

1 CITY OF EAST POINT  
2 PLANNING & ZONING COMMISSION

3 December 19, 2013 - 7:00 P.M.  
4 Official Meeting Minutes

5 Jefferson Station  
6 1526 East Forrest Avenue  
7 4th Floor Training Conference Room  
8 East Point, Georgia 30344

9 Board Members:

10 Commissioner Shean **ATKINS**, Chair

11 Commissioner Linda **SHELDON**

12 Commissioner Joel **TUCKER**, Provisional Chair - **Absent**

13 Commissioner Dr. Lydia **WARES**

14 Commissioner Gregory **FANN**

15 Commissioner Matthew **MALLORY** - **Absent**

16 Commissioner William **BRYANT**

17 Commissioner Karen **RENE** - **Absent**

18 Commissioner **MAXWELL**

19 Also Present:

20 Ms. Linda **DUNLAVY**  
21 City Attorney

22 Ms. Regina **CARTER**  
23 Senior Planner - Absent

24 Ms. Keyetta **HOLMES**  
25 Senior Planner

James **HAMMOND**  
Videographer

Richard **RANDOLPH**  
City Engineer - Absent

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APPEARANCES

APPLICANT(S):	Page
2013Z-016-10 Applicant: N/A	6
2013V-010-11 Mark Hollums	9
2013Z-017-11 Applicant: N/A	30

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**I. CALL TO ORDER:**

COMMISSIONER ATKINS: Good evening. I'm Shean Atkins, Chair of the East Point Planning & Zoning Commission and at this time I'm calling you to order our regularly scheduled December meeting. Staff, if you would, please give me a quorum call.

**III. ROLL CALL:**

MS. HOLMES: Commissioner Rene.  
COMMISSIONER RENÉ: (No response.)  
MS. HOLMES: Commissioner Wares.  
COMMISSIONER WARES: Present.  
MS. HOLMES: Commissioner Tucker.  
COMMISSIONER TUCKER: (No response.)  
MS. HOLMES: Commissioner Fann.  
COMMISSIONER FANN: Here.  
MS. HOLMES: Commissioner Atkins.  
COMMISSIONER ATKINS: Present.  
MS. HOLMES: Commissioner Mallory.  
COMMISSIONER MALLORY: (No response.)  
MS. HOLMES: Commissioner Sheldon.  
COMMISSIONER SHELDON: Here.  
MS. HOLMES: Commissioner Bryant.  
COMMISSIONER BRYANT: (No response.)  
MS. HOLMES: Commissioner Maxwell.  
COMMISSIONER MAXWELL: Here.  
MS. HOLMES: Mr. Chair, you have a quorum.

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COMMISSIONER ATKINS: Okay. Excellent. Thank you. At this time, we observe a Moment of Silence so if we would all take a Moment of Silence.

**III. MOMENT OF SILENCE:**

COMMISSIONER ATKINS: Thank you. If every one here would please stand and join me in the Pledge of Allegiance.

**IV. PLEDGE OF ALLEGIANCE:**

COMMISSIONER ATKINS: Commissioners, at this time, I'll entertain a motion to adopt our agenda for our regularly scheduled December 19th meeting.

**V. ADOPTION OF AGENDA:**

COMMISSIONER WARES: Mr. Chair.

COMMISSIONER ATKINS: Yes, Commissioner Wares.

COMMISSIONER WARES: So moved.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER SHELDON: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Wares and seconded by Commissioner Sheldon that we adopt our December 19th, 2013 agenda. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. The agenda is adopted as presented. Commissioners, at this time, I'll entertain a motion to approve or November 21st, 2013 meeting

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minutes.

**VI. APPROVAL OF MEETING MINUTES:**

COMMISSIONER SHELDON: Mr. Chair.

COMMISSIONER ATKINS: Commissioner Sheldon.

COMMISSIONER SHELDON: I move that we approve the November 21, 2013 minutes as printed.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONERS: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Sheldon and seconded by all the other Commissioners that we approve our November 21st, 2013 meeting minutes. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. Our meeting minutes for November 21st are approved.

**VII. OLD BUSINESS:**

COMMISSIONER ATKINS: Our first order of Old Business is Case Number 2013 "Z" as in zebra-016-10. This is a Citywide amendment and the public hearing for this particular Agenda Item was held last week. At this time, I'll ask Staff to please sound this Agenda Item.

MS. HOLMES: Case Number 2013Z-016-10. Application is an amendment to Part 10, Chapter 2, Article C 10-2073, C2 Essential

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Business District. Application seeks to deferral.

COMMISSIONER ATKINS: Okay. Commissioners, you've heard Staff as they sounded this Agenda Item. The request from Staff is to defer. At this time, I'll entertain a motion from the Commission.

COMMISSIONER FANN: Make a motion to defer.

COMMISSIONER ATKINS: Okay. Is there a second?

COMMISSIONER WARES: I second.

