

1 CITY OF EAST POINT

2 **DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT**

3 May 16, 2019
4 7:00 P.M.
5 Official Meeting Minutes

6 City Annex
7 3121 Norman Berry Drive
8 East Point, Georgia 30344

9 Board Members:

10 Commissioner Shean **ATKINS, Chair**

11 Commissioner Joel **TUCKER TODD**

12 Commissioner Gregory **FANN - Absent**

13 Commissioner Patricia **LOVETT**

14 Commissioner Jarrett **BELL, Provisional Chair**

15 Commissioner William **MILLER - Vice Chair**

16 Commissioner LaJeanna **MCKNIGHT**

17 Commissioner Willard **MAXWELL**

18 Commissioner Clyde **MITCHELL**

19 Also Present:

20 Ms. Kimberly **SMITH**
21 Director

22 Ms. Angela **BLATCH**
23 Senior Planner

24 Willis **HATCHER**
25 City Engineer - Absent

Linda **DUNLAVY**
City Attorney - Absent

Videographer
MICHEAL **Dimock**

Albert **TREVINO**
Associate Planner

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Appearances

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Case No.

Applicant

2019U-002-03	Melissa Campbell	6
2019V-007-04	Will Miller	11
2019V-010-04	Diamond Point Development	16

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I. CALL TO ORDER:

COMMISSIONER ATKINS: Good evening. I'm Shean Atkins, Chair of the East Point Planning and Zoning Commission. At this time, I'd like to call our regularly scheduled May meeting to order. Staff, would you please sound Roll Call to establish a quorum.

II. ROLL CALL:

MS. BLATCH: Commissioner Lovett.
COMMISSIONER LOVETT: Here.
MS. BLATCH: Commissioner Bell.
COMMISSIONER BELL: Here.
MS. BLATCH: Commissioner Miller.
COMMISSIONER MILLER: Present.
MS. BLATCH: Commissioner Fann.
COMMISSIONER FANN: (No response.)
MS. BLATCH: Commissioner Atkins.
COMMISSIONER ATKINS: Present.
MS. BLATCH: Commissioner Tucker.
COMMISSIONER TUCKER: Here.
MS. BLATCH: Commissioner McKnight.
COMMISSIONER MCKNIGHT: Here.
MS. BLATCH: Commissioner Maxwell.
COMMISSIONER MAXWELL: (No response.)
MS. BLATCH: Commissioner Mitchell.
COMMISSIONER MITCHELL: Present.
MS. BLATCH: Mr. Chair, you have a quorum.

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COMMISSIONER ATKINS: Thank you. At the time, we'd like to -- all of you to join us in a Moment of Silence.

III. MOMENT OF SILENCE: Thank you. If you would please stand and join me in the Pledge of Allegiance.

IV. PLEDGE OF ALLEGIANCE:

COMMISSIONER ATKINS: I got jokes tonight. I don't think that there is flag. It's at the new facility. So this is our last meeting at this facility, so I don't think where she a flag tonight. Okay. So you may take your seats.

Commissioners, at this time, I'll entertain a motion to adopt our agenda as presented.

V. ADOPTION OF AGENDA:

COMMISSIONER MITCHELL: Make a motion that we adopt the agenda.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER MILLER: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Mitchell, seconded by Commissioner Miller that we adopt our May 16, 2019 meeting agenda. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. Our agenda is adopted. Commissioners, at this time, I'll entertain a motion to approve our April 18, 2019 meeting minutes.

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VI. APPROVAL OF THE APRIL 18, 2019 MINUTES:

COMMISSIONER TUCKER: So moved.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER MCKNIGHT: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner McKnight that we approve our April 18, 2019 meeting minutes. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. Our April 18, 2019 meeting minutes are approved. We will next move to our Old Business. We have one case in Old Business. It's 2019 "U" as in umbrella-002-03. Staff, would you please sound this Agenda Item.

VII. OLD BUSINESS:

MR. TREVINO: Yes, Mr. Chair. The applicant Melissa Campbell is proposing a Special Use Permit to establish a Bed and Breakfast within the C-R Commercial Redevelopment Zoning in downtown overlay district.

This property is located at 2849 East Point Street.

