

In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

September 16, 2013

American Court Reporting Company, Inc.

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

Transcript of the City Council meeting

held in the Council Chamber at Doraville

City Hall, 3725 Park Avenue, Doraville,

Georgia, Mayor Donna Pittman presiding,

before Theresa Bretch, Certified Court
Reporter, commencing at 6:30 p.m. on

September 16, 2013.

* * *

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1 P R O C E E D I N G S
2 MAYOR PITTMAN: Welcome to everyone. We're
3 glad you came out tonight. We will be having a
4 meeting. We will be going into Executive Session in a
5 few minutes and then we'll continue on with our
6 meeting and our public hearings; and then after that,
7 we will close that meeting and go into a work session;
8 and at the end of the work session, we will go into
9 Executive Session again, just to give you a little
10 briefing on how the meetings are going to work
11 tonight.
12 So if I could get you to call the roll,
13 please.
14 DEPUTY CLERK ROCKELEIN: Council Alexander?
15 COUNCILMEMBER ALEXANDER: Here.
16 DEPUTY CLERK ROCKELEIN: Council Bates?
17 COUNCILMEMBER BATES: Here.
18 DEPUTY CLERK ROCKELEIN: Council Dean?
19 COUNCILMEMBER DEAN: Here.
20 DEPUTY CLERK ROCKELEIN: Council Fleming?
21 COUNCILMEMBER FLEMING: Here.
22 DEPUTY CLERK ROCKELEIN: Council Pachuta?
23 COUNCILMEMBER PACHUTA: Here.
24 DEPUTY CLERK ROCKELEIN: Council Patrick?
25 COUNCILMEMBER PATRICK: Here.

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1 APPEARANCES:
2 Doraville City Council:
3 Mayor Donna Pittman
4 Councilmember Maria Alexander
5 Councilmember Brian Bates
6 Councilmember Trudy Jones Dean
7 Councilmember Pam Fleming
8 Councilmember Karen Pachuta
9 Councilmember Robert Patrick
10 Shawn Gillen, City Manager
11 Sandra Bryant, City Clerk
12 Connie Rockelein, Deputy City Clerk
13
14 Cecil G. McClendon, Jr., City Attorney
15 Leonid Felgin, Associate City Attorney
16
17
18
19
20
21
22
23
24
25

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1 MAYOR PITTMAN: Okay. Thank you.
2 Please rise for the Pledge.
3 - - -
4 (Pledge of Allegiance)
5 - - -
6 MAYOR PITTMAN: Thank you. We don't have
7 any minutes to approve on this agenda.
8 I need approval of this meeting agenda.
9 Does anyone have any questions or can I get a motion
10 to approve the agenda?
11 COUNCILMEMBER DEAN: So moved.
12 MAYOR PITTMAN: Second?
13 COUNCILMEMBER PATRICK: Second.
14 MAYOR PITTMAN: Discussion?
15 - - -
16 (No response)
17 - - -
18 MAYOR PITTMAN: Call the roll, please.
19 DEPUTY CLERK ROCKELEIN: Council Alexander?
20 COUNCILMEMBER ALEXANDER: Yes.
21 DEPUTY CLERK ROCKELEIN: Council Bates?
22 COUNCILMEMBER BATES: Yes.
23 DEPUTY CLERK ROCKELEIN: Council Dean?
24 COUNCILMEMBER DEAN: Yes.
25 DEPUTY CLERK ROCKELEIN: Council Fleming?

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1 COUNCILMEMBER FLEMING: Yes.
 2 DEPUTY CLERK ROCKELEIN: Council Pachuta?
 3 COUNCILMEMBER PACHUTA: Yes.
 4 DEPUTY CLERK ROCKELEIN: Council Patrick?
 5 COUNCILMEMBER PATRICK: Yes.
 6 MAYOR PITTMAN: Okay. Thank you.
 7 Okay. Next is going to be Public Comment.
 8 This is anything that you wish to speak on. You have
 9 three minutes. If you would like to come to the
 10 podium and speak, please state your name for the court
 11 reporter. Three minutes if you wish to make any
 12 public comment.
 13 Keep in mind that we will have an
 14 opportunity under New Business to speak on that
 15 particular in item public hearing. So if you would
 16 like to wait to speak on that particular item, you can
 17 do that in the public hearing.
 18 Anyone wishing to speak, please come
 19 forward.
 20 MR. GARY FURROW: Hi. I'm Gary Furrow,
 21 (spelling) F-u-r-r-o-w.
 22 I wanted to see, I had looked at an agenda
 23 and it mentioned that you were going to talk about the
 24 new -- the new architectural design. Is that not
 25 happening in this meeting or is it in an executive