COMMISSIONER ATKINS: Any discussion?

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: It's been moved by Commissioner Fann and seconded by Commissioner Wares that we defer this Agenda Item. Is there a time certain?

MS. HOLMES: Thirty (30) days.

COMMISSIONER ATKINS: So we'll say to our next regularly scheduled meeting because it could be more or less than thirty (30) days. So the motion, Commissioner Fann, would be to our January regularly scheduled meeting. Okay. And the second still stands?

COMMISSIONER WARES: Yes.

COMMISSIONER ATKINS: Commissioner Wares, okay. You've heard the motion and the second, all in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONER ATKINS: Hearing none, the ayes have it. We will defer this Agenda Item to our regularly scheduled January

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meeting.

**VIII. NEW BUSINESS:**

COMMISSIONER ATKINS: Our next item on the agenda is Case Number 2013 "V" as in Victor-010-11. This Agenda Item is for a variance at 1706 Washington Road. It does require a public hearing. At this time, I will read our rules for public hearings. This will apply for all of the items on the agenda that require public hearings.

(Whereupon the Rules for Public Hearings is read into the record.)

COMMISSIONER ATKINS: Public hearings before the Planning & Zoning Commission shall be conducted in accordance with Section 10-2219 of the East Point Zoning Code and Development Regulations as follows: Persons both favoring and proposing the proposed case will be provided an opportunity to address the Commission. The applicant for the zoning case or the applicant's designated representative, if any, will be entitled to speak first followed by other speakers in favor of the proposal for a total of fifteen (15) minutes. Those who opposed the proposed zoning case will then be permitted to speak for a total of fifteen (15) minutes. By a majority vote, the Commission may increase the total time for speakers provided that each side is given the same amount of time. If there is more than one speaker for a side, the Chair or the presiding officer may limit the time allotted to each individual speaker other than the zoning applicant. The zoning applicant may reserve a

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portion of his or her allotted time for rebuttal. Speakers must adhere to the rule of decorum. Prior to speaking, each speaker shall identify him or herself and state his or her current address. Each speaker shall speak only to the merits of the proposed zoning decision under consideration, shall address remarks only to the Commission and shall refrain from making personal attacks on any other speaker. The presiding officer may refuse a speaker the right to continue if, after first being cautioned, the speaker continues to violate the rule of decorum.

Commissioners and others, you've heard our rules for public hearings. At this time, I'll entertain a motion to open the public hearing for Case Number 2013 "V" as in Victor-010-11.

COMMISSIONER SHELDON: So moved.

COMMISSIONER ATKINS: Is there a second.

COMMISSIONER WARES: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Sheldon seconded by Commissioner Wares that we open the public hearing. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.

The public hearing is now open. If the applicant would please approach the podium.

(Whereupon Applicant Mark Hollums approaches the podium.)

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MR. HOLLUMS: Good evening.

COMMISSIONERS: Good evening.

MR. HOLLUMS: Mark Hollums. I'll an elder at East Point Christian Church and I have with me Jackie Barrett Washington, the representative for Fulton Leadership Academy. We presented a proposal to you for your consideration. I don't know if you still have it in front of you. We've gotten a little goofed up on our original CZIM meeting. We were supposed to have met last month, missed that date and thought it was going to be rescheduled. I apologize for missing the Work Session. I think it was last week. Are you all familiar with what we are proposing?

COMMISSIONER ATKINS: Yes, we are, but if you would just go over your case for the view public so this would be for all of those who are not here tonight and are not privy to this information that we have.

MR. HOLLUMS: That will be fine. What we would like to do, we've got a Charter School at the East Point Christian Church site at the corner of Washington Road and Church Street, 1706 Washington Road. We would like to have a security fence around the back perimeter of the property. Currently, I believe the ordinance allows for a four foot fence. We don't feel that that's adequate. We would like to have a minimum of six. Actually, if it's possible, if we got it any higher, we would like to have that. On the backside of the lot along West Hamilton Avenue and the Church Street side, we would like to fence that in so that the children can have a little bit of an

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exterior basketball court. There has also been some incidents of transients coming through there and some other unfortunate security breaches into the school building itself. We would like to have a gate across the alley ways between the breezeway of the main building and the school building. We have already talked to the fire department and the Public Safety folks and we were aware of what the requirements are going to be for a (inaudible) box that they have access for emergency vehicles through there.

As you can see, there's a fairly limited amount of space. We would prefer from a security perspective to have a chain linked fence, but we understand the esthetics of that involved with it so we have also included an ornamental wrought iron type fence, which I think it may be specific to that as well so I'll entertain any questions that you may have and if you would like to ask Ms. Washington, she can give you specifics on any kind of security breaches that have occurred so far.

COMMISSIONER ATKINS: Okay. Questions would have to come off the public hearing so this is your opportunity to present to the Commission. Okay.