COMMISSIONER ATKINS: Thank you. This Agenda Item has already had a public hearing at our last regularly scheduled meeting; so at this time, Staff, would you please sound your recommendation.

MR. TREVINO: Staff recommends approval of this Special Use

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Permit for a Bed and Breakfast with the following conditions:
Applicant must submit a site plan indicating a walk way easement that was file with Fulton County; number two, prior to issuance of a Certificate of Occupancy, the applicant must present to the Department of Planning and Community Development proof of compliance with the rules and regulation for tourist accommodations of the Georgia Department of Public Health.

Condition number three, all out door lighting must comply with the downtown overlay standards as outlined in Section 10-14015; condition four, the (inaudible) must meet minimal state code requirements for the R-1 Occupancy; condition number five, a minimal 5-foot landscape buffer must be installed between the proposed driveway and the adjacent property on Thompson Avenue; and condition six, the minimal stand scape and buffer area shall be required as specified in Chapter 6, Tree Protection and Landscape for AG1 Agricultural District.

COMMISSIONER ATKINS: Thank you. Commissioners, you've heard Staff's recommendation for Case Number 2019 "U" as in umbrella-002-03. In this particular case, the applicant seeks a Special Use Permit to establish a Bed and Breakfast within the C-R Commission redevelopment zoning in downtown overlay district.

At this time, I'll entertain a motion.

COMMISSIONER TUCKER: Mr. Chair.

COMMISSIONER ATKINS: Yes, Commissioner Tucker.

COMMISSIONER TUCKER: I'll make a motion to recommend

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approval with conditions, Staff's conditions.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER MILLER: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner Miller that this Body recommends approval. Any comments, questions or concerns?

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, I have one of Staff. Condition Number One was to make sure that the applicant has a wake way easement filed with the county of Fulton and do we have any record that that has taken place?

MS. BLATCH: Yes. The applicant submitted the receipt of filing with Fulton County Superior Court. With Fulton County, they don't get the plat back immediately. It's mailed back to the applicant.

COMMISSIONER ATKINS: Okay. But do they get a receipt when they're going through that process?

MS. BLATCH: That's right.

COMMISSIONER ATKINS: Okay. Thank you.

Commissioners, there's been a motion to recommend approval by Commissioner Tucker, a second by Commissioner Miller. Any other comments, questions or concerns?

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: All in favor sound aye.

COMMISSIONERS: Aye.

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COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.

This Body will recommend approval.

Our next Agenda Item is under New Business. It's Case Number 2019 "V" as in Victor-007-04. Staff, would you please sound this Agenda Item.

VIII. NEW BUSINESS:

MS. BLATCH: In Case Number 2019v-007-04, the applicant is Will Miller. The applicant is seeking a primary variance for relief from a 5-foot setback requirement for driveways as noted in Section 10-4050.

COMMISSIONER ATKINS: Okay. Thank you. This Agenda Item does require a public hearing. I will read our Rules for Public Hearings.

(Whereupon the City of East Point Rules for Public Hearing are read into the record.)

Public hearings before the Planning & Zoning Commission shall be conducted in accordance with Section 10-2219 of the East Point Zoning Code and Development Regulations as follows: Persons both favoring and opposing the proposed case will be provided an opportunity to address the Commission.

The applicant for the zoning case or the applicant's designated representative, if any, will be entitled to speak first followed by other speakers in favor of the proposal for a total of

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fifteen (15) minutes. Those who oppose the proposed zoning case will then be permitted to speak for a total of fifteen (15) minutes. By majority vote, the Commission may increase the total time of speakers provided that each side is given the same amount of time. If there is more than one speaker for a side, the Chair or the presiding officer may limit the time allotted to each individual speaker other than the zoning applicant. The zoning applicant may reserve a portion of his or her allotted time for rebuttal.

Speakers must adhere to the rules of decorum. Prior to speaking, each speaker shall identify him or herself and state his or her current address. Each speaker shall speak only to the merits of the proposed zoning ordinance under consideration, shall address remarks only to the Commission and shall refrain from making personal attacks on any other speaker. The presiding officer may refuse a speaker the right to continue if, after first being cautioned, the speaker continues to violate the rules of decorum.

