In The Matter Of:

City Council Meeting

January 24, 2011

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(404) 892-1331 - (800) 445-2842

Original File 62197-1.TXT
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CITY COUNCIL MEETING
CITY OF DORAVILLE
STATE OF GEORGIA

* * *

Transcript of the meeting held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Pro Tem Donna Pittman presiding, before Theresa Bretch, Certified Court Reporter, commencing at 6:30 p.m., January 24, 2011.

* * *

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APPEARANCES:
Doraville City Council:
Mayor Pro Tem Donna Pittman
Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Karen Pachuta
Councilmember Bob Roche
Councilmember Pam Fleming

Melissa McCain, City Clerk
Murray Weed, City Attorney

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P R O C E E D I N G S

MAYOR PRO TEM PITTMAN: Meeting come to order.

Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: here.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Here.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Here.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

MAYOR PRO TEM PITTMAN: I believe we don't have any minutes to approve tonight.

We have several things under Mayor's Comments. Mr. Weed, are you prepared to talk about the resolution? We need to add it.

ATTORNEY WEED: Yes, ma'am. In the Charter, Section 2.05, there is a provision --

MAYOR PRO TEM PITTMAN: Do we need to add it to the agenda?

ATTORNEY WEED: If you care to.

MAYOR PRO TEM PITTMAN: Yes, I think we need

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to do that if you don't mind.

ATTORNEY WEED: Up to the Council.

MAYOR PRO TEM PITTMAN: Okay. I guess you need to tell, though, real quick what it's about before we ask to add it to the agenda.

ATTORNEY WEED: Yes, ma'am. In the Charter in Section 2.05, there's a provision that says that if the Mayor misses four consecutive regular meetings, then that position is considered to be vacated.

Obviously, I'm concerned about that and I have prepared a resolution for the Council to grant a leave of absence which is also provided as a remedy under 2.05 if you care to do so.

MAYOR PRO TEM PITTMAN: Okay. Does everyone have a copy or does no one have a copy of that?

CLERK McCAIN: Now, he just gave it to me after you did the roll. If you add it, I can run and do those while you're discussing the next item --

MAYOR PRO TEM PITTMAN: Okay.

CLERK McCAIN: -- or I can do it now before you vote if you like.

MAYOR PRO TEM PITTMAN: Okay.

ATTORNEY WEED: It was sent electronically today, later this afternoon, and Melissa is going to make copies for you right now.

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CLERK McCAIN: I forgot there's a copier here.
MAYOR PRO TEM PITTMAN: That's okay.
Do we have a motion to add that to the agenda?
COUNCILMEMBER PACHUTA: So moved.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER BATES: Second.
MAYOR PRO TEM PITTMAN: Discussion?
COUNCILMEMBER FLEMING: I have discussion. First of all, the Mayor has to miss four consecutive regular meetings, and at this moment he's only missed two. The next two will be the February meetings. And based on the resolution that I read this afternoon, the 30-day leave of absence actually takes him to the second meeting in February.
Now, I do believe that if a leave of absence is needed, it should begin after he's missed his fourth consecutive meeting.
COUNCILMEMBER BATES: I appreciate that.
My understanding is that tonight is considered a regular scheduled meeting because it's been ordinanced and it is on our regular schedule.
COUNCILMEMBER FLEMING: It was advertised as a planning and zoning public hearing.

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COUNCILMEMBER BATES: It is part of our regular scheduled meetings.
ATTORNEY WEED: This is a regular meeting, yes, ma'am. Council adopted an ordinance that set the regular meetings as the first, third and fourth Mondays of the month, so this is actually a regular meeting.
And I don't disagree with your concept, Councilman Fleming, in the sense that if Council wanted to make a resolution effective on let's say February the 6th, to have that window of opportunity and do it 30 days thereafter, that would certainly be fine with me and it certainly effectuates the purpose, and I think that's a good idea.
Obviously, if we waited -- if Council waited until the February 7th meeting, that would be the fourth meeting. The Mayor would have to be here. If he wasn't here by the time the meeting adjourned, that would be a problem.
COUNCILMEMBER FLEMING: I believe if I'm not mistaken -- And I did not bring any of my new ordinances with me. You can challenge me on this, but I think that third one was designated for planning and zoning or a work session and it was not considered a regular meeting.

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ATTORNEY WEED: No, ma'am, that's not entirely accurate. The ordinance is plain that the meetings -- the one that you adopted said that they would be the first Monday, the third Monday and the fourth Monday.
I'll find the ordinance in just a second if you guys want to keep talking and if you want me to read it directly.
COUNCILMEMBER ROCHE: I'm just concerned that we had this thing presented to us like an hour-and-a-half before the regular meeting, and that's -- I think we're getting really carried away with adding things to zoning hearings that are not necessarily zoning hearing stuff, and I just -- I think it'll be fine if we deal with it in February if necessary at the first meeting in February. It may not even be necessary.
ATTORNEY WEED: You --
COUNCILMEMBER ROCHE: I'm not going to fire somebody while they're laying in the hospital.
ATTORNEY WEED: Right. I appreciate that, and I don't think anybody would, Councilman.
You need to do it sometime before February the 7th. It doesn't really matter to me when. I don't have any advice with regard to that.

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And today is the first day that we received some contact from the Mayor's family, although they've been in communication with the City, with regard to this particular issue and their request for the 30 days. If we'd had contact earlier, I would have said something earlier.
MAYOR PRO TEM PITTMAN: Ms. Alexander?
COUNCILMEMBER ALEXANDER: I am concerned with something of this important nature being added to an agenda at a meeting without the citizenry being advised of such a thing. Can we not handle this on the 31st?
ATTORNEY WEED: You can.
COUNCILMEMBER ALEXANDER: That way, at least this item would be published on an agenda.
ATTORNEY WEED: As your lawyer, it's relevant to me when you adopt it. My advice is that you adopt it before February 7th.
COUNCILMEMBER FLEMING: I'm still waiting for the notes, Mr. Weed.
ATTORNEY WEED: Yes. I'll read you the ordinance in just one second, please.
COUNCILMEMBER FLEMING: Thank you.
COUNCILMEMBER ROCHE: If the Mayor failed to appear at the February 7th meeting, I'm sure we could

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1 grant him the leave of absence at that point if
2 necessary.
3 COUNCILMEMBER FLEMING: I concur with that
4 opinion.
5 ATTORNEY WEED: Section 2-31, City Council
6 Meetings, Article 2, City Council. Pursuant to
7 Section 2.02 of the City Charter, regular or public
8 meetings of the Council shall be held on the first
9 Monday, the third Monday and the fourth Monday of each
10 and every month of the year.
11 COUNCILMEMBER FLEMING: And the fourth
12 Monday doesn't go on to say anything about used for
13 public hearing for zoning?
14 ATTORNEY WEED: No, ma'am.
15 COUNCILMEMBER FLEMING: Thank you.
16 MAYOR PRO TEM PITTMAN: Additional
17 discussion?
18 - - -
19 (No response)
20 - - -
21 MAYOR PRO TEM PITTMAN: Call the roll,
22 please.
23 CLERK McCAIN: Councilmember Alexander?
24 COUNCILMEMBER ALEXANDER: No.
25 CLERK McCAIN: Councilmember Bates?

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1 COUNCILMEMBER BATES: Yes.
2 CLERK McCAIN: Councilmember Fleming?
3 COUNCILMEMBER FLEMING: We're adding it to
4 the agenda and it takes a unanimous vote.
5 I vote no.
6 ATTORNEY WEED: No, ma'am. Actually for
7 this meeting, it doesn't. Not that it matters. You
8 can vote however your conscience dictates.
9 This is not a special meeting; it's a
10 regular meeting. The majority is --
11 COUNCILMEMBER FLEMING: We change rules
12 every different meeting, I swear to goodness.
13 I vote no.
14 ATTORNEY WEED: No, ma'am, we don't, but the
15 code's the code.
16 CLERK McCAIN: Councilmember Pachuta?
17 COUNCILMEMBER PACHUTA: Yes.
18 CLERK McCAIN: Councilmember Roche?
19 COUNCILMEMBER ROCHE: No.
20 MAYOR PRO TEM PITTMAN: Okay. Motion
21 denied.
22 COUNCILMEMBER ALEXANDER: I'd like for this
23 item to be added to the January 31st. Do I need to
24 make a motion to request that, Mr. Weed?
25 ATTORNEY WEED: Not to me, no, ma'am. It's

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1 up to the Clerk.
2 COUNCILMEMBER ALEXANDER: It will be
3 published?
4 ATTORNEY WEED: If you want it on the
5 agenda, you would put it on a -- do an agenda form and
6 give it to the Clerk and she'll put it on.
7 COUNCILMEMBER FLEMING: Ms. Alexander, this
8 is for your -- and I understand where you're coming
9 from, but my preference would be at a regular meeting
10 and not another zoning meeting that we have published
11 for planning and zoning.
12 COUNCILMEMBER ALEXANDER: I understand. And
13 I understand the differences in the languages and the
14 interpretations, especially if you base these rules on
15 the previous enforcement where the rule was actually
16 used, unfortunately, for a Council member, but now
17 we've added in extra meetings that basically change
18 the rules from what they were enacted before.
19 But my whole point is none of the citizens
20 knew this was coming, and I don't think it's fair to
21 them.
22 So if I have to fill out an agenda sheet to
23 put it on the 31st, if you can please give me that so
24 I can do it before this evening.
25 CLERK McCAIN: Can I e-mail one to you or --

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1 COUNCILMEMBER ALEXANDER: I'll just --
2 CLERK McCAIN: -- would you fill out one
3 here?
4 COUNCILMEMBER ALEXANDER: -- fill it out
5 before we leave.
6 CLERK McCAIN: Okay.
7 ATTORNEY WEED: And I will state for the
8 record that I have not requested this item be put on
9 this agenda. I sent you an e-mail in that I wanted it
10 to be addressed with Council as soon as possible, and
11 this was the earliest date that I felt comfortable
12 addressing it with you because this was the date I
13 heard from the Mayor's family.
14 What Council does with this agenda of course
15 is up to Council.
16 COUNCILMEMBER ROCHE: Well, if we're going
17 to be overriding the charter, I think, you know, it
18 does definitely need to be a regular meeting that's
19 fully advertised, et cetera, et cetera.
20 ATTORNEY WEED: Councilman, the charter is
21 not being overwritten that I'm aware of.
22 MAYOR PRO TEM PITTMAN: Okay. The next item
23 is going to be the ISO rating and building inspector
24 contract. I believe there is going to be a request to
25 add some language in that contract.

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Again, Mr. Weed, if you would like to elaborate on that, please.

ATTORNEY WEED: Yes, ma'am. I received a call from John Calcaterra after he had the meeting with one Paul E. Randall, who is the field representative Community Hazard Mitigation Services.

The building inspector had recommended to me that Mr. Randall had informed him that the City's ISO rating could be improved if the building inspector contract had some language in it that indicated that the building inspector was certified to perform all the inspections that the building inspector performs.

I sent an e-mail to the Council, and I have made an adjustment to the building inspector contract. The building inspector is fine with that. And if the Council would like to proceed to make the change, you can, and there is an opportunity that you might be able to help lower your ISO rating.

As most of you are aware, ISO in part helps dictate the community assessment of risk, and the higher ISO rating, the higher level of assessed risk. If that rating can be lowered, that can impact by lowering insurance rates. There are a number of different factors that are involved in ISO ratings, and I'm sure this is just one.

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Usually when a field representative makes a suggestion to you, that's a pretty good hint that that's something that they would like to see happen. Mr. Calcaterra thought it was a good idea, and he asked me to let you know that and forward it to your attention.

COUNCILMEMBER ROCHE: I'm concerned that those three items under Mayor's comments that are coming before public comments. I'd like to do public comments first if it's possible.

In fact I'll make that in the form of a motion that we cover public comments on agenda items next and then go back to Mayor's comments.

MAYOR PRO TEM PITTMAN: Is that your motion?

COUNCILMEMBER ROCHE: Yes.

MAYOR PRO TEM PITTMAN: Do I get a second?

COUNCILMEMBER FLEMING: Second.

MAYOR PRO TEM PITTMAN: Discussion?

- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

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CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes. Thank you.

MAYOR PRO TEM PITTMAN: Motion carried.

Public comments on the agenda item. Please limit it to three minutes. Mr. Hart.

MR. HART: It was brought up last week they discussed hiring a building official for the city which is required by the State of Georgia and he'll sign off on all these building permits. When I went to Dekalb County to get things inspected, whatever, and signed off, they expected a building official to sign off on these.

We can hire a building official that's an inspector but you don't have an inspector that's a building official. So if we're going to pay somebody $60,000 a year, his title should be building official that can also do inspections.

I don't know about the ISO standards. I don't know if we're limiting our choices here. But if

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we're going to pay $60,000 to get a building official, which we've needed for the last two years, and a full-time one that people can walk in the office and answer questions for the Council, the Mayor, and the people that are trying for permits, that's where we need to go.

As far as offering, it's distressing. I got a copy of the balance sheet or the draft balance sheet and financial statement for the City a couple days ago, and the balance sheet doesn't balance by $3,000,000 which was curious.

But before you hire anybody or give people park promotions, particularly when you have this Halpern Park -- God knows what's going on there. I don't think any people on the Council know what's going on there -- I would suggest that you go through these budget hearings and find out where your position is, how much money we have, and then you can determine what kind of salaries you're going to pay people.

Thank you.

MAYOR PRO TEM PITTMAN: Anyone else? No further public comments?

MS. CALVERT: I think we need to be very careful -- it's Ginny Calvert -- we need to be very careful about how much money we pay out to anyone,

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1 whether it be a city manager or who, because we're
2 getting lower and lower. We need to find -- we need
3 for the Council and people of Doraville to find ways
4 for us to make some money, I hope.
5 MAYOR PRO TEM PITTMAN: Thank you. Anyone
6 else?
7 COUNCILMEMBER FLEMING: Madam Chair, I've
8 got a question, then, if there are no other comments.
9 I have a question, Mr. Weed --
10 ATTORNEY WEED: Yes, ma'am.
11 COUNCILMEMBER FLEMING: -- on the previous
12 agenda item. Did the Mayor's family receive a copy of
13 the resolution?
14 ATTORNEY WEED: Of course. Yes, ma'am.
15 COUNCILMEMBER FLEMING: Thank you.
16 MAYOR PRO TEM PITTMAN: Okay. Well, we'll
17 move back into the ISO Rating and Building Inspector.
18 Mr. Weed, did you have anything else you
19 wanted to add to that?
20 ATTORNEY WEED: No, ma'am.
21 MAYOR PRO TEM PITTMAN: Okay.
22 COUNCILMEMBER PACHUTA: I make a motion that
23 we add the clause recommended by Mr. Weed into the
24 contract.
25 MAYOR PRO TEM PITTMAN: Do I get a second?

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1 COUNCILMEMBER BATES: Second.
2 MAYOR PRO TEM PITTMAN: Discussion?
3 COUNCILMEMBER ALEXANDER: We don't need to
4 get any more specific than what's in there?
5 ATTORNEY WEED: The language was read to
6 Mr. Calcaterra. He acknowledged after his
7 conversation with Paul Randall that it was sufficient.
8 COUNCILMEMBER ALEXANDER: Okay.
9 COUNCILMEMBER ROCHE: Does this mean that if
10 we hire a building inspector, we're going to give them
11 an employment contract containing this language?
12 ATTORNEY WEED: No, sir. Of course the
13 Council can give whatever contract it wants to to
14 whatever employee.
15 I would not advise you to do that. I mean
16 you could. I recommend you just hire somebody as an
17 employee.
18 COUNCILMEMBER ROCHE: Fine.
19 MAYOR PRO TEM PITTMAN: Additional
20 discussion?
21 - - -
22 (No response)
23 - - -
24 MAYOR PRO TEM PITTMAN: Call the roll,
25 please.

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1 CLERK McCAIN: Councilmember Alexander?
2 COUNCILMEMBER ALEXANDER: Yes.
3 CLERK McCAIN: Councilmember Bates?
4 COUNCILMEMBER BATES: Yes.
5 CLERK McCAIN: Councilmember Fleming?
6 COUNCILMEMBER FLEMING: Yes.
7 CLERK McCAIN: Councilmember Pachuta?
8 COUNCILMEMBER PACHUTA: Yes.
9 CLERK McCAIN: Councilmember Roche?
10 COUNCILMEMBER ROCHE: Yes.
11 MAYOR PRO TEM PITTMAN: Motion carries.
12 The next item is going to be the Commercial
13 Soft Tissue Touch or Manipulation, Limitations on
14 Operations, Mr. Weed.
15 ATTORNEY WEED: Yes, ma'am. Pursuant to
16 Councilmember Roche's request and the action of the
17 Council, I attempted to draft an ordinance that would
18 have some limit in it.
19 As I understood the motion -- and I did
20 contact the Clerk to get confirmation of the motion --
21 Council wanted to limit the number of commercial soft
22 tissue touch and manipulation operations to an unknown
23 number. The number was not specified.
24 Using the information that I had, I
25 attempted to draft an ordinance that would accomplish

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1 that goal. The number has been left blank so you can
2 discuss it further tonight.
3 COUNCILMEMBER ROCHE: Thank you. The number
4 that was discussed at the original meeting, I thought
5 it was -- it was four per 10,000 after, I guess, the
6 day we adopted this. So as far as filling in the
7 blanks, that would be it: four parlors per 10,000
8 persons, and I would think we would want to make it
9 effective today.
10 My only question, is it possible that these
11 definitions, if there is any other unregulated
12 massage? because that's essentially what we're talking
13 about. I've never heard the term CSTTOM.
14 Is that a legal term, Mr. Weed?
15 ATTORNEY WEED: It's not.
16 COUNCILMEMBER ROCHE: Has it ever been --?
17 Is it in general use or has anyone -- Is it in general
18 use? I mean I've never heard of this term other than
19 here.
20 ATTORNEY WEED: No, sir, it's not a legal
21 term. If you adopt it in the ordinance, it will
22 become a legal term.
23 COUNCILMEMBER ROCHE: Well, I'd like to make
24 a motion that we adopt this ordinance which would be
25 -- I don't know the number -- 2011 whatever, for a

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population cap and set Section 6-811 paragraph (a) to after today's date, which is January 24th, 2011, "there shall be no more than four CSTTOM parlors per 10,000 persons"; and then paragraph (c) would be "Any legally operating CSTTOM parlors as defined above in existence prior to January 24th shall be exempt," and then the rest of the language as it stands.

MAYOR PRO TEM PITTMAN: Do I get a second?

COUNCILMEMBER ALEXANDER: I have a question. There are no hours of operation in this?

ATTORNEY WEED: No, ma'am.

COUNCILMEMBER ALEXANDER: So if this is passed tonight, they can be open 24 hours?

ATTORNEY WEED: Arguably, yes. In the current format all it does is create the term CSTTOM and it caps the number of CSTTOM operations. So there's a definition of CSTTOM and a cap on the number, and that's all this ordinance does.

COUNCILMEMBER ROCHE: There's no change to the current operating hours. They have 24/7 today; right?

COUNCILMEMBER ALEXANDER: No --

COUNCILMEMBER FLEMING: Yes.

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER ALEXANDER: -- because I

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thought they were covered under the hours that we had passed.

COUNCILMEMBER BATES: It was only for massage.

COUNCILMEMBER ROCHE: It's only for massage.

COUNCILMEMBER ALEXANDER: So have they been informed that they can stay open 24 hours?

COUNCILMEMBER FLEMING: In regard to this ordinance, I personally feel that we're not finished with the ordinance itself, that we still have discussions on it for our work session whenever we finally get around to the work session but that we were trying to put a cap on the number so that no other applications would be processed regardless of time. Time can be handled when we get to the work session. I am concerned about the number of businesses as well.

COUNCILMEMBER PACHUTA: Scott -- and you may not know this, but I know you were looking at the zoning -- do we know how many applications have been submitted?

MR. HAEBERLIN: Well, right now I think you're probably addressing five businesses, and I think you're aware through litigation what those are, so right now those five businesses were given an

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option to apply for a conditional use.

Now, since the writing of CSTTOM, okay, we're going to add CSTTOM to the zoning ordinance on the 31st. After the 31st, there will be a district where people can apply for CSTTOM. So this is kind of our groundwork for the 31st when you add it to a specific district. So about five, I think.

COUNCILMEMBER PACHUTA: And I guess -- and Mr. Weed, this may be where I'm confused with the grandfathering issue. Who is being grandfathered in? Is it people who we know are in existence but are in the process of applying for occupational tax placards? What about people who are in litigation with the City? What about the businesses who are operating but maybe haven't applied?

ATTORNEY WEED: Under the current version of the draft, anyone who is operating a CSTTOM type facility would be grandfathered in.

COUNCILMEMBER PACHUTA: So that might be the 18 Mr. Bates --

ATTORNEY WEED: That is entirely possible.

COUNCILMEMBER PACHUTA: -- saw when he drove around last summer.

ATTORNEY WEED: Correct. Whatever the number might be. And I don't know that anyone knows

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an exact number, but whatever that number might be.

The other thing I would add, though, please bear in mind that with regard to the entities that are litigating, those entities call themselves the Chinese Massage Association and they're representing that they perform massage. Now, whether they do or not, I don't know, but that's their representation. So this would not impact them directly unless they suddenly decide that, you know, we don't really do massage, we do this. And I can't answer that; no one can right now.