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1 session?
 2 MAYOR PITTMAN: We are, on the meeting
 3 agenda, the meeting after this one.
 4 MR. FURROW: Ah.
 5 MAYOR PITTMAN: I believe under 7,
 6 Unfinished Business, under b) is Architectural
 7 Standards.
 8 MR. FURROW: Okay. I was just hoping that
 9 the Council would consider delaying approval of that,
 10 of those design guidelines, for another month for
 11 further study.
 12 I was just reading through them, and it --
 13 it appears somewhat -- I hate to say it, somewhat
 14 thrown together, because I mean there were references
 15 to Orange County in them. So it looks like maybe you
 16 just paste-and-copied out of various ordinances, so it
 17 looked somewhat haphazard, so I wondered if we could
 18 have a chance to look at them.
 19 Thank you.
 20 MAYOR PITTMAN: Anyone else wishing to
 21 speak?
 22 ---
 23 (No response)
 24 ---
 25 MAYOR PITTMAN: Okay. At this time, we're

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1 going to close the public hearing portion -- I mean
 2 the public comment portion.
 3 And I guess at this time we will go into
 4 Executive Session if I could get a motion, please.
 5 COUNCILMEMBER ALEXANDER: So moved.
 6 MAYOR PITTMAN: Second?
 7 COUNCILMEMBER PATRICK: Second.
 8 ATTORNEY McCLENDON: And this would be for
 9 the purpose of litigation, and I'd ask that Mr.
 10 Bergthold also come in with us.
 11 MAYOR PITTMAN: Thank you.
 12 Call the roll, please.
 13 DEPUTY CLERK ROCKELEIN: Council Alexander?
 14 COUNCILMEMBER ALEXANDER: Yes.
 15 DEPUTY CLERK ROCKELEIN: Council Bates?
 16 COUNCILMEMBER BATES: Yes.
 17 DEPUTY CLERK ROCKELEIN: Council Dean?
 18 COUNCILMEMBER DEAN: Yes.
 19 DEPUTY CLERK ROCKELEIN: Council Fleming?
 20 COUNCILMEMBER FLEMING: Yes.
 21 DEPUTY CLERK ROCKELEIN: Council Pachuta?
 22 COUNCILMEMBER PACHUTA: Yes.
 23 DEPUTY CLERK ROCKELEIN: Council Patrick?
 24 COUNCILMEMBER PATRICK: Yes.
 25 MAYOR PITTMAN: Okay. We're going to break

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1 into the conference room and we'll be back shortly.
 2 ---
 3 (Executive Session)
 4 ---
 5 MAYOR PITTMAN: Okay. If I could get a
 6 motion to come out of Executive Session, please.
 7 COUNCILMEMBER ALEXANDER: So moved.
 8 MAYOR PITTMAN: Second?
 9 COUNCILMEMBER PACHUTA: Second.
 10 MAYOR PITTMAN: Discussion?
 11 ---
 12 (No response)
 13 ---
 14 MAYOR PITTMAN: Call the roll, please.
 15 DEPUTY CLERK ROCKELEIN: Council Alexander?
 16 COUNCILMEMBER ALEXANDER: Yes.
 17 DEPUTY CLERK ROCKELEIN: Council Bates?
 18 COUNCILMEMBER BATES: Yes.
 19 DEPUTY CLERK ROCKELEIN: Council Dean?
 20 COUNCILMEMBER DEAN: Yes.
 21 DEPUTY CLERK ROCKELEIN: Council Fleming?
 22 COUNCILMEMBER FLEMING: Yes.
 23 DEPUTY CLERK ROCKELEIN: Council Pachuta?
 24 COUNCILMEMBER PACHUTA: Yes.
 25 DEPUTY CLERK ROCKELEIN: Council Patrick?

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1 COUNCILMEMBER PATRICK: Yes.
2 MAYOR PITTMAN: Okay. Thank you.
3 Next we're going to move into Unfinished
4 Business. This is the Final Action for the
5 Conditional Use Permit for the Church O/I for 2000
6 Clearview Avenue, Suite 214, Parcel No. 18 311 04 025.
7 MR. LUKE HOWE: Thank you, Mayor. I'll be
8 presenting this on behalf of Mr. Cooley.
9 Mr. Omar Zamudio has applied for a
10 conditional use permit on behalf of a place of
11 worship. The church would be located at 2000
12 Clearview Avenue, Suite 214, under the O & I zoning
13 classification. It has been determined that the
14 proposed church is compatible with the existing land
15 use and Comprehensive Plan.
16 Council previously approved the applicant
17 for a CUP in February for Suite 116 in that same
18 building. According to his application, 214 is a
19 little more conducive to his needs. The Planning
20 Commission unanimously recommended approval of the CUP
21 at their September 11th meeting with the conditions
22 that no outside activities or events be allowed and
23 that the CUP for Suite 116 be repealed.
24 Staff recommends CUP approval with
25 conditions determined by Council.

