilmember Chip Collins** asked if the deficiency in sign notice has been rectified or not; and would it be grounds for dismissal of this case.

**City Attorney Wendell Willard** stated the signage is a matter of directive. City personnel making a correction or change to the sign does not invalidate anything. The reason behind the signage ordinance is to ensure there is appropriate notice given to the public of this being an application of zoning. The requirements of the ordinance were met in this case.

Councilmember Collins asked about the authority issue. It was stated the original claimed owner was not the party that has proper authority for the corporation.

City Attorney Willard stated this matter was addressed the previous time the application was before Council. Staff responded on the question of validity of someone signing the application. The City takes the application based on the affidavit signed by the person. If one is willing to challenge that affidavit, the appropriate venue is not before Council, but in a court of law. Apparently, the two parties have

resolved the issue amongst themselves. The question is who, on behalf of the church, was authorized to sign the application.

Councilmember Collins asked if City staff or City legal staff answered these questions.

City Attorney Willard stated City legal staff would use staff's input of the information as to whether it is in compliance with the law and City ordinance.

Councilmember Collins asked if the technical issues are satisfied and Council should decide the merits of the case.

City Attorney Willard responded yes.

**Councilmember Dianne Fries** asked if the proposed townhomes will have garages.

Mr. Flint stated each unit will have a two car garage with two parking spaces available in front of the unit. Four cars will be able to park at each unit.

Councilmember Fries asked if the large tree on the property is close to the street.

Mr. Flint stated the tree is in the middle of the property by the existing structure. A report was submitted to staff from Arborguard which completed a rating on all the landmark trees. That tree is rated in poor condition.

**Councilmember Tibby DeJulio** stated he has a problem understanding this process. The City may rezone property that is not going to be sold. Council is asking questions of the developer who will not build on the property. He asked why the City is wasting time and resources. He asked if the City ever rezoned a speculative piece of property and nothing would be done with the property. The church states they are not selling the property and the builder has an option on the property.

Director of Community Development Parker stated there have been situations where properties have been rezoned and no action or sale occurred with the property. Currently, staff is reviewing a zoning for a future agenda item where the applicant withdrew the application and the owner still wants to rezone the property.

Councilmember Fries stated rezoning a property is a selling point for the property and it is done all the time.

Councilmember DeJulio stated he understands, but the church states they are not selling the property. The builder is telling Council what the houses will look like once they are built.

Councilmember Collins asked if there is anything in the ordinance that requires a property to be under contract or for sale in order to be rezoned.

Director of Community Development Parker responded no.

**Councilmember John Paulson** asked if the owner of the property is in favor of the rezoning request.

**Councilmember Karen Meinzen McEnerny** responded the property owner is neutral.

**Motion and Second:** Councilmember Fries moved to approve Agenda Item No. 12-307, RZ12-004/CV12-004 - 5975 Mitchell Road, *Applicant: St. James Anglican Church, Inc.*, Rezone from R-1 (Single Family Dwelling District) to R-5A (Single Family Dwelling District) with concurrent variances and staff conditions. Councilmember Paulson seconded the motion.  
Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. To a total of twelve (12) Single Family Dwelling Units at a density of no more than 5.07 units per acre, 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 on December 4, 2012. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, the Development Standards contained therein, 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. Variance from Section 6.9.3.F. of the Zoning Ordinance to reduce the required forty (40) foot perimeter setback to thirty-five (35) feet along the north property line and twenty (20) feet along the south property line.
  - b. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required fourteen (14) foot interior building separation to ten (10) feet.
  - c. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required twenty (20) foot side yard setback adjoining a local street to five (5) feet for lots #4 and #8.
  - d. Variance from Section 6.9.3.G.1. of the Zoning Ordinance to reduce the required twenty (20) foot front yard setback to fifteen (15) feet.

Councilmember Meinzen McEnery stated she applauds the citizens and the developer. Everyone that has been involved in these proceedings has had a major impact on the results. She is proud of the community for standing up for their property and development rights and working out a solution. She is still concerned about the lack of adequate transition of the development to the adjacent single family development. This development is not on a major road, such as Braemore and Surrey Place that have higher density townhomes. She will recommend denial.

Councilmember DeJulio asked what time limit the developer has for the first right of refusal.

Mr. Hendricks responded five years.

Councilmember Collins stated from the beginning he suggested a resolution when there was a controversy about control of the partnership. He suggested the neighbors and church file a lawsuit with a TRO. The court would have stopped everything, the original applicant would have withdrawn the application and these issues would not have escalated. That was not done. Now the technical issues have been answered.

This is not a case where an entire neighborhood is opposed. Some neighbors are adamantly opposed and another neighborhood does not like the technical issues, but agrees with the plan. A large neighborhood on the south side of the property supports this application. Braemore opposes the variance request. The variance based on the last site plan submitted to staff is five feet. The R5 zoning is consistent with the City's Comprehensive Land Use Plan. If it were his backyard, he would prefer to look at a beautiful church and lot, not a development. That is not the issue here. He hopes the church succeeds and remains a church on a beautiful lot for the next 100 years. That is entirely in control of the church. The best thing the neighbors can do is support the church and the church will continue for many years to come. He supports approving this zoning case.

**Vote on the Motion:** The motion carried 4-2, with Councilmember DeJulio and Councilmember Meinzen McEnery voting in opposition.

**Ordinance No. 2012-12-37**

**Text Amendment**

**(Agenda Item No. 12-308)**

5. **TA12-007** - An Ordinance Amending Article III, Section 3.3., Definitions, Article XIX, Section 19.3.2.3., Antenna, Tower And Associated Structures (Radio, Television, Microwave Broadcasting, Etc.) Which Will Exceed The Maximum Zoning District Height In Districts O-I, MIX, C-1, C-2, M-1A, M-1 And M-2, And Article XIX, Section 19.4.8., Antenna Tower, And Associated Structure (Radio, Television, Microwave Broadcasting, Etc.) Which Will Exceed The Allowed Zoning District Height In Residential And AG-1, Of The City Of Sandy Springs Zoning Ordinance

