

CITY OF EAST POINT
PLANNING & ZONING COMMISSION

JUNE 18, 2009 - 7:00 P.M.

Official Minutes

Regular Meeting

East Point, Georgia - JEFFERSON STATION
1526 East Forrest Avenue
4th Floor

Board Members Present:

DR. Herbert J. BRIDGEWATER, Jr.

MR. Sean ATKINS, Co-Chair

MS. Francine JONES

MS. Pamela PATTERSON

MR. Myron COOK

MR. Thomas HARPER

MR. Paul LAWLER

Also Present:

Susan GARRETT
City Attorney

Regina CARTER
Senior Planner

Keyetta HOLMES
Senior Planner

James HAMMOND
Videographer

Reported By:
Jeanene Harper
(404) 228-8807 Office

APPEARANCES

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I. CALLED TO ORDER:

MR. ATKINS: Good evening. I'm Shean Atkins, Vice Chair of the Planning & Zoning Commission. In the absence of our Chair, Linda Sheldon, I will be presiding over the meeting this evening. Hum, at this point, I would like to call our meeting to order, and in lieu of an invocation, we offer a moment of silence so if every one would please take a moment of silence.

II. MOMENT OF SILENCE:

MR. ATKINS: Thank you. Our next agenda item is our Pledge of Allegiance. If every one would please rise.

III. PLEDGE OF ALLEGIANCE:

MR. ATKINS: Thank you. Commissioners, at this time I will entertain a motion to adopt the agenda for our June 18th meeting.

IV. ADOPTION OF THE AGENDA:

MS. JONES: Mr. Chair.

MR. ATKINS: Yes, ma'am.

MS. JONES: I make a motion to adopt the agenda for the June 18th.

MR. ATKINS: Is there a second?

MR. HARPER: I second.

MR. ATKINS: It's been moved and properly seconded that

we adopt the meeting agenda for our June 18th meeting. All in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the "ayes" have it. The agenda has been adopted. Commissioners, you have also be provided with a copy of our May 21st 2009 minutes and at this time, I will entertain a motion to approve those meeting minutes.

V. APPROVAL OF MINUTES:

DR. BRIDGEWATER: Mr. Chair.

MR. ATKINS: Yes, Dr. Bridgewater.

DR. BRIDGEWATER: I make a motion that the minutes for May 22nd -- is that correct?

MR. ATKINS: 21st.

DR. BRIDGEWATER: -- 21st be adopted and approved with any necessary corrections should there be any.

MR. ATKINS: Is there a second?

MR. HARPER: I second.

MR. ATKINS: It's been moved and properly seconded that we approve the minutes from our May 21st, 2009 meeting. All in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the "ayes" have it.

VI. OLD BUSINESS:

MR. ATKINS: Old Business Case Number 2009P (as in Paul)-001-02. Staff, would you please sound that particular application.

MS. CARTER: Applicant is Duke Realty Limited. Property location is Centre Parkway at Camp Creek Parkway. The applicant is seeking approval of a final plat for Camp Creek Business Centre to subdivide 275.85 acres into four lots -- fourteen lots, I'm sorry.

Staff recommends deferral of final plat pending completion of Public Work items.

MR. ATKINS: Okay. Staff is recommending deferral for this particular agenda item. Is that also the wish of the applicant?

MS. CARTER: Yes.

MR. ATKINS: Okay. You've heard this particular agenda item, Commissioners, and you've heard the Staff's recommendation. It has also been stated that it is the wish of the applicant to defer this to our July meeting. At this time, I will entertain a motion.

MR. HARPER: Mr. Chair. I make a motion that the item be deferred as recommend by Staff.

MR. ATKINS: Is there a second?

MS. JONES: Second.

MR. ATKINS: Okay. Just for clarity, Mr. Harper's motion is that the item be deferred as recommend by Staff, and that time certainly

is July and it has be properly seconded. Does your second still stand?

MS. JONES: Yes.

MR. ATKINS: Okay. At this time, all in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the particular agenda item has been deferred to our July meeting. Our next agenda item is 2009S (as in Sam) "V" as in Victor, "I" as in India-001-03. Staff, would you please sound this particular agenda item.

MS. CARTER: Applicant is Del Lago Ventures, Inc./Racetrac Petroleum. Property location is Camp Creek Parkway at North Commerce. The applicant is seeking a secondary variance interpretation to the, hum, February 27, 2009 Staff's decision not to accept a concept review submittal application.

