

In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

October 1, 2012

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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Transcript of the meeting held in the City Council
Room at Doraville City Hall, 3725 Park Avenue,
Doraville, Georgia, Mayor Donna Pittman presiding,
before William H. Robertson, Certified Court Reporter,
Certified Verbatim Reporter, commencing at
approximately 6:30 p.m. on Monday, October 1, 2012.

* * *

1 PROCEEDINGS
2 6:28 PM
3 MAYOR PITTMAN: Meeting, come to order.
4 Please rise for the Pledge.
5 (Complying, the gathered assembly
6 recites the Pledge of Allegiance.)
7 MAYOR PITTMAN: Thank you, and welcome to
8 everyone on this rainy night. Appreciate everybody
9 coming out.
10 We hope we won't be here very long. We'll
11 get started and move through this pretty quickly.
12 If you could call the roll please.
13 CLERK BRYANT: (Complying, confirms the
14 presence of Council Members Alexander, Bates, Dean,
15 Fleming, Pachuta, and Patrick.)
16 MAYOR PITTMAN: Thank you.
17 And I believe that we were going to add
18 Public Works tonight. Everyone was sent the copy
19 that Luke prepared.
20 We can either put it on the agenda tonight,
21 or give you time to look at it and send your comments
22 and put it together for next Monday night -- whatever
23 Council would like to do.
24 We can add it under OLD BUSINESS or move it
25 to next Monday. So either way is fine.

1 APPEARANCES:
2 Doraville City Council:
3 Mayor Donna Pittman
4 Councilmember Maria Alexander, Mayor Pro-Tem
5 Councilmember Brian Bates
6 Councilmember Trudy Dean
7 Councilmember Pam Fleming
8 Councilmember Karen Pachuta
9 Councilmember Robert Patrick
10
11 Sandra Bryant, Assistant City Clerk
12
13 Cecil G. McLendon, Jr., City Attorney
14 Riley McLendon, LLC
15 315 Washington Avenue
16 Marietta, Georgia 30060
17 (770) 590-5900
18
19
20
21
22
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1 COUNCILMEMBER PACHUTA: Well, I would have
2 preferred to have it in advance. I mean I'd still
3 like to keep it on the agenda -- and we should have
4 received it with our agenda packet, the one this
5 afternoon -- but I don't want to remove it off the
6 agenda.
7 MAYOR PITTMAN: We will add it under -- we
8 will have a c) under Public Works and under OLD
9 BUSINESS then.
10 COUNCILMEMBER FLEMING: Well, it was not on
11 the last -- October 1 -- agenda.
12 MAYOR PITTMAN: It was on the September 24th
13 agenda.
14 Okay. No minutes to approve tonight, Sandra?
15 CLERK BRYANT: No.
16 MAYOR PITTMAN: Okay. Next we are going to
17 have public comments on agenda items only. If you
18 could please come forward and state your name for the
19 court clerk -- your name and address -- and please
20 limit your comments to three minutes.
21 Anyone wishing to make public comments please
22 come forward.
23 UNIDENTIFIED AUDIENCE MEMBER: (Complying,
24 but with some confusion concerning whether or not
25 this is the appropriate time to approach the podium.)

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1 (Multiple speakers.)
2 MAYOR PITTMAN: If she wants to make a public
3 comment, now is the time -- on an agenda item.
4 UNIDENTIFIED AUDIENCE MEMBER: Oh, it's just
5 on agenda items?
6 MAYOR PITTMAN: Okay. Yours is about an
7 event you want to announce? Is that correct?
8 UNIDENTIFIED AUDIENCE MEMBER: Yes.
9 MAYOR PITTMAN: No, you can do it at the end
10 then.
11 UNIDENTIFIED AUDIENCE MEMBER: Okay.
12 MAYOR PITTMAN: Okay.
13 (No one comes forward.)
14 MAYOR PITTMAN: No one?
15 Cecil, the next agenda item would be the
16 "Presentation and Second Read on Ordinance...." Have
17 you heard from --?
18 CITY ATTORNEY MCLENDON: Mayor, I've not
19 heard from Mr. Bergthold -- and I know we're having
20 some rough weather right now -- so could we move that
21 down the agenda potentially and come back to it? --
22 and I will try him again in about 10 minutes.
23 MAYOR PITTMAN: Okay. If you will, just let
24 us know sometime during the meeting. Thank you.
25 And Major --?

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1 Next is going to be the discussion of the
2 city ordinance for property maintenance.
3 MAJOR ATKINSON: Mayor and Council, this item
4 deals with a revision to the Property Maintenance
5 Code. Section 103.1 states: "The Department of
6 Property Maintenance Inspection..."
7 And we spoke with Lenny (ph), and he has
8 drafted some language that changes that from
9 "Department of Property Maintenance Inspection" to
10 "Department of Quality of Life and/or Building
11 Inspector."
12 Right now it's under the "Quality of Life";
13 and by adding "Building Inspector," it allows Joe and
14 Tony to assist in that as well.
15 And Cecil, I don't know if y'all want to...
16 COUNCILMEMBER PACHUTA: I looked back at the
17 minutes when he first discussed the item; and I had
18 asked at the time: If we adopted the code, would
19 this allow both the Building Inspector and Quality of
20 Life to condemn property? And you had responded:
21 Yes.
22 CITY ATTORNEY MCLENDON: Yep. And then the
23 way it was written with it saying the Department of
24 Quality of Life, I think that under an interpretation
25 of our Code, Building Inspector would have been able

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1 to weigh in on that decision.
2 But I think the issue came up in the context
3 of a particular issue that came forward, and some of
4 the folks in the department didn't feel comfortable
5 that it didn't expressly name the building inspector.
6 So I have no problem with expressly calling out that
7 the building official would be also involved in that
8 decision-making process.
9 Ultimately that's one that I think you want
10 the building inspector involved in it, because they
11 have the most familiarity with codes and would be
12 able to assess compliance versus noncompliance of
13 buildings.
14 So to the extent that I sort of assumed it
15 into the Quality of Life, I think our department
16 asked for it to be a little more specific, and I
17 would not disagree with that.
18 MAYOR PITTMAN: Mr. Cooley, did you have
19 something you want to say?
20 DIRECTOR COOLEY: No. I agree with Cecil. I
21 think it's a position that really should be a shared
22 responsibility.
23 It's just -- the only concern I had about it
24 was the wording where this replaces -- the increase
25 to "Department." I just thought -- I think it would

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1 be better just to add a sentence to clarify this at
2 the end, so we don't have -- get in a situation later
3 where we go back and read it, and the intent was
4 there, but it doesn't say it in the code.
5 So just in order to be safe on it and to make
6 sure that it's done properly, I would like to see
7 just the verbiage changed a little bit so it doesn't
8 create a -- what this basically does is it says it
9 creates a Department of Quality of Life and/or
10 Building Inspector. And that's not really what we're
11 doing. We're basically putting the administration
12 and review process under them.
13 So I agree with Cecil. I think it needs to
14 be there though -- and the Chief too.
15 MAYOR PITTMAN: So Cecil, could we add a
16 sentence to help the clarity on that?
17 CITY ATTORNEY MCLENDON: I think the
18 suggested language would bring that decision-making
19 process of when you would condemn a building, and it
20 would expressly state that the building official
21 would be able to provide input on that.
22 COUNCILMEMBER FLEMING: Were there any other
23 areas of our code that did not allow the building
24 inspector proper identification -- or proper means to
25 do his job, other than this particular code?

1 CITY ATTORNEY MCLENDON: One of the reasons
 2 -- and one of the reasons I think that this probably
 3 came up is because we handle most of those issues out
 4 of our Code Enforcement Department and they are not
 5 handled in Community Development, it's just the
 6 Quality of Life Division.
 7 So what we did, for the -- most of the
 8 decisions in that ordinance are regulatory. They
 9 establish standards that you would come in -- say
 10 it's a violation of say the property maintenance for
 11 broken windows, that kind of thing -- and that would
 12 be appropriately under Quality of Life, because those
 13 would be the folks who are inspecting in the field
 14 and would issue citations on that.
 15 So this is really the only instance we've
 16 run into where I think the expertise of the building
 17 official was something that was necessarily needed
 18 for that determination, because there's an assessment
 19 of the potential violations on a property.
 20 Again, would it have been under that
 21 department? I think there was a good argument it
 22 could have come into that authority. But it never
 23 hurts to call it out expressly, especially if there's
 24 any concern on the part of the individual making the
 25 decision, that it's within the scope of their

1 CITY ATTORNEY MCLENDON: And actually the
 2 Department of Property Maintenance Inspection was the
 3 boilerplate language that comes in the International
 4 Property Maintenance Code, and that was what we were
 5 dealing with. We didn't have a Department of
 6 Property Inspection, as the code stated, because that
 7 was just their boilerplate. So what we did is
 8 inserted our equivalent, which was the Quality of
 9 Life.
 10 And then we realized in this particular
 11 instance we needed to have the building inspector
 12 particularly called out so they would know it was in
 13 their scope of authority to be able to declare
 14 buildings unsafe for habitation.
 15 MAYOR PITTMAN: Okay. Mr. Patrick?
 16 COUNCILMEMBER PATRICK: No questions.
 17 MAYOR PITTMAN: Ms. Pachuta?
 18 COUNCILMEMBER PACHUTA: Um-umm.
 19 MAYOR PITTMAN: Mr. Bates?
 20 COUNCILMEMBER BATES: (Shaking head.)
 21 MAYOR PITTMAN: Ms. Alexander?
 22 COUNCILMEMBER ALEXANDER: No.
 23 MAYOR PITTMAN: Major, anything else?
 24 MAYOR ATKINSON: No, ma'am. Thank you.
 25 MAYOR PITTMAN: Okay. This is I believe a

1 authority.
 2 COUNCILMEMBER DEAN: And would the Quality of
 3 Life remain under -- remain operating under the
 4 Police Department?
 5 MAJOR ATKINSON: Yes. That doesn't -- it
 6 does remove them at all.
 7 CITY ATTORNEY MCLENDON: This -- yeah, this
 8 doesn't change anything. It just -- it -- for a
 9 specific instance of something that would be done,
 10 which would be to determine that a house was unfit
 11 for habitation, it would expressly state the building
 12 official would be able to weigh in on that and help
 13 in that decision.
 14 COUNCILMEMBER FLEMING: My preference is not
 15 to change the Department of Property Maintenance
 16 Inspection, but to clarify that the administrator
 17 there -- administration thereof will be enforced by
 18 the Quality of Life Department and/or Building
 19 Inspector, because I don't --
 20 CITY ATTORNEY MCLENDON: Yeah. And I think
 21 we didn't --
 22 COUNCILMEMBER FLEMING: I mean, if we're
 23 going to have a Department of Property Maintenance
 24 Inspection, then that's what it is; it's not
 25 Department of Quality of Life.

1 first reading, so we can just make the adjustments,
 2 send it to the Council ahead of time, and we'll put
 3 it back on the next agenda please.
 4 COUNCILMEMBER ALEXANDER: There's no
 5 adjustment.
 6 MAYOR PITTMAN: What did you say?
 7 COUNCILMEMBER ALEXANDER: I don't think
 8 there's an adjustment to it.
 9 MAYOR PITTMAN: Oh.
 10 COUNCILMEMBER FLEMING: They don't care for
 11 my idea.
 12 COUNCILMEMBER DEAN: So if there was language
 13 you wanted to change, a sentence, is it changed
 14 already? Or did you --
 15 COUNCILMEMBER ALEXANDER: Yes.
 16 CITY ATTORNEY MCLENDON: I think this
 17 probably accomplishes it. I would be happy to get
 18 the feedback from, you know, our other departments if
 19 there was anything they saw fit to look at on this.
 20 MAYOR PITTMAN: If you could, do that please,
 21 and if there is any changes, to send it to Council,
 22 please.
 23 CITY ATTORNEY MCLENDON: Um-hmm.
 24 MAYOR PITTMAN: Okay. Thank you.
 25 Major, thank you.

1 MAJOR ATKINSON: (Steps away from podium.)
2 MAYOR PITTMAN: All right. Next on the
3 agenda is application for variance from McDonald's.
4 COUNCILMEMBER ALEXANDER: No, it's Lisa.
5 COUNCILMEMBER FLEMING: No, Finance.
6 MAYOR PITTMAN: I am so sorry, Lisa. I am
7 just leaving you out tonight. That's okay with you
8 though; right?
9 MS. LISA FERGUSON: This is the first read
10 on --
11 COURT REPORTER: Ma'am -- I'm sorry -- your
12 name please?
13 MS. LISA FERGUSON: It's Lisa Ferguson.
14 COURT REPORTER: Thank you.
15 MS. LISA FERGUSON: This is a new first read
16 on the ordinance to amend the FY 2013 budget. It
17 includes the changes that I have outlined on the
18 first page of the budget amendment.
19 MAYOR PITTMAN: Lisa, excuse me. They can't
20 hear in the back. Is the microphone on?
21 (The podium microphone was examined,
22 found to be off, and was turned on.)
23 MAYOR PITTMAN: Thank you.
24 MS. LISA FERGUSON: Okay. This ordinance is
25 to amend the 2013 budget with the changes that we

1 the City. And I think that it's vitally important.
2 MAYOR PITTMAN: Ms. Fleming?
3 COUNCILMEMBER FLEMING: Considering this
4 situation that the -- the financial situation that
5 the City is in right now, I'm opposed to adding
6 another \$9,000 to the training budget, though I think
7 there are other alternatives. I believe Mr. Cooley
8 even mentioned that there's ARC training on several
9 different items for planning and zoning, as well as
10 going to things that don't require a conference fee.
11 When you go to the GMA, you're talking two
12 days, a conference fee, and you're only doing one
13 class. And there are other alternatives like I
14 mentioned at the last meeting where you can take
15 training online, and it's just a flat fee.
16 MAYOR PITTMAN: Okay. Mr. Patrick?
17 COUNCILMEMBER PATRICK: I think that training
18 is important for us. But I also think that with the
19 change in the budget from the Department of Revenue,
20 that I think it would probably be best if we held off
21 on training for ourselves to that extent. So I would
22 vote against including that.
23 MAYOR PITTMAN: Ms. Pachuta?
24 COUNCILMEMBER PACHUTA: The only one that's
25 required for Mr. Patrick. As far as the Mayors Day

1 discussed in the work session last week.
2 I did include in the back of this packet a
3 sheet that gives you some information on what the
4 conference fees would be if you decided that you
5 wanted to include that in this budget.
6 We did include \$9,000, to bring the total for
7 the City Council up to \$10,000.
8 The only education and training that is
9 required is for the Newly Elected Officials Institute
10 for Mr. Patrick, and that's going to be about \$800.
11 So basically I just need some input on what
12 y'all want to do with the training budget, because
13 we've already discussed everything else, unless y'all
14 have an issue with something else.
15 MAYOR PITTMAN: If you don't mind, I think it
16 was Ms. Dean's idea, so we'll start down there on her
17 end.
18 COUNCILMEMBER DEAN: I think that, as I
19 stated before, there is no prerequisite in becoming
20 an elected official. I know that I spend several
21 hours every weekend preparing for these meetings; and
22 I know that I am still at the base of the learning
23 curve, which at this point is a vertical wall.
24 I certainly could use education. I am
25 studying this so that I make the right decisions for

1 Conference, if I'm not mistaken, you can just pay to
2 go to the Saturday training class and not pay the
3 entire conference fee; that is what I've done in the
4 past is to go one day.
5 FINANCE DEPT. HEAD FERGUSON: When I talked
6 to them, they didn't offer me that option, so I
7 concluded --
8 COUNCILMEMBER PACHUTA: Okay. Because it's
9 like a three-day conference, and then Saturday they
10 have training classes. If I'm not mistaken you can
11 just take the Saturday training classes.
12 MAYOR PITTMAN: I think you are correct, and
13 I think we have done that before.
14 COUNCILMEMBER PACHUTA: And then for myself,
15 if I go to the annual convention in Savannah, I will
16 pay for it myself, so you can delete that off.
17 MAYOR PITTMAN: Mr. Bates?
18 COUNCILMEMBER BATES: I just want to get a
19 little bit of clarification. On the overview sheet
20 it's got the 10,000 in there with the funding source
21 of contingency.
22 FINANCE DEPT. HEAD FERGUSON: That's correct.
23 COUNCILMEMBER BATES: Is that including these
24 anticipated costs? Or are these anticipated costs in
25 addition to...?

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1 FINANCE DEPT. HEAD FERGUSON: No, this --
2 there's \$9,000 in there to go towards whenever costs
3 are on this sheet.
4 COUNCILMEMBER BATES: Gotcha. So not in
5 addition to; this is not in addition?
6 FINANCE DEPT. HEAD FERGUSON: No, this is not
7 in -- this is just additional information to show you
8 how much different things cost.
9 COUNCILMEMBER BATES: I'm in favor of
10 training for our volunteer committees and for newly
11 elected officials. If I choose to go to any
12 training, I will also pay for that myself.
13 FINANCE DEPT. HEAD FERGUSON: Okay.
14 We have \$600 in the planning and zoning for
15 the Planning Commission to go to a class, but we
16 haven't -- we're not really discussing that at this
17 point, but we need to circle back around to that.
18 MAYOR PITTMAN: Can I interrupt for just a
19 minute?
20 FINANCE DEPT. HEAD FERGUSON: Sure.
21 MAYOR PITTMAN: If I could get everyone to
22 please -- if you need to speak to your neighbor or
23 someone else, please step outside, because it makes
24 it very difficult for us to hear up here, for them to
25 hear out there, and very difficult for our court

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1 reporter. So I'm asking you, respectfully, if you
2 need to talk to please step outside. Thank you.
3 Ms. Alexander?
4 COUNCILMEMBER ALEXANDER: No comments.
5 MAYOR PITTMAN: Okay.
6 COUNCILMEMBER FLEMING: The only other
7 comment that I wish to make, Mayor Pittman -- and I
8 mentioned it to Ms. Ferguson back in June before we
9 adopted the budget; I made a comment about the
10 intergov component hardware -- excuse me -- software
11 that is desperately needed to upgrade our components
12 here in the City. And we were to discuss that for
13 the amendment process here in October.
14 And that's why I don't feel that we need to
15 put 10,000 -- or \$9,000 into Council training. I
16 think we could put some in there, but to me it's more
17 important for the day-to-day operations of the City
18 to be upgraded than it is for us to go to training.
19 FINANCE DEPT. HEAD FERGUSON: I will check
20 into the issue with the intergov. It was my
21 understanding that we didn't have the hardware to
22 install that software, but I will double-check with
23 Chris and make sure that we have the correct issue
24 and how much it will cost.
25 MAYOR PITTMAN: Ms. Ferguson, do you have

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1 anything else you wanted to add?
2 FINANCE DEPT. HEAD FERGUSON: Do y'all want
3 to keep the \$600 the Planning Commission?
4 COUNCILMEMBER PACHUTA: Yes. I know one has
5 already signed up for training, which was \$150 to
6 ARC. I don't know how many of them signed up for it.
7 FINANCE DEPT. HEAD FERGUSON: Okay.
8 COUNCILMEMBER DEAN: And the other thing that
9 I think is needed -- and it's been brought to
10 Council's attention recently -- that the video camera
11 does not always work, and I think that that also --
12 if you could take some of that money that was
13 budgeted for education -- because when I watch these
14 DVDs -- and I do watch them -- it's educating me on a
15 number of things, and I think that we need to have
16 working equipment.
17 So perhaps we can find something in the
18 budget to get a new camera for the Planning
19 Commission so we can be ensured that the meetings
20 will be recorded.
21 COUNCILMEMBER FLEMING: Well, not just for
22 that but for the Council meetings as well, I think.
23 COUNCILMEMBER DEAN: Right.
24 COUNCILMEMBER FLEMING: But if I'm not
25 mistaken -- I'm going to jump back to the Planning

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1 Commission -- or the planning of the \$600 -- is that
2 Mr. Cooley told us at the last meeting that these ARC
3 classes have been offered to us to come to our City
4 and to do them free; is that not correct?
5 DIRECTOR COOLEY: Yes, ma'am. When I spoke
6 to Dan Reuter (ph) at the last meeting, we were
7 talking about the different needs of the City; and
8 one of the things he suggested or said they'd be more
9 than willing to do is to come to the City and give
10 some one-on-one training for -- whether it be the
11 Planning Commission -- because at that time I was
12 talking about the Planning Commission, it was
13 difficult for us to forward training through the ARC
14 program, you know -- he -- they know we -- through
15 them, a strap site.
16 So he offered to have people come do that
17 just -- and even for -- if the Council decides they
18 need additional training in something, that if they
19 can identify those things, that they'd be more than
20 willing to come up here. They thought it would be
21 better on a one-to-one approach than it would be
22 going to the class.
23 But he offered to do it for free, so...
24 COUNCILMEMBER PATRICK: That's great.
25 MAYOR PITTMAN: Okay. Ms. Ferguson?

