

CITY OF EAST POINT
PLANNING & ZONING COMMISSION

May 17, 2007 - 7:30 p.m.

Official Minutes

Regular Meeting

East Point, Georgia - East Point City Auditorium

Board Members Present: Mr. Steve BENNETT, Chair
Mr. Shean 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 L. ELIAS, AICP
Assistant Director, Planning & Zoning
Mr. Herbert HUMPHREY
Director, Government Operations
Ms. Valerie A. ROSS, Esq.
Office of the City Attorney
Ms. Regina CARTER

Debra McGhee Speights, CCR
Ace Reporters & Transcripts
Phone: 404-349-1200
Fax: 404-344-2569
acereporters@gmail.com

A P P E A R A N C E S

APPLICANTS:

IZZY (ISIDORE) GOULD, Frontier Realty Group

JOHN PORTER, CPA

FRED INNES and
BARBARA GORONSSON, Earth Wise Properties, LLC

LARRY LUCAS for ECHEZONA NWAJAGU

CANDLER DEVELOPMENT CO.

WILLIAM SHINES

JOSEPH JOHNSON for Camp Creek Pointe, LLC

LANDMARK DESIGN for McCar Homes

EARTH WISE PROPERTIES, LLC (2nd Item)

SPEAKERS:

ERIN RODGERS

RYAND LEYTON

JORDAN BENNETT

JENNY BENNETT

JAMES DARCEY

LOVETT HOWARD YOUNG

BOB THREATT (Exhibit)

LAURA WILLIS (Exhibit)

WILLIAM MCFARLIN
DOC EDWARDS
CHUKWUKA O. OKWUMABUA
HELEN FREEMEYER
KEN JOHNSON
HENRY WILLIS

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 May 17, 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 May 17, 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, anyone wishing to
participate may do so now.

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(Whereupon, there was a moment of silence)

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III. PLEDGE OF ALLEGIANCE

MR. BENNETT: And we thank you. If everyone would, please,
rise with us to join in the Pledge of Allegiance.

- - -

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

- - -

IV. ADOPTION OF THE AGENDA

MR. BENNETT: Thank you. Commissioners, I'll entertain a motion to adopt the agenda that you have before you.

MS. JONES: Mr. Chair.

MR. BENNETT: Ms. Jones.

MS. JONES: I make a motion to adopt the agenda.

MR. BENNETT: Okay. Ms. Jones has made a motion to adopt the agenda.

MS. SHELDON: Second.

MR. COOK: I'll second.

MR. BENNETT: Seconded by Ms. Sheldon. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: And the agenda is adopted as presented.

- - -

(Whereupon, the Agenda was adopted)

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V. APPROVAL OF MINUTES

MR. BENNETT: The next item is the approval of the April 19th, 2007 Minutes. Do I have a motion to adopt those Minutes?

DR. BRIDGEWATER: Mr. Chair.

MR. BENNETT: Dr. Bridgewater.

DR. BRIDGEWATER: I make a motion to adopt the Minutes with any necessary corrections, if there be any.

MR. BENNETT: All right. I have a motion for adoption; is there a second?

MR. HARPER: I second that motion.

MR. BENNETT: Seconded by Mr. Harper. Any comments, deletions, changes?

THE BODY: (No response)

MR. BENNETT: All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: And the motion carries.

- - -

(Whereupon, the Motion passed)

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MR. BENNETT: And the Minutes are adopted as presented.

VI. OLD BUSINESS

MR. BENNETT: We'll move on to our items under Old Business. And at this time, Geneasa, I'll turn it over to you if you would, please.

MS. ELIAS: The first item on the agenda under Old Business is application number 2006P-018-11. The applicant is Izzy Gould representing Frontier Realty Group. They are requesting

approval of the Final Plat for 85 single-family, attached residential townhouse units on 10.13 -- 10.130 acres.

This particular application was deferred at the May -- at the April Planning & Zoning Commission meeting. And tonight, staff is recommending deferral of the Final Plat until the associated easement has been acquired by the developer.

MR. BENNETT: Okay. All right. Thank you. Commissioners, I'll entertain a motion.

MR. HARPER: I make a motion to defer.

DR. BRIDGEWATER: Second.

MR. BENNETT: We have a motion by Mr. Harper and a second by Dr. Bridgewater to defer. Any other questions or comments?

MR. HARPER: That deferral --

MR. BENNETT: Mr. Harper.

MR. HARPER: That deferral will be until the next P&Z meeting.

MR. BENNETT: Yes, sir.

MR. HARPER: Okay.

MR. BENNETT: All right, Mr. Atkins.

MR. ATKINS: I'm sorry. Can we further clarify that for our June P&Z meeting because there could be a special meeting between that. And so I think that we should make clear -- make sure that's clear --

MR. BENNETT: Okay.

MR. ATKINS: -- that it will be for our June meeting.

MR. BENNETT: Geneasa, are you okay with that?

MS. ELIAS: Or it could be that you defer it to the June meeting. Or you could just defer it until we actually receive notification that they have acquired that easement. And then upon the time that staff receives notification that the easement has been acquired, we would put it on that appropriate agenda.

MR. HARPER: But I think it needs to be time certain; I'll defer.

MR. BENNETT: The attorney may can answer that for me. I think on items like this in the past, we were not supposed to defer more than 30 days.

MS. ROSS: That's correct.

MR. BENNETT: Okay. So we keep it at the June meeting?

MR. HARPER: Yes, at the June meeting.

MR. BENNETT: All right. Everybody clear on the motion to defer 'til June?

THE BODY: (No response)

MR. BENNETT: Any other comments?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries and the item is deferred to the June meeting.

- - -

(Whereupon, the Motion to defer was approved)

- - -

MR. BENNETT: Geneasa.

MS. ELIAS: The next application under Old Business is case number 2007Z-002-03. The applicant is John Porter. He is requesting a rezoning from R-1A Urban Residential to C-1 Neighborhood Commercial at a property located at 3061 East Point Street. And he's requesting to use the property as his office for an accounting business.

A public hearing was held at the April meeting and there was a public hearing. And this has been advertised for a public hearing this evening. And we do have one speaker that would like to speak for this particular application.

MR. BENNETT: Could I get a clarification on that from the attorney? We did open a public hearing on this item last month. And we deferred it to this month.

MS. ROSS: Right.

MR. BENNETT: Are we required to reopen the public hearing?

MS. ROSS: Yes.

MR. BENNETT: Okay. I just wanted to make sure. All right.

MR. HARPER: I make a motion.

MR. BENNETT: Typically --

MR. HARPER: Go ahead.

MR. BENNETT: I didn't -- I was just misunderstood that we opened the public hearing because normally we don't have public hearings for re-zonings; that falls under Council. I just wanted to clarify.

So we . . . we do need to open a public hearing; is that correct?

MS. ROSS: If it has been advertised --

MR. BENNETT: Okay.

MS. ROSS: -- it needs to have a public hearing.

MR. BENNETT: Okay. All right. Well, 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 a public hearing.

MR. COOK: Second.

MR. BENNETT: 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 now open.

- - -

(Whereupon, the Public Hearing was opened)

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MR. BENNETT: And we will see if the applicant is here first. And I don't see Mr. Porter in the audience. I'll ask are any proponents -- people that would like to speak in favor of this item?

There being none, I'll ask are there are any opponents that would like to come forth and speak against? If you would, come to the podium at my left, please.

- - -

(Whereupon, the Speaker approached the podium)

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MS. ELIAS: And we actually now have four speakers for this item.

MR. ATKINS: Mr. Chair, would you go over our rules for a public hearings because I think we have several tonight and it just might be efficient for us --

MR. BENNETT: All right.

MR. ATKINS: -- to do it just once so that everyone could get those rules before we open up each public hearing.

MR. BENNETT: Thank you. If you will allow me to address that -- Items that are for public hearing which are variances, special permits, and what not, we take them -- We open a public hearing on each individual item. We don't have one big hearing.

We open a hearing for each individual item and we ask for the applicant and any proponents -- people in favor, to come down first. Then we allow the opponents -- people against, to come down and speak. And then we allow the applicant for rebuttal. We're not as strict as Council -- we don't necessarily put a time limit on it, but if it starts dragging on and people keep saying the same things over and over, we will limit your time and cut it shorter. So, we appreciate everybody's cooperation. And I'll let you go.

MS. RODGERS: Thank you.

MR. BENNETT: If you'd give us your name, please.

MS. RODGERS: Sure. My name is Erin Rodgers. I'm actually at 3022 Park Street, which is just a couple of blocks over from this property. This is located in the Center Park neighborhood and I guess our biggest concern for this is, we went through a lot of rezoning, I guess, two or three years ago, to get our neighborhood zoned R-1.

And our concern is that, first of all, we want to keep it as a residential neighborhood. We don't want businesses, you know, in our neighborhood for the traffic reasons, for reasons of, you know, putting parking lots on their lot to serve the traffic, putting big signs up to advertise their business and what not.

And second of all, we're scared that if this is passed that it will set kind of an open door for future people -- well, if this one was allowed in, then this one can be allowed in. And we don't want our neighborhood to be speckled with businesses. We'd like to maintain the fabric of our neighborhood and keep it residential like it's supposed to be, really. And that's really our biggest issue is we . . . we want to maintain our residential neighborhood.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you.

- - -

(Whereupon, the Speaker approached the podium)

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MR. BENNETT: Hi, my name is Jordan Bennett. I am the president of the Center Park Neighborhood Alliance. And we met; I guess it was a couple of weeks ago, with Mr. Porter. And he talked to us, informed us about his plans. He does want to have an assistant there. He does want to have somebody in the building other than just him. He does want to have customers there. And also, when I was talking with him he also wants to purchase the lot next door and build a parking lot. This is not -- This is out of character with our neighborhood. We don't

want a parking, another business in there. We don't want to set a precedent for other businesses coming into our neighborhood. We do want to keep it a -- the neighborhood character. And Mr. Porter is a nice man, runs a nice business but we don't want any businesses in our neighborhood if we can help it.