**Assistant City Attorney Cecil McLendon** stated this ordinance has come before Council at least twice. The ordinance went back before the Planning Commission for discussion. The ordinance modifies Section 19.3.2.3 of the City Code regarding administrative use permits for towers as well as Section 19.4.8, which is conditional use permits for towers. The administrative permit section that includes C-1, C-2, and O-I will now require use permits. Districts M-1A, M-1, and M-2 will require administrative permits. The use permit section will now require residential use AG-1, overlay districts O-I, as well as MIX, C-1 and C-2. A use permit is a situation where something is allowed, but is only allowed if the facts of the application are evaluated against a set of criteria and it is an appropriate use based on the application. The City's existing standards in the ordinance have not changed. The setback of the towers for residentially zoned districts will remain the same at one times the height of the tower. Also included in the ordinance are fundamental basics about fencing and landscape strips. The change is in what is required for an application. The City will require more information at the beginning of the application process. The proposed ordinance requests a specific site plan, legal description, description of the lease, engineering study to show need, distances from residential structures, landscaping plan, security plan, noises, ingress and egress, hours and maintenance plan, compliance with FAA regulations, and investigating co location opportunities. All that information is required to be given to staff at the time of application. The second item changed in the ordinance is criteria against which the tower is evaluated. Previously, the criteria was if the tower is an appropriate use with adjacent uses. Cell towers are regulated by the Telecommunications Act. The case law allows certain factors to be considered when making this determination. The factors are the demonstrated need for the tower, which would be based on the study. The adjacent district, height of the tower, topography, tree coverage, the structure, and location would be included in the application was well.

**Motion and Second:** Councilmember Meinzen McEnery moved to approve Agenda Item No. 12-308, TA12-007 - An Ordinance Amending Article III, Section 3.3., Definitions, Article XIX, Section 19.3.2.3., Antenna, Tower And Associated Structures (Radio, Television, Microwave Broadcasting, Etc.) Which

Will Exceed The Maximum Zoning District Height In Districts O-I, MIX, C-1, C-2, M-1A, M-1 And M-2, And Article XIX, Section 19.4.8., Antenna Tower, And Associated Structure (Radio, Television, Microwave Broadcasting, Etc.) Which Will Exceed The Allowed Zoning District Height In Residential And AG-1, Of The City Of Sandy Springs Zoning Ordinance, with an amendment to modify Section C-1 to state the tower/accessory structures must be set back a distance of 1½ times the height of the tower from the structure of any residential district and to add a section that specifies the spacing of the towers be a required distance of no more than one tower within 2,640 feet. Councilmember Sterling seconded the motion.

**Councilmember Gabriel Sterling** asked if the section Councilmember Meinzen McEnery is amending is part of the section of the ordinance currently being discussed.

Assistant City Attorney McLendon responded yes. The standards will remain the same, but the change is within the context of the administrative and conditional use permits. City legal staff has amended Section B of the administrative ordinance and added a new Section D and E of the use permit ordinance. Both of these amendments would be in Section C.

Councilmember Sterling asked if an additional section could be added.

Assistant City Attorney McLendon asked that an amendment to the ordinance be made to both Sections. It is the same location in Section 19.3.2.3 as well as Section 19.4.8.

**Councilmember Karen Meinzen McEnery** stated she proposes 1½ times the height for the setback of the tower to the residential building and not the property line. She suggested changes discussed with Council by email. The changes have to deal with Section C-1. She also consulted City legal staff. Currently, the City of Milton's ordinance states 1 ½ times, Fulton County states 1½ times, and the City of Roswell is 1 times the height. Because the area is residential, it is important for safety. The City should have the same requirement that Fulton County has. If the tower is in a commercial area, the setback has to be the setback for the zoning for that commercial property. A building setback on commercial property does conform to all the other cities she listed. Milton has a minimum distance between towers at 2/3 of a mile or 3,500 feet. This means that a second tower cannot be located within 3,500. She proposed that no two towers be closer than 2,640 feet in residential areas, which conforms to Fulton County. The City of Roswell is at 2,500 feet. The City's current ordinance does not have limitations on distances between towers.

Councilmember Sterling stated it is easy for staff to measure where a building is located versus a property line. He suggested using a GIS report of property lines instead of basing it off the building setback. If the 1½ times setback is from the building, the City does not track where every building is in the GIS software. The property line is tracked. If a tower is placed on one side of a ridge and another tower is placed on the other side and near a residential area, this may hinder the ability for the towers to operate properly, since they will not be in a site line of each other. In order for the towers to operate properly, they may be forced closer together. The proposed use permit allows Council to condition to screen neighborhoods from the towers.

Assistant City Attorney McLendon stated if Council can choose to place a condition on a use permit.

Councilmember Sterling stated the proposed use permit will now allow Council to protect the neighborhoods.

Assistant City Attorney McLendon stated the ordinance has been amended so that more sections come before Council with use permits. Currently, it is only the M-1, M-2, and O-1 districts.

**Motion to Amend and Second:** Councilmember Sterling moved to amend the motion by modifying Section C-1 to state the tower/accessory structures must be set back a distance of 1½ times the height of the tower from the property line of any residential district and to add a section that delineates the distances between the towers be a required distance of no more than one tower within 2,640 feet. Councilmember Meinen McEnery seconded the motion.

**Councilmember John Paulson** stated the half a mile requirement is fundamentally consistent with the surrounding jurisdictions. He asked if it is typical to have the 1½ times the height of the tower to the property line or the building.

Councilmember Sterling stated it may be difficult for the City to enforce the ordinance based on distances from buildings, but easier to enforce the distance from property lines.

Assistant City Attorney McLendon stated under the City's current ordinance the measurement is to the property line.

**Director of Community Development Angela Parker** stated staff would require the applicant to produce documentation regarding the measurement information.

**Mayor Eva Galambos** called for public comments in support of the application.

**Ina Clark, 1006 Old Powers Ferry Road,** stated her neighborhood was involved in the initial use permit petition that took place in 2010 for Verizon Wireless. She is in support of the amendment to the ordinance.

**Mayor Eva Galambos** called for public comments in opposition to the application. There were no comments from the public. Mayor Galambos closed the public hearing.

**Vote on the Motion:** The motion as amended carried unanimously.

**Resolution No. 2012-12-89**

### UNFINISHED BUSINESS

There was no unfinished business.

### NEW BUSINESS

#### **(Agenda Item No. 12-309)**

1. A Resolution to Accept the City Center Master Plan Recommendation from Goody Clancy

**City Manager John McDonough** stated Ben Carlson, a representative of Goody Clancy, is in attendance this evening to present Council with an update on the City Center Master Plan.

