

City Council of Peachtree City
Meeting Minutes
May 15, 2014
7:00 p.m.

The Mayor and Council of Peachtree City met on Thursday, May 15, 2014, at City Hall. Mayor Vanessa Fleisch called the meeting to order at 7:00 p.m. Other Council Members attending: Terry Ernst, Eric Imker, Mike King, and Kim Learnard.

Announcements, Awards, Special Recognition

Mayor Fleisch recognized Firefighter Josh Crawford for 10 years of service. Police Captain Stan Pye presented the latest Community Emergency Response Training (CERT) class for graduation, noting over 900 adults had been through the program since it began in 2005.

Presentation of Annual Audit

Financial Services Director Paul Salvatore introduced Dave Irwin of Mauldin & Jenkins, LLC, who presented the results of the FY 2013 audit. Irwin said the City's management and City Council were responsible for the finances, and it was Mauldin & Jenkins' responsibility as the external auditor to express an opinion on the financial statements. Mauldin & Jenkins had issued a clean, unmodified opinion, which was what the City wanted. This year's audit went extremely well, according to Irwin. There were no audit findings. Irwin added he could not remember the last time there was a finding in the City's finances. The Stormwater Utility and Amphitheater funds were both operating in the black, self-sufficient.

10-Minute Talk

Margarette Coleman, President, Peachtree City New Neighbors League

Newly-installed as president, Coleman gave a brief history of the New Neighbors League Club (NNLC), noting there were 14 operations nationwide, each operating independently under established guidelines and a local board and chapter director. Its business was to promote the community to new residents and allow newcomers to meet others new to the area. The Peachtree City club, founded in 1988, had local sponsors that provide the funds for the budget. The NNLC was a not-for-profit organization with a wide range of activities. Their motto was fun and friendship. The Peachtree City chapter had a Facebook page and a website, www.newneighborsptc.com. Imker asked that a link to the organization be added to the City's website.

Minutes

May 1, 2014, Regular Meeting Minutes

King moved to approve the May 1, 2014, regular meeting minutes as written. Learnard seconded. Motion carried unanimously.

Monthly Reports

There were no comments on the Monthly Reports.

Consent Agenda

- 1. Consider Non-Profit Funding Request – Fayette Senior Services**
- 2. Consider Non-Profit Funding Request – Promise Place**

Learnard moved to approve Consent Agenda items 1 and 2. Ernst seconded. Motion carried unanimously.

Old Agenda Items

04-14-02 Public Hearing – Consider Rezoning Request for 86.7-acre tract in Wilksmoor Village (John Wieland Homes and Neighborhoods), GI to GR-4

Fleisch recused herself from this agenda item, noting that another realtor she worked with had contracted with John Wieland Homes and Neighborhoods to sell the homes in this development. In order to avoid the appearance of impropriety, Fleisch said she would abstain from any vote concerning the rezoning of this property. She asked Mayor Pro-tem Learnard to take over this portion of the meeting.

Planning & Zoning Administrator David Rast addressed Council, noting the 86.7-acre tract was located immediately north of the Centennial subdivision. The request was to rezone the tract from General Industrial (GI) to General Residential (GR-4). The parcel was landlocked, with no direct access. Access would be from the future development of MacDuff Parkway. Rast gave an overview of the property surrounding the tract, including the annexation area located to the west of the subject tract. The Wieland tract to the south of the annexed area was planned for 475 homes, and the Scarbrough tract to the north had been approved for 650 homes.

There were some smaller parcels adjacent to Wilksmoor that were not planned as of the meeting, according to Rast. The Lee tract was located in Tyrone and had been designated for industrial use. The Davis property, a 36-acre tract located in unincorporated Fayette County was designated as low-density residential. Pathway Communities owned another nearby tract that was also located in Tyrone.

The remaining properties were located within the City limits. Rast said another portion of the Lee, Kidd, Hardy, and the Whitlock tracts were annexed by the City a few years ago and were designated as residential. The 24-acre McWilliams tract to the north of the applicant's property was zoned GI.

Rast continued that Wieland proposed changing the land use to residential and rezoning the 87.26-acre tract to GR-4, with a density of 2.34 units per acre and 204 total lots, which was consistent with the density in Centennial to the south and Chadsworth to the west. He pointed out the density of Wieland's annexed tract was 1.25 units per acre. There was not a plan for the McWilliams tract. The tract was bordered to the east by the CSX rail line and SR 74. There were residential subdivisions approved and developed in the area, and there were approved residential subdivisions waiting to be developed.