1 FINANCE DEPT. HEAD FERGUSON: Okay. So what
2 I've got is to take the \$9,000 back out of the
3 education budget for the Council; is that correct?
4 COUNCILMEMBER BATES: As long as there -- in
5 my opinion, as long as there is sufficient funds to
6 cover Mr. Patrick's training, then --
7 FINANCE DEPT. HEAD FERGUSON: Well, there's
8 already \$1,000 in there to cover him. And I added
9 9,000 to make it an even 10, so we'll take that back
10 out.
11 I will find out how much we need to deal with
12 intergov. I'll find out about the video camera. And
13 I will bring it back next week -- or at the next
14 Council meeting, regular Council meeting.
15 MAYOR PITTMAN: I think Chris is already
16 working on the camera, so you might want to check
17 with him.
18 FINANCE DEPT. HEAD FERGUSON: Okay.
19 MAYOR PITTMAN: All right. Thank you.
20 FINANCE DEPT. HEAD FERGUSON: Anything else?
21 MAYOR PITTMAN: I appreciate it. Thank you.
22 FINANCE DEPT. HEAD FERGUSON: Thank you.
23 Okay. Now moving to McDonald's -- I believe
24 we heard this last time, and there were some
25 questions, and I believe that we were to come back

1 last meeting.
2 Subsequently in reviewing this particular
3 file and the entirety of our code, we do have the
4 ability to move forward with this variance request,
5 based upon the language of our code. So I would hand
6 that back to you right where we are, which is y'all's
7 consideration of that variance request.
8 MAYOR PITTMAN: Okay. Ms. Zickert?
9 ATTORNEY ZICKERT: Yes. I want to take this
10 opportunity to sort of bring you up to speed.
11 I know, Mr. Bates, you weren't here last
12 time, and you and I have been exchanging information.
13 But I've also spoken with or e-mailed a number of the
14 rest of you, and you've had questions, and I want you
15 to know that we have tried very hard to answer them
16 as thoroughly as we can and as fully as we can and
17 have even gone back to our corporate office to get
18 answers to questions.
19 And the first one that I would like to
20 address has to do with the orientation of the
21 building.
22 Both Ms. Fleming and Mr. Bates asked whether
23 it would be possible either to flip it 90 degrees so
24 it was facing Buford Highway, or do -- would that be
25 180 degrees? -- so that the entrance was facing the

1 this time and hopefully have some of those answers.
2 DIRECTOR COOLEY: Yes, ma'am. There were a
3 couple of issues that were of concern. One was the
4 variance for the sign. There was a commitment made
5 to actually build something nicer at the base of the
6 sign, from McDonald's. I don't know if y'all got the
7 copy of the e-mail that came in, but this is what
8 they are proposing. Have y'all seen this?
9 MAYOR PITTMAN: I don't think we have.
10 DIRECTOR COOLEY: Let me pass that around
11 then.
12 And the other issue was a question about
13 whether the Council actually had the authority to
14 grant the variance, in discussion for the front-yard
15 setback on McElmurry (ph). It was postponed. I
16 believe the public hearing was concluded and
17 completed and then closed, and then the attorneys
18 were getting together to discuss this issue.
19 So at that point, I'll turn it over to Ms.
20 Zickert.
21 CITY ATTORNEY MCLENDON: And --
22 DIRECTOR COOLEY: Or --
23 CITY ATTORNEY MCLENDON: -- Mayor -- and I
24 appreciate y'all bearing with me on this, because I
25 did want to look at that issue that was raised at the

1 entrance off of Buford Highway.
2 And I want to address the first one of those
3 first, which is the issue of flipping the whole
4 building.
5 If you can see on the site plan where this
6 entrance is off McElroy, that is situated there very
7 purposefully, and it is a legal obligation of Halpern
8 Enterprises to leave it there. The reason that it is
9 there is because it serves as the primary access
10 point to all the outparcels.
11 As you know, Buford highway access is
12 restricted; there are shared curb-cuts -- which is a
13 good thing because we don't want as many curb-cuts on
14 Buford Highway.
15 But if we were to simply take this and turn
16 it, the only way we could do so would be to encroach
17 completely onto this road and then additionally into
18 the parking field of the other tenants in this
19 shopping center. We have lease agreements with
20 regard to the parking we are obligated to provide --
21 and by "we" in this instance, I'm talking about
22 Halpern -- and this access point is actually the
23 subject of a legally recorded cross-easement which we
24 can't change unilaterally -- and getting everybody in
25 here to consent to that kind of a change would be

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1 next to impossible.
2 The other problem that you have when you
3 start talking about flipping it becomes how you
4 access it.
5 You could probably bring in something else
6 from up here and thereby hit the back of your
7 ordering windows and come around and go back out.
8 But unless you have a curb-cut on Buford Highway,
9 what that would do is to force everyone in here
10 around the store once to order, around the store
11 twice to get out of the lane once you've ordered, and
12 then to come back out this curb-cut. So you're going
13 to double your vehicular circulation on site, which
14 starts creating some real safety and circulation
15 problems.
16 I don't think anybody wants us to have to
17 have a curb-cut on Buford, but effectively I'm afraid
18 that's what would happen as a consequence of trying
19 to reorient the store to the front.
20 So regrettably -- we looked -- we genuinely
21 did -- and believe me, if we could orient it towards
22 Buford Highway and not go to through this process --
23 as delightful as it has been -- I'm sure we would
24 have done so.
25 With regard to flipping it in the other end,

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1 we have concerns about that due to marketing reasons.
2 We do want our entrance to be clearly visible, and
3 the intersection at McElroy and Buford would become a
4 whole lot easier to see than being sandwiched in
5 there next to the Wells Fargo at the curb-cut. So
6 flipping it in that manner would not work for us from
7 a marketing standpoint.
8 Now, I was hearing these concerns and wasn't
9 understanding the depth of them until I saw this
10 today; and now I understand why I was getting these
11 phone calls, because this picture really does -- it's
12 not attractive.
13 And what I want to point out to you about it
14 is a couple of things. And the first is that -- I
15 don't know who created this, but whoever did it
16 elevated the site by about six feet; it's above the
17 finished grade of the property -- and we're not
18 elevating. So the practical effect of that is that
19 it makes this building stand up higher, which means
20 you can't screen it.
21 It also does not show our landscape plan
22 which we committed to you early-on, which we were
23 going to have -- not just the extra trees that we
24 were going to do, but the low-lying shrubs, as well
25 as those monument signs -- or the monument bases --

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1 that we committed to make it a softer street feel.
2 So I'm sure nobody did that intentionally.
3 I'm sure it's just a matter of Photoshop -- I
4 couldn't Photoshop to save my life, folks, so if I
5 had tried to do this, it would probably end up on top
6 of Burlington Coat Factory. But as it turns out, it
7 -- I don't -- with respect -- it's not a reasonable
8 depiction of what we're going to look like.
9 And I just wanted to make sure you understood
10 that from the perspective of McDonald's, and why we
11 think, with the landscaping that we've agreed to
12 across the bottom -- and it's low-rising and
13 high-rising, and you'll have your lights that you get
14 on Buford Highway and all the other streetscape
15 features -- I don't think it's going to look like
16 that.
17 But it helped me understand why you were
18 having those concerns.
19 We already distributed to you the signage and
20 with the monument base that you asked for.
21 And I also wanted to address the issue -- and
22 I should have done this early-on, but I'm
23 out-of-order -- of whether we can change the building
24 -- and this is something Mr. Bates brought up with
25 me.

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1 And I have been told -- and I believe this,
2 because we have 15,000 of them nationwide -- we have
3 two prototypes, and the prototypes are driven by two
4 things. One is the distance in going around the
5 building and getting from ordering point to paying
6 window to pickup window. You have to have a certain
7 amount of distance for it to be safe. And that of
8 course drives to some degree the length of the
9 building.
10 The second is that the innards of our
11 building, if you will, are like a patented design.
12 It's not a matter of saying, okay, let's make it a
13 box instead of a rectangle, and we'll move the
14 french-fry cooker over into the corner, and we'll
15 move the stove over here. It's all interrelated.
16 And to show you how interrelated it is, I
17 wanted to bring you the actual floor plan (providing
18 documents) so you can get a handle on how tight this
19 is, and how one element relates to the other, and how
20 even the distances between the windows are a precise
21 amount in every, single one of these stores.
22 So Mr. Bates, I didn't -- I sort of
23 inadvertently correctly answered your question this
24 morning. As it turned out, it was even more
25 complicated than I thought. But I didn't want you to

1 think we did not go back and ask -- and I did.
2 COUNCILMEMBER BATES: Thank you.
3 ATTORNEY ZICKERT: And it's just something
4 that we cannot do.
5 The last thing I wanted to mention was
6 Ms. Alexander's request for a walkway, because she
7 was concerned about people getting from the Buford
8 Highway parking spaces over to the building and had
9 suggested that we do a crosswalk.
10 And Ms. Peters and Ms. Curry (ph) and I said,
11 "That sounds great to us" -- when we were here last
12 -- went back to corporate and were confronted with a
13 hissy fit for the following reason: They think that
14 if we put that walkway there, it will obviously
15 attract people to use it. It is quite frankly safer
16 for people to use the sidewalk system that we have
17 over here and up to the front of the store now --
18 because that was one of your conditions -- than it is
19 to put that raised walkway.
20 And the theory is that if we put it there and
21 people use it, quite frankly the liability potential
22 is greater because we have now sort of attracted
23 people to use that path when they are stopping and
24 trying to pick up food and perhaps not paying
25 attention as they should at that point in the site.

1 areas in terms of getting attention, will get it.
2 We would really like to be here. Would like
3 you to want us to be here. We have tried to answer
4 anything that you asked of us. Some of it, we were
5 successful; some of it, we were not.
6 But we would very much appreciate your
7 favorable vote tonight.
8 MAYOR PITTMAN: Okay. Thank you.
9 Ms. Alexander, questions?
10 COUNCILMEMBER ALEXANDER: No.
11 MAYOR PITTMAN: Mr. Bates?
12 COUNCILMEMBER BATES: Reserve -- I'd like to
13 come back, please.
14 MAYOR PITTMAN: Sure. Ms. Pachuta?
15 COUNCILMEMBER PACHUTA: Nothing.
16 MAYOR PITTMAN: Mr. Patrick?
17 COUNCILMEMBER PATRICK: Nothing.
18 MAYOR PITTMAN: Ms. Fleming?
19 COUNCILMEMBER FLEMING: Yes, I want to make a
20 couple of comments.
21 Thank you very much for your splendid
22 explanations to us this evening and in trying to work
23 through our questions and possibilities of what may
24 happen.
25 Just as a comment to Council -- and of course

1 So, Ms. Alexander, I really feel badly
2 because we came back and are now telling you that
3 this is not something that corporate wants us to do,
4 and I don't -- I can only apologize for that, and
5 that's about the best I can do, because I know that
6 we made a commitment to you last time, and I'm
7 feeling bad about that.
8 I'm delighted that Cecil and I were able to
9 work through the issues on whether you had the
10 authority to do this. And I want to emphasize to you
11 that we are at a point in this process where we've
12 got to move at this point.
13 McDonald's selects its sites in groups -- you
14 may know this or you may not -- and they are on
15 certain timetables, and if you don't act within that
16 timetable, that site goes to the back of the line.
17 And we are rolling out this program
18 nationwide. We would really like to be here in
19 Doraville.
20 We think our store will make that section of
21 Buford Highway more attractive. And the more
22 attractive it is and the more people it attracts as a
23 use, the more likely that center then starts to get a
24 little bit more vibrant, and a part of Buford Highway
25 which hasn't been the focus of some of the other

1 they probably already know it, but for the residents
2 that are attending -- is that our code needs to be
3 corrected at some point. Those parcels are old
4 parcels. Buford Highway is a seven-lane highway, not
5 a pedestrian-friendly street. So no matter what goes
6 in that particular parcel, we're going to be
7 presented with this very same situation if we don't
8 do something about the code.
9 So that's number one on my agenda is try to
10 correct that particular thing.
11 And secondly, McDonald's will be an
12 attractive place for people to also go into our
13 present Burlington store right there. I mean this is
14 to me advantageous for them, as well it is for the
15 City. So I'm not against McDonald's at all from
16 going in there.
17 If we do deny the variance, we're going to
18 have the same problem with the next applicant, and it
19 may not be a national name that we would want.
20 So thank you.
21 MAYOR PITTMAN: Ms. Dean?
22 COUNCILMEMBER DEAN: Thank you for coming and
23 for all of your efforts in trying to work with us.
24 However I think that we are trying to become
25 a walkable city. If you go towards the other side of

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1 Buford Highway, there are sidewalks, there are nice
2 lamps. I mean I think that's the direction in which
3 we would like to go.
4 So this doesn't -- I mean we have standards,
5 and I think that it's our responsibility to uphold
6 those standards.
7 If we grant this variance, then when the next
8 person comes along, we're going to have to grant that
9 variance, as well -- and then so on and so on.
10 I think that we have to now -- well, we have
11 standards. It was this way before. There's a lot of
12 property, a lot of space in Doraville. So I think
13 that this might not work well based on that design in
14 that shopping center.
15 And have you explored other areas, other
16 possibilities?
17 ATTORNEY ZICKERT: Yes, ma'am, we have. And
18 this is where we want to be.
19 And we are not touching the streetscape
20 aspect of this. We're not asking for variances.
21 You're getting your sidewalks. In fact, you're
22 getting more sidewalk because of what you-all
23 discussed last week -- or two weeks ago.
24 COUNCILMEMBER DEAN: Okay. That's it.
25 That's all I had.

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1 MAYOR PITTMAN: Thank you. Mr. Bates?
2 COUNCILMEMBER BATES: What happens if the
3 variance is not granted?
4 ATTORNEY ZICKERT: We're going away.
5 COUNCILMEMBER BATES: So from a site's --
6 from the building situated on the site itself, moving
7 it closer to McElroy is just not --
8 ATTORNEY ZICKERT: It's a deal killer.
9 We've got an ADA issue here. That was
10 something else we looked at, because Cecil and I were
11 talking last week of "Can you at least pull it up
12 further?" because we were worried about this
13 50-percent thing, and so we looked at that.
14 And from I understood, we have our ADA spaces
15 as close to the front door as we can get them, which
16 I think is a requirement, which means we have to
17 leave those parking spaces there. And if you leave
18 the parking spaces, you have to have the drive aisle,
19 and that then drives where the front of the building
20 is.
21 So we did look at that as well, and I forgot
22 to mention that -- but that was sort of more at
23 Cecil's request, so I was just ignoring him.
24 COUNCILMEMBER BATES: Thank you.
25 ATTORNEY ZICKERT: Yes.

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1 MAYOR PITTMAN: Okay. Any questions?
2 (No further questions.)
3 MAYOR PITTMAN: Okay. At this time do we
4 have a motion to either approve the application or
5 deny the application for a variance with the
6 modifications?
7 COUNCILMEMBER PACHUTA: Do we need to do
8 another public on the hearing, or no?
9 CITY ATTORNEY MCLENDON: I think we had in
10 our public hearing --
11 COUNCILMEMBER PACHUTA: Okay.
12 CITY ATTORNEY MCLENDON: -- at the last
13 meeting.
14 COUNCILMEMBER PACHUTA: Okay. I just wanted
15 to know.
16 CITY ATTORNEY MCLENDON: So we've met that
17 requirement.
18 COUNCILMEMBER PACHUTA: I'll make a motion to
19 approve the application for a variance to 70 feet and
20 also the variance for the total aggregate area of
21 sign.
22 COUNCILMEMBER ALEXANDER: And the
23 construction, the stacked stone, and landscaping, and
24 sidewalk.
25 COUNCILMEMBER PACHUTA: Oh, with the

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1 conditions of the landscape and the sidewalk and also
2 the stacked stone on the property.
3 MAYOR PITTMAN: Do I get a second?
4 COUNCILMEMBER FLEMING: Second.
5 MAYOR PITTMAN: Discussion?
6 COUNCILMEMBER ALEXANDER: I'm very
7 disappointed about the crosswalk issue.
8 MAYOR PITTMAN: Call the roll please.
9 CLERK BRYANT: Councilmember Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 CLERK BRYANT: Councilmember Bates?
12 COUNCILMEMBER BATES: Yes.
13 CLERK BRYANT: Councilmember Dean?
14 COUNCILMEMBER DEAN: No.
15 CLERK BRYANT: Councilmember Fleming?
16 COUNCILMEMBER FLEMING: Yes.
17 CLERK BRYANT: Councilmember Pachuta?
18 COUNCILMEMBER PACHUTA: Yes.
19 CLERK BRYANT: Councilmember Patrick?
20 COUNCILMEMBER PATRICK: Yes.
21 MAYOR PITTMAN: Thank you. Motion carries.
22 Thank you.
23 ATTORNEY ZICKERT: Thank you.
24 MAYOR PITTMAN: Mr. McLendon, do you have an
25 update on our agenda item?

1 CITY ATTORNEY MCLENDON: I do.
 2 I've spoken with Mr. Bergthold, and he
 3 actually is stating that he was satisfied with his
 4 last presentation, and he had asked me to present it.
 5 So if we want to move that to just later in
 6 the agenda, I'll be happy to take that one on -- if
 7 we can move it further down, maybe after we've gotten
 8 rid of -- or taken care of -- some of the more
 9 pressing issues; how about that? -- I apologize.
 10 (Laughter.)
 11 MAYOR PITTMAN: Okay. All right. Thank you.
 12 Okay. Next on the agenda is the text
 13 amendment to delete Section 14-12. This is a public
 14 hearing.
 15 And Mr. Cooley, I'll let you start.
 16 This is in reference to the wall and awning
 17 signs.
 18 DIRECTOR COOLEY: Yes, ma'am. This is an
 19 amendment to text, to delete Section 14-12(f)(6) and
 20 modify Section 14-12(f)(3).
 21 Basically what section 14-12(f)(6) does is
 22 limits wall signs for commercial and industrial
 23 properties to one wall facing a road -- a street.
 24 The problem that we have with that is
 25 multifold.