This application requires a public hearing. Hum, applicant has requested a deferral until July 2009.

MR. ATKINS: Okay. And because we've advertised this, Madam Attorney, shouldn't we also go ahead and open the public hearing even though the recommendation has been deferral to defer?

MS. GARRETT: I think we can make a determination whether we want defer the public hearing, hum, I think that's probably the intent of the applicant's request.

MR. ATKINS: Okay. And it is also the applicant's wish to

defer; is that correct, Staff.

MS. CARTER: Yes.

MR. ATKINS: Okay. Commissioners, you've heard the agenda item and you've heard Staff's recommendation, and it's also been stated that it is the wish of the applicant to defer this to a later meeting. At this time, I will entertain a motion.

DR. BRIDGEWATER: Mr. Chair.

MR. ATKINS: Yes, sir.

DR. BRIDGEWATER: In Case Number 2009S (as in Sam) "V" as in Victory, "I" as in India-001-03, I'd like to make a motion that we defer the public hearing as well as grant permission for deferral on this matter until the July 20th meeting.

MR. ATKINS: Is there a second?

MR. HARPER: I second.

MR. ATKINS: It has been moved and properly seconded that we defer this particular agenda item along with the public hearing to our July meeting. All in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the "ayes" have it. That concludes our old business. At this time, I will move on to new business.

VII. NEW BUSINESS:

MR. ATKINS: This particular agenda item is 2009S (as in Sam) "V" as in Victor, "I" as in India-002-05. Staff would you please sound this particular agenda item.

MS. CARTER: Applicant is Parson/Fulton County Board of Education. Property location is 2745 Stone Road. Applicant is seeking a secondary variance interpretation to the March 9th Staff -- that would be Building Inspection's decision not to accept a Land Disturbance Permit submittal application. This application requires a public hearing.

MR. ATKINS: Commissioners, this is a secondary variance as stated by Staff. It is, hum -- it requires a public hearing. So at this time, I would entertain a motion to open the public hearing.

MS. JONES: Mr. Chair. I make a motion to open the public hearing for Case Number 2009S (as in Sam) "V" as in Victor, "I" as in India-002-05.

MR. ATKINS: Okay. Is there a second?

MR. COOK: Second.

MR. HARPER: Second.

MR. ATKINS: It has been moved and properly seconded that we will open a public hearing for agenda item 2009SVI-002-05. All in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the "ayes" have it. Hum,

before we move on to our public hearing, I would just like to go over our rules for a public hearing. A persons both favoring and opposing the proposed application will be provided an opportunity to address the Commission. The applicant for the proposed application, if any, will be entitled to speak first followed by other speakers in favor of the proposal for a total of fifteen (15) minutes. Those who opposed the proposed zoning application will then be permitted to speak for a total of fifteen (15) minutes as well. By majority vote of the Commission, we may increase the total time of speakers provided that each side is given the same amount of time allotted.

Hum, the zoning application may reverse a portion of this allotted time for rebuttal -- the zoning applicant, I'm sorry may reverse a portion of -- reserve a portion of his time for rebuttal.

So, at this time, I will hear from any proponents for this particular agenda item, and let me also remind everyone that because this is a secondary variance, that is an opportunity to present, hum, a legal argument of the Staff's interpretation, hum, it is not an opportunity to make an appeal, and that you may elaborate on your interpretation and respond to the interpretation of Staff.

MS. GARRETT: Mr. Chair, if I may Clarify one or two things before we go further.

MR. ATKINS: Sure.

MS. GARRETT: First of all, the procedures that were read, we use the same procedures that we use for public hearings on zoning

applications. This is a secondary variance. It is not, hum, technically a zoning application. But the same procedures as far as the order of speakers and the time for speaking will apply. And I think the Chair was correct in saying that this is, hum, as a secondary variance, this is not a time for presenting new evidence or lobbying for a decision. But it is an appeal in the legal sense in that it is really a quasi judicial appeal from the decision of the Staff.

MR. ATKINS: Okay.

MS. GARRETT: So I just wanted to clarify some technical language there. Thank you.

MR. ATKINS: Okay. Absolutely. Are there any proponents who would like to speak?

SPEAKER: Mr. Chair, I would like to make a presentation.

MR. ATKINS: Okay. Would you address the podium?

