

City Council of Peachtree City
Minutes of Meeting
December 16, 1999
7:00 p.m.

The City Council of Peachtree City met in a regular session, Thursday, December 16, 1999, at 7:00 p.m. in the City Hall Council Chambers. Mayor Robert L. Lenox led those attending in the pledge of allegiance. Other Council members present were: Annie McMenamin, Carol Fritz, Jim Pace and Bob Brooks.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Mayor Lenox recognized Jim Pace for his service on City Council.
Mayor Lenox presented the Employee of the Month award to Joyce Williams.

MINUTES

McMenamin made a motion to approve the minutes of December 2, 1999, as presented. Pace seconded the motion. Motion carried unanimously.

OLD AGENDA ITEMS

There were no old agenda items.

NEW AGENDA ITEMS

12-99-05 Alcoholic Beverage License Change - Mexico City Gourmet

Mayor Lenox explained that Maria Martinez and her son, Pedro Martinez would be purchasing Mexico City Gourmet, located at 100 Peachtree Parkway. They submitted an application to transfer the alcoholic beverage license into their name. McMenamin said the paperwork appeared to be in order and made a motion to appoint Maria Martinez as the Licensee and Pedro Martinez as the License Representative for Mexico City Gourmet. Fritz seconded the motion. Motion carried unanimously.

12-99-06 Consider Appointments - Airport Authority

City Manager, Jim Basinger, said a selection committee (composed of Councilmembers Annie McMenamin and Bob Brooks, and himself) considered nine applicants for a vacancy on the Airport Authority. The committee recommended that Mark Bunker be appointed to serve a term from January 1, 2000 until December 31, 2004. They also recommended Jerry Cobb be appointed to serve as an alternate to fill any vacancy which may occur. McMenamin made a motion to make the appointments as recommended by the selection committee. Fritz seconded the motion. Motion carried unanimously.

12-99-07 Discuss Selection Process for Judge, City Attorney and Solicitor Services

Bob Brooks said he had requested this item be placed on the agenda. He said there had been concerns expressed regarding written bid requests and the replies that had been received for the City Attorney position. He explained the City received responses back for Solicitor services separate from City Attorney services, and that separate bids had not been received in the past. In response, the City staff made an effort to try and clarify a couple of the bids. He felt the staff had good intentions, but unfortunately, he felt the purity of the bid process might have been compromised to some extent. He thought it was appropriate for Council to discuss what they had wanted to put out for bid and to consider requesting new bids. He said Council normally selected the judge and City Attorney at the first meeting in January, but he suggested they re-bid the process and be ready to select a new judge and City Attorney at the first meeting in February. He said there seemed to be controversy surrounding conversations that might have taken place to clarify issues with one group and not another. He felt the bid process should be fair and equitable across the board and that everything should be in writing. He felt staff's intentions were honorable across the board, but felt there was room to second-guess what had happened.

Fritz did not have a problem requesting new bids, but she was not quite clear as to what the process had been in the past. She said the process had not been handled in the same manner as bids for contracts or other services. Basinger explained that staff had actually requested Request for

Proposals (RFP). He said a case could be made that while there was more flexibility given with RFPs as opposed to bids, the process still needed to be fair and equitable. He said if Council had concerns staff could certainly request new proposals. He asked for Council's guidance concerning the City Attorney and City Solicitor. He said the City's Attorney normally performed the duties as Solicitor, but that had not been clarified when staff first requested proposals. He said the City did receive a proposal for Solicitor services separate from City Attorney services. He asked if Council wanted the City Attorney to continue to perform the duties as Solicitor, or if they wanted to create a separate position for those duties. He felt there were some benefits to having the City Attorney also serve as the Solicitor because the City Attorney would be available to city staff every Wednesday (after court.)

Brooks said it should be taken out of the realm that one person would bid on the job. He said that to some extent one person might represent an agency or a whole practice. He agreed with Basinger that there was a significant advantage to having the City Attorney firm be responsible for City Attorney responsibilities and Solicitor services. He felt if the city clarified that it wanted the City Attorney to be responsible for both services, it would provide a certain amount of depth from a firm to provide a certain amount and range of service that the City would not have to pursue from someone else. He said it was his personal opinion that Council should go ahead and give the City staff some direction and instruct them to continue to bid the services as they have in the past and not to separate the City Attorney and Solicitor services. He said staff should request services for a Judge, separate from the City Attorney services. He felt the City Attorney and solicitor services should be provided by one law firm because it would reduce redundancy for certain issues that must go back and forth between the City Attorney and the Solicitor. He also felt it would help the City retain a law firm that had more depth to it. He felt it was important for the City to retain a law firm with several attorneys so they could provide more information, insight and depth on various issues.

McMenamin agreed with Brooks. She said she would like a stronger sense of a level playing field in the bidding process. She wanted it to be clearly understood what services the City was requesting. She declared that her daughter was an attorney with the law firm, Webb, Stuckey and Lindsey, and stated if they were actually involved in the bidding process she would refrain from voting on the appointment. She said she did not know if Webb Stuckey and Lindsey would submit a bid, and she did not feel she had a particular conflict of interest in voting on issue regarding a fair playing field for the bid process.

Lenox said staff had actually requested RFP's in the same manner as they had in the past, but he agreed with Brooks and McMenamin that it had become so confused that it would be better to go through the process again with instructions from City Council.

For the benefit of the public in attendance, Brooks explained that bids were requested and some responses were received that the City staff did not anticipate. He said the staff went ahead and made some follow-up telephone calls for purposes of clarification. He felt staff made the telephone calls in a manner to be conscientious, but the telephone calls were not made across the board. He felt certain people could second-guess what they did. He said he wanted to make sure that everything was above board and equal and that everyone was on a level playing field.

Brooks made a motion to re-bid the position of Judge and City Attorney, and that the City Attorney as a sub-index should include Solicitor services. His motion included instruction that staff should readvertise after the Christmas holidays and to contact everyone that had already submitted a bid of any kind. His motion also called for Council to make a decision during the first meeting in February for the next year, and that the City would maintain the status quo as far as the relationship that it had with Webb & Lindsey until the end of January. McMenamin seconded the motion. Motion carried unanimously.

12-99-08 Appeal Home Depot

Mayor Lenox explained that the Home Depot appeal was not required to be, nor would it be, a standard public hearing. He said no one present had any right to speak unless specifically requested or authorized to do so by him or by an act of Council. He instructed anyone recognized to speak must do so from the podium and clearly state their name and address. He explained that City Council would elicit sufficient information and facts in a manner and to the extent that they choose to enable them to reach a decision. He said they had established a formal agenda for the hearing designed to achieve this purpose. The agenda was distributed to the public. He said it was the intention of Council to render a discussion on the matter that night. He said the meeting would be conducted in a rational, orderly, and mutually respectful manner. He said there would be no clapping or cheering. He said there would be no signs, no hooting, no outcries, and no talking among those present. He said everyone authorized or requested to speak would be heard politely and with respect, and would not be interrupted or disturbed by crowd comments or noise. He said any individuals violating the rules would be asked to leave.

For the purposes of these minutes, a brief synopsis of this appeal agenda is included below along with the action taken. A complete transcript of lengthily discussion concerning this item is attached and made a part of these minutes, herein.

Home Depot Hearing Agenda

- 1) Land History and Ownership - Jim Williams
 - ownership
 - zoning - dates and circumstances
 - Land Use Plan (Consistency & Recent Changes)
- 2) Review of Suggested approval conditions - City Staff
- 3) Legal Situation and Opinions - Webb & Lindsey
 - Traffic Ordinance
 - Clean Air Restrictions
 - Zoning Law Situation
 - Monetary Loss and Control Loss risks
 - Expected developer strategies/outcomes
- 4) Traffic Study Results - Ed Ellis
 - Existing situation
 - Schematic drawings
 - Peak/non-peak performance
 - Suggestion Improvements
 - How developed and tested
 - Schematic drawings
 - Model run
 - Peak/non-peak performance
- 5) Emergency Vehicle Access Concerns - Stony Lohr
 - Access alternatives
 - Problem areas
 - Overall assessment
- 6) Property Value Assessments - Bob Lenox
 - Appraiser Opinion
 - Realtor opinion
 - Pavilion experience
- 7) Immediate Neighborhood Input - Various
 - Planterra Ridge
 - Huddleston Road
 - Wynnmeade
 - Developer/Property Owner
- 8) Audience Question and Answer Period
 - All questions directed to chair
 - Chair selects answering party
 - Two question person limit - no speeches please
- 9) Council discussion and decision

McMenamin made a motion to table the appeal until the City heard from the Atlanta Regional Commission (concerning lifting the restrictions of the Federal Clean Air Act.) Fritz seconded the motion. Motion failed 4-1 with Lenox, Brooks, Pace and Fritz voting Nay.

Bob Brooks made a motion to uphold the appeal and approve the conceptual site plan, send the issue back to the Planning Commission for further action, if necessary, with the following conditions, which would be included into a written agreement between the City and the applicant:

1. The developer shall be responsible for making traffic system improvements as recommended by the City's traffic consultant, Dames and Moore to include, but not be limited to the following:
 - a. Install a new traffic signal at the Home Depot entrance and inter-connect it with the other signals in the GA 54 Corridor;
 - b. Install two through lanes for southbound traffic on GA 74, along with a dedicated right-turn lane;
 - c. Extend the second westbound through lane from SR 74 to the existing right-turn lane at Market Place Boulevard;
 - d. Install a continuous through lane on GA 54 westbound between the railroad bridge and Wynnmeade, along with the necessary turn lanes at the key inter-sections; and
 - e. Install a long decel/stacking lane for GA 54 eastbound at Huddleston, along with double left-turn lanes from Huddleston westbound.

The developer must obtain approval from the GA DOT for all traffic system improvements prior to the issuance of any development permits. All site-specific improvements shall be completed by the developer prior to the issuance of a Certificate of Occupancy. Funds for system improvements shall be paid by the developer to the City and shall be held in escrow until the developer and/or the GA DOT can complete such improvements. The costs for such improvements shall be determined by the City's Traffic Engineering Consultant.

2. The developer must provide a green space area along the north side of GA 54 to reflect the existing green space on the south side of the highway in front of Planterra. In addition to the 60-foot buffer parallel to GA 54, a green space corridor at least 200 feet wide should be provided in the area where the entrance drive extends between GA 54 and the Home Depot parking lot;

3. Home Depot must adopt an architectural program for its building, similar to the program it proposed for its Kedron Center store; and that program must be approved by the City as a part of final site plan approval;
4. Home Depot must agree that it will not conduct out-of-store marketing or store any materials outside its building unless the displays and materials are under canopies approved as a part of the project architecture;
5. The developer must agree to provide the City with acceptable plans for landscaping, exterior lighting, and signage; and those plans must be approved by the City as a part of final site plan approval; and
6. The architectural plan, landscaping plan, and signage program which are developed for Home Depot and approved by the City should serve as a model for all other commercial development in the GA 54 West Corridor.
7. The developer will continue the discussions with the Planterra Homeowners Association and consider making reasonable buffer enhancements on the south side of the street
8. If Planterra experiences cut through traffic, the City (and not Home Depot) would pay for traffic calming devices
9. The city will study the feasibility of requiring all trucks to use the Line Creek entrance and service road and not the Planterra light.
10. Reduce parking lot pollution. The developer must agree to make every effort to reduce projected runoff through the incorporation of design principles as directed by the Planning Commission and/or City Engineer. All parking lots shall be required to have the capability to contain one inch of precipitation in a twenty-four-hour period. Runoff shall be directed toward permeable areas and away from pollutant-laden areas such as parking lots.

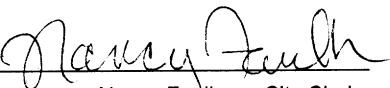
Doug McMurrin and Charles Trammell both agreed to the conditions for the record.

Jim Pace seconded the motion. Motion carried 4-1 with McMenamin opposing.

COUNCIL/STAFF TOPICS

There were no Council/staff topics.

Lenox made a motion to adjourn the meeting. Pace seconded the motion. The motion carried unanimously and the meeting adjourned at 11:30 p.m.

Attest: 
Nancy Faulkner, City Clerk


Mayor

VERBATIM TRANSCRIPT OF DISCUSSION CONCERNING HOME DEPOT APPEAL

Mayor Bob Lenox: Jim Williams will give us a land history and ownership background of the last 25 years that have brought us to where we are tonight.

Jim Williams: What we are talking about tonight is what is called the Huddleston tract, it's about a 40 acre site on the north side of hwy 54 adjacent to and behind the Line Creek Baptist Church which is just over the railroad bridge heading west toward Newnan. The Huddleston tract is part of a much larger tract that is on that same side of the street that has historically been land used plan and zoned for general commercial purposes. It is also a part of a much larger tract that includes land on the south side of the street that is also land use planned and zoned for general commercial purposes or has up until a fairly recent time actually been planned and earmarked for general commercial. The question of the prop on the south side of the road, we're glad over time has evolved into what is now the entrance to the Planterra Subdivision. It was previously a big chunk of general commercial property, which we were able to negotiate as a part of the Planterra Subdivision as a part of the green space and Tennis Center. We have been working with other parcels in the corridor to achieve similar less intensive types of development than would naturally result in a general commercial type situation. One example is the prop that is immediately adjacent to the Huddleston tract, a much larger tract that Huddleston tract. We were able to bring the development pattern there from a very large general commercial situation down to one that has a significant residential component to it and still has a very minor commercial component along the highway and we are still working on that portion of it. But, the basic idea in that west side corridor has been to try to accommodate the large commercial uses that are characteristic to any type of developed comm. That will possibly be out of step or out of place in a typical village center. From earliest days we have anticipated that if a new car dealer came to town for example, something large and not necessarily efficient would probably want to be located in that area and naturally any of the larger retailer chains would want to be located there. The evolution of this began in the early 1970's thinking of how this would be perhaps the commercial downtown of Peachtree City, focusing on the 74/54 int. going west all the way to the Coweta county line. The early master plans for the city included that component as a part of the master plans but it wasn't until 1985 that the city actually began to formalize the process with the 1985 land use plan which was officially adopted at that time and called for. The land use plan is a great big red spot here which defines these properties, the zoning ordinance that was developed consistent with that land use plan then reflected that as general commercial zoning. There have been several attempts to try to reshape that area over and above what I've already mentioned and for various reasons, these attempts were unsuccessful. But what we have here on the Huddleston tract is about 40 acres that has been historically land used plan and zoned for general commercial use and I think that from the onset it was pretty much a given among the people that have been with this from the very start that that is the way it would be used. The project that evolved before the Planning Commission took a number of variations before it actually came before the planning comm. It came in at first as a combination site with 2 big boxes on it and there were many problems that we saw with that, we went through maybe 3 or 4 different site plans and got to a project which we felt was a reasonably good land use solution for that particular tract. This site plan was brought before the Planning Commission toward the end of November and the Planning Commission voted to deny approval of this site plan mainly on the basis of their fearing that the traffic issues were not fully and adequately taken care of and they had also concerns that there was an adverse affect on existing businesses particularly those businesses on Huddleston and they wanted something done to mitigate that impact. They felt that the needs of the Planterra residents were not properly taken care of and that needed some attention and they also felt that the task force that was created to look into the problems with the corridor needed to have a chance to explore these issues and come forward with recommendations and they felt that the action the Planning Commission was being asked to take was a little premature. Then they included a reference to public health, safety, welfare, etc., etc. that they felt was not properly taken care of. The staff did not really concur with this conclusion and when the position paper was written for the meeting tonight we continued with our recommendation that the site plan be approved and the basis for that is that the project absolutely in our opinion complies with all of the direct and indirect requirements of the Land Development Ordinance. Relative to any kind of a site plan review. In addition to that, the developer has followed to the letter the requirements of our Traffic Impact Ordinance which was imposed on this property from the beginning and has agreed through their consultant and our consultant to implement a series of improvements to the highway which we have been assured would result in the highway being able to function after the home depot is constructed at least as efficiently as it is now and in many respects better. We felt that having complied with those two requirements that we really had no choice but to recommend approval but we did feel that there were some conditions that should be attached to this to achieve the best results. The conditions we have identified in the position paper first of all have to do with an understanding right up front that the developer would have to be responsible for installing or having installed all the improvements that were identified in the traffic impact study and negotiated through that process so that there would be no question that that work would be done prior to the traffic being generated by the project. We will get into exactly what those were later in the presentation. But the developer would have to obtain the approval from the GA DOT for all these improvements and that they would need to make sure that we could be comfortable that they would be done before any development permits would be issued. The second condition is that the plan be modified to reflect the site planning that occurred on the other side of the street, in other words, rather than jam up a series of commercial outlots at the entrance and they just take a driveway on back to the home depot project, we were asking that a very sizable green area be installed at the entrance reflecting the green area that is on the other side of the street and that that green area be at least 200 ft wide and that's in addition to the buffer that is running parallel to 54, this would be parallel to the entrance road going back and provide a landscaped entrance that would probably be unique in approaching a store of this size. In addition to that, we wanted to see this project result in the creation of an architectural program that could be used for all of the development that goes on in the rest of the corridor and we would like for starters for us to not do a typical home depot concrete block and orange building but to come up with a concept similar to the one that was developed for the one in Kedron which they abandoned to come down to this location that had a little more architectural character to it, had a little more finished materials than the painted concrete block and a little less of the orange to be in your face. We don't feel that that is necessary or appropriate in this particular setting. And that once this concept is developed and agreed upon, we would apply it to what ever other stores go into the corridor so that we would have something resembling a planned area there. Using this as an opportunity to get some consistency there where we don't have any right now. The next point, we've been told is crucial as far as Home depot and other major retailers are concerned. That is that they keep their marketing inside their building or inside the canopied areas and not mushroom out into the parking lot and beyond. It is tempting when you are selling railroad ties and 2 x 4's and things to stack them up all over the place but we would like to see all of the marketing handled in or adjacent to the building and under the canopies that would be designed for the garden center, the bulk materials and that there not be piles of storage outside. The next condition is that they agree to provide acceptable landscaping plans, exterior lighting plans and signage plans so that we can be assured that when the building and site are finished off, it will look

well and will be compatible with other commercial areas that we have in the community and once again that it would be used for a model for other things that would be built in that corridor. The last condition is that all come together as one unified model for the rest of the corridor. The landscape architect for the project has come up with a concept of doing large street trees down both side of 54 in such a way that we can get a jump on the growing of those trees and they will be out of the way of the highway construction so that when that highway is finished we would be able to have something that is much softer and nicer than anything we have out there right now. So we do think that there is a very real opportunity not only to do a first class home depot location but to do a first class corridor. We feel that this is not the first step, we feel that there are a number of steps that have preceded it but this might be the most important step because it might signal how we are going to handle the new coml. Development in the area. The Tennis Center is absolutely a first class situation which turned the corner from what I am sure was going to be a somewhat less than desirable aesthetic experience going down there to one where I think we have the opportunity now to make something really significant and beneficial.