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1 MAYOR PITTMAN: Okay. Ms. Alexander, do you
2 have questions?
3 COUNCILMEMBER ALEXANDER: No, ma'am.
4 MAYOR PITTMAN: Mr. Bates?
5 COUNCILMEMBER BATES: Not at present.
6 MAYOR PITTMAN: Ms. Pachuta?
7 COUNCILMEMBER PACHUTA: No. And I believe
8 we already had the public hearing; correct?
9 MAYOR PITTMAN: Yes, we did.
10 MR. HOWE: Yes, ma'am.
11 MAYOR PITTMAN: Ms. Fleming?
12 COUNCILMEMBER FLEMING: No.
13 MAYOR PITTMAN: Ms. Dean?
14 COUNCILMEMBER DEAN: Yeah. Do we yet have a
15 clear understanding of the suites? The last time we
16 discussed this, there was no -- we didn't know where
17 the suites were; there was nothing on record
18 indicating which suite was where.
19 MR. HOWE: Suite 114 is upstairs.
20 MAYOR PITTMAN: And it's on the door?
21 There's something on the record indicating which is
22 which --
23 COUNCILMEMBER PACHUTA: 214?
24 COUNCILMEMBER DEAN: Which is which?
25 MR. HOWE: Yes, ma'am. They have a sign and

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1 they have door postings as well.
2 COUNCILMEMBER DEAN: Okay. And do we know
3 if this company has done anything to formalize them-
4 selves with the State?
5 MR. HOWE: I wouldn't know, but I would -- I
6 would imagine that would be part of the . . .
7 ATTORNEY McCLENDON: I have nothing that
8 suggests they have. But again --
9 COUNCILMEMBER PACHUTA: It's not a require-
10 ment.
11 ATTORNEY McCLENDON: -- they can do that,
12 but to get their zoning, it's not really a
13 prerequisite.
14 COUNCILMEMBER DEAN: Right. It's not a
15 require- -- I mean they did not have it last time they
16 were here, so I'm just wondering if they have since
17 then.
18 MAYOR PITTMAN: Well, they're here. If you
19 would --
20 COUNCILMEMBER DEAN: Right.
21 MAYOR PITTMAN: -- like to step up and
22 answer that question, please.
23 MR. LUIS PEREZ: Good afternoon. My name is
24 Luis Perez and I'm the pastor, and we just applied for
25 a nonprofit organization and, you know, all the papers

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1 he's working on. And we just got the phone number and
2 location for the -- for the lawyer in case, you know,
3 you got any questions. And we are just working on the
4 street like, you know, just for the regular service,
5 and any other questions.
6 And we just got the papers of the location.
7 I don't know if somebody got another question?
8 COUNCILMEMBER DEAN: With the Secretary of
9 State. You filed with the Secretary of State?
10 MR. PEREZ: I think so. It's what the
11 lawyer is working on.
12 COUNCILMEMBER DEAN: They're working on it.
13 MR. PEREZ: Yes, because, you know, I just
14 called him the other day, he is working with all their
15 requirements, and they said they're still working on
16 it.
17 COUNCILMEMBER DEAN: Okay. Why is this
18 difficult? I'm just curious. Why is this --
19 COUNCILMEMBER BATES: A C-3 is extremely
20 difficult.
21 COUNCILMEMBER DEAN: I know. I know, Brian.
22 MR. PEREZ: Yeah. They say they need to
23 fill it out, paperwork is what . . .
24 COUNCILMEMBER DEAN: Okay. All right.
25 MR. PEREZ: My daughter is here. Maybe she

1 can explain to you better.
 2 COUNCILMEMBER DEAN: I know the process.
 3 I've done a couple of them myself.
 4 MR. PEREZ: Okay.
 5 COUNCILMEMBER DEAN: And my concern is that
 6 I asked about this when you were first here several
 7 months ago, and that's certainly enough time to have
 8 it done. I mean I just like things done orderly, so
 9 that's -- that's just why I'm asking these questions:
 10 because I like all the T's crossed the I's dotted.
 11 MR. PEREZ: Okay.
 12 COUNCILMEMBER DEAN: So that's why I'm
 13 asking.
 14 COUNCILMEMBER PACHUTA: But my concern is
 15 that it's not related to the conditional use permit,
 16 and, legally, I don't know that we can require a
 17 church to register as a nonprofit or not, and I think
 18 we would be overstepping our boundaries.
 19 COUNCILMEMBER DEAN: Well, why don't we ask
 20 our City Attorneys?
 21 ATTORNEY McCLENDON: Well, that was what I
 22 was saying was, you know, I think that you can
 23 certainly inquire where they are in that process.
 24 COUNCILMEMBER DEAN: Uh-huh.
 25 ATTORNEY McCLENDON: However, having done

1 churches, and I put that term in quotes.
 2 The issue that was raised at the Planning
 3 Commission was that at the time we heard the
 4 application, there was not a room and office on the
 5 second floor actually designated as 214 or 208;
 6 however, the property management said that would be
 7 forthcoming, so that may answer one of your questions.
 8 I do think, going forward, that we as a city
 9 need to clarify who or what the applicant is upon
 10 receipt of the application so that we don't walk into
 11 this nonprofit versus tax-exempt. Generally, in the
 12 state of Georgia, probably in the country, a church
 13 does not need to have a 501(c)(3) tax-exempt status
 14 that they would obtain from the IRS. They're a
 15 nonprofit; they can receive contributions, donations
 16 if you will. The kicker is typically a church will
 17 want to go through that process so that their members,
 18 their contributors, get credit on the tax return for
 19 their contributions to that entity. So that may
 20 answer part of your other question.
 21 COUNCILMEMBER DEAN: Thank you.
 22 MS. GILMAN: Any questions for me from . . .
 23 - - -
 24 (No response)
 25 - - -