Please state your name and address, please.

(Whereupon speaker approached the podium)

SPEAKER: My name is Frank Destadio, and I live at 404 Tantallon in Peachtree City. I'm here representing the Parsons Corporation, who is the program manager for the Fulton County Schools, so I represent Fulton County Schools.

MR. ATKINS: Okay.

MR. DESTADIO: Commissioners, at this time, I just want to give a quick overview of the project. The project is for a -- us to -- the school system to provide a running track along side the newly

constructed Woodland Middle School. This is an outdoor running track that all the middle schools have in the City -- excuse me -- in the Fulton County district. The middle schools here all have a four-lane running track with no outside, hum, toilets at all in any of the public schools that we have. Because those public toilets are not -- this running track is not available to the public. It is for the school's use only to provide P.E. for the kids that are there. It's not like the stadium that you see behind you at the high school that is open to the public in a sense that we sell tickets to go to the public football games. This is just a P.E. running track associated with each one of our middle schools.

When we first applied for the building -- excuse me -- the land disturbance permit, what was cited to us from the Staff was that in the 2006 International Building Code, Section 403.4 requires a public facility to have a public bathroom. Our contention in what we responded back to is that this is not open to the public. Certainly, there will be kids and people going over to this track, but they'll be crossing a road that will have a gate across it just like all our other roads that have a pipe-gate that are locked at the end of the day.

So kids can walk around that and we do expect that that would happen but again, this is not -- that would happen in a number of our facilities. If you went over to this high school, for example, when the gates are closed and the bathrooms are locked, then kids, people, adults use that track, but the public rest rooms are not open because it's not been open to the public.

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In this case, we're building a running track to replace the one that was at the old middle school. And under Section 403.4, our contention was that this is not open to the public, and it does not require, therefore, a public bathroom. Again, that's not challenging the Staff. It's just stating a fact. We don't believe that this is public.

We've also gone ahead and double checked this with Fulton County and a couple of other places and, yes, if there was a stadium, then we would be required to put in a public bathroom. But because this is only associated with the program -- physical education, P.E. for the schools, then we do not feel as other organizations that a public bathroom is required. Thank you for your time.

MR. ATKINS: Thank you. Are there any other proponents?

(Whereupon speaker approached the podium)

SPEAKER: Good evening, Chairmen and the Board. I'm coming to you tonight as a resident of the City of East Point for twenty-nine (29) years and as an advocate for children and not as a board member of Fulton County Board of Education. Hum, we are strongly --

MR. ATKINS: State your name and address, please.

SPEAKER: Oh, I'm sorry. I'm Catherine Maddox and I live at 2565 Semmes Street in East Point right -- just within walking distance. Hum, again, hum, thank you for letting us have this opportunity to come before you.

Again, I'm an advocate for children, and we strongly want the

track. The children have been without the track now for almost two (2) years, and we would be the only school in Fulton County Middle School that did not have a track. The children are not able to go out and release that energy. Hum, the track will provide a lot of, you know, releasing of the energy -- the physical fitness thing and not having the track is denying them the same opportunity that every other middle school child has in our County. So, hum, it's also a liability issue, hum, you know, middle school children and children in general --

MR. ATKINS: Ms. Maddox.

MS. MADDOX: I'm sorry.

MR. ATKINS: You are going to have to stick to the interpretation.

MS. MADDOX: Okay. Well anyway, we strongly say that this is for the "school only" and it is not for the public. And, hum, again, hum, I'm an advocate for our children and I'm asking that you do not deny our children the opportunity. Thank you.

MR. ATKINS: Okay. Are there other proponents for this particular agenda item?

(Whereupon no other proponents approached podium.)

MR. ATKINS: Seeing none, is there anyone here who wish to speak on behalf of Staff?

MS. HOLMES: Yes.

MS. GARRETT: Yes.

(Whereupon speaker approached the podium.)

SPEAKER: My name is Vincent Washington, Chief Building Official for the City of East Point.

MR. ATKINS: If you could speak into the microphone, please Mr. Washington.

MR. WASHINGTON: My name is Vincent Washington, Chief Building Official for the City of East Point. Hum, during the, hum, land disturbance review, it was noted that where the proposed track and tennis court to be situated on the property, that the distance from the track to the closest bathroom facility exceeded the maximum distance of five hundred (500) feet given by Section 403.41 of the International Plumbing Code 2006 Edition.

