# In The Matter Of:

*Doraville City Council Meeting*

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*January 31, 2011*

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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 31, 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: Thank you.

No minutes to approve.

Have Mayor's Comments. The LCWF Grant Resolution. I believe that was carried over from the last time.

That needs -- I guess we need to make a motion to confirm the prior decision, Mr. Weed?

ATTORNEY WEED: Yes, ma'am, that's correct.

COUNCILMEMBER BATES: Make a motion to approve the LCWF Grant Resolution.

MAYOR PRO TEM PITTMAN: Do I get a second?

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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

The next item is Contract for Jail Food Services. I believe there's nothing additional on that. I think that was passed at the last Council meeting.

Chief and Murray, if there's nothing else?

ATTORNEY WEED: Yes, ma'am. It was adopted on the 18th. I've done the contract, sent it to the

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Chief and Captain Brinkley. Haven't got any comments back, but I think -- I'm hoping it's in good order and they'll let me know if it's not.

It just carried over to this agenda; that's all.

MAYOR PRO TEM PITTMAN: Okay. Thank you.

The next item is going to be the Resolution for Mayor's Position Leave of Absence. This is going to be a resolution granting a leave of absence due to illness from attendance at City Council meetings pursuant to Section 2.05 of the Charter of the City of Doraville and to provide for other lawful purposes.

Do we get a motion to approve the resolution?

COUNCILMEMBER ALEXANDER: And the leave of absence starts on February the 6th of 2011.

MAYOR PRO TEM PITTMAN: Correct.

COUNCILMEMBER ALEXANDER: So moved.

MAYOR PRO TEM PITTMAN: Do I get a second?

COUNCILMEMBER PACHUTA: Second.

MAYOR PRO TEM PITTMAN: Discussion?

COUNCILMEMBER ROCHE: Yeah. What happens if he returns within say 10 days or five days?

MAYOR PRO TEM PITTMAN: Mr. Weed?

ATTORNEY WEED: There will be no legal

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impact. If you wanted to formally cancel the resolution, you could do so as Council, but it would essentially become moot.

MAYOR PRO TEM PITTMAN: Additional 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.

Next item is Department Head Reports. I don't believe there is any, or City Planning? No? .

Okay. Part of this is public hearing. Does the Council want to go ahead and proceed with public

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comments on the agenda?

COUNCILMEMBER FLEMING: Yes.

COUNCILMEMBER ROCHE: Of course.

MAYOR PRO TEM PITTMAN: Okay. At this time, we'll have public comments. If you could please limit your comments to three minutes.

MR. SHANAHAN: David Shanahan. Compliments on the speedy procession.

You have architectural standards on the list here. I just got a look at this a while ago. A couple of things jump out at me right off the bat.

One is the roofing standards. It calls for dark brown, black, gray, dark green; architectural shingles, or standing seem metal roofs. If you look at anything from the Environmental Protection Agency or the Department of Energy, this is precisely what they're discouraging people to do.

From the EPA Web site, a high solar reflectance metal roof compared to a dark gray shingle roof, it is 50 to 60 degrees cooler. It saves up to 25 percent in cooling costs to have a roof with high solar reflectance. The lighter the color, the higher the reflectance. Places like Chicago are going to great efforts to encourage people to do even living green roofs, and Chicago is getting a lot of press for

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pushing real hard to kill the heat island effects.

Also from the EPA site, these heat island effects, five-and-a-half degrees warmer during the daytime, urban areas are, up to 22 degrees warmer at night because of all the heat coming back out of hot roofs like darn brown, black or dark gray shingles.

Requiring it as a standard is -- is a really, really bad idea. It's not what the EPA or what the Department of Energy is encouraging people to do. They're giving tax breaks to do the exact opposite. I just got a 30 percent tax break for buying a metal roof for my house. So seriously, please take a look at that.

The other things I see is a very, very narrow range of materials and colors. I'll read this real quick: (Reading) "Downtowns have evolved over decades, one building at a time. It's important to maintain the vitality of downtowns' inherent and different styles of architecture and materials and range of tastes and levels of prosperity that they represent. Our design philosophy is a good design can exist in any period, past or present."

That is from Decatur's downtown development authority. They got a head start on us on this. I strongly encourage you-all to look around at what our

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1 neighbors have done successfully with this rather than
2 making this up out of the blue. There's a lot of
3 people with a much bigger head start on this and a lot
4 more success, and please take a look at Sandy Springs,
5 downtown Decatur, Inman Park. Thanks.
6 MAYOR PRO TEM PITTMAN: Thank you,
7 Mr. Shanahan.
8 Additional public comments?
9 MR. ANDERSON: Stuart Anderson.
10 Mr. Shanahan pretty much covered what I was
11 going to say. I wrote down, you know, light colors
12 and comments of that nature. And his comment about
13 checking what other cities are doing is appropriate,
14 comparing.
15 A little housekeeping for me. Pass that
16 down (presenting).
17 This falls under old business and perhaps
18 customer service. December 31st, 2010, I submitted my
19 application for zoning appropriateness which should
20 have been unnecessary since it was done last year, and
21 for my occupational tax; and to date, I haven't had a
22 response from the City.
23 MAYOR PRO TEM PITTMAN: Sir, I'm sorry. I
24 don't mind listening to you, but it's not on the
25 agenda.

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1 MR. ANDERSON: Well, it's old --
2 MAYOR PRO TEM PITTMAN: I mean we'd be glad
3 to --
4 MR. ANDERSON: -- business as of a year ago
5 as well.
6 MAYOR PRO TEM PITTMAN: Well, it's not old
7 business tonight. We'll be glad to take this and read
8 it.
9 If you have any additional comments that go
10 on the agenda, I'd appreciate --
11 MR. ANDERSON: No.
12 MAYOR PRO TEM PITTMAN: -- you sticking to
13 the agenda, but we've got this and we'll look at it.
14 Thank you.
15 MR. ANDERSON: Uh-huh.
16 MS. GILMAN: Mayor Pro Tem, Council; Carol
17 Gilman, Chestnut Place, a condominium community
18 located on Chestnut Drive.
19 I'd like to comment on the item Public
20 Hearing - Text Amendment, R-4. Chestnut Place is a
21 relatively new development. Apartments abut, back up
22 to various sections of Chestnut Place.
23 I don't know if you-all are familiar with
24 Chestnut Place or if you've been in there and can
25 actually visualize what I'm talking about. But if you

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1 drive in and you go dead ahead, right there next to
2 one of our buildings, you could almost reach over and
3 touch one of the apartment buildings, and the name of
4 the apartment complex there is Hidden Colony, kind of
5 a misnomer.
6 If you walk into Chestnut Place and you take
7 a right and you to the end of our very short street,
8 then you see the apartment building up on the hill,
9 partially hidden by greenery, and that's building 31.
10 These buildings are real obvious as one-level
11 apartments.
12 Behind my own building, across Aztec Drive,
13 up on the hill, you have two-story buildings, and they
14 appear much taller obviously because they're on top of
15 a hill. And as we look at the height of buildings, I
16 ask that we dialogue through that.
17 Chestnut Place is a flagship for new
18 condominium development, and what I would like us to
19 see is -- what I would like to see, certainly as a
20 resident, is a development that really complements and
21 invites people to move here but also I want to avoid
22 sitting on my deck and looking sky high at people
23 sitting on their deck. I appreciate the density, but
24 right here at a residential area, apartments,
25 residential area, if you go down McClave and turn

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1 right on Drewry Court, those small houses back up to
2 Hidden Colony also.
3 I would ask you -- really, this is so
4 important, and I support what you're trying to do, but
5 it's so important that I would invite you all, if you
6 haven't, to actually walk through Chestnut Place and
7 walk down Drewry Court so you could see how that would
8 impact and how it might look.
9 Certainly for me, it looks one way on paper,
10 and when I look at something eye to eye, then it's a
11 little bit different.
12 Even on Chestnut Drive close to where
13 Mr. Roche lives, you have condominiums and then
14 apartments right there on Chestnut Drive where it
15 intersects with Aztec and -- the name of the street
16 escapes me at the moment, but it's a residential --
17 there's residences there also.
18 Is my time up? Shucks.
19 COUNCILMEMBER ROCHE: Excuse me. I have a
20 quick question. Do you happen to know how big the lot
21 size is for your condos?
22 MS. GILMAN: I do, but if I quoted it
23 without looking at the documents, I probably would
24 embarrass myself, but I can get back to you on that.
25 COUNCILMEMBER ROCHE: Is it like three

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acres? five acres? ten acres?
MS. GILMAN: Better not say.
COUNCILMEMBER ROCHE: Thank you.
MS. GILMAN: But I can e-mail you on that.
Thank you for your time.
MAYOR PRO TEM PITTMAN: Thank you.
Additional public comments?
MR. CHAMBERS: Richard Chambers, New Peachtree Road.
I was just curious, what agenda item was that that she was discussing? I looked at --
MAYOR PRO TEM PITTMAN: R-4.
MR. CHAMBERS: Number 4, okay.
Number 4?
COUNCILMEMBER FLEMING: VIIC, dealing with R-4 district.
MR. CHAMBERS: Okay. Thank you.
I would like to see if this ordinance that y'all are talking about this evening, if y'all could discuss it for some 60 to 75 days rather than trying to rush it through kind of like some of the Federal government regulations have been done.
And also I think that it should apply to residences as well. I don't understand why there's a differentiation between residences and commercial

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buildings. We're all here together, we're all slowly trying to make it nicer. And so I think the same rules should apply to the residents as well, because when you start running all the businesses out of town, your four-dollars-and-something-cent annual tax bill is going to go up substantially.
I also turned in my information on December the 30th and I have not gotten my use tax or use certificate back either.
MAYOR PRO TEM PITTMAN: Thank you, sir.
MR. CHAMBERS: I wanted that on the record this evening.
MAYOR PRO TEM PITTMAN: Thank you.
All right. Any additional comments?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Okay. We're going to move into old business.
The next item is not a public hearing. It's going to be the continuing discussion of Commercial Soft Tissue Touch and Manipulation. Mr. Haeberlin? Is Mr. Weed --
MR. HAEBERLIN: That's Mr. Weed.
ATTORNEY WEED: Well, actually, I don't know

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that's an item assigned to me. I think it just reappeared on the agenda as old business.
What I can tell you is, to sum up where we were last time, the Council had asked for the January 24th meeting for a draft to be prepared that dealt with a cap on the number of possible CSTTOM entities, and there was a great deal of discussion about the number, and essentially Council began some discussion about the possible rewrite of the draft ordinance, and that's pretty much where we left it.
COUNCILMEMBER ROCHE: Yeah. A motion was made -- Sorry, I want to see if I can find it. I don't think we have the transcript yet for the first meeting of January.
A motion was made and passed in the first meeting of January to put together an ordinance that would limit the number of unregulated massage establishments in the city of Doraville to no more than four per 10,000. We discussed it at length. We made a motion and we passed it and of course asked for a draft ordinance on that.
The next Council meeting in January, there was no draft ordinance, so we had to ask for it for the 24th.
The draft ordinance that was provided

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basically would -- I think we kind of came to the conclusion last week that there were all kinds of problems with it.
I've had time to think about it since then, and it seems like the issue that we have is that we want to limit anything that's not otherwise regulated that has to do with massage. I mean there are massage parlors with people that are licensed massage therapists, which is regulated by the State. Also cosmetologists are licensed to give certain types of massage, chiropractors, et cetera, et cetera; physicians, I would assume.
So what we're trying to do here is to limit the number of, frankly, foot massage places that are in the city of Doraville, and that was -- at least that was the whole intent or the goal.
What we were presented with was all this stuff about CSTTOM and all this, and it just seems like -- several pages -- it's a lot more complicated than it needs to be.
All it amounts to is that we want to limit the number of massage establishments in Doraville that are not otherwise regulated to no more than four per 10,000.
Then we came up with the problem of there's

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1 a whole thing about grandfathering and what about the
2 operations that are currently -- or the establishments
3 that are currently in operation.
4 Apparently, there's -- well, not
5 "apparently." There is litigation going on there. So
6 some people have applied for occupational tax licenses
7 but have not been issued them by the City, and again,
8 this is all in litigation.
9 So as far as I can tell, the only thing we
10 really need to do is to put together an ordinance that
11 says we will limit anything -- any kind of massage
12 that is not otherwise regulated by the State or
13 government or the Federal government or whatever, like
14 physicians, and any establishment operating that
15 either holds or has applied for an occupational tax
16 license before such-and-such a date would be grand-
17 fathered in pending litigation and everything else.
18 That's all we needed. That's all we asked
19 for. It's simple. I don't know why we're doing all
20 this. I don't know why this is so complicated.
21 ATTORNEY WEED: Well, frankly, Councilman,
22 it's impossible to regulate something without defining
23 the thing that you wish to regulate. Therefore, there
24 are definitions. If you don't like the definitions,
25 we can change the definitions. However, one cannot

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1 regulate something without defining what it is one
2 wants to regulated.
3 COUNCILMEMBER ROCHE: We're regulating
4 things that are not otherwise regulated. That way, we
5 don't have to worry about someone inventing some new
6 type of massage and saying, "Whoops," because it's not
7 specifically within the definition of this CSTTOM,
8 then they got some other -- You know, they can come up
9 with something. They can invent something new, just
10 call it something different.
11 COUNCILMEMBER PACHUTA: I can see that
12 getting tossed out for being overbroad if someone
13 challenges the limit.
14 COUNCILMEMBER ROCHE: Well, the problem is
15 that I can see this getting tossed out because it's
16 going to be -- you know, because, again, we have
17 litigation going on now.
18 So apparently we can't seem to find any
19 solution to this thing. We can't seem to find any
20 kind of solution that's going to limit the number of
21 foot massage places in the city of Doraville.
22 ATTORNEY WEED: Well, let's talk about that.
23 Essentially what you're proposing -- and
24 we'll work on the language as much as you want to work
25 on it until we come up with something that you're