Jim Webb: The purpose of my presentation is to give you some information about various legal considerations that are relevant to your decision. Various attorneys in our office have conducted research on these issues and in some instances have more detailed info than do I. So if you have any questions that Lindsey and Ott can answer I will refer to them at the end of my presentation. This is an appeal by Ram, the developer, from the planning comm. Decision to deny approval of the conceptual site plan submitted for development of a home depot on the Huddleston property. This appeal is authorized by our city land development ordinance, Section 402f. You must decide whether or not to sustain the Planning Commissions decision or to overturn it. If you sustain the decision, the conceptual site plan submitted by Ram will remain unapproved. Ram will either submit another plan or appeal your decision to the Fayette Co. Superior court or they may take both actions simultaneously. That is they could file their appeal and at the same time begin preparing another site plan. If you overturn or reverse the Planning Commissions decision, and the conceptual site plan is approved, ram can move forward with its development pending dot approval. You could also reverse the Planning Commissions decision and give the Planning Commission specific direction as to what the members should do before they approve the site plan. Another course of action is also theoretically available to you and Ram. You might negotiate another agreement tonight, which you and Ram both find to be acceptable. For example, you could say to the developer, we approve your submitted site plan if you will do a and b. If ram voluntarily agreed to add those request, then the site plan would be approved with those request added. The standard of review for you to reply to this appeal is called denovo. This essentially means a new hearing. The city council has wide discretion in determining how to conduct the hearing. You can hear testimony and take evidence as if this were the first time this manner has been heard or you could simply review the facts as presented to the Planning Commission or review the facts as previously presented and hear addl. Testimony, you have wide latitude with respect as to how to conduct the hearing. In making your decision there is no need for council to question the zoning of the property, that is not an issue here or whether or not the use being proposed is a use that is appropriate for that zoning. As Mr. Williams has already informed us, the property is zoned general commercial and this development is one allowed in the general commercial zoning category? There is no legal way for council to tell ram or home depot that no store will be permitted in this location. The developer has the absolute right to put the home depot store there is he complies with all of our city ordinances. You should also keep in mind that even if you approve this plan, ram and home depot cannot begin development until they have secured approval from the dot to make the road improvements. Currently the clean air act and subsequent court decisions would possibly prevent improvements to increase capacity, for example, you might not be able to put an additional through lane. As you might imagine, the city has little or no control over dot, or over state or over federal authorities. There are well-entrenched constitutional rights protecting a landowner's privilege of using his property as he sees fit. Courts have allowed governments to restrict those rights by reasonable regulating the uses of land, however, government can only go so far in permissibly restricting the uses of land. Such restrictions are accomplished through zoning and through ordinance pertaining to the development of land. Such rules must be reasonable and not unduly restrict a property owners rights. The city can only impose restrictions that are contained in our city ordinances and those ordinances must be fairly applied. If a property owner complies with our ordinances, we cannot stop his development from proceeding. Similarly, if he can prove our ordinances violate the state or the United States Constitution, he does not have to comply with our ordinances. So a property owner can argue first, I've complied with your ordinances and should be able to proceed and second even if I haven't complied with your ordinances, they are unconstitutional and I don't have to comply. Ram, if they appeal this, will undoubtedly make both arguments. There are two ordinances that directly apply to councils' decision. The cities Land Development Ordinance, section 101 - 1202 of appendix b to our code of ordinances and our recently enacted Traffic Impact Ordinance, section 1201-1209. The land development ordinance contains certain rules and regulations s of the development of property within the city. These regulations include such things as buffer standards, set back requirements and landscaping guidelines. By submitting the conceptual plat, Ram or the owner by implication is saying that he believes the plan complies with our development standards. The plan is then reviewed by staff and the Planning Commission to determine if the plan actually complies with our development ordinance. We believe that there are 3 primary legal issues for your to determine tonight, the first is whether or not Rams submission of a conceptual site plan after the announcement that council was considering passing a traffic impact ordinance, relieves Ram from having to comply with the requirements of that ordinance. Generally, a landowner is entitled to have his or her application for development considered under the ordinances existing at the time a proper application is submitted. When the property owners in this case learned that the city was considering the adoption of a moratorium on building on the 54 corridor or a Traffic Impact Ordinance, they submitted a conceptual site plan for the development of this property. The site plan contained two buildings with parking for each but it was a very rough and preliminary plan. City staff rejected this plan since it did not comply with city ordinances in many respects and lacked a significant amount of information required by city ordinances. The belief of staff was that the plan was submitted in haste to try to bring the project for consideration before the discussed moratorium or traffic impact ordinance could be passed. The developers submitted other site plans between the time the first one was rejected and the final passage of the Traffic Impact Ordinance. At various times, staff did inform the developer that the plans were not in compliance with city ordinances and began to work with the developer. The developer will have a strong case under existing case law that the plan must be considered under the ordinances existing when the plan was submitted, meaning the traffic ordinance would not then apply. The city could argue that the developer was aware that the city was considering a building moratorium or traffic impact ordinance and prematurely submitted plans knowing the ordinance if passed could apply. In other words, we would essentially be arguing that they really didn't submit a valid plan, they did it for one purpose only and that was in anticipation of the traffic impact ordinance so they were trying to avoid the impact of the traffic impact ordinance. We have not found a case in GA that is directly on point when you have these types of facts, the court could simply apply the long standing rule that the developer is entitled to have his project considered under the existing ordinance s when the plan is submitted. We would make our argument, the court would have t o rule, and I think really that it is a question of almost first impression in our stay. So it's hard to predict the outcome of that particular debate. I would however say that existing case law is more favorable for their side than the city's side on this issue. So if you determine that the developers submission of various site plans before the actual enactment of the traffic ordinance were valid submissions, and not just prematurely submitted to avoid the dictates of the traffic ordinance, it is our legal opinion that the probability is that the court would not force ram to comply with the traffic impact ordinance. And at the conclusion of our hearing tonight, we recommend that you specifically state whether or not the conceptual site plan submitted prior to the enactment of the traffic impact ordinance complies with the city's then existing land development ordinance and whether or not you find it was prematurely submitted simply in an effort to avoid the affect of the ordinance and that would be a question of fact that I think you need to resolve. The second legal issue we urge you to consider is whether or not ram complied with the city's land development ordinance in regards to the site plan actually considered by Planning Commission. That will be the site plan that Planning Commission considered and ultimately rejected. That's the site plan that is the

whole basis for this appeal. As Mr. Williams said, the conceptual site plan was not approved by the planning comm. However, there was a general consensus among city staff that the plan met the requirements of the development ordinance and there was testimony orally and in writing to that affect at the Planning Commission meeting and in fact Mr. Williams has just said that within the last 10 minutes for this podium. It is now up to council to decide if the Planning Commission denial should be upheld or if the property owner has complied with the land development ordinance. In reaching this decision, remember that you must evaluate the developer's proposals and then determine if those proposals live up to and comply with the standards in our city ordinances. You cannot impose any requirements that are not already contained in our land development ordinance, however, you do have the right to interrupt the requirements of our ordinances and as we all know, you have the perfect right to reject staffs opinion. You are the final arbiter of that conclusion. Staff is entitled to it's opinion just as I've stood before you and given you my opinion before and have it rejected on occasion, you have the perfect right to reject staffs opinion or our opinion. The final decision is yours. At the conclusion of this hearing, I recommend that you specifically state your findings regarding compliance or lack of compliance with the Land Development Ordinance and if you find a lack of compliance I recommend that you specify in which ways you find that ram failed, to comply with our land development ordinances. If you find a lack of compliance in the submitted site plan, you do not have to reach the question of whether or not ram has complied with the traffic impact ordinance because technically your rejection of the site plan for failure to comply with the land development ordinance could conclude your deliberation. However, even if you reject the site plan on that basis, I recommend that you also consider the question of whether or not ram is proposing compliance with the traffic ordinance. Because your decision on this issue could give the city a stronger case, in the event this case is appealed through our states court system. The court might also give the city some guidance as to the validity of our traffic impact ordinance. As probably most people in this room know, we may be the first city in the state to have a traffic impact ordinance. I am not aware of any litigation at the state level that really gives us much guidance as to the constitutionality fan ordinance like this or exactly what the city can or cannot do. We have attempted to model our ordinance on ordinances passed in other states and we've done the best we can do to draft a good ordinance but we just don't have any case law in our state to evaluate it. Regardless of how you resolve these first two issues, the third issue we recommend you consider is whether or not the proposal of ram complies with the cities Traffic Impact Ordinance. We are not aware of any apparent decisions specifically addressing a traffic impact ordinance such as ours. And thus have no court decisions to assist us in determining in legality of this ordianc3es. At least one court has held that a municipality may not require the last developer in an area to bear the burden of the road improvements needed because of growth in the area. Several jurisdictions have held that you cannot deny a development permit solely because of traffic congestion. To my knowledge the GA supreme Court has not yet directly stated that conclusion, however, in a case called Dekalb County verses Flynn, the GA supreme Court noted that the county has the power to control traffic as it thinks necessary. The court then added the county has the duty and the obligation to work with property owners to allow them the highest and best use of their property. By considering on it's own motion ways in which the county's objections to a proposed development could be eased by county action, meaning roads are within the domain of the county, the county could do something to improve the traffic situation other than restricting a property owners right to develop his property in a manner which is consistent with the in placed ordinances. In another case where traffic was raised as a reason to deny development, the GA supreme court upheld a finding by the lower court that traffic congestion existed but that with proper planning and traffic controlled by the city, the construction of a neighborhood shopping center, an office and institutional complex would not add to the traffic burden, therefore it appears that the general law in GA follows the majority of states and the denial of a development by a municipality based solely on traffic congestion is impermissible. However, in all of these cases the court has apparently presumed that the governing body whether it be a county or a city has the power to make decisions that could alleviate traffic concerns if we were forced to address these issues at the appellant level, I think that we would principally argue that the traffic in our city is so bad in this particular location that it is a true danger, and adversely impacts the health, safety and welfare of our towns citizenry and perhaps in more importantly in an effort to distinguish our situation from existing case law, the federal mandates under the clean air act apply to the situation and even if the city wanted to correct the problem and had the where with all to correct the problem it is beyond your power to correct the problem because of the restrictions imposed under the clean air act. So we would essentially be arguing that the situation we are confronted with is novel, it is beyond your control and it constitutes a danger to the city and we would try to distinguish the impact of these other cases based on those arguments. We cannot predict with any certainty how the courts would view that type of argument, however I think we do know that if the Atlanta Regional Commission is successful in getting it's traffic plan approved by the environmental protection agency this spring as rumored, this point becomes mute and the defense of our traffic impact ordinance becomes more difficult if not impossible because once the clean air act restrictions are removed, I think we would be back to the case law as it currently stands which would mean it would be within the city's ability to do something to that road to correct the problem. Once the clean air act is gone, I don't know that you need the traffic ordinance anymore and I don't know whether a traffic ordinance would even be enforceable in that situation. In the present case home depot has proposed to construct extensive road system improvements but according to the city's own traffic engineer allow the development to comply with our traffic impact ordinance. Thus unless the council should decide not to accept the city engineers report, there is no legal basis under the traffic impact ordinance to deny approval of the conceptual site plan. If council should decline to accept the traffic engineers report, then it should state in our opinion the reasons for your decision. Council should keep in mind that legally defending a refusal to use our own expert's opinion would be difficult at best. If the city council should affirm the planning commissions decision disapproving the conceptual site plan, and should home depot elect to appeal that decision through the court system, the city then faces the possibility of paying money damages if the developer ultimately prevails. The United States Supreme Court has held recently that a court may award money damages in such cases and that decision is the City of Monterey versus DelMonte Dunes and Monterey Limited, United States Supreme Court case decided in May of this year. These damages may include litigation costs, attorneys' fees and loss profits. If a suit is filed appealing your decision, we can expect that it will take a few months to one or more years before the courts reach a final decision. In addition to the risk of substantial monetary damages being awarded, we also risk loosing the system improvements home depot has agreed to perform. Home depot has agreed to spend hundreds of thousands of dollars to construct lane extensions, install traffic lights and perform other improvements to help the existing situation. These system improvements will benefit more than just the proposed home depot development and therefore the city cannot legally require those improvements. They've been negotiated and ultimately volunteered by Home Depot. If this matter ifs forced into court and we loose, in addition to the other risk such as monetary damages, we also face the risk that home depot will be built without the system improvements. The wisdom displayed by this city council in adopting the traffic impact ordinance has allowed the city to be in a significantly better position than we were in before its adoption. The goal in enacting the ordinance was not to stop development but to allow the city and developers to work together to prevent worsening an already bad situation. Due to the ordinance, Home depot has stepped up to the table with a proposal to do significantly more than we will be able to require if we loose in court. If the court goes so far to invalidate our traffic impact ordinance, then not only will it be invalidated for this case but in all likelihood, it will be invalidated for the next development and the next development after that. I have tried to give you sort of an overview of the case and I would like to in sort of summary form show you the issues that I would like for you to decide tonight and articulate.

1. Did the conceptual site plan (all conceptual site plans submitted before the final conceptual site plan) submitted prior to the adoption of the traffic impact ordinance substantially comply with the cities then existing land development ordinance? Yes or No and in what ways did it not comply if you find it did not comply.

2. Regarding the final conceptual site plan, the one that the Planning Commission was considering. Did the landowner's final conceptual site plan comply with the city's Land Development Ordinance? Yes or No and if not specifically in what way did it fail to comply. Staff's opinion is that it did comply, but you have the perfect right to disagree with staff if you are so inclined.
3. Did the landowners comply with the city's Traffic Impact Ordinance and suggested solution proposed by Home Depot and reviewed by the city engineer. Answer yes or no and if not in what way did they fail to comply?

In summary, our opinion is that if you sustain the Planning Commission decision and it is appealed, we would have only a small chance of winning the appeal and that chance is essentially based on the clean air act and the fact that the court would have to interrupt how that act and its results affect existing case law. Even with that act, your city staff has told you that ram complied with both of the city ordinances in question. If they are correct, you will lose the case. You are going to have to articulate reasons why they are wrong for the city to prevail. Even though we are to some degree in uncharted legal waters, I would have to concede that in my opinion, the existing case law does not favor the decision of the Planning Commission.

Annie McMenamin: Do we know who actually owns this property, do the Huddlestons still own it, or does Ram have an option on the property?

Jim Webb: I have no idea.

Annie McMenamin: If it is an option, does the rule apply for the best use for an option or is it clearly the landowner?

Jim Webb: I don't believe it would make any difference whether they had an option. We are talking about the use of the land and whoever has the right to control the land.

Annie McMenamin: I guess my concern is, you keep using the term, does the "landowner" comply and does the "landowner" do this, and does the "landowner" do that and I think that there is a case law where an option does not apply to the best use of property.

Jim Webb: I am not aware of that.

Ed Ellis: Ed Ellis with Deems and Moore Traffic Consultants hired by the city to help you develop a traffic ordinance and to evaluate developments that are submitted to the city to see if those developments in fact can meet the traffic ordinance that was passed by you folks. I will give you a little bit of summary of what we have done, what we believe the home depot improvements and proposal means in terms of the traffic ordinance and our recommendations. The reason for the traffic ordinance is primarily due to the fact that the state route 54 widening has been postponed due to the clean air act and was considered a grandfather project subject to a lawsuit overturning the right of DOT to pursue those kinds of projects. We met with Georgia DOT this week as a matter of fact and it appears that the highway 54 widening, if the region comes back into compliance this spring, will begin construction in July 2001 and probably will take 18 to 24 months to complete. So you are looking at several years before that road is widened or significantly improved unless something to the effect of the proposals that you will see tonight will take place. The traffic ordinance that we helped develop has criteria based on capacity of an intersection and seconds of delay. Seconds of delay relate to the stop delay of a vehicle, the average stop delay of a vehicle at an intersection and the criteria we chose or recommended to you that you adopted is an average delay of 60 seconds. That is stop delay. Now when we get into intersections that have extreme congestion, because of unusual situations or because of just pure and heavy traffic loads, those seconds of delay can translate into a ripple affect down the road and you see that ripple affect on hwy 54 every morning. We can get into that into some more detail if you like. The criteria we used is based on national acceptance standards and computer programs, modeling programs that are also developed by national organizations and used throughout the country. We looked at the existing conditions; we modeled the existing conditions, and in fact simulated the existing conditions in the computer model. We then reviewed the traffic study performed by Home Depot and after some discussions with the traffic consultant with home depot, reached an agreement as to the number of trips that project would generate, the direction those trips would likely travel, and the impact that those trips would have on the system. We then worked with the consultant for home depot to develop a series of improvements to 54 and 74 in order to attempt to meet the criteria in the traffic ordinance. Those improvements were modeled and those improvements will meet the traffic ordinance and the criteria that was established. I think maybe the best thing to do is that I just walk you through those improvements over here on the map. This is Hwy 54 going across the sheet, this is hwy 74, we are down here and the home depot site is in this area right here. One of the improvements that we are proposing to you is that an additional lane be constructed on 74 in this location, which would allow a new right turn lane from hwy 74 to 54. Also, some widening on 74 past the intersection with the affect to be to re-stripe the existing right turn lane to make it a 3 lane so that you would have 2 three lanes on 74 where you currently only have 1. With enough widening past the intersection so that the grouping of automobiles can get through the intersection in 2 lanes and then once they get past this restriction of a traffic signal, settle down into the 1 lane past the intersection which will obviously allow more cars to get through this intersection than they currently can. The improvements continue down here at Huddleston Road, the proposed widening of Huddleston Road to allow 2 lanes to exit Huddleston Road onto hwy 54. The left most lane being a left turn only, and the right lane being optional right turn and left turn so that you could turn 2 vehicles simultaneously into a widened hwy 54. On the home depot side of 54, there would be a continuous lane all the way down past Line Creek Parkway to tie into the existing deceleration lane at Wynnmeade Parkway. In addition to that lane for the entire length there would be a deceleration lane into the home depot driveway and another lane that would actually create left turn lanes at line creek drive and Planterra Way. Probably the most significant system improvement is the widening of 54 to allow a right turn or deceleration lane into Huddleston Road, the right turn activity here is very significant in the mornings in particular and has a great deal to do with the cause of the backup on 54 that you see coming into town. It was suggested to us that this improvement could be similar to the right turn lane improvement that was made on hwy 74 at the I-85 ramp sometime back which caused a significant improvement in congestion on 74 approaching I-85. We believe that with these improvements that traffic flow will improve over existing conditions and that based on the modeling, clearly these improvements will allow this development to occur and meet the conditions and the criteria of the traffic ordinance. The real

question here is will all these improvements be allowed under the current restrictions imposed by the clean air act. We think that there is a possibility that the 74 lane in re-stripping the through lane could be questionable, the lane for the entire length of the frontage could be questionable. Although the contacts that we made at the District with GA dot indicated this week that they thought that all of this could be approved under the current conditions. So until that is pursued, we really won't know. Clearly the bulk of this can be done and the net effect of this can be achieved even under the current restrictions. With that, I would like to end my presentation and entertain any questions you may have.