COUNCILMEMBER PACHUTA: So you think there's probably five.

MR. HAEBERLIN: I personally think there are five who will fall under CSTTOM, and I know there are three who lawfully have gotten conditional uses for massage therapists.

COUNCILMEMBER PACHUTA: But there could possibly be more that we just don't know about right now that have been operating and they're going to apply and they would fall under this grandfathering.

ATTORNEY WEED: Yes, ma'am, under the current version.

COUNCILMEMBER BATES: Well, let me ask you that, because Subsection (c) says any legally operating CSTTOM parlor as defined above in existence

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1 prior to, as Mr. Roche has in the motion, today's
2 date.
3 If they didn't have an occupation tax
4 placard last year and they weren't part of any
5 litigation and they didn't make application for a
6 conditional use permit, are they considered legally
7 operating?
8 ATTORNEY WEED: Well, probably not. But the
9 reason why we left the secondary date blank was
10 frankly so that you could consider if you wanted to --
11 and you could rewrite this however Council wants to --
12 that you might set that date sometime in the future to
13 give people who exist now an opportunity to become
14 legally compliant. That's the purpose of Subsection
15 (c).
16 However, obviously we're going to write
17 whatever you want to and do the best to make it legal.
18 COUNCILMEMBER ROCHE: The goal and I think
19 the sense of this motion was to prevent any new people
20 from applying to have additional unregulated massage
21 within the city of Doraville.
22 COUNCILMEMBER PACHUTA: Yeah, I understand,
23 and I'm just -- My concern, and I think we need to
24 think about this, is we don't even know what that
25 number is as far as what we're going to keep allowing

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1 to continue. I'm not talking about -- Because I think
2 we have more than four. So, you know, the cap's not
3 really --
4 COUNCILMEMBER FLEMING: Are you suggesting
5 that we make it 18, the cap?
6 COUNCILMEMBER PACHUTA: No.
7 I'm saying we don't know what this number
8 is, and maybe we don't want to grandfather in that
9 many because it may be 18.
10 COUNCILMEMBER FLEMING: If they've been in
11 existence prior to us even putting them in a zone and
12 they've been approved, they have vested rights.
13 COUNCILMEMBER PACHUTA: I don't think they
14 have vested rights unless we give it to them but --
15 ATTORNEY WEED: My legal opinion is they
16 don't have vested rights because you can never -- you
17 can never -- You never gain vested rights for
18 something that was never legal to begin with.
19 COUNCILMEMBER FLEMING: I know that's your
20 opinion, Mr. Weed. Thank you very much.
21 ATTORNEY WEED: And that's what the cases
22 say.
23 MR. HAEBERLIN: We have had three whatever
24 they're called, and I'll just say that three have
25 closed. We know that factually. You the Council have

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1 seen at least one of these as a conditional use and
2 you denied them, and then there were two others that
3 voluntarily closed.
4 So three. Let's say we were at what? Nine?
5 Three, 12. I think 18 is probably some facilities
6 outside the city limits, but somewhere between that
7 range of 12 to 18. I think that's -- Y'all are
8 looking for a real number. I think that's a real
9 number.
10 COUNCILMEMBER FLEMING: That's 12 to 18
11 combination.
12 MR. HAEBERLIN: Combination, yes, ma'am.
13 COUNCILMEMBER FLEMING: And we have four
14 massage and four for foot.
15 COUNCILMEMBER PACHUTA: And my preference
16 would be not to grandfather in, because I just think
17 it's out of control. We don't know how many are even
18 out there. And because we gave no one occupational
19 tax placards last year and there's litigation involved
20 in some, I just think it's going to end up being a
21 huge number that we're grandfathering in. I mean we
22 would never probably even get back to four.
23 COUNCILMEMBER ROCHE: So how will we decide
24 which ones we're going to shut down?
25 COUNCILMEMBER PACHUTA: It's whoever gets

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1 their conditional use applications processed and gets
2 their application forms in first.
3 COUNCILMEMBER ROCHE: Well, presumably
4 they're already applied for this year.
5 COUNCILMEMBER PACHUTA: You said there are
6 three?
7 COUNCILMEMBER ROCHE: Unless they're tied up
8 in litigation.
9 MR. HAEBERLIN: They did renewal.
10 ATTORNEY WEED: Let's go over the basics
11 because I think this is important.
12 There is an occupation tax. Occupation tax
13 doesn't give you a right to do anything. It's the
14 payment of a tax. It is not a license. It vests no
15 zoning rights; it vests no licensing rights. You've
16 got no constitutionally protected interest in the
17 payment of a tax.
18 If somebody had a real license for
19 something, then that's a different issue, or if their
20 use was not legal and they were using it and then the
21 law changed, then they've got vested rights under
22 zoning, under grandfathering, arguably.
23 So please bear those terms in mind.
24 As far as I know right now, because CSSTOM
25 doesn't yet exist, there's nobody who's got a vested

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1 right in CSSTOM at all.
2 What I've attempted to do based upon my
3 understanding of what the Council wanted was to give
4 anybody who had some sort of bricks-and-mortar
5 facility now the opportunity to come in so you
6 wouldn't shut their business down.
7 If you want to do something different, you
8 can. How you might want to achieve that would be
9 Subsection (c) by putting a date sometime in the
10 future to give people an opportunity to come in and
11 make themselves legal.
12 We'll do whatever you want to.
13 COUNCILMEMBER FLEMING: Those that applied
14 last year and received an occupational tax placard for
15 2010 had to go -- Even though you just made the
16 statement that paying their occupational tax is just
17 paying a tax, it doesn't ensure them the right to do
18 business, okay, it did last year, because they had to
19 go through such a scrutiny of zoning appropriateness
20 for them to even get to that point of applying for a
21 2010 occupational tax placard. So if they've got that
22 placard, they ought to --
23 COUNCILMEMBER PACHUTA: That's only three.
24 COUNCILMEMBER FLEMING: -- be grandfathered
25 in.

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1 COUNCILMEMBER PACHUTA: That's only three
2 people. My understanding, that's only three.
3 MR. HAEBERLIN: That's correct.
4 COUNCILMEMBER PACHUTA: We still have one
5 slot open.
6 COUNCILMEMBER FLEMING: Well, then, make it
7 -- Then, what's wrong with the four?
8 COUNCILMEMBER PACHUTA: That's fine. I'm
9 talking about the grandfathering issue.
10 COUNCILMEMBER FLEMING: If they do not --
11 COUNCILMEMBER PACHUTA: There may be well
12 over four --
13 COUNCILMEMBER FLEMING: -- have the 2010
14 placard --
15 COUNCILMEMBER PACHUTA: -- out there that
16 we don't know about.
17 COUNCILMEMBER FLEMING: -- then they were
18 illegally doing business anyway and should have been
19 shut down.
20 COUNCILMEMBER ROCHE: Did they not have a
21 2010 license or had they applied for a 2010 license
22 and not gotten any response?
23 COUNCILMEMBER ALEXANDER: I believe
24 Mr. Begner's got I don't know how many of those.
25 MR. HAEBERLIN: They refused to apply for a

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1 conditional use, so they were not processed.
2 The three that have a 2010 license as
3 massage therapists applied for a conditional use and
4 received a conditional use from this Council.
5 COUNCILMEMBER ROCHE: So a minute ago we
6 just said that an occupational tax license is
7 different, so why wouldn't they have received their
8 occupational tax license?
9 ATTORNEY WEED: Once again going back to
10 basics, Title 48 is the Georgia tax code. In Title
11 48, that's the section that creates the ability for
12 the City to do occupation tax if it wants to. Cities
13 aren't required to do occupation tax but most of them
14 want to do it.
15 In Title 48, it says that the government's
16 got a right to look into someone's information; for
17 example, if somebody's required to have a State
18 license, they are allowed -- the local government is
19 allowed to look into that.
20 COUNCILMEMBER ROCHE: That doesn't apply --
21 ATTORNEY WEED: I'm --
22 COUNCILMEMBER ROCHE: -- to these people.
23 Go ahead.
24 ATTORNEY WEED: Well, let me finish,
25 Councilman, if you'd like to have the answer to the

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1 question.
2 The way it works is the government is
3 allowed to look into someone's zoning, and they're
4 allowed to by Title 48 of the Georgia Code. The
5 purpose of looking into the zoning at all is to find
6 out whether or not that use is allowed in a particular
7 zone. If that use is not allowed in a particular zone
8 and the government let people pay occupation tax, the
9 government would in effect be aiding and abetting the
10 commission of a misdemeanor offense, which is the
11 violation of the zoning code, and I don't think this
12 government wants to aid and abet people violating our
13 local codes.
14 So therefore, when Mr. Haeberlin came on
15 board, he created the zoning appropriateness program;
16 he checked everybody's zoning to find out if people
17 are in the proper zones. He created a list, and he
18 reported to the Council and this Council changed the
19 zoning code, in my opinion, appropriately, to try to
20 help people and to try to help make people legal if
21 they would just take advantage of all the laws, in
22 your wisdom, in my opinion, you voted to approve.
23 You did everything you could as a Council to
24 help these people be legal. You did your part. If
25 they elected not to apply for a CUP, there's nothing

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1 the Council can do about that. Then it truly does
2 become an enforcement issue. But you did everything
3 legislatively you could have done.
4 COUNCILMEMBER FLEMING: We're talking about
5 two different things here. Last year, we didn't have
6 -- we only had massage parlors. There was not a
7 definition for CSTTOM or whatever it's called.
8 Massage other than physical therapy, okay. We didn't
9 have that definition. So those people should have
10 already been approved, okay, because they're A., not
11 regulated, okay, by the State, they don't have to have
12 a certificate, and they should already have been
13 approved through zoning because -- okay?
14 ATTORNEY WEED: That may be true. It
15 depends upon what zoning category they would have fit
16 in. If someone was rubbing head, neck, hands or feet,
17 which is all the CSTTOM ordinance deals with, it all
18 depends upon where they were doing it and whether they
19 met the zoning or not.
20 And that's not a question I can answer
21 without knowing where every single location is and
22 look at the zoning map and looking at the permitted
23 uses, but I imagine Mr. Haeberlin can.
24 COUNCILMEMBER FLEMING: Okay. The
25 litigation or the ones that have not applied, if I

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1 understand it, they are strictly massage parlors?
2 Question?
3 ATTORNEY WEED: They are -- The Chinese
4 Massage Association represents itself as being an
5 entity that performs massage, and massage is a very
6 strict definition in Title 43 as you all know.
7 COUNCILMEMBER FLEMING: As massage
8 therapists.
9 ATTORNEY WEED: Yes.
10 COUNCILMEMBER FLEMING: Okay.
11 ATTORNEY WEED: In order to do massage, you
12 must be a massage therapist.
13 COUNCILMEMBER FLEMING: Okay. Two
14 questions: one, have we notified them that we passed
15 a massage ordinance?
16 ATTORNEY WEED: I have not personally
17 notified anybody, no.
18 COUNCILMEMBER FLEMING: Okay.
19 MR. HAEBERLIN: Yes, we have. We have.
20 COUNCILMEMBER FLEMING: You've notified them
21 that the --
22 MR. HAEBERLIN: We --
23 COUNCILMEMBER FLEMING: -- fee's been
24 reduced and everything like that.
25 MR. HAEBERLIN: Not that far.

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1 COUNCILMEMBER FLEMING: Okay. Well,
2 that's --
3 MR. HAEBERLIN: Well, let me say something
4 for the record. Back when I was instructed to send
5 letters to all these folks, from the Council, I did,
6 giving them an opportunity to apply for a conditional
7 use. Only three availed themselves of that. The rest
8 did not respond.
9 COUNCILMEMBER FLEMING: Okay. I would
10 think, so that we don't go through any more litigation
11 or threat of litigation or promises of litigation,
12 that we would at least inform those, that we have
13 reduced fees or that there is a new ordinance for them
14 to at least look at for them to decide whether, hey,
15 okay, this fits our parameter of what we're going to
16 accept, and apply for the CUP. Okay. That's item
17 number one.
18 Number two, we're still talking about --
19 since those are five or six, we're talking about
20 massage therapists, massage parlors. We are not
21 talking about what we're trying to accomplish today,
22 and that is massage other than massage therapists.
23 COUNCILMEMBER PACHUTA: I don't have a
24 problem with the limit. My problem is with grand-
25 fathering in an unknown number that could be a lot.

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1 MR. HAEBERLIN: Correct. I think that we
2 think but do not know that these people who don't have
3 a CUP fall within one or the other.
4 Now, some of the people that already have a
5 CUP as a massage therapist may not actually be a
6 massage therapist and they may need to go into this
7 CSTTOM area. So I think that it is -- because there's
8 been so much information given to us going back and
9 forth -- and Murray will tell you this: one time
10 they're this, one time they're that -- we don't know
11 where those remaining people fall. Some of those
12 people that have CUPs for massage may need to come
13 over to CSTTOM and some of the people that we thought
14 were CSTTOM maybe need to be massage, because they
15 haven't applied.
16 MAYOR PRO TEM PITTMAN: Okay, Council. At
17 this point, we have a motion on the table. Let's see
18 if we can get a second.
19 COUNCILMEMBER FLEMING: Second.
20 MAYOR PRO TEM PITTMAN: Discussion?
21 COUNCILMEMBER FLEMING: Yes. I think we
22 need to take the "legally operating" out of item
23 number (c).
24 COUNCILMEMBER ROCHE: If these people had
25 ever had an occupational tax license issued by the

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1 City of Doraville, I think they should be grand-
2 fathered.
3 COUNCILMEMBER BATES: How far back would you
4 like to go?
5 COUNCILMEMBER ROCHE: Well, I mean the
6 farther back we go, the longer they've been in
7 business. Let's say before last year, before we
8 started all this other stuff with the zoning
9 appropriateness and all that. We're even shutting
10 down businesses that have operated here in Doraville.
11 Whether I like the kind of business or not, we have to
12 be fair across the board to all businesses.
13 And if someone had an occupational tax
14 license and built a business in Doraville and suddenly
15 we come along and say, "Oh, no, wait a minute," maybe
16 they choose to -- you know, they choose litigation,
17 they choose to try to protect their interests by suing
18 the City, I don't think that they should be punished
19 or penalized.
20 Personally, I wish there were four, but, you
21 know, I think we still have to be fair to these
22 businesses, because if we're not, we get a repu- --
23 well, we already have a reputation. But if we treat
24 these businesses unfairly, no other kind of business
25 is going to want to come to Doraville either because

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1 how do they know that some day the City Council might
2 decide to shut down all bicycle shops or all Waffle
3 Houses or all who knows what -- grocery stores.
4 MAYOR PRO TEM PITTMAN: Okay. Do we have
5 any additional discussion?
6 COUNCILMEMBER ROCHE: Well, I guess given
7 the discussion we've had so far, it looks like that we
8 have to modify paragraph (b) and (c), because
9 basically if we pass it now, then, you know, QOL's
10 going to be out there tomorrow shutting down
11 businesses, and we'll just -- instead of --
12 How many are suing us now? Five? Four? It
13 will just be all of them then.
14 MAYOR PRO TEM PITTMAN: Were you going to
15 modify your motion?
16 COUNCILMEMBER ROCHE: Well, it looks like
17 it. It looks like we'll have to.
18 I would strike -- I'm open to persuasion but
19 it seems like we would probably want to change the
20 paragraph to say that any business that has held an
21 occupational tax license to operate in the city of
22 Doraville within the last three years would be
23 grandfathered. Does that sound reasonable?
24 COUNCILMEMBER ALEXANDER: I'm not
25 comfortable with that.

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1 COUNCILMEMBER ROCHE: Well, I'm open to
2 suggestions.
3 COUNCILMEMBER ALEXANDER: Because I mean I
4 think we gave them the opportunity with the CUP to
5 come forward and go through the CUP process to get
6 approved, and they chose not to.
7 COUNCILMEMBER ROCHE: Well, I think that
8 actually --
9 COUNCILMEMBER ALEXANDER: All the pawn shops
10 came through to stay open in business as we requested
11 them to do. Several of the establishments came
12 forward. So I don't -- I mean I feel like you're
13 giving a break to some and not to others.
14 COUNCILMEMBER ROCHE: Well, it's a mess.
15 There's no two ways about that.
16 MAYOR PRO TEM PITTMAN: Mr. Roche, what do
17 you wish to do?
18 COUNCILMEMBER ROCHE: I'm thinking. That's
19 a good question at this point.
20 COUNCILMEMBER FLEMING: Because if we don't
21 do something, the applications are going to sit in
22 Mr. Haeberlin's office --
23 COUNCILMEMBER ROCHE: And anyone that wants
24 to can come and apply.
25 COUNCILMEMBER PACHUTA: This is not

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1 preventing any applications at all.
2 COUNCILMEMBER FLEMING: No. I realize that,
3 but the application will still be in his office, and
4 they -- they won't be approved. The chain of process
5 will not be, because they're considered a --
6 MR. HAEBERLIN: No, wait. It won't be a
7 conditional use --
8 COUNCILMEMBER FLEMING: No, it's --
9 MR. HAEBERLIN: -- till the 31st.
10 COUNCILMEMBER FLEMING: -- nothing yet.
11 MR. HAEBERLIN: It's the 31st.
12 COUNCILMEMBER FLEMING: Correct?
13 MR. HAEBERLIN: On the 31st, hopefully the
14 Council will make it a conditional use and we'll be
15 able to accept applications for CSSTOM.
16 COUNCILMEMBER FLEMING: See, it's not even
17 considered an authorized use in the city right now.
18 COUNCILMEMBER ROCHE: All right. Why don't
19 we modify paragraph (c) to say -- I hate doing this --
20 February 28th, 2011.
21 The whole goal here was to close the door on
22 new, but --
23 Is February 28th -- Well, how are we going
24 to go with this litigation? Is this going to go on
25 forever and ever? Is there any idea when a judgment

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1 will be rendered as to whether or not we're taking
2 away existing rights by not allowing them to have an
3 occupational tax license? Is that going to happen
4 next month? Is that going to happen next year? I
5 mean is there going to be any kind of resolution on
6 that any time soon?
7 ATTORNEY WEED: We're the defendants in the
8 litigation. And as a general rule of law in
9 litigation, if the defendants [sic] aren't pursuing
10 their litigation, there's no need when you're the
11 defendant to kick a sleeping dog and try to get them
12 to do their job. The plaintiffs haven't pursued their
13 litigation.
14 So the answer to your question is I don't
15 know when they're going to resolve it because they
16 don't seem very anxious to try. I think the reason
17 why they're not so anxious to try is because they sent
18 a letter to my offices saying that they were a massage
19 association, using that term; at the same time, they
20 were disavowing that they did massage. By doing so,
21 they have committed a criminal act. I informed their
22 lawyer of that, and I haven't heard another thing from
23 them since then. So I assume they're maybe afraid to
24 pursue their litigation any further. I don't know.
25 COUNCILMEMBER ROCHE: Well, but they weren't

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1 criminals two or three years ago before all this
2 happened.
3 ATTORNEY WEED: No, sir, that's not correct.
4 They performed criminal acts, at least the
5 one that did not have a licensed massage therapist,
6 since the year 2006.
7 COUNCILMEMBER BATES: And that's State law,
8 right?
9 ATTORNEY WEED: That's State law.
10 Now, we can always choose not to do anything
11 about it locally, but that's a statement of fact.
12 COUNCILMEMBER ROCHE: But this has nothing
13 to do with licensed massage therapists.
14 COUNCILMEMBER BATES: That's the reason why
15 we're doing it is --
16 ATTORNEY WEED: That's correct.
17 COUNCILMEMBER BATES: -- to separate out and
18 provide an opportunity for nonlicensed massage
19 therapists to do foot rubbing.
20 COUNCILMEMBER ROCHE: Okay.
21 COUNCILMEMBER BATES: We needed to create a
22 category to allow them to operate legally. They could
23 no longer operate under a massage therapy -- massage
24 parlor ordinance that we had, because that would
25 violate State law; so therefore we needed to create a

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1 new category to allow them to operate legally, and
2 that's what we're trying to do.
3 COUNCILMEMBER ROCHE: As long as they
4 weren't giving full-body massages, they can do what
5 they want to.
6 COUNCILMEMBER BATES: State law says that
7 you cannot purport yourself to be a massage therapist;
8 you cannot use the word "massage" in your signage, in
9 your advertising, in your promotion. We've gone over
10 this --
11 COUNCILMEMBER ROCHE: I know.
12 COUNCILMEMBER BATES: -- a number of times.
13 COUNCILMEMBER ROCHE: They can't call
14 themselves foot -- They can say, we are the foot
15 rubbing place, and they would not have been covered
16 under this.
17 COUNCILMEMBER BATES: We need to legally
18 create a classification to allow non-massage therapy
19 businesses to operate in the city.
20 COUNCILMEMBER ROCHE: I don't -- I disagree
21 with that. I think that yes, they may need to take
22 the word "massage" out of their name, but I don't see
23 where we need to legally do anything.
24 ATTORNEY WEED: Now, I will say this.
25 COUNCILMEMBER ROCHE: But I do want to limit

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1 the number.
2 ATTORNEY WEED: You don't have to create any
3 further regulation of them, but at a minimum, my
4 opinion is you need to find a category where zoning-
5 wise it's legal to rub head, neck, hands, feet, ears.
6 And if you do that, you don't have to regulate them,
7 and no one's told you you had to.
8 But what you at a minimum need to do is
9 create some zone where that's a permitted use, which
10 right now does not exist unless Mr. Haeberlin tells me
11 that I'm wrong. Is that correct?
12 MR. HAEBERLIN: No, there's not a zone that
13 exists as far as putting it -- Our draft is to put it
14 into C-2 on the 31st.
15 COUNCILMEMBER FLEMING: Well, in the context
16 of what you think they are or what we think they are.
17 I mean rubbing hands, foot, elbows and so
18 forth could be a form of --
19 COUNCILMEMBER ROCHE: Yoga?
20 COUNCILMEMBER FLEMING: -- sports medicine,
21 okay, and then it wouldn't be a CSTTOM ordinance,
22 okay. So you know, we --
23 ATTORNEY WEED: The definitions in this
24 ordinance are derived directly from State law, and the
25 items that are listed on page two, those are the

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1 things that are not currently regulated by the State
2 law on massage.
3 If you want to regulate those things, you
4 can do so. You do not have to do so. You are not
5 required to do so.
6 However, I do recommend that if someone is
7 rubbing hands, feet, ears and neck and there's no zone
8 for it, that if you want to allow them to do that,
9 they probably need to have a zone assigned to that
10 function. It could be C-1. You know, obviously it
11 doesn't matter to me what zone it is as long as it
12 makes sense that's the zone. That's Scott's
13 bailiwick, not mine. But you don't have to regulate
14 any of these things.
15 COUNCILMEMBER FLEMING: Can I make a
16 suggestion?
17 COUNCILMEMBER ROCHE: Sure.
18 COUNCILMEMBER FLEMING: We don't need to
19 worry about this. We don't even have a zone for them
20 to go to. So there's no zone to put a cap on them or
21 a time on them or anything else, because there's no
22 place in Doraville that these people can go at this
23 moment.
24 Is that not correct, Mr. Haeberlin and
25 Mr. Weed? At this moment, legally in the city of

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1 Doraville, can these people go anywhere in Doraville?
2 ATTORNEY WEED: If "these people" refers to
3 people who for money touch hands, neck, ears, feet --
4 COUNCILMEMBER FLEMING: Right.
5 ATTORNEY WEED: -- I believe I've got the
6 list -- maybe I'm leaving one out; I don't know.
7 COUNCILMEMBER FLEMING: Scalp.
8 ATTORNEY WEED: -- and other than people who
9 are licensed beauticians and cosmetologists and people
10 who do nails --
11 COUNCILMEMBER FLEMING: Right.
12 ATTORNEY WEED: -- then if that's all they
13 do, then the answer is no, because that zone does not
14 exist.
15 On the schedule, it's been scheduled for
16 some time for what? -- the 31st? -- for you to
17 consider it.
18 MR. HAEBERLIN: Well, actually readvertised
19 it. We didn't get to it last year, and I actually
20 readvertised it to make sure. That's the reason we
21 have the 31st meeting.
22 COUNCILMEMBER BATES: Well, then, motion is
23 to table it to the 31st.
24 COUNCILMEMBER ROCHE: Have we zoned anybody
25 else out of business?

