

**Council of Peachtree
Minutes of Meeting
September 20, 2000
7:00 p.m.**

The Council of Peachtree met in a regular session, Wednesday, September 20, 2000, at 7:00 p.m. in the Hall Council Chambers. Mayor Robert L. Lenox led those attending in the pledge of allegiance. Other Council members present were: Annie McMenamin, and Bob Brooks, and Dan Tennant. Carol Fritz did not attend.

ANNOUNCEMENTS, AWARDS, SPECIAL RECOGNITION

Mayor Lenox presented a Proclamation for American Business Women's Association Day

Mayor Lenox presented a Proclamation for Constitution Week

Mayor Lenox presented a Proclamation for Alzheimer's Memory Walk

Mayor Lenox presented a Proclamation for Code Enforcement Week

Mayor Lenox presented Employee of the Month Award to Betsy Tyler

Mayor Lenox advised he had one issue he wanted to make as an announcement. He said as everyone was aware, Council had labored long and hard over the zoning for the corner at Walt Banks and Highway 54 and had decided on a Limited-Use Commercial zoning category for that property. He said he was advised today by Bob Adams, the prime developer of that site, that he had been unable to secure the financing necessary to develop the property in accordance with the Limited Use conditions the City had imposed. He said Adams was concerned that he would not be able to develop the property because his option on the land would run out in December 2000. Lenox said there was a large amount of retail in LUC zoning, and that it was the opinion of the development community, that Peachtree City had in place, or would soon have in place, pretty much all the retail the City needed, and that there was a reluctance to invest further in what was fairly high-end retail. He said Adams had a major developer, whom Lenox had met with once, who had an interest in the project, but only on the premise that he would delete approximately 100,00 square feet of the retail space and add 275 apartments to the development to make the development feasible (Council had previously allowed 75 loft or high-end apartment units).

Lenox explained that Adams had met with the task force that had originally approached this problem, as well as the Neighborhood Association and that both groups said they favored this proposal more than the one Council had previously approved. Lenox explained further that Adams had submitted paperwork to Jim Williams for consideration as to whether the City would change the classification in the LUC zoning. Lenox said, of course, due to the moratorium on apartments, Williams and his staff were not permitted to talk about it. Therefore, Bob Adams' only choice was to contact him, which he had done yesterday. Lenox advised he was leaving the country for three weeks and that time was running out on this land option. Lenox said if the City did not do anything, and Adams failed to exercise his options under the zoning, the property would revert back to the same zoning the property had prior to the City's rezoning and the City would again be involved in the same 14-year legal battle the City had had with Palm Beach and Mr. Lassiter. Therefore, Lenox said he had made an executive decision to instruct the Director of Developmental Services, Jim Williams, and the City Planner, David Rast, to gather all the necessary information on Adams' proposal and prepare their recommendations and a

— summary of the facts for his review upon his return to Peachtree City. Lenox explained further that this would happen some time in October or November and Council should be prepared to address the issue. He said in view of the fact that he would be out of the country and had limited time, he was not prepared to present this matter to Council for reconsideration without the advice and counsel of the experts employed by the City.

MINUTES

McMenamin made a motion to approve the minutes of the September 7, 2000, meeting as presented. Brooks seconded the motion. Motion carried unanimously.

McMenamin made a motion to table the minutes of the August 17, 2000, meeting until Council has an opportunity to review them. Brooks seconded the motion. Motion carried unanimously.

OLD AGENDA ITEMS

06-00-05 Public Hearing – Rezoning – Katz Tract

— Lenox reconvened the public hearing that was previously tabled and stated that he would not re-read the rules for Public Hearings because everyone was acquainted with them, but that they would continue to apply. Lenox gave each side 40 minutes per side and asked the City Manager to keep time.

Doug Dilliard, addressed Council and stated that he represented John Wieland Homes and the property owner, Mr. Katz. He said the application had been deferred a number of times and that his client was now submitting a GR-4 application, and that the applicant had agreed to staff's recommendations. He said the property consisted of 180 acres (100 acres of which were zoned industrial in the City), and that 80 acres were located in unincorporated Fayette County. Dillard explained that there had been issues relative to density, types of access, buffering, the railroad, and a future site for a school – all of which he thought the conditions adequately addressed.

— Dillard requested that Mr. Dan Fields, with John Wieland Homes, present what they felt was a good compromise for the property based on what was originally applied for, and based on what was studied under the Westside Village proposal, and that they requested that Council approve the rezoning request for 350 units for the entire 180 acres. In addition, they would ask, in as much as they were not certain what the County would do regarding the 80 acres in unincorporated Fayette County, that in the event the County approved 20 units, that the City would approve 330 units. However, that the entire 180 acres would not have more than 350 units. He said he thought that would achieve what Council wanted relative to the total density of the property. He said the important thing was that the plan dealt with the issue of schools, which had been foremost in everyone's minds. He explained further that the plan was for a cluster-type development that would allow more flexibility relative to buffering, distances and setbacks from the railroad, access, etc.

