MINUTES OF SPECIAL CALLED MEETING
CITY COUNCIL OF PEACHTREE CITY
November 20, 1995
7:00 p.m.

The Mayor and City Council of Peachtree City met in a special called session on Monday, November 20, 1995 at 7:00 p.m. in the City Hall Council Chambers.

Mayor Lenox led those in attendance in the pledge of allegiance. Present were: Mayor Robert L. Lenox, Councilmembers Annie McMenamin, Robert Brooks, Ed Bradford and Caroline Price.

Mayor Lenox announced that the purpose of this public hearing is to ascertain whether there are certain residential developments in the community that should be "grandfathered" in under the Zoning Ordinance as they existed before our last Council meeting. Five developments are potentially affected and will be heard on an individual basis in the order in which they were submitted to the Planning Commission and/or concept approvals took place.

The Cedarcroft Subdivision, which was originally submitted in 1994 and concept approved on July 10, 1995 for 155 single-family units on 40 acres will be heard first. Second will be the Cedarcroft apartment project which was conceptually approved on the same date covering 300 multi-family units covering five acres. Third will be what will be referred to as the Kedron Apartments for which conceptual approval was issued on September 25, 1995 with 312 units on 25 acres. The fourth we will refer to as the Line Creek Center. On 9/20/95 a master plan was submitted for this area covering approximately 83 acres and along with it was a conceptual plan for 300 apartment units. No approval was ultimately issued because the moratorium went into effect at that point. Fifth is a request from the Huddleston family which covers no specific project but does cover some area in the West Village. They specifically requested grandfather rights although no specific plan has been presented.

The land owners representing the above projects declined to be heard at this time pending the arrival of their legal representative, Mr. G. Douglas Dillard.

Mayor Lenox chose this time before commencing the public hearings in order to present some background and make some general statements which reflected his personal research and opinions.

Lenox said that four of the five projects affect what the City refers to in its internal discussions in planning as the West Village or the potential West Village. If you look at Highway 54, west of 74 going north, there are approximately 148 acres which currently lie within the City limits. All 148 acres are currently zoned commercial. North of that 148 acres, all the way up to Tyrone, lies approximately 1,025 acres which is unincorporated county land. It is landlocked by Tyrone and Peachtree City. Further, there are probably eight or ten property owners in the area of those 1,025 acres who have formed an association among themselves who are working with the City to come up with a master plan for the area with an idea of having the area annexed to Peachtree City. We have encouraged them to do so. They presented their latest plan to us last Thursday. 90 to 95% of the area in their proposal was planned as residential with very small amounts of commercial and community service land, land for schools, etc. In planning terms, what they presented to us would yield a population density of approximately six residents per acre of land. In the context of Peachtree City, this means that at build-out, Peachtree City was intended to have a population between 45 and 50,000 people who would live on 16,000 acres of land. The overall population density of the City, therefore, would be about 3 people per acre.

The Line Creek area, in which four of these five requests are situated, has the following statistics. The projects proposed on this 148 acres, as of today, are 155 units of single-family housing, 600 units of standard apartments, 300 units of senior citizen apartments and 140 units of cluster homes. In addition to that, there is approximately 23 - 25 acres of commercial development. If you added up these numbers you would find that on this 148 acres, the plan submitted to-date represents 1,200 residential units. Our overall average in Peachtree City is 3.1 persons per residential unit. A lot of these are apartments so we would use a lower average. Estimating that the City was requested to permit 1200 units at an average of 2.5 persons per unit or 3,000 people living on 348 acres, this translates to a population density of 20 people per acre. If all of PTC were developed to that population density, we would have 320,000 citizens. While the City called this hearing to discuss a fairly narrow set of fairly well-defined legal rights that the developers involved have, there is a very serious problem with the overall concept of that 148 acres. This density, in effect, negates years and years of planning and execution on the part of the City and the developers that have been here in the past. This density would upset our planning for schools, transportation patterns, roads, the size of the library, the size of City Hall, as well as the recreation facilities. The law aside, for those projects in the West Village, the Mayor stated he would not vote to grandfather them. He would either vote no or to table them for further study. He had two suggestions: 1) We are talking about a massive area when you incorporate the potential West Village. The two plans need to work together; they need to be considered together and the entire, roughly 1200 acres, needs to be master planned. He thought if it were master planned properly and the two plans were dove-tailed, that all of the owners and developers would benefit economically from it. 2) The developers in this situation do have legitimate rights so he was not suggesting that the City would try to take their property without due process or change the rules of the game without giving consideration to those rights. His number one goal would be to have them be part and parcel of an overall development plan for the entire west side. His number two fallback, if you will, was that if they can't or won't or simply are not interested in them, they would have rights to compensation for their direct expenses to-date to a point where we changed the rules and we would consider that.