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1 satisfied with as the sponsor of this legislation --
2 you want to cap the number of businesses that do what
3 exactly?
4 And what I hear you say is you want to cap
5 the number of businesses that are not otherwise
6 defined as massage-providing entities but that touch
7 human beings for money. Is that close?
8 COUNCILMEMBER ROCHE: Not otherwise
9 regulated. The State regulates massage places. The
10 State regulates physicians. The State regulates
11 chiropractors. I don't think the little City of
12 Doraville should get in the business of trying to
13 regulate, because we got all kinds of -- you know,
14 that just opens a whole world of issues and it's going
15 to make us liable to a lot of litigation.
16 I mean if we're going to do that, why not
17 issue our own license plates? You know, maybe we can
18 print up our own currency.
19 ATTORNEY WEED: Councilman, I'm trying to
20 craft language with you.
21 So if I understand you correctly, what you
22 would prefer is whatever you want to call it. If you
23 want to try to encapsulate it by one word or if you
24 want to simply say that any commercial touching of one
25 human being by another human being that is not

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1 otherwise regulated --
2 COUNCILMEMBER ROCHE: Right.
3 ATTORNEY WEED: -- by Title 43 A of the
4 Official Code of Georgia, any business that does that,
5 there can be no more than four per 10,000 persons.
6 COUNCILMEMBER ROCHE: That's all we asked
7 for. That works perfect.
8 ATTORNEY WEED: All right. Now, do you want
9 to deal with anybody who is already in existence now
10 or leave that out there and not deal with that at all?
11 COUNCILMEMBER ROCHE: No. You deal with
12 that by saying anyone that either holds or has applied
13 for an occupational tax license by some date, because
14 some of these applications are tied up in litigation,
15 some of these applications, as has been mentioned
16 before, you can wait months and months before you get
17 your occupational tax license in Doraville.
18 ATTORNEY WEED: All right. It's not a
19 license, and that's important, but we'll --
20 COUNCILMEMBER ROCHE: Occupational tax
21 placard --
22 ATTORNEY WEED: Thank you.
23 COUNCILMEMBER ROCHE: -- whatever we call
24 it.
25 ATTORNEY WEED: Okay. I'm happy to -- based

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1 upon what you said, I will write an ordinance --
2 COUNCILMEMBER PACHUTA: Can we vote on this?
3 ATTORNEY WEED: Well, certainly. I'm just
4 -- I'm trying to provide the Councilman who's
5 sponsoring the legislation a piece of legislation that
6 he would be happy to sponsor to the Council.
7 But if you don't want to take any action --
8 if you want to take action on this draft legislation
9 or something else, you certainly can. I'm not trying
10 to cut off discussion or whatever else. I'm just
11 trying to get the Councilman --
12 COUNCILMEMBER ROCHE: Could you read --
13 ATTORNEY WEED: -- what he wants.
14 COUNCILMEMBER ROCHE: -- back the draft of
15 the legislation, the draft ordinance, please, that you
16 just told us?
17 MAYOR PRO TEM PITTMAN: Mr. Weed?
18 ATTORNEY WEED: Ma'am? I'm sorry.
19 COUNCILMEMBER ROCHE: Could you just go
20 ahead and read back those two lines that we talked
21 about: the line that's not otherwise regulated by
22 Title whatever and would be limited to anyone that has
23 already either applied for or holds an occupational
24 tax placard.
25 ATTORNEY WEED: For what business? Because

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1 bear in mind --
2 COUNCILMEMBER ROCHE: For these unregulated
3 and not otherwise --
4 ATTORNEY WEED: Okay. All right. We can
5 rely upon the court reporter to read it back exactly
6 but I think I've got an idea of where you want to go
7 with that.
8 COUNCILMEMBER ROCHE: Okay. And I'll make
9 that in the form of a motion that we limit the number
10 of commercial massage establishments in the city of
11 Doraville not otherwise regulated by whatever the
12 appropriate laws are to no more than four per 10,000,
13 and that any business that -- any establishment that
14 either holds or has applied for an occupational tax
15 piece of paper, whatever we're going to call it, is
16 hereby exempt.
17 MAYOR PRO TEM PITTMAN: Do I get a second?
18 COUNCILMEMBER FLEMING: I'm going to second
19 it.
20 MAYOR PRO TEM PITTMAN: Discussion?
21 COUNCILMEMBER PACHUTA: My preference is we
22 have a draft ordinance in front of us that does have
23 definitions, and definitions are important -- yes,
24 things do get challenged because they're not clearly
25 defined.

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1 My only concern from the last meeting was
2 with the grandfathering -- and I was fine with the
3 four per 10,000 -- because I wasn't sure at that time
4 how many we would be grandfathering in.
5 And you know, I e-mailed Pam, Brian and I
6 had driven around and also talked to Scott, and it
7 appears to be approximately seven businesses that
8 would potentially be grandfathered in. I just did not
9 want to make that decision without knowing what that
10 number was.
11 So I'm fine with moving forward with what we
12 already have draft form in front of us and just
13 plugging in the numbers of four per 10,000 and then a
14 date in Section C.
15 COUNCILMEMBER ALEXANDER: The issue that I
16 have is there are no hours of operation in this
17 ordinance.
18 COUNCILMEMBER PACHUTA: I agree also with
19 that.
20 COUNCILMEMBER ALEXANDER: So we're setting
21 one standard of hours of operation for anyone that has
22 a full-body massage but we're not applying the same
23 hours-of-operation regulations to someone that is just
24 rubbing feet.
25 So, then, that clouds, in my opinion, an

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1 enforcement issue because you could have two
2 establishments side by side; one technically would
3 have to close if they did full-body massage, but if
4 the one next to him didn't do full-body massage, they
5 could stay open theoretically 24 hours a day. So you
6 would have an officer there going, "Okay. One's
7 closed and one's not."
8 I just think that clouds the enforcement
9 issue, let alone I don't want these establishments
10 open 24 hours a day.
11 COUNCILMEMBER PACHUTA: No. I agree. I do
12 want a time limit. And my original preference was to
13 deal with the entire ordinance as a whole, but I know
14 there was a push to go ahead and put a limit in there
15 and that's why we did this shortened version and then
16 to elaborate upon it later by adding times. But I
17 don't want to go backwards in getting rid of
18 definitions and everything else.
19 COUNCILMEMBER ROCHE: Well, again, my motion
20 was to draft an ordinance that's much simpler than
21 this that we have in front of us, that we had all the
22 problems with last time, and the only scope of my
23 motion was to limit the number in town.
24 I mean there's certainly -- I mean I
25 certainly have nothing against another motion or

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1 another initiative to limit the number of hours just
2 like, you know, we passed the same thing when we did
3 labor pools but we didn't talk about the hours there,
4 you know.
5 I just think, you know, because we'll be
6 expanding the scope of this, then we get into, you
7 know, how many hours and what hours, et cetera,
8 et cetera, and then the next thing you know, it's
9 April and we still haven't passed anything.
10 We've been trying to pass this thing for a
11 year now. For a year, we've been trying to limit the
12 number of foot massage places in the city of
13 Doraville, and the City of Doraville, for one reason
14 or another, can't seem to get it done. That's why I'm
15 asking to draft a simple, two-line piece of
16 legislation that will accomplish this and get it
17 passed. Then we can talk about CSTTOM and everything
18 all we want to but at least we'll limit the number of
19 -- we'll close the door on new foot massage establish-
20 ments in the city of Doraville. I don't know how else
21 to say it.
22 COUNCILMEMBER ALEXANDER: Mr. Weed, can you
23 please confirm the hours that are in the massage
24 ordinance? I think it's 9:00 a.m. to 10:00 p.m.
25 ATTORNEY WEED: I don't know that I have

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1 that with me but I'll -- I believe that's correct, but
2 let me see if I have an extra copy of it with me.
3 COUNCILMEMBER FLEMING: It's not in the new
4 Code of Ordinances?
5 ATTORNEY WEED: No, ma'am. I believe it was
6 passed too recently for that.
7 CLERK McCAIN: The new Code of Ordinances
8 goes up to May 2010. Anything after that will be in
9 our first supplement in March.
10 ATTORNEY WEED: What's in the long -- what's
11 in draft 2 of the CSTTOM is 8:00 a.m. to 10:00 p.m.,
12 and I believe I know -- I remember there being some
13 discussion about that. So that will kind of give you
14 a feel for -- I know that the hours are very similar.
15 COUNCILMEMBER FLEMING: Okay. I am, first
16 of all, am not in favor of --
17 Well, the first issue is the issue at hand
18 as far as the limit of the number of these
19 establishments.
20 But to me, the bigger issue is the use --
21 we're trying to find a use name for these businesses,
22 and I can't support CSTTOM, number one. So as far as
23 I'm concerned, this -- that ordinance needs to be
24 changed in its entirety.
25 And I forwarded for Council's review, John's

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1 Creek, and this was given to me by Ms. Alexander, and
2 is their massage ordinance. Okay? Their massage
3 ordinance. So my proposal is to include -- get rid of
4 this and include in our purpose or definition, it
5 says, "It is a further purpose of this article to
6 regulate the practice of massage therapy by massage
7 therapists that have not been licensed by the State
8 who restrict their practice to the manipulation of the
9 soft tissue of the hands, feet or ears of the human
10 body who do not have clients disrobe and who do not
11 hold themselves out as a massage therapist whose
12 practice is not so limited."
13 And that takes care of what we're trying to
14 accomplish here as far as the use. The use is massage
15 but it is not a regulated massage because they are not
16 doing full-body.
17 Secondly, if this statement that I just read
18 were in our massage ordinance, the times that we
19 already have in our massage ordinance, all of the
20 regulations that we have in our massage ordinance
21 would then be applicable to all people that are doing
22 any type of manipulation of the body in Doraville, and
23 that's what I propose.
24 ATTORNEY WEED: It's my professional opinion
25 that that language is not adequate and it is probably

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1 illegal.
2 We can keep working on it. We can certainly
3 regulate within the confines of the massage ordinance
4 if you define it in a different manner. However, what
5 I've heard read into the record tonight I do not think
6 would satisfy a court of law.
7 MAYOR PRO TEM PITTMAN: Okay. We have a
8 motion and a second on that particular motion. Do we
9 have any additional discussion on that?
10 COUNCILMEMBER ROCHE: I would not be opposed
11 to Councilwoman Fleming's proposal, but, you know, we
12 can't seem to go there either, so. Different
13 attorneys I guess have different opinions about
14 different things, so.
15 I'll leave my motion out there. I think
16 it's the simplest way to do it. I think it -- you
17 know. I don't know how else to say it. Been working
18 on this for a long time, trying to limit this, and --
19 MAYOR PRO TEM PITTMAN: If there's no
20 additional discussion, call the roll, please.
21 CLERK McCAIN: Councilmember Alexander?
22 COUNCILMEMBER ALEXANDER: No.
23 CLERK McCAIN: Councilmember Bates?
24 COUNCILMEMBER BATES: No.
25 CLERK McCAIN: Councilmember Fleming?

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COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: No.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER PACHUTA: I'd like to make a motion that we adopt -- well, it will still be in draft form obviously because we'll have to be making changes -- the draft ordinance in front of us, the Commercial Soft Tissue Touch and Manipulation, the Section 6-810 definitions, the Section 6-811 population cap setting the population cap at four per 10,000, adding in a clause regarding grandfathering in businesses -- trying to think of the best way to phrase it -- that have applied for occupational tax placard by today's date or by the date of adoption.
COUNCILMEMBER ALEXANDER: I had -- originally in our previous thing, I had written down February 28th. I don't know why.
COUNCILMEMBER BATES: I believe Mr. Roche had suggested that.
COUNCILMEMBER ROCHE: Only because during the conversation of trying to fix this that's in front of us, because we started talking about, well, what about all the people that were in litigation,

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et cetera, et cetera, and that's where the conversation went. So our of desperation to try to get something passed, I said, well, then, maybe the 28th, but I don't think that was necessarily a suggestion.
COUNCILMEMBER PACHUTA: I would suggest either -- and I'm open to changes -- the date of adoption, and also not just that they've applied for occupational tax placard but they have been continuously in operation, because I think some of the businesses that were originally part of the litigation, when we drove around, are no longer. I believe some of the businesses that were originally in the litigation, when we drove around, there are for-lease signs on the building. They're not in operation any more.
And then also adding in another section, what, 6-812 -- or I'll leave that to Mr. Weed -- setting the hours of operation to match that of our current massage regulatory ordinance.
MAYOR PRO TEM PITTMAN: Is that all of your motion?
COUNCILMEMBER PACHUTA: That is all of my motion. I'm open --
COUNCILMEMBER BATES: Well --

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COUNCILMEMBER PACHUTA: -- to amendments on the date but --
COUNCILMEMBER BATES: Well, my concern is is that there may be a number of these that have not applied for their occupational tax placard in 2011.
COUNCILMEMBER PACHUTA: What's the last date to apply for the occupational tax placard? March?
COUNCILMEMBER FLEMING: December 31st.
CLERK McCAIN: Right. It's passed. They're all due by now.
ATTORNEY WEED: I mean you could pay occupation tax any time you want to try to.
CLERK McCAIN: But for a business that's already been in operation, they were to apply by December 31st for the new 2011 placard.
COUNCILMEMBER PACHUTA: And I believe all the ones that are involved in litigation did apply for their occupational tax placard last year.
ATTORNEY WEED: I believe that there are five of them and I sent the Council a list, but with regard to the occupation tax placard, I assume that they did attempt to apply for it because --
COUNCILMEMBER PACHUTA: That's how they --
ATTORNEY WEED: -- that was one of the --
COUNCILMEMBER PACHUTA: -- came to the

