

**CITY OF EAST POINT**  
**PLANNING & ZONING COMMISSION**

Official Minutes

April 19, 2007

7:30 p.m.

Regular Meeting, East Point City Auditorium

Board Members Present:        Mr. Steve BENNETT, Chair  
   Mr. Sean ATKINS, Vice Chair  
   Dr. Herbert J. BRIDGEWATER, JR.  
   Mr. Myron COOK  
   Mr. Elijah J. GRANBERRY, III  
   Mr. Thomas HARPER  
   Ms. Francine JONES  
   Ms. Pam PATTERSON  
   Ms. Linda SHELDON

Also Present:                      Ms. Geneasa ELIAS  
   Assistant Director, Planning & Zoning  
  
   Mr. Herbert HUMPHREY  
   Director, Government Operations  
  
   Ms. Valerie ROSS  
   Office of the City Attorney

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A P P E A R A N C E S

APPLICANTS:

DOUG PERRY  
Moss Development, LLC

JOEL ROBERTS  
Centennial Investment Group

ISIDORE GOULD  
Frontier Realty Group

LANDMARK DESIGN  
McCar Homes

JIM KINNERLY  
Kenn-Tex Investments

KEMA TILLMAN  
Jim Berger Homes

LARRY LUCAS  
Ivory Properties

JOHN PORTER, CPA

CITY OF EAST POINT

ALSO PRESENT:

Charlene Moraima Ivory (phonetic)

Paul Lawler

John Brannan (phonetic)

Transcript Legend

(sic) - Exactly as said.

(phonetic) - Exact spelling unknown.

-- Break in Speech Continuity.

. . . Indicates halting speech, unfinished sentence or omission of word[s] when reading.

Quoted material is typed as spoken.

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- - -  
P R O C E E D I N G S  
- - -

(Whereupon, the April 19, 2007 East Point  
Planning & Zoning Commission was called to order by  
Mr. Steve Bennett, Chair, presiding, at 7:30 p.m.)

- - -

**I. CALL TO ORDER**

MR. BENNETT: Ladies and gentlemen, we'll come to order for the April 19, 2007 meeting of the East Point Planning and Zoning Commission.

**II. MOMENT OF SILENCE**

MR. BENNETT: In lieu of an invocation, this body normally recognizes a moment of silence. So, at this time anyone wishing to do so may do it now.

- - -

(Whereupon, there was a moment of silence)

- - -

**III. PLEDGE OF ALLEGIANCE**

MR. BENNETT: And we thank you. If everyone will, please, rise with us for the Pledge of Allegiance to the flag.

- - -

(Whereupon, there was a break for the Pledge of Allegiance)

- - -

**IV. ADOPTION OF THE AGENDA**

MR. BENNETT: Thank you. We have a number of items on our agenda tonight. Staff has asked us for an adoption of our agenda. So, I'll entertain a motion to adopt the agenda that we have before us.

DR. BRIDGEWATER: Mr. Chair, I move to adopt the agenda as prepared for tonight.

MR. BENNETT: Okay.

MR. HARPER: I'll second that.

MR. BENNETT: Second. Any questions or comments?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries.

- - -

(Whereupon, the Agenda was adopted)

- - -

MR. BENNETT: The agenda is adopted.

**V. & VI. APPROVAL OF MINUTES**

MR. BENNETT: The next item of business is the February 22, 2007 Special Call Minutes. I'll entertain a motion for those Minutes for that Special Call meeting.

MR. HARPER: Mr. Chair --

MR. BENNETT: Mr. Harper.

MR. HARPER: (Inaudible)

MR. BENNETT: Mr. Harper, would you turn on your mike?

Thank you.

MR. HARPER: I make a motion to adopt the Minutes for the Special Call meeting.

MR. BENNETT: Okay.

MR. COOK: Second.

MR. BENNETT: Second. Any additions or deletions?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries.

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(Whereupon, the Motion passed)

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MR. BENNETT: Those Minutes are adopted. The next item, Minutes for March 15, 2007, that was our regular monthly meeting.

Entertain a motion on those Minutes.

DR. BRIDGEWATER: Mr. Chair --

MR. BENNETT: Dr. Bridgewater.

DR. BRIDGEWATER: Move a motion that the Minutes from March 15th be adopted with any necessary corrections, if there be any.

MR. BENNETT: Okay.

MR. GRANBERRY: Second.

MR. BENNETT: Second by Mr. Granberry. Any corrections, comments?

THE BODY: (No response)

MR. BENNETT: All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries.

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(Whereupon, the Motion passed)

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MR. BENNETT: And the Minutes are adopted.