Price supported what Lenox said mainly because we would lose the focus if we tried to come up with the number of apartment units that should go on the 148 acres. There is not enough information on the table because it does not incorporate the larger area to the north. Roads have to be built with standards that would meet the needs of whatever is developed in that area. The services we need to provide we have been working at for a number of years. If we can agree on a time frame in which we could continue the expanded discussions that include the entire west side and a time frame that is realistic and no later than March of 1996, then this would put the City staff at the disposal of these individuals to further the process so that, at the earliest, in January we could bring something forward that shows the entire west side and when we are at that point, I think the City would be prepared to move forward.

McMenamin said that having served on the Land Use Task Force that Mayor Lenox and Councilmember Price's comments had only reinforced what the task force had intended to do with the west side and hopes that the developers would come to the table and incorporate their new plan into the potential plan of the Westside Village.

Brooks said he agreed with a large majority of McMenamin's comments, but that he too is concerned about the landowners and hoped that they would be able to recognize gain off their land, but one of the things to keep in mind was that the concept of the planned community has made that land much more valuable than it would have been otherwise. It is difficult to justify allowing someone to own the land close to SR 54 and then, at a certain point in time when we are much farther along in build-out, to capitalize in a way that is unfair to the community. Just developing that land in a complimentary fashion to other growth that has taken place in town would definitely allow the land owners a very nice return on their initial investment. Brooks said he did not feel that the actions they have been taking over the last month or two are going to, in the long term, prevent the landowners from making a profit but, at the same time, the overwhelming density the Mayor referred to is very clear. There are infrastructure problems and the worst road we have is SR 54. It would be an absolute disaster to develop this land this way in the next 18 months when any road enhancements are three or four years away.

Lenox said he felt it is our obligation, both to ourselves and to our citizenry, that if we wished to continue the development of the City as it has been in the past, we would have to be more proactive and we may find ourselves shouldering more of the burden. Any of these developments require large infrastructure investment. They are burdensome to developers and cities alike. We have already made a commitment as a City to assist in the financing of the infrastructure involved and to actually pay for some of it. The City expects to make significant financial commitments to speed up the improvement of that road.

Lenox gave the developers an opportunity to submit information tonight or defer this matter until everyone could sit down and discuss it.

Mr. Michael Rossetti, President of Ravin Homes and Mr. Paul R. Cline with Line Creek Village, deferred until their attorney, Mr. G. Douglas Dillard arrived. Mr. William H. Huddleston, Executor of the Estate of Robert Hugh Huddleston, Sr. also deferred.

Lenox said that in the interest of continuing this process, one of the apartment developments that the City is considering for grandfathering, to which his prior comments did not apply as it is not in the West Village, is the Kedron Apartment complex which received conceptual approval on September 25 and covers 312 units on 25 acres and approximately 16.5 of those acres are currently zoned GR 14 which permits such a development. It included approximately 8 to 8.5 acres which is zoned General Commercial.

Eric Edee submitted the costs for testing, analysis, engineering and design, surveying, site plans, financing agreements and conceptual site plan approval which totaled $308,000.