— Dan Fields addressed Council and explained that the Katz family had struggled to sell their property for industrial use for the past 25 years, and that in the past six years, Council and the community, the planning staff, and the property owners had struggled with what to do with

all the property along the western side of the railroad tracks in Peachtree City. In doing so, plans had been reviewed that dated back to 1992. Fields explained that discussions about the Westside Village had begun in 1994. In 1995 the Land Use Plan was amended to show this particular property as medium to high density residential that allowed up to four units per acre. He said they had continued to work with property owners along the west side of the railroad tracks to develop a plan on which everyone could participate. He said as part of the Westside Village annexation (which had been denied), the property owners agreed to donate property for a school site with everyone participating in the cost of the site. He said when Council rejected lifting the moratorium earlier in the spring, the applicant presented another plan to Council that indicated 400 units on the 100 acres. He said John Wieland Homes then presented a concept plan that indicated 300 lots on 100 acres. He said this was consistent with all the discussions held by the Westside Village Task Force, but Council had decided the Westside Village would have created too much of an increase in population among other reasons. Fields said the plan now indicated 300 lots on 100 acres in an area where the land use plan called for up to four units per acre. He said they were requesting three units per acre— not four units per acre. He said they had also included some recommendations from the task force (i.e., 100-foot buffers between the railroad tracks) and any lots along the railroad. He said another thing John Wieland Homes had agreed to, in theory, was that John Wieland Homes would contribute the land to the Fayette County School Board. He said the Planning Commission's concern was that the school site would be too close to the railroad tracks. He said that was why they felt the best location for the school would be somewhere in unincorporated Fayette County.

Fields asked if the City should look at annexing the 80 acres. He said given the history of the Westside Village, annexation was not feasible. He asked if the City should leave the property in the County. However, when they reduced their 1/9th share of donating that site, they came down to two things. One was to offer the possibility of 350 lots on 100 acres or 350 lots on the whole 180 acres. He said they were offering to donate land to the school because they felt it was a valid request given the population of Peachtree City Elementary. He said they had discussed this with the School Board and the Board had agreed on the location for the school site.

Brooks asked if the potential school site would be built on the southern most end of the County land so that it would be up against the City's cart path. Fields said the current cart path came along the southern border of the Katz property over to Wynnmeade and that the 20 acres for the proposed school site was located on the southwest corner of the Katz property and that the school would be located between the Wynnmeade Subdivision and the 100 acres and would have direct access to the Parkway. He said they would try to incorporate that into a land plan with staff because one of the staff's recommendations was that they would work with them on clustering the lots so that open space could be preserved and possibly increase the open space.

Dillard said to be more specific about Recommendation Number's 5 and 6 that dealt with noise, vibration, berms, etc., they would prefer that these conditions be subject to the *architectural engineering study*, for which they were prepared to pay.

Dillard said that the Katz family had tried to market the property all this time, that they had lost their access to Highway 74, and that except for the Line Creek Parkway, they were

— basically land locked, which made this property no longer suitable for industrial use. He said this could clearly be viewed as unconstitutional, and to deny some alternative use and require that it remain industrial constituted a taking under all the constitutional provisions submitted in their application.

Dillard asked that Council approve the application to GR-4, for 350 units conditioned upon staff's recommendations. He said, in addition to the obligation to convey a school site with the understanding that, in the event that whatever Fayette County determined in this regard, they would achieve the additional density in the City. For example, if the County approved 20 units, then the City would need to approve 330. If the County approved 30 units, the City should approve 320 units.

Director of Developmental Services Jim Williams addressed Council and stated that staff thought this was an opportunity and that the opportunity should be conditioned on staff's 12 recommendations. He said the applicant was now asking that the conditions be modified.

— Williams said the first condition stated that the property should be classified as GR-3 rather than a GR-4 residential classification. He said they had applied for 300 units on 100 acres and GR-3 would be a more appropriate zoning. He said as he understood it they were asking Council to allow them the flexibility to develop more on City property if the County permitted less. Williams said staff had no objection to that in concept because they did not think that was the plan the City should be considering and that the plan needed a lot of work. He said one of the conditions would be for the plan to be revised to develop a cluster concept in an effort to get more open space around the perimeter of the project and provide a little more separation from the railroad tracks and any of the adjoining properties – some of which might be developed as industrial properties in the future. Williams advised staff had no objection to the GR-4 zoning request; however, the strongest point was that the highest density for the 182 acres needed to be kept at 350 units – that the applicant had indicated that was a break-even point for them and staff thought that density fit in nicely with the other development currently taking place in the area. He said the Cedarcroft project would be developed with four units per acre, and the Wynnmeade Subdivision developed to the south was a little more than two units per acre. Williams said if the entire 180 acres were developed with 350 units, it would be 1.9 units per acre or slightly less than the Wynnmeade density, which staff thought was desirable.

— Williams advised that the applicant had agreed to contract with a reputable acoustics consultant on sound and vibration and that staff had no objections as to the engineer's recommendations regarding berming, sound walls, and architectural treatment, which staff thought would be appropriate for the project. He said further there should be a minimum of 100 feet of undisturbed buffer on the railroad track right-of-way no matter what the acoustic study indicated; not only for sound and vibration reasons, but in order to develop a good subdivision of the caliber proposed. He said during the Planning Commission meeting, the applicant's proposal indicated they would start with houses in the \$200,000 range, and staff felt this would be an enormous benefit to the property values in the area.

— Williams continued saying that one of the major conditions was that the applicant extend MacDuff Parkway from the south end to the north end of the property. Williams

— said, without getting into all of the controversy the City had about extending MacDuff Parkway from Highway 54 to the north end of the property, staff would like to see no ifs, ands, or buts about extending it because the Fire Department had indicated that MacDuff Parkway needed to extend to Highway 74 for emergency service purposes. Williams said the applicant had agreed and had actually worked on the traffic study that would define the impact of the project on the traffic in the immediate area and how it would impact the Highway 54/74 corridor. He said the project would have to comply with the Traffic Impact Ordinance and the purpose of the study would be to make sure that the project did comply. He said staff had done a preliminary determination through the City's consultant and that this project would qualify for development under Peachtree's ordinance. He said if Wal-Mart were approved, it would take all the available capacity in the corridor, but that Wal-Mart was not currently in a position to be approved. Williams said staff would need a greater definition from their study. Williams said the plan needed to be sharpened to a really good cluster development plan and that staff expected to see several tot lots and neighborhood recreation areas. He said, obviously if the school site were to be developed as the applicant had suggested, this would provide additional recreation and open space.