## **VII. Old Business**

MR. BENNETT: Moving to our agenda under Old Business, the first item we have is a request for approval of a Final Plat in the RT-C zoning district. The applicant is Doug Perry. And I'll turn it over to Geneasa, our staff, for a staff report on this.

MS. ELIAS: Okay. The first item on the agenda is application number 2006P-017-11. The applicant is Doug Perry of

Moss Development, LLC. It is a request of approval of the Final Plat in the RT-C zoning district. The applicant requests approval of the Final Plat for 115 single-family, attached residential townhouse units on 11.99 acres.

The staff is recommending approval with condition that there are going to be some DH-holds required by the Public Works Department.

MR. BENNETT: Okay. All right Commissioners, I'll entertain a motion on this item.

MR. GRANBERRY: I make a motion to approve with conditions.

MR. BENNETT: Okay. Mr. Granberry has made a motion to approve with the provisions as stated.

MR. HARPER: I'll second that.

MR. BENNETT: A second by Mr. Harper; any discussion?

THE BODY: (No response)

MR. BENNETT: All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries with the stated conditions.

- - -

(Whereupon, the application was approved with condition)

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MR. BENNETT: Ms. --

MS. ELIAS: The --

MR. BENNETT: -- Elias, you can continue.

MS. ELIAS: Okay. The second case under Old Business is case number 2007P-001-01. The applicant is Joel Roberts of the Centennial Investment Group. They are requesting approval of the Preliminary Plat in the C-1 Neighborhood Commercial zoning district. The Preliminary Plat is for 41 townhouse residential units and 3600 square feet of retail on 3.26 acres.

Staff is recommending denial of the Preliminary Plat for the following reasons:

1) It does not meet the distance requirement where C-1 is adjacent to R-1;

2) The patio areas encroach into the buffer and setback;

3) It does not meet the 25% green space/open space requirement;

4) The development's density does not provide a compatible transition into the existing residential; and

5) It does not comply with Section 10-3008.2c Minimum Standards of Design.

MR. BENNETT: Okay, thank you. Commissioners, I'll entertain a motion on that.

DR. BRIDGEWATER: Mr. Chair --

MR. BENNETT: Dr. Bridgewater.

DR. BRIDGEWATER: Recommend denial on this recommendation based on the stated issues as stated by the staff.

MR. HARPER: I'll second that.

MR. BENNETT: Second by Mr. Harper. Any discussion, or questions or comments?

MR. ATKINS: In our work session, the applicant was going to go back and try to address some of those issues; did that not happen, Geneasa?

MS. ELIAS: Our office has not received any additional information from them --

MR. ATKINS: Since that evening?

MS. ELIAS: -- since that evening.

MR. ATKINS: Okay, thank you.

MR. BENNETT: Any other questions or comments?

THE BODY: (No response)

MR. BENNETT: All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries.

- - -

(Whereupon, the application was denied)

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MR. BENNETT: The application is denied.

**VIII. NEW BUSINESS**

MS. ELIAS: We are now ready for the New Business items.

The application number is 2006P-018-11. The applicant is Isidore Gould of Frontier Realty Group. Frontier Realty Group is requesting approval of the Final Plat for a townhouse development in the C-2C, which is the Central Business district zoning district. He's requesting approval of a Final Plat for 85 single-family, attached residential townhouse units on 10.130 acres.

And staff is going to be recommending deferral due to the fact that there are issues concerning a drainage easement that the applicant is required to obtain from the property owner across the street. At your desk this evening there was a copy of the letter that we received from CCIV Investment Company. We received that letter late yesterday afternoon. You also received a summary letter from staff explaining why we were changing our recommendation to deferral.

MR. BENNETT: Thank you. Commissioners, I'll entertain a motion on the item.

MR. HARPER: I make a motion to defer the item.

MR. BENNETT: Thank you, Mr. Harper. Mr. Cook?

MR. COOK: Second.

MR. BENNETT: Mr. Harper, your motion was to defer, correct?

MR. HARPER: Yes.

MR. BENNETT: Okay. Mr. Cook, your second?

MR. COOK: (Nods affirmatively)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Approved. Motion carries. That item is deferred.

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(Whereupon, the application was deferred)

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MR. BENNETT: And I think we, generally, have an understanding that we defer to the following month's meeting.

MS. ELIAS: That's correct.

MR. ATKINS: Mr. Chair that would be -- For the record, please, because we did not say it. So, we are deferring it for the next meeting.

MS. ELIAS: It would be deferred until the next meeting, which I believe, is May 17th. And I'll check to make sure that that is the correct date.

MR. ATKINS: Yes, we usually won't set a date because we don't know. But we just say to our next regularly scheduled meeting.

