In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting/Special-Called Meeting

May 4, 2010

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

SPECIAL-CALLED MEETING

* * *

Transcript of the meeting held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Ray Jenkins presiding, before Theresa Bretch, Certified Court Reporter, commencing at 6:30 p.m., May 4, 2010.

* * *

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APPEARANCES:
Doraville City Council:
Hon. Ray Jenkins, Mayor
Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Karen Pachuta
Councilmember Bob Roche
Councilmember Pam Fleming
Rhonda Blackmon, City Clerk
William Linkous, City Attorney

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P R O C E E D I N G S

MAYOR JENKINS: Meeting come to order. Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Here.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Here.

CLERK BLACKMON: Councilmember Pittman is not present.

Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

MAYOR JENKINS: Okay. We have no approval of minutes, no mayor's comments other than welcoming everybody here tonight. Reports, none; public comments on the agenda, none.

And we need a motion to amend the agenda. I believe that we're going to have to take Item No. 7 and put it under Item No. 8. Can I get somebody to make a motion, please?

COUNCILMEMBER ALEXANDER: I make a motion that we move the new business items opening the bids

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above the old business items, because it was published that the bids would be opened at 6:30 on today.

COUNCILMEMBER ROCHE: Second.

MAYOR JENKINS: Any more comments?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

MAYOR JENKINS: All right. Open the bids for the phone service for the police department.

COUNCILMEMBER ROCHE: I've got one. It's Digitel, and I want to make the record clear that the envelope was folded closed and closed with the clasp but it was not sealed.

Budget summary, this is for (spelling)

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P-A-E-T-E-K -- - T-E-C. I'm sorry. I'm not sure what I'm looking at.

The monthly total -- Is there an installation on this? Anyway, the monthly total is $2,061.20; however, there's a monthly credit for the equipment so the total monthly charge is $1,761.20 based on a 36-month term, and it was 120-day installation required. And I don't see anything that indicates that this is part of a contract or anything.

Oh, wait a minute. Under Investment Options, we have Avaya voice-over-IP stations. I got a purchase price of $32,146 minus an IP -- a bundled marketing promotion of $8,564 for a total purchase price of $23,582. So presumably that's the purchase price and the other amount was the monthly maintenance.

MAYOR JENKINS: I have one from Morse Communications. Purchase price is $15,984.87. Installation, $5,000; service agreement, $2,250; and it has a lease. Three-year lease is $721.88; four-year lease, $556.10; five-year lease, $472.89.

COUNCILMEMBER ALEXANDER: I have a company called ADCAP. That's A-D-C-A-P. Product, $26,927.90. Services, $21,578.60. One-year support contract, sixty-one twenty-five; SmartNet, one year, twenty-

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eight forth-five; there's an additional contract of three years for nine twenty-seven fifty; for a grand total of fifty-eight four-o-four.

COUNCILMEMBER BATES: I have Fulton Communications. There's a sticky note on the outside of the envelopes that says "These white envelopes go with the box. Box is quote for equipment. Envelopes are quote for system."

The box quote says: Subtotal cash price, $217,313.43 plus tax. Five-year warranty for a managed service program that lists monthly charges that I'm not going to read.

The envelopes are from One Ring Networks, proposal for voice and data service. Monthly charges, ethernet fiber, $1,925; eight analog fax lines, $400. Total monthly recurring charges, $2,315.

COUNCILMEMBER PACHUTA: All right. I have Intellispring. Option A, fixed equipment and installation costs, $47,839.58 for year one, then $23,002.08 for year two and year three.

And Option B, lease with equipment and labor with monthly recurring maintenance of circuit; each year, $31,511.38.

COUNCILMEMBER ROCHE: I have one that says WW-ISP Onecomm -- O-n-e-c-o-m-m -- integrated voice

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and data solutions proposal. It's a voice over IP.

Option one, purchase, due at signing, $24,780 with a monthly recurring of $4,127.70.

Option two, which is turnkey, is $4,874.50. Monthly recurring is $4,874.50.

COUNCILMEMBER PACHUTA: I have Clear Professional Voice. It says total equipment cost, thirty-eight fifty; total monthly cost, forty-one eighty-seven. That's all I have on here. There's not much information.

COUNCILMEMBER FLEMING: I have Milner -- M-i-l-n-e-r -- Voice and Data. They have equipment, hardware and software with implementation services totaling $17,460.96. It includes a warranty of one year from the time of installation. It indicated 35 telephones.

Then it shows a lease buyout purchase option, 24 months at $864.32 per month; or a 36-month lease purchase is $609.39.

And then it says FMV, 10 percent lease purchase, 24 months at $831.14, and 36 months at $590.18.

COUNCILMEMBER ALEXANDER: I have Black Box Network Services. I believe this is an equipment quote only: $17,201.18.

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COUNCILMEMBER ROCHE: I have Carousel Industries. Lease refresh option -- I'll try to go sort this out. It's called true lease/technology refresh options. For 36 months, that's $25,089.14, and then 36 months of $780.91 per month. 60 months is $25,089.14 with 60 months at $533.04.

And then installment sale, which is where we would -- title passes to the lessee at the end of the lease, that's $25,089.14. 36 months would be $836.73. 60 months, same purchase, $571.04.

MAYOR JENKINS: I have Barry Rutherford at Rutherford Solutions. Total cost of service for this proposal is $1,985.12 a month for the 36-month contract term, and that is with the access loop with two is $293.86; business lines is $247; dynamic IP service is $337.00.

Total monthly recurring telecon fees, $1,985.12. That's what I've already said. I apologize. That's the best I can do with that one.

COUNCILMEMBER BATES: En Route Networks. Connection for telephone and internet access, monthly recurring fee with a three-year commitment, $1,641.03 per month. A long list of equipment totaling $25,129.63.

COUNCILMEMBER ALEXANDER: Does anyone have

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any more?
COUNCILMEMBER FLEMING: No.
COUNCILMEMBER PACHUTA: Okay. Is it Captain Brinkley who's going to be the one reviewing these?
MAJOR ATKINSON: Yes. We'd like to take them back and get with the Chief and also get with Martin and our IT people, try to figure out what the best ones are.
COUNCILMEMBER ALEXANDER: I make a motion that we return the bids for the phone voice-over-IP system to the police department for their review and report back to council.
COUNCILMEMBER BATES: Second.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?

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COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Okay. Bid openings for the public defender.
COUNCILMEMBER ALEXANDER: Mayor, Mrs. Blackmon advised us that we have not received any responses to the RFP for public defender --
MAYOR JENKINS: All right.
COUNCILMEMBER ALEXANDER: -- so I'd like to make a motion that we repost the ad for another two weeks and possibly put it on some attorney web sites, the Georgia Bar Association or something like that.
MAYOR JENKINS: For two weeks?
COUNCILMEMBER ALEXANDER: For two more weeks.
COUNCILMEMBER ROCHE: Second.
COUNCILMEMBER PACHUTA: Is that a motion?
COUNCILMEMBER ALEXANDER: Yes.
MAYOR JENKINS: I got a second.
COUNCILMEMBER ALEXANDER: Okay. I thought he did.
Any more discussion?
- - -
(No response)

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- - -
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Bid openings for the municipal solicitor.
COUNCILMEMBER BATES: Gary S. Vey -- V-e-y -- proposing a flat fee of $375 per scheduled court session.
MAYOR JENKINS: How was that spelled?
COUNCILMEMBER BATES: V-e-y.
MAYOR JENKINS: Thank you.
COUNCILMEMBER PACHUTA: I have Riley McLendon -- it's R-i-l-e-y, McLendon, M-c-l-e-n-d-o-n -- LLC. Court sessions, $400 per sessions; criminal appeals $100 per hour; forfeiture representation, $100 per hour; administrative drug revocations, $100 per

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hour.
COUNCILMEMBER ROCHE: I have the Samuels Firm, Dale R. "Bubba" Samuels. Five days per month, flat fee arrangement would be everything for $5,000 per month or an hourly rate with the hourly rate of $100 per hour up to the first 50 hours, and then after the first 50 hours it will go to $125 per hour within a calendar month.
COUNCILMEMBER FLEMING: Lee Perkins, Lee B. Perkins, $425 per session, and this includes taking any type of phone calls in her own office from lawyers about continuances and other matters.
COUNCILMEMBER PACHUTA: Well, didn't we already have a committee set up to review these? Is that correct, Mayor?
MAYOR JENKINS: You're familiar with the --
CLERK BLACKMON: I believe --
COUNCILMEMBER PACHUTA: Okay.
CLERK BLACKMON: -- that we do, yes.
MAYOR JENKINS: Are we going to hold that here or send this to the police department? Hold it here, right?
CLERK BLACKMON: No. This is for the solicitor. It will be here.
COUNCILMEMBER PACHUTA: Yeah. I'll make a

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1 motion that we have the committee -- Mr. Weed, Judge
2 Carter and some member of the court staff -- to review
3 these and get back to Council.
4 COUNCILMEMBER BATES: Second.
5 MAYOR JENKINS: Okay. I guess this is the
6 biggie.
7 CLERK BLACKMON: Brian seconded that;
8 correct?
9 COUNCILMEMBER BATES: Yes.
10 CLERK BLACKMON: I'm going to call roll.
11 Councilmember Alexander?
12 COUNCILMEMBER ALEXANDER: Yes.
13 MAYOR JENKINS: Oh.
14 CLERK BLACKMON: Councilmember Bates?
15 COUNCILMEMBER BATES: Yes.
16 CLERK BLACKMON: Councilmember Fleming?
17 COUNCILMEMBER FLEMING: Yes.
18 CLERK BLACKMON: Councilmember Pachuta?
19 COUNCILMEMBER PACHUTA: Yes.
20 CLERK BLACKMON: Councilmember Roche?
21 COUNCILMEMBER ROCHE: Yes.
22 MAYOR JENKINS: Okay. Bid openings for the
23 redevelopment consultant.
24 COUNCILMEMBER ROCHE: I have URS
25 Corporation, and this has a five-year plan. Year one,

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1 which is June through December, 300 hours estimated,
2 estimated fee $38,000. Year two, estimated 780 hours,
3 $87,500. Year three, estimated 740 man-hours,
4 $83,000. Year four, 740 hours, $83,000. Year five,
5 700 hours, $80,000.
6 COUNCILMEMBER PACHUTA: I have CH2MHill, and
7 they provide a rate structure in here, hourly rate
8 structure. The estimate would be for the first
9 calendar year would be $205,688 and it includes a
10 breakdown, so I'll let staff review that.
11 COUNCILMEMBER ALEXANDER: I have Pond &
12 Company, however, they did not submit a five-year
13 plan; they just submitted a table with hourly rates by
14 the type of employee involved, so I'll defer to the
15 staff on that one.
16 COUNCILMEMBER FLEMING: Did we ask for a
17 five-year plan?
18 COUNCILMEMBER ALEXANDER: I don't remember.
19 Well, we should probably read the R -- never mind.
20 COUNCILMEMBER ALEXANDER: I can read all the
21 hourly rates if that's what you want.
22 COUNCILMEMBER PACHUTA: Yeah. I don't think
23 that's necessary because all of this is going to be
24 reviewed in detail by the staff.
25 COUNCILMEMBER FLEMING: I have Moreland

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1 Altobelli -- and that's A-l-t-o-b-e-l-l-i --
2 Associates. Year one is $200,000, year two is
3 $175,000.
4 COUNCILMEMBER BATES: I have Keck & Wood.
5 They did not provide -- they just provided an hourly
6 billing rate for personnel.
7 MAYOR JENKINS: This is from Jacobs JJG.
8 JJG is proposing to provide the professional services
9 to complete the deliverables described in section
10 five, on an hourly basis. Currently the deliverables
11 defined in section five for the initial 24 months from
12 June 2010 to June 2012 has an estimate cost of
13 $197,000.
14 COUNCILMEMBER FLEMING: And that's for the
15 two-year period, Mayor? Is that what I heard?
16 MAYOR JENKINS: That's what I'm picking up
17 on it, yes.
18 COUNCILMEMBER FLEMING: Yes.
19 COUNCILMEMBER ALEXANDER: I have MacTec --
20 M-a-c-T-e-c. Again, there is no breakdown. There are
21 hourly estimates and also various task estimates, so I
22 will defer to staff.
23 COUNCILMEMBER ROCHE: I have the Sizemore
24 Group but I do not see any dollar amounts anywhere. I
25 looked through it twice. Unless it's in one of these

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1 other envelopes, I don't see it. I have a schedule of
2 deliverables but I do not see any hourly rates or
3 dollar amounts.
4 MAYOR JENKINS: Excuse me? You don't --
5 COUNCILMEMBER ROCHE: I said I don't see any
6 hourly rates or dollar amounts for the Sizemore Group.
7 COUNCILMEMBER BATES: I have Perkins & Will,
8 and I do not see any dollar amounts or hourly rates.
9 COUNCILMEMBER PACHUTA: I have Neopolis --
10 N-e-o-p-o-l-i-s -- LLC, a joint venture between public
11 private partnership Project Management, Incorporated,
12 and the IBI Group.
13 They have estimates, with phase one between
14 50 and 75 thousand; phase two, between 150 thousand
15 and 200 thousand. And they explain both phase one and
16 phase two, but I'll leave that for staff.
17 COUNCILMEMBER ALEXANDER: I have Dover Kohl
18 -- K-o-h-l -- & Partners, and I just see a schedule of
19 deliverables and no pricing.
20 COUNCILMEMBER FLEMING: And I would --
21 Ms. Blackmon, I would like to have a copy of the
22 consulting firms.
23 COUNCILMEMBER ROCHE: Me too, please. Also
24 a spread sheet with a list of what they're actually
25 bidding. I mean obviously some of them aren't bidding

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1 anything at all, but --
2 CLERK BLACKMON: I'll leave that up to the
3 people that are looking through it.
4 COUNCILMEMBER ROCHE: Well, who's looking
5 through it?
6 CLERK BLACKMON: We're getting ready to make
7 a motion for that.
8 COUNCILMEMBER PACHUTA: All right. The last
9 one is Clark Patterson Lee, and I do not see a pricing
10 schedule anywhere. I'll let staff look over that.
11 COUNCILMEMBER PACHUTA: I make a motion that
12 we turn these over to the Mayor's office to review
13 with staff in detail and come back with a report to
14 Council.
15 COUNCILMEMBER BATES: Including the city
16 attorney.
17 COUNCILMEMBER PACHUTA: Yeah, including the
18 city attorney also.
19 COUNCILMEMBER ROCHE: I'd like to add to
20 that that they look through all those and provide a
21 spread sheet with all the bid dollar amounts and --
22 MAYOR JENKINS: Do we have a motion and a
23 second? Do we?
24 COUNCILMEMBER PACHUTA: Yes. Was there a
25 second?