**Ben Carlson, Planner and Designer for Goody Clancy,** stated this is a brief presentation of the City Center Master Plan. He will revisit the goals as refined by community input that have guided the process and how the goals were manifested in the draft Master Plan. He will discuss community input reviewed throughout the process and outline the next steps Council can take to advance the vision. At the beginning of the process, Council gave Goody Clancy a series of goals. One goal is market driven investment as the key engine for City Center investment. Another goal is to have a vibrant and walkable City Center. Walkability goes hand in hand with market opportunity. The next goal is to have an identifiable sense of place. This would include transforming the City Center area into something that is

unique. Another goal is key infrastructure improvements that include parks and streets that are needed to support the project. The last goal is to have public open space as an important amenity. As the public meetings were held, the citizens expressed interest in fostering a unique identity, make downtown active and walkable, bring people together, invite spontaneous fun, and create a variety of greenspaces. He referenced a photo of the presentation that represents a balanced approach that responds to all those goals in a very integrated way. The plan includes a combination of greenspaces that can be a signature defining element for the City Center integrated with a mix of activities. There are opportunities for pedestrian orientated retail, dining spaces, new homes, office space, and hotels. All these uses together will include open space, and streets for active days, evenings, and weekends. In addition to the greenspace network, there is a network of walkable streets that can grow over time. Most of what is shown on the map is long term and would occur through voluntary actions by different property owners and developers. The public was given an opportunity to respond to the series of draft ideas with different alternatives. A survey was given to the residents to provide their comments on the Master Plan. The survey asked about the community vision, walkable development focus areas, vision illustrations, development incentives, and action strategy balance. He referenced the pie charts on the left side of the document that represented the initial batch of responses received in September. The second column on the right is the larger aggregate series of surveys received since September. There is a very strong level of support for the plan. The next steps are keys for leveraging the opportunity for the City Center. A component of the planning process is a draft set of updated development codes. The draft code update is near completion and will be in front of Council in January 2013 for consideration for adoption. It is important the City continues with the strategic property acquisition efforts. These can enable new street connections to happen or help broaden sidewalks. A variety of street and infrastructure improvements are already in process. Intersection improvements along Roswell Road will help traffic flow in the City center and help make the area more walkable friendly. Another important step is to issue a request for proposal and begin an opportunity for partnership with the private sector for reinvestment in the old Target property. There is a need to develop in greater detail the program and plan ideas for greenspace. Property owners in the City Center area interested in discussing potential partnerships with the City for investing in infrastructure are encouraged to do so.

**Mayor Eva Galambos** called for public comments in support of the resolution. There will be fifteen minutes allowed for each side to speak.

**Pat Chesser, 660 Fair Oaks Manor**, stated he is on the City's Economic Development Advisory Committee providing guidance to the City pertaining to the City Center. He supports the efforts of the City Center. The finer details of the plan will not be accurately depicted in reality. The spirit of this effort will greatly benefit the City, residents, business owners, and investors, if the efforts evolve. Most of the plan is drawn on other people's land. The market will dictate what will be built within the City's guidelines.

**Graham McDonald, 6320 Blackwater Trail**, stated he is on the City's Economic Development Advisory Committee. He is excited about the City Center plan and has been engaged in various aspects of it for several months. The plan presents a balanced and exciting approach to the development of the City Center area. This product incorporates the opinions of a cross section of the community. The way the plan brings private investment into the City Center district is the type of economic development the City is striving for.

**Jim Comerford, 15 Landing**, stated he supports the remarks of his fellow Economic Development Advisory Committee members. He has been very actively involved in the development of the Goody Clancy plan. The involvement of the committee members and citizens of the community are reflective of the inclusive process that Goody Clancy undertook in developing this plan. The plan is very consistent with the goals, objectives, and strategies of the economic development plan the committee has worked to develop within the past year. The plan provides a roadmap to the multi-use and multi-purpose that will

attract a multi-generational population needed to develop a type of lifestyle within the City. The plan will also attract economic development that includes small businesses and corporations. He commended the City and Goody Clancy for another successful example of the public/private partnership philosophy that is central to the City.

Mayor Galambos thanked the members of the City's Economic Development Advisory Committee.

**Steve Levetan, 435 Stone Mill Trail**, stated he is the Chair for the Sandy Springs Conservancy. He supports the conceptual City Center Master Plan recommendation. The Sandy Springs Conservancy has advocated for greenspace as part of the plan. While it could be argued that there could be more greenspace, the plan must be balanced and this is a balanced plan. In addition to the greenspace shown on the proposed plan, he asked that a playground be included as well. He thanked City staff and Goody Clancy for their work in reaching out to the community and working with them on the development of this plan.

Mayor Galambos stated Steve Levetan has also been elected to be the Chairman of the Natural Resources Foundation.

**Nick Telesca, President of Branch Properties**, stated his company recently acquired the City Walk shopping center on November 8, 2012. He supports the Goody Clancy plan that he believes is achievable. With the strategic investment made in the Target property, the City Walk property and Bluestone Road, there will be an opportunity to create a walkable vibrant City Center. The plan is market orientated and will bring investment dollars into the City and capture investment dollars outside the community as well. Ultimately, the plan will create an investment cycle where property values will be enhanced not only in the City Center initiative, but also throughout the surrounding communities.

Councilmember Tibby DeJulio left the meeting at this time.

**Jack Haylett, 170 Windsor Cove**, stated he lives two blocks from the City Center area. He is married with three children and they all walk weekly to the Sandy Springs Farmers Market. He is also a member of Branch Properties. As a resident of the City who deals with this area on a daily basis, he supports the plan.

**George Nathan, 200 Brandon Place**, stated he has forty years of commercial development experience. He supports the plan as a citizen of Sandy Springs. The street intersection and planning improvements have ignored how to deal with east Cobb County traffic. When citizens asked about the traffic in November, residents were told by Goody Clancy that the traffic was not in their scope to consider. He does not understand the narrowing and reduction of capacity in a road like Sandy Springs Circle. This road is a major thoroughfare. As the City makes the Master Plan a reality, he asked that Council not forget the traffic issue.

**Erik Olson, 232 Underwood Drive**, stated he is a member of the Sandy Springs United Methodist Church and is on the board of trustees for the church. Bill Paxton, who is in attendance, is on the executive leadership team. The church property is on the City Center Master Plan. The property is not for sale and will not be for sale. The church has had a wonderful relationship with the City. The church was formed in 1888. He requested the church property be removed from the City Center Master Plan, unless Council is going to make a decision in the future to exercise its right of eminent domain. If Council does not intend to exercise this right, he requested Council state that. The church asks to have their property taken off the Master Plan.