MS. ELIAS: Okay.

MR. ATKINS: So, if that would be a part of our record I'd appreciate that.

MS. ELIAS: Okay. Staff is recommending that we defer the case until the next Planning & Zoning Commission meeting.

The next item on the agenda is case number 2007P-006-03. The applicant is Landmark Design for McCar Homes. The property is located at 3600 Old Fairburn Road. They are requesting the approval of the Final Plat in the AG-1 CUP zoning district. The applicant is requesting approval of the Final Plat for 20, single-family, detached residential units on 3.113 acres.

Staff is recommending approval of the Final Plat with the condition of the DH-holds that would be prescribed by the Public Works Department.

MR. BENNETT: I'll entertain a motion on the item.

DR. BRIDGEWATER: Mr. Chair.

MR. BENNETT: Dr. Bridge -- Dr. Bridgewater.

DR. BRIDGEWATER: I offer a motion of approval with the recommendation of DH-holds as required.

MR. BENNETT: We have a motion for approval with conditions.

MR. HARPER: I'll second that.

MR. BENNETT: It's been seconded by Mr. Harper. Any further questions, comments, discussions?

THE BODY: (No response)

MR. BENNETT: All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries. The plat is approved with the stated conditions.

- - -

**(Whereupon, the application was approved with conditions)**

- - -

MS. ELIAS: Okay, the next items that are coming up on the agenda are items that require public hearings.

MR. BENNETT: Correct.

MR. BENNETT: And the first item would be case number 2007V-003-03. The applicant is Jim Kennerly, of Kenn-Tex Investments and he is requesting a variance to the Infill Ordinance to reduce the front yard setback from 38 feet to 36 feet.

MR. BENNETT: Okay. And at this time I'll entertain a motion to open a public hearing on this item.

MR. HARPER: I make a motion to open a public hearing.

DR. BRIDGEWATER: Second.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

- - -

(Whereupon, the Public Hearing was opened)

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MR. BENNETT: Okay, the public hearing is now open for this item. And what we do on these public hearings is we'll entertain comments from the applicant and any other proponents - people who wish to speak in favor of the item. And then we'll hear from any opponents. And then we'll give the applicant a chance for a rebuttal.

So, if we have the applicant or any other proponents that would like to come forward, come to the podium and give us your name, please.

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(Whereupon, the speaker approached the podium)

- - -

MR. KENNERLY: (inaudible)

MR. BENNETT: Microphone, please.

MR. KENNERLY: Okay. My name is Jim Kennerly. I am the applicant that's for this variance. Basically, I am asking for a two-foot variance on a single-family dwelling. It's about 80% complete. At the . . . at the time of the stop-work order, it was about 80% complete. And in order to meet the average

setback in the . . . in the cul-de-sac, which, apparently, is 38 feet, we are requesting a variance of two feet. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

- - -

MR. BENNETT: Are there any other proponents -- people that would like to come forward and speak in favor of this item?

Hearing none, I'll ask if there are any opponents -- any persons that would like to come forward and speak against this item?

There being none, I'll entertain a motion to close the public hearing on this item.

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

MR. BENNETT: The motion --

DR. BRIDGEWATER: Second.

MR. BENNETT: -- and second. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

MR. BENNETT: The public -- Motion carries.

- - -

(Whereupon, the Public Hearing was closed)

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MR. BENNETT: The public hearing is closed for this item. Geneasa, if you want to continue with the staff recommendation.

MS. ELIAS: Staff is recommending approval of the variance request. And if you would like me to, I can go through and explain why we're recommending approval -- if you would like to hear.

MR. HARPER: Please.

MS. ELIAS: Okay. Based on the four requirements that are listed within the Zoning Ordinance, in which the applicant has to show that there is a hardship requiring a variance.

To number 1: Are there any extraordinary, exceptional conditions pertaining to this particular use or development? There are extraordinary and exceptional conditions pertaining to this subject house because the houses has been 80% completed and moving subject house would be a case of great practical difficulty.

For requirement number 2: Does the application of the Ordinance to the use or development proposed, or to the particular piece of property, create great difficult -- practical difficulties or an unnecessary hardship? The application of the average infill survey setback to the subject house would create great practical difficulties in moving it 2 feet to the rear.

Requirement 3: Are there extraordinary and exceptional conditions particular to the use or development proposed, to the particular piece of property involved? The condition of this existing house, being that it's 80% completed, is particular to this particular piece of property.

