City Council of Peachtree City
Minutes of Special Called Meeting
February 13, 2008
7:00 p.m.

The City Council of Peachtree City met Wednesday, February 13, 2008, in the City Hall Council Chambers. Mayor Logsdon called the meeting to order at 7:00 p.m. Other Council Members present: Steve Boone, Don Haddix, Cyndi Plunkett, and Doug Sturbaum.

The purpose of the meeting was to consider Agenda Item 10-07-13 Consider Request for Abandonment of Line Creek Circle and a Portion of Line Creek Drive, Agenda Item 02-08-02 Consider Appeal of Planning Commission Decision Regarding Denial of Conceptual Site Plan for Line Creek Retail Center, and to hold an executive session,

10-07-13 Consider Request for Abandonment of Line Creek Circle and a Portion of Line Creek Drive

Logsdon noted there was an additional document on the dais – an e-mail to City Council from Beth Pullias dated February 13, 2008, with the subject, "Meeting tonight Wed on Road Abandonment." City Manager Bernard McMullen noted that a copy of the development agreement had also been placed on the dais. Logsdon added that Council had received a copy of the development agreement that afternoon.

Attorney Rick Lindsey addressed Council on behalf of his client, Doug McMurrain and Capital City Development. He said that the latest revision to the agreement had been sent earlier that afternoon.

Logsdon noted that Council was requesting a change to Item #7 of the proposed development agreement – in the case that the appraised value of the roads exceeded $500,000 that the City and the developer work toward a land swap for land adjacent to the Line Creek Nature Center, which would increase the buffer and the land in the nature center. Lindsey said they were agreeable to the change. Plunkett said that should happen immediately, instead of waiting for the site plan. The land would be put in a conservation trust, and McMurrain would be able to receive tax credit for that. Lindsey requested that, in the event something happened and the project fell apart and the developer had to quitclaim the right-of-way back to the City, then the additional land would revert back to his client. Plunkett said that was quid pro quo and was fine. If there was no agreement on the site plan, then they should go back to the drawing board.

City Attorney Ted Meeker pointed out another change to Item #7 had come in before the meeting. The agreement stated that the sum should be paid to the City upon approval of the final site plan for the first phase of the development on the property. Meeker suggested that the following language be added: or prior to any sale of any portion of the property.

Lindsey noted that site plan approval was a staff function, and he asked that the developer be given time to go to the bank and get the money. He suggested that the payment be made with 15 to 21 days. Plunkett said 15 days would be fine. Meeker said the wording, "upon approval," would be struck, and "within 15 days of the approval" would be added. Lindsey said he would make the three changes the next day.

Plunkett pointed out that the agreement included the stipulation that there be no gas station or fast food restaurant. She continued that, per Sturbaum's suggestion, item #16 included a waiver of rights on any challenge to the size restrictions in Section 1006 of the City's zoning ordinance.

Lindsey gave an overview of the major points in the proposed agreement, beginning with Item #7 in the proposed agreement.

- *The developer would pay the appraised value of the abandoned rights-of-way, not less than $500,000, plus the details discussed at this meeting.*
- *The conceptual site plan would include at least the following:*
  - *The total square footage for all buildings on the site should not exceed 175,000 square feet.*
  - *No more than three buildings with single tenants could exceed 32,000 square feet of enclosed space, with a maximum of 50,000 square feet.*
  - *There would be no fast food.*
  - *There would be no gas station.*
  - *The minimum number of parking spaces required for the total square footage should be provided in accordance with City ordinances.*
  - *Stormwater detention would not be permitted within the 30-foot landscape buffer adjacent to SR 54.*
  - *Golf cart parking would be provided thoughout the development in close proximity to the entrance of each tenant space.*
  - *A vegetated buffer measuring no less than 50 feet in width would be provided along the entire length of the southern property boundary adjoining Cardiff Park and would be dedicated to the City as greenbelt. Any sparse vegetation would be replanted with a dense cover of trees. No building would be less than 75 feet from the current property boundary.*
- *In addition to the conceptual site plan, the following documents would be prepared and submitted along with the conceptual site plan review package:*
  - *A schematic site lighting plan,*
  - *Landscape plan with no canopy trees less than six inches in caliper,*
  - *A schematic stormwater management plan,*
  - *Elevations of all buildings,*
  - *An amenities plan,*
  - *A pedestrian circulation plan, and*
  - *A golf cart path circulation plan.*
- *The developer also agreed to the following conditions:*
  - *Any retaining walls that should be required would be constructed of earthen fill gambion baskets and planted to create a vegetated wall.*
  - *No disturbance in the City-owned tract to the west (Line Creek Nature Area) would be permitted.*
  - *The City landscape architect would review the eastern property boundary to determine if additional plant material was necessary once the clearing started.*
  - *Sound baffles would be installed on all roof-top mechanical equipment facing Cardiff Park.*
  - *Delivery trucks would be restricted between 8 p.m. and 8 a.m.*
  - *The outdoor sound system would be similar to the one in The Avenue.*

