

**MINUTES OF MEETING
CITY COUNCIL OF PEACHTREE CITY
August 6, 1992**

The City Council of Peachtree City met in regular session on Thursday Night, August 6, 1992 in the City Hall Council Chambers.

Mayor Robert L. Lenox presented Harvey Garcia, Public Works Department employee, with a plaque and an American Flag and congratulated him on becoming a citizen of the United States of America. Mayor Lenox asked Harvey to join him in leading those present in the pledge of allegiance. Present were Mayor Robert L. Lenox, Councilman Edward Bradford, Annie McMenamin and Robert Brooks.

Announcements, Awards, Special Recognitions

Mayor Lenox presented the "Employee of the Month" award for the month of June to Michele Smith, Secretary in the Fire Department.

Mayor Lenox presented a plaque to P G McCurdy for his outstanding service being an exemplary youth leader and member of the Youth Advisory Board.

Department Reports

Mayor Lenox announced that Department Reports would be available for review at City Hall after the next scheduled meeting.

Minutes

McMenamin made a motion to approve the minutes of the July 16, 1992 meeting as presented. Bradford seconded the motion. Motion carried unanimously.

Old Agenda Items

7-92-2 Citizens Appeal to Braelinn Baptist Church Plan

Mayor Lenox stated that the citizen appeal to the Braelinn Baptist Church concept plan would be conducted in the public hearing format and that the hearing was a continuation of the appeal hearing of the July 16, 1992 City Council meeting. Lenox stated there would be three appeals heard resulting from the July 13, 1992 Planning Commission approval of the current plan. Mayor Lenox stated that all of the appeals that were received on the Braelinn Baptist Church would be consolidated and heard. Lenox stated that each side would have equal opportunity to explain their case. Lenox explained the procedures for a public hearing and informed the public that rules of the procedures were available on the agenda table. He allowed each side forty-five minutes to present their case and asked to hear first from the appellants.

Mr. Bruno Maniccia, 101 Meadowlark Trace, came forward to ask Council to reconsider the Planning Commission's decision of July 13, 1992 approving the Braelinn Baptist Church concept plan. Mr. Maniccia read from the Peachtree City Code of Ordinances in regards to Estate Residential Zoning (ER), which is the zoning of the land on which the church will be built. Mr. Maniccia read the conditional basis for churches in ER zoning and felt there was a discrepancy between permitted uses and conditional uses. He went over the history of the Braelinn Baptist Church in regards to gaining approval of the concept plan and questioned Staff's change in attitude toward the Church plan from the initial meetings where Mr. Maniccia stated that Staff was opposed to the intensity of the Church. Mr. Maniccia stated that the residents were concerned with the buffer the Church was being allowed and stated that it should be 150 feet. Mr. Maniccia went on to say that at the June 22, 1992 meeting the one hundred foot setback requirements were disregarded and the Church was being allowed fifty foot setbacks along Robinson Road. Mr. Maniccia asked City Council and the Planning Commission if there were any meetings between them and the Church where the public was not notified. Both City Council and the Planning Commission stated that there had not been any private meetings held. Mr. Maniccia stated that he was not opposed to a church on the property, but to the level of development of the church, the setback requirements and the large parking lot proposed and asked that Council consider the appeal.

Mr. Van Stevens, Attorney representing Ms. Linda Hayes, 503 Creekside Way, who was out of the Country, came forward and stated that Ms. Hayes was not objecting to the Church, but the intensity of the plan. Mr. Stevens stated that Ms. Hayes was concerned that the parking lot was too large for an overcrowded area, and that the size, shape and topography of the property negates a use as intensive as the Church plan. Mr. Stevens also spoke of Ms. Hayes' concerns over water problems to adjacent properties resulting from the Church runoff. Mr. Stevens asked on behalf of Ms. Hayes that Council reconsider previous decisions of the Planning Commission.

Mr. Paul Dewsnup, 100 Meadowlark Trace, came forward and stated that the neighborhood would be highly impacted by a Church of the size proposed and asked that Council reconsider and give equal consideration to the residents as that which has been given to the Church. Mr. Dewsnup stated that he was concerned by the potential commercial uses of the Church and that the character of the neighborhood would be affected by the Church.

Mr. Joel Chuck, 105 Jennings Yard, came forward and stated his concerns about the setback requirements for the Church and stated that he felt that the Church had misled the citizens and asked that Council reconsider the decision.

Mayor Lenox asked if there was anyone else wishing to speak for the appeal and hearing none asked for those against the appeal to come forward and be heard.