1 that is not a prerequisite to us issuing --
 2 COUNCILMEMBER DEAN: Okay. Right.
 3 ATTORNEY McCLENDON: -- the permit.
 4 COUNCILMEMBER DEAN: Okay.
 5 MR. PEREZ: Yeah. We asking the lawyer, you
 6 know, we just step by step; and they say, you know,
 7 just especially because the profit or the money, you
 8 know, we just get it. It's -- you know, make a
 9 process and, you know, cost already \$7,000,000, and
 10 we're just working on it.
 11 COUNCILMEMBER DEAN: Thank you.
 12 MR. PEREZ: Thanks, ma'am.
 13 MAYOR PITTMAN: Okay. Thank you.
 14 Ms. Gilman, on behalf of the Planning
 15 Commission, do you have anything you'd like to add?
 16 MS. CAROL GILMAN: Yes. Thank you, Mayor.
 17 Carol Gilman with the Planning Commission.
 18 I think one of the issues that came up is
 19 how -- how the organization was being referred: a
 20 church, which has a distinct legal existence; a
 21 religious organization, which is not a church, or a
 22 faith-based nonprofit. And I believe the process has
 23 been inconsistent as we refer to this applicant; and I
 24 think that really needs to be clarified with this
 25 application as well as future applications for

1 MAYOR PITTMAN: Thank you, Ms. Gilman.
 2 Mr. Howe, did you have anything else that
 3 you wanted to --
 4 MR. HOWE: No, ma'am.
 5 MAYOR PITTMAN: Gentlemen, did you have
 6 anything else?
 7 MR. PEREZ: (Gesturing)
 8 MAYOR PITTMAN: So I guess we need a motion?
 9 COUNCILMEMBER PACHUTA: I'll make a motion
 10 to grant the conditional use permit for a church at
 11 2000 Clearview Avenue, Suite 214, with the condition
 12 of no outside activities or events to be allowed.
 13 MAYOR PITTMAN: Do I get a second?
 14 COUNCILMEMBER BATES: Second.
 15 MAYOR PITTMAN: Discussion?
 16 - - -
 17 (No response)
 18 - - -
 19 DEPUTY CLERK ROCKELEIN: Council Alexander?
 20 COUNCILMEMBER ALEXANDER: Yes.
 21 DEPUTY CLERK ROCKELEIN: Council Bates?
 22 COUNCILMEMBER BATES: Yes.
 23 DEPUTY CLERK ROCKELEIN: Council Dean?
 24 COUNCILMEMBER DEAN: No.
 25 DEPUTY CLERK ROCKELEIN: Council Fleming?

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1 COUNCILMEMBER FLEMING: Yes.
 2 DEPUTY CLERK ROCKELEIN: Council Pachuta?
 3 COUNCILMEMBER PACHUTA: Yes.
 4 DEPUTY CLERK ROCKELEIN: Council Patrick?
 5 COUNCILMEMBER PATRICK: Yes.
 6 MAYOR PITTMAN: Thank you. Motion carried.
 7 Okay. Next under New Business is going to
 8 be a public hearing for the City-Initiated Zoning
 9 Action to Nullify Previously Approved CUP for a Place
 10 of Worship at 2000 Clearview Avenue, Suite 116, Parcel
 11 18 311 04 025. Mr. Howe?
 12 MR. HOWE: Yes, ma'am.
 13 As the Mayor said, this is a City-initiated
 14 zoning action to repeal or nullify, rather, the
 15 previously-approved CUP for a place or worship located
 16 at 2000 Clearview Avenue, Suite 116.
 17 Mr. Cooley's report said that the Planning
 18 Commission had not heard this at the last meeting. Is
 19 that correct?
 20 MS. GILMAN: That is incorrect.
 21 MR. HOWE: Okay. But Mr. Cooley recommends
 22 this moving forward.
 23 MAYOR PITTMAN: Okay. Ms. Gilman, did you
 24 have anything?
 25 MS. GILMAN: Thank you again, Mayor.