1 put it over here.
 2 To me a good example of one that is not that
 3 way is the one right over on Buford Highway that has
 4 this huge wall sign on it -- All That Glitters, I
 5 believe -- and the thing is huge, and it's got the
 6 attorney's office, it's got All That Glitters. And
 7 personally I don't find it very attractive.
 8 But the biggest problem I've got is it's a
 9 very large wall and so a very large sign. It would
 10 have been much nicer to have different ones on it,
 11 and that would be the flexibility.
 12 So really this is just a cleanup of language
 13 to make things that we're doing now legal and make it
 14 easier I think for businesses in the future to have
 15 decent signage.
 16 MAYOR PITTMAN: Okay. Thank you. And I give
 17 it to the Council; any questions?
 18 COUNCILMEMBER FLEMING: I do have a question
 19 for Mr. Cooley. This correction of 14-2 -- or 12 --
 20 I'm sorry -- does that include the number of --
 21 correcting the number of signs?
 22 DIRECTOR COOLEY: Which --
 23 COUNCILMEMBER FLEMING: And I don't remember
 24 what section it's in, but I believe at some point in
 25 time we had where we were going to only allow one

1 One, as was discussed earlier, we're trying
 2 to move things forward over time to a more pedestrian
 3 scale.
 4 But even worse than that is the fact that
 5 we've got shopping centers that are U-shaped; and
 6 based upon the way our code says, you cannot have a
 7 sign on any of those fronts of buildings. All of the
 8 signs we have on shopping centers facing the interior
 9 are illegal.
 10 It doesn't make any sense, it's not
 11 consistent, and so the recommendation is to strike
 12 just item (6) and then modify Section 14-12(f)(3) to
 13 state (as read:) "The wall and awning signs shall
 14 not exceed" -- and this is adding the word "total" --
 15 "sign area to equal 10 percent of the wall face on
 16 each wall."
 17 What that basically does too -- instead of
 18 having just one wall sign, a lot of places now, what
 19 you've got -- I mean you've got the logo and then
 20 you've got their sign, or you've got a sign and then
 21 you've got another sign down in another language.
 22 Instead of having one huge sign at 10 percent of the
 23 entire face, you could have two signs -- no larger;
 24 the total would not be changed. But basically it
 25 would be the -- being able to put it over here and

1 sign.
 2 DIRECTOR COOLEY: That's actually in Section
 3 6. It's the -- I'll quote it. It's (as read:)
 4 "Each building tenant shall be permitted one wall
 5 sign or awning sign on each street-facing wall."
 6 We're suggesting deleting it all. And part
 7 of that rationale is -- well, a couple of things.
 8 One, first off, what I was saying about the
 9 shopping center, the idea about having logos. A lot
 10 of our buildings -- the banks, a lot of things here
 11 -- have the double signage now.
 12 But beyond that, when we get to the point
 13 where we've got a comprehensive code that really
 14 moves the idea of the -- if it does -- the
 15 pedestrian-orientated along Buford Highway, what
 16 you're doing is you're pulling it all front, which
 17 has, you know, worked effectively in different
 18 places, you've got signage on that wall.
 19 But you can't put a sign on the back where
 20 everybody is parking. I mean it doesn't make sense
 21 to just have it -- they're going to have it on the
 22 front road because that's going to draw the attention
 23 from the roadway. But we need to have something
 24 within the interior of the system too to identify the
 25 businesses. The way we do now, we can't. So --

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1 COUNCILMEMBER FLEMING: Thank you. And I
2 guess the reason why -- I mean I read your cover
3 sheet, but I'm so used to having the item listed and
4 shown deleted, and the date, that that would be my
5 preference from Municode, that we deleted it on --
6 deleted it or amended it on such-and-such date -- I
7 don't know -- because, you know, somebody may come
8 back and say, Oh, well, I've got this copy of the
9 code, and --

10 DIRECTOR COOLEY: It's got to be dated, yeah.
11 COUNCILMEMBER FLEMING: Right.
12 DIRECTOR COOLEY: Definitely.
13 COUNCILMEMBER FLEMING: So that was the only
14 thing. Thank you.
15 MAYOR PITTMAN: Ms. Dean?
16 COUNCILMEMBER DEAN: Well, one thing is the
17 percentage of the wall, determining the size, not to
18 exceed 10 percent of the wall face. Why wouldn't we
19 go with square footage?
20 DIRECTOR COOLEY: That is square footage.
21 COUNCILMEMBER DEAN: I mean but if you have a
22 50-square-foot wall and a 100-square-foot wall, 10
23 percent is going to be different on each; right?
24 DIRECTOR COOLEY: That's correct.
25 COUNCILMEMBER DEAN: Okay. One of us is not

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1 understanding.
2 Okay. So if you have a sign that you put on
3 that wall, right --
4 DIRECTOR COOLEY: Say we've got a wall that's
5 say 20-foot tall by 100 -- 2,000 square feet.
6 COUNCILMEMBER DEAN: Right.
7 DIRECTOR COOLEY: They could have the maximum
8 of 200 square foot on that wall.
9 COUNCILMEMBER DEAN: Right.
10 DIRECTOR COOLEY: Yes.
11 COUNCILMEMBER DEAN: But why not make the
12 sign a square footage number rather than a percentage
13 of the size of the wall?
14 DIRECTOR COOLEY: I think this is kind of
15 carrying on what we've got. It's based upon the
16 scale and not having too much of the signage.
17 In reality, you know, you could probably
18 limit something like that. But where you're really
19 going to see large buildings or something like that
20 is something like, you know, in a shopping center
21 like a Macy's or something like that, you know, where
22 they've got the huge -- you know, it's three, four
23 stories there sometimes, and they've got their sign
24 up there.
25 They don't use 10 percent -- number one, it

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1 would be cost-prohibitive; but number two, it
2 wouldn't work.
3 The only other place I can see -- and this
4 would be more of an industrial -- is if you had a
5 large industrial facility where they came in and
6 wanted to put 10 percent up. You know, one way of
7 approaching that might be -- is to have the 10
8 percent but cap it at some square footage. And we
9 can go back and look at that. That may not be a bad
10 idea --

11 COUNCILMEMBER DEAN: Right.
12 DIRECTOR COOLEY: -- to help control that so
13 we don't have this huge, huge thing.
14 COUNCILMEMBER DEAN: Right, right, right,
15 right. And that would be -- I would feel a lot more
16 comfortable if there was a cap.
17 DIRECTOR COOLEY: That's a good point.
18 COUNCILMEMBER BATES: On the taking shopping
19 centers as an example, is it the aggregate of the
20 entire wall face?
21 DIRECTOR COOLEY: No. The --
22 COUNCILMEMBER BATES: Or is it above -- only
23 above the area that's to that suite? How is that
24 calculated?
25 DIRECTOR COOLEY: Yeah. It actually states

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1 it. Let's see (reviewing document).
2 To answer your question though, basically it
3 is the front of the individual units. So it's not a
4 combined...
5 Where we do have an aggregate maximum is not
6 for wall signs but for all other signs on the
7 property for -- in shopping centers and things. You
8 know, depending on the size of the lot itself, there
9 will be a maximum aggregate area that you can have
10 with monuments signs and pole signs and things of
11 that sort, so it doesn't get too cluttered.
12 COUNCILMEMBER BATES: For a building that has
13 two street-facing walls -- a corner lot --
14 DIRECTOR COOLEY: Um-hmm.
15 COUNCILMEMBER BATES: -- is it the aggregate
16 of all four sides?
17 DIRECTOR COOLEY: No. It is the aggregate of
18 the face.
19 COUNCILMEMBER BATES: Or is it 10 percent of
20 an individual --?
21 DIRECTOR COOLEY: Facade.
22 COUNCILMEMBER BATES: Facade.
23 DIRECTOR COOLEY: Correct.
24 COUNCILMEMBER BATES: Okay. So they couldn't
25 take the corner and -- 2,000 square foot on this side

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1 and 2,000 square foot on that side and --
2 DIRECTOR COOLEY: No.
3 COUNCILMEMBER BATES: Okay.
4 DIRECTOR COOLEY: It's specific to the
5 facade.
6 COUNCILMEMBER BATES: Okay. Thank you.
7 MAYOR PITTMAN: Mr. Patrick?
8 COUNCILMEMBER PATRICK: No questions.
9 MAYOR PITTMAN: Ms. Pachuta?
10 COUNCILMEMBER PACHUTA: No questions.
11 MAYOR PITTMAN: Mr. Bates, anything else?
12 COUNCILMEMBER BATES: I'm good.
13 MAYOR PITTMAN: Ms. Alexander?
14 COUNCILMEMBER ALEXANDER: Can you define item
15 number one a little bit more for me.
16 DIRECTOR COOLEY: I think that's supposed to
17 be "above."
18 COUNCILMEMBER ALEXANDER: Well, I was -- I'm
19 concerned about the project and the whole definition
20 of what that type of wall is -- that goes back to our
21 comments about a picture is worth a thousand words --
22 because if it's a flat face on it, if it's a flat
23 roof and a flat faced wall, my sign is obviously
24 going to protect out. So I was trying to figure out
25 exactly what type of limitation that was.

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1 DIRECTOR COOLEY: Let me see if I'm
2 understanding you. You say you've got a wall --
3 COUNCILMEMBER ALEXANDER: What is the
4 definition of parapet wall -- or however you
5 pronounce it -- parapay (ph) wall?
6 DIRECTOR COOLEY. I -- I'm not -- I don't
7 even have that with me. I'm looking at Section
8 14-12(f). That was the only thing I was looking to
9 modify.
10 COUNCILMEMBER ALEXANDER: it's number one.
11 DIRECTOR COOLEY: Oh, sorry.
12 (As read:) "Wall and awning signs shall not
13 project above the parapet wall." The parapet wall is
14 -- and this is shown as -- you'll see it in the --
15 that brochure thing that I did for the new sign; it
16 actually describes that.
17 What a parapet wall basically is, you've got
18 a roof going up, you've got a flat roof. And then a
19 parapet basically comes up -- and very often you'll
20 see them -- they'll have some sort of form to them,
21 design -- and it's used to give character to it. And
22 it also blocks sometimes the equipment on the roof,
23 which is one of the reasons we require it on the
24 sides too if you can see the equipment, in the new
25 code.

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1 So that's what that is. We -- right now we
2 don't have a good, clear definition of the parapet.
3 But I guess probably a good example was --
4 was it AutoZone? -- or the one that just came around
5 the corner of McElroy there. They wanted to put it
6 up where it extended above the top of the wall, and
7 you know, with their scale everything, and it looked
8 good because it matched the brick lines and stuff
9 like that. But it went up about a foot beyond the
10 top of the wall, so we made them bring them back
11 down.
12 And that's to keep -- so we don't have just
13 signs kind of like stuck -- there are some around
14 town, as you'll know, but they are old.
15 COUNCILMEMBER BATES: So I do think though
16 there's a typo in section one, because it says (as
17 read:) "Shall not project about the parapet wall."
18 It should be "above the parapet wall"; correct?
19 CITY ATTORNEY MCLENDON: That's absolutely
20 correct.
21 DIRECTOR COOLEY: Yeah. The section -- the
22 one I've got has got --
23 COUNCILMEMBER ALEXANDER: So is this sign
24 illegal?
25 DIRECTOR COOLEY: No, ma'am. That's part of

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1 the --
2 COUNCILMEMBER ALEXANDER: Because it's above?
3 DIRECTOR COOLEY: Yeah. And that's -- the
4 sign is -- this is -- would be considered a parapet.
5 COUNCILMEMBER ALEXANDER: But this is above
6 it?
7 DIRECTOR COOLEY: Right.
8 COUNCILMEMBER ALEXANDER: So is that not
9 illegal?
10 DIRECTOR COOLEY: No. Again, that's where
11 you get into a fine line of what's the architecture
12 and what's the thing. I would say no. But --
13 COUNCILMEMBER PACHUTA: So that's considered
14 a sign?
15 DIRECTOR COOLEY: Not that portion of it, no.
16 It's kind of like the golden arches that used
17 to be out there, part of the structure; they go way
18 back; you know they actually used to come off the
19 front.
20 But that would be a matter of interpretation
21 on that one.
22 COUNCILMEMBER ALEXANDER: And that language
23 scares me.
24 DIRECTOR COOLEY: Well, that's our existing
25 language. The only thing we're doing really is

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1 striking that about the other.
2 MAYOR PITTMAN: Okay.
3 COUNCILMEMBER DEAN: We've had a work session
4 on the sign code, and we were -- I thought we were
5 going hard and heavy on that, and then they kind of
6 disappeared. And we had some issues with this one
7 and the other sign code for vacant properties that we
8 spent two-and-a-half hours discussing.
9 And so why -- can we resume those again? --
10 because I thought that was very productive and
11 helpful.
12 DIRECTOR COOLEY: Actually we haven't backed
13 off of them, it's just I've got a whole lot more else
14 on the plate too, and --
15 COUNCILMEMBER DEAN: Okay.
16 DIRECTOR COOLEY: -- we've -- you know, I've
17 only got so much time.
18 That is one of the high-priority, is to look
19 at the entire code with it. But we had some
20 six-month -- or was it six-month? -- three-month time
21 frames on two of the items, and that's why we are
22 addressing those. This is one that also just became
23 a glaring conflict when we were going through it all.
24 I really don't want to do piecemeal on the
25 thing. But there are some things that are just so

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1 blatant that it makes it difficult to do the job even
2 to, you know, approve things or not approve them
3 based upon our code, because it doesn't make a bit of
4 sense. And I -- you know, I think it's just one of
5 those things that probably wasn't the intent at the
6 time.
7 But as you know, I'm very much in favor of
8 making sure that the intent that the Council has in
9 ordinance is clear in the ordinance, so we don't get
10 these issues coming up later on.
11 MAYOR PITTMAN: Okay. We're going to take it
12 from here right now and open the public hearing
13 portion.
14 I am going to ask first for the people that
15 are wishing to speak for, to come forward.
16 There's 10 minutes for each side -- that's 10
17 minutes altogether, meaning if you speak for 10
18 minutes, no one else gets to speak.
19 So if you wish to make a comment for, please
20 come forward, state your name and address for the
21 court reporter please -- those wishing to speak for;
22 make sure you want to speak for, not against.
23 (No one comes forward.)
24 MAYOR PITTMAN: Okay. We are going to close
25 that portion and open it for those that want to speak

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1 against; please come forward. Those wishing to speak
2 against, please come forward.
3 (Members of the public complying.)
4 MR. TOM HART: I looked on the website --
5 COURT REPORTER: Sir, your name please?
6 MR. TOM HART: Tom Hart, 2708 Bonnie Avenue.
7 That's at the corner of Bonnie Avenue and Chestnut.
8 I have a setback on both sides also.
9 I looked on the City website, and I couldn't
10 find anything about what you're talking about
11 tonight. It makes it very confusing for the audience
12 to sit here. And you're talking about a sign
13 ordinance, but there's nothing about what you are
14 trying to pass or not pass.
15 We can look up what the current ordinance is
16 but not where you're trying to go with it. So you
17 ask people for and against the topic -- we don't know
18 what the topic is.
19 We used to -- you used to have a package that
20 the citizens could look at either on the website or
21 get copies of from this City Hall, provided by the
22 Planning Department --
23 MAYOR PITTMAN: Mr. Hart -- I'm sorry -- are
24 you wishing to speak for? Or against?
25 MR. TOM HART: I -- what I'm --

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1 MAYOR PITTMAN: Not a discussion of what was
2 online. Are you wishing to speak for? Or against?
3 MR. TOM HART: I'm against what you're
4 doing --
5 MAYOR PITTMAN: Okay.
6 MR. TOM HART: -- because you haven't
7 provided the information to the audience, and how
8 would anyone know whether they are for or against it?
9 I am for less signage on Buford Highway.
10 It has been very clear we have over -- at the
11 last count, probably over a hundred illegal signs on
12 Buford Highway, and half of them belong to certain
13 government entities that shouldn't be there. We've
14 got MARTA signs stuck in places where MARTA doesn't
15 go anymore.
16 So we have -- you know, when we have like at
17 10 percent of a building, if you have a
18 100,000-square-foot building there, you're going to
19 get this gigantic sign. So you need to go back and
20 review the entire sign ordinance, from monument signs
21 to awning signs, etc.
22 You have another thing -- an awning -- I went
23 to the Planning Commission meeting of this --
24 whatever you're trying to talk about -- and there was
25 no limitations on awning signs, how big; it could

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1 extend the whole length of the building; okay?
2 Normally when you look at an awning sign that
3 says like Northern Coffee in Norcross, they have like
4 a little logo on the sign. Doraville doesn't operate
5 like that. You give them an inch, they're going to
6 take five miles; you're going to end up with a sign
7 all the way down Buford Highway with a -- on a big
8 awning.
9 So I think you need to look at it from the
10 standpoint of less signage on Buford Highway, using
11 that as your criteria, and then work from there, and
12 not try to figure out some way where buildings can
13 get more signage on them and larger.
14 And at the Planning Commission meeting they
15 were working on things -- the maximum signage size
16 would be the size of a 4-by-8 sheet of plywood, which
17 is, you know, 4-by-8 -- okay? -- that's it; that's
18 all you get.
19 And the current signage on like for instance
20 this gas station down here is 150 square feet --
21 that's all you get. This sign code you're working on
22 right now is going to allow for a lot more than that.
23 So I think you need to look at it from the
24 standpoint of less is more, so that, you know, people
25 can see where they're going and see what businesses

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1 they are trying to go to. But you know, having more
2 signs on Buford Highway is not going to be the
3 answer.
4 Thank you.
5 MAYOR PITTMAN: Anyone else wishing to speak
6 against?
7 (No one comes forward.)
8 MAYOR PITTMAN: Okay. We are going to close
9 the public hearing portion and bring it back up to
10 the Council.
11 Anyone wishing to make any comments,
12 questions?
13 COUNCILMEMBER FLEMING: I think we need to
14 make a motion to defer this to the next meeting, so
15 that we can determine what the maximum square footage
16 should be and include that into the language, because
17 I thoroughly agree.
18 MAYOR PITTMAN: Is that a motion?
19 COUNCILMEMBER FLEMING: Yes, it is.
20 MAYOR PITTMAN: Can I get a second?
21 COUNCILMEMBER DEAN: Second.
22 MAYOR PITTMAN: Discussion?
23 (No response.)
24 MAYOR PITTMAN: Call the roll please.
25 CLERK BRYANT: Councilmember Alexander?

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1 COUNCILMEMBER ALEXANDER: Yes.
2 CLERK BRYANT: Councilmember Bates?
3 COUNCILMEMBER BATES: Yes.
4 CLERK BRYANT: Councilmember Dean?
5 COUNCILMEMBER DEAN: Yes.
6 CLERK BRYANT: Councilmember Fleming?
7 COUNCILMEMBER FLEMING: Yes.
8 CLERK BRYANT: Councilmember Pachuta?
9 COUNCILMEMBER PACHUTA: Yes.
10 CLERK BRYANT: Councilmember Patrick?
11 COUNCILMEMBER PATRICK: Yes.
12 MAYOR PITTMAN: Okay. Thank you.
13 Next on the agenda is the rezoning of
14 property and conditional use permit for 2001
15 Clearview Avenue. And this also is a public hearing.
16 DIRECTOR COOLEY: Good evening Council and
17 Mayor, again.
18 This is a rezoning of property and a
19 conditional use permit for a property at 2001
20 Clearview Avenue. This is said parcels -- the tax
21 parcel numbers are 18 311 21 001 and 18 311 21 002.
22 It is currently zoned C-2, general commercial. The
23 requested zoning is for O-I, office-institutional,
24 with a conditional use permit for an assisted living
25 facility.