Ms. Caroline Price, Chairman of the Planning Commission, came forward and stated that the Planning Commission had dealt with the concept of the Braelinn Baptist Church in depth, that they had looked at all of the problems and concerns raised throughout the process, that the plans had been refined and that after negotiations, the Church had decreased the size of the building, increased the size of the buffers and lowered the number of parking spaces to about six hundred to seven hundred. Price stated that the number of parking spaces was highly deceptive due to the fact that there would be islands for every twelve parking spaces which would decrease the impact. Price stated that this concept plan did go along with the zoning ordinance and that a much larger plan could have been approved.

Mr. Mike Lorber, Consultant Landscape Architect for Braelinn Baptist Church, explained that the zoning ordinance stated what conditions must be met to allow a Church in residential areas. Lorber stated that the Church had started out asking for thirteen hundred parking spaces and seating for a congregation of three thousand in the sanctuary, but that they had scaled it down and were now asking for seating for twenty-one hundred and parking spaces of eight hundred and seventy. He stated that the building setback to the right-of-way at the closest point was eighty feet at one corner and that in all other areas setbacks, in most cases, were one hundred and twenty feet from the right-of-ways and that the parking lot in most cases would be fifty feet from the right-of-ways. He stated that the Church had done water hydraulic studies and that more would be done as construction got under way and assured the residents that all water run-off would be into the retention pond.

Mayor Lenox asked for anyone else wishing to speak and hearing none called the public hearing closed and called for Council debate.

Brooks asked Staff for a summary of the events leading to approval of the concept plan. Jim Williams, Director of Developmental Services, stated that Mr. Maniccia made a good representation of the way the plan started with the Church and stated that the Church had worked with Staff to scale down the church and move back further from the street. He stated that the final product would be setbacks of one hundred feet or more back from the right-of-way, except in one corner where it would be eighty feet from the right-of-way. He stated that the Church as well as Staff wanted to retain as much of the natural area as possible and that all the service areas would be in the rear of the Church and not visible from the road. He stated that turn lanes would be constructed as to not disrupt the traffic flow, and that a fifty foot buffer would be around all public areas of the church, which Staff believes to be adequate. Williams stated that Staff did not feel that the developed area would encroach into the wetlands and that a fifty foot buffer would be required on the backside of the property to separate the residents from the parking area. Williams stated that he felt the Church would not adversely affect the community.

Brooks asked what the required setback was from the stream running through the property. Williams stated that it would be fifty feet, although the ordinance only called for a twenty-five foot setback. Brooks stated that he had read in the ordinance that a one hundred foot setback was required from a stream. Williams stated that the stream was considered an intermittent stream and that the setback requirement was twenty-five feet. Brooks asked Williams about Staff having reservations against the plan. Williams stated that Staff did have reservations about the plan in the beginning, but that the Church had worked with them to scale down the Church and that they were satisfied with the concept plan at this point.

Mayor Lenox stated, for clarification, that the building setback from the right-of-way was one hundred feet or more in most cases and eighty feet from one point. Lenox asked if there was enough of a right-of-way for the turn lanes and if the water retention pond had the capacity to care for the run-off. Williams stated that there was sufficient right-of-way for the turn lanes and that the pond had the capacity to handle all the water run-off and that there would not be a problem.

Brooks stated that he understood that no impervious surfaces could be less than seventy-five feet from a perennial stream. Williams stated that the quad map did not list the stream as perennial, but an intermittent stream, which must be twenty-five feet from any impervious surfaces.

Mr. Dewsnap questioned Staff about soil tests, and stated that he did not believe any had been done and stated that he was concerned that without soil tests Staff could not be sure there would not be a water problem. Dewsnap stated that he did not hear Staff say that the structure would meet the needs and requirements of the neighborhood.

Mr. Maniccia asked for clarification of the number of parking spaces there would be and stated he had heard different numbers given. Mr. Lorber stated there would be eight hundred and seventy parking spaces. Mr. Maniccia questioned why the church was allowed lesser setbacks than the residents and was told that all setbacks for the Church were within those allowed.