Rast pointed out the area, including this parcel, had been looked at over the years by various task forces, staff, and developers, and there had been a number of plans. Originally, all of the land now zoned residential had been zoned industrial, and no industrial had ever gone into the area. The Land Use Plan designation had changed to residential. In the 1995 Land Use Plan update, the recommendation was that all the undeveloped tracts in Wilksmoor be designated as single-family cluster instead of industrial. They had also recommended changing the Land Use designation from industrial to residential, but the designation had never changed on the Land Use map. A number of studies and plans had come through after that, and all proposed residential use.

The landfill known as the Peach Pit was located in the center of the 87.26-acre tract, and a portion of a Georgia Power transmission station, which was bermed and landscaped, was constructed on the property. There was an at-grade railroad crossing on SR 74 at the Comcast property. Staff met with CSX Railroad a few years ago to talk about using the crossing as access to the property, but CSX preferred to close the crossing once MacDuff Parkway was extended and access was provided to the Comcast tract internally.

Rast said this plan for 204 units was the least dense plan of any proposed for the tract. The Planning Commission had recommended approval with a number of conditions. Staff recommended approval with the conditions suggested by the Planning Commission.

Jeff Kingsfield, division president of John Wieland Homes, spoke to Council, noting that John Wieland Homes & Neighborhoods had recently celebrated its 42nd anniversary. The last seven or eight years had been difficult with the significant housing recession, but there had been improvement over the last year. The company had built 36 neighborhoods in Fayette County since 1982. Kingsfield said they were a semi-custom builder with six architects on staff. All the homes were designed in Atlanta, and they were constantly looking for ways to innovate floor plans. They were one of the few builders in Atlanta that offered a 20-year warranty, and they made sure the homes were absolute quality. Fayette County was losing buyers to other counties because there were no new homes.

Jonathon Love, director of land planning for Wieland, said the proposed site plan for the tract would leave the area mostly green. The project was planned for all phases of life. There would be two golf cart tunnels under MacDuff Parkway to connect the site to the path system. The entrance to the subdivision would have a park, and there would be a large array of housing products. There would be a large park on Centennial side of the site. Some of the homes would have rear or detached garages with entry from an alley.

Dan Fields of John Wieland Homes addressed Council to address many of the legal questions associated with such a request. First, was the proposed zoning suitable with the use of adjacent and nearby properties? Fields said the current industrial zoning was incompatible with the adjoining residential, allowing uses such as concrete plants, distribution facilities, research laboratories, and self-storage facilities, and more. The proposed zoning was suitable in view of the uses and the development of adjacent and nearby properties. The only other village with industrial zoning was Kedron, which had one 2.5 acre tract. He continued that the proposed residential zoning would decrease the peak traffic counts by almost five times than the traffic that could be generated by an industrial use. Approval of the proposed zoning would provide Wieland Homes & Neighborhoods with the momentum to proceed with the completion of MacDuff Parkway, including an 80-foot right-of-way. Fields said the traffic estimates were provided by QK4, the company that worked with the Georgia Regional Transportation Authority during the annexation in 2007.

Fields continued that the rezoning was consistent with nearby uses and created a "sense of place" by strategically placing diverse housing types and lifestyles surrounded by open spaces, pocket parks, and appropriate buffers. There would be a variety of architectural styles and different sizes of homes to address the different lifestyles of the diverse people who lived the City. With the approval of the annexation and the Development of Regional Impact (DRI) recommendations, the only access to the property was from MacDuff Parkway. With MacDuff Parkway as the only access to the property, it was unlikely the property had a reasonable value as it was currently zoned. During the annexation process, the City and Council agreed to close off any access over the railroad tracks. Because of that, the MacDuff Parkway extension was the only access.

The next question was whether the proposed zoning would create excessive or burdensome use of existing streets, utilities, or schools. Fields said it would not, noting it would provide a diverse housing type that would appeal to a whole array of ages, situations, and lifestyles, reducing the impact on transportation, utilities, and schools compared to what could be built under the current zoning.

Fields continued that, in the 1995 Land Use Plan update with the anticipation of developing a village on the west side of SR 74, it was recommended the subject tract be designated as residential with a density not to exceed four units per acre. The adjoining Centennial neighborhood to the south was rezoned from GI to GR-4 in 2001, and the Land Use Plan was changed to reflect the zoning at that time. The DRI study included the subject property as residential neighborhood and included 340 units. During the Wilksmoor Village annexation of the adjoining 782 acres, a citizen task force looked at the subject tract and recommended a total of 340 residential units, split between single-family residences, townhome units, and condominiums. The proposed plan for 204 homes met the needs of people today.