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1 The application was submitted by James Ney,
2 Esq., representing Imperial Investments and
3 Castlestone, LLC.
4 This is all in your packet, so I will go over
5 this fairly quickly, so it will also be in the
6 record.
7 But basically this is the site known as the
8 Comfort Inn Hotel, previously the Metro Motel. It's
9 approximately 5.43 acres. There is a cell tower on
10 the eastern corner of the property. And the property
11 has a large number of specimen trees on the site.
12 It is within the CRC, which is the Commercial
13 Redevelopment Corridor, of the comprehensive plan;
14 and it was -- which was adopted within -- as part of
15 the LCI and is shown as a highway commercial corridor
16 on the future development map.
17 Recommended use in this area is commercial
18 and limited office/professional and
19 public/institutional.
20 The purpose meets the standards of the
21 housing policies within the comp plan. There are
22 four items there. If you wish, I'd be glad to go
23 through them -- but they are in your packets. But
24 providing different opportunities for housing costs
25 and types of housing in affordable housing and

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1 life-long type housing.
2 The assisted living is an allowed use by
3 conditional use permit in the O-I district, and
4 again, that's what they are requesting at this point.
5 The property right now is currently C-2 with
6 a hotel on it. The hotel is a legal nonconforming
7 use because it was -- before the requirement for a
8 conditional use permit was put into the code, it was
9 a hotel. So it -- like I say, it's a legal
10 nonconforming use, but it is because it does not have
11 a conditional use permit in the C-2.
12 This went through the Planning Commission
13 some time ago; and as you know, the Council deferred
14 this at the request of the applicant several times.
15 During this process the applicant has submitted the
16 additional floor plans, elevations, revised site plan
17 rendering, and landscape plan.
18 The landscape plan; the reduction of the
19 impervious surface; and overall, more detailed master
20 plans were some of the conditions that the Planning
21 Commission recommended.
22 I've got two things in here. We've got a
23 review of the zoning proposal review standards with
24 staff comments. I won't go through that unless you
25 have questions. We also have comments on the

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1 conditional use permit.
2 And -- let's see -- the options -- you know,
3 either approve the rezoning and conditional use
4 permit as presented, approve the rezoning and
5 conditional use permit with additional conditions, or
6 deny rezoning and conditional use permit.
7 This went before the Planning Commission, as
8 I said -- it was actually 12/7/11. It was a special
9 meeting prior to the deferrals. The Council plan
10 announced at that time recommended -- the
11 recommendation was for approval. It was a four-zero
12 vote but with four -- or, excuse me -- three
13 conditions.
14 Those conditions (as read):
15 "That the use be limited to an assisted
16 living facility only.
17 "Number two, that the conceptual site plan be
18 required -- and submitted to the City Council --
19 which reduces the amount of impervious surface and
20 parking to the amount required by City code for the
21 proposed use as an assisted living facility and
22 showing areas to be maintained in green open space.
23 "And then further, a detailed landscape site
24 development plan submitted to the City and approved
25 by the City arborist and the planning director prior

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1 to the issuance of a certificate of occupancy."
2 And the minutes are attached.
3 Those have been provided by the applicant.
4 COUNCILMEMBER FLEMING: Mr. Cooley, before we
5 start talking -- these two items here are obstructing
6 the camera; and I would like to request that they be
7 moved over to the window for all of us to be able to
8 see them, both the residents as well as the Council.
9 DIRECTOR COOLEY: Just tell us where they go,
10 and --
11 COUNCILMEMBER FLEMING: Just if you will,
12 over by those windows would be perfect because then
13 the residents, as well as we, can see them.
14 DIRECTOR COOLEY: All of them will also be on
15 the overhead projectors too, so you'll see them. It
16 gives opportunity for the public to see them better
17 COUNCILMEMBER FLEMING: Correct. Thank you.
18 And so do we want to start? -- because I want
19 to ask Mr. Cooley some questions.
20 MAYOR PITTMAN: Did you have anything else
21 you wanted to --
22 DIRECTOR COOLEY: It's up to y'all whether
23 you want the presentation by the applicant first. He
24 might answer the questions. If not, I'd be happy to
25 answer them. Or either way.

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1 MAYOR PITTMAN: Let's have the presentation
2 and then take up the questions, if you don't mind --
3 unless it's something you just need ahead of time;
4 you can go ahead and ask, if it is.
5 COUNCILMEMBER FLEMING: I do want to ask,
6 because I do not recall any previous, full-scale
7 public hearing where we took for-and-against comments
8 -- number one.
9 DIRECTOR COOLEY: That's correct.
10 COUNCILMEMBER FLEMING: And we've deferred it
11 for lacking the applicant -- was 11/22 I think. We
12 deferred it in January. We deferred in, you know,
13 April. And here we are again.
14 So my real concern -- even though you guys --
15 Mr. McLendon and you -- have given me a legal opinion
16 -- is that this is the first public hearing for them.
17 DIRECTOR COOLEY: That is correct.
18 COUNCILMEMBER FLEMING: And was it advertised
19 for this date in the newspapers?
20 DIRECTOR COOLEY: Yes, ma'am.
21 COUNCILMEMBER FLEMING: Okay. For this date?
22 DIRECTOR COOLEY: Yes, it was.
23 And it was also posted -- actually legally we
24 don't have that responsibility, but as a matter just
25 of being diligent about it, we did -- ahead; and we

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1 ran it in the paper for this hearing meeting. And I
2 also went ahead and put a zoning sign out on the
3 property for this hearing meeting within the time,
4 between the 45- and 15-day time, so it actually
5 legally has been advertised twice. But I would
6 rather have it done twice, than not.

7 COUNCILMEMBER FLEMING: I just wanted to be
8 sure that this public hearing had been advertised.

9 DIRECTOR COOLEY: Yes, ma'am, it has.

10 COUNCILMEMBER FLEMING: Since we have
11 deferred it twice before. And as I said, it lacks
12 six weeks of being a full year.

13 DIRECTOR COOLEY: Yeah. Normally when it's
14 just a deferral for a short period of time, it's not
15 a problem. But this had been so long, I thought it
16 would be better to go ahead and re-advertise.

17 COUNCILMEMBER FLEMING: Thank you very much.

18 MAYOR PITTMAN: Okay. Mr. Ney?

19 ATTORNEY NEY: Yes, Madame Chairperson, if I
20 may, let us begin please.

21 Mayor and Council, I am Jim Ney. And I am
22 here on behalf of the applicants in regard to this
23 request which comes before you.

24 Our purpose this evening is to down-zone this
25 5.43 acres, which is presently zoned C-2 -- down-zone

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1 it to O&I and to have done so with a conditional use
2 permit for an assisted living facility and for a
3 senior housing facility.

4 This will enable us to renovate, remodel, and
5 redecorate this facility, which is really a failing
6 hotel -- and I want to emphasize that to you. It
7 clearly is a failing hotel, and we'd like to bring
8 about a very much needed process, the process of
9 having an assisted living facility on-hand.

10 The applicants themselves are in the hotel
11 business, so they know the hotel marketplace and they
12 know hotels. They do this every day for their
13 business.

14 The hotel which we're trying to operate here
15 is simply a terrible hotel -- it has proven to be
16 terrible over long periods of time -- and we don't
17 find any way that we can change and recover it. I
18 can go into great detail and talk to you about the
19 things we have done.

20 The hotel is hemorrhaging cash on a massive,
21 massive basis. We are losing approximately \$45,000
22 each month. For this year to this point we've lost
23 over \$0.5 million in the hotel at this juncture.

24 The occupancy rate for this hotel for the
25 year 2011, which was the full year, was 11.53

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1 percent. The occupancy for the year 2012, just the
2 portion of this year which has already transpired, is
3 19.35 percent.

4 In order to have a successful and profitable
5 occupancy rate, we have to be about 65 percent. So
6 we are massively, massively away from where we can
7 ever make a profit, if you will.

8 Again, we lost about \$0.5 million in the year
9 2012.

10 I have with me -- I didn't bring them to the
11 podium -- but I have with me the 2009, 2010, and '11
12 income tax returns for this entity. We've lost over
13 \$900,000 in two of those years; and one of those
14 years, we lost \$680,000.

15 We are bleeding, bleeding badly. We are in
16 desperate circumstances. We simply cannot continue.

17 There is a program where we have tried to
18 close down 125 of the existing units in the 232-unit
19 hotel. They are vacant; they are not occupied. We
20 simply have closed them down. And we are not -- it's
21 not helping one iota. We simply don't have anybody
22 using or staying in a hotel.

23 We read about the development of the GM site,
24 and our best projections are that this 165 acres will
25 take about three or four years to develop -- and I'm

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1 going to say, "and populate" -- about a year to tear
2 down, about two or three years to develop.

3 Atlantic Station is a similar facility. It's
4 taken it eight or nine years to develop Atlantic
5 Station.

6 We simply can't live through it. We'll be
7 financially ruined if we had to live another year
8 with this proposition.

9 We simply must obtain this rezoning. We must
10 close down the hotel and think in terms of putting it
11 under a fence, a security fence, to keep it away and
12 keep people away from it.

13 With a clear understanding sometime ago that
14 we were not succeeding and that things were failing
15 very badly, we went forward and hired and prepared a
16 very lengthy and thoughtfully prepared market
17 feasibility study. It was undertaken on our behalf.

18 It advised us of a number of things. The
19 first three things that I want to call to your
20 attention:

21 Within a five-mile radius of this -- of our
22 site, there are a number of -- the population of the
23 elderly population segment is growing significantly,
24 so there's a great need.

25 Number two, there's a great need for an

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1 assisted living facility in this area; and if we had
2 one, between 50 and 75 percent of those people would
3 come from that five-mile radius.
4 And if we had one, it is very much needed,
5 and it very much would help us succeed, if you would.
6 Let me pass up to you, if I may at this time
7 please, a letter dated September 28, 2012. This
8 contains eight zoning conditions. You have already
9 received a copy of this, but I want to be redundant
10 and give you another copy so that you have it with
11 you.
12 These conditions are absolutely necessary to
13 limit, restrict, and govern the rezoning that you
14 have before you in order to make it succeed and be a
15 successful rezoning. We're glad to review them. I'd
16 like to take some time to do so.
17 But for the sake of time right now, I'm going
18 to move forward and simply say, these conditions are
19 absolutely essential. And when you hear all of them,
20 you will agree with me in that regard.
21 Your fine planning staff has recommended the
22 approval of this application that you have before
23 you, and request that you have before you. Your
24 staff went to great detail and outlined a number of
25 items. I'm going to just paraphrase a few.

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1 The site is surrounded by I-285 and C-1 -- or
2 C-2 and O&I on two other sides.
3 It is within and compatible with the Highway
4 Commercial Corridor.
5 There are no impacts to schools and
6 utilities, and there are no negative changes to the
7 area -- paraphrasing still.
8 Proposed use is less intense than the present
9 use, and it blends.
10 Of equal importance also, your find Planning
11 Commission some time ago very carefully considered
12 this matter, heard it in its entirety, and
13 recommended four-to-oh to pass it, and they passed it
14 with three conditions. We are receptive to all three
15 of those conditions that they imposed, if you would.
16 Now, one of the key features of what we are
17 talking in terms of in the assisted living facility
18 is that it will be truly a new and massive source of
19 employment for your fine City, and we're delighted by
20 that and absolutely taken by that.
21 We will have between five and seven times as
22 many employees as we presently have, particularly
23 when you consider in terms of we'll have three shifts
24 and we'll have part-time people coming in. They will
25 all be professional people. They will all be people

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1 who are paramedicals, nurses. And unfortunately
2 they'll be paid a great deal more than the present
3 hotel staff. And this will all be a significant
4 advantage of the City of Doraville -- and we want it
5 to be.
6 It's important to note that you simply cannot
7 apply for a loan, the type of loan that we must have,
8 in order to make this transaction move forward with
9 HUD -- they will be our guarantor -- unless we have
10 our rezoning. So a rezoning is absolutely an
11 essential ingredient, and it's absolutely necessary
12 for us to move forward.
13 Our request complies with your 15 standards
14 of rezoning and your eight standards for the granting
15 of a conditional use permit, as you were clearly told
16 by Mr. Cooley.
17 We previously notified approximately 68 of
18 our neighbors and invited them to a community meeting
19 some time ago. We met with that group. They were
20 cordial. They were helpful. And they liked what we
21 showed them, as a matter of fact.
22 Now, our staff -- as your staff has
23 indicated, this proposal will blend nicely with the
24 area, it will be attractive, there will be a lot less
25 parking and a lot less activity, so we think it's a

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1 perfect blend for your neighborhood.
2 Now if I can, in order to give you a clear
3 picture, let me turn things over to our architect and
4 ask him to give you a nice summary of all the plans
5 that we have.
6 Thank you. And I'd like to come back before
7 you for just a moment, Mayor, if I may.
8 ARCHITECT SEELEY: One of the things we've
9 done is we've addressed the concerns of green space
10 and reducing parking -- the previous recommendations.
11 And on this first board you can see the
12 grayed-out parking spaces around the building. Those
13 are what we have removed from the parking lot to add
14 more green space against the building to soften that
15 building up a bit.
16 The second board, you can see this shows the
17 new trees that we're adding to it, so we are
18 increasing the number of trees.
19 The third one, this you can see the
20 colored-up rendered site plan that shows the existing
21 plus the new, and just in the existing tree count we
22 have to have 160 tree units for the site. Existing
23 trees only, not counting the new ones -- we're
24 already over 500 units. So we are almost three -- a
25 little more than three times the amount of required

1 trees for the site when we're done.
2 We've reduced our parking from 258 spaces to
3 185. We've greatly increased the number of
4 handicapped spots.
5 And then the last thing is for a commercial
6 development we are supposed to have 20 percent green
7 space on the site. And with the reduction of parking
8 and that, we are up to 30.5 percent.
9 So I think we've met all the requirements
10 that we've been previously asked to have done.
11 On the second set -- they're back over here
12 in PowerPoint -- you can see we've kept the canopy.
13 It's really grown up over the past 20 years in front
14 of the building to block the view of that some.
15 And then as we get in-site, we've picked up
16 more green space around the building, we've added
17 some roof line to it to break down the scale so it's
18 not quite as massive feeling.
19 We've added some -- added residential
20 architectural details and then canopies again to
21 soften that impact as you walk up to it.
22 But we've -- the big thing is we've kept a
23 lot of the green.
24 On the back we do have to add a stair tower,
25 and so this is the very smallest addition on the back

1 But we would like to take a moment -- and I
2 think it would be helpful for Mr. Cooley and others
3 if I was able to summarize or paraphrase those
4 conditions for you please.
5 MAYOR PITTMAN: (Nodding.)
6 ATTORNEY NEY: Thank you.
7 We are agreeing, especially to the three
8 conditions which were in Mr. Cooley's recommendation.
9 They were made by the planning staff and by the staff
10 of the Planning Commission. We expressly agree to
11 them, and we will comply with them.
12 If you have your sheet, with me you may
13 follow the three-page conditions; and they are as
14 follows.
15 The first set of conditions begins with
16 number one: Under the conditional use permit, an
17 assisted living facility -- and most CUPs, they only
18 have a life of one year. Because of some unique
19 features of this, we will need that to expand for a
20 three-year period; and we're merely asking you to
21 extend the conditional use permit, not for one year,
22 but for three years, until we have a chance to get
23 our financing done -- and I will be glad to give you
24 my pictures of our financing, if you would.
25 Number two is a very unique condition. The

1 that encompasses a foyer and that stair, just so we
2 can increase our exiting capacity through stairs.
3 Again, in the back we've picked up the same
4 details we had in the front side, and we've picked up
5 that low canopy and some hardscape green space around
6 the outside.
7 Again, another view of that back.
8 And then the simplified floor plan. It's
9 just the first floor, which we don't have up here.
10 But we've basically taken the hotel and combined
11 rooms to create studios, one-bedrooms, two-bedroom
12 senior housing.
13 A lot of the existing space in one story is
14 still left as community spaces.
15 And there's our site.
16 ATTORNEY NEY: Mayor, if we could take just a
17 few more moments, we would love to do two or three
18 things -- to see if you have any questions that we
19 could respond to in any sense whatsoever, and we
20 would like to cover the conditions that we have given
21 you so that you have a chance to let me paraphrase
22 them very quickly.
23 If there are any questions, we would be
24 delighted to try to respond to them. We ask for your
25 favorable vote.

1 federal government has its own definition of
2 "assisted living facility," and we want to make sure
3 that it coincides with your description of it, so we
4 have added a description that said it will be an
5 assisted living facility and senior housing facility,
6 so it will accommodate the federal government
7 meaning. But at the same time it will only be guided
8 by the definition used in your fair City, as a matter
9 of fact, in the Doraville ordinance. We wanted to
10 let you know we were going that, so we could make
11 sure we could build the facility.
12 Number three: We have reduced the parking
13 from 253 spots to 185. And in number three we are
14 agreeing that the 185 spaces will be the limited
15 amount that will be put on the site.
16 Number four we are tying to the site plan
17 that you see before you. We are agreeing to
18 specifically build and utilize in complete compliance
19 with that facility. Mr. Patrick asked us if we would
20 be willing to put a special provision in, and we have
21 agreed to do so, agreeing that the facility will
22 never be used as a drug-care facility.
23 Number six is a provision that says that it
24 will never be used for two purposes, the building
25 will only be used for one purpose at a time.

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1 However, after the property is rezoned, the property
2 will be used as a nonconforming use and continue to
3 be used as that for a hotel until the assisted living
4 facility receives its permit for occupancy, at which
5 point the hotel will completely close, and it will be
6 operated as an assisted living facility.
7 Number seven is a provision that we will be
8 given a time for financing purposes only, up to three
9 years to get the property rezoned. If it doesn't
10 rezone, it would then re-vest or return to its
11 present, existing C-2 zoning.
12 Number eight is an interesting condition that
13 we agreed to, and we are agreeing. We want to give
14 you a perfect assurance. This is an assisted living
15 facility. This is not an apartment. It's not a
16 rental, per se, where we're renting space. We are
17 renting services. We are renting an assisted living
18 facility, by its definition. And we know no better
19 way of agreeing to it than saying we are renting
20 services and paying for services and consideration;
21 and we expressly agree to those.
22 Now, I hope that wasn't too confusing; but I
23 wanted to go rapidly and give you the purposes for
24 each one of those.
25 If I can answer any questions, we would be

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1 glad to do so. And we'd like to ask for your
2 favorable consideration in passing this matter.
3 MAYOR PITTMAN: Okay, Mr. Ney. Thank you.
4 Ms. Alexander?
5 COUNCILMEMBER ALEXANDER: Regarding condition
6 number six -- so you are going to operate as a hotel
7 during the construction phase? -- because you are not
8 going to get your certificate of occupancy until your
9 final inspections are granted.
10 ATTORNEY NEY: It is our intent to do so.
11 Now, you state it exactly as it -- we will be
12 getting our -- we will go out about 21 months and get
13 our HUD guaranty in place. Now, while we're doing
14 that, we will continue to operate as a hotel, yes.
15 But we will never operate as an assisted living
16 facility.
17 When -- and only when -- we get the occupancy
18 permit to open up as an assisted living facility will
19 we terminate the hotel and start using it as an
20 assisted living facility. We will not use it before
21 that time as an assisted living facility, but we will
22 try to build out the facility while we have those 125
23 vacant spaces, Mrs. Alexander. We will build them
24 out for assisted living purposes and be doing our
25 construction during that period of time.

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1 COUNCILMEMBER ALEXANDER: And I think I would
2 prefer that the parcels be combined so we have one.
3 Mr. Seeley, your opinion on that?
4 ARCHITECT SEELEY: Umm --
5 ATTORNEY NEY: I'm going to disagree -- they
6 are combined. But they are owned by two owners, as a
7 matter of fact. They are combined. Both of them are
8 subject to your rezoning request; they are right now,
9 Mrs. Alexander.
10 DIRECTOR COOLEY: They are two separate
11 parcels at this point.
12 COUNCILMEMBER ALEXANDER: That's what I'm
13 saying.
14 ATTORNEY NEY: Yes.
15 COUNCILMEMBER ALEXANDER: So the two parcels
16 are owned by two different owners?
17 ATTORNEY NEY: They are indeed.
18 COUNCILMEMBER ALEXANDER: Are both owners
19 listed on the application?
20 ATTORNEY NEY: Yes.
21 DIRECTOR COOLEY: Yes.
22 COUNCILMEMBER ALEXANDER: I'm just saying,
23 normally -- that historically when we have come
24 across a rezoning on multiple parcels, we've
25 requested the applicant combine into one tax parcel

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1 ID.
2 DIRECTOR COOLEY: And I typically see no
3 problem with that whatsoever. It just -- it kind of
4 simplifies the whole matter.
5 But in fact I didn't realize -- I thought it
6 was joint parcel ownership between the two, not each
7 individual parcels. I don't know how that would
8 complicate the combination.
9 You really couldn't combine two, two -- I
10 don't know. That's a good question. I'm -- I
11 really --
12 ATTORNEY NEY: We do have -- I mean it's two
13 separate parcels. Mr. Cooley is absolutely right.
14 We do have it that way right now. And there are two
15 different sets of -- two different corporate owners
16 that own it. But both of the corporate owners signed
17 the application, Mrs. Alexander, and are parties to
18 the application.
19 And I don't believe there is any prohibition
20 against us simply bringing two parties forward as
21 applicants.
22 COUNCILMEMBER ALEXANDER: Okay.
23 MAYOR PITTMAN: Mr. Bates?
24 COUNCILMEMBER BATES: What is your timing
25 from a -- if this were to happen, what is your timing

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1 on construction, getting your loans in place?
2 ATTORNEY NEY: I'm going to give you a quick
3 assessment from a lawyer's point of view, and then
4 I'll see if I have my -- my owners and construction
5 people have a different...
6 We think, Mr. Bates, that it will take us
7 approximately three months to get the first loan, the
8 loan that would be a conventional loan. We think it
9 will take us between 16 and 18 months to get the HUD
10 guaranty.
11 The conventional loan that we get from a
12 regular bank will be a 100 percent loan with a 90
13 percent guaranty from HUD. At that point we will
14 pull the building permit, and we have then hit the
15 goal, the property will be zoned, and we are headed
16 towards an assisted living facility.
17 It will take us about four to six months to
18 build out the complex once that's done. And with
19 that said -- we are committed though, once we have
20 pulled the building permit; we are set to go forward
21 at that time. So at about 21 months we are out and
22 building and moving for an assisted living facility.
23 Does that make sense?
24 COUNCILMEMBER BATES: It does.
25 MAYOR PITTMAN: Okay. Ms. Pachuta?

