

1 CITY OF EAST POINT
2 PLANNING & ZONING COMMISSION

3 May 15, 2014 - 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 - Absent**

11 Commissioner Linda **SHELDON**

12 Commissioner Joel **TUCKER, Vice Chair**

13 Commissioner Laura **BORDERS**

14 Commissioner Gregory **FANN, Provisional Chair - Absent**

15 Commissioner Patricia **LOVETT**

16 Commissioner Thomas **CALLOWAY**

17 Commissioner Stephanie **GORDAN**

18 Commissioner Williard **MAXWELL**

19 Also Present:

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

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

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

Richard **RANDOLPH**
City Engineer

Christian **JOLLY**
Videographer

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I. CALL TO ORDER:

COMMISSIONER TUCKER: Good evening. Today's date is May the 15th, 2014 and this is the meeting of the East Point Planning & Zoning Commission. Our Chair, Shean Atkins, is unavailable this evening and as Vice Chair, I will be honored to conduct the meeting instead. We'll start with Roll Call.

II. ROLL CALL:

MS. HOLMES: Commissioner Lovett.
COMMISSIONER LOVETT: Present.
MS. HOLMES: Commissioner Borders.
COMMISSIONER BORDERS: (No response.)
MS. HOLMES: Commissioner Calloway.
COMMISSIONER CALLOWAY: Present.
MS. HOLMES: Commissioner Fann.
COMMISSIONER FANN: (No response.)
MS. HOLMES: Commissioner Atkins.
COMMISSIONER ATKINS: (No response.)
MS. HOLMES: Commissioner Tucker.
COMMISSIONER TUCKER: Here.
MS. HOLMES: Commissioner Sheldon.
COMMISSIONER SHELDON: Here.
MS. HOLMES: Commissioner Gordon.
COMMISSIONER GORDON: Here.
MS. HOLMES: Commissioner Maxwell.
COMMISSIONER MAXWELL: Here.

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MS. HOLMES: Mr. Chair, you have a quorum.

COMMISSIONER TUCKER: Thank you. Commissioner Borders is here as well and if the record could reflect that. In lieu of prayer, this Body offers a Moment of Silence and I ask you to join with me for that.

III. MOMENT OF SILENCE:

COMMISSIONER TUCKER: Thank you. And if you would stand for the Pledge of Allegiance.

IV. PLEDGE OF ALLEGIANCE:

COMMISSIONER TUCKER: All right. Commissioners, at this time, we are needing to adopt the agenda and if we could have a motion on the floor for the adoption of the agenda.

V. ADOPTION OF THE AGENDA:

COMMISSIONER SHELDON: So moved.

COMMISSIONER TUCKER: Could I have a second.

COMMISSIONER CALLOWAY: Second.

COMMISSIONER TUCKER: A motion and a proper second has been made for the adoption of the agenda. All those if favor please indicate so by say aye.

COMMISSIONERS: Aye.

COMMISSIONER TUCKER: All those opposed, nay.

COMMISSIONERS: (No response.)

COMMISSIONER TUCKER: And the ayes have it. Our next item of business is the approval of the April 17th, 2014 minutes. Could I have a motion on the floor for the approval?

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VI. APPROVAL OF THE APRIL 17, 2014 MINUTES:

COMMISSIONER SHELDON: Mr. Chair.

COMMISSIONER TUCKER: Yes, ma'am.

COMMISSIONER SHELDON: I move we adopt and we approve the minutes from the April 17th, 2014 meeting.

COMMISSIONER TUCKER: Thank you, ma'am. Could I have a second.

COMMISSIONER MAXWELL: Second.

COMMISSIONER TUCKER: It's been moved and properly seconded for the approval of the April 17th, 2014 minutes. All those in favor please indicate so by saying aye.

COMMISSIONERS: Aye.

COMMISSIONER TUCKER: All those opposed say nay.

COMMISSIONERS: (No response.)

COMMISSIONER TUCKER: And the ayes have it. Tonight, we have a special presentation for a former member of our Commission, Dr. Bryant and he is here to accept it and Commissioner Sheldon is pleased and honored to be able to read that to you so if you could step up to the podium.

VII. SPECIAL PRESENTATION:

COMMISSIONER SHELDON: It's great to see you. We have here a certificate of appreciation. This certificate is awarded to Dr. William Bryant in recognition of your committed service to and valued expertise shared with a City of East Point Planning & Zoning Commission for four years. Your participation as a member from

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2010 until 2014 represented continued adherence to all ordinances, policies, regulations and procedures adopted by City Council with respect to zoning related matters. We are presenting this to you this evening April 17th and it is signed by the Mayor and my our chairperson and we'll give you your name tag to you just so you can put that somewhere meaningful.

DR. WILLIAM BRYANT: Thank you so much.

COMMISSIONER SHELDON: We miss you.