— Williams said another important feature of the project that staff thought should be a condition was the need to allow for the connection of a road from the northern side of Wynnmeade to MacDuff Parkway because Wynnmeade was currently one long cul-de-sac and the Fire Department could not provide adequate service to the upper reaches of the cul-de-sac. He said he thought Council would soon see plans for another 80 to 100 lots in the area that was currently zoned for development. Williams said staff thought that development should be conditioned on tying it back into MacDuff Parkway to create a loop so that when MacDuff Parkway was extended to Highway 74, as proposed, it would provide for excellent emergency service from the north and the south.

Williams said the final condition was that the developer make available to the Board of Education – at no cost to the Board – a 20-acre site for a school, that it had been discussed to some extent with representatives from the school and they felt it was a good prospect and that staff was investigating it. Upon consideration, it appeared that the developer was willing to do this.

Williams said further that the starting price range of the homes was an important factor and that this kind of development was really needed to get a new wave of positive development in that area and would have an enormous positive effect on Wynnmeade. He said JOHN WIELAND HOMES had a superb track record, that they left their communities with good neighborhoods as a result, and that after a couple of years of maturity almost all of the developments were good neighborhoods.

— Williams said extending MacDuff Parkway was a vital part of the long-range plan for that area and that the Fire Department concurred with that. Further, that this project would bring the Parkway a substantial part of the way at no expense to the City. Williams said the extension of the northern road from Wynnmeade to MacDuff Parkway would also be a vital extension. He said staff was not suggesting that the developer of this project build that road, but that they accommodate the road, leave a right-of-way for the road and try not to block it because it was very important to the overall development

of the area. He said this was an opportunity that needed to be taken, and that the Planning Commission did not have major problems with the concept, but they were extremely concerned about the school situation. He said the City had an overcrowding problem right now and if the City allowed another 300 or 350 homes in the area, there would be more school population, which would add to the problem. He said this provided for a very important element in working toward a solution to the problem, and that if a school were built, it would be literally within walking distance of the school and would be a true neighborhood school. He said the Fayette County School Board was looking for sites in the western part of the County, the area north of Peachtree City and Tyrone, and he thought with the donation of a site in that area, it would lock the Board into that particular piece of property and would be an enormous service to the families that live there, and that staff recommended approval of the zoning.

Hearing no one else to speak in favor of the rezoning, Lenox asked if anyone would like to speak in opposition to the proposed rezoning.

Peachtree City resident Steve Brown addressed Council and made the following points. He said he had attended the Planning Commission meeting and he knew the Commissioners had liked the concept of residential zoning, but the reason it was denied was because the Commission thought it would put a burden on the school system. He said a decision should be made as to where the City would draw the line on increasing density in residential areas.

Brown said the other problem was the location of the school site in the area. He said he was on the Train Derailment Committee with the LEPC (Local Emergency Planning Committee) and he had asked Council and the Planning Commission to contact the LEPC to get a position paper on the viability of putting a school site there. He said evacuation would be a problem because there was extremely poor access. He said clearance in the event of a hazardous situation was 1.5 miles away from the incident.

Brown was also concerned about pressurized tankers carrying hazardous materials because of the uncertainty about what the tankers would possibly be transporting in 5 to 10 years from now. Brown's other concern had to do with the frequency of sabotage throughout the world and that this type of disaster was not to be taken lightly.

Peachtree City resident Phyllis Aguayo addressed Council and said she had concerns about the overall numbers. She said that 10 or 12 conditions had been attached to the Katz property rezoning request, and she thought that was very wise and advisable to do so, but still had concerns about so many projects in that area.

Aguayo's other concern was that she did not think it was appropriate that the entire industrial strip of the Highway 54 corridor should be residential and wanted the City's reassurance, that if the rezoning was approved, the City would not be setting a precedent or give the impression that all the properties to the north that were currently zoned industrial would be considered for residential marketing at some time in the future. She also said she thought there was some merit in marketing the property for retail use.

— Aguayo said another concern was the school site and hoped it would be built as far away as possible from the railroad or any busy traffic. She said she also wanted reassurances from the School Board that a school would be built there in a timely fashion to serve children in that area because the School Board had not always built schools where residents wanted them.

Peachtree City resident John Dillahunt asked if the project, as conceptually shown, would have an egress onto Highway 74. He asked if any road other than MacDuff Parkway would be extended, or would it be totally dependent on MacDuff Parkway as a Highway 74 access.

Lenox said the City had asked the applicant to extend MacDuff Parkway to their northern border, but that the City could not guarantee that it would ever be extended beyond that point. Lenox said under the current plan, the only ingress/egress was Highway 54. He said long range the City would like to see MacDuff Parkway connected to Highway 74, but there was no way to guarantee it.

Brooks said he had spoken with some Fayette County Commissioners and they had indicated that they would require the remaining Pathways property to connect to Highway 74 and to MacDuff Parkway when it went through the planning process so that the remaining land in the County would be safe.

— Peachtree City resident Orville Barber addressed Council and stated that he was concerned about the entrances to the Wynnmeade Subdivision. He said there would be approximately 280 apartments, and approximately 700 homes on MacDuff Parkway with one narrow entrance onto Wynnmeade. He asked if there were plans to place more entrances to Wynnmeade, so it would not get backed up because there would be no stoplights.