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1 COUNCILMEMBER PACHUTA: He wasn't finished.
2 MAYOR PITTMAN: Oh, I apologize.
3 COUNCILMEMBER BATES: Are there any concerns
4 -- your feasibility study is now two-plus years old
5 on looking at assisted living. Are there any
6 concerns that the data that you are basing this on is
7 now outdated and not viable?
8 ATTORNEY NEY: We've had -- as you knew
9 earlier, we had three management companies
10 approximately six months ago looking at it, both
11 anxiously and desirous of moving forward with us and
12 going forward and forward. We have now selected a
13 fourth management company -- out of Florida, as the
14 case is to be -- and we are still excited about it,
15 and they are excited about moving forward with us.
16 So while we haven't had an updated -- and it
17 is a 2010 instrument -- I agree with you -- we
18 haven't had an update of it, we are very pleased with
19 it, with the outcome and our -- and what we think is
20 a clear direction we need to move in.
21 MR. SHAH: Mr. Ney, we have updated it last
22 year also.
23 MR. BRYCE: The feasibility study has been
24 updated. I don't know what date you have on yours.
25 COUNCILMEMBER BATES: June 11, 2010.

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1 MR. SHAH: It has been updated in '11.
2 MR. BRYCE: We got one in '11.
3 COUNCILMEMBER BATES: Okay.
4 ATTORNEY NEY: I'm sorry. I don't have a
5 copy of that, Mr. Bates; or I would have given it to
6 you.
7 COUNCILMEMBER BATES: Okay. Thank you.
8 MAYOR PITTMAN: Okay. Ms. Pachuta?
9 COUNCILMEMBER PACHUTA: Will you be marketing
10 and selling units on the property while it is still
11 operating as a hotel?
12 ATTORNEY NEY: I want to be very candid --
13 yes, we will. And the very nature of this business
14 is a wonderful one. It takes a period of time,
15 unfortunately, Mrs. Pachuta, to get people convinced
16 and able to move and move out of their permanent
17 homes.
18 So while it is still operating as a hotel, we
19 will never move anybody in as an assisted living
20 facility; but we will be doing a marketing process
21 that we think will be first-rate and we'll try to
22 sell our product.
23 MAYOR PITTMAN: Mr. Patrick.
24 COUNCILMEMBER PATRICK: A couple of questions
25 for you -- when we met, you had said that there was

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1 the PIP plan, that I think by November you guys had
2 to put so many dollars into reinvesting or keeping
3 the property up.
4 ATTORNEY NEY: Yes.
5 COUNCILMEMBER PATRICK: All right. If you go
6 through with this plan, are you going to be putting
7 money into maintaining the Comfort Inn label? Or
8 what is going to happen with the business at that
9 point?
10 ATTORNEY NEY: That is uniquely up in the
11 air, and I best state it probably by -- December is
12 really a crux time for us, when we make a decision
13 whether we close the facility down -- unfortunately
14 -- because we have an -- it will take about a
15 two-million -- \$2.1 million expenditure to comply
16 with the Comfort Inn requirements, and we are
17 probably not going to spend that kind of money to be
18 a hotel; we just can't afford to do so. So it puts a
19 real target out there for us, Mr. Patrick.
20 COUNCILMEMBER PATRICK: So does that mean
21 then that whether we were to approve this or not,
22 more than likely you would end up closing the hotel
23 then around the end of the year? Or --
24 ATTORNEY NEY: No. On the contrary, we -- in
25 our efforts -- and there have been many -- to try to

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1 successfully run the hotel, we've been a Holiday Inn,
2 we've been a Comfort Inn, we've been a Best Western,
3 we've been a Metro. We would probably move back and
4 try to go to somebody else who would allow us to do
5 so, or we'd move back to an independent brand.
6 But we have no intent of spending \$2.1
7 million to continue failing, Mr. Patrick.
8 MAYOR PITTMAN: Sir, did you have something
9 you wanted to say?
10 MR. BRYCE: Well, I was going to say, this
11 PIP plan -- we're not going to invest in it -- in the
12 hotel -- because the hotel is not feasible. However,
13 the PIP plan does require landscape and exterior
14 remodel of the building, so we're hoping we can push
15 some of that through, and that would actually be for
16 the assisted living.
17 MR. SHAH: Can I add something?
18 MR. NEY: May the owner say a word, Mayor?
19 May he come forward? -- Mr. Shah.
20 MAYOR PITTMAN: Yes.
21 MR. SHAH: When we took the Comfort Inn sign,
22 Comfort Inn franchise, we told them that we were
23 planning to convert it to assisted living, and it was
24 understood that it was going to be a temporary
25 Comfort Inn franchise. We have a qualifier (ph)

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1 relationship (ph) with them, so they granted it. The
2 condition of the hotel was excellent, so they were
3 able to do that, and we've had no representation
4 anymore (ph).
5 So as and when we become assisted living, it
6 will terminate the Comfort Inn franchise.
7 COUNCILMEMBER PATRICK: The other question I
8 had is, when we met we had discussed the possibility
9 of sidewalks along the right-of-way. Is that -- I
10 mean I didn't see that called out in what you've got
11 here or up there. Is that --
12 ATTORNEY NEY: It isn't presently called out,
13 but I believe we are willing to put in sidewalks and
14 would add that as a condition, particularly
15 along-avenue.
16 MR. SHAH: Clearview.
17 MR. BRYCE: Clearview Avenue.
18 MR. SHAH: Yes, Clearview.
19 MR. BRYCE: We would agree to it if you guys
20 vote yes today -- yes, we'll put that sidewalk.
21 ATTORNEY NEY: Okay. Along Clearview Avenue,
22 as a matter of fact.
23 And I don't know how that's best done, by
24 orally making that condition? Or by -- I'll be glad
25 to put it in writing shortly.

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1 COUNCILMEMBER PATRICK: Okay. Thank you.
2 ATTORNEY NEY: Thank you very much.
3 MAYOR PITTMAN: Okay. Ms. Fleming?
4 COUNCILMEMBER FLEMING: Could you point out
5 -- I just want to refer to the map right now. Could
6 you point out any type of walking trails or therapy
7 areas for ADA compliancy and so forth.
8 MR. BRYCE: Well, first of all, the building
9 will ADA. The common areas of ADA will be there, so
10 that's going to happen.
11 Can you see this? Or do you want me to go
12 over to this other one?
13 COUNCILMEMBER FLEMING: No. Go ahead.
14 MR. BRYCE: The walking trails -- by removing
15 all this paving around the building, like we've
16 agreed to do, we're adding sidewalks all the way
17 around the building, so that's in essence a walking
18 trail.
19 We're also going to have walking areas inside
20 the courtyard area, which is very secure.
21 And we've also got walking areas out -- you
22 can't see on this as well as you can on the
23 non-colored part of the drawing, but this is the
24 walking areas all through here, across the back of
25 this area.

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1 Can you pull that up, Jeff?
2 ATTORNEY NEY: I can. Why don't we take it
3 up to the --
4 COUNCILMEMBER FLEMING: That's quite all
5 right. I can visualize. I can --
6 MR. BRYCE: We have quite a bit --
7 ATTORNEY NEY: They are designated, Mrs.
8 Fleming, for walking. They are little -- there are
9 just dotted lines that designate them.
10 COUNCILMEMBER FLEMING: Okay.
11 ATTORNEY NEY: I believe we may have shown
12 them to Mrs. Dean.
13 MR. BRYCE: Oh, here we go. You can see them
14 right here. We've got a little cross --
15 cross-walking in this area here.
16 We've got walking across here.
17 This is all new.
18 And then this sidewalk that we just discussed
19 would be additional.
20 COUNCILMEMBER FLEMING: Okay. Thank you very
21 much.
22 Mr. Ney, 10 months ago I guess we spoke --
23 and you had an assistant with you at that time -- or
24 an associate with you -- I don't believe either of
25 these two gentlemen were with you -- and I asked

1 about medical personnel in regards to an assisted
2 living location, and I was told by both of -- you and
3 the person there -- that it wasn't required for an
4 assisted living.

5 And I've heard your presentation this evening
6 to state that there would be a medical staff on hand.

7 So I'm a little bit confused about your
8 presentation.

9 ATTORNEY NEY: No physicians on hand, but
10 there will be paramedics, there will be nurses,
11 there will be people who -- to care for these folks,
12 on hand, at site, to identify a problem and to take
13 them to a hospital if it became necessary.

14 But we simply can't -- it all has to do with
15 a residential assessment -- when we are taking folks
16 in, assessing and making sure that we are -- they are
17 the right people for us to be able to try to care
18 for, Mrs. Fleming, and making sure we don't take
19 someone who is too deeply ill, who is too gravely
20 concerned -- they are really candidates for a nursing
21 home, not for an assisted living facility.

22 And I'm sorry to say that, but our purpose is
23 not to take care of people who are dreadfully ill.

24 COUNCILMEMBER FLEMING: No, sir. I -- it was
25 just a contradiction of what I heard 10 months ago,

1 so forth, private parties; and I still think that
2 hotel is a viable source for the City of Doraville.

3 And particularly it may be -- for the GM
4 property it may be a high-scale, upper-scale hotel
5 that, even though some people want to have a
6 five-star hotel, you could still market it as a
7 five-star hotel with affordable pricing.

8 And I am just -- even though you've purchased
9 it from Comfort Inn and said you were going to make
10 it into an assisted living, unfortunately that was
11 not my personal vision.

12 MR. SHAH: Can I answer that?

13 ATTORNEY NEY: Let me speak to her just for a
14 moment -- and then I am going to ask Mr. Shah if he
15 will address that.

16 MR. SHAH: Ms. Fleming --

17 ATTORNEY NEY: I give it to you then.

18 MR. SHAH: -- we've been in business for 32
19 years in hotels. If there was any chance to make
20 this hotel successful, we would have made it.

21 We have borrowed (ph) since 1993. We have
22 invested over \$8 million in renovation. We kept (ph)
23 it for 15 year (ph) very successfully Comfort Inn.

24 When we had a chance to upgrade it, we spent
25 another \$3 million doing a Holiday Inn. We had a

1 as to what I hear today.

2 ATTORNEY NEY: I'm so sorry. I did not mean
3 to do that.

4 We will have people to help. If I became ill
5 in the facility, I could go to a nurse, and she would
6 identify that I have X-Y problems and send me to a
7 doctor or send me to a hospital.

8 But that's as far as it goes unfortunately.
9 We are not going to be treating anyone for major
10 medical facilities -- or undertakings -- there, Mrs.
11 Fleming.

12 COUNCILMEMBER FLEMING: Okay.

13 My vision of the City is that this hotel
14 would be -- could be marketed as an affordable
15 alternative to downtown Atlanta. And if there had
16 been a strategic marketing campaign done, we could be
17 doing this right now.

18 And not only that, fine dining was in there
19 years ago; and it could also be brought up to par and
20 also marketed as a fine dining place with reasonable
21 prices. And this would bring local dollars into the
22 hotel is well.

23 I have lived here for an awfully long time.
24 Those conference rooms were booked every, single
25 weekend for nice conferences, as well as parties and

1 food (ph) and restaurant. We had a bar. We had
2 meeting rooms. We were doing an awful lot of
3 business, but we were still not making money.

4 Conference's rooms were full. We were
5 catering to as many businesses as possible. But we
6 lost a lot of money running as a Holiday Inn, full
7 service.

8 And you remember, Holiday Inn is an
9 international franchise with 3500 hotels. They will
10 not allow any lesser standards to us than they will
11 allow to anybody.

12 But then as of today we could make it a
13 Sheridan, we could make it a Holiday Inn, we could
14 make any brand -- that's how the quality of the hotel
15 is.

16 We have done this for 32 years. It's just
17 the location is not viable for any commercial
18 business businesspeople, unfortunately, to stay in
19 Doraville. They have all moved out to Perimeter
20 Mall. They are going to the Peachtree/Dunwoody Road.
21 They are going to the Northlake. They are going to
22 the Gwinnett area and Sugarloaf.

23 I mean why would a gentleman who was in -- 32
24 years in the hotel business, would give up a hotel
25 and get into assisted living? Because we have no

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1 choice. We are bleeding \$45,000 a month. No small
 2 businessman could survive and go in a different
 3 business if he didn't have to.
 4 We were about to close down this two years
 5 ago, until we found out somebody who said, no,
 6 assisted living is a very growing business; go and do
 7 a feasibility study.
 8 We hired (ph) a consultant. We hired (ph)
 9 assisted living management people to come, and they
 10 came with 95 percent occupancy.
 11 So my choices were only two: Either close it
 12 down, put a fence -- and remember -- you may remember
 13 back in '93 when we bought it, it was nothing but a
 14 drug house and prostitution. We were the one to
 15 clean it. We were the one to re-brand it as a
 16 Comfort Inn.
 17 We ran it for 18 years. If there was any
 18 viable way to do it -- that's the business we are in;
 19 that's my bread and butter. I wake up every morning
 20 and run hotels.
 21 I am not doing this out of choice. I am
 22 forced to do it because if I don't do it -- there is
 23 nobody who could survive because of the location.
 24 The businesses, the commercial businesses, have moved
 25 away.

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1 And as a Holiday Inn if you cannot survive --
 2 which is the second or third best brand in the world
 3 -- after spending \$3.5 million to do a Holiday Inn,
 4 and then you can't survive, then I don't know what
 5 else is left. You know, it's just --
 6 COUNCILMEMBER FLEMING: Okay. In 1993 -- I
 7 hate to contradict you, and this isn't going to be a
 8 verbal confrontation between us -- but in 1993 it
 9 wasn't drug-infested. We -- the Shrine Bowl people
 10 booked your hotel for four or five nights every
 11 Thanksgiving weekend, and it wasn't drug-infested.
 12 MR. SHAH: No --
 13 COUNCILMEMBER FLEMING: And '93 -- you said
 14 you purchased it in '93, so I'm just --
 15 MR. SHAH: It was a Perimeter North Inn
 16 though at that time.
 17 COUNCILMEMBER FLEMING: Pardon me?
 18 MR. SHAH: It was -- in 1993 it was a
 19 Perimeter North Inn Motel.
 20 COUNCILMEMBER FLEMING: That is correct.
 21 MR. SHAH: It was not a Best Western.
 22 It had great days in the '80s. I agree with
 23 you. That's why we bought it.
 24 We thought we could regenerate (ph) it -- and
 25 we did; for 18 years we did. We re-branded it as a

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1 Comfort Inn, spent \$3 million then, to do Comfort
 2 Inn. We have been successful.
 3 I'm just saying the market has moved, the
 4 commercial clients have moved, the times have
 5 changed.
 6 COUNCILMEMBER FLEMING: Okay. Thank you.
 7 And one other comment in regards to this is
 8 that it's going to remain a hotel for 36 months under
 9 a conditional use of an assisted living senior
 10 facility, senior housing facility, because that's
 11 what HUD needs us to consider it. But we're not
 12 sure, based on your conditions, that you will even
 13 have a building permit in 36 months.
 14 ATTORNEY NEY: Let me -- you stated it in the
 15 worst possible way. Let me state it in the most
 16 affirmative way, if I may, Mrs. Fleming.
 17 COUNCILMEMBER FLEMING: I said it in the most
 18 logical way -- go ahead.
 19 ATTORNEY NEY: Well, let me say, the most
 20 affirmative way that I can put that is we are giving
 21 ourselves 36 months to try to work out an opportunity
 22 to get our loan in place.
 23 Financing is the only condition we have put
 24 down there. We didn't put a lot of the other
 25 conditions that you might have expected, because we

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1 know that HUD financing is the keynote for us to get
 2 -- or its guaranty is the keynote for us making this
 3 work.
 4 From that standpoint, we know -- and as I
 5 outlined for Mr. Bates or -- and Mrs. Pachuta -- this
 6 is a period of time. We know it's going to take us
 7 at least 21 months to get there, so we are asking
 8 that we be able to -- for up to 36 months, and
 9 knowing that we are going to use 21 or 22 or 23 of
 10 those months -- to try to get our loan in place. And
 11 when we get our loan in place, we will come and close
 12 with you. If it takes longer, we understand.
 13 But the financing is our only condition for
 14 doing that, Mrs. Fleming. That's the only condition
 15 we put on it.
 16 COUNCILMEMBER FLEMING: Okay. But wasn't the
 17 presentation also in that within a year the hotel
 18 itself would be broke, and -- if you didn't get a
 19 jumpstart on this?
 20 ATTORNEY NEY: Let me simply tell you what
 21 we're trying to do.
 22 COUNCILMEMBER FLEMING: So I mean --
 23 ATTORNEY NEY: Oh, no, no. Let me -- you
 24 know I -- your point is well taken.
 25 We are simply trying to cover some debt

1 service for that two- or three-year period and
2 continue to struggle out and make a few bucks. We
3 would rather lose \$45,000 than lose \$75,000 -- is the
4 point. And that's all we're trying to do, is to
5 cover our debt and bite that -- and have that bullet
6 taken care of.

7 And that's what we're striving to do, and
8 that's -- and to give us some energy to continue it
9 as a hotel until we are ready to immediately move it
10 over and become an assisted living facility.

11 COUNCILMEMBER FLEMING: Okay. Thank you very
12 much.

13 MR. SHAH: Can I --?

14 The alternative would be to go ahead and
15 close it down right now and then wait for the loans
16 to come. And by that time the area will die. In
17 fact (ph), there will be homeless people moving in,
18 and the people will steal stuff.

19 The idea is to just break even until the time
20 -- or to lose less money until the time we are ready
21 to do it once the loan is in place. It could be
22 eight, 15 months.

23 There's a -- you know, when you are dealing
24 with the Department of Housing and Urban Development,
25 there is no guarantee on how long it takes.

1 as a side note, we had a conversation in e-mail I
2 believe about the size of the elevator.

3 ATTORNEY NEY: We did.

4 COUNCILMEMBER DEAN: And while the elevator
5 is within compliance of the ADA, Chapter 30, Section
6 3002.4, of the International Building Code requires
7 that the elevators be large enough to accommodate a
8 24-by-84-inch ambulance stretcher in the open,
9 horizontal position.

10 ATTORNEY NEY: Let me get my architect.
11 We've already -- we've analyzed that. Let me -- I'll
12 get him to speak.

13 Whatever it takes -- there are two elevators
14 in the building. We've measured them, and we gave
15 you the measurements. I think it's 56-by-80. If
16 that is acceptable, we're going to utilize them. If
17 it isn't acceptable, we're simply going to have to
18 modify it to meet building code.

19 But we wanted to give you the precise size of
20 the elevators and say that we didn't think -- let me
21 get Mr. Seeley.

22 If you will, Jeff --?

23 ARCHITECT SEELEY: It's a good question.

24 Because there's a lot of this building type,
25 the State has re-regulated the use of the term

1 Sometimes it takes eight months, sometimes it's 18
2 months. There are six people doing the loan approval
3 in the entire nation.