MS. WASHINGTON: Well, I am also here obviously to speak on behalf of the fencing that we are asking for. Minimally, we would like to have the eight foot fencing. I think you can imagine across the back of the property, a 6 foot fence and a basketball bouncing is not really going to contain what we are trying to do. We are trying to defined the campus for the students as well as for the general

1 community. It's something a little bit new for this community. It  
2 was used to perhaps walking through the existing church parking lot  
3 on their way to and from the back streets, Church Street and  
4 whatever over onto Washington Road. And given that, we now have  
5 270 students and that number will continue to grow. We are just  
6 concerned about being able to defined that campus, particularly  
7 across the back. The pictures that you have will show an ornamental  
8 fence across it. It's a four foot fence across the front of the church  
9 because we just wanted to defined for the community that this is  
10 now church property. A lot of people will go to Waffle House and get  
11 their breakfast or lunch or whatever and they will come and sit at the  
12 picnic tables that are out there, which I'm not sure that we care so  
13 much about, but we just want to let them know that this is now a  
14 property. There would also be some directional signs so that people  
15 would be clear about where the church office is as opposed to where  
16 the student property is.

17 We have submitted this proposal to the State Board of  
18 Education for funding under the main name, I supposed, of school  
19 safety and security and they were happy to fund this project, so we  
20 have got the State Board of Education on our side in terms of them  
21 providing the funding for this project. So what we need now from  
22 this Board is permission to erect that eight foot fence across the back  
23 of the property as we have laid it out here for you in the diagram.

24 MR. HOLLUMS: I also would like to mention that the four foot  
25 fence across the front there -- there's another fence identical to that

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style we are looking at already existing. On the backside of Hamilton Avenue, there are six foot fences in existence around some of the residences but they are solid.

COMMISSIONER ATKINS: Okay. Are there any other proponents for this zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Any other proponents?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Seeing none, are there any opponents for this zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Seeing none, Commissioners, at this time, I'll entertain a motion to close the public hearing.

COMMISSIONER WARES: Mr. Chair, so moved.

COMMISSIONER FANN: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Wares, seconded by Commissioner Fann that we close the public hearing for this Agenda Item. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. The public hearing is now closed. At this time, I'll ask Staff to please sound their recommendation.

MS. HOLMES: Case Number 2013V-010-11. Applicant is Mark

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Hollums. Location is 1706 Washington Road. Applicant seeks a variance to increase the fence height from four feet to eight feet. Staff's recommendation is denial.

COMMISSIONER ATKINS: Okay. Commissioners, you've heard from the applicant, you've also heard the recommendation of Staff. At this time, I'll entertain a motion.

COMMISSIONER FANN: I motion it for approval.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER WARES: I second.

COMMISSIONER ATKINS: Is there any discussion?

COMMISSIONER FANN: Discussion. What's Staff's rational for denial?

MS. HOLMES: Properties that are zoned CR, commercially development in the City of East Point are only allowed a four foot maximum fence height. That is because in that district, it is designed for pedestrians for security safe and it be a walkable environment. However, in other zoning districts throughout the City residential, you can have six feet in the rear and the side yard, but you also must have four feet in the front yard. Fence heights of this height are only allowed in the industrial districts.

MS. WASHINGTON: Are we allowed to respond?

COMMISSIONER ATKINS: No. The public hearing is closed. If a Commissioner ask a specific question of the applicant, then you would have the opportunity to do that. My challenge with the eight foot fence height -- I know that Ms. Barrett had spoken to defining

1 the campus and I think that that's achievable with even a foot four  
2 fence, so I think that defining a campus I see that Mr. Hollums is  
3 scrunching his face up. Yes, you could do that with a four foot fence,  
4 with a five foot fence, you could do that to define the campus itself.  
5 You don't have to do that with an eight foot fence. My challenge  
6 with an eight foot fence is that the particular property is located in  
7 the central business district of the City and so then I think that it  
8 starts to look like a penal institution with a fence at such high height  
9 and so at this point, I will ask a question so if outside of defining the  
10 campus because I know that you spoke to that a lot about defining  
11 the campus and again, I think that's achievable with a fence much  
12 lower than an eight foot fence and I believe in Mr. Hollums'  
13 presentation, he talked a little about some security issues. So, has  
14 the school also looked into some other security measures and  
15 perhaps you would like to talk a little bit about those and how that's  
16 worked out for the school.

17 MS. WASHINGTON: Yes. We have looked Atlanta security  
18 measures. For example, the doors -- all of our exterior doors lock so  
19 that you cannot open them from the outside. Everybody is kind of  
20 forced around to the front door where there's a buzzer system for  
21 you to come in. That, however, does not preclude the kind of  
22 incidents that we've had on campus of us finding people sleeping in  
23 the breezeway, for example, between the two buildings. It does no  
24 preclude us from being on campus and finding -- and I know we're  
25 televising this, but finding discarding items -- let me just do it that

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way -- on the property when we come in in the morning and the boys have been exposed to things that we really would rather than not be exposed to. There is also -- I just do not believe that a four foot definition -- and I totally agree with you and all we were attempting to do was to define the campus site, four foot would do that. I have to go back however to securing the property.