Brooks said the plan was to have a northern connection from Wynnmeade to MacDuff Parkway and if the land was developed north of the Katz property, Wynnmeade residents could exit Wynnmeade and go north on MacDuff Parkway and north on Highway 74.

Lenox said Council was aware of the potential for problems and was determined to do as the City had always done, and that was to make it all work properly. If that required the City to make additional improvements into the new entrance to Wynnmeade, the City would do so when the time came, and if traffic control devices were needed, they would be installed.

— Dillard introduced Mr. Jerry Whitaker, Director of Facilities Planning and Land Acquisition for the Fayette County School Board. Whitaker said the School Board Superintendent, the Assistant Superintendent of Facilities, the Director of Facilities and he had inspected the site and had found it acceptable and hoped that the City would allow the school at the proposed site to tie into the sewer.

McMenamin commented that she remembered that the School Board had intended to build a school on Highway 74, but after studying the site more thoroughly had determined that it was not feasible to build a school there after all, and that was why

— they built on the Starr's Mill site. She asked if Whitaker was confident that the proposed site could be prepared for school construction.

Whitaker said the School Board had not had any engineers or architects evaluate the site as yet - that they had just walked the property and decided it was acceptable pending the required studies.

McMenamin said the fact that they had not studied the site in order to confirm that the school site would be suitable was of concern to her.

Brooks asked Mr. Fields if the applicant would be willing to do some borings on that site. Dillard confirmed the applicant would be willing to do so. Dillard said the applicant felt the land was reasonably acceptable and accessible, but that they had not conducted any final engineering studies; however, they would be willing to participate in the funding of the study to determine if it was suitable for a school.

— Lenox asked for confirmation that, if the proposed school site was not acceptable, the applicant would not request that any additional units be built. Dillard said no, they realized that traffic was an issue on all zonings in Peachtree City and all over the Atlanta area; however, by agreeing to comply with the Traffic Impact Ordinance, the applicant did not want to waive their previous objections to the constitutionality of the Ordinance. He said that Georgia Law was pretty clear that zoning could not be denied based on traffic – that traffic was part of the natural growth of development of any property for any other use other than agriculture. Dillard said they were working on the Wal-Mart site to try to achieve accord within the Ordinance, but in the event the applicant was unable to do so, then by agreeing to this condition, they did not want to waive their right to contest the constitutionality of the Ordinance.

Dillard said this was an opportunity for the City, the County, and the developers to work together to connect this system of roadways with MacDuff Parkway as the project progressed. He said the applicant had agreed to build the road system and that it would enhance overall EMS, Fire and Police protection, while giving the applicant an opportunity to use their property, which they had been unable to use for almost 30 years. He said it also gave the City an opportunity to create a safe environment for those who lived and worked there. Therefore, Dillard said the applicant would request that Council approve the rezoning of the property to GR-4 with a limit of 350 units on the entire 180 acres. Further, as a condition to the issuance of a Land Disturbance Permit and for conceptual site plan approval, the applicant would convey a school site to the Fayette County Board of Education, and that whatever densities were not permitted in Fayette County, that the applicant be allowed to make up that density in the City, but not to exceed 350 units for the entire 180 acres.

— In responding to Lenox's inquiry about the speed limits for the railroad track on the west side, beginning from the time it left Fulton County, and entered Fayette County until the time it exited Fayette County, Acting Chief Lohr said there was 15.3 miles of track in the County including Peachtree City and that the speed limits were 55 miles per hour except for a small section south of the AT Plastics facility, which was 40 miles per hour.

— Lenox then called the Public Hearing to a close so that Council could discuss the matter.

Tennant advised that his personal home was currently in a refinance position with John Wieland Financial, and asked for Rick Lindsey's opinion as to whether it would be viewed as a conflict of interest in this matter. Lindsey said he had checked on this and that there would be no conflict as long as Tennant disclosed it publicly.

Brooks addressed the risk issue and said probably 50% of Peachtree City was within 1.5 miles of the railroad tracks, and that an overwhelming majority of residents felt fairly comfortable with safety issues regarding transportation of products. He said he felt comfortable putting his family in an area that was fairly close to the tracks. Regarding the distance from the CSX railroad, Brooks said that Kedron Elementary, Peeple's Elementary, Rising Star Middle School, and Starr's Mill High School were actually closer to the railroad than the proposed new school site. He said the lineal distance of Peachtree City Elementary and Huddleston Elementary was about the same distance; therefore, he felt the new school site was possibly safer than some others. Brooks said further that Kids R' Kids, Primrose School, Clover Reach Day Care, as well as several subdivisions such as Ardenlee, Sagamore, Blueberry Hill, and Pinegate were all significantly closer to the railroad tracks than the proposed new school site.

— Brooks said irrespective of what happened with the property, because of the number of children who currently attended Huddleston and Peachtree Elementary schools, the City already had a need for an additional elementary school because there would be 340 homes in Wynnmeade, 220 in Cedarcroft, and a small apartment complex. Brooks said if the City did not try to secure a new school, there would be children from north Kedron going to elementary school in Tyrone some time in the future.

Brooks said if the City had annexed the west side at the level that had been proposed, the City would have obtained a school site, but that two or two and a half schools would have been needed for the amount of children that much development would have generated.

— McMenamin said Brooks had brought up some excellent points because approval of the rezoning would provide an opportunity to create and provide important elements to the west side of the City. She said she was very concerned about the safety and the timing of the development and she thought it would create the potential to extend MacDuff Parkway and that perhaps Loop Road could also tie in, which would accommodate some safety concerns. She said the school site was critical to the area just to accommodate what was currently planned. McMenamin stated she assumed the School Board would ask for sewer capacity; and in assuming that, would the City then ask the developer to accommodate the sewer to the site? And if not, would the School Board be responsible for paying for it? She said the applicant talked about fully funding the school site and asked that they include sewer connection.