COMMISSIONER TUCKER: Dr. Bryant, would you take to second and speak to us and if you have any words.

DR. WILLIAM BRYANT: Yes, very quickly. I'm so honored to have come tonight and have been a part of the Planning and Zoning Commission, which I think is the best organization we have in the City. When I was with the group, I know we had our good times and we had our bad times, but when we all came together, we all sang together and that's what I think is very important that we be together and not have disruptions within the group and that's what we did and what I see now is exactly what we did, so I'm very honored to be with you tonight and I will say this: This is still the best group in the City. Thank you so much.

COMMISSIONER TUCKER: Dr. Bryant, again, thank you for your service to the City. It's better because of your service. Our next item on the agenda is Old Business, Regina.

VIII. OLD BUSINESS:

MS. CARTER: Case Number 2014 "P" as in Paul-002-03. The

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applicant is Duke Realty Limited. It is a final plat on the North Commerce Road extension and the applicant is asking for a continued deferral.

COMMISSIONER TUCKER: Okay. The applicant, she stated -- or Application 2014P-002-03 has requested a deferral to our next regularly scheduled meeting in June 2014 and to allow the deferral, it would need to come in the form of a motion, so at this time, I would entertain a motion for deferral.

COMMISSIONER GORDON: Mr. Chair, I move to deferral Case Number 2014P-002-03 to the next monthly meeting.

COMMISSIONER MAXWELL: Second the motion.

COMMISSIONER TUCKER: Thank you, Commissioner Maxwell. We have a proper motion and second on the floor to defer Application Number 2014P-002-03 to our next regularly scheduled meeting in June 2014. All those in favor please say, aye.

COMMISSIONERS: Aye.

COMMISSIONER TUCKER: All those opposed, nay.

COMMISSIONERS: (No response.)

COMMISSIONER TUCKER: And the ayes have it. All right. And our next item on the agenda, Regina, would you sound that, please.

IX. NEW BUSINESS:

MS. CARTER: The Case Number is 2014 "U" as in umbrella-004-04. The applicant is Babbette L. Woodbury. The location is 3409 Washington Road. This is a Special Use Permit for a

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personal residence and this application requires a public hearing.

COMMISSIONER TUCKER: Thank you, Regina. As Regina stated it does require a public hearing. At this time, I will read the rules concerning public hearings.

(Whereupon the rules for public hearings are read into the record.)

COMMISSIONER TUCKER: 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 opposing the proposed amendment would then be provided an opportunity to address the Planning and Zoning Council. The applicant for the proposed amendment or applicant's designated representatives, if any, would be entitled to speak first followed by other speakers in favor of the proposal for a total of fifteen (15) minutes.

Those who oppose the propose zoning amendment will then be permitted to speak for a total of fifteen (15) minutes. By 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 presiding officer may limit the time allotted to each individual speaker other than the zoning applicant.

The zoning applicant may reserve a portion of his or her allotted time for rebuttal. Speakers must adhere to the rules of decorum. Prior to speaking, each speaker shall identify himself or

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herself and state his or her current address. Each speaker shall speak only to the the merits of the proposed zoning decisions under consideration, shall address marks only to the Commission and shall refrain from making personal attacks on any other speaker. The presiding office may refuse the speaker's right to continue, if after first being cautioned, the speaker continues to violate the rules of decorum.

So at this time, having heard the rules of the public hearing, I would entertain a motion to open a public hearing for Case Number 2014U-004-04.

COMMISSIONER SHELDON: So moved.

COMMISSIONER TUCKER: Thank you.

COMMISSIONER BORDERS: Second.

COMMISSIONER TUCKER: It has been moved and properly seconded to open the hearing for Case Number 2014U-004-04 and the hearing is now open and we need to vote. All in favor sound, aye.

COMMISSIONERS: Aye.

COMMISSIONER TUCKER: All opposed say, nay.

COMMISSIONERS: (No response.)

COMMISSIONER TUCKER: And the ayes have it, so we are now in the public hearing session so at this time, is Ms. Woodbury here?

AUDIENCE: I represent her.

COMMISSIONER TUCKER: You do. If you would come up for

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your opportunity to speak and present your case.

(Whereupon Applicant Mr. Woodbury approaches the podium.)

MR. WOODBURY: My name is Mr. Woodbury. I'm here representing my wife, Babbette Woodbury in the application for use permit for a personal care facility at 3409 Washington Road.

COMMISSIONER TUCKER: All right. Would you like to present any other information to the Commission or is that pretty much it.

MR. WOODBURY: What information.

COMMISSIONER TUCKER: Just what you're planning to do. I mean, this is your opportunity to speak about what it is that you'd like.

MR. WOODBURY: We're attempting to reestablish and existing facility that was previously owned by the Catholic Archdiocese as a personal 16-bed personal care facility off of Washington Road. I don't know if there's anything else. That's it.