You've heard our rules for public hearings and you've also heard the applicant for this zoning case is Will Miller who happens to be a Commissioner for the East Point Planning and Zoning Commission and Commissioner Miller has now asked to be recused but you has already stepped away from the (inaudible) and so I am recusing Commissioner Miller at this time so you may sit with the audience; and Staff, you've sounded the case and at this time, Commissioners, I'll entertain a motion to open the public hearing.

COMMISSIONER TUCKER: So moved.

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COMMISSIONER ATKINS: Is there a second?

COMMISSIONER MITCHELL: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner Mitchell that we open the public hearing for Case Number 2019 "V" as in Victor-007-04. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. The public hearing is now open. Mr. Miller, would you please step to the podium; state your first and last name and your current address and there is no microphone is there?

(Whereupon the Applicant Will Miller approaches the podium.)

MR. MILLER: All right. My name is William Miller and I live at 995 Winburn Drive in East Point, Georgia. And Mark Ebear and I are seeking a primary variance that would provide relief from the 5-foot setback requirement for driveways as referenced in Section 10-4050. Currently, the driveway sit -- the existing driveway sits very close to the property line and we're merely seeking to continue the path of the existing driveway and the direction to a newly constructed garage.

It's going to be in a different location, further back on the property line than the existing structure. So essentially, we're continuing the orientation and the geography of the existing

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driveway. It just sits very close to the property line and so we need relief from the 5-foot setback.

COMMISSIONER ATKINS: Okay. Thank you. Are there any other proponents here to speak in favor of this zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Any other proponents?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Any other proponents?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Seeing none, are there any opponents here to speak against the zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Any opponents?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Okay seeing none, Commissioners, at this time, I'll entertain a motion to close the public hearing.

COMMISSIONER TUCKER: So moved.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER LOVETT: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner Lovett that we close the public hearing for Case Number 2019 "V" as in Victor-007-04. All in favor sound aye.

COMMISSIONERS: Aye.

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COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.

The public hearing is now closed. Staff, would you please sound your recommendation.

MS. BLATCH: In Case Number 2019V-007-04, the apply being Will Miller, Staff recommends approval to reduce the 5-foot setback as required in Section 10-4050 to zero feet for the installation of a driveway.

COMMISSIONER ATKINS: Okay. Thank you.

Commissioners, you've heard from the applicant and you've also heard Staff's recommendation. At this time, I'll entertain a motion.

COMMISSIONER TUCKER: Mr. Chair.

COMMISSIONER ATKINS: Yes, Commissioner Tucker.

COMMISSIONER TUCKER: I make a motion to approve.

COMMISSIONER ATKINS: Okay. Is there a second?

COMMISSIONER MITCHELL: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner Mitchell that this Body approves Case Number 2019 "V" as in Victor-007-04. Are there any comments, questions or concerns?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Hearing none, all in favor sound aye.

COMMISSIONERS: Aye.

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COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: The ayes have it. Your case is approved, Mr. Miller.

MR. MILLER: Thank you.

COMMISSIONER ATKINS: You're welcome. You may rejoin the Commission.

Our next Agenda Item is 2019 "V" as in Victor-010-04. This particular Agenda Item is a secondary variance and just to give you a little context, this Body very seldom heres secondary variance. We don't have many to come before us. The process is slightly different. There's also a slightly variation -- a slight variation to the public hearing rules because there is a public hearing for this Agenda Item. I will read these rules for the public hearing and then we will then open the public hearing. Okay.

(Whereupon the Rules for Secondary Variances are read into the record.)

Public hearings before the Planning and Zoning Commission shall be conducted in accordance with Section 10-2219 of the East Point Zoning Code and Development Regulation. Because the City of East Point Zoning Code Section 2206 requires a public hearing for secondary variances, the same procedures will be utilized for the secondary variance application on our agenda this evening.

The procedure we will follow are: Persons both favoring and opposing the proposed case will be provided an opportunity to

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address the Commission. The applicant for the zoning case or the appellant or the designated representative, if any, will be entitled to speak first followed by speakers in favor of the proposal for a total of fifteen (15) minutes.

Those who opposed the proposed zone case or secondary variance will then be permitted to speak for a total of fifteen (15) minutes. In the case of the secondary variance, the director or her designee shall have fifteen (15) minutes to present her rationale for the interpretation prior to calling the appellant or the opposition to appeal.