Mayor Bob Lenox: There are a number of alternatives, is that correct?

Ed Ellis: That is correct, one of the sheets that I had Ryan Elliot of our office hand to you was a menu of improvements. We developed as a part of our task for you, a menu of improvements that could be chosen from for any developer that attempts to develop in this corridor and as you can see, some of those are not being proposed for this development which means that there are still some improvements that could be made for future development if we are still in this situation for some time. And some of the improvements that are in there might actually be substituted for some of these improvements if they are deemed to be disallowed based on the clean air restrictions.

Mayor Bob Lenox: Would you say that the key improvements, regardless of the Home Depot question, are the improvements on hwy 74 and the right turn lane into Huddleston?

Ed Ellis: Absolutely, the 74 /54 intersections clearly suffers because of the one lane through the intersection from hwy 74, it blocks the left turn lane to 54, it causes significant cueing, it makes timing the signal very difficult. So to be able to move two through lanes through, even though those two through lanes will eventually have to settle into one past the intersection, it will be a significant improvement. We believe that the Huddleston Road right turn lane will yield a very dramatic improvement, particularly in the morning.

Mayor Bob Lenox: What about lengthening that left turn stacking lane on Hwy 74 which I've perceived to be a problem on several occasions?

Ed Ellis: We think there are several options there, one is that we think if we provide for the 2 through lanes on 74 through the 54 intersection, that the cueing will then be reduced to a length that will allow you to get access to that left turn lane much easier than you can today. If for some reason we can't add the 2nd through lane on 74, then we will recommend to you that the left most lane on 74 become the left turn lane and the right most lane which now must turn right into 54 become the through lane on 74 which will then allow you access to that left turn lane all the way back to I-85 essentially. But it will drop the left lane so it won't close you out to get into that left turn pocket. We think that is a good temporary measure until 74 is approved.

Bob Brooks: Did you speak with anyone about the potential for going underneath the railroad bridge for Huddleston Drive?

Ed Ellis: We are pursuing that right now with DOT. We talked with them about that, they expressed a sincere interest in pursuing anything that made sense for the corridor. My personal concern is that they are a long way down the road with that bridge design right now and the cost of redesigning it and the cost of constructing it in a way that would allow an under pass could be significant and certainly we don't want to slow the process down. But we are pursuing that and we will bring you the options that we think are available.

Bob Brooks: Just to follow up on that point, I actually think that we're dealing with two different circumstances. One is on the short term as far as enhancing a certain amount of viability on that road and 2nd is enhancing long-term viability of Huddleston Road in access to the business park. In random conversation with others, and also my conversations with people in the business park, I think it is extremely important for us to emphasize to dot that we need Huddleston Drive to be a viable way in and out of the business park long term and that I think the city is significantly interested in trying to do a redesign as far as extending that bridge and having Huddleston come under 54 with the ability then to cloverleaf back in and head out to 54 west. Long term, if the dot is continuing with plans to put a median block on Huddleston, that will cause significant problems for us. I think that the individuals that live in Planterra Ridge and also just anybody that has a business in the Huddleston area would tell you that all of a sudden we would become dysfunctional. Essentially Huddleston represents the only access road that we have into the business park west of the railroad tracks. Frankly I think, not only should we be trying to maintain it but we should be trying to be able to enhance that avenue long term so that people look at Huddleston as the alternative of choice as opposed to going down 54 and 74 and that anything that we can do long term with the dot to emphasize that is something that we need to pursue.

Jim Pace: I would totally concur with Dr. Brooks. Huddleston Road has got to be protected and the point that I had hoped you were going to make tonight was that the dot does plan to not have a median cut there. After the explanation that you gave to me, I think that it's important that the people here tonight understand that the 4 laneing of that road and what ultimately happens there is probably of more consequence than what we are discussing tonight. If the median cuts are not crossed from Huddleston and Planterra Way, it is going to create some significant problems for us so coming up with an alternative way. If they won't give us the 2 median cuts, which you indicated you didn't think they would, then we have to get Huddleston underneath that bridge and putting it underneath that bridge is a relatively cost efficient alternative. If it just means some additional design time, it is basically only one under section of the bridge. I think we would make a tragic mistake to not aggressively pursue that or some other alternative to keeping that lane open both to right-hand and left-hand traffic.

Ed Ellis: We will pursue that, I should have clarified that. The current DOT plans do show a median opening that allows left turns both in and out at Planterra Way but not at Huddleston.

Bob Brooks: Right and I think the message that needs to be sent is that the dot in their current plan has a critical mistake in their plan for the 54 corridor. And I think that's a unanimous viewpoint not only of council but probably of the business people that live there and any residential people that live on the west side of the city. If that happens that they block the median access there, we essentially have cut off access to the business park from a practical standpoint where everybody's got to go out of their way and one of the things that is probably one of the most significant concerns of the Planterra residents here this evening is maintaining that the through road capacity of 54 to get people by there residents and into the industrial park without looking at Planterra as a viable shortcut. I truly believe that as long as we set up a workable plan on 54, that's not going to happen and with some of the traffic studies that have been done that it is not a problem at this point and time. But long term if the dot closes that median down then not only does Planterra have a problem, the city has a problem to a good 40% to 50% of our business park. It just has to be an extremely strong message that their plan at this point and time will not work based on the flow that we will that there is.

Ed Ellis: We will certainly take that back to Dot and quite frankly when we discussed the possibility of eliminating that left turn movement now, it's not a requirement for home depot to meet the ordinance that that happen and the only reason that I suggested it is that it could improve traffic flow now and if it is going to happen in the future, you might consider it now. With the strong feelings, I'm hearing right now, obviously we need to pursue other alternative and we will do that.

Bob Brooks: Well in the short term, what you suggested I think will significantly enhance the capability of Huddleston Road. If we have an extra through lane, a couple of more turn lanes, we're able to bring in the evening 2 lanes of traffic turning left out of there and that's great. In the mornings we build a right hand lane, the viability is enhanced. It's only when the median all of a sudden gets blocked that we basically have a disaster. It's the long-term plan that is the potential problem.

Annie McMenamin: I just want to add to Bob that it might also be prudent that, I've already talked to some of our legislatures locally and hopefully if we all got together and talk about the critical impact on our industrial park and on our business park, that our legislatures on the state level would be listening to us. I think that it is very important that we start applying pressure to them for their assistance.

Mayor Bob Lenox: Is the topography there such that you could solve the problem simply by having a median cut?

Ed Ellis: Well the current criteria that Georgia DOT uses is 660 ft. between median openings and I quite frankly don't remember how far Planterra Way would be from Huddleston.

Mayor Bob Lenox: The real problem is the one at City Circle.

Ed Ellis: It's both. But that doesn't mean that there haven't been exceptions to that rule. It's an exception that is difficult to get but not impossible.

Mayor Bob Lenox: But given the relative cost, if the way the bridge design is set up and the way Huddleston. If they come together at grade and you could resolve the problem simply by putting in the appropriate left turn lanes and signalization and maintain the functionality much as it is today but on an improved basis, the only problem with the underpass idea which is great but it eats up a lot of expensive land and it would be an expensive option.

Ed Ellis: It would be an expensive option and again it could cause some delays to the project. If there are other options, we certainly would want to pursue those. But I'm not going to tell you that it can't be done.

Bob Brooks: I guess my feeling is, you just made the comment that it might delay things to some extent certainly from a planning timeline. If you're talking delay in planning, I'm going to presume that's a few months one way or the other but not in years and I think dollars effects years as opposed to planning. If we have the ability to try to pursue replanning, I think the long term gain of having the ability to bring in the evening, a lane or two of traffic out of Huddleston without being stopped by a light, passing underneath 54 and then coming back into Cloverleaf justifies a few months delay and I would strongly urge and I think that I would be backed up by council that that is the way to go and the back up plan would be, O.K., let's go for a median cut but if we can enhance that access we've got. A right-hand turn lane only and then also potentially another lane in the morning. So that essentially if we feel like we've got according to your traffic count 500, 600, 700 vehicles going in to that area as far as what time frame, then the more that we can get going in there in the morning through Huddleston Drive because it's been implanted in their minds, that's the easy way to go, then long term all of us benefit. All along the corridor and I would feel very strongly that that's the goal to go for and then if we can't achieve that, if the DOT will not let us, then you go for the back up plan of saying ok let's settle for the median. I would also suggest to you that I believe that within reason that the city is willing to back that up with probably an effort if there is certain minor costs or what ever that we can do to contribute to that. Obviously, we do not have the wheretoall that the DOT does but I would think that that's the course that we would want to strongly pursue and take the other as a backup.

Mayor Bob Lenox: Does council have any other questions?

Jim Pace: I just have one other comment. This may not fall directly within your program but one of the other improvements that I have previously suggested is that the current kink in Huddleston Drive which occurs at Pascal where there is this little jog, that that needs to be straightened out as well and that would smooth the flow and I think that all of those things need to be looked at concurrently to make that road as easily as accessible as we possibly can. If you're involved in the overall wish list, be sure to put that on it too.

Ed Ellis: We've been out there and ridden that, looked at it and we're ready to help you implement all of those kinds of improvements. I think that was very important.

Bob Brooks: I'm sorry, there is one other item. Under the access to Huddleston Road, we had had a conversation during that briefing that you had a week or two ago. As far as the left turn movement from state road 54 to Huddleston and I know I've had an informal spot discussion once or twice with some other individuals and I just wanted to try to bring it up, I don't know if there's any disagreement. But one thing that I would recommend is that if we implement this plan that I would like to see the westbound movement on 54 be able to continue to have a left turn movement capability onto Huddleston after the time that we've improved the road. Because various traffic studies that say that there is the ability to handle a certain number of cars, then what I would suggest, because this is very critical to a number of business owners on Huddleston Drive, and I would like to make that suggestion for a slight modification. But then, a number of months after with the city government and active participation from business owners on Huddleston Drive if we find that there is a significant detriment to the movement of through traffic through that area that members of the Huddleston Business Association working with members of council will reevaluate it. But that is the one suggestion that they change that I would like to make is that we at least suspend that recommendation until after all the road improvements are done and that we reevaluate that. And that is something that does not require any change in infrastructure being put down and it simply would be resolved in the matter of a sign or two or recalculating a light but I think that it's one where there is actually some significant disagreement as far as how well that works and how many cars stack up in that direction and that would be a suggestion that I would make. I actually like everything that you've said and frankly I agree with everything that you've said but that's one issue that I would like to suspend as far as when we implement it, in fact suspend the implementation completely and then after it has been in place for 3 or 4 months, with active participation from the Huddleston business association we reevaluate it and if it seems like it's been a break even proposition that we leave it in place. If not we work actively with the Huddleston business individuals to see what a solution would be.

Annie McMenamin: Well also Bob, I think the city could take some aggressive measures in improving that right wrap around to left turn lane and go ahead and do something quickly on that. That's probably long over due as well as go ahead quickly and do something with the right turn out of Huddleston.

Mayor Bob Lenox: Any other council questions? Next, we wanted to look at the question of emergency vehicle access concerns. Gerald Reed is on medical leave, currently undergoing chemotherapy, Stony Lohr is his standing in tonight and Stony will give us an overview of the fire department's concerns and viewpoints.

Stony Lohr: Mr. Mayor, members of council and ladies and gentlemen, my name is Captain Stony Lohr and as the mayor indicated I am representing Chief Gerald Reed. The fire department provides EMS rescue and fire suppression services for the city of Peachtree City. Chief Reed drives this route everyday, I drive it occasionally. I would offer the following information concerning the public safety aspect of this project. In 1999, the fire department responded to 96 calls in this area, west of hwy 74 in access from hwy 54. This represents approximately 5% of our call volume. It included 39 EMS calls, 34 motor vehicle accidents and 23 fire incidents. Response times have ranged from 2 to 8 minutes, we've only had four that were 8 minutes, we've had two that were 7 minutes, we've had 16 that were 6 minutes, everything else has been 5 minutes or less. Concerning access, the fire department has access west from hwy 54 and the intersection of 74, access from Huddleston Road which is our primary route from the closest station, which is station 81. It is the primary route because it is the shortest and because it has the least traffic. We have another route that would take us along Kelly Drive turning into Planterra and would also give us the option to the new Cardiff Park. I would note that we have never used this because of its length. Problem areas include access for an incident that occurs over there, we have to get to it and in the case of a medical incident, we have to return to the appropriate medical facility. Obviously during traffic areas, it takes us longer because there is more traffic. In the case of a motor vehicle accident, another problem is the staging and working area. Whenever we respond over there, we have to have an area to set up and to work, since there are only 2 existing lanes and the shoulder is narrow and unimproved, that typically blocks the entire road. That causes traffic backup to only increase and that further causes problems with accidents. As far as assessment of this project, we have reviewed that and we believe that the proposed road improvements would result in a traffic flow that is at least as good and probably better than what exists now. Our judgement is based on the fact that we have the equivalent of 2 more lanes added so even if we blocked 2 lanes to use for working, there are still travel lanes open for traffic to move and that means that we can move also. I believe that these are the relevant comments from the fire department unless you have additional questions.

Mayor Bob Lenox: Any questions for Capt. Lohr? Have you looked at all the residential that will be up there?

Stony Lohr: As far as a response area, the areas that we considered were the Planterra region up to the intersection with Terraine Ridge and the Wynneade area.

Mayor Bob Lenox: Thank you. Next item is property value assessments. I had actually mentioned this topic at the recent Traffic Commission meeting that we had. I had actually talked with one of the top appraisers in Fayette County and with the president of a 30 person real estate in Peachtree City and asked them if they would be willing to come here and speak to us tonight. Both of them declined, however, both of them said I was free to quote them as long as I didn't use their names. I will do so and you are of course free to call around and solicit your own opinions but for me this was a very real concern and a very real question and I thought I ought to ask it of the people who knew. When I called each of them, I stated the question in the following manner: Will the presence of a Home Depot, and of course they were both thoroughly familiar with the situation, and the other development planned on hwy 54 have any impact on home values in Wynneade or Planterra, positive or negative? Both of them took a moment to think about it and both of them responded ironically in the same manner. Both of them said that it was their opinion that that would have no impact on the home values of those subdivisions plus or minus. Both of them also went on to add the same comment, unsolicited. That comment was that the best thing we had done for home values in Planterra Ridge was to provide protected access at Kelly Drive with a traffic light and that the best thing we could do in the future for home values in Planterra Ridge would be to protect the access at hwy 54 with a traffic light. End of conversation. On that one, I later called the same appraiser because there is an analogous situation in Fayette County which is a neighborhood which is called Pine Trail which is directly across GA 85 from the entrance of the Fayette Pavilion and was for many years a quiet subdivision in the country until Fayetteville annexed and rezoned the pavilion and created that shopping area across from Pine Trail and installed a traffic light. I didn't know this at the time, I thought pine Trail was a dead end subdivision, I discovered from this appraiser, don't put this in the paper because the folks in pine trail will kill me, but you can actually come out of Home Depot in the pavilion over there, go straight across into Pine Trail and if you know the way, you can weave your way through that subdivision and you can come out onto Banks

road and avoid all of that traffic on GA 85 and find yourself halfway back to Fayetteville. This was fairly analogous to the situation so I asked the question of the appraiser, If since this has already taken place he had seen any evidence of any change in property values in Pine Trail as opposed to the similar subdivisions off of GA 85. His answer was with the exception of two homes, No. The difference in the property values of those 2 homes was not due to the pavilion, it was due to the office depot and that other little thing they built that literally backed up to these 2 homes and hurt their value. I researched this just because I had a very serious interest in it myself, as I say you are free to call and check it out but those are the answers I received.

What we've done from this point forward if you've been following the agenda, as we have planned at this point to ask for immediate neighborhood input. When we looked at the immediate neighborhoods, we really considered, obviously, Planterra Ridge, the Huddleston Drive Business Community and the Industrial Park in there, the Wynnmeade Subdivision and the Huddleston family, the developers and the property owners. With a little pre-planning, we tried to get what we felt was appropriate representation from each of these areas. What I would like to do at this point is just start with Planterra Ridge and we'll hear first from Eileen Shaw's representative. Eileen wanted very much to be here tonight but she is sick and can not be here. She has prepared a written statement. Then I would like to hear from Mr. John Proffit on behalf of Huddleston Road and the industrial community, then from John Dillahunt from Wynnmeade Subdivision. Then we will go back to Planterra Ridge to hear two more people and then last we will hear from the two representatives of the developer and property owner. After that we'll go into questions and answer. So I believe Lisa Jones.