I'm hesitant to talk to this Body about school safety because I know that you know what the concerns are. I know that you know what the temperament is in this country surrounding school safety and for a want of another four feet, I think we can keep these kids safe and security inside this property. We have an excellent rapport with the East Point Police Department, but we cannot call them until something has happened and so what we're trying to do is to present, not to respond and we think by -- by again, I'm going to use the word -- let me double up now, "defining and securing our campus" our campus, that we do our students and our parents a real service by stopping the traffic, the pedestrian traffic particularly and some vehicular traffic that coming through and cuts through. Even City vehicles have been cutting through the property because that's what they've been allowed to do up to this point.

This evening, there is a program on campus, so our parents are having to come out in a fairly dark environment and we can't tell them what's around the corner. We have no way of literally closing in the campus to give people some sense of security as they wonder around. So this is well beyond the notion of just trying to defined the

1 campus property. This is really more speaking to the notion of  
2 providing a secure environment for our students, for our visitors, for  
3 our parents. In addition to putting up the fence, we are also going to  
4 replace the door, the front door particularly at the property so that  
5 we have a harder door than the one that was really there when the  
6 building was built in what, the 1950s -- 60s, 1969 so we are going to  
7 replace that front door so that we have a more secure front door, but  
8 we have -- the church is also putting up some lights on our parking  
9 area so we will eventually have more light than we have right now.  
10 All those things are coming, but the fence we feel like will just go a  
11 long, long way in helping us just to cut down.

12 Our students right now -- cut down on people just walking  
13 through the property. Our students right now are confined to one  
14 building. By the end of January, certainly by the end of February,  
15 they will be in two buildings, which will mean the students will be  
16 moving back and forth between two -- really three buildings, so now  
17 I'm mixing students with population that just chooses to walk  
18 through that property. I can't -- it's very, very difficult then to  
19 separate out who's supposed to be there, who's not supposed to be  
20 there unless we began to secure that property so we don't want for  
21 the sake of a child walking into a door, some other person also  
22 following that child in and walking in that door.

23 A four foot fence is easily, quite frankly, stepped over. I  
24 mine, we all understand that, so we know that we've got to do  
25 something. If we're going to talk about security, we have to do

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something more than four foot so we're asking for -- we're asking actually to be allow to double that.

COMMISSIONER ATKINS: Okay. And I appreciate that response and I think that those are very valid reasons. I still do hold to that I think an eight foot against is probably a little more than maybe necessary to achieve those things. I think it is extremely high for that particular zone and so we have those zoning regulations for reason as stated by state. Eight foot fences are more commonly used in industrial areas and with this being in our central business district, I do have a challenge with that, so I think an eight foot fence is a bit extreme. I think that a fence that could be perhaps higher than four but less than eight couple with some of the other measures that you talked about could achieve those things that you're trying to get to. I personally think that an eight foot fence is too high for that particular zoning district. Commissioner Sheldon. Okay. Commissioner Sheldon and then you, Commissioner Wares.

COMMISSIONER SHELDON: I have problems with this for a multiple number of problems. The first one being that because of the district you're in, an eight foot fence, to me, is way too much. I understand your concerns, but I think there are some other ways you're going to have to address that. My biggest problem, however, is that our job as we stressed in our Work Session for these issues is to adjudicate based on the ordinance and because you have not be able to address the hardships for all five of these criteria that were presented to you, we really technically are not allowed to give you a

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variance. Our ordinance reads that we may not and there maybe other routes that you can take to address that, but in terms of Planning & Zoning and dealing with our job as Commissioners, I'm afraid I could not support it just simply based on that and it's important in terms of precedent and it's especially important for the downtown area for us to be cautious about that precedent so I will not be able to support this tonight based on those things.

COMMISSIONER ATKINS: Okay. Commissioner Wares.

COMMISSIONER WARES: Just to piggyback off that I'm in agreement like our Chair said that it might be something less than eight foot. I'm an educator as well, but I heard you say that you did have some additional lighting so I'm wondering if possibly you could get some additional lighting for that and to hire personnel that would be on campus especially like special things like tonight, someone that could be there for you, that would be there for the students as well as the parents and the community, if you could seek funding to do something like that and if you would, in fact, be willing to -- if you couldn't put up the four foot fence -- the eight foot, would you be willing to add least go ahead and start with the four foot so that people would see when they come, okay, we're going to have to find another way to get in, which means that you would have an opportunity to get security and do your lighting as well, which would at least help and would be a start. Would you be willing to do that?

MR. HOLLUMS: First off, as a representative of the church, I can say that, you know, the church has issues, too, about wanting to

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be open and friendly and welcome the public. I mean, that's what churches do. I have to agree with Ms. Washington on this matter that a four foot fence is probably -- it's easily vaulted and it's not going to be much of a security in term.