Kingsfield said he understood the traffic concerns for SR 54 and SR 74, and relief would be offered by the completion of MacDuff Parkway. The plans for the road had been submitted to the City for approval. It would take 60 or more days to review the plans and get ready for construction. Mobilizing for construction would take another 30 days. It would take approximately nine months to complete the majority of the road, with another five months to complete the road and the bridge over the railroad. If the rezoning were approved, it would take 60 days to complete engineering plans, and another 90 days for approval of the plans. Another 30 days would be needed for permits. It would take approximately six months to put the infrastructure in for the first phase, and six months to build the homes. It would be 16 months before the first resident could move in.

Kingsfield continued that the Planning Commission had recommended that there be no home sale closings until the road was completed, but no bank would provide funding for vertical construction until they knew for certain the homes would be occupied. If the road had to be completed before residents could move in, then occupancy was 21 months from out. It was difficult to invest approximately \$6 million on the road to not get a return on investment for two years.

Kingsfield asked Council to approve the rezoning as submitted and to allow the construction of up to 50% of the homes prior to the completion of MacDuff Parkway. They were prepared to agree to commence construction of the road as soon as they received the approved plans. They understood the City's traffic study might impact MacDuff Parkway, and they were willing to work with the City when the traffic study came back, working to implement any changes recommended to MacDuff Parkway as long as the costs did not exceed the original construction cost. Any additional expense should be borne by the City. They were willing to work in partnership with the City to get the road completed.

Learnard opened the public hearing.

Andy Bearden spoke in favor of the rezoning, adding John Wieland Homes & Neighborhoods had been his customer for 15 years. He noted he and his wife were almost empty nesters, and they were looking for another place to live in the City. There were no options for a new home in the City at this point.

Marianne Boicourt said she wanted MacDuff Parkway completed before she retired from the airlines. She had waited 12 years for the road. New homes were needed too.

Tamara Bourne, a realtor in the area, said she did not actually have a contract to sell the homes. She had a client base of 5,000 – 7,000, and they were all looking for master on main homes, good school systems, and new construction. People were lost to other counties because there were no new homes.

No one spoke in opposition. The public hearing closed.

King said everyone had waited long enough for the completion of MacDuff Parkway. A previous Council had agreed to the rezoning of the parcel. If this body agreed to rezone the property at that time, then it did not seem honest to change that now. Wieland was providing the opportunity for what was wanted in the City, homes for younger families.

Ernst said MacDuff Parkway needed to be finished. He asked if there would be any ranch style homes. There were citizens looking for them. Kingsfield said the only reason for the upstairs was for the extra storage space. John Wieland wanted people to get something for their money. Two of the styles were essentially two and three bedroom homes, with a bonus room upstairs.

Learnard asked if the development would be marketed for active adults. Kingsfield said it would be a mixed use community, not an exclusive one. There were homes that would be attractive to young families and to active adults. These were product types that could overlap. The neighborhood would be connected by sidewalk and cart path, and they would share one amenity package.

Learnard asked about the access for construction trucks, asking if there was not approximately 1,500 linear feet of road that had to be built before the homes could be started. Kingsfield said that was true. The drawings had been submitted, and the 1,500 feet would be done immediately. He continued that the construction traffic would put more cars on the road, but peak traffic would be opposite of the normal traffic on MacDuff Parkway.

Learnard asked about the current status of the MacDuff Parkway construction. Kingsfield reiterated the plans had been submitted. There was an agreement with Brent Scarbrough & Company, the developer for the remainder of the annexed property, to begin construction as soon as the plans were approved. They were also in discussions with Colter, the active adult community under contract with Scarbrough, and they had agreed to fulfill the commitment for the other half of the funding for the road. The final agreement was being drafted.

Imker noted one of the conditions for the 2007 annexation was the completion of MacDuff Parkway prior to issuing any certificates of occupancy. The money from the home sales would reimburse the contractor for cost of the road. Now they wanted to change the terms of the agreement to issue certificates of occupancy for this parcel to help pay for the road the developer previously said would be paid for by the sale of homes in the other tracts. Imker said the developer would build the parkway whether they got the annexation or not.

