

The Board of Commissioners of Fayette County, Georgia met in Official Session on Thursday, February 24, 2005, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman  
Linda Wells, Vice Chair  
Herb Frady  
Peter Pfeifer  
A.G. VanLandingham

STAFF MEMBERS PRESENT: William R. McNally, County Attorney  
Carol Chandler, Executive Assistant  
Karen Morley, Chief Deputy Clerk

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Chairman Dunn called the meeting to order, offered the Invocation and led the Pledge to the Flag.

**REZONING PETITIONS:**

Commissioner Wells remarked at this point in the agenda the Board would consider requests for the rezoning of property in our county. She said the policy required at least two public hearings — the first before the Planning Commission and the second before the County Commissioners. She said at this hearing the Board would listen to the concerns of everyone, whether in favor or opposition to the rezoning petition. She pointed out when a rezoning petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to 3 minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to equal time to address the Commissioners as all those in opposition.

Commissioner Wells further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard. She remarked when it was an individual's turn to speak that they come to the podium, state their name and address and direct their comments to the Board only. She asked that after individuals speak that they sign the sheet that would be provided by the Marshal in order for names to be spelled correctly for the record.

Commissioner Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

**PETITION NO. 1134-04:**

Director of Zoning Aaron Wheeler read Petition No. 1134-04, Clayton O. Carmack, Owner, and Mukut Gupta, President of Crown Development, Agent, request to rezone 40.55 acres from A-R to C-S to develop a single-family residential subdivision consisting of 18 lots. He said this property was located in Land Lots 4 and 29 of the 5th District and fronted on Old Senoia Road. He said the Planning Commission recommended approval subject to one (1) recommended condition (4-0-1) and Staff recommended approval subject to one (1) recommended condition. He remarked that this item was tabled from the January 13, 2005 Commissioners' meeting and also from the February 10, 2005 Commissioners' meeting.

Jumbo Gupta remarked that he was present on behalf of Crown Development.

Chairman Dunn interjected that this was the continuation of a public hearing that was started at the last Commission meeting. He said all of the public comment parts of this were over. He said the Board had asked Mr. Gupta to go back and consider some changes for the Board. He noted that Jumbo Gupta was bringing those back to the Board tonight. He said after reviewing these, the Board would be voting on what to do with this request. He remarked that there would be no more citizens speaking in favor or against the rezoning request. He said this was merely the final stage of the public hearing from the last Commission meeting.

Jumbo Gupta remarked that the Board had previously received the information that was requested. He said the wetland delineation seemed to be a concern to a lot of people. He said they had hired a soil scientist to go out and delineate all of the wetlands and locate those and then overlay it with the existing plan that they had. He said the wetlands pretty much run along the creek and did not really run anywhere else on the property. He said one of the other concerns that was raised was having a lot directly on the street and along with the comments from staff which were not having a direct access on Old Senoia Road which they had not planned on doing. He said they had gone ahead and decided to pull that lot back so that there was more green space and more privacy in addition to not having a lot up closer to the street.

Commissioner Wells remarked that she appreciated how much Mr. Gupta had worked with the Board. She said that it showed the intent of Crown Development to do a good project for the community. She said she appreciated the fact that Crown Development had been willing to work with the county and to do a project that was good for the community. She

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said it might not be something that people want right there but she felt Crown Development had done an excellent job of addressing everyone's concerns.

Chairman Dunn asked Mr. Gupta to put up the first map and also the latest map side by side on the screen so that they could be viewed by the Board and the public. He said there were two major concerns that he had last week and that was that there was not a good foot print of the wetlands. He said now there was a very good idea of the wetlands. He pointed out that Dennis Chase was in the audience and Mr. Chase agreed that this wetland was properly delineated now. He said Crown Development had hired an engineer to do this as well and Mr. Chase did agree with both of these individuals. He said everyone was in agreement now as to where the wetlands were on this piece of property. He said there was a plat now that would not destroy any of those wetlands. He commented that there was one lot and that was Lot #1 that had a very small piece of wetland in it. He pointed out to Mr. Gupta that they would not be able to go near that and Mr. Gupta agreed that he was aware of that.

Chairman Dunn remarked that the other issue that was of major concern to many people in that region of the county was that all of the other homes out there were several hundred feet away from the road. He said during the summer time their houses were not even visible. He said what was initially going to be done to the lot on Senoia Road would be a detriment to everybody in the area. He stated although the Board was not in a position to require Crown Development to do this, the Board did ask Mukut Gupta to take a serious look at that and see if he could help the people in that region feel a little bit more comfortable with this. He said he wanted to specifically thank him for doing that. He said this made it a lot easier for him to support this. He said quite frankly he would prefer to have nothing in there. He said this was such beautiful property and this was Mr. Carmack's third time back before the Board. He said Mr. Carmack was going to develop that land. He felt this was the best project for this piece of property. He remarked that now there were no homes near the road and none of the houses would be seen from the road. He said this was about as good as it was going to get. He thanked Mr. Gupta for his patience and his willingness to work with the community in that area.

On motion made by Commissioner Wells, seconded by Commissioner VanLandingham to approve Petition No. 1134-04 with one recommended condition. The motion carried 4-1 with Commissioner Pfeifer voting in opposition. A copy of the recommended condition, Staff's Analysis and Investigation, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. A copy of the Ordinance and Resolution approving Petition No. 1134-04, identified as "Attachment No. 2", follows these minutes and are made an official part hereof.

**ORDINANCE NO. 2005-05 - AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE, ARTICLE V. GENERAL PROVISIONS REGARDING CARPORTS, DETACHED APPROVED:**

Zoning Director Aaron Wheeler said these were amendments to the Fayette County Zoning Ordinance, Article V. General Provisions regarding Carports, detached. He said the Planning Commission recommended approval (4-1). He pointed out that this item was tabled from the January 13, 2005 Commissioners' meeting.

Chairman Dunn asked Mr. Wheeler what changes had been made to this ordinance.

Mr. Wheeler replied that when this item was presented to the Board on January 13<sup>th</sup> it was requested that staff take this back for further review as opposed to the way in which it was presented which had a negative look and feel to it telling people what could not be done. He said the Planning Commission had reviewed this further and had taken that particular part out of the ordinance. He said a statement had been put in to indicate something more specific. He said he was bringing this back to the Board as the Planning Commission had recommended.

Commissioner Wells remarked that the statement was that structures shall be constructed of the same material or types of material as the principle structure on the property or of metal.

Chairman Dunn asked if there was anybody present who would like to speak in favor or against the change in this ordinance. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Pfeifer, seconded by Commissioner Wells to approve Ordinance No. 2005-05 which were the amendments to the Fayette County Zoning Ordinance, Article V. General Provisions regarding Carports, Detached, discussion followed.

Commissioner VanLandingham said he was having some difficulties with several things and this was one of them. He said this required a permanent foundation and some of the uses of these types of structures were to go over motor homes. He remarked that motor homes were a lot like boats in that the happiest day in a motor homeowner's life was when they purchased the motor home and the next happiest day was when the homeowner sells it. He pointed out that when the motor home was gone, a slab would remain. He felt this would be a most unattractive object to have in someone's yard and something that was no longer in use. He said it also said that it would have to meet the wind load requirements. He said after discussions began, there had been some fairly high winds in the last few months. He said he had purposely looked at these structures that the county was trying to regulate and not a one of these had been damaged. He felt the county's ordinances

needed to protect people and not inconvenience them. He felt this would be an inconvenience. He said he had no problem with having a building permit to put a structure up because there were some of these structures that did have a tarp type cover with cording. He said he had a problem when the county starts putting a lot of requirements on the county's population. He said he could not support this amendment the way it was currently worded.