Commissioner Atkins, I think you've been eluding towards probably compromising maybe six foot, which is already across the street on the residential lots. If we had had that in a decorative ornamental fence -- the only concern I had with the six foot is, you know, balls are going to fly over it and then a traffic hazard. I think a six foot would be the absolute bare minimum that you can actually have a security type fence and it's very common along the airport Loop Road for the hotels over in that area. I don't think it would be esthetically unappealing to the neighborhood. It would be consistent with what's already across the street. It would have just been open rather than a closed wooden fence around it. I think a four foot fence, with just replacing that on down and proving that it's not going to work is just an unnecessary expense and it's going to be fairly expensive to put this ornamental fence up to begin with. I mean, the bid is around \$55,000, so I would ask that you all reconsider that and take that into consideration because the children's safety -- none of us want to be on TV explaining why a tragedy occurred. That's what we're really concerned about is the children's safety.

COMMISSIONER ATKINS: And I wanted just to be clear that I think we all have a concern for safety as well and, you know, the

1 other pieces that -- when we're looking at an ordinance and  
2 particularly applying it to this particular request to varying from what  
3 the zoning law says, something that is important to me is that your  
4 application, you know, you come in and you ask for an eight foot  
5 fence and a part of that is you're concerned about the thru traffic and  
6 folks coming through the campus, but at present, there is no fence  
7 there, correct, and so how do we know that after a four foot fence is  
8 erected that that doesn't stop the situation and so, you know, so  
9 that's a challenge so you've come in and you've actually requested  
10 double the maximum height that's allowed in that area, so I have  
11 challenges with that and again I'll just go to I personally am  
12 concerned about the safety of the student, the personnel, the  
13 parents, all of those even others in the downtown area.

14 What I would not want to see happen is that East Point  
15 becomes a downtown central business district full of eight foot  
16 fences. That is a problem because that also links to perception and  
17 so perception in its self is a problem as well and so I'm not  
18 necessarily saying that the six foot fence is the right height. My  
19 comment was that perhaps, the definition for the campus, I think,  
20 could be achievable with a four foot fence for your purposes. You're  
21 talking about security, maybe that's a different height, but you also  
22 don't currently have a fence so we don't know if a four foot fence  
23 would then mitigate or stop the thru traffic through there. I have no  
24 idea because there is no fence there currently.

25 COMMISSIONER FANN: Let me just lead you if you would

1 since I made the motion. I do want to enjoin in discussion because  
2 one is that I think that if there are six foot fences that are already  
3 there, there is really continuity in terms of in that area. I've been on  
4 that campus. I've been on that property. I don't know if others  
5 have, but I do know that you got these buildings here. You got the  
6 church building here, you got another building here, you got another  
7 building over here, so you got three buildings and when you start  
8 mixing people together and peopling coming on and off the campus,  
9 it is a problem. I don't know if a four foot -- I know -- I heard what  
10 you're saying, Commissioner Atkins, in terms of what's allowable and  
11 I was on the Commission when we voted years ago on those size of  
12 four foot fences and six foot fences and eight foot fences and step  
13 down fences. I didn't agree with it then, but I was out voted and  
14 probably will be tonight. But the reality of it is I look at what is  
15 consistent. What is consistent is that they are asking for, in my  
16 opinion, the same thing -- maybe eight is too high, but at least  
17 consider keeping it what other people already in that area have.  
18 That's where I am and that's going to be what my position will be  
19 and I would -- this time, I would like to withdraw my motion and  
20 make an addendum to my motion and ask that it be considered as a  
21 six foot fence as opposed to an eight foot fence and that would be  
22 my motion.

23 COMMISSIONER ATKINS: Okay. So is that a substitute?

24 COMMISSIONER FANN: Substitute. I withdrew my main  
25 motion if the maker of the second --

1 COMMISSIONER WARES: I withdrew my second.  
2 COMMISSIONER FANN: Okay. So if she withdrew her  
3 second, I would then now enter in a motion, which would be the  
4 main motion, at this time, to allow for a six foot fence verses an eight  
5 foot fence.  
6 COMMISSIONER ATKINS: Okay. Commissioners, you've  
7 heard the motion. There's a new motion and the original and the  
8 second has been withdrawn and the new motion is for a variance for  
9 a six foot fence. Is there a second?  
10 COMMISSIONER WARES: Mr. Chair, I have a question.  
11 COMMISSIONER ATKINS: We have to have a second and  
12 then so is there a second?  
13 COMMISSIONERS: (No response.)  
14 COMMISSIONER ATKINS: Hearing none, that motion dies for  
15 the lack of a second. Okay. So Commissioners, at this time, I will  
16 entertain any other motions.  
17 COMMISSIONERS: (No response.)  
18 COMMISSIONER ATKINS: Commissioner Sheldon.  
19 COMMISSIONER SHELDON: I make a motion to deny.  
20 COMMISSIONER ATKINS: Is there a second?  
21 COMMISSIONERS: (No response.)  
22 COMMISSIONER ATKINS: Hearing none, the motion also  
23 dies for a lack of a second so we have had a motion to deny and a  
24 new motion for a six foot height, so Commissioners, at this time, I  
25 will entertain any other motions that you may have.