Kingsfield pointed out that this parcel had always been located inside the City limits and had not been part of the negotiations for annexation. If they had decided to develop the subject tract as an industrial use, the developer would not have been obligated to build the MacDuff extension, only what was needed to get to the property. In 2007, no one could have foreseen what happened with the economy. At that time, both developers had money in the bank that could have prefunded everything two years in advance of closing. The recession had taken all of the money from the bank. They wanted to develop this property that had always been inside the City limits as residential, which was a better use than industrial and had a lower impact on the road. Although it might appear they were trying to trade, they were only trying to get the road built. The funds from these homes would allow them to build the road more quickly.

Imker said having a residential community next to the railroad tracks was objectionable. He believed Cedarcroft was a mistake with homes next to the tracks. People did not always realize

the tracks were there, and the value of the property might not be the same two generations later. He was not prepared to make the same mistake again.

Kingsfield said the buffers from the railroad in this neighborhood would be the same as those from Centennial, and they had heard no complaints. In addition, based on the conversations with CSX, closing of the at-grade crossings would make this entire section of the railroad tracks a quiet zone, which would improve the lifestyle of every neighborhood in the area.

Imker referred to the residential land use designation of the GI zoned tracts on the west side of SR 74 and the recommendation of the 2006 DRI, saying that did not commit Council to any action and had been done specifically for traffic study purposes. The Fayette County Development Authority (FCDA) was looking for acreage for industry in the City. If the City changed the zoning, then that possibility would be gone. It would change the additional GI-zoned acreage to the north. He said the annexed area should be built out first to see what the traffic looked like before rezoning this tract. Cut through traffic could overwhelm the area. General Industrial zoning was valuable, and an internal road for an industrial area could be built to keep that traffic off MacDuff Parkway. This property was more valuable than any other tract in the City, because of the topography and access to the railroad tracks and SR 74. Imker felt the threat of a constitutional challenge in the documents provided to Council was without merit and was based on improper grounds. He believed the Planning Commission panicked when they saw the letter, but he was not threatened by a lawsuit if the rezoning was not approved.

Learnard asked about sewer connections. Kingsfield said a lift station would be needed for both projects. There would be a force main on MacDuff Parkway that would connect to SR 54.

Learnard asked about the old garbage dump known as the Peach Pit. Kingsfield said they had a study conducted on the Peach Pit, and it had gotten a clean environmental report. No homes would be built near the Peach Pit. It was planned for a passive park, and they were looking at ways it could be used.

Learnard asked about golf cart path connectivity and tunnels. Kingsfield said they were in the early stages of the design phase for the amenity area, but there was a path used to service the Oglethorpe Power station, which would be great for a north-south connection. Paths would be integrated to the individual parks, and there would be two tunnels under MacDuff Parkway.

King noted that the timeline for this parcel was 16 months, and asked if Kingsfield knew the timeline for the Scarbrough property. Kingsfield said he had met with division president of Colter, and their due diligence should expire this week. They had found no problems that would keep them from moving forward. The attorneys were working on their development agreement. It appeared to be all systems go. They should immediately proceed with their development.

Kingsfield said they would also have to finalize their permit with CSX, which had been on hold for the last seven years. CSX called the developer every year because of the importance of getting the at-grade crossings removed. Once the developers were ready to proceed with construction of the bridge over the railroad tracks, a CSX employee would monitor the construction every day.

Ernst clarified that the first homes would go on the market in 16 months, and the road should be opened in 17 months. Kingsfield said that was correct, assuming no delays due to weather or other problems.

Learnard clarified that CSX was anxious to close the railroad crossings, asking how many there were. Kingsfield said they were, and there were three crossings. Imker asked what the guiding principle was to close the crossings. Kingsfield said it was the alternative access to the bridge over the tracks, and there would be simultaneous traffic.

Imker noted the timeline was wrong and should be 17 months and 18 months, but that was immaterial. He said the whole thing was about money and the soul of Peachtree City. He was not prepared to sell the soul of the City for money. It was not about the 204 homes for this tract, but the other 400 homes north of the tract. They had no idea what the traffic impact would be once the 1,100 homes on the other side of MacDuff were built. He saw no reason to rush. The developer could get the money he needed from 200 homes on the west side of MacDuff just as well. There were many arguments to keep the tract as GI. This Council, two councils ago, purposely kept the property industrial. The decision was unanimous, and they all signed the documents for the official Land Use Plan and Zoning Map indicating the parcel would be industrial in 2010. Future politicians would have to deal with it.