Lenox said the City currently has about seven areas - Balmoral with 312 units, Gables Court -198 units, Peachtree Station - 180 units, Wisdom Woods - 22 units, Woodsmill - 50 units, a small number on Willow Road and a small number right off of Northlake behind Aberdeen Woods. The net effect of this is that we currently have approximately 9,200 dwelling units in Peachtree City. Approximately 800 are apartments, which represents about 9% of housing stock. The City's target for build-out would be about 45,000 to 50,000. He felt that with 16,000 dwelling units at build-out with a population of roughly 48,000, the City would need to have somewhere between 10% to 12% of those be apartments. This would represent a number in the 1600 to 1700 range. The crucial question, aside from the number of apartments, would be the type of apartments. They would need to be aesthetically suitable for the City; be attractive and affordable to the same socio-economic group that would be buying houses in Peachtree City; the location (in that they need to be developed as a part of the City's overall master plan); cited to perform the step-down zoning function that is associated with housing density for commercial areas, apartments, cluster homes and less-dense, single-family ranging to estate residential. Lastly, they would need to have suitable infrastructure planned and in place to service any apartment complex as well as any single-family subdivision.

Lenox gave seven valid reasons for people needing apartments: relocation; temporary location (due to the City's industrial park); places for our children when they leave home; places for us as we grow older; young couples starting out in life; renters by preference; and places for our parents.

Lenox said he supported the development in Kedron because it has been planned for years, it is appropriate to the area, fits the City's step-down zoning criteria, and the infrastructure is in place in terms of schools, recreational facilities, roads, and traffic signals.

McMenamin commented that her experience with apartments had been such that neighborhoods where apartments were located eventually had gone into decline. Also, she had been advised by one economic development group that the Peachtree City population probably had more apartments per population available to them than Atlanta per population. The study sponsored by PCDC was favorable to the PCDC outlook. She stated further that the corporations, once they moved here, did not care if their employees lived in Peachtree City - they enjoyed the planned community themselves. McMenamin wanted to know that 30 years from now, when the City is middle-aged, what would these apartments look like and would they continue to be something to be proud of. She said she was counting on planned development to be as good, if not better, than the City has today. McMenamin asked Chief Murray and Chief Reed to give their views on the apartments the City has today and the potential of the apartments that are being considered and the impact on their jobs and employees.

Chief Reed thought our existing apartment projects were very well constructed and planned. He said we have some problems with access for some of the older projects but that overall the owners had done a good job on the upkeep. Chief Reed said some of the newer projects were also very well planned. The infrastructure and water system were there; however, he was concerned about not following the Land Use Plan pertaining to multi-family developments. He said apartments naturally increased the call volume for fire and EMS services and that most apartment buildings were large, wooden structures and that it would take a lot of personnel and equipment up front immediately to bring the situation under control. If multi-family projects were not controlled, it could become a situation where the department (part paid/part volunteer) would not be able to keep up with the demand. If additional paid personnel was required, it would have a heavy impact on the budget. Chief Reed said apartments were very demanding on services, but that our building codes allowed for good construction. He said if development was not controlled, we could find that the demand for services would get to a point where we would not be able to support a combination department which saved the tax payers a tremendous amount of money by utilizing volunteers.

Chief Murray said that based on 23 years of police experience regarding what apartment complexes did to the City population, that there would be a high influx of calls and the police department would absorb the most impact from any apartments that came into the community. A recent example is Peachtree Station Apartments. The Police Department had 92 calls since May or June of this year involving 160 to 180 units, which was a major impact. Chief Murray said that, environmentally, apartments would cause more calls for service. When you impact a small area and put a lot of people in units that are close together, you would absorb a lot of calls just on nuisance-type calls such as loud parties, loud dogs, children making noise, and also that allowing lots of traffic in a particular area generates accidents and vandalism calls. Property crimes have been much higher due to the fact that people are gone. As a Police Department, the City averaged between one officer for every 600 to 800 people. He added that, currently in Peachtree City, there were 722 people for each police officer.

McMenamin said the Land Use Task Force had been meeting for the past eight months and that they had not anticipated multi-family units on commercial property.