Mayor Lenox asked Mr. Jerry Peterson, Peachtree City Development Corporation, if PCDC had designed and engineered the retention pond on the property and Mr. Peterson answered from his seat that they had. Mayor Lenox stated for the record that Mr. Jerry Peterson, Peachtree City Development Corporation stipulated that PCDC did design and engineer the retention pond and Mayor Lenox stated that he believed that Council had a letter from PCDC that the pond was designed as if the impervious surface of the Church site would be 85% and the actual impervious surface was 58%. Lenox stated he had been particularly concerned about the run-off problem and had done a lot of investigation on it personally. Lenox stated that he did not believe the way it was engineered and designed that there would be a run-off problem for the contiguous property owners.

McMenamin asked if Caroline Price would like to comment on the discrepancies in the number of parking spaces. Ms. Price stated that as a conceptual site plan goes from phase to phase it could change. She stated that it has not yet been determined how large the parking spaces would be and that as Phase I was approved and the actual engineering was done, the final figure would be worked out.

A resident came forward and stated his concern about the retention pond and asked if Council could assure him that the pond would handle all the water run-off and if the owners would have legal right if there was run-off onto their property. City Attorney Webb stated that they would have legal rights against the Church. Lenox asked Webb if the City had the right to prohibit a Church from being built in some zoning districts. Webb stated that there was a Georgia Supreme Court Case that said that a municipality has no right to prohibit a Church in a residential area and that standards were established in the City ordinance to allow Churches in the different zoning classifications if a Church could meet the standards.

Brooks asked if the setback guidelines for the Church differed from those of the residents. Williams stated that Churches were permitted with conditional uses as opposed to permitted uses which residents were required to follow, and the ordinance allowed for a thirty foot setback from the street on conditional uses. Williams stated that the site plan process would deal with setbacks and that the Church would be using one hundred foot setbacks in most areas although the ordinance would permit less.

McMenamin asked Chief Murray to look at on street parking and stated that she felt there would be a traffic problem if cars were allowed to park on Robinson and Ebenezer Roads. Murray stated that "NO PARKING" signs would be posted.

Bradford stated that the zoning ordinance provides for Churches in each zoning category and that conditional uses are stipulated in the ordinance. He explained that in the Estate Residential zoning the conditional uses and setback stipulations are spelled out.

Lenox stated that landowners have certain legal right and that the Planning Commission process has made the City develop as it appears today. Lenox felt the Church had compromised and developed a plan that will be consistent with the area. Lenox made a motion to uphold the Planning Commission's action. McMenamin seconded the motion. Motion carried unanimously.

8-92-1 Variance to Zoning Ordinance Setbacks
Trawick - 212 Oakmount Drive

Mayor Lenox stated that a variance had been requested to the zoning ordinance for the Trawick residence at 212 Oakmount and stated that it would be a public hearing and that each side would have ten minutes to present their side. Mayor Lenox asked for a

representative to come forward to present the application. Mr. Trawick came forward and explained that he had applied for a building permit to put a roof on his home and a discrepancy was found with the setback. Mr. Jim Williams, Director of Developmental Services, came forward and stated that a five foot encroachment into the side setback had occurred before the Trawick's purchased the home and stated that Staff recommended that the variance be approved.

Mayor Lenox asked for those wishing to speak against the variance and hearing none called the public hearing closed and asked for Council debate.

McMenamin asked how old the home was and Mr. Trawick stated that it had been built in 1972 or 1973. McMenamin made a motion that the variance be granted as requested. Brooks seconded the motion. Motion carried unanimously.

8-92-2 Variance to Zoning Ordinance Setbacks
Olander - 108 Nightwind Court

Mayor Lenox stated that the same rules for a public hearing would be followed for the request by Ms. Karen Olander, 108 Nightwind Court, for a variance to the zoning ordinance and that each side would be allowed ten minutes to present their case. Ms. Olander came forward and stated that she had assumed the mortgage on her home and when she applied for a building permit to construct a storage shed, found out that she would need a twenty-two foot variance to the rear setback and a four foot variance to the front setback. Mr. Jim Williams came forward and stated that the rear setback was substantial and that it was probably a misinterpretation of the rear and side setbacks on the City's part at the time the home was constructed in 1974, that had caused the violation. Williams stated that Staff recommended granting a twenty-two foot variance to the rear setback and a four foot variance to the front setback. Mayor Lenox asked for those wishing to speak against the variance and hearing none called the public hearing closed and called for Council debate.

Brooks made a motion to approve the request for both variances as requested. McMenamin seconded the motion. Motion carried unanimously.

8-92-3 Variance to Land Development Ordinance
Khafagy - 208 Valley View Drive

Mayor Lenox stated that a request had been made for a variance to the Land Development Ordinance by Mr. Hanafy Khafagy of 208 Valley View Drive and that the same public hearing procedures would apply and that each side would be allowed ten minutes to present their side. He asked for Mr. Khafagy to come forward to present his request.

