In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

November 8, 2010

American Court Reporting Company, Inc.

52 Executive Park South

Suite 5201

Atlanta, Georgia 30329-2217

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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Transcript of the meeting in Council Chambers at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia; Mayor Ray Jenkins presiding, taken down by Theresa Bretch, Certified Court Reporter, commencing at approximately 6:35 p.m., November 8, 2010.

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APPEARANCES:
Doraville City Council:
Hon. Ray Jenkins, Mayor
Councilmember Maria Alexander
Councilmember Brian Bates
Councilwoman Pam Fleming
Councilmember Karen Pachuta
Councilmember Donna Pittman
Councilmember Bob Roche
Rhonda Blackmon, City Clerk
Murray J. Weed, 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?

COUNCILMEMBER PITTMAN: Here.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

MAYOR JENKINS: No minutes to approve, no Mayor's comments; we have no reports.

Public comments on the agenda items. What does the Council say? Yes or no?

COUNCILMEMBER ALEXANDER: How many are here? Three people?

MAYOR JENKINS: Okay. Three minutes. Come to the microphone.

MS. FRAYSSE: My comment is about the massage parlor ordinance that I think we're going to

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be considering later on in the agenda.

And I just want to say I was here in December on the 14th when we had a horrendous hearing with all kinds of chaotic back-and-forth about did they have the license, were they certified by the Secretary of State's Office? Yes, they were; maybe they were, maybe they were going to be.

And there was a comment made by the attorney back then -- and I think we had the meeting in the Civic Center -- and the attorney said, "Well, I'm just hopeful that tomorrow morning we start out and we implement the policies and procedures so that we have the police department or whoever is going to be responsible checking into the massage parlors."

I don't want to get to the conditional use permit meeting and hearing and not have an agreement about the facts about whether they have gotten permits in the acceptable manner, whether that reflects their being licensed, certified massage therapists with the Secretary of State.

It also says that it's supposed to be posted near their workstation. It also says they're supposed to have a registry of who's working there. And that's what any business you would think would have. It's not like a day laborer situation.

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So I'm just hopeful that the new ordinance and the way we implement it looks a lot cleaner and better for the city than the example we had last December. Thanks.

MAYOR JENKINS: Thank you.

Nobody else? Okay.

Murray, give us a report on that first item in Item 7.

ATTORNEY WEED: Mr. Mayor and members of Council, the next item deals with a hearing on El Trabol. That hearing have been canceled for tonight at the request of the responding party.

I was approached today by their attorney. He's making a settlement offer and we are now in the process of attempting with Council's permission to negotiate out some terms of settlement. So that hearing is off for tonight.

MAYOR JENKINS: Okay.

ATTORNEY WEED: If it needs to be rescheduled, we will certainly let Council know well in advance.

MAYOR JENKINS: All right. Thank you, Murray.

Donna Pittman.

COUNCILMEMBER PITTMAN: I wanted to see if

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we could get the Council to allow Mr. Weed and Mr. Haeberlin to move forward with a City-initiated rezoning for 6555, 6551 Peachtree Industrial. It is currently M-1 and it's the only M-1 along that frontage there. The rest of it is C-2. And in order to clean up the neighborhood there, we'd like to begin the process, and that's a single piece of property.

As it sits now, it abuts the houses right behind it, and anything could go in there from a mortuary, taxidermy, bus terminals. And we'd like to go ahead. And there's rumors that NTB may be going out of business, and I would like to see if we could possibly move forward and do proper procedures to go ahead and -- if we can do that, Mr. Weed -- to do a City-initiated rezoning from M-1 to C-2, and at some point in the future, look at the rest of the properties back there that is also M-1 behind all the neighborhoods, all the houses there.

COUNCILMEMBER BATES: Scott, is that lot split?

MR. HAEBERLIN: Pardon me?

COUNCILMEMBER BATES: Is that lot split?

MR. HAEBERLIN: It's highly possible. I've not seen any sort of as-built to know where the actual building lies on the ground. It would not be unheard

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of for the city for there to be a split zoning across a line.

COUNCILMEMBER BATES: Because it's showing one address but two different zoning designations.

MR. HAEBERLIN: Again, that -- you know, it's highly pos- -- it's been a while since I've been out here, and there might be something on this parcel.

COUNCILMEMBER BATES: That's NTB is that parcel. That's an empty parking lot.

COUNCILMEMBER PITTMAN: That's correct.

COUNCILMEMBER FLEMING: 2747, though, when we were having a problem with the tree scenario, their lot line appeared to end at the creek.

COUNCILMEMBER PITTMAN: Uh-huh.

COUNCILMEMBER FLEMING: And it's showing that it stretches to Peachtree Industrial Boulevard, so I'm -- it --

COUNCILMEMBER PITTMAN: And we never really figured --

COUNCILMEMBER FLEMING: I think --

COUNCILMEMBER PITTMAN: -- out where that --

COUNCILMEMBER FLEMING: -- 6555 goes --

COUNCILMEMBER BATES: Almost to Homeland.

COUNCILMEMBER FLEMING: -- to the -- to Homeland.

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COUNCILMEMBER PITTMAN: And we could never determine when we had the tree issue who that property belonged to. Nobody could find out who it belonged to. I think the City finally took care of it.