Mayor Galambos stated there may be a misunderstanding. The church and the City have a wonderful relationship. There is nothing in the plan that indicates anything different. The City values the Hitson Memorial Center as part of the structure used for downtown community events. The City is not implying the taking of this property.

Mr. Olson asked if many years from now the plan is to have the church property as its own property.

Mayor Galambos stated she does not know what may be done many years from now. The City is not trying to force anything on the church.

**Susan Hardy, 310 Spindle Court**, stated she looks forward to a walkable downtown area with entertainment, dining, and a civic and cultural center. She has two young children that utilize Morgan Falls Park, Hammond Park, Big Trees Forest Preserve; that enjoy all the City has to offer. This plan will enhance the City.

Mayor Galambos called for public comments in opposition to the resolution. There were no comments from the public. Mayor Galambos closed the public hearing.

**Motion and Second:** Councilmember Fries moved to approve Agenda Item No. 12-309, A Resolution to Accept the City Center Master Plan Recommendation from Goody Clancy. Councilmember Paulson seconded the motion.

**Councilmember John Paulson** stated this is a good plan for the City. He is glad the City hired a company that specializes in city center planning. He still receives emails from citizens requesting more greenspace. The City will attempt to put as much greenspace into the plan as makes sense. He is not in favor of taking all the development in this plan and making it a park.

**Councilmember Chip Collins** stated this is a historic day almost as much as December 1, 2005. This plan is a gigantic step for the City. He is excited that so many people support the plan. The most important thing that Goody Clancy did was to tell the City what side of Roswell Road to build the downtown area on. In the last two weeks he visited the West Village in Smyrna and the Peachtree Battle shopping center in Buckhead, which are other Branch Properties. If the City's downtown is sort of a combination of those properties, the City's downtown will be wonderful.

**Councilmember Gabriel Sterling** stated he is excited about the possibility of this plan moving forward. Council made a great investment by hiring Goody Clancy to create this plan and listening to many residents. This plan is a long term plan that can help fix some of the City's problems with redevelopment, such as stormwater. A really good plan executed today is better than the perfect plan not executed at all.

**Councilmember Karen Meinzen McEnery** stated the cooperation, vision, and how the plan will work are very important. There is one area she is very concerned about. Councilmembers have received emails from boardmembers of various conservancy groups and citizens stating there is not enough greenspace in the town center plan. There needs to be an addition of one acre to go with the two acres in the green oval. The one acre can serve as a gathering place with benches.

**Substitute Motion:** Councilmember Meinzen McEnery moved to approve Agenda Item No. 12-309, A Resolution to Accept the City Center Master Plan Recommendation from Goody Clancy, with the change to add another one acre of greenspace to the plan in an unspecified location. The motion failed for lack of a second.

**Vote on the Original Motion:** The motion carried unanimously.

**Resolution No. 2012-12-87**

There was a ten minute break at 7:47 p.m.

**(Agenda Item No. 12-310)**

2. Intergovernmental Agreement (“IGA”) for the Development and Implementation of a Unified Radio System (“System”) by and among the Cities of Alpharetta, Johns Creek, Milton, Roswell and Sandy Springs (“Participating Cities”)

**City Manager John McDonough** stated this Intergovernmental Agreement (IGA) is an agreement between the five North Fulton cities to partner and build a state of the art communications systems for the public safety agencies. Discussed this evening will be questions regarding the draft IGA, the procurement item, and a recommendation to Council. The cities of Milton, Alpharetta, and Roswell have already approved the IGA that is before Council.

**Councilmember John Paulson** asked about the City of Johns Creek.

City Manager McDonough stated the City of Johns Creek has not approved the IGA, but it will be before their city council in January.

**Councilmember Gabriel Sterling** asked if the City will lose cost savings.

City Manager McDonough stated that will be discussed during the second item. The first to be discussed is the IGA and the second item is the resolution discussing the purchase of the tower equipment.

**Motion and Second:** Councilmember Sterling moved to approve Agenda Item No. 12-310, Intergovernmental Agreement (“IGA”) for the Development and Implementation of a Unified Radio System (“System”) by and among the Cities of Alpharetta, Johns Creek, Milton, Roswell and Sandy Springs (“Participating Cities”). Councilmember Fries seconded the motion.

**Councilmember Karen Meinzen McEnery** asked if Johns Creek will be able to be a part of the agreement due to the terms of the agreement.

City Manager McDonough stated Johns Creek is not prepared to approve the IGA in the month of December and this has caused issues relating to the partnership. The other three cities are prepared to move forward with the IGA. It is staff’s recommendation to move forward with this agreement. The implications will be sorted out at a later date if Johns Creek does or does not sign the agreement. Practically, if Johns Creek decides not to sign the IGA, it will change the formula of the cost for the system. The same number of towers will have to be built. There may be a reduction in equipment cost if Johns Creek is not a partner. If Johns Creek is not a partner, each city’s average contribution will increase 5% to 7%, depending on the formula used.

**Councilmember Dianne Fries** asked if Johns Creek was reluctant to sign the IGA due to money issues, time issues, or they do not like the plan.

City Manager McDonough stated all indications are that Johns Creek will participate in the program.

Councilmember Fries asked if Johns Creek understands if they join the agreement after it is signed by all the other cities, they may pay a different cost.

**City Attorney Wendell Willard** responded Johns Creek may be an equity owner or a licensee.

Councilmember Paulson stated the implication is the weighted capital contributions may change.

City Attorney Willard responded yes. The expectation is if Johns Creek is a party to the agreement.

Councilmember Fries asked if Johns Creek does not join the agreement, what will the cost difference be to the other cities.

City Manager McDonough stated the cost change would be four to seven percent for the other four cities.

Mayor Galambos stated she believes Johns Creek will approve the agreement.

Councilmember Sterling asked if Johns Creek could possibly have a special called city council meeting before the end of the year to adopt the IGA.

City Manager McDonough responded that could happen. Johns Creek has indicated to staff that the IGA will be up for consideration before their city council in January 2013.

Councilmember Paulson asked if the approval of the IGA is subject to the potential of additional capital cost.

City Manager McDonough responded no. The IGA is drafted with a maximum total cost to purchase the equipment and construct the system at \$16 million. He does not believe that Johns Creek will impact that conservative upper level cost.