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1 COUNCILMEMBER BATES: Second.
2 MAYOR JENKINS: Any more discussion?
3 - - -
4 (No response)
5 - - -
6 MAYOR JENKINS: Call the roll.
7 COUNCILMEMBER ROCHE: Did you second?
8 COUNCILMEMBER BATES: I got it. Second.
9 CLERK BLACKMON: Councilmember Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 CLERK BLACKMON: Councilmember Bates?
12 COUNCILMEMBER BATES: Yes.
13 CLERK BLACKMON: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: Yes.
15 CLERK BLACKMON: Councilmember Pachuta?
16 COUNCILMEMBER PACHUTA: Yes.
17 CLERK BLACKMON: Councilmember Roche?
18 COUNCILMEMBER ROCHE: Yes.
19 MAYOR JENKINS: All right. That takes care
20 of that. We're pretty close to our regular time,
21 anyway.
22 Scott, how are you going to -- are you going
23 to take up exactly where we left off before?
24 MR. HAEBERLIN: Yes, sir. As we left in the
25 last session, Mr. Stokes was speaking during the

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1 public hearing phase, so we invite Mr. Stokes to
2 return to the podium.
3 MAYOR JENKINS: Come up to the podium,
4 Mr. Stokes.
5 COUNCILMEMBER ROCHE: I think you have a
6 minute and 43 seconds left on the clock.
7 MR. STOKES: There's a proverb that says, in
8 the multitude of words, sin is not lacking, so I'll be
9 as brief as I can, and I do want to be brief.
10 I just want to thank you folks, the City
11 Council, for bearing with us in a very difficult
12 matter of the zoning changes. I know it's been frus-
13 trating to you, need a lot of patience. But really
14 it's been no more frustrating to you than it has been
15 to us in the business community. And what we're doing
16 of course is addressing the repair of damages that
17 have been done because of some oppressive zoning
18 changes that came to the board here in recent months.
19 Business has gotten a bad rap lately, and
20 I'm going to be brief about that, but we know that it
21 has. But businesses -- it's business that fuels the
22 engine of our economy, and, without business, there
23 would be no economy. Small businesses are the major
24 source of employment and of production, and to be
25 sure, there's been abuses in small businesses and big

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1 businesses, government and in labor.
2 But I just wanted to mention that, and I
3 think that rules and regulations should be minimal as
4 we can, as we get into it, sufficient to protect
5 everybody but not so burdensome as to keep businesses
6 out.
7 I'd like to see Doraville once again become
8 a business-friendly place, and, frankly, it hasn't
9 been in recent times. And I think prayerfully we're
10 in the process of changing that right now. We all
11 benefit when we have a business-friendly community,
12 and when good, decent, productive businesses come into
13 our community, we all benefit from that.
14 I'm going to turn it over to Dave Shanahan
15 because he's going to bring up some matters that I
16 think we need to address, a few matters in the zoning
17 changes that are put on the board, that we need to
18 look at.
19 But again, I just want to thank you all for
20 your indulgence, and that's all I had to say, so I
21 hope that wasn't a multitude of words.
22 - - -
23 (Applause)
24 - - -
25 MR. SHANAHAN: Thanks. I'd like to echo

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what Deane said and just remind you that we really do appreciate the time you're putting in up there to help us work through this stuff.

I had concerns about a couple of items, wording issues in there. On page four, it says, "properties which are voluntarily or involuntarily demolished resulting in tax loss of all or a portion of existing facilities shall be removed from this district."

In most of the other areas that I've seen, it quantifies that amount of damage, it puts a triggering threshold of 60 percent is one I've seen a lot. I would be concerned that, as happened many years ago, if somebody hit the gas instead of the brake and bumped into a building, I would hate to have -- and that did render that office unusable for two days while that got fixed, I would hate to see that trigger an event where was told that we lost CT zoning because some portion of it became damaged involuntarily.

COUNCILMEMBER FLEMING: We'll stop right there. So on that particular item, you're suggesting, then, or requesting a possibility of 60 percent rather than "or a portion of."

MR. SHANAHAN: Yes. I'm wary that that

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could be interpreted very literally and minor damage could result in us losing a CT designation.

Flipping way back here -- this is on page 14 where it's talking about setbacks, et cetera -- "Maximum impervious lot coverage - variable reflecting as-built conditions," I would like you to consider just putting a period there. I've not pulled a tape measure on my lot. My dad and I, we operate it all as one big lot. If you would look at -- but technically it's two plats. The owners before us long ago started treating that driveway as a single entryway, and it's developed as such. I think if you looked, you'd probably find it's one of the greenest lots in the city. We got huge oak trees, lots of shrubs, but if you look at a technical split of it, one lot has 30 or 40 percent green and the other one probably has less than that 95 percent. Got shrubs packed in everywhere I can, but I would hate to come to the CT issue and find out I'd been stricken from it for not meeting that 95 percent.

All the other setbacks, mostly saying reflecting as-built conditions.

Lynn is -- Lynn Carden isn't here at the moment, but I know she has a similar concern on her lot, and I'm not sure Mr. Stokes' lot meets that

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either. So that's an item that might strike out a lot of the properties in question.

The third item is I'm curious if we could clarify that indeed our existing tenants will be vested if we switch to CT. Mr. Weed had stated in the workshop that that was the case. I know it doesn't say that in a document. I would like to get some opinion about that on record.

For example, my father has a tenant that is court reporters. They're not on the list. We would -- wary of coming next January and getting a nonrenewal if we switched to CT, because, you know, if somebody determines that we're not vested, we would like a clarification on that.

And the last thing I had any question about was the map. There's a reference in here, numerous -- in each draft, it says there's a map in Appendix A, and I've just never seen the map. I'd just like to -- like to know, is that the city zoning map or is there a specific map, and, if so, if we could see it?

COUNCILMEMBER ALEXANDER: I believe it was presented at one of the earlier meetings.

Mr. Haeberlin, do you have a copy you could share or do you want to borrow mine?

MR. HAEBERLIN: Why don't we list yours as

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an exhibit tonight for the record. Why don't we list that as an exhibit tonight for the record and we could give it to the court reporter. Of course we'll clean that up with the actual ordinance in terms of a better copy than that.

MR. SHANAHAN: That was all I had at the moment. Was there any questions that I could answer?

MAYOR JENKINS: Any questions from the table?

COUNCILMEMBER FLEMING: Are any of the uses that we corrected from the previous meeting, those are okay with your specific businesses right now?

MR. SHANAHAN: It's a pretty good list. It's a pretty good list. But my original suggestion going way back, that we have something that's inclusive of the C-1/C-2. I still think that would be a great way to go. I understand if we're too far down the road to consider that, but if split zoning is our best option to gain those uses, then that's what we'll have to entertain,

But I don't have -- I know my father had a few specific items in there that he wanted to address, but I did not have any.

Thank you.

COUNCILMEMBER FLEMING: Thank you.

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MAYOR JENKINS: Scott, this was public hearing; is that correct?
MR. HAEBERLIN: Yes, sir.
MAYOR JENKINS: Okay. Next?
MR. T.M. SHANAHAN: T.M. Shanahan, New Peachtree Road.
Mayor and Council, I have a question here. I have outlined my comments on it and I have a copy for each of you. Would it be beneficial to you if I just distributed those and limited my remarks to a few highlights? Be happy to do that.
COUNCILMEMBER FLEMING: I think that would help.
MR. T.M. SHANAHAN: It's easier, if I remember college, than taking notes. See if that's enough; if not, I got -- (presenting) --
As far as I can see, the statute or the code is workable, very workable, and it only begs friendly, timely and workable administration of it. If the code is administered in a business-friendly, straight-forward way and protects the interest of the citizens of Doraville, we look forward to using it.
A couple of items there that David had mentioned and I'll highlight on this. He mentioned notary services. Make a suggestion for the public

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that that be changed to something like legal support services because it could be printing, notary. Very few people have opened a store and do nothing but notary work. You'd starve to death probably.
And kind of a -- well, the last thing I put on it is the antique store's 50-year-requirement as it's written, I think is too restrictive because a person may want to sell periodicals and things dealing with the antique industry.
And that's about all I have. I'll leave that to your readership there. If anybody's got any questions after looking it over, I'd be happy to answer it. Anyone have any question at this point?

_ _ _

(No response)

- - -

MR. T.M. SHANAHAN: Thank you.
MAYOR JENKINS: Anybody else want to speak?
MR. ANDERSON: Stuart Anderson.
These statements are in response to CT Commercial Transition District text, page 3 of 4. My pages off from yours. After the sentence ending in Exhibit A, end of sentence further down, and I quote, "Residential habitation, wholesaling, outdoor storage and display are prohibited," end of quote.

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In that CT zoning is a Doraville hybrid, perhaps a bit of outside-the-box performance-based zoning could be applied. The concept of residential or mixed-use zoning particularly where existing houses/buildings have residential occupancy commingled with C-1 and C-2, et cetera, zoning descriptions should be implemented in this CT category and should be considered in the rewrite or revision of C-1 and C-2 -- i.e., some residential/retail combination uses.
Caretaker residence provisions as well as mixed-use residence should be included in both the CT district as well as C-1 and C-2.
And in any event, preexisting use should be considered a legitimate existing condition in this proposed district or area.
Another consideration. The last session -- in the last session, the topic of wholesaling, distributorship definitions and warehousing came up concerning this new CT district. Due to the exceptional conditions pertaining to the CT properties requiring a declaration of a special district exemplified by rollup-door definition, I feel that it's appropriate for warehousing, wholesaling and distributing to be permitted as uses in CT.
With what already is in place in the

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ordinance as replacement conformity to C-2 or the blending with some LCI overlay to be determined in the future, these forms of enterprise are appropriate due to circumstance of existing construction.
Thank you.
MAYOR JENKINS: Anybody else?
MR. CRAWFORD: Ben Crawford, Oakcliff Estates.
Speaking in behalf of myself as a private citizen, I totally disagree with Mr. Anderson's comments. I think the CT zoning is an attempt on the City's part, the City Council's part, and it's a good attempt and a good step in the right direction to try to address some of the concerns that the business community had.
But to have wholesalers move in and things like that and some of the other uses that Stuart would like to see into this CT zoning I don't think would be a good thing, and I would suggest that City Council, you know, think about those things and weigh the objections that would come from some members of the community if that was to be allowed.
I view what was done with the business community as a good thing, a step forward in reaching out and reaching across the aisle and saying that

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you'll work with the local businesses, but I think on some things you have to draw the line, and the things that Mr. Anderson has suggested, I think the City Council should draw the line.

Thank you.

MR. CHAMBERS: Thank you for your time this evening. I was looking at some of these suggestions, page 12 under upholstery, and I was wondering about the possibility of maybe motor homes as well. Someone running an upholstery shop and someone comes to visit them from a personal nature at their home, and their kid jumps in there and has a screwdriver in his back pocket and tears the upholstery, I think it would be helpful for the owner of an upholstery shop to be able to repair the upholstery in their friend's motor home. So restricting motor homes I think is just a little bit too restrictive.

Thank you.

MAYOR JENKINS: Anybody else?

- - -

(No response)

- - -

MR. HAEBERLIN: Rhonda, can you bring up our CT version on the screen since we've got it on the web site?

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CLERK BLACKMON: Yes. Give me a minute.

MR. HAEBERLIN: Give it a shot. Let's use the technology. That way, when we look at this, everybody can see the same things.

Can you go to page nine, Rhonda?

I had a call earlier today from Councilwoman Fleming, and we notice that there is some typos in here where it says "internet-based business offices," it should be "internet business offices," comma, "but excluding on-site shipping services," comma, "and as otherwise restricted by the adult entertainment ordinance," period. Our intention then was next to say "automotive dealer's offices shall be prohibited," period.

That just was a run-on sentence. I think it got some type-overs in it. Just wanted to clarify that.

On page 10 -- we'll go to page 10 and you go right -- "Music and musical instrument stores," that's just a typo that needs to be removed.

COUNCILMEMBER ALEXANDER: What needs to be removed?

MR. HAEBERLIN: The part that's being --

COUNCILMEMBER ALEXANDER: The dash?

COUNCILMEMBER PACHUTA: The underscore?

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CLERK BLACKMON: Underscore.

COUNCILMEMBER ALEXANDER: Okay.

MR. HAEBERLIN: And go to page 13 -- page 11. Correction, the word "pluming."

And then page 13 under Conditional Use, we go back to the discussion of -- and this has been repetitive with the Council -- is what is going to be classified as an antique?, so that is a discussion area that needs to be addressed as well.

And the last item that I had -- and this comes back to a discussion, and you have an e-mail in front of you from the city attorney that includes Councilman Bates, the sponsor, and myself, and we tried to look at some verbiage on supply and distribution center. If you recall, that was something that you guys had asked the staff to look at.

And we looked at some wording that said supply and distribution center limited to the following uses. Building supply limited to lighting, electrical, tile, heating and air conditioning and plumbing products. Two, packaged foods; three, vending supply limited to non-alcoholic beverages, cigarettes and pre-packaged foods.

And those I think were some of the key things that were still outstanding, at least from the

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discussion that I had with the Council.

COUNCILMEMBER ALEXANDER: I had a couple of things that I had in my notes that I thought we had agreed upon. I could be wrong.

MR. HAEBERLIN: Okay.

COUNCILMEMBER ALEXANDER: Under lawn mower and small engine repair within a facility, I had a note, "allow used sales."

Had we agreed upon that, Council? I can't remember.

MR. HAEBERLIN: Page 9, Rhonda.

COUNCILMEMBER ROCHE: I remember nodding my head. I don't remember if we voted or not.

COUNCILMEMBER ALEXANDER: Do we want to make a motion to --

COUNCILMEMBER FLEMING: Absolutely, yeah. Let's go ahead and make motions as we get them, and that way, we're staying on top of it.

COUNCILMEMBER ALEXANDER: Okay. Page 9, "Lawn mower and small engine repair within a facility," allowing used -- or sales of used lawn mowers. I'd like to make that addition.

COUNCILMEMBER FLEMING: Second.

COUNCILMEMBER BATES: Could you --

COUNCILMEMBER ALEXANDER: Question?

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MR. HAEBERLIN: Could we say lawn mower and small engine sales, new and used, and repair within a facility?

Was there a second on that?

COUNCILMEMBER FLEMING: Repeat what you want to say again?

MR. HAEBERLIN: Okay. Based on what Councilwoman Alexander said, "lawn mower and small engine repair, new and used."

MAYOR JENKINS: Sales.

MR. HAEBERLIN: Sales. Excuse me. "Lawn mower and small engine sales, new and used, and repair, within a facility.

COUNCILMEMBER FLEMING: Do we even need to put new or used?

MR. HAEBERLIN: Well --

COUNCILMEMBER FLEMING: Lawn mower and small engine sales and repair or repair and sales.

COUNCILMEMBER BATES: I'm not sure if we want to be selling small engines, so I would limit it to lawn mower sales and small engine repair. That would be my preference.

COUNCILMEMBER ROCHE: Well, you got string trimmers and chain saws and --

COUNCILMEMBER BATES: I mean do they sell

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engines for those or do you just go out and buy a new one?

COUNCILMEMBER ROCHE: Well, I mean I would think of the whole thing under the sale of and repair of those types of equipment.

COUNCILMEMBER BATES: Oh. Not limiting it to lawn mowers but --

COUNCILMEMBER ROCHE: Right.

COUNCILMEMBER BATES: -- yard equipment: weed whackers, chain saws.

COUNCILMEMBER ROCHE: But I'll be honest. I'm a little concerned about the outside display of used equipment.

COUNCILMEMBER ALEXANDER: But it's not going to be displayed outside.

COUNCILMEMBER PACHUTA: It's prohibited.

MR. HAEBERLIN: Well, that will not occur. It's in the preamble.

COUNCILMEMBER BATES: Yeah, it's precluded. Any outdoor display is precluded.

COUNCILMEMBER ROCHE: I'm fine.

COUNCILMEMBER ALEXANDER: So Mr. Haeberlin, can you --

COUNCILMEMBER BATES: Lawn --

COUNCILMEMBER ALEXANDER: -- wave your magic

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wand and come up with what we want to say?

MR. HAEBERLIN: Go ahead, Brian. Let me see how you want to word it.

COUNCILMEMBER BATES: Lawn mower and associated yard equipment sales and small engine repair within a facility.

COUNCILMEMBER FLEMING: So does a lawn mower constitute as small engine if the wheel is broken?

COUNCILMEMBER BATES: Sure. Well, yeah. There's a comma there, so it would be lawn mowers, yard equipment sales and repairs of that equipment and small engines. So it's in there.

COUNCILMEMBER FLEMING: Okay.

COUNCILMEMBER BATES: If the wheel falls off, you can fix it.

COUNCILMEMBER ROCHE: I guess I would just -- I mean it would be very -- I don't know.

I would rather just have something that says anything that's basically got a small engine in it, small engine repair, to make it a little more inclusive.

MR. HAEBERLIN: The only thing that concerns me about that is things like go-karts --

COUNCILMEMBER PACHUTA: Yeah. And --

MR. HAEBERLIN: -- stuff of that nature.

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COUNCILMEMBER PACHUTA: -- I start leaning towards thinking that that's more M-1-appropriate at some point if it's just any kind of engine.

COUNCILMEMBER ROCHE: That's fine.

MR. HAEBERLIN: So lawn mower and associated yard equipment sales and engine repair within a facility or repair within a facility. I mean how do you want to clarify that?

COUNCILMEMBER BATES: And repair, and take the words "small engine" out.