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attention.
ATTORNEY WEED: -- main issues of the litigation.
COUNCILMEMBER ROCHE: But they haven't applied for the 2011.
COUNCILMEMBER PACHUTA: No, but it would have applied -- anyone grandfathered in that would have applied by the date of the ordinance. That would include people in 2010. That's my intent.
ATTORNEY WEED: If you say so, we can do it that way.
COUNCILMEMBER ALEXANDER: So do we need to change the language in C? because this says legally operating, and I think that's why we had put that date in there.
COUNCILMEMBER ROCHE: Right.
COUNCILMEMBER PACHUTA: Yeah.
COUNCILMEMBER BATES: Right, and that's --
COUNCILMEMBER PACHUTA: Yeah.
COUNCILMEMBER BATES: -- that's my --
COUNCILMEMBER PACHUTA: If you can work on that language, Murray, to make sure that . . .
COUNCILMEMBER BATES: The word that caught me and was my concern was the "operating" word, because if they didn't get a 2010 occupation tax

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1 placard, then could they really be legally operating?
2 And if it's caught in litigation right now, how do we
3 get --? Because I think the intent of all of us is to
4 make sure that those businesses that are in
5 litigation, those businesses that are operating now,
6 have an opportunity under the new zoning ordinances
7 and definitions to come in and legally apply and move
8 this process forward and get it resolved. So --
9 COUNCILMEMBER PACHUTA: Yeah. And I don't
10 want to use like this A, B and C verbatim. I think
11 the intent is to limit the number, grandfather those
12 in, and then add another clause setting the time.
13 ATTORNEY WEED: And I have a question/
14 suggestion.
15 If we are aware of the seven entities out
16 there now, do you simply want to name them?
17 COUNCILMEMBER FLEMING: No.
18 COUNCILMEMBER ROCHE: Well, what's to stop
19 QOL from showing up at these places tomorrow and lock
20 your doors because you don't have a current legal
21 occupational tax? I mean I wouldn't put it past us to
22 do that. So then we're not continuously operating any
23 more. Or maybe they were told they had to shut down
24 for some period last year before they could get -- you
25 know, hire an attorney and sue us. I mean I could

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1 just -- Lots of loopholes here, lots of gotchas.
2 MAYOR PRO TEM PITTMAN: And right now we
3 have a motion and I do need to get a second, please,
4 if possible.
5 COUNCILMEMBER BATES: I'll second.
6 MAYOR PRO TEM PITTMAN: Now discussion.
7 COUNCILMEMBER ROCHE: That's what I'm
8 saying. I just think this wording, this language is
9 just going to be a big gift to a lot of attorneys.
10 COUNCILMEMBER PACHUTA: I disagree. And
11 most of them I think are still in operation.
12 COUNCILMEMBER FLEMING: If I'm not mistaken
13 Ms. Pachuta --
14 COUNCILMEMBER PACHUTA: I believe there's
15 one --
16 COUNCILMEMBER FLEMING: -- you indicated --
17 I want to be sure of the number and read this
18 correctly. There are so many things floating around,
19 but I believe this is the one that indicates that a
20 foot massage can not be in effect with or cannot be in
21 the same building that a full-body massage can.
22 COUNCILMEMBER PACHUTA: That's on the agenda
23 for later this evening.
24 COUNCILMEMBER FLEMING: Well, you're getting
25 ready to pass this ordinance and we've going to say

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1 the CSTTOM is this definition and --
2 COUNCILMEMBER PACHUTA: Well, we're not
3 passing an ordinance; we're doing draft form; so
4 however that vote later tonight, will need to be
5 adjusted.
6 MAYOR PRO TEM PITTMAN: Okay. Motion and
7 second. Additional discussion?
8 - - -
9 (No response)
10 - - -
11 MAYOR PRO TEM PITTMAN: Call the roll,
12 please.
13 CLERK McCAIN: Councilmember Alexander?
14 COUNCILMEMBER ALEXANDER: Yes.
15 CLERK McCAIN: Councilmember Bates?
16 COUNCILMEMBER BATES: Yes.
17 CLERK McCAIN: Councilmember Fleming?
18 COUNCILMEMBER FLEMING: Not as written, no.
19 CLERK McCAIN: Councilmember Pachuta?
20 COUNCILMEMBER PACHUTA: Yes.
21 CLERK McCAIN: Councilmember Roche?
22 COUNCILMEMBER ROCHE: Since this is going to
23 be yet another draft of this, I will vote yes to put
24 together yet another draft of this ordinance.
25 MAYOR PRO TEM PITTMAN: Okay. Motion

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1 carries.
2 Anything else on this item?
3 - - -
4 (No response)
5 - - -
6 MAYOR PRO TEM PITTMAN: Okay. The next item
7 is going to be a Public Hearing - Text Amendment,
8 Section 905, R-3 District. This is readvertised from
9 2011, recessed from January 24th, 2011. Mr.
10 Haeberlin?
11 MR. HAEBERLIN: Yes, ma'am. I did print a
12 copy of the e-mail draft that the Council received on
13 Friday. It is in front of them.
14 Basically what we did was we addressed the
15 comments from the previous hearing, and the key areas
16 were the maximum building height which we lowered to
17 eight stories and then addressed as well that the
18 building height adjacent to residential was
19 substantially less, which is R-4 -- excuse me -- which
20 is four stories. And so we made provisions in there
21 as well to lower the height not only adjacent to
22 single-family detached but also to our R-4 condominium
23 district since we have one location in the city that's
24 particularly situated in that manner.
25 Also in here as well is we went down and we

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1 added back in develop provisions that were in the
2 previous code. We did provide some clarity to some of
3 those which were definitely needed -- the parking,
4 internal driveways, the garbage and trash containers
5 -- I did as well put trash compactors in there since
6 those are commonly used at apartments -- and then of
7 course the swimming pool discussion as well that gave
8 it a little flexibility but still afforded some
9 screening to the area.
10 So those were the major highlights of the
11 things that were requested for me to change from the
12 previous document.
13 I did as well look at some of the other
14 areas of the country in terms of the whole concept of
15 R-3, particularly with common open space.
16 For example, the City of Austin ranges from
17 50 to 80 percent of the property being impervious.
18 I looked at the City of Atlanta. Councilman Bates had
19 discussed a particular development, Post Parkside.
20 The City of Atlanta has no common open space
21 requirements for any of their multi-family districts.
22 So again it varies on the location. The
23 results that are achieved are usually based on having
24 really strong architectural standards, and as we see,
25 the higher the density particularly in most of the

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1 urban areas that have really strong architecture.
2 So those are the things I found out from my
3 research.
4 COUNCILMEMBER BATES: Regarding the
5 impervious lot coverage, would it be possible to, like
6 the maximum building height, create criterias that if
7 it's within a certain number of feet from a
8 residentially-zoned area, that it has a lower maximum
9 impervious threshold, thus requiring more green space,
10 and the farther away it gets from a residential-zoned
11 district, the greater the maximum impervious
12 requirements are, thus creating greater density.
13 My concern is is that if we've got these
14 redevelopment-potential apartment complexes within
15 residential districts, that if we don't allow for or
16 require additional green space, that there's going to
17 be a challenge in blending the two. And so like we've
18 done with the building height, I'd like to see a
19 sliding scale on the impervious surface.
20 COUNCILMEMBER FLEMING: I couldn't agree
21 more, Mr. Bates. As I mentioned in my e-mail to all
22 of us before, if we set that threshold at 60 percent,
23 it can always come to us with a variance.
24 But as Ms. Gilman pointed out, she doesn't
25 want to have to look up, but I also don't think she

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1 wants to see concrete slabs everywhere also. She'd
2 like to see a green village. We are supposed to be an
3 eco-friendly Tree City U.S.A., et cetera, et cetera.
4 And so if we set it for 60 percent rather
5 than a sliding scale -- I think these percentages that
6 we have here are great for a commercial district. You
7 know, if we want to call this an R-3C and an R-4C
8 Commercial District, I think these impervious lot
9 coverages are fine, but when we are in a residential
10 zone as we presently are, it needs to be a lower
11 impervious surface so that we have the winding paths
12 and we've got greenery and kids are being able to play
13 in the grass rather than just bounce a ball on
14 concrete.
15 COUNCILMEMBER BATES: And I like Brian's
16 ideas because it is a balancing act and the fact that
17 we don't have a lot of empty land for developers to
18 purchase. What we have is tear-down of old apartment
19 buildings that are in very poor condition, and so it
20 needs to at least -- the developer needs to at make
21 its money back and able to get enough density versus
22 you have too much green space; it's just not going to
23 be profitable for them to buy a property, tear it down
24 and rebuild. And I like Brian's idea because certain
25 areas are more suitable for higher density and going

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1 to have a better chance of redevelopment.
2 COUNCILMEMBER BATES: Well, it's not mine.
3 I took some of the examples that Ms. Fleming had
4 brought forward in her e-mail, and did a little bit of
5 research and talked with Mr. Racicot who's doing the
6 LCI, and he actually is the one that suggested to me
7 three different classifications: one in the
8 residential neighborhood, one in a commercial
9 corridor, and then the third being in the high-
10 density, you know, like a GM redevelopment or a
11 significant redevelopment.
12 The other thing that was suggested was the
13 possibility of giving credits on percentages if they
14 do pervious parking or if their buildings have green
15 roofs. And I don't know much more about that than
16 what was suggested, although to me that seems a
17 potential win-win: gives them a little bit more
18 density but helps reduce the runoff and address the
19 heat factor and things like that.
20 COUNCILMEMBER ROCHE: And I do like the way
21 this is going.
22 Again, I have a lot of problems with this.
23 I don't want four stories next to me either, frankly,
24 in a residential area -- whoever put this together
25 didn't look at the map of Doraville clearly -- because

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1 I have R-4, which is basically the same thing only
2 condos that is next door to me, and I don't want four
3 stories looking down on my house either.
4 COUNCILMEMBER BATES: Well --
5 COUNCILMEMBER ROCHE: I think coming up with
6 -- I think we seem to be going in the correct
7 direction of the places that are abutting commercial
8 areas, absolutely. You know, if you want to go 10
9 stories for something like that, I'm sure it's more
10 than appropriate. And I think the simplest way to do
11 that would be simply would be to just create
12 Commercial Residential districts such as R-3C or R-4C
13 and then handle those as separate things. That way,
14 we don't have this . . .
15 We're trying to do two different things with
16 one ordinance. It's just too much -- it's just too
17 easy to either restrict everything or leave everything
18 wide open. I mean we're talking very different
19 neighborhoods. We're talking about very different
20 character of the area.
21 I mean where I'm at, it's mostly
22 single-family homes with some -- you know, some
23 apartments and some condominiums, but they're all
24 one-story, maybe two-story.
25 Obviously, over by downtown on New Peachtree

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1 Road, we're expecting that to go up, so why not just
2 simply create separate zones, separate classifications
3 with a separate set of rules for Commercial
4 Residential versus neighborhoods.
5 COUNCILMEMBER BATES: Respectfully, we sat
6 here last week and we talked about this, and you --
7 you said, "I've got a number of problems with this
8 ordinance," and I said, "Well, what would your
9 suggestion be on next to your property?" and you said
10 four stories. That's how we got to four stories is I
11 asked you point blank what would you suggest and you
12 said four stories.
13 COUNCILMEMBER ROCHE: I said a maximum, I
14 think.
15 COUNCILMEMBER BATES: Well, that's what this
16 says: maximum of four stories.
17 COUNCILMEMBER ROCHE: But you know, I've had
18 time to reflect, too. You know, that's the whole
19 point of not passing this the first time we see it.
20 COUNCILMEMBER BATES: Well, then don't
21 accuse or reflect or -- or state that the staff or
22 whoever put this together didn't know what they were
23 doing when this draft was based upon a recommendation
24 that came from you.
25 COUNCILMEMBER ROCHE: No. Actually, the

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1 draft that we first were presented with said 10
2 stories --
3 COUNCILMEMBER BATES: We're not looking at
4 that.
5 COUNCILMEMBER ROCHE: -- next door to me.
6 COUNCILMEMBER BATES: We're not looking at
7 that draft. We're looking at --
8 COUNCILMEMBER ROCHE: So that's what I'm
9 saying.
10 COUNCILMEMBER BATES: We're looking at this
11 draft.
12 COUNCILMEMBER ROCHE: And where they come up
13 with 10 stories, I again ... so.
14 MAYOR PRO TEM PITTMAN: Is there any
15 additional discussion up here?
16 Mr. Haeberlin?
17 MR. HAEBERLIN: I did want to note I had a
18 pretty lively discussion with Carol Gilman which led
19 to some further thought process on these items.
20 I do want to talk about the one conversion
21 that has occurred is not in the appropriate zoning
22 category, and this is the property that was previously
23 at 3665 Chestnut Drive, which was the apartment-to-
24 condo conversion.
25 The next set of properties, which is about

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1 200 feet of it, is the property that's immediately
2 adjacent to Councilman Roche's house. That property
3 is made up now of four different lots. It does have a
4 75-foot stream buffer which mitigates much of the
5 ability to build on it. Also too it's in a
6 significant Class A Flood zone.
7 So although I'm concerned about that
8 property, I really don't see that as a redevelopment
9 potential based on, you know, environmental
10 situations.
11 So I did want to let the Council know I did
12 look at that. That's probably the one property that's
13 different than all the rest of them.
14 MAYOR PRO TEM PITTMAN: Anything else from
15 the Council?
16 - - -
17 (No response)
18 - - -
19 MAYOR PRO TEM PITTMAN: Would you like to
20 open the public hearing?
21 MR. HAEBERLIN: Yes, ma'am.
22 At this time, the Mayor Pro Tem has opened
23 the public hearing on R-3. Those who would like to
24 speak in favor, please raise our hand.
25 I see one. Will you come forward -- two --