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1 The idea is to not leave the CUP just
 2 hanging out there in limbo that was previously
 3 approved. With the applicant going to the new
 4 location, then we wanted to revisit the first approval
 5 and acknowledge that the applicant was no longer going
 6 to occupy that space and then nullify it.
 7 MAYOR PITTMAN: Okay. Thank you.
 8 Ms. Alexander, questions?
 9 COUNCILMEMBER ALEXANDER: No, ma'am.
 10 MAYOR PITTMAN: Mr. Bates?
 11 COUNCILMEMBER BATES: No.
 12 MAYOR PITTMAN: Ms. Pachuta?
 13 COUNCILMEMBER PACHUTA: No.
 14 MAYOR PITTMAN: Mr. Patrick?
 15 COUNCILMEMBER PATRICK: No.
 16 MAYOR PITTMAN: Ms. Fleming?
 17 COUNCILMEMBER FLEMING: Do you show any
 18 record that we have followed our criteria for City-
 19 initiated rezonings in your packet?
 20 MR. HOWE: In the past?
 21 COUNCILMEMBER FLEMING: In your packet for
 22 this particular location.
 23 MR. HOWE: No, ma'am.
 24 ATTORNEY McCLENDON: I don't know it's --
 25 MR. HOWE: There's nothing in --

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1 ATTORNEY McCLENDON: I don't know it's in
 2 the packet. I do believe that this is a public
 3 hearing that's been advertised.
 4 What we're really doing is going through the
 5 Zoning Procedures Act in reference to this action to
 6 undo the previous use permit. I don't know if the
 7 documents are in there, but my understanding from Mr.
 8 Cooley is he was going through this process the same
 9 as we do for any zoning action. I don't have first-
 10 hand knowledge, but for what it's worth.
 11 COUNCILMEMBER FLEMING: So we have not
 12 notified the owner of the building that we're going to
 13 do a City-initiated rezoning of that particular suite
 14 to take the CUP off of it; is that correct?
 15 ATTORNEY McCLENDON: Going through the
 16 Zoning Procedures Act would require us to put a sign
 17 on the property, put a public notice in the newspaper
 18 and advertise for 15 days prior to this hearing; so
 19 there's been a good bit of notice that's part of the
 20 Zoning Procedures Act. I don't know about a specific
 21 letter to them. That would be something Mr. Cooley
 22 would know. I do not.
 23 COUNCILMEMBER FLEMING: Okay. But this
 24 particular hearing when we make our decision is to in
 25 fact remove it. And once tonight is over with, it's

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1 removed. Is that correct?
 2 ATTORNEY McCLENDON: Basically we go through
 3 -- the same steps you go through to put one on is
 4 required to take one off. So really you're going to
 5 go ahead and have the hearing tonight. And if you
 6 wanted to have the two reads, you would actually come
 7 and take the action in a follow-up meeting which would
 8 be the second reading of the ordinance removing this
 9 condition, this allowable use permit.
 10 COUNCILMEMBER FLEMING: Okay. I go back to
 11 our own ordinances where we have on record in our own
 12 ordinances that we have specific criteria that we must
 13 follow for a City-initiated rezoning so that we can --
 14 and I was specific in this ordinance: so that we
 15 would not be taking people's property away from them
 16 without proper notification to them. And so just the
 17 zoning of putting a sign on somebody's property was
 18 not acceptable because they might not be even an on-
 19 site person living there, that they needed to be
 20 personally notified that we were going to rezone their
 21 property out from under them. Okay?
 22 ATTORNEY McCLENDON: What I would --
 23 COUNCILMEMBER FLEMING: And if we have not
 24 done that, then I think we're not following our own
 25 ordinances.

1 ATTORNEY McCLENDON: And I have no specific
2 knowledge of that. That would be a Mr. Cooley
3 question.

4 I can say that if we were going to take our
5 action consistent with how we've been doing it in the
6 past, that the next meeting I suspect Mr. Cooley would
7 be here, who could address those issues.

8 I have no reason to believe he has not
9 followed all of our ordinances and the Zoning
10 Procedures Act in this. I would suspect he has, but I
11 can't sit and testify to it.

12 MAYOR PITTMAN: Ms. Gilman, did you have
13 something you wanted to add to that?

14 MS. GILMAN: Yes, Mayor. I believe the
15 process was a wee bit muddled in that the original
16 building space, office space, if you will, in this
17 office park was never prepared for occupation because
18 a stop order was placed on it by the City of Doraville
19 Quality of Life Department.

20 It was under construction, never completed
21 at the time the applicant decided to move to another
22 building, a different suite that was already
23 completed, already built out. This original office
24 space was still not completed. It's a matter of
25 convenience. Rather than going to the expense of

1 completing that first space, the applicant and the
2 building management just decided jointly, we'll take
3 another space. It's already built out.

4 That stop order may very well be -- that
5 sticker may very well be on the door. It was at the
6 last time the Planning Commission addressed this
7 application and I completed a site visit.

8 So I appreciate what Councilmember Fleming
9 is saying about due process. At the same time, these
10 particular set of circumstances don't quite fit,
11 because the space wasn't ready initially, the
12 applicant wasn't a church initially. You might say
13 that the application was premature.

14 But here we are now. Space is available,
15 this organization is ready to go forward as some type
16 of religious organization, and the other space is not
17 built out. It's not a matter of taking the property
18 away from them. It's a matter of recognizing that
19 there is no space available, if that clarifies in
20 part.