MR. HAEBERLIN: This one?

COUNCILMEMBER FLEMING: Yes.

COUNCILMEMBER PITTMAN: Yes.

MR. HAEBERLIN: In the past history, there was -- and I'm reading all the old ordinances from way back -- there was a request to make this duplexes. So that's the last instance I have actually seen an owner listed, but I can do some research on that.

COUNCILMEMBER PITTMAN: Well, and we -- we couldn't -- at the time, we couldn't find out who owned it.

COUNCILMEMBER FLEMING: Because right about where 6555, the lot-depth line is, that brown line that you have there, that is where the creek is that's -- all those properties there, or at least that 6555, is where Chicopee Creek or whatever the name of it is runs, and it goes, continues through 2747 property.

COUNCILMEMBER PITTMAN: And originally, Ruby had told me 6555 -- 6551 didn't exist, 6555 showed that was a house, and that -- that is not correct.

MR. HAEBERLIN: Okay. Well, I will

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1 definitely look at the Dekalb County Tax Assessor's
2 site.
3 COUNCILMEMBER PITTMAN: Yeah. And we
4 actually had Dekalb come out and look at the site as
5 well, that 2747 --
6 COUNCILMEMBER FLEMING: Right.
7 COUNCILMEMBER PITTMAN: -- and they said it
8 was not theirs. And City said it's not theirs, NTB
9 said it wasn't theirs, so I don't really think we ever
10 determined who had that.
11 MR. HAEBERLIN: It was ages old, but the
12 last time it was attempted to be rezoned was to that
13 of a duplex, and it was denied by the City. And I'm
14 talking about ages, like 20 years.
15 COUNCILMEMBER PITTMAN: Yeah.
16 COUNCILMEMBER FLEMING: So though I
17 thoroughly agree with Ms. Pittman's assessment of 6555
18 right now, or -51, whichever it is, is that if
19 -51 is C-2 already --
20 COUNCILMEMBER PITTMAN: Yes, it is.
21 COUNCILMEMBER FLEMING: Okay. But you don't
22 want it rezoned; right?
23 COUNCILMEMBER PACHUTA: No, just --
24 COUNCILMEMBER PITTMAN: Just the --
25 COUNCILMEMBER PACHUTA: -- 6555.

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1 COUNCILMEMBER PITTMAN: -- fifty -- yeah.
2 COUNCILMEMBER FLEMING: Okay. So 5555 --
3 6555, I agree with Ms. Pittman's assessment that it
4 needs to be rezoned as C-2.
5 But seeing the way that if this is a copy of
6 our zoning map, I think a survey needs to be done to
7 -- for the 2747, 6555 to determine where the property
8 line ends on those parcels.
9 MR. HAEBERLIN: Well, the lot lines are
10 grabbed from the County's map. In other words, these
11 configurations are grabbed from property maps, okay?
12 And if there's any deviation, it wouldn't be much.
13 I mean regardless of what's built on here, I
14 think it's the intention of the Council that they
15 don't want this industrial whether NTB is built across
16 it or not. So we'll address rezoning this parcel, at
17 least.
18 The County web site may have an acreage
19 listed; it may not. I'll just have to see if I can go
20 find some old mapping with it on it.
21 COUNCILMEMBER PITTMAN: And in the future,
22 Ms. Fleming and I were talking about there are 16
23 parcels that abut the neighborhood on the other end of
24 Redwood Street where Mr. Ambrose, his --
25 COUNCILMEMBER FLEMING: Yes.

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1 COUNCILMEMBER PITTMAN: -- house is. Those
2 are also zoned M-1. But we're not sure how that ever
3 came to be, and those businesses have been there for a
4 very long time.
5 My concern is if those businesses go out of
6 business, what could possibly go in there behind these
7 houses. And I mean you literally could stand in their
8 back yard and see the top of these buildings.
9 MR. ANDERSON: There's no buffers.
10 COUNCILMEMBER PITTMAN: Correct. There were
11 supposed to be, but there's not.
12 So I don't know how the Council feels about
13 that. I mean we can . . .
14 COUNCILMEMBER FLEMING: Well . . .
15 COUNCILMEMBER BATES: Well, most of that's
16 warehousing, so I --
17 COUNCILMEMBER FLEMING: Well, I was just
18 going to say, I did not actually go to each one and
19 write it down to determine what type of use --
20 COUNCILMEMBER PACHUTA: Most --
21 COUNCILMEMBER FLEMING: -- it presently
22 is --
23 COUNCILMEMBER PACHUTA: -- of it is.
24 COUNCILMEMBER FLEMING: -- but most of it is
25 warehouse.