Now, the occupancy classification for the school is educational, and the way Staff looks at it is that the tracks and the tennis courts are extensions of the classroom, and that in speaking with administrators of the schools that they are used for physical education activities, part of the curriculum for the school. And with that in mind, Section 40.34 of the International Plumbing Code states that not only public facilities have to be provided, but also facilities have to be provided for employees as well. And Section 403.41 of the, hum, International Residency Code states the location of the toilet facilities, which in that case, would exceed the maximum distance of five hundred (500) feet.

And also, hum, noting the diagram that he shows of the, hum, school and the layout of the track -- due to it does not show

the topography of the property and it's not to scale, and it does not show the distance of those facilities from -- of those -- hum, of the tracks and the tennis court from the school.

MR. ATKINS: Are there any other opponents or is there anyone from the Staff who would like to speak to this as well?

(Whereupon no one from Staff wishes to speak.)

MR. ATKINS: Okay. Seeing none, the applicant now has an opportunity to rebut.

(Whereupon Mr. Destadio approached the podium.)

REBUTTAL

MR. DESTADIO: Mr. Commissioner, again, I go back to just exactly what Mr. Washington said, and he states very clearly that Section 403.4, which is entitled "Required Public Utility -- excuse me -- Toilet Facilities. Customers, patrons and visitors shall be provided with public toilet facilities and structures and tenants intended for public utilization," and we, again, contend that this is not for public utilization.

He cites the distance criteria in 4034.1, which clearly states that not to exceed five hundred feet (500) but its titled, "Location of Toilets and Occupancy" as other than covered malls and when you read the Paragraph it, again, talks about public facilities.

I would contend that if we don't provided this running track for these children and we require a toilet, an outside toilet, that the school system, under today's day and age, does not have the additional funds to do that and, therefore, what Ms. Maddox says is true that we

would be ultimately denying the kids this.

I believe that if you talk to the principal of the school that he is more than willing to have the students out there because now that's the only place for them to go. It is eight hundred (800) feet, true. I am not denying that, but we again contend it's eight hundred (800) feet from the edge of the track to the beginning of the school and that's the distance that Mr. Washington is referring to as being in excess of five hundred (500) feet, and we believe that being it is not public and the fact that this is the only way we're going to be able to provide this facility that for the three hundred (300) feet that would be required if this was a public area that it's going to deny the kids their running track. Thank you.

MR. HARPER: I have a question.

MR. ATKINS: After -- I think we are able to take questions after we close the public hearing.

MS. GARRETT: I think that would be the normal procedure. It would be to close the public hearing and then during the deliberations if the members of the Commission wish to ask questions of either the applicant or Staff, they may do so.

MR. ATKINS: Exactly.

MR. DESTADIO: Thank you for your time.

MR. ATKINS: Thank you. Mr. Washington, equal amount of time.

(Whereupon Mr. Washington approached the podium)

REBUTTAL

MR. WASHINGTON: In rebuttal, hum, actually the maximum distance -- the distance along the accessible route that's given on the submitted plans to the City is nine hundred and sixty eight (968) feet to the edge of the building. That's not to the nearest facility, so that's not including the distance to the nearest facility inside of the school. That's to the entrance, the closest entrance door to the school and, hum, as well be interpretation.

This is a public school which means that it does serve the public, and also the code also -- let alone the public, it also has to provide for the employees as well, so that's a fact as well that was determined in this decision by Staff.

(Whereupon Rebuttal Ends.)

MR. ATKINS: We have heard from the applicant and we have also heard from Staff and each has had an opportunity to rebut. Commissioners, at this time I will entertain a motion to close the public hearing.

MR. LAWLER: Mr. Chair. I make a motion to close the public hearing.

MR. ATKINS: Is there a second?

MR. HARPER: I second.

MR. ATKINS: It has been moved and properly seconded that we close the public hearing for this particular agenda item. All in favor sound "aye".

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the "ayes" have it. There is no Staff recommendation for this particular agenda item. This is an opportunity for Commissioners, I would imagine, to engage either the applicant or Staff in any questions that you may have. Commissioner Harper.

MR. HARPER: In Section 403.4.1, where it says location of toilet facilities -- excuse me -- 403.4 require toilet facilities, I would like to ask the applicant when the children are exercising on these facilities, are they supervised by teachers or personnel of the school system?