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1 ATTORNEY WEED: Far as I know, Councilman, I
2 don't know we ever zoned anyone out of business.
3 COUNCILMEMBER ROCHE: Well --
4 MAYOR PRO TEM PITTMAN: Mr. Bates, what did
5 you say? I'm sorry.
6 COUNCILMEMBER BATES: Then, let's move this
7 to the 31st.
8 MAYOR PRO TEM PITTMAN: Mr. Roche, you have
9 a motion. Do you want to withdraw your motion?
10 COUNCILMEMBER ROCHE: I don't know why we
11 find ourselves getting legislated into corners all the
12 time. It just amazes me.
13 I think that the intent was clear. I was
14 surprised to see all this language. It seems like the
15 simple language would have just said any type of
16 commercial touching not otherwise regulated by the
17 State is limited to no more than four per 10,000 in
18 the city and been done with it.
19 Instead, we have several paragraphs; we're
20 introducing a whole new legal definition, a whole new
21 legal concept. And I think we're giving a big gift to
22 the foot massage operators in Georgia, and they'll be
23 lining up not with applications but with lawsuits.
24 So since there doesn't seem to be any good
25 answer to this, we don't have anyone that can tell us

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1 a good answer to this, so obviously I guess I have to
2 withdraw my motion.
3 MAYOR PRO TEM PITTMAN: Ms. Fleming?
4 COUNCILMEMBER FLEMING: I withdraw my
5 second.
6 COUNCILMEMBER ALEXANDER: So this will be
7 added to the 31st.
8 MR. HAEBERLIN: If that's the will of the
9 Council, I'll add it.
10 MAYOR PRO TEM PITTMAN: All right. We're
11 going to move into Parks and Recreation Department
12 Needs. Ms. Stephens actually requested if we could
13 please put this on tonight's agenda. Unfortunately,
14 she is ill and cannot be here tonight.
15 Ms. Fleming was appointed by the Mayor as
16 the Parks and Recreation liaison, so she is going to
17 take this item and talk about it. Ms. Fleming?
18 COUNCILMEMBER FLEMING: Thank you.
19 The reason -- the imperative nature in this
20 is that there have been job opportunities listed on
21 GLGA and other Web sites for recreation directors, and
22 that's the reason why the imperative to put it on
23 tonight's agenda.
24 However, in the review of salary histories
25 for all three employees, both Carol Stephens, the

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1 director, Ramon Moseley, the assistant director, as
2 well as Gary Schussler, the athletic coordinator,
3 which, as far as the DCA is concerned, he's considered
4 a recreation specialist, I noticed that the wages for
5 the DCA are well above what we are presently paying
6 all three of these employees.
7 I also had given each of you this evening a
8 list of programs that the Doraville Rec Center offers,
9 and this is -- I believe if you do any type of
10 research regarding our Rec Center, Parks and Rec
11 Department, versus others that I have highlighted in
12 the DCA information, you will find that we are over
13 and above excellence in offering programs both to
14 youth as well as adults.
15 I think our goal in the City of Doraville
16 should maintain loyal employees. Carol's been with us
17 for 32 years; Mr. Moseley's been with us for 10;
18 Mr. Schussler's been here for a year and two months.
19 I have given everyone job descriptions that
20 Mr. Weed and Ms. Stephens and the previous clerk,
21 Rhonda Blackmon, had drafted or crafted. I also gave
22 you the brief descriptions of the job descriptions
23 from DCA as well.
24 I believe Carol is requesting to get her
25 salary in line with not necessarily the high end,

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1 obviously, but each of her -- both her two employees
2 as well as herself to be increased by $5,000 each.
3 Each year, she has definitely given the
4 general budget back thousands and thousands of dollars
5 to help keep the City running -- this year she's on
6 target to again -- and I appreciate all that she and
7 the Parks and Rec department do to give us back more
8 money. She's got $72,000 in part-time budget that
9 haven't even been utilized as yet, so she does indeed
10 have funds in her salary line that could accommodate
11 the $5,000 each.
12 Now, bear in mind, if Ms. Stephens so
13 chooses to retire this year in May, it would only
14 amount to be about $1,632 in regards to her salary.
15 MAYOR PRO TEM PITTMAN: Does anyone have any
16 questions?
17 COUNCILMEMBER PACHUTA: Yeah. I spoke to --
18 well, I didn't speak to her. I communicated with her
19 via e-mail, and I know her concern was Gary had
20 another job offer.
21 I think that this time is not the time to be
22 reviewing salaries when we have mid-year budget
23 reviews coming up. I know this week, Parks and
24 Recreation is not on that schedule, but I assume it
25 will be on one of the future mid-year budget reviews.

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1 I think also we already have on the agenda
2 for February considering doing a salary survey for the
3 entire City. We still have the issue of department
4 heads and the issue of exempt versus exempt versus
5 nonexempt that hasn't been resolved.
6 And though I understand that Ms. Stephens is
7 concerned -- was concerned that Gary had another job
8 offer, I don't see that it's imperative to suddenly
9 prior to the mid-year budget review and prior to the
10 other agenda item regarding a City-wide salary survey
11 to tonight go ahead and look at that. I just -- I
12 don't think it's the appropriate time.
13 COUNCILMEMBER BATES: I think this clearly
14 articulates why we need to do a salary comparison
15 study with our neighboring municipalities. We don't
16 have any understanding of what the job requirements,
17 certification, education requirements are for the
18 neighboring municipalities that are referenced in
19 this.
20 I mentioned that when I presented the DCA
21 study the first time, which was why I didn't want it
22 to be used for salary comparisons, because using as
23 provided and highlighted for us on the recreation
24 specialist, City of Douglas, range of $33,000 to
25 fifty-one/five, but do they require the recreation

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1 specialist to be -- to have a college degree? Do they
2 require them to be certified in a certain expertise or
3 specialty?
4 If we adjust salaries without having
5 information to justify them, I think we're going to
6 open ourselves up. As Mr. Roche has said regarding
7 the massage therapy for lawsuits, I think we're going
8 to open ourselves up to every other department saying,
9 "I'm under budget. Let me use what I'm under budget
10 with to, you know, compensate and take from office
11 supplies to give my employees a raise."
12 I have said publicly, I have provided
13 Council with an e-mail, I think that many of our
14 employees are underpaid based upon these comparable
15 studies. I think that Carol is underpaid based upon
16 her longevity with the City. I would generally
17 support an increase, but I do think that this clearly
18 shows that we need to have a study that looks at not
19 only job responsibilities but job requirements and
20 comparative compensation.
21 COUNCILMEMBER ROCHE: Well, I'm not sure how
22 I would equate giving people raises, with lawsuits.
23 But anyway, as far as market studies, I mean
24 basically people get paid what they're willing to take
25 and what people are willing to pay them. You know, my

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1 customer, my client, they pay me X-number of dollars,
2 and I can either take it or I can leave it, but it
3 still comes down to what people are willing to accept.
4 My concern is that just a month or so ago,
5 maybe six weeks, we did exactly the same thing in a
6 different department. We had money left over in a
7 budget and we took that money and we divided it up
8 amongst other employees and gave other employees
9 within that other department raises, which essentially
10 is exactly the same thing as we're talking about here.
11 We're talking about here taking $72,000 -- part of
12 $72,000 that is budgeted for part-time and
13 redistributing a small percentage of that -- I don't
14 know what the percentage is -- to two current
15 employees to, as some people have said, bring them --
16 actually three, to bring their salaries more in line
17 and make them a little more competitive.
18 COUNCILMEMBER PACHUTA: Well, I --
19 COUNCILMEMBER ROCHE: Because if they leave,
20 then we have to spend the money and time, et cetera,
21 to replace them.
22 COUNCILMEMBER PACHUTA: Well, that's why --
23 COUNCILMEMBER ROCHE: So I don't see where
24 there's a difference between doing it for one
25 department versus doing it for a different department.

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1 COUNCILMEMBER PACHUTA: Well, I --
2 COUNCILMEMBER ROCHE: I think it's exactly
3 the same.
4 COUNCILMEMBER PACHUTA: I see the difference
5 in that. The police department, it was the same line
6 item we had. It is a budgeted position that someone
7 left, leaving money left over.
8 We don't have a budgeted position in
9 salaries from where she's taking this money. It's
10 under part-time employees. I don't know why we have
11 such a large amount in part-time employees. We asked
12 all the department heads during the budget meetings to
13 reduce their budgets, and everyone indicated to us
14 that they were really at the bare minimum of what they
15 could operate, and so now I'm wondering why is there
16 over $70,000 in part-time employees. Is that part-
17 time employees that have left, that were budgeted for
18 and have left and we no longer are going to replace
19 them, like the police department's no longer going to
20 replace the position, or should that money not have
21 been in there in the first place? I think that's why
22 we need to evaluate this under the mid-year budget
23 review.
24 COUNCILMEMBER ROCHE: Well, we should have
25 done the same in the police department. We should

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1 have evaluated that under the mid-year budget review.
2 Same thing.
3 Maybe we budgeted too much money for
4 captains -- not to pick on Chief King, but I think if
5 we're going to be fair, we should be fair across the
6 board.
7 COUNCILMEMBER PACHUTA: Actually, I mean --
8 CHIEF KING: Just want to make sure to give
9 you an update.
10 COUNCILMEMBER ROCHE: I am not.
11 COUNCILMEMBER FLEMING: But Carol was trying
12 to do the same thing for her employees that you did
13 for yours --
14 COUNCILMEMBER ROCHE: Correct.
15 COUNCILMEMBER FLEMING: -- and I commend you
16 for doing that.
17 COUNCILMEMBER PACHUTA: And I think the time
18 to do that --
19 COUNCILMEMBER FLEMING: And I would expect
20 that --
21 COUNCILMEMBER PACHUTA: -- is in her mid-
22 year budget review.
23 COUNCILMEMBER FLEMING: I would expect every
24 one of our directors to be able to stand up for their
25 employees when they have -- feel that they've done an

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1 outstanding job and that their salary levels are below
2 minimum, below the average.
3 COUNCILMEMBER ROCHE: So, then, the
4 appropriate response at the time Chief King presented
5 this to the Council would have been, "Oh, well, we
6 should wait for the budget review before we make these
7 decisions."
8 COUNCILMEMBER PACHUTA: Perhaps we should
9 have done that. Perhaps we opened up a can of worms
10 that we shouldn't have opened.
11 COUNCILMEMBER ROCHE: Fair is fair.
12 COUNCILMEMBER PACHUTA: You know, I just --
13 we're about to pursue the mid-year budget to review to
14 get even an idea of where the City is. We already
15 knew we were going to be at a shortfall, and I just --
16 I understand her concern involved Gary had an existing
17 job offer. And you know, the DCA reports, the reason
18 why we looked into ARC doing a study is because it is
19 a self-reported survey, it does not -- You know, we
20 don't even participate in it, a lot of cities don't
21 participate in it, and we already had that on the
22 agenda, so.
23 MAYOR PRO TEM PITTMAN: Is there additional
24 discussion from anyone?
25 COUNCILMEMBER ALEXANDER: I think one of the

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things, as she conveyed to us, was that she really doesn't want to lose Gary, and I think he only gave her till tonight to see what she could do to help him out.

And as I've discussed with Ms. Fleming, you don't like having your feet held to the fire, but I've been going to basketball games and I've seen him and Ramon in action with all those kids, so, and I know some of the trials and tribulations that she and Ramon had with the previous employee and how that didn't work out.

MAYOR PRO TEM PITTMAN: Ms. Fleming?

COUNCILMEMBER FLEMING: I'd like to make a motion to increase Carol Stephens' salary by $5,000, not only to increase her salary by $5,000, to make that position starting salary or to look at the range study for the recreational director's position.

MAYOR PRO TEM PITTMAN: Do I get a second?

COUNCILMEMBER ROCHE: I'll second that.

MAYOR PRO TEM PITTMAN: Discussion?

COUNCILMEMBER ALEXANDER: I guess I'm not comfortable with the wording of that motion. It also needs to be made an exempt position.

COUNCILMEMBER FLEMING: Yes. I amend my motion to make the recreation department director's

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salary as an exempt employee.

COUNCILMEMBER ROCHE: And I'll second the amendment.

COUNCILMEMBER ALEXANDER: I'm not comfortable in setting the ranges until we have, hopefully, our study done, because that is --

COUNCILMEMBER FLEMING: That was a part B, and I should have . . .

Motion to reconsider my -- I'd like to amend my motion, please.

COUNCILMEMBER ROCHE: You want to start over?

COUNCILMEMBER FLEMING: Yes.

I'd like to make a motion to increase Carol Stephens -- she is our Parks and Recreation department director -- like to have a salary increase of $5,000; Also for the City of Doraville making the Parks and Recreation department director's position an exempt position.

ATTORNEY WEED: And just for the record, Councilman Roche, if you will withdraw your seconds.

COUNCILMEMBER ROCHE: I withdraw my second to the first motion.

ATTORNEY WEED: Now, if someone wants to second that motion.

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MAYOR PRO TEM PITTMAN: Okay. Do we get a second?

COUNCILMEMBER ROCHE: I'll second this motion.

MAYOR PRO TEM PITTMAN: Discussion?

- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: No.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

MAYOR PRO TEM PITTMAN: Motion carried.

COUNCILMEMBER FLEMING: I'd like to make a motion to increase Ramon Moseley's salary by $5,000.

COUNCILMEMBER BATES: I'm sorry. Go ahead.

COUNCILMEMBER ALEXANDER: To $39,731.84?

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COUNCILMEMBER FLEMING: You've got the sheet in front of you, and yes, if that is ...

MAYOR PRO TEM PITTMAN: Discussion?

COUNCILMEMBER BATES: Was there a second?

COUNCILMEMBER ROCHE: I'll second it.

MAYOR PRO TEM PITTMAN: I think he seconded it.

COUNCILMEMBER ROCHE: You didn't ask for it, but I'll second it.

MAYOR PRO TEM PITTMAN: Thank you.

COUNCILMEMBER BATES: And I apologize. I want to go backwards one motion to reduce the part-time employee budgeted line items by the comparable amounts that we're raising the salaries, because --

COUNCILMEMBER FLEMING: I'll be more than happy to make that as a fourth motion if you wish.

COUNCILMEMBER BATES: I think we need to offset the budget --

COUNCILMEMBER FLEMING: Okay.

COUNCILMEMBER BATES: -- with reducing a line item.

COUNCILMEMBER FLEMING: That's fine.

COUNCILMEMBER ROCHE: Sounds fair, but that's a different motion.

COUNCILMEMBER FLEMING: That's going to be a

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1 different motion.
2 MAYOR PRO TEM PITTMAN: Okay. Motion and
3 second. Any more discussion?
4 - - -
5 (No response)
6 - - -
7 MAYOR PRO TEM PITTMAN: Call the roll,
8 please.
9 CLERK McCAIN: Councilmember Alexander?
10 COUNCILMEMBER ALEXANDER: yes.
11 CLERK McCAIN: Councilmember Bates?
12 COUNCILMEMBER BATES: yes.
13 CLERK McCAIN: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: Yes.
15 CLERK McCAIN: Councilmember Pachuta?
16 COUNCILMEMBER PACHUTA: No.
17 CLERK McCAIN: Councilmember Roche?
18 COUNCILMEMBER ROCHE: Yes.
19 MAYOR PRO TEM PITTMAN: Motion carried.
20 COUNCILMEMBER FLEMING: I'd like to make a
21 motion to increase Gary Schussler's salary by $5,000.
22 COUNCILMEMBER ALEXANDER: To $31,998.40?
23 And I assume Ms. McCain will check on those.
24 CLERK McCAIN: I will.
25 MAYOR PRO TEM PITTMAN: Do I get a second?

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1 COUNCILMEMBER ROCHE: Second.
2 MAYOR PRO TEM PITTMAN: Discussion?
3 - - -
4 (No response)
5 - - -
6 MAYOR PRO TEM PITTMAN: Call the roll,
7 please.
8 CLERK McCAIN: Councilmember Alexander?
9 COUNCILMEMBER ALEXANDER: yes.
10 CLERK McCAIN: Councilmember Bates?
11 COUNCILMEMBER BATES: Yes.
12 CLERK McCAIN: Councilmember Fleming?
13 COUNCILMEMBER FLEMING: Yes.
14 CLERK McCAIN: Councilmember Pachuta?
15 COUNCILMEMBER PACHUTA: No.
16 CLERK McCAIN: Councilmember Roche?
17 COUNCILMEMBER ROCHE: Yes.
18 MAYOR PRO TEM PITTMAN: Motion carried.
19 COUNCILMEMBER FLEMING: Thank you very much.
20 MAYOR PRO TEM PITTMAN: Did you want to do a
21 fourth motion?
22 COUNCILMEMBER FLEMING: Yes.
23 Motion to -- what am I motioning? Oh, oh.
24 I'd like to make a motion to reduce the part-time
25 salaries in the Parks and Rec department budget by

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1 $15,000, but I don't think that's going to be correct
2 because we're ready to be in February, and it's
3 $72,000 at that motion, so I'm not sure how the motion
4 should be.
5 COUNCILMEMBER BATES: It should be to reduce
6 the part-time employee line item to a comparable
7 amount that we just passed the increases. So the
8 numbers are not going to be fifteen because you've got
9 --
10 COUNCILMEMBER ROCHE: Right.
11 COUNCILMEMBER BATES: -- insurances and
12 benefits and all that other stuff that needs to be
13 calculated in there.
14 So Madam Clerk, do you understand our
15 general intent?
16 CLERK McCAIN: I do. To offset the part-
17 time line item by --
18 COUNCILMEMBER FLEMING: Increases.
19 CLERK McCAIN: -- what is spent with the
20 additional costs of the $5,000 to each employee?
21 COUNCILMEMBER FLEMING: Please.
22 COUNCILMEMBER BATES: Yes.
23 I'll second your motion for what she said.
24 COUNCILMEMBER FLEMING: Thank you very much.
25 MAYOR PRO TEM PITTMAN: Discussion?