And then the last one: If relief is . . . if relief is granted, would it cause substantial detriment to the other property owners or tenants, or to the public good? Would it impair the purpose and intent of the Ordinance provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the provisions of this Ordinance? And then further, nonconforming uses of nearby property cannot be considered as grounds justifying a variance. Financial loss to the appellant is not sufficient.

Staff response is: A variance, if granted, would not cause a substantial detriment to other property owners or tenants, or to the public good; nor would it impair the purpose or intent of the Ordinance because the range of setbacks of the homes in the infill survey area, according to the Senior Planner of the Department of Planning and Zoning, are 31 feet to 45 feet -- the average being 38 feet. The applicant especially references the house immediately to the east of the subject house which was built less than 2 years ago, which sits 31 feet from the curb as previously stated by the Senior Planner.

Therefore, staff is recommending approval of the variance request.

MR. BENNETT: Thank you. I'll entertain a motion on the item. Mr. Harper.

MR. HARPER: I'll make a motion to approve.

MR. BENNETT: We have a motion to approve.

MS. JONES: Second.

MR. BENNETT: And a second from Ms. Jones. Any other discussion?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

MR. GRANBERRY: Nay.

MR. BENNETT: One nay, Mr. Granberry, one nay. Motion carries and the variance is granted.

- - -

**(Whereupon, the Variance was approved)**

- - -

MS. ELIAS: The next item also requires a public hearing. It is application 2007V-004-03.

The applicant is Kema Tillman for Jim Berger Homes. The applicant is requesting a variance to the Infill Ordinance to allow for a two-story structure located at 1386 Elizabeth Lane.

MR. BENNETT: This item does call for a public hearing and I'll entertain a motion to open a public hearing on this item.

MR. HARPER: I make a motion to open a public hearing on this item.

DR. BRIDGEWATER: Second.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

- - -

(Whereupon, the Public Hearing was opened)

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MR. BENNETT: The public hearing is now open for this item. I'll entertain comments from the applicant or any proponents that would like to speak in favor of it. Okay, I see no one coming.

Are there any opponents -- anyone like to speak against this item? There being none -- proponents or opponents, I would entertain a motion to close the public hearing.

DR. BRIDGEWATER: Mr. Chair, I recommend that the public hearing be closed.

MR. HARPER: I second that.

MR. BENNETT: All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries and the public hearing is now closed on this.

- - -

(Whereupon, the Public Hearing was closed)

- - -

MS. ELIAS: The applicant is seeking to build a two-story home. The infill survey indicated that, at most, the applicant could construct a home that was one-and-a-half stories. The home is currently under construction based on the requirements listed for granting a variance.

Number 1: Are there extraordinary or exceptional conditions pertaining to the particular use or development proposed?

Staff's response is yes, the Zoning Ordinance would allow the two-story home however, the Infill Ordinance would not.

Number 2: Does the application of the Ordinance to the use or development proposed, or to the particular piece of property, create great practical difficulties or an unnecessary hardship?

Staff's response: Yes, the application of the Infill Ordinance does create a hardship.

Requirement number 3: Are there extraordinary and exceptional conditions particular to the use or development

proposed, or to the particular piece of property involved? The hardship would be.

Staff's response is: The hardship would be the application to the Infill Ordinance versus the Zoning Ordinance.

And then the last requirement: If relief is granted, would it cause substantial detriment to other property owners or tenants, or to the public good? Would it impair the purpose and intent of the Ordinance provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the provisions of this Ordinance?

Staff's response: Granting of the variance would yield the property in compliance with the Zoning District requirements. The variance would not yield a non-conforming structure therefore, staff is recommending approval of the variance request.

MR. BENNETT: Thank you. Commissioners, I'll entertain a motion on that item.

MR. ATKINS: I move that we approve the variance for 1386 Elizabeth Lane to allow for a two-story structure to be built.

MS. PATTERSON: Second.

MR. BENNETT: We have a motion and a second for approval of the variance. Any discussion?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries, the variance is granted.

- - -

**(Whereupon, the Variance was approved)**

- - -

MS. ELIAS: The next item also requires a public hearing. It's application number 2007V-005- 03. The applicant is Larry Lucas for Ivory Properties. The property is located 1341 East Point Street and they are requesting a variance to the Ordinance to allow a two-story structure.

MR. BENNETT: Okay. Commissioners, at this time I'll entertain a motion to open a public hearing on this item.

MR. HARPER: I make a motion to open the public hearing.

MS. JONES: Second.

MR. BENNETT: Second. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

- - -

**(Whereupon, the Public Hearing was opened)**

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MR. BENNETT: This public hearing is now open. And I see the applicant is here, and any other proponents that would like to speak may come at this time.