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1 COUNCILMEMBER PACHUTA: Most of it is.
2 COUNCILMEMBER FLEMING: And it might be O-W
3 a better suit for backing up --
4 I'm sorry?
5 MR. HAEBERLIN: That's what we did here.
6 COUNCILMEMBER FLEMING: Yes, backing up.
7 COUNCILMEMBER BATES: Then you've got a
8 roofing supply company --
9 COUNCILMEMBER FLEMING: Uh-huh.
10 COUNCILMEMBER BATES: -- you've got Culligan
11 Water back there, you've got --
12 COUNCILMEMBER PACHUTA: And a mail --
13 COUNCILMEMBER BATES: -- a mail house.
14 COUNCILMEMBER PACHUTA: -- mail house.
15 COUNCILMEMBER FLEMING: Correct.
16 COUNCILMEMBER BATES: There used to be a
17 paper shredder.
18 COUNCILMEMBER PITTMAN: Right. There's
19 apparently a U-Haul place back there as well, because
20 U-Hauls were backed -- parked all the way down and
21 around. Now, I don't know if they are supposed to be
22 there or not, but they are there.
23 COUNCILMEMBER BATES: Huh. I've never seen
24 one. I was just --
25 COUNCILMEMBER ALEXANDER: Is that where your

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1 car auction place is?
2 - - -
3 (Overspeaking)
4 - - -
5 THE REPORTER: I'm sorry. We need to go one
6 at a time.
7 MR. HAEBERLIN: It's actually car sales.
8 It's an indoor car sales lot where you go into a
9 warehouse, you select the vehicle that you would like
10 to drive. They bring it out for you, and you drive
11 it. It's just like the ones at Hennessy Lexus, but
12 you're not outside. And it's approximately right
13 here.
14 COUNCILMEMBER PITTMAN: Well --
15 MR. HAEBERLIN: It's Auto Source of
16 Doraville.
17 COUNCILMEMBER PITTMAN: -- right now, let's
18 just start with the 6555.
19 MR. HAEBERLIN: Okay.
20 COUNCILMEMBER PITTMAN: And Ms. Fleming, if
21 you want to, you had brought up about putting in a
22 text amendment for paint and body shops? That was
23 kind of your idea?
24 COUNCILMEMBER FLEMING: Oh. I had included
25 with this, her agenda item, to include a text

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1 amendment needed in the M-1 zoning code of ordinances
2 to include paint and/or body shop establishments as a
3 conditional use, and I don't --
4 The way I mentioned that to you,
5 Mr. Haeberlin, because it does not appear, it's sort
6 of assumed in the automobile area there, but I wanted
7 it to be specific that it would be a conditional use
8 only.
9 MR. HAEBERLIN: Right now it just says --
10 basically it says auto repair, so it's broad and wide
11 open, so --
12 And we've discussed this. I have no problem
13 with making anything a conditional use if the Council
14 feels it's warranted to control land use.
15 In this case, you've got M zoning down here,
16 the bottom two, which is the private street, McCauliff
17 Drive. So in this area, this neighbor is affected by
18 a lot of M-1. So we make it a conditional use; you
19 can evaluate it specific to those sites, so it's not a
20 negative. I don't know why we did not include that.
21 Maybe it was not a concern at the time.
22 COUNCILMEMBER FLEMING: Well, and when we do
23 look at our zoning map again with the creek element
24 involved and the ecological damage it may cause,
25 runoff or whatever, for paint and body shops or auto

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1 repair, I think we need to put that into consideration
2 on some of those properties. So that's the reason why
3 I wanted it just to be a text amendment as a
4 conditional use.
5 COUNCILMEMBER PITTMAN: Okay. So I guess I
6 can make a motion?
7 I'd like to make --
8 COUNCILMEMBER FLEMING: Discussion. Maybe
9 they want to discuss first.
10 COUNCILMEMBER ALEXANDER: Yeah. I have some
11 questions.
12 Who actually owns the property?
13 COUNCILMEMBER PITTMAN: We -- we have not
14 been --
15 COUNCILMEMBER ALEXANDER: No. I mean of
16 NTB.
17 COUNCILMEMBER PITTMAN: We don't know. We
18 have not been able to locate the owner. NTB does not
19 own it. They -- they lease it from somebody, and Ruby
20 was unable to find a name.
21 COUNCILMEMBER ALEXANDER: I thought she
22 couldn't find the name on the 27 --
23 COUNCILMEMBER PITTMAN: No. She --
24 COUNCILMEMBER ALEXANDER: -- 47.
25 COUNCILMEMBER PITTMAN: -- couldn't find it

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1 on the 6555 either.
2 MR. HAEBERLIN: I'll look at it. I mean
3 regardless if it's a City-initiated rezoning, it's a
4 single parcel; I will have to notify them now, per our
5 current ordinance, by certified letter.
6 So my guess, it's going to be Sears
7 Holdings.
8 COUNCILMEMBER ALEXANDER: That's what I was
9 wondering, because if --
10 MR. HAEBERLIN: (Overspeaking)
11 COUNCILMEMBER ALEXANDER: -- NTB is owned by
12 Sears --
13 MR. HAEBERLIN: I mean we'll notify whoever
14 owns it.
15 COUNCILMEMBER PITTMAN: They said they
16 leased the building from someone.
17 MR. HAEBERLIN: That's pretty common. Land
18 leases are very common.
19 COUNCILMEMBER ALEXANDER: Yeah.
20 COUNCILMEMBER PITTMAN: But Ruby was -- when
21 I called to ask her if we could find out who owned it,
22 she was unable to locate it.
23 MR. HAEBERLIN: Peachtree Industrial
24 Boulevard, anything that starts with Peachtree is very
25 difficult, and the tax assessors --