Fields said there was sewer currently at the north end of the Parkway where MacDuff connected with the Katz property and that was the location they had discussed with the School Board.

— Tennant asked Rick Lindsey if it would be unconstitutional, in his opinion, if Council did not approve the rezoning. Lindsey said he had done some research and that the only case he found came from the State of Maryland, which dealt with the refusal of a local government to rezone property that was zoned Open Space to Residential Use, and that the only reason given was overcrowding of schools. He explained further that the Maryland Appellate Court had cited heavily to the United States Supreme Court and said it was unconstitutional not to rezone if there was not a viable, economic use of the property as presently zoned. Therefore, you would have to take Mr. Katz at his word as to whether he tried to market the property for 27 years as Industrial or OI. Lindsey said if he had, and had not been able to market it, he did not presently have an economic, viable use of the property. However, the Court said that local government boards did have the right to look at density, so when you considered the impact on schools, etc., local boards could look at the density of the proposed rezoning, but then you would have to consider what the surrounding property was zoned. He said, in this particular case, the applicant was requesting a reclassification to GR-4, had agreed to 350 homes on an 180 acre site (which was effectively a GR-2) and that it was a step down from GR-4. Lindsey said he would have to agree with Mr. Dillard, that as the property was presently zoned, if the City refused to rezone the property to some type of residential use, that it was unconstitutional, but that he did believe the City had the right to evaluate the density issue.

— Tennant said he did not know to what extent Mr. Katz had investigated an OI use on the property, but felt perhaps Katz did not have the proper incentive to do so and that if Council did not approve the rezoning, Katz would have more incentive to do so. He said he would be unable to support the rezoning based on the density levels and the increased number of school children, and the pressure on the infrastructure.

Brooks said from a practical standpoint, the number one source of danger for children was going to and from school, but that the City would have to put a school there anyway. He said one of the things the City was trying to do was make that area look nice and become more stable. He said he knew of nothing that would help the resale of homes in the area more than a nice neighborhood school and would perhaps create a situation where it would be almost one of the best environments in Peachtree City as far as accessibility from the adjacent subdivisions. Also, this was an opportunity to build brand name houses because John Wieland Homes was well known in the metropolitan Atlanta area. In addition, the rezoning would allow for legitimate step down zoning that would be consistent with the borders of the rest of the City; particularly on the east side.

— Brooks said further that if the City went to Court, this property was land use planned Residential. Also, did the residents of Wynnmeade want it zoned industrial? He thought residential was the most appropriate zoning, that this was one of the things that came out of the Westside Task Force meetings, and that he was willing to put up with a little more density in order to obtain a school site and a road, which would create an environment that would be a stabilizing factor for that site.

Brooks asked for advice from Rick Lindsey because he thought what the City was asking for could be considered new ground, in that the City would be asking for a

school site that was adjacent to City and County property, which Peachtree City actually had no control over.

Lindsey said the City should put a *reversionary clause* in the agreement because how else could the City control what happened on the unincorporated side of this parcel of land. He said the applicant would have to agree with all the conditions discussed tonight, could not breach any of the conditions (meaning that there would be 350 total units on that parcel of property whether the applicant donated the school site or not), and had also agreed to provide sewer service to the site. He said the City would ensure sewer access was provided to the school site. Lindsey said he thought it would be the School Board's responsibility to actually bring the sewer service into the proposed school building. He said, however, that if the applicant breached any of the conditions, then the zoning would revert to its current zoning.

McMenamin asked Williams if he thought anything critical was being left out. Jim Williams said he did not think anything was left out, but agreed with Lindsey's reversionary clause.

Dillard said the applicant agreed to provide sewer to the school site, and that the City had a set of conditions they could enforce, and if the conditions were not complied with, they could withhold the permit by issuing a Stop Work Order. He said without zoning reversal that would complicate things (i.e., if the applicant began construction, under a concept plan, and for some reason the City determined that 360 units were being built rather than 350 units, the remedy would be to ensure there would be no more than 350 built). Dillard said his concern was that if they failed to comply with any of the conditions of zonings, they would lose everything. He said he would not have a problem with reversion if all other avenues such as enforcement had been explored. He said they recognized the enforcement provisions the City had under the Ordinance and that any reversionary provision the imposed on the property would have to comply with all the due process provisions of the Fourteenth Amendment.

Brooks thought the other critical issue was that the City wanted the School site and the *workability* of the school site confirmed within a finite time.

Dillard said he did not think the site had been determined, but that the applicant had committed to identify not more than 20 acres for a school site, and as Williams had said previously, the applicant would have to come back in the conceptual process and determine the clustering and buffering, and at that time the site would be identified.

Fields addressed Council and said that staff had recommended that the school have access to MacDuff Parkway and that that was their intent - whether it was the southwest corner of the Katz property or somewhere north of there. He said the applicant would work with the County School Board to make sure the site worked for everyone regarding the overall clustering and the land plan.

Lindsey said as a result of his discussion with the General Counsel for John Wieland Homes, as opposed to the reversionary clause, one option the City might consider

would be for the Peachtree City Building Department to coordinate with the County Building Department to ensure there would be no more than 350 units and handle it administratively.

Dillard said that was acceptable subject to the applicant's objection to the Traffic Impact Ordinance and subject to the revisions to Condition Numbers 5 and 6, as stated previously.

Lindsey said the other condition that was not agreed to earlier was access to the sewerage system. Dillard said the applicant had agreed to provide sewer to the school site as an additional condition.