COMMISSIONER TUCKER: All right. At this time, I would ask if there's anyone here who would like to speak in favor, any proponents for the application or applicant?

AUDIENCE: (No response.)

COMMISSIONER TUCKER: Any proponents?

AUDIENCE: (No response.)

COMMISSIONER TUCKER: And at this time, are there any opponents?

1 AUDIENCE: (No response.)
2 COMMISSIONER TUCKER: Any opponents that would like to
3 speak against the application tonight?
4 AUDIENCE: (No response.)
5 (Whereupon Mr. Joseph Johnson approaches the podium.)
6 COMMISSIONER TUCKER: Good evening.
7 MR. JOHNSON: Good evening. I'm Joseph Johnson, 2865
8 Duke of Gloucester. I just want to know is it in congruent with the
9 Comprehensive Plan of the City of East Point? That's the only
10 comment I have.
11 COMMISSIONER TUCKER: Okay. Thank you, sir. We
12 appreciate it. Are there any other opponents that would like to
13 speak?
14 AUDIENCE: (No response.)
15 COMMISSIONER TUCKER: Oh, I'm sorry.
16 COMMISSIONER CALLOWAY: I actually have a quick question
17 for the applicant and I didn't know if he reserved any of his time to
18 address any of those questions.
19 COMMISSIONER TUCKER: We have to close the public
20 hearing first. Sir, did you want to come back and speak about
21 anything that has been said by any opponents?
22 MR. WOODBURY: No.
23 COMMISSIONER TUCKER: Okay. Thank you. All right. At
24 this time, the applicant has had the opportunity as well, so I would
25 entertain a motion to close the public hearing.

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COMMISSIONER CALLOWAY: So moved.

COMMISSIONER LOVETT: Second.

COMMISSIONER TUCKER: Okay. It's been moved and properly seconded to close the public hearing. All those in favor say, aye.

COMMISSIONERS: Aye.

COMMISSIONER TUCKER: All those opposed say, no.

COMMISSIONERS: (No response.)

COMMISSIONER TUCKER: All right. So it's passed. Regina, if you could sound the recommendation.

MS. CARTER: For Case Number 2014 "U" as in umbrella-004-04, Staff's recommendation is denial of this Special Use Permit to allow the use of a personal care home in the medical institution zoning district, which is not consistent with the 2036 Comprehensive Plan Neighborhood Center, future development vision, intent, goals, use and scale nor the typical zoning district.

COMMISSIONER TUCKER: Okay. So the public hearing has been conducted and we have received Staff's recommendation, so at this time, I will entertain a motion for recommendation concerning Applicant Number 2014U-004-04.

COMMISSIONER SHELDON: Mr. Chair.

COMMISSIONER TUCKER: Yes, ma'am.

COMMISSIONER SHELDON: I make a motion that we recommend denial of this application.

COMMISSIONER TUCKER: Thank you. Is there a second?

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COMMISSIONER BORDERS: I second.

COMMISSIONER TUCKER: Thank you, ma'am. There has been a motion for denial of Applicant 2014U-004 and a proper second. Discussion.

COMMISSIONER CALLOWAY; Mr. Chair.

COMMISSIONER TUCKER: Yes, sir.

COMMISSIONER CALLOWAY: As we have been going through this process, this is the applicant's second time here. Originally, they had an application in for a congregant care home and they deferred and changed their application to a personal care home residence, which was nor congruent to what they were trying to do. Personally, I would love to see this property come back online, be a viable business in our City. It is a large building. It originally was used as a person care home residence. It was purpose built, in my opinion, for that use and by when we deny these Special Use Permits we run the risk of just maintaining a vacant property and not actually having anyone in that property and it not actually producing anything bountiful for our community.

The main problem that I did have was that the Special Use Permit has a couple of specifics in here that prevented me from approving this application and until these were met where variance was applied for or there was a deferral so that a variance could be applied for and I'm specifically speaking to Number Three on Section 10-2139 of our codes and ordinances, which it provides for a 50-foot building setback from single family districts and/or AG1 Districts

1 when used, forcing a family -- in this particular instance, this building
2 is only a little over 42 feet on the setback. As much as I would like to
3 approve this special use, until Number Three is actually met with --
4 unfortunately I cannot approve that nor allow this project to move
5 forward. I think it's important that we understand that these rules
6 and regulations -- no matter how much I would like to see that
7 facility come into being, these rules and regulations are set forth so
8 that our citizens and especially those living close by -- their personal
9 property and rights are not encroached upon and like I said, as such
10 as I would like to see and say that East Point is open for business, we
11 do have these rules and regulations and we have to take them into
12 consideration. Thank you for your time.

13 COMMISSIONER TUCKER: Thank you, Commissioner
14 Calloway. Are there any other comments or discussions by any other
15 Commissioners?