Learnard said Imker's point was well taken, asking why the first 200 homes were not on the other side of MacDuff Parkway. Kingsfield said he could not build 200 homes there because of the current restriction on the road. No bank would lend the developer \$6 million for system improvements without an assurance there would be homes for a return on investment. It was not just about money, but solving two issues in the area – traffic and new homes in Peachtree City. No one had approached them to buy the property for an industrial use. Without any access to SR 74, the possibility of an industry locating on the property was eliminated. When the Council approved the zoning for Centennial from industrial to residential, the tide had shifted. The City needed residents, and it needed new homes.

King said Imker's heart was in the best interest of the City, but they all had different opinions. They owed the residents of Centennial another exit. To not develop the property now was just kicking the can down the road.

Learnard noted that the Planning Commission had several stipulations, and she had no problems with 12 of them. She had problems with #1 and #14. The Planning Commission conditions included:

1. *The Applicant, or their successor, shall be responsible for funding a traffic study of the existing intersections on MacDuff Parkway, including the HWY 54/ MacDuff Parkway intersection, to determine if improvements are warranted at these intersections based on the additional traffic that may be generated by the proposed subdivision. The Applicant shall also be responsible for funding enhancements to these intersections, at their sole expense, if and when traffic warrants justify these improvements. The city shall be responsible for right-of-way acquisition to accommodate these improvements and, based on the recommendations of the City Engineer and/ or the city's Traffic Consultant, shall make the final determination as to the need for such enhancements.*
2. *The portion of MacDuff Parkway that will be constructed to provide access to these tracts shall be constructed in accordance with the road construction plans on file with the City Engineer.*
3. *A detailed multi-use path plan shall be submitted along with the concept plat.*
4. *A city-owned greenbelt of no less than 50 feet wide shall be maintained along the southern property line. Except for perpendicular utility crossings, clearing and/ or*

grading shall not be permitted. Stormwater detention and/ or water quality features shall not be permitted within this greenbelt. This property shall be deeded to the city as a part of the final platting process.

5. A city-owned greenbelt of no less than 50 feet wide shall be maintained along the northern property line. Except for perpendicular utility crossings, clearing and/ or grading shall not be permitted. Stormwater detention and/ or water quality features shall not be permitted within this greenbelt. This property shall be deeded to the city as a part of the final platting process.

6. A tree save and landscape buffer of no less than twenty-five (25) feet in width shall be maintained at the rear of all lots abutting the Oglethorpe Transmission power line easement. Clearing and/ or grading within this buffer, except for perpendicular utility crossings, shall not be permitted. This buffer shall be identified on the final plat and included within the Deeds and Covenants recorded for the subdivision.

It is understood the homes on these lots will have garages located behind the homes and the garages will be placed in such a manner as to provide additional buffering between these lots and the transmission line easement. Where applicable, a fence will also be provided between the garage and the home on the adjoining property.

7. Existing vegetation in all areas identified as open space and/ or buffer along the perimeter of the overall development shall be preserved to the greatest extent practicable prior to, during and following construction activities. It is understood stormwater facilities may be located within these areas. It is also understood the areas identified as internal parks and open space will be cleared and graded to create open, passive park areas within the development similar to those within the adjoining Centennial subdivision.
8. The overall development shall comply with the city's post-construction stormwater runoff management ordinance and provide water quality Best Management Practices (BMP's) on greenbelt areas dedicated to the city.
9. The location of the floodplain shall be field located and surveyed prior to preparation of the engineering drawings. Absolutely no development shall be permitted within the floodplain.
10. The maintenance of all internal parks, landscaped areas, signage and subdivision entrances shall be the sole responsibility of the developer and/ or the Homeowner's Association.
11. The Applicant shall establish deed covenants for the overall subdivision that shall limit rental units to no more than 20 percent of the total number of dwelling units in the subdivision. The covenants shall provide for the strict enforcement of the limit on rental units, and the developer shall establish the administrative structure for that enforcement prior to sale of the first dwelling unit in the subdivision.
12. The developer shall pay impact fees for each residential lot within the subdivision as identified within the city's Impact Fee Ordinance.
13. No less than a one hundred (100) foot-wide city-owned greenbelt shall be provided between the rear property line of all lots along the eastern property boundary and the CSX rail line. Clearing and grading shall not be permitted within this area. This area shall be deeded to the city as a part of the final plat process.