Then the appellant will proceed, after which opposition will be called for. By majority vote, the Commission may increase the total time for speakers provided that each side is given the same amount of time. If there is more than one speaker for a side, the Chair or the presiding officer may limit the time allotted to each individual speaker other than the zoning appellant.

The appellant may reserve a portion of his or her time for rebuttal. Speakers must adhere to the rules of decorum. Prior to speaking, each speaker shall identify him or herself and state his or her current address. Each speaker shall speak only to the merits of the proposed zoning ordinance under consideration, shall address remarks only to the Commission and shall refrain from making personal attacks against any other speaker.

The presiding officer may refuse a speaker the right to continue, if after being cautioned, the speaker continues to violate

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the rules of decorum.

So those are our rules for secondary variances. As they stated, the Director for Planning and Community Development will have an opportunity to speak first and then from there, it will be the appellant and then we would open it up to others in favor and then to those opposed.

So at this time, I'd like for Kimberly Smith to present as the Director of her Planning and Zoning.

MS. SMITH: Good evening. My name is Kimberly Smith, Planning and Community Development Director for the City of East Point.

In reference to Case Number 2019V-010-04, applicant Diamond Point Development, address located at Zero (0) Camp Creek Parkway Rear. The applicant seeks a secondary variance to appeal an interpretation made by the Department of Planning and Community Development according to Section 10-2142(a)(5), which states a new expanded self-storage facility shall be located a minimum of fifteen hundred feet (1,500) from the boundary of any other self-storage facility (mini) or (multi) story.

A site plan was submitted as well as interpretation. A review and results were provided. Interpretation on a method of measurement as given straight line method of measurement was used to determine conformance with Section 10-2142 self-storage (a) (5) which provides for a minimum of 1,500 feet from the boundary of any other self-storage.

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The method of measurement resulted in straight line distance used in approximately 663 from another self-storage as proposed by the applicant. The proposed self-storage facility does not meet the minimum distant separation requirement of 1,500 feet based on site Plan Review.

An analysis: Case summary January 24th, 2019, applicant applied for a Special Use Permit for a multiple storage facility along with seeking current variance, one which was from Section 10-21-42 (a) (5), which requires a new and expanded self-storage facility shall be located within a minimal 1,500 feet from the boundary of any other self-storage facility.

On March 21st, 2019, the Planning and Zoning Commission recommended denial of this Special Use Permit and Concurrent Variances. On April 2nd, 2019, although a verbal interpretation of Section 10-2142 (a) (5) had been given to the applicant in January, 2019. The applicant in email requested an interpretation of a measurement methodology.

April 8th, 2019, a written interpretation of that methodology of measurement was straight line measurement from a building face to closest boundary line of any property on which there is an existing facility.

Interpretation background. The ordinance intent was reviewed and these are all the items that were reviewed in reference to how interpretation was provided. Reviewed method of measurement comparison that also reviewed at sections of the

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zoning ordinance with similar distance requirements.

Further review, the alcohol license ordinance that the applicant reviewed to multiple times also consulted the zoning attorney and looked at the history of variances over the pass five years to see if there were any references made to method of measurement. Review common meaning of the word and applied to section the code in question. Also tried to determine the intent of section of code in question. Also reviewed the ordinance as a whole to harmonize the section of code in question. Also used common sense.

The interpretation review and results: There are sections in the code with method or without method of measurement. Those provisions or distances between are examples found in Section 10-2104, which is (inaudible) which has a method of measurement. Section 10-2105 roadside stands also has a method of measurement or without method of measurement. In Section 10-2116, adult bookstores also is without a method of measurement and along with 10-2125 places of worship. Those are all codes without methods of measurements determined.

Moving on; sections of code with method of measurement where provisions are provided a distance between uses is done by radius range is used by method of measurement and that section is 10-2219(2) which provides for notice, a public notice fifty feet radio range are provided.

The result of the review: There were absolutely no provisions

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within the ordinance with pedestrian pathway measure is specified. The only provision in the entirety Code of Ordinance is specified pedestrian pathway is the alcohol license ordinance, which is found in Chapter 11, Section 1000. No public articulation of method of measurement could be found in our records in the five years of variance cases that were reviewed.