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1 - - -
2 (No response)
3 - - -
4 CLERK McCAIN: Councilmember Alexander?
5 COUNCILMEMBER ALEXANDER: Yes.
6 CLERK McCAIN: Councilmember Bates?
7 COUNCILMEMBER BATES: Yes.
8 CLERK McCAIN: Councilmember Fleming?
9 COUNCILMEMBER FLEMING: Yes.
10 CLERK McCAIN: Councilmember Pachuta?
11 COUNCILMEMBER PACHUTA: Yes.
12 CLERK McCAIN: Councilmember Roche?
13 COUNCILMEMBER ROCHE: Yes.
14 MAYOR PRO TEM PITTMAN: Okay. Motion
15 carried.
16 Department Reports, none; Old Business,
17 none.
18 We're going to move into New Business, which
19 is public hearings. Does anyone need a break before
20 we do that?
21 COUNCILMEMBER FLEMING: Yes.
22 MAYOR PRO TEM PITTMAN: We'll just take a
23 five-minute break.
24 - - -
25 (Brief recess)

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- - -
MAYOR PRO TEM PITTMAN: Next thing is going to be the Public Hearing - Text Amendment Section 904, R-2 District. This is readvertised from 2010. Mr. Haeberlin.
MR. HAEBERLIN: Correct. Mr. Weed sent out a revision at approximately 5:16, and I know you folks have not had an opportunity to print that and see that. And one of the reasons why we did revision is because obviously we've had a change in the Clerk, so the wrong clerk's name was on there. There was a couple typos. And so that is why I'm handing that item out tonight to you. It's the same item you received at 5:16 in an e-mail.
And also, too, you guys have -- you can tell by the text because it's the old text -- you have a copy of the old district as it exists today. That's also at your station.
Basically what we did was we rewrote R-2, and we rewrote R-2 because of the multitude of uses that were allowed in a duplex district. Under the old district, the duplex district really wasn't a duplex district. We have two areas in the city zoned R-2, and neither one of these areas has a single-family house in it; however, R-2 allowed single-family

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houses. So we brought the district back in line for what it is intended to be and what it was built to be, which is duplexes.
And in keeping with the other code rewrites that you did, as you notice if you look through here, that we added things like minimum public road frontage, which didn't exist in the old code; we added impervious surface, a number. But for the most part, we kept the items as they were, simply deleting the provisions that addressed non-duplex construction.
So that is what we're offering tonight. This was reviewed by the Planning Commission, and they did recommend approval of the item as well.
COUNCILMEMBER ALEXANDER: Do you want to take our questions now or your public hearing?
MR. HAEBERLIN: Let's go ahead take your questions because that'll take more time, I'm sure.
COUNCILMEMBER ALEXANDER: One of the questions I had is you doubled the lot size.
MR. HAEBERLIN: Well, that was just for new, for new duplex. Like I said, we have two subdivisions that are R-2 and they're completely built out.
But if we were to acquire a new application for R-2, again, in keeping in line with this concept that these are actually homes where people live

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although they're attached, you know, for the most part, in the city, a 12,000 square foot lot is the standard. So in that case, each home would be afforded its own 12,000 square feet, and that would only be for new zonings in R-2.
We've not had any application for R-2 since I've been here. I don't know that we'll ever receive any because it's kind of a zoning district that people don't utilize much any more.
COUNCILMEMBER PACHUTA: So if someone in the current R-2 wanted to rebuild their duplex, I mean they can do it on the same lot they currently have.
MR. HAEBERLIN: Correct. It would be -- it's a lot of record. They would build another duplex right back where their duplex was.
COUNCILMEMBER BATES: But they couldn't convert the duplex to a single-family home.
MR. HAEBERLIN: That's correct. And in the areas that we have duplexes, they really are built as duplexes.
COUNCILMEMBER BATES: But if they were to tear it down --
COUNCILMEMBER ALEXANDER: Rezoned, I guess.
MR. HAEBERLIN: If they were to tear it down?

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COUNCILMEMBER BATES: Uh-huh.
MR. HAEBERLIN: They would build back the duplex.
COUNCILMEMBER BATES: So they couldn't build back a single-family home.
MR. HAEBERLIN: That is correct, and we have no single-family in the R-2 districts. We do ---
COUNCILMEMBER PACHUTA: But could they make a rezoning request to change the lot --
MR. HAEBERLIN: Property --
COUNCILMEMBER PACHUTA: -- to R-1?
MR. HAEBERLIN: -- to R-1, yes.
We do have a couple duplexes on Tilly Mill Road that are in R-1, and many of those are being converted back to single-family. They were never R-2.
COUNCILMEMBER BATES: Thank you.
COUNCILMEMBER ALEXANDER: Are there any single-family homes on Woodwin Court or is it all duplexes?
MR. HAEBERLIN: All duplexes from what I've seen.
MAYOR PRO TEM PITTMAN: I believe they're all duplexes.
COUNCILMEMBER FLEMING: I believe it's all

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1 duplexes.
2 MAYOR PRO TEM PITTMAN: Uh-huh.
3 COUNCILMEMBER ALEXANDER: Because they were
4 in our area on Windsor Oak, and on English Oak they're
5 side by side.
6 MR. HAEBERLIN: Yeah, without looking at the
7 -- I agree. On the English Oak area, if you don't
8 look at the map, you don't really know where R-2 is,
9 because the homes there, the way they're constructed,
10 I mean they're pretty innocuous as duplexes; you can't
11 see them.
12 MAYOR PRO TEM PITTMAN: There might be one,
13 and I don't know if they've converted. There was at
14 one time, as you go to the very end of the dead end
15 right there in that - that used to be single. It was
16 the only single one there. But I don't know if that's
17 currently a single or not. But as you go to the dead
18 end, it's almost in the corner there and it sits up
19 like this, and that used to be a single. That was the
20 only one there.
21 COUNCILMEMBER ALEXANDER: My concern is just
22 as Councilman Bates said, if one of our residents over
23 in Oakcliff Estates wanted to build a home on their
24 lot, they would have to just apply for rezoning?
25 COUNCILMEMBER BATES: Or if they knocked

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1 down the wall in between the two units and converted
2 it to a single-family, would that --
3 MR. HAEBERLIN: That would be breaching what
4 they had before, which is a duplex.
5 My understanding, a lot of these people
6 actually -- they actually own the whole property but
7 they live in one side and they rent the other side.
8 I mean that's my experience with that area particu-
9 larly, not necessarily Woodwin Court. I think those
10 are all rentals, no owner occupancy.
11 COUNCILMEMBER BATES: I guess my concern
12 would be if someone wanted to convert an R-2 into a
13 single-family home, this precludes them from doing
14 that.
15 MR. HAEBERLIN: That's correct.
16 COUNCILMEMBER BATES: They'd have to go
17 through a rezoning.
18 MR. HAEBERLIN: Correct; because remember,
19 we have a very limited stock of R-2 and those R-2 are
20 very specifically laid-out areas and they have been
21 R-2 since their inception.
22 As far as development pattern, it would be
23 -- I know we talk a lot about spot zoning. Would it
24 be spot zoning to have a single-family house in a
25 duplex district? Arguably, yes. I have not had any

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1 request for anybody to do that. I've only had the
2 people on Tilly Mill Road who had duplex in R-1
3 convert them back to single-family.
4 COUNCILMEMBER FLEMING: Well, in our
5 previous code, we offered the development of single-
6 family into family residences in Section 904, and
7 that's where Mr. Bates is coming from is that if -- if
8 they so chose to --
9 COUNCILMEMBER BATES: I guess my desire
10 would be to try to encourage the conversion of the
11 duplexes into single-family homes. That to me is a
12 better transition than the other way. I don't want to
13 encourage more R-2s --
14 COUNCILMEMBER PACHUTA: Right.
15 COUNCILMEMBER BATES: -- springing up, but I
16 would like to encourage the existing R-2s to convert.
17 I think that's a better plan, a better use, a better
18 growth opportunity. So I'm really concerned that this
19 may be an inhibitor from -- from a conversion
20 standpoint, from an R-2 to an R-1.
21 COUNCILMEMBER PACHUTA: Because I know at
22 least the ones on Windsor Oak, and they're all the
23 same, they lend themselves to easily converting to one
24 because of the shared wall along the living room.
25 I don't know if any of them have converted,

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1 but they do lend themselves to easy, cheap conversion
2 should someone want to convert.
3 COUNCILMEMBER FLEMING: And they have
4 beautiful front yards, they have their own driveway,
5 and I can see that that could be easily changed to
6 single-family dwelling.
7 COUNCILMEMBER BATES: Yeah. I think I'd
8 like to ease the limitations on this to allow for
9 conversions, you know, tear-down, build-backs,
10 redevelopment infills, those types of things into an
11 R-1 scenario, but I don't know how you'd best go about
12 it.
13 MR. HAEBERLIN: I think if that's the city's
14 case, we should pursue actually rezoning the property,
15 whether that's parcel by parcel or the whole
16 subdivision.
17 For example, one of the -- Woodwin Court,
18 for example. I believe you have one property owner
19 there who at some time may say, "They've outlived
20 their useful life. I'm going to tear every structure
21 down and I'm going to rezone the property and put a
22 new subdivision there."
23 I don't know that to be the case off English
24 Oak. I think you've got multiple owners.
25 My suggestion would be if that is the will

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1 of the Council, what we do is we encourage them to
2 rezone to R-1. I mean clearly it's going to meet the
3 requirements for R-1.
4 COUNCILMEMBER BATES: Well, would they be
5 able to have the duplexes under an R-1?
6 MR. HAEBERLIN: Well, no. They're
7 converting it to single-family so it would be a
8 single-family home.
9 COUNCILMEMBER BATES: Okay. I must have
10 misheard what you said. I thought the implication was
11 for us to rezone.
12 MR. HAEBERLIN: Or the applicant. I'm
13 sorry. The applicant. The City; the City,
14 ultimately, per an application, yes.
15 COUNCILMEMBER BATES: Yeah. And I guess
16 ultimately if they wanted to convert a duplex to a
17 single-family home right now, they could without
18 getting it rezoned; is that correct?
19 COUNCILMEMBER ALEXANDER: Yes.
20 MR. HAEBERLIN: Correct.
21 COUNCILMEMBER BATES: It would still be R-2
22 but it would be a single-family usage under R-2.
23 MR. HAEBERLIN: Correct.
24 COUNCILMEMBER BATES: If this passes, they
25 would still be able to convert it to a single-family

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1 home but they'd have to get the parcel rezoned to R-1.
2 MR. HAEBERLIN: Correct. And as you have
3 right now -- and I don't know that you looked at your
4 old wording real closely -- it actually allows a
5 fourplex --
6 COUNCILMEMBER BATES: Right, I saw that.
7 MR. HAEBERLIN: -- in R-2.
8 So what I'm trying to do is get to the
9 district to what they're intended to be and so we know
10 that the land use is consistent from area to area,
11 that R-1 is single-family houses, that R-2 is duplexes
12 and so on.
13 COUNCILMEMBER ROCHE: And I like the idea of
14 getting rid of the fourplexes but I think I may be
15 with Councilman Bates on allowing people to convert
16 from duplex to single-family home.
17 I have another question. On the minimum lot
18 area for duplexes, it says 24,000 square feet. That's
19 a half-acre lot. That's kind of big --
20 MR. HAEBERLIN: Well --
21 COUNCILMEMBER ROCHE: -- I think,
22 particularly if we want to encourage people to go to
23 single-family homes.
24 MR. HAEBERLIN: Well, that's for new lots.
25 COUNCILMEMBER ROCHE: I understand that.

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1 MR. HAEBERLIN: And recall when we
2 originally wrote this, we were going to have this on
3 December 13, so we'd have to address that date. We
4 originally were going to be hashing this out on
5 December 13th, so we'd have to change the date.
6 COUNCILMEMBER ROCHE: I'm sorry. Let's talk
7 about the date in a minute.
8 First I'd like to discuss that the Council
9 that we're talking about a half acre. That's a fairly
10 large lot. It seems like we could have some leeway
11 there, particularly if we wanted to try to encourage
12 people to go to single-family homes.
13 COUNCILMEMBER PACHUTA: That doesn't affect
14 the current lots.
15 COUNCILMEMBER ROCHE: Well, how can you
16 create a lot?
17 COUNCILMEMBER FLEMING: Well, if they tear
18 down the home, though --
19 COUNCILMEMBER PACHUTA: Well, that --
20 COUNCILMEMBER FLEMING: -- to go to R-1, it
21 would be considered infill or new property and they'd
22 have to go by the 24,000, I would think.
23 COUNCILMEMBER BATES: They'd have to go by
24 the R-1 standards.
25 MR. HAEBERLIN: The R-1 standards, uh-huh.

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1 The 24,000 only applies to duplexes, new duplex
2 dwellings. New duplex rezoning, excuse me.
3 COUNCILMEMBER BATES: I'm not really in
4 favor of us allowing -- Let me rephrase that. I'd
5 like to disincentivize new duplexes from coming into
6 the city, and having a large lot requirement, I think
7 does that. This doesn't affect a conversion from a
8 duplex to a single-family home. They'd have to comply
9 with the R-1 requirements, and they may need to get
10 some variances on, you know, setbacks and things like
11 that based upon the lot size. But I'm okay with
12 leaving a stipulation of 24,000 square feet for a new
13 R-2 development.
14 COUNCILMEMBER FLEMING: Okay. The other
15 question I had, I think the 60 percent impervious
16 surface is extremely high.
17 MR. HAEBERLIN: The reason I put that in,
18 because with duplexes you often have -- you have two
19 driveways and you have two service areas, you have two
20 front stoops and, you know, you just create that much
21 more potential for concrete, you know. And I've seen
22 very limited -- we have very few permits come in on
23 duplexes for renovations, and I have seen pretty high
24 impervious limits on those.
25 So I'm kind of concerned about being low

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like at 40 percent. I'm afraid we'll get people coming in saying -- again, unintended consequences -- "I want to add on to my duplex but I'm at 61 percent," and I thought 60 captured most of what I saw.

COUNCILMEMBER BATES: Right, because it was 30, I mean. So I don't know that any of the duplexes --

COUNCILMEMBER ALEXANDER: No.

COUNCILMEMBER PACHUTA: It should be 30.

COUNCILMEMBER BATES: -- met the 30 percent impervious.

MR. HAEBERLIN: No, they probably didn't.

Again, the interesting thing is probably most of your developments in your city, there probably has not been a zoning under that zoning category in a long, long time, probably since most of these developments were built. I would say probably there's not been R-2 zoning since all the things were built. So this district has kind of set out there fallow. It's never been adjusted to where it should be or it's never been accounted, would it work if we actually tried to do a zoning.

COUNCILMEMBER ROCHE: So you're saying that these buildings are not legally zoned?

COUNCILMEMBER PACHUTA: They weren't --

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COUNCILMEMBER ALEXANDER: They were built before --

COUNCILMEMBER PACHUTA: -- built then.

COUNCILMEMBER ALEXANDER: -- probably this existed, 1961.

COUNCILMEMBER ROCHE: So they were in existence before the zoning changes.

COUNCILMEMBER ALEXANDER: Yep, 1961.

COUNCILMEMBER ROCHE: Maybe they should have to get a conditional use.

COUNCILMEMBER ALEXANDER: They were in existence probably before we had that zone.

COUNCILMEMBER ROCHE: I know, I know.

MR. HAEBERLIN: Well, what you always need to account for when you design a district, because you need to actually look at the land use. And as we found out in R-1, when they designed R-1 they never accounted for the land use of the city, because they had a 1,250 minimum square footage, and we know that more than 60 percent of the houses in the city probably didn't meet that.

So what we're doing is thinking in terms of what's there and hoping that we've captured that. I'm not going to say that we might not need to make an adjustment in here later on, but I think we need to

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get this district more in line with what it actually should be versus what it is.

COUNCILMEMBER FLEMING: Well, 60 percent impervious surface on a half acre --

Didn't you say half acre or full acre?

COUNCILMEMBER ROCHE: A new one would be a half acre, 24,000.

COUNCILMEMBER FLEMING: Half acre, 60 percent impervious parking lot area, that's not my design of the city when we're talking about trees and landscaping and so forth and so on. I just -- I'm not comfortable with a higher percentage, I mean.

COUNCILMEMBER ALEXANDER: Doesn't that include the building?

MR. HAEBERLIN: Uh-huh.

COUNCILMEMBER ALEXANDER: That's what I thought.

MR. HAEBERLIN: And with duplexes, typically you have more surface drives and parking areas because they don't have garages. And you also have multiple tenancies usually, so you have several cars. That's my only concern. Whatever number we set it at, it may not work and we may have to go back and adjust it. If it was 45, that may not work.

Again, hopefully we capture as many as we

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can, whatever number is picked.

MAYOR PRO TEM PITTMAN: Any more discussion up here?

COUNCILMEMBER FLEMING: Well, have we decided on the language of being able to include R-1 homes?

COUNCILMEMBER ALEXANDER: They'll just have to apply for rezoning to R-1.

MAYOR PRO TEM PITTMAN: Mr. Haeberlin, do we need to open the public hearing portion?

MR. HAEBERLIN: Yes, ma'am.

At this time, the Mayor Pro Tem has opened the public hearing on this item, R-2.

Anyone who would like to speak in favor of the text amendment, please raise your hand.

- - -

(No response)

- - -

MR. HAEBERLIN: Anybody opposed to the text amendment to R-2, please raise your hand.

- - -

(No response)

- - -

MR. HAEBERLIN: Seeing none, I return it to the Council, and obviously with the specific notation

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that the date not be December 13th, 2010; if the Council so acts on this, make sure that the effective date is tonight in the chart.
COUNCILMEMBER FLEMING: Well, would this not be all right, though?
MR. HAEBERLIN: Well, since we're acting on it tonight, we probably should use tonight's date.
COUNCILMEMBER FLEMING: Okay.
MAYOR PRO TEM PITTMAN: Council, any further discussion up here?
COUNCILMEMBER PACHUTA: I'll make a motion to approve the amended R-2 General Residence District.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER ALEXANDER: Changing the date?
COUNCILMEMBER PACHUTA: Changing the date from December 13th, 2010 to today's date.
ATTORNEY WEED: Where is the date?
COUNCILMEMBER ALEXANDER: In the chart.
MR. HAEBERLIN: Top of the chart, Murray.
MAYOR PRO TEM PITTMAN: We have a motion. Do I get a second?
COUNCILMEMBER ALEXANDER: Second.
MAYOR PRO TEM PITTMAN: Discussion?
COUNCILMEMBER FLEMING: Yes. I would like to note for the record this is Chapter 23, Zoning,

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Section 904.
MAYOR PRO TEM PITTMAN: Okay.
ATTORNEY WEED: Scott, just to clarify, this item has appeared on a previous agenda?
MR. HAEBERLIN: Yes, sir. The reason why December 13th is in there is that that was the night we probably would have voted.
ATTORNEY WEED: Just making sure for the whole first reading then.
MR. HAEBERLIN: Yes, sir.
MAYOR PRO TEM PITTMAN: Additional discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: We have a motion and a second. Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.

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CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion carries.
MAYOR PRO TEM PITTMAN: We are moving to Public Hearing Text Amendment Section 905, R-3 District, Re-Advertised from 2010. Mr. Haeberlin?
COUNCILMEMBER PACHUTA: You're giving us a new one?
MR. HAEBERLIN: Yes, ma'am.
COUNCILMEMBER PACHUTA: Okay.
MR. HAEBERLIN: Again, in keeping with the last one, I want to make sure that you have the one that was sent by Mr. Weed's office at approximately 5:16.
And again, looking at the old ordinance, the same situations exist, because R-3 allowed, again, so many different uses and our multi-family definition is three or more attached dwelling units. Well, it included duplexes. I mean it was, again, back and forth.
The apartment district, your expectation is you're going to go see three or more attached rental units, and this one was decidedly more difficult to rewrite because it's very lengthy and you're making some basic assumptions on how big these units should

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be. And I think that the numbers that I picked for the unit sizes are in keeping with what I found out from real estate agents, again, you know, to be the prevailing sizes.
So as you see there -- And these all come down to semantics again: you know, what do you feel is appropriate for a studio dwelling unit, a one-bedroom, a two-bedroom or three or more units? The trend is smaller, obviously, and that is what we see in apartments. There are more amenities but the units are actually smaller. So setting very high thresholds for apartment sizes for the individual units pretty much ensures we would not have people build multi-family in the city.
Also too the big issue of density is in here. There had been a lot of discussion about the New Broad Street site, but again, there was no ability in the city code to build more than 12 units an acre. And so this provision allowed a density variance to be processed by the Mayor and Council but no more than 50 units per acre. Fifty units an acre is the numbers that I'm getting from multi-family developers where they have an interest, because they have to be able to acquire the property, tear the property down and then rebuild it.