A statement addressing the proximity of the development to the CSX rail line shall be developed with the involvement of City Staff, the City Attorney and the developer. This statement shall appear on the final plat and in the Deed Restrictions and Covenants for the overall development.

14. *It is understood the rezoning applies to the entire tract of land, and the property is zoned for no more than 204 residential units. It is also understood that, until such time that MacDuff Parkway is complete and open to traffic, no units shall be permitted for construction.*

City Attorney Meeker said there had been different language in the regular agenda packet, with a blank left for the number of units that were to be permitted for construction. The Planning Commission changed the wording to "no units shall be permitted for construction." Using the language in Item 14 in the position paper in the agenda packet would be a good starting point.

King said he had no problem with 50% of the homes being permitted for construction. Learnard suggested the wording be "certificates of occupancy for 100 homes" for condition #14. There was a brief discussion whether the wording should be permits for construction or certificates of occupancy.

Kingsfield said he could not start vertical construction if there were restrictions on the certificates of occupancy. He asked for 50% or the completion of 102 homes before MacDuff was completed, adding the weather, permits, and CSX were out of the developer's control. He did not want to limit their ability to build, sell, and close on homes due to elements out of their control.

Learnard suggested that no more than 100 units be issued a certificate of occupancy until MacDuff Parkway was completed and open to traffic. Kingsfield said that would work.

City Engineer Dave Borkowski addressed condition #1. He said while reviewing an earlier traffic study for the rezoning, an error was found. The DRI traffic study that dealt with the Wieland and Scarbrough tracts had not analyzed the proposed traffic impacts on the existing intersections on MacDuff Parkway. They looked at the proposed intersections on the new section of MacDuff and at the state routes, but not the existing intersections. There needed to be a request for those to see what the impacts would be of this rezoning and the annexation. The City needed to understand the traffic impact on those intersections.

Learnard added the condition also required the applicant to fund any enhancements that might be needed at those intersections when justified by traffic warrants. The City would acquire the rights-of-way and would determine when the enhancements were needed. Learnard said no one would agree to that.

King agreed, saying the City was asking the developer to do something that had not been thought of previously. Borkowski said the wording might have changed, but the intent was to require the developer to study the existing intersections along MacDuff Parkway to see if improvements were needed and to make those improvements.

Ernst asked if the City's current study was looking at the existing intersections. Borkowski said it was not.

Imker said the condition read like the City was requiring the applicant to spend additional money on the SR 54 intersection as well as the new intersection with SR 74. Borkowski said it would not include the SR 54 intersection, and the City already knew there needed to be improvements there as soon as possible. Imker said SR 54 was identified as one of those intersections, adding possibly \$1 million to the applicant's bottom line. Borkowski said that would need to change. King suggested deleting the condition.

Community Services/Interim Public Services Director Jon Rorie said staff had met that day to review condition 1, and there were currently needs at MacDuff Parkway and SR 54. If 200 homes were added, that impact would increase. But it did not make sense to push the developer to something that was unknown. Staff felt the condition should either be modified or deleted. King supported deleting condition #1 entirely, adding it was the City's responsibility south of the property. There would also be impact fees.

Imker referred to condition 3:

3. A detailed multi-use path plan shall be submitted along with the concept plat.

Imker said the condition should include two tunnels under MacDuff and associated connections to the east side of SR 74. Kingsfield said there would be no tunnels under 74 because the bridge would cross SR 74. The tunnels under MacDuff would connect each side. Imker asked how the development would get to the bridge. Kingsfield said it would be part of the detailed plan.

Rast said there was a tunnel under SR 74 in the Belvedere and Sagamore subdivisions to Kedron Fieldhouse. There would be path parallel to MacDuff Parkway and another within the transmission line easement. The path would connect to the existing path on the northern end of Centennial. The cart/path bridge over the railroad would be part of the vehicle bridge over the railroad. Rast showed how the path connections would work.

Phil Jones, president of the Chadsworth Homeowners Association (HOA), said he had been inundated with concerns from his neighborhood. The Chadsworth residents had to drive their golf carts on MacDuff Parkway to get to the cart path system connections in Centennial or to go north to Franklin Ridge. His residents could not get out safely in a golf cart, and construction vehicles would be added to the current traffic.

Learnard asked what could be done. Borkowski said staff was trying to get an easement on the old school property that had reverted back to Wieland's ownership. Kingsfield said they would be happy to provide an easement across the old school property. They just needed to figure out the design. They had been in contact with the Fayette County school superintendent to discuss possible uses for that tract. Imker wanted the easement included in the motion.