Commissioner Frady said he felt he could support this if the slab portion was removed from the amendment. He said people do not live in their homes for a 100 years and after they move the people moving in might not want this slab. He said there would be an expense that these people would have to pay to remove the slab. He felt if a homeowner had a hard compacted surface as indicated in the ordinance, it would be sufficient and no compound would have to be put on the ground. He said if it was a compacted area with gravel and was sufficient to meet the county's ordinances, then he could support it.

Commissioner Wells interjected that actually this was not a new addition to the carport ordinance in the first place. She said she had a problem if this structure was going to be built out of a material that was metal or something similar to what was in the house and the ground stamped down really hard, she felt the ground might not keep that piece of metal in place. She pointed out that there had been some damage in her area with carports after the last storms that went through Fayette County. She said there were some pieces of metal that flew around. She said she was really hesitant about giving people the possibility of putting up something that was heavy that might have the potential to fly around in storms without securing it as much as possible.

Commissioner Frady felt holes could be dug and concrete poured in and then the metal poles would stay there forever.

Commissioner VanLandingham said he had seen more damage done to the tin roofing than he had seen done to these type of carports. He said there were uses on farms for equipment that this would be a very economical structure for a person to put up to protect equipment. He said he would have a difficult time approving this amendment.

Chairman Dunn questioned what the original Section 5-10 said. He said the Board was in somewhat of a dilemma here because it was trying to adopt the new words and the new words being objected to were the words that were already in the ordinance but not included. He asked if the Board wanted to proceed and approve the words, then staff could take a look at the other.

Commissioner Frady said a compacted area was sufficient in the county's ordinance for someone to park on.

Chairman Dunn said he understood that but the only thing the Board was asked to discuss was the types of building materials.

Commissioner Wells said she was concerned that this matter had been brought up on two different occasions and had discussed it several times. She said it seemed like every time this matter came up there was something new that someone decided that they were not comfortable with. She said she was not sure that this was the best use of staff's time. She said she would like to see matters addressed in a more comprehensive fashion. She said the matter before the Board tonight was the changing of the particular verbiage. She said this was what the Board had asked staff to do and the Board needed to act on that. She said if the Board wanted to go back and look at the rest of it, then the Board could do that. She felt for the Board to continue this discussion back and forth when staff had done what the Board asked was not appropriate.

Commissioner Frady said he was not sure that the Board had asked staff to put this verbiage in there. He said he thought the Board had just asked staff to change it.

Commissioner Wells said the Board had not asked staff to address the slab foundation which was already in existence.

Chairman Dunn clarified that Commissioner Wells was suggesting that the Board approve the changes and address the other issue separately.

Commissioner VanLandingham said he wanted to read something that was in his book. He remarked that it stated that the issue of detached carports had been brought to the forefront due to the proliferation of the prefabricated metal carport structures that had been popping up all over Fayette County. He said the ease of assembly along with a relatively low cost make these an attractive option for a homeowner who wanted to have a cover over their automobiles and did not want to go to the expense of building a full fledged garage or attached carport. He said there was currently nothing in the ordinance that addressed this issue and because of that these structures were not allowed. He said there was nothing in the ordinance about these but now it was being said that this was in the ordinance.

Chairman Dunn pointed out that it was included in the original proposed change. He said when the Board sent it back, staff was asked to review it.

Commissioner VanLandingham interjected that it was not in the ordinance because the Board had not adopted that.

Chairman Dunn said the Board had asked staff to review the types of materials in construction.

Commissioner Frady felt the Board had done this as a matter of safety. He commented that a piece of fabric flying through the air was not going to cut one's head off like a piece of metal should the wind be strong enough to take it off a building. He said staff also said that because these were not addressed in the ordinances, they could not be built. He said that was not true. He said the Board was trying to come up with something that would address this situation and materials. He said the way this was written, he was not concerned about all of the materials that they were using except the slab. He said if he did not like that, then he would oppose it.

Chairman Dunn remarked that one other thing that the Board had discussed at the last meeting was grandfathering people who had already constructed these. He said there was a question about whether or not people would have to take them down if they did not comply with this ordinance. He recalled most of the Board members were against that and anything that was already up was grandfathered. He said citizens who have had these structures on their property for the last five years would not be given a hard time.

Commissioner VanLandingham questioned how the county would determine when these structures were constructed. He said if someone asked him for a sales receipt for that product, he would not have it because he does not save sales receipts for anything. He said the Board could not expect citizens to keep a sales receipt just so they would be in compliance.

Commissioner Frady said he did not understand why people would have to put down an expensive slab just for this carport.

Commissioner Wells interjected that there was a motion and a second on the floor and she would like the Chairman to call the question.

The motion carried 3-2 with Commissioner VanLandingham and Commissioner Frady voting in opposition. A copy of Ordinance No. 2005-05, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

Chairman Dunn remarked that Commissioner VanLandingham and Commissioner Frady made some good comments regarding the slab and if they so desired he felt it would be a good idea to look into that issue at a separate time.

**CONSIDERATION OF PROPOSED AMENDMENTS TO THE FAYETTE COUNTY ZONING ORDINANCE ARTICLE V. GENERAL PROVISIONS REGARDING SECTION 5-9. SINGLE-FAMILY DWELLING, A. ADDITIONS TO A SINGLE-FAMILY STRUCTURE PRESENTED BY THE ZONING DEPARTMENT. THE PLANNING COMMISSION RECOMMENDED APPROVAL AS SUBMITTED 5-0. THIS WAS TABLED FROM THE JANUARY 27, 2005 BOARD OF COMMISSIONERS' MEETING:**

Chairman Dunn announced that this item had been withdrawn from the agenda.

**PETITION NO. RP-032-05:**

Director of Zoning Aaron Wheeler read Petition No. RP-032-05 for a Revised Final Plat, McClenny Estates, Chris England, Owner/Agent. He said this request was to subdivide Lot 3-C/4-C (which was combined as one tract on 08/09/82) and add property from Lot 5-C/6-C (which was also combined as one tract) to create three (3) single-family dwelling lots consisting of the following: 1.067 acres for Lot 3-C, 1.014 acres for Lot 4-C, and 1.898 acres for Lot 5-C/6-C. He said this property was located in Land Lot 16 of the 7th District, fronted on West Lake Drive and Lakeside Drive, and was zoned R-40. He said the Planning Commission recommended approval and Staff reported that the request complied with technical requirements.

Chris England, 400 Lakeside Drive, Fayetteville remarked that he had purchased the property from the county approximately four years ago. He said it had been advertised as two lots. He said he had discovered that it had been combined in 1982 by the previous owner. He said he was requesting to resubdivide the property back into two lots. He asked for the Board's consideration in approving his request.

Chairman Dunn asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to approve Petition No. RP-032-05, discussion followed.

Commissioner VanLandingham said he had noticed that there was a well house on the property line.

Mr. England replied yes, that was correct. He said when he had resurveyed the three properties, apparently an adjoining property owner had built a well on the corner of their property. He said it appeared that this building was located over the line a couple of feet.

Commissioner VanLandingham asked if the well house went with the existing house now.

Mr. England replied no, that this belonged to an adjoining property owner next door.

Commissioner VanLandingham questioned if there was already an existing structure, had an alternate site for a septic system been identified on this property where the house is standing now.

Mr. England replied that there was an existing house on the third lot.



Commissioner VanLandingham said he was referring to the house that had the pool with it.

Mr. England remarked that this was his house.