- - -

(Whereupon, the Speaker approached the podium)

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MR. LUCAS: Good evening, ladies and gentlemen of the Board. For the record, I wanted to make sure I heard the address right -- it's 1341 East Mercer Avenue.

Yes, this is a request to allow a two-story structure where the infill compatibility is a story-and-a-half. We find that the criteria is reflected in this application in that this house has already been built on this street. There is a two-story house immediately adjacent to this property. And because of the width of the property, trying to convert the floor area to a story-and-a-half is constrained by the size of the lot. And we feel that this house is a compatible addition to the character of the residential development in this neighborhood, which has gone toward a two-story house as a structure of choice.

- - -

(Whereupon, the Speaker exited the podium)

- - -

MR. BENNETT: Thank you, sir. Any other proponents that would like to speak for this item?

- - -

(Whereupon, the Speaker approached the podium)

- - -

MR. BENNETT: State your name, please.

MS. IVORY: Charlene Moraima Ivory. I'm the owner of Ivory Properties that built it. And I support building this house on this street again. I built this house one time and it was a huge success on this street. And I got a lot of people that love this house. And so, very quickly after it was constructed, I had another family in the neighborhood that wanted me to build that house with a couple of changes to the facade on the main street because of how beautiful this street was beginning to develop.

And so, I was approved for this house prior. But then, the Ordinance came up when I applied to get a permit the second time. So, it is under contract and we are eager to get started. The family is hoping to move in before the next school year starts -- in the summertime, so I hope that you'll approve it.

And this house is also, by the way, used in the City of East Point presentations. A picture of it is used for East Point, you know, materials so I hope that you will approve it. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

- - -

MR. BENNETT: Thank you. Are there any other proponents that would like to speak?

Are there any opponents? Anybody that would like to speak against this item? If so, please come forward and give us your name.

- - -

(Whereupon, the Speaker approached the podium)

- - -

MR. LAWLER: Good evening. My name is Paul Lawler. I'm a resident of the City of East Point in the Village of Egan Park. I live at 3345 Harrison (phonetic) Road. I am opposed to the height variance, not opposed to the house per se. I'm past president of the neighborhood association and we've worked with Ivory Properties on many occasions.

Unfortunately, even though the house looks fine, the plans look great, and we're extremely excited about the people that have the house under contract -- teachers are always a welcome addition to any neighborhood because they are lasting members of the community, the track record of this particular builder has not necessarily been good.

I have with me documents from our previous neighborhood comment forms about other homes that the builder has constructed in the neighborhood. Some have been good; some have been

questionable in terms of meeting residential code. I talked to one of the inspectors -- private inspector, on one of Ms. Ivory's properties and there were some issues, some concerns that he had around some of the residential codes. This was expressed in a letter to the City of East Point, to the Department of Community Services, and Planning and Zoning.

I also sent a letter to Beth McMillan asking to clarify any issues in residential codes being met with these properties. We have not heard a response from . . . from the City of East Point around this.

One of my main concerns is that it be clear that, yes, this house . . . house plan was approved on this street. However, this particular implementation of this house has not been approved. At least it has not been supported by the neighborhood association; I have some documentation that will bear that out.

So, ultimately, the issues that we have are -- Is it wise to extend the variance for more house when there are so many outstanding issues or questions that have not been addressed by either the builder or the City of East Point?

So, we hope that you take this into consideration. And I would be happy to hand over these documents. I don't know if there's a clerk here that can take these (indicating) and you

all can look them over. And I'd also be happy to forward you a copy of the letter that we sent to Ms. McMillan.

MR. BENNETT: I'll let you give that to Ms. Elias, right here with the staff.

MS. ELIAS: Yes, if you can provide a copy. I'm not aware of that letter that you are referencing.

MR. LAWLER: Sure.

MR. BENNETT: Thank you, Mr. Lawler.

MR. LAWLER: Hand these over, too?

MS. ELIAS: Would you ask him to spell his name one more time?

MR. LAWLER: L-a-w-l-e-r. Appreciate your time, thank you.

- - -

(Whereupon, the Speaker exited the podium)

- - -

MR. BENNETT: Are there any other proponents that would like to speak against this item?

At this time we will allow the applicant a chance for rebuttal.

- - -

(Whereupon, the Applicant returned to the podium)

- - -

MR. LUCAS: When we were at the work session, I think there was a reference to a letter that's already in your file from the

Egan Park neighborhood that shows that this plan did receive favorable support of the neighborhood association.

And in the exchange of e-mails with the current . . . with the current president of Egan Park, the communication was they were okay with the house that we didn't need to come to the neighborhood meeting to make a presentation.