We have had our meeting and he did come and speak with us and the neighborhood devoted a, you know, or not -- I guess we did vote. We . . . we talked. We had a lot of discussion about it and the neighborhood is . . . is very much against Mr. Porter's rezoning. Thank you.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you.

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(Whereupon, the Speaker approached the podium)

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MR. LEYTON: Good evening. I'm Ryland Leyton. I live at 3065 Church Street, about two blocks away from the location that's asked for rezoning. I agree with what's been said already. I'm a part of the neighborhood alliance. I guess the only thing I'd like to add rather than just repeat what's been said was that there seems to be sufficient commercial space

that's either available or under-utilized in the immediate area that has existing parking that has frontage that has signage that is zoned commercial that the gentleman could use to expand his business. If he was just operating on, you know, nothing that changed the neighborhood, nothing that was really, you know, added traffic and so on that might be one thing. But his existing plans are definitely out of character with the neighborhood. Thank you.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you.

- - -

(Whereupon, the Speaker approached the podium)

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MS. BENNETT: Hi, I'm Jenny Bennett and I'm representing the Center Park Neighbors Association, also. And I don't have anything to add other than what's already been said. But I do agree with all of those points and just want to emphasize that we don't want businesses in our neighborhood. Thanks.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. Are there any other opponents that'd like to come forward?

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(Whereupon, the Speaker approached the podium)

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MR. DARSEY: My name is James Darsey. I live on East Point Street just a couple of blocks up. And the idea is, not that the neighborhood association or the neighbors are anti-business. But one of the things that East Point needs, if we're really going to sustain any serious development in the downtown area, is we need a certain population density -- a residential population density. And interspersing businesses in residential neighborhoods destroys that density and makes that more difficult to achieve.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. Anyone else? There being none, I'll ask again; is the applicant, here, that would like to offer any rebuttal or a representative for the applicant?

At this time Commissioners, I'll entertain a motion to close the public hearing.

MS. SHELDON: Mr. Chair, I make a motion that we close the public hearing.

MR. BENNETT: By Ms. Sheldon.

MR. HARPER: I'll second that.

MR. BENNETT: And Mr. Harper has seconded. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

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

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(Whereupon, the public hearing was closed)

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MR. BENNETT: And Geneasa, if you would just continue with staff recommendations.

MS. ELIAS: Again, this is an application for a rezoning for the property located at 3061 East Point Street to be rezoned from R-1A Urban Residential to C-1 Neighborhood Commercial. The proposed use for the property is as an office for an accounting business.

Based on the 2026 Future Land Use map staff is recommending denial of the proposed rezoning because on the Future Land Use map it clearly delineates that on the east side of East Point Street is recommended as neighborhood commercial and the west side of East Point Street is recommended as medium density residential.

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

MR. ATKINS: Mr. Chair, I move that we deny the rezoning request from R-1A Urban Residential to C-1 Neighborhood Commercial for the location at 3061 East Point Street.

DR. BRIDGEWATER: I'll second that motion.

MR. BENNETT: I have a motion and a second by Dr. Bridgewater. Any further discussion, 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: And the recommendation for denial will be forwarded on. And Geneasa, we'll let you move on with New Business now.

VII. NEW BUSINESS

MS. ELIAS: Okay. The first case under New Business application number 2007V-006-04. It is an application for a variance to reduce the front yard set back on lots 5, 6, and 7

from 45 feet to 15 feet. And reduce the front yard setback on lots 8 through 12 from 45 feet to 25 feet. The location is at Golden Drive and Cherry Blossom Lane which is proposed to be the Golden Acres subdivision. The applicant is Earth Wise Properties and the representative is Fred Innes. This is advertised as a public hearing because it is a variance and we do have speakers who have signed up for this particular application.

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

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

MR. BENNETT: Mr. Harper moves to open.

MR. GRANBERRY: Second.

MR. BENNETT: And a second by Mr. Granberry. 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: And the public hearing is now open on this application. And we will first hear from the applicant and then any proponents that would like to speak.

- - -

(Whereupon, the applicant approached the podium)

- - -

MR. INNES: Thank you, Mr. Chairman. This variance is being requested --

MR. BENNETT: Excuse me; would you just give us your name for the record?

MR. INNES: Fred Innes.

MR. BENNETT: Thank you.

MR. INNES: This variance is being asked for as a direct result of the storm water consideration from Mr. Humphrey who is now head of Public Works. This property, when it was purchased, was a property that existed and was filed as a final plat in Fulton County in '89. According to Mr. Humphrey and some of the other folks in Planning and Zoning, this seems to be an erroneous filing. However, it has all the stamps and signatures so I don't know how that goes.

But, when we presented this to the city in '05, they agreed to allow it to be carried forward as a plat -- be it preliminary or final, and use the same address and parcel number, lot sizes, road configuration with an R-1 zoning. We developed the infrastructure for this, had it approved by State Soil and Water 9-20-05. And permits were issued on the property to develop it, both site infrastructure grading and land disturbance permit on 11-29-05.

At a pre-construction meeting on 3-17-06, with Mr. Humphrey, the city engineer; Mr. Pelham, our engineer; Lamar JR Contractor; and myself, and various other city employees, Mr. Humphrey raised the issue of water quality and control -- issues which were to our minds, already addressed and approved by both State Soil and Water and East Point City engineer, Ms. Neely (phonetic), prior to issuance of the permits.

However, Mr. Humphrey issued or told us we would have a 10-day hold on the permit until we came up with something that would satisfy East Point's desires in regard to the water quality and (inaudible) control or the pieces of property back up to or on the south side of Golden Drive that back up to the north fork of Camp Creek.

We had these water quality -- water control ponds designed behind lots 5 through 12. And it was evident when these ponds were designed and basically approved by the city that these lots were very impacted topographically as well as visually. Our engineer, Mr. Nichols, who was at that time with East Point Planning and Zoning, and the owner and I, agreed that the lots impacted would need some sort of variance with the front yard setback in order to make these lots a viable entity, as for as a salable product; and also to have some sort of yard for a couple of the lots.

The construction on the property started after this, I guess, impromptu or ad hoc meeting but with the assurances of -- I don't want to say assurances; I'd say with Mr. Nichols input in regards to what the city would attempt to do to help us in that regard of the impacting of these lots so that we could build on them. He wrote us a note which was originally on the plans. We've been asked to take it off but at the P&Z workshop it was in the little handout I gave you. I have a copy of it here (indicating), if you'd like to look at it again. But it didn't obligate the city for anything. It just said that we would need some additional help on these impacted lots.

The construction on the property started on 4-18-06 and after that we went forward with finishing the construction as far as the roads. And, after that we went forward with finishing the construction as far as the roads, water, sewer, storm sewer and infrastructure.

Planning and Zoning, at their workshop recommended an approval of the variance that we are asked for on lots 7 through 12 and disallowed the variance we're asking for on lots 5 and 6. Lot 5 could be built with a 45 foot setback. However, lot 6 has only 533 square feet of build able area with a 45 foot setback in place according to our engineer. Even with a 15 foot setback we'd only have a little over 2300 square feet of build able area on that lot. This lot, lot 6, needs to be given some relief in

regard to what Planning and Zoning is recommended. It's the single most profoundly impacted lot in the subdivision. Planning and Zoning, again has recommended the asked for variances on lots 7 through 12. And if we could do something in the front buffer there -- the building setback on lot 6, that would meet the minds of what the city's wants and needs are, and also keep this as a viable or build able lot, it would be greatly appreciated and also probably appreciated by the future homeowners in the subdivision. Rather than having an out lot or a vacant lot sitting at the end of your cul-de-sac.

That's all I have to say at the moment. Ms. Goronsson would like to speak. She is the owner of the property.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: All right. Thank you.

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(Whereupon, the Speaker approached the podium)

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MS. GORONSSON: Good evening. My name is Barbara Goronsson. I am the manager of Earth Wise Properties. Actually, thank you Freddie, you did a good job explaining what we've been through over the last year. And I'd just like to ask that you to consider the variance because without the variance

we will not be able to build the size homes that we are expecting or wanting to build there.

We've . . . we've got some homebuyers already in line for several properties. In fact, a couple of them are already under contract to be building 2500 to 3500 square foot homes without the variances those size homes are not going to be able to be built on the properties.

And just as Fred said, the most important one is lot 6. I think, you know, originally we had asked for a 15 foot front setback. But if they're not willing to approve that, as I had mentioned before, would you consider something . . . something rather than just nothing; maybe going to the 25 foot setback which is what they're recommending for approval on the remaining lots. Thank you.

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(Whereupon, the Speaker exited the podium)

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

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(Whereupon, the Speaker approached the podium)

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MR. YOUNG: My name is Lovett Young. I reside at 3105 Golden Drive in East Point, Georgia. I am the only person here

that's in the Golden Drive Acres -- live in the Golden Drive Acres.

Last . . . last week, during your work session the persons against the variances tried . . . tried to manipulate you. . . manipulate you by giving you a false petition from a meeting that we held at Mr. and Mrs. Harper's home on May the 6th, 2007. The names on that petition was there are people who attend, not a petition. But they tried to manipulate you like it was a petition because my name was on there. I didn't know until later on that they gave this as a petition; but it was not a petition. It was there to manipulate you people.

At one time, all of the surrounding areas in the community was undeveloped until a developer like Earth Wise Properties developed it. For instance, installing ponds. They paved the road. And a modern, underground electrically and gas also installing street lights -- modern street lights.

I found out at our last meeting, community meeting that regardless of how pathological the person, I guess, a person sounds the bottom line is this. Number one, the owner of the property is of a different race. Number two, some don't want the owner to get a permit to build so they could take over themselves. Number three, some didn't want any homes at all built and things be back as they was even if it means barricading my property, my house -- even though it did.

Community was going down even before Earth Wise Properties came along. Everything must change, nothing stays the same. I thank you.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. Any other proponents? I see none. I'll ask are there opponents now -- people that would like to come forward and speak against this item?