MR. HAEBERLIN: Is that in the form of a --

COUNCILMEMBER ALEXANDER: That's my motion.

MR. HAEBERLIN: Correct Maria's motion; I apologize.

COUNCILMEMBER FLEMING: And I amend my second.

MAYOR JENKINS: Got a motion and a second. Any more discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

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1 COUNCILMEMBER BATES: Yes.
2 CLERK BLACKMON: Councilmember Fleming?
3 COUNCILMEMBER FLEMING: Yes.
4 CLERK BLACKMON: Councilmember Pachuta?
5 COUNCILMEMBER PACHUTA: Yes.
6 CLERK BLACKMON: Councilmember Roche?
7 COUNCILMEMBER ROCHE: Yes.
8 MAYOR JENKINS: Very good.
9 COUNCILMEMBER ALEXANDER: And then on page
10 7, I thought on the contractor's offices, we said with
11 interior storage, or did we decide not to say that --
12 COUNCILMEMBER PACHUTA: Or did we add that
13 into --
14 MR. HAEBERLIN: What we did --
15 COUNCILMEMBER PACHUTA: -- the preamble?
16 MR. HAEBERLIN: -- is we went to --
17 Would you go to page 5, Rhonda, where it
18 says permitted uses and I'll show you where it's
19 addressed.
20 COUNCILMEMBER ALEXANDER: Okay.
21 COUNCILMEMBER ROCHE: It's in the note. Got
22 it. Thank you.
23 COUNCILMEMBER ALEXANDER: Thank you.
24 MR. HAEBERLIN: You can have storage in
25 conjunction inside in the same facility. On the same

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1 parcel. Excuse me. So that's been addressed.
2 COUNCILMEMBER BATES: Thank you.
3 COUNCILMEMBER ALEXANDER: The other question
4 I have, this one is going to be sort of off topic, and
5 there's a reason I'm bringing it up.
6 MR. HAEBERLIN: Okay.
7 COUNCILMEMBER ALEXANDER: The sports
8 medicine clinic. I know that Kennesaw and the city of
9 Marietta have had an influx, and haven't been able to
10 deal with it with the federal courts, of these pill
11 mills where people set up shop and it's basically an
12 internet almost-illegal kind of prescription kind of
13 mail house, and I didn't know if we had any
14 prohibitive language anywhere to prohibit something
15 like that from setting up shop here.
16 COUNCILMEMBER PACHUTA: Yeah. I think they
17 called them the pain clinics --
18 COUNCILMEMBER ALEXANDER: The pain clinic.
19 COUNCILMEMBER PACHUTA: -- because that's
20 how they're advertised, and I know Cobb County has had
21 a problem with them and Cherokee County, and they've
22 had to write their own ordinances to try and keep
23 those kind of clinics out, so --
24 MR. HAEBERLIN: I guess we could put a
25 clarifier in there that says -- and I'm going to let

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1 the attorney comment on this -- provided all staff is
2 licensed by the Georgia board of medicine or something
3 to that effect. In other words, so unlicensed
4 individuals couldn't do it.
5 COUNCILMEMBER BATES: While we're on that
6 subject, because I've got a related question and
7 perhaps Mr. Linkous can help me understand.
8 Under the clinics and the engineering
9 office, you've got "shall be licensed by the State of
10 Georgia." Do we need to add a qualifier in there "as
11 required by law?" Because I don't know if a person
12 that takes your blood pressure is -- I mean is that
13 considered a medical personnel and are they required
14 to be licensed by the State of Georgia?
15 MR. HAEBERLIN: Certified nursing
16 assistants? Is that --
17 ATTORNEY LINKOUS: I mean I can't tell you
18 that you can't take someone's blood pressure without
19 being licensed by the State of Georgia, but on the
20 other hand, nurses are generally licensed and doctors
21 obviously are.
22 For the purpose of the ordinance, I think
23 you can do it either way. I think you can put "as
24 required by law," which would allow it to fall back to
25 the State law, you know. That would kind of default

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1 back to the State law.
2 As it is, it's a little bit more requiring
3 -- it almost requires any medical personnel to be
4 licensed. So, you know, if you put in "by the State
5 of Georgia as required by law," that would probably be
6 my preference, actually.
7 COUNCILMEMBER BATES: Okay.
8 ATTORNEY LINKOUS: But I think it's okay the
9 way it is too.
10 COUNCILMEMBER BATES: That would also apply
11 under engineering, drafting on page 8, "services as
12 shall be licensed by the State of Georgia," but if
13 you've got an engineer-in-training or other
14 individuals, as Mr. Shanahan put it, out-of-state
15 consultant that may not be licensed by the State of
16 Georgia but is providing on-site support services, and
17 that -- that would be precluded.
18 MR. HAEBERLIN: Well, in our state, they
19 would have to be working under the immediate direction
20 of a Georgia-licensed individual.
21 COUNCILMEMBER BATES: Understood. But it
22 says "shall be licensed by the State of Georgia." So
23 does that preclude -- Again, I would prefer to add in
24 "as required by law."
25 COUNCILMEMBER PACHUTA: Do you want to make

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a motion?
COUNCILMEMBER ROCHE: Why are we -- why are we regulating something that's already regulated, in our zoning ordinance? I mean are we going to have to train all of our Quality of Life people to understand what an engineering license is and what a medical license is, a nursing license and --
I personally think that we don't need to have any of this licensing stuff in here that's already regulated by the State. Why does it come under our jurisdiction when it's under the State's jurisdiction?
COUNCILMEMBER BATES: I'm happy with it being redundant and making --
COUNCILMEMBER FLEMING: Well --
COUNCILMEMBER ROCHE: But that puts the onus on us now to somehow try to enforce this.
COUNCILMEMBER PACHUTA: I don't think it puts the onus on us but it gives us a little bit extra enforcement power if there's a problem.
COUNCILMEMBER FLEMING: Well, I'm finding a problem -- I find it problematic in that if one of our property owners wants to rent to an engineer, they're going to have to either A, require all the certificates, and how are they going to know whether

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they're truly certified or not? And then they rent the property and they come up to get an occupational permit from Mr. Haeberlin and Ms. Bryant and then -- then we've got to go through that process of determining whether they're really certified or not. Is that what we're getting at here?
MR. HAEBERLIN: It's something we routinely do. If somebody presents themself to the City as an engineer, the first thing I'm going to do is look at the State web site to see if they are actually a licensed engineer or not, and if they're not, that's going to draw a question, you know. You are representing that you're an engineer. What state are you licensed in?
So that is something we already do, no different than a massage therapist. If somebody presents themself to me as a massage therapist, I mean to look on the web site and see if they are.
To me, it's cooperative with the State. The wording that we've used in here is consistent with the other drafts that Mr. Weed has written. I have no problem with "as required by law" or what-have-you versus State of Georgia. But I think it is an important clarifier because it gives the City, like Councilwoman Pachuta said, some additional teeth. If

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you're not licensed and you're practicing here, then it is a code violation.
COUNCILMEMBER ROCHE: But it also gives us the additional responsibility of having to enforce all this stuff. And if we're going to stop -- you know, why stop at licensing? I mean the State has laws against selling illegal drugs. You know, why don't add that to our zoning ordinance? You know, the State has laws against stealing, you know. Why not add that to our zoning ordinance?
COUNCILMEMBER PACHUTA: All right. I --
COUNCILMEMBER ROCHE: Again, we're going to become the most regulated city in the southeast or anyplace, I think,
COUNCILMEMBER PACHUTA: I'll make a motion that we add the words "as required by law" at the end of the sentences starting with "Engineering, drafting, and architectural services" and then also --
MR. HAEBERLIN: On page 9?
COUNCILMEMBER PACHUTA: That was page 8.
MR. HAEBERLIN: Yes, ma'am, I have that.
COUNCILMEMBER PACHUTA: And then also --
MR. HAEBERLIN: Page 12?
COUNCILMEMBER PACHUTA: On page 7 --
MR. HAEBERLIN: 7.

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COUNCILMEMBER PACHUTA: -- also under chiropractic offices.
MR. HAEBERLIN: Okay.
COUNCILMEMBER PACHUTA: And page 12 under the surveyor's office.
COUNCILMEMBER BATES: Second.
COUNCILMEMBER FLEMING: Did you do page 9 as well?
COUNCILMEMBER BATES: Yes, ma'am.
COUNCILMEMBER PACHUTA: On page 9, you're talking about home health care agency office.
COUNCILMEMBER FLEMING: I'm sorry?
COUNCILMEMBER PACHUTA: And page 9, home health care agency office.
COUNCILMEMBER FLEMING: Yes.
COUNCILMEMBER PACHUTA: And that should be "State" and not "Sate."
COUNCILMEMBER BATES: And I second it.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember --
COUNCILMEMBER ROCHE: Well, again, I just -- one last comment is that, again, I don't see why we should be regulating things that are already regulated. I recognize that we have put some of this stuff in our other zoning ordinances. I think frankly

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that was the wrong way to go. I think we're going the wrong way on this.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: No.
MAYOR JENKINS: Okay.
MR. HAEBERLIN: Just a point of clarification because we might have lost this in our discussion.
Councilman Bates, was it your intention to add something to sports medicine clinic as well?
COUNCILMEMBER PACHUTA: No, that's continuing now.

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MR. HAEBERLIN: I mean I'm just -- I'm trying to keep track of what you guys are doing.
COUNCILMEMBER PACHUTA: We got sidetracked.
COUNCILMEMBER BATES: I interrupted Councilwoman Alexander's discussion on pills.
MR. HAEBERLIN: Okay. I apologize. We're going to go back to sports medicine clinic, though.
COUNCILMEMBER ALEXANDER: I guess the definition of sports medicine clinic, physical therapists. You know, I didn't know exactly what the envision was for that.
MR. HAEBERLIN: Well, I think definitely rehabilitation would be covered under that, and also, too, testing, like endurance type testing. I mean there's all sorts of things that could be covered generally under that discussion.
I think your concern is that it not become a pill house. So maybe we could put some clarification on the medical personnel similar to what we just did with the other items. Because I mean if you're a doctor and you're practicing sports medicine, I assume you're going to write prescriptions of course.
But you know, somebody setting up a pill house, a pharmacy/pill house where you just receive access to drugs, like I said, I agree with you; that's

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a concern of mine as well.
COUNCILMEMBER PACHUTA: I don't know if we could add a clause, something about any prescriptions must be provided by an on-site licensed medical professional, something, I don't know.
COUNCILMEMBER FLEMING: How about taking the medicine out of it and make it medical, and then it becomes a medical clinic not dispensing prescriptive drugs.
COUNCILMEMBER BATES: Could you add it under the list of clinics? But I guess it would be automatically considered under clinics because it's not one of the exceptions.
MR. HAEBERLIN: It could be. In fact maybe we should strike it as being redundant if that's the request of Council.
MR. BATES: Are you okay with that?
COUNCILMEMBER ALEXANDER: Yes.
COUNCILMEMBER BATES: I move to strike sports medicine clinic as it's included under clinics generally.
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: More discussion?
MR. HAEBERLIN: Page 12, Terri, for the record.

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MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER ALEXANDER: I only had two more.
Under the music and musical instrument stores, do we need to add the ability for them to sell used instruments also? because I know a lot of band students will trade in their instruments.
COUNCILMEMBER ROCHE: How about rental?
COUNCILMEMBER ALEXANDER: And rental.
COUNCILMEMBER FLEMING: Sales and rental.
MR. HAEBERLIN: Sales, rental and instruction?
COUNCILMEMBER ROCHE: Well, it doesn't really say what you can and can't do anyway.
COUNCILMEMBER BATES: That's implied because

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it's music and musical instrument stores. That doesn't preclude used.

MR. HAEBERLIN: Music and musical instrument sales, rental and instruction.

COUNCILMEMBER FLEMING: Uh-huh.

COUNCILMEMBER ALEXANDER: Okay.

MR. HAEBERLIN: Page 10.

COUNCILMEMBER FLEMING: Did you have any more?

COUNCILMEMBER ROCHE: Is that a motion?

COUNCILMEMBER ALEXANDER: I make that a motion and Mr. Roche seconded it.

COUNCILMEMBER ROCHE: Yeah.

MAYOR JENKINS: Any more discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

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COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER ALEXANDER: And then the last one I have in my notes, and I think everybody has it, is about the antique store.

COUNCILMEMBER BATES: While we're -- if we're going to have conditional use for a consignment store of used furniture or clothing, what's the difference between the consignment store selling a desk that is 10 years old versus an antique store that can't sell a desk that's 20 years old?

MR. HAEBERLIN: Well, a consignment store is where you own something and you place it in somebody else's custody to sell it. An antique store, there's no custodial -- it's your merchandise; you sell it. So there is somewhat of a difference between antique and consignment. Some antique stores actually do consignment, though.

COUNCILMEMBER BATES: Well, I guess if there's no prohibition on the age of a consignment store item, why would there need to be a prohibition on the age of an antique?

MR. HAEBERLIN: Typically with consignment stores, because people are trying to sell something

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and get value for it -- again, typically -- it is a higher-valued item, it's in better quality condition.

If there is no clarifier on antique store, I think you will honestly end up with some sort of flea market, some aberration of a flea market. You could, of course. You could get all period antiques or you could get everything in between. You could get, you know, bottles of two-year-old deodorant or whatever, you know. I mean you've been to a flea market; you see that people sell everything.

So you know, I think you should consider some clarification, and I don't know what that clarification is, in terms of age.

But consignment is much more restrictive because it's not open -- it's open to people who are only wanting to consign something. It's not open to the general concept of everybody. You place this item in the custody of that person for a certain price and then you intend to get a certain price for it.

COUNCILMEMBER BATES: Then, could you simply say an antique store selling items that could be considered collectible?

MR. HAEBERLIN: Well, that's subjective. I mean what I --

COUNCILMEMBER BATES: Sure.

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MR. HAEBERLIN: And what I consider collectible and what you consider collectible would be different. I mean, for example -- and I'm just going to go way out there -- is a 50-year-old refrigerator a collectible? In some people's mind, it might be. To other people, it might be junk. So I mean that is kind of subjective. I think you should put some sort of threshold on years, whether that's 10, 25 or 50.

COUNCILMEMBER BATES: And who's going to be responsible for verifying the age of --

COUNCILMEMBER ALEXANDER: That was specifically what I asked Mr. Weed. I said you're putting a criteria in here, and his response to me was that they would have to submit an inventory of their items. And I said, and who is going to keep up with that?

MR. HAEBERLIN: My best suggestion on stuff like this is people certify on the application, and if they do lie to the government, we have a remedy for responding to them: that if we do grant these conditional uses -- and you guys have the opportunity in your code to review these on a yearly basis -- is that you maybe at that year review, review an inventory list or visits from the code enforcement officers to see what exactly is going on there.

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So I think you -- you do have some power there. And I do agree with you; it's an onerous task to think about regulating these. And I wish that we were in a situation where we just automatically got a number of antique stores open up.

The reason I put it as a conditional use is to give the City Council to be in the power seat of driving the situation and making sure that it does come out successful.

COUNCILMEMBER FLEMING: Mr. Bates --

COUNCILMEMBER BATES: Yes, ma'am.

COUNCILMEMBER FLEMING: -- can I interject something?

COUNCILMEMBER BATES: You certainly may.

COUNCILMEMBER FLEMING: In regards to the antique store, we have auction gallery on page 5 --

COUNCILMEMBER BATES: Right.

COUNCILMEMBER FLEMING: Okay. That auction gallery is not going to be Lloyd's of London or whatever the famous --

COUNCILMEMBER BATES: Sotheby's.

COUNCILMEMBER ALEXANDER: Or Christie's.

COUNCILMEMBER FLEMING: Somebody. Okay. It's not going to be a famous auction gallery.

COUNCILMEMBER BATES: Right.

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COUNCILMEMBER FLEMING: What happens if that proprietor of the auction gallery doesn't sell everything? It then becomes a used or possibly antique store with no limitation.

COUNCILMEMBER PACHUTA: That's not usually how auction galleries work. They usually go back to the holder of the item.

COUNCILMEMBER BATES: That's my understanding, growing up, going to them kicking and screaming, the person of the estate that was selling the stuff, they, you know, either reclaimed it or it was shipped out to the landfill. So I'm not particularly concerned about them.