Commissioner VanLandingham asked him if there was an alternate site for a septic system on that piece of property that was identified with this house.

Mr. England responded that none had been requested.

Commissioner VanLandingham remarked that if this petition was approved, Mr. England would have to have a site for the septic tank as well as an alternate site.

Mr. England said he did not understand the definition of an alternate site.

Commissioner VanLandingham responded that in case the main septic system failed, there would have to be another septic system.

Mr. England remarked that he was certain within the two acres that there would be plenty of space available for an alternate septic tank.

Chairman Dunn asked how long the house had been on the property.

Mr. England replied the house had been there since 1971.

Chairman Dunn said he did not believe the requirement for two sites existed then.

Commissioner VanLandingham questioned if the Board approved these changes if this would bring that issue forth.

Commissioner Wells responded no and stated that this was an existing structure. She pointed out that it would pertain to the new lots but not the existing one.

Chairman Dunn remarked that there would have to be two sites on each of the new lots. He said if there was a problem, then Mr. England would have to find a new location.

Mr. England remarked that the only reason he was taking property away from his lot and adding to these lots was because in 1970 the property had surveyed up to be one acre. He said due to today's standards the property was surveyed up to something less than one acre. He said he was taking off approximately four to five feet from his property and adding it to it to bring the property back to a true one acre for approval.

The motion carried 5-0.

**PETITION NO. T-014-05:**

Consideration of Petition No. T-014-05, Donald W. and Jane Smith, Owners, and Harry R. Stamper of Sprint PCS, Inc., Agent, request to construct a 180 foot Monopole Telecommunications Tower plus a 12 foot lightning rod. This property is located in Land Lot 33 of the 7th District, consists of 34.5 acres, fronts on Ebenezer Road, and is zoned A-R. Proposed tower does not comply with the 2 mile separation between tower facilities. The Planning Commission recommended to table said petition until March 3, 2005.

Chairman Dunn announced that this matter would be withdrawn from the agenda and heard by the Board of Commissioners on March 24, 2005.

**PETITION NO. 1138-05:**

Director of Zoning Aaron Wheeler read Petition No. 1138-05, Dan V. Stinchcomb, Owner, and Randy Boyd, Agent, request to rezone 18.75 acres from R-40 to C-H to develop a nonresidential subdivision consisting of ten (10) lots for commercial highway uses. He said this property was located in Land Lot 39 of the 7th District and fronted on S.R. 54 West and Huiet Drive. He said the Planning Commission recommended to deny the C-H zoning and recommended approval as O-I (4-1). He said staff recommended denial.

Randy Boyd, Agent for Dan Stinchcomb, remarked that both of these requests come from the same piece of property.

Chairman Dunn said the Board was aware of that but the Board would have to deal with each request separately.

Mr. Boyd remarked that the property was currently zoned R-40. He said he was requesting approximately a nineteen acre tract to be developed as commercial highway with a proposed commercial highway subdivision. He said as the site plan indicated the property was located West of Huiet Drive. He remarked that the property directly across from Huiet Drive to the East was zoned C-H and directly across S.R. 54 was zoned O-I and diagonally across from this property was zoned C-H. He said he was requesting that this property be approved as a commercial highway subdivision.

Chairman Dunn asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition to this petition. Hearing none, he asked for the Board's pleasure in this matter.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to deny Petition No. 1138-05, discussion followed.

Commissioner VanLandingham asked if this was a complete denial or approval as O-I.

Commissioner Wells responded that this was a complete denial according to staff's recommendation.

Chairman Dunn remarked that staff had recommended denial and Planning and Zoning had recommended O-I.

Commissioner Wells stated that this was located on page 3-7 of the Staff's Analysis. She there were four issues listed under the Analysis.

Commissioner VanLandingham said he would like to see the Board consider O-I. He said the Planning Commission recommended that if it fits the overlay on S.R. 54. He felt it would be a fairly good fit for O-I in that area.

Commissioner Frady said he did not have a problem with O-I. He felt at the time the S.R. 54 overlay zone came into existence there was approximately 35 acres of commercial property in the area of Tyrone Road between the two Huiet Drives. He said at that time the Board had remarked that once that property was used up some more commercial in that area might be considered. He said they had felt that was what was best suited for it. He said there was O-I in most places out there. He said the Board had approved property for Office Institutional as long as the property was not located within a subdivision. He said the buildings had to conform to residential buildings so they fit in a neighborhood. He said the reason this had been done was to protect the citizens living there now. He said the Board had made offices look like houses thinking that at some time in the future they would not stay there forever. He said the Board did say at that time that some commercial would be considered in that area. He said he could support O-I.

The motion carried 3-2 with Commissioner VanLandingham and Commissioner Frady voting in opposition. A copy of the Ordinance and Resolution denying Petition No. 1138-05, identified as "Attachment No. 4", follow these minutes and are made an official part hereof.

Commissioner Frady said he would like to make a motion approving this for O-I. He said O-I had not been considered.

On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to approve Petition No. 1138-05 as O-I zoning. The motion failed 2-3 with Chairman Dunn, Commissioner Wells, and Commissioner Pfeifer voting in opposition.

**PETITION NO. 1139-05:**

Director of Zoning Aaron Wheeler read Petition No. 1139-05, Dan V. Stinchcomb, Owner, and Randy Boyd, Agent, request to rezone 268.05 acres from R-40 and A-R to R-50 to develop 182 single-family dwelling lots. He said this property was located in Land Lots 5, 28, 29, and 30 of the 7th District and fronted on Davis Road and Ebenezer Church Road. He said the Planning Commission recommended denial (5-0) and Staff recommended approval of the property North of Davis Road and denial of the property South of Davis Road.

Randy Boyd, Agent, remarked that he was proposing part of a 872 acre tract. He said Mr. Stinchcomb purchased the property in 1999. He pointed out that the total tract of land was 872 acres. He said all of the property North of the proposed project was zoned R-40. He said he was requesting the highlighted area of the map be zoned R-50 to be in line and continue the theme of this subdivision. He said up in the Northern portion of the property a recreational area with amenities package with a pool and tennis courts was proposed and also use the lakes. He said they would start developing in the Northeast quadrant and work South so that the tracts that they were requesting would be later in the development. He said a market analysis had been done of certain subdivisions of the area that they felt would be compatible to this. He said they felt it would be in line with the Highgrove Subdivision. He said the average price of a lot in the Highgrove Subdivision last year was \$100,000. He said they anticipated the price of the lots in the proposed development starting at \$100,000 due to the land cost. He said this property had continue to sit here for the last five years and Mr. Stinchcomb was at the point now where it was time to be developed. He said they felt this would be a nice subdivision and a continuation of it along Davis Road down to Ebenezer Church Road. He asked for the Board's consideration to rezone this property to R-50 in order to be in line and continue the theme of the subdivision.

Chairman Dunn asked if anyone wished to speak in favor of this petition. Hearing none he asked if anyone wished to speak in opposition to the petition. He asked the Marshal to count the number of people standing in opposition.

The Marshal reported that there were 46 people standing in opposition.

Chairman Dunn asked for the people who wished to come to the podium to speak to remain standing. He counted ten people who wished to speak at the podium. He said each person would have three minutes to speak.