4 COUNCILMEMBER FLEMING: Okay. And you made
5 a comment about Comfort Inn was requiring you to come
6 to their standards, you know, raise your -- raise the
7 standards of this hotel to their standards. What
8 period of time have they given you to do that?

9 MR. SHAH: Basically we have complied with
10 most of their conditions. The only conditions we
11 haven't complied is the one that requires anything
12 that would go waste. If I have to change sign of a
13 Comfort Inn and I have to throw it away, then I don't
14 want to do it.

15 So I basically went to them, the only reason
16 I will take this franchise, if you would allow me to
17 operate a whole Comfort Inn hotel until the day I
18 become assisted living. They said, As long as you
19 don't convert to another hotel, that's fine with
20 them.

21 COUNCILMEMBER FLEMING: Okay. Thank you.

22 MAYOR PITTMAN: Ms. Dean?

23 COUNCILMEMBER DEAN: Thank you for coming and
24 taking the time to deliver this presentation.

25 This has nothing to do with the zoning, but

1 "assisted living," and not everybody has sorted out
2 exactly where everything falls yet
3 building-code-wise, fire-wise, handicap --

4 COUNCILMEMBER DEAN: Right. We'll that's in
5 the building code. That has nothing to do with the
6 safety side. That's the building code in general.
7 So even if you put that money in as a hotel, for
8 example, you would still have to come into
9 compliance.

10 ARCHITECT SEELEY: Right. There are several
11 things in flux, and one of the -- the very small
12 addition we have in the back that is the stair -- it
13 also has the ability that -- we've sized it that way
14 -- that if we have to replace an elevator, we can
15 place it over there also and not have to deal with
16 trying to tear up the -- too, our floor structure
17 that we have there.

18 So we -- it's easily correctable.

19 COUNCILMEMBER DEAN: Okay. I mean that --
20 again -- and that's something, again, just to --
21 because we had the discussion, I just wanted to make
22 sure that this is -- I mean because it is going to be
23 a costly undertaking, and the fact that it was
24 delayed before due to financing and now you're asking
25 for another three years, you know, to put a hold on

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1 this, it's a bit concerning for me, particularly
2 being that this is not on our comp plan; this is not.
3 We have a plan, and I am very -- at this
4 point in my term on Council, I am following the plan,
5 I'm trying to follow the plan; and so this is huge,
6 because you have all these conditions and it's, you
7 know -- so it's very complex.
8 I absolutely understand. I hear you. But
9 it's -- you know, there are so many issues here.
10 So I do understand the situation. I live in
11 that neighborhood, so it's a definite concern to me.
12 Ms. Fleming addressed one of my issues too.
13 You talked about the medical staff on site. Now,
14 you're going to have nurses. Will they be RN or
15 LPNs?
16 ATTORNEY NEY: Hard to give you a specific
17 classification. Our manager will decide at what
18 level we are seeking tenants and occupants, and based
19 upon that we will have to meet up with that standard,
20 Mrs. Dean.
21 COUNCILMEMBER DEAN: Okay. Well, see -- and
22 I ask because when I asked that question at our
23 meeting, you said nurse-type staff. And that's --
24 and so that's -- and that -- I just want to make sure
25 that every -- because the hotel business, to anyone

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1 -- but that's, again, not the issue.
2 ATTORNEY NEY: Well, let me again address
3 that so that we're being perfectly clear. I meant
4 that in reference to the fact that we won't have any
5 doctors in-house, as a matter of fact. We simply
6 won't be.
7 We'll have folks who perhaps can diagnose
8 some basic ailments and concerns and then send them
9 to the hospital, but we're saying -- and most of our
10 people will be ambulatory; they can walk around.
11 They can talk to us. They can advise us their
12 illness and their pains, if you would. And that's
13 the basis on which we would accept them and take them
14 into our facility.
15 COUNCILMEMBER DEAN: Okay. So this is going
16 to be more like a retirement community, rather than
17 assisted living; right? Like a --
18 ATTORNEY NEY: Well, I don't want to say
19 that, as a matter of fact, because we're -- we'll
20 have to do -- our licenses and a number of other
21 ingredients will be under the assisted living
22 program, and we will have to meet those standards
23 perhaps; okay?
24 MR. SHAH: Can I say something?
25 What you are referring to is an independent

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1 living.
2 COUNCILMEMBER DEAN: Uh-huh.
3 MR. SHAH: It's not independent living.
4 These people are the people who really don't need
5 medical assistance, but they do forget to take
6 medicines. So it's a very light -- that's why this
7 is a separate category of assisted living. It's not
8 a nursing home. It's not independent living.
9 COUNCILMEMBER DEAN: Well, here's -- when you
10 said that you were going to have a corridor for
11 patients suffering from dementia --
12 ATTORNEY NEY: Yes.
13 COUNCILMEMBER DEAN: -- I mean that's because
14 they are going to need some services that might be
15 above the...
16 ATTORNEY NEY: There's no question that we
17 have 20 floors -- 20 rooms on the fourth floor, which
18 will be a secured floor, which will be separately set
19 apart, secured, and taken care of; and there we will
20 have greater attention and care.
21 When we talk in terms of -- largely of the
22 Alzheimer's, or other forms of dementia, these will
23 be people who are not -- they need help finding their
24 room. But they are fully ambulatory; they can get
25 around. They're just headed in the wrong direction,

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1 and we're trying to help them move in the right
2 direction, Mrs. Dean.
3 So yes, we will have that service. But
4 again, we are not going to offer any medical services
5 of doctors on hand please; okay?
6 COUNCILMEMBER DEAN: Okay. And what about
7 emergency vehicles in the neighborhoods? I mean,
8 that -- have you studied to see what kind of impact
9 that might have on the community?
10 ATTORNEY NEY: It will be a very infrequent
11 experience; but let me say, just like you would call
12 an ambulance to your home -- and God forbid that ever
13 occurs -- that we would call an ambulance to our
14 facility to take care of someone who is ill.
15 But one thing that's different -- we have
16 five acres on which they can come in and drive in,
17 wait, and take someone off without interfering
18 hopefully with lots of people in the neighborhood.
19 COUNCILMEMBER DEAN: Okay. And just -- and
20 I'm sorry if I'm being obtuse -- when you are asking
21 for the three-year period -- what is going to take so
22 much time? I mean, you don't have financing now;
23 right?
24 ATTORNEY NEY: We don't. And let me just --
25 and I'll go back, and let me be a little bit

1 redundant -- and I apologize for that.
2 It will take us about three months to get our
3 conventional loan in place, take us about 16 to 18
4 months -- now these are kind of best opportunities --
5 16 to 18 months -- that's about 21 months that we
6 have right there, under all optimistic circumstances.
7 That could extend for a longer period of time, but
8 that is generally what it is going to take us to get
9 our building permit.
10 Let me let Mr. Shah speak to that.
11 MR. SHAH: What we have done so far in the
12 last year-and-a-half period is to identify a company
13 called Love Funding. They have specialized in
14 financing assisted living.
15 They will come, and they are the one who did
16 the feasibility study. They came and visited the
17 property. They have basically told us everything
18 looks fine.
19 It takes 90 days for them to give preliminary
20 approval; and once the preliminary approval is
21 granted, the application goes to HUD; and that's
22 where it gets stuck.
23 And see, HUD comes with a bunch of
24 requirements, some of which, we already complied to
25 assist them. There's the projections. You have to

1 it states a specific place for it. The zoning that
2 we've adopted allows assisted living in O-I as a
3 conditional use.
4 COUNCILMEMBER DEAN: Well, and then that's
5 why the zoning change hearing; right?
6 COUNCILMEMBER PACHUTA: Yes. And we have no
7 assisted living in Doraville. On our comprehensive
8 plan I think the LCI -- I'd have to double-check -- I
9 know that the comprehensive plan mentions that we
10 need to find -- we need to service the residents so
11 that they can stay here --
12 COUNCILMEMBER DEAN: Sure.
13 COUNCILMEMBER PACHUTA: -- through to, you
14 know, the end of their life.
15 COUNCILMEMBER DEAN: Well, the thing is, with
16 the zoning changes -- because I looked at the -- I
17 mean I checked this out -- and our comprehensive plan
18 now does not -- I mean it's C-2 in that corridor;
19 right?
20 COUNCILMEMBER PACHUTA: I think to the west
21 of it is O-I. I think to the south of it is O-I.
22 COUNCILMEMBER DEAN: Right.
23 COUNCILMEMBER PACHUTA: And to the east of it
24 is M-1.
25 COUNCILMEMBER DEAN: Right.

1 do budgeting. You have to get a construction
2 contract, which is what we are preparing for now; we
3 have finished almost 60 to 75 percent of it.
4 But even once the application is in HUD's
5 hands, it may take them eight months, 12 months, 14
6 months. We're just trying to come and take enough
7 time to make sure we don't have to come back here
8 again. That's all we are trying to do.
9 COUNCILMEMBER FLEMING: And the reason you
10 need a zoning now is you need to put that on the
11 application -- or the conditional use -- on the
12 application to take in order to even begin the
13 process?
14 MR. SHAH: Right, right. Otherwise they
15 won't even consider it.
16 ATTORNEY NEY: Thank you. That's exactly our
17 circumstance.
18 COUNCILMEMBER DEAN: Okay.
19 COUNCILMEMBER PACHUTA: I just want to make a
20 comment that our comprehensive plan does state that
21 we need to find locations for assisted living. It
22 does state that --
23 COUNCILMEMBER DEAN: There? But not there;
24 right? Not at that --
25 COUNCILMEMBER PACHUTA: Well, I don't think

1 COUNCILMEMBER PACHUTA: So it's surrounded by
2 O-I and M-1.
3 COUNCILMEMBER DEAN: Okay.
4 MAYOR PITTMAN: Anything else?
5 COUNCILMEMBER ALEXANDER: Mr. Shah, I assume
6 you represent Imperial Investments; correct?
7 MR. SHAH: And Castlestone -- both.
8 COUNCILMEMBER ALEXANDER: So you are a parcel
9 owner in Castlestone also?
10 MR. SHAH: Yes.
11 COUNCILMEMBER PACHUTA: So it's just -- it's
12 two corporate entities --
13 MR. SHAH: Right.
14 COUNCILMEMBER PACHUTA: -- and so one
15 corporate entity owns one parcel, and the other owns
16 the other parcel?
17 MR. SHAH: That's correct.
18 ATTORNEY NEY: Yes.
19 COUNCILMEMBER PATRICK: Is there some benefit
20 for you for doing that? -- versus just recombining
21 the parcels?
22 MR. SHAH: No. When we I think applied for
23 our cell tower applications, the cell tower provider
24 wanted a single-purpose entity for some reason. They
25 said if you go bankrupt or something they don't want

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1 to have a cell tower in bankruptcy court.
2 COUNCILMEMBER PATRICK: Okay. All right.
3 MR. SHAH: So I think they were smart. They
4 knew what was coming.
5 MAYOR PITTMAN: Okay. We are going to take
6 it from the table right now, and if you gentlemen
7 don't mind having a seat for a moment, we are going
8 to open the public hearing portion.
9 DIRECTOR COOLEY: Excuse me, Madam Mayor?
10 MAYOR PITTMAN: Yes?
11 DIRECTOR COOLEY: Given this is a rezoning
12 and conditional use permit, you really do need to
13 have two public hearings, one for the rezoning and
14 one for the conditional use permit.
15 And as you're going through that, just be
16 aware that some of the conditions really need to
17 apply for the conditional use permit, and some to the
18 zoning. I do have those numbered -- if you get to
19 that point.
20 MAYOR PITTMAN: Okay.
21 So we're going to open the public hearing
22 portion for the rezoning first. Again, you will have
23 10 minutes -- that's 10 minutes total, so if you
24 speak for 10 minutes, no one else will have that
25 opportunity.

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1 So we're going to open at this time for the
2 rezoning. Those wishing to speak for, please come
3 forward, state your name and address for the court
4 reporter.
5 Those wishing to speak for --?
6 (No one comes forward.)
7 MAYOR PITTMAN: Okay. We are going to close
8 that portion.
9 Those wishing to speak against, please come
10 forward, state your name.
11 MR. STUART ANDERSON: This is "for."
12 MAYOR PITTMAN: If you can line up please,
13 I'd appreciate it. If you are wishing to speak
14 against, please line up at the podium.
15 COUNCILMEMBER PACHUTA: He's speaking "for."
16 MR. STUART ANDERSON: Stuart Anderson, 25- --
17 MAYOR PITTMAN: Oh, you're speaking for?
18 MR. STUART ANDERSON: Yes.
19 MAYOR PITTMAN: I apologize.
20 MR. STUART ANDERSON: 2595 Barrylynn Drive.
21 I think that the zoning change is appropriate
22 due to the neighborhood zoning, and these gentlemen
23 have tried to make it work as C-2. I think the
24 zoning change is appropriate.
25 MAYOR PITTMAN: Anyone else for?

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1 (No one comes forward.)
2 MAYOR PITTMAN: Okay. Now we'll open it for
3 those wishing to speak against, for rezoning only,
4 for the rezoning.
5 There's two separate -- there's going to be
6 one for rezoning and one for the conditional use.
7 MS. SUSAN CRAWFORD: Well, if I cross over
8 just tell me, and I'll be quiet.
9 Susan Crawford. Do you want my home address?
10 -- 3959 Red Oak Drive.
11 Okay. Just a couple of points here -- well,
12 actually more than a couple. As far as the rezoning,
13 I believe that this -- I don't think it is in
14 compliance with all of the Steinberg laws. I think
15 that it would adversely affect the surrounding
16 neighborhood and the property values.
17 And I would like to say that I remember when
18 this hotel was really something. When we first moved
19 to Atlanta, we came -- we would come over here to eat
20 dinner, and we didn't -- I mean we lived in Atlanta,
21 we didn't live in Doraville. It was a really nice
22 place.
23 We also put on an art show not too many years
24 ago when it was a pretty -- doing pretty well as a
25 hotel.

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1 I am sorry that people are losing money.
2 And I realize that millions of dollars from
3 the federal government would be quite a big help and
4 probably an impetus to fix things like the elevator,
5 which I want to point out, it isn't just a simple
6 thing, because when you have elevators that are too
7 small and you have to make them larger to comply --
8 because of course we don't want to stuff people into
9 stretchers when they can't lie down -- because
10 "stretcher" means "stretch her" -- but usually you
11 have to change the whole size of the shafts -- you
12 can't just have a larger elevator that goes up and
13 down a smaller shaft -- so it can be a very expensive
14 deal.
15 As far as the public hearing -- I live in
16 that area. I never saw anything about a public
17 hearing. I certainly would have gone.
18 I wonder, with all the beautification of the
19 parking lot if you are going to leave room for
20 emergency vehicles, because in an assisted living
21 place they are really -- they do come in and out,
22 hopefully.
23 And I just want to say that you said you
24 studied the demographics, but I wonder if that's
25 true, because at Embry Hills they just tried to put

1 in recently an assisted living place, the same thing,
2 and it failed miserably. And they were going to
3 actually put in another one; and they decided against
4 it, because they could get nobody to go to that one.

5 So -- and this is the only hotel we have to
6 go to.

7 MS. CINDY BRADFORD: Cindy Bradford,
8 Northwoods.

9 Okay. So I'm only supposed to speak on the
10 zoning?

11 MAYOR PITTMAN: The rezoning on this --

12 MS. CINDY BRADFORD: So I can't speak about
13 the --

14 MAYOR PITTMAN: You can in a minute when I
15 open up the public hearing for that portion.

16 MS. CINDY BRADFORD: Okay. All right.

17 I'm against it simply because I don't feel
18 that it's our problem as a City that somebody can't
19 make this hotel work, because it worked in the past;
20 and it should work now; it's in a great location.

21 And millions of dollars in improvements? How
22 bad did it look before? I went over there this
23 weekend.

24 So I'm against it.

25 And I did take exception to saying that you

1 motel/hotel tax, another \$35,000.

2 So I don't agree with the rezoning of this
3 property because in the comprehensive plan it made
4 perfect sense that, because of its high visibility,
5 use on Buford Highway for office building, hotel,
6 etc.

7 You've been marketing the hotel, and we are
8 not responsible for that. At recent -- one of your
9 recent parties where a sex group rented an entire
10 floor of the building -- the Sex Machines -- is your
11 idea of marketing your motel? I mean, I've got a
12 copy right here from the Internet where you became
13 the "swingers of Atlanta" site for metro Atlanta.

14 So I think it's not -- it has nothing to do
15 with the building and the site, it has to do with the
16 owner of the building. And we are not responsible
17 for your marketing your building.

18 The cell tower on the property -- I -- you
19 know, that -- there was a question about that.

20 The physical plant itself, the electrical and
21 plumbing in the building -- how current is that? And
22 we understand there may be some problems with that.

23 The second thing -- it's a HUD-funded Section
24 8 housing project that's been promoted by DeKalb
25 County, and Doraville once again becomes a dumping

1 do not have a medical staff, you're not going to have
2 a medical staff on site. And you're going to have a
3 floor for dementia patients?

4 And since I've just lost my mother recently
5 to that disease, I know that it's a 24/7 -- a
6 physician has to be at the facility at all times, and
7 it's not just a disease where you need help taking
8 your medication and finding your room. And I know
9 this to be a fact, because I've just been through it
10 for the past three years with my mom.

11 So you need to get your facts straight about
12 the disease.

13 Thank you.

14 MR. TOM HART: I'm Tom Hart, and I'm from the
15 adjacent neighborhood, Gordon Heights.

16 Where do I start on this?

17 As one of the authors of the 2006
18 comprehensive plan -- this is very much -- it faces
19 285. It's a highway commercial use. It has high
20 visibility; up to 700,000 cars a day pass through 285
21 and the Buford Highway corridor.

22 This is an important site for the owners.

23 It's also an important tax site for the City
24 of Doraville. This will negatively impact our budget
25 for the coming year, because we will lose our

1 area for DeKalb County for trash and everything else
2 they don't want in the rest of the surrounding area.
3 So we're a little tired of that.

4 And I think that they should keep the zoning
5 as it is for C-2 highway commercial.

6 And also has the Mayor and Council disclosed
7 and put on the record any campaign contributions that
8 were made to one of the Mayor and Council members by
9 this organization? Has that been disclosed this
10 evening? It was discussed at the planning meeting --
11 Commission meeting that was held in November -- the
12 6th, I guess -- in 2011.