No official interpretation of methodology of measurement prior to the one made last month by this office were found in the City records. An interpretation was made that is reasonable and would not cause absurd results or detrimental or unintended sequences to the public health safety welfare of the citizens of East Point.

Other results: The recommendation the ordinary meaning of separation distance is measured in a straight line becoming understanding of separation distance is from a straight line horizontal benchmark to another based on a lack of any provisions with the zoning ordinance specified in pedestrian pathway based on the fact that when method was specified, it was always straight line. Based on the expression of intent found in the City records, Staff concludes and finds that the proper technique of measurement is straight line as applied to Section 10-2142(a)(5), as such Staff recommended denial of a secondary variance.

COMMISSIONER ATKINS: Okay. You've heard the presentation from the Planning and Zoning Commission, the director for Planning and Community Development. At this time, Commissioners, I entertain a motion to open the public hearing for

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secondary variance 2019 "V" as in Victor-010-04.

COMMISSIONER TUCKER: So moved.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER MCKNIGHT: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner McKnight that we open the public hearing for this case. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.

The public hearing is now open. Before we call our first speaker, what you've heard from the director of planning and community development, you've heard a lot about method of measurement. So I just wanted to be clear before our speakers come to the podium.

Tonight's case is about the method of measurement used; so it's not about whether we want a storage facility or we like those or we don't like or any of that. We've litigated that and that has taken place a couple of months ago and this Body denied that application. The appellant has come back to say that they have taken issue with the method of measurement; that the Director of Planning and Community Development has utilized in determining the recommendation for the Staff.

So tonight, your comments should be about whether you believe that the director has -- that you agree with the director's

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method of measurement using straight line distance or if you agree that the appellant should prevail in wanting pedestrian pathway used as a method of measurement. So I state all of that because I don't want any one to waste any one's time this evening. We're going to hear from everyone who has signed up and would like to speak to the case; but I just want to remind you that tonight's case is about the method of measurement. Okay.

If you start to speak about other things, I will gavel you down because we've already had the public hearing; and a part of the Rules for Public Hearing specifically states that you're to speak to the zoning issue at hand. So we don't go back to revisit and relitigate and all of those things. So in all fairness, I just wanted to give that disclaimer. Okay.

If you would please sound the first three speakers so that they are all prompted and ready to speak.

ATTORNEY LINDA DUNLAVY: You would need to call for the applicant.

COMMISSIONER ATKINS: The applicant, yes, and the applicant is not here. So we'll call for the appellant. And so if the appellant is present this evening, would you please come forward, minute representing Diamond Point Development.

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Diamond Point Development.

COMMISSIONER ATKINS: Hearing none and seeing none, is there anyone else here to speak in favor of this case?

1 AUDIENCE: (No response.)
2 COMMISSIONER ATKINS: Anyone else here to speak in
3 favor?
4 AUDIENCE: (No response.)
5 COMMISSIONER ATKINS: Hearing none and seeing none, is
6 there anyone here to speak against this zoning case?
7 AUDIENCE: (No response.)
8 COMMISSIONER ATKINS: Any here to speak against.
9 AUDIENCE: Yes.
10 COMMISSIONER ATKINS: Okay. Please step forward. State
11 your first and last name and your current address.
12 (Whereupon Fitzgerald Smith, Jr., approaches the podium.)
13 MR. SMITH, JR.: Good evening.
14 COMMISSIONER ATKINS: Good evening.
15 MR. SMITH, JR.: My name is Fitzgerald Smith, Jr. Currently,
16 I'm at Homewood Suite because a tree fell on my house on Stone
17 Road so it's been demolished so that's where I'm living right now.
18 But that's not an issue. I just want to say that representing
19 Washington Road Neighborhood Association, that we will back the
20 young lady with all the measurements and everything.
21 We were told that they would pull this from the table if they
22 didn't have the backing of Washington Road Neighborhood
23 Association. I was told that today by Mr. (Inaudible); and so I was
24 expecting him here today to tell you that they were pulling it. So
25 whatever you do, we appreciate everything you've done so far with

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us. I'd like to also just say real quick, Washington Road Neighborhood Association is not against development. We welcome and work with developers; so that's all I have to say right now. Thank you.

COMMISSIONER ATKINS: Thank you, Mr. Smith. Is there anyone else here to speak against this zoning case?