Lisa Jones: My name is Lisa Jones and I reside at 126 Terraine Ridge in Planterra Ridge. I'm Vice President of the Planterra Ridge Community Association which is the 437 home subdivision which is adjacent to the proposed development. I'm here to represent the association's board of directors and residents of Planterra Ridge. As the mayor said, Eileen Shaw is our president who is presently ill with the flu and our treasurer, Jeff Troxwell is out of town on business. Eileen did prepare a statement so I'm going to read that. We appreciate the information obtained from city staff and council members, especially their willingness to listen to our questions and concerns and to discuss this difficult issue with us. The Planterra Ridge board along with Cheryl Pemberton and John Proffit, representing the Huddleston Industrial Park and as well as Mr. Doug McMurray of Ram Development, Mr. Charles Trammell of Home Depot and Mr. Lewis Chalmers of Lowe and Associates on Monday. We appreciate the information they provided on the proposed development and hope to continue our discussions with them. We approached them with our two main concerns, the traffic problem and the implication of the clean air act and the location of the development and it's main entrance directly across from our subdivision. No where in Peachtree City does this situation exist or has been allowed to exist. We recognize the rights of the land owners to sell their property and the right for it to be developed under the existing zoning restrictions as long as that development complies with all the appropriate city ordinances, for example, the land development ordinance and the traffic impact ordinance. From the beginning, our concern has been primarily the health, safety and welfare of the residents of Peachtree City. The traffic on Highway 54 West corridor is already a problem. As you know, gridlock occurs regularly. Mr. Mayor, you appointed a traffic task force to consider this very issue. At the task force meeting on December 6", you stated that the very earliest we could see a widening of the corridor and bridge over the railroad tracks would be the year 2005, it could well be must later than that. The fact that the bridge can not be widened imposes a serious threat to the health, safety and welfare of the residents here. If the bridge is blocked, how will emergency vehicles get to the other side? If the traffic is snarled, isn't it reasonable to assume that the traffic will cut through Planterra ridge? Will they have to drive all the way down to TDK Blvd? And come back on Dividend before going via Kelly or Huddleston? How much time will be lost? The federal lawsuit and resulting Clean Air Act has imposed severe restrictions on road construction in the Atlanta region. These restrictions prohibit road widening, bridge construction, or increase in road capacity. The cities hands are tied and you cannot build new roads or widen existing ones even if you wanted to. The ARC expects to submit a plan to the Federal Government in the spring, if this plan is accepted, then the restrictions of the Clean Air Act could be lifted. This brings us to the eclipse of the matter, the "IF". There is no guarantee from either the ARC, the Georgia DOT or the Federal Government that the plan will be approved and relief granted. The cities traffic impact ordinance states that the proposed development cannot worsen traffic. The cities traffic engineer, Mr. Ed Ellis of Dames and Moore, has stated that the proposed road changes are necessary to mitigate the increased traffic from the home depot site. If these improvements are not in place before development is completed, then traffic will be worse and public safety at risk. Since we do not know whether the proposed mitigations will be allowed under the Clean Air Act and since we believe that some of the proposed mitigations will in fact increase capacity, the only prudent thing to do would be to wait until we know what happens with the ARC plan. Furthermore, any increase in traffic on the Hwy. 54 west corridor whether from the proposed development or an inability to mitigate traffic because of the clean air act, restrictions or any limitations of access to Huddleston Road in any direction will have a serious impact on the health, safety and welfare of the residents of Planterra Ridge. For that reason on advice of our attorney, I would like to submit a letter preserving our constitutional rights. In conclusion, we would urge you to consider carefully the implications of Traffic Impact Ordinance relative to the proposed mitigations and whether they can be enacted under the Federal Clean Air Act restrictions. AT the very earliest, we will not know the answer to that question until Spring. Wouldn't a short wait be the prudent thing for Peachtree City and its residents? Thank you for your time and consideration.

Mayor Bob Lenox: Thank you Lisa. At this point I would like to ask Mr. John Proffit on behalf of Huddleston Road and the Industrial Park representation to give us their view.

Mr. John Proffit: Somebody stole my act. I had a real good speech and a lot of demands and threats and council really took it away. It's not fair, I thought I could be quite eloquent and entertaining. I would like to thank you for accepting the fact that we had some major concerns on Huddleston Road. The life of the businesses there have depended on access. It was restricted at one time and had a very dramatic effect. It was removed, no intrusion in the traffic was noticed and it has been flowing smoothly since. The businesses in the industrial park have had quite a trauma with this idea of putting

in a median strip because the majority of employees come from Coweta County. As a result, the position of a median would be detrimental to the obtaining of good help which is a real critical problem we have now. But again, you've acknowledged the fact that that is a critical issue. You have addressed both of the things that bothered me most. It appears that I've been talking to the tail instead of the head of the dog in the city because I've been told that the best thing to do is culdesac Huddleston Road, discontinue left turn, and meeting with people in council and the mayor, all of sudden we are being recognized that we actually live over there. We have business and work and it's quite a surprise. But I do want to thank you for recognizing that. We have been working with conjunction with the people in Planterra

and working with them, you cannot appreciate the dramatic problem they have with this entryway being across from home depots main , entrance. If there is any way you can give them the consideration you've given us on Huddleston Road, I want to join in the emphatic appreciation of what you've done for us and ask that you do everything for them that you've done for us. Again, you've stole my act, you've recognized more than we could have expected on Huddleston. You've told us the importance to you of what access is to the westward movement of traffic is towards Newnan. I want to thank you for your indulgence in listening to what our problem is. Again, I would ask you to give that same consideration to Planterra.

Thank you.

Mayor Bob Lenox: Thank you John. Next, we would like to hear from John Dillahunt from Wynnmeade.

John Dillahunt: Good evening. My name is John Dillahunt, I live in Wynnmeade. A lot to digest here tonight, I think that if anyone came into this meeting thinking that it was an open and shut decision, you just like drugs, had to say no and the problem would go away, you were coming in terribly naive. As a homeowner and a longtime 26 year resident of Wynnmeade, I get the personal thrill every morning of touring up and down this corridor that we're talking about tonight. As do all my friends and hundreds of people I know at work. Our concern is simply stated, the outcome of this adventure truly has to be avoidance of any further degradation of the traffic situation in this area. Everything keys with us on health and safety, the fire department brought up the very valid point that with two lanes, one small accident blocks the whole road. Today one of those small accidents happened and actually because there are additional lanes being widened, we actually were able to move traffic today that we couldn't have moved 2 months ago. So in many respects, I'm encouraged by the actions I've seen taken. I've been impressed with the amount of care and study, the expense and everything else that has gone in to this project. It has not been a lightly considered issue on anyone's part. The council has a very difficult and thorny situation on it's hands. But the route of it all has to always be the health and safety of the community, naturally the rights of the property owners including the developers and the owners of the Huddleston property. I don't dispute that for a moment. Personally, I'm not enchanted with the idea of a big box store but I don't personally find them the worst thing that could happen to an area. Having been in this area for 26 years, I've know for over a quarter of a century that something was going to go into this general commercial area, they weren't going to just make it a bird sanctuary for the rest of my life. Nice thought, but it just isn't real. So, I urge the City Council to continue the tract they started. Pursue this traffic ordinance, pursue enforcing it, pursue getting all of the improvements that are on the table made. Explore every legal avenue to stop any development that doesn't go hand in glove with these improvements. I think the biggest tragedy of all would be to loose our heads over this thing, deny it on some emotional issue, go to court and loose everything and then come back and have it shoved down our throats like we've already had another big project already happen to us. So again, I encourage and if our courts, if we can't prevail on a case that is based on an ordinance that again is based on health and welfare of the community. Not against development but the traffic ordinance was put in from my understanding based to support the health and welfare of the community. If we can't prevail in a case like that if it has to go to court, then gentlemen and ladies, you might as well all go home because what do we need you for? What do we need the courts for? So if it comes to that, I think we ought to fight it with everything the cities got. And if we need more attorneys, I will personally pitch in to buy some or hire some. Having said that we have the finest government in our country that money can buy, thank you.

Mayor Bob Lenox: At this point, Eileen has asked also that we had two other people from Planterra that would speak. That would be Robert Brown and Steve Brown.

Robert Brown: Mr. Mayor, Council Members, Robert Brown, 102 Planterra Way. You know I've spoken before the Council on a number of occasions before and not always just as a resident of Planterra Ridge. I'm always interested in everything that's going on in the city development and I speak today not only as a resident of Planterra Ridge but also as a member of your traffic study group and just as a concerned citizen of Peachtree City. There are seven areas that I'm concerned about and I've provided a copy to council so if I may skip over some because of the time. Health and Safety, one of the things that hasn't been discussed is the increased volume of tractor trailer rigs on Highway 54 and how that would impact on the traffic flow and the safety in the corridor. We have already talked about the ability of fire and police and the traffic light at Planterra Way. The traffic study group that you formed Mr. Mayor, we've only had so far two meetings. We have not had enough time to really look at any of the data in detail and make a recommendation to council on development and traffic in this area. Some other things we need to look at are commuting patterns from Coweta County, the proposed extension of TDK Blvd. And it's impact on traffic in the 54 corridor. The task force has not seen the study done by the cities traffic consultant and based on those factors, I would ask that the city table the RAM development request until the task force could evaluate the impact of this project and others and make a recommendation to city council. This is a major project and I would hope that we would not feel the need to rush to a decision on this. City Council needs to carefully evaluate all the available data before reaching a decision. I would recommend that we listen today to all of the information, table the motion, adjourn, think about it and come back to a meeting in the future and then make a decision. We could also send the issue back to the planning comm. For another review with instructions from the council to look at specific parts of the development proposal and evaluate those and make a recommendation back to the council. The landowners have had this property as they have stated on numerous occasions for 42 years, I don't think that another month or two should cause irreparable harm to their development project. However, allowing the developer to proceed without due consideration by the council may cause irreparable harm to existing residents and businesses. And once approved, there is no going back on this project. Concerning compliance with the traffic ordinance, the developer has proposed a number of road improvements to comply with the ordinance. I think that the council should return the action again to the Planning Commission with instructions to evaluate each one of these improvements and to recommend whether the improvement should be approved based on the impact to existing residents and businesses. It was not the intent, I believe, of the Traffic Impact Ordinance to allow the developer to just have carte blanche on his changes to the traffic flow that may have negative impacts on existing residents and businesses. For example, a developer could come in and say, O.K., I want to block off all existing entrances to Highway 54 and that would bring my project into compliance with the traffic ordinance but that would obviously not be approved by the city. So I think each one of the proposals that have been put forth by the developer and the cities traffic consultant need to be evaluated by the planning comm. Any decision or recommendation to council be made by the Planning Commission as to whether those proposals could be implemented without negative impact on existing residents and businesses. And also with those improvements that require approval from the DOT, I would recommend that we have the developer obtain the approval from the DOT before moving forward with approval and if the DOT declines to approve any particular improvements that have been proposed, then the

cities traffic consultant would go back and restudy the corridor with any improvements that were disapproved by city and any that were disapproved by DOT taken out of the equation and then see if the proposal meets the city *traffic ordinance*. Then it could come back to council for a decision. The Huddleston Road extension that we talked about in the traffic study group the other day, I would ask, has the developer actively pursued this option, that is extending Huddleston Road across hwy 54 and making that the main entrance into the development rather than having the main entrance directly across from the Planterra Ridge subdivision. If he has not actively pursued that, then why not? That has several advantages, there is already a traffic light at that intersection that serves existing businesses, and it would also provide access to a traffic light for the church and it would limit the pass through of Planterra Ridge that would be facilitated by putting a traffic light at Planterra Ridge. I had a number of comments about comparing this project to the Mews Project that was proposed on the East side of the city and I'll just leave those comments for your reading pleasure. However, I will comment that I checked the phone directory today and there are 28 Home Depots listed in the phone directory. I was able to check 27 of those Home Depots, the only one I couldn't get in touch with because they wouldn't answer their telephone was in Hiram, GA. All other 27 Home Depots have direct access to a four-lane highway. So this would be the only one in the Atlanta area that would go onto a two-lane highway and particularly one that is already highly congested. In closing, the highway 54 widening is 4 to 6 years in the future, that is assuming that the regional compliance with the Clean Air Act early next year, assuming continued compliance through the project approval of the widening of Hwy. 54 and assuming the project is grandfathered if we go out of compliance with the Clean Air Act. That is a lot of assuming on which to base an approval of a project of this size. Thank you.

Mayor Bob Lenox: Thank you Robert. Steve Brown.

Steve Brown: I promise there is only one speaker, he's just going to help me hand out some materials so we'll keep it brief. I had a lot to say and then I was told that I had 5 minutes so I threw half of it in the brief case and I'm going to give you the other half shotgun style, so if I go a little quick and you have questions, let me know. My name is Steve Brown; I live at 148 Terraine Ridge, Peachtree City, Georgia. For starters, I would like to submit some signatures on a petition that have been previously read at some other public meetings. We have 844 additional signatures, these are from residents outside of Planterra Ridge. That brings the total number of signatures to over 1600 signatures and I would like to remind the council that these are signatures that were collected by a group of less than 15 people. Had the numbers been greater and had we not been in the midst of the holiday rush, I guarantee you would see a lot more response on this. So I will turn this over to the City Clerk. Unfortunately, I believe that the introduction of big boxes in Peachtree City is going to effectively eliminate our village system as it stands now. These big box developments, and this is documented in several university studies, creates severe swings in traffic patterns. The village system in set up to eliminate such things but unfortunately if we allow big boxes in Peachtree City, you are going to get violent swings of traffic from one end to the next, left to right, north to south. It is going cause a severe problem. This Huddleston property proposal before you tonight, will not only create traffic gridlock but it will also endanger the health, public safety and welfare of the citizens of Peachtree City. There have been many concerns regarding health, public safety and welfare in regards to police and fire safety. Planning Commission members rejected the 'proposal before you 4 to 1 and with the reminder that the one vote was not in favor, they merely wanted to table. However, I think we can avoid the situation that we have found ourselves in. I think that it is interesting to note that when the Huddleston property was zoned commercial there was no such thing as a big box development. We need to keep that in mind legally; there is some ground there to move on. Home Depot and Wal-Mart and other big boxes have been defeated all over the United States and Canada. There are web sites with all of this information posted on it, I think we seriously need to do some research and find out what cities have incidences that coincide with some of the things that we are finding and possibly learn from their mistakes or what they are doing properly. The Pinegate situation, that the Mayor referred to, took place in 1995. Wal-Mart was represented by Doug McMurray. They wanted to build Wal-Mart next to one of Fayettevilles subdivisions. The Fayetteville Planning and Zoning Comm, as they call it, began to hear this site proposal on 5/23/95. It is interesting to know that they tabled the project, tabled it once more on 6/27/95 and then again on 7/25/95 they stated and I will quote "That the Wal-Mart site plan be tabled indefinitely". I think that conveys their feelings on the project. I think if you talk to the Pinegate people, I have talked to some of them, they are very displeased with how that situation worked out. Also, too, I've heard some talk that we are going to pass this proposal based on the ARC possible, spectrally getting approval by the Federal Government on the Clean Air Standards, I don't think you should pass anything based on speculation. I think that is incredibly dangerous. If you decide to approve that plan they're going for in March, I would strongly ask you to reconsider. Even if the ARC's plan is approved, there is a good chance that the approval will be legally challenged, thus leaving the city open to a lawsuit under the provisions of the 5' amendment since you allowed home depot to begin building their facility. Please keep in mind that the ARC's plans failed miserably in 1998 and even Ed Ellis of Dames and Moore stated that if the ARC's plans gain approval, it might be for best 3 years and then we might end up being in the same situation where we started with the highway left stranded. If you vote in such a way and the ARC's approval, if it is approved, is legally challenged, you could be placing the citizens of Peachtree City in serious danger. I would like to show you, if I could, I've got a document here from the Atlanta Business Chronicle, the number one newspaper handling business in Atlanta. There is an article here by C. Richard Yarborough. He expresses with the ARC in mind, he says, many of the responses cited, and he is talking about urban sprawl, traffic problems and things of that nature previously mentioned in this column required regional corporation, "as the people leave the city, they choke the infrastructure with too many cars, the Atlanta Regional Commission, otherwise known as the ARC, is in the best position to deal with that problem, but it is dominated by county politicians who must look out for their own self interest first and the regions second." This reiterates, I could probably give you about a hundred different articles that would say the exact same thing. It is important to know that the previous plan to the ARC, presented in 1998, was rejected and it was rejected soundly. Also, too, if you will look at the 3' page, there is a CNN story here talking about the halting of the highway funding. If you will notice the highlighted paragraphs, it says "the plaintiffs in the case included the Sierra Club, the GA Conservancy, Georgians for Transportation Alternatives and the Southern Environmental Law Center." I have spoken to the attorneys in that case that halted the highway funding. One in particular is a gentleman by the name of Mr. S. Wesley Wolfe. He was one of the attorneys with the Southern Environmental Law Center and was one of the ones who posed the suit that halted the highway funding in the first place. He is extremely concerned with what we are doing here in this mitigation. It almost, in his opinion, is adding capacity and it could be legally challenged on our basis and it is important to know that the ARC's proposal that they put before the Federal Government, even if approved, could be challenged legally by these same entities if they are not pleased with the way it works. I would like to read this to you, just a section, "Dear Mr. Brown, thank you for your interest. Your specific inquiry regarding the grandfather road projects has a historical component and a possible future component. Let me first say that the SELC does not have a position against road building. Roads can be a legitimate strategy in providing residents of Atlanta region accessibility to necessary destinations and can improve mobility generally. The SELC is working to

address sprawl related environmental issues such as air quality and especially sprawl development patterns subsidized by public tax dollars. The historical part of that work involves the litigations we filed in January, 1999 considering approximately 61 grandfathered highway projects (of which our is included). Those projects were part of an ARC transportation plan that did not comply with the clean air act. That legal action was successful in stopping continued federal funding of 47 of those projects. We did not file that lawsuit for the purpose of pulling construction crews off the road side and hence 14 construction projects were allowed to go forward. As you know, the highway 54 corridor was one of those 47 halted grandfathered road projects and construction of the project regardless of the source of funding will require that the project be part of the ARC transportation plan that complies with air quality standards. The ARC has announced its intention to adopt such a plan in March 2000. WE have serious questions about its compliance with air quality standards. First, however, we must adopt an air quality plan called a State Implementation Plan, otherwise known as SIP, which sets limits on ozone pollution from motor vehicles and other sources of pollution. The ARC's road building plans are limited by this air quality plan which itself must meet standards under the clean air act. Compliance of the SIP with the clean air act is highly questionable (these are the same exact people that halted it in the first place). For instance, the act clearly requires that the SIP demonstrate that the region will meet air quality standards by November 1999. GA was unable to make that showing so the US Environmental Protection Agency adopted a "Policy" that has extended the deadline to 2003. Ironically, even with the possible illegal extension, the SIP still doesn't show attainment of air quality standards by 2003 but EPA is allowing a "fudge" factor since the SIP does not come close to showing attainment by 2003. That fudge factor or weight of evidence determination, as it is called, is in itself questionable legally. Without a SIP, ARC's tried desperately in that the state, and this has some constitutional ramifications, that the city has broad discretion to deny or otherwise limit the application based on upon economic considerations that the city is adequately served by uses similar or identical to the proposed Home Depot use or that the intensity of the use proposed by Home Depot, they were up against type of situation, would create a condition of oversaturation, unwarranted by local market needs. What is more, the city properly, may premise such a denial or at least in part upon finding that the applicant has failed to demonstrate the need for a new or increased intensity of use. Home Depot is going to tell you that they've maxed out on stores on both ends of our city, in Newnan and Fayetteville. Newnan is highly questionable, and I doubt it, but also what you have in this legal opinion is identical uses. That also includes Lowes and other home improvement stores. So that leaves open the question, are we over saturating, and we can deny the site strictly based on that alone, as a legal opinion.