Price said the idea of evaluating the Kedron project the way it fits into the Land Use Plan and the fact that the infrastructure exists already were the things that she was using as a basis for considering it, and that she viewed it favorably, especially in light of the fire chief's comments about the fact that he had looked at the location of this project and that the fire station is in a proximity where it would not put an undue strain on those kinds of services.

Brooks said you cannot look at any of these projects in isolation.

The City must take a larger look, either by section, or what is going on in the City. His viewpoint was that he would like to keep about the same apartment mix in the City at the present time. If we looked at the remaining land the City has zoned multi-family, that would come pretty close to meeting that goal. Another point in relation to this specific project is that, over the last few years, a certain amount of horse trading had been going on from the standpoint of dealing with land owners and there had been a number of occasions when the City had taken advantage of offerings to decrease density in other locations. A few month's ago when PCDC changed some of the zoning on the north side of the parkway on SR 74 to multi-family, he voted against it. When we looked at footing a project like this, you would have to look at what was going on around it in the surrounding area. This project would be very close to a commercial area, but you would not have to cross a major street to get to it. It would already be tied into the cartpath system and it is close to a major recreation area and would blend in very nicely. The infrastructure, as far as roadways, was already there with more than one exit and there have been commitments made to put in signalization. Those are costs that the City was not having to pick up. This was important because the City represented the other residents that were here and they should not have to pick up those costs. However, on the west side the City was talking about a massive project that would empty out onto 54 and the City would not be prepared to deal with that. The other issue was that the infrastructure was in place and was not in place on the west side. That being said, he would support this project.

Bradford said he would support this for the same reasons Brooks stated and that he felt this land was set aside for that particular type of development. The eight acres of commercial land that was needed in this site to make it multi-family was a fair trade. The developer went out of his way to develop the area and provided the infrastructure to support this kind of development in that area. His experience with apartments had been more positive than McMenamin's.

Price told Mr. Edee if they were to approve the project, she would request that the developer take the remaining land that is currently GC and apply for a rezoning to a consistent GR 14 for the entire project.

Eric Edee said that the concept plan that was approved had provided for that and once they were able to finish what they started with the original concept plan and get their building permit, they would agree to resubmit for a rezoning.

Lenox made a motion that the development in question, known as the

Kedron Apartments, be grandfathered under its previous zoning classification and the City would issue a building permit for construction of this project so long as it met the criteria of the Planning Commission's approval of September 29, 1995, was consistent with all appropriate City Code of ordinances and development policies, and subject to the City's usual and customary procedures and practices for issuing such permits. Bradford seconded the motion. Motion carried with Lenox, Bradford, Brooks and Price voting aye and McMenamin voting nay.

Lenox said that, at the suggestion of the City Attorney, another alternative was that if the City wished to continue this hearing to a future date, we could reconvene on 48 hours notice, 24 for a special called meeting. Lenox then turned the forum over to Attorney Dillard.

Dillard addressed Council on behalf of Mr. Rossetti and said that Mr. Rossetti's application had been filed for over six months, approved by the Planning Commission, and that his evidence had clearly shown that he had a vested interest to have this matter resolved. He said he was unclear about what role Council was playing in this process at this time in as much as it was his understanding that because of the moratorium which was put into effect in October and the amendment to the text which was put into place last Thursday night, that Council should not be involved in approving projects that are consistent with the permitted uses under our ordinance as well as our development standards and asked Lenox if this was primarily the role of our staff and our Planning Commission. Lenox confirmed that this was true. Dillard said that because of this he objected to this proceeding. Dillard said he did not think the public hearing had satisfied the requirements of procedural due process and thought that the result was that the property owner's substantive due process rights were being violated and if they were denied that the City was effectively taking these parties' properties without having paid fair and adequate just compensation for same under the due process provisions of the Fifth Amendment as well as the substantive due process of the Fourteenth Amendment and that the adoption of the ordinance was done for the purpose of affecting these parties' rights and their rights to use their property under the pre-existing ordinance. Dillard said he also contended that it was in violation of the equal protection clause of the Fourteenth Amendment. Dillard tendered a copy of his letter dated October 18, 1995 in which he cited Gifford-Hill & Co. v. Harrison, 229 Ga. 260, 191 S.E.2d 85 (1972). Dillard said that based on this case, he thought that Mr. Cline, Mr. Rossetti, and Mr. Reeser were entitled to have their applications processed in accordance with the City's ordinances which existed at the time they applied, which was prior to the adoption of the moratorium and prior to the adoption of the City's ordinance eliminating multi-family development in commercial zoning.