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COUNCILMEMBER PITTMAN: Yeah.
MR. HAEBERLIN: -- really don't know what they're doing. And we just need to work through it. It's there.
COUNCILMEMBER ALEXANDER: Well, we can look on the tax digest that we have.
MR. HAEBERLIN: That too.
COUNCILMEMBER PITTMAN: Well, she said it didn't look like that they had been paying taxes.
MR. HAEBERLIN: Well, we'll look into that certainly.
COUNCILMEMBER PITTMAN: So anyway --
MAYOR JENKINS: Did you get a second?
COUNCILMEMBER PITTMAN: Well, we didn't make a motion.
COUNCILMEMBER FLEMING: No. We didn't make a motion.
COUNCILMEMBER PITTMAN: She had some questions.
COUNCILMEMBER FLEMING: Maria's still --
COUNCILMEMBER ALEXANDER: I guess, you know, are we -- were you taking the action -- you said you heard a rumor? So I mean what exactly is the rumor? I guess with the GM property, GM was closed. That was a finite in my mind.

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So what is -- what was the source of the rumor that they're going out of business? Because I guess my concern is if I'm the owner of that building and it's being used as it is, as a tire thing, and all of a sudden the City changes the zoning, that's going to affect my marketability of the building.
COUNCILMEMBER PITTMAN: But my understanding is if they wanted to move another something very similar into NTB, they still could do that.
Is that correct, Mr. Weed?
ATTORNEY WEED: Yes.
COUNCILMEMBER PITTMAN: Even if we rezoned it.
ATTORNEY WEED: Yes. It would be --
COUNCILMEMBER ALEXANDER: At a time period.
ATTORNEY WEED: -- whatever is a --
COUNCILMEMBER PITTMAN: If it's within six months.
ATTORNEY WEED: Well -- Yeah. Whatever is a legal conforming use, whatever is a legal use now, after you change the zoning, it would become a legal conforming use. And the owner of the property is able to transfer the same rights of use if they sell the building.
Now, it would be -- NTB is, you know, I

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guess auto tire or auto repair. It would have to be the same kind of use. It would have to be auto tire/auto repair, but they could transfer it to somebody else in the same line of work.
COUNCILMEMBER ALEXANDER: But the six-month time period would hold.
ATTORNEY WEED: The six-month time period only comes into play if there's -- if the building isn't being used for anything for six months, and then the entirety of the zoning code would then apply and the former legal nonconforming use would disappear.
COUNCILMEMBER ALEXANDER: So I guess that was my point. I'm marketing this building as an auto repair shop, and it doesn't sell for six months, and you have rezoned it. So now I can't -- after the six-month time period, I can't put that use in that building.
ATTORNEY WEED: I think arguably that's true.
There is some case law that a new theory in zoning has been that if someone's actively trying to market the property, that, you know, courts kind of look favorably upon that as opposed to someone not having done anything with the property and it's sitting fallow for six months. That's the

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perfect-storm case where the nonconforming use would disappear. But if someone continued to actively market the property even if it didn't get marketed within six months, that's a little dicier issue under the current case law.
COUNCILMEMBER PITTMAN: And whether they go out of business and they're there for another 10 years, at some point, they may. And my concern is the neighborhood is there, and I'm concerned with that zoning, what possibly could at some point go in there.
ATTORNEY WEED: Yeah. Right now, I mean as long as it is M-1, any, you know, permitted by-right use in M-1 can go in there right now.
COUNCILMEMBER FLEMING: The C-2 conditional uses that we have heard recently, if I'm not mistaken, did we not add those as a text amendment for the two auto repair locations on New Peachtree and they were C-2?
MR. HAEBERLIN: Only C-1.
COUNCILMEMBER FLEMING: So we made the conditional for C-1?
MR. HAEBERLIN: Just for C-1.
COUNCILMEMBER FLEMING: So whatever is -- go with me on my thought pattern here. Whatever is allowed in C-1 is allowed in C-2.

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MR. HAEBERLIN: Not always. In that case, you guys did not carry it over to C-2 --
COUNCILMEMBER FLEMING: Okay.
MR. HAEBERLIN: -- because you didn't want the proliferation of auto repair places in C-2.
COUNCILMEMBER FLEMING: As conditional?
MR. HAEBERLIN: My understanding is y'all didn't want them at all. I mean I think they've been very aggressive -- Council's been very aggressive with automotive uses in general in Commercial 2.
COUNCILMEMBER PITTMAN: And I was told that Sears does not own that building, that it is an individual or several individuals. I don't know that for a fact --
MR. HAEBERLIN: That's easy --
COUNCILMEMBER PITTMAN: -- but I was told that.
MR. HAEBERLIN: -- enough to find out.
COUNCILMEMBER PITTMAN: Yeah.
MR. HAEBERLIN: If NTB is like a traditional NTB that I have actually been a patron of, an NTB actually does not do automotive repair; they just do tires.
COUNCILMEMBER PITTMAN: But --
MR. HAEBERLIN: So in that case, tires are a