**Vote on the Motion:** The motion carried unanimously.

**Resolution No. 2012-12-88**

City Manager McDonough stated Council was given a resolution that authorized the City Manager to enter into a purchase agreement with the vendor for Phase I of the phased approach for the purchase of radio communications equipment for development and implementation of a unified radio system. The pricing is based on State contract pricing. The contract pricing has been discussed with Motorola, who is the vendor/provider of the equipment. There may be additional cost discounts if the equipment is purchased by the end of 2012. The IGA is drafted to require that contractually all of the cities have to approve the contract in order for the City to sign off on the purchase order. There is not time to do this, since Johns Creek will potentially not approve the IGA until January 2013. There are significant advantages for entering into a contract to purchase the equipment by the end of the calendar year. The total cost for the Unified System at the contract price is \$14,136,374. This price is for the equipment only. The second option is to have the equipment purchased in phases. The first option will not be executed by the end of this year. The City is now looking at the second option, which would be a phased approach. Under the phased approach the total for Phase 1 would be \$5,170,400 and Phase 2 would cost \$8,544,291. Those two numbers total \$14.136 million. The phased approach is a way to address the issue to not lose the discounts that amount to \$825,000. There is potential for the equipment cost to increase by waiting to purchase the equipment until 2013.

Councilmember Sterling stated the phased cost does not total \$14.136 million. The total is \$13.714 million. He asked if the program is phased, will there be a savings of \$400,000.

**Police Chief Terry Sult** stated what is being discussed is on contract and there are items that an RFP has to be created for. The \$422,647 non-contract price for Phase 1 is not included in the summary, which would help balance the numbers. The slide is confusing as to what costs are covered under contract and what costs are not covered under contract.

Councilmember Sterling stated he understands the negotiated contract, but the numbers are not adding up.

Police Chief Sult stated the customer loyalty discount is a standard discount and there would be additional discounts that are proposed by entering the agreement before the end of the year. These numbers are subtracted from \$16.533 million, which is covered under State contract. The unified system is different than the Phase 1 and Phase 2 contracts that include a cost difference. If the other cities join as partners, the agreement would revert back to the unified system agreement.

Councilmember Meinzen McEnery asked about the \$825,000 on the spreadsheet.

Police Chief Sult stated that is a cost savings if an agreement is entered into before the end of the year.

Mayor Galambos stated this spreadsheet is confusing.

Police Chief Sult stated the spreadsheet was just issued to staff from Motorola this afternoon.

City Manager McDonough stated in order to take advantage of the substantial discounts the City has to enter into an agreement before the end of the year. The City of Sandy Springs, under the IGA, as the lead agency for the procurement, would enter into an agreement by resolution to further negotiate and contract on behalf of the cities for Phase 1 of the new radio system. This agreement would address the three tower sites in Sandy Springs as well as the initial master site equipment needed to operate the system. That would lock in the Phase 2 pricing. Staff proposes that Sandy Springs pass the resolution authorizing entering into a contract for Phase 1. The same contract would go before the councils of the other cities in January, as well as the Phase 2 contract. The Phase 2 contract would be brought back to Sandy Springs City Council for consideration in January 2013.

Councilmember Sterling stated the phased pricing is about \$400,000 cheaper than the unified system. He asked if the numbers are excluding Johns Creek.

City Manager McDonough stated staff will reconcile all the numbers. Staff does not know every piece of equipment that will be purchased. The propagation studies on where the towers are and the height of the equipment still need to be completed. There are variables in the whole process. The total price of \$16 million may increase or decrease slightly based on the variables. All those questions cannot be answered tonight. Working with the consultants, all of the specifics will be decided. In order to secure pricing, the resolution has to be approved before the end of the year.

Councilmember Sterling stated all the North Fulton cities can save money with the phased approach.

Police Chief Sult stated there is a minimum savings of \$825,000 and potentially more.

Councilmember Fries stated she has concerns the new radio system may be similar to the E-911 system.

City Manager McDonough stated the difference is the E-911 system is run by the revenues received. The new radio system would be fully funded by the four or five member cities.

Councilmember Fries asked if Phase 1 is entering into a contract with Motorola to buy all the equipment that would be needed for all the cities.

City Manager McDonough responded yes. The equipment will have to be paid for shortly after the purchase order is signed. About \$1.8 million would be due at that time. As certain milestones are reached, the money would be drawn down. Sandy Springs will be billed and invoices will be

immediately sent out to the other cities for them to send Sandy Springs their prorated shares. The money will then be sent to the vendor.

**Councilmember Chip Collins** asked what the alternatives are, if Council does not approve the resolution.

City Manager McDonough stated Council can approve the recommendation or defer action, which would cost the cities more money. There has to be some flexibility to get the resolution approved, if it is the intent of Council and the other cities to save money. All the other City Managers are supportive of this resolution.

Mayor Galambos stated she does not see any risk in terms of the other cities that passed the IGA.

Police Chief Sult stated if Johns Creek joined at a later date, they would have the option to join as a subscriber. This would cause Johns Creek to help capitalize the system; or they can join as a non-subscriber. A non-subscriber that does not help capitalize will pay a higher rate for the use of each radio.

City Manager McDonough stated Phase 1 and 2 will need to be signed and approved before the other city councils in the month of January. This item is scheduled to be on Johns Creek Council agenda in January 2013. If Johns Creek decides to not participate, staff will come back to Council with the same IGA, but removing Johns Creek and the percentages of allocated cost would be updated.

Councilmember Paulson stated this project is not to exceed \$16 million. Sandy Springs' percentage cost of the project could be anywhere from 24 % to 30 %, depending on who signs the agreement and who does not.

Mayor Galambos stated the City can save money in the meantime by buying the equipment for a lot less.

Councilmember Meinzen McEnery asked if there is a concern that other cities, not including Johns Creek, are not obligated to the monies for purchasing the equipment. A worst case scenario is that no other city approves the Phase 1 contract.

City Manager McDonough stated that is a possibility, but agreeing to Phase 1 will get the City closer to our own radio system, which is needed.

Councilmember Meinzen McEnery asked what the benefit is for approving the phased approach. Why does Sandy Springs not wait for the other cities to approve the resolution?

Mayor Galambos stated the cities will all lose money.

Councilmember Collins asked what the City's exposure would be by approving the phased approach. He asked if this would increase the exposure, if none of the other cities agreed to join the project.