So, while there may be a subsequent letter, I think the letter that's actually in your file -- the neighborhood comment form, does indicate that this house has the support of the community.

- - -

(Whereupon, the Applicant exited the podium and the builder approached)

- - -

MS. IVORY: I can -- I'd just like to speak to Paul's comment about code violations. Every home that I've ever built in East Point has received a CO, is sold, and this home -- the plans that I submitted to the neighborhood association to Matt Halgren (phonetic), the president -- the president right now, were approved by the neighborhood association.

As Larry said, you have the form and it was the exact same plan that was approved during Paul's reign as president when I built the first house. There's not much modification from the

first house to the second house, except for the front elevation. So, this same plan has been approved two times.

And I think what Paul is referring to are some sort of vicious rumors that go on in the neighborhood that some people, you know, have chosen to believe which just aren't true.

And if you would check any files on Ivory Properties you would see that I've never had any code violations. I have a certificate of occupancy for every house that I've ever built. And I think that Ms. Washington would be glad to, you know, speak to that issue if it ever was an issue. But it just really isn't an issue.

And the only thing that I can say about a part of the conversation about things going wrong as associated with me is that when there is development in areas sometimes there gets to be people that are concerned about competition and things of that such. I think that's what's going on here.

So, I would just like to say that if there are any concerns, I would ask you to please check the records. And I think that the records speak for themselves and they will reflect the accurate, you know, good builder that I am.

And the reason that I want this variance to pass tonight is because I want to get going with this house for this family. Because they want to be moved into this house by the summertime and we've already been delayed by, you know, having to apply for

the variance. And partially, we have the foundation, the footings poured. And so we would just like to move forward with the house. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. And at this time I'd like to entertain a motion to close the public hearing.

MR. HARPER: Motion to close the public hearing.

DR. BRIDGEWATER: Second.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries. The public hearing is closed.

- - -

(Whereupon, the Public Hearing was closed)

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MR. BENNETT: Geneasa will provide the recommendations of staff.

MS. ELIAS: The applicant is seeking to build a two-story home. The infill survey indicated that, at most, a one-and-a-

half story home could be constructed which is the reason the request for a variance to the Infill Ordinance is being made.

With regards to the requirements for granting a variance, requirement number 1: Are there extraordinary and exceptional conditions pertaining to the particular use or development proposed or to the piece of property in question because of its size, shape, topography or other condition?

Staff's response: While the properties' configuration complies with the R1-A zoning classification -- classification, the surrounding houses are predominantly one-story in height.

Also in the area are recently approved two-story houses that have been built that represent current market's affinity for two-story homes. The exceptional circumstance is the new house is the same house built in 2006 on the same street. The two-story plan is supported by the community and is consistent with the emerging residential character of Egan Park.

Requirement number 2: Does the application of the Ordinance to the use or development proposed, or to the particular piece of property create great practical difficulties or an unnecessary hardship?

The response: This builder has constructed six houses in the Egan Park community and has relied on a more liberal application of the Infill Ordinance. The proposed house is the same plan that was built on a lot just down the street from the

subject property and already has a purchase contract for the specific house plan. The now stricter administration of the infill criteria would require the house to be changed to a one-and-a-half story design, which voids the purchase contract and imposes an economic hardship to the builder.

Requirement 3: Are there extraordinary and exceptional conditions particular to the use or development proposed, or to the particular piece of property involved?

Immediately adjacent to the subject property is a two-story house constructed in 2006 and a new house seeks to be developed under the same criteria.

And then the last requirement: If relief is granted would it cause substantial detriment to other property owners or tenants or to the public good, would it impair the purpose and intent of the Ordinance provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the provisions of this Ordinance?

Response: Granting the request to increase the number of stories from one-and-a-half to two does not introduce a new element to the residential character, but follows and fortifies the emerging pattern of homes. It is the purpose of the Infill Ordinance to restrict the development of undesirable houses that have no relationship to the surrounding community. This neighborhood has enjoyed tremendous growth since being rezoned

back to residential in 2002. Because no new houses could be built in Egan Park for a number of years, the housing stock lagged behind trends to construct homes to meet modern demands. Homes of this former period are still numerous in this community, but are steadily being replaced by homes designed for the current market. Therefore, this proposal presents no detriment to surrounding properties, but contributes to the appreciating value of this community.

Therefore, staff recommends approval of the variance request.

MR. BENNETT: Thank you. Commissioners, I'll entertain a motion on this item.

MR. ATKINS: Mr. Chair, I move that we approve the variance to allow for a two . . . two-story structure at 1341 East Mercer Avenue.

MR. GRANBERRY: Second.

MR. BENNETT: We have a motion and a second by Mr. Granberry. Any further discussion or comment?