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conditional use under C-2. This goes back to the discussion about rolling the tire around the corner to Buford Highway. There would still be eligibility at some point, at least by a conditional use.
COUNCILMEMBER PITTMAN: They do automotive repair there as well.
MR. HAEBERLIN: They do? Oh, okay. I didn't know that.
COUNCILMEMBER BATES: Yes.
MR. HAEBERLIN: Must be different locations.
COUNCILMEMBER BATES: If that property is in fact split and the NTB business is already in the C-2 side, how does that impact?
MR. HAEBERLIN: Well, I mean it's a split-zone parcel. I mean that wouldn't be uncommon.
We don't have any sort of -- we don't have any what's called a preponderance clause that says if the majority of the property is zoned one designation, then it shall be considered that designation. A lot of communities have that. So if you have a lot that's 90 percent R-1 and it has just a little smidgen of industrial on it, the lot is R-1 and you develop it as R-1.
We don't have any clause like that in our code. So in that case, it looks, you know, 50/50 if

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that's true.
But I do think, and agreeing with the thought process, the frontal properties have been parceled out just like a shopping center would, and they have been lower -- lower commercial uses rather than industrial uses.
It does make sense for that gray spot, 6555, to be C-2, from just looking at the land use, okay, because that puts industrial back upon an R-1 lot.
Now, whether this lot's ever developed or not, we don't know. We will need to look into that further. It's probably just not buildable. And we'll have to check and see if there's back taxes owed on it.
COUNCILMEMBER PITTMAN: I don't know how you could put anything there at all, to be honest.
COUNCILMEMBER FLEMING: Yeah, because his property line, what appears to be his property line stops at the creek because it's just straight down --
COUNCILMEMBER PITTMAN: I don't know how they would have gotten --
COUNCILMEMBER FLEMING: -- and then comes back up to NTB's parking lot.
COUNCILMEMBER PITTMAN: Right.
I don't know they would have gotten duplexes

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in there. That's for sure.
MR. HAEBERLIN: And I think at one point in time there were more commercial uses on here like Shoney's and things like that. So when the road was elevated, it cut off everybody's visibility and it killed businesses along that street. So we've had a gradual change to the type of businesses.
COUNCILMEMBER PITTMAN: I'd like to make a motion to do a City-initiated rezoning for 6555 Peachtree Industrial Boulevard from M-1 to C-2.
COUNCILMEMBER FLEMING: Second.
MAYOR JENKINS: More discussion?
COUNCILMEMBER ALEXANDER: Okay. What exactly was the motion? because we can't make a motion to rezone something at this meeting.
ATTORNEY WEED: Yeah. All you can do is make a motion for us to, you know, write the appropriate --
COUNCILMEMBER PITTMAN: That's actually what I meant to say is to move forward with the appropriate whatever needs to be done for Mr. Haeberlin and Mr. Weed.
ATTORNEY WEED: And this will follow the ZPA process, it'll go to the planning commission, and then, you know, we'll run the ads and we'll come back

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to Council.
COUNCILMEMBER FLEMING: I amend my second.
MAYOR JENKINS: We'll have signs and everything; is that correct?
ATTORNEY WEED: Oh, yes, of course.
All right. So I heard -- Did you want to amend your motion?
COUNCILMEMBER PITTMAN: I did, and she's amended her second.
ATTORNEY WEED: Okay. And there's been an amended second, so there's a motion on the table, Mr. Mayor.
MAYOR JENKINS: Any more discussion?
COUNCILMEMBER ALEXANDER: I guess I just have additional questions. We don't know who the owner is. We don't know the exact address and we don't know if it is split zoned or --
I guess I just have too many additional questions. And again, the source of the rumor and --
MAYOR JENKINS: Well, won't we find out who it belongs to before we rezone?
COUNCILMEMBER PITTMAN: Wouldn't that be in the process of what --
MR. HAEBERLIN: We will. I mean that's something I have to do.

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COUNCILMEMBER PITTMAN: You do. You have to do that to notify the owner.
MR. HAEBERLIN: I have to do that.
MAYOR JENKINS: Okay.
MR. HAEBERLIN: Per your instruction.
COUNCILMEMBER FLEMING: Would you be more amenable to finding out that information prior to vote for next Monday?
COUNCILMEMBER ALEXANDER: Sure. I mean is there a reason why we're in a hurry to do it?
COUNCILMEMBER FLEMING: We were trying to meet the deadline for the advertisement.
COUNCILMEMBER ALEXANDER: I mean do we have -- They're going to move out at the end of the year? I mean that's what I'm asking.
COUNCILMEMBER PITTMAN: That's what -- yeah.
COUNCILMEMBER ALEXANDER: That's what the rumor is?
COUNCILMEMBER ROCHE: Yeah, but it's all rumor, I mean.
COUNCILMEMBER ALEXANDER: That's what I'm trying to get at. What's the source of the rumor if you know? Somebody that owns stock in NTB or --
COUNCILMEMBER ROCHE: I tend to agree with Councilman Alexander. I don't see the urgency. I

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don't see any hard information. I'm not sure why we're doing this, frankly. I guess I understand in general, but it's not based on anything yet.
MR. HAEBERLIN: Well, I think you're going to find that our Comprehensive Plan is probably going to support this. I looked -- last time I looked at it, and I think it's going to support it. That's a good thing.
And the City can engage in rezoning a property if they see that it's necessary. And if it agrees with the Comp Plan, that's certainly something that's worthwhile, I mean, regardless of the current occupant.
COUNCILMEMBER PITTMAN: And again, whether they stay there till the end of the year or the next 10 years, at some point, they may, and I just don't feel that property should have ever been zoned M-1 in the first place.
And hearing that -- I wouldn't necessarily say it was a rumor, but hearing that, I did some research, and that's why I found out that that was M-1, the only piece of property there on the frontage that is zoned M-1.
MAYOR JENKINS: Any more discussion?
Still going with your motion?