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(Whereupon, the Speaker approached the podium)

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DR. THREATT: Mr. Chairman and members of the Planning and Zoning Commission, my name is Bob Threatt. I live at 3077 Cherry Blossom Lane. Unfortunately, we did have one opposer. One who did not -- who was for the -- and he just spoke. We questioned the statement of anybody trying to manipulate anyone. I think we've had several meetings related to this property -- this request for variance. Our initial meeting, of course, was with Mr. Innes. We met with him, I think, back about first along in September of 2006. And it was then -- This was our first knowledge of what was really taking place as citizens of Cherry Blossom Lane and Golden Drive. And he was to stay in touch with us until something took place. And I think it was a

couple of months or so later that we did meet with him and we had representatives from the community at that meeting. And I think Mister -- our previous speaker, was a part of the representation.

We are opposed. We are the Cherry Blossom Lane, Golden Drive Neighborhood Club. We filled out the form and had some and provided copies of that at the work session last week. We had no idea at that time that that was not the proper thing to do. And we have done the same thing this time. And ninety-nine and nine-tenths percent of the citizens of Golden Drive west of Cherry Blossom Lane West Golden Drive Neighborhood club are opposed to the variance. As has been said earlier it's not in - - It's out of character with our community to have -- to provide the variance and have cars on our streets and creating other kinds of hazards by not having what is done according to the Code, in terms of what would represent proper distance from the . . . from the street.

And also, we are concerned about the matter of having some assurance that the homes that are built will be homes that would be representative of what the homes are in that area. That is that homes are brick. It was said that if we don't get it -- can't get it all brick, at least we ought to have three sides of it brick of each of the individual, single-family homes. And of those sides, we talked about the front side and also we talked

about the two sides. We're not worried too much about the rear but that too, would be in keeping with the homes that are on Cherry Blossom Lane and on Golden Drive.

And I'd like to just sort of leave for the committee the attention again, of what we have agreed to as a neighborhood. And even though, let's say the previous speaker name perhaps is on the list, as we said, it was not unanimous. And the only objection that we found or proponent for granting the variance was that one person. But the rest of us and the names that were attached and I'd like to leave this information with the committee to take this under consideration as you seek to deal with this thing that certainly, if provided for, it would certainly throw our community out of character. And we're just dissatisfied completely. And I think that as you hear other comments, people from the Golden Drive, Cherry Blossom Lane community, you will find what we're saying here to be thoroughly vindicated. And I'll be happy to pass this (indicating) to whomever to see that each one gets a copy.

MR. BENNETT: You can give them to the first one and we'll just pass them down.

DR. THREATT: Okay. So, it's in that vein that on behalf of the Cherry Blossom Lane West Golden Drive neighborhood club that we make our expression of being opposed to the variance. Thank you.

MR. BENNETT: Thank you. Geneasa, have you . . . have you been given a copy of this? I want to make sure you get one.

MS. ELIAS: Now, we received a copy of comments from the neighborhood at the work session.

MR. BENNETT: Okay.

MS. ELIAS: I'm not sure if that's the same document that was handed out last Thursday.

DR. THREATT: It's the same document. The only thing that's different about the document is that we've gone through and put an asterisk by those items that are very crucial. Because we understood that the Commission and the Council couldn't do anything about that because as it's not in keeping with their responsibility. So by those that are affected directly, we do have an asterisk by it. Thank you.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. And we'll continue to hear from opponents. If . . . if you don't wish to make comments, just let it be known that you're an opponent. You can still come forward and just give your name for the record if you . . . you know, if you don't want to give comments.

- - -

(Whereupon, the Speaker approached the podium)

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MS. WILLIS: My name is Laura Willis. I live at 3077 Golden Drive. I used to be very active in East Point; for health reasons I stepped back. For the reason that I'm concerned about my community, I'm stepping forward. But before I address that, I think my granddaddy probably turning in his grave 'cause he was white; he wasn't mixed. There is no race bating gonna stop us from standing up speaking against what we don't want in our community. That's hateful and we want no part of it. And I'm not gone go into that anymore.

I can give you a little history about the plat. There was a mayor in this city years ago. Don't want to call his name -- he's dease. He was a good man. We all have our faults. But that land was platted without a street. We have a lot of new neighbors and they are as concerned as the old neighbors were back in '89, or whenever that was. We begged and pleaded. Please see that the house that will be built will be similar to the homes that are here. How can you build a house without a street and expect to have the same quality? The builder at that time told us that he was related to the mayor and that he had been told he could do anything he wanted to do with that property and he was going to. For eighteen months we fought him. And I thank him and whoever had the good sense to at least put brick on the front of the wood house; it's the only wood

house out there. There was no street. The driveway for the gentleman that bought the house from the builder had his driveway just put as close to the end of the street as possible. And everything that his house faced was kudzu. We began to have erosion problems.

And I must call three names. They are no longer a part of the Council. But the late Arthur Benefield (phonetic) not only had a purple heart, he had a good heart. Because when we had a storm one day, we had mud flowing down the street and I called him. He got with Ken Sutherland and Clyde Kanett (phonetic) and they got to some other Council people. I thank them. They were good people. And they worked well with our community. So don't come here with that race bating. I'm sick and tired of it. That's all people when they don't want something done in their manner. Those gentlemen saw to a law with the Council at that time being passed that said you cannot come into this city and build houses without a street. This is not farm land. Even a farm would have a road. There was no way to get to that mans house.

So now, that was unfair. Life is unfair. We may be treated unfair tonight; I pray not. But our concern is that that was then. And if you are a professional organization you check out these things before you purchase.

We do not want the variance. To go from 45 feet -- and I measured mine today and it was 48 feet, to 15 feet -- We don't want it to go from 45 feet to 25 feet; that's one single car that can drive up on that private property. What's the lot size going to be? How you gonna put 13 houses in a cul-de-sac when an entire street has 11 houses on one side and 12 on the other? Let's just be fair. Let's not be hateful. Let's not get personal. What . . . what are the lot sizes? That's one of my questions -- the depth and the width. I did a little surveying myself today.

And, oh, before I finish, I need to give these some 40 names and addresses of people on Golden Drive and Cherry Blossom who oppose the variance. And this is a petition. This is not a sign in sheet. Anybody that was intelligent enough to read, read that it said, we, the undersigned oppose the variance request for reduction of lots at the intersection of Cherry Blossom Lane and Golden Drive in the Golden Estates subdivision. And then we copied from what they asked -- the lot reductions would take lots 5, 6, and 7 from their required 45 feet setbacks to 15 feet and lots 8,9,10, 11 and 12 from their required 45 feet to 25 feet. This is a petition some 40 people. Do I give this to her?

MR. BENNETT: Yes, ma'am. I'll let you give it to Ms. Geneasa on this end down here if you will. And Geneasa, if

you'll look that over and then if you feel it needs to be entered in the record we'll . . . we'll do that.

MS. WILLIS: If you'll just give me one second.

MR. BENNETT: All right. We're gonna try to move on so we can get everybody else in.

MS. WILLIS: Okay. This is forty-eight feet (indicating).
Hold that --

MR. BENNETT: I . . . I think you've made that clear. I don't know that we need a demonstration --

MS. WILLIS: You don't?

MR. BENNETT: -- on any dimensions.

MS. WILLIS: Okay.

MR. BENNETT: I think you've made your point.

MS. WILLIS: 'Cause I'm telling you, 48 feet we measured this today.

MR. BENNETT: Yes, ma'am.

MS. WILLIS: So, I . . . I thank you for your patience.

MR. BENNETT: Yes, ma'am

MS. WILLIS: But I would like to know what is the length and what is the depth of the houses that are coming. And please know that we are not anti-building. And our neighborhood is not depleting -- is not depreciating. Because people like us and will you please stand up, those who are here tonight to oppose the variance?

- - -

(Whereupon, some members of the audience stood up)

- - -

MS. WILLIS: These people have left their jobs and come. They've left their homes to say we don't want the variance. This is not personal. This is just about progress in East Point the right way, the fair way. And I don't want to hear anybody else come up here and mention color. Thank you.

MR. BENNETT: Thank you.

MS. WILLIS: Thank you for your patience.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Commissioners, would y'all allow me to interject, just quickly, to maybe save us some time?

THE BODY: Yes.

MR. BENNETT: And I know everybody wants to speak and just maybe to save some time and to maybe clear up some confusion or whatever, I just want everybody to understand what you're speaking on is the actual variance request itself. This body doesn't have anything to do with how big, what size, the color, or shape houses they are, as long as they meet the Code. We don't have anything to do if they put brick, siding, stucco, what have you, on them. Those are not decisions we make.

This item is strictly for the setback variance. And we need to limit your comments to that because those are the only - - that's the only item this body is voting on tonight. So, I'm going to ask you to limit your comments to those so that I don't have to cut you off prematurely.

- - -

(Whereupon, the Speaker approached the podium)

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MR. BENNETT: And we'll entertain the next one if there's someone new wants to speak. Mr. Threatt, I'd like to see if there's anyone else that wants to speak.

- - -

(Whereupon, the Speaker exited the podium)

- - -

(Whereupon, the Speaker approached the podium)

- - -

MR. MCFARLIN: Excuse me. My name is William McFarlin. I live at 3041 Cherry Blossom Lane. Did I understand you to say that if you were -- if you wanted to get your name on the record you could do that at this point?

MR. BENNETT: Yes, sir.

MR. MCFARLIN: I simply want to go on record; you have my name and my address, as being totally against this variance. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. And if the others of you that wish to speak, if you want to come down and form a line that's okay, too. You don't . . . you don't have to wait individually. You can come down if you wish to.

- - -

(Whereupon, the Speaker approached the podium)

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MR. EDWARDS: My name is Doc Edwards. I live at 2631 Hogan Road. I represent the Oak Knoll Neighborhood Association which is adjacent to the Cherry Blossom Association. We . . . we . . . we even walk in that neighborhood.