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and state your name for the record as well as your address.
MR. ANDERSON: Stuart Anderson.
A little for-and-against thing. I'm for bringing down the height of adjacent buildings to residential and I'm definitely for upping the percentage of green space around residential. 80 percent does sound rather commercial to me.
I only got this very recently so it's hard for me to go through it, but I'll stand on those two considerations. Thank you.
MAYOR PRO TEM PITTMAN: Thank you.
Mr. Hart?
MR. HART: I think I'm very much in favor of redevelopment of the current zoned property apartment areas in the city, particularly on New Peachtree Road. But I think we have to look at what Chamblee, with the pressed brick building in downtown Chamblee with the pizza at the bottom as being a good height for a downtown apartment structure, the architecture, and it lends itself to a downtown walkable city building, apartment building or condo.
As far as that height of a building in a neighborhood, that's a bit problematic.
In both these areas, particularly Carol

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Gilman's and behind Bob Roche's house is a significant water -- stream buffer issue. A lot of these buildings were built in the buffer and flood plains, and so rebuilding those is a problem and also the amount of green space.
But I'm all for more than this LCI stuff that's going on, if the redevelopment of the apartments. Once the mayor of Decatur mentioned when they were going to put more apartments downtown, he says, "Good gosh. You guys have enough apartments. You just need to rebuild what you got." Okay?
And people need to take that in consideration on this Council when we look at this R-3 and R-4 is that we already have a lot of areas already zoned for apartments. You're finding -- well, after you guys go through this, you'll find that we have a lot of them. It just has to be done correctly.
And so the height of apartments, we don't have to put 10-story buildings right in the middle of the town center, but four or five, four stories is adequate, and the neighborhood, they should -- they key off the townhouses which are two to three stories tall. Okay? You don't just go right off the deep end. Just use some consideration for the neighborhood and the negative impact -- something that matches

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Gilman's townhouses would be adequate in that area with a brick -- a townhouse-type development is fine.
Thank you.
MAYOR PRO TEM PITTMAN: Thank you.
MR. HAEBERLIN: Anyone else in favor?
- - -
(No response)
- - -
MR. HAEBERLIN: Those who would like to speak in opposition, please raise your hand.
- - -
(No response)
- - -
MR. HAEBERLIN: Again seeing none, I return it to the Council.
COUNCILMEMBER ROCHE: What about existing properties that are on -- I mean are these suddenly going to take effect or are we grandfathering whatever the current configuration is?
MR. HAEBERLIN: Well, they could become legal nonconforming structures and uses. Well, the use will really not change per se, but the structures. So yes, it would be an incentive for them to in the future tear down the property rather than to try to redevelop 50-year-old multi-family.

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COUNCILMEMBER ROCHE: And if they were damaged by fire, would they be able to get a building permit to rebuild?
MR. HAEBERLIN: That's covered under the legal nonconforming provisions of the code, and there's lots of specific criteria that has to be met. So that -- the answer is that it depends.
COUNCILMEMBER BATES: I'm not inclined to approve this tonight. I'd like to -- A., I think the height next to residential needs to be reduced again. I'd be more in favor of a maximum of three stories or 40 feet subject to discussion from others.
I would like to see a little bit more done on the impervious lot coverage and throw in some options for developers to get some credits on the maximum percentage. I do think that along the New Peachtree corridor, the GM area, I do think that those are appropriate height and impervious lot coverages to allow for the density, but I do think that the Hidden Colony on Aztec --
What's over by you guys?
COUNCILMEMBER PACHUTA: Town and Country.
COUNCILMEMBER BATES: -- Town and Country over on English Oak, those are more akin and should be treated more residential.

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COUNCILMEMBER ALEXANDER: And I also agree with lowering the height to three stories or 40 feet. I don't know if Council wants to go ahead and make a motion to make that change or --

COUNCILMEMBER FLEMING: I'd like to make a motion to reduce the number of stories to three or 40 feet.

MAYOR PRO TEM PITTMAN: Do I get a second?

COUNCILMEMBER ALEXANDER: 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.

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MAYOR PRO TEM PITTMAN: Motion carries.

COUNCILMEMBER FLEMING: I need to ask a question in that area. I noticed that we're only commenting that -- and though I realize that none of this that we're talking about is adjacent to an R-2, but why would we not list that in this description?

MR. HAEBERLIN: I treated -- as in your Comp Plan, I treated R-2 as quote/quote multi-family, and so it was included in the some 1,041 dwelling units that we have that are classified as multi-family. So I did not -- I did not put a lower height for adjacent to R-2; I treated it as multi-family, basically.

COUNCILMEMBER ALEXANDER: I mean that would -- that's one of the reasons why I wanted to lower to three feet: because Town and Country does back up to R-2. And I think Town and Country currently right now is two stories.

MR. HAEBERLIN: That's correct.

COUNCILMEMBER FLEMING: Well, that's -- that's why I was wondering why he didn't include R-2 into that description there. It just says single-family deta- -- Well, let's see. (Reading) Single-family detached dwellings or R-4.

So Ms. Alexander is saying Town and Country is backing up to R-2.

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MR. HAEBERLIN: Correct. You could add next to R-4 or R-2.

COUNCILMEMBER BATES: Well, Scott, what would preclude us from saying any residentially-zoned property?

MR. HAEBERLIN: That's pretty broad. I get kind of nervous about that.

COUNCILMEMBER BATES: But if we're including R-1, R-4 and now R-2, then the only thing left would be RSFA and RCH --

MR. HAEBERLIN: Correct.

COUNCILMEMBER BATES: -- and I would want the same to apply to an RSFA and an RCH as well.

MR. HAEBERLIN: I mean I -- again, that's just a policy decision. I didn't consider next to RSFA as being an issue.

COUNCILMEMBER ROCHE: But R -- I think -- My place is the cluster homes, RCH or whatever, I would think that would be included under single-family detached, but I agree.

COUNCILMEMBER BATES: My preference would be just to put a global protection out there just to have it apply to 100 feet from any residentially-zoned property, and that would be my motion.

MAYOR PRO TEM PITTMAN: Do I get a second?

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COUNCILMEMBER ALEXANDER: 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.

MR. HAEBERLIN: I do have a question about that just so I'm clear. If R-3 was next to R-3, would that apply? because that's such a broad parameter, residentially-zoned properties.

COUNCILMEMBER BATES: That's a great question --

MR. HAEBERLIN: Just for clarification.

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COUNCILMEMBER BATES: -- because we do -- we will have where Wynnchase and Shallowford abut each other, if Wynnchase wanted to redevelop but Shallowford Gardens didn't, they would be restricted.
COUNCILMEMBER FLEMING: Well, he's got R-4 there. I mean R-4 is condos, and they're attached.
MR. HAEBERLIN: Do you guys just want me to work on listing the actual districts? because I know we're going to have to redo this again because we've got changes. And we go through and look at all the districts and make sure I list the districts and then send you guys a draft to look at.
COUNCILMEMBER ROCHE: Make sure we get the drafts on the Web site so people can review them in advance, please.
MR. HAEBERLIN: They are.
COUNCILMEMBER BATES: Yes.
MR. HAEBERLIN: Okay.
ATTORNEY WEED: Any draft I do is sent to every department head, sent to Luke for the Web site, and everyone I can think of gets one.
MR. HAEBERLIN: What I'll do is like when we do changes, I want to put it in red so it's so obvious to you guys, and we'll print up of course a black copy for the meeting, but I'll do -- while we're working on

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it, I'll put the changes in red and I'll send that.
COUNCILMEMBER BATES: And will you also work on the maximum impervious?
MR. HAEBERLIN: Correct. I think where you're going is next to R-4, next to R-1 you want a different feel than perhaps Shallowford Gardens or Wynnchase, or perhaps Pebblewood even.
COUNCILMEMBER BATES: It should --
COUNCILMEMBER FLEMING: Or what? I'm sorry.
MR. HAEBERLIN: Pebblewood.
COUNCILMEMBER FLEMING: Yeah.
COUNCILMEMBER BATES: Anything in a residential needs to be greener than and less dense than -- less surface parking than something that would be along New Peachtree corridor or GM redevelopment area.
MR. HAEBERLIN: Do you have a number anywhere in mind like 65, 50, whatever?
COUNCILMEMBER BATES: Well, I'm agreeing with Ms. Fleming, somewhere in the 55/60/65 percent range on that.
COUNCILMEMBER FLEMING: I thought 60 percent. And like I said before, that doesn't say that -- you know, I know there's concern about the developments will not come in because we're not going

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to be as dense, but that also gives them an opportunity to come and ask for a variance. So I'm comfortable with 60 percent.
COUNCILMEMBER BATES: But if Council is okay, I would like you to consider looking at some exemptions or some credits if they were to go very green or like if they were to redevelop and all the buildings be LEED certified? You know, would we do additional impervious credits? Is that something that we could consider?
MR. HAEBERLIN: I'm thinking about your ordinance. You know, LEED would apply to this regardless because there's no way you're going to have anything --
COUNCILMEMBER ROCHE: Right.
MR. HAEBERLIN: -- that's apartment community that small.
COUNCILMEMBER BATES: If they went to LEED Silver versus just -- or if they obtained the higher level of LEED, could we?
MR. HAEBERLIN: I'll look into it.
COUNCILMEMBER BATES: What I want to do is reflect, you know, the trees and the green that we all value in our neighborhood communities but I want to encourage and provide some incentives and enticements

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for them to look at alternate methods of construction and hitting certain levels and things along that nature.
COUNCILMEMBER ALEXANDER: And you know, I like to see encouragement. I mean when you go to Chamblee, some of those buildings have internal parking that you really don't see. But then when you go to the new Brookhaven town center, you've got that monolith of a parking garage sitting there, and I just think that's atrocious.
MR. HAEBERLIN: I agree.
COUNCILMEMBER ALEXANDER: I don't know why they did that. It just spoils the whole look of that in my opinion. Maybe put some art work or something up there.
MR. HAEBERLIN: Okay. I'll work on a draft of that.
MAYOR PRO TEM PITTMAN: Okay. Nothing else on that particular item?
COUNCILMEMBER BATES: So I make --
COUNCILMEMBER FLEMING: Need a motion --
COUNCILMEMBER BATES: -- a motion to --
COUNCILMEMBER FLEMING: -- for the 60 percent.
MS. HOFFMEISTER: If I could interject, you

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1 want to make sure that that impervious --
2 MAYOR PRO TEM PITTMAN: Hold on one moment,
3 please.
4 MS. HOFFMEISTER: -- does not include flood
5 plain.
6 COUNCILMEMBER BATES: Sorry. Pam?
7 COUNCILMEMBER ALEXANDER: Don't we want to
8 wait and see if he gets some more information?
9 COUNCILMEMBER BATES: Because I'd like to
10 have it as a sliding scale.
11 COUNCILMEMBER FLEMING: That's fine.
12 COUNCILMEMBER BATES: Scott, are you okay
13 with 60 percent on the residential and then up
14 somewhere higher on a commercial corridor?
15 MR. HAEBERLIN: Let me look and see what the
16 numbers are for everybody and just try to see if I can
17 do a comparison. It would help me -- if you guys see
18 examples of things that you actually like in terms of
19 that type development, let me see if I can find the
20 ordinance that supported that. So if there's
21 something that you see that you like, I'll try to
22 replicate or see how that was done.
23 COUNCILMEMBER BATES: I want to make a
24 motion to postpone this R-3 and R-4 to --
25 COUNCILMEMBER ALEXANDER: February 28th?

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1 COUNCILMEMBER BATES: -- February 28th.
2 MAYOR PRO TEM PITTMAN: Do I get a second?
3 COUNCILMEMBER BATES: Mr. Weed, yes?
4 ATTORNEY WEED: Just to clarify, is it your
5 intention to continue the public hearing at that date?
6 COUNCILMEMBER BATES: Yes.
7 ATTORNEY WEED: Okay.
8 COUNCILMEMBER ALEXANDER: Is that date
9 correct on your schedule?
10 MR. HAEBERLIN: I'm thinking off the top of
11 my head that that's the fourth Monday of the month.
12 COUNCILMEMBER FLEMING: Yes.
13 COUNCILMEMBER BATES: Yes.
14 MR. HAEBERLIN: That's correct.
15 COUNCILMEMBER ALEXANDER: (Inaudible)
16 MR. HAEBERLIN: Pardon me?
17 COUNCILMEMBER ALEXANDER: That's another end
18 of the month for me. I have to ...
19 MR. HAEBERLIN: Yeah, yeah. We have another
20 first and third that month and then of course the
21 second Monday is Valentine's Day.
22 MAYOR PRO TEM PITTMAN: And Ms. Fleming was
23 wanting to do a work session on Tuesday, the 15th.
24 MR. HAEBERLIN: Okay.
25 COUNCILMEMBER FLEMING: Well, I don't mind

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1 the 14th because obviously I don't have any lovers
2 hanging out, so, but you guys may, and therefore, you
3 may want to do something with, you know, your husband
4 or family.
5 MAYOR PRO TEM PITTMAN: If you don't mind.
6 I do.
7 COUNCILMEMBER BATES: I'll be right here
8 with you, Pam.
9 MAYOR PRO TEM PITTMAN: But I mean I'll be
10 here if I need to but my preference would be no, but
11 I'll be here.
12 COUNCILMEMBER BATES: I'll bring you a
13 valentine. How about that?
14 COUNCILMEMBER FLEMING: Thank you. So we
15 need to do it on the 15th.
16 COUNCILMEMBER ROCHE: We need a city dating
17 service.
18 Mr. Bates, there was one issue on the R-3 or
19 R-4 I was hoping we could touch on.
20 COUNCILMEMBER BATES: I'll withdraw the
21 motion and make the motion to postpone the R-3 to
22 February 28th.
23 COUNCILMEMBER PACHUTA: R --?
24 COUNCILMEMBER BATES: R-3 only.
25 COUNCILMEMBER PACHUTA: R-3 only.