MR. ATKINS: That's a question of the applicant, correct?

MR. HARPER: Yes.

MR. ATKINS: Okay.

MR. DESTADIO: Yes, sir. They are supervised by a P.E. teacher and or a member of the staff. The kids are not out there by themselves.

MR. HARPER: Okay. I read that employees shall be provided with a toilet facility in all occupancies and the employees shall be provided with those toilet facilities and they should be within five hundred (500) feet of the building. Am I right?

MR. DESTADIO: That's your interpretation, sir. If it was a public facility, yes. We again try to make the distinction between you

walking off the street to a football game and using a public facility versus the teachers going to the bathroom and having the kids go to the bathroom before they go to P.E.

It is a forty-five (45) minute P.E. period to include the travel time. So they walk out there. They probably have about half an hour at the most to play and they walk back in and therefore, we believe it's a P.E. and physical education facility and that the kids can adequately go to the bathroom before and or after.

MR. HARPER: Okay.

MR. ATKINS: Any more questions, Commissioner Harper?

MR. HARPER: No.

MR. ATKINS: Commissioner Patterson.

MS. PATTERSON: I have a question. So are you saying that if you have to provide toilets, there will be no field, there will be no track for the children?

MR. DESTADIO: Right now, the school system has allocated about a million dollars, not quite a million dollars to construct that because we have to put a large retaining wall in and then clear the area.

Since January, this money was allocated last year and then since January we've had a significant decline in the revenue. As I think, everyone understands that the "**SPLOST**" dollars come from sales tax and when the sales are down, the revenue is down.

Right now, they are going through, in fact, as we speak a school board meeting in which they are looking at their revenue

projections and they are looking to make reductions everywhere that they can, and it is absolutely a certain that if we don't spend this money this year, that the School Board will more than likely roll that back into their deficits today.

If you turn it around -- if Ms. Maddox is the board member went in and asked for an additional two to three hundred thousand dollars to build this bathroom because the bathroom is estimated -- you'd have to have both a men's and a women's and then there is the custodial area -- it becomes a little more than a just a portable potty.

I do not believe in my professional opinion that the school board would approve an additional two hundred to two hundred and fifty thousand dollars and therefore the project would be cancelled until **"SPLOST" IV**.

"SPLOST" IV would start in 2012 so we would have another several years before the children would have this outside play field.

MS. PATTERSON: Thank you.

(Whereupon Commissioner Cook gestured to speak.)

MR. ATKINS: Yes, just before you speak, Commissioner Cook, in all due respect I would have to say that that decision, I imagine would need to come from the Board of Education from Fulton County so at this time we are taking that as your interpretation and just speculation, because I would imagine that the Board would have to make a decision and so, hum --

MR. DESTADIO: That's correct. I'm the Director of Fulton County Schools Program Management and that's my opinion, but I am not a board member.

MR. ATKINS: Okay. Exactly, I just wanted to state that for the viewing public and the record. Okay, Commissioner Cook.

MR. COOK: First let me say I believe this dilemma has sharp edges on both sides and if we're not careful, we can almost tie in the failure of having the track due to the fact we are debating where or not it's a public issue. But in my opinion we're clinging on to the public issues because we don't think we have the finances.

If it wasn't a financial issue, I'm not really sure we would be having this conversation. I think we would all just take the position -- and I don't want to read words into your opinion but I think we would just take the position that the track field is part of the basic footprint of the school and it should have the same amenities regardless of whether or not we have amenities for the general public -- which I think we are in agreement -- we don't, but we want to have those same amenities for the students and the teachers.

I don't believe the Code -- from the little bit of it I've been able to read and maybe Staff can bring me up to date. I don't believe the Code even deals with the financial aspects of it.

It sort of says in simple terms if the activities are going to be more than five hundred (500) feet from the footprint, you have to provide rest room facilities, be it for the public or for the employees or

the Staff who's using that. And I really don't see how we can get around that and I'm not really asking you a question as much as I'm making a statement here.

MR. DESTADIO: Okay.

MR. LAWLER: I have a question.

MR. ATKINS: Yes, Commissioner Lawler.

MR. LAWLER: Hum, question for the applicant. Is there any indication that there will be bleachers or grand stands or any type of stadium seating?