I'm concerned because in the last few years But as our neighborhood has been substantially violated by failure to . . . to meet specified setbacks. And people have spoken this evening about lots 5, 6, and 7. I'm looking at lots 6, 7 -- I don't know. I'm looking at lots 3 and 4 and 5 which appear to be in even worse shape, although they're uphill rather than downhill. I don't see where they wouldn't ask for a variance on those because like --

MR. BENNETT: I'm gonna interrupt you. I'm gonna interrupt you and just repeat again, there's no issue with lots 3 and 4 so you need to limit our comments to --

MR. EDWARDS: Right.

MR. BENNETT: -- the ones that are.

MR. EDWARDS: Well, I understand that nobody even knows quite where the City line is back there. So, I don't know even how much East Point is . . . is not involved in this. But my concern is that . . . that we do what the neighbors would prefer.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you.

- - -

(Whereupon, the Speaker approached the podium)

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MR. OKWUMABUA: Good evening Council. My name is Chukwuka Okwumabua. I am a resident at 3036 Golden Drive. I pretty much just wanted to put things in perspective very clearly, very quickly so that we know what we're looking at.

Earth Wise Properties bought a piece -- a portion of our neighborhood -- an abandoned portion of our neighborhood that was declared by the city to be a flood zone from time

immemorial. They got this piece of condemned property for dirt cheap on the city court steps. Our members -- some of our members were there, they saw, that's excellent. That's good business; get it low, great, make a profit.

They came into the neighborhood and they're supposed to get a permit. According to the mandate East Point Code, you get your clearance for erosion best practice first before you get your permit. Now, whatever transpired between them and individuals and what this one knew and what that one didn't know, really doesn't concern us. Because when they went for the permit, our city employee told them they had to build these retention ponds. That's the law. That's what you have to do. The reason, first of all, behind the retention pond is a creek. We suffer major erosion in that area which is probably part of what condemned it as a flood zone.

MR. BENNETT: Sir, I'm gonna remind you again. This is strictly on variance. This has nothing to do with erosion or flood control --

MR. OKWUMABUA: I know . . . I know.

MR. BENNETT: And I don't mean to interrupt you.

MR. OKWUMABUA: Okay.

MR. BENNETT: But we need to keep your comments strictly to the variance request.

MR. OKWUMABUA: Okay. This is about . . . this is about the variance.

MR. BENNETT: I will ask you to move it that way.

MR. OKWUMABUA: Okay. So bottom line, on the right you have the five good houses, good land. On the left, you've got a creek, you've got ponds, and as a result you have to -- To build on those lands you have to move the houses to 15 feet from the street. The truth of the matter is the land is not build able. You've got the erosion, you've got the ponds, and now you've only got 15 feet to do . . . to do what you're trying to do and it's not possible.

What . . . what these people want to do is come in and stagger houses in our neighborhood. You've got a respectable neighborhood here. People who have been there building the quality and the safety in that neighborhood for the last 35 years. All our houses sit back 45 feet. Now, on one side you can do that. You can build good houses. You're in a flood zone. You've got some good out of it. Now the part that that you can't do anything with you have to leave alone. You can't go in there and stagger houses, deface the property, and bring the value down of the whole neighborhood because you . . . you are determined to do something that is just not feasible. So, what we're asking is for this Council to just look at exactly what's going on. A piece of property -- half good, half

bad. They build on the half good and on the half bad to make a profit, they will . . . they will destroy the face of this neighborhood and . . . and . . . and go against what all these people are here requesting very simple. Like . . . like Ms. Willis said, we don't -- we love change. We love progress; that's what we do. We invest. We want our property to go up. We've got our children growing in there starting new families. We love progress and improvement. But we can't allow a business just for the sake of making a profit, to sacrifice the convenience, the quality-of-life, and the safety of the citizens of East Point. And that's all we're saying. Look at it for what it is. You've got a good piece; you've got a bad piece. They built on the good piece and stand to make ten times their profit on side based on what they paid for that entire parcel.

The bad piece they tried to fix it. There's a creek, there's a pond -- now you want to put a 15 feet --

MR. BENNETT: Okay.

MR. OKWUMABUA: -- and 25 feet.

MR. BENNETT: Okay.

MR. OKWUMABUA: Make the right decision. That's all we're asking.

MR. BENNETT: Okay. Thank you.

MR. OKWUMABUA: All right, thank you.

- - -

(Whereupon, the Speaker exited the podium)

- - -

(Whereupon, the Speaker approached the podium)

- - -

MS. FREEMEYER: Good evening.

MR. BENNETT: Yes, ma'am.

MS. FREEMEYER: My name is Helen Freemeyer (phonetic). I live at 3082 Golden Drive. I have lived there for 41 years. And I want you to know that this is -- My neighbors on these two streets are the finest people, sincere people I've ever known. And so I'm simply saying to you, we all agree with great compassion that you'll do the job that's best for us. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you.

- - -

(Whereupon, the Speaker approached the podium)

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MR. JOHNSON: My name is Ken Johnson. I'm at 3048 Cherry Blossom Lane. And I just want to put on record that I'm against the variance. I've been in that neighborhood about 30 years and

have invested in that area. And we don't want to see our property defaced because of this situation. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. Any other proponents -- opponents? I apologize, opponents?

- - -

(Whereupon, the Speaker approached the podium)

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DR. THREATT: Bob Threatt again, 3077 --

MR. BENNETT: Mr. Threatt, I'm gonna ask you to be very brief since you've already had an opportunity to speak.

DR. THREATT: Sure. Two things that I want to sort of get at right now. The record speaks for itself in terms of what I've submitted and also what Ms. Willis has submitted. You mentioned something about having nothing to do with housing; we can understand that. But we would be definitely disappointed if houses are built in that area that would sell less than that \$300,000 or that would depreciate the homes that are already on Cherry Blossom Lane.

MR. BENNETT: Mr. Threatt, I respect your opinion on that. But this body has no control over that and I'm just gonna ask

again to limit your comments to the variance itself. We have no control over the sale price of the homes.

DR. THREATT: Okay. Well, we'll seek other avenues about that.

MR. BENNETT: Yes, sir. You can --

DR. THREATT: Okay, now, what deals also with that same issue is that -- What's the difference between what we're dealing with now and what will be dealt with in the last item in item 7?

MR. BENNETT: Just briefly, that has some clarifications on a . . . on a final plat. But we will discuss that item when we get to it on the agenda.

DR. THREATT: Okay, but will that affect variance in any way?

MR. BENNETT: I don't -- I have no idea. The Commissioners will make their decisions and we'll see how it affects whatever.

DR. THREATT: Well, we would --

MR. BENNETT: I can't tell you that.

DR. THREATT: Mr. Chairman, we would have some concern if, and some of the people may have to leave, if we bring up this whole issue of variance again and under another heading when we've already dealt with it initially.

MR. BENNETT: No sir, the variances won't be discussed again after this item is dispersed with.

DR. THREATT: Thank you much.

- - -

(Whereupon, the Speaker exited the podium)

- - -

MR. BENNETT: Thank you.

- - -

(Whereupon, the Speaker approached the podium)

- - -

MR. WILLIS: My name is Henry Willis and I live on 3077 Golden Drive. And I just want it to be known that I and my family and all of the neighbors we do oppose this thing.

It's -- When we moved into the neighborhood the little creek in the back of the houses were about this wide (indicating). Now, it's wider than that curtain behind you people. And that water and that land in that pond that they created it's gonna be gone probably before the year is out. And that's why the houses want to be 15 feet from the curb or 25 feet from the curb. And that's going to ruin every other house in the neighborhood because now, all the other houses setback maybe from you to the man in the orange shirt. And then the other houses gonna be from you to the front of this desk. It's not right. And I hope to God that y'all don't approve that. Thank you.

- - -

(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. Do we have any other opponents? There being no more opponents, Mr. Innes you are allowed a brief rebuttal time. I'm gonna limit you to no more than 10 minutes so we can move on.

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(Whereupon, the Speaker approached the podium)

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MR. INNES: One of the biggest concerns seems to be the in the variances set back and the type and size of the houses, which is something we can't control and it's not your purview to work on.

However, one of the things that I'd like to clear up is, in '89 the flood plain that was established for the north fork of Camp Creek, which is the creek behind this property on the south side of Golden Drive, which the previous gentleman just addressed, has grown from a small piece to something 40 feet wide. That creek has grown. The flood plain has not changed, at least in the purview of our engineer, our surveyors. If someone else has a survey or an engineer that shows us that we're at fault we'd be more than glad to address the issues.

However, when the City of East Point accepted the original hydrology study for this property when they issued the permit in

'05, there were no water quality, water control standards in place for the City of East Point. We did what we were supposed to do at that time. Mr. Humphrey addressed that issue at a later date and tried to improve upon a pre-existing condition and . . . and in all honesty, probably did improve on the water quality, water control.

However, the flood plain has not changed. The flood plains, if anyone has been to the property, it's where those two silt fences are on the creek side of the ponds. That's the hundred year flood plain. That's taking the worst case into consideration for a hundred years of rainwater given the worst case in that hundred year period. That's not to say it's exact because Mother Nature changes things as she works.

Any of the houses built on that side of the road, in between there and the flood plain, have to have a finished floor elevation of at least three feet above the flood plain. The tops of these ponds that we have in place are six feet above the flood plain. And most of the finished floor elevations there are better than three feet above the top of those ponds so we have roughly, nine feet at a minimum, of clearance between the hundred year flood line and the finished floor of any house that's proposed to be built along that side of the creek.

The other issues in terms of some of the concerns they have about the type of homes and what have you and some of the

comments made by some of the speakers, I don't know where someone came up with the out of character charge because we don't have any house plans yet. But that's a concern, again, not of yours.

The proposal that the erosion control measures failed, or erosion started when the last house on the right of Golden Drive was built for that entire creek side, is pretty much preposterous. It may have had some concerns -- you may have had some dirt in the street, you may have had some run down the street, there may be pictures showing the street covered with dirt. But that was that individual builder's fault. It wasn't the problem of the property of the whole. That builder did not do what he should have done in containing the erosion which was something we had nothing to do.