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1 COUNCILMEMBER PACHUTA: So the default is
2 12, which is what it is currently?
3 MR. HAEBERLIN: Correct.
4 COUNCILMEMBER PACHUTA: So, then, a variance
5 would be they applied for.
6 MR. HAEBERLIN: Up to 50. Again, that is in
7 keeping with back when we had a customer, New Broad
8 Street, for the GM site. That's in the area of what
9 they were looking for is 45 to 50 units an acre.
10 COUNCILMEMBER ROCHE: Is there any reason
11 maximum building height's listed twice?
12 MR. HAEBERLIN: That is a typo. It should
13 be the 10 story is subject to FAA approval if within
14 the approach zone.
15 ATTORNEY WEED: Actually, I added the
16 language that you sent me, Scott. Did you want one of
17 these struck?
18 MR. HAEBERLIN: Yes. There is a typo in
19 there.
20 COUNCILMEMBER BATES: The second one should
21 be.
22 MR. HAEBERLIN: The second one should be
23 struck in the table.
24 COUNCILMEMBER BATES: On this, in the
25 existing R-3, there's development provisions and those

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1 are limited with the exception of the number of -- or
2 the maximum density.
3 I was curious as to why the deletion of
4 restrictions on off-street parking, the width of the
5 driveway, the discussions on distances and limitations
6 on the recreation locations -- pool, fence, and those
7 types of things -- were removed from this. I know
8 that the parking is probably covered under our
9 parking, but I don't know that our parking restricts
10 off-street parking. So I just want to get a little
11 bit of understanding as to --
12 MR. HAEBERLIN: Sure.
13 COUNCILMEMBER BATES: -- why these were
14 removed.
15 COUNCILMEMBER FLEMING: And I also had that
16 question, Mr. Bates. But because it is in development
17 provision -- and I look forward to Mr. Haeberlin's
18 comments -- and though these items may be dealt with
19 somewhere else, but because we're calling it
20 development provisions, I think it should be captured
21 within this area.
22 Thank you. Go ahead, Mr. Haeberlin.
23 MR. HAEBERLIN: What I did is the table is
24 now called Dimensional Requirements, and that's in
25 keeping with how we've done every district. You know,

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1 what is the minimum lot, which is what is the minimum
2 lot width, depth, public road frontage, et cetera.
3 I did take out the development provisions
4 and I put them into Minimum Floor Area in your table.
5 I thought it was kind of chaotic, and I also thought
6 as far as implementation, it really limits us. For
7 example, it says each efficiency or unit located on
8 any of the first six floors, 1,000 square feet.
9 COUNCILMEMBER BATES: Yeah. Let me -- I
10 think we're all in agreement that those one-through-
11 fives are good to be done, and you've done a nice --
12 COUNCILMEMBER FLEMING: Start with no off-
13 street parking.
14 MR. HAEBERLIN: Okay.
15 COUNCILMEMBER BATES: -- nice job in
16 consolidating those.
17 MR. HAEBERLIN: Okay. Well, in your parking
18 code, you know, it sets forth a number of spaces and
19 the spaces have to be a certain distance from the
20 units.
21 Now, I perceive when we have future
22 development of multi-family, that they're probably
23 going to have parking garages, and the distances from
24 the dwelling units is probably going to be greater.
25 You're not going to be pulling up in front of the

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1 front door. And so I let that be covered by the
2 parking code.
3 COUNCILMEMBER BATES: Okay.
4 MR. HAEBERLIN: So, I mean, that's kind of
5 the approach I -- you know. In looking at most of the
6 multi-family which is density driven, it is centered
7 on a parking garage.
8 COUNCILMEMBER FLEMING: But we can't assume
9 that, though.
10 MR. HAEBERLIN: I think we should certainly
11 encourage that and we should avoid surface parking
12 which is a wasteful use of land. At high densities,
13 you really need to use very efficient use of your
14 land. And again, that was thinking in terms of what
15 R-3 would become, not necessarily what R-3 was today.
16 COUNCILMEMBER BATES: And I agree with you.
17 I think for me I just wanted to make sure that we had
18 it covered because this very clearly says no off-
19 street parking shall be permitted, and I don't know
20 that our existing parking code clarifies or addresses
21 that.
22 I'm with you on encouraging parking garages.
23 I think the apartment communities that we've got today
24 are a thing of the past and should never, ever be
25 repeated. But I was concerned about the off-street

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1 parking provision, because what I don't want to have
2 happen is Shallowford Gardens gets redeveloped, and
3 all of a sudden because this is gone, we're allowing
4 people to park on Shallowford Road, even though
5 there's no parking on Shallowford Road.
6 Thank you, Chief.
7 MR. HAEBERLIN: Correct.
8 COUNCILMEMBER BATES: Bad analogy, but the
9 analogy I think is applicable nonetheless.
10 MR. HAEBERLIN: Okay.
11 COUNCILMEMBER BATES: Did that make sense?
12 MR. HAEBERLIN: Yes. I'm following you.
13 COUNCILMEMBER BATES: And we at present
14 don't have a dumpster ordinance that we like, so I'm
15 happier keeping --
16 MR. HAEBERLIN: You have a dumpster
17 ordinance. We don't like it but we have one.
18 COUNCILMEMBER BATES: But I'm happier
19 keeping -- as Ms. Fleming has indicated, I'm happier
20 keeping some of the development provisions duplicative
21 especially when we're dealing with a significant
22 potential development piece that is not going to come
23 and go; it will be there -- if it comes, it'll be
24 there for a very long period of time. And I want to
25 make sure that even if we're not covering in our

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1 dumpster ordinance that we don't like now, that we've
2 got some strengthened requirements in this as well as
3 we'll get to the R-4.
4 And then to me the most -- I don't know that
5 it's most important, but the biggest piece was the
6 recreation pieces that stipulate. I don't know that
7 we cover swimming pools anywhere in our code as far as
8 requiring them to have fences, certain height fences,
9 distances from locations, and to me, these were some
10 safety-net provisions that would help make sure that
11 the developer understands this is specifically what
12 you need to do for this multi-family development.
13 MR. HAEBERLIN: Well, a swimming pool is an
14 accessory structure and so it only would be in a rear
15 yard, so that would cover that. We worked on
16 accessory extensively in the accessory structure code.
17 The pool -- many communities used to have
18 what they call a pool ordinance, and that is actually
19 now part of the International Building Code, and so we
20 have the ability to regulate swimming pools by way of
21 the building code. So it might be something that you
22 want to put in some development regulations on how you
23 would like that fence to look, like for example, a
24 black fence or what-have-you. But I think there are
25 adequate protections for ensuring the fence is going

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1 to be there because it's a commercial swimming pool,
2 so that's taking care of. And the accessory, again,
3 cannot be in the front, so it is going to be in an
4 internal location.
5 COUNCILMEMBER FLEMING: And that --
6 COUNCILMEMBER ALEXANDER: If I can ask my
7 question too. My big concern is the drive not being
8 less than 18 feet. I do not ever want the City to
9 have another build-out like we have over there at
10 Avery Park where you can't get a fire truck in there.
11 COUNCILMEMBER BATES: Right.
12 COUNCILMEMBER FLEMING: Right.
13 MR. HAEBERLIN: Well, I mean that, believe
14 it or not, is taken care of by your existing parking
15 ordinance now because you're supposed to have a 24-
16 foot drive. And I don't know how Avery Park got to
17 the way it was, but I think that was a settlement
18 agreement with the City. But your existing parking
19 code right now requires 24 feet for a two-way. It
20 would require 12 for a one-way. But then again the
21 fire marshal could increase that amount if he didn't
22 think there was appropriate radius. So that's kind of
23 how that works into the situation.
24 COUNCILMEMBER FLEMING: 24-foot street
25 width.

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1 MR. HAEBERLIN: Well, 24-foot driveway
2 width. So for example, pick something, if Pinetree
3 was going to restripe their parking lot and they were
4 going to have a two-way drive, it would have to be 24
5 feet internal to the site. And if they were having
6 one way going up a parallel line to pull off, they'd
7 have to have 12 unless the fire marshal required
8 larger.
9 COUNCILMEMBER ROCHE: What about green
10 space? I mean how is the tree ordinance -- I mean
11 some of these buildings are only 30 feet apart.
12 COUNCILMEMBER BATES: Well, that's dictated
13 by the maximum impervious lot coverage.
14 MR. HAEBERLIN: And I think that needs to be
15 high, and I'll tell you why. Again, with these
16 communities, the large amount of quote/quote green
17 space or just lawns is not really what they're doing
18 today. They are doing that in some respects; they're
19 having developed gardens and they're having outdoor
20 kitchens and swimming pools. They are having a dog
21 run area usually. But it's more focused on interior
22 amenities like health clubs and, you know, banquet
23 rooms and things -- wifi rooms, things like that. The
24 focus is more now on common amenities that are inside.
25 COUNCILMEMBER BATES: But to Mr. Roche's

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1 question, the tree ordinance would stipulate the
2 number of trees that would be required on any
3 developmental lot.
4 MR. HAEBERLIN: Correct. And that tree
5 ordinance allows you basically you either meet it on
6 site with three-inch caliper trees that are eight feet
7 in height or you contribute to the tree bank.
8 And some of these properties, again, looking
9 at configuration -- And they're unusual lots. The
10 three that we have are very unusual lots. The
11 configuration is such, I hope we would retain some of
12 the existing tree coverage because they've got some
13 nice tree canopy. If not, if they chose to take those
14 down, it would either meet on-site or they would pay
15 the tree bank.
16 COUNCILMEMBER ROCHE: This looks like --
17 when I was a little boy, I lived in a place in
18 Cambridge, Massachusetts, and that would certainly
19 meet the requirements for this. They would be able to
20 build this. We used to call it "the projects." They
21 eventually tore it down, but I mean there was no -- it
22 was all cement, it was all -- I mean there's nothing
23 here for green space whatsoever other than, you know,
24 yes, you have to plant a couple trees. But you don't
25 even have to plant those trees. It's cheaper maybe to

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1 just put some money in the tree bank fund.
2 I just have this vision of the GM plant,
3 just, you know, low-income high-rise, eight-story,
4 nine-story concrete projects, and I don't see how this
5 would prevent that. I mean yeah, maybe they got an
6 indoor swimming pool and a pool table downstairs but I
7 don't see how this would prevent that.
8 MR. HAEBERLIN: Well, you would still --
9 COUNCILMEMBER ROCHE: I think there should
10 have to be some sort of a provision for green space or
11 something other than cement. I mean that's 20 percent
12 -- Wait a minute. Ten percent would be grass, I mean
13 ten percent would be trees. I mean that's -- to me,
14 I've just got real concerns about this.
15 COUNCILMEMBER FLEMING: I do too on the
16 impervious lot area. And I don't mean to take your
17 thunder; if you want to continue, go ahead. But I
18 really have a problem with the 80 percent coverage.
19 COUNCILMEMBER ROCHE: And to Mr. Bates'
20 point about, you know, recreational areas or whatever,
21 there's nothing.
22 COUNCILMEMBER FLEMING: You made a comment
23 about the pools have to be in the rear. Well, a lot
24 of times apartment complexes -- and though we're not
25 touching on condominiums on this particular area,

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1 they've got a common center for meetings and so forth,
2 and they will have the pool there in the front of the
3 complex or in various and sundry areas not
4 specifically in the rear of the most farthest
5 building. So I think we got -- This needs to be
6 addressed whether it's an accessory or not. We were
7 talking about accessories for R-1, and I don't think
8 we were really considering those to be accessories for
9 R-4 and R-3. So I mean they are accessories, mind
10 you, but I don't think we can actually say that they
11 have to be in the back of the back of the building.
12 So I'm really concerned about that.
13 I really feel that we need to include the
14 verbiage that was on page 40 starting with no off-
15 street parking; increase, if necessary, the 18 feet
16 wide driveway to 24 feet if that's what our standard
17 is right now.
18 Do you agree with that, Ms. Alexander, or
19 just leave it as 18?
20 COUNCILMEMBER ALEXANDER: 18 is the standard
21 or 24 is the standard?
22 MR. HAEBERLIN: 24 is the standard.
23 COUNCILMEMBER ALEXANDER: Okay.
24 MR. HAEBERLIN: But again, that is in your
25 parking layout requirements of the code.

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1 COUNCILMEMBER FLEMING: So change it to 24?
2 COUNCILMEMBER ALEXANDER: Well, we'll have
3 to include it because it's not in here.
4 COUNCILMEMBER FLEMING: No, but what I'm
5 trying to do is include everything that was not
6 included. Right now, the code does have it.
7 COUNCILMEMBER ALEXANDER: I understand.
8 MR. HAEBERLIN: It does have, but it
9 conflicts with the rest of the code.
10 COUNCILMEMBER ALEXANDER: This says off-
11 street parking; it doesn't say on-street parking.
12 COUNCILMEMBER BATES: That's correct; it's
13 incorrect.
14 COUNCILMEMBER ROCHE: Yeah, it's backwards.
15 COUNCILMEMBER BATES: The code as it's
16 written has a number of errors in it, and this says no
17 off-street parking shall be permitted, but it should
18 read no on-street parking, I think?
19 COUNCILMEMBER ALEXANDER: Well, I think
20 they're telling you you can't park on the grass.
21 MR. HAEBERLIN: Well, back when this was
22 developed, they were saying that on-street parking
23 shall not be allowed in the front yard. Well, all
24 your apartments have parking in the front, so I mean
25 it didn't work with what they had back then.

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COUNCILMEMBER ROCHE: I think this needs more work.
And I guess I just had one more question. This says apartments, rental dwelling units. I mean maybe there's -- is there an R something else for condominiums?
COUNCILMEMBER ALEXANDER: Uh-huh.
COUNCILMEMBER BATES: Yes, R-4.
COUNCILMEMBER ROCHE: And so if I wanted to convert my apartment house to condominiums or some of the units, would I have to get it rezoned?
COUNCILMEMBER BATES: Well, I don't know that it -- Let's go hypothetical: If Post were to put in a unit over at, you know, the GM property, I don't know that Post Properties would allow you to convert your apartment to a condominium.
COUNCILMEMBER ROCHE: Well, but I mean there's places like, you know, our favorite place downtown there where they have a mixture of condominiums and apartments, Atlantic Station. I think one side of the street has condos, the other side of the street has -- or something like that.
COUNCILMEMBER PACHUTA: It's probably mixed-use zoning.
COUNCILMEMBER ROCHE: And plus people have

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been known to buy condominiums and rent them out too.
COUNCILMEMBER PACHUTA: Well, that doesn't make it an apartment complex. It's still a condo.
COUNCILMEMBER ROCHE: Okay.
COUNCILMEMBER FLEMING: I'm not comfortable with 10 stories at all.
COUNCILMEMBER ROCHE: Yeah. It just seems kind of high.
COUNCILMEMBER FLEMING: And the other question I had was could you tell me what the minimum building setback from the street requirement is, please?
MR. HAEBERLIN: The front yard? It's 20 feet.
COUNCILMEMBER FLEMING: So we're going to stick a 10-story building 20 feet from the street?
MR. HAEBERLIN: Well, I mean you could certainly add plus five feet for each story over three stories or whatever. You know, of course downtown Atlanta is a different situation, but you know, large story buildings are set close to the street and probably closer than 20 feet. But you could add something like, you know, adding five feet setback for each one story over whatever you think is appropriate -- three stories or whatever.

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COUNCILMEMBER FLEMING: I just don't want to see Doraville, when we're writing this, it looks like downtown Atlanta to me. It doesn't, you know -- I think it is taking away the character of Doraville. I don't think we should have 10 stories here.
COUNCILMEMBER PACHUTA: I think, though, then you're getting rid of the parking requirements. And the larger the building, the more parking requirements you're going to have to have, and the further you push it back from the street, you're going to be getting rid of those parking -- you're going to be encouraging more parking in the front versus parking in the rear.
MR. HAEBERLIN: Well, and there was no magical number on building height, folks. The only thing I looked at was, you know, what we had been told about the flight zone and that people certainly felt we could accommodate 10 stories. I think even the NBS proposal was six, I think.
COUNCILMEMBER ALEXANDER: I believe the parking garage is eight, seven or eight.
COUNCILMEMBER BATES: The one up here?
COUNCILMEMBER ALEXANDER: I think so.
COUNCILMEMBER BATES: Well --
COUNCILMEMBER FLEMING: I know, but we're

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talking about -- This is residential. We're talking about yes, a lot of density. But 10 stories just -- I don't know. I'm not comfortable with 10 stories at all, whether it be on the GM property --
And there again, we shouldn't even be considering it because we're going to either -- once something happens, it's going to be a PUD or mixed use or something. It won't even be R-3 or R-4. It'll be a whole different characteristic.
MR. HAEBERLIN: I wouldn't necessarily agree with that. And it's not out of disrespect. It's just what we looked at. You know, PUDs just don't work. They just don't work. And a mixed-use zoning would be great, but what we're getting is more conventional development proposals.
I think we'd be safe if we had something to offer somebody that already meets a number of their needs, and that's one of the reasons why I'm trying to rewrite this is I don't want people coming to us where we don't have anything to offer them, whether it be eight stories or six stories or 10. They're certainly looking for density, and to get them to come here, they want density.
COUNCILMEMBER ROCHE: So which neighborhood wants a 10-story building in their neighborhood?

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1 COUNCILMEMBER BATES: We've got limited
2 locations of where R-3 is currently zoned.
3 MR. HAEBERLIN: That's correct.
4 COUNCILMEMBER BATES: You know, I'm looking
5 at, you know, Shallowford Gardens and --
6 MR. HAEBERLIN: Pebblewood.
7 COUNCILMEMBER BATES: -- you know,
8 Pebblewood and --
9 MR. HAEBERLIN: Wynnchase.
10 COUNCILMEMBER BATES: Those, I don't want to
11 duplicate that. Those are unsightly developments.
12 This to me encourages new developments like
13 what's happened in Chamblee, in Sugar Hill, in, you
14 know, downtown Marietta where there's -- you know,
15 midtown where Post Parkside -- you know, that building
16 is 12 feet away from Tenth Street and it's eight
17 stories high, and it looks absolutely amazing.
18 You know, I don't want us to get caught up
19 in what we've got now and trying to replicate that,
20 because what we've got now I think is atrocious. I
21 don't think it does our city well.
22 You know, I look at the apartments over, you
23 know, in your neck of the woods, you know, off of
24 Oakcliff, and while they're not in the city limits, I
25 don't like them, I don't think they enhance our city;

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1 whereas -- and I can't think of the name of the
2 apartment complex that's right there at Peachtree
3 Industrial and --
4 MR. HAEBERLIN: The Battery?
5 COUNCILMEMBER BATES: The Battery, thank
6 you. Yeah. I look at that, which is --
7 What's that side street? It's like Strait
8 Street?
9 COUNCILMEMBER ALEXANDER: Malone or Broad or
10 something?
11 MR. HAEBERLIN: Yeah. I don't remember.
12 COUNCILMEMBER BATES: Yeah. It's off
13 Malone.
14 COUNCILMEMBER FLEMING: But it's not 10
15 stories tall.
16 COUNCILMEMBER BATES: It's got to be six or
17 seven.
18 MR. HAEBERLIN: Well, I --
19 COUNCILMEMBER BATES: And I don't disagree
20 with you on the 10. I'm not necessarily arguing for
21 10 because I can be convinced to go lower than that.
22 But what I don't want to do is replicate the
23 code that we've got that has got us what we've got
24 now. I think we need to progress and move forward and
25 change and encourage developers. I would love nothing

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1 more than somebody come and buy Shallowford Gardens up
2 and build something new there.
3 COUNCILMEMBER PACHUTA: It's not going to
4 happen unless we change it because there's no money --
5 COUNCILMEMBER BATES: There's no incentive.
6 COUNCILMEMBER PACHUTA: -- in -- What is it?
7 12 per acre? You can't tear down, build and make a
8 profit at 12 per acre.
9 COUNCILMEMBER BATES: And those units are
10 two stories high.
11 COUNCILMEMBER FLEMING: And I understand
12 where you're going with that, but when you consider
13 the -- again, I'll use the word character. The
14 character around that area is commercial. But you go
15 to stick a 10-story right up on the street in Oakcliff
16 on English Oak, I believe we're going to have a little
17 bit of problem with the R-1s.
18 COUNCILMEMBER BATES: No, and I'm not -- I'm
19 not arguing about --
20 COUNCILMEMBER FLEMING: So when --
21 COUNCILMEMBER BATES: -- the 10.
22 COUNCILMEMBER FLEMING: -- we consider.
23 COUNCILMEMBER BATES: I'm flexible. I'm
24 flexible.
25 COUNCILMEMBER FLEMING: Okay.

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1 COUNCILMEMBER BATES: Well, and your key
2 there is if that happens, that's going to be a
3 rezoning. Well, in many cases it will be.
4 COUNCILMEMBER ALEXANDER: No.
5 COUNCILMEMBER FLEMING: Well, if it's an
6 R-3 --
7 COUNCILMEMBER ALEXANDER: It's an apartment
8 complex.
9 COUNCILMEMBER FLEMING: -- it won't.
10 MR. HAEBERLIN: In that case, correct.
11 COUNCILMEMBER ROCHE: I'm trying to see the
12 R- --
13 COUNCILMEMBER ALEXANDER: We have an
14 apartment complex on English Oak.
15 COUNCILMEMBER PACHUTA: That's R-3.
16 MR. HAEBERLIN: Correct.
17 COUNCILMEMBER FLEMING: Right.
18 MR. HAEBERLIN: I know where you're talking
19 about. Behind --
20 COUNCILMEMBER FLEMING: So the proposed --
21 MR. HAEBERLIN: -- the duplexes.
22 COUNCILMEMBER FLEMING: -- would be that
23 they -- that right there on English Oak and Windsor.
24 Windsor and English Oak, you have a 10-foot right up
25 against the street. No off-street parking. You'd

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have to have a parking deck. It would ruin the character of Oakcliff.
COUNCILMEMBER ROCHE: Yeah. I'm not sure I'd want a 10-story building here looming over this neighborhood here by Cary Reynolds.
COUNCILMEMBER FLEMING: So we need to -- You know, there may be some -- I'm sorry. I can't --
COUNCILMEMBER ALEXANDER: The apartments on Aztec, they're toward Chestnut.
COUNCILMEMBER BATES: Yeah. That's nowhere near Cary Reynolds.
MR. HAEBERLIN: I have an idea.
COUNCILMEMBER ROCHE: No. Well, I mean it's got all this.
COUNCILMEMBER BATES: That's the Chestnut -- That's McClave.
COUNCILMEMBER ROCHE: I understand that, but what I'm saying is would you want a 10-story building here overlooking all these houses? Personally, no. I mean six maybe, but 10 just seems -- it was kind of like the whole thing with Star Towers, you know, did you want 20 stories overlooking, you know, my back yard? Not particularly.
MR. HAEBERLIN: What you could do is say X stories subject to FAA approval if within the

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appropriate zone, providing not adjacent to R-1. If adjacent to R-1, whatever, some number.
COUNCILMEMBER BATES: I'm good with that.
COUNCILMEMBER ROCHE: You got R-3 next door to my house here, okay. You got R-3 next door to these right here.
COUNCILMEMBER PACHUTA: Well, and Scott --
COUNCILMEMBER ROCHE: So you're talking 10 stories --
COUNCILMEMBER BATES: And Scott just --
COUNCILMEMBER ROCHE: -- next door to my house.
COUNCILMEMBER BATES: Scott just addressed that for you.
MR. HAEBERLIN: Whatever number that is.
COUNCILMEMBER BATES: If you would have listened --
COUNCILMEMBER FLEMING: But that's considered RCH.
COUNCILMEMBER BATES: If you would have listened to what he said, that would have addressed that. He clearly said you could have, you know, X-number of stories subject to FAA approval within an approach zone unless it's next to a residential-zoned property and then it would be less than that.