13 That's about it. Thank you.

14 MS. CAROL GILMAN: Is there any time left?

15 MAYOR PITTMAN: Yes.

16 MS. CAROL GILMAN: Carol Gilman, Northwoods.

17 Ms. Fleming, I too remember when that hotel
18 was a very prosperous and neat place to go. I
19 personally promoted two professional audit
20 associations in moving their annual meetings there,
21 the Atlanta chapter of the Institute of Internal
22 Auditors and the local chapter of the EDP Auditors
23 Association, of which I was President. Both
24 organizations held their monthly meetings there
25 probably for a year or so, and then we moved to

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1 Colony Square.
 2 I drove over there this morning, and I agree
 3 that there's an opportunity to improve when it comes
 4 to landscaping.
 5 I appreciate Ms. Pachuta's comments about
 6 zoning. I do. I agree. And at the same time, I
 7 would prefer the zoning to remain what it is for this
 8 particular location.
 9 I toured the grounds and facility, rode in
 10 the elevator, and cannot envision a stretcher the
 11 size described -- quantified by Trudy Dean -- would
 12 fit into that elevator. Elevators are very costly
 13 capital improvements, and whether you add a
 14 stairwell, add a new elevator, that's going to --
 15 that's a very costly capital improvement.
 16 Doraville needs a high-quality hotel.
 17 I've been here since December 2007, and I
 18 don't recall ever reading, seeing, hearing, knowing,
 19 conversing with anyone about that hotel. So I think
 20 there also remains an opportunity to promote and
 21 market and advertise there is a facility.
 22 I don't think we can ever govern what
 23 transpires in a hotel room. However, we may be able
 24 to promote a business in Doraville that is needed, I
 25 think with the help of an economic development

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1 director, we could possibly do that, whether it's
 2 with this owner or another owner. We are talking
 3 really about the property and the zoning.
 4 The Planning Commission back in December 2011
 5 -- I do not know who was on the Commission then; I do
 6 know I was not. I would really appreciate the
 7 opportunity to have this presented to the Planning
 8 Commission once again. I don't know what the
 9 protocol is. But why I say that is because there's
 10 so much iffiness.
 11 It almost sounds like the applicant is
 12 putting the cart before the house [sic] -- we want
 13 you to do this to enable us to go out and conduct our
 14 business as a private investment for ourselves.
 15 Why don't you show us what the bank, the
 16 lender, the financing groups will do for you? Why
 17 don't you bring that to us? Why don't you bring a
 18 HUD official?
 19 (Timer sounded.)
 20 MAYOR PITTMAN: Okay. Thank you, Ms. Gilman.
 21 MS. CAROL GILMAN: Thank you for the time.
 22 MAYOR PITTMAN: Anyone else wishing to speak
 23 against?
 24 (No one comes forward.)
 25 MAYOR PITTMAN: Okay. We are going to close

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1 the public hearing portion of the rezoning, and we
 2 are going to open the public hearing portion of
 3 the --
 4 CITY ATTORNEY MCLENDON: Do we want to --
 5 COUNCILMEMBER FLEMING: You've got to rule on
 6 that part of the --
 7 MAYOR PITTMAN: I think we do them both.
 8 CITY ATTORNEY MCLENDON: Do we want to
 9 consider the zoning? Or do you want to have both
 10 public hearings?
 11 Joe, I'll let you weigh in on that.
 12 DIRECTOR COOLEY: Well, you're not going to
 13 be able to do the conditional use permit unless the
 14 -- till the zoning is in place, so the logical
 15 process would be either to adopt the zoning or not.
 16 And it's either going to make this use permit --
 17 MAYOR PITTMAN: Okay.
 18 DIRECTOR COOLEY: -- or moot.
 19 MAYOR PITTMAN: Okay. So we'll bring it back
 20 up to the table.
 21 Additional questions or comments from the
 22 Council?
 23 COUNCILMEMBER PATRICK: I guess one question
 24 I have is, is there something -- and this is for you,
 25 Joe -- is there some time requirement between the

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1 first presentation to the Planning Commission and it
 2 coming back to us?
 3 DIRECTOR COOLEY: No, sir. In fact, what was
 4 presented at the Planning Commission, the three
 5 requirements that they have, they implemented between
 6 now and then. I don't think that was the primary
 7 reason that it was delayed and they were granted
 8 deferrals over this period of time.
 9 But nothing has changed in the plan, other
 10 than what -- they've done what the Planning
 11 Commission has requested.
 12 There is no requirement that it go back
 13 through.
 14 COUNCILMEMBER PATRICK: Okay.
 15 DIRECTOR COOLEY: There's no requirement.
 16 And if I may, since we are doing this
 17 separately -- the zoning and things -- I would like
 18 to note that -- just for y'all's understanding on --
 19 for the conditions that are applicable to the zoning
 20 versus the conditional use permit -- the conditional
 21 use permit basically only involves the applicant's
 22 conditions, as I see it -- number 1, number 2, number
 23 8.
 24 All the conditions that they -- both the
 25 Planning Commission talked about -- the sidewalk and

1 the remaining portions of the applicant's -- are
2 related to the zoning, so when we get to that point,
3 I'll be glad to give some more detail or to read
4 those or whatever you need to do.

5 MAYOR PITTMAN: Okay.

6 COUNCILMEMBER BATES: So this is where I'm
7 at, and I'm with Ms. Fleming down there on the
8 viability of the hotel. I've seen that hotel be
9 busy.

10 But I understand from you guys that the
11 facility is too big in today's standards, so you've
12 got a section of the hotel that just isn't going to
13 operate and be full based upon today's standards of
14 hotels -- and I appreciate that.

15 But I'm not convinced that based upon our
16 comp plan, based upon our LCI plan, based upon ARC's
17 livable, you know, life-long community centers, that
18 an assisted living facility is a good fit for that
19 location.

20 We all agree that -- I think -- that we want
21 one in the City, we need one, there's a need for it.
22 It's been identified in multiple studies that an
23 assisted living facility is needed.

24 But what I heard tonight is that there's a
25 new feasibility study -- or an updated feasibility

1 have a full Planning Commission -- perhaps they can
2 -- because it's been about a year -- perhaps they can
3 re-present to the Planning Commission, and they can
4 come back as a full Commission and give us their
5 thoughts on the matter.

6 COUNCILMEMBER PACHUTA: I'm in favor of it
7 tonight. But if I don't have the votes because
8 people want to see the feasibility study -- I mean,
9 to me, all of our planning documents have stated we
10 need, you know, senior housing.

11 And this is an island surrounded by O-I and
12 M-1, so from a zoning perspective, rezoning to O-I
13 fits with the surrounding parcels.

14 But if I'm not going to -- if there's not
15 going to be the votes because people want to see the
16 feasibility study, then I will hold off. But I don't
17 want to delay the process even further by having to
18 send back to the Planning Commission and then back
19 here, because, you know, it's gone once, and --

20 COUNCILMEMBER DEAN: Well, perhaps they can
21 -- perhaps you guys would be amenable to meeting with
22 Carol Gilman, who was the new member on the Planning
23 Commission?

24 MR. SHAH: No.

25 COUNCILMEMBER DEAN: Or not.

1 study to the 2010 one that I was provided -- and I
2 don't know whom else was provided a copy -- but I did
3 not get that updated one. That is relevant and
4 germane to me in making a decision on the zoning of
5 this property.

6 I personally would like to defer this
7 decision until we have had a chance to review that
8 updated feasibility study to help me make a decision
9 based upon the totality of the information that we
10 need to consider in the comp plan, LCIs, everything
11 that we've heard tonight, the presentation. That
12 would be my personal preference, would be to take
13 some time to digest that.

14 I read the 87 pages of the previous one.
15 There was some fascinating information in there,
16 specifically regarding market analysis.

17 I would love to see the updated 2011. That's
18 my preference.

19 COUNCILMEMBER DEAN: Well -- and to touch
20 onto that as well -- it's not only 2010 or 2011, but
21 we're projecting out three years, which will also
22 have an impact.

23 If we -- and I'm absolutely agreeable to
24 doing that.

25 And if we do that, perhaps -- because now we

1 MAYOR PITTMAN: All right. We have several
2 different ideas. Is someone willing to put something
3 to a motion?

4 COUNCILMEMBER BATES: I'll make a motion to
5 defer this to October 15th.

6 MAYOR PITTMAN: Okay. A second?

7 COUNCILMEMBER BATES: Contingent upon us
8 receiving the updated feasibility study from 2011.

9 COUNCILMEMBER ALEXANDER: Second.

10 MAYOR PITTMAN: Discussion?

11 ATTORNEY NEY: I didn't hear you. Would you
12 say --

13 COUNCILMEMBER BATES: The updated feasibility
14 study, sir, from --

15 ATTORNEY NEY: Oh, we'll get you that.
16 And how long did you defer it?

17 COUNCILMEMBER BATES: Until October 15th, so
18 it's two weeks.

19 ATTORNEY NEY: Thank you.

20 MAYOR PITTMAN: Okay. We had a second.
21 Discussion?

22 (No response.)

23 MAYOR PITTMAN: Call the roll please.

24 CLERK BRYANT: Councilmember Alexander?

25 COUNCILMEMBER ALEXANDER: Yes.

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1 CLERK BRYANT: Councilmember Bates?
 2 COUNCILMEMBER BATES: Yes.
 3 CLERK BRYANT: Councilmember Dean?
 4 COUNCILMEMBER DEAN: Yes.
 5 CLERK BRYANT: Councilmember Fleming?
 6 COUNCILMEMBER FLEMING: No.
 7 CLERK BRYANT: Councilmember Pachuta?
 8 COUNCILMEMBER PACHUTA: Yes.
 9 CLERK BRYANT: Councilmember Patrick?
 10 COUNCILMEMBER PATRICK: Yes.
 11 MAYOR PITTMAN: Thank you.
 12 DIRECTOR COOLEY: Mayor, I would suggest
 13 since this has been advertised for the conditional
 14 use permit too, you may -- if nothing else -- want to
 15 go ahead and open this for the public hearing for the
 16 conditional use permit.
 17 MAYOR PITTMAN: Okay.
 18 DIRECTOR COOLEY: And you can either, at that
 19 point, defer it or go through it -- however you want
 20 to do it -- but it is appropriate to go ahead and
 21 follow it. I would assume that you would --
 22 CITY ATTORNEY MCLENDON: And it would need to
 23 be deferred as well.
 24 DIRECTOR COOLEY: -- defer it to the same
 25 date.

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1 MAYOR PITTMAN: I would prefer to defer the
 2 public hearing.
 3 COUNCILMEMBER PACHUTA: Yes, to the date
 4 certain of October 15th.
 5 DIRECTOR COOLEY: But I believe they do need
 6 to open it and then defer it, do they not?
 7 CITY ATTORNEY MCLENDON: I think once we've
 8 advertised the public hearing for tonight, we
 9 probably need to allow that public hearing to take
 10 place, though the issues may be truncated based
 11 upon --
 12 COUNCILMEMBER PACHUTA: Okay. In the past
 13 we've deferred public hearings to the date certain.
 14 But...
 15 CITY ATTORNEY MCLENDON: I've done that? If
 16 we've done that, I will go forward with that. So --
 17 COUNCILMEMBER BATES: Well, because this
 18 particular part of the public hearing is tied to the
 19 previous matter, it's relatively irrelevant tonight.
 20 CITY ATTORNEY MCLENDON: I agree. We can --
 21 let's defer it to a date certain.
 22 COUNCILMEMBER BATES: My motion will be to
 23 defer the public hearing on the conditional use
 24 permit to October 15th.
 25 MAYOR PITTMAN: Okay. Can I get a second?

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1 COUNCILMEMBER PACHUTA: Second.
 2 Could we also maybe on the sign put something
 3 up just changing to October 15th?
 4 DIRECTOR COOLEY: I'll change it. I'll do
 5 that tomorrow.
 6 MAYOR PITTMAN: Okay.
 7 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 Dean?
 13 COUNCILMEMBER DEAN: Yes.
 14 CLERK BRYANT: Councilmember Fleming?
 15 COUNCILMEMBER FLEMING: No.
 16 CLERK BRYANT: Councilmember Pachuta?
 17 COUNCILMEMBER PACHUTA: Yes.
 18 CLERK BRYANT: Councilmember Patrick?
 19 COUNCILMEMBER PATRICK: Yes.
 20 MAYOR PITTMAN: Okay. Thank you.
 21 All right. We are going to take a
 22 five-minute break.
 23 (Break from 8:32 PM to 8:43 PM.)
 24 MAYOR PITTMAN: And the meeting, come back to
 25 order.

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1 Mr. McLendon, I believe you wanted to speak
 2 about your item tonight?
 3 CITY ATTORNEY MCLENDON: And Mayor and
 4 Council, this is the second reading of the ordinance
 5 proposed on sexually oriented businesses.
 6 I've spoken with Mr. Bergthold, and he
 7 basically said he had given you his full presentation
 8 in the previous meeting. He asked me to basically
 9 just reincorporate those statements -- as to looking
 10 at secondary effects, a discussion of the relevant
 11 case law, and a discussion of our ordinance -- into
 12 this meeting.
 13 And not being the expert that Mr. Bergthold
 14 is, I will be happy to answer any questions on this.
 15 But again, this is the second reading of an
 16 ordinance. I think you had a very strong
 17 presentation showing the basis on which we were
 18 relying upon in promoting this ordinance, in
 19 proposing it for us.
 20 So if I can answer any questions, that would
 21 be fine. And I would ask that we go ahead and
 22 approve this.
 23 MAYOR PITTMAN: Okay. Questions from the
 24 Council?
 25 COUNCILMEMBER FLEMING: I have a statement.

1 Can I make a statement?

2 MAYOR PITTMAN: Yes, ma'am.

3 COUNCILMEMBER FLEMING: I am still adamant
4 about where these are located. And on page 22 of 23
5 I feel that the (as read:) "500 feet from any parcel"
6 -- I think it should be 1,000 from business to
7 business, and that will limit the number that we have
8 available in the City.

9 And number two, I think it should be 1,500
10 feet from any residential zoned, as well as house of
11 worship, public or private elementary, secondary,
12 public parks, or any residence.

13 That's -- I'm a stickler for that, 1,000 feet
14 from business to business, and 1,500 feet, you know,
15 for the residential, etc. -- on page 22.

16 COUNCILMEMBER BATES: Correct me if I'm
17 wrong, because I was not here -- but I did watch the
18 meeting on the video, and there were parts of it that
19 were difficult to understand -- but I just want to
20 make sure I'm clear on his answer to Ms. Fleming's
21 question.

22 It was that we were waiting upon the GIS
23 information to accurately identify the parcels in the
24 City that would qualify, and then if we -- if there
25 was -- and again, this is where it got a little fuzzy

1 locations. And that's part of the analysis that is
2 ongoing.

3 COUNCILMEMBER FLEMING: Okay. First of all,
4 regardless of what GIS says as far as the businesses
5 that are already here, those are already going to be
6 legal nonconforming, regardless of the distance. So
7 to me that's not an issue.

8 And it isn't, because they are going to be
9 legal nonconforming whether they are in the City
10 right now or whether they are part of the annexation.
11 So waiting on GIS, to me, is irrelevant. And making
12 something this strict, restrictive, is better for
13 residents, for our schools, and will disallow
14 additional businesses to come in close to each other.

15 So that's my opinion.

16 CITY ATTORNEY MCLENDON: The concern is if we
17 did that to a point where we did not have enough
18 locations to be Constitutional, we would potentially
19 undermine the entire ordinance.

20 COUNCILMEMBER PACHUTA: Yeah. And just to
21 comment on that, to elaborate, is if it's determined
22 to be unconstitutional, then the ordinance is out;
23 and until we can put together a new ordinance, anyone
24 can set up shop 2 feet from -- or -- well, whatever
25 -- you know, 20 feet from residential -- pursuant to

1 -- if there was justification for increasing the
2 distance, we could; but because we need to ensure
3 that there is a location, that he wasn't comfortable
4 with increasing the distances now.

5 Is that a fair --

6 CITY ATTORNEY MCLENDON: And again, I am not
7 the expert. But my understanding is what we have to
8 do is ensure that we have sufficient locations to
9 pass Constitutional muster, because you have to allow
10 locations for this type of activity because it is
11 considered First Amendment speech.

12 And I believe, Mr. Bates, you are correct.

13 What we've done is in this ordinance are
14 creating a relatively narrower definition while we
15 are reviewing the parcels.

16 We're hopeful we'll have GIS data. But if we
17 do not, we are going to have to look at the available
18 areas, look at that, and determine how many areas are
19 available in the City. And I think at that time if
20 it was determined that that could be modified and
21 still remain in a Constitutional classification, that
22 that would be fine.

23 But I would not want to take that step prior
24 to having done the full analysis to ensure we are
25 compliant Constitutionally with providing sufficient

1 zoning.

2 But if it's ruled unconstitutional, then
3 suddenly we do not have an ordinance in place; and
4 you could have some very unwanted consequences.

5 CITY ATTORNEY MCLENDON: So I think this is a
6 cautious approach to it -- but I think it does not
7 preclude making this more restrictive in the future,
8 as long as we've done sufficient analysis to make
9 sure we are not causing a problem by doing that.

10 COUNCILMEMBER FLEMING: Yes. But even if
11 it's deemed unconstitutional, we still also then have
12 the right to come back and change the footage again
13 to a less restrictive.

14 CITY ATTORNEY MCLENDON: If you're -- yeah.

15 COUNCILMEMBER PATRICK: I think what his
16 argument is -- sorry, Cecil. I think what your
17 argument -- his argument is that if that law is gone
18 --

19 COUNCILMEMBER PACHUTA: Then we have none.

20 COUNCILMEMBER PATRICK: -- we are wide open
21 until -- it takes two readings?

22 CITY ATTORNEY MCLENDON: You have no
23 ordinance at that point. That's why you have to be
24 very cautious in moving forward and doing this in a
25 methodical way.

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1 COUNCILMEMBER DEAN: But if we do it this way
 2 now and later determine after the studies are done
 3 that we can change it to make it more strict, more
 4 restrictive, then that's okay. We could do it that
 5 way; right?
 6 CITY ATTORNEY MCLENDON: Absolutely correct.
 7 COUNCILMEMBER BATES: Just as a point of
 8 reference -- as it stands right now, the distance
 9 between adult entertainment facilities at 500 feet is
 10 one-and-a-half -- almost two -- football fields. The
 11 distance between a residential/school is just over
 12 three football fields.
 13 CITY ATTORNEY MCLENDON: Okay.
 14 (Laughter.)
 15 COUNCILMEMBER PACHUTA: Cecil doesn't do
 16 math.
 17 COUNCILMEMBER BATES: That's just taking a
 18 hundred-yard football field, three feet per yard. So
 19 there is substantial separation right now.
 20 If we can prove to justify increase through a
 21 GIS study, I am all in favorite of that. But I want
 22 to get the minimums in place that are Constitutional
 23 and move us forward.
 24 COUNCILMEMBER FLEMING: But -- correct me if
 25 I'm wrong -- but you just said the adult

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1 entertainment from residential is 1500 feet.
 2 COUNCILMEMBER BATES: No, a thousand. That's
 3 just over three football fields.
 4 COUNCILMEMBER FLEMING: Okay.
 5 MAYOR PITTMAN: Okay.
 6 COUNCILMEMBER BATES: It's 300 yards.
 7 MAYOR PITTMAN: No, one football field.
 8 COUNCILMEMBER BATES: One football field is a
 9 hundred yards. There are three feet per yard.
 10 That's 300 yards. So three football fields is equal
 11 to 900 yards -- 900 feet. Simple math.
 12 MAYOR PITTMAN: Okay. So do we get a motion?
 13 COUNCILMEMBER PACHUTA: Yeah. I will make a
 14 motion to revise Chapter 6, our sexually oriented
 15 business licensing provisions as presented to
 16 Council.
 17 CITY ATTORNEY MCLENDON: I think it would be
 18 good to point out that that would be based upon the
 19 presentation which we've had and relying on the
 20 evidence that's presented regarding secondary effects
 21 as well.
 22 COUNCILMEMBER PACHUTA: And with the
 23 reasoning as presented to us at the September 17th
 24 Council meeting and the presentation and the research
 25 and studies that were provided to us.

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1 MAYOR PITTMAN: Okay. A second?
 2 COUNCILMEMBER BATES: Second.
 3 MAYOR PITTMAN: Okay. Discussion?
 4 COUNCILMEMBER FLEMING: Yes. We are looking
 5 at a draft, a red-lined draft only. We have not
 6 received an updated version.
 7 Just making that as a comment that I think
 8 Council should receive an updated version, corrected
 9 copy, and marked it final as of this date.
 10 I'm not opposed to the ordinance. We need
 11 the ordinance. But again, I'm opposed to the
 12 less-restrictive distances.
 13 MAYOR PITTMAN: Okay.
 14 Call the roll please.
 15 CLERK BRYANT: Councilmember Alexander?
 16 COUNCILMEMBER ALEXANDER: Yes.
 17 CLERK BRYANT: Councilmember Bates?
 18 COUNCILMEMBER BATES: Yes.
 19 CLERK BRYANT: Councilmember Dean?
 20 COUNCILMEMBER DEAN: Yes.
 21 CLERK BRYANT: Councilmember Fleming?
 22 COUNCILMEMBER FLEMING: Yes.
 23 CLERK BRYANT: Councilmember Pachuta?
 24 COUNCILMEMBER PACHUTA: Yes.
 25 CLERK BRYANT: Councilmember Patrick?