Lenox made a motion to approve the rezoning of the Katz tract of approximately 101.6 acres, plus or minus, from industrial to GR-4 subject to the 12 conditions set forth by the Planning Commission and staff; that Condition Numbers 5 and 6 should be revised to say "as the applicant's engineer recommended" instead of "as necessary," and that the applicant further agrees to provide access to sewer at the property line for the school site, which shall not be more than approximately 20 acres, and that total density for both parcels of the Katz property (including the 82 plus or minus acres in the County) shall not be more than 350 homes and that the number of homes on the parcel within the City would be adjusted in accordance with what the County decided regarding the County acreage.

Lindsey said when and if the property were developed, Council would have to approve providing sewer *going out of the City* limits to the school site.

Lenox asked for a second on the Motion. Brooks seconded the motion.

In response to Tennant's question regarding whether the City had any jurisdiction to place restrictions on the County plan, Lenox answered that the City could control the number of units that would be within the Peachtree City limits within the provisions of that zoning condition. Brooks said the applicant had agreed to this previously.

In response to Aguayo's comment about whether the City could do anything to make it clear that the approval of the Katz rezoning would not set a precedent for the Highway 54 Corridor, Brooks said that City staff recommended that the remaining parcel of land in the industrial area on the northern border of the Katz property should not be zoned residential and that Council would probably ask staff to formalize that issue from a policy standpoint for Council's consideration and for public discussion.

Lenox asked for all those in favor. Motion carried 3-1 with Tennant opposing.

Lenox concluded by stating that the City should have annexed that one piece of land because now there was a situation where 90% of the homes would be built on 60% of the land. He said there would be some two-acre lots in the County, and it would be a little incompatible. He said there would be a school that was actually not in Peachtree City, and that the City would have to negotiate all sorts of agreements with the County to provide fire and emergency services; particularly in light of the school. He said he thought the City would have been better off if it controlled the entire parcel. He said the City had now established

the maximum possible density. Further, that Williams and the City staff, John Wieland and his staff, and Dan Fields could have developed a better design if they had simply worked with the entire 180 acres, put in a school, 350 homes that would be clustered, that the maximum amount of green space would have been preserved, sewer would have been provided, and the City would have had no service problems.

Lenox said he would be more concerned if something happened at the school six years from now, and the City had a service agreement with the County, and that if someone made a mistake in Dispatch, there was the possibility that no one would send an ambulance because they would not be sure whether it was Peachtree City or Fayette County's responsibility.

Brooks confirmed for everyone's benefit, however, that the City would not readdress the annexation issue for this property.

Lenox made a motion to take a five-minute recess. McMenamin seconded the motion. Motion carried unanimously.

09-00-01 Ordinance – Outside Storage Display

Lenox said City staff had requested that this item be tabled until the October 5th Council meeting. Brooks seconded the motion. Motion carried unanimously.

NEW AGENDA ITEMS

09-00-04 Consider Resolution – Fiscal Year 2001 Budget

Basinger addressed Council and said this was the second required meeting by Council to consider the budget for FY2001, that the budget had been presented in detail at the September 7th Council meeting and that staff had presented a proposed budget totaling just over \$27,340,605. He said major expenditures had included an Operating Budget of \$12,892,000, a Public Improvement Program that totaled \$7,815,000, Debt Service of \$731,000, a Self-Insurance Program of \$2,257,000 and a Council Reserve of \$700,000. Basinger said the General Fund Revenues were projected to total \$16.5 million, that Development Impact Fees should be received totaling \$400,000, and that the City had projected to receive State and County grants totaling just over \$300,000. Basinger said further there were some major carry-over funds that were actually the City's revenues also. He said in the General Fund, the City was projecting unreserved cash carry-over funds of \$1,673,869 and carry-over funds in the Public Improvement Program for projects not completed, which totaled \$4,554,636, and that the Police Station had the lion's share of this amount. Finally, that Self-Insurance Reserve carry-over funds were \$950,000. Basinger said staff recommended that Council approve the budget resolution approving the budget.

Basinger clarified for Brooks that Council should approve the budget for \$1,673,869 and reduce it by \$275,000 if the Digest was rolled back.

McMenamin advised that her son-in-law was employed by the Peachtree City Police Department and that she had no input about his promotions or salary, but as a matter of public record, she wanted it known that she would be voting on the budget.

Brooks made a motion to approve the budget resolution as presented. Brooks seconded the motion. Motion carried unanimously.

09-00-05 Public Hearing - Increase in Property Taxes (public hearing 1 of 3)

Lenox said this was the first of three public hearings relative to an increase in property taxes – potential or actual – and involved discussion of the millage rate.

Basinger addressed Council and stated that the City had received the 2000 Tax Digest from the Fayette County Commissioners office, and that the Digest had increased 8.67 percent over the 1999 Digest. He said based on the City's current millage rate of 4.06 mills, this levy would generate \$4,781,201 in tax revenue, which was \$11,617 dollars less than projected in the FY2001 budget that Council had approved earlier this evening. He said of this increase in the Digest, .224 mills were attributable to reassessment.

He said further that if Council were to roll back the .224 mills, the new millage rate would be 3.84 mills. However, this would result in a budget shortfall of \$275,000. Thus, staff recommended the net millage rate remain at 4.06 mills. He said this would require Council to set a local option sales tax roll back rate of 4.30 mills and a gross millage rate of 8.36. He said staff's recommendation was based on the fact that the City's Operating Cash Reserve totaled \$1,673,869, which the City had been striving to increase each year in order to have three months operating cash on hand.