21 COUNCILMEMBER FLEMING: Though I appreciate
22 your comments, this Council at a previous meeting
23 approved the CUP which was a rezoning which put that
24 CUP on Suite 116 or whatever, so it's there regardless
25 of the buildout.

1 MS. GILMAN: And that's why we want to
2 nullify it.

3 COUNCILMEMBER FLEMING: I realize that, but
4 we put it on there. Okay? I mean it's --

5 MS. GILMAN: Yes, it is.

6 COUNCILMEMBER FLEMING: It is now O&I with a
7 condition.

8 MS. GILMAN: Until Council nullifies it, it
9 most certainly is.

10 COUNCILMEMBER FLEMING: That is correct. But
11 we as Council many years ago, several years ago, have
12 put criteria in effect to make sure that we're not
13 going to take anything away from an owner of the
14 property, not a business. The owner, okay, so --

15 And I understand where you're coming from --

16 MS. GILMAN: Sure.

17 COUNCILMEMBER FLEMING: -- but this Council
18 has approved the CUP, this Council needs to take away
19 the CUP regardless of the way the building -- for that
20 matter, the building doesn't even have to exist.

21 MS. GILMAN: On that, we agree.

22 COUNCILMEMBER FLEMING: You know, the land
23 does. So I understand where you're coming from and
24 I'm not going to argue the point any further. But if
25 we have not followed the criteria that we have in our

1 ordinances, I'm going to have to vote no on this.

2 MS. GILMAN: Sure. No argument, ma'am; just
3 clarification.

4 COUNCILMEMBER FLEMING: That's fine.

5 MAYOR PITTMAN: Thank you, Ms. Gilman.
6 Ms. Dean?

7 COUNCILMEMBER DEAN: I'm good.

8 MAYOR PITTMAN: Okay. Did you have anything
9 else you wanted to add before I open the public
10 hearing?

11 MR. HOWE: No, ma'am.

12 MAYOR PITTMAN: Okay. At this time, we're
13 going to open the public hearing portion of this.
14 Please state your name for the court clerk. We're
15 going to have a total of 10 minutes for the whole
16 hearing for and against. If you speak for 10 minutes,
17 then no one else will be able to speak.

18 So those wishing to speak for this, please
19 come forward. Anyone wishing to speak for this.

20 MR. TOM HART: Tom Hart, Gordon Heights.
21 I'm speaking for the CUP removal? Is that what I'm
22 speaking for?

23 MAYOR PITTMAN: Speak up just a little bit.

24 MR. HART: Is it dead?

25 MAYOR PITTMAN: Just talk a little louder.

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1 It's on.
 2 MR. HART: Okay. Can you hear me?
 3 MAYOR PITTMAN: There you go.
 4 MR. HART: Okay. I suppose this is speaking
 5 for the CUP or the removal of the CUP. Is that
 6 what --?
 7 I agree with Pam that there are procedures
 8 to doing all thee things whether we're talking about
 9 subdivision of property or rezoning property. There's
 10 a set of procedures and posting the signs and letting
 11 the public know what you're doing, okay, also letting
 12 the property owner know what you're doing.
 13 But we've got a lot of these CUPs hanging
 14 all over the city that need to be addressed as well as
 15 this --
 16 COUNCILMEMBER FLEMING: I agree.
 17 MR. HART: -- and the same procedures need
 18 to be gone through. And the City needs to get
 19 cracking doing this, because we're left out to dry on
 20 a lot of these things because they're problems.
 21 So I agree totally that the procedures need
 22 to be followed each time and that people actually read
 23 the zoning book that we have for the city and the
 24 building code for the city and they're followed,
 25 because there's no follow-up on any of the stuff.

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1 That's why we're in -- that's why we have a
 2 problem right now. You don't follow any of the rules.
 3 So in this case, I agree totally they need to go
 4 through the same procedures like you would -- you
 5 know, like Carver Circle needs to be revisited, you
 6 know. The things are just hung out to -- you know,
 7 and the people need --
 8 The Building Department here or the Zoning
 9 Department or whatever-the-heck department they call
 10 it back there need to follow the same procedures each
 11 time and get the right address for the zoned property
 12 and get the right sign on the right lot. That hasn't
 13 been done the last three times. They're on the wrong
 14 lot, wrong addresses, wrong everything.
 15 So the Council has to put pressure on the
 16 Building and Zoning office here to follow these
 17 procedures and do it correctly each time. That is the
 18 problem. Thank you.
 19 MS. CINDY BRADFORD: Cindy Bradford,
 20 Northwoods.
 21 I'm for removing this CUP because I want
 22 this space to for sure go back to what it was
 23 originally intended to be used for. I think that the
 24 original application to acquire the CUP to begin with
 25 was the church, not the owner of the property.