Terri Fopiano, 200 Hillred Drive, Fayetteville said she and the other speakers represented over 120 signatures that she had on a petition. She presented the petition to the Board. A copy of the petition, identified as "Attachment No. 5", follows these minutes and is made an official part hereof. She said everyone who signed the petition was in opposition to this rezoning request. She said she was before the Board representing her neighbors in the

adjacent areas. She said they were standing together in opposition to this request. She remarked that first and foremost the rezoning request did not adhere to the current zoning. She noted that the property was already constitutionally zoned and it also did not comply with the Land Use Plan. She said all of the surrounding property adjacent to the project was zoned A-R for five acre tracts. She remarked that the Engineering Department had not done a study on the flood plain. She noted that there would be over an \$8 million cost to the schools according to the letter from Dr. DeCotis dated January 14, 2005. She said it was stated in the newspaper that this was a request for a denial. She stated some of the things that citizens might consider if they could change this in some way would be that they would agree to R-85 zoning on tracts 1, 2 and 3 and A-R for tract 4. She said they would also agree with further setbacks on Ebenezer Church Road to comply with the right-of-way requirements of the county. She said they would also agree to greater green spaces and attention to wetlands and environmental issues. She said they would like to see a turn lane and acceleration lane added to the entrance of Ebenezer Church Road as well as a stop sign added. She said they would like avoidance of areas on the property where the Federally protected Lady Slippers flowers were found. She remarked that this land was also at a historical spot where one of the great skirmishes in the war between the States was fought on this land at Ebenezer Church Road according to the Fayette County Historian. She said they would like to see the developer erect a historical marker at the entrance of the subdivision at Ebenezer Church Road as per Tony Parrott who is the President of the Fayette County Historical Society. She said this would be at a cost of \$1,500 to the developer and it would have to come from the State Historical Society. She said they would also like to see compliance with the county watershed protection buffers and setbacks. She said they would like to see fencing and arched gateway around the Phillips Cemetery on Davis Road as per regulations from the Fayette County Historical Society. She said there was a graveyard on Davis Road that was called the Phillips Graveyard. She said this covered two acres and was deeded to the county in 1880 by Mrs. Phillips. She said this cemetery was adjacent on all sides by Mr. Stinchcomb's land.

Steve Short, 180 Hillred Drive, Fayetteville remarked that he was Mr. Fopiano's neighbor. He said this was the first home that he had owned with well water and a septic system. He said he had done some checking and basically what comes into the septic system goes directly into the drinking water. He said he did not want to be forced in a few years to go on public water because of 182 more septic systems in a concentrated area. He said this would cost a few thousand dollars out of everyone's pocket that was involved. He said he had checked with the E.P.A. and they were saying that anything over forty septic tanks in one square mile causes one to lose everything that was diluted and it goes downhill from there. He said Terri had found information on the Fayette County website that indicated there must be a minimum of 1.5 acres in order to have a septic system in the county. He said one acre would not be fitting there either.

Chairman Dunn pointed out that information was incorrect.

Mr. Short remarked that there would be 180 more septic tanks located in a concentrated area. He said his home was located directly down the road and he felt if this project was approved, it would just be the start of 182 homes going in with septic systems. He said before long, he and his neighbors would be forced on public water. He said he was not happy about that.

Mary Hannum, 100 Martha's Cove, Fayetteville remarked that her home was located immediately adjacent to this property along Ebenezer Church Road. She said she only had approximately 72 feet on Ebenezer Church Road and it was a triangular shape lot. She said Martha's Cove Subdivision consisted of only thirteen lots but there was also one house from the Bridger Point Subdivision whose driveway comes onto Martha's Cove. She said this home was also represented on their portion of the petition. She said they were actually part of the watershed off Mr. Stinchcomb's property. She said all of the stormwater runoff comes down through the lots on Martha's Cove and down into Bridger Point Subdivision. She remarked that there were already drainage problems there. She said she had two very large drainage culverts on her property that were six feet deep. She said one of the culverts was at the corner of Ebenezer Church Road and that mainly services the drainage from Ebenezer Church Road itself. She said the other culvert was approximately 800 to 900 feet up the road. She said she had over 1,000 feet frontage there. She said there were actually two very large drainage ditches that come together right on Martha's Cove Road and go through a six foot culvert underneath the road and then go into a pond on her neighbor's property over on Lot #1. She said from there if more drainage was added into that then possibly the pond would even overflow and dump it very rapidly down into Bridger Point. She said being on the down slope of that she was also very concerned about another 182 septic tanks there. She said the Board would hear from other concerned citizens all of whom would have a little bit different concern but this all came down to density. She said this kind of density was just too much.

Jeff Stone, 206 Smokerise Trace, Peachtree City said he was actually purchasing seventeen and a half acres adjacent to this property. He said he had signed a contract last week with full knowledge of what was going on here. He said he had also attended the last Commission meeting. He remarked that he was also a businessman and owned a business in Peachtree City with thirty employees. He said they import machinery from all over the world and sell it all over North America. He remarked that Mr. Stinchcomb owned this land and he had the right to develop it. He felt the land should be developed consistently with the Land Use Plan. He said it was interesting to him when he watched the proceedings several weeks ago that the Planning Commission Chairman tried to offer a compromise that this land ought to be developed into two to three acre lots as was consistent with the Land Use Plan. He said it was interesting to watch the entire thing fall apart when a simple question was asked who would pave the road. He said he also had property in the North Carolina mountains and there were seventeen families that drive along a gravel road. He said they spend quite a lot of money trying to maintain it even with

seventeen people involved. He said if 182 homes were built on this property, then something would have to be done to the road. He said it was his view that everyone would have to make a compromise here. He said this property would be developed in some way. He stated that he would like to see the property developed into a property consistent with the Land Use Plan. He felt everyone involved including the county and the developer and the neighbors were going to have to compromise and find a way to black top that road so that it was reasonable for people to enter and leave that property when there were forty, fifty or 182 homes there. He said he would like to recommend that this rezoning be approved based on the Land Use Plan and the developer agreeing to pay some portion of the paving of this road.

Chairman Dunn clarified that Mr. Stone was against what the developer was asking for.

Mr. Stone responded yes that he was against the one acre density. He said he felt this would be too much and he felt something should be done to allow Mr. Stinchcomb to develop the land in a reasonable way.

Cecelia Ely, 550 Davis Road, Fayetteville said she owned the first thirteen acres on Davis Road at the West end. She said she had been there since 1984 and had complied with all of the county rules. She said she had built her mother a house a year ago. She said they had gone through the process to make sure her mother had five acres and she got six acres. She said there were two wells on the property and two septic tanks on the property. She said in all of the twenty plus years she had been on that property, school buses had never been allowed to travel down that road. She remarked that this was a dirt road and school buses were not allowed to travel on dirt roads. She pointed out that the entire road would have to be paved in order to supply school buses to that property. She said she had an additional seventeen names on her petition that she would like to add to the petition previously submitted by Terri Fopiano saying that citizens do not want the road paved. She said there were also some setback provisions on the property. She said her property boundaries were actual natural boundaries. She said there was a huge tree that was a boundary property line that would have to be moved in order to widen the road. She said there was also the Phillips Cemetery where her children had discovered that someone had stolen a grave out of the property. She said she had called and gotten the Historical Society involved and it was now known to be a Confederate Cemetery. She said they had discovered that in 1880 Mrs. Phillips donated this property and they would like to preserve the property and make sure that it was not disturbed any further than it had been already. She said she was also a business owner in Peachtree City and commented that she owned a medical practice. She said she understood the economics of building this property out but she also wanted to protect what she had built on that property in the last few years.

Larry McNeal, 486 Ebenezer Church Road, Fayetteville said he had lived at this address for approximately twenty five years. He said it was interesting that this had come up again because approximately fifteen to twenty years ago the property owners along Ebenezer Church Road hired attorneys to get this deannexed from the City of Fayetteville when it was annexed into the City of Fayetteville with the same intent by a company out of Texas. He said everybody that lives out that way purchased their land and built their houses because they had five acre lots and wanted that type of lot. He said this was basically a complete redo. He said if this type of development was approved, then he would sell all of his property in one acre lots and leave the county. He said if this happened, this would not be the county that he had moved into twenty five years ago.