Mayor Bob Lenox: Jim, is that law in Georgia?

Jim Webb: No, it's not.

Mayor Bob Lenox: Because we've had this opinion before and studied it relative to California.

Jim Webb: I think we've looked at that specific case or we've looked at California law and the distinction between California law and Georgia law, is that there is a constitutional or chartered provision for cities in California that give them powers that our cities in Georgia do not have. So California law is entirely different from Georgia law in that respect. We just don't have that ability.

Mayor Bob Lenox: But, actually you did provide this to us Steve and we did investigate that to see if it did open up any doors and it was a good one to find.

Steve Brown: Right, and the same thing I would like to address with Mr. Webb is that, in regards to the 5' amendment, takings by law, there is some legal opinion by Christopher Durkenson and Richard Zoeke Rodwig and I would like to point out that they say "no-one has an absolute right to use his his land in a way that may harm the public health or welfare or that damages the quality of life of neighboring landowners or the community as a whole. Property owners have a right to a reasonable return for use of their land but the U.S. Constitution does not guarantee the most profitable use.

Jim Webb: And I don not disagree with that statement of law as a general premise.

Steve Brown: It's important to know that there were several cases in the Federal Courts and the Supreme Courts. I would like to site William C. Haas and Co. versus the City and County of San Francisco, In recent years Courts have shown an increase in inclination to reject challenges to spite large reductions in value. For example, in the case I just mentioned, in 1979 a California Federal Court approved a local regulation that reduced the allowable height for a future residential high-rise building on the plaintiffs property from 300 to 40 feet. Despite a reduction in speculated value of the property from \$2,000,000 to \$100,000, in so ruling the court cited that substantial public benefit of reducing congestion in the neighborhood, preserving light and air available to the neighbors and serving aesthetic values to the city as a whole.

Mayor Bob Lenox: Steve, can I ask you to kind of cut it short there because I have let you go considerable over five minutes and I swore that I wouldn't listen to any attorneys give me legal opinions tonight and site cases but you're filling in really good.

Steve Brown: Well, I'll give you some other sheets. One thing I would like to point out, the State of New Jersey has Office of State Planning under the Governors Office, has listed some major impacts here and I've given you copies of those impacts of a study that they have obtained, these home improvement super stores receive approximately 40 tractor trailer trucks per day and 6 van shipments. It is important to know that is a major play in public safety and I would like to know if that was represented in the model that we had for the city.

Mayor Bob Lenox: I tell you, you can pack more into 5 minutes. What I would like to do, I would like to have two more people. One from Huddleston Road and one from Wynnmenade to speak and then I've had a request to take a 5 minute break. We will hear from the developers at that point and then go into a question and answer session. It's taken us a while to get to this point so I would like to ask first of all if Mr. Jim Harris from the Huddleston Business Community would address us.

Jim Harris: Mr. Mayor, Council, Ladies and Gentlemen, I am Jim Harris. I'm here representing the Huddleston Business Owners Group on Huddleston Road. I will make this real short and quick. I am a 20 year resident of Peachtree City along with a lot of the others that have businesses on Huddleston. We were very concerned when we heard about the traffic light change or possible change at the corner of Huddleston and Highway 54. It is a very, very congested situation. I'm very encouraged tonight with what I've heard from the City Council here and the others that maybe we could solve this problem. I know that you will, down the road, do what is best for everybody involved. I really feel that and all I wanted to quote here were a couple of things. In a city hall meeting on December 13th, I believe that was Monday night, Mr. A. Chambers, Jr. Director of Traffic Engineering with Lowe and Associates. He said "Our traffic survey of the Highway 54 corridor west show no affect on the flow of traffic due to the left turning traffic on Highway 54 onto Huddleston." It is, like I said, a very congested situation. It would be very detrimental to all our businesses and like I said, I represent 19 different business owners on Huddleston. A lot of them are here and I would like them to stand. Like I said, it would be very detrimental to each one of our businesses.

Mayor Bob Lenox: Thank you Jim and lastly I would like to ask Mr. Jim Barber from Wynnmeade if he would close out our neighborhood comments.

Jim Barber: Yes, I'm Jim Barber, I live in Wynnmeade. I've listened to everything that has been said here tonight and listened to what has been said leading up to tonight. There are a few things I really don't understand. If this land is zoned for this development, wouldn't it be better use of resources to make sure that we get the concessions that we want rather than dragging everybody in here and ending up in court and not getting what we need out of this. It seems to me that a lot of good proposals have been made and we should just follow through with them rather than denying this and ending up in court. Thank you.

Mayor Bob Lenox: Thank you Jim, thank you very much. That concludes our input except for the developer, property owner who will get their 2 people at 5 minutes each but I would like to move that we take about a 7-minute break.

Mayor Bob Lenox: O.K., we have two more people to hear from and then we'll go into our question and answer period. We have two representatives from the developer and property owner. Mr. Carl Westmoreland will speak to us first on behalf of the Huddlestons, the owners of the property.

Carl Westmoreland: Thank you Mr. Mayor. My name is Carl Westmoreland and my address is 191 Peachtree Street. As you've said I represent the Huddleston family, all of whom are sitting over here and saying Thank goodness we don't own land in California. They have owned this land, however, since, as you know before Peachtree City existed. As you've heard from Mr. Williams and others, the property has been zoned general commercial for over twenty years. Even before that, it was contemplated, as you said that it would be used for not just commercial but large scale commercial. What we have heard from the neighbors is a lot of discussion and understandable concern about the road improvements and whether in fact those can be made given the restrictions of the Clean Air Act. Whether in fact this complies with the both the Development Ordinance and the Traffic Impact Ordinance. As you heard from Mr. Ellis, most if not all of these improvements can be made to spite the State's non-compliance with the Clean Air Act. As you've heard from Mr. Williams and Mr. Webb, yes this does comply with the development regulations of the city and yes as Mr. Ellis also said it does comply with the cities traffic ordinance, although as you also heard, there is a better than good argument that the ordinance does not even apply to this. From the owner's standpoint, they have owned the property for a long time; they have waited for a long time to come forward with a developer for a development proposal. Their position is simply that they feel that they and the developer have complied with the rules, have gone beyond complying with the rules that existed at the time they filed the application and simply don't want those rules to change at this point. I think they and the developer both have shown extraordinary cooperation with the city. We feel that we comply with both ordinances that have been mentioned. We feel like the improvements that everybody feels are necessary can be made and we would simply ask you to reverse the decision of the Planning Commission and approve the Home Depot plan. Thank you.

Mayor Bob Lenox: Thank you. Then last from our neighborhood input would be Mr. Doug McMurrin, the developer.

Doug McMurrin: Thank you Mr. Mayor. This is Chuck Trammell; Chuck is a real estate manager at Home Depot. My name is Doug McMurrin; I am a partner of Ram Development Group. This application and appeal is really about cooperation. In cooperating with the city, cooperating with Planterra and the residents in the area, in Wynnmeade. Cooperating with the business centers in Huddleston that we have met with. The fact of the matter is I have friends that live in Planterra; I live on the South side. My wife is actually here for the first time in a presentation ever which is unusual; she will actually shop at the project, as will I. We are committed to making this a safe, accessible project. Safe for Planterra, Wynnmeade. We are committed and support your initiatives and statements tonight on Huddleston and we reiterated that with John Proffit when we met with them and the Planterra representatives for four hours on Monday. From that standpoint, we want to cooperate. We comply with your ordinances, we comply with your Traffic Ordinance and we've proposed improvements that we think are substantial, they cost a lot of money and we think they will be very effective. We've read conditions, we agree to conditions that staff has recommended. We want to make that side of Peachtree City look like Peachtree City. Right now it doesn't look like Peachtree City, we've got a whole team over here of engineers, architects, landscape architects and in working with your staff, I think we've come up with some really positive and beneficial bonuses, if you will, that if this is denied it may not be on the table for the next developer. I think we've made a substantial leap, as Jim said, from our first application. We want to do these things; we want to make it look like Peachtree City. Our partnership owns a substantial amount of the strip on the North side of 54; we're involved with Mike Rossetti in developing Line Creek Parkway and those improvements. We believe that with the consultants, the lawyers and the people that we know that we can do those improvements that we have proposed. I urge you that we would like to have approval of our appeal tonight and will continue, as we have stated with the people from Planterra and Huddleston, we will continue to work with them on an ongoing basis. This is just Phase 1 that we are proposing here, and we would like to do it in a manner that we can work together in the future. Is it O.K. Mr. Mayor if Chuck says anything or is it just me?

Mayor Bob Lenox: If Chuck wishes to say anything, he certainly may.

Chuck Trammell: My name is Charles Trammell. My address is 2455 Paces Ferry Road, Atlanta, Georgia. I want to thank you all for taking all of the time that you have this evening. I would like to say to the residents that you are very important to us and we want you as customers. It's always very difficult to be in a setting like this where we are paired off against one another. One thing we try to do whenever we can is to take and go to properties that are zoned. One of the reasons we do that, is the assumption that the neighborhood is aware that the zoning is there and that we then are not as shocking when that use happens. We're in a situation here where it is still a shock and one of the reasons for wanting to get together with folks and try to talk about what are their concerns is to try to do whatever we can to ameliorate those things and we picked up some interesting thoughts from the folks on Monday night. I think that a number of points are consistent with what we've shown in the traffic plat and if possible, we're still going to look at a few of them to see if we can't do some other things. I didn't mean to take that much time, thank you.

Mayor Bob Lenox: Thank you very much. O. K. , what we've come to at this point is the audience question and answer period. We've asked that all questions be addressed to me and I will try to direct them to the proper party for answer. We would ask that each person try to limit themselves to two questions so that there is time for everyone to ask their questions. Please don't give speeches; try to make them specific questions. If we do have time left over, certainly anyone is free to ask more than two questions if we get to that point. With that, I would like to ask if there is anyone who would like to ask any questions. Please use the podium, and give your name and address.

Phyllis Aguayo: Phyllis Aguayo, Stonington Drive, Peachtree City. I would like to know whether all of you received the correspondence from the Line Creek Association and whether the suggestions for preserving the integrity of the Line Creek corridor will be implemented whether this or any other project is approved in this area.

Mayor Bob Lenox: We did receive that information and in fact, if we reach the point where we decide to approve this appeal, one of the key questions will be the condition of approval. In fact, I got that earlier tonight, we've all reviewed it briefly and will incorporate it into that process if we decide to approve it.

Phyllis Aguayo: Yes, because those are concerns no matter what should ever be proposed and approved there.

Mayor Bob Lenox: Correct.

Phyllis Aguayo: Thank you

Mayor Bob Lenox: Thank you Phyllis. Other questions.

Robert Brown: Robert Brown, 102 Planterra Way. I would like to know and I think a lot of other people would, why Home Depot in the face of such extensive neighborhood opposition would like to continue to build a Home Depot at this particular site.

Mayor Bob Lenox: I'll hazard an answer to that and then I'll ask a representative from Home Depot if he would like to make any comments. I think he alluded to the question in his earlier comment. I know that Home Depot does not like to go into adversarial situations and generally they seek out land that been zoned for their use. I don't think that they really anticipated and I don't think that they view themselves as bad neighbors. The fact of the matter is, I've got to say from my view point, that with the history of this land, this particular tract is going to be intense retail, probably big box retail. I truly do not believe in the long term that there is any legal force on the face of the Earth that this city could muster to change that. Under those circumstances, I look at it and say who would you want to have there if that is what you are going to have. I can only say from my viewpoint that whatever decision we reach, Home Depot has tried to work very hard with us to satisfy the needs of the community, Now, they have to make their decision how view the opposition in the community, whether it's a place they want to be.

Robert Brooks: To add to that, certainly this is an issue that kind of divides the community and certainly Planterra Ridge. But Robert, I've had a couple of people from Planterra Ridge, who certainly don't want their names mentioned, who want Home Depot to go there, who want the traffic light to go at the end of Planterra Drive. I've probably had more people tell me they want Home Depot in town than driving to Fayetteville or Newnan out of non West side people, who certainly it's not going in their back door, actually would prefer to have Home Depot go in here. The reason I say that is that is reinforcement to Home Depot from the standpoint that there is significant number of people in Peachtree City that want Home Depot here. It is an issue that has dividing Peachtree City but there are a significant number of people and I don't have numbers or anything but, I'm just giving you an informal view. You said, why do they still want to come here to spite opposition from Planterra, it's because there is still a large number of residents in Peachtree City that would like them to come to town.

Mayor Bob Lenox: You've got another question left.

Robert Brown: As I've stated on other occasions, I know you don't want me to give a speech, but we've been over this before and I'm not opposed to Home Depot. I do a lot of shopping at Home Depot. I think this is the wrong site for Home Depot, there site that they were originally considering in the Kedron Shopping Center, has

access to a four lane highway and could have handled the traffic much better than the site on which they are proposing to build. If Highway 54 was fourlanes now, I don't think we would be having a lot of these discussions because it would be able to handle the traffic. The amount of traffic that is generated by a Home Depot and by another proposed Phase 2 big box store is just more than this two lane highway can handle.

Chuck Lehman: Chuck Lehman, Hidden Creek Lane. A question on Home Depot, this would go to him. Is this going to be a Home Depot store such as in Newnan and Fayetteville or is it going to be an expo like on the Northside or could it be a blend of the two if approved.

Mayor Bob Lenox: I will defer that to Charles, if you want to answer it.

Charles Trammell: It is going to be a Home Depot just a newer generation of what they have in Fayetteville. There is no prototype of an expo/Home Depot together. There is a new prototype store that is an experimental store that opened in Alpharetta about a month ago. It is a Home Depot store that is square opposed to rectangular. There are a number of differences on the interior of it that appears to be quite different. In fact, the same skews are handled in both stores and it is strictly experimental. It is quite different from the other stores.

Rob Broklet: I'm Rob Broklet, 809 Kilvista, Planterra Ridge. One of my big concerns, obviously, is traffic cutting through the neighborhood. I know there are traffic counts that have been made. I've seen the police speed signs and I believe that there are some traffic counts that have been done through Planterra Ridge. My question is what contingencies can the city create if the traffic volume increase substantially to try to mitigate that traffic through Planterra Ridge once this development occurs.

Mayor Bob Lenox: I think I'll answer that and then ask anyone else on Council or if anyone on staff has any thoughts, to put their two cents worth in. We are absolutely committed to precluding a cut through problem of any kind in Planterra. I think that there is a bit of a problem now but as long as Huddleston remains a viable alternative, I think that takes a lot of pressure off of that. We have looked at this design and the way the design was presented, as you come out of Planterra, you have to turn left or right, as you come out of Home Depot, you have to turn left or right. If we need in the future to go to the other traffic calming devices or turn prohibitions during certain hours of the day, we're committed to making sure that we do not create a cut through problem to the Industrial Park for the residents of Planterra. Period! Whatever thattakes.

Robert Brooks: What we are on the Council, we're committed to the viability of Huddleston Road and I think we truly believe and I think everyone can figure that if we are able to keep 54 and Huddleston viable that it really takes too long to go through Planterra as long as everything else is functioning properly. But we are also, even though it would be difficult for us to say specific items, I think, in general like Bob said and I think that it needs to be emphasized by other members of council, we are committed for that not to be a through road.

Rob Broklet: I have a recommendation that frequent traffic studies, can that information be shared with Planterra Ridge at the entrance location so that we can monitor that and work closely on that issue. And the second issue that we need to look at is if there is a prohibition of left turns from 54 out of Huddleston, we really need to evaluate the issue of pulling into Planterra a making a U turn to end up going back to the right.

Bob Brooks: I think you can safely say that is not going to happen. That's not going to happen. The other thing that I think we need to tell you is that I think we also have consensus here that what we're calling the Crosstown Extension which gives you a second way into Coweta County is going to be a priority. I don't know how fast we can make that happen, but that's also going to be one of the things that we pursue. It's only like 1.5 miles long, it's not an interstate highway. It's a road that can be built, needs to be built and needs to be built quickly.

Cal Beverly: Mr. Mayor and Council, I am Cal Beverly. I live in Wynnmeade Subdivision. I have two questions, one is a procedural question and I hope you can count this as just one, it has several aspects to it. If you approve an eventual site plan that has, let's say five conditions of traffic improvement, at what point will you allow Home Depot to begin clearing the land and putting up their walls and other things. That's my first questions. Suppose they get four out of five, do they get started then or do you hold them to five out of five or you don't get anything. That's my first question.

Mayor Bob Lenox: Well, we have had some discussion of that and we have kind of, we chose to treat this hearing, as I think Mr. Webb mentioned earlier, as denovo. A lovely legal term that he had to explain to me that means that we are not just narrowly reviewing what the Planning Commission said, we've opened the whole subject. So, we first have to reach a decision, if we're not going to approve this, that's an academic question. If we are going to approve it than we're going to spend some very careful time going through the conditions, how they will be applied and how will we handle exactly the problem you just eluded to because there is a good deal of uncertainty about this road way. I don't know the answer to your question yet because I don't know if we're going to get to that point but I have a lot of material here and we've prepared for that eventuality. I can't answer the question specifically now but if we decide in the end that we are going to approve this, that question will be answered tonight before we leave.

Cal Beverly: O.K., my second question has to do with eventualities and contingencies. It seems like Peachtree City has been kind of caught a couple of times in situations they didn't foresee. I'm just wondering is it possible, if you so decided, for you to at this point change the commercial zoning ordinance to preclude any future such situation arising.

Annie McMenamin: I've sort of asked that question and I was pretty much told that if the property is already zoned commercial and would allow that type size building that we probably could not preclude it. But if it had to do with rezoning or annexation, we can certainly take care of that now.

Cal Beverly: Just to clarify, what I meant was, you could change what commercial zoning included so that a retail structure of no more than 50,000 square feet could be erected. That was my question.

Mayor Bob Lenox: We could attempt to do that. We would, of course, be subject to legal challenge and if the process of doing so, we would have to demonstrate how that served the public interest. The real risk being that somebody who already had general commercial zoning without that restriction would obviously want to fight us legally and we would have to have a pretty strong case for having made the restriction. But yes, we could certainly try to do that.

Cal Beverly: Thank you.

Annie McMenamin: I would certainly hope that we will do that shortly for annexation and rezoning issues.

Mayor Bob Lenox: Yes, with those we can really do it.