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COUNCILMEMBER PITTMAN: We'll try it that way.
MAYOR JENKINS: Excuse me?
COUNCILMEMBER PITTMAN: If Council feels more comfortable getting the information, we can bring it back up Monday. I'm fine with that, but -- I'm fine either way.
COUNCILMEMBER ROCHE: I'd prefer we have more information first, not rumors.
COUNCILMEMBER PITTMAN: Well, it's not a rumor, so --
MAYOR JENKINS: Are you going to hold your motion or are you going to change it to get more information?
COUNCILMEMBER PITTMAN: I'm asking the Council their preference.
COUNCILMEMBER PACHUTA: I'm fine with moving forward because it's still going to go to the planning commission and Council and public hearings and everything, and I do see that it seems more appropriate for the frontage to be C-2.
COUNCILMEMBER PITTMAN: Then, I stand by my motion.
COUNCILMEMBER ROCHE: So who is the owner? We don't know who the owner is.

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COUNCILMEMBER PITTMAN: But they'll find that out. Does that matter?
Does that matter when you're rezoning who the owner is or not?
MR. HAEBERLIN: It really does not matter. I mean you recall back when we rezoned this property, this was R-1 and was developed as three warehouses. I mean sometimes we need to take appropriate action just on land use, regardless of who the owner is, because, really, that doesn't affect the decision one way or another.
Is it -- do you guys think it's appropriate for the land use? This seems like an oddity, and I think your land use will support it.
COUNCILMEMBER ALEXANDER: You have to have the owner to notify; correct?
MR. HAEBERLIN: Correct, and I will have --
COUNCILMEMBER PITTMAN: Yes.
MR. HAEBERLIN: -- to find that information.
COUNCILMEMBER PITTMAN: Yes, but you can't move forward unless you do notify them.
MR. HAEBERLIN: Correct.
COUNCILMEMBER PITTMAN: Okay. I stick with my motion, Mayor.
MAYOR JENKINS: When did you want to bring

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this up? Do you have enough time?
COUNCILMEMBER PITTMAN: Mayor, I'm sticking with my motion.
MAYOR JENKINS: Excuse me?
COUNCILMEMBER PITTMAN: Sir, I'm sticking with my motion to allow them to move forward to do the proper procedures.
MAYOR JENKINS: Do you have enough time?
MR. HAEBERLIN: Yeah, I think I can get it. I mean if we -- we're going to decide the meeting for December next, when it's going to be. I think we've got enough time.
MAYOR JENKINS: Okay. Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: No.
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 Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: No.
CLERK BLACKMON: 4-2.
MAYOR JENKINS: Thank you.
COUNCILMEMBER FLEMING: And Mr. Haeberlin, if you can, as soon as you find out the information, if you'll e-mail all of us, we would appreciate it.
MR. HAEBERLIN: I will. This is kind of part and parcel of this discussion. We need to make a decision in the month of December when the planning and zoning meeting will be for the month. It was normally scheduled for December 27th and I know that's really close to a lot of people's holiday travel plans, et cetera. So if the Council would like to move the meeting in December, meaning make a decision as to when it will be, I need to know that information to notify the planning commission so they can reset their meeting as well.
We had looked at perhaps December 13th, which is the second Monday, at 6:30, and I had e-mailed the Council, and I got some input from Council Bates and Council Alexander but not from the rest of Council.

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COUNCILMEMBER PACHUTA: For our meeting?
MR. HAEBERLIN: Yes, ma'am.
COUNCILMEMBER PACHUTA: And so then they would have the planning commission the Thursday before?
MR. HAEBERLIN: The week before.
COUNCILMEMBER PACHUTA: Okay.
COUNCILMEMBER ROCHE: I'd like to make a motion that we add scheduling the next planning commission -- sorry -- the next council hearing on zoning -- did I say schedule? -- to the agenda.
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Did you state a date?
COUNCILMEMBER ALEXANDER: No.
COUNCILMEMBER PACHUTA: No. He's putting it on the agenda.
COUNCILMEMBER ROCHE: No. I'm just adding it to the agenda so we can legally discuss it.
MAYOR JENKINS: Second?
ATTORNEY WEED: Councilman Alexander seconded.
COUNCILMEMBER FLEMING: Maria.
COUNCILMEMBER ALEXANDER: I seconded it.
MAYOR JENKINS: Any more discussion?
- - -

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(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 Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER FLEMING: December 13th is fine with me.
CLERK BLACKMON: Do you want to do it before doing the workshop or do you want to do them together?
COUNCILMEMBER PACHUTA: Did you say it was already quite full, what's in the --
MR. HAEBERLIN: Well, with this being added, you know, I think we've got -- yeah, we've got some stuff for December we really got to process, particularly some things relative to potential