Mike McClellan, 118 Nelms Road, Fayetteville remarked that approximately fifty homeowners surrounding the area in question had shown up tonight to demonstrate their opposition to this rezoning request. He said more citizens had signed the previously mentioned petitions. He said there had been no one that stepped forward to say that they needed this higher density plan because there were no housing alternatives available to them. He said no one had stepped up and stated a compelling reason to deviate from the Land Use Plan. He said, if possible, he would like to ask the Commission to consider a modified version of the request that would call for a minimum of three acre parcels South of Davis Road. He asked the Board, if appropriate, to include in their comments a brief description of the City annexation process if it should take place and what the County's possible response might be. He said during the last week the media had portrayed annexation as a foregone conclusion if this request was denied by the County. He said if protocol allowed, some education here would be helpful to the citizens.

Trudy Whittington, 35 Country Trace, Fayetteville remarked that this was a private drive off of Ebenezer Church Road. She said the property that she owned would have five or six different lots that come up to the land that she used. She remarked that this was all quite disturbing. She said she and her husband had moved here thirty-five years ago with their two daughters. She said they had raised their daughters here in Fayette County. She said the quaint town that they had moved to had changed drastically. She said they had moved to Ebenezer Church Road never giving a thought that one day they would wake up to this horror that their property line could almost be in the City limits or even have one acre houses. She felt the full acreage there showed that they had purchased their property in good faith with everything surrounding them being A-R for five acre development. She said in a recent John Wayne movie that she had seen on television it was said that "a way of life would end—too bad—it was a good way too." She felt if this happened here, that a good a cherished way of life in Fayette County would also come to an end.

Ms. Whittington commented further on the Pink Lady Slipper flowers that were growing on the land adjoining her property. She said this flower was listed on the endangered species



list. She pointed out that this was a very unique plant and if transplanted they die within three years of the transplantation. She said the number one problem facing the endangered plants in Georgia was the loss of habitat. She said one could see the developments with five acre tracts such as Hillred, Country Trace, Martha's Cove and Bridger Point. She said when they sell them in five acre tracts they clear out a driveway and a spot for a house and not just tear down the entire property as this proposed development would. She said as a citizen she had choices, rights and responsibilities and she had tried to be a good citizen and uphold all of those. She said she had tried to train her children and her grandchildren in the same way. She said it was hard to try and instruct children when you see that governments can come in and just totally change your choices and your way of life. She said she did understand the right for development but she asked that it be no less than three acres.

Robert Howell, 175 Martha's Cove, Fayetteville said he had relocated to the Fayette County area in October as he relocated company headquarters here from New York City. He said as he looked at the area for places to live and that included looking all over this area and not only Fayette County but the surrounding counties. He said one of the things that he did was to go onto the Fayette County website and take a look at the Land Use Plan. He said he found this Plan quite attractive. He said the county's Land Use Plan made good sense with a nice mix of density and rural areas and he found that it was a nice place to live. He called the Board's attention to the Progressive Farmer article that had come out several weeks ago. He said Fayette County was one of the top twenty rural places to live. He felt this was a nice mix between what was in the City of Fayetteville and then leaving to go into the county. He said there was a nice rural feeling to the county. He said he had done his homework and he had decided that it was a good place to live based on the Land Use Plan. He said this was a good Plan, a sound Plan and he encouraged the Board to stand behind that Plan. He said the Plan made sense then and it made sense now. He felt the way the area was zoned now was the way it should remain.

Chairman Dunn remarked that Agent Randy Boyd had an opportunity to rebut any of the comments if he so desired.

Randy Boyd remarked that one of the first issues brought up was the flood plain in the wetlands. He said a flood study had not been done on the creek that traversed from Each to West on this property. He said that would be a requirement of the construction plans if this were approved for any subdivision. He said the wetlands would also be delineated, located and protected so there would be no plans to disturb the wetlands or destroy the flood plain. He remarked that any watershed protection ordinances in place that would affect this property would be taken into consideration when the preliminary plat was prepared. He commented on the cemetery located on Davis Road and remarked that he was aware of that. He said the cemetery was not located on either of the two tracts of land

but was located due North of the Western tract. He said he had a survey on it and he knew exactly where it was located. He said this would be protected but it was located on the property that was already zoned. He commented on the well and the septic tank issue. He said this would be on county water and he would adhere to any ordinance that was in place dealing with the septic tank. He said these would be properly installed after the Level III Soils Analysis was done with a primary and alternate site for each lot. He said he would adhere to any guidelines for the installation of the septic tanks.

Mr. Boyd further remarked on the concerns of Martha's Cove to the East or any other property that this would drain off onto. He remarked that Stormwater Management Ordinances were in place that would take care of detention. He said 80% of the predeveloped site would be held on site as the ordinance stated so that would take care of the issues of flooding someone else's property. He said there continued to be discussion regarding the 182 houses exiting on Davis Road. He commented that this was a huge site and would be developed from Lester Road headed South. He said from the property on Davis heading North there would be a series of roads that would traverse the property to Lester Road. He said they would not be asking every house to exit off onto Davis Road. He said he did not know why someone would go through a subdivision from Ebenezer Church Road all the way back to Davis to exit and go down a dirt road although some houses might do this. He said the reason they had taken the road from Ebenezer Church Road straight through to Davis Road was to adhere to the 3,000 foot rule that they could not violate from Ebenezer Church Road. He said if you went through 3,000 feet you would not even make it to the creek. He said they continued to cross the creek and tie into Davis Road. He said they were not looking at this as a thoroughfare but looking at it just for safety purposes. He stated that there was not one single lot that fronted on Davis Road. He said they had only used it to adhere to the 3,000 foot rule for safety purposes.

Mr. Boyd said they had also read in the newspaper about the City of Fayetteville annexation. He said he was standing before the Board tonight requesting consideration from the Board to approve this rezoning. He said they would like to start on this piece of property in the county. He said for the Board's consideration to discuss this with the applicant. He said they would like to develop this property and receive a favorable rezoning on this property. He remarked that it would almost be impossible to develop this as A-R zoning. He asked the Board members for their comments so that they could work with the Board on this project. He said he would like to develop this project in the county and start the project immediately.

Chairman Dunn said he would bring this discussion back to the Board for any comments or motions.

Commissioner VanLandingham said he was in no way speaking in favor of the petition but to get this on the floor for discussion, he would like to make a motion.

On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to deny Petition No. 1139-05 as A-R zoning but consider R-80 for three acre lots, discussion followed.

Commissioner VanLandingham asked Mr. Boyd to point out to the Board which area was already zoned R-40. He said there was a lot of concern about this petition and he said he understood both sides of it. He remarked that the responsibility of the Board was to consider the rights of both parties which were the surrounding properties as well as the petitioner. He said in looking at this he said it was completely surrounded by A-R. He said he was having a very difficult time in putting one acre lots next to five acre tracts all the way around. He said the property was zoned A-R when he purchased the property and he felt it beholding to the property owner to accept the property as he purchased it. He said in considering all of it and after hearing the concerned citizens speak under public comment, he felt the three acre zoning would be acceptable to almost everyone in the area. He remarked that he would prefer the property to remain A-R but he recognized the rights of both parties. He said he would like to comment on some items that had appeared in the newspaper regarding the annexation of this property. He felt this was not a consideration for the Board as County Commissioners. He said the Board could not make decisions on what somebody supposedly or purposely might do. He said the Board had to make decisions on issues that it was faced with in Fayette County. He remarked that he could not really support one acre lots in an area that was completely surrounded by A-R.