MR. ATKINS: I just want to also say that in terms of comments, I do appreciate the perspective of both the opponent and the proponent. But a lot of the information that was given -- particularly those things regarding code violations and the track record of the builder -- they're not within our purview

and nor can we use those for consideration for this particular variance.

And likewise, the information that was given about future residents of East Point and time constraints and wanting to be here, we're not allowed to use those either. I just want to state those things for the record. And I do appreciate the perspective of both the opponent and the proponents.

MR. BENNETT: Okay. Any further discussion?

THE BODY: (No response)

MR. BENNETT: All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries and the variance is granted.

- - -

**(Whereupon, the Variance was approved)**

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MS. ELIAS: The next application also requires a public hearing. It's application number 2007Z-002-03. It is an application for rezoning at 3061 East Point Street by John Porter. He's requesting to rezone from R-1A Urban Residential to C-1 Neighborhood Commercial on 0.436 acres.

MR. BENNETT: Okay. Commissioners, at this time I'll entertain a motion to open a public hearing on this item.

MR. HARPER: I move that we open a public hearing.

MR. GRANBERRY: Second.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

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(Whereupon, the Public Hearing was opened)

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MR. BENNETT: The public hearing is now open and we will hear from the applicant. Please, approach the podium.

- - -

(Whereupon, the Speaker approached the podium)

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MR. PORTER: I'm John D. Porter a CPA at 3061 East Point Street. My office was previously located at this location. I moved out shortly to the Bank of America building and simply want to move back into my original location. I'd appreciate your consideration.

MR. BENNETT: Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Are there any other proponents that would like to come up and speak on behalf of this item -- in favor of it?

Are there any opponents that would like to come forward and speak against this action? Please come forward and give your name, please.

- - -

(Whereupon, the Speaker approached the podium)

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MR. BRANNAN: Hi, my name is John Brannan (phonetic). I'm the president of the Center Park Neighborhood Alliance. And we found out about this -- we saw a sign on the street saying about this hearing.

I actually live only one yard away from Mr. Porter and unfortunately, I've never met him. We have a very active neighborhood alliance. And I've met most of the people, at least in our general vicinity. And we like to be fairly social and he never came to our neighborhood alliance house.

And there's also another neighborhood alliance called the Church Street Neighbors and he did not speak at their meetings. And we . . . we thought that was the process he needed to go through to change this back.

We are very opposed to this on the fact that we do want to keep our neighborhood a neighborhood. We don't want a lot of

traffic, any more than we have to, through the neighborhood. There have been numerous times that we go by and we see cars parked in the grass, which is against Code. We don't want more of that. We don't want it paved over. We don't want any signs. We want to -- He has a very pretty house and we do thank him for that. He keeps it up very nicely, but we don't want a business in our neighborhood. Here, like I said, he lives very close to me. And I want to live next to other people not next to businesses. And that's the way most people think in our neighborhood.

Businesses stop on East Point . . . East Point Street, right now, I believe at Williams, which is even further south. And they stop on Church Street but they stop at -- two streets up when they're coming down Church Street. So, we want to keep our neighborhood a neighborhood. And we don't want businesses with clients coming in and out during the day when most of us are also working. I believe that's all I have. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. Are there any other opponents that would like to speak against this item?

And Mr. Porter, you do have an opportunity for a rebuttal if you'd like to address this.

MR. PORTER: As I said before, my office has been there before. I'm not like an H&R Block where I have tons of clients coming. I only see one client an hour.

As far as any . . . any clients parking in the grass, I'll just have to make sure that doesn't happen again. And as he mentioned, my house is probably one of the prettiest houses on East Point Street since I have moved back down there. So I have blended in with the neighborhood; I'm not standing out. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. At this time, Commissioners, I'll entertain a motion to close this public hearing.

DR. BRIDGEWATER: Mr. Chair --

MR. BENNETT: Mister -- Dr. Bridgewater?

DR. BRIDGEWATER: I'll make a motion to close the public hearing.

MR. HARPER: I'll second that motion.

MR. BENNETT: I have a motion and a second. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries and the public hearing is closed.

- - -

(Whereupon, the Public Hearing was closed)

- - -

MR. BENNETT: Geneasa, if you would continue with the staff report.

MS. ELIAS: The applicant is requesting to rezone the property from R-1A Urban Residential to C-1 Neighborhood Commercial. The proposed use for the property is an office use.

Staff, at this time, is recommending deferral until the next Planning and Zoning Commission meeting because we have not received any indication that a public participation plan or report was met.

MR. BENNETT: Thank you. Any Commissioner want to bring a motion?