Matthew Duall: I am Matthew Duall, 103 Cadmian Court. Maybe I've missed something but what I would like to know is whether the traffic model, as presented, was based on existing conditions or future conditions.

Mayor Bob Lenox: Basically I believe that the traffic model incorporated all of the known developments in the corridor up to and including the Home Depot. So it included the new apartments, the new single family subdivision behind the apartments, both developments at the corner of Highway 54 and Highway 75, City Circle and City Market. It included Home Depot. Did it include the outparcels on Highway 54 west? I believe that what's left on Highway 54 west would be some of the outparcels, and the remaining part of this site.

Matthew Duall: I have another question. I would like to know whether developments in surrounding communities from which Home Depot would draw customers are considered.

Mayor Bob Lenox: Yes, it is considered. In the traffic model, you are assuming that you are drawing a certain amount of that traffic from Coweta County or from the West.

Matthew Duall: I'm not a traffic engineer but I just can't see opening another bridge when you don't have supporting highways, how we would not end up with the congestion over that narrow bridge. I hear statements to the effects of creating a small lane onto 74 going south, it's a bottleneck. You're going to handle with a bottleneck. I just can't see and I wondered if our medical emergency people have really put time and study into this.

Mayor Bob Lenox: The only thing I can say on that, and I'm going to speak for my fellow Council members and certainly for myself. I don't believe that I have ever put as much time into any project, including the acquisition of our illustrious sewer system, as I have put into this thing over the last couple of months. I know that our City staff, all of our safety service people, our planning people, our City Attorneys and everyone on Council has basically steeped themselves in this thing trying to get enough inside our heads to make the best possible decision. We took into account everything. So, I'm like you, I had an instinctive feeling that, you know how much can you ram across a bridge. After meeting, after meeting with our staff and with our traffic folks, it does make a big difference how smoothly you deliver them to the bridge. You can greatly increase how they can go across it.

Matthew Duall: With a light at Home Depot, I just can't see it.

Mayor Bob Lenox: I tell you, I think we're about at the limit.

Bob Brooks: I guess the one comment that actually kind of caught me by surprise is that the Fire Department studied it and felt like things on the West side would be safer once the improvements were made than they are now.. I don't know if you missed that or not but they did make that comment.

Steve Brown: I'm Steve Brown, for the record. Is Jim Pace eligible to vote on this procedure since he abstained from voting on advise of Council based on a conflict of interest on the Traffic Impact Ordinance since this issue hinges on the Traffic Impact Ordinance? I'll give you the second one too and then I'll sit down. Probably more for Home Depot than for you all. I have a great desire to know why Home Depot did not reach out to the community and try to work out some of these

differences, after reading their value statements and other things that they have posted on their web sites and in their books that they put out, I would like to know why Home Depot felt they did not need to make an effort to reach the community earlier.

Mayor Bob Lenox: On the first question, I know of no conflict for Jim. Do you?

Bob Brooks: No

Jim Pace: I don't even own any stock.

Mayor Bob Lenox: Second, our representative from Home Depot is free to address this. I will only say that they have done some community outreach, I've heard of some meetings. It may have come late in the game. I don't know how closely they have worked with our staff because I personally have never met with anyone from Home Depot, on purpose. I know that staff has communicated my concerns very well and I think communicated many of citizens concerns very well. Charles.

Charles Trammell: My name is Charles Trammell. I think it was about a year ago when we first started to talk about developing a store in Peachtree City, albeit a different location. It's really since July that we've focused on this as the ultimate location where we wanted to end up. I, too, wish with hindsight taken more time to meet with the neighborhood. Having said that, I'll tell you that I do this for a living. I have four zoning hearings this week in various cities in the Southeast and I will tell you that you are very well represented by Mr. Williams. He is not fun to interface with in that he has a real passion for his community. We may not agree, Sherwin Williams sells more than black and white paint because people see things differently, but I will tell you, just in looking around Peachtree City, I think that people like him have done a very good job in establishing a community here that has a great deal of livability to it. Have some faith, if you will, that he is going to continue to do that. He has never, to my knowledge, off of his watch in caring for that.

Mayor Bob Lenox: Thank you. Mr. Fodor.

Steve Fodor: I'm Steve Fodor, Arborgate, Peachtree City. Two questions, since I have that allotment. First one, we're talking about eventualities with the widening of the lanes and the road and adding turn lanes, etc. We see on the site plan, the second big orange box, obviously that's the Super Wal-Mart or whatever that is going to be. I'm curious why that was not taken into account, taken into the traffic model since it's been drawn on the site plan already. That's my first question.

Mayor Bob Lenox: The only response I can make to that is that we have not been officially asked to consider that. If we are asked, it will be subject to the same ruthless analysis that we've done here.

Steve Fodor: O.K., the second question has to do with the appeal process. I'm a little bit concerned, I thought that when an appeal was made that the party filing the appeal would stand up here with their consultants and their attorneys and state their case. What we saw here tonight was City staff, paid with our tax dollars, telling why Home Depot should be allowed to build here. Home Depot's two representatives had very little to say at the end. I'm just curious why that was flipflopped around.

Mayor Bob Lenox: First of all, I would not sustain the contention that they stood up here and told why Home Depot should be built. Council, as our attorney pointed out, had all the latitude in the world to handle this hearing in any manner we saw fit. We frankly decided we wanted a controlled, very logical, very rational hearing in which we would try to review, as best we could, all of those areas that have been expressed as concerns by the community. We simply asked all the relevant experts to give us the facts. I have consistently said during the course of this night, I have not presumed a decision and I have no idea what Council's decision will be here tonight. But I do really relish the fact that I have had a factual presentation on which to base my decision. That was our choosing to organize it that way. We've heard plenty from the applicants; we really wanted to hear from our people, our experts, their analysis of everything we've learned. I didn't need to hear from the applicants again and I really didn't need to have us all saying the same things that we've heard elsewhere. We've heard all that, we needed to digest it in a rational manner.

Steve Fodor: Thank you.

Mark Clinote: Good evening Mr. Mayor and Council members. My name is Mark Clinote; I live at 505 Paliside Court in Spooner Ridge Subdivision off of Kedron Drive. Looking long term a little bit, with the creation of these so-called facts on the ground, The Home Depot, the apartment complex and the cluster homes going in off of 54. Do you see these actions as forcing the Council to vote to approve the annexation of the West Village lands so that Line Creek Parkway can be extended up to State Road 74 across from Kedron Drive?

Mayor Bob Lenox: I do not.

Annie McMenamin: Very good question, but I don't either.

Bob Brooks: I'm thinking that you and I had talked about that before but we will answer it again for the public. The nice thing about the issue of annexation is that it is 180 degrees different than what we are already talking about as far as a piece of property that is already zoned. We can say No with no justification whatsoever about whether we want to annex property. We are in a position that with that piece of property that if it suits and enhances the city and the provisional services, than whatever Council deals with at that time might do it but it certainly puts us under no pressure to do that. If we're able to get development in that area, that is sufficient low density that I think to some extent, Council has sent the message that any proposal that has already been proposed in the past is too dense and we did not agree with. If something comes in and it's somewhat low density and it looks like it will blend in with the city, considering the fact that we are probably going to have to provide recreation, we're probably going to have to provide fire, we're probably going to have to provide police, that because we have an impact fee, because we have taxes that to some extent that it might make sense for that to come into the city. But certainly there is no pressure for that to take place and certainly a Line Creek Extension of that parkway to North of 74 would certainly be one of the factors as part of that equation that would say "Does that help Peachtree City residents that are already here overall?" and if it does, with the overall equation, than it might happen.

Mark Clinote: I think that it would be a benefit in terms of eliminating some of the traffic on 54.

Bob Brooks: But there's also actually a way, there's a strip of Peachtree City land that goes all the way up. Certainly, I have not looked at it enough; I wouldn't say it could happen but you could end up potentially with a road that would go northbound and be within City limits without an annexation.

Mark Clinote: Thank you very much.

Sherry McCollum: Sherry McCollum, 105 Camdean Court. You said earlier that you would do whatever it takes to keep Planterra Ridge from being a cut through. What if it takes making Planterra Ridge a gated community? Would you consider something like that to keep that traffic from coming through and endangering our children at the bus stops with these industrial neighbors of ours changing shifts between 7:00am and 3:00pm. Our children are at the bus stops on the corner at 7:00 in the morning and they are getting off the bus at 3:00 in the afternoon. If we've got traffic cutting through there, that's going to harm our children. Also, we have children that play through there. It's a very large community with a lot of children. If whatever it takes is something like that, is that something you would consider doing?

Mayor Bob Lenox: We had that questions come up and when it came up, my answer was that I think we would consider it as almost the nuclear solution. It is an extremely difficult solution. For us to close off what has been a public street, there are some real legal problems in doing it. I won't speak for Council on this but if that's what it took, I think we would try to do that but I couldn't sit here and tell you that we could legally do it.

Sherry McCollum: I have one more question for Home Depot. Peachtree City is a village type city. We drive our golf carts to the Kroger, to the K-Mart, why is it not considered down sizing. I think the majority of the people are against the big box stores, why not down size it, make it fit in with the quality of Peachtree City. We don't need 30-foot ceilings and shelves going all the way up there. A smaller store is more to fit the style of Peachtree City; we don't need big boxes here.

Mayor Bob Lenox: I guess I'll just remand that one to Charles for consideration at the corporate level.

Charles Trammell: The prototype is the prototype. The other answer to that question is what happens is that it used to be with Sears and Roebuck, you would read the adds and then they would have these three asterisks down at the bottom that said but not at this store, not at this store and not at this store. It's just today, in merchandising, something that you don't do. You stick with a prototype so that all the things you sell in one store, you can sell in another store. We don't have a prototype that speaks to that issue. We are experimenting with properties that are in extreme dense situations, downtown Charleston, places in tight end New Jersey, where we have what is called the Villagers Hardware Store but at this point we are going to build four of those and that's it, see how they work. A store like that would never, the demographics of this area warrant that there be a store that has all that we sell. Thank you.

Jerre Williams: I'm Jerre Williams, 111 Sagamore. I've been a registered voter for forty years Mr. Mayor. Accept for three years I had to go to World War II but anyway. I would like to direct this question to the representative of Home Depot. I think that if Home Depot was sincerely interested in the best interest of Peachtree City and it's citizens, they would have built their facility at the Kedron Center, which seem to be a very logical place, probably with the proper traffic. But instead they changed that and went somewhere else. Now if it's a matter of money and none of my business, that's fine. But to really think that you are genuine in your selection, it should have been there or somewhere else that would not create this problem. These people have spent a lot of money on their homes.

Mayor Bob Lenox: Thank you.

Vince VanDimar: Mr. Mayor, my name is Vince VanDimar, I live at 511 Veridian View. Earlier this evening, Jim Williams spoke about significant changes that the staff has recommended, elevations, dramatic cutbacks in the elevations. I know that those are recommendations. I would like to know before you vote and I would love to hear Ram and Home Depot commit publicly that they will go along with those recommendations.

Mayor Bob Lenox: I actually think that they did at the Planning Commission. But again, related to another question, if we get to the point where we are going to approve it, we're going to go through conditions that will include those and we will expect them to publicly agree.

Bob Canoots: I'm Bob Canoots at 518 Veridian View and I would like to hear what's going to be done about the 18 wheeler traffic. Over in Fayetteville, they made the decision that they weren't going to put big box stores unless there were at least two four lane routes of access and here we are trying to put all of that onto just a two lane road. I don't think that the traffic study took into account these 18 wheelers that are going to be coming in first Phase I and then Phase II. I would like to know what is going to be done about that specifically and it seems logical to me that we would want to have that bridge cut across over the railroad overpass and come out through Pike Nurseries to get on Highway 74 to give at least two routes of access if they are going to approve this site plan. I would like to know what is going to be done about that specifically.

Mayor Bob Lenox: Ed, did y' all take into account truck traffic?

Ed Ellis: We did take into account truck traffic, not specifically for the Home Depot but the model includes truck traffic. Charles, I don't know how many trucks you would anticipate a day on this.

Charles Trammell: 6 - 10

Ed Ellis: We've been involved in a number of Home Depot sites in the past and in the peak hours in particular, which is what we are testing this for and the ordinance, the truck traffic just simply isn't that big a deal. It really doesn't play into the congestion issue and that number of trucks spread out over the whole day is virtually unnoticeable.

Mayor Bob Lenox: But we do have what I would consider to be a pretty high amount of truck traffic through that corridor, not generated by Home Depot, I think really generated by the Industrial Park.

Ed Ellis: I think you're industrial traffic would make the truck traffic to Home Depot very insignificant.

Mayor Bob Lenox: Right, I would like to look at the model again just relative to the overall truck traffic and timing because I really didn't look closely at that. There's got to be a fair number of trucks going through there on a daily basis. What is the timing of those? But you did include in the analysis, the expected generation of truck traffic from Home Depot.

Ed Ellis: Yes

Mayor Bob Lenox: We'll take two more and then Robert has asked to be the last question here.

Tom Fancher: I'm Tom Fancher, 111 Retreat Point. I voted too Mr. Mayor. I'm hard of hearing but when we were discussing the road improvements, and they made a lot of sense to me. If they are approved by the DOT and the City and anybody else, who pays?

Mayor Bob Lenox: Actually at this point, the developer has agreed to pay for all of the improvements stipulated in the agreement and all that you see in yellow on there.

Tom Fancher: Including Highway 54/Highway 75 Intersection?

Mayor Bob Lenox: Yes. O.K. we'll take the last question from Mr. Brown.

Robert Brown: I would like to refer back to my earlier comments about the Huddleston Road extension and whether that has been actively pursued. If Doug or Charles could comment on that please. If I can point to the map, the reason why I bring that up is because the plan calls for right in and right out. Mr. Mayor, you mentioned that there were some people in Planterra that said they really wanted the Home Depot there so they could shop there. Well there not going to get there from here because the plan is right in and right out from Planterra. So they will not be able to go directly across to Home Depot and the same thing vice versa from Home Depot coming out. The Huddleston Road extension though, if this was the main entrance into Home Depot, it would allow straight across traffic and people coming from Planterra will be able to come up here and then turn left to go into the Home Depot site. Whereas now, if you live in Planterra and you want to go to Home Depot, you either come out left and go down somewhere and turn around or you come out right and maybe go turn around in the Church, which they don't like, and then come back. And speaking of the Church, some of these improvements impinge upon their property and I don't know if that has been agreed to by them in extending those lanes into the front of their property. That was my main question, the Huddleston Road Extension and whether or not that has been actively pursued.

Mayor Bob Lenox: Doug, do you wish to tackle that one?

Doug McMurray: Relative to the Church, we've had several meetings with their deacons and the pastor and I believe we've worked out an agreement where we are going to give them access through our property to the traffic signal. Relative to the land required for the road improvements relating to the Church, all the land that is

necessary for those improvements lie within the right of way. Relative to the other issues, we've met with Planterra and they've expressed a desire not to have straightforward traffic. Again those issues kind of rest with Georgia DOT's final decision on what improvements they will allow in that area.

Mayor Bob Lenox: Was there any discussion with the Church relative to running that road around behind, extending Huddleston Drive straight up through their property.

Doug McMurray: I understand the question. I don't own that property, I don't control it. That's something the Church would have to agree to. I think that is maybe a long-term solution. In our meeting with the Planterra homeowner's association officers, we discussed a number of different options. One of them we've done up in New Jersey before on a very large project, was a jughandle. There are a number of different options that are mainly long-term solutions. That is one thing that we would like to be a part of is helping facilitate some of those solutions. We have had some initial discussions with the Church. You are also going to need right of way for gold carts, you have a cloverleaf that is proposed and some property will be needed from the Church to accomplish that. I don't think it's anything I can answer here tonight specifically other than to say that it's something that you all have committed to work on, it's something that we're committed to help solve and be part of the solution. I can't answer your question frankly.

Mayor Bob Lenox: We just had a chance to talk to Ed Ellis a little. We're going to explore this alternative. There are two primary problems are going to be the danger, we're pretty far along in tonight's process. Second, for example, we're putting a complete set of golf cart underpasses underneath this new bridge. Jim, do you recall what our budget is for that little project. I want to say it is in excess of \$500,000.

Jim Basinger: I don't remember the exact number Mr. Mayor.

Mayor Bob Lenox: DOT will do anything you ask in a sense. Everything above the basics, you agree to pay for, so we're spending somewhere between \$500,000 and \$800,000 on the bridge to create all of the golf cart connector we need. My fear is that I'm going to go to DOT and raise this proposal and it's going to take along time to try to figure out if it'll work. And if it does, they'll say, "Sure we'll do it but you'll have to pay"

Jim Basinger: Mr. Mayor, if I might, when we widened Highway 54 down here at the lake and all, we had the bridge raised all and it cost significant dollars but we didn't have to pay the full amount. They really look for local participation and I would hope that as long as we are putting some funds in. I do not that we have \$250,000 set aside right now for getting across the railroad tracks. That was paid by a previous developer because Longhorn had a commitment to get tied into that system. I do know that it was at least \$500,000 for the cost of those improvements.