City Manager McDonough stated if none of the other cities joined, Sandy Springs would still move forward with the project. The City needs a new radio system to dispatch police, fire, and ambulance crews in Sandy Springs. There are advantages to a partnership and the other cities want to partner with Sandy Springs. It would cost the City \$4.2 million in the partnership model.

Councilmember Fries asked if no other cities joined the partnership, what would be the Phase 2 cost to the City.

Police Chief Sult stated Phase 1 is the equipment cost for Sandy Springs. There would not be a Phase 2, but instead the services to build out the new radio system. The system would be able to connect with the other regional systems.

Councilmember Fries asked if Phase 1 is the City buying what we need in Sandy Springs and receiving cost savings. Phase 2 would be buying the equipment for the other cities and they may not receive as much savings.

City Manager McDonough responded yes. This approach allows the City to have the unified system in a different manor.

City Attorney Willard stated the resolution addresses Council authorizing the purchase of Phase 1 equipment. Staff received a purchase agreement that must be negotiated between now and the end of the year or the agreement will not be entered into. Staff is asking Council to authorize the City Manager and City Attorney to continue with the negotiations and report back to Council.

Mayor Galambos stated the other cities, with the exception of Johns Creek, have approved the IGA.

**Motion and Vote:** Councilmember Sterling moved to approve a Resolution Authorizing the City Manager to enter into a Purchase Agreement with the Vendor for Phase I of the Phased Approach for the Purchase of Radio Communications Equipment for Development and Implementation of a Unified Radio System. Councilmember Fries seconded the motion. The motion carried unanimously.

**(Agenda Item No. 12-311)**

3. Consideration of Approval of design document for the new entrance drive and parking lot at Lost Corner

**Director Recreation and Parks Ronnie Young** stated this item is for the design approval of the entrance drive and parking facility at the Lost Corner Preserve. A few months ago an RFP was completed and McFarland-Dyer was awarded a contract to do the preliminary designs. McFarland-Dyer submitted three designs for staff and the Friends of Lost Corner to review. The design that is before Council this evening was brought before a public meeting for input. The current entrance as shown places the entrance drive on Brandon Mill Road about 250 feet from the intersection of Riverside Drive. The parking entrance will be to the north. The circular area of the parking lot is so buses and emergency equipment can enter the parking lot. The pervious paver parking lot and drive is thirty-three parking spaces. The parking lot was moved as far north into the park as possible to keep as much property available for the walking trails, a community garden, and other activities placed in the preserve at a later time. The setback from Riverside Drive and Brandon Mill Road is approximately thirty feet. Staff would like to bid the project in the near future. We may want to look at building the community gardens in the spring. Actual construction may begin in the later part of the summer. This would allow activity in the park this spring. He asked for Council's approval of the design.

**Motion and Second:** Councilmember Fries moved to approve Agenda Item No. 12-311, the design document for the new entrance drive and parking lot at Lost Corner. Councilmember Collins seconded the motion.

**Councilmember Chip Collins** thanked staff for listening to the neighborhood and accommodating the citizens that live across the street by moving the driveway entrance close to Riverside Drive. This will help the neighbors' view and will preserve more of the property for the park. He asked about the hashed line marks on the map.

**Interim Director of Public Works Garrin Coleman** stated that area is where the grading would impact the site.

Councilmember Collins asked if there is any buffer. He does not see any trees between the parking lot and Riverside Drive.

Interim Director of Public Works Coleman stated if there aren't any shown on the map there are no existing trees there. This is not a full design that shows the landscaping, but the intent is to have a buffer.

Councilmember Collins asked what is in the middle of the circular parking lot.

Director Recreation and Parks Young stated that area will be landscaping.

**Councilmember Dianne Fries** asked if the setback on Riverside Drive and Brandon Mill is within the City's normal building code requirements.

**Director of Community Development Angela Parker** stated the setback on Riverside Drive would normally be sixty feet and the setback on Brandon Mill Road would be forty feet. In this case staff recommends a reduced setback. A reason for the reduced setback is due to moving the parking lot further away from the Mills home. Moving the parking lot also preserved a lot of land for development of community gardens and other features.

Councilmember Fries stated she understands the benefit of moving the parking lot. Plantings need to be heavier, so the parking lot is not so visible.

Director of Community Development Parker stated she believes existing trees will remain. Staff does intend to replant, so the area is more heavily vegetated.

**Councilmember Gabriel Sterling** stated the City is well within the limits the City would require private developers to do. There are issues with this project that include protecting the house and adding more parking spaces.

**Councilmember John Paulson** stated it looks as if when a person drives into the parking lot there is a slope. He asked if the slope height is such that the headlights do not shine over the top of the slope.

Director Recreation and Parks Young stated the parking lot will be buffered with trees.

**Vote on the Motion:** The motion carried unanimously.

**City Manager John McDonough** suggested a ten minute public comment period on the topic of the Lost Corner Park.

**Nicholas Pallutto, 7365 Brandon Mill Road**, stated as a lover of nature and an outdoorsman, he is excited to have a preserve across the street from his home. He was opposed to the original entrance location, but fully supports the current proposal. He thanked the Sandy Springs Conservancy, the City Public Works and Recreation and Parks Departments, and Councilmember Collins.

**George Nathan, 200 Brandon Place**, stated he lives one block from the proposed park. He asked that the parking lot be constructed quickly, so people do not park in the neighborhood when the community gardens are attended to. This park is not supposed to be open at night, so the car headlight issue will probably not occur. He thanked Friends of Lost Corner for helping educate citizens on the park. He

thanked Councilmember Collins. He asked that Council approve the fence for the Lost Corner property. The fence would be important for neighborhood security and protecting the house. He thanked Council for financially supporting the maintenance of the Mills house.

**Trisha Thompson, 145 River North Drive**, thanked the Mayor and Council for planning for these items in the budget and for a great Recreation and Parks Department.

**(Agenda Item No. 12-312)**

4. An Ordinance to Amend the Code of Ordinances, City of Sandy Springs, Georgia to Revise the Eligibility Requirements for Alcohol Licenses; to Revise the Eligibility Requirements for Alcohol Pouring Permits; and to Provide for Other Lawful Purposes

**City Attorney Wendell Willard** stated this item is an amendment to the alcohol beverage ordinance that deals with servers of alcohol at restaurants and stores. Some people may make a mistake with the use of alcohol by driving and receiving a driving under the influence (DUI) citation. This ordinance will allow an individual to obtain an alcohol license if they have only one DUI. The suggested language of the ordinance states "any first conviction for Driving Under the Influence (DUI) shall not count to disqualify the applicant/licensee".