Mr. Khafagy stated that he had contracted Sears to build a sunroom on his home and that he assumed the contractor had taken care of obtaining the required building permits. He went on to say that before construction was completed, the crew quit working, the contract was canceled and that another contractor was hired to finish the construction. Mr. Khafagy stated that he was requesting a nine foot variance to the rear setback to bring his home into compliance with code. Mr. Khafagy stated that he was unaware of the problem and that he had the support of his neighbors.

Several of Mr. Khafagy's neighbors came forward and stated their support and others signed a statement giving support for the sunroom addition. Mr. Khafagy's next door neighbor stated that Mr. Khafagy was not familiar with Peachtree City building codes and had not known what to look for. He went on to say that the sunroom added to the aesthetics of the neighborhood and asked that Council grant the variance to Mr. Khafagy.

Mayor Lenox called for those wishing to speak against the variance.

Mr. Jim Williams, Director of Developmental Services, came forward and stated that Mr. Khafagy's property is in a General Residential (GR-6) zoning with a required rear setback of thirty feet and that the addition under construction is only twenty-one feet from the rear property line. Mr. Khafagy had partially constructed the sunroom without the proper permits being obtained. Williams stated that had the proper permits been applied for, the encroachment into the setback would not have occurred. Mr. Williams explained that Peachtree City has codes that contractors must abide by and that most contractors knew to secure permits prior to beginning construction. Williams stated that when the Building Official found that a building permit had not been obtained, a stop work order was placed on the property. Williams stated that due to the fact that Mr. Khafagy was entirely responsible for beginning work without a permit, thereby encroaching into the setback, Staff recommended denying the variance.

City Attorney Jim Webb stated that he regretted the circumstances but that the City had ordinances that needed to be adhered to. Due to the terms of the Land Development Ordinance criteria, in which number five states that "the special conditions and circumstances can not be a result of any actions of the applicant" and inasmuch as the applicant was responsible, in his opinion Council could not legally grant the variance.

Mayor Lenox called the public hearing closed and asked for Council debate. McMenamin stated that she felt even if there was not a legal issue to consider, granting the variance would set a precedent and she felt the variance should be denied. Brooks stated that he agreed with McMenamin, that he normally weighs a neighbors comments heavily, but on the advice of the City Attorney, he could not support the variance.

Lenox stated that he shared the same opinion and that builders in the community incurred an extra expense to ensure that this type violation did not occur. Lenox stated that he saw no solution other than taking the structure down, unless an easement could be purchased. Mr. Khafagy came forward and stated that he did not understand the difference between his application for a variance and that of the two variances that were granted earlier. There was a discrepancy about whether Mr. Khafagy's request for a variance should be to the Land Development Ordinance or to the Zoning Ordinance and Brooks made a motion to table the item to the next meeting on August 20, 1992 to give Staff a chance to look into the matter. McMenamin seconded the motion. Motion carried unanimously.

8-92-4 Report of July 21st Election

Frances Meaders, Elections Superintendent, stated that the City had held a Special Election in conjunction with the primary on July 21st to elect a member to Council to fill the post left vacant by Rich. Parlontieri. Meaders stated that the votes were cast as follows:

Teresa Joiner	820	Votes
Willard King	381	Votes
Peter Pfeifer	943	Votes
Caroline Price	1251	Votes
John Setlock	531	Votes

Meaders explained that since no one candidate received fifty percent of the vote, a run-off election would be held on August 11th, in conjunction with the run-off election held by the County, between Caroline Price and Peter Pfeifer who received the most votes.

8-92-5 Impact Fee Ordinance

Mr. Jim Fulton, member of the Impact Fee Committee, came forward and gave Council an overview of the proposed ordinance for development impact fees. Fulton stated that Peachtree City had been requiring developers to make contributions of land, facilities, and money to help offset the cost of infrastructure, but that a new State law would mandate that the City substitute development impact fees for that purpose and for which there are guidelines that must be administered. Fulton explained that the date given by the State had originally been April 1, 1992 but that the date had been extended to October 1, 1992 and that the committee established met the criteria set by the State. Mr. Fulton introduced the members of the Impact Fee Study Committee that was formed by the Mayor to draft legislation for adoption. Committee members were: Jim Williams, Chairman; Tom Cox, representing the Planning Commission and the general construction industry; Mike Rossetti, representing the home builders; Jim Fulton, representing the real estate industry; Rick Schlosser, representing the land development industry; and Jim Price, the past