1 COMMISSIONER FANN: Well, I move back to my main  
2 motion, eight feet.

3 COMMISSIONER ATKINS: Okay. Okay. You've heard  
4 Commissioner Fann. He has moved to approve for the eight foot  
5 variance. Is there a second?

6 COMMISSIONERS: (No response.)

7 COMMISSIONER ATKINS: Hearing none, that motion also  
8 dies, so at this point, Commissioners, we're going to have to dispose  
9 of this Agenda Item. So we have to dispose of this Agenda Item, so  
10 I need a motion.

11 COMMISSIONER SHELDON: Motion to defer for further  
12 negotiations.

13 COMMISSIONER ATKINS: Okay. Is there a time certain on  
14 that?

15 COMMISSIONER SHELDON: Thirty days, next January  
16 meeting.

17 COMMISSIONER ATKINS: So that's January. Okay. There is  
18 now a motion on the floor to defer to our next regularly scheduled  
19 meeting in January. Is there a second.

20 COMMISSIONERS: Second.

21 COMMISSIONER ATKINS: Okay. Everybody wants to second  
22 that one.

23 COMMISSIONER FANN: I want to discuss.

24 COMMISSIONER ATKINS: Well, yes, so now it's been  
25 seconded. Now there's discussion. I'm about to ask. Is there any

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discussion?

COMMISSIONER FANN: Yes, I want to discuss for the deferral.

COMMISSIONER ATKINS: Okay. I want it to be clear that once we defer it for thirty days that Staff and the applicants get together and really seriously look at what we can do to remedy this situation so we don't come back thirty days back here again doing the same thing.

COMMISSIONER ATKINS: Okay.

COMMISSIONER FANN: So that's what I would like to see is some serious negotiation in terms of trying to remedy the situation for the school.

COMMISSIONER ATKINS: Any other discussion?

COMMISSIONER WARES: Well, my was just a question. Can we, in fact, ask for a six foot fence, from Staff? Can we, in fact, do that?

MS. HOLMES: The Staff's recommendation would still be denial at six feet.

COMMISSIONER WARES: Okay. So four feet is as tall as it can get?

COMMISSIONER ATKINS: No. So I think your question is can the Commission make a motion for a six foot fence although their request is for eight foot and the answer to that question is, yes. So they've come to the Commission with an application asking to vary from the requirements from four to eight. This Commission has the

1 authority to offer a motion and so that was done and that particular  
2 motion died for a lack of a second. So, yes, this Commission could  
3 ask and move a motion and vote for a six foot fence, so that is, yes.

4 COMMISSIONER WARES: Good. But I guess I was asking  
5 Ms. Holmes. She said it would still be in denial, so that means even  
6 though we deny it --

7 COMMISSIONER ATKINS: No, Staff -- that's Staff's  
8 recommendation.

9 COMMISSIONER WARES: That's their recommendation.

10 COMMISSIONER ATKINS: Right and so our motion and our  
11 approval does not have to be in line or in sync with Staff's  
12 recommendation. That is simply their recommendation.

13 COMMISSIONER WARES: Okay.

14 COMMISSIONER ATKINS: And we could vote completely  
15 different or we could vote in the same way as Staff has  
16 recommended.

17 COMMISSIONER WARES: Okay. But I guess I still want to  
18 know if it's written somewhere that four foot is as high as it could  
19 go?

20 COMMISSIONER ATKINS: Yes, that's the law. That's a part  
21 of the zoning, yes.

22 COMMISSIONER WARES: And that's why she's saying that.  
23 Okay.

24 COMMISSIONER ATKINS: Yes, that's a part of the zoning  
25 law, the zoning code.

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COMMISSIONER FANN: Can I just say something.

COMMISSIONER ATKINS: Sure.

COMMISSIONER FANN: This Commission is charged with and it can, based on -- that's why they come to us for variances and to ask us for consideration. We have that right to recommend because we don't really approve it. The Council really approves it.

MS. HOLMES: You approve variances.

COMMISSIONER ATKINS: It's rezonings we do the recommendation.

COMMISSIONER FANN: I want to be clear on that because I know we used to, when I was here before, we did and this onset has changed. But however, that's why they come here for us because we have the authority to grant variances regardless. We have that authority. I'm only asking -- now Staff, they are going to stick by what they say in terms of what the ordinance say and I appreciate that, but there are also considerations the reason people are granted the opportunity to come to ask for variances.