Commissioner Pfeifer said he would prefer the property to remain A-R as well. He said he understood the citizens in the neighborhood would accept the zoning that Commissioner VanLandingham had made a motion on and he was leaning to support that motion. He said he was very concerned when he read this proposal. He remarked that Davis Road was probably the longest dirt road in the county. He said when he had first moved to Fayette County he had made the mistake of reading a map and thinking he had found a short cut to Fayetteville. He said it was a lovely ride but was definitely not a short cut. He said there was a situation on Davis Road where the proposal that the Board had been given would drain both sides of anyone traveling North to Davis Road. He said the county would end up in the same situation there as the one recently on Quarters Road although the Board was dealing with a road that was a whole lot longer. He pointed out that the residents along Davis Road did not want it paved. He said he supported the citizens' option to live on a road that was not paved. He remarked that he would not want the county to come in and condemn right-of-way and pave that road over the objections of the citizens who live on it. He said he agreed with Commissioner VanLandingham in that the Board could not make decisions based on whether or not the City of Fayetteville might annex or not. He said in looking at that and having that brought up as an issue, he said he was very tired of that being brought up as an issue. He said he was really tired of being threatened with the annexation issues. He said he would encourage any people who were

present tonight and if they had friends in the City of Fayetteville to get them to run for City Council or get them to support somebody to run for City Council who would put a stop to this once and for all. He said he was so sick of those people tearing up this county. He said this piece of property was the heart of Fayette County. He said this would gut the heart of Fayette County. He said one citizen had remarked that Fayette County had been named as one of the top rural places to live in the United States. He said he could not support one acre zoning in any part of this request and would not. He said he was leaning very heavily in supporting Commissioner VanLandingham's motion. He said he would be open to what anyone else had to say and he stated that he might change his mind. He said he would leave the zoning as it currently was or go with what was said.

Chairman Dunn remarked that he was not a fan of annexation by any means but who should or should not be voted in on the City Council was none of the Board's business here. He said everyone had read the newspaper article where the reporter from The Citizen Newspaper had basically said that it was a foregone conclusion that this property would be annexed. He said this was the opinion of Mr. Gilbert who is a member of the Fayette County Planning Commission. He said Mr. Gilbert's opinion was Mr. Gilbert's opinion. He said the newspaper article had stated that the County feared this. He said Mr. Stinchcomb had gone to the City and discussed this property with the City Council. He remarked that the City Council had indicated to Mr. Stinchcomb that they were not interested. He said this was the reason this had come to the Board of Commissioners. He said he did not know what the City Council's plans were. He remarked that the Board of Commissioners could not control that. He said all the Board could do would be to make the best judgment that it could on what the Board felt this land should be and what the county's plans say. He said he would like to caution people to understand that the headline in the newspaper came from a comment by one member of an appointed Board. He said none of the County Commissioners said anything like that in the newspaper. He said he had been quoted in the newspaper too as having said if the City annexed this property, all the Board could do would be to object to it. He said he did not ever recall making that comment to anybody at the newspaper about this piece of property. He said the article stated that he had made this statement in the past. He said he did not know when that was. He said he just wanted to caution everyone to not just believe everything they hear. He said the applicant had the right to ask the City to annex and the City had, with some constraints, the right to annex if they so chose or to totally deny it without reason. He felt that everyone should worry a lot more about what the County was going to do with this property at this point than what the City might do at a later date. He said he hoped that this property would remain in the County.

Chairman Dunn further remarked that Mr. Stinchcomb purchased this property just a few years ago. He said Mr. Stinchcomb was well aware of the zoning on this property. He said a large portion of this property was zoned R-40 so there could be one acre lots in a very large part of this property. He said many, many dollars could be made North of the A-R

zoned property and there would be nothing that this county could do about it as long as all of the development rules were followed that were currently in place including taking care of the wetlands, etc. He said the Southern piece of this property was A-R and it was surrounded except on its Northern border with A-R properties. He remarked that he lived in this area and he purchased a five acre lot there. He said he loved this way of life himself. He said he was not contiguous to this property so he felt no obligation to fail to vote or to recuse himself. He felt like everyone else who lived there and that was what they wanted. He felt most members of this Commission when they had run for office they had said that they were trying to maintain the quality of life for this county and all of the different ways of life that this county possesses. He said Fayette County was unique in the Atlanta area. He said Fayette County still had a Cattleman's Association, 1,200 horses registered horses in this county and a 4-H Club. He said Fayette County had the best planned city in America and that was Peachtree City. He said Fayetteville was an older City but the City Council was working very diligently not to let that City go into the condition that some of the cities in South Georgia have gone into. He said people were working very hard to keep life in Fayette County the way it was. He said one way that he could personally add to that was to maintain the way of life in this particular area because this was sort of the heart of the county. He pointed out that Mr. Stinchcomb had a right to ask for this rezoning. He felt as a Commissioner that he had the right to deny it if he so chose but that certainly would not impact Mr. Stinchcomb's rights. He said Mr. Stinchcomb had the right to make a lot of money on the R-40 properties that were located North of this. He said he felt Mr. Stinchcomb could do that well and, if he came in with good building plans, he would be allowed to proceed. He said he could not support three acre lots. He said he supported the current zoning that it was today. He said he heard a couple of people say that if the property had to be rezoned that three acre lots would be acceptable.

Commissioner Frady remarked that the State Legislators determine the annexation laws and not the county. He said the only right that the county had in annexation was to make an objection if there was one for annexation. He said the Board had done this before. He said he was aware that this had been to the City before it came to the Board of Commissioners. He said the remarks in the newspaper were not exactly correct in his mind. He felt he could support three acre lots and stated that this would be in keeping with the Land Use Plan. He said that would be better than anything else that might come along later. He said sometimes the Board must act on things that could happen that would be out of the Board's control. He said he could support the three acre lots and he felt this did meet the Land Use Plan.

Commissioner Wells said she had a great deal of difficulty with this. She felt this was just spot zoning encroaching into the heart of Fayette County. She said every Board member had made a pledge to their constituents that the Board would protect the South end of the county and keep it rural in nature. She said this would go from Davis Road all the way to Ebenezer Church Road and would just be an incision into the heart of Fayette County that

would have such ramifications that everything along the side would just fall like dominos. She said this was a just a sliver that was like a finger poking into the heart of the county. She said she just could not support it. She remarked that a compromise would be three acres but she pointed out that she did not normally compromise at the expense of county citizens. She said she could not see going with three acres. She noted that people had been living there and abided by that. She said people had come before the Board asking for exceptions and the Board had held them accountable. She said the Board had told them what the rules were. She felt for the Board to start making exceptions now would not be fair to the people who had come before and made realistic requests. She said the Board had held their feet to the fire and said no and told them that this was the county standard. She said she saw no reason at this point in time to change that standard.

Commissioner Pfeifer asked for the current zoning on the Northern portion of the property.

Chairman Dunn responded that it was R-40 for one acre lots.

Commissioner Frady remarked there was 640 lots.

Commissioner Wells asked Mr. Boyd how many lots were being projected in the R-40 section.

Commissioner Frady remarked there were 182 lots in the Southern part of the property.

Mr. Boyd remarked that they had not prepared a soils analysis so they had not even done that at this point. He said they were not that far along with it. He said they were in the process of surveying the section North of the lake. He said they were having updated topography prepared and the next step was to get the soils analysis.