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1 ATTORNEY WEED: And I don't have a calendar
2 here. Is that the fourth Monday?
3 COUNCILMEMBER BATES: It is.
4 COUNCILMEMBER FLEMING: Yes, it is.
5 ATTORNEY WEED: That won't be a special
6 meeting. That would be our regular meeting.
7 COUNCILMEMBER BATES: That is correct.
8 MAYOR PRO TEM PITTMAN: Do I get a second?
9 COUNCILMEMBER PACHUTA: Second.
10 MAYOR PRO TEM PITTMAN: Discussion?
11 - - -
12 (No response)
13 - - -
14 MAYOR PRO TEM PITTMAN: Call the roll,
15 please.
16 CLERK McCAIN: Councilmember Alexander?
17 COUNCILMEMBER ALEXANDER: Yes.
18 CLERK McCAIN: Councilmember Bates?
19 COUNCILMEMBER BATES: Yes.
20 CLERK McCAIN: Councilmember Fleming?
21 COUNCILMEMBER FLEMING: Yes.
22 CLERK McCAIN: Councilmember Pachuta?
23 COUNCILMEMBER PACHUTA: Yes.
24 CLERK McCAIN: Councilmember Roche?
25 COUNCILMEMBER ROCHE: Yes.

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MAYOR PRO TEM PITTMAN: Motion carries. Okay. So we did not defer R-4.
COUNCILMEMBER BATES: That's correct.
MAYOR PRO TEM PITTMAN: Okay. And we're going to move forward with Public Hearing - Text Amendment, Section 906, R-4 District, readvertised from 2010, recessed from January 24th, 2011.
MR. HAEBERLIN: Again, we made changes based on the past discussion. There was discussion that this is different in kind than R-3 and that perhaps height was more appropriate in R-4. The good thing about R-4 is other than Ms. Gilman's development in the city, there's only one R-4, so everything else would be a rezone.
So we did adjust the heights accordingly, and as well, we carried over the same development provisions that were in the R-3, so they are verbatim.
COUNCILMEMBER ROCHE: So where is that? R-4?
MR. HAEBERLIN: R-4.
COUNCILMEMBER ROCHE: Where is it located?
MR. HAEBERLIN: Oh, in the city? Chestnut Place Condominiums.
COUNCILMEMBER ROCHE: Chestnut Place Condominiums.

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MR. HAEBERLIN: There's only one.
COUNCILMEMBER ROCHE: Yeah. I have a couple of issues, obviously. First of all, that's next door to next door to my house, but whatever.
The minimum lot area here is three acres. I believe that if this had been in place, Chestnut Place could not have converted from apartments to condominiums because I don't -- I didn't measure it, but it doesn't look like three acres to me, and I think we need to reduce that. I think we should do whatever we can do to encourage conversion of apartments to condos.
COUNCILMEMBER BATES: Well, that -- first of all, that was a church and it was a tear-down and a rezoning, so it wasn't a conversion.
COUNCILMEMBER ROCHE: Sorry. No. They converted Chestnut Landing.
COUNCILMEMBER ALEXANDER: We're talking about the townhouses.
COUNCILMEMBER ROCHE: No. I'm talking about the place that's --
COUNCILMEMBER ALEXANDER: That's not R-4.
COUNCILMEMBER PACHUTA: That's not R-4.
COUNCILMEMBER BATES: That's not R-4.
COUNCILMEMBER ROCHE: What's it zoned?

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COUNCILMEMBER ALEXANDER: R-3.
COUNCILMEMBER BATES: R-3.
COUNCILMEMBER ROCHE: Well, then, it's zoned or --
MR. HAEBERLIN: It's the wrong zoning category.
COUNCILMEMBER ROCHE: But we couldn't zone it R-4 because it's not three acres even though it's condominiums. So --
MR. HAEBERLIN: You know, that is a discussion you'd have to make, whether you'd like to leave it in that capacity.
The former building official did keep correspondence on that development. There was a lot of back-and-forth with attorney Seth Weissman who represented the property owners at the time. It looks like to me there was a decision made by Legal to move forward with it but it does have a -- it has a pretty detailed history on it, particularly the way the buildings were being converted.
COUNCILMEMBER ROCHE: Well, all I'm saying is that . . .
COUNCILMEMBER PACHUTA: I don't have the old ordinance in front of me. Did the old ordinance have a minimum lot area?

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MR. HAEBERLIN: It had thirty --
COUNCILMEMBER ALEXANDER: It had lot area.
MR. HAEBERLIN: -- thirty-six thirty square feet per dwelling unit. So it was interesting the way it was set up; it was per dwelling unit.
COUNCILMEMBER ROCHE: I'd like to make a motion to reduce the minimum lot area for R-4 from three acres to 1.5 acres.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER FLEMING: I just want to ask him why he chose one-and-a-half acres.
COUNCILMEMBER ROCHE: Because it was halfway between one and three, I guess. I just averaged it out. I figure that Chestnut Place or Chestnut Landing -- I get the names backwards -- looks like it's probably at least an acre and a half there. I could be wrong.
Maybe one acre is better. I certainly would entertain that. Friendly amendment to my motion to make it one acre.
MAYOR PRO TEM PITTMAN: Do I get a second?
A second?
- - -
(No response)
- - -

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MAYOR PRO TEM PITTMAN: Okay. Motion dies.
COUNCILMEMBER FLEMING: The reason why I didn't second it or I'm not comfortable with a 10-story building being on one acre.
COUNCILMEMBER ROCHE: Oh, I was getting to that too.
COUNCILMEMBER FLEMING: Well, no, no, no. That's where we were coming from. I wasn't about to say one acre and think about a 10-story building there. That's the reason why I wasn't even going to go there on a one-acre.
COUNCILMEMBER ROCHE: Well, the maximum building height I think we agreed would be pretty much the same as what's in R-3, and R-3 has one acre, so.
I want to do whatever we can do to encourage conversions from apartments to condominiums and I don't want to have a road block that says, oops, if you don't have three acres, then you got to go through all kinds of hassle to do it.
I mean personally I'd be fine with having the same requirements for R-3 as R-4, but --
COUNCILMEMBER PACHUTA: Do we have apartment complexes under three acres?
COUNCILMEMBER ROCHE: Well, we have one that's mis-zoned because it's not a condo, and it's

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under three acres, and under this ordinance, they would not have been able to convert to condos.
COUNCILMEMBER ALEXANDER: Is that the only one that we have under three acres?
MR. HAEBERLIN: We have -- well, we have several mis-zonings. We have Avery Park and we have Chestnut Landing as we discussed here.
Flower's Gate is actually RSFA, that's correct.
COUNCILMEMBER BATES: But as far as existing multi-family outside of Avery Park, which really isn't multi-family. It's --
MR. HAEBERLIN: Condominium.
COUNCILMEMBER BATES: -- condominiums.
MR. HAEBERLIN: Should be.
COUNCILMEMBER BATES: Do we have any --
COUNCILMEMBER PACHUTA: Apartment complex.
COUNCILMEMBER BATES: -- yeah, multi-family apartment complexes that are less than three acres aside from what Mr. Roche has --
MR. HAEBERLIN: Three or more attached? Off the top of my head, I mean I'm just guessing, I don't think so.
COUNCILMEMBER BATES: When you give us a revised draft on R-4, could you provide us with

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information on what Chestnut Landing's acreage is?
COUNCILMEMBER ROCHE: And Chestnut Place.
MR. HAEBERLIN: Okay.
COUNCILMEMBER FLEMING: And with that same thing, again, it would be four stories where Ms. Gilman lives if it were zoned R-4 to begin with, so I don't have a problem with that. But I think we're going to possibly change that to three maybe?
COUNCILMEMBER BATES: Well, in order for that to happen, the property would have to go through a rezoning.
And correct me if I'm wrong -- and this will be to Mr. Weed and Mr. Haeberlin -- under a rezoning, we could limit the maximum height of a rezoning applicant if they were converting from R-1 or R-3 to R-4. Is that --
MR. HAEBERLIN: Absolutely. Conditional zoning.
COUNCILMEMBER BATES: Yeah. I'm okay with leaving it as four, and if by some chance Hidden Colony does at some point down the road try to convert from R-3 to R-4, I think we can address it then. But that's, I mean, since it's only in one location right now.
COUNCILMEMBER FLEMING: I need to ask one

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other question. Are you saying that R-4 is only in one location?
COUNCILMEMBER BATES: Yes.
COUNCILMEMBER FLEMING: -- or we have no R-4s at all?
MR. HAEBERLIN: Well, I mean technically we only have one true R-4 zoned piece of property, where Ms. Gilman lives, but we have some other properties that probably should be zoned R-4.
COUNCILMEMBER FLEMING: Okay. So, then, my question now would be, the two parcels that are preplanned, do we have something definitive in place that those standards are going to be like the condos that are presently at Chestnut Place?
MR. HAEBERLIN: Well, we revoked all the conditions for Chestnut Place to match what's there, and so if we were to have a rezoning adjacent to Chestnut Place, obviously I would argue those conditions for the rezoning because those are very high standards.
COUNCILMEMBER BATES: Yeah. We did last spring go through and put protective measures on the two undeveloped lots at Chestnut Place.
MAYOR PRO TEM PITTMAN: Anything additional from the table right now?

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MR. HAEBERLIN: Same sliding scale on impervious?
COUNCILMEMBER BATES: That would -- that would be my preference, yes.
MR. HAEBERLIN: Okay.
MAYOR PRO TEM PITTMAN: Anything else from up here?
COUNCILMEMBER BATES: I'll make motion to recess this to February 28th.
COUNCILMEMBER PACHUTA: Public hearing as well?
COUNCILMEMBER BATES: Yes.
COUNCILMEMBER ROCHE: 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?
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: Motion carried.
Before we go into new business, before we do that, does anyone need a break?
COUNCILMEMBER BATES: Please.
COUNCILMEMBER PACHUTA: Sure.
MAYOR PRO TEM PITTMAN: Okay. We'll take a five- or ten-minute break? Five? You-all good with five? Okay. Five-minute break.
- - -
(Brief recess)
- - -
MAYOR PRO TEM PITTMAN: Okay. We're going to New Business, Non-Zoning Item, Not a Public Hearing. The first item up is going to be the La Union.
ATTORNEY WEED: Mayor Pro Tem, members of the Council, this would ordinarily have been a hearing on the possible action against an alcohol beverage license.
With the Council's permission and with the

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consent of Chief King and opposing counsel, Jim Watkins, the applicant intends to voluntarily turn in their license.
They will be banned from reapplying in the city of Doraville for 20 years after February the 7th. They will be banned within a three-mile radius of the front door of City Hall from opening in another jurisdiction. And we in turn will, if anyone asks us any questions with regard to this matter, we will report truthfully and accurately that the license was voluntarily released, and essentially we are not going to take any further action other than any action needed to enforce the consent order that's been proposed.
The last version of the consent order was sent to the Council, to Chief King, to opposing counsel, today at 4:24, and I'd like to seek your permission to settle this matter by virtue of a consent order under the terms that I have just outlined.
COUNCILMEMBER ROCHE: Three miles, does that include the place over at where El Reveton was?
COUNCILMEMBER FLEMING: El Reveton, unincorporated Dekalb County.
ATTORNEY WEED: I don't know. I would turn

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to the Chief and say do you know, Chief?
CHIEF KING: What is El Reveton, sir?
COUNCILMEMBER FLEMING: Tilly Mill Place.
COUNCILMEMBER PACHUTA: Near Oasis. Right beside Oasis.
CHIEF KING: You're within three miles. You're inside the three miles.
COUNCILMEMBER ROCHE: No. I think that they could --
CHIEF KING: Three miles from City Hall.
COUNCILMEMBER ROCHE: Yeah, but I think three miles is within -- I think Friday's Plaza is outside that three-mile limit.
CHIEF KING: I don't think so, sir. Three miles as a straight line distance is pretty far away.
COUNCILMEMBER ROCHE: Okay.
CHIEF KING: We can have it checked, sir, but it's just a rough estimate.
COUNCILMEMBER ROCHE: That's okay. At least they can open next to Donna's house and not my house.
MAYOR PRO TEM PITTMAN: Thanks, Bob.
COUNCILMEMBER FLEMING: The question I have is their 2010 alcohol privilege permit should have expired December 31st, is that not correct?
CLERK McCAIN: Yes, ma'am.

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ATTORNEY WEED: Yes, that's correct.
COUNCILMEMBER FLEMING: So therefore, the question of them pouring for another seven days is moot because surely they have not, because of this, reapplied for 2011 privilege, have they?
ATTORNEY WEED: It's not moot if we agree to do so and the court signs off the agreement. The court can create essentially a bubble of reality. So that's how this is being proposed to be handled.
COUNCILMEMBER FLEMING: So --
CLERK McCAIN: And just for a point of notice, they have applied and paid their fee.
COUNCILMEMBER FLEMING: They have applied and paid their fee.
CLERK McCAIN: It has not been approved and issued because of this issue.
COUNCILMEMBER FLEMING: Okay. So for the month of January, they've been pouring illegally anyway.
ATTORNEY WEED: That would be my opinion, yes, ma'am.
COUNCILMEMBER FLEMING: Okay. I just wanted to make sure I understood everything that was going on.
MAYOR PRO TEM PITTMAN: Council?

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COUNCILMEMBER PACHUTA: You just need us to formally approve?
ATTORNEY WEED: Just tell me if I need -- I'd like the Council to authorize me to move forward on the terms of the consent order that I presented to you.
COUNCILMEMBER PACHUTA: I make a motion to do that.
MAYOR PRO TEM PITTMAN: Do I get a second?
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?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?