COUNCILMEMBER FLEMING: Well, I was just trying to point out the possibility of items being left unsold at an auction gallery then become possibly antiques, so I am not in favor of putting any type of year limitation on an antique store.

COUNCILMEMBER BATES: I'm not either.

COUNCILMEMBER PACHUTA: I am, just because I just see flea market, and I don't want to go there.

COUNCILMEMBER ROCHE: There's a fine line between antique and junk. I don't know where that belongs.

COUNCILMEMBER ALEXANDER: That's what

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Councilman Bates and I were discussing. I mean under this criteria, the moon rock over at Fernbank wouldn't qualify.

You know, I purchased first flight postcards from Bigger's in Chamblee of aircraft that Lockheed built. It is a ceremonial first flight postcard, but, you know, they're 45 years old but they wouldn't be included under this.

I mean even Sotheby's and Christie's will have a different definition of an antique. They probably don't consider anything under 110 years old an antique. So I think this in itself is almost subjective.

I understand we don't want, you know, people coming up and they're opening up a car trunk and, you know, selling out stuff, but I don't think we want to necessarily outlaw someone like Bigger's over in Chamblee, but I don't know how to word this language to give us what we want and protect us from what we don't want, basically.

MR. HAEBERLIN: Right. I understand absolutely where you're going.

COUNCILMEMBER ROCHE: Could we move it to conditional use?

COUNCILMEMBER FLEMING: It is already there.

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COUNCILMEMBER ROCHE: Oh. Sorry.

MR. HAEBERLIN: You know --

COUNCILMEMBER ROCHE: Well, it seems like if it was under a conditional use, then we could make the decision based on the individual situation and we can decide what the criteria's going to be then.

COUNCILMEMBER BATES: Well, and again, as Mr. Haeberlin said, we do review those after a year, so if it --

COUNCILMEMBER ROCHE: Right.

COUNCILMEMBER BATES: -- if it turns out to be, you know, Raggedy Ann --

COUNCILMEMBER FLEMING: If they're not selling antiques, then --

COUNCILMEMBER BATES: Yeah. It turns out to be a --

COUNCILMEMBER FLEMING: -- we don't let them come back.

COUNCILMEMBER BATES: -- turns about to be a flea market, we can --

COUNCILMEMBER PACHUTA: Then we're back to what the definition of antique is and we're going to have the core argument of an antique is just a used good and my stuff is one year old but it's still a used good.

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MR. HAEBERLIN: Well, you could --
COUNCILMEMBER PACHUTA: I don't know that we need 50 years but I just want something.
MR. HAEBERLIN: Yeah. I mean you could lower the threshold.
Now, remember this is specific to only this district. Is there a generalized definition in the rest of the zoning ordinance? If y'all want to come back, and the rest of the general definitions under the -- you know, the beginning portion of the zoning ordinance and define antique differently, I think that is appropriate as well. But this is only subject to this particular district. It's not going to apply across every other district. It's not going to create a definition for the whole city of an antique.
So if you want to say 10, 15, 20, what-have-you, then when we get a conditional use, that's what we'll be evaluating.
COUNCILMEMBER BATES: Mr. Linkous, do you have any sage advice?
ATTORNEY LINKOUS: Well, I guess you're going to have to have something in there, and I guess what I would do is -- obviously, this is just my opinion for what it's worth, but I think I would lower the threshold and perhaps put it at 20 or 25 years.

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It should give, you know, some direction as to what the Council is looking for without making it so exclusive that folks would feel threatened by that amount of years.
What you're doing is you're attempting to describe something in a manner that folks will understand.
COUNCILMEMBER BATES: I'm going to throw out something that I grew up with although I did not have one -- don't laugh -- and those would be Cabbage Patch Kids. Those became collectible items. You know, Tickle Me Elmos became collectible items very, very quickly. Didn't reach any age threshold, they just because of supply and demand just happened. So I --
MR. HAEBERLIN: I think they're at least -- if I recall, they're at least 15 years old now, aren't they?
COUNCILMEMBER BATES: Well, Cabbage Patch Kids are.
MR. HAEBERLIN: I think they are.
COUNCILMEMBER ROCHE: But is there a way we could limit so there's no Beanie Babies?
COUNCILMEMBER ALEXANDER: I've got one in my car.
COUNCILMEMBER BATES: I'm going to make a

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motion to put the date at 15 years.
COUNCILMEMBER ROCHE: Second.
COUNCILMEMBER BATES: Because as Mr. Weed said, a football field is a hundred yards.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER BATES: I'm going to make a motion that we add in supply and distribution centers shall be permitted for the following uses: building supply limited to lighting, electrical, tile, heating and air conditioning, and plumbing products; number two, packaged foods; number three, vending supply

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limited to non-alcoholic beverages, cigarettes, and prepackaged foods.
COUNCILMEMBER ROCHE: I'll second that one too. I'm seconding everything today.
MAYOR JENKINS: I'll second that one.
Any more discussion?
MR. HAEBERLIN: That was under permitted uses.
COUNCILMEMBER BATES: Yes, sir, under permitted uses.
COUNCILMEMBER FLEMING: Mr. Mayor, can you hold on just a second?
MAYOR JENKINS: Yes, ma'am.
COUNCILMEMBER FLEMING: I'm sure there's many other building supply type things other than what's listed on the -- we're going to miss one, I'm sure.
COUNCILMEMBER PACHUTA: We can't -- it's not going to be an all-inclusive list. I mean I'm sure every week we could probably think of something, but we've got to set the line somewhere.
COUNCILMEMBER FLEMING: So are they not going to be permitted?
COUNCILMEMBER PACHUTA: You know, we don't have to do any of this, so -- I mean I think we've

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really reached out and have included a lot of stuff that we were not required to do, and, you know, I think we've made a lot of concessions and, you know, we're not going to necessarily think of 100 percent of everything. But we have a very exhaustive list of what's to be included in the zone, and, you know, none of it was anything that we had to do. So at some point, we have to stop the process and, you know, put a zone in place.

MR. HAEBERLIN: The reason we did not add lumber and all the other items in there, we just didn't feel that the sites lended themselves well to mass storage of quantity items. You know, like light fixtures, switches, just real common stuff, plumbing products, you know, sink, faucets, stuff -- you know, very generalized stuff.

MAYOR JENKINS: Any more discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

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CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER BATES: I do agree with the suggestion to add in legal support services. I think that's a good existing usage, so I will make a motion to add in legal support services.

MAYOR JENKINS: Do I get a second on that?

COUNCILMEMBER ALEXANDER: Second.

COUNCILMEMBER FLEMING: Now, are you changing the notary service to indicate legal support services?

COUNCILMEMBER BATES: No, ma'am. I would be adding in a new classification for legal support services.

MR. HAEBERLIN: Page 9, Terri.

MAYOR JENKINS: Any more discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

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COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER BATES: Mr. Haeberlin, I have a question for you regarding furriers and fur shops without manufacturing.

Is sewing considered manufacturing? Because if you have a furrier or a fur shop and someone brings a stole that needs to be restitched, is that considered manufacturing?

MR. HAEBERLIN: Yeah, that's a fine line. What I had kind of envisioned is like fur storage and fur sales, but I hadn't really envisioned repair, but I mean I guess you could separate that out and say repairs.

COUNCILMEMBER BATES: But we've got sewing and piece goods stores with or without sewing instruction but we don't have -- does that include actual -- and that's on page 11. Does that include

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actual sewing?

MR. HAEBERLIN: Underneath sewing and piece goods stores, yes, it can include sewing.

COUNCILMEMBER BATES: So then --

MR. HAEBERLIN: As an instructive manner, not as a shop.

COUNCILMEMBER BATES: But not as a business.

MR. HAEBERLIN: A business shop.

But you do have, you know, drapery and other things in here too.

So I think your curiosity is should we amend furs and fur shops to say furs and fur shops period. Is that what you're wanting to do?

COUNCILMEMBER PACHUTA: I want to make sure that it still says without manufacturing because I know the process of manufacturing fur products a lot of times involves a lot of chemical processes, so I want to keep them without manufacturing.

COUNCILMEMBER ROCHE: I think repairs should be okay. I mean I agree completely. I don't want them out there, you know --

COUNCILMEMBER BATES: Tanning their hides.

COUNCILMEMBER PACHUTA: Correct.

COUNCILMEMBER ROCHE: Or skinning animals or something.

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COUNCILMEMBER BATES: Right, right.
Can we add with or without repair?
MR. HAEBERLIN: Sure.
COUNCILMEMBER BATES: I'll make that as a motion: to add with or without repair.
COUNCILMEMBER FLEMING: And without manufacturing?
COUNCILMEMBER BATES: Without manufacturing will stay, but with or without repair.
MAYOR JENKINS: Do we have a second on that?
COUNCILMEMBER ALEXANDER: Second.
MR. HAEBERLIN: Page 8, Terri.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.

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CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER BATES: I have no more.
COUNCILMEMBER ROCHE: I have a couple things. I'm concerned a little bit, the dimension requirements. I mean essentially I think it was mentioned earlier that the concern I have -- I mean the very first draft of this actually talked about roll doors and there were several properties that the size of the door wouldn't qualify them.
I don't know. I mean no one's going to change the dimensions of their building or their lots or anything.
COUNCILMEMBER PACHUTA: Where are you looking? I'm sorry.
COUNCILMEMBER ROCHE: I'm sorry.
COUNCILMEMBER PACHUTA: What page are you on?
COUNCILMEMBER ROCHE: Page 13, dimension requirements. I mean it has a minimum and maximum lot area, et cetera, et cetera, and I'm just concerned that we may go to all this trouble and find out that, you know, because of setbacks or something like that. It just seems to me, I'm not sure that we even need this section at all, the dimension requirements.

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MR. HAEBERLIN: But it is consistent in its construction with all the other districts we've done. Unfortunately, none of the business owners who I assume wanted to pursue CT ever shared actual surveys with me, or I'd be able to confirm for you guys that there were no problems.
So you know, we're relying on the good faith of these individuals, if they make application, they meet these requirements since there was nothing shared to us otherwise.
COUNCILMEMBER ROCHE: Well, again, this is a transitional zoning. We're trying to, as we've been saying, grant some relief to existing businesses. And to go to one of the businesses and say, well, I'd like to have this but because I don't have a lot frontage of -- my lot frontage is 29 feet or my front yard building setback is four feet or four-and-a-half feet or whatever, and then, you know, guess what? We went through all this and your building doesn't qualify.
I'm just not sure if we even need to go here.
COUNCILMEMBER BATES: Well, the only place where this would come into play would be under a split zone which is the only place where it's required to provide a survey. The straight CT without a split

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zoning wouldn't require a survey and so we'd be, you know, trusting the applicants to --
COUNCILMEMBER ALEXANDER: Or city/county tax base.
COUNCILMEMBER BATES: -- yeah, city/county tax base or whatnot.
I hear your concern, but the side yard setback is at zero feet, the maximum building height is not to exceed two stories. I don't think we have any buildings that do that. Minimum rear is set at three feet, and I would hope that if any of the property owners thought that they would have been in violation of any of the front or rear setbacks, they would have let us know.
I do recognize Mr. Shanahan's concern regarding the 95 percent impervious and I failed to address that in my section, so I'll hope you guys can make that as a motion to address that.
I'm just -- I think we need to keep the dimension requirements on the books.
COUNCILMEMBER ROCHE: Well, I mean it says variable based on existing parcel configuration. And again, if we're not going to get a survey anyway, I guess my -- I don't understand why it would be here.
I think that was a good idea earlier. If

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we're going to keep this, then just simply wherever it says "variable based on existing parcel configuration," put a full stop there and delete the rest of the sentence.

MR. HAEBERLIN: There's no parcel that I'm aware of that would be eligible for CT. In fact, it shouldn't even be a parcel in the city if it doesn't have 30 feet of lot width or 30 feet of public street frontage. Those are basic defaults.

I mean if there are landlocked properties, then we have greater problems than just CT district. So those are kind of thresholds. I'm not really concerned that those two are violated.

As the discussions occurred, the front, the rear, unless the property owners tell us otherwise, you know, I took the amount as small as I could to encompass as many people as I could. I don't factually know that it covers every individual, though.

COUNCILMEMBER PACHUTA: Scott, can you address the 95 percent coverage? I mean, because my inclination is to not have something at a hundred percent impervious.

MR. HAEBERLIN: Correct.

COUNCILMEMBER PACHUTA: But I understand

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we're dealing with as-builts that are --

MR. HAEBERLIN: Yeah. It's a difficult situation because as you folks are probably aware, in the past, there was no impervious limits at all in the city and so there are many sites that are a hundred percent impervious. However, as a planner, I get nervous about endorsing a hundred percent impervious.

Surely most of sites have at least 5 percent of something, some green space, some island, some tree areas, something; however, from what the folks have told you tonight, maybe that is not the case. Maybe there's something I'm missing when I've looked at these sites. I know we had a discussion last night about the ligustrum, so I know there's one site that has a tree on it.

You know, you might just say variable reflecting as-built conditions, no increase in impervious lot coverage once zoned CT.

COUNCILMEMBER BATES: I'll --

COUNCILMEMBER FLEMING: That's perfect. Make a motion to adopt that. It's perfect.

COUNCILMEMBER ROCHE: I'll second that.

COUNCILMEMBER BATES: Thank you. That's a perfect solution.

MAYOR JENKINS: You made 'em, folks?

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COUNCILMEMBER BATES: Ms. Fleming did and Bob seconded it.

MAYOR JENKINS: Repeat the motion, please.

COUNCILMEMBER FLEMING: It would have to be Mr. Haeberlin repeating it.

MR. HAEBERLIN: No increase in impervious lot coverage once zoned CT. Strike "however, no more than 95 percent."

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

I have three more, two are small.

I didn't think of this but I think it's an excellent idea. The bicycle store. We're seeing more and more motor scooters, we're seeing more and more of -- nowadays, there's battery-operated electric bicycles, that sort of thing.

Yesterday we talked about how we wanted to

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be a green community, et cetera, et cetera. I personally don't have a problem at all with bicycle stores selling electronic -- or electric bikes or Mopeds, that sort of thing, and I would like to expand it to include that, which I guess at Mr. Shanahan's -- we would just remove non-motorized.

I'll make that as a motion and see where it goes.

MAYOR JENKINS: Second?

COUNCILMEMBER ALEXANDER: I guess my concern there is how -- because I know you have like a Vespa store and sometimes motorcycle stores sell scooters. So how are you going to discern? Are you going to base it on a CC, the size of the motor or --

COUNCILMEMBER ROCHE: I think the law says anything less than -- anything greater than 50 CC's requires a license --

COUNCILMEMBER ALEXANDER: Tag.

COUNCILMEMBER ROCHE: I'd be happy to just stick with a CC or electric. 50 CCs or less or electronically powered two-wheeled vehicle. I don't know what the legal term is for a Moped or bicycle.

So I'll amend my motion to say, on page 6, bicycle store, remove non-motorized and replace with motor-driven bicycles with 50 or less CC's or

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1 electric-powered bicycles, whatever.
2 MAYOR JENKINS: How many CC's?
3 COUNCILMEMBER ALEXANDER: Fifty.
4 COUNCILMEMBER ROCHE: Fifty. Fifty or less,
5 and I'm pretty sure fifty or less is not considered a
6 motorcycle.
7 MR. HAEBERLIN: I am just trying to think
8 that through. That doesn't preclude pedal power.
9 COUNCILMEMBER ROCHE: Right, exactly.
10 MR. HAEBERLIN: Okay.
11 COUNCILMEMBER ROCHE: Because like all the
12 bicycles, they have pedals plus they have like a
13 little battery or battery engine, motor.
14 MAYOR JENKINS: Any more discussion?
15 COUNCILMEMBER ROCHE: We've got to get a
16 second.
17 COUNCILMEMBER ALEXANDER: I thought
18 Ms. Fleming seconded it.
19 COUNCILMEMBER ROCHE: Oh, I'm sorry.
20 MR. HAEBERLIN: On page 6, Terri.
21 COUNCILMEMBER FLEMING: Second.
22 CLERK BLACKMON: Call the roll.
23 CLERK BLACKMON: Councilmember Alexander?
24 COUNCILMEMBER ALEXANDER: Yes.
25 CLERK BLACKMON: Councilmember Bates?