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1 So with that being said since the owner
 2 didn't ask for it to begin with, I mean I understand
 3 procedures and everything but I also think it's
 4 important to go ahead and get this changed back
 5 instead of, like Tom said, having dangling CUPs all
 6 over the city, because that would just make it easy
 7 for somebody to move in without having to come before
 8 the Planning Commission and then we would have no
 9 control or say in what they did.
 10 So I'm for removing the CUP. Thank you.
 11 MAYOR PITTMAN: Anyone else wishing to speak
 12 for?
 13 MS. SUSAN CRAWFORD: Susan Crawford,
 14 Oakcliff.
 15 I just want to reiterate what was said. If
 16 these people are now moving to another location, why
 17 leave the original one open? Of course I'm not
 18 suggesting we do anything that isn't perfectly legal.
 19 But if it can be done, I think it's a good idea,
 20 because things get lost in the shuffle, and then
 21 before you know it the whole city is (imperceptible).
 22 No.
 23 If we don't close it behind the group, then
 24 we're going to have two CUPs in the same area instead
 25 of the intended one. Thank you.

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1 MAYOR PITTMAN: Anyone else wishing to speak
 2 for?
 3 - - -
 4 (No response)
 5 - - -
 6 MAYOR PITTMAN: Anyone wishing to speak
 7 against, please come forward. Anyone wishing to speak
 8 against.
 9 - - -
 10 (No response)
 11 - - -
 12 MAYOR PITTMAN: Okay. At this time, we're
 13 going to close the public hearing portion and bring it
 14 back up.
 15 Mr. Howe, did you have anything else you
 16 wanted to add?
 17 MR. HOWE: Ma'am, I do not. But y'all may
 18 want to just follow up with this at the next meeting
 19 so that Mr. Cooley can answer any procedural ques-
 20 tions.
 21 He did include a checklist of items that
 22 have to be -- benchmarks that have to be met
 23 throughout the process, and it appears that everything
 24 was followed. He did include a picture of the sign
 25 located on the property.

1 MAYOR PITTMAN: Okay. Thank you.
 2 MR. HOWE: That's all.
 3 MAYOR PITTMAN: Anything else from Council?
 4 - - -
 5 (No response)
 6 - - -
 7 MAYOR PITTMAN: Thank you. All right.
 8 That's going to be, I believe, the end of this meeting
 9 except for Council comments.
 10 COUNCILMEMBER ALEXANDER: *I make a motion*
 11 that we remove the Conditional Use Permit that was
 12 granted on Suite 116 at 2000 Clearview Avenue.
 13 COUNCILMEMBER PACHUTA: Second.
 14 ATTORNEY McCLENDON: This would be the first
 15 reading.
 16 COUNCILMEMBER PACHUTA: *Why would we have to*
 17 have two?
 18 COUNCILMEMBER ALEXANDER: *Why do we have to*
 19 read on a zoning action?
 20 ATTORNEY McCLENDON: Well, I think we've
 21 done it in the past, that it is an ordinance.
 22 COUNCILMEMBER ALEXANDER: No, it's not.
 23 COUNCILMEMBER PACHUTA: It's not.
 24 COUNCILMEMBER ALEXANDER: *A conditional use*
 25 permit's not an ordinance.

1 Cecil, what about this?" what would your
 2 recommendation be?
 3 ATTORNEY McCLENDON: In what way? On the
 4 procedural issue?
 5 I would say follow the pattern and practice,
 6 and you can always choose to defer it. But if we had
 7 treated it as a one read, I think that would be
 8 following -- that would be consistent with the manner
 9 we've done it, so I'd be okay with that.
 10 COUNCILMEMBER PACHUTA: *I second the motion.*
 11 MAYOR PITTMAN: Okay. Any discussion?
 12 COUNCILMEMBER FLEMING: Yes, Mayor. I just
 13 wanted to make a comment. Though I am in favor of
 14 removing the CUP from Suite 116, I'm not in favor of
 15 moving forward with the adoption of the removal until
 16 I know that we have followed the procedures.
 17 COUNCILMEMBER DEAN: And is there a -- is
 18 there some time constraint? Is there anything that
 19 could happen between now and the next meeting to upset
 20 this? I mean is there any --
 21 COUNCILMEMBER PACHUTA: Well --
 22 COUNCILMEMBER DEAN: -- reason why we should
 23 not wait?
 24 COUNCILMEMBER PACHUTA: -- if we did not
 25 pass it, any church could come in to Suite 116 in the

1 COUNCILMEMBER PACHUTA: No.
 2 ATTORNEY McCLENDON: Because it's a zoning
 3 action.
 4 COUNCILMEMBER PACHUTA: *But we've never done*
 5 two meetings unless we had a rezone.
 6 COUNCILMEMBER ALEXANDER: No.
 7 COUNCILMEMBER PACHUTA: *We have not unless*
 8 we had a rezone.
 9 COUNCILMEMBER ALEXANDER: *As we specifically*
 10 postponed the approval of the CUP that we just did to
 11 do this legislation at the same time.
 12 ATTORNEY McCLENDON: Okay.
 13 COUNCILMEMBER ALEXANDER: So I'm not
 14 comfortable with us having granted an approval when I
 15 believe our goal was to grant and to remove at the
 16 same meeting.
 17 ATTORNEY McCLENDON: If we have not treated
 18 this as an ordinance in the past and had two readings
 19 on it, I would say we can be consistent with the way
 20 we have done it in the past.
 21 So if that's the pattern and practice, I
 22 would say let's go ahead and we can do that.
 23 COUNCILMEMBER DEAN: Now may I ask a
 24 question? What would your recommendation be? I mean
 25 if you and I were sitting in a room and I said, "Hey,