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COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion carries.
MAYOR PRO TEM PITTMAN: The next item is Not a Public Hearing. It's Adoption of Architectural Standards/Design Guidelines. Mr. Haeberlin.
MR. HAEBERLIN: Yes, ma'am. I'm going to pass around a site plan. This has been received by the City of Doraville. I'm not specifically mentioning names.
The situation that we're in -- and this has actually been discussed by the Comp Plan -- is creating architectural standards. We are kind of at the 11th hour, and when we receive building permit applications, these people will be vested in being able to essentially do what they want to do, which could be a number of different things.
And so this just provides a basic framework just for commercial and office, not the whole city but just for commercial and office areas, and it only applies to new ground-up construction, so it does not apply to renovations. I know that renovations become a sticky measure because a lot of things that are cost-effective in renovations are not necessarily covered in this code, so this is only new construction.

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I did provide in your package some pictures. This is a metal building at 6040 Buford Highway which I was forced to approve because there were no codes that restricted it from the city. Unfortunately, I was not able to convince the individual to do anything different.
So again, this is just a stop-gap measure, meaning this could be amended because it's not zoning, every week as you work with it. But if you had something in place, we'd have some basic framework for being able to assist the customer in doing something a little different than perhaps split-face block or metal, et cetera. So the ordinance has been drafted with that in mind.
COUNCILMEMBER ROCHE: I don't see any elevation here. Is there any indication of what they plan to build this particular building with?
MR. HAEBERLIN: Well, those are the site plans, sir, so the building plans have not been received.
If we had already received the building plans, we would probably be in worse trouble.
COUNCILMEMBER ROCHE: Is there anything that would indicate that they want to build it out of corrugated metal?

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MR. HAEBERLIN: No, sir, but block was a discussion, and their standard stores particularly in the city of Chamblee are block.

COUNCILMEMBER ROCHE: Whose standard stores?

MR. HAEBERLIN: This particular builder.

COUNCILMEMBER ROCHE: Okay. Well, I mean it would be nice to know who we're comparing this to. I mean why -- is there some reason why it's a secret?

MR. HAEBERLIN: It's not particularly a secret. I don't want to single out any particular business. I mean it states on the front of the plan, sir, if you wanted to look at it in private, certainly.

This is a city-wide issue, so it's more than just this lot. We're getting a lot of interest along Buford Highway, which I'm excited about, perhaps because the land prices have fallen. We've had a lot of requests to consider demolition and also to consolidate some lots, so we're getting a lot more activity than we were about two and a half years ago.

Again, just a stopgap measure; could be amended, repealed, changed, et cetera, every time you meet, because it's not zoning and can be put on any agenda.

So one of the focuses, and this was

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discussed -- and I briefly had a chance to look at some of the LCI information that's come in with the final -- is the whole concept of moving buildings closer to the road, and I think that's great. However, if you move them close to the road and the architecture is not particularly appealing, it could be looked at as a detriment to the city.

And again, this site is designed with that whole concept of moving structures closer to the road.

I guess one of the great banes of having an older city is you don't do a lot of zoning. In other words, if you have a suburban area and you do lots of zonings, which I was used to doing 30 or 40 a month, you get to set in zoning conditions exactly how you want the building to look.

In this case, absent putting something in the building code, we just don't really have anything that could hold their hand to perhaps more aesthetically pleasing exteriors.

COUNCILMEMBER ROCHE: This is several pages long and we only received this, what, a couple days ago. I'm just very concerned about trying to pass something like that, like this, that's this long, without proper view, questions being raised about some of the materials used and whether or not they're an

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environmentally good thing or not.

I just think this needs to be reviewed a lot more instead of just passing stuff. Every time we rush into passing something, we always, always, always regret it.

And I'm not too concerned about that particular building, the mystery building there, but I have seen their other buildings other places, and they -- I'm not an expert, but they look basically fine to me, so.

COUNCILMEMBER FLEMING: And though the preamble of this ordinance indicates that it's for commercial and office development, I think we need to be more specific. Are we talking about C-1 or C-2 or O/I or O/W? I think we need to be more specific.

I think Mr. Chambers indicated that instead of -- if we're going to do design guidelines, we need to be considering the entire city.

I think that the LCI that we were able to view on Wednesday evening took into account a lot of architectural standards and I would think that we would try to import their information into an ordinance for us to adopt rather than trying to write something quickly to accommodate a fear.

I have received two e-mails from current

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businesses that we have in the city that are requesting at least for us to work on this in a work session so that they can be present and having had time to look at these standards as well.

COUNCILMEMBER ALEXANDER: So those comments were from existing business owners.

COUNCILMEMBER FLEMING: I'm sorry?

COUNCILMEMBER ALEXANDER: Those comments were from existing business owners.

COUNCILMEMBER FLEMING: That's correct.

COUNCILMEMBER ALEXANDER: Okay, because I think one of the things that we had an issue before when we tried to do architectural standards was, as Scott said, they applied to current properties that were doing renovations and this stopgap doesn't.

I do agree it needs more discussion; however, I don't want us to be caught with our pants down, so to speak, because we can't legally tell them how to build something, and I don't want them to be able to come in here and build a building that meets codes but it's not aesthetically pleasing, especially on, as he said, visible properties such as this one is. It's on a corner.

So I would like for us to try to get something in place. We've been working on this I

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1 don't know how many years now and we haven't been able
2 to make any progress on it, and I think perhaps one of
3 the reasons why we weren't more motivated is because
4 at that time nothing was going on.
5 Well, now we've got opportunity knocking on
6 our door with two projects, one OTP and one ITP, both
7 extremely visible on our main thoroughfare, and I
8 think we need to take steps to make sure we get some
9 quality construction.
10 So I don't think we can afford, in my
11 opinion, to wait till we get the entire thing done
12 from the LCI. That is my goal to get that done,
13 because I want -- as Ms. Pachuta said, I want
14 photographs, I want pictures, I want, "You can do this
15 but you can't do this," all these nice fancy words
16 that people have to go to Dictionary.com to figure out
17 what they mean. It's a lot quicker if they have a
18 photograph.
19 And I did see a drawing. Thank you, by the
20 way.
21 So that's my opinion, that we need -- I feel
22 like it's just like, in my place, the placeholding of
23 the zoning of the GM property. We need to sort of
24 have a placeholder in here till we get full-blown
25 architectural standards in that affect the entire

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1 city.
2 COUNCILMEMBER PACHUTA: I agree, and then
3 what Scott said, we can keep amending it every day if
4 we wanted to or every week. But I would prefer to
5 have something simple in place that does keep out and
6 prevent the more undesirable constructions. You know,
7 developers, yes, they're going to have some standards,
8 but at some time they're going to go towards some of
9 the cheaper constructions to save money, so.
10 COUNCILMEMBER ROCHE: Well, there's a couple
11 things. I certainly didn't want to see corrugated
12 metal buildings, so we could certainly make that
13 illegal. And we talked about cinder blocks, we could
14 certainly do that.
15 All this other is so open to -- I mean who
16 makes the decisions? I'm not seeing the -- Would this
17 be a decision of the City Council? I mean who would
18 decide whether or not they meet the requirements?
19 MR. HAEBERLIN: The building official. It's
20 a building code.
21 MAYOR PRO TEM PITTMAN: So Council, your
22 wishes on this?
23 COUNCILMEMBER ALEXANDER: I think we need to
24 delve into it at our next meeting.
25 Do we have anything coming up on our next

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1 meeting, by the way, other than what we've postponed?
2 because this is going to require a great deal of
3 discussion, I believe.
4 MR. HAEBERLIN: You have one petition and
5 there's one item that came out of Mr. Weed's review of
6 Municode that I want to address with you guys. So I
7 think at least two items.
8 COUNCILMEMBER PACHUTA: The -- the daycare.
9 Is that the one item or is that --
10 MR. HAEBERLIN: That's -- that's one portion
11 of it, and there's a broader discussion about that,
12 and I'm going to save that for later but --
13 COUNCILMEMBER PACHUTA: Okay. But that's
14 the 28th?
15 MR. HAEBERLIN: Uh-huh.
16 COUNCILMEMBER BATES: Well, I agree with
17 Ms. Alexander. Much like what we're trying to do with
18 putting a stop on the number of foot rubbers in the
19 city, I want to make sure that we've got a stop in
20 place to prevent another BrandsMart from coming into
21 the city, and there's nothing in our code today that
22 would prevent this particular developer from
23 submitting architectural elevations that show it with
24 bright red horizontal stripes running down the entire
25 side of the building that I don't think that any of us

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1 would want to have at that particular location at
2 McElroy and Buford Highway
3 I agree that we need to have city-wide
4 architectural standards that applies to residential
5 and redevelopment, and we will get there based upon
6 some of the feedback that we got from the LCI, but
7 this is a stopgap. It is a protection on
8 redevelopment that's coming to our city, and I want to
9 make sure that it's the very best that it can be in
10 the interim.
11 COUNCILMEMBER FLEMING: Mr. Haeberlin, would
12 you like to comment about Mr. Shanahan's comment about
13 the EPA and the colors of the roofs?
14 MR. HAEBERLIN: Well, it's a balancing act.
15 I mean there's lots of things that I think that are
16 particularly good for the environment that are not
17 particularly aesthetically appealing, so it's a
18 balancing act.
19 I don't think we're really where we need to
20 be yet for those type items, and I think that's
21 something that again -- and I'm not going to purport
22 to be an architect, but that's something I want to
23 hand the Council over to an architect to do.
24 COUNCILMEMBER FLEMING: But colorwise. I
25 mean colorwise. Obviously --

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1 MR. HAEBERLIN: Yeah.
2 COUNCILMEMBER FLEMING: -- we don't want to
3 walk on asphalt. We'd prefer walking on the white
4 strip that's in the parking lot.
5 MR. HAEBERLIN: Yeah.
6 COUNCILMEMBER FLEMING: So I mean white is
7 cooler than and doesn't retain the heat.
8 MR. HAEBERLIN: It is, but as far as
9 commercial applications, like for example white roofs
10 mold in Georgia so extensively, and I just really
11 picked, you know, the most common traditional colors
12 that I've particularly worked with and that I see
13 these materials being available in. And of course it
14 could be a broad array, but I just went with what I
15 see as to be the common colors, you know, things that
16 are just neutrals without going into real detail.
17 COUNCILMEMBER ROCHE: I would also like to
18 see the things that were agreed to and put together
19 for the LCI incorporated into something like this, you
20 know.
21 So I have two issues. First of all, like I
22 said, people, they showed up for the LCI, everybody
23 got together; they decided what they liked, what they
24 didn't like from an architectural standards
25 standpoint. I think that that needs to be a big part

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1 of this. I'm concerned about some of these
2 environmental issues particularly since we are a LEED
3 city.
4 And again, I just think there's a lot to it
5 here, and I'm not too worried about that particular
6 developer. I know what their buildings look like and
7 -- you know.
8 And frankly, I've heard -- when we say, "Oh,
9 it's a living document, we can change it any time we
10 want to," I've heard that before. Believe me, I've
11 heard that before, lots of times, so.
12 COUNCILMEMBER ALEXANDER: So you think we
13 should just accept what other people have accepted and
14 go on down the road and not try to improve?
15 COUNCILMEMBER ROCHE: No. I think that we
16 should have a little bit of care before we go passing
17 this, and I think that at least delaying it to the
18 next meeting is probably a good idea and getting it
19 out there so that other people have a tendency -- have
20 a possibility of commenting is a good idea.
21 I'm not -- you know, like I said in an
22 e-mail earlier, I don't respond with all the scare
23 tactics. I don't think that we have to be afraid of
24 these people, this particular developer.
25 I think that by all means

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1 we do need to have some architectural standards but I
2 don't think we need to rush into something.
3 COUNCILMEMBER ALEXANDER: So do you
4 personally know this developer, Doraville Investment
5 Group?
6 COUNCILMEMBER ROCHE: Of course not, but I'm
7 certainly --
8 COUNCILMEMBER ALEXANDER: Okay. Just
9 checking.
10 COUNCILMEMBER ROCHE: -- very aware of --
11 You know, taking an argument to the extreme,
12 you know, it doesn't really help, but anyway.
13 I'm very familiar with their stores and, you
14 know, I wish they looked greener, I guess, too, but
15 I'm not too worried about it and I can't see getting
16 rushed into something. There's several pages here,
17 and I don't know many times I voted on things and then
18 later on there's a gotcha or something that, oh, if
19 we'd only known or -- You know, what impacts is this
20 going to have on the other businesses? You know, who
21 knows what else is out there?
22 I just want more information, and I think
23 that we don't need to rush into something without
24 allowing people that are the stakeholders, the people
25 that are going to be affected by this to at least read

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1 it and at least have a general idea of what we're
2 talking about so that we can make a decent for a
3 change.
4 COUNCILMEMBER ALEXANDER: I believe I
5 suggested that we postpone this to the meeting on the
6 28th --
7 COUNCILMEMBER ROCHE: And I'm fully --
8 COUNCILMEMBER ALEXANDER: -- and that's why
9 I asked Mr. Haeberlin when it was on the schedule.
10 But I strongly encourage all Council members to read
11 this document and to e-mail Mr. Weed, Mr. Haeberlin,
12 Mr. Calcaterra any of their concerns or questions
13 instead of us coming up here and pontificating and not
14 getting anything done.
15 I've already seen a couple of things I had
16 questions on, looked at some photographs. I want to
17 answers to them, so that'll be in an e-mail.
18 But we waste too much time. We need to be
19 more efficient and go through the document and e-mail
20 everybody your concerns, and then we can come back to
21 the table and discuss them all on the 28th.
22 Make a motion we postpone this document and
23 add it to the agenda on the meeting on February 28th,
24 please.
25 COUNCILMEMBER PACHUTA: Do you want to add

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to the motion that all Council members provide their comments on the draft in advance of that meeting?
COUNCILMEMBER ALEXANDER: Yes.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER PACHUTA: I'll second that.
MAYOR PRO TEM PITTMAN: Discussion?
COUNCILMEMBER ROCHE: Well, we need to find a way to allow -- you know, we need to get this out on the Web site so that we can get comments also from --
COUNCILMEMBER ALEXANDER: I believe it already is on the Web site.
ATTORNEY WEED: It's on the Web site.
COUNCILMEMBER BATES: Just for the record, I'm not in favor of postponing this. I think that there's the potential. I knew -- I knew because I asked who the developer was. And just doing a cursory search on the Internet, I found examples of this particular store, one built in Tennessee in 2006 that is brick and looks very nice, one built in 2009 in Ohio that is cinder block and does not look very nice. I think we run a terrible risk of -- I'll pass those down for the rest of the Council to take a look at. I think we run a terrible risk of not having protections in place and ending up with the Cleveland, Ohio store versus the Tennessee store.