MR. DESTADIO: Commissioner, no, sir. There is none of that. This is not for public viewing. These are the kids just playing. And just one comment, too, sir. I understand your position, Commissioner, I fully understand it. Just keep in mind that there is no public -- there is no middle school in Fulton County, North or South, that has an outside bathroom and grant you some of those are within the 500 and some are outside the 500.

MR. LAWLER: I have a question for Staff.

MR. ATKINS: Yes, Commissioner Lawler.

MR. LAWLER: Hum, I've been digging through this yesterday and today and where I struggled to reconcile the Code Table and the Code explanation is that the 403.4 indicates that customers, patrons and visitors -- it appears as though it's visitors of an event and that would imply if I were to -- and maybe I'm doing this incorrectly but reconciling with A-5 in terms of the occupancy that there's an indication of some

kind of stadium or bleacher system or stadium seating system, amphitheater-type structure and that the employees -- and I'm not trying to split hairs but I'm just trying to gain clarification -- that the employees would be working to service that event not necessarily working for the overall public facility.

So there's two things I'm struggling with to clarify. Is the association between stadium and amusement parks, bleachers and grand-stands for this particular 403.4 and the fact that this particular structure has none -- it appears to and sounds like it will have none of those types of structures, hum, well, we'll just start with that. I'm trying to understand that link.

MR. WASHINGTON: First off, because it does not have bleachers and grandstands it does not fall under the occupancy classification of A-5.

MR. LAWLER: Okay.

MR. WASHINGTON: -- which means that it falls under the occupancy classification of an educational facility --

MR. LAWLER: Okay.

MR. WASHINGTON: -- which the school is itself. So the occupancy classification of A-5 does not apply --

MR. LAWLER: Okay.

MR. WASHINGTON: -- to the field itself.

MR. LAWLER: So then I'm incorrectly associating the Code with the table that I'm looking at?

MR. WASHINGTON: Yes, sir.

MR. LAWLER: Okay. Hum, so how do we reconcile customers, patrons and visitors? We don't. It's just purely employees.

MR. WASHINGTON: Right.

MR. LAWLER: The issue is with the employees, hum, explanation.

MR. WASHINGTON: Right.

MR. LAWLER: Okay. That's all.

MR. ATKINS: Are there any other questions?

(Whereupon, Dr. Bridgewater is acknowledged.)

MR. ATKINS: Yes, Dr. Bridgewater.

DR. BRIDGEWATER: Thank you Mr. Chair. I take my position as a Commissioner on the East Point Planning & Zoning Board very serious and this particular matter is one of grave interest to me.

I serve as President of the Windsor Forrest Neighborhood Association and it's a hot-button issue for our community, and I do feel that as a member of the Planning & Zoning Board that I am able to delineate and be fair in voting on the matter.

With 13 years of service on the Federal Trade Commission and looking at various sides, I'm accustomed to doing what is right. But to avoid any appearance of improprieties, I'm going to recuse myself on this matter.

MR. ATKINS: Are there any other questions of Staff or the applicant at this time?

THE BODY: (No response)

MR. ATKINS: Seeing none, Commissioners, at this time I will entertain a motion and lets also keep in mind that we are simply affirming or voting to reverse the decision made by the chief inspector.

MR. HARPER: Mr. Chair.

MR. ATKINS: Yes, Commissioner Harper.

MR. HARPER: I make a motion to affirm the decision of the chief inspector of East Point.

MR. ATKINS: Okay. And that decision is not to approve the Land Disturbance Permit. Just for the record, I want to make sure that we state that.

MR. HARPER: Well, if the affirmation of the decision of the inspector of East Point approves or denies the Land Disturbance Permit so what every it is, but I affirm the decision of the inspector.

MS. GARRETT: Mr. Chair, I think maybe I can be of help. The issue that is before the Planning & Zoning Commission is the determination by Staff regarding the, hum -- how is it articulated, worded?

MS. CARTER: Sir, Chair. It is to, we the Planning & Zoning Commission affirms the decision made by the chief inspector not to approve the Land Disturbance Permit. It would stand as

Mr. Washington stated that they would have to build the restrooms --

MR. ATKINS: -- facilities. Yes.

MS. CARTER: -- the facilities.

MR. ATKINS: And that's simply what I was clarifying.

MS. CARTER: Yes. Affirm means that you keep it as it is.

Reverse it would mean that, hum, they would be able to go forward with their Land Disturbance Permit.