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litigation. We just need to get that done.
COUNCILMEMBER PACHUTA: Because I think we already have, what? a few conditional use? At least what? Two? Three?
MR. HAEBERLIN: You have three as of today. And remember, there are people who have been waiting to submit rezoning applications that may proceed with that, and I will have more that I'll have to add.
CLERK BLACKMON: Skip the workshop. I just need to know, because the second Monday is scheduled for the workshop.
COUNCILMEMBER ROCHE: I'd be fine with skipping the workshop.
CLERK BLACKMON: Continuing that in January.
COUNCILMEMBER ROCHE: That's just me.
COUNCILMEMBER ALEXANDER: Mr. Weed, do you want to opine on that?
ATTORNEY WEED: It's my professional opinion that the City is in dire need of an alcoholic beverage ordinance, a massage ordinance and a commercial soft tissue ordinance. It's been my opinion for almost a year now and it continues to be my opinion.
CLERK BLACKMON: Or you can do the workshop a later day that week, on Thursday or something of that nature if you feel you need one.

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MR. HAEBERLIN: Even maybe the Tuesday?
COUNCILMEMBER PACHUTA: Yeah. I'm fine adding another date to get some of these out of the way.
COUNCILMEMBER ALEXANDER: How about the Tuesday?
CLERK BLACKMON: The 16th is that Thursday. Or you can move the workshop up to the week before that. The 6th is the first Monday of the month, so the 9th would be the --
MR. HAEBERLIN: The 9th would be the P.C. meeting. We've got to be careful about that night.
COUNCILMEMBER FLEMING: Thursday would be the second.
COUNCILMEMBER ALEXANDER: Well, why do we have to do it on a Thursday, I guess?
COUNCILMEMBER FLEMING: I'm sorry?
COUNCILMEMBER ALEXANDER: Could we do it on a Tuesday?
COUNCILMEMBER FLEMING: Like November 30th?
COUNCILMEMBER ALEXANDER: December 14th.
MAYOR JENKINS: We got to do something about it. I can't hear and she can't hear.
- - -
(Brief pause)

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- - -
MR. ANDERSON: Move back up to the dais where the microphones are.
COUNCILMEMBER ALEXANDER: What about Tuesday, November 30th?
MR. HAEBERLIN: You have a planning and zoning hearing on November 29th, so just to let you know or remind you of that.
COUNCILMEMBER PACHUTA: Oh. We do have one on the 29th?
MR. HAEBERLIN: Yes, ma'am.
COUNCILMEMBER PACHUTA: Oh. Even without the planning commission meeting.
MR. HAEBERLIN: Yes, ma'am, because you have things that don't require planning commission action. So you would end up with a back-to-back meeting. I just want to make you aware of that.
COUNCILMEMBER PACHUTA: I thought our meeting was on the 22nd. I have it on my calendar as the 22nd.
COUNCILMEMBER BATES: I have it as the 22nd too.
MR. HAEBERLIN: Actually, I e-mailed a calendar for the whole year for all meetings to the Council earlier in the year, but I'll resend it.

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COUNCILMEMBER PACHUTA: Because the 22nd is the fourth Monday.
COUNCILMEMBER ROCHE: Right.
MR. HAEBERLIN: Correct. The reason why we moved it in that week is because I anticipated the Thanksgiving holiday week would be a difficult week for the Council to assemble, so I had already --
COUNCILMEMBER ROCHE: Fine with me.
MR. HAEBERLIN: -- had already changed it to the 29th.
COUNCILMEMBER FLEMING: He sent the calendar of the year earlier this year --
MR. HAEBERLIN: Yes.
COUNCILMEMBER FLEMING: -- and maybe we might not have voted on it, but looking at his calendar, that's what it was.
MR. HAEBERLIN: Because for example, when the Council went to the GMA Convention, remember we had to move your meeting again. So there are some rare circumstances where we've had to move the meetings.
CLERK BLACKMON: And the 22nd is going to be a short week, so, I mean that's Thanksgiving week.
ATTORNEY WEED: And I'll make sure that the meeting is covered, but I will not -- I'll be in

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Pennsylvania at that time.
COUNCILMEMBER ROCHE: I'm not sure if I'll be able to make the 29th because I'm going to be coming back from Florida that day.
COUNCILMEMBER FLEMING: And the 30th is on a Tuesday, which is --
COUNCILMEMBER ROCHE: I'll be here for the 30th. I don't know about the 29th.
COUNCILMEMBER PITTMAN: Will you be here for the 30th?
ATTORNEY WEED: Yes.
COUNCILMEMBER ROCHE: I may not be properly dressed for a City Council meeting, but --
COUNCILMEMBER FLEMING: And I do not think on the 30th it's going to . . .
COUNCILMEMBER ALEXANDER: So you're not going to be here for the planning and zoning meeting on the 29th.
ATTORNEY WEED: No. I will be here for that.
COUNCILMEMBER ALEXANDER: Okay.
ATTORNEY WEED: The week of the --
CLERK BLACKMON: 22nd.
ATTORNEY WEED: -- the 22nd, that whole week. The week of Thanksgiving, I'll be in -- I'll be