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COUNCILMEMBER FLEMING: Well, see, fortunately for you, Mr. Bates, and maybe I'm just not in the loop, but I wasn't aware of A., what was going there, B., who the developer was.
COUNCILMEMBER BATES: I have no idea who the developer is. Don't know it, didn't even look at it on the plans.
But I did ask Mr. Haeberlin if we have any redevelopment opportunities coming in the city, as I do periodically. He shared with me the name of the business like he does every time I ask, and so I was able to do a little bit of research this afternoon.
COUNCILMEMBER FLEMING: Thank you for those.
COUNCILMEMBER ROCHE: We used to have a policy where when a Council person asked the staff a question, the staff would respond to all Council members to keep everybody in the loop, but that fell away somewhere along the line.
COUNCILMEMBER PACHUTA: Probably the staff members don't like e-mails calling them incompetent like we received yesterday, but.
MAYOR PRO TEM PITTMAN: Okay. So we have a motion and we have a second. Any additional discussion?
- - -

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(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: No.
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 carried.
All righty. The next item is going to be a Public Hearing - Text Amendment, Section 601 (9) and (10), Accessory Structures and Uses. This is readvertised from 2010.
MR. HAEBERLIN: Correct. And I really don't know where we are on this because this is kind of a corollary to the whole concept of having a temporary use permit, and I know that's kind of fallen on the wayside, but, you know, I wanted to keep it on the agenda as to exactly how the verbiage would be if this

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is something the Council so desires.
I think we had a discussion on this --
MAYOR PRO TEM PITTMAN: (Banging gavel) Just a minute.
MR. HAEBERLIN: Uh-huh.
MAYOR PRO TEM PITTMAN: I know this is much interest to the public, but if you could just do me a big favor and hold down the conversation. It is very difficult for her to hear, so if you don't mind. And if you need to talk, if you could just step outside, please.
MR. HAEBERLIN: I think that there had pretty much been a decision to kind of collapse this whole concept into, you know, if it's a temporary use permit, it's allowed, you know, based on the temporary use permit ordinance, but that hasn't really fully been vetted yet, so I really don't know where we're on in this section.
COUNCILMEMBER BATES: This is -- and Ms. Fleming, correct me if I'm wrong. We had, I think, collapsed this in with the special events discussion that's slated on a work session at some point down the road. So this can probably be pulled off until we get to that.
MR. HAEBERLIN: Could we recess it just to

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1 save the advertising amount?
2 COUNCILMEMBER BATES: Yeah, absolutely.
3 ATTORNEY WEED: My only caveat about that is
4 how many agendas has this appeared on? One or two?
5 COUNCILMEMBER ALEXANDER: December 13th is
6 the date.
7 ATTORNEY WEED: Okay. I think maybe one
8 more time, and then if we're not going to do anything
9 with it after one more recess -- At a certain point if
10 we continue to recess it --
11 MR. HAEBERLIN: Correct.
12 ATTORNEY WEED: -- it just becomes a
13 fiction, and I don't want to do that.
14 COUNCILMEMBER BATES: Well, at this point in
15 time, I don't think it's relevant because we've not
16 discussed, you know, the special event pieces. So I
17 think it just needs to go away until we need to get
18 into that discussion and can clarify from the Council
19 on how we want to treat special events, which will
20 then dictate the addressing and the treatment of the
21 structures if there are any.
22 COUNCILMEMBER PACHUTA: Yeah. I don't know
23 if that is something we'll get to on the next work
24 session, but it may be better to recess it beyond the
25 28th or to just readvertise it after our work session

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1 and we figure out if it's ready for -- I don't know if
2 it'd be ready for a February meeting, so I would --
3 COUNCILMEMBER BATES: I think this is going
4 to change dramatically or has the potential of
5 changing dramatically based upon what comes out of the
6 work session, so my preference is for it just to go
7 away.
8 MAYOR PRO TEM PITTMAN: So is that a motion?
9 COUNCILMEMBER BATES: I don't think we need
10 to do anything with it.
11 COUNCILMEMBER FLEMING: Table. Motion to
12 table, do we not?
13 ATTORNEY WEED: Well, because it's a zoning
14 ordinance, the last time we dealt with it did the
15 Council make a recommendation to a date certain and
16 today is that date --
17 MR. HAEBERLIN: Well --
18 ATTORNEY WEED: -- and that's we didn't
19 readvertise it the last time?
20 MR. HAEBERLIN: No. I did readvertise that.
21 ATTORNEY WEED: Okay, for tonight.
22 MR. HAEBERLIN: Correct. And there was a
23 lot of discussion. I believe Councilwoman Pachuta
24 made the amendment to talk about Dekalb County and how
25 they had worded theirs.

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1 I just wanted to make sure that it didn't
2 fall off in case you need to do something to it.
3 ATTORNEY WEED: Council, I mean I think the
4 motion to table would be appropriate.
5 COUNCILMEMBER FLEMING: Thank you.
6 Make a motion to table Section 601 of the
7 Chapter 23 of the zoning ordinance, which is item
8 number VIIIC on tonight's agenda.
9 MAYOR PRO TEM PITTMAN: And no public
10 hearing; correct? No public hearing?
11 COUNCILMEMBER PACHUTA: Well, we're just
12 tabling it. We're going to have to readvertise it
13 anyway.
14 MAYOR PRO TEM PITTMAN: Do I get a second?
15 COUNCILMEMBER ALEXANDER: 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 carries.
8 And I believe the next item was asked to be
9 removed from the agenda?
10 MR. HAEBERLIN: Yes. What happens is that I
11 always want to make sure that if the attorney needs to
12 do definitions of a zoning code that he has an ability
13 to do that. He did not need that ability so it falls
14 off the agenda; we do not need it.
15 MAYOR PRO TEM PITTMAN: Okay. Thank you.
16 The last item is going to be Public Hearing
17 - Text Amendment, Section 910, C-2 District,
18 readvertised from 2010.
19 MR. HAEBERLIN: Correct. This is all
20 predicated -- this is the group of people who are not
21 licensed massage therapists of the State of Georgia,
22 what district we're putting them in. And for lack of
23 any other term, CSTTOM, where would that have gone in
24 the zoning ordinance, and there was a text amendment
25 proposed to put it into C-2 as a conditional use.

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1 Of course we did not act on the ordinance
2 prior to this, so again I don't know what the Council
3 wants to do with this particular item.
4 The legal counsel for the City in addition
5 to Mr. Weed, his counterpart strongly has encouraged
6 the staff to find a district to put this in and to
7 make an appropriate text amendment for it.
8 COUNCILMEMBER PACHUTA: And I agree with Pam
9 and the regulation code would have to change depending
10 on how we vote tonight, but I personally -- I mean I
11 think the C-2 conditional use is appropriate, but I
12 personally don't think we need to separate out massage
13 establishments and the CSTTOM establishments. I think
14 they can both occur at the same establishment as long
15 as those people who actually are providing massage
16 therapy have the massage licenses. That's my opinion.
17 COUNCILMEMBER FLEMING: I agree. I agree.
18 I think we've made it a little too difficult. I mean
19 our term. We've made our term too difficult, because
20 I think I provided that whether they are quote/unquote
21 foot massage or massage therapy parlors, as far as our
22 occupational tax placard for their wall, it's going to
23 say massage on it.
24 So I think it needs to be incorporated into
25 one ordinance, the same hours of operation, the same

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1 $1,500.00 regulatory fee, the same hours, and call it
2 massage and incorporate the language from John's
3 Creek.
4 I'm not comfortable also, Ms. Pachuta, about
5 not having the capability of having both in one place.
6 COUNCILMEMBER PACHUTA: Scott, the massage
7 therapy is already a conditional use under C-2;
8 correct?
9 MR. HAEBERLIN: That's correct; massage
10 therapy as defined by the State of Georgia.
11 COUNCILMEMBER PACHUTA: So this would just
12 be adding the CSTTOM.
13 MR. HAEBERLIN: That's correct.
14 COUNCILMEMBER PACHUTA: Okay. I make a
15 motion to --
16 COUNCILMEMBER BATES: No. It's a public
17 hearing.
18 COUNCILMEMBER PACHUTA: Oh. Sorry. I'm
19 moving ahead.
20 COUNCILMEMBER ROCHE: Then we got to have
21 the definitions and get into all that, of CSTTOM.
22 MAYOR PRO TEM PITTMAN: Okay. Anything else
23 from the table?
24 - - -
25 (No response)

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1 - - -
2 MAYOR PRO TEM PITTMAN: Mr. Haeberlin, if
3 you would open the public hearing please.
4 MR. HAEBERLIN: At this time the Mayor Pro
5 Tem has opened the public hearing on this item.
6 Those who would like to speak in favor,
7 please raise your hand.
8 - - -
9 (No response)
10 - - -
11 MR. HAEBERLIN: Seeing none. Those who
12 would like to speak against the proposed text
13 amendment please raise your hand.
14 MS. HOFFMEISTER: Define what is in favor
15 and what is opposed.
16 UNIDENTIFIED SPEAKER: Yeah.
17 MR. HAEBERLIN: Those who were in favor
18 would have been folks who want to put CSTTOM into
19 C-2.
20 COUNCILMEMBER BATES: As a conditional use.
21 MR. HAEBERLIN: As a conditional use.
22 And those who are opposed to that think it
23 should be in some other district or -- or --
24 ATTORNEY WEED: Yeah, or not regulated by
25 zoning.

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1 MR. HAEBERLIN: So let me do it again.
2 Those who'd like to speak in favor? I see one.
3 Please come forward, state your name and address for
4 the record.
5 MS. HOFFMEISTER: Well, never mind.
6 MR. HAEBERLIN: Okay.
7 MS. HOFFMEISTER: I guess we just don't know
8 enough to say anything.
9 MR. HAEBERLIN: Understood.
10 Okay. Those who are opposed, please come
11 forward.
12 MR. HART: The CSTTOM -- and apparently
13 Doraville, something this size is a little more custom
14 than others. You know, put it in C-2; I think it
15 should be moved to someplace like M-2 since in
16 Doraville you get the industrial strength massage
17 here.
18 And also, you know, they want to give
19 massage and do all these things. It should be in the
20 industrial area rather than front and center on Buford
21 Highway where it kind of sets the marketing tone for
22 the city. So that's what I would prefer to have.
23 Thank you.
24 MR. HAEBERLIN: Next?
25 MS. HOFFMEISTER: Not having read this, I

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1 apologize, Mayor and Councillors. I want to make sure
2 that this ordinance has restrictions from schools,
3 churches and things such as that nature.
4 We seem to be as though that's our only
5 business that we want to have in Doraville, and that's
6 the appearance when you drive up and down Buford. And
7 I think you need to be very careful to make sure that
8 we can limit this, that we can keep this away from the
9 children in our neighborhoods and the business people
10 who come to conduct business rather than to get
11 tickle-the-kitty type of business. Thank you.
12 MR. HAEBERLIN: Anyone else who would like
13 to speak against?
14 Terri, for the record, that was Bonita
15 Hoffmeister.
16 COUNCILMEMBER BATES: Thanks, Bonita.
17 COUNCILMEMBER FLEMING: I've never heard
18 that expression.
19 MR. ANDERSON: How do you follow that,
20 right?
21 COUNCILMEMBER BATES: We're now rated R.
22 Thank you. The minutes will now come with a
23 disclaimer?
24 COUNCILMEMBER ROCHE: Yeah. For the record,
25 I don't read those kind of Web sites.

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1 MR. ANDERSON: Stuart Anderson.
2 I hate to agree with Tom, but John and I
3 actually spoke to this some years ago and the M-2
4 consideration is kind of a keep-it-out-of-Doraville
5 kind of a consideration. It's hard for their business
6 plan to come to grips with having these things in M-2.
7 So that's what I say.
8 MS. CRAWFORD: Susan Crawford, Oakcliff.
9 And I really hate to agree, but having sort of
10 stumbled across one of the advertisements for one of
11 our massage parlors and finding to my amazement that
12 when I tried to cut and paste it and send it that I
13 got all this information that just ...
14 COUNCILMEMBER FLEMING: Shocked you.
15 MS. CRAWFORD: Well, yeah. I don't shock
16 easily, I mean, but yeah, it was kind of shocking.
17 And to think that it's anywhere in our city, and it
18 is, and obviously -- or right nearby. Well, I don't
19 know. Maybe these places aren't actually in
20 Doraville, but I think the perception is that they
21 are, because they are advertised thusly.
22 So yeah, I guess there is something it be
23 said about not having it in C-2, which we think of as
24 coffee shops and ice cream stores. Thank you.
25 MAYOR PRO TEM PITTMAN: Thank you.