Mayor Bob Lenox: We need to give Council some time to discuss this at this point. I would really like to thank everyone here tonight for what I consider to be a very valuable meeting. I think that we've all heard some good input and learned a lot. We'll now end the question and answer section and Council is now going to have to reach some kind of decision. I guess I would kind of like to start the discussion and I will try to give a condensed expression of my viewpoint. Relative to planning issues, I think it is important to realize that this land, as Jim pointed out, has been zoned for general commercial for a long, long time. Prior to the construction of the Tennis Center and the approval of the four hundred apartments in Michael Rossetti's subdivision, there was over two hundred acres of general commercial on both sides of the road. Which would have been sufficient to build the Fayette Pavilion with room left over. It was an enormous commercial area. Our City staff has actually realized since the early 1990's that we probably had too much commercial there but it is a very difficult problem to fix. So none of what is happening is really any surprise. If you've been involved in this process for a long time and really through, I'll characterize it as good luck, some market forces, some negotiations and a couple of lawsuits, we ended up with instead of two hundred acres of commercial, the apartment complex, the single family housing, the Tennis Center and green space at Planterra's entrance and we've reduced the scope of this once huge commercial area to the 42 acres in question being the only feasible area left for big box kind of development. There is still some other commercial land there on both sides of the road but I don't believe any of it would be feasible for this kind of big box development. At the same time, we've almost forced the developer into using this property for big box. My second point is I don't find anything intrinsically wrong with the big box retail installation. We recently accrued as an example, City Circle, right up the street, which as planned somewhere between 150,000 and 175,000 square feet of chain retail. National chain retail, there is nothing local about this, it's not friendly little neighborhood stores. It's national chain retail that will be set up in twenty or thirty separate boxes. Home Depot is 140,000 square feet. The fact of the matter is in mind, it's all chain retail, it takes the same amount of acreage, it takes the same amount of parking and it generates the same amount of traffic. I know that there is a feeling that we're a village but the reality of our long term plan has always been that we're going to be a city, fortunately it used to be 80,000 people, then it was 50,000, now we're at about 35,000 people and we're nearing build out. You would expect us to have a pretty good mix of big box, chain retail, local retail, neighborhood stores. Most healthy cities have all of these things. Somebody commented earlier and I believe it's true, the trick is to have them all but don't have them the way everybody else has them, to do it well. I really think that we have done it extremely well. The example being, we've taken these big boxes, we've got them as far off the road as we can reasonably get them, we've shoved them up against the railroad tracks, where I really don't know what else I would like to put there, and we've used this big commercial box to buffer off the railroad tracks and I really believe that our staff will extract the kinds of things that are going to set a standard for this corridor that five years from now we are going to be proud of. I have followed our City Attorneys' legal outline. I sat there this afternoon for a half-hour with a cup of coffee and I studied those three pages and I said how do I answer these questions. I followed this situation intimately; I could only answer these questions Yes. We have no legal basis for denial of this appeal, I really don't care, if I thought this was a crappy idea and a lousy development and we were being asked to rezone something, I'd throw good money after bad if that's what it took just to fight it. But I can't make that statement and if we deny it, it's going to cost us a lot of money. We're going to pay a lot of legal fees, in this case, it's so agreeous that

we are going to expose ourselves to significant damages for money. Not just the right to build it but the lost profits. I think in the end, we also undermine the integrity and dependability of our Land Use Plan. I've had lots of citizens come up here and demand, when we wanted to make some change, that we stick with the plan. Well, now we sort of have a group of citizens that are demanding that we not stick with the plan. This isn't a surprise; this was the cities plan. The last one is the traffic issue. More than anything, I think that's what concerns all of us. I think we have done the best job we can with what we've got to work with. I'm satisfied that we can accommodate this development and improve this situation. That's all I'm satisfied with. To me, this has no bearing whatsoever on any West Village annexation, whether we're going to have a Wal-Mart over there or not. These projects are going to be considered on their own merits, if they can not meet our Traffic Impact Ordinance, they are not going to get built. The ultimate widening of Highway 54 is going to be a painful process, with or without all of this. I don't know how many people here lived through the widening of Highway 54 through town and Highway 74 from Georgia 85 down to town. They were not fun. You know, you've just got to get through it. The last point I want to make is that if we decide to approve the appeal, and I've got to say that I see that as our only rational course of action, I'm pretty adamant about the fact that we need to review every one of the conditions, both as proposed by staff and Planning Commission and as proposed by some of our citizens here tonight who have taken the time to express some concerns that we need to address in addition to what the Planning Commission addressed and we need to find out if these conditions are acceptable to our developer and Home Depot. I also feel that if we do approve this that all of the conditions, we've done this on a couple of occasions in the past, need to, after we've finished setting them, to be clearly spelled out in a written document, typically called a Development Agreement, and that all of the relative parties sign it in the next few days so that we don't have any misunderstanding. If this is what we are going to build, this is what we are going to build and if these are the conditions, I don't want to get down the road in six months and all of sudden we're not getting what we bargained for because we didn't document it properly. That's where I am on it and I'll shut up and open it up.

Jim Pace: Bob, I can agree with you on a lot of points. The first one I'm going to agree with you on is that I've spent more energy on this issue than any single issue I've had to face. I've talked with hundreds of our residents and I will tell you like Mr. Brooks did that there are a large number of our residents that actually do want Home Depot here. I myself am not in favor of it or against it. I am in favor of trying to do the right thing. Sometimes you have to pray for wisdom to know what the right thing is and then you have to have the courage to try to act upon it. This has been one of those instances; there was a lot of effort put into trying to figure out what is the right thing here. I've talked to virtually all of the former Mayors, I've talked to many of the former Council members and I've talked to just about anybody I could find that had a legal opinion on the matter. I have not had one single person to tell me that there is only one right thing to do. They've all basically agreed upon the only course of action that we can rationally take here and unfortunately it may not be a popular course of action with the people sitting in this room. I do feel an extreme obligation to the industrial park and the folks on Huddleston Drive. If I were to continue here, I would make absolute certainty that the traffic situation there was made as best that we could make it. I also feel an extreme obligation to the people in Planterra Ridge. We've got 437 or so houses over there now and you guys need to get in and out of your subdivision without having to fight the traffic. I think that the four laning of Highway 54 is an eventuality that we really have to look at carefully and we have to make sure that whatever we do now that you guys are going to have to be able to get in and out of there safely and effectively when that four lane occurs. This really means, bottom line, that you've got to have a traffic light there, you need a traffic light there. I live off of Kedron Drive and I would dearly love to have a traffic light, in fact, if you want to have a wish list Bob for me personally it would be to give me a traffic light at Kedron Drive. If they don't want it, I would love to have it. The issue has been a complicated one for me personally. I actually had kind of hoped to be able to slide into my retirement somewhat peacefully without having to go through this, but it didn't pan out that way. I don't necessarily feel that Home Depot is going to be a bad neighbor. I think that in some respects, having a Home Depot in Fayetteville and having another one in Newnan is pretty much going to put the traffic within Peachtree City. I doubt the people from Newnan are going to drive over to ours or the people from Fayetteville are going to drive to ours. I think it's somewhat of a low impacted commercial development there and I guess the thing that really drove me to the decision that I came to was essentially, I do have a tremendous respect for the people that I spoke to, I have a tremendous respect for the staff. We've heard some folks stand up here tonight from the staff, Jim Williams recommends approval. Jim Williams does not recommend bad site plans. The City Attorney clearly stated our options legally and I frankly I've had those opinions confirmed by a number of other attorneys. I have to tell you that to question Captain Lohr would be something that would really just send me into orbit. We've got some of the most dedicated and well trained professionals in the Fire Department of any city I know and if he tells me he is comfortable with this from a safety standpoint than I can find nothing that would convince me that depriving anyone of their Constitutional rights is justified and I, would have to say that I would have to support letting the site plan go forward which as I understand it would mean reversing the Planning Commission's decision.

Annie McMenamin: I'm going to take a little opposing view here. The issue, and I wish I had written mine down ahead of time now Bob because I'm not going to be able to read this because I've scribbled down so many notes as people talked. The issue remains the same today as it was in August and September and that is public safety. While I believe the traffic consultants did a beautiful job in creating a model that would accommodate the increased traffic demands created by regional shopping corridor, it did not address the most critical concern of safety and that being the two-lane bridge. In the minutes of August 19th, Chief Murray, the Police Chief, stated that the police department took the brunt of the situation on a daily basis. He said when accidents occur, traffic would become gridlock. He felt new development would increase traffic as well as the additional development in Coweta County. He said the traffic model looked good but he did not think there would be any relief to the traffic problem until the highways could be widened. He was also concerned because of the major truck and tanker accidents that were occurring frequently. He said the city should expect more accidents with the amount of traffic being on a two-lane highway. Gerald Reed, the Fire Chief, said his department faced major problems. I have great respect for Captain Lohr and I believe, like he, that the road improvements made to accommodate Home Depot will indeed make it more accessible for the safety vehicles. They've first got to get across the bridge, which they can not do. He said it was difficult to get emergency equipment through traffic. He said at times emergency vehicles would have to travel in the opposite lane of traffic, which was a very dangerous thing to do. He said they have

— especially noticed extended response times to the Wynnmeade Subdivision. John Dillahunt from the Wynnmeade Subdivision said he had witnessed three house fires in his subdivision and it was a real panic when the fire department had a slow response time. He was also concerned about his homeowners insurance and that the rates would be increased. He said there would be an additional 280 homes and 400 apartments and traffic would be increased even more. It was not wise to allow new development until the highway could be widened. In talking to Dick Schnider, from the DOT, he is quoted in our minutes of August 19' When I asked him about where we could get decisions, how much impact we could get, how much approval we could get for the projects and also regarding improvements that would be made by either the developer or the city, he said he was not sure and that things got more complicated every time an interruption of the law was made. I think that is what we are doing here is interrupting the law. The traffic consultants did not address the single entrance of a two-lane highway already graded D and E of the semis that would be trying to go into the single entrance. The conversations continued as late as Monday of possibilities of additional road accesses for semis. I appreciate the fact that the Mayor has received a 99.9 assurance of approval of the Air Quality Standards and that they would be met in March, while Mr. Ellis of Dames and Moore told us last week that there was a 50/50 chance and he had been told as recently as two weeks prior to that that there were no guarantees. Tonight we learned that he has been told that some improvements were highly probable. I will request, and I knew Mr. Huddleston sixteen years ago, I enjoyed his vegetable garden and he was very kind to bring me some of those, he waited for his garden to grow and I think Mr. Huddleston would understand a three or four month delay while we waited to see the results of the Clean Air Enactment. Let us have the opportunity then to work with DOT to improve that bridge. I was told at some point, in some discussions that the bridge would be and could be started prior to the road improvements. I have asked the questions, where do the road improvements begin? They don't know. Will they start in Coweta, that makes sense to me. The ROW's are already approved, there plans are already to go, they are ready to move forward. We are behind them. Certainly, DOT is going to probably start in Coweta and move east. With the safety concerns for our residents and for any further development, I, believe that we have a strong case with DOT to improve the bridges and go ahead and four lanes the bridge to accommodate our safety vehicles. I also made comments in here about the critical widening and protection of Huddleston Road but I feel that we have covered that thoroughly. That's all I had to say on the Huddleston Road. I would like to have the opportunity tonight to make a motion for the Council to table this until we can get some input from DOT in the Spring and some relief from the Clean Air Act and I would certainly want to wait until after all of the Council has had an opportunity to speak but I would like to have an opportunity to make a motion to table and either let it die for lack of a second or to see if go down in defeat. I would also like to just touch base on a couple of comments you made Your Honor. The City Circle, I don't believe is a comparison to Home Depot with a single access on a two-lane highway. They have a multi-street access to spread out the traffic impact. It is also interesting Mr. Pace if you would drive through Home Depot in Fayetteville to note the many license tags that are apparent throughout the Home Depot and Wal-Mart Shopping Centers that they are in fact attracting very wide regional shoppers. Once again, my entire concern is based on the safety of the residents of Peachtree City and also any incoming people that we have not had to serve yet. I could not in good conscious deny safety whether it is the construction worker on the roof of Home Depot or a long time resident of Wynnmeade Subdivision. That's all I have to say.

— Bob Brooks: I'll address it next I guess, I'll be somewhat succinct. To me it boils down to three issues. Some of those are problems that we already have, one would be overall traffic flow, two would be safety and three would be the issue of clear air. A lot of points have been made before so I'll just sort of summarize. My feeling is that by listening to what was presented this evening that the traffic plan, even with Home Depot, considering the fact that we're going to have development and new residential neighborhoods going to go end irrespective of what happens to the road, and the apartment complex is going to go in irrespective of what happens to the road, that with Home Depot going in, actually we will improve the current situation from a traffic flow standpoint. The traffic flow will move better if this is put in even though the Home Depot is put in. The other thing that I heard very clearly is actually that the Fire Department feels that if these road improvements are made, it will improve safety on the west side of the railroad tracts. That was a very clear statement. If we improve the viability of Huddleston Road, which is what they said was their main access approach, that my feeling is that if we are successful in getting two lanes going up to Highway 54 and one coming from Highway 54 that that gives the option of at least two to potentially turn left but I guess under certain situations that they feel safe, I guess three lanes to get out there and onto Highway 54 which we do not have now. It makes sense that the Fire Department would say it would be safer. I think a key issue is though that to improve the current situation, if we are to improve safety that the road improvements have to be done. My understanding is from what I heard from the developer and other individuals is that this project has to be tied into road improvements and I think we have to tie it into it be permissible, not just approved by DOT but permissible. By that I'm saying that the DOT has to be able to sign off and say this does not fall under the Clear Air requirements and we will allow these improvement to take place. If that indeed is the case than my feeling is that March becomes irrelevant and really, it is in the cities best interest to get this road widened or multiple roads widened and improved. If we can do that through private means and if we are able to do it in a way where we are not hostage to clean air than my feeling is let's go for it. I certainly do not see why tabling it would be a better alternative. I think that if we can wrap up an agreement that says Hey look the developers willing to do this and we would like to do this but we tie into it being permissible and then if the DOT says No, you have to pass the Clean Air and then come March or May, the Federal Government says yes, we approve the plan then it's all tied up. We don't have to readjust it; we have not given the false impression to citizens that it's being turned down. But I think that the package we've seen this evening, this is something that is a win situation for the city as a whole as far as moving traffic, safety and hopefully something that will transition into being smoothly in the future. So I guess I agree with the Mayor.

Mayor Bob Lenox: Any others? Carol.

— Carol Fritz: I've been in a real quandary over this whole issue and gone back and forth over it many, many times. Like you've said, this is probably one of the most time consuming projects or issues that I've ever dealt with. I see two options here. I can say No. I've been told that I'm being watched tonight which I really take offense to on my vote, that if I don't vote No I'm in big trouble apparently. Putting that aside, I'm not even taking that into consideration because I consider that an insult to my integrity. I can vote No and as Bob has stated, this project will not proceed until the DOT, ARC and all those people sign off on it. I'm not sure what's to

be gained by postponing it a month; I'm not sure what's to be gained. What are we going to know more in a month than we don't know now? Nothing. The land is zoned. Legally they can build this building there. We can't stop it. The other alternative is that I say yes and I work with the developer to get the best Home Depot that we possibly can. I'm still sitting here really torn with this. I don't want a Home Depot either and I feel that I'd be much happier with it up on Kedron. But that is not where they have chosen to go and legally they are entitled to go where they are going to go. I'm concerned about the safety. I think that these road improvements will help to some degree. I am very concerned about the trucks; I've never gotten a clear answer to that as far as truck traffic going in and out of here. I have a big problem with there being one access into this development, I just think that there is a safety issue there. I really think we need to see where another access is going to be for that development. These are all issues that I think that the Planning Commission can deal with as we go along. I guess I'm going to vote to approve it, but with extremely strict conditions. I'm not sure how, are we going to do these conditions tonight? Are we going to work on them, how do we do this?

Mayor Bob Lenox: Staff has suggested the conditions but I believe we have much more than that to consider.

Carol Fritz: Exactly, so how do we do this.

Annie McMenamin: One thing that does concern me Your Honor on a comment that you made to me today. I'm probably not going to repeat this exactly right so if you will clarify it. You made a comment that we can put the conditions in place but as in all development, we might find that these conditions just don't quite fit, or just don't quite work so we want to have some alternative backups so that we can work with the developer in an alternative situation should it come up. I am very concerned about allowing too much flexibility because once we put any verbiage in something like this to the developer, they have the legal power to dispute and refute all of the conditions. I'm just real uncomfortable with that statement of alternatives. I understand where you were coming from that maybe a better alternative would come up. But I think that once you start diluting, it was quite interesting today that on a completely different issue, I called two attorneys, one up in Atlanta and one in Fayetteville, got two opinions. Mr. Basinger had talked to another attorney about the issue and he got a contradiction of what I had from the attorneys. So as far as attorneys being on board always, that's not what they are paid to do. So I've just got some real concerns thinking that we're going to write down these conditions and be able to live with them.

Mayor Bob Lenox: Well, that's partly why, in fact that's entirely why I said this agreement has to be produced in writing. I don't want the misunderstandings but we do have to deal with the applicant relative to these conditions.

Bob Brooks: Bob, what enhancements to the letter?

Mayor Bob Lenox: Let's define the conditions aspect of it a little bit better. We have six recommended conditions from our own staff. We have a couple of conditions that have been submitted by the Line Creek Association that I believe that are worthy of our consideration and we need to determine how we want to treat those. We also have a request from the Planterra Homeowners Association to consider imposing certain restrictions. I think we need to look at all of those things and determine which conditions we wish to impose. If you want to start, we can start going through those because I think they are a key element of this.

Jim Pace: For everybody why don't you read the conditions that were placed by the Planning Commission that Ram Development Corporation has already agreed to.

Mayor Bob Lenox: Are these conditions reproduced. Your current recommended conditions are not exactly verbatim from what the Planning Commission stipulated, are they?

Jim Williams: The Planning Commission did not impose the conditions. They denied it.

Mayor Bob Lenox: Alright, then I will read the conditions.

1. The developer shall be responsible for making traffic system improvements as recommended by the City's traffic consultant, Dames and Moore to include, but not be limited to the following:
 - a. Install a new traffic signal at the Home Depot entrance and inter-connect it with the other signals in the GA 54 Corridor;
 - b. Install two through lanes for southbound traffic on GA 74, along with a dedicated right-turn lane;
 - c. Extend the second westbound through lane from SR 74 to the existing right-turn lane at Market Place Boulevard;
 - d. Install a continuous through lane on GA 54 westbound between the railroad bridge and Wynnmeade, along with the necessary turn lanes at the key inter-sections; and
 - e. Install a long decel/stacking lane for GA 54 eastbound at Huddleston, along with double left-turn lanes from Huddleston westbound.

The developer must obtain approval from the GA DOT for all traffic system improvements prior to the issuance of any development permits. All site-specific improvements shall be completed by the developer prior to the issuance of a Certificate of Occupancy. Funds for system improvements shall be paid by the

— developer to the City and shall be held in escrow until such improvements can be completed by the City and/or the GA DOT. The costs for such improvements shall be determined by the City's Traffic Engineering Consultant.

2. The developer must provide a green space area along the north side of GA 54 to reflect the existing green space on the south side of the highway in front of Planterra. In addition to the 60-foot buffer parallel to GA 54, a green space corridor at least 200 feet wide should be provided in the area where the entrance drive extends between GA 54 and the Home Depot parking lot;
3. Home Depot must adopt an architectural program for its building, similar to the program it proposed for its Kedron Center store; and that program must be approved by the City as a part of final site plan approval;
4. Home Depot must agree that it will not conduct out-of-store marketing or store any materials outside its building unless the displays and materials are under canopies approved as a part of the project architecture;
5. The developer must agree to provide the City with acceptable plans for landscaping, exterior lighting, and signage; and those plans must be approved by the City as a part of final site plan approval; and
6. The architectural plan, landscaping plan, and signage program which are developed for Home Depot and approved by the City should serve as a model for all other commercial development in the GA 54 West Corridor.