MR. ATKINS: Exactly, yes. And for the record, that's what I wanted to clarify.

MS. GARRETT: So it is the restroom facility requirement that is before the Board and not the entire land disturbance application.

MS. CARTER: Correct.

MR. ATKINS: The restroom requirement, yes.

MR. HARPER: And my affirmation is for the affirmation of the building inspector.

MR. ATKINS: Okay. Is there a second?

MS. JONES: Second.

MR. COOK: Second.

MR. ATKINS: It has been moved and properly seconded that we affirm the decision made by the chief inspector. Hum, all in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

MR. LAWLER: Aye.

MR. ATKINS: Okay. We have one to vote in opposition to that, and so I will do a roll call vote to make sure that we can count those votes.

(Whereupon a roll call was held.)

MR. ATKINS: Commissioner Jones?

MS. JONES: Yea.

MR. ATKINS: Okay. That would be a "yea."

MS. JONES: Yea.

MR. ATKINS: Okay. Commissioner Patterson?

MS. PATTERSON: Yea.

MR. ATKINS: Commissioner Cook?

MR. COOK: Yea.

MR. ATKINS: Commissioner Harper?

MR. HARPER: Yea.

MR. ATKINS: Okay. And Commissioner Lawler?

MR. LAWLER: Nay.

MR. ATKINS: Okay. There are four "yeas" and one "nay" and so the motion carries. Okay. Thank you.

(Whereupon roll call was completed.)

MR. ATKINS: Our next agenda item is 2009Z(as in zebra)-004-05. Staff would you please sound this particular agenda item.

MS. CARTER: Applicant is Convivia Group, LLC being represented by Bryan Grant. Property location is 2181 Sylvan Road.

Applicant is seeking approval of a rezoning from I-1, light industrial to I-2, heavy industrial. This application requires a public hearing.

MR. ATKINS: Okay. Thank you, Staff. As you have heard this particular agenda item requires a public hearing so at this time Commissioners, I will entertain a motion to open the public hearing.

DR. BRIDGEWATER: Mr. Chair.

MR. ATKINS: Yes, sir.

DR. BRIDGEWATER: I make a motion that we open the public hearing on Case Number 2009S (as in Sam) "V" (as in Victory) "I" (as in India) 001-03.

MR. ATKINS: Okay. We've had that public hearing, Dr. Bridgewater. We are looking now to open a public hearing for agenda item 2009Z (as in zebra)-004-05.

DR. BRIDGEWATER: Thank you for correction. Please affirm that.

MR. HARPER: I'll second it.

MR. ATKINS: It has been moved properly seconded that we open the public hearing for this particular agenda item. All in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the "ayes" have it. The public hearing is now open and the same rules apply for this particular

application.

Are there any proponents here to speak to this agenda item?

SPEAKER: Yes, sir.

MR. ATKINS: You may take the podium.

(Whereupon the Speaker approaches the podium.)

SPEAKER: My name is Bryan Grant, 1880 Woodland Hills Avenue, Atlanta. Georgia 30318. I would like to thank you for your time.

MR. ATKINS: Go ahead.

MR. GRANT: Good evening, Commissioner and Staff. Hum, this is actually on behalf of 2181 Sylvan Road, Sylvan Road Associates, LLC. My company -- I'm a real estate broker -- is Convivia Group, LLC and we've been hired to go through this process for them.

I am not an owner of 2181. Hum, simply what we are trying to achieve here is an I-1 to I-2 re-zone. We have Goodyear and Wing Foot occupying approximately 55 percent of the space and they have been in there for over twenty years -- I think twenty-five years conducting operations that require an I-2 zoning.

Some years ago, there was a master plan re-zoning. I'm not sure of the details, but my understanding is that at some point it was I-2 and then it was re-zoned in mass and in a land master plan to be I-1. Hum, I discovered all of this when a prospective tenant came that wanted to open a recycling plant. And I called the power

department of East Point and there's sufficient infrastructure to deliver that kind of power so that money has been invested in infrastructure for the industrial park already.

There are other I-2 users in the park besides us Norfolk & Southern and there's a large recycling company there and so that recycling company owing to the I-1 limitations is now opening up somewhere on Fulton Industrial outside of East Point.

So we have lost a tenant and you guys have lost a business over this. Hum, it's unfortunate. But anyway I thought I would bring it up to my landlord that maybe we could go through the process of aligning the zoning with what we have and what they are doing.