We built this property. We put the roads and streets in. We put the infrastructure in. We haven't had any problems with the state, only had two stop work orders from the city for silt in the streets; we cleaned those up. Our engineer has been out there numerous times to look at the property on his own. We have had monitoring requested by the state twice a week and after every rain for the entire time we've been on the property. The monitoring is still going on as far as water quality and water control is concerned.

The property that was previously developed the Golden Drive and the Cherry Blossom by and large those houses are pretty close to the 45 foot setback. However, some are them are 42, one is 38, most of them are 45 or better. But there are a few that do not follow the 45 foot building setback line.

Not to say that that wouldn't grant a variance or maybe just the builder missed it and nobody caught it; I don't know. But that's a minor point in . . . in regard to what we're trying to do. We're trying to make the houses look like the rest of the neighborhood. Insofar as the staggered front, a little bit to keep the houses back and leave these building lines it gives us an envelope to let the builder do what's best for that piece of property. And to be able to put a house on it that the folks in the neighborhood will be proud of.

That's all I have to say. Ms. Goronsson had a few things she would like to say.

MR. BENNETT: Okay. Ms. Goronsson, you've got about 3 minutes left on his time if you want to use it.

MS. GORONSSON: (Nods side to side)

MR. INNES: She's --

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(Whereupon, the Speaker exited the podium)

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

DR. BRIDGEWATER: Mr. Chair.

MR. BENNETT: Dr. Bridgewater.

DR. BRIDGEWATER: I make a motion that we close the public hearing, please.

MR. HARPER: I'll second that motion.

MR. BENNETT: A second by Mr. Harper. 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: The public hearing is closed on this item.

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(Whereupon, the public hearing was closed)

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MR. BENNETT: And Geneasa, if you will proceed with the staff report.

MS. ELIAS: Again, this is a variance request in the R-1 Zoning District located at Golden Drive and Cherry Blossom Lane, known as the Golden Acres Subdivision, to reduce the front yard

setbacks on lots 5, 6, and 7 from 45 feet to 15 feet and to reduce the front yard setbacks on lots 8 through 12 from 45 feet to 25 feet. And I will add for the record on the petition that was submitted there are 39 names that are on the petition opposing the variance request.

Based on the four criteria, to determine a hardship to grant a variance:

On criteria Number 1: Are there any extraordinary or exceptional conditions pertaining to the proposed development?

Staff's finding is the site does have topographical issues that pose extraordinary conditions to the development.

On criteria Number 2: Does the application of the Ordinance to the use or development proposed, create great practical difficulties or unnecessary hardship?

Staff's analysis: Due to the topographic site issues there may be difficulties in developing the lots on the low side along Golden Drive.

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

And again, staff's analysis: The site has topographical issues that may pose difficulties during construction.

And then on the last criteria: Would there be a cause or any substantial detriment to the other property owners or other tenants, or to the public?

Staff's analysis: Granting this request would not cause substantial detriment to other property owners. The applicant has presented a design that addresses any flooding issues to the proposed site as well as the existing homes.

Based on the following analysis, staff offers the following recommendations:

Number 1: Based on the site plans submitted, delete the 20 foot landscape strip around the detention ponds as shown on the site plan.

Number 2: Reduce the access easement from 10 feet to 5 feet.

Number 3: Recommend denial to reduce the front yard setbacks on lots 5 and 6.

Number 4: Recommend approval to reduce the front yard setback on lot 7 from 45 feet to 15 feet.

And Number 5: Recommend approval to reduce the front yard setbacks on lots 8 through 12 from 45 feet to 25 feet.

MR. BENNETT: Well, I have a quick question for legal staff before I ask for motions on this. Since her recommendations on number 1 and 2 are not specific things that we are required to vote on, Geneasa, do you just want to ask us to make those part

of it? Or, I mean, because those aren't things that we're required to make him change or delete or whatever. Even though they are staff recommendations, they're not things that technically, we should vote on.

MS. ELIAS: You are correct. The first two are just observations that staff noted during review of the site plan.

MR. BENNETT: Okay. All right. And at this time Commissioners, I will entertain a motion on these items. And if you'd care to take the three variance requests separately, I'll let you make your motions appropriately. If you'd turn on your mike, Ms. Jones?

MS. JONES: I actually have a question and I was wondering if the developer or builder could clarify it for me.

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(Whereupon, the Speaker approached the podium)

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MR. BENNETT: We'd need to have a motion on the floor for discussion first. And I think --

MR. HARPER: I make a motion for discussion.

MR. BENNETT: Okay. A motion for . . . for what?

MR. HARPER: To discuss whatever questions that she might have of the developer.

MR. BENNETT: I think we need a motion on one of the actual items to have discussion.

MR. GRANBERRY: I'd like to make a motion that we deny all variances.

MS. SHELDON: Second for discussion.

MR. BENNETT: We have a motion to deny all the variances and then a second for discussion. All right?

THE BODY: (Nods affirmatively)

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(Whereupon, the motion passed)

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MR. BENNETT: And now, Ms. Jones, you know.

MS. JONES: My question is, can you tell me exactly how many lots are in your development and what percentage of those lots are you requesting a setback for?

MR. INNES: There are 13 total lots and we're requesting a variance for those lots on the creek side which are lots 5 through 12.

MS. JONES: Is that --

MR. INNES: It'll be a total of nine lots.

MS. JONES: We're talking approximately, maybe 80, 85 percent of your lot requesting --

MR. INNES: That's correct because those are the lots that are impacted by the creek and by the ponds.

MS. JONES: Thank you.

MR. ATKINS: I also have questions, Mr. Chair. If Mr. Innes would stay at the mike, please.

MR. INNES: Sure.

MR. ATKINS: During your presentation you talked a little bit about -- Well, you had mentioned the fact that there was some action taken at work session on lots 7 through 12. Do you recall that?

MR. INNES: It wasn't an action taken so much as just we learned what the Planning & Zoning's recommendations would be.

MR. ATKINS: I think it might be difficult to do that. What I recall you saying is that at work session for lots 7 through 12, Planning and Zoning had recommended approval.

MR. INNES: Right.

MR. ATKINS: And so, okay, that would be false because we only do that at our Commission meetings. And so I hope that at no point in time did you get the impression that we were improving -- that we were approving the variance for lots 7 through 12. And I wanted to address that, not only for us here, tonight for clarification, but also for the viewing audience. We don't do that at work session. We only do approvals or denials at our Commission meetings.

MR. INNES: All right. Might I direct a question to Planning and Zoning? When we were issued a permit to proceed to

this job it was in 2005. We went through all the procedures that were in existence at that time for the City of East Point.

MR. BENNETT: Sean, I . . . I'm gonna interrupt this because I think you made your point that we were not doing anything last Thursday.

MR. ATKINS: Right.

MR. BENNETT: Okay.

MR. INNES: Is the City --

MR. BENNETT: Are you still --

MR. ATKINS: I am. And I still have the floor. You would have to be recognized by the Chair to ask your question. And I've not yet yielded the floor.

MR. INNES: Okay.

MR. ATKINS: Thank you. I have a few more questions of you, however. So, I just wanted to make that clarification. The other thing is, you went over a few dates in your presentation. Can you tell me again when the ponds were installed, please?

MR. INNES: Let me get my -- The permit was issued for land disturbance, grading, and site infrastructure by the City of East Point on 11-29-05.

MR. ATKINS: Okay.

MR. INNES: The ponds were not in existence at that time. There was a hydrology study that took care of that issue both for the City of East Point and the State of Georgia.

MR. ATKINS: So, the permits were issued 11-29-05.

MR. INNES: Yes, sir.

MR. ATKINS: And building started --

MR. INNES: Construction started after . . . after our meeting with Mr. Humphries on 3-17. Construction actually started on 4-18-06.

MR. ATKINS: Okay. You also mentioned in your presentation that there was -- you referred to a note. And what did the note say to you? Or, what did it state?

MR. INNES: Well --

MR. ATKINS: I would like for you to also verbalize it.

MR. INNES: Yes, sir.

MR. ATKINS: So that it's for the record.

MR. INNES: The note says due to the impacting of buildable lot areas by the addition of three water quality control ponds as requested by Mr. Herbert Humphrey, of East Point Public Works, at a pre-construction meeting of 3-17-06, the front side setbacks on the pond side of Golden Drive and the pond side of the cul-de-sac on Cherry Blossom Drive will not be met. These impacted lots will need some front setback modification on a lot

by lot basis in order to be used as build able, single-family residential lots; signed by Shea Nichols (phonetic), 9-20-06.

MR. ATKINS: Okay.

MR. INNES: We had had a meeting with Mr. Nichols.

MR. ATKINS: That's good. I don't need anything else.

That's good, thank you. The other question, what did you take that to mean? Did you take it to mean that you would be automatically granted a variance or did you think that it was okay just because it said that you would need some type of relief?

MR. INNES: I took it to mean what it says. We need some kind of relief on the front yard setbacks on those lots that are impacted by these ponds. That's exactly what he said.

MR. ATKINS: Okay . . . okay. That's fine. Fair enough. And you've done -- Have you ever done any building or developing in the City of East Point?

MR. INNES: Prior to this project?

MR. ATKINS: Yes, sir.

MR. INNES: Single-family house a few years ago, but nothing like this, no.

MR. ATKINS: Okay. When you decided to install the ponds on this property, did you explore any other detention methods at that time?

MR. INNES: Yes, we did.

MR. ATKINS: Okay. And I assume that your conclusion was to build the ponds. Can you tell me why you decided to do that as opposed to another method?

MR. INNES: Because at that point in time, to put the detention and the storm water in the ground would've cost us in the neighborhood of \$250-\$3000 additional dollars outside of what it cost to do the development just to put the ponds in place. The ponds cost us around a hundred.

MR. ATKINS: Okay. So, it was a cost factor, basically?

MR. INNES: It was a cost factor because you're looking at what we paid for the lots versus the development costs -- what you expect to sell the lots for.

MR. ATKINS: Okay.