I say there are some situations here and I think that Staff and the applicant ought to get together to see if we can work out something so that they can both be satisfied so there's a happy medium here between -- which is a business in our City, a contributing business in our City, buying water, buying power in our City, so we need to look at what we can do to work with a long-standing church, now school in our City and give them some reasonable consideration and that's I'm asking for is that Staff sit

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down and see if we can work out something. If it comes back and Staff say they can't work it out and they couldn't work out anything then sobeit and then we'll deal with it in thirty days. That's where I am.

COMMISSIONER ATKINS: Okay.

COMMISSIONER SHELDON: Mr. Chair.

COMMISSIONER ATKINS: Yes, Commissioner Sheldon.

COMMISSIONER SHELDON: I would just like to read that the law states the way it's written and the Planning & Zoning Commission may approve variances only upon making all of the following findings. Those five criteria must be met. That's part of the ordinance. If we do not -- if we want that shifted, then we're going to need to re-legislate that and ask for the City Council to do that.

My caution is that, once again, if we continue to do these kinds of things without requesting that the legislation be enacted properly, then we are setting a precedent and we are opening ourselves to problems down the road similar to all of the duplexes and those things that we have suffered already, so I would just caution that that is the stymying point here for me.

COMMISSIONER ATKINS: Okay. I think that our attorney would like to also say a few words.

ATTORNEY LINDA DUNLAVY: Yes. And just to make it really clear with respect to what this Body is charged with doing. I appreciate Commissioner Fann's recommendation that the Staff take another look at this. However, ultimately, it's this Commission who

1 has to make the decision. Staff cannot sort of negotiate some sort of  
2 agreement with the applicant and determine that is six foot fence or  
3 five foot fence or something other maybe acceptable. And one thing  
4 that I have learned from Ms. Holmes during tonight's conversation  
5 that it's not in the packet that I think this Commission ought to be  
6 aware of. The six foot privacy fence that is in the packet showing as  
7 an existing privacy fence, in my opinion, does not set a precedent for  
8 six foot fences in this particular area because that six foot fence  
9 apparently never got a permit. It's an illegal six foot fence, so I just  
10 thought you ought to be aware of that particular fact and just also be  
11 aware that Staff cannot negotiate with the applicant for some  
12 resolution. It's ultimately going to have to come back to this  
13 authority next month assuming the deferral notion is granted.

14 COMMISSIONER SHELDON: My only suggestion in terms of  
15 negotiation had to do with how these five criteria might be addressed  
16 in terms of hardship and there maybe some other ways to look at  
17 that. That would be, in my opinion, the only way we can support  
18 this.

19 COMMISSIONER ATKINS: Okay. Commissioners, there's a  
20 motion on the floor and it's been properly seconded that this  
21 particular Agenda Item is deferred to our regularly scheduled January  
22 meeting. All in favor sound aye.

23 COMMISSIONERS: Aye.

24 COMMISSIONER ATKINS: All opposed sound nay.

25 COMMISSIONERS: (No response.)

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COMMISSIONER ATKINS: Hearing none, the ayes have it.  
This item is deferred. Our next Agenda Item is -- thank you so much  
for join us. Absolutely.

COMMISSIONER FANN: Happy holidays.

COMMISSIONER ATKINS: Yes, yes.

COMMISSIONER WARES: Thank you.

COMMISSIONER ATKINS: Our next Agenda Item is 2013 "Z"  
as in zebra-017-11. This particular Agenda Item also requires a  
public hearing. Commissioners, at this time, I'll entertain a motion to  
open the public hearing.

COMMISSIONER FANN: Motion to open the public hearing.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER WARES: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner  
Fann, seconded by Commissioner Wares that we open the public  
hearing. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.  
The public hearing is now open. Is there anyone here tonight? Staff  
is the applicant for this and so if you would go ahead and present  
your case for this.

MS. HOLMES: This application is seeking to add several  
definitions to Article A of the zoning ordinance. It will add defer in

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additions for Big Box Retail establishment, it will amend the definition that is currently in our zoning ordinance for convenient store, will provide a definition for food store, provide a definition for pawnshop and will also provide a definition for three types of restaurants within the City causal dining, fast casual and fine dining.

COMMISSIONER ATKINS: Okay. Are there any other proponents for this zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Any other proponents?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Are there any opponents for this zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Any opponents?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Hearing none and seeing none, Commissioners, at this time, I'll entertain a motion to close the public hearing.

COMMISSIONER WARES: So moved.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER FANN: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Wares, seconded by Commissioner Fann that we close the public hearing. All in favor sound aye.

COMMISSIONERS: Aye.

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COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.

The public hearing is now closed. Staff, at this time, I will ask you to please sound your recommendation.

MS. HOLMES: Case Number 2013Z-017-11. Application is an amendment to Part 10, Chapter 2, Article A, Definitions. Staff's recommendation is approval.

COMMISSIONER ATKINS: Okay. Commissioners, you've heard from applicant, which is the City, and you've heard the recommendation from Staff, which is approval. At this time, I'll entertain a motion.

COMMISSIONER SHELDON: Motion to approve.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER WARES: Second.