Imker referred to condition 10:

10. The maintenance of all internal parks, landscaped areas, signage and subdivision entrances shall be the sole responsibility of the developer and/ or the Homeowner's Association.

Imker asked who would be responsible, the developer, HOA, or the developer responsible to a certain point, then reverting to the HOA. Learnard said the condition exempted the City. Imker asked what would happen if there was an argument between the developer and HOA.

Fields clarified that the developer deeded common area property to the HOA, who would be responsible for all the maintenance in common areas in perpetuity. Imker asked what the defining milestone would be. Fields said when an amenity was completed, it was recorded. An amenity included a park, clubhouse, or open space. Imker asked if those were the last items built. Fields said they were typically built up front.

Imker asked staff if this condition was a problem as far as when the transition occurred. Rast said it was not, and it took the City out of maintaining the common areas. Many of the later subdivisions in the City had the same condition for their amenities. There was a two-year maintenance guarantee where staff inspected the amenities to ensure they complied with what was permitted. When an HOA was formalized, the responsibilities transitioned from the developer to the HOA.

Imker asked if there was a new impact fee ordinance or if one was on the way. City Manager Jim Pennington said not yet. Imker asked which impact fee ordinance would prevail for this development. Meeker said it would be the ordinance in effect at the time the developer sought permits. Imker said the impact of a change to the ordinance should be considered. Pennington said the amount of the impact fees might not change, but what the money could be used for would change to being available for infrastructure. Pennington did not anticipate any increase in the impact fees based on the study that was being conducted.

Imker asked if there could be something in the conditions that required home buyers to know about the existence of the railroad tracks when the property changed hands. Meeker said that, from a legal standpoint, the information was in the covenant and deed restrictions and the public was considered on notice of what was back there.

Learnard moved to approve subject to the conditions established by the Planning Commission with three exceptions – delete condition #1, change the language regarding golf carts and easement to facilitate golf cart path construction on the 17-acre tract for the proposed school in condition #3 (now 2), and the last sentence of #14 (13), no more than 100 certificates of occupancy issued. King seconded. Motion carried 3-1 (Imker)-1 (Fleisch).

The conditions with the changes included:

1. *The portion of MacDuff Parkway that will be constructed to provide access to these tracts shall be constructed in accordance with the road construction plans on file with the City Engineer.*
2. *A detailed multi-use path plan shall be submitted along with the concept plat. This property for the easements shall be deeded to the city as a part of the final platting process.*

The Applicant shall provide a multi-use path easement of no less than 20 feet in width across the front portion of the 17.2-acre tract of land north of Chadsworth Way, which will allow the city to construct a multi-use path from Chadsworth Way to Franklin Ridge Drive.

3. A city-owned greenbelt of no less than 50 feet wide shall be maintained along the southern property line. Except for perpendicular utility crossings, clearing and/or grading shall not be permitted. Stormwater detention and/or water quality features shall not be permitted within this greenbelt. This property shall be deeded to the city as a part of the final platting process.
4. A city-owned greenbelt of no less than 50 feet wide shall be maintained along the northern property line. Except for perpendicular utility crossings, clearing and/or grading shall not be permitted. Stormwater detention and/or water quality features shall not be permitted within this greenbelt. This property shall be deeded to the city as a part of the final platting process.
5. A tree save and landscape buffer of no less than twenty-five (25) feet in width shall be maintained at the rear of all lots abutting the Oglethorpe Transmission power line easement. Clearing and/or grading within this buffer, except for perpendicular utility crossings, shall not be permitted. This buffer shall be identified on the final plat and included within the Deeds and Covenants recorded for the subdivision.

It is understood the homes on these lots will have garages located behind the homes and the garages will be placed in such a manner as to provide additional buffering between these lots and the transmission line easement. Where applicable, a fence will also be provided between the garage and the home on the adjoining property.