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COUNCILMEMBER ROCHE: Well, it would have to be much, much less than that.
MR. HAEBERLIN: Let's use the word residential detached. That way, it encompasses R-1 and RCH.
COUNCILMEMBER ROCHE: Well, but that doesn't protect R-4C, though.
COUNCILMEMBER BATES: Those are RCH.
COUNCILMEMBER ROCHE: These are the townhouses.
MR. HAEBERLIN: Well, correct, and that's a different zoning category than what we're looking at.
COUNCILMEMBER ROCHE: Right. Well, that's what I'm concerned about, though, is I don't want the people that live in the townhouses suddenly to have this big view of a huge building.
Personally, I think this whole thing needs a little more work. I don't have this problem with it so much over here in the commercial areas, but this stuff that abuts the residential areas, I've got a lot of concerns, and I don't think that was really considered.
COUNCILMEMBER BATES: Those apartments that are there on Aztec next to -- next to Chestnut are two-story right now.

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COUNCILMEMBER ROCHE: Yeah. And I don't have a problem if they go maybe three or four, but first of all, I think that people --
COUNCILMEMBER BATES: Well, that's what we're trying to get from you is what would be an acceptable height. You say that it's not workable, that it needs a lot of work but you're not offering any solutions.
COUNCILMEMBER ROCHE: Well, my solution would be four stories.
COUNCILMEMBER BATES: Well, then, say four stories.
COUNCILMEMBER ROCHE: Okay. Four stories.
But there are some other things in this that we also discussed about adding back also.
MAYOR PRO TEM PITTMAN: Okay, Council, what do we wish to do? Do we want to do the changes tonight? Do we want to go back to the drawing board with it? I know we still have to have a public hearing but what are your wishes?
COUNCILMEMBER ALEXANDER: I'm good with Scott re-reading his suggestions on changing the maximum building height, if you know what you said.
MR. HAEBERLIN: You guys tell me. I mean if it's not adjacent to single-family detached, what

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1 number do you want to start with?
2 COUNCILMEMBER ALEXANDER: Or RCH.
3 MR. HAEBERLIN: Well, single detached.
4 COUNCILMEMBER BATES: If it's not attached,
5 if it's in a commercial zone.
6 MR. HAEBERLIN: Okay.
7 COUNCILMEMBER BATES: So let's take the
8 residential component out of it.
9 MR. HAEBERLIN: Okay.
10 COUNCILMEMBER BATES: If it's over there on
11 New Peachtree, Shallowford Road, those areas, eight?
12 Council, eight?
13 COUNCILMEMBER ALEXANDER: That's fine.
14 COUNCILMEMBER BATES: Eight.
15 COUNCILMEMBER ROCHE: I could go for eight
16 over there, I guess.
17 COUNCILMEMBER BATES: And if it is attached
18 to or adjacent to R-1/RCH/R-4, then per Mr. Roche's
19 suggestion, which I think is fine, four.
20 COUNCILMEMBER ROCHE: Four.
21 MR. HAEBERLIN: Okay. Got it.
22 COUNCILMEMBER BATES: Now, Mr. Roche, what
23 other concerns do you have with the document?
24 COUNCILMEMBER ROCHE: Well, I had some
25 concerns were brought up earlier about some of the

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1 existing language that wanted to be brought forward.
2 COUNCILMEMBER BATES: And I believe
3 Ms. Fleming was talking about adding that back in.
4 COUNCILMEMBER ROCHE: Right. I'm done.
5 COUNCILMEMBER PACHUTA: So Scott, do you
6 have any concerns about adding back in that language,
7 although I think the off-street parking needs to be
8 reworded starting at no off-street parking, you know,
9 all the way through the --
10 MR. HAEBERLIN: Yeah. The way that whole
11 thing is written is really weird like street center-
12 line and all that.
13 I mean it's just -- I mean you could just
14 say no parking will be allowed in the front yard,
15 period, if that's what your intention is.
16 COUNCILMEMBER ALEXANDER: I don't think
17 that's what our intention is.
18 COUNCILMEMBER BATES: I will admit that I
19 misread that. I read --
20 COUNCILMEMBER FLEMING: I read it the same
21 way you did.
22 COUNCILMEMBER BATES: I read it as you can
23 park on the street or you can't park on the street.
24 COUNCILMEMBER FLEMING: Right.
25 COUNCILMEMBER BATES: That's how I read it.

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1 COUNCILMEMBER FLEMING: That's the way I
2 read it too.
3 COUNCILMEMBER BATES: And I will admit that
4 I misread it.
5 COUNCILMEMBER PACHUTA: Okay.
6 COUNCILMEMBER BATES: It looks -- it was
7 written very poorly.
8 COUNCILMEMBER PACHUTA: Okay. So do we need
9 that at all, anything about parking?
10 COUNCILMEMBER ROCHE: It should say no on-
11 street parking.
12 COUNCILMEMBER BATES: Well, the way it's
13 written, I think -- and Ms. Alexander has said it
14 correctly that it says you can't park in your front
15 yard, you can't park on grass in front of the
16 apartment complex, which doesn't make any sense.
17 MR. HAEBERLIN: I would just say if we're
18 going to keep it in any fashion, we'd say all parking
19 shall be on site and shall not be located within a
20 front. And that, I think, covers a lot of concerns.
21 COUNCILMEMBER PACHUTA: Because that means
22 parking has to be in the rear, et cetera.
23 COUNCILMEMBER BATES: Well, it can't be on
24 the street. It has to be on site.
25 MR. HAEBERLIN: Correct.

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1 COUNCILMEMBER BATES: Yeah. I'm good
2 with . . .
3 MR. HAEBERLIN: And I think we should bring
4 you guys back another text copy --
5 COUNCILMEMBER BATES: I agree.
6 MR. HAEBERLIN: -- so we're getting to the
7 end here of how . . .
8 COUNCILMEMBER FLEMING: But don't -- but you
9 said on site but then you came back and said but not
10 in the front.
11 MR. HAEBERLIN: Correct. It's your
12 intention that you don't want cars in that 20-feet
13 area; correct? You want to see green stuff.
14 COUNCILMEMBER BATES: That would be my
15 preference. My preference would be to eliminate
16 parking from the street to the first building --
17 COUNCILMEMBER PACHUTA: Yeah.
18 COUNCILMEMBER BATES: -- so that you're
19 seeing sidewalks, trees, grass, gardens but no cars.
20 COUNCILMEMBER ALEXANDER: And this is only
21 going to affect new developments. It's not going to
22 affect the rebuild of the building over here at
23 Wynnscape that burned.
24 MR. HAEBERLIN: I don't think it's going to
25 affect it because that is really a planned

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development. And other than putting that building back exactly the way it is, I can't foresee anything being done there -- no expansion, no bigger; just that building. If that's what they're going to do with that site, that's what they need to do.

COUNCILMEMBER BATES: And Council can argue on this, but I really don't want to see -- If we're going to allow a new multi-family unit to go in, to Mr. Roche's point about having green space, the less we encourage parking between the street and the first building, the more we have for winding sidewalks, wider sidewalks, grass, trees, things like that. So I think I agree and like Mr. Haeberlin's suggestion of all parking shall be on site and no parking in the front yard, basically.

COUNCILMEMBER FLEMING: Yeah, but that's -- the reason he said it was 20 feet from the street.

COUNCILMEMBER BATES: Correct.

COUNCILMEMBER FLEMING: And that's probably from the centerline; is that correct?

MR. HAEBERLIN: No. That's from the pin.

COUNCILMEMBER FLEMING: Okay. So the minimum building setback is 20 feet. That's not an awful lot of grass and not an awful lot of sidewalk.

COUNCILMEMBER BATES: Sure it is.

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MR. HAEBERLIN: Well, compared to our commercial districts, that's a lot because our commercial districts are just almost a hundred percent impervious, but yes, it's more.

COUNCILMEMBER ALEXANDER: I guess I just want to clarify. Where I previously lived, the buildings that fronted the road did not have parking between the building and the road, but once you got into the complex, and my building faced this way (indicating), I parked in front of that building.

MR. HAEBERLIN: That's correct.

COUNCILMEMBER ALEXANDER: So what --

MR. HAEBERLIN: And they could do that too.

COUNCILMEMBER ALEXANDER: -- is your definition of front here?

MR. HAEBERLIN: It would be in the zoning code -- what the zoning code describes as the front.

COUNCILMEMBER ALEXANDER: I guess that's what I'm trying to clarify.

MR. HAEBERLIN: The 20 feet.

ATTORNEY WEED: Want me to tell you?

MR. HAEBERLIN: The 20 feet.

COUNCILMEMBER ALEXANDER: So it's going to be the main first building that fronts the main road.

MR. HAEBERLIN: The public right-of-way.

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COUNCILMEMBER ALEXANDER: So I would still be able to go in and park in front of my building because it doesn't front the road.

MR. HAEBERLIN: If they wanted to design a zigzag pattern where everybody came in on the interior and parked in front of their units, they could still do that.

COUNCILMEMBER ALEXANDER: Because this, the front building faced this way and my building was like that (indicating) --

MR. HAEBERLIN: I understand.

COUNCILMEMBER ALEXANDER: -- and I could park there.

MR. HAEBERLIN: You parked in the back.

COUNCILMEMBER ALEXANDER: Well, no, but --

MR. HAEBERLIN: Kind of/sort of.

COUNCILMEMBER ALEXANDER: -- there was parking in the back too. We had parking on both sides.

MR. HAEBERLIN: Did you have an aisle-way that came from the parking interior?

COUNCILMEMBER ALEXANDER: (Nods head)

MR. HAEBERLIN: Okay.

COUNCILMEMBER ALEXANDER: And it's three stories.

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MR. HAEBERLIN: Correct. Okay. So yeah, there's all sorts of things you can do to avoid having parking in the front. That's one of them.

People are still using the traditional unheated hallways, and some people are getting away from that. And you'll notice where they have the unheated hallways now, they're like three times wider than they used to be, to accommodate move-in/move-outs, and they usually face on like a parking garage like a central court area. So you can park in the parking garage and walk over onto your balcony area and go into your building, and nobody sees that because that's all internal.

COUNCILMEMBER FLEMING: And I would like to see the recreational facilities paragraph included in the new draft as well. But as far as the accessories, the way that it appears in the accessory, it has to be behind, you know, in the back-back of the building. I don't think that should apply to R-3 or R-4.

MR. HAEBERLIN: Well, I mean, I think we will have people who do swimming pools and there will be people who don't, but the trend seems to be, from what I see from looking at the apartments that I've looked at is swimming pool and fitness center, and that's something that residents demand, essentially.

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I still have concerns about having the swimming pool facing a road. I would want it internal to the site particularly. I mean it's just you're inviting prying eyes.

And from my perspective, like at my home, if the locality allowed me to put a swimming pool in front of my house, and I had children, I would not want the swimming pool in front of my house. I'd want it behind it. So to me, it's a protectionist approach to having the pool internal to some compound.

COUNCILMEMBER FLEMING: But the way that we presently have the accessory code written is that you indicated that it would have to be in the back-back of the building, and that's what I'm trying to indicate.

I don't think that in apartment complexes or condos, that we should require them to have it in the back-back of the building, of the last complex.

COUNCILMEMBER BATES: It could be in the center.

COUNCILMEMBER FLEMING: I think there should be some --

COUNCILMEMBER ALEXANDER: It could be in the center just behind the clubhouse.

COUNCILMEMBER FLEMING: But that's what I'm saying, but it's not --

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COUNCILMEMBER PACHUTA: Hidden from the main road.

COUNCILMEMBER FLEMING: Yeah. And that's probably the proper way to say it, verbiage to say it, is that it must be not visible --

COUNCILMEMBER BATES: Not visible from --

COUNCILMEMBER PACHUTA: The main thoroughfares.

COUNCILMEMBER FLEMING: The main road, main thoroughfares.

COUNCILMEMBER BATES: Mr. Weed, front yard?

ATTORNEY WEED: There are two definitions. There's frontage lot means the distance for which the front boundary line of the lot and the street line are coincident. And there is lot, comma, frontage means that portion of a lot adjacent to a street.

So just to be clear on the parking, it's okay to park in front of your building just as long as the front of your building is not the street.

MR. HAEBERLIN: Correct.

COUNCILMEMBER PACHUTA: And the same with the pool.

COUNCILMEMBER BATES: Right. It's okay to have a pool in the complex just as long as the pool isn't visible from the road.

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MR. HAEBERLIN: And we'll write some language. I mean we're going to work on some language for that.

COUNCILMEMBER FLEMING: Are we putting this on the 1/31 or are we going to go for something other in February?

MR. HAEBERLIN: I mean I don't see any reason why we couldn't have another draft to you guys before then.

COUNCILMEMBER FLEMING: For the 31st?

MR. HAEBERLIN: Yeah. I think so.

COUNCILMEMBER PACHUTA: Can we just put it at the end and if we get to it?

MR. HAEBERLIN: Yeah, that's fine.

ATTORNEY WEED: And technically everything you approve tonight will have to be on the 31st agenda again for final version.

COUNCILMEMBER FLEMING: Well, we're not approving it.

COUNCILMEMBER ROCHE: I would like to postpone the public hearing part of this until we get a more final draft.

COUNCILMEMBER BATES: And I'll disagree with you because I'd like to hear what Mr. Anderson and Ms. Calvert have to say since there are only two

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public, because they may shed some insight and something that we haven't thought about that we could incorporate into the draft before we get it on the 31st, versus hearing that great idea on the 31st and then having to rewrite it again.

COUNCILMEMBER ROCHE: Again, I don't have a problem with that. I just think that the people that live nearby these areas should probably have a little more notice and be able to also comment --

COUNCILMEMBER BATES: Well, I think there's --

COUNCILMEMBER ROCHE: -- like the people who live at the townhomes.

COUNCILMEMBER BATES: Well, I think there's been plenty of notice, but this wouldn't preclude them from -- or preclude us from having public comments again on the R-3 on the 31st. We do that with regularity.

COUNCILMEMBER ROCHE: Well, as long as we can have that twice, that's fine. Thank you.

MR. HAEBERLIN: And assuming the battle will continue over the dumpster, we may -- let's -- let's leave that in, okay, but let's at least say six feet high, because I think four feet high is just way to small.

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1 COUNCILMEMBER PACHUTA: Yeah.
2 COUNCILMEMBER BATES: And made out of
3 material --
4 COUNCILMEMBER PACHUTA: Similar to.
5 COUNCILMEMBER BATES: -- similar to the
6 building.
7 MR. HAEBERLIN: Materials, okay. I'll put
8 something in on that.
9 And a lot of that I think will eventually be
10 covered by an architectural ordinance, which is sadly
11 needed particularly for multi-family.
12 COUNCILMEMBER ALEXANDER: And you are going
13 to change that to 24, right? the feet on the street,
14 driveway?
15 MR. HAEBERLIN: Yes.
16 COUNCILMEMBER ALEXANDER: Okay, thank you.
17 MR. HAEBERLIN: I got it. I think I have an
18 idea of where you guys are going.
19 COUNCILMEMBER ROCHE: Yeah. We need to get
20 that posted on the Web site also.
21 MR. HAEBERLIN: As soon as I get a draft
22 back, well, I'll forward it to Mr. Howe to put up.
23 MAYOR PRO TEM PITTMAN: Mr. Haeberlin, would
24 you like to open the public hearing portion of this?
25 MR. HAEBERLIN: Are we having that tonight?

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1 COUNCILMEMBER PACHUTA: Uh-huh.
2 MR. HAEBERLIN: Okay.
3 COUNCILMEMBER ROCHE: Yes.
4 MR. HAEBERLIN: At this time, the Mayor Pro
5 Tem has opened the public hearing. Those who would
6 like to speak in favor of the R-4 amendment, please
7 come forward, state your name for the record.
8 MS. CALVERT: Ginny Calvert.
9 Well, I think we've been here before. Do
10 you notice all the buildings, the beautiful, gorgeous
11 buildings between here and 400? I wonder how many of
12 those people are paying the different cities, new
13 cities, and how much money, revenue, they are getting.
14 Anywhere there isn't an air space, they are building,
15 and it's way over 10 stories.
16 I would love to see Buford Highway full of
17 those story -- those buildings. You get one tall
18 building in here, and you will have developers hitting
19 this area. Why try to control developers? They want
20 to build, and we need them to build.
21 You want the city to move ahead or you want
22 it to stay the little town that it is? And that's
23 great. But too many people are saying move it ahead.
24 Well, how can you do this if you try to
25 control the developers?

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1 I'm for tall buildings along that
2 expressway, wherever. I think it would be great. I'd
3 like to live long enough to see Doraville go ahead in
4 that way.
5 MR. HAEBERLIN: Anybody else who would like
6 to speak in favor?
7 MR. ANDERSON: Stuart Anderson.
8 That's what all this is about, Ginny, is to
9 control the developers nonetheless.
10 The 10-story discussion is apparently or
11 obvious to me an attempt to give the developers the
12 capability of going 50 items or units per acre, which
13 is what they need for that.
14 I agree with a lot of the provisions that
15 you guys have come up with tonight. I think this is
16 good.
17 My thought, though, on this whole thing was
18 something that came up at the very first when we
19 started discussing this, and that would be on
20 development requirements or regulations, there should
21 be a paragraph perhaps or paragraphs in all of the
22 high-density considerations so that we ask for a
23 percentage of the R-4 or RCH or industrial when the GM
24 does development so that we have those development
25 requirements in place as to percentage of how much R-3

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1 or R-4 or whatever we call, so we put that -- as part
2 of this discussion. So we put those requirements or
3 those percentages into our zoning so that when the GM
4 development happens, we will have those percentages
5 for development, for controlling the developers for
6 getting what we want and what they want, but -- so
7 that that --
8 And I understand what Scott said about PUDs
9 not working and stuff, but this would put some kind of
10 -- They come to us. New Broad Street came to us and
11 they wanted 60 percent of this and 40 percent of that,
12 and that's all well and good; but if we have our own
13 idea of what percentages we want, then I think we're
14 better off. Thank you.
15 MAYOR PRO TEM PITTMAN: Council, what are
16 your wishes on this?
17 COUNCILMEMBER PACHUTA: Do we need to make a
18 motion to hold it to the 31st or just put it on the
19 31st?
20 COUNCILMEMBER ALEXANDER: Just leave it
21 under old business.
22 COUNCILMEMBER BATES: Because it's an
23 advertised, do we need to make a motion to a date
24 certain?
25 ATTORNEY WEED: You had -- you just had the

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1 hearing.
2 COUNCILMEMBER BATES: Okay.
3 ATTORNEY WEED: If you want to continue with
4 the hearing process and not close it, then yes. But
5 if you want to close the hearing and then address what
6 you're going to do with it, then no.
7 COUNCILMEMBER BATES: My preference as to
8 Mr. Roche's point is to continue the hearing based
9 upon some discussions tonight. So I'll make a motion
10 to move this Section 905 R-3 District to the January
11 31 Planning and Zoning agenda.
12 COUNCILMEMBER PACHUTA: Second.
13 MAYOR PRO TEM PITTMAN: Discussion?
14 - - -
15 (No response)
16 - - -
17 MAYOR PRO TEM PITTMAN: Call the roll,
18 please.
19 CLERK McCAIN: Councilmember Alexander?
20 COUNCILMEMBER ALEXANDER: Yes.
21 CLERK McCAIN: Councilmember Bates?
22 COUNCILMEMBER BATES: Yes.
23 CLERK McCAIN: Councilmember Fleming?
24 COUNCILMEMBER FLEMING: Yes.
25 CLERK McCAIN: Councilmember Pachuta?

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1 COUNCILMEMBER PACHUTA: Yes.
2 CLERK McCAIN: Councilmember Roche?
3 COUNCILMEMBER ROCHE: Yes.
4 MAYOR PRO TEM PITTMAN: Okay. We're going
5 to move into the Public Hearing Text Amendment,
6 Section 906, R-4 District, which was readvertised from
7 2010. Mr. Haeberlin?
8 MR. HAEBERLIN: Yes. Again I'm going to
9 pass out the revision that Mr. Weed and his secretary
10 sent us today -- excuse me -- associate, this
11 afternoon, so that you have in front of you the most
12 current one, and it also has our current City Clerk as
13 the attest.
14 Again this is going to get back in defining
15 who we are. You know, we found out with Chestnut
16 Place that we had a development that was not in the
17 correct zoning, and we may very well have some other
18 condominiums in the city that we need to fix. But I
19 thought that we needed certainly to fix the
20 condominium district to accommodate what it is to be.
21 And so again, it is another rewrite of that
22 district, trying to make it what it is, and that is
23 you know, a purchase situation. It's not primarily a
24 rental occupancy type situation, although individual
25 property owners may rent their units.

