

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council

VIA: City Manager *[Signature]*
Developmental Services Director *[Signature]*
City Planner *[Signature]*

FROM: City Engineer *[Signature]*

DATE: February 15, 2007

SUBJECT: Commerce Drive and Westpark Drive - Possible Outlets
March 2, 2007 Retreat Agenda

Staff was requested to look at an alternate entrance/exit to Westpark Drive due to the number of accidents at Commerce and Highway 54 and the difficulty people are having heading east on 54. Staff reviewed the accident records and over the past three years, there have been 98 accidents at this location. Forty-six of the accidents (47%) were directly related to people coming southbound out of Commerce and making a left turn heading eastbound on Highway 54, or eastbound traffic on 54 turning left onto Commerce. There have been no fatalities at this intersection. Currently this intersection is ranked #2 in the top ten accident locations in the City.

Staff has reviewed the property surrounding Westpark Drive to see if there is any feasible way to provide alternate access (see attached map). Based on our analysis, the City would have to purchase one of the two vacant parcels in order to build a road out to Aberdeen Parkway or Northlake Drive (1.8-acre Westpark Court parcel - \$230,000; 5-acre Westpark Drive parcel - \$609,450). There does not appear to be enough area outside of the 25-foot State Waters Buffer on the City-owned greenbelt to build a road from Westpark Drive to Northlake Drive. There do not appear to be any other solutions to providing additional access to this area, as a traffic signal this close to the 54/74 intersection would not be allowed.

Staff is scheduled to take counts at the intersection of Commerce and Highway 54 to see how many cars per day are coming in and out of this area using the median cut. The traffic counters should be in place before the end of February. Staff will then present the volumes and accident information to City Council once the data has been collected.

Attachment

cc: City Engineer's file
Police Chief

DAVIS & MEEKER, L.L.C.

ATTORNEYS AT LAW

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THEODORE P. MEEKER, III

E-MAIL: tmeecker@fairburn.com

TO: Mayor and Council
City of Peachtree City

FROM: Theodore P. Meeker, III
City Attorney

DATE: February 20, 2007

RE: Council Retreat
Noise Ordinance Enforcement under Nuisance Ordinance

A recent inquiry has been made with respect to the City's enforcement of noise-related issues.

Presently, the City handles enforcement of these issues via its nuisance abatement process. Under those provisions, a nuisance is defined, in part, in Section 51-10 as "anything which tends to lead to the immediate annoyance of the citizens in general...". The process, which is set forth in Section 51-11, allows any citizen to apply to the city by written petition, in which that person shall describe the thing complained of as a nuisance, where it is located, and the name of the person maintaining the nuisance and pray that the nuisance be abated. The petition shall be filed with the court clerk, who then issues a notice of hearing addressed to the defendant, requiring that person to be and appear before the city municipal court at a named time and place and show cause why the alleged nuisance should be abated. The notice is served on the defendant personally by one of several methods.

The benefit of the current system is that it allows the individual residents to bring the issue to the Court's attention, rather than having staff pursue each matter individually. The onus, therefore, is on the complaining party to bring the matter forward and, more importantly, to prove to the Court that the issue constitutes a nuisance and should be abated. This process, more importantly, has also avoided inconsistent enforcement by staff.

By inconsistent enforcement, I am referring to the fact that a barking dog in one situation may be nuisance to one neighbor. The same dog, in another subdivision, may not be a “nuisance” to another neighbor. From a staff standpoint, trying to determine which situation rises to a level of a nuisance can be very challenging. Using the current system allows the residents to both have their opportunity to present their case and, depending on the proof offered to the Court, have their issues addressed.

Keep in mind that State law covers this issue as it pertains to motor vehicles. O.C.G.A. § 40-6-14 makes it unlawful for “any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical sound-making device or instrument from within the motor vehicle so that the sound is plainly audible at a distance of 100 feet or more from the motor vehicle.”

Attempting to address this issue via a noise ordinance can be very challenging from a legal standpoint. In some instances, cities have attempted to utilize certain decibel levels as an indicator of when noise rises to an unacceptable level. To proceed under this method would require the city to obtain the necessary equipment to measure the noise level, and pay to both train employees to utilize the equipment and maintain the equipment. Other ordinances which have attempted to address this issue have been struck down as being unconstitutionally vague. *See Thelen v. State*, 272 Ga. 81 (2000).

The recommendation from staff is that regulation of this issue maintain its current process from both a legal and enforcement standpoint.

TPM/