AUDIENCE: Yes.

COMMISSIONER ATKINS:

COMMISSIONER ATKINS: Please step forward. State your first and last name and your current address.

(Whereupon Collier McLeod approaches the podium.)

MS. MCLEOD: Good evening, Chair Atkins, Planning and Zoning Commissioners. My name is Collier McLeod. I'm an attorney with Parker, Poe. Our offices are located at 1180 Peachtree Street, Northeast, Suite 3300, Atlanta, Georgia, 30309. Our firm has the pleasure of representing CK Space Max. We're here tonight in support to have director interpretation of the measurement method in Ordinance Section 10-2142(a)(5) and to opposed the applicant's secondary variance application.

Over the past decade, CK Space Max is zoned, developed and continues to operate a number of self-storage facilities therefore the Metro Atlanta area and Tennessee. Several years ago, CK Space Max identified the City of East Point as a prime location for one of it's facilities and took the time to locate the right property that met all of the ordinance requirements expressly and including this 1,500 foot

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requirement separation -- or separation requirement.

In fact, CK Space Max looked at this exact property, which is the subject of the application tonight, negotiated with the then owner and then moved on to a different property once we determined that the self-storage facility on this property would be within 1,500 feet of not one but two different facilities. So instead, CK Space Max developed and operated a self-storage facility at 3850 Welcome All Road, Southwest in the City of East Point.

As it has developed, these facilities, CK Space Max has learned that a separation requirement like the one in the City of East Point is not unique. Other jurisdictions have similar requirements and an effort to spread these facilities out and avoid a proliferation of facilities in one specific area of the City. Just like City's ordinance, there rarely is a stated method of measurement for these requirements; but CK Space Max more than seven years ago, the plane and unambiguous language of the ordinance that because the proximity of the property at issue here, with two other facilities, as measured on a straight line bases, the property could not be developed as a self-storage facility.

Under Georgia law, as the Staff analysis indicates, there's no reason for there to be a standard for the measurement set forth when the requirement and the context of the ordinance is plane and unambiguous and a reasonable interpretation is evident. We have submitted to you all by email last week our written opposition to this application. You have an additional copy in front of you tonight; and

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we reiterate that for all the reasons set forth in the director's initial letter, the Staff analysis and our letter, that the director's decision and interpretation would be upheld and the secondary variance application be denied. Thank you.

COMMISSIONER ATKINS: Thank you, Ms. McLeod. Are there any other speakers here to speak against this zoning case?

AUDIENCE: Yes.

COMMISSIONER ATKINS: Please step forward. State your first and last name and your current address.

(Whereupon Catalina Scott approaches the podium.)

MS. SCOTT: Catalina Scott, 3206 Grant Estates Drive. I am here as a representative member of the Board Homeowners Association of Grant Estates. We also support the current measurement straight-line measurement. We do not wish to have it changed. I have nothing as eloquent to say as our previous speaker, but I just wanted to represent Grant Estates and know that we are in agreement with the current measurement.

COMMISSIONER ATKINS: Thank you, Ms. Scott. All of our speakers this evening were quite eloquent including you're. Are there any other speakers here to speak against this zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Any other speakers here to speak against this zoning case?

AUDIENCE: (No response.)

COMMISSIONER ATKINS: Hearing none and seeing none,

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Commissioners, at this time, I'll entertain a motion to close the public hearing.

COMMISSIONER TUCKER: So moved.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER LOVETT: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner Lovett that we close the public hearing for Case Number 2019 "V" as in Victor-010-04. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it. The public hearing is now closed. Staff, would you please sound your recommendation.

MS. SMITH: In reference to the recommendation for 0 Campcreek Parkway Rear in Case Number 2019V-010-04, Diamond Point Development, the applicant seeks a secondary variance to appeal an interpretation made by the Department of Community Development over Section 10-2142(a)(5), which states a new or expanded self-storage facility shall be located a minimum of 1,500 feet from the boundary of any other self-storage facility (mini or multi).

The ordinary meaning of separation distance is measured in a straight line. The common understanding of separation distance is

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from a straight line horizontal benchmark to another based on the lack of any provisions with the zoning ordinance specified pedestrian pathway based on the fact that when method was specified, it was all straight line. Based on that expression of intent found in the City records, Staff concludes and finds that the proper technique of measurement is straight line as applied to Section 10-2142(a)(5) as such Staff recommends denial of the secondary variance.