**Councilmember John Paulson** asked if this item is an issue.

City Attorney Willard responded yes. There have been instances when younger individuals have applied for an alcohol license.

**Councilmember Gabriel Sterling** asked if the ordinance only addresses pouring licenses or does it address owners.

City Attorney Willard stated the ordinance addresses owners and employees in a store that sells alcohol.

**Motion and Vote:** Councilmember Sterling moved to approve Agenda Item No. 12-312, An Ordinance to Amend the Code of Ordinances, City of Sandy Springs, Georgia to Revise the Eligibility Requirements for Alcohol Licenses; to Revise the Eligibility Requirements for Alcohol Pouring Permits; and to Provide for Other Lawful Purposes. Councilmember Paulson seconded the motion. The motion carried unanimously.

**Ordinance No. 2012-12-39**

**(Agenda Item No. 12-313)**

5. Update on Property Acquisition - 150 Hilderbrand Ave

**Assistant City Attorney Cecil McLendon** stated this item is an update on the property acquisition that has been completed. He asked that Council acknowledge and approved the property acquisition.

**Motion and Vote:** Councilmember Collins moved to approve Agenda Item No. 12-313, to acknowledge and approve the property acquisition of 150 Hilderbrand Ave. Councilmember Fries seconded the motion. The motion carried unanimously.

**(Agenda Item No. 12-314)**

6. Consideration of Property Acquisition - 90 Johnson Ferry Road

**Assistant City Attorney Cecil McLendon** stated based on the direction of Council, the City has entered into a contract for the acquisition of property located at 90 Johnson Ferry Road. The contract and appraisal amount is \$235,000.

**Councilmember Dianne Fries** asked if the property is related to the stormwater project.

Assistant City Attorney McLendon responded yes. The closing date is scheduled for the end of 2012. Staff is moving forward and working through the contingencies of the contract.

**Motion and Vote:** Councilmember Collins moved to approve Agenda Item No. 12-314, a contract for acquisition of property at 90 Johnson Ferry Road. Councilmember Fries seconded the motion. The motion carried unanimously.

**(Agenda Item No. 12-315)**

7. Consideration of Property Acquisition - 102 Johnson Ferry Road

**Assistant City Attorney Cecil McLendon** stated this contract is a similar agreement to the property located at 90 Johnson Ferry Road. The contract is encumbered by a lease that continues until February 2013. Staff is asking Council to approve the contract and the first amendment that would authorize the City to accept the assignment of the lease. This would not impact the project schedule.

**Motion and Vote:** Councilmember Collins moved to approve Agenda Item No. 12-315, a contract for acquisition of property at 102 Johnson Ferry Road, along with the first amendment to the contract. Councilmember Fries seconded the motion. The motion carried unanimously.

## **REPORTS**

1. Mayor and Council Reports
  - a) Addition of Members to Economic Development Advisory Committee – Mayor

**Mayor Eva Galambos** nominated Dr. Melissa Read, who works with Sapient Corporation, and is a specialist in marketing. She nominated John Stemler, who works with Sage Real Estate Advisors, who has experience in multi-family developments.

**Motion and Vote:** Councilmember Fries moved to approve the nominations of Dr. Melissa Read and John Stemler to the Economic Development Advisory Committee. Councilmember Sterling seconded the motion. The motion carried unanimously.

2. Staff Reports
  - a) Update on Abernathy Greenway Project – Recreation and Parks

**Director of Recreation and Parks Ronnie Young** stated this is an update on Phase IV of the bid documents for the Abernathy Greenway Project. In September or early October meetings were completed onsite with residents. It was discussed to add five items to the Phase IV bid document. The bid document is currently being reviewed by GDOT and will come back to staff before being sent out to bid. The City Community Development Department also has the bid documents for review to modify the permits. The first component added is the restroom/pavilion item. He displayed the concept map of the Abernathy Greenway Project. The steering committee reviewed the restroom/pavilion as a possible component for Phase V. There is understanding that once staff determined how much funding remained after Phase IV, staff would look at what would be added in Phase V. It was determined the restroom/pavilion, parking lot, and other components are needed in order to accommodate the visitors in the playable art area. The restroom building will be thirty-two feet in height and will be placed west of the parking lot. This was done so the sewer attachment could be sent to the street rather than behind the Woodward property. The plan would place the restroom facility in proximity to the parking lot. The restroom floor plan is shown with the pavilion. The pavilion has space for approximately four picnic tables. The pavilion has a center section that will house the security camera equipment and irrigation equipment. North of the building is

where the well will be drilled. Another component is the fencing that will run parallel with Abernathy Road. There will be a two foot stone wall with a picket fence that will go the entire length along Brandon Mill and Wright Road. There will be two gateways located on the entrance of the park on Wright Road and the west end at Brandon Mill. There will be many entry ways into the park along the driveway that can be accessed from the sidewalk. Trail connections were added, one of which was added in front of the Woodward home. Twelve feet north of the sidewalk an extension of the walking trails will be installed, due to safety issues. Also discussed were tree buffers that will probably include Leyland Cypress.

**Councilmember Gabriel Sterling** asked if the tree buffer will be a single row or if the trees will be staggered.

Director of Recreation and Parks Young stated he believes the trees will be a single row. The concept design does show tree staggering at the present time. Once Phase IV is bid and construction has started and the dead trees are replaced, gaps will be filled in with additional trees. The playable art has not been installed as scheduled. Once Phase IV has begun and elevations on the property are correct, the sculptures will be installed. A bid document is being prepared that would give staff a turn-key installation package with the additional five playable art pieces. The bid package will include the soft surface fall. The surface will be an approved rubber material to surround each piece of playable art for safety purposes.

**Mayor Eva Galambos** asked what the schedule is for installing the soft surfaces.

Director of Recreation and Parks Young stated the timeline is so far off schedule that this will occur probably in late fall 2013. Bids will be received in January 2013. The contract period is about 200 days and somewhere during that time the soft surfaces will be installed.

**Councilmember Chip Collins** stated he appreciates this update being placed on the agenda. He wanted to make sure the citizens knew the progress of the project. There have been changes to the plan that do affect the neighborhood, which has voiced concerns about them. The most recent concerns deal with the restroom building. The restroom has continued to move in the westward direction and for valid reasons. The size and dimensions of the pavilion have changed. The previous plan showed a lower profile building. The building now extends thirty-two feet upwards. He is comfortable with the plan, but there still may be complaints from the nearby neighbors.