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1 COUNCILMEMBER BATES: Yes.
2 CLERK BLACKMON: Councilmember Fleming?
3 COUNCILMEMBER FLEMING: Yes.
4 CLERK BLACKMON: Councilmember Pachuta?
5 COUNCILMEMBER PACHUTA: Yes.
6 CLERK BLACKMON: Councilmember Roche?
7 COUNCILMEMBER ROCHE: Yes.
8 Two more. The upholstery, when I look at
9 this, I mean I -- I don't know anything about
10 upholstery. Maybe someone -- maybe an expert could
11 weigh in on this. But to me, a large part of any
12 upholstery business is getting the aircraft, the boat
13 and auto, and to remove that, you're basically saying
14 no upholstery. We might as well just say no
15 upholstery.
16 So it would seem reasonable to go ahead and,
17 again, as Mr. Shanahan's very helpfully said, allow
18 auto, aircraft and boat upholstery.
19 COUNCILMEMBER PACHUTA: I think I recall
20 having a discussion about at the work session, at the
21 round table on the floor. The concern was because of
22 the storage of vehicles, and lots of times those are
23 kept there for a length of time, and that's why we
24 limited it.
25 COUNCILMEMBER FLEMING: Well, their storage

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1 would have to be within their rollup door.
2 COUNCILMEMBER ROCHE: Right.
3 COUNCILMEMBER ALEXANDER: You couldn't put a
4 motorhome in there, though.
5 COUNCILMEMBER ROCHE: No, but you could
6 remove the seats from a motor home and take it to the
7 upholstery store. It's just like you do with an
8 airplane. You take out the seats, you take it to the
9 upholsterer, they do it. You're not going to park an
10 airplane there, obviously.
11 MAYOR JENKINS: Oscar, is that the way you
12 do it, sir?
13 MR. PEREZ: Yes. Yes, sir. That's what.
14 They just take the seats out of the airplane, car,
15 anything, take it to the shop; fix it and put it back
16 together. I bring the aircraft upholstery to the
17 shop, do it and then put it back in the plane. We
18 don't have to bring anything big.
19 COUNCILMEMBER ROCHE: Yes. This would all
20 be inside the building, I mean.
21 MR. PEREZ: Yeah.
22 MAYOR JENKINS: Yes.
23 COUNCILMEMBER FLEMING: Don't you also at
24 times do some of our police vehicles also?
25 MR. PEREZ: Yes.

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1 MAYOR JENKINS: Yes.
2 MR. PEREZ: Yeah, that's actually --
3 MAYOR JENKINS: Come on up to the micro-
4 phone.
5 MR. PEREZ: Actually, we got agreement with
6 the CT it doesn't apply to us and this CT, but we will
7 have the C-2, the agreement, we can do upholstery and
8 cars indoors, all enclosed. Similar cases maybe in
9 the future, but we got agreement with the city. We
10 don't have any more, you know, new stuff to deal with
11 this. It's just -- thank you.
12 COUNCILMEMBER ROCHE: So I'll just make the
13 motion that we modify upholstery shops to read,
14 upholstery shops --
15 COUNCILMEMBER FLEMING: Period.
16 COUNCILMEMBER ROCHE: Yeah, because we've
17 already covered the outside storage elsewhere.
18 If we're concerned, we can say upholstery
19 shops but excluding outside storage, but I think
20 that's already covered.
21 COUNCILMEMBER ALEXANDER: But all the work
22 is to be done inside the building.
23 COUNCILMEMBER ROCHE: Right.
24 COUNCILMEMBER BATES: Could you add that to
25 the --

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COUNCILMEMBER ROCHE: Yeah, that's fine.
COUNCILMEMBER BATES: All the work needs to be inside?
COUNCILMEMBER ROCHE: Yeah. All the work is done inside.
MAYOR JENKINS: Okay. Do I get a second on that?
COUNCILMEMBER ALEXANDER: Do you have that, Mr. Haeberlin, worded appropriately, suitably?
MR. HAEBERLIN: And I'll work with Mr. Weed on the -- I mean as I know the intent of the Council.
COUNCILMEMBER FLEMING: I amend the second to read upholstery shops with all work done inside.
MAYOR JENKINS: More discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?

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COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
And last but not least, it was mentioned last time but it's also been mentioned here, the whole point of the CT is to try to transition people to more of a commercial district and the idea was brought up about adding C-2 uses to this. And I'm not sure if that's a good idea or not. I just think that we should discuss it further. It would seem reasonable if we want to try to get people into C-2, that we would allow those uses.
COUNCILMEMBER PACHUTA: And you know, my reaction is that these properties are C-2 and the whole reason that we're here is the argument that the as-builts were not suitable for C-2, and I'm more of the opinion you can be C-2 or we can work with this new district. But I mean the argument was that they couldn't get C-2 for their buildings, and so I'm just not inclined to add C-2.
COUNCILMEMBER BATES: I concur.
COUNCILMEMBER ROCHE: Then, I'm finished.
COUNCILMEMBER FLEMING: I --
MAYOR JENKINS: Yes, ma'am.
COUNCILMEMBER FLEMING: We haven't hit me

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yet. Do you want to take a break?
MAYOR JENKINS: Yes. We're going to take a 10-minute break.
- - -
(Brief recess)
- - -
MAYOR JENKINS: Pam?
COUNCILMEMBER FLEMING: Okay. On page 4, I wanted to address Mr. Shanahan's concern about a percentage of demolition, involuntary demolition; was wondering whether Council is comfortable with the 60 percent loss.
COUNCILMEMBER BATES: On the involuntary?
COUNCILMEMBER FLEMING: Uh-huh.
COUNCILMEMBER PACHUTA: The involuntary but not voluntary.
COUNCILMEMBER BATES: Right. If they choose to demo --
COUNCILMEMBER FLEMING: No, no, no, no.
COUNCILMEMBER BATES: Right. In- --
COUNCILMEMBER FLEMING: Involuntary demolition.
COUNCILMEMBER BATES: At 60 percent?
COUNCILMEMBER FLEMING: Uh-huh.
COUNCILMEMBER BATES: I'm okay with that.

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COUNCILMEMBER FLEMING: I would like to make a motion to include on page 4 to read or --
MR. HAEBERLIN: Why don't you just make that or involuntarily.
So those properties which are voluntarily demolished resulting, et cetera, et cetera, and then make a new sentence. Properties which are involuntarily demolished which do not exceed a 60 percent threshold may be rebuilt or something of that type.
COUNCILMEMBER FLEMING: That's --
MR. HAEBERLIN: I think it's getting confusing because --
COUNCILMEMBER FLEMING: Yes, it is.
MR. HAEBERLIN: -- we're trying to fix one.
COUNCILMEMBER FLEMING: That's why I stopped, because I didn't think that that -- properties which are voluntarily demolished shall not be rebuilt, period?
COUNCILMEMBER ROCHE: No. Shall be removed from this district.
COUNCILMEMBER FLEMING: Go ahead.
MR. HAEBERLIN: Yes. Those properties which are voluntarily demolished resulting in the loss of all or a portion of existing facilities shall be

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1 removed from this district and shall resort to its
2 former zoning. And then I think you want to do a new
3 sentence, properties which are involuntarily
4 demolished resulting in a loss not greater than 60
5 percent may be rebuilt.
6 COUNCILMEMBER FLEMING: That's in the form
7 of a motion.
8 COUNCILMEMBER BATES: Second.
9 MAYOR JENKINS: More discussion?
10 - - -
11 (No response)
12 - - -
13 MAYOR JENKINS: Call the roll.
14 CLERK BLACKMON: Councilmember Alexander?
15 COUNCILMEMBER ALEXANDER: Yes.
16 CLERK BLACKMON: Councilmember Bates?
17 COUNCILMEMBER BATES: Yes.
18 CLERK BLACKMON: Councilmember Fleming?
19 COUNCILMEMBER FLEMING: Yes.
20 CLERK BLACKMON: Councilmember Pachuta?
21 COUNCILMEMBER PACHUTA: Yes.
22 CLERK BLACKMON: Councilmember Roche?
23 COUNCILMEMBER ROCHE: Yes.
24 COUNCILMEMBER FLEMING: Okay. I know I have
25 several, but I'm hoping that we won't be jumping back

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1 and forth. But on page 6, we have automotive parts
2 stores, retail only but without on premises
3 installation, but then we have -- in other areas of
4 the CT zoning we have accessory installation is
5 acceptable. And so I wanted to consider that the
6 automotive part could be indeed installed on the
7 premises without overnight storage and within the
8 establishment, within the roll-up door.
9 COUNCILMEMBER BATES: That's a slipper-slope
10 direction because I agree that I would consider a
11 battery or windshield wipers or other parts like that,
12 but an engine is considered an automotive part, and
13 that I'm not sure is the appropriate use in this
14 district of auto repair. So I'm torn on that because
15 I would love to see an Advance Auto Store, a NAPA Auto
16 Parts or something like that, because they do do, you
17 know, windshield wiper and battery and, you know,
18 light bulb replacement, but I'm not sure that we want
19 to start rebuilding transmissions over there so --
20 COUNCILMEMBER FLEMING: Well -- and I know
21 that you're thinking more on this end of New Peachtree
22 but we do have two with roll-up doors that are C-2
23 automotive.
24 COUNCILMEMBER ALEXANDER: But that was legal
25 nonconforming use prior to the zoning change, I

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1 believe.
2 MR. HAEBERLIN: That's correct. I believe
3 so.
4 COUNCILMEMBER FLEMING: But there are no
5 conditions on them at the present time; correct?
6 So our instructions are if they are zoned C-
7 2 at the present time without conditions, that they
8 could feas- -- and have roll-up doors, they could
9 feasibly apply. Is that correct?
10 MR. HAEBERLIN: Are you saying that those
11 properties could apply for inclusion in this district?
12 COUNCILMEMBER FLEMING: Yes.
13 MR. HAEBERLIN: If they make the basic
14 parameters. I think we struck all that language. If
15 they meet the basic parameters for inclusion, the
16 Council can entertain bringing them in, certainly, and
17 they're depicted on that map as well.
18 COUNCILMEMBER PACHUTA: I mean I don't know
19 why they would if they have a legal nonconforming use
20 already in C-2. They would just continue their legal
21 nonconforming use in C-2.
22 MR. HAEBERLIN: Yes, I agree. I mean what
23 would be their advantage to go to CT? I don't see it.
24 I mean because C-2 allows this exact same language:
25 automotive parts stores, retail only, but without

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1 on-premises installation. An example would be Extreme
2 Auto Parts that's at the Plaza One location. They do
3 absolutely no on premises installation, and they are
4 allowed by right in C-2. Of course there are shops
5 here that fall under the old grandfathering clauses of
6 automotive sales, new, used, et cetera, et cetera,
7 where they basically can do anything. I mean they
8 paint, they do transmission work, you know, et cetera.
9 I think these facilities really are not
10 designed for having a lift or things of that nature.
11 I even get a little squeamish, Councilman Bates, about
12 the whole battery situation because of the disposal
13 issues related to that, and I honestly think just with
14 a single bay door, that most of these sites, the
15 investment in retrofitting that area inside the door
16 would probably not benefit these folks.
17 COUNCILMEMBER FLEMING: Okay. Well, I can
18 see that that's not subject to a positive vote, so
19 I'll move on.
20 Page 7, clothing, apparel, and accessories
21 stores selling new merchandise. And the reason why
22 I'm commenting about that is that the one right below
23 it, clothing and costume rental agencies, a rental
24 agency is -- by the time you've rented it several
25 times, it is then a used piece of clothing or costume,

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and so if they chose to sell -- and a lot of rental companies do sell at some point so that they can, you know, continue rotating their stock of rental goods, it then becomes used.

So I'm just pointing those two areas out that you've got we're only going to allow clothing, apparel and accessories stores selling new merchandise, but then we're going to have clothing and costume rental agencies.

COUNCILMEMBER BATES: And they could apply for a conditional use as a consignment store.

COUNCILMEMBER FLEMING: I'm sorry?

COUNCILMEMBER BATES: They could apply for a conditional use as a consignment store.

COUNCILMEMBER FLEMING: Which one?

COUNCILMEMBER BATES: The clothing and costume rental agency.

COUNCILMEMBER FLEMING: Yeah, but they're going to end up selling anyway their used stock.

MR. HAEBERLIN: Usually by the time -- for example, prom dresses. Women rent prom dresses now and men also rent tuxes, and of course everybody rents at halloween some costume -- Superman, whatever. Usually by the time those things have been rented a number of times, they're in pretty poor shape. I

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would assume most of those would be dispossessed in terms of giving them to Goodwill or something of that nature.

I mean I can see where you're going. You're talking about a slight-rented tux, you know. I don't know that business really well. I don't know that they do that. I just don't know.

COUNCILMEMBER FLEMING: Okay. Did we ever -- on page 7 still for contractor's offices, are we doing anything with that with a definition or clarification of what a contractor's office is? It says contractor's offices.

COUNCILMEMBER BATES: Do we need to?

COUNCILMEMBER FLEMING: Well, that was a big discussion, contractor's offices and supplies or --

COUNCILMEMBER BATES: Well, that --

COUNCILMEMBER FLEMING: -- contractor's office and building supplies, because I got into the comment about the definition of what is a contractor.

COUNCILMEMBER PACHUTA: That's why we added the supply and distribution center.

COUNCILMEMBER FLEMING: So are we deleting contractor's office.

COUNCILMEMBER BATES: I don't think so. That would be a general contractor.

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COUNCILMEMBER FLEMING: That's where I'm coming from.

COUNCILMEMBER BATES: Right.

COUNCILMEMBER FLEMING: We're thinking that way but we don't have a definition for contractor. Bob's a contractor, okay?

COUNCILMEMBER ROCHE: Well, sometimes I'm a contractor and sometimes I'm a consultant.

COUNCILMEMBER FLEMING: A consultant; right.

COUNCILMEMBER ROCHE: The difference is contractors have to know what they're talking about.

COUNCILMEMBER FLEMING: Or their position that they're in, right. So I just wanted some type of a direction, because we did go into --

MR. HAEBERLIN: Well, you know, contractors by their very nature -- I mean a licensed general contractor is different than an electrical contractor, et cetera, et cetera. I do agree with you on that.

So when you reference contractors, are you wanting to reference State licensure? I mean we're going back to that whole discussion. You know, if somebody comes and applies as a contractor's office and they say that they're an electrical contractor, well, provide me with validation from the State that you are an electrical contractor.

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COUNCILMEMBER BATES: I'm just trying to think of a contractor that wouldn't be --

MR. HAEBERLIN: A painting contractor --

COUNCILMEMBER BATES: -- construction-related.

MR. HAEBERLIN: -- would probably not be licensed by the State.

COUNCILMEMBER BATES: I'm just trying to think of a contractor that wouldn't be construction related or renovation related.

COUNCILMEMBER FLEMING: But that's what I'm trying to get at.

Oh, you mean -- I would prefer elaborating on what contractor supplies -- offices and supplies is what I'd like to put there.

COUNCILMEMBER ALEXANDER: We've already got supplies covered under the distribution.

COUNCILMEMBER FLEMING: Okay.

COUNCILMEMBER BATES: And we've got supplies covered under that general storage not at the beginning.

Would you be more comfortable if it said something along the lines of contractor's offices related to construction and/or renovation, to limit it?

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COUNCILMEMBER ROCHE: Building contractor?
COUNCILMEMBER FLEMING: Building contractor or construction trade or something.
COUNCILMEMBER PACHUTA: And I guess, Scott, I'm trying to think of some of those things that you were trying to keep out like that are messy, I guess, like cabinet-making and things like that. Remember?
MR. HAEBERLIN: Yeah. I mean there's a lot -- well, certainly a lot of things --
COUNCILMEMBER PACHUTA: I mean of course --
MR. HAEBERLIN: -- could be included.
COUNCILMEMBER PACHUTA: -- this is very broad already, so --
MR. HAEBERLIN: Well, they're allowed to have associated storage based on that preamble clause that we had. But I don't know that we want people going there -- for example, I'm a land disturbance contractor. I'm not sure I want people going there and buying, I don't know, soil and erosion netting and seed and stuff like that.
COUNCILMEMBER BATES: That would be allowed right now.
MR. HAEBERLIN: Well, I mean it depends on how we're interp- -- I mean it depends on how you interpret the word office.