Mr. Rossetti spoke on behalf of the Cedarcroft Subdivision and said he had been back and forth for two years on this project and that one of the major considerations was the access road into Cedarcroft from 54. It was in the City's interest that they wanted that road extended through his property up to the northern sites and that they had changed that several times during the Planning Commission process to accommodate the City's needs. Rossetti described this subdivision and said that they had purchased the property for a little over $1.6 million for 65 acres. The current status was that the property had been cleared and they were getting ready to site grade it. Rossetti said they had worked out a deal with the grading contractor to give him the dirt for our cartpath bridge as a cooperative measure for the grading of the site. He said they had spent money on the submittal of a preliminary plat and engineering plans and that they had expended over $100,000 in engineering start-up costs and were incurring an interest bill of $15,000 a month. Rossetti said they had developed Cedarcroft in conjunction with the zoned property around it, the apartments that were connected to Cedarcroft and the commercial, multi-family property to the south of Cedarcroft and that they had all been developed as a planned unit or area. There were costs associated with the development of that area that all three developers bore. If Cedarcroft were to be approved without any consideration to that, there had also been costs that he had agreed to outside of Cedarcroft and that the other developers had also agreed to that could also result in possible damages.

Price asked Rossetti if there was a period of time he would be comfortable with in terms of trying to work this out so that there was more cohesiveness between this project and the northern part of the Westside Village. Rossetti said that, barring any other problems, they hoped to have homes on the ground by spring or summer of next year and development of the access road would have to start in February or March.

Price asked Williams how much time would be required to prepare a presentation for the entire 1,200 acres and if 45 to 60 days would be a possibility and that within that 45 to 60 days, the work could be progressing for the entire Westside Village. These projects could then be incorporated into the framework of the entire Westside Village as this was a crucial point for looking at any of these parcels. Williams said it would depend on the people doing the work but that it would be a possibility.

Private citizen, Orville Barber, addressed Council and voiced his concerns about the impact of additional people in the Westside Village area pertaining to the traffic situation on SR 54.

Lenox suggested that the land owners and City staff meet on Monday, November 27 at 8:00 a.m. McMenamin, Brooks, and Price said they could attend. Bradford said he would be out of town. Mr. Reeser, Mr. Cline, Mr. Rossetti, and Mr. Huddleston said they would also be able to attend this meeting.

Lenox moved to continue the hearing until the next regularly scheduled Council meeting on December 7, 1995 at 7:00 p.m. Price seconded the motion.

Mr. Bill Huddleston, Executor of the Estate of Robert Hugh Huddleston, Sr. addressed Council and stated that he had 45 acres in the middle of the Westside Village area and that a conceptual development plan was submitted by the CR Partners Group and that the Huddleston family was not a part of the plan and also that his property was included without CR Partners consulting them.

Huddleston said his family does not object to that plan but some kind of plan would need to be developed for that side of town that would involve all property owners so that we would have a true village there. Huddleston said he would appreciate being included in any meetings in regard to this matter.

Lenox called the vote on the motion made previously and seconded. Motion carried unanimously.

City Attorney, Jim Webb, said he thought the best way to deal with the existing moratorium would be to lift the moratorium as it affected Mr. Edee's property, but leave it in place as to any other existing issues. Lenox said so moved, Price seconded the motion. Motion carried with Lenox, Bradford, Brooks and Price voting aye and McMenamin voting nay.

Brooks made a motion to adjourn the meeting. Motion was seconded by Lenox and passed unanimously.

Gloria Strobel

Gloria Strobel, Executive Secretary

ATTEST: Robert L. Lenox

Robert L. Lenox, Mayor