COMMISSIONER ATKINS: It's been moved and properly seconded. Is there any discussion?

COMMISSIONER WARES: Mr. Chair, just to say thank you forgetting the information that I could read ahead of time, so thank you very much. We appreciate you guys. Thank you.

COMMISSIONER ATKINS: Okay. I have some questions for this. My first question is under Section One, Definitions 10-2003. If we go down to Big Box, third line, actually the sentence for that starts with Regional Retail/Hotel Sales. Should that word be, "are", "are" included but are not limited to membership wholesale clubs?

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MS. HOLMES: Yes.

COMMISSIONER ATKINS: Okay. So then I'd like to change that, "are." In the next section where it says, "convenient store" if you go to next to the last line when it mentions, "the square footage, 7,499 square feet." It's duplicated in there, so I think one of those needs to come out. I'm I correct there?

MS. HOLMES: Yes, sir.

COMMISSIONER ATKINS: Okay. So if we would strike one of those and then on the next page up at, "restaurant" so I'm on Line 46, where it starts, the sentence, "casual dining restaurants usually have a full" -- I think that should be, "bar."

MS. HOLMES: That's correct.

COMMISSIONER ATKINS: I would affray for that to be there. Okay. And let's go down to Line 59. I have a question really here. Should that read, "upon their enactment" so "sentences, clauses and phrases of this ordinance are or were upon their enactment believed by the Mayor and Council be fully valid" so it should be, "upon?"

MS. HOLMES: Yes.

COMMISSIONER ATKINS: Okay. Thank you. And then on Line 62 for consistency sake where it says, "Mayor and Council" that needs to be a large "C" for consistency sake throughout the ordinance. That's all I have. Any other discussion?

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: There's been a motion for approval and there's been a second. All in favor sound aye.

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COMMISSIONERS: Aye with those corrections. Okay. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. The item is recommended approval. Announcements, Staff, are there any announcements?

**IX. ANNOUNCEMENTS:**

MS. HOLMES: No.

COMMISSIONER ATKINS: Okay. On behalf of the Commission, I would just like to wish everyone a very happy, joyous, prosperous and safe holiday season and just would like to say that it's been wonderful to work with all of the Commissioners this year. I think we got a lot achieved in 2013 and I look forward to working with everyone that's going to be on the Commission again next year. Are there any other announcements?

COMMISSIONER SHELDON: Mr. Chair.

COMMISSIONER ATKINS: Yes, Commissioner Sheldon.

COMMISSIONER SHELDON: I would just like to remind everybody that the East Point City Market, Holiday City Market is this Saturday morning from 9:00 to noon.

MS. HOLMES: I think it was extend one hour.

COMMISSIONER SHELDON: Okay. 9:00 to 1:00 at Fire Station One downtown and it's usually pretty wonderful so come on

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out.

COMMISSIONER ATKINS: Okay. Commissioners, at this time -- yes, Commissioner Fann.

COMMISSIONER FANN: I want to announce that the Martin Luther King Commission, Committee will have the Martin Luther King Celebration at the St. Stephen Missionary Baptist Church. I believe I said last month on the 13th, but actually, it's the 12th at 3:00 p.m. at St. Stephen at 2605 Hogan Road. Inviting everyone to come out to celebrate the life and legacy of Dr. Martin Luther King on the 12th of January at 3:00 p.m. St. Stephen Missionary Baptist Church. Thank you.

COMMISSIONER ATKINS: Commissioners, at this time, if there are no other announcements --

COMMISSIONER FANN: Excuse me, and happy holidays.

COMMISSIONER ATKINS: Okay.

COMMISSIONER WARES: I have one. I have one.

COMMISSIONER ATKINS: Okay. Commissioner Wares.

COMMISSIONER WARES: I just wanted to say that it's been exciting to be here to work with all of our citizens and our businesses knowing that for 2014 we are going to live, love and prosper and even make it a fairer City to live in. It's going to be prestigious. Thank you.

COMMISSIONER ATKINS: Thank you.

COMMISSIONER ATKINS: Commissioners, at this time, I will now entertain a motion to adjourn.

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**X. ADJOURNMENT:**

COMMISSIONER WARES: So moved.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER FANN: Second.

COMMISSIONER ATKINS: It's been moved and properly seconded. This meeting is now adjourned. Thank you.

(Whereupon this concludes the City of East Point Planning and Zoning Commission meeting for December 19th, 2013.)

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Attest:

I hereby attest that the foregoing transcript was reported, as stated in the caption, and the questions and answers thereto were reduced to the written page under my direction; that the foregoing pages 1 through 37 represent a true and correct transcript that I am not in any way financially interested in the result of said case.

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

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

The foregoing meeting for the City of East Point Planning & Zoning Commission on December 19, 2013 at seven o'clock P.M. were taken down by me and transcribed by me on this 2nd day of January, 2014.

Jeanene Harper  
Stenographic Stenographer