Those are the recommended staff conditions.

Bob Brooks: We've gone through this before but could we get a comment from Ram Development on those?

Mayor Bob Lenox: Sure. Doug, do you have any comments on those conditions or do you accept those conditions?

Doug McMurray: We accept those conditions of approval.

— Mayor Bob Lenox: O.K., now we have some other proposed conditions. The first of which, I have written in and I eluded to before, I'm simply suggesting that we get all of this in writing in the next few days so that we clearly understand that these are the conditions. Secondly, Planterra has submitted some specific requested conditions.

Annie McMenamin: Just as a matter of record since you are obviously moving in the direction of approving the appeal. I would like to say it as a matter of record that I would like to make a motion to table this until we hear from the ARC.

Carol Fritz: I've got a question. I guess I'm still kind of odds at Annie's proposal. What are the benefits of that or the benefits of approving it with the condition that they get the approvals?

Mayor Bob Lenox: They can't get a developers permit until they get approval.

Carol Fritz: Yes, but Annie.

Annie McMenamin: Well personally it does make a difference to me because I think that we need to hear from them and while we are putting everything in the developers hands right now. I just think that we are the governing body here and we should just act like the same and wait until we can clear up this very important issue that has clearly burdening the entire process tonight.

Mayor Bob Lenox: The one right I like in here is that the developer must obtain approval.

Bob Brooks: Actually there is a motion and we need a second.

Jim Webb: You need a second before any other discussion can take place. It either has to be seconded or fail.

— Mayor Bob Lenox: There is a motion to table, is there a second.

Carol Fritz: I'm going to second for purposes of discussion.

Mayor Bob Lenox: There is no discussion on a motion. You either table it or you don't. All those in favor of tabling it.

Carol Fritz: I'll go ahead and second it.

Mayor Bob Lenox: O.k., all those in favor of tabling?

Annie McMenamin: Aye.

Mayor Bob Lenox: All those in opposition of tabling?

Mayor Bob Lenox, Jim Pace, Bob Brooks: Nay.

Mayor Bob Lenox: My point being that we have said to the developer that he must obtain approval from the Georgia DOT for all of the traffic system improvements prior to the issuance of any development permit, this is not a building permit, this means before they can begin land clearing or anything else, they have to have obtained the approvals from Georgia DOT. I'm going to make the comment that I frankly don't care if that takes two weeks or two years. Until they have those approvals from Georgia DOT, they can not get their development permit. I don't know what more we would achieve by tabling it because this simply says that until we have in hand those approvals, nothing is happening.

Annie McMenamin: I would like something explained because a discussion took place earlier that the bridge could be widened first.

Mayor Bob Lenox: Well I actually would comment on that because you made that comment earlier. Mr. Ellis had a meeting with DOT and we had a lengthy meeting. David, I believe you were there, Jim. And I believe that DOT's comment was if we want them to consider it, they will consider it. But it is probably going to delay the project. Is that an accurate assessment of what DOT said? So, do we push for that or not? We really haven't reached that decision. Now, the other comment that was made. It was actually good news. Actually, the other comment that DOT did make was that based on their current funding, they expected to start construction of this road in July 2001. Is that also correct?

Jim Basinger: That is correct.

Mayor Bob Lenox: Which would mean that the road would actually be finished some time in 2003. We are going to have to make a decision. Do we want to try to push the bridge up at the risk of delaying the whole project, or do we not.

Annie McMenamin: Delay what project?

Mayor Bob Lenox: The entire project. The entire roadway.

Annie McMenamin: I don't think we would delay Fayette County's road project.

Mayor Bob Lenox: Do you want to talk about the Planterra Ridge request?

Jim Pace: Yes, I think that is important.

Mayor Bob Lenox: I do too. First of all, they have asked for extra buffering on the Planterra side. This is not specified in the e-mail that I got but I believe that was intended to be some large caliber trees along the Planterra side of the road that matched up with what Home Depot, I guess, intends to install on the other side. It starts to form this streetscape that we're talking about down Highway 54. Eileen is not here but is that an accurate representation?

Lisa Jones: She comments on the request. (statement was inaudible as she was not at the microphone)

Mayor Bob Lenox: Robert, can you comment?

Robert Brown: More trees on the south side would be nice but we need to keep in mind that the State right of way already comes up to about one foot from the wall of the Planterra entrance. If we put any buffer there out of the right of way, it's just going to get cut down when they widen the road.

Bob Brooks: I think that maybe one of the solutions there is maybe not trying to concentrate so much right next to the State highway but up a little bit. You've almost got an approach way or drive way per say that leads up from 54 into Planterra because Planterra is actually off the street a little bit. Whether it's something we get involved with the developer or the city gets involved with, I think a certain amount of enhancement in that area, which essentially maybe separates that neighborhood from 54, not just from Home Depot but separating that neighborhood from 54. That might be appropriate and that might actually be something that the city might be able to pursue to some extent.

Mayor Bob Lenox: Well, I will ask Mr. McMurrain, are you willing to sit down with the folks in Planterra and look at the possibility, particularly, somebody advanced the idea earlier, and I know we have a right of way problem, but you know if we take the right of way into account and we really start working on this streetscape now

and we get in some of those four to five to six inch caliber trees, by the time that road is built we could have created a streetscape worthy of Peachtree City. I don't quite know how to define this, I don't know whether to say Gee, you've got to plant twenty trees or . beg your pardon?

Lisa Jones: We discussed that a little bit on Monday when we met with them.

Mayor Bob Lenox: Would be satisfactory is we simply made it as a condition that Mr. McMurray will continue the discussions with the Homeowners Association and consider making reasonable enhancements on the south side of the street? I think it is important to remember too, this was in the e-mail, you know we are not making final decisions about everything tonight. We are setting the general conceptual site plan and the overall conditions but this is going to go back to the Planning Commission over and over and over for detailed analysis of each of these things. There are going to be lots of opportunities to make sure that we get the right kind of designs. Is that an acceptable condition Doug?

Doug McMurray: I would like for Bill to address the landscaping issue. I have an issue about us going back to the Planning Commission over and over and over again.

Mayor Bob Lenox: O.K., I didn't mean to scare you. But-you do go back for your landscape plan approvals, your final site plan approval, the normal kind of arguments. Nothing to do with this conceptual plan, No.

Bill Lincicome: For the record, my name is Bill Lincicome. We've been very open, I think we've advanced the idea prior to this evening about the concept of transferring credit to other parts of the corridor, Line Creek, other areas on this western corridor on 54. I think in principal, the developers and Home Depot are in agreement but I think that it would only be reasonable to say that, given the fact that there are substantial replacement credits inherent in this site that it would be limited to what the ordinance requires. We would take overages that are not applied to the Home Depot site specifically and apply those to other areas whether it be in the 54 corridor or at the Planterra Ridge entrance. Do you follow what I'm saying?

Carol Fritz: I see a lot of puzzled looks in the audience.

Mayor Bob Lenox: Yes, explain that to me slowly again. I think he said that there is a limit to how much you can plant on the Home Depot site.

Bill Lincicome: Well there is by virtue of definition in the ordinance. What we discovered in the preliminary analysis was that we made a commitment to plant some 85 5-inch trees along the entrance boulevard. I think there were 120 3-3 1/2 inch caliber trees and when you begin to investigate the area that you can actually plant trees, even with substantial size, we fall short of really satisfying the ordinance on that site. So what we are saying in principal is, let's take those credits that we can't get on the site, transfer it to the 54 corridor, whether it be along the frontage in our 60 foot buffer or whether it be on the south side of 54. In principal, we're in agreement with that. I think there is substantial latitude given the requirements in our ordinance, which are substantial in this case, and I would suspect given this that we will probably not get tree credit and the assumptions that we made in the Planning Commission meeting, we took 20 % credit, which I don't think we are going to get. So what I am saying is, we'll apply that in other areas adjacent to this site.

Mayor Bob Lenox: Right. So I did understand that the trees you are committed to and required to plant on the site, you can't find room to put them all.

Bill Lincicome: Well, we could by caliber. But what I'm saying, I think the community would benefit by spreading the aesthetics around. You follow?

Mayor Bob Lenox: I follow. O.K., there was also a request from Planterra Ridge that if Planterra experiences cut through traffic, it was specifically stated that Home Depot would pay for traffic calming devices. That was a subject we discussed earlier where I think the city made it's position more than clear. I don't know that if we get that kind of cut through traffic that that's necessarily Home Depot's responsibility. I believe that would be driven more by the industrial park and what happens on Huddleston Drive and would be the cities responsibility to fix. We're certainly committed to do that as opposed to Home Depot.

Bob Brooks: I think it's a matter of record that the Council has got a majority that we've made that commitment to Planterra. The minutes should reflect that for future Council.

Mayor Bob Lenox: The last one from Planterra was that all trucks would use the Line Creek entrance and service road and not the Planterra light. Is that stated correctly?

Lisa Jones: Yes.

Mayor Bob Lenox: I mean, when I looked at this one, actually I thought all the conditions were logical and appropriate, I did have a little problem with this one. What I'm saying is that if a truck is coming from the Peachtree City side, the East and is proceeding west going to Home Depot. Now remember, we've heard that there are six - ten of these a day, but if that truck is coming from the East going to Home Depot, it's going to come to the light and the Home Depot entrance and not be able to turn in. They are going to have to proceed another 1/4 mile down the road to the Line Creek entrance, turn in and then come back the commercial service

road all the way down to Home Depot. I'll tell you frankly what my problem is, if they turn in when they get to the Home Depot entrance, they're not in anybody's residential neighborhood, they're not in any area where there is residential traffic, but I do feel a responsibility to think about the fact that very shortly that Line Creek Parkway entrance is the only way in and out of about 850 homes. About 400 apartments, 200 new homes and all the existing homes in Wynnmeade have to go in and out through that intersection and I really hate to throw those trucks doing this when they were right there at Home Depot. I just want to get the rationale behind it.

Lisa Jones: (Comments were inaudible as she did not go to the microphone.)

Mayor Bob Lenox: I could see this if the trucks were coming from Newnan. You don't want them coming down there and then turning left at your entrance.

Lisa Jones: (Comments were inaudible as she did not go to the microphone.)

Bob Brooks: I certainly empathize with that but at the same time, it's not like we can basically stick it to Wynnmeade. It's not really fair to Wynnmeade to say that to protect Planterra, we're going to make all of the trucks turn on the entrance to Wynnmeade. So from an overall standpoint as far as the overall city.

Lisa Jones: That's at the collector road, it wouldn't be right at their entrance.

Bob Brooks: But that's where the light is going and that will be the main entrance for anybody from Wynnmeade that in the morning wants to try to head east bound, that's where the Wynnmeade residents to a significant extent are going to be trying to get out. I think from a fairness standpoint, I'm not sure if we want to have to force those trucks to go down to that entrance and turn. I think it's something we need to be aware of and evaluate but I don't think it's part of a development agreement, we should require those trucks to go to a certain place until maybe we could sort things out a little bit. But I would be against mandating that they go to a certain intersection, it's going to be a detriment to a significant portion of people. Eventually more people might be at a detriment than live in Planterra Ridge.

Mayor Bob Lenox: I would like to study this for a little because I think it would be logical for example if trucks are coming from the east, they can turn directly into Home Depot. If they are coming from the west, they have to make that turn at Line Creek and do this. There is a certain logic but I'm like Bob, I have to put in a development agreement. I would really like to see if the city could study this from a traffic standpoint.

Jim Webb: Mr. Mayor, I think this is just an inherent issue dealing with the cities right to control its streets. We're not talking about any monetary improvements here so I don't know that it needs to be addressed in the development agreement. You can do what you want to do with the streets.

Mayor Bob Lenox: Let's continue this but Jim is right, it's not an issue for the development agreement.

Robert Brown: Just a quick comment on that. There is one main entrance to Home Depot. Most Home Depots have separate entrances for their truck traffic. This one does not so their primary entrance for truck traffic would be their main entrance that also services all other traffic.

Mayor Bob Lenox: I agree.

Robert Brown: I would like to find out if there is any plan on clearing the entire site for the future Phase II or will they only clear Phase I.

Mayor Bob Lenox: I'm going to say that we have no conceptual site plan approved for Phase II so you can't get a development permit so you can't clear it. You've got to have a conceptual site plan before you can get your clearing and development permit. I'm just giving you the cities normal operating process. The other thing we have is the memo from the Line Creek Association relative to run-off mitigation plans and overall permeable area. Some of these things are going to be covered in general by the Planning Commission's normal and staff's normal process. But particularly, item 3, has everyone read item 3? I'll read item 3. Item 3 is reduce parking lot pollution. The developer must agree to make every effort to reduce projected runoff through the incorporation of design principles as directed by the Planning Commission and/or City Engineer. All parking lots shall be required to have the capability to contain one inch of precipitation in a twenty-four-hour period. Run off shall be directed toward permeable areas and away from pollutant-laden areas such as parking lots. And, the parking lots, in part, would be constructed of porous materials to help absorb particularly the petroleum-based run off that comes from a parking lot.

Carol Fritz: I don't know that is actually feasible, the porous materials part.

Mayor Bob Lenox: Yes, that is going to be tough.

Carol Fritz: But there are other things to do that can be worked out. Like up here in #1, again this will all be addressed through the Planning Commission and work all this out, but in using drainage, detention ponds.

Mayor Bob Lenox: I would prefer that those issues be addressed by the Planning Commission and I think they are part of the drainage plan and some of that stuff is already incorporated in there because I've read through that. I think that it should be reviewed by the Planning Commission in the context of this information.

Jim Pace: It's more of a City Engineer issue Bob.

Mayor Bob Lenox: Yes, I agree. That's all the proposed positions.

Jim Pace: I have a question. It's after 11:00pm, do we need to vote to extend the meeting before we take a vote or are we O. K.

Jim Basinger: No, I think you just can't take up any new issues.

Jim Pace: I thought that was the way it was but I just wanted to make sure we didn't have to revisit it.

Somebody in the audience: The original conditions say that permits can not be issued until the improvements have been approved and finished.

Mayor Bob Lenox: No, they have to be approved. Money has to be escrowed and they can not get a Certificate of Occupancy until those site improvements are completed.

Bob Brooks: But they could not start development until it is perennable by DOT. Basically, they can't start and then hope for approval by Clear Air. They've got to have permission from DOT which mandates that it's O.K. At that time, they can start moving dirt and they can also build the roads concurrently.

Same person from the audience: If it appears that they are not going to get finished, then does the city issue a C.O.?

Bob Brooks: They can't start until they get permission. All that matters is how long it takes them to finish the road. But they have to finish the road before they get a C.O.

Jim Pace: I think the point of confusion is that DOT is not involved in this. The developer has to complete the improvements shown on that map, which they will commence immediately. Those have to be complete.

Same person from the audience: That was my question, do the road improvements have to be complete?

Jim Pace: Yes, before they open their doors. If it takes them three years, it's going to take them three years. The good news for me is that I think the improvements will actually make the situation better and they can start a lot sooner, assuming they can get permission. If they can't, they can't.

Phyllis Aguayo: I am still unsure about the credits for trees.

Mayor Bob Lenox: I don't think that is the case. They don't have room to put them.

Jim Pace: We are requiring so many trees, they can't put them all on site so they are going to move part of them across the street.

Phyllis Aguayo: Is that required by ordinance?

Jim Pace: Yes.

Phyllis Aguayo: Will you be giving them tree save credits?

Mayor: No we are not giving them tree save credits for the lot of trees that will actually be remaining there. These are pretty big trees so it's better off to sort them out. I have no other conditions that have been proposed.

Some from the audience: Question about that first condition, talking about the traffic conditions. I thought that when you read the staff recommendation was that it did talk about tying in the Line Creek traffic light and the Planterra traffic light and the City Circle traffic lift and the Highway 54 traffic light with optic cable. I thought that was one of the original founding recommendations.

Jim Pace: It does say that. It does say interconnected with other traffic signals in the Georgia 54 corridor.

Mayor Bob Lenox: And we actually have a commitment from a different developer, the City Circle developer, is this correct Jim? That one of the conditions of their approval was to tie in everything. The only thing that Home Depot needs to tie in is the new traffic light, which is stipulated in it.

Same person from the audience: But the Line Creek entrance is the entrance for all building vehicles..

Mayor Bob Lenox: Yes, that is correct.

Someone else from the audience: I'll just throw this discussion in here but the gentlemen who is with the DOT, he has suggested (Comments were inaudible as he did not go to the microphone.)

Somebody else from the audience: It is extremely simple, on Condition 1, in the second major paragraph about mid way through it says funds for system improvements shall be paid by the developer to the city and shall be held in escrow until such improvements can be completed by the city and/or Georgia DOT. The traffic consultants point is that it may, because of the Clear Air requirements, it may be such that it would make a difference if the developer applies for the permit as opposed to the city of Georgia DOT.

Jim Webb: Actually that should read developer and not city.

(Can't make out the voice): And we would just ask that it be inserted, "the developer, the city and/or Georgia DOT.

Jim Pace: I prefer to insert developer and take out the city.

Doug McMurrain: That's fine with us as well.

Bob Brooks: That being said, I would make a motion that we uphold the appeal and that we send the issue as discussed with the conditions that were approved and discussed this evening back to the Planning Commission for Whatever details they have left to be done.

Mayor Bob Lenox: We are approving the conceptual site plan.

Jim Pace: We are basically concurring with the recommendation of city staff as contained in this memo, with the addition of those two items.

Carol Fritz: To be into a document.

Jim Pace: I will second that.

Jim Webb: Before you vote, can I just have for the record, the developer Ram and Home Depot say that we agree to these conditions. You know, we voluntarily agree to all of these conditions. Also, I guess you understand that it is inherent in this acceptance that you are required to comply with all city ordinances, rules and regulations through the normal processes that we have here in the city. Just both state your names and say that for the record please.

Doug McMurrain: My name is Doug McMurrain. I'm president of Ram Development Group. We agree to the conditions as stipulated here tonight by City Council and staff.

Charles Trammell: My name is Charles Trammell. I am the real estate director for Georgia. We agree to the conditions that the City of Peachtree City has asked us to adhere to.

Mayor Bob Lenox: All those in favor?

Mayor Bob Lenox, Jim Pace, Bob Brooks, Carol Fritz: Aye.

Mayor Bob Lenox: All those opposed.

Annie McMenamin: Nay

Mayor Bob Lenox: I would like to thank everyone who was here tonight for their participation and decorum. That concludes our regular agenda for this evening.