- *The developer would work with the homeowners associations of Cardiff Park and Planterra to replant the entrance way to Planterra Way and to come up with an underground irrigation system. It would be the responsibility of the homeowners associations to maintain the improvements, not the City or the developer.*
- *There would be no internal road connection between the development and Planterra Way.*
- *The developer would have the right, at his option and expense, to request a traffic signal from DOT. The City and the developer would approach DOT to have DOT abandon its portion of Line Creek Drive along the front. The developer would reimburse the City for its cost.*

Lindsey noted the rest of the agreement was legalese. Meeker emphasized that Item #15 clarified that no plan was being approved at this meeting, and the plans were all conceptual in nature. The developer still had to go through the process.

Plunkett said she did not see any language regarding the appraisal and who would pay for it. Lindsey said that, in Item #7, the language read "a qualified appraiser acceptable to both the City and Developer." Meeker noted that the next sentence required the developer to pay all costs of the appraisal.

Larry Bradley asked if the "no see, no smell" language was in the agreement. Logsdon said there was language about truck deliveries. Meeker said that the buffers and other noise reduction things were included in the agreement. Others would be incorporated during the special use permit process. A lot of the conditions regarding smell, hearing, and sound were good, but were usually addressed during the plan review process. The City was not approving a plan at this meeting. McMurrain agreed that those issues were the work of the Planning Commission. Cart path development was also covered in the agreement.

Richard Spain asked if the agreement would supersede the SR 54 Overlay District requirements. Meeker said they would not. Spain also asked if the agreement would transfer with the title. Meeker said it would. Plunkett said this agreement made the SR 54 Overlay requirements tighter because it incorporated points into the development agreement. Meeker clarified that this agreement would be recorded with the deed. Any successors to title, if there were any, would understand the requirements.

Richard Granger asked how three 50,000 square-foot buildings were different from a big box. Boone pointed out that any building over 32,000 square feet had to come to Council for a special use permit process. Plunkett added that the developer would not bring more than that. Granger said anything over 32,000 square feet was considered a big box by the citizens. He asked why Council would authorize big boxes on the development. Logsdon said there had been a lot of give and take to avoid a gas station. Some people wanted Kohl's. This agreement was a compromise. There would be smaller boxes. Granger said it was not explicitly stated that voting for abandonment meant there would be up to three 50,000 square-foot buildings. Meeker said that the developer had agreed that he would ask for no more than three 50,000 square-foot stores or a total of 175,000 square feet. Granger said that, to the average person, it appeared Council was de facto approving the boxes. Logsdon asked Granger if he wanted the Quik Trip plan.

Granger said he did not see why Council was accepting more than what the ordinance allowed. Plunkett explained that the City did not have a big box ordinance. Ordinances that prohibited big boxes had been determined to be unlawful by the courts because they were too restrictive. The City had a big box special use permit, which was similar to a variance. There was not a rule against anything over 32,000 square feet, but a developer had to ask for special permission to get one. The City's ordinance was not an exemption, but an exception. A developer had to jump through additional procedural hoops for any building over 32,000 square feet. If the Planning Commission felt the developer had jumped through all the hoops, the project went to Council, who would determine if the project was special enough to get the special use permit. Granger said that, with everything being asked of the developer at this meeting, Council would be hard-pressed to deny him later. Plunkett said everything would be back to square one. Meeker said the agreement provided legal protection for the City, which included going back to the beginning if something fell through. The agreement had proffered conditions, which meant the developer agreed to the project with the conditions and provided legal protection for the City.