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1 COUNCILMEMBER PATRICK: Yes.
 2 MAYOR PITTMAN: Okay. Thank you.
 3 Thank you, Mr. McLendon.
 4 It is approaching 9:00 o'clock. What are the
 5 wishes of the Council?
 6 COUNCILMEMBER PACHUTA: I would prefer not to
 7 extend the meeting but to make a motion to move the
 8 public works item onto our October 8th meeting,
 9 following the City Clerk interview with some
 10 discussion.
 11 MAYOR PITTMAN: Okay. We will allow public
 12 comments.
 13 COUNCILMEMBER ALEXANDER: That was a motion.
 14 MAYOR PITTMAN: No. I was asking, did you
 15 want to?
 16 COUNCILMEMBER PACHUTA: Well, I did that as a
 17 motion. But --
 18 MAYOR PITTMAN: Oh, I'm sorry.
 19 COUNCILMEMBER ALEXANDER: I second it.
 20 MAYOR PITTMAN: Discussion?
 21 (No response.)
 22 MAYOR PITTMAN: Call the roll please.
 23 CLERK BRYANT: Councilmember Alexander?
 24 COUNCILMEMBER ALEXANDER: Yes.
 25 CLERK BRYANT: Councilmember Bates?

1 COUNCILMEMBER BATES: Yes.
2 CLERK BRYANT: Councilmember Dean?
3 COUNCILMEMBER DEAN: Yes.
4 CLERK BRYANT: Councilmember Fleming?
5 COUNCILMEMBER FLEMING: I have a question for
6 Mr. Cooley regarding item b) under OLD BUSINESS. How
7 close are we on that prohibition on the ordinance on
8 the vacant --
9 DIRECTOR COOLEY: On the signs for vacant
10 properties?
11 MAYOR PITTMAN: Can we get through this
12 motion please?
13 DIRECTOR COOLEY: Oh, I'm sorry.
14 COUNCILMEMBER FLEMING: You asked for
15 discussion --?
16 MAYOR PITTMAN: That's discussion on her
17 agenda item, on moving public works to next Monday --
18 right?
19 COUNCILMEMBER BATES: Yes.
20 CLERK BRYANT: On that, extending the
21 meeting.
22 COUNCILMEMBER FLEMING: I thought we were
23 extending the meeting and that was the motion.
24 COUNCILMEMBER BATES: No. The motion was to
25 move the public works discussion to October the 8th.

1 soon. But we are not on any critical moratorium
2 deadline on it. So yeah, I understand your not
3 wanting -- if you do or do not want to do it tonight
4 -- either way.
5 COUNCILMEMBER FLEMING: Okay.
6 DIRECTOR COOLEY: But we don't have a
7 critical time on that one.
8 COUNCILMEMBER FLEMING: But did we not have
9 issues with Code Enforcement, and that would be --
10 COUNCILMEMBER DEAN: No. This was waiving
11 enforcement. We decided -- there was a vote to waive
12 enforcement for part of this ordinance, and so I
13 think that that's what you're talking about -- that
14 there was a time limit? -- that that was -- that
15 enforcement was waived? I don't recall how long it
16 was.
17 I voted against it.
18 But maybe that's what -- is that deadline
19 about to reach?
20 DIRECTOR COOLEY: Again, there wasn't a
21 definite time set on it, like what we did on the
22 moratorium.
23 But it was -- basically the Council asked
24 Quality of Life not to pursue these until they can
25 make a decision about it. And we were hoping to get

1 COUNCILMEMBER FLEMING: Excuse me.
2 MAYOR PITTMAN: Call the roll please.
3 CLERK BRYANT: Councilmember Fleming?
4 COUNCILMEMBER FLEMING: Yes.
5 CLERK BRYANT: Councilmember Pachuta?
6 COUNCILMEMBER PACHUTA: Yes.
7 CLERK BRYANT: Councilmember Patrick?
8 COUNCILMEMBER PATRICK: Yes.
9 MAYOR PITTMAN: Thank you.
10 Now if anyone would like to extend the
11 meeting --? Or we can move the other items to the
12 next agenda and just allow for public comments.
13 COUNCILMEMBER FLEMING: Now can I ask my
14 question?
15 MAYOR PITTMAN: Yes, ma'am.
16 COUNCILMEMBER FLEMING: In regards to old
17 business item number 9b), I believe we had a
18 moratorium on -- a 90-day moratorium, and I want to
19 know how close we are.
20 DIRECTOR COOLEY: Actually that one was -- we
21 were not under the moratorium. That was for the LED
22 signs that was the actual moratorium.
23 COUNCILMEMBER FLEMING: LED. All right.
24 DIRECTOR COOLEY: This was kind of spread
25 out, so we're -- you know, I would like to address it

1 it done in six weeks.
2 COUNCILMEMBER FLEMING: Could you verify that
3 for me please? -- because I honestly thought we did a
4 90-day.
5 DIRECTOR COOLEY: Sure. I'd be glad to. I
6 will; I will verify that.
7 COUNCILMEMBER FLEMING: Thank you.
8 MAYOR PITTMAN: So does the Council wish to
9 extend the meeting? Or move forward?
10 If we want to just extend the meeting long
11 enough to allow a public comment, then --
12 COUNCILMEMBER DEAN: Um-hmm.
13 MAYOR PITTMAN: Okay. Could I get that as a
14 motion?
15 COUNCILMEMBER DEAN: I make a motion to
16 extend the meeting long enough to allow public
17 comments.
18 MAYOR PITTMAN: A second?
19 COUNCILMEMBER ALEXANDER: Second.
20 MAYOR PITTMAN: Discussion?
21 COUNCILMEMBER BATES: Yes -- very briefly.
22 Tonight is a very good example of why we had
23 dedicated planning and zoning meetings because of the
24 length of time that it takes to go through the public
25 hearings, the comments, the Q&As; and when we combine

1 them with the regularly-scheduled Council meeting, we
2 don't get to our regular-scheduled Council agendas.
3 COUNCILMEMBER DEAN: And my little item has
4 been moved like what, four meetings now?
5 COUNCILMEMBER BATES: You're like six weeks
6 now, or something.
7 (Laughter.)
8 COUNCILMEMBER BATES: So I just want to make
9 that comment that when we took our pay cut and we
10 decided not to -- to compress the meetings, that this
11 is an unintended consequence of agenda items being
12 carried over and over and over again because we are
13 compressing planning and zoning items which take a
14 tremendous amount of time into our
15 regularly-scheduled agendas. So...
16 COUNCILMEMBER DEAN: That's an excellent
17 point. That's something to consider.
18 MAYOR PITTMAN: It is.
19 And your RFP for a new auditor just -- that
20 went out today?
21 COUNCILMEMBER DEAN: Oh, perfect. Great.
22 Okay.
23 MAYOR PITTMAN: Correct? Okay.
24 COUNCILMEMBER DEAN: All right. Good.
25 MAYOR PITTMAN: That went out today.

1 CLERK BRYANT: Councilmember Patrick?
2 COUNCILMEMBER PATRICK: Yes.
3 MAYOR PITTMAN: Okay. Thank you.
4 Now we will have public comments. Please
5 limit your comments to three minutes, and state your
6 name for the court reporter please.
7 MS. CAROL GILMAN: My name is Carol Gilman.
8 I live in Northwoods.
9 (Laughter due to extreme sound volume
10 produced by podium microphone.)
11 MS. CAROL GILMAN: Are you awake, Mr. Kelly?
12 MR. KELLY: I am now.
13 MS. CAROL GILMAN: Thank you. And I do
14 apologize. Somebody must have turned this up. My
15 goodness.
16 Did you get that?
17 COURT REPORTER: Yes. (Laughter.)
18 MS. CAROL GILMAN: Okay. All right.
19 Well, you know sometimes you walk up to this
20 microphone and you make friends, and sometimes you
21 invite a sit-down or...
22 I have two comments, Mayor.
23 It is the season of autumn. The end of
24 summer recently passed. And I was so looking forward
25 to a very important State of the City address. You

1 COUNCILMEMBER DEAN: All right.
2 MAYOR PITTMAN: So if you want to take that
3 off --
4 COUNCILMEMBER DEAN: It's off.
5 MAYOR PITTMAN: Okay.
6 And just a real quick side note -- October
7 20th is --
8 COUNCILMEMBER BATES: We still need to vote
9 on that --
10 MAYOR PITTMAN: Yes. This is just a side
11 note though, before we -- October 20th is a library
12 book sale, Movies under the Stars, and a 5K road race
13 -- all that information should be on the Internet --
14 and it's a very fun day, so --
15 Call the roll please.
16 CLERK BRYANT: Councilmember Alexander?
17 COUNCILMEMBER ALEXANDER: Yes.
18 CLERK BRYANT: Councilmember Bates?
19 COUNCILMEMBER BATES: Yes.
20 CLERK BRYANT: Councilmember Dean?
21 COUNCILMEMBER DEAN: Yes.
22 CLERK BRYANT: Councilmember Fleming?
23 COUNCILMEMBER FLEMING: Yes.
24 CLERK BRYANT: Councilmember Pachuta?
25 COUNCILMEMBER PACHUTA: Yes.

1 and I have had a number of amiable conversations
2 about it.
3 Can you please sometime this week publish if
4 and when you will be presenting a formal State of the
5 City address? I respectfully ask. Thank you.
6 Secondly, I would ask if the revised budget
7 reflects a reduction in salary of our Mayor.
8 Mayor Pittman and I have a very good talking
9 relationship, and I have expressed my opinion that
10 the Mayor's salary be reduced from 70,000 to 50,000
11 and that it be retroactive to July 1st, 2012, the
12 beginning of the current fiscal year.
13 I am very appreciative of the Council taking
14 a salary reduction, two members doing so twice.
15 I appreciate very much Council giving up
16 City-paid health benefits, particularly in this day
17 and age. Some members of Council may even have no
18 health coverage.
19 I appreciate the many sacrifices that our
20 employees are making, some with salary, some with
21 days off unpaid, some by increasing their own
22 contribution to their health benefits, to other
23 benefits.
24 The point being, all our elected officials,
25 Mayor, except Mayor, have made this sacrifice in

1 salary reduction.

2 Everybody up here has a full-time job. The
3 Council is called part-time. Mr. Bates made a very
4 good point just a few minutes ago.

5 I say this heartfelt. I say it seriously. I
6 make my two comments firmly.

7 And I thank you for your time and attention.

8 MAYOR PITTMAN: A motion to adjourn?

9 COUNCILMEMBER ALEXANDER: Aren't there any
10 more comments?

11 MAYOR PITTMAN: Oh, I'm sorry, Mr. Hart and
12 Ms. Crawford.

13 Anyone else, please line up. That helps.

14 Thank you.

15 MS. SUSAN CRAWFORD: Susan Crawford. 3959
16 still.

17 I just wanted to say, when you do your M-I
18 (ph, excessive microphone echo) screening --

19 COUNCILMEMBER FLEMING: When we do what --?

20 MS. SUSAN CRAWFORD: When you do your
21 screening (excessive podium microphone echo).

22 I asked if I was -- if I were -- if my voice
23 was too loud.

24 When you do your feasibility study, I suggest
25 you get together with DeKalb County and their

1 But I wanted to say that I was very much

2 opposed to putting in the McDonald's as it was put
3 across to us. I mean why would we want to see the
4 backend of a drive-through again? I mean this is why
5 we are trying to raise our standards, so we don't.

6 And hedges are nice, but we shouldn't put in
7 places that we have to hide with hedges.

8 And Mr. Cooley, I'm really surprised that the Planning
9 Commission and you would advocate for things that are
10 really not aesthetically pleasing to the residents.

11 We are trying to make changes here.

12 Thank you.

13 MR. TOM HART: As one of the candidates for
14 Mayor, I would like to reaffirm what Carol -- one of
15 my fellow candidates for Mayor -- said about the pay
16 for the Mayor's office.

17 I think that, you know, it -- she and I both
18 degree that the Mayor's pay needed to be lowered, the
19 expenses for that office need to be lowered, you
20 know, assistant to the Mayor needed to be done away
21 with, because the Mayor needs to be out there on the
22 road promoting the City of Doraville and getting
23 those businesses that are going to make the City's
24 future, and I --

25 You know, the City Council cuts their pay in

1 Commissioners -- and their Planning Commissioners;
2 and I think you will find what I said a minute ago to
3 be true, that when they tried to put such a place as
4 this man has described at Embury Hills -- and I
5 remember when it happened, and Maria probably
6 remembers it because it's near where we live -- it
7 fell flat, it did not work.

8 And I don't know if you're keeping up with
9 this in the newspapers, but there are places all
10 around the Atlanta area that are just, you know --
11 the owner -- and I'm sure he's a lovely man -- but
12 some other owners who may not be quite so lovely end
13 up getting three or \$4,000,000 from the fed- -- of
14 our money -- to put into making the minimal --
15 whatever has to happen to these places, and then
16 there's no impetus -- they have the residents living
17 there, but there's no impetus really to continue
18 putting money in.

19 And since -- well, I just really hope that
20 you will decide to keep it a hotel or to maybe
21 advertise it better, or whenever.

22 Also I got here as early as I could. It was
23 really pouring down rain, and I got here at 6:32, and
24 you had already passed the public input, citizens'
25 comments.

1 half, gets rid of their health benefits; and the
2 Mayor makes more money. It doesn't make any sense to
3 the employees of this City. It doesn't make any
4 sense to the people that live here.

5 And I also agree with what was said about
6 McDonald's, although we -- you know, there was
7 supposed to have been a public hearing. Well, we had
8 that last week, so more things were done in the
9 meantime; but -- and there's no public hearing
10 component again.

11 It goes to the point of the best laid plans
12 of mice and men, okay. We come up with this
13 wonderful comp plan; and we spend hundreds and
14 hundreds of thousands of dollars for everybody from
15 EDAW to Roberts and Company to Pond & Company -- yada
16 yada yada. It goes on for six, 10 years.

17 And the only problem is the City of Doraville
18 has never since I've lived here -- even when they had
19 DeKalb zoning ordinances -- has never ever followed
20 the rules -- ever.

21 Houses burned down around the tank farm
22 because they're built in the buffer between the
23 housing area and the tank farm. And the only reason
24 why -- there's supposed to be a 500-foot buffer;
25 never follow that.

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1 You go outside of the City of Doraville and
2 go into Dunwoody -- it looks better because they
3 follow the rules.
4 They know in Doraville you go to the Mayor's
5 office -- a little hoochie coo, a little wiggle
6 wiggle -- and pretty soon you've got your building 20
7 feet off the road, wherever you want it. Okay?
8 Oh, you don't have to build that out of
9 brick. You can make that out of stucco or some
10 fiberglass or whatever you want to build it out of.
11 We're in the customer service business. And
12 this was another indication tonight.
13 The citizens of the City wanted a nice
14 building built there. We don't care if it's
15 McDonald's or whatever, but build it according to the
16 rules.
17 Can you follow the rules just once? Do you
18 have to build every building in the middle of a
19 stream? Do you have to put everything in a pipe? Do
20 you have to build everything -- you know, it's like a
21 free-for-all.
22 People don't respect the City of Doraville
23 because you have no respect for yourself.
24 Thank you.
25 MR. JOHN MALONEY: John Maloney, 3522 Stewart

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1 Road.
2 I just have three quick kind of requests or
3 suggestions.
4 One, I'd like to see us go to a double-sided
5 ordinance sign -- variance sign, where it can be put
6 perpendicular to the road. When you put a
7 single-sided sign parallel, they're very hard to see,
8 even on a small road; but on a heavily traveled road,
9 it's very difficult to see.
10 The City of Dunwoody has very nice
11 double-sided signs. I have pictures of them if y'all
12 would like to see them.
13 The next thing is I would like to see us do
14 away with the \$30 pickup fee for the debris.
15 It doesn't appear to be working on our
16 street. We had a nasty, terrible mess on our street
17 a few weeks ago. It stayed there about a week or 10
18 days -- maybe two weeks; I'm not sure -- even to the
19 point where they have some barrels out there, and the
20 steel guy came in the middle of the night and dumped
21 the stuff out of the barrels and stole the barrels to
22 sell for scrap.
23 It's very embarrassing to see that stuff on
24 the road. I counted -- we have 12 rental homes on
25 our street, and people are constantly moving in and

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1 out, and it would take a full-time person to keep
2 them informed of the ordinance.
3 And it just does not seem to be working.
4 And the third thing is the lights under the
5 285 bridge have been out for years, and I think it's
6 a safety issue for the people walking underneath
7 there, and I'd like to see them fixed.
8 Thank you very much.
9 MAYOR PITTMAN: Thank you.
10 MR. STUART ANDERSON: Stuart Anderson,
11 Barrylynn Drive.
12 Brian, I know you were on Council when we
13 went back and forth with the fourth Monday for zoning
14 only, and I'm pretty sure that everybody -- most
15 everybody here -- knows that it was an issue of
16 putting businesses off for a lengthy period of time,
17 back and forth. It put their hearing out for a
18 period of time is why we went to -- back to the
19 system we've got now.
20 COUNCILMEMBER BATES: You're not right,
21 but...
22 MR. STUART ANDERSON: Well, I apologize then
23 -- but that's what I thought -- because by holding it
24 at the end of the month, it just kept putting people
25 off.

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1 But I guess what I'm asking you is if this is
2 a problem, that perhaps you would make a suggestion
3 as to we either have the meetings longer or
4 facilitate that situation, rather than just sound
5 like Tom Hart and make an objection -- I'm sorry.
6 MS. CINDY BRADFORD: Cindy Bradford,
7 Northwoods.
8 I want to read an excerpt from an e-mail that
9 you are all going to have in your inbox when you get
10 home later.
11 (As read:) "What is the point and purpose of
12 wasting time on zoning ordinances and architectural
13 standards for this City when you have just clearly
14 indicated you have no intention of following them?
15 This type of behavior and policy decision simply
16 would not happen in any other City in metro Atlanta,
17 but in Doraville we just kick the can down the
18 street.
19 "I'm absolutely amazed at you all as a
20 collective body of people. Now not only have you
21 given a business the opportunity to bulldoze our
22 zoning, but the very next business that comes along
23 can do just the same thing.
24 "You think you all run like chickens when you
25 think the City is going to be sued? Well, now any

1 business can sue to its heart's content because you
2 have just established a really nice precedent for the
3 future of Buford Highway."

4 I am reading this because I agree with it 150
5 percent.

6 Thank you.

7 MAYOR PITTMAN: Any additional public
8 comments?

9 COUNCILMEMBER ALEXANDER: *Motion to adjourn.*

10 MAYOR PITTMAN: A second?

11 COUNCILMEMBER PACHUTA: Second.

12 MAYOR PITTMAN: Discussion?

13 (No response.)

14 MAYOR PITTMAN: Call the roll please.

15 CLERK BRYANT: Councilmember Alexander?

16 COUNCILMEMBER ALEXANDER: Yes.

17 CLERK BRYANT: Councilmember Bates?

18 COUNCILMEMBER BATES: Yes.

19 CLERK BRYANT: Councilmember Dean?

20 COUNCILMEMBER DEAN: Yes.

21 CLERK BRYANT: Councilmember Fleming?

22 COUNCILMEMBER FLEMING: Yes.

23 CLERK BRYANT: Councilmember Pachuta?

24 COUNCILMEMBER PACHUTA: Yes.

25 CLERK BRYANT: Councilmember Patrick?

1 COUNCILMEMBER PATRICK: Yes.

2 MAYOR PITTMAN: Thank you.

3
4 (Meeting adjourned at 9:11 PM.)

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1 C E R T I F I C A T E

2 STATE OF GEORGIA)

3 FULTON COUNTY)

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5 I hereby certify that the foregoing transcript
6 was taken down as stated in the caption, and the
7 proceedings were reduced to print under my direction
8 and control.

9 I further certify that the transcript is a true
10 and correct record of the evidence given at the said
11 proceedings.

12 I further certify that I am neither a relative or
13 employee or attorney or counsel to any of the parties,
14 nor financially or otherwise interested in this
15 matter.

16 This the 6th day of November, 2012.

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WILLIAM H. ROBERTSON, CCR 2594

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