Chairman Dunn asked how many acres were zoned R-40.

Mr. Boyd replied 604

Chairman Dunn asked after taking out the lake, the buffers, the roadways and so forth how many one acre lots would they be able to build on if the soil perked.

Mr. Boyd responded that he would guess approximately 400. He said this would depend on the soils.

Commissioner Pfeifer remarked that the map indicated tract one/zoned A-R would be 54.2 acres North of Davis Road.

Chairman Dunn pointed out that section was only a small piece. He said the rest of the property was R-40 already. He said Mr. Stinchcomb should be able to build one acre houses if he so desired but the land South of the area should not be tampered with. He said there was a substantial ability for Mr. Stinchcomb to use his property rights to develop a whole lot of homes up there.

Commissioner Frady pointed out that in his information it was indicated that the tract consisted of 640 acres.

Mr. Boyd replied that the 640 acres was the property in the original purchase back in the early 1970's and approximately 35 acres was given to the Y.M.C.A.

Attorney McNally interjected that there was a small tract of 5.8 acres that was R-40.

Mr. Boyd asked if the Board would consider this as a separate zoning. He said this was broken up into different tracts and the tract on the Northern side of Davis Road would be in keeping with the Land Use Plan.

Chairman Dunn remarked that the only thing the Board would consider tonight was what the current application was presented as. He said this was the only thing that the Board could consider.

Commissioner VanLandingham interjected that this had been the most confusing rezoning that he had encountered. He said he had struggled to try and identify the A-R, the R-40 and what the applicant wanted to change. He said he had spent probably three days on this one rezoning. He said the reason his motion was made was to get it where the Board could discuss it and to see if there was enough interest in the three acre lots. He said now Mr. Boyd was wanting to propose something else. He said if Mr. Boyd had another plan, then that would be the one that needed to be brought back to the Board instead of trying to change the one that was currently in place. He said he was going to withdraw his support of the three acres on the basis of what Mr. Boyd had said a while ago. He said he would have a difficult time changing a tract that was completely surrounded by A-R. He said when he looked at this he saw a subdivision that was contingent to it on four points and these were all large lots. He felt to bring one acre lots to this area would be a very low blow to the county's citizens living there who have asked that the Board adhere to the Land Use Plan. He said if Mr. Boyd had something else to bring to the Board for consideration, he would be glad to look at that too.

Mr. Boyd remarked with that being said, he asked for the Board's consideration to table this rezoning request at this time. He said they did not have any other plan at this point.

Chairman Dunn remarked that the Board could only consider what was before the Board right now.

Commissioner VanLandingham stated that this request could not be withdrawn. He said it would have to be voted on as presented tonight.

Chairman Dunn said any request would have to go through the entire process. He said the motion on the floor right now was to approve three acre lots.

Commissioner Frady interjected that he would support three acre lots because several people had mentioned the fact that they would like to have that as opposed to the one acre lots. He said no one who spoke objected to three acre lots.

Commissioner Wells pointed out that the original motion was for R-80 for three acre lots.

Chairman Dunn said there was a motion and a second on the floor for R-80 for three acre lots.

Commissioner VanLandingham clarified that his motion was for the R-80 zoning to be considered. He said he had not recommended R-80 but asked for consideration of R-80 zoning.

Commissioner Frady remarked that Commissioner VanLandingham had made a motion to rezone the property R-80.

Chairman Dunn remarked that the motion was clearly for discussion and the Board had discussed it and now it was time to vote on the motion.

Commissioner Wells said the Board could proceed and vote on the current motion and then make another motion if it so desired.

Chairman Dunn called for the vote.

The motion failed 1-4 with Commissioner Frady voting in favor of the motion and Chairman Dunn, Commissioner Wells, Commissioner Pfeifer and Commissioner VanLandingham voting in opposition.

Chairman Dunn asked if anyone wished to make another motion.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to deny Petition No. 1139-05, discussion followed.



Commissioner Pfeifer remarked that after getting a better picture and seeing the R-40 that was existing and does come down on Davis Road, that the Board look again at what he had suggested about Quarters Road and that was putting up signs saying that the County did not have any intentions of paving this road.

The motion carried 4-0-1 with Commissioner Frady abstaining from the vote. A copy of the Ordinance and Resolution denying Petition No. 1139-05, identified as "Attachment No. 6", follow these minutes and are made an official part hereof.

**FURTHER DISCUSSION OF REGULATIONS ON PARKING VEHICLES FOR SALE IN NON-COMMERCIAL AREAS:** *(This item was tabled from the February 2, 2005 Commissioners' meeting).*

Attorney McNally remarked that he had met with the Zoning Department as well as the engineering staff and they would be making some recommendations relative to several development regulations. He requested this item be removed from the agenda for further discussion by staff. He said this would come back to the Board in the near future for discussion.

Commissioner Wells asked how soon in the near future.

Attorney McNally replied that he hoped within the next 60 days.

**CONSENT AGENDA:** On motion made by Commissioner VanLandingham, seconded by Commissioner Wells to approve the consent agenda as presented. The motion carried 5-0.

**STREET LIGHT DISTRICTS - PLATINUM RIDGE AND ANNEISE PARK:**  
Approval of request from the Engineering Department to approve Platinum Ridge and Annelise Park as Street Light Districts in Fayette County. A copy of the request, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

**FIRE AND EMERGENCY SERVICES - BID PROCESS FOR EMS TURNOUT GEAR:** Approval of request from Chief Jack Krakeel of Fire and Emergency Services for authorization to proceed with a bid process for EMS turnout gear. A copy of the request, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT - OVERTIME REIMBURSED BY U.S. TREASURY DEPT.:** Approval of request from the Sheriff's Department to increase revenues and expenditures for overtime reimbursed by the U.S. Treasury Department in the

amount of \$6,377.85. A copy of the request, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

**PURCHASING DEPARTMENT - BID AWARD TO MEDTEC AMBULANCE CORP./TEN 8 FIRE EQUIPMENT:** Approval of request from the Director of Purchasing to award bid to Medtec Ambulance Corp./Ten 8 Fire Equipment at a net price of \$111,240. A copy of the memorandum, identified as "Attachment No. 10", follows these minutes and is made an official part hereof.

**FAYETTEVILLE MAIN STREET - 2005 CALENDAR OF EVENTS:** Approval of request from Fayetteville Main Street to approve their 2005 Main Street Calendar of Events. A copy of the 2005 Main Street Calendar of Events, identified as "Attachment No. 11", follows these minutes and is made an official part hereof.

**BUSINESS SERVICES DEPARTMENT - INCREASE OF GROUND MILEAGE FOR EMS TRANSPORTS:** Approval of request from the Director of Business Services Mark Pullium to increase the ground mileage for EMS transports from \$5.00 per mile to \$5.36 per mile as indicated on the Medicare Part B disclosure report. A copy of the request, identified as "Attachment No. 12", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT - REIMBURSEMENT FOR VEHICLE DAMAGE:** Approval of request from the Sheriff's Department to increase expenditure 10030330-522233 in the amount of \$146.99 for reimbursement for vehicle damage from St. Paul Insurance Company. A copy of the memorandum, identified as "Attachment No. 13", follows these minutes and is made an official part hereof.

**BUSINESS SERVICES DEPARTMENT - RATIFICATION OF MI ASSET TAGGING SYSTEM:** Approval of request from the Director of Business Services Mark Pullium approve ratification of the MI asset tagging system, PC pocket scanners and bar-coding labels and appropriate an additional \$22,660 from contingency to cover the costs associated with this system. A copy of the memorandum, identified as "Attachment No. 14", follows these minutes and is made an official part hereof.