MR. INNES: It's . . . it's -- All three items were factored into the case and the --

MR. ATKINS: I'm satisfied it was a cost factor, right?

MR. INNES: It was a cost factor given the mitigating circumstances of a meeting we had with the City in which Mr. Nichols was present, I was present, and our engineer was present and when we were talking about this note and it was done before we ever started construction on the property -- the meeting was. The note came after the fact.

MR. ATKINS: I'm satisfied. I don't have any more questions, Mr. Chair.

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(Whereupon, the Speaker exited the podium)

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MR. ATKINS: The only other recommendation I will have is I'm gonna go back to the question that Dr. Threatt asked about the other item on the agenda. I think it might be helpful, at this time, to explain the difference between the variance and the platting so that there's no confusion -- and why we have them both on the agenda.

MR. BENNETT: We want to explain it?

MR. ATKINS: Yeah.

MR. BENNETT: I'll let Geneasa explain it because they put it on the agenda.

MS. ELIAS: There are two items on the agenda relating to this particular piece of property. The first one is the variance request, which is what we are hearing at this point in time.

At the same time, the applicant submitted an application for a final plat, which is why it is also on the agenda. The variance came first because it requires a public hearing. Typically, final plats at the Planning and Zoning Commission do not require a public hearing. The public hearing on final plat would take place at the Council meeting, however, Planning and

Zoning Commission does have to make a recommendation on the final plat.

And I will say that, depending on the recommendations or -- on the variance, may impact the outcome of the final plat.

MR. BENNETT: Okay. Thank you.

MR. ATKINS: Thank you.

MR. BENNETT: All right. Does your second still stand for discussion only or --

MS. SHELDON: Yes, it was for discussion only.

MR. BENNETT: Okay, so you --

MS. SHELDON: I . . . I would like to request that we take these piece by piece, if the maker of the motion would indulge me, and do them one at a time.

MR. GRANBERRY: I don't mind.

MR. BENNETT: Okay. So, Ms. Sheldon has withdrawn her second for discussion. And Mr. Granberry you're going to withdraw the original motion.

MR. GRANBERRY: If I withdraw the original motion, can I restate another motion?

MR. BENNETT: Yes, sir.

MR. GRANBERRY: So, I withdraw my original motion and restate that I recommend denial to reduce the front yard setback on lots 5 and 6. That's the item, right?

MR. BENNETT: Okay. Yes, sir. Mr. Granberry has made a motion to deny the variance request on setbacks for lots 5 and 6 which was the first variance request.

MS. JONES: Second.

MR. BENNETT: And a second by Ms. Jones. Any discussion? Sean?

MR. ATKINS: I think that -- I think the first part is the setbacks on lots 5, 6, and 7. And that was the first part, 5, 6, and 7 from 45 feet to 15 feet.

MR. GRANBERRY: I stand corrected.

MR. BENNETT: Okay. You want to add 7 on your motion?

MR. GRANBERRY: Yes.

MR. BENNETT: Okay, Mr. Granberry's motion is to deny the front yard setbacks for lots 5, 6, and 7.

MR. ATKINS: 45 feet to 15 feet.

MR. BENNETT: Right.

MR. GRANBERRY: Excuse me, from 45 feet to 15 feet. I apologize.

MR. ATKINS: I just want to be very fair.

MR. BENNETT: Are you still good with your second on that, Ms. Jones?

MS. JONES: Yes.

MR. BENNETT: All right. Any discussion on that?

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 and the variance request for lots 5, 6, and 7 is denied.

- - -

(Whereupon, the motion passed and the variance was denied)

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MR. BENNETT: And we need -- Now, I'll entertain a motion on the setback requests for lots 8 through 12 to -- on the reduction from 45 to 25. Mr. Harper.

MR. HARPER: I make a motion to deny.

DR. BRIDGEWATER: Second.

MR. BENNETT: We have a motion and a second to deny. A second by Dr. Bridgewater. Any discussion?

MR. ATKINS: Just for clarity, we're making a motion, Mr. Harper, is it true to deny the variance request on lots 8 through 12 from 45 feet to 25 feet?

MR. HARPER: Yes.

MR. ATKINS: Okay.

MR. BENNETT: Are you good with that?

MR. ATKINS: Yes.

MR. HARPER: Yes.

MR. ATKINS: I just want to make sure that we state it for the record so that we're clear.

MR. BENNETT: Everybody clear on the motion? 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 and the request for that variance is denied.

- - -

(Whereupon, the motion passed and the variance was denied)

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MR. BENNETT: And Geneasa, we'll move on down the agenda.

MS. ELIAS: The next application also requires a public hearing. It is an application for a variance number 2007V-007-04. It's an application for a variance at 1328 East Mercer Avenue to allow the construction of a two-story home. The owner of the property is Echezona Nwajagu and the applicant is Larry Lucas.

MR. BENNETT: Okay. Commissioners, since this is a variance request I'll entertain a motion to open a public hearing.

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

MR. COOK: Second.

MR. BENNETT: Second by Mr. Cook. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: And the public hearing is now open.

- - -

**(Whereupon, the motion passed and the public hearing was
opened)**

- - -

MR. BENNETT: And I'll ask for the applicant and any
proponents that would like to speak in favor of it.

- - -

(Whereupon, the Speaker approached the podium)

- - -

MR. BENNETT: And I see that the applicant is at the podium
already.

MR. LUCAS: Ladies and gentlemen of the Commission, I'm
Larry Lucas. This is a request for variance from the infill
standards to allow a two-story residence in an area where the
average setback calls for a story and a half. This property is
on East Mercer Street that has seen a number of two-story
buildings constructed over the recent time. And what we're

seeing is a changing pattern of development along this street.

Also the variance also asks for an increase in the height from the allowable height, which would be 25 feet -- excuse me, 23 feet to a . . . a max of 28 feet which would exceed the -- I'm sorry, it's a 2 foot -- 22 and we're asking for 28. This lot is one whose width and depth really challenges the ability to provide a house that is meeting the markets demand for three-story, two and a half bedroom houses that will accommodate families because the setbacks required do not allow the house to be placed in a linear fashion so that you can achieve all of that floor space and maintain the lot coverage's. So, therefore, by stacking the house on a -- in a two-story fashion, we are able to accommodate the . . . the market interest in two-story houses.

Plus, this has been a . . . a type of development that has been welcomed and embraced by the Egan Park Community and we want to continue to follow in that direction that has . . . has served the neighborhood so well. I'll save the rest of my time for rebuttal.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: All right, thank you. Are there any other proponents that would like to come down and speak in favor of this item; speak on behalf of it?

If not, I'll ask are there any opponents -- anyone wishing to come down and speak against this item? There being none, I'll ask for a motion to close the public hearing.

MR. ATKINS: Mr. Chair, I move that we close the public hearing.

MR. HARPER: I'll second that motion.

MR. BENNETT: Moved and seconded by Mr. Harper. 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 motion passed and the public hearing was closed)

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MR. BENNETT: And Geneasa, I'll ask you to continue on. And, if you'd like, to save you a little breath if it's alright with the Commissioners since the staff recommendation is

normally made part of the package anyway, if you'd prefer not to read every single item, we'll relieve you of that.

MS. ELIAS: Thank you. Again, this is an application for a variance request to the Infill Ordinance to allow construction of a two-story structure at 1328 East Mercer Avenue.

At this time, staff is going to have to recommend deferral because the public participation report has not been received.

MR. BENNETT: All right. Okay, Commissioners, I'll entertain a motion on this item. Mr. Harper, the public hearing is closed. I need a motion.

DR. BRIDGEWATER: I'll make a motion to defer.

MR. BENNETT: Okay, we have a motion to defer.

MR. HARPER: I'll second that motion.

MR. BENNETT: And a second. Any discussion?

THE BODY: (No response)

MR. BENNETT: All in favor of the item?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: I didn't hear many Ayes'. Could I call for the question again? The motion is to defer and I'll go on and say to the June meeting.

MR. ATKINS: Thank you.

MR. BENNETT: Any further discussion?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries and the item is deferred to the June meeting.

- - -

(Whereupon, the motion passed and the item was deferred)

- - -

MR. BENNETT: Shean, did I miss you?

MR. ATKINS: No. I was . . . I was gonna clarify the June.

MR. BENNETT: Oh, okay.

MR. ATKINS: You got me.

MR. BENNETT: And Geneasa, you can proceed.

MS. ELIAS: All right. The next application also requires a public hearing. It is a variance application number 2007V-009-04. It is a variance request to the Main Street Architectural Overlay located at 1641 West Washington Avenue. The owner is East Point American Legion Post 51 and the applicant is Candler Development Company.

The applicant is seeking a variance to the Main Street Architectural Overlay to allow parking fronting along Main

Street. We do have one speaker card submitted for this particular application.

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.

MR. BENNETT: And Mr. Harper has motioned.

MR. GRANBERRY: Second.

MR. BENNETT: And Mr. Granberry seconded. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries and the public hearing is open.

- - -

(Whereupon, the motion passed and the public hearing was opened)

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MR. BENNETT: We'll hear from the applicant and any proponents.

- - -

(Whereupon, the Speaker approached the podium)

- - -

MR. BENNETT: And I see the applicant is at the podium.

MR. CANDLER: I'm Asa Candler, Candler Development, 180 Allen Road, Atlanta.

Two years ago this Board approved our variances and plan that we had on this Walgreen's deal here in East Point Street and Washington Avenue and Main Street. There's three frontages on that particular part -- piece of property. The downtown overlay, it's my belief that there's two pieces of property that are -- have the three frontages and this is one of them. The other one is probably up on the north side there.

My understanding was that we were needing to clarify some Minutes to the meeting that was done in July 2005. And we've been proceeding on with our approval since then until we got to a meeting with all of the staff -- the different departments on getting on, you know, with the building plans and permits and what not.

It was suggested to me that we re-apply for variance to clarify the Minutes from the July 2005 meeting which will allow us to proceed with what we had done back in 2005. So, I'm available for any questions and what not.