And so here I am and so I filed the application and I request that you thoughtfully consider that if Good Year has a structural change to the corporation, they will have to cease and desist their operations according to the way the zoning works.

They were grandfathered in at I-2 but if they have an entity change with their lease or they sub-lease to another entity that they may be related to but it's another LLC or incorporation, they will have to stop what they are doing and go through another rezoning process.

Hum, something that I was also made aware of is that I-2 includes adult entertainment. I was not aware of that. This is actually my first re-zoning process I have ever done in my life and

there is absolutely no intention of us doing anything like that in that space.

We have Kroger. We just signed them up for another ten years so they are going to be staying around for us and Good Year is up for renewal soon and we hope to keep them. So with that, I've got some other items that could be points, but that's good enough to start with. I just want to align the zoning with the current use and that's the intention.

MR. ATKINS: Thank you, Mr. Grant. Are there any other proponents for this particular agenda item?

THE BODY: (No response)

MR. ATKINS: Seeing none, are there any opponents for this particular agenda item?

THE BODY: (No response)

MR. ATKINS: Seeing none, at this time, Commissioners, I will entertain a motion to close the public hearing.

MR. HARPER: Mr. Chair. I make a motion to close the public hearing.

MR. ATKINS: Is there a second?

MR. COOK: Second.

MR. ATKINS: It's been moved and properly seconded that we close the public hearing. All in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none, the "ayes" have it. This particular agenda -- this particular public hearing is closed. Hum, we will now hear the recommendation of Staff.

MS. CARTER: The applicant is seeking approval of a re-zoning from I-1 to light industrial to I-2 heavy industrial. Staff recommends approval of applicant's request to re-zone from I-1 light industrial to I-2 heavy industrial with the following condition: This re-zoning is conditioned to the use tire processing manufacturing the activity currently be conducted at 2181 Sylvan Road.

MR. ATKINS: Commissioners, you've heard the recommendation of Staff. At this time, I will entertain a motion.

MR. HARPER: Mr. Chair.

MR. ATKINS: Yes, Commissioner Harper.

MR. HARPER: I make a motion that we approve the recommendation with the conditions as stated by Staff.

DR. BRIDGEWATER: Second, Mr. Chair.

MR. ATKINS: It's been moved and properly seconded that we approve, hum, the particular agenda item with the conditions as stated by Staff and this would be approval of a recommendation to Council to re-zone, correct?

MR. COOK: Yes.

MR. ATKINS: Yes. Okay, is there any discussion?

THE BODY: All in favor sound "aye."

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none the "ayes" have it. That concludes all of our new business and at this time there any announcements?

MS. CARTER: Staff does not have any announcements at this time.

VIII. ANNOUNCEMENTS:

MR. ATKINS: Commissioners, do you have any announcements?

THE BODY: (No response)

MR. ATKINS: Okay. I will entertain a motion to adjourn.

IX. ADJOURNMENT:

DR. BRIDGEWATER: Mr. Chair.

MR. ATKINS: Yes, Dr. Bridgewater.

DR. BRIDGEWATER: Having completed all the business of the City of East Point Planning & Zoning, I make a motion that we adjourn.

MR. ATKINS: Is there a second?

MR. HARPER: I second.

MR. ATKINS: It is been moved and properly seconded that we adjourn our June 18th, 2009 meeting. All in favor sound "aye."

THE BODY: Aye.

MR. ATKINS: All opposed sound the same.

THE BODY: (No response)

MR. ATKINS: Hearing none the "ayes" have it. This meeting is officially adjourned.

(Whereupon the meeting was adjourned at 7:44 P.M.)

CERTIFICATE

GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing transcript was reported, as stated in the caption, and the questions and answers thereto were reduced to the written page under my direction; that the foregoing pages 1 through 34 represent a true and correct transcript that I am not in any way financially interested in the result of said case.

I am here as an independent contractor for East Point Planning & Zoning Commission.

I was contacted by the offices of East Point Planning & Zoning Commission to provide court reporting services to take down the meeting minutes.

The foregoing proceedings for the East Point Planning & Zoning Meeting on June 18, 2009, 7 o'clock P.M. were reported by me and transcribed by me.

This, the 3rd day of June 2009.

Jeanene Harper
Court Reporter

Reported By:
Jeanene Harper
(404) 228-8807 Office