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1 Today we have just one R-4 zone in the city,
2 which is Chestnut Place.
3 Again, the dimensional requirements table is
4 in the same format or layout fashion as the previous
5 one. Again, we may need to discuss building height
6 based on your previous concerns; take a look at that
7 because it was 10 stories again.
8 COUNCILMEMBER ROCHE: There's a typo there,
9 too. It's 10 stories, not 10 stores.
10 MR. HAEBERLIN: I see that. We'll correct
11 that.
12 And if you want me to carry the same
13 language over that you looked at in R-3, to that
14 location, we can do that, or if you want a different
15 one.
16 COUNCILMEMBER FLEMING: That would be my
17 preference also.
18 COUNCILMEMBER BATES: Well, we've only got
19 one R-4 designated zone right now, so any new R-4s
20 would be a rezoning of existing property. Is that
21 correct?
22 MR. HAEBERLIN: Well, in some places it will
23 be corrective zoning, and I have to be very clear with
24 you: Avery Park is a condominium; it is one lot. We
25 really do need to rezone that. It's not R-3. And

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1 that being said, you know, we do need to rezone that.
2 I don't know if that's going to be City-initiated or
3 we're going to tell the applicant to do that.
4 But most of your R-4 development, correct,
5 will be just pure rezones: people applying to get
6 something.
7 COUNCILMEMBER PACHUTA: Where's Flowers
8 Gate?
9 MR. HAEBERLIN: Flowers Gate is probably --
10 the information that I see on it is probably one of
11 few actual townhouse developments where there actually
12 is lot ownership, and it meets the criteria for
13 attached RSFA. Avery Park does not, certainly not.
14 But the plat that I have of Flowers Gate indicates you
15 actually own your lot.
16 So the building height, you know, again
17 that discussion. And again I carried through, as you
18 see, pretty much the same information.
19 I will tell you, if you notice under minimum
20 floor area when there's a purchase situation and
21 people owning their units, I made the thresholds a
22 little higher, okay, so the expectation is a little
23 larger unit than you saw in R-3, and you can kind of
24 see that by comparing the two side by side.
25 COUNCILMEMBER FLEMING: Is the building

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1 setback on this one 20 feet also from the street?
2 COUNCILMEMBER BATES: This one says 10.
3 MR. HAEBERLIN: I don't think it -- That
4 might be a typo. I apologize. I think that is a
5 typo, because what I did was I carried -- If you'll
6 notice, the numbers in the table are in the same
7 format and then when you get to the very bottom, the
8 minimum distance between buildings is the same. That
9 probably is a typo. But it could be whatever you want
10 it to be.
11 COUNCILMEMBER BATES: I'm fine with keeping
12 it at the 20 feet. I'm torn on this one on building
13 height.
14 MR. HAEBERLIN: Okay. Because this is the
15 one here that really needs to be R-4, you know,
16 realizing if we ever did rezone it to R-4, somebody
17 could tear the whole thing down. It's got a high
18 foreclosure rate in there right now, probably about 85
19 percent.
20 COUNCILMEMBER ALEXANDER: And who is that?
21 MR. HAEBERLIN: Avery Park.
22 COUNCILMEMBER BATES: Avery Park.
23 COUNCILMEMBER ALEXANDER: Okay.
24 MR. HAEBERLIN: At least what I'm seeing
25 online, so.

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1 And then there's Flowers Gate. And again,
2 that's the one I believe, based on my information,
3 that's a true townhouse; that's RSFA. I think that's
4 fine.
5 And then there has been some conversion of
6 some apartments to condominiums, and I don't have a
7 lot of information about those, but somewhere in the
8 city.
9 COUNCILMEMBER PACHUTA: It's Chestnut, I
10 think.
11 COUNCILMEMBER BATES: It's land flight on
12 Chestnut.
13 MR. HAEBERLIN: Correct. So that's one we
14 may have to look at.
15 As you see, there isn't anything else that
16 fits that criterion of RSFA, just that one, and really
17 that one's my major concern was Avery Park.
18 COUNCILMEMBER BATES: Let me ask you this
19 question. From a developmental standpoint, if you've
20 got a building that is ground floor retail -- I know
21 we don't allow mixed use, but hypothetically we get
22 there -- ground floor retail, and then you've got two
23 levels above it but they're -- I don't even know how
24 to articulate it. It's Vintage Pizza, the Heritage
25 Lofts. Those are all two-floor loft units. It's a

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1 five-story building but there's only two levels of
2 residential.
3 MR. HAEBERLIN: Correct.
4 COUNCILMEMBER BATES: Is that considered a
5 three-story building because you have three levels or
6 is it a five-story building because it's the height of
7 a five-story building?
8 What determines stories? Let's go there.
9 MR. HAEBERLIN: We got in this discussion --
10 the building official and I have got in this
11 discussion several times. Our consensus -- and I'll
12 have to go back and read that again. Our consensus is
13 that whether there's -- whatever occurs in that story,
14 that area, it's still a story. So for example,
15 because those have a two-story living room, okay,
16 that's still the third story of the building. Because
17 we had a big discussion about this because of
18 basements, because there's no many bilevel homes in
19 the city where there's windows at the ground.
20 And we do have a definition of story in
21 there. Mr. Weed may be able to read that out for us.
22 I know that's always a big debate between the building
23 official and the planner.
24 COUNCILMEMBER BATES: Well, I guess is there
25 -- is there any type of standard measurement that up

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1 to X-feet is considered a story and anything over
2 X-feet then -- Is a story 12 foot? Is a story --
3 COUNCILMEMBER ALEXANDER: Ten feet.
4 COUNCILMEMBER BATES: -- 18 feet? Is a
5 story 10 feet?
6 MR. HAEBERLIN: And I think ours says to the
7 middle of the ridge of the roof, and sometimes you
8 don't have -- and Mr. Weed's looking for it --
9 sometimes you don't have a ridge because modern
10 construction oftentimes just has a parapet around the
11 top. So we may need to alter that definition.
12 COUNCILMEMBER BATES: And where I'm going,
13 because it's relative to what we just did or talked
14 about in R-3, you could have a six-story building, but
15 if each of the stories is a dual level, then are you
16 going to have a 12-story building technically?
17 MR. HAEBERLIN: I don't believe so. I think
18 that you really still have a six-story building, and
19 your air space is configured in different
20 arrangements.
21 COUNCILMEMBER BATES: So, then you don't --
22 you have three levels or two stories versus six levels
23 of one story.
24 MR. HAEBERLIN: Well, you could have -- you
25 could have a building with a lobby that's three

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stories or four stories.
COUNCILMEMBER BATES: Okay. I just wanted to try to get some clarification.
My preference on owned properties is to go higher. I don't have a good reason to want to do that. I just think from an economic standpoint, if you are going to purchase something, there is a sense of ownership the higher it is.
I don't have anything -- This is all visceral. I have absolutely nothing to support it. I just get a sense of, from other developments that are out there, that bigger may be better on a condominium, owned thing.
But then I look over at, you know, the lofts over in Chamblee that are empty and they're four stories.
MR. HAEBERLIN: I see where you're going, and let me give you an example. When you buy a condominium, the story is all about it, okay? The more stories you go up, the more you pay, okay? Top floor is usually penthouses, and that is the max. You pay more for homeowners association fees, you pay more to buy the property.
And so your -- in some respect, those people consider entitlement to being at the top of the

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building; they can see everything.
Now, we know in metropolitan Atlanta, above 10 stories, fire protection is only by means of stairwells and sprinklers. You're not going to get a ladder above 10 stories. It just is not going to happen. And that's one of the reasons why people make that decision, you know. They have to be comfortable being above 10, because they're not going to -- they're not going to have a ladder come up to the window to help them out.
MAYOR PRO TEM PITTMAN: And I'm sorry to interrupt, but it is nine o'clock and we need to make a decision if we're going to continue after this item or what would we like to do.
COUNCILMEMBER ROCHE: Personally, I think that if we're going to make the similar changes to this one, we could just leave it at that.
COUNCILMEMBER BATES: Yeah.
COUNCILMEMBER ROCHE: I only have one comment other than that.
COUNCILMEMBER BATES: After this, we've just got a couple of what I think are fairly innocuous things to do. My preference would be to clear this agenda out. I'll make a motion to extend through the agenda.

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MAYOR PRO TEM PITTMAN: Second?
COUNCILMEMBER PACHUTA: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion carries. And do we need a break?
COUNCILMEMBER FLEMING: Yes.
MAYOR PRO TEM PITTMAN: I've gotten a yes.
COUNCILMEMBER ROCHE: Can I just make one comment on this --
COUNCILMEMBER BATES: Yeah.

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COUNCILMEMBER ROCHE: -- before we break?
COUNCILMEMBER BATES: Well, actually, let's get through R-4 --
MAYOR PRO TEM PITTMAN: Yeah, after this --
COUNCILMEMBER BATES: -- and then --
MAYOR PRO TEM PITTMAN: -- we will go. Is that okay, Ms. Fleming? Okay.
COUNCILMEMBER ROCHE: I would like to be able to encourage rental properties to turn into ownership properties. And I'm basically comparing the two of these and I notice the minimum lot area is very different; it goes from one acre to three acres between the rental versus condos. The other ones I guess are fairly close.
But you know, personally if it was up to me, I would have just the one ordinance that covers everything because then it's, you know, just the one ordinance and it's very easy to convert from rental to condos because it's very easy with this to go from condos to apartments but it's not as easy to go the other way.
And the one that jumps out at me obviously is the minimum lot area, and I was wondering if we couldn't adjust that to make it easier to -- you know, if I have an apartment house and it happens to be on

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two acres, then, according to this, I can't rezone to three acres.
MR. HAEBERLIN: And there's a reason and a rationale behind that. Because so many communities have had conversions from apartments to condominiums, and apartments are not necessarily designed to be converted to condominiums -- many of them are structures that because of their age and their construction, you know, there is no true fire wall separation like you have with, you know, owned unit space -- it is purposefully more difficult in this ordinance to convert apartments to condominiums, for that reason, because I do not want you guys to see what other cities have dealt with, where basically every failing apartment complex is sold as condominiums, and I want us to avoid that. And that's the reason, yes.
COUNCILMEMBER ROCHE: So it's better to have a failing apartment complex than having failing condominiums?
MR. HAEBERLIN: Well, that's -- I mean they're nearly impossible to convert. I mean, for example --
COUNCILMEMBER ROCHE: Well, with this it is --

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MR. HAEBERLIN: Yeah.
COUNCILMEMBER ROCHE: -- impossible to convert.
MR. HAEBERLIN: Well, I'm talking from a technical side as far as what the building official's going to share with you. Because apartments, the way they're designed, you may have your neighbor's water line running above your ceiling, okay. It's not contained in their unit. So the utilities are all intermixed. It's not really designed for each unit to have its own shutoff.
And so a lot of communities, although they've allowed wide open -- I mean I can think of places on Sidney Marcus Boulevard that were apartments two years ago that are now condos. They were not necessarily the best conversion of that type of unit. And so it's purposefully to make it more difficult, so, to be truthful to that.
COUNCILMEMBER ROCHE: Well, I understand but I don't agree. I think we should probably at least reduce the minimum lot area to two acres.
COUNCILMEMBER BATES: Councilman Bates, do you still want the definition of story or do you no longer care?
COUNCILMEMBER BATES: Since you've found it,

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I'd like to hear it.
ATTORNEY WEED: Story means that portion of a building included between the surface of any floor and the surface of a floor next above it, or if there is no floor above it, the space between the floor and the ceiling next above it, provided that a room, suite or story with more than one half of its height below grade shall not be considered a story for the purpose of height regulation.
COUNCILMEMBER BATES: But there is no 10 feet, 12 feet?
ATTORNEY WEED: No, sir.
COUNCILMEMBER ALEXANDER: So a 30-foot tall lobby could be one story if it was open air?
COUNCILMEMBER ROCHE: That's what it sounds like it.
COUNCILMEMBER FLEMING: So instead of stories, we need to put feet in there --
ATTORNEY WEED: Yes.
COUNCILMEMBER FLEMING: -- like it was before? Previously in our previous code, on both of these it said like 40 feet if I'm not mistaken.
MR. HAEBERLIN: So you want us to come up -- and I'm understanding completely where you guys are going -- a building height that is comparable to each

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amount of story that you're specifying here. Okay.
COUNCILMEMBER FLEMING: Correct.
MR. HAEBERLIN: I see where you're going.
COUNCILMEMBER BATES: Yeah. And I do have a -- I do have a reason why I think condominium needs to be higher. Using the Heritage Lofts as an example, the flexibility to have multiple floors as something that you own, to me suggests that the building height should be higher to allow that flexibility for a loft environment -- you know, multi-floor, stairs, those types of things.
But this one needs to carry over to -- and I'll make a motion to move this to 1/31/11 meeting.
COUNCILMEMBER ROCHE: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?

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COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Mr. Haeberlin, what about the public hearing portion?
MR. HAEBERLIN: Do we want to entertain --
COUNCILMEMBER BATES: Ginny, do you have anything you want to say?
ATTORNEY WEED: No, no, no. It's not quite that easy.
MAYOR PRO TEM PITTMAN: Would you open the public hearing?
ATTORNEY WEED: We do or we don't.
MR. HAEBERLIN: Well, you guys recessed it. I guess we need to take it out of recess and have the public hearing if that's appropriate.
MAYOR PRO TEM PITTMAN: Is that your wishes or --
COUNCILMEMBER PACHUTA: Carry this over to public hearing on the 31st.
COUNCILMEMBER BATES: Well, we would have the public hearing on the 31st.
MR. HAEBERLIN: Okay.

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COUNCILMEMBER PACHUTA: If you have anything to say, come to the mic.
COUNCILMEMBER FLEMING: If he has anything to say, what?
COUNCILMEMBER PACHUTA: Come to the mic.
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Okay. We'll take a five-minute break.
- - -
(Brief recess)
- - -
MAYOR PRO TEM PITTMAN: Meeting come back to order.
ATTORNEY WEED: Council, before you get further on your agenda, Councilmember Fleming had asked me if I had sent a draft resolution to the Mayor's family, quote/quote, and I answered that I did.
I want to correct that. I had two conversations with Karen Young, the Mayor's daughter, who happens to be an attorney as well, and I did send a copy of the resolution to the Mayor's e-mail.
When I get back to my office tonight, and I

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will do it tonight, I'll send a copy to the last known e-mail I've got on the Mayor at home.
COUNCILMEMBER FLEMING: Thank you.
ATTORNEY WEED: I don't have Karen Young's e-mail address or I'd send it to her too. If someone's got that --
MR. HAEBERLIN: I have it. I have it somewhere.
COUNCILMEMBER PACHUTA: I think I have it. She e-mailed us last week sometime.
MR. HAEBERLIN: I have it somewhere. I can give it to you tomorrow.
ATTORNEY WEED: Well, whoever's got it, feel free to forward it.
MR. HAEBERLIN: Yeah, I'll forward it tomorrow, what I have.
MAYOR PRO TEM PITTMAN: Okay. So I guess we'll go into Public Hearing Text Amendment 706 Standards for Telecommunication Antennas and Towers, to remove these fees from the zoning code in its entirety and to have all City fees in a consolidated fee schedule as per the request of City Council.
MR. HAEBERLIN: Correct; that is exactly what it is, and I would love to rewrite 706 but right now the only thing we are doing is getting the fee out

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of there. And that's my recommendation, get it out of the zoning; that way, we can change it as we need it.
MAYOR PRO TEM PITTMAN: And that was also readvertised from 2010.
MR. HAEBERLIN: That is correct.
COUNCILMEMBER PACHUTA: So everything in here is exactly the same?
MR. HAEBERLIN: We didn't change a word. The only thing is we just took the fee out.
COUNCILMEMBER FLEMING: So I'm wondering why we just didn't say, "Delete Section 6, Special Use Permits, 6(c)(9)," is what I'm wondering, rather than rewriting the whole thing again. Not rewriting, but listing the whole thing.
MR. HAEBERLIN: Section.
COUNCILMEMBER FLEMING: And also item number 4 of (B).
MR. HAEBERLIN: That's something to ask Mr. Weed in terms of how that was drafted, but I mean the intent is just to get the fee out of there.
She's asking why did you rewrite some portions of the code in here even though it's the same exact verbiage.
ATTORNEY WEED: At the time, I thought that was the best way of doing it.

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MR. HAEBERLIN: Yeah, I mean, and again that's part of the authorship.
COUNCILMEMBER ALEXANDER: I guess I'm confused because they're coming before us now for an administrative review when they add additional antennas.
MR. HAEBERLIN: Uh-huh.
COUNCILMEMBER ALEXANDER: Okay. Where is that code?
MR. HAEBERLIN: That is in the tower ordinance.
COUNCILMEMBER ALEXANDER: Is there a fee in that section also?
MR. HAEBERLIN: $500.00, I believe.
COUNCILMEMBER BATES: And there's nothing under Section 5.
MR. HAEBERLIN: I think they're thinking, Murray, that there's a fee that's not part of this listing as it's listed.
ATTORNEY WEED: Well, let's take a look.
COUNCILMEMBER BATES: I'm looking at Section 5 now, it's Administrative Approval, and there's no fees listed in the existing code.
COUNCILMEMBER FLEMING: So that's no problem. All we do is for item number 2-261 that's

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coming up next is we make sure that there is a variance, because that would be considered a variance, I would think, to what the existing tower is, so a variance fee should be applicable.
COUNCILMEMBER ROCHE: It doesn't take a variance to add a -- put an antenna, does it?
COUNCILMEMBER FLEMING: That's what I'm suggesting, because if they're going to add anything other than what's already there and approved, they ought to request a variance.
COUNCILMEMBER ROCHE: I don't remember passing the consolidated fee schedule.
COUNCILMEMBER PACHUTA: We haven't. It's on the work session.
COUNCILMEMBER ROCHE: So --
MR. HAEBERLIN: The reason why Mr. Weed is taking it out of zoning and putting it in a stand-alone fee schedule is he's going to take that stand-alone fee schedule and put it into your big fee schedule at some point. We had to have someplace to put it in the meantime.
COUNCILMEMBER ROCHE: Don't you think it would be better to pass the consolidated fee schedule before we delete the fee schedule from here?
MR. HAEBERLIN: Well --

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ATTORNEY WEED: That's my opinion. However, we haven't had much luck doing that.
COUNCILMEMBER ROCHE: Maybe we need to hold off on this until we do that, because if we pass this tonight, then there's no fee, right?
MR. HAEBERLIN: Well, we're going to pass it next.
COUNCILMEMBER BATES: The next ordinance addresses that.
ATTORNEY WEED: It looks like Section 23-706 which deals with standards for telecommunication antennas and towers holds in Subsection D(2) Subsection (d), "Each applicant for a permit shall pay a nonrefundable filing fee of $500.00."
And then there's also another ordinance that might be applicable which is 5-282. Let's look at that. What I just read was in Section 706 of the zoning code.
All right. 5-282 deals with stick antennas but it doesn't deal with a fee. Let me look through it real quick again, the entire thing, but I don't remember a fee there. Let me see.
COUNCILMEMBER ALEXANDER: Do we have a fee, generic fee, for administrative review?
MR. HAEBERLIN: 3(I) has a fee too. So the

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one we just looked at talked about, 2(D), has a fee of $500.00 and then 3(I) has a fee of $500.00 as well.
COUNCILMEMBER FLEMING: And where is this?
ATTORNEY WEED: 5-280 doesn't have a fee.
COUNCILMEMBER FLEMING: In 706?
MR. HAEBERLIN: There's two fees within the Telecommunications Tower, 706.
ATTORNEY WEED: Which is in zoning.
MR. HAEBERLIN: Which is in zoning.
ATTORNEY WEED: And Section 5, 5-280, which is Over the Air Reception Devices, does not have a fee.
COUNCILMEMBER FLEMING: Tell me again the first five hundred for review is where?
ATTORNEY WEED: That is Section 706.
COUNCILMEMBER FLEMING: Uh-huh.
ATTORNEY WEED: And let me find it here.
MR. HAEBERLIN: 2(D).
ATTORNEY WEED: 2(D)(2).
COUNCILMEMBER FLEMING: I don't have a --
ATTORNEY WEED: I'm sorry. It's D(2)(d), that's the subsection, Section 706.
COUNCILMEMBER FLEMING: D(2) what?
COUNCILMEMBER PACHUTA: (d).
ATTORNEY WEED: D(2) lowercase d.