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1 MR. HAEBERLIN: Anyone else?
2 - - -
3 (No response)
4 - - -
5 MR. HAEBERLIN: Seeing none, I return it to
6 the Council.
7 COUNCILMEMBER ROCHE: I just have a question
8 for the police.
9 Chief King, are you aware of any of these
10 operating, any of these kinds of establishments
11 working, operating within the city limits of Doraville
12 that are advertising on the ...
13 I got to believe your guys are keeping an
14 eye on the Web sites and all that.
15 CHIEF KING: We are. We monitor, sir. We
16 look at magazines. So far, the most active ones.
17 And you know, I mean of course I don't go
18 into people's homes and establishments; but the ones
19 we monitor, the ones that do the most advertising seem
20 to be on Oakcliff Road outside the city limits, sir.
21 Those are the most active ones.
22 But as we see them, we start working them,
23 and our guys, as you saw with La Union, are pretty
24 effective at shutting down some of these places.
25 We're actually pretty good at it.

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1 COUNCILMEMBER ROCHE: Thank you.
2 MAYOR PRO TEM PITTMAN: Council, what are
3 your wishes?
4 COUNCILMEMBER PACHUTA: Well, my
5 understanding is we need to add it in as a conditional
6 use because it's currently not in the zoning code.
7 So I would make a motion that we add in as a
8 conditional use under the C-2 General Business
9 District, Commercial Soft Tissue Touch, Manipulation
10 facilities as defined in City Code, period, and delete
11 the restriction that massage therapy is specifically
12 prohibited within the area. And then in the next
13 paragraph, we would delete the CSTTOM practitioners
14 shall be prohibited within massage therapy
15 establishments.
16 COUNCILMEMBER FLEMING: Could you make that
17 as -- instead of a multi-faced motion, break it down
18 please?
19 COUNCILMEMBER BATES: Start with the
20 restrictions. Start with who can and can't before you
21 adopt.
22 COUNCILMEMBER PACHUTA: Just make a motion
23 that --
24 I'm sorry. I don't know what Brian said.
25 COUNCILMEMBER BATES: Well, I think

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1 Ms. Fleming wants to have two motions -- one is who
2 can and can't practice, and then the second as to
3 whether or not to adopt this into the code.
4 COUNCILMEMBER PACHUTA: Okay.
5 COUNCILMEMBER BATES: So if I'm under-
6 standing Ms. Fleming correctly, the first would be to
7 eliminate the prohibitions of them being jointly
8 together, and then the second would be to adopt it
9 into the C-2 as a conditional use.
10 COUNCILMEMBER PACHUTA: Okay. I make a
11 motion that we eliminate the prohibition of CSTTOM and
12 massage therapy in the same establishments.
13 MAYOR PRO TEM PITTMAN: Do I get a second?
14 COUNCILMEMBER FLEMING: Second.
15 MAYOR PRO TEM PITTMAN: Discussion?
16 COUNCILMEMBER ROCHE: Where is the law right
17 now that says they're prohibited?
18 COUNCILMEMBER PACHUTA: Under the draft.
19 I'm sorry. In the draft.
20 COUNCILMEMBER ROCHE: Okay.
21 COUNCILMEMBER PACHUTA: Eliminate the
22 restriction in the draft.
23 COUNCILMEMBER ROCHE: Because the draft
24 doesn't define CSTTOM either, I don't think.
25 COUNCILMEMBER FLEMING: As defined in the

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1 City Code, which is still --
2 COUNCILMEMBER ROCHE: That's what I'm
3 saying. We don't have anything.
4 I'm not trying to be hard to get along with,
5 but why not just say any touching that is not
6 otherwise regulated by State or other government
7 agencies?
8 COUNCILMEMBER PACHUTA: Well, what I wanted
9 to do is to match the regulatory code that we
10 discussed this evening that did not pass. I mean it
11 passed in draft form.
12 COUNCILMEMBER FLEMING: I'd like to withdraw
13 my second, please.
14 COUNCILMEMBER ALEXANDER: I second it.
15 MAYOR PRO TEM PITTMAN: Discussion?
16 COUNCILMEMBER FLEMING: Yes. I'm not in
17 favor of calling massage that is not regulated by the
18 State, CSTTOM, because nobody's going to know what it
19 is, number one. Even if it's spelled out as
20 Commercial Soft Tissue Touch and Manipulation, it --
21 COUNCILMEMBER PACHUTA: Well, that's why we
22 will have --
23 COUNCILMEMBER FLEMING: People are just --
24 COUNCILMEMBER PACHUTA: -- the definitions.
25 COUNCILMEMBER FLEMING: -- really not going

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1 to understand what it is.
2 So if we incorporated the John's Creek
3 statement, as I read earlier, into our massage
4 ordinance, we would be accomplishing all of this in
5 one fell swoop. It would already be C-2 Conditional,
6 it would already be regulated by the amount we're
7 charaging them, it would already be regulated by the
8 hours of operation, and all of their permitting.
9 And I just don't understand why we're having
10 a second ordinance for this. And it would already be
11 in C-2 Conditional as a use, as massage.
12 MAYOR PRO TEM PITTMAN: Okay. We have a
13 motion and a second. Any more 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: No.
25 CLERK McCAIN: Councilmember Pachuta?

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1 COUNCILMEMBER PACHUTA: Yes.
2 CLERK McCAIN: Councilmember Roche?
3 COUNCILMEMBER ROCHE: I think we're
4 legislating ourselves . . . I'm sorry. I'll go ahead
5 and say yes.
6 MAYOR PRO TEM PITTMAN: Motion carries.
7 COUNCILMEMBER PACHUTA: All right. Then I
8 make a motion to add into the conditional uses for the
9 C-2 General Business District, Commercial Soft Tissue
10 Touch and Manipulation facilities as defined in City
11 Code. Obviously, we're still working on the City
12 Code, we have the draft in front of us, but
13 incorporating the same definition.
14 MAYOR PRO TEM PITTMAN: Do I get a second?
15 COUNCILMEMBER ALEXANDER: Second.
16 MAYOR PRO TEM PITTMAN: Discussion?
17 COUNCILMEMBER ROCHE: I have concerns about
18 the definition too. I guess I could put a sign up and
19 say Funny Bones and say I massage elbows, which is not
20 soft tissue, elbows knees and ankles or something. I
21 don't know. I mean things get invented all the time.
22 I just don't feel comfortable with this at all.
23 COUNCILMEMBER PACHUTA: If you're massaging
24 elbows and knees, you would need a massage therapy
25 license.

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COUNCILMEMBER ROCHE: Well, but it's not soft tissue, right?
COUNCILMEMBER PACHUTA: You would need a massage therapy license --
COUNCILMEMBER ROCHE: I don't know.
COUNCILMEMBER PACHUTA: -- by State code.
COUNCILMEMBER ROCHE: I mean I'm being silly, obviously, but I just --
ATTORNEY WEED: It's in Title 43.
MAYOR PRO TEM PITTMAN: All righty. We have a motion and a second. Any more discussion?
MAYOR PRO TEM PITTMAN: I just wish it was easier to do what we tried to do, which is to limit the number of foot massage in Doraville, but it's just . . .
MAYOR PRO TEM PITTMAN: Okay. Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: No.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.

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CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: No.
MAYOR PRO TEM PITTMAN: Motion carries. All right. Anything else on this item?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Okay. Reports, none. I'm assuming that the Council will allow public comments?
COUNCILMEMBER FLEMING: Sure.
MAYOR PRO TEM PITTMAN: Okay. Please limit your comments to three minutes.
MS. HOFFMEISTER: Bonita Hoffmeister, two things.
On your 60 percent green space, you want to make sure that does not include flood plains. You don't want people building right on the -- so that there isn't anything left on the property except for a flood plain that's impervious.
Number 2, Kiwanis and Church of the Covenant is again this year having a spring arts festival on March 31st from 6:00 to 7:30, and I hope you get the word out and you all attend. Thank you.
COUNCILMEMBER FLEMING: Where is it going to

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be?
MS. HOFFMEISTER: The Church of the Covenant where we had it last year.
MAYOR PRO TEM PITTMAN: Thank you.
MS. GILMAN: Carol Gilman.
I want to say thank you for the thoughtful deliberation and consideration of the agenda items having to do with R-3 and R-4. As a resident, as a citizen here, I'm just very grateful and pleased with the discussion and the thoughtful consideration.
And I'd also like to say thank you to the city planner for his research and his in-depth work and what he presented to us, to Council and to the public.
MAYOR PRO TEM PITTMAN: Thank you.
Mr. Hart?
MR. HART: One of the first meetings I ever attended in Doraville, Gene Lively was the mayor, and they were considering building a McDonald's on Buford Highway. And I'd just come back from staying in Sweetwater Plantation in Florida just outside of Orlando, and at the McDonald's down there, they came around with a little basket and served after-dinner mints, and that McDonand's was like a whole lot different than what they were proposing up here. And

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I asked the question, what McDonald's they're going to build -- something that's compatible in Dunwoody or Berkeley Lake, or are we going to build something that looks like, you know, Memorial Drive?
And the council sat there and the mayor laughed at me and says, "Well, son, there's only one kind of McDonald's, don't you know?" And I was like am I in the right place here? I mean is this -- what kind of city is this? And so this is in 2002.
So we have no -- Chuck, the former building official, constantly had the problem, metal buildings coming in here. Even the architects designing these buildings -- some of the buildings that were built in the last three years were complaining because their work looked bad because their owners were requiring them to draw up these structures that they were not proud of. They didn't want to even put it in their portfolio.
And once again, Doraville snatches victory out of the jaws of defeat and passes it on for another week. I just don't get this place. Do you just think it's like a trailer park? Is that what the goal is? You want a big old orange building, block building sitting in the middle of the place?
You have an opportunity to do something

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1 here, and every day and every time it gets presented,
2 you have some whiney reason why you don't want to do
3 it. The McDonald's looks like, for another word,
4 Fido's rear end on Buford Highway, because, again,
5 that council like this council doesn't get it.
6 It's not the boogey-man that came in and
7 wandered into Doraville and did bad things. It's
8 self-inflicted; it's right here on this bench. Thank
9 you.
10 MS. CRAWFORD: This must be some kind of
11 record, but I actually agree. Yeah. I'd like to see
12 the architectural standards, something passed passed
13 quickly.
14 You're right. McDonald's, things do vary
15 according to the standards of a place. In fact, when
16 Tom said that, I remembered there's this beautiful
17 McDonald's in downtown Boston. I mean it's a really
18 nice McDonald's. And actually, I think ours doesn't
19 look too bad.
20 But yeah, I hope that these standards are
21 passed quickly. And they can be changed, didn't we
22 say, Scott? They can be changed, they can grow.
23 Also I wanted to mention, I believe Brian,
24 you're advertising this or putting out the word on the
25 Internet, and so are other people, about the meeting

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1 with Nancy Jester to discuss -- and Maria, I think
2 you're talking about it too -- to discuss the
3 redistricting of the schools, and I think it's a
4 really -- even if you don't have children, that it
5 would impact, you know, it will impact our property
6 values and does. You know, the schools that are in an
7 area make big a difference.
8 And I'm sure that the C, whatever it is, the
9 initials, the Soft Tissue Manipulation, I'm sure it's
10 defined -- I hope it's defined heavily somewhere
11 because it really sounds kind of weird. Is it
12 defined?
13 COUNCILMEMBER BATES: Not yet.
14 COUNCILMEMBER PACHUTA: It's in the draft
15 ordinance.
16 MS. CRAWFORD: Okay. By that, I meant what
17 the initial -- what it stands for, there's an
18 explanation as to what it -- Okay, thank you.
19 MAYOR PRO TEM PITTMAN: Additional comments?
20 MR. ANDERSON: Actually, this evening I
21 started out by talking about architectural standards,
22 and since it wasn't a public hearing, I'll end that
23 way as well.
24 Colors that David Shanahan brought up are
25 part of the deal, for sure -- gray, copper, no light

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1 colors is what I wrote. And then we go to the next
2 page. It's prefinished materials which is plain white
3 and off white, almond, bronze. I wrote down no red or
4 green or gray for feng shui.
5 A little further down the page it says all
6 requirements of the LEEDs ordinance are in effect and
7 inclusive to this document.
8 A, I'm for LEEDs, don't get me wrong, but
9 that causes a lot of expense for developers and, you
10 know, so there's some consideration there.
11 And there are several -- I'm very aware of
12 this, that there are several levels of the LEEDs
13 ordinance -- it's not just one, you have to be just
14 this; there are one, two and three levels of the thing
15 -- so that this item K should be expanded to offer
16 some kind of consideration that way, a variance or
17 leeway. Thank you.
18 MAYOR PRO TEM PITTMAN: Thank you.
19 Any more comments?
20 - - -
21 (No response)
22 - - -
23 COUNCILMEMBER ALEXANDER: Motion to adjourn.
24 MAYOR PRO TEM PITTMAN: Second?
25 COUNCILMEMBER PACHUTA: Second.

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1 MAYOR PRO TEM PITTMAN: Discussion?
2 - - -
3 (No response)
4 - - -
5 MAYOR PRO TEM PITTMAN: Call the roll,
6 please.
7 CLERK McCAIN: I'm sorry, I put my sheet
8 away. Who seconded that?
9 COUNCILMEMBER PACHUTA: I did.
10 CLERK McCAIN: Sorry. I already packed up.
11 Councilmember Alexander?
12 COUNCILMEMBER ALEXANDER: Yes.
13 CLERK McCAIN: Councilmember Bates?
14 COUNCILMEMBER BATES: Yes.
15 CLERK McCAIN: Councilmember Fleming?
16 COUNCILMEMBER FLEMING: Yes.
17 CLERK McCAIN: Councilmember Pachuta?
18 COUNCILMEMBER PACHUTA: Yes.
19 CLERK McCAIN: Councilmember Roche?
20 COUNCILMEMBER ROCHE: Yes.
21 MAYOR PRO TEM PITTMAN: Meeting adjourned.
22 - - -
23 (Meeting adjourned at 8:45 p.m.)
24 -o0o-
25

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C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 15th day of February 2011.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

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