16 COMMISSIONERS: (No response.)

17 COMMISSIONER TUCKER: Okay. There has been a motion to
18 deny recommendation and a proper second, so at this time, I would
19 ask all those in favor of the motion to deny recommendation, please
20 say, aye.

21 COMMISSIONERS: Aye.

22 COMMISSIONER TUCKER: All those opposed say, no.

23 COMMISSIONER LOVETT: I oppose.

24 COMMISSIONER TUCKER: I'm sorry.

25 COMMISSIONER LOVETT: I opposed.

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COMMISSIONER TUCKER: You opposed. Okay. All right. Well, the ayes have it on that. I think that concludes our business for tonight. Are there any announcement by Staff tonight?

X. ANNOUNCEMENTS:

MS. CARTER: None.

COMMISSIONER TUCKER: Any announcement by any Commissioners?

COMMISSIONER BORDERS: I have a question for Staff. I believe we're signed up to go to the seminar on this coming Tuesday.

COMMISSIONER CALLOWAY; Mr. Commissioner.

COMMISSIONER TUCKER: Yes, sir.

COMMISSIONER CALLOWAY: I just wanted to ask -- our last Work Session, other than the cases that were brought before us, we looked at the RLUPA Laws and as we continue to move forward and took a look at our ordinances and make sure they are in compliance with RLUPA, I know that we are also working on our bylaws, so we have a very heavy workload in addition to the cases that are before us, but as we're working towards that, if there is anyway that we could possibly get a list, just the numbers of the ordinances; for instance, you know, Section 10 -- and a list of those ordinances, if we could have that by -- and whether it's prepared by us or Staff or our attorney, that we can began -- we could have those at our next Work Session and so that we can start looking at those as it goes on down the road. We can keep this process moving along so that we will have this finish and on time.

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ATTORNEY LINDA DUNLAVY: Well, I have not be charged with, you know, drafting any ordinances that deal with religious land use. However, it would seem to me that if this Commission is interested in having some review done of our ordinances, I can certainly take that up with Staff and the City Attorney to see how the acting City Attorney would like to proceed with this and we could discuss it at the next Work Session, identifying any issues that I see so long as that's acceptable to the acting City Attorney. Absolutely.

COMMISSIONER CALLOWAY: And one reason I brought it up, I know that Council is -- they're beginning a scheduled of the review of their ordinances, the new Council and having spoken with a few Council members, that there maybe potentials for conflict and that we may not be in accordance with these federal laws, that they may be moved up towards the front of that review process and listening to what you had to say, but the reason I brought it up is I do want to try to stay ahead of the law on this.

ATTORNEY LINDA DUNLAVY: I certainly understand and appreciate that. I don't have any control over what takes priority, so I will take that up with the acting City Attorney and I'll let this Body know at the next Work Session what the City Attorney's desire is in that regard.

COMMISSIONER CALLOWAY: Thank you very much. I appreciate that.

COMMISSIONER SHELDON: And you know that the ordinance is available online for your review and it has, I leave, a table of

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contents so you can read it.

COMMISSIONER CALLOWAY: Yes. Because there are so many ordinances, I was just -- I didn't want them to say I'll print it out you, but maybe a crib list of the actual ordinances so that when we go through it, it would help prevent -- because I'm not -- it would help prevent me from having to go through each and every one of those ordinances and trying to say, oh, is this germane or that germane since I don't necessarily have the legal background.

ATTORNEY LINDA DUNLAVY: I'm more than willing to prepare something along those lines for the next session. That's not a problem.

COMMISSIONER CALLOWAY: Well, whenever it's convenient.

ATTORNEY LINDA DUNLAVY: Okay.

COMMISSIONER TUCKER: All right. Commissioner Calloway, so you've gotten the answers to your questions?

COMMISSIONER CALLOWAY: Yes.

COMMISSIONER TUCKER: Okay.

COMMISSIONER CALLOWAY: Thank you, Mr. Chair.

COMMISSIONER TUCKER: Yes, sir. So having conducted the business that is on our agenda for this evening, I would entertain a motion to adjourn.

XI. ADJOURNMENT:

COMMISSIONER MAXWELL: I move.

COMMISSIONER LOVETT: Second.

COMMISSIONER TUCKER: It's been properly moved and

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seconded for a motion to adjourn. All those in favor say, aye.

COMMISSIONERS: Aye.

COMMISSIONER TUCKER: All those opposed say, nay.

COMMISSIONERS: (No response.)

COMMISSIONER TUCKER: And the ayes have it.

(Whereupon this concludes the May 15, 2014 City of East
Point Planning and Zoning Commission meeting.)

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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 20 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 May 15, 2014 at seven o'clock P.M. were taken down by me and transcribed by me on this 30th day of May, 2014.

Jeanene Harper
Stenographic Stenographer