Basinger said should Council elect to roll back the .224 mills and fund the \$275,000 shortfall out of reserves, the reduced net millage rate as stated earlier would be 3.84 mills. This would result in a lost roll back rate of 4.30 mills and gross millage rate of 8.13 mills. Thus, Council's decision was whether to retain the current net millage rate of 4.06 mills, or to roll back the .224 mills attributable to reassessment to a net millage rate of 3.84 mills and fund the shortfall of \$275,000 from Cash Reserves. Basinger concluded by saying that should Council not roll back the millage tonight, State Law required that two more Public Hearings be held before Council took action on this matter. He said staff had tentatively scheduled the next Public Hearing for Tuesday, October 3, at 7:30 a.m., and the final hearing for Thursday, October 5, at 6:45 p.m. (just prior to the regularly scheduled Council meeting). Basinger said if Council did roll back the millage rate, the City would not be required to hold the Public Hearings.

Brooks said the City had made a concerted effort for a number of years to increase the cash reserve and this had placed the City in a significantly better financial position and allowed the bond rating to be improved despite the fact

— that there was a significant increase in the infrastructure. He said that the tax definition for tax increases had changed this past year due to new State guidelines, but he thought the City could still reach their goal next year without increasing taxes by the new definition. He said it was very important to realize that this action would not change the operating or department budgets, but would increase the cash reserve one year more slowly.

McMenamin said she agreed, but thought Council should evaluate it carefully every year until build out.

Tennant concurred with Brooks' remarks and thought it would be fiscally prudent to roll back the millage.

— Lenox said the City should strive to get to one-fourth of the budget for a cash reserve, but that the City was not in any financial difficulties and was far better off than ten years ago. However, a little over two mills of the 4.06 mills went to support the Capital Improvement Program – not Operations. Therefore, the City's tax rate could be far lower if the City were not meeting the demands that Peachtree City residents had placed on the City for primarily recreational facilities, but also public service and safety facilities this year. He said he thought it was important to recognize that most of the millage rate went to support 50-year investments for which the City would enjoy the fruits of for a long time. Lenox said it was also important to point out that the City's millage rate of 4.06 mills, if you lived in a \$200,000 house for instance, meant you paid the City of Peachtree City \$27 per month in property taxes for which the residents received many services.

Brooks made a motion to set the millage rate at 3.84. McMenamin seconded the motion. Motion carried unanimously.

09-00-06 Consider Policy – Traffic Calming Devices

— City Engineer, Troy Besseche addressed Council and stated that a draft policy had been presented to Council at the 2000 Council Retreat. He said Council had asked about the Georgia Department of Transportation's LARP funding with regard to speed hump placement as well as the Gwinnett County Department of Transportation's experiences with their Speed Hump Program. Besseche said no decision was made regarding the Traffic Calming Policy at the 2000 Retreat, and that since that time, he had contacted Mr. Marion Waters, Georgia Department of Transportation's State Traffic Engineer, who explained that it was the GDOT's intent with the LARP program to assist local governments with the maintenance and improvements to key roadways in those communities. Mr. Waters explained that their primary objective was to move traffic – not hinder it; therefore, when the GDOT received a LARP funding request, they took note of speed hump locations on particular roadways, and they would be unwilling to fund the resurfacing of those roadways because the speed hump itself indicated that the roadway's primary objective was not to move traffic necessarily, but to provide access to property. Besseche said Mr. Waters also indicated that that policy might be subject to change with the implementation of a new program from the new Commissioner.

— Besseche said he had also met with Mr. Martin Brotherton of the Gwinnett DOT regarding the County's Speed Hump Program that was first implemented in 1994. Mr. Brotherton said since the program's inception there had been no significant change or challenge to the program. He said the program had been well received wherever they had implemented speed humps in Gwinnett County neighborhoods and that they had installed the speed humps in approximately 100 neighborhoods thus far with the only result being that there was a call for even more speed humps as well as a call for additional traffic calming measures.

Besseche reviewed the draft policy stating that, in the future, when he received a complaint or a request for some type of traffic control measure at an intersection, the City would evaluate the intersection to determine if it met the warrants for each of the three approved measures listed in the policy. Besseche explained further that if it did meet the warrants, the City would take the necessary action to address the situation at the intersection. If the intersection did not meet the warrants, the City would then go through a procedure to offer the stop sign as an alternative. He said if the stop sign did not work for a particular intersection, the City would evaluate the use of pavement texturing. If the texturing did not work, the City would then take the last step, which would be the implementation of speed humps, which was conditioned upon approval by emergency services personnel.

— In conclusion, Besseche presented the following two recommendations. One recommendation would be to implement the policy with the exception of the speed humps as indicated in the CAR-10-1. However, because of the remaining uncertainties regarding speed humps – at least in the public's mind – he recommended evaluating a pilot program whereby the City could install the speed humps in some fairly significant locations to get an idea what the implications would be without exposing the City to extreme liability by installing the speed humps on a public street. The two locations Besseche indicated were the long driveways located at the Kedron Fieldhouse and Aquatic Center and the South 74 Baseball and Soccer Complex. Besseche said at such time as the speed humps were installed and the City had an opportunity to determine the effects and study them more carefully, he would present the findings to Council at a later date to give them an opportunity to implement the third option, which was the speed hump itself.

In response to Tennant's question as to how staff would study the speed humps at the baseball complex, Besseche said they would conduct speed tests and check on volumes using tube counters for both speed and volume.

— Lenox said he thought it was a reasonable program. Brooks made a motion to accept CAR-10-1 as City Policy with the exception of the speed hump portion of the Policy, which Besseche would report on after the studies were conducted. Tennant seconded the motion. Motion carried unanimously.