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COUNCILMEMBER FLEMING: That's what I'm trying to --
MR. HAEBERLIN: Are you wanting to say contractor's office?
Well, if you say without retail sales, then you can't really -- you can't really -- hm.
Contractor showroom? That really doesn't help them either.
COUNCILMEMBER BATES: I'm a general contractor and I want to set up my office where I'm, you know, doing my purchase orders and --
MR. HAEBERLIN: Correct.
COUNCILMEMBER BATES: -- my A1A's and, you know, the things that are associated with building or renovating. I don't want to -- it's not a showroom. It's an office. And I might want to keep my small tools and my job box there and, you know, send my crews out, you know, every morning at 6 o'clock to go do what they do.
I'm comfortable with adding language that it's building contractors as long as it's encompassing sufficient trades.
MR. HAEBERLIN: Well, you could even --
COUNCILMEMBER BATES: But I don't want to -- I don't want to itemize this out.

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COUNCILMEMBER FLEMING: No, nor do I, but I just didn't want it to be a catch-all for anything.
So how about building and construction contractor's offices or contractor's office for building and construction trade?
MR. HAEBERLIN: Contractor's offices that shall be licensed by the State of Georgia. That would cover anybody that --
COUNCILMEMBER BATES: But then, like I said, a painting contractor --
MR. HAEBERLIN: That's true.
COUNCILMEMBER BATES: -- is not licensed.
MR. HAEBERLIN: That's true.
COUNCILMEMBER ROCHE: I think building and construction contractor's office sounds perfect.
COUNCILMEMBER FLEMING: Building and construction trades?
COUNCILMEMBER ROCHE: Sure.
COUNCILMEMBER FLEMING: Then it could be wallpapering, anything like that.
MR. HAEBERLIN: Or building and construction trades. I would make trades plural --
COUNCILMEMBER BATES: Right.
COUNCILMEMBER FLEMING: Yes.
MR. HAEBERLIN: -- because that

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encompasses --
COUNCILMEMBER BATES: Multiple.
COUNCILMEMBER FLEMING: Right.
MR. HAEBERLIN: -- multiple individuals.
COUNCILMEMBER FLEMING: Okay. The motion would be to, on page 7, contractor's offices to include building and construction trades.
Is that --
COUNCILMEMBER PACHUTA: I was going to say, phrasing like that, you're still leaving the really vague contractor's office, so I just want to make sure.
COUNCILMEMBER FLEMING: Contractor's office for construction and building trades or --
COUNCILMEMBER PACHUTA: Contractor's offices for the building and construction trades.
MAYOR JENKINS: As long as you have it as offices, it's not warehouses.
MR. HAEBERLIN: Well, they can have attendant storage in their --
COUNCILMEMBER PACHUTA: Yeah.
MR. HAEBERLIN: -- other roll-up area.
COUNCILMEMBER FLEMING: Contractor's offices for building and construction trades is the motion.
COUNCILMEMBER PACHUTA: Second.

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MAYOR JENKINS: Any more discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER FLEMING: Okay. On page 8, we get into furniture and household appliance stores selling and/or renting new merchandise.

And we get back into my comment about renting new merchandise, because one of these buy-here/pay-here rent-to-own but they default on their rental and then it becomes used merchandise. So I'm just making a comment about the rental scenarios, and I have no problem with rental things. Just we're renting new merchandise. What happens when it comes

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back in and they decided to upgrade to another appliance? Then it -- you know.

COUNCILMEMBER PACHUTA: I don't want to go down that slippery slope of having a junk yard.

MR. HAEBERLIN: Yeah. It usually goes to a central processing center. For example, Rooms To Go, they have a clearance center in two or three locations in Georgia even though they do -- they sell and I think in some cases essentially rent because they give you like three years no interest. But they have disposition locations.

Cort Furniture is an example too. Cort Furniture rents business furniture and household furniture but they usually have a distribution area. I think there's one up off I-85 where they actually get rid of everything once it's been used by somebody.

So it's just a matter of whether you wanted to include that in your district or not.

COUNCILMEMBER FLEMING: But it still normally comes back to the location they rented it from. So are you telling me that the small little places that we have are going to have a distribution center for the then-used merchandise to go to?

MR. HAEBERLIN: Well, that's based on their

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going to set these items up.

COUNCILMEMBER PACHUTA: I worry about getting junk, used junk store.

COUNCILMEMBER FLEMING: I know, but I mean they've rented the new merchandise to you. You've kept it for two years. It comes back, and they're going to rent to me. Is it new any more?

MR. HAEBERLIN: Really it's a clearance -- it's a clearance distribution, basically.

COUNCILMEMBER FLEMING: So I'm just -- sorry. Just a comment.

COUNCILMEMBER ROCHE: I understand what you're saying, like coffee machines.

COUNCILMEMBER FLEMING: Any suggestions? I mean --

MR. HAEBERLIN: Well, the problem with saying, you know, disposing of only those items that have been rented, then you have to have some sort of ability to prove that. I think that gets kind of complicated. I mean it's kind of like the auto dealerships here and what cars they have on their lot. And I guess we could do it, certainly, and I think it does make the situation more complicated.

My preference would be that they send these

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industrial area.

COUNCILMEMBER FLEMING: Well, they also have in other areas, and that's the reason why I was commenting, is that we do have some -- and I'm trying to find it right now -- where we are allowing used type of --

COUNCILMEMBER BATES: Lawn mowers and books.

COUNCILMEMBER ROCHE: Right.

COUNCILMEMBER FLEMING: Is that the only one?

COUNCILMEMBER BATES: Off the top of my head.

Cars.

MR. HAEBERLIN: Pre-owned.

COUNCILMEMBER FLEMING: I'm sorry?

MR. HAEBERLIN: Cars, pre-owned.

COUNCILMEMBER BATES: But not in this district.

MR. HAEBERLIN: No.

CDs. I think we had CDs, did we not?

COUNCILMEMBER ROCHE: Books.

MR. HAEBERLIN: We did music like CDs and instruments and -- yeah, we did do that.

COUNCILMEMBER FLEMING: Sporting goods,

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MR. HAEBERLIN: And sporting goods as well.

COUNCILMEMBER BATES: I guess it comes down to space. A space for a used book or a used baseball glove versus space for a used stove, used refrigerator.

COUNCILMEMBER ROCHE: But the space is going to be inside, not outside.

COUNCILMEMBER BATES: Understood.

COUNCILMEMBER ROCHE: I mean --

COUNCILMEMBER FLEMING: They may have something that -- the only -- and I'm not going "the only reason why" anymore. I say that all the time.

Selling or renting new merchandise. Well, the item comes back in and it's dented, and somebody comes in to rent.

And Karen, I know where you're going on that because it is a slippery slope, because the item comes back in damaged and they want to get rid of it to the next person that may come in, you know, at a $50 price rather than -- so --

MR. HAEBERLIN: I mean I would just err on the side of letting them consign it to somebody, I mean. You know, like used appliances, you know, some appliances when they're used don't exactly return in

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could be used could be very objectionable or it could be very clean. Furniture is both ways. Some people maintain their furniture, some people don't. So I mean we are getting kind of fine line on what we might get back at the site, and I understand where Councilwoman Pachuta is going.

COUNCILMEMBER ALEXANDER: That's one of the concerns I have is I think that a lot of these locations have a central dumpster, and I'm concerned about the disposal of large white goods such as this. You don't want them stacked up beside the dumpster, but these people can't have one dumpster for all their tenants and somebody sticks a refrigerator in it, which is against the law, by the way, because of the refrigerant inside. But I guess that's one of my concerns is the disposal of these items also.

COUNCILMEMBER ROCHE: Well, if they can't sell the used items, then they'll have to dispose of them.

COUNCILMEMBER ALEXANDER: Understand that.

MR. HAEBERLIN: Most of the --

COUNCILMEMBER PACHUTA: Just take it out.

MR. HAEBERLIN: Most of the public agency places still take stuff. I don't think they take --

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MR. HAEBERLIN: And I don't think they take computers anymore like at a Goodwill or what-have-you. But I think used furniture -- most used appliances, I think that they still take. And I could be wrong because there's been so much construction trade where people are changing out everything from white to chrome or what-have-you, that I know they've been inundated with people trying to dispose of appliances.

COUNCILMEMBER FLEMING: Can we take renting out of that statement?

COUNCILMEMBER ALEXANDER: Sure.

COUNCILMEMBER ROCHE: Yeah. I have to say I don't like the rental stores, frankly.

COUNCILMEMBER FLEMING: I mean I don't mind them, but when it comes back in, like I said before, then it's not new anymore.

MR. HAEBERLIN: Well, I put that in there because we had some comments -- I won't mention this property owner in the city, the large property owner -- complaining about not being able to rent -- have a rental store of that nature. So I thought, well, this might be the district where a rental store might actually work. Of course I had not envisioned what Councilman Fleming is talking about, what you do once

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COUNCILMEMBER FLEMING: I mean typically it's re-rented, but at some point --

We can always put rental stores in conditional uses.

MR. HAEBERLIN: That could do.

COUNCILMEMBER FLEMING: Since we do not have --

MR. HAEBERLIN: And then you'll have an opportunity to discuss with them --

COUNCILMEMBER FLEMING: That's correct, as to what --

MR. HAEBERLIN: -- disposition.

COUNCILMEMBER FLEMING: -- they plan on doing.

COUNCILMEMBER ALEXANDER: So do you make a motion for it to read furniture and household appliance stores selling new merchandise?

COUNCILMEMBER FLEMING: That is correct.

COUNCILMEMBER ALEXANDER: I'll second the motion.

MAYOR JENKINS: More discussion?

- - -

(No response)

- - -

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CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER FLEMING: Now I'll just jump over. We're going to go back to page 8 for just a second, but now can we go ahead and put that in, rental -- furniture and household appliance stores, rental of or something like that?
MR. HAEBERLIN: Furniture and household appliance rental under conditional use on page 13 is what you're intending to do?
COUNCILMEMBER FLEMING: Yeah, but what about do we have office supplies that we're -- office equipment that we're allowing to be sold used in this CT?
MR. HAEBERLIN: That is correct, but that's office. Furniture and household appliance rental to

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purchase.
COUNCILMEMBER FLEMING: Okay. For conditional use, please put in -- I'm sorry, Mr. Haeberlin, what did you put down?
MR. HAEBERLIN: Furniture and household appliance rental.
COUNCILMEMBER FLEMING: As a conditional use?
MR. HAEBERLIN: I think that's what I'm understanding.
COUNCILMEMBER FLEMING: Yes, please.
COUNCILMEMBER FLEMING: And that's in the form of a motion.
MAYOR JENKINS: Second? Do we get a second on it?
COUNCILMEMBER ROCHE: I'll second it just for the vote.
MR. HAEBERLIN: Do you want to put in there sales, too, because that was your original concern? Sales and rental?
COUNCILMEMBER FLEMING: In the conditional?
MR. HAEBERLIN: Yes, ma'am.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?

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CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER FLEMING: The other item on page 8 -- and before you guys just jump all over me -- health and fitness clubs without massage or spa.
When I think about a health and fitness club, I'm thinking about Gold's Gym or My Fair Lady or places that are actually health and fitness locations that do indeed have spas and massage at them -- not that I would think that it's going to be in the CT --
COUNCILMEMBER PACHUTA: Yeah, that's --
COUNCILMEMBER FLEMING: -- however, but we also have the same terminology in the C-2.
So when you -- you know, massage is totally different than health and fitness centers.
COUNCILMEMBER PACHUTA: I just don't even like this one in CT, actually, because I think we don't have the space for or the parking for a health

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COUNCILMEMBER BATES: Well, I disagree. My mom belongs to Curves, which is a woman's only fitness center, and they're very small.
MR. HAEBERLIN: Very small stations.
COUNCILMEMBER BATES: Very small.
MR. HAEBERLIN: Where you work with just --
COUNCILMEMBER BATES: Yeah.
MR. HAEBERLIN: -- hands-on.
COUNCILMEMBER BATES: Literally, the facility where she goes is a quarter of the size of this room.
MR. HAEBERLIN: 1200 square feet probably.
COUNCILMEMBER BATES: So I think I'm okay with leaving this in there because there could be some boutique places that set up shop.
I guess I'm concerned with the definition of spa.
MR. HAEBERLIN: Well, spa would connote a wet or dry location where, you know, people sit, obviously, or stand. And so what I'm trying to avoid, I think -- I'm trying to avoid what I think you're trying to avoid.
Certainly a health and fitness club could have a shower, so once you go workout, you could

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place where you go to get massages. For example, like a power-lifter weight club. When the guys go and they just lift very heavy weights -- not many stations, just real heavy weights -- they would not typically have a spa or massage area.

COUNCILMEMBER ROCHE: So it would be like no sauna, no steam room?

MR. HAEBERLIN: That's correct.

COUNCILMEMBER FLEMING: So when we're using the term "spa" -- are we also considering that sauna and steam rooms when we use the term "spa?"

MR. HAEBERLIN: I would, because, spa, to me, connotes wet and dry.

COUNCILMEMBER ROCHE: Hot tub?

MR. HAEBERLIN: Well, we could -- we could -- we could define these things very specifically under the zoning definitions term in the beginning of the zoning ordinance if that's a concern of the Council, if they want to say specifically what a spa is in real detail and set forth in the code as the Council would approve it.

COUNCILMEMBER ALEXANDER: I'd rather just leave it the way it is.

COUNCILMEMBER BATES: Yeah, I --

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spa?

COUNCILMEMBER BATES: Yeah.

COUNCILMEMBER FLEMING: But that's something for us to be thinking about in regards to, you know, the C-1/C-2 getting ready to come up.

Okay. I don't have anything on page 9.

MR. HAEBERLIN: I don't think we ever did clarify that the Council was fine with the internet business offices, the one we discussed on the phone today about the wording. Internet business offices, comma, but excluding --

COUNCILMEMBER FLEMING: I don't believe --

MR. HAEBERLIN: -- on-site shipping services?

COUNCILMEMBER FLEMING: -- it was actually voted on; that's correct.

MR. HAEBERLIN: Yes, ma'am.

COUNCILMEMBER FLEMING: On page 9, "Internet-based business offices but excluding on-site shipping services as otherwise restricted by the adult entertainment ordinance," period. "Automotive dealer's offices shall be prohibited," period, is the motion.

COUNCILMEMBER ROCHE: Second.

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question because it's almost 9 o'clock and I can.

What type of office would that be?

Give me an internet-based office that --

COUNCILMEMBER ALEXANDER: -- does not ship.

COUNCILMEMBER FLEMING: No; that says "but excluding on-site shipping services as otherwise restricted by the adult entertainment ordinance."

COUNCILMEMBER ALEXANDER: Right, so it's an office that can't ship.

COUNCILMEMBER FLEMING: Yes, you can ship but it's excluding the adult entertainment ordinance.

Is that not correct?

MR. HAEBERLIN: Let me clarify. Do you remember, we had our discussion about internet offices and what they can do and what they can't do.

Obviously you had a situation before that dealt with pornography. That was not the intention of having internet office. Maybe somebody that maintains computers for a business or somebody that sells things over the internet but does not necessarily ship them from that site.

I think we had -- during the moratorium, as you recall, we had lots of people claiming that they ship things to South America, et cetera, and we had a

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think that's where that terminology came from.

So the way that I think it was intended to read -- and of course it's been -- it's been a typeover situation, I think, since we've started: "Internet-based business offices," comma, "but excluding on-site shipping services," comma, "and as otherwise restricted by the adult entertainment ordinance." So you could not do live-stream pornography, you could not sell pornographic goods, magazines, et cetera.

COUNCILMEMBER BATES: And you couldn't ship anything.

MR. HAEBERLIN: You couldn't ship anything.

COUNCILMEMBER BATES: So --

MR. HAEBERLIN: On-site.