MR. GRANBERRY: I make a motion that we defer it to the next meeting.

MR. BENNETT: Is that a motion for deferral? Is there a second?

MR. COOK: Second.

MR. BENNETT: Second, Mr. Cook. Any discussions?

DR. BRIDGEWATER: Mr. Chair, I think that I'd like to see the motion state the . . . the reason why we're deferring it

for. I'd like to see that indicated so . . . so that we can have community participation -- so they'll know why.

MS. ELIAS: Yes, staff is recommending deferral. The app -  
- The application was advertised in the paper. Staff changed its recommendation to deferral because there had not been any type of community participation. We did receive two e-mails, one from the president of the neighborhood association as well as from one of the Council Members that represents that Ward. And that's why we changed the recommendation to deferral.

MR. BENNETT: Mr. Granberry, are you okay with that?

MR. GRANBERRY: Yes, I'm fine.

MR. BENNETT: Mr. Cook, you all right with the second?

MR. COOK: Yes.

MR. BENNETT: Is the clerk clear on that?

COURT REPORTER: (Nods affirmatively)

MR. BENNETT: I'll call for the question on that motion.

All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

MS. JONES: Nay.

MR. BENNETT: One nay, Ms. Jones. The motion does carry.

- - -

**(Whereupon, the application was deferred)**

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MR. BENNETT: It is deferred to the May meeting.

MS. ELIAS: The last item is 2007Z-002-03. The applicant is the City of East Point. The application is a Zoning Ordinance amendment. The City of East Point is requesting that the Infill Ordinance be amended and this does require a public hearing.

MR. BENNETT: Commissioners, at this time I'll entertain a motion to open a public hearing on this.

MR. HARPER: I make a motion to open a public hearing.

MR. ATKINS: Second.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The public hearing is now open on this item.

- - -

(Whereupon, the Public Hearing was opened)

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MR. BENNETT: And we'll entertain comments from any proponents, anybody that would like to speak for this or against?

Any additional comments or any information you like to have on this Ordinance amendment?

And I would call on any opponents of this amendment that might speak against this change in the Ordinance.

There being none, I'll ask for a motion to close the public hearing on this.

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

MR. ATKINS: Second.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries and the public hearing is closed.

- - -

(Whereupon, the Public Hearing was closed)

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MR. BENNETT: Geneasa, proceed.

MS. ELIAS: The purpose is to amend the East Point Zoning Ordinance part 10, Chapter 2, Section 10-2033.4 Construction Design Requirement for Infill Development by replacing it in its entirety with the attached language.

Currently, as written, the Ordinance allows applicants to consider the average square footage, height and building materials of the survey area when determining the characteristics of the proposed residential structure. Using

the "average" calculation in many cases has negated the requirements of the zoning district regulations, thereby requiring requests for variances.

The current Ordinance also relies heavily on the integrity of the application submitted. Recent application reviews and site visits have shown that some of the infill surveys submitted previously do not reflect the existing conditions. Therefore, the Department has revised its internal administrative review procedures. Upon adoption of the amended Ordinance, applicants must submit photographs in addition to the other Ordinance requirements.

Therefore, staff recommends approval of the amended Ordinance.

MR. BENNETT: Thank you. Commissioners, this is a recommendation to Council that our motion calls for so I'll entertain a motion on this item.

MR. HARPER: I make a motion to approve.

MS. JONES: Second.

MR. BENNETT: Second from Ms. Jones. Any other discussion?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries.

- - -

**(Whereupon, the Recommendation to Council was approved)**

- - -

MR. BENNETT: The recommendation should be forwarded to Council.

MS. ELIAS: And that was the last item.

MR. BENNETT: Any announcements or comments from any Commissioners?

THE BODY: (No response)

MR. BENNETT: If not --

MR. HARPER: I make a motion to adjourn.

MR. BENNETT: -- I'll entertain a motion to adjourn.

MR. HARPER: I make a motion to adjourn.

MR. GRANBERRY: Second.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries.

MR. BENNETT: Meeting is adjourned.

- - -

**(Whereupon, the meeting adjourned at 8:15 p.m.)**

- - -

CERTIFICATE

STATE OF GEORGIA)

COUNTY OF FULTON)

I, DEB MCGHEE SPEIGHTS, Certified Court Reporter  
in and for the State of Georgia,  
do hereby certify that the foregoing proceedings for the:  
East Point Planning & Zoning Commission Meeting  
on April 19, 2007, 7:30 P.M.  
were reported by me and transcribed by me,  
and the same is true and correct in the above-stated case.

This, the 5<sup>th</sup> day of May 2007.

◆◆◆◆

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