6. Existing vegetation in all areas identified as open space and/or buffer along the perimeter of the overall development shall be preserved to the greatest extent practicable prior to, during and following construction activities. It is understood stormwater facilities may be located within these areas. It is also understood the areas identified as internal parks and open space will be cleared and graded to create open, passive park areas within the development similar to those within the adjoining Centennial subdivision.
7. The overall development shall comply with the city's post-construction stormwater runoff management ordinance and provide water quality Best Management Practices (BMP's) on greenbelt areas dedicated to the city.
8. The location of the floodplain shall be field located and surveyed prior to preparation of the engineering drawings. Absolutely no development shall be permitted within the floodplain.
9. The maintenance of all internal parks, landscaped areas, signage, and subdivision entrances shall be the sole responsibility of the developer and/or the Homeowner's Association.
10. The Applicant shall establish deed covenants for the overall subdivision that shall limit rental units to no more than 20% of the total number of dwelling units in the subdivision. The covenants shall provide for the strict enforcement of the limit on rental units, and the developer shall establish the administrative structure for that enforcement prior to sale of the first dwelling unit in the subdivision.

11. The developer shall pay impact fees for each residential lot within the subdivision as identified within the city's Impact Fee Ordinance.

12. No less than a one hundred (100) foot-wide city-owned greenbelt shall be provided between the rear property line of all lots along the eastern property boundary and the CSX rail line. Clearing and grading shall not be permitted within this area. This area shall be deeded to the city as a part of the final plat process.

A statement addressing the proximity of the development to the CSX rail line shall be developed with the involvement of City Staff, the City Attorney and the developer. This statement shall appear on the final plat and in the Deed Restrictions and Covenants for the overall development.

13. It is understood the rezoning applies to the entire tract of land, and the property is zoned for no more than 204 residential units. It is also understood that, until such time that MacDuff Parkway is complete and open to traffic, no more than 100 Certificates of Occupancy shall be issued for homes within the development.

Learnard relinquished the chair to Fleisch.

New Agenda Items

05-14-03 Public Hearing – Consider Text Amendment and Clarification of Development Agreement Stipulations within LUC-16 Zoning Ordinance (Lexington Circle)

Rast pointed out this was a text amendment to the LUC-16 zoning for Lexington Circle. He reminded Council that the zoning ordinance had been approved by City Council, but the development agreement did not follow the zoning procedures law. Amending the ordinance would bring it into agreement with the development agreement, which would still be in effect. The language in the development agreement included what uses were and were not permitted, and if approved, that language would be part of the ordinance. The Planning Commission held a workshop and public hearing. One property owner had one concern and wanted to ensure the changes would not impact his plans for his property, and Rast said they would not. Assisted living had been taken out as a permitted use based on Council's decision to not lift the multi-family moratorium on April 17.

Fleisch noted staff had generated the change, so there was no applicant. She opened the public hearing. No one spoke for or against the amendments. The public hearing closed.

King moved to approve agenda item 05-14-03 Consider Text Amendment and Clarification of Development Agreement Stipulations within LUC-16 Zoning Ordinance (Lexington Circle). Ernst seconded. Motion carried unanimously.

Council/Staff Topics

Pennington said there had been a meeting on May 13 with Safe Dams, but there was still no direction regarding the spillway. He read a statement County Administrator Steve Rapson had sent to the Board of Commissioners:

Staff had a meeting with Safe Dams on Tuesday evening concerning Lake Peachtree and the spillway. We are in the process of reviewing the detailed reports and will plan on bringing options to the May 22 meeting for your guidance and direction.

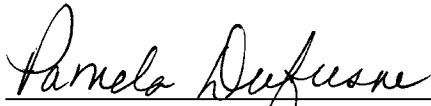
Imker referred to the legal expense report for April, noting there was one item every month labeled Mrosek. In April, more than \$3,000 had been spent. Every month \$1,000 or more was spent on this lawsuit, and it would be higher next month because Imker had been deposed the prior week. He said four lawsuits had been filed by the same person for the same thing since 2011. It was also costing the Georgia Interlocal Risk Management Agency (GIRMA), the City's legal insurance entity. The point was the citizens could continue to expect their money to be spent monthly on this lawsuit. If the City prevailed, the City Attorney had been directed by Council to seek recovery of costs and fees.

Learnard said she had attended the Lisa Kelly concert on May 8, which was fabulous international quality music. She hoped there would be another concert at Christmas.

King moved to convene in executive session to discuss real estate, pending or threatened litigation, and personnel at 9:16 p.m. Learnard seconded. Motion carried unanimously.

Learnard moved to reconvene in regular session at 10:05 p.m. King seconded. Motion carried unanimously.

There being no further business, Ernst moved to adjourn the meeting. Imker seconded. Motion carried unanimously. The meeting adjourned at 10:06 p.m.



Pamela Dufresne, Deputy City Clerk



Vanessa Fleisch, Mayor