MR. BENNETT: Thank you, Mr. Candler. Probably be some questions on down the line.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Any other proponents -- people that would like to come forward and speak in favor on behalf of this item? Are there any opponents -- people that would like to come and speak against this item? If you would, please come to the microphone, please.

- - -

(Whereupon, the Speaker approached the podium)

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MR. DARSEY: Good evening, again. My name is James Darsey. I live at 2977 East Point Street, about a block and a half from Mr. Candler's proposed development. I don't own a car. I would like to see downtown developed. I would love to see more retail development in downtown but this is the wrong development.

I have four points to make. First, the first point is that I don't have to say anything tonight because the burden of proof rests with Mr. Candler. We have a Main Street Architectural Overlay. It has been vetted by our friends, by fellow citizens of the City of East Point who had no motive except to discern what was best for the long-term interests of the City of East Point. And therefore, it is Mr. Candler's obligation to get up here and tell us why he should be allowed exceptions, exemptions from the rules. It is not my responsibility or anyone else's to get up and tell us why he should not. And until Mr. Candler has fulfilled that burden of proof, this proposal fails.

But even though I don't have to say anything, I am going to say something. I'm going to tell you point number 2. I don't think Mr. Candler can do that because he -- this proposal would in fact, leave a permanent scar on the development vision for downtown East Point. One of the most precious things that we have, and the potential for building this city and downtown development, is a strong sense of uniqueness and place. Walgreen's is not interested in that. And Mr. Candler is not interested in that. They're interested in standardizing operations so that things work the same all over. And a development that opens this for traffic makes it less pedestrian friendly, opens more parking spaces, is not going to provide the consistent vision with what the Main Street Overlay has.

My third point -- This Main Street Architectural Overlay was created by people who have a vested interest in the City of East Point. Neither Mr. Candler nor Walgreen's has an inherent right to do business in our city. They have the opportunity to do business in our city to the degree that they demonstrate that they are willing to be good citizens of our city. And that means respecting the vision for the development of the city. When Mr. Candler was here a couple of years ago, and some of you were in this room, when he demonstrated how little respect he had for the vision of our city. When I suggested that Walgreen's had been able to do business in keeping with the

character in other historic districts, including the French Quarter and historic areas in Chicago, Mr. Candler's rebuttal was to assure us that East Point was no French Quarter and was no Chicago. And he stomped out of the room telling us that we could have the American Legion and bingo forever. I suggest that neither Mr. Candler nor Walgreen's has a particular vested interest in being citizens of our community and we cannot then, trust that they are going to develop this in ways that are most consummate with the development that we would like to see.

Finally, I would like to caution Planning and Zoning against the fallacy of rushing into the arms of the first suitor who expresses an interest in us. Most people in this room, either directly or indirectly, have experienced the outcome of bad romantic relationships when we got involved with someone just because they paid attention to us or we saw a son or a daughter or a friend do this and that person was only in it for themselves, not for us. We can do better. And if it means waiting a little while until we get the proposal that we want, we have a precious resource here in East Point. Let's not squander it.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you.

- - -

(Whereupon, the Speaker approached the podium)

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MS. RODGERS: Hello. My name is Erin Rodgers. I spoke with you guys earlier but my address is again 3022 Park Street which is the Center Park neighborhood which is adjacent to the Washington Main Street intersection. So, we have actually for the last years as he mentioned been receiving various plans from Candler on what they want to do with the Walgreen's.

I'm also the chair of the Main Street Board and the Design Committee of the Main Street Board. And I happen to work for an architecture firm so I work with developers all day long working with governments such as yourselves figuring out plans and what not. And I think that, unlike some other areas in our city this is our downtown fabric. This is our Main Street jewel. And as the previous speaker spoke, I think we should be selective on what goes there. Once it's there I don't think it's going to be going away anytime soon. So, we really really need to be selective about that.

And, when working with developers, I know that prototypes can be changed. They may not want them to be changed because of money concerns -- it's always easier to slap the same thing down in the same spot everywhere. But when you've got something so unique as this area, this is one of our prime corners. I mean,

it's right on our main street, right at the corner of Washington; in fact, it's on two corners. We really want what's done here to be a precedent for the new and future development of downtown. As I mentioned before, with our architectural overlay that, I think, was passed in 2001 that was put in place to be as a guideline for the future growth of East Point. If we start making exceptions now at the very start of us really getting it going, it's only going to create a downfall, I think, for our downtown.

And as I mentioned before with a prototype, in our previous meetings with the developer it's pretty much been a fact of them only wanting to do the same thing, the same thing. And we've pointed out to them if you look at Midtown and all the development that's going on down there with the Publix right on the corner, there's no parking in front. If you look across from Piedmont Hospital with the CVS, which is a building similar to what will be going here, that prototype works and it's right on the street. And I think that's -- It is doable. I know it's doable. It's just a matter of whether or not the developer wants to do it.

And so, I think putting parking right on our Main Street when our overlay clearly states that that's not how we create an urban environment. We want to create reaction between pedestrians and buildings. We don't want someone, you know,

with a stroller -- especially at that intersection. What's going to make them want to come to that corner? You're going to have lanes of traffic on one side and a parking lot on the other. Why do I want to walk there? That's going to create a disconnect in our downtown. If you look down at our historic fabric at the corner of Whitehall and Main Street, you'll see great examples of what really, we want to see down here -- where the buildings are up close to the street, allowing for generous sidewalk and landscaping. But it really encourages interaction of buildings and people. And, I think, if this is allowed with a parking lot on front it's just going to kill that corner.

I really, again, I'd hate to see this jewel -- this great opportunity that we have to really put something there that matters, just be allowed to, you know, exception after exception after exception. So, I really hope that you guys agree and that we'll maintain a standard for downtown. Thank you.

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(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? If there aren't any, Mr. Candler, I'll allow you a few minutes for rebuttal.

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(Whereupon, the Speaker approached the podium)

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MR. CANDLER: First, I'd like to respond to where have these people been for six and a half years that I've been on this job. Number two is, I didn't storm out of some meeting from -- about Chicago. This ain't Chicago. This ain't New Orleans. This is East Point.

Everybody seems to have gotten the plan that two years ago we approved -- the tower on the corner that matches up with the motif of the train station depot motif you have around. It's our tower where power lines had to go. Everybody's forgotten about the landscaping that's going to buffer that corner there where the cars are. Might I point out that there is no building on the corner of Main and Washington Street; it was torn down years ago because they had a wreck a day out there. Ask the 'fella that owned -- used to own the funeral home -- Hempley (phonetic) Funeral. He grew up there; he told me.

Our building fronts on Washington Avenue. Our variance we're seeking because the Minutes of the meeting two years ago were not clear on the fact that what we had asked for was approved. That's why we're back tonight. Our building fronts on Washington Avenue, approximately, where the American Legion has a series of two or three buildings right there where they front. This property has three frontages and I take exception to somebody that says we got a jewel right here and Mr.

Candler's gonna mess it up. Well, our plan was approved two years ago and it's a beautiful plan. More landscaping than anything and I'll point this out -- that on the great jewel of East Point I hadn't seen in my six and a half years of action around here, a whole lot going on up and down Main Street in new development. And this is also reminding everybody, this is a catalyst to get things going along Main Street. And I will point out one other thing, on the nice lady back here, is that the Main Street corridor does have parking. It's in your Main Street corridor. It has parallel parking on it.

Right now there's angle or head-end parking up and down, but gonna change that and there's gonna be landscaping. Our plan matches up with the downtown overlay district on all facets except for the parking. And we had this thing worked out two years ago. And I'm open for any questions.

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(Whereupon, the Speaker exited the podium)

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

DR. BRIDGEWATER: Mr. Chair.

MR. BENNETT: Dr. Bridgewater.

DR. BRIDGEWATER: I make a motion that we close the public hearing, please.

MR. BENNETT: Okay.

MR. HARPER: I'll second that motion.

MR. BENNETT: And a second by Mr. Harper. 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 motion passed and the public hearing was closed)

- - -

MR. BENNETT: And Geneasa, you can give a staff report.

MS. ELIAS: This application is a variance request to the Main Street Architectural Overlay. Again the applicant is seeking a variance to the Main Street Architectural Overlay to allow parking fronting along Main Street.

Just a brief summary of staff's report: According to the Main Street Architectural Overlay requirements, Section 15.2 states that parking spaces shall be located in the rear or side yards and shall not be located between the principal structure and the street.

In addition, Section 7.10 states that the primary pedestrian entrance to all uses with street frontage shall face and be visible from the street, shall be directly accessible from the public sidewalk adjacent to such street, and shall open directly onto the adjacent public sidewalk or an outdoor dining area or plaza adjacent to the public sidewalk. Based on the requirements of the Main Street Architectural Overlay district staff recommends denial of the variance request.

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

MR. HARPER: I make a motion to deny the variance.

MR. BENNETT: Mr. Harper has made a motion to deny the variance.

MR. GRANBERRY: Second.

MR. BENNETT: Second by Mr. Granberry. Any discussion?

MR. ATKINS: Mr. Chair.

MR. BENNETT: Mr. Atkins.

MR. ATKINS: I'd just like to address a few things from Mr. Candler's presentation.

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(Whereupon, the Speaker approached the podium)

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MR. ATKINS: You talked about perhaps we had forgotten about the plan that we approved a few years ago, but as we had

stated earlier to you that we don't approve site plans. And I think that was a misunderstanding.

The main thing that I would like to address is the fact that you're saying in your presentation that we wanted you to do this variance because we could not, I guess, locate in the Minutes where we had approved this. And what we said is that we wanted to perfect our record. Your assertion was that we approved this. We said that we don't approve plans and we did not approve this and there was no record that the city department had.

So, in order for us to resolve this issue we had to actually vote on this particular issue. And that's . . . that's why you're here today. But we don't approve site plans. And I think that that was a misunderstanding. We do remember the feature at the corner of Washington and Main Street but that doesn't mean that we approved a variance for this. We remember very well those discussions. And so, in order for us to give you a definitive answer because you were saying that we did this and we said that no, we did not do this, the only way to get to that conclusion would be for you to apply and for us to vote on this particular issue. You're saying yes, you have no record that we did that. The city is saying no, and they have no record that we did it. And we're saying no, that's not what we approved either.