Phyllis Aguayo preferred that land be used for payment for the road abandonment rather than money. The money would be spent quickly, while owning more of the land would be more significant. She also expressed concern regarding the three 50,000 square feet buildings. Her concern was what those three stores could become in the future, and she was not comfortable with everything Council was considering. Deed restrictions expired, and the zoning would still be in effect.

John Munford noted that no one attending the meeting had a copy of the agreement. The documents should be made public so there was less of an appearance of a backroom deal. He asked Council to continue the matter until the next meeting, so the documents would be part of the agenda package. Logsdon asked what had happened with the meeting notice. Acting Administrative Services Director/City Clerk Betsy Tyler explained that special called meeting notices were not usually placed on the website, but the agenda was sent to the newspapers and to those residents who asked to receive copies of the agendas. The requirements to advertise a meeting had been exceeded.

Gerald Monroe said the issue had been discussed. There had been a number of newspaper articles. He did not understand how anyone could be confused. The land was zoned commercial and could be developed. The City was trying to get the best deal.

D'Arcy Pitts said that, if the agenda had been on the website, the agreement would have been an attachment. She had checked the website for the agreement. She was also concerned with the possibility of three 50,000 square-foot stores and a total of 175,000 square feet.

David Niebes said that there was an article on the front page of one of the papers. The residents could only be spoon fed so much. Citizens had to take the responsibility to find out for themselves. The City needed to move on. Logsdon agreed. The requirements for a special called meeting had been met, and the issue was not a secret. Boone added that this meeting had been announced at the last Council meeting.

Logsdon said the only real issue he saw was that the agreement had not been made public. Council received the current agreement that afternoon at 4:30 p.m. It would have been better if everyone could have read the agreement, but the letter and spirit of the law had been met. Lindsey had gone over every important item in the agreement during the meeting.

Plunkett asked if all the meetings were on the website. Tyler said all the regular meetings were on the website, but this was a special called meeting. State law required notice be placed on the bulletin board 24 hours prior to the meeting. Meeker said, as a matter of form, it would be good to put a meeting notice on the website. McMullen said the notice went out on Friday, February 7. Logsdon noted it was on the front page of the newspaper.

Boone moved to approve the request for the abandonment of Line Creek Circle and a portion of Line Creek Drive with the development agreement as discussed and with the changes. Plunkett seconded. Meeker asked Boone to restate his motion to make the development contingent upon the development agreement. Boone restated his motion to approve the request for the abandonment of Line Creek Circle and a portion of Line Creek contingent upon the development agreement and the changes. Plunkett seconded.

Haddix clarified that big box ordinances were legal and were enforced all the time. The three 50,000 square-foot buildings and the total of 175,000 square feet were both exceptions to the City's ordinance. Meeker said any building over 32,000 square feet would require a special use permit and a total of 150,000 square feet would require a special use permit.

The motion carried 3-2 (Haddix, Sturbaum).

02-08-02 Consider Appeal of Planning Commission Decision Regarding Denial of Conceptual Site Plan for Line Creek Retail Center

Lindsey withdrew the appeal.

Sturbaum moved to convene in executive session for a personnel matter and threatened or pending litigation at 7:42 p.m. Haddix seconded. The motion carried unanimously.

Boone moved to reconvene in regular session at 8:00 p.m. Sturbaum seconded. The motion carried unanimously.

There being no further business to discuss, Plunkett moved to adjourn. Logsdon seconded the motion. The motion carried unanimously. The meeting adjourned at 8:00 p.m.

Harold K Logsdon
Harold K. Logsdon, Mayor

Betsy Tyler, Acting City Clerk

Pamela Dufresne
Pamela Dufresne, Recording Secretary