**FIRE AND EMERGENCY SERVICES - NEW SEPTIC SYSTEM FOR FIRE STATION #5:** Approval of request from Chief Jack Krakeel of Fire and Emergency Services to approve funds totaling \$21,467 to be transferred from Fire Station Construction Fund to cover cost of new system and the septic tank pumping cost to date for Fire Station #5. A copy of the request, identified as "Attachment No. 15", follows these minutes and is made an official part hereof.

**SHERIFF'S DEPARTMENT - REIMBURSEMENT FOR VEHICLE DAMAGE:**

Approval of request from Lt. Colonel Wayne Hannah of the Sheriff's Department to approve increase revenues and expenditures for reimbursements for vehicle damage from Gary Turner in the amount of \$544.16. A copy of the memorandum, identified as "Attachment No. 16", follows these minutes and is made an official part hereof.

**FIRE AND EMERGENCY SERVICES - PURCHASE TWO THERMAL IMAGING CAMERAS AND PROCEED WITH SALE OF FLIR CAMERA:**

Approval of request from Chief Jack Krakeel of Fire and Emergency Services to purchase two Thermal Imaging Cameras in the amount of \$18,000 with \$12,500 coming from the Heritage Grant and the remaining balance to be taken from Safety Supplies in the Fire Operations budget; and to proceed with the sale of the Flir Camera through Fayette County Purchasing with received funds returned to cover the money requested from Safety Supplies after receipt of the new cameras. A copy of the request, identified as "Attachment No. 17", follows these minutes and is made an official part hereof.

**MINUTES:** Approval of minutes for Board of Commissioners' meetings held on January 27, 2005 and February 2, 2005.

**PUBLIC COMMENT:**

Members of the public are allowed up to five minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

**Larry McNeil:** Larry McNeil, 486 Ebenezer Church Road, Fayetteville asked if the County Commission would be responsible for setting impact fees for new housing in Fayette County.

Chairman Dunn replied yes.

Mr. McNeil asked if this had ever been considered.

Chairman Dunn replied yes.

Mr. McNeil asked if this would ever happen.

Chairman Dunn responded yes and stated that it already had.

Mr. McNeil asked if someone wanted to build a new home what was the impact fee.

Chairman Dunn remarked that this was a fire impact fee.

Mr. McNeil remarked that in some States for an individual residence there would be a \$20,000 impact fee before the residence was built. He said these impact fees help pay for schools, roads, fire departments and other services.

Attorney McNally interjected that the county has impact fees where a committee consisting of residents of the county met and decided that impact fees could be installed in keeping with the law. He said just recently there had been an introduction in the Legislature about passing impact fees which would affect schools. He said this was where impact fees would have the heaviest affect upon the taxpayers. He said that was apparently not going anywhere in the Legislature at this point. He said they were the ones who would have to enable that. He said the county was very limited in where it could put impact fees in the county. He said the county had put those impact fees in those areas where it was felt it could be done with reasonableness.

Mr. McNeil remarked that there had been high population growth out West and these impact fees were very, very common and much more substantial.

Attorney McNally remarked that the State law just would not allow the county to do this to that point.

Chairman Dunn remarked that the cities of Fayetteville and Peachtree City both have impact fees for other things besides fire.

Chairman Dunn asked if anyone else wished to speak under public comment. Hearing none he proceeded with the next item on the agenda.

**STAFF REPORTS:**

**EXECUTIVE SESSION:** Chairman Dunn requested an executive session to discuss one personnel matter.

**COMMISSIONER PFEIFER:** Commissioner Pfeifer commented that he had been contacted by a citizen who complained about excessive noise in a residential neighborhood. He said the citizen had been unable to resolve this issue through the Marshal's Office, the Solicitor's Office and county staff. He said in reviewing the county's noise ordinance, it became apparent to him that it did not address the situation that they had and that the county's current noise ordinance should probably be rewritten to cover the instances that noise ordinances were intended to cover. He said the Commissioners all had a copy of a draft noise ordinance and tonight the County Attorney had given him some modifications on that. He felt the proposed ordinance would set actual limits on the amount of noise that was permitted to intrude from one property to another. He said the definition of excessive noise was clear. He felt none of the Board members wanted to be in the business of micro managing or having a nanny government for the citizens, but the Board did not want

citizens subjected to conditions that everyone finds unacceptable and go beyond their neighbors' freedoms. He said often the enjoyment of one's property could be interfered with by excessive noise from a neighbor. He said when this happens he felt it was the job of the Commission to step in. He said this citizen in particular had registered noise levels of 87 to 91 decibels and a reading of 99 decibels outside their home. He said the noise level was up to 80 decibels inside their home. He said just to give everyone an idea of how loud this was, he had taken some E.P.A. published numbers i.e. washing machines running at 48 to 78 decibels. He said one could take the loudest washing machine that they had ever heard and the noise coming from the neighbor would drown that out. He remarked that vacuum cleaners have noise levels of 60 to 85 decibels. He said non-moving but running automobiles at 50 feet have noise levels of 60 to 90 decibels. He said insink food disposals have 68 to 94 decibels. He said one could take the loudest garbage disposal that they had ever heard and they would barely be able to hear it over the noise coming from the neighbor. He said a non-moving heavy running truck at 50 feet has noise levels of 76 to 88 decibels. He said 52 decibels was the average daytime sound levels in a quiet suburban neighborhood. He said he had been on the telephone with the citizen and he literally could not hear what she was saying because of the noise coming from next door.

Commissioner Pfeifer remarked that it had been previously mentioned that Fayette County had received recognition as being a rural county. He said in this Country there was a history of some people moving into certain areas and then complaining about the activities that were going on in those areas which preceded them. He said accordingly he had given a copy of this draft noise ordinance to the Farm Bureau and asked them to comment on it to make sure that their activities were exempted. He said he believed that they were. He said there were specific exemptions for agricultural, aircraft, train noise and some other activities that the county would not attempt to control. He said he hoped to have the revised ordinance in shape for discussion at the next Commission meeting and hoped to make a motion that it be passed at that time.

Chairman Dunn asked if staff had been provided a copy of this proposed ordinance.

Commissioner Pfeifer replied that Attorney McNally had been given a copy.

Chairman Dunn asked if anyone other than Attorney McNally had been given a copy and Commissioner Pfeifer replied no. Chairman Dunn remarked that it would be a good idea to present this to staff as well for review. He said the Board would need all of the information from every angle.

**EXECUTIVE SESSION:** On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to adjourn for a five minute recess prior to executive session to discuss one personnel matter. The motion carried 5-0.

**PERSONNEL:** The Board discussed a personnel matter.

**EXECUTIVE SESSION AFFIDAVIT:** On motion made by Commissioner Wells, seconded by Commissioner Pfeifer to authorize the Chairman to execute the Executive Session Affidavit affirming that one personnel matter was discussed in executive session and to reconvene in open session. A copy of the Executive Session Affidavit, identified as "Attachment No. 18", follows these minutes and is made an official part hereof. The motion carried 5-0.

**PERSONNEL:** Chairman Dunn remarked that following the Executive Session the Board was reconvening the meeting to take action on a personnel matter.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer that the County Administrator's contract be terminated without cause. The motion carried 5-0.

On motion made by Commissioner Wells, seconded by Commissioner Pfeifer that Chris Venice be appointed as Acting County Administrator. The motion carried 5-0.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 10:37 p.m.

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Karen Morley, Chief Deputy Clerk

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Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 24<sup>th</sup> day of March, 2005.

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Karen Morley, Chief Deputy Clerk