COUNCILMEMBER BATES: -- if I was an e-Bay retailer, I could not set up shop in this district because -- or I would need to ship stuff from another location.

MR. HAEBERLIN: That is correct. So you could go to the Post Office and you could ship your item once sold.

COUNCILMEMBER BATES: So again, what --

COUNCILMEMBER PACHUTA: So you could still

MR. HAEBERLIN: Correct.

COUNCILMEMBER PACHUTA: -- arranging shipping from there. Is that what you're saying?

MR. HAEBERLIN: It would be going to another location like the U.S. Post Office.

COUNCILMEMBER BATES: That doesn't make any sense.

COUNCILMEMBER FLEMING: I didn't read it that way, and I apologize. I read it that it included on-site shipping services as restricted by the adult entertainment ordinance. I did not read it as we were excluding all on-site shipping services.

COUNCILMEMBER PACHUTA: There's too many commas.

COUNCILMEMBER BATES: So if I was an e-Bay retailer, I couldn't call FedEx to come pick up a puzzle that somebody wanted to buy.

COUNCILMEMBER ROCHE: Depends on what it looks like when you put the puzzle together.

COUNCILMEMBER BATES: As long as the puzzle wasn't -- as long as the puzzle wasn't of a naked person.

MR. HAEBERLIN: As I recall, when we constructed the language -- and this came from back

a big discussion about the moratorium hearings. And then everybody that was coming forward was saying that they were shipping products, but they would not define them, to South America and Venezuela and things of that nature.

And so as I recall, in those districts, you guys went through and struck a lot of things that included shipping services.

COUNCILMEMBER BATES: Well, we either get rid of it or we allow shipping, because I can't think of an internet-based business that doesn't have some sort of shipping.

MR. HAEBERLIN: Well, you could say, "Internet-based business offices but excluding uses as otherwise restricted by adult entertainment ordinance," period, and then, "Automotive dealer's offices shall be prohibited," period.

COUNCILMEMBER BATES: I would be perfectly fine with that.

MR. HAEBERLIN: Okay.

COUNCILMEMBER BATES: So moved.

MR. HAEBERLIN: Page 9.

COUNCILMEMBER FLEMING: Second.

MAYOR JENKINS: Okay. Any more discussion?

(No response)

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MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER FLEMING: Page 10. We're almost done. I promise, Brian.

COUNCILMEMBER BATES: You're fine.

COUNCILMEMBER FLEMING: Page 10, "Office supply and related businesses but excluding the sale of used office equipment and furniture."

MR. HAEBERLIN: Because we include that in conditional uses, so we still have the potential.

COUNCILMEMBER FLEMING: I'm sorry?

MR. HAEBERLIN: We include that in conditional uses. You still have the potential --

MR. HAEBERLIN: -- but it's a conditional use.

COUNCILMEMBER FLEMING: But for televisions, we can sell used stuff, on page 11.

COUNCILMEMBER BATES: Radio/compact disc, television sets.

COUNCILMEMBER PACHUTA: Yes. I would rather have television sales --

COUNCILMEMBER FLEMING: I'm sorry?

COUNCILMEMBER PACHUTA: I would prefer television sales being taken out of there or included in the furniture, under the used furniture under conditional uses.

COUNCILMEMBER ALEXANDER: I would consider a television an appliance.

COUNCILMEMBER PACHUTA: Can we just take out television and say radio/compact disc sales of new and used merchandise and then take out "and service?"

COUNCILMEMBER ROCHE: These are electrical appliances. It would seem like we would deal with them that way. I mean is an iPod? The old ones don't have radios, the new ones do. They're electrical appliances.

COUNCILMEMBER ALEXANDER: I guess I sort of

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I mean I see a used CD store being a standalone item.

COUNCILMEMBER ROCHE: Oh, I see what you're saying.

MR. HAEBERLIN: So you wanted to take out television sales and service including the sale of supplies and equipment.

COUNCILMEMBER ALEXANDER: Well, I don't know why radio's in there either.

COUNCILMEMBER ROCHE: So you're saying like a CD store --

COUNCILMEMBER ALEXANDER: Exactly.

COUNCILMEMBER ROCHE: -- CD or records.

COUNCILMEMBER ALEXANDER: CD store.

COUNCILMEMBER BATES: Could you add CDs under books, periodicals and CDs?

COUNCILMEMBER ROCHE: And then strike this altogether?

COUNCILMEMBER BATES: Yeah. So under page 6, it would read books, periodicals and CD's or --

I'm agreeing with Ms. Alexander. I believe a radio or television set is an appliance or a piece of furniture.

COUNCILMEMBER FLEMING: But in conditional, we had actually put appliances in there; correct?

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furniture.

COUNCILMEMBER BATES: Furniture and appliance rentals.

COUNCILMEMBER FLEMING: I'm sorry. Say it again?

COUNCILMEMBER BATES: Furniture and appliance.

COUNCILMEMBER FLEMING: Oh, I had it on the other page. I'm sorry.

MR. HAEBERLIN: Books, periodicals, CDs. I mean could -- I mean there are records that are still in existence. Maybe we should say that too.

COUNCILMEMBER ALEXANDER: Yes.

COUNCILMEMBER BATES: Audiovisual, DVDs that is not subject to adult entertainment.

MR. HAEBERLIN: CDs, DVDs and records is what I think I'm hearing from you guys that you want on page 6?

COUNCILMEMBER BATES: Yes.

COUNCILMEMBER ALEXANDER: And include the appropriate language.

COUNCILMEMBER BATES: Yeah. It's got subject to restrictions of adult entertainment.

MR. HAEBERLIN: DVDs and records, page 6,

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compact disc, et cetera, on page 11?

COUNCILMEMBER BATES: Yeah, the whole thing.

MR. HAEBERLIN: So on page 11, beginning with "Radio/compact disc and television sales of new and used merchandise and service including the sale of supplies and equipment," strike the whole thing.

COUNCILMEMBER ALEXANDER: I'll make the motion.

MR. HAEBERLIN: So let's do the strike first.

Now, you want to do separate motions to strike?

COUNCILMEMBER FLEMING: Yes, please.

MR. HAEBERLIN: Okay. Maria moved, I believe.

COUNCILMEMBER ALEXANDER: I'll make a motion that we strike language on page 11.

COUNCILMEMBER FLEMING: Beginning with radio/compact disc?

COUNCILMEMBER ALEXANDER: Correct.

COUNCILMEMBER BATES: I'll second that.

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

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COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

MR. HAEBERLIN: Page 6.

COUNCILMEMBER BATES: And I'll make the motion to add on page 6 under books, add in CDs, DVDs and records, all subject to restrictions of adult entertainment.

COUNCILMEMBER ALEXANDER: Second.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

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MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

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COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER FLEMING: I want to, though, since we do not have it listed, insert television sales -- television sales of new merchandise. Do we want to do a service?
COUNCILMEMBER ROCHE: Consumer electronics?
COUNCILMEMBER FLEMING: That type of location in there would be a good place for a television service center.
COUNCILMEMBER ROCHE: Electronics repair shop?
COUNCILMEMBER FLEMING: Would that be more inclined to the description of electronic repair?
COUNCILMEMBER PACHUTA: Household?
COUNCILMEMBER BATES: Yeah. Household?
COUNCILMEMBER PACHUTA: Household electronics?
COUNCILMEMBER FLEMING: I'm sorry. What did you say?
COUNCILMEMBER BATES: Well, I'm agreeing. I think household electronics repair. That would include blenders and toasters and microwave ovens and

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COUNCILMEMBER FLEMING: Televisions?
COUNCILMEMBER BATES: Televisions, yeah, house --
COUNCILMEMBER FLEMING: Okay. So --
COUNCILMEMBER PACHUTA: Household electronics sales and service.
COUNCILMEMBER FLEMING: Ms. Pachuta, say it again?
COUNCILMEMBER PACHUTA: Household electronics sales and service. Of new equipment? Shall we specify new equipment?
MR. HAEBERLIN: How about household electronics, service and repair? because you already have sales under appliances.
COUNCILMEMBER PACHUTA: Okay.
MR. HAEBERLIN: I assume we're on page 9 if we're putting it in order.
COUNCILMEMBER FLEMING: Yes.
COUNCILMEMBER BATES: Yes.
COUNCILMEMBER FLEMING: Household -- say it again, Mr. Haeberlin?
MR. HAEBERLIN: Household electronics, service and repair.
COUNCILMEMBER BATES: Because a television

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MR. HAEBERLIN: I would consider it an appliance, yes.
COUNCILMEMBER BATES: Actually I do too.
MR. HAEBERLIN: I think it's kind of in both areas.
COUNCILMEMBER FLEMING: Where is appliance?
MR. HAEBERLIN: Under furniture and appliance.
COUNCILMEMBER FLEMING: Okay. Sorry.
COUNCILMEMBER ALEXANDER: Someone make that in the form of a motion?
COUNCILMEMBER PACHUTA: I will. What Scott said.
COUNCILMEMBER ALEXANDER: I second.
MR. HAEBERLIN: Household -- page 9, household electronic service and repair.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?

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CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER FLEMING: Okay. Page 12, two, the ticket and the travel agency. And it says "but excluding bus service." I thought maybe we should put on-site bus service.
COUNCILMEMBER BATES: I actually thought the language that we talked about, thinking back, was terminal, but I may be incorrect.
COUNCILMEMBER FLEMING: Whatever you guys want to do, because we had the discussion about actually selling a bus ticket there.
COUNCILMEMBER BATES: Right, versus boarding and --
COUNCILMEMBER FLEMING: Right.
COUNCILMEMBER PACHUTA: I think --
COUNCILMEMBER FLEMING: So that's why I sort of threw in on-site bus service, but that's up to you.
COUNCILMEMBER PACHUTA: I think what we wanted was ticket agency office but excluding a bus

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- - -

(Multiple overspeaking)

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COUNCILMEMBER ALEXANDER: -- on-site bus service language.

COUNCILMEMBER FLEMING: I'm sorry?

COUNCILMEMBER ALEXANDER: I'm fine with the on-site bus service language, adding that.

COUNCILMEMBER FLEMING: Okay. So ticket agency office and travel agency office, we are including the word "excluding on-site bus service" for both of those items on page 12.

COUNCILMEMBER BATES: I'll second that motion.

MAYOR JENKINS: More discussion?

- - -

(No response)

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MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

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CLERK BLACKMON: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER FLEMING: And we took care of upholstery shops; is that correct?

COUNCILMEMBER PACHUTA: Yes.

COUNCILMEMBER FLEMING: Thank you very much. That's all I have.

MAYOR JENKINS: Thank you. All right. Anybody else?

COUNCILMEMBER FLEMING: Yes, sir. This particular C-2 ordinance that we presently have in front of us does not address the existing tenants being vested with what their present -- Whatever's in there right now, I personally feel they should be vested and I wanted to address that.

And the other thing I wanted to address also is the fact that I feel the ones that wish to move from C-2 -- from C-2 into the CT district should yes, have an application, but I don't feel that they should have to have any type of pertinent documents as far as a site plan or a survey or a fee to accompany the application, but I do believe that they need to apply

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legitimate rezone for them, or a letter or some such.

So those are my two things that I would like to address before we complete this tonight.

COUNCILMEMBER PACHUTA: Its still going to take staff a lot of work, so I'm not inclined to waive fees. I mean anyone can stay C-2. And I think we've done a lot in trying to encompass some of these new uses to accommodate their buildings, that was above and beyond what we needed to do, and it's going to take a lot of work with staff, also, so I'm not -- I'm personally not inclined to waive fees if they're opting in.

COUNCILMEMBER PACHUTA: And I disagree with Ms. Pachuta and I agree with you, Ms. Fleming, although I disagree with you in that I do concur with staff that if a property wants to apply for a split zone, that I do think they need to provide the surveys.

COUNCILMEMBER FLEMING: I thoroughly agree with that.

COUNCILMEMBER BATES: But all others, there's not a requirement, and I don't think we should add that in. So I concur with you on 90 percent of it.

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depends. I want to go back to how a petition is received from an applicant.

Typically, when a petition is received from an applicant, there's a legal and there is a boundary survey. There is not necessarily an as-built, okay? So it could be a boundary, a square, and a legal, and that's it.

On the split zone, certainly you would need the as-built because you need to know where that line comes through whatever building or what-have-you.

So in terms of processing stuff, if you are not going to require the basic legal description and the boundary survey, then I really think that you need to pursue these as City-initiated rezones. I don't feel real comfortable with that.

I mean we the government can do things a little differently than the applicant. If we have an applicant, I think we do need at least a legal and a boundary for nonsplit-zone properties.

COUNCILMEMBER PACHUTA: But that's not a detailed site plan.

MR. HAEBERLIN: No, ma'am. No.

COUNCILMEMBER PACHUTA: It's just making sure where your property ends --

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COUNCILMEMBER PACHUTA: -- and the next one begins.

MR. HAEBERLIN: -- property lines end and where the next one begins.

And that's intrinsic to any application I receive. For example, if somebody files for a variance, they provide me with a legal description and a boundary survey. It's the basics for running an ad. Otherwise, we get people purporting to own things or have properties that they don't necessarily have, because remember a lot of these people could be -- well, you could have applicants for a CT that are not owners. They could be representatives of owners. So I mean the application process is much more dynamic than what is foreseen.

On the relativity of costs, I think most of these sites, their threshold is like -- they're probably going to fall in like the $1,500 range based on what I remember. I don't remember every fee particularly, but I think up to three acres is something like $1,500.

So I think if the Council is going to entertain not having the basic parameters for legal and boundary, then they should do City-initiated;

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apply.

And of course I always get concerned about treating applicants differently, because every other person who feels they may be aggrieved by the City zoning ordinance, what if they request a waiver as well? And so I mean I just don't know where we'll stop on that, but those are my concerns.

As far as vesting, if the use was a legal nonconforming use on the property and it was allowed under C-2, then they would be vested. But if they were there illegally, as we're discovering, I mean there's not -- they're not really vested.

So I mean if you had a slaughterhouse in C-2 and a slaughterhouse was not allowed in C-2 and then you moved to a CT district, that does not automatically grace you into a CT district unless a slaughterhouse is allowed in CT.

COUNCILMEMBER BATES: But my understanding is that because this is a new district, there would be no legal nonconforming because there would be no previous zoning for it to be legal nonconforming; and therefore, if it's not allowed in this, it wouldn't be allowed, period, whether it was allowable under C-2 as a legal nonconforming or not.

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ATTORNEY LINKOUS: I want to make sure I understand what you're saying. If something was legal under its prior zoning classification and then you enact this ordinance, what you're asking is can they continue with the use that's going on even though it's not legal under CT? Is that what you're asking?

COUNCILMEMBER ALEXANDER: Correct.

COUNCILMEMBER BATES: Yes, with a part B that I'll ask after the answer to part A.

ATTORNEY LINKOUS: What was that again?

COUNCILMEMBER BATES: You know, with a part B that I'll ask after you answer --

ATTORNEY LINKOUS: Oh, okay.

COUNCILMEMBER BATES: -- part A.

ATTORNEY LINKOUS: I think that yes, there would be grandfathering involved. There would be grandfathering involved.

COUNCILMEMBER BATES: Because this is a brand new zone. It's never existed.

ATTORNEY LINKOUS: Well, that's true it's a brand new zone, so I guess there wouldn't be grandfathering involved because of the new zoning.

MR. HAEBERLIN: Well, I mean of their volition, if they decide to come into a district,

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City tries to force them into a district.

ATTORNEY LINKOUS: Right.

MR. HAEBERLIN: I think you've got -- you're really on a fine line there.

ATTORNEY LINKOUS: Yeah. This is --

MR. HAEBERLIN: The City would have to, I think, grace anything that could be construed as legally nonconforming, but if an applicant applies --

ATTORNEY LINKOUS: Right.

MR. HAEBERLIN: -- I think that sets up a whole different parameter.

ATTORNEY LINKOUS: Right.

MR. HAEBERLIN: I mean Mr. Weed's take on that -- and I hate to speak for him, but in the previous -- We've had discussions about this. Typically, if the Council elects to rezone a piece of property, then they are accepting any uses that may exist on that property at that time.