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on vacation.
COUNCILMEMBER BATES: We don't have any meetings that week.
CLERK BLACKMON: No.
COUNCILMEMBER PACHUTA: No meetings that week. And I'll be --
ATTORNEY WEED: That was --
COUNCILMEMBER PACHUTA: -- in town, so --
ATTORNEY WEED: -- the plan. That's what I thought was the plan.
MR. HAEBERLIN: And remember there are months that have five Mondays and there are months that don't, so.
COUNCILMEMBER FLEMING: I don't mind Tuesday. I just -- and I don't think it's going to hurt us to go ahead and vote and then come here.
COUNCILMEMBER BATES: Well, let's figure out what we're talking about. Are we talking about moving the work session or are we talking about moving the December planning and zoning hearing?
Because if we're talking about moving the December planning and zoning meeting, then we can't move that to November 30th because then we're back to back planning and zoning.
If we're talking about moving the work

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session, then we've got a smorgasboard of dates --
COUNCILMEMBER PACHUTA: Yeah.
COUNCILMEMBER BATES: -- to choose from. So are we talking about moving the work session?
COUNCILMEMBER PACHUTA: Yes. That was my understanding.
COUNCILMEMBER BATES: Okay.
COUNCILMEMBER ALEXANDER: That was not what our motion was for, though.
CLERK BLACKMON: No. You were moving the work session because we moved the planning and zoning to the 13th.
COUNCILMEMBER ROCHE: Well, we haven't done that yet.
COUNCILMEMBER BATES: We haven't done that yet.
CLERK BLACKMON: I mean that's what -- that's what the discussion was for.
COUNCILMEMBER ROCHE: Did we vote to put -- We did vote to put it on the agenda; right?
COUNCILMEMBER BATES: Yes.
COUNCILMEMBER ROCHE: Okay.
COUNCILMEMBER BATES: You made that motion.
COUNCILMEMBER ROCHE: Yeah, it passed. Okay.

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MAYOR JENKINS: Scott, see if you can get that heat cut off.
MR. HAEBERLIN: Yes, sir.
CLERK BLACKMON: It takes it a minute.
COUNCILMEMBER BATES: All right. Make a motion to move the planning and zoning meeting from December 27th to December 13th.
COUNCILMEMBER ALEXANDER: 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?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.

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COUNCILMEMBER BATES: Make a motion to move the December 13th work session to December 14th.
MAYOR JENKINS: Second?
COUNCILMEMBER ALEXANDER: Second.
COUNCILMEMBER PACHUTA: December 14th?
COUNCILMEMBER BATES: Yes.
MAYOR JENKINS: More discussion?
COUNCILMEMBER PACHUTA: If we do it December 14th, I need it to be at -- any night that's not a Monday, I need it at 7:00, not 6:30.
COUNCILMEMBER BATES: Amend my motion to have the meeting, the work session, December 14th starting at 7:00.
COUNCILMEMBER ALEXANDER: I amend my second.
Mr. Weed, are you available that day?
ATTORNEY WEED: Yes.
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.

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CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER BATES: And now we can get to the agenda.
- - -
(Brief discussion off the record between the court reporter and the Council)
- - -
MAYOR JENKINS: Does everybody want the court reporter to stay for the rest of the meeting?
ATTORNEY WEED: And Councilman Fleming had noted that ordinarily at a work session we didn't have the court reporter, which is correct. The only caveat I have is that Council -- and this is perfectly fine. You've gotten in the habit of taking an ordinance and making motions to parts of it, and the last time that occurred was on March 19th relevant to the work session items on the CSTTOM ordinance. Having that laundry list of motions was extremely helpful to me in

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making the changes.
So if you -- I would suggest that if you think you're going to make individual motions -- for example, Councilman Alexander listed 20 questions or 20 points, Councilman Bates listed 10 or so; I'm sure that there may be other questions or points -- if you end up making a motion on each one, my preference and advice would be to have the court reporter here to record those.
COUNCILMEMBER FLEMING: I have a question in regards to the last work session that we had. I thought we had made motions and you were correcting the ordinances as we went.
ATTORNEY WEED: I had -- I did attempt to do that, yes.
COUNCILMEMBER FLEMING: So we were making motions to change the ordinances on the alcohol, for instance, without her being here.
ATTORNEY WEED: I believe there have been occasions when she's been here and I believe there have been occasions when she's not.
COUNCILMEMBER BATES: I'm --
ATTORNEY WEED: What's easier for me would be to have her here; however, if we elect not to have her here, we will go with Rhonda's best memory and my

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notes.

COUNCILMEMBER BATES: I'm perfectly fine with dismissing the court reporter for our work session.

COUNCILMEMBER PACHUTA: I am also.

MAYOR JENKINS: Okay. Do we need a motion on it?

ATTORNEY WEED: No. I mean she just can go.

COUNCILMEMBER FLEMING: Terri, thank you very much.

- - -

(7:12 p.m. - Council work session begins)

-o0o-

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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 19th day of November 2010.

_____

Theresa Bretch, CCR
Permit No. B-755

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