1 interim. They would not go before the Planning
 2 Commission and they would not go before Council. It
 3 would be an automatic approval because of the
 4 conditional use.
 5 If I'm not mistaken, if for some reason we
 6 have violated the Zoning Procedures Act, then the
 7 decision is null and void anyway. Is that correct?
 8 ATTORNEY McCLENDON: With a pending
 9 application to rezone, I'm not sure if they came in
 10 and applied that it would vest them at that time if we
 11 had a pending application, but I'm okay if we move
 12 forward.
 13 MAYOR PITTMAN: Okay. Call the roll,
 14 please.
 15 DEPUTY CLERK ROCKELEIN: *Council Alexander?*
 16 COUNCILMEMBER ALEXANDER: Yes.
 17 DEPUTY CLERK ROCKELEIN: *Council Bates?*
 18 COUNCILMEMBER BATES: Yes.
 19 DEPUTY CLERK ROCKELEIN: *Council Dean?*
 20 COUNCILMEMBER DEAN: Yes.
 21 DEPUTY CLERK ROCKELEIN: *Council Fleming?*
 22 COUNCILMEMBER FLEMING: No.
 23 DEPUTY CLERK ROCKELEIN: *Council Pachuta?*
 24 COUNCILMEMBER PACHUTA: Yes.
 25 DEPUTY CLERK ROCKELEIN: *Council Patrick?*

1 COUNCILMEMBER PATRICK: Yes.
 2 MAYOR PITTMAN: Okay. Thank you. Motion
 3 carried.
 4 All right. Next is going to be Council
 5 comments. Ms. Alexander, do you have anything?
 6 COUNCILMEMBER ALEXANDER: No, ma'am.
 7 MAYOR PITTMAN: Mr. Bates?
 8 COUNCILMEMBER BATES: No.
 9 MAYOR PITTMAN: Ms. Pachuta?
 10 COUNCILMEMBER PACHUTA: No.
 11 MAYOR PITTMAN: Mr. Patrick?
 12 COUNCILMEMBER PATRICK: No.
 13 MAYOR PITTMAN: Ms. Fleming?
 14 COUNCILMEMBER FLEMING: No.
 15 MAYOR PITTMAN: Ms. Dean?
 16 COUNCILMEMBER DEAN: No.
 17 MAYOR PITTMAN: Okay. We're going to
 18 adjourn this meeting and we're going to take a five
 19 minute break and then convene the next meeting.
 20 - - -
 21 (Brief discussion off the record.)
 22 - - -
 23 MAYOR PITTMAN: Could we get a motion to
 24 adjourn, please.
 25 COUNCILMEMBER PACHUTA: So moved.

1 MAYOR PITTMAN: Second?
 2 COUNCILMEMBER PATRICK: Second.
 3 MAYOR PITTMAN: Discussion?
 4 - - -
 5 (No response)
 6 - - -
 7 MAYOR PITTMAN: Call the roll, please.
 8 CLERK BRYANT: Councilmember Alexander?
 9 COUNCILMEMBER ALEXANDER: Yes.
 10 CLERK BRYANT: Councilmember Bates?
 11 COUNCILMEMBER BATES: Yes.
 12 CLERK BRYANT: Councilmember Fleming?
 13 COUNCILMEMBER FLEMING: Yes.
 14 CLERK BRYANT: Councilmember Pachuta?
 15 COUNCILMEMBER PACHUTA: Yes.
 16 CLERK BRYANT: Councilmember Patrick?
 17 COUNCILMEMBER PATRICK: Yes.
 18 - - -
 19 (Meeting adjourned at 7:20 p.m.)
 20 -o0o-
 21
 22
 23
 24
 25

1 C E R T I F I C A T E
 2 STATE OF GEORGIA]
 3 COUNTY OF DEKALB]
 4 I hereby certify that the foregoing transcript
 5 was taken down, as stated in the caption, and the
 6 proceedings were reduced to typewriting under my
 7 direction and control.
 8 I further certify that the transcript is a true
 9 and correct record of the evidence given at the said
 10 proceedings.
 11 I further certify that I am neither a relative
 12 or employee or attorney or counsel to any of the
 13 parties, nor financially or otherwise interested in
 14 this matter.
 15 This the 26th day of September 2013.
 16
 17 _____
 18 Theresa Bretch, CCR
 19 Permit No. B-755
 20 [SEAL]
 21
 22
 23
 24
 25

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