You may disagree with that.

ATTORNEY LINKOUS: No. I agree with it. because, as you say, it's the City that's changing the zoning on the property as opposed to the applicant coming. And that's true, so there would be grandfathering.

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wondering about the process, then, for City-initiated zonings because not everybody may necessarily want CT. You're saying we would just go out and say, "Everybody in this room, we're going to just automatically --?

COUNCILMEMBER ALEXANDER: Yeah. I don't agree with that. I mean we've worked months on this thing to try to help these business owners. If they want this zone, they need to apply for it.

I'm not going to be -- I'm not going to support a City-initiated rezoning.

COUNCILMEMBER PACHUTA: I won't, either, and that's actually a deal-breaker for me. I mean I support this zone, but it's for an opt in, and I would not vote for it if it was -- if we were doing City-initiated.

COUNCILMEMBER FLEMING: Originally when this was written, though, the specific addresses were actually in the document.

COUNCILMEMBER PACHUTA: If they wanted to opt in?

COUNCILMEMBER FLEMING: Specific addresses that we were considering were in this document.

COUNCILMEMBER ALEXANDER: But that does not mean it was going to be a City-initiated rezoning. It

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opted in.

MR. HAEBERLIN: I think the terminology was broadened so much away from what we started out with, I agree with you. It's no longer maybe these folks sitting in this room. It's a larger group of people depicted on that map, perhaps, so it's much larger than what I think we started out at.

COUNCILMEMBER ROCHE: Would the fact that this is a transitional zoning that's not meant to stay here forever and ever make it more reasonable to waive the fees or waive a portion of the fees?

ATTORNEY LINKOUS: Well, the fees have to be tied to costs to the City to administer changing the zoning.

COUNCILMEMBER ROCHE: Well, I mean I've seen other cities that waive all fees. I mean like --

ATTORNEY LINKOUS: You can.

COUNCILMEMBER ROCHE: -- Sandy Springs, they just waived the fees.

ATTORNEY LINKOUS: You can.

COUNCILMEMBER ROCHE: So it's not cost-based.

ATTORNEY LINKOUS: When it comes to fees, your rule of thumb is that the fee has to be at or

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COUNCILMEMBER ROCHE: Right.

ATTORNEY LINKOUS: -- to do what it's doing. So yeah, the City could legally waive the fees.

COUNCILMEMBER ROCHE: For people just requesting a zoning to CT.

ATTORNEY LINKOUS: You could.

MR. HAEBERLIN: I think Mr. Weed's previous discussion, he's concerned about a violation of the anti-gratuities clause. And as well, we did do fee research and we actually told the Council how much one hour being in here actually cost them, which included all the appurtenant employees that are required, Terri, et cetera. So we know pretty much how much this hour costs us, and I recall it was somewhere around $1,500.

COUNCILMEMBER PACHUTA: What about a nominal fee to avoid the anti-gratuities problem but within a certain window, and if you don't apply to get into the CT district within a certain window, then the fees return to normal?

COUNCILMEMBER FLEMING: I was just going to comment, not necessarily the fees, but we have no time factor in here as to when we are doing this or not doing this as far as application or not. I don't want

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want to be in the CT now because you haven't," you know, da-da-da-da-da. You know, I think we need to have a window in the ordinance itself.

MR. HAEBERLIN: Well, remember, it'll be a regular land use. In fact, I was working on the revised map today. It now has its own color for the map and it has its own designation on the zoning map so it is a regular district now.

And so once these things are zoned and they remain CT, it's going to be on the map. I mean I'm getting kind of concerned about excluding people from what is considered a regular district.

ATTORNEY LINKOUS: The other issue with waiving fees is that you have to have some rational reason to exclude fees in this instance and not in other instances.

COUNCILMEMBER ROCHE: Well, that's what I'm saying: because this is more of a transitional type zoning where we want to help these businesses transition, you know, from where they are by giving them certain uses to --

ATTORNEY LINKOUS: I think that would work if you could show that, because it was a transitional zoning, the City was expending less time or less money

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have to have that as opposed to other zonings, rezonings.

COUNCILMEMBER ROCHE: But you said we could charge less fees than it costs.

ATTORNEY LINKOUS: Right.

COUNCILMEMBER PACHUTA: Which we do.

ATTORNEY LINKOUS: You could do that as long as you are able to show that it was costing less for the City to administer it because it's temporary.

COUNCILMEMBER ROCHE: Well, actually, I think we get the money back --

ATTORNEY LINKOUS: (Inaudible)

COUNCILMEMBER ROCHE: I'm sorry. I didn't realize you were talking.

ATTORNEY LINKOUS: I was just thinking as to equal protection issue, possibly.

MR. HAEBERLIN: Well, I'd say in terms of what we've expended thus far, we probably have spent more on this district than we've ever spent on any zoning district ever, including legal fees.

COUNCILMEMBER FLEMING: Think of all the revenue we're going to get from them renting the building.

COUNCILMEMBER ROCHE: -- that we're not

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You know, right now -- I think someone said it earlier -- I think somewhere around 40 percent of our revenue comes from businesses. We should do everything we can to be business-friendly, and we want to be someplace where businesses want to come to Doraville because otherwise, we won't be able to afford to pay for things like salaries and police departments and everything else.

COUNCILMEMBER ALEXANDER: I would prefer to have legal clarification on the vesting thing, because it's my understanding, as has been explained to us, that we're creating a new zone, and if the existing tenant is not in this new zone, then once the property is rezoned, they would become an illegal tenant. So I am not comfortable with us answering that question until we get further legal research on that and possibly case law regarding such an item.

COUNCILMEMBER PACHUTA: Can we always write in our own grandfathering clause that any existing tenant that's legal under C-2 or any existing tenant would be grandfathered in; we could write --

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(Overspeaking)

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that into the ordinance. We could actually write that into the ordinance if I'm not mistaken.

COUNCILMEMBER ROCHE: Yes, that would solve that and we could get it done tonight.

MR. STOKES: Would you explain what you just said?

COUNCILMEMBER ROCHE: We don't want to take your existing businesses and make them suddenly illegal when you apply for CT. So what we're saying is that we would add language to this ordinance that says, "Whatever your businesses are now, if you go to CT, those businesses, those particular uses are grandfathered."

MR. STOKES: Are grandfathered?

COUNCILMEMBER ROCHE: They would be, yes. That way, you wouldn't have to throw out all the rest of whatever tenants you have left.

MR. STOKES: Okay.

COUNCILMEMBER ALEXANDER: With the effective date of the ordinance, though.

COUNCILMEMBER FLEMING: Correct.

COUNCILMEMBER BATES: But they couldn't be expanded.

COUNCILMEMBER ALEXANDER: No.

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-- I don't know if there's illegal.

MR. HAEBERLIN: And some of these properties, I don't want to go into detail, but there are uses that perhaps would be considered illegal uses.

COUNCILMEMBER PACHUTA: I'm thinking -- yeah. I don't know.

COUNCILMEMBER ROCHE: I can reword that and make a motion?

COUNCILMEMBER PACHUTA: A legal --

MR. HAEBERLIN: For example, the whole discussion about residential habitation. We know that should never have been there, is not legal, was not legal. That's one example. It's not really a business, but I'm using that as an example.

COUNCILMEMBER FLEMING: Well, we need to discuss that just a tiny bit, because though Ms. Pachuta found the minutes in 1966 where Mr. Webb wrote a letter and said, "Sure, no problem. Go ahead and change my R-1 property to C-2. It's okay," he had no clue that 13 years later, the impact was going to be that he couldn't live on his property any more.

So don't -- I mean --

COUNCILMEMBER PACHUTA: He had a legal

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his property.

COUNCILMEMBER FLEMING: Pardon me?

COUNCILMEMBER PACHUTA: He had a legal nonconforming use if I'm not mistaken.

MR. HAEBERLIN: Well, what should have happened is the City -- the City should have -- And there's a clause in the ordinance that says within one year of zoning action, they should have reverted the zoning. When they saw that he lived there, they should have reviewed it in a year just like we should do now if people don't comply with the zoning, and take action before the Council to revert it.

COUNCILMEMBER FLEMING: We have a specific exception, and I feel that we should allow that exception.

COUNCILMEMBER ALEXANDER: I know. That piece of property should be zoned back to R-1.

MR. HAEBERLIN: Well, he has vacated the property, so any residential habitation in C-1, he could not do. I mean he voluntarily -- my understanding is --

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(Multiple overspeaking)

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the house that's on New Peachtree Road.

COUNCILMEMBER BATES: Proposed C-2 -- CT residential habitation.

MR. HAEBERLIN: I don't know of anything over there that's actually occupied by residential that should be there. It's all C-2. C-2 never allowed residential habitation.

COUNCILMEMBER BATES: But I was making a comparison of what happened to Mr. Webb to the situation that we have on New Peachtree.

MR. HAEBERLIN: Well, I mean his situation, his house historically was built as a residential structure and then it apparently became C-1 at some point in time. He operated a barber shop in there. He took action, I believe because of his next-door neighbor, and he vacated the property. He's now vacated the property more than six months, certainly,. so he could never live there again unless he rezoned the property.

So I mean that's -- I think that is a different situation than what we're dealing with here, because these are properties that are built primarily as commercial establishments.

I mean there are some adaptive reuse. I

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on his property.

COUNCILMEMBER PACHUTA: I guess I'm only inclined to grandfather legal businesses that are currently legal in C-2 to somehow --

MR. HAEBERLIN: Correct.

COUNCILMEMBER PACHUTA: -- that are currently legal in C-2.

MR. HAEBERLIN: I mean I think that it comes down to this: if the folks in the audience who are primarily the recipients of this district have not told us the existing uses they have and included them in the CT district, then we're in trouble. You know what I'm saying? If they have not told us, "Hey, I've got," whatever, "a candy store there, and you make sure a candy store is included in CT," then we are in trouble, I agree, because then we would treat this district different than any other district.

You have a whole provision in your code on legal nonconforming uses which would mitigate that section of the zoning ordinance. I mean that -- that is some of the basic parameters of litigation that we've dealt with relative to some settlement agreements recently, and I would hate to compromise that.

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vision, not necessarily CT but in our future vision, we have shops on the first floor and -- we have retail on the first floor and we're going to have habitation on the second floor. And so with thought of the vision for a couple years from now, I would like to make an exception for 5879 to allow residential on the top floor and a business on the bottom.

COUNCILMEMBER PACHUTA: No. I mean I'm all for at some point in the future with getting some mixed-use zoning but I'm not in favor of just tossing it into one commercial district without --You know, it's such a bigger discussion and picture, I'm just --

MR. HAEBERLIN: Well, remember, I think that when you're talking about mixed-use, you're dealing with a whole set of codes. These properties can never meet the requirements for mixed use. They have to be all torn down and new construction take place. So I think we need to be realistic that mixed use will only occur in this city with brand new construction where things are rated and constructed to allow the stack. It's not going to happen with a 50-year-old building.

COUNCILMEMBER PACHUTA: And that's going to be an entirely new zone that we're going to have to --

MR. HAEBERLIN: Absolutely.

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create.

MR. HAEBERLIN: I mean that will be something like at the GM plant, for example. I mean even though your comp plan says this district at some point in the future will be mixed use, I think that mixed use will only occur with complete demolition and new construction.

And I think we have to be very realistic. The amount of money these people would pour into these facilities to make them mixed use, certainly since they're only one story, I just don't see it happening. But in the new district, certainly. For example, the GM site, something of that nature.

And again, we don't even have that on the books. We have nothing on the books that allows mixed use at this point in time.

COUNCILMEMBER BATES: Before I vote on this, I want to see a revised, clean copy. We made some substantial changes tonight, and I just want to make sure that they get in there and read the way they are.

I think we need to get a little bit of clarification on the language on grandfathering legal,

And I want to inquire. I have a question that I'm mulling over in my head and I don't want to

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want to get some information.

So I think we need to not -- I'm not comfortable voting on this tonight, so we need to -- I would prefer moving this to a date certain and reconvening, sooner rather than later, but I think we've got a little bit of work we have to do on some legal.

COUNCILMEMBER FLEMING: I agree, and those are the two issues that I felt that we needed to address before we actually adopted the ordinance.

COUNCILMEMBER ALEXANDER: Should this go back to Planning Commission with all the additional changes?

MR. HAEBERLIN: People have different feelings on that. I mean I've worked with attorneys who believed that once you the Council start changing that, that it should go back to the Planning Commission. But again, the Planning Commission is really only a recommending, nonbinding party.

So you know, I get different comments from different attorneys, and we have another representation here tonight. We'll get his take on that.

COUNCILMEMBER ALEXANDER: What is our agenda

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MR. HAEBERLIN: The May 24th meeting?

COUNCILMEMBER ALEXANDER: Yes.

COUNCILMEMBER PACHUTA: Mr. Hoath.

MR. HAEBERLIN: You have one petition that dropped off and you have the new zoning map or -- excuse me -- the readoption of the zoning map. I've advertised that for you.

COUNCILMEMBER PACHUTA: Mr. Hoath.

MR. HAEBERLIN: And Mr. Hoath's petition, Interbrand Properties.

COUNCILMEMBER ALEXANDER: We only have the two items?

MR. HAEBERLIN: Yes, ma'am.

And then I think that gives -- between this time frame of -- what is today? -- May 4th and May 24th I think is the next meeting, then I would suggest that those individuals who are pertinent to this district really need to read this document and tell the Council if there's a use that they have on their property now that they want in this district. I think that's important for us to know: is there anything out there that we're missing?

COUNCILMEMBER ROCHE: It's also important, then, that we publish this thing as soon as we can and

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of time.

MR. HAEBERLIN: Well, I mean this one was published. I'm for certain of that.

But until we get this one cleaned up, then we'll publish the next one. I mean I know this one's published because she's on the Internet right now, and that's my handwriting, so I know this one's published.

COUNCILMEMBER BATES: I'm going to make a motion to adjourn this to May 24th to be the third agenda item on that meeting and that it goes back to the Planning Commission for review.

MAYOR JENKINS: Second?

COUNCILMEMBER ALEXANDER: And that we have an updated draft?

MR. HAEBERLIN: Yes, that's intrinsic. We'll do that.

COUNCILMEMBER FLEMING: Updated draft as soon as possible.

MR. HAEBERLIN: Do you-all want it in the form of the colors and the strikes? I mean Murray and I have found that difficult to deal with, but I mean it depends on what you guys want.

COUNCILMEMBER BATES: I don't care. I found that --

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COUNCILMEMBER BATES: -- helpful.
COUNCILMEMBER ROCHE: -- draft is fine.
MAYOR JENKINS: Just a draft of what we passed.
COUNCILMEMBER FLEMING: You found that what?
COUNCILMEMBER BATES: Helpful to see the changes, but I'm confident to compare my notes to the new stuff.
COUNCILMEMBER ROCHE: Now, the Planning Commission, do they have a meeting between now and then?
COUNCILMEMBER BATES: Yes.
MR. HAEBERLIN: Uh-huh. May 20th, I think. And see, they're not bound by the advertisement rules.
COUNCILMEMBER ROCHE: Right. And we're not bound by -- you know, if they don't have a recommendation, we can still move on it.
MR. HAEBERLIN: And you guys are recessing it to a date specific so I'm not really concerned about the Council's action unless the attorney is -- I mean them recessing to a date specific. The Planning Commission's nonbinding, anyways, and their public hearing is not advertised. I mean when I say it's not advertised, there is a calendar on the City's web site

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meetings.
MAYOR JENKINS: All right.
COUNCILMEMBER ALEXANDER: I second.
MAYOR JENKINS: Okay.
COUNCILMEMBER ROCHE: I'll say that I wish we could have gotten this done tonight, but I don't think it'll pass right this minute until we get those answers.
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Motion we adjourn?
COUNCILMEMBER ALEXANDER: So moved.
MAYOR JENKINS: Second?
COUNCILMEMBER BATES: Second.
MAYOR JENKINS: Call the roll.

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COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Meeting adjourned.

- - -

(Meeting adjourned at approximately 9:40 p.m.)

-oOo-

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C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 14th day of May, 2010.

_____

Theresa Bretch, CCR
Permit No. B-755

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