09-00-07 Appointment to the Planning Commission

Basinger addressed Council and stated that the Selection Committee, composed of Mayor Lenox, Councilmember McMenamin, and himself, interviewed eleven applicants for the vacancy on the Planning Commission. He said it was the recommendation of the Committee that Mr. Dennis Payton be appointed to serve a term from 10/1/00 through 9/30/03 and that Mr. Robert Buckley be appointed to serve as an alternate to fill any vacancy that might occur.

McMenamin commented that the candidates who applied were exceptionally qualified for this position and that one of the applicants had even offered to serve in any type capacity.

Lenox made a motion to approve the appointments as recommended by the Selection Committee. Tennant seconded the motion. Motion carried unanimously.

09-00-08 Consider Holly Grove Road Tunnel

Basinger addressed Council and stated that the developer of Holly Grove Pavilion was required to connect Holly Grove Road to Highway 74 and that the connection was intended to be used by a large number of Peachtree City's southernmost residents on a daily basis. He said the extension would cross over an existing cart path that connected Forrester Place Subdivision and Starr's Mill High School to the path system. He said the path would also connect to the South 74 Baseball and Soccer Complex and the Meade Field Complex in the future. Thus, this path would allow for a significant amount of traffic and would make the cart path crossing over Holly Grove Road very dangerous. Further, the City had an opportunity to install a cart path tunnel under the road before it was constructed. The price for constructing the tunnel was solicited from the contractor, Superior Excavation and Construction Service of Peachtree City, who would construct the road. Superior also offered to construct the tunnel – a concrete box culvert – at a price of \$55,000. Basinger said staff felt this was a very fair and reasonable price. He said should the City employ one contractor to build the road and another to build the tunnel, there could be a significant problem assigning blame should problems occur with the tunnel or the road in the future. He said for this reason, and the fact that staff felt the City had obtained a fair and reasonable price, staff recommended that Council authorize staff to enter into a sole-source contract with Superior to build the tunnel at a cost of \$55,000, which would include connecting the path to the tunnel at both ends. He said there were adequate impact fees available to cover this expenditure.

In response to McMenamin's question as to whether the City would paint the tunnel with washable paint or whether the contractor would do so, Basinger confirmed with Besseche that it was not included in the specifications, but costs could certainly be obtained for this purpose.

Basinger said Council would also need to reserve \$1500 to bond the project and that adequate funds were available.

Tennant said he understood that sometimes the City had to enter into sole-source contracts when they were unavoidable, but asked if staff had budgeted the cost that was anticipated prior to receiving the \$55,000 bid.

Besseche said the City had done a number of tunnel projects before (i.e., the Wynnmeade tunnel last year, which was about \$75 or \$80,000 and that this tunnel was a structural plate culvert), but that the Holly Grove Road tunnel was a concrete box culvert and was a simpler process to install. Besseche said approximately \$190,000 was budgeted for the proposed 150 foot long culvert at the CSX railroad bridge on Highway 54 in FY2002 or FY2003. Besseche added that the \$55,000 bid was a very good price.

McMenamin made a motion to award the contract for the construction of the Holly Grove Road Cart Path tunnel to Superior Excavation and Construction Services of Peachtree City in the amount of \$55,000 and to reserve \$1,500 to bond the project. Tennant seconded the motion. Motion carried unanimously.

Brooks reminded Council that City staff had requested extra money for painting the tunnel with the washable paint and asked whether Superior or Public Works would paint the tunnel. Basinger said if Council would allocate the funds, staff would accomplish this the cheapest way possible – possibly with Public Works personnel.

Brooks amended the motion to include an additional \$1,000 for the washable paint. Tennant seconded the motion. Motion carried unanimously.

09-00-09 Consider EMS Billing Exceptions and CAM 20-1

Basinger addressed Council and stated that Council had previously requested information on the impact of the Fire Department *not charging* a fee for EMS services if a patient died. He explained that, in many cases, the survival outcome of patients was difficult to determine due to the confidentiality of medical information. He said it would be very difficult to determine who should be billed or not billed. Further, that for calendar year 2000, of 41 incidents involving life-threatening conditions, the outcome of 24 of the incidents was unknown. He said staff was certainly empathetic to family members who dealt with the death of a loved one; however, *not waiving* transport charges was a practical and appropriate response to the situation. He said Acting Chief Lohr had requested that Council approve the CAM 20-1 that contained the recently approved increases in transport fees.

Lenox said the policy gave the Chief wide latitude about how to handle the EMS transport charges, and thought it was important to understand that this was not a condition of transport or care. He said the Chief always had the right to waive or modify the charges, arrange easy payments, or whatever was appropriate for the situation, but that he thought it was entirely appropriate to charge patients consistently and that the charges should be collected because most of the time the charges were covered by insurance and that the City spent an enormous amount of money on EMS calls; particularly when the situation was life threatening.

Brooks made a motion to approve CAM 20-1 as written as well as the procedure fees effective October 1, 2000. McMenamin seconded the motion. Motion carried unanimously.

Council/Staff Topics

There were no Council/staff topics.

Lenox made a motion to take a three-minute recess and reconvene in Executive Session to discuss a Personnel matter. Tennant seconded the Motion. Motion carried unanimously.

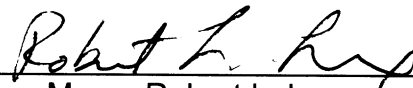
Executive Session

No action was taken in executive session.

Brooks made a motion to reconvene in open session. McMenamin seconded the motion. Motion carried unanimously.

McMenamin made a motion to adjourn the meeting. Tennant seconded the motion. Motion carried unanimously and the meeting adjourned at 10:15 p.m.

Attest: _____


Mayor Robert L. Lenox



Gloria Reid, Executive Assistant