MR. CANDLER: Well, the Minutes say --

MR. BENNETT: Sean, did you want a response?

MR. ATKINS: No, I don't really need a response. I . . . I was just addressing what you had made in your presentation.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Any other discussion? Excuse me. Is there any other discussion or questions? All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries and the request is denied.

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(Whereupon, the motion passed and the request was denied)

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MR. BENNETT: And Geneasa, we will move on if you will.

MS. ELIAS: The last application requiring a public hearing is application number 2007U-001-04 which is a special use permit for a home occupation in the RL zoning district. The owner -- owners are William and Margie Shines. And the applicant is William Shines. The applicant requests a special use permit to allow home occupation at 3411 Prince George Street. The proposed use is a home real estate office.

MR. BENNETT: Okay. And again, Commissioners, this is an item that requires a public hearing for a special use permit. So, at this time I'll to open a public hearing on this item.

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

MR. BENNETT: All right.

MR. COOK: Second.

MR. BENNETT: And a second by Mr. Cook. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: And the public hearing is now open.

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(Whereupon, the motion passed and the public hearing was opened)

- - -

(Whereupon, the Speaker approached the podium)

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MR. BENNETT: And I see Mr. Shines at the podium.

MR. SHINES: I thank you, Mr. Chairman, members of the Commission and staff. I certainly appreciate the opportunity to present my application to you and the public concerning my request for a special use permit. I have a big sign out in from of my yard -- big yellow sign that says a public meeting. And I guess, whenever you see a sign like this your neighbors first of

all are inquisitive. So, as part of my public participation, I initially sent a letter to our club president and also letters to my immediate neighbors. And subsequently, I've talked to a number of neighbors about my request and so far, they all have been very supportive.

Tuesday we had a . . . a meeting with the community club and I do have my public participation form that I will give after . . . after I sit down. We all had all approvals.

My home-based business will not be of the nature -- I guess a lot of people look and wonder what's going on. I will not be turning any dirt. I will not be improving any roads or anything. I will not affect the landscape at all. What I will be doing is operating my real estate office in my home. I'll be using my fax machine, computer, telephone. And so there will be absolutely no impact on my neighbors. The impact will be just the same as an individual who would have a computer in their homes and work. So, it would be absolutely no impact at all.

When I completed my requirements to be a real estate broker and also passed the exam, I went to the East Point office to get a business license. And I was told that I could not get one because I was opening a real estate office. And a real estate office is one of the exclusions in the Ordinance. And I was subsequently reminded that what I would need to do is to fill

out an application and present it to the Planning and Zoning Board. And that's why I'm here tonight.

In the process of my research, I looked the Ordinance up as far as it pertains to a home based business in the city of East Point and thoroughly studied it and found out that I met most of the qualifications. And since the city of Atlanta and also College Park are our closest neighbors, what I did -- I also looked up their criteria on their web site for home-based business and I found out that they are all similar, basically. And in addition to just looking up on their web site, I also called the various offices in College Park and City of Atlanta. And my findings are that there are four, real prominent things that East Point, College Park and City of Atlanta requires. They require a home business to have no signs outside that would indicate someone is operating a business; there would be no customer traffic; no employees other than family members and no exterior indication that a business actually operates there. So a person passes by a home-based business, there is no exterior way to know that a business is operating there.

And that's the particular situation that I find myself in. As I look at my findings, I find that I am pretty much in compliance. I'm saying that perhaps the law or the Ordinance itself was pretty much intended to basically, do you neighbor no harm. The impact of your business will not impede the peaceful

enjoyment of your neighbor. And so, as I look at my business, there will be no impact at all. In fact, looking again at all the laws -- no signs, no customer traffic, no impact on your neighbors, I will 100% fully conform to the laws of East Point concerning that particular matter. So I certainly appreciate this opportunity, Commissioners, and I'd certainly appreciate your approval. Thank you very much.

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(Whereupon, the Speaker exited the podium)

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MR. BENNETT: Thank you. Are there any other proponents that would like to speak on this? Are there any opponents that would like to speak against it? I don't see anyone coming so I'll ask for a motion to close the public hearing.

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

MR. COOK: I second.

MR. BENNETT: MR. Harper has moved and Mr. Cook seconded to close the public meeting. All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: And the public hearing is closed.

- - -

(Whereupon, the motion passed and the public hearing was
closed)

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MR. BENNETT: And Geneasa, if you'd finish the staff
report.

MS. ELIAS: This is an application for a special use permit
at 3411 Prince George Street. The applicant is requesting a
special use permit to allow home occupation and the proposed use
is for a home real estate office.

Staff is recommending approval of the special use permit in
accordance with the definition of a home-based business in
Chapter 2, Article A, Section 10-2003 of the East Point Code of
Ordinances.

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

MS. SHELDON: Mr. Chairman.

MR. BENNETT: Ms. Sheldon.

MS. SHELDON. I move that we approve the special use permit
for home occupation in RL zoning district for the residence
located at 3411 Prince George Street.

MR. BENNETT: I have a motion.

MR. ATKINS: Second.

MR. BENNETT: And a second by Mr. Atkins. Any other
discussion? All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries and the application is approved.

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(Whereupon, the motion passed and the request was approved)

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MR. BENNETT: Geneasa, would you continue.

MS. ELIAS: The next application on the agenda is for a Final Plat, case number 2007P-007-04. It is requesting approval of a Final Plat in the C-2 Central Business zoning district located at Camp Creek Parkway in the rear. It is the Camp Creek Pointe development that is currently under construction. The owner is Camp Creek Pointe, LLC and the applicant is Camp Creek Pointe, LLC.

And they are requesting a Final Plat for the commercial retail development on 21.62 acres. And although this does not require a public hearing, we do have representatives here to speak if there are any questions.

MR. BENNETT: Okay. Would you give the staff recommendation?

MS. ELIAS: Staff is recommending approval of the Final Plat with Public Works Director's holds.

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

DR. BRIDGEWATER: Mr. Chair.

MR. BENNETT: Dr. Bridgewater.

DR. BRIDGEWATER: I make a recommendation for approval with Public Works with holds.

MR. BENNETT: We have a motion to approve with Public Works holds.

MR. HARPER: I'll second that.

MR. BENNETT: And a second by Mr. Harper. Any discussion?

MR. ATKINS: Can we state for the record what the holds are?

MS. ELIAS: I would have to ask the Director of Government Operations.

MR. ATKINS: Mr. Humphrey would you please, come to the microphone and tell us what the holds are for the record, please, sir?

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(Whereupon, the Speaker approached the podium)

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MR. HUMPHREY: Good evening. My name is Herbert Humphrey. I'm the Director of Government Operations. And the director's hold in this particular case is for the end treatment of the roadway. There's a partial -- there's a temporary cul-de-sac

and prior to any improvements made on that last lot, we would have to approve the site plan and make sure that the end treatment is designed and constructed properly.

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(Whereupon, the Speaker exited the podium)

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MR. ATKINS: That's good.

MR. BENNETT: Any further questions or comments? All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: And the motion carries and the plat is approved with the Public Works holds as stipulated.

- - -

(Whereupon, the motion passed and the Final Plat was approved with holds)

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MS. ELIAS: The next application is also an application for a Final Plat in the AG-1 CUP zoning district known as the Lakeside Preserve development. This is a final Plat Request for Phase 3A. The owner is Lakeside Preserve Associates, LLC. The applicant is Landmark Design for McCar Homes. They are

requesting approval of the Final Plat for 32 single-family, detached residential units on 42.420 acres.

At this time, staff is recommending deferral until the "as built" submittal requirements are completed.

MR. BENNETT: Okay. Commissioners, I will entertain a motion. Does anyone have -- Mr. Atkins?

MR. ATKINS: (inaudible)

MR. HARPER: I make a motion for deferral until the next June meeting of this . . . this Board.

MR. BENNETT: All right.

MS. JONES: Second.

MR. BENNETT: And we have a second by Ms. Jones. Any further discussion?

THE BODY: (No response)

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries. It is deferred until the June meeting.

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(Whereupon, the motion passed and the request was deferred)

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MS. ELIAS: The last application on the agenda is an application for a Final Plat application number 2007P-009-04. It is located at Golden Drive and Cherry Blossom Lane, known as the Golden Acres Subdivision. The owner is Earth Wise Properties, LLC. The applicant is Fred Innes. And the applicant requests approval of a Final Plat for a 12 lot subdivision on 7.808 acres.

At this time, staff is recommending deferral until the health department approval is received.

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

MR. HARPER: I make . . . I make a motion for deferral to the June meeting or until the health department report is received.

MR. BENNETT: Did you say the June meeting?

MR. HARPER: Yes.

MR. BENNETT: Okay. Is there a second on that?

MR. ATKINS: Second.

MR. BENNETT: Second by Mr. Atkins. Any discussion? All in favor of the motion?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: The motion carries and that item is deferred to June.

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(Whereupon, the motion passed and the request was deferred)

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VIII. ADJOURNMENT

MR. BENNETT: Does anyone have any announcements you need to make? If not, I'll entertain a motion to adjourn.

MR. GRANBERRY: Mr. Chair, I make a motion to adjourn.

MR. BENNETT: All right.

MR. HARPER: I'll second that motion.

MR. BENNETT: All in favor?

THE BODY: Aye.

MR. BENNETT: Opposed?

THE BODY: (No response)

MR. BENNETT: Motion carries and the meeting is adjourned.

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(Whereupon, the meeting adjourned at 9:25 p.m.)

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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 May 17, 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 11th day of June 2007.

◆◆◆◆

Debra McGhee Speights, CCR -2510
2740 Greenbriar Parkway, Box 3174
Atlanta, Georgia 30331
acereporters@gmail.com
404-349-1200