#### **PUBLIC COMMENT**

**Leticia Weigenhamer, 9 Brandon Ridge Drive**, stated she appreciates the update on the Abernathy Greenway Project. The neighbors have concerns about the pavilion structure and parking lot. There is a lack of clarity on the size of the park. For a long time many people have been stating this is a twenty or more acre park. This park is actually a 6.35 acre park. On the north side of Abernathy Road there is 2,155 feet and .4 miles of space available. The width of the space goes from 130 feet to the closest property line to 160 feet to a property line. The neighborhood steering committee continues to talk about a twenty plus acre park and this information is on the Sandy Springs Conservancy website. She understands there are no plans to develop the south side of the park. Neighbors have been told numerous times that those two sides will not be connected, due to the four lane road. There needs to be amenities that support a 6.35 acre park. Information from the Sandy Springs Conservancy website states "the greenway master plan calls for perimeter fencing to protect homes on each side of the project, lighted walking trails, and a toddler playground with bathrooms and a small shade pavilion. She is not sure what has changed, but the small shade pavilion has increased in size. The restroom structure was supposed to be close to the playground. The proposed structure will be over 700 feet from the closest playable art piece. A parking lot will be located west of the Woodward House. This parking lot is larger than the

Lost Corner parking lot. She does not understand why a larger parking lot would be built for a 6.3 acre park compared to a twenty-two acre park. The people that use the pavilion will have to walk past a parking lot with no fencing and no trees. The walking trail in front of the Woodward House has no fence. The structure should not be 700 feet away from the closest playable art, thinking a toddler will make it to the restroom in time. Chastain Park has an effort underway called "Play Chastain". One of their missions is to resolve the issue of the nearest restroom being too far for a parent with a toddler in need. It appears that Abernathy Greenway project is doing the opposite. Chastain also has no discussion underway to take existing greenspace and turn it into a parking lot. The structure has grown dramatically and is a larger footprint than any house in the area. The building is twenty-seven feet from the parking lot. She asked how many people will use a pavilion that is sixty feet from a four lane road and twenty-seven feet from a parking lot. Citizens will have to walk 700 feet to reach the playground. In theory, many people are trying to do the right thing. This will be a park next to a four lane road with no fencing and 700 feet away from a bathroom. From the initial playable art structure to the last playable art structure and back to the bathroom is a total walking time of two to six minutes. She does not think individuals will use the pavilions for birthday parties. She asked Council to go to the park and see what greenspace is being taken up by the supersized pavilion and the large parking lot. Once Council views the park they will be surprised at the disproportionate amenities and the true lack of greenspace. The pavilion and restroom location is too far away from the playable art.

**Gery Groslimond, Manager of the Sandy Springs Tennis Center**, thanked Council for the opportunity to serve the community through operating and managing the Sandy Springs Tennis Center. He thanked City's legal staff, the City Manager, and staff for the professional job of approving and awarding his company the contract. His company is very heavily involved in the community model. His company is creating programming for senior citizens for free tennis play. Senior citizens that are 75 years old and older can play free tennis from 9:00 a.m. to 6:00 p.m. There will be ALTA team practice and coaching at the tennis center. The Tennis Center will partner with the United State Tennis Association (USTA) to develop grants, scholarships, and construction money for the tennis center. He would like to develop a fundraising arm in order to build four covered tennis courts for the City that would allow year round tennis to be offered. All of his staff are United States Professional Tennis Association (USPTA) certificated. He introduced Dale Queen who was the retailer of the year in the Tennis Industry magazine, who will be working with the Tennis Center as well.

**Linda Bain, 2370 Kimbrough Court**, stated she is the Executive Director for the Sandy Springs Conservancy and a member of the playable art park steering committee. The committee is a joint venture between the Sandy Springs Conservancy and Art Sandy Springs that is funded by a grant from Northside Hospital. When the contracts were signed in 2011 for the fabrication of the playable art, it was intended to be installed by November 2012. The delay is not because of the artists. The artists have been inconvenienced by the delay in funding and other issues. The committee is working closely and in good faith with the artists to receive the art when the park is ready.

**Mayor Eva Galambos** asked staff to do everything possible to expedite the completion of the park, so the playable art can be installed.

**Councilmember Dianne Fries** stated the City will hold its annual Martin Luther King celebration at 10:00 a.m. on January 21, 2013. Rodney Bullard, who is the Executive Director of the Chick-Fil-A Foundation, will be the keynote speaker. The show choir from Spalding High School and the North Springs High School J.R.O.T.C. will be performing. She was contacted by musician Michael Knight, who wrote two Martin Luther King songs which he will sing at the celebration.

**(Agenda Item No. 12-316)**

**EXECUTIVE SESSION – Litigation and Real Estate**

**Motion and Vote:** Councilmember Sterling moved to enter into Executive Session to discuss land acquisition and potential or pending litigation. Councilmember Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, and Councilmember Meinzen McEnery voting in favor of the motion. Executive Session began at 9:16 p.m.

**Motion and Vote:** Councilmember Fries moved to adjourn Executive Session. Councilmember Paulson seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 10:02 p.m.

**Motion and Vote:** Councilmember Fries moved to approve the acceptance of the mediated settlement of the litigation regarding fire services between Fulton County and the City of Sandy Springs in the amount of \$500,000. Councilmember Paulson seconded the motion. The motion carried unanimously.

**(Agenda Item No. 12-317)**

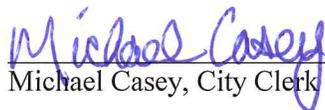
**ADJOURNMENT**

**Motion and Vote:** Councilmember Collins moved to adjourn the meeting. Councilmember Paulson seconded the motion. The motion carried unanimously. The meeting adjourned at 10:03 p.m.

Date Approved: January 15, 2013



Eva Galambos, Mayor



Michael Casey, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA  
FULTON COUNTY

December 18, 2012

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 18<sup>th</sup> day of December, 2012, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

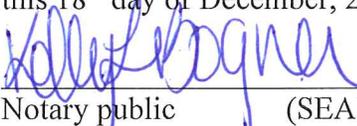
Discussion or voting on real estate matters pursuant to O.C.G.A, 50-14-3(b)(1);

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 18<sup>th</sup> day of December, 2012.

  
\_\_\_\_\_  
Notary public (SEAL)