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MR. HAEBERLIN: Well, we're looking at different --
COUNCILMEMBER FLEMING: I don't see a 2 -- (D)(2)(d).
ATTORNEY WEED: Here. We'll put a copy for you.
COUNCILMEMBER BATES: I've got a 4(b)(4).
COUNCILMEMBER PACHUTA: Bingo.
COUNCILMEMBER FLEMING: There is a 2(D) pre-existing Towers and Antennas but there is no 1, 2, 3, 4, 5 underneath it.
ATTORNEY WEED: What I'm going by is the codification. The zoning ordinance, I don't have it with me, the one with the numbers that you've got. But I'm sure it's in there because they've duplicated the ordinance.
COUNCILMEMBER FLEMING: Well, this is page 25 of the zoning code.
COUNCILMEMBER BATES: Pam, I think that fee that they're referencing is on page 27.
COUNCILMEMBER FLEMING: (D), and there is no 1, 2, 3, 4, 5.
MR. HAEBERLIN: There's 1, there's --
COUNCILMEMBER FLEMING: That's one that we're changing.

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MR. HAEBERLIN: Yeah.
COUNCILMEMBER BATES: That's on page 27, right, Pam?
COUNCILMEMBER FLEMING: Yes.
MR. HAEBERLIN: Page 27, yes, sir.
COUNCILMEMBER FLEMING: We're changing that.
MR. HAEBERLIN: There is another one on page 29, Councilman Bates --
COUNCILMEMBER BATES: Yeah.
MR. HAEBERLIN: -- at the bottom.
COUNCILMEMBER BATES: C(9).
ATTORNEY WEED: It's right before Subsection E.
MR. HAEBERLIN: And those are t he ones I recall that there were two, and then it becomes amateur radio, which you've already taken care of in another ordinance.
COUNCILMEMBER FLEMING: To answer Ms. Alexander's question, though, there isn't any fee for add-on to an existing cell phone tower in this ordinance.
MR. HAEBERLIN: The way that's written the first time is applicants -- and I don't know if we transferred this to our regular fee code or not. I cannot recall whether we did or not, whether we put an

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administrative review fee in our regular code -- our fee code, our fledgling fee code.
COUNCILMEMBER BATES: So they file. They submit their permit to add, subtract, modify, and depending on what they're trying to do, that may get bumped to an administrative review.
MR. HAEBERLIN: Right.
COUNCILMEMBER BATES: And they've already submitted their $500.00 nonrefundable application fee.
MR. HAEBERLIN: Right.
COUNCILMEMBER BATES: Is there an additional charge for the administrative review that comes before us?
MR. HAEBERLIN: No. I mean the $500.00 is to go before you guys, and the six fifty is commercial plan review, and then the $5.00 per 1,000 estimated cost of construction and they're out the door until they get an inspection.
COUNCILMEMBER BATES: Okay. So, then, there's the special permits -- special use permits which is over and above the initial $500.00.
MR. HAEBERLIN: Well, that's a new tower.
COUNCILMEMBER BATES: That's a new tower. Okay.
MR. HAEBERLIN: Or anything that meets the

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confines of special use.
COUNCILMEMBER BATES: Got you. Okay. So that's not over and above the $500.00; it's a separate --
MR. HAEBERLIN: Correct.
COUNCILMEMBER BATES: -- $500.00.
MR. HAEBERLIN: Correct. We're trying to delete two areas that have $500.00 in them.
COUNCILMEMBER FLEMING: Okay. We use two terms here, and so I think we need to be consistent. We use specific permitted use, and -- in Section I -- and then we use special use permit in 6(C). Are we talking about the same thing?
Why do they need a special use permit?
MR. HAEBERLIN: Well, that's your process for putting new towers in the city. I mean it's the same -- We could use the word conditional use permit. It's the same thing, really. Either special use permit, which your code is for towers, or conditional use. It's really interchangeable. It's the same concept.
And then administrative review is allowing them to come before the Mayor and Council to add or change equipment, et cetera. They're not increasing the height of the tower.

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And we've not done a special use permit. There's been no new tower in the two and a half years I've been here.
COUNCILMEMBER ALEXANDER: Yeah, there has.
COUNCILMEMBER BATES: Yeah, there has, in the tank farms.
MR. HAEBERLIN: Oh, you're right, you're right; we did have one. We had a special use permit and we had a variance with that one, 2901 Woodwin Road.
COUNCILMEMBER FLEMING: Well, and they've already come back to add more stuff to it. Wasn't that the one they added to?
MR. HAEBERLIN: Yeah.
COUNCILMEMBER FLEMING: Okay.
COUNCILMEMBER ALEXANDER: No.
MR. HAEBERLIN: Or no. Correct.
MAYOR PRO TEM PITTMAN: That was over here.
MR. HAEBERLIN: The one that we added to is by the --
MAYOR PRO TEM PITTMAN: Over here --
MR. HAEBERLIN: -- MARTA station.
MAYOR PRO TEM PITTMAN: -- right.
COUNCILMEMBER FLEMING: Okay.
COUNCILMEMBER BATES: So you guys -- so

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we're pulling the fees out of the general application and the special permit, conditional use - new tower, and putting them into a separate ordinance that is coming next.
MR. HAEBERLIN: That's correct.
COUNCILMEMBER BATES: Okay.
MR. HAEBERLIN: And that's what I understood our goal was.
MAYOR PRO TEM PITTMAN: Council, anything additional before we have the public hearing?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Would you like to open the public hearing portion, please.
MR. HAEBERLIN: At this time, the Mayor Pro Tem has opened the public hearing for Section 706. Those who would like to speak in favor of the proposed text amendment, please raise your hand.
One? Come forward and state your name for the record.
MR. ANDERSON: Stuart Anderson.
Since I don't have a copy of the text amendment, I don't know if I'm for it or against it, but I am for adding a fee for adding and modifying

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your tower when you come for review, as it were. Thank you.
MAYOR PRO TEM PITTMAN: Thank you.
MR. HAEBERLIN: Anyone else in favor?
- - -
(No response)
- - -
MR. HAEBERLIN: Those opposed? Anyone opposed?
- - -
(No response)
- - -
MR. HAEBERLIN: Seeing none, I return it to the Council.
COUNCILMEMBER BATES: I make a motion to adopt 706.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER PACHUTA: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?

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COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: No.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion passed.
Okay. We're going to move on to the next item, which is not a public hearing, Fee Schedule - Telecommunication Antennas and Towers.
COUNCILMEMBER PACHUTA: Do you have another handout for us to review?
MR. HAEBERLIN: Yes, ma'am, I sure do. Again, a more current one with our current City Clerk.
COUNCILMEMBER BATES: I have a question for you, Mr. Haeberlin, on this. In the draft fee schedule that we've got, the numbers are significantly different and --
MR. HAEBERLIN: I just threw out numbers.
COUNCILMEMBER BATES: Okay.
MR. HAEBERLIN: I mean our draft schedule, I just threw out numbers. So it --

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1 COUNCILMEMBER BATES: So -- Got you.
2 MR. HAEBERLIN: -- could be anything
3 you guys want.
4 COUNCILMEMBER BATES: So we're merely
5 replacing what was in the code today with the same
6 numbers --
7 MR. HAEBERLIN: Correct.
8 COUNCILMEMBER BATES: -- that were there.
9 When we get to the fee schedule, we can --
10 MR. HAEBERLIN: Raise them or lower them as
11 needed.
12 COUNCILMEMBER BATES: Great. Thank you.
13 COUNCILMEMBER FLEMING: Well, I think it
14 should read each applicant for a specific permitted
15 use under Section 706 4(B) Permitted Uses because
16 that's the way it's listed in the ordinance itself.
17 It says specific permitted uses under Section 706
18 will be permitted uses in the zoning code shall pay a
19 nonrefundable $500.00 fee.
20 MR. HAEBERLIN: Keep going. I'm just
21 looking at the code. I want to make sure we're on the
22 place.
23 COUNCILMEMBER FLEMING: I mean isn't that
24 what we just had? Yeah, 4(B). It's what we just
25 said. It says specific permitted uses, and I'm just

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1 asking us to use the same term: Each applicant for a
2 specific permitted use under Section 706 4(B)
3 Permitted Uses in the zoning code shall pay a
4 nonrefundable $500.00 fee.
5 COUNCILMEMBER BATES: And I concur with
6 Ms. Fleming on that. I think it reads better that
7 way.
8 MR. HAEBERLIN: Are you with us, Murray?
9 It's on page 2 of --
10 ATTORNEY WEED: Sure, yeah. I'm just going
11 to make the specific permit, specific permitted. Fine
12 with me.
13 COUNCILMEMBER BATES: And eliminate --
14 COUNCILMEMBER FLEMING: Then we cross out
15 permit fees.
16 COUNCILMEMBER BATES: Right, permit -- Well,
17 issued should remain. Each applicant for a specific
18 permitted use issued under Section --
19 COUNCILMEMBER FLEMING: Each applicant for a
20 specific permitted use under Section 706.
21 COUNCILMEMBER BATES: You are correct.
22 COUNCILMEMBER FLEMING: Okay.
23 COUNCILMEMBER BATES: Yeah, I agree with
24 you. Each applicant for a specific permitted use
25 under Section . . . shall pay . . . because we haven't

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1 issued any permit fees --
2 COUNCILMEMBER FLEMING: Correct.
3 COUNCILMEMBER BATES: -- yet. That's what
4 they're applying for. Okay.
5 I'm going to make a motion to adopt 2-261(i)
6 with the changes.
7 This has been before us before, right?
8 ATTORNEY WEED: It has.
9 COUNCILMEMBER BATES: Okay.
10 COUNCILMEMBER FLEMING: I'm sorry. Say
11 again?
12 COUNCILMEMBER BATES: I'm going to make a
13 motion to adopt 2-261(i) with the changes.
14 MAYOR PRO TEM PITTMAN: Do I get a second?
15 COUNCILMEMBER PACHUTA: Second.
16 MAYOR PRO TEM PITTMAN: Discussion?
17 - - -
18 (No response)
19 - - -
20 MAYOR PRO TEM PITTMAN: Call the roll,
21 please.
22 CLERK McCAIN: Councilmember Alexander?
23 COUNCILMEMBER ALEXANDER: Yes.
24 CLERK McCAIN: Councilmember Bates?
25 COUNCILMEMBER BATES: Yes.

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1 CLERK McCAIN: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK McCAIN: Councilmember Pachuta?
4 COUNCILMEMBER PACHUTA: Yes.
5 CLERK McCAIN: Councilmember Roche?
6 COUNCILMEMBER ROCHE: Yes.
7 MAYOR PRO TEM PITTMAN: Motion carried.
8 Okay. The next item --
9 MR. HAEBERLIN: What about 6(C) as well? Go
10 over to your next page, folks, page 3. Do you want
11 that verbiage the way it's written and that amount?
12 COUNCILMEMBER BATES: Well, I had read
13 through the entirety, and my motion was for the
14 adoption of the entire ordinance.
15 MR. HAEBERLIN: Oh, okay. I'm sorry. I
16 just thought I was missing something.
17 COUNCILMEMBER FLEMING: I didn't take his
18 motion as to include 6(C). He said just 2-261(i).
19 COUNCILMEMBER BATES: That's inclusive. (i)
20 is the entire subsection. (i) includes 706 4(B) and
21 6(C).
22 COUNCILMEMBER ALEXANDER: It's a comment at
23 the bottom of the page.
24 COUNCILMEMBER ROCHE: It's one paragraph.
25 COUNCILMEMBER BATES: I mean I'm open for --

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COUNCILMEMBER FLEMING: Oh, excuse me. I'm very sorry.
COUNCILMEMBER BATES: No. I'm open for a motion to reconsider if there's an issue that --
COUNCILMEMBER FLEMING: No, sir. I'm sorry.
COUNCILMEMBER BATES: Okay.
MAYOR PRO TEM PITTMAN: Okay. We're going to move on to Public Hearing Text Amendment Section 804, One Principal Residential Building on a lot, to clarify discrepancy in Code by District for the number of principal and accessory uses, readvertised from 2010.
MR. HAEBERLIN: Again, this is just to marry what was done extensively in our rewrite of R-1 where we allowed more than one accessory structure with the accessory structure ordinance and the concept that you have -- can have more than one accessory structure now, and so I rewrote 804 to that extent. As you see, it says, "and its accessory building(s)," plural, because the way it's written it only allows one, and we know that not to be the case because we're already amended the ...
COUNCILMEMBER ALEXANDER: So the only change in here was the Clerk's name from the previous draft?
ATTORNEY WEED: Yes, ma'am.

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MR. HAEBERLIN: Yes, ma'am.
COUNCILMEMBER BATES: This is a zoning hearing; is that correct?
MR. HAEBERLIN: Yes, sir.
MAYOR PRO TEM PITTMAN: Anything additional from Council?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Mr. Haeberlin, do you want to open the public hearing.
MR. HAEBERLIN: At this time, the Mayor Pro Tem has opened the public hearing on Section 804.
Those who would like to speak in favor, please signify by raising your hand. One? You can come forward.
MR. ANDERSON: I approve.
MR. HAEBERLIN: Okay. Anyone who would like to speak against the proposed text amendment, raise your hand.
- - -
(No response)
- - -
MR. HAEBERLIN: None. Return it to the Council.

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COUNCILMEMBER PACHUTA: I make a motion that we adopt the change in Section 804, One Principal Residential Building on a Lot.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER BATES: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER ROCHE: Motion passed.
MAYOR PRO TEM PITTMAN: Okay. We're going to move into Public Hearing - Text Amendment Section 807, Classification of Streets, to correct

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discrepancies with the 1967 Subdivision Regulations (Ordinance 133) and the Dekalb County, Georgia Thoroughfare Plan. This is readvertised from 2010.
MR. HAEBERLIN: Again, what we're doing is we're using this information that's maintained and compiled by the County to classify our streets, and I think that's a safe approach. It's also a logical approach since they maintain our streets.
COUNCILMEMBER FLEMING: Do we have a new one on this?
MR. HAEBERLIN: No, ma'am. Unfortunately, Mr. Weed's associate did not send me a revised one, but we would note that of course Ms. Blackmon's name would be changed to Ms. McCain.
ATTORNEY WEED: The only difference would have been the change in the Clerk.
COUNCILMEMBER FLEMING: I think I've got a typo error also, but continue --
MR. HAEBERLIN: Okay.
COUNCILMEMBER FLEMING: -- Mr. Haeberlin. I'm sorry.
ATTORNEY WEED: Also, just for the record, because Councilman Alexander asked us, you have a change in the previous ordinance and the same one on this one would be that we used the generic term mayor

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as opposed to identifying a human being.
MR. HAEBERLIN: Correct.
And again, because as these roads run into the city, they really don't change characteristics. They are what they are whether they're in the county or the city. And I have a copy of the Dekalb County Thoroughfare Plan. You know, we send all of our plan reviews for our thoroughfares to the County anyway, by interlocal agreement, and it just makes sense to follow their classification. It makes sense for the City. It's expeditious in terms of us dealing with streets since we don't have an in-house public works department that actually builds streets. This is done at a county level.
COUNCILMEMBER ROCHE: Will this change the classification of any existing streets in the city of Doraville?
MR. HAEBERLIN: Well, to my knowledge, sir, you don't have any thoroughfare plan for the city, so I don't think it's changing anything. I don't think you have a plan to follow right now.
COUNCILMEMBER FLEMING: The only question I had on this one is the very last word of Section 807. I think it reads better if it says assignees.
COUNCILMEMBER BATES: Or designee or --

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COUNCILMEMBER FLEMING: Or its assignees or designees, one of the two.
MR. HAEBERLIN: Do you have any preference, Mr. Weed?
ATTORNEY WEED: None whatsoever.
COUNCILMEMBER FLEMING: Tell us which one you're going to put.
MAYOR PRO TEM PITTMAN: She's asking which one you were going to put.
ATTORNEY WEED: It's not up to me. Whatever the Council decides.
COUNCILMEMBER ROCHE: I'm okay with assigns, actually, but --
COUNCILMEMBER FLEMING: Or its assigns?
COUNCILMEMBER ROCHE: Yeah.
COUNCILMEMBER BATES: That doesn't make any sense.
COUNCILMEMBER FLEMING: It's got to be a person.
COUNCILMEMBER ROCHE: That's a real word, though, in that usage.
COUNCILMEMBER BATES: If it's legally correct, I'm fine.
COUNCILMEMBER FLEMING: Doesn't sound like a person to me.

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COUNCILMEMBER ROCHE: Well, it could be an institution, it could be the City of Doraville, could be --
MR. HAEBERLIN: GIS.
COUNCILMEMBER ROCHE: Right.
COUNCILMEMBER BATES: Okay. Fine.
COUNCILMEMBER FLEMING: Whatever.
COUNCILMEMBER BATES: I'm with you, Pam.
MAYOR PRO TEM PITTMAN: Okay. Anything additional up here?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Open the public hearing, please.
MR. HAEBERLIN: At this time, the Mayor Pro Tem has opened the public hearing on Section 807.
Those who would like to speak in favor, please signify by raising your hand.
- - -
(No response)
- - -
MR. HAEBERLIN: None.
Those who would like to speak against, please signify by raising your hand.

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- - -
(No response)
- - -
MR. HAEBERLIN: None. Return it to the Council.
COUNCILMEMBER PACHUTA: I make a motion we adopt Section 807, Classification of Streets.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER ROCHE: Second.
MAYOR PRO TEM PITTMAN: Discussion?
COUNCILMEMBER ALEXANDER: With the changes of staff name.
COUNCILMEMBER PACHUTA: Yeah, with the changes of City Clerk.
COUNCILMEMBER FLEMING: As well as the ordinance number and so forth.
COUNCILMEMBER ALEXANDER: Oh, that's right, you got to . . . Mr. Weed?
ATTORNEY WEED: Yeah. All these have to come back before the Council because of the clutter. The footers change. The footer -- unless the footer happens to say final, all of them will come back to Council because they're --
COUNCILMEMBER ALEXANDER: Okay.
ATTORNEY WEED: -- going to say draft.

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COUNCILMEMBER ALEXANDER: So you're going to change all these to 2011?
ATTORNEY WEED: Yes, I will.
MAYOR PRO TEM PITTMAN: Still a second, Mr. Roche?
COUNCILMEMBER ROCHE: Still a second.
MAYOR PRO TEM PITTMAN: Okay. Discussion?
COUNCILMEMBER FLEMING: Yeah. I just want to make a comment that I learned a lot in planning and zoning at Mayor's Day, and one thing I definitely learned was that our ordinances and our motions should be simple enough that a stranger would understand them but specific enough that it goes on record.
So in the future, I'm definitely going to make sure that we say zoning Section 23, Section such-and-such, so I'm just making that as a comment.
COUNCILMEMBER BATES: Well, my class was ethics. I ain't making any comments at all.
MAYOR PRO TEM PITTMAN: All right. Got a motion and a second. Any more discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.

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CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion passed.
No reports.
Do we want to allow the public to speak again?
COUNCILMEMBER BATES: They had enough opportunity.
MAYOR PRO TEM PITTMAN: Okay. Motion to adjourn?
COUNCILMEMBER ROCHE: Motion to adjourn.
COUNCILMEMBER PACHUTA: So moved.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER BATES: Second.
MAYOR PRO TEM PITTMAN: Discussion?
CLERK McCAIN: Who was the other Council? I'm sorry. Who was --

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COUNCILMEMBER BATES: Mr. Roche.
MAYOR PRO TEM PITTMAN: Discussion?
COUNCILMEMBER FLEMING: Yes, please.
I wanted to ask Ms. McCain.
You made an e-mail comment that Municode would be sending the update of our code section?
CLERK McCAIN: Yes, ma'am. We are all reviewed and up to date with what's currently on the -- what's currently on the Web site as far as the new ordinances. Once I get that, I'll figure out what the last ordinance was that they have, and we're going to begin a quarterly update. So those will go out March, June, December and September.
COUNCILMEMBER FLEMING: And when we get those quarterly updates or when you send the quarterlies, then they will in turn send them back and only give you those updated pages?
CLERK McCAIN: Correct. And what I'll get with them is the top sheet will tell you what page number to replace and to put the new page number in.
COUNCILMEMBER FLEMING: Okay. For this Council presently for a new updated Municode version, are we getting hard copies?
CLERK McCAIN: Yes.
COUNCILMEMBER FLEMING: Thank you. We

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individually are.
CLERK McCAIN: You're the only one that's asked for a copy besides what comes in the Municode book. I currently have two ordinances.
COUNCILMEMBER FLEMING: No, no, no. I mean when Municode sends back the whole thing --
CLERK McCAIN: Correct.
COUNCILMEMBER FLEMING: -- are we Council members going to get --
CLERK McCAIN: I have a book --
COUNCILMEMBER FLEMING: -- a complete book?
CLERK McCAIN: -- for each of you.
COUNCILMEMBER FLEMING: Okay, great. Thank you very much.
MAYOR PRO TEM PITTMAN: Okay. I have a motion and a second. Call the roll, please.
CLERK McCAIN: Just let me verify because there was a lot of motions. Councilmember Roche was the first, Councilmember Bates was the second?
COUNCILMEMBER ROCHE: To adjourn?
CLERK McCAIN: Yes, to adjourn.
COUNCILMEMBER ROCHE: Sure.
COUNCILMEMBER BATES: That works for me.
CLERK McCAIN: I'm sorry.
Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Meeting adjourned.

- - -

(Meeting adjourned at 9:45 p.m.)

-o0o-

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 February 2011.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

$

$1,632 (1)
50:14
$15,000 (1)
63:1
$3,000,000 (1)
16:11
$31,998.40 (1)
61:22
$33,000 (1)
51:24
$39,731.84 (1)
59:25
$5,000 (8)
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$70,000 (1)
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$72,000 (4)
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[

[sic] (1)
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2-261i (3)
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