COMMISSIONER ATKINS: Thank you. Commissioners we did not have the pleasure of hearing from the appellant this evening, but we've heard from the public and we've also heard Staff's recommendation. At this time, I'll entertain a motion.

COMMISSIONER TUCKER: Mr. Chair.

COMMISSIONER ATKINS: Before I hear a motion, I believe that there is a message that the appellant wanted to present to the Commission; is that correct, Mrs. Dunlavy?

ATTORNEY LINDA DUNLAVY: My understanding is that this afternoon -- and Mr. Trevino maybe able to talk about that better than I can. But my understanding is that the appellant requested withdrawal of the secondary variance this afternoon. Unfortunately, when you take a look at Section 10-2201 of our code, while it does allow an application to be withdrawn, it only allows applications to be withdrawn under very strict circumstances. It maybe withdrawn by the applicant in writing and we do not have any writing from this applicant and only before the public hearing notice advertisement is published the publication for this particular public hearing predated

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today. So as a result of that, we have conducted the public hearing and it is my opinion based on Section 10-2201 that this Body must make a decision on the secondary variance application because Section 10-2201 states only once the public hearing has been properly advertised after the request for withdrawal, this may, should the request for withdrawal be consider by this Body. I think I kind of messed that up in terms of explaining it.

But, I mean, essentially this appellant requested withdrawal today. Had he requested withdrawal prior to the advertisement, then the only thing before you would be the request to withdrawal and you would consider to allow you withdrawal or not. Based on this code section, it's my opinion that this Body must act on the request for the secondary variance; either sustain the appeal or denial the appeal.

COMMISSIONER ATKINS: Got you, thank you.
Commissioners, you've heard again from the Staff. Their recommendation is to deny. At this time, I'll entertain a motion.

COMMISSIONER TUCKER: Mr. Chair.

COMMISSIONER ATKINS: Yes, Commissioner Tucker.

COMMISSIONER TUCKER: I'd like to make a motion to deny appeal.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER LOVETT: Second.

COMMISSIONER ATKINS: It's been moved by Commissioner Tucker, seconded by Commissioner Lovett. Any comments,

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questions or concerns?

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, all in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.

This Body denies the secondary variance. Our next Agenda Item will be announcements. Staff, do you have any announcements this evening?

IX. ANNOUNCEMENTS:

STAFF: This is our last public hearing in this building. We'll be hearing all public hearings for Planning and Zoning Commission at 2757 East Point Street from this point forward.

COMMISSIONER ATKINS: Can you please give us that address one more time a little slower and a little louder?

MS. SMITH: 2757 East Point Street.

COMMISSIONER ATKINS: Thank you. All right. Any other announcements

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Okay. Commissioners, you have any announcements?

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, at this time, I'll

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entertain a motion to adjourn.

X. ADJOURNMENT:

COMMISSIONER LOVETT: Motion to adjourn.

COMMISSIONER ATKINS: Is there a second?

COMMISSIONER MILLER: Second.

COMMISSIONER ATKINS: It's been move by Commissioner Lovett, seconded by Commissioner Miller that we adjourn. All in favor sound aye.

COMMISSIONERS: Aye.

COMMISSIONER ATKINS: All opposed sound nay.

COMMISSIONERS: (No response.)

COMMISSIONER ATKINS: Hearing none, the ayes have it.

This meeting is now adjourned. Thank you.

(Whereupon this concludes the City of East Point Planning and Development regularly scheduled meeting for May 16, 2019.)

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Attest:

I hereby attest that the foregoing transcript was reported, as stated in the caption, and the questions and answers thereto were reduced to the written page under my direction; that the foregoing pages 1 through 31 represent a true and correct transcript; that I am not in any way financially interested in the result of said case.

I am here as an independent contractor for the City of East Point, Department of Planning and Community Development.

I was contacted by the Offices of East Point, Department of Planning & Community Development to provide stenography services to take down the meeting minutes.

The foregoing Special Call Meeting for the City of East Point, Department of Planning and Community Development , on May 16, 2019 at seven o'clock P.M., were taken down by me and transcribed by me on this 6th day of June, 2019.