chairman of the Kedron Impact Fee Committee. Mr. Fulton went through the main points of the ordinance and stated that the City would be divided into two service areas, Kedron Village and all the rest of the City. Fulton explained that the law did not allow for schools to be included in impact fees, that how monies were spent would need to be accounted for, that monies could not go into the General Fund, but must be spent for specific items or be refunded. He explained that the fee for Kedron Village would be \$1,240 per lot and the fee for all the rest of the City would be \$1,040 per lot. Fulton went on to say that the committee identified areas of growth in the City and it was felt that the majority of the growth would continue to be in the Kedron area as well as a portion of Braelinn Village. Fulton explained that the fee would be assessed against only residential development and would be collected prior to the issuance of a development permit.

McMenamin asked if the committee had used a national average and if it was part of the State's criteria. Fulton stated that a national average had been used but not because of the State criteria.

Bradford stated that he would like some of the wording changed and in 307.5 he would like to see the word "substitution" instead of "donation", and in 307.7 (b)-6 and 307.7 (c)-4 he would like to see the City Council added in the approval process. Bradford made a motion to include these items in the proposed ordinance. McMenamin seconded the motion. Motion carried unanimously. Brooks stated that he felt the numbers should be higher than the national average and that he would like to see the fees include the library expansion project and the possible police station expansion. Brooks suggested that instead of using the formula $18,000 \times .03$ a higher rate of $22,000 \times .03$ be used and he would like the committee to work on those figures to include the library and police station.

Fulton stated that he felt those items should be funded under City Capitol Improvements and not development fees, he felt that there could be a potential problem with those type items. He suggested that if Brooks felt strongly about it that Council approve the ordinance as submitted and then let the committee take a look at implementing the additional items.

Lenox stated his concern that new residents would be penalized for moving to Peachtree City due to the impact fees and stated that he did not feel it was fair to penalize those new residents who would be enjoying the same facilities as previous residents who had not been impacted by the fee. Lenox stated that he felt that new residents would be charged an entry fee to live in the City.

Brooks stated that he looked at the fees in a different way, that residents would be getting renovated facilities, and would be enjoying a higher quality of life.

Attorney Webb stated that the advisory committee's function was to advise, that Council would need to make the final decision about implementing the ordinance.

Fulton stated that with the development impact fee, the fees to developers would raise by about fifty percent and that they would be adjusted as the population grew.

Lenox asked if the committee would continue to meet and Fulton stated that they would meet as they were needed. McMenamin asked if the ordinance could be changed once it was adopted and Webb assured Council that the ordinance was like any other ordinance and could be amended.

Webb suggested that Council adopt the ordinance and remand the ordinance to the committee to look into additional uses such as the library and police department expansions.

Mr. Mike Rossetti, committee member, came forward and suggested that the committee had tried to keep the ordinance simple, that they had looked at items such as the library expansion but did not feel it was suitable for development impact fees. Rossetti stated that the burden of proof would be placed upon the City, that a library expansion could be challenged, with some stating that part of the population does not utilize the library facilities.

Mr. Jim Price, Committee member, came forward and recommended that the Council approve the ordinance and direct the committee to look into different uses over the next six months and stated that he also felt that the library could be a controversial issue.

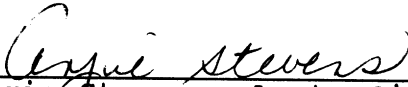
Mr. Tom Cox, Committee member, urged Council to adopt the ordinance and give the guidance on how they would like the committee to go forward. Cox stated that the first issue should be to have a document that conforms to State law.

Brooks made a motion to approve the document as amended with the proviso that Council receive information back from the committee within ninety days concerning the library and police facility expansions. Bradford seconded the motion. Motion carried unanimously.

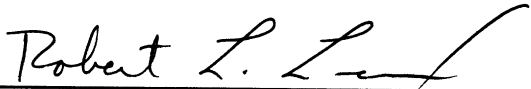
There being no further business to come before Council Bradford made a motion that the meeting be recessed to be reconvened into executive session to discuss the Black Lawsuit. Brooks seconded the motion. Motion carried unanimously.

Executive Session

There was no action taken in executive session and Bradford made a motion that the meeting be adjourned at 10:15 PM. Brooks seconded the motion. Motion carried unanimously.



Angie Stevens, Asst. City Clerk



Mayor

Attest