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COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Community Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Peter A. Frisina/Tom Williams

Preferred Meeting Date: Wednesday, April 2, 2008

Wording for the Agenda:

Discussion of proposed amendments to the Land Use Element of the Fayette County Comprehensive Plan regarding the S.R. 54 West Overlay District.

Background/History/Details:

Since the SR 54 West Overlay District was adopted in 1995, there have been 3 rezoning requests to O-I for lots within recorded residential subdivisions (1 has been approved (Petition No. 963-97) and 2 have been denied (Petition No. 994-98 and Petition No. 1201-07). Staff is proposing an amendment to the Comprehensive Plan to clarify the County's position for rezoning requests within recorded residential subdivisions. At the 03/05/08 BOC Wkshop, the BOC instructed Staff to begin the review. At the 03/20/08 PC Wkshop, the PC recommended that all lots within a platted s/d, regardless if the s/d was oriented to or accessed SR 54 W should not be given consideration for O-I zoning but lots surrounded on the sides/rear by platted s/d should be given consideration for O-I. Staff and PC compromised and agreed that lots in a platted resid. s/d and lots surrounded fully on the side/rear by platted resid. s/d should not be given consideration for O-I. (PC Wkshop Mins. not ready at this time.)

What action are you seeking from the Board of Commissioners?

Staff is seeking direction and permission from the B.O.C. to proceed with public hearings before the P.C. on May 1, 2008, and before the B.O.C. on May 22, 2008, for adoption of proposed amendments to the L:and Use Element of the Fayette County Comprehensive Plan.

If this item requires funding, please describe:

N/A

Has this issue come before the Commissioners in the past? Yes

If so, when? Wednesday, March 5, 2008

Do you need audio-visual for the presentation? Yes

Back-up Material Submitted? Yes

STAFF USE ONLY

- (●) Finance Review Complete
- (●) Purchasing Review Complete
- (●) Legal Review Complete
- (●) Administrative Staff Review Complete

Administrator's Approval Yes

Confirmed Meeting Date Wednesday, April 2, 2008

- ( ) Recognition/ Presentation
- ( ) Public Hearing
- (●) Old Business
- ( ) New Business
- ( ) Consent
- ( ) Report
- ( ) Other

Transportation Corridors

Over the next twenty years, a number of state routes in Fayette County are scheduled to be widened from a two-lane highway to four-lane divided highways. These state routes are the connecting corridors for the incorporated municipalities in Fayette County and neighboring counties. With few exceptions, in the unincorporated areas of the county these roads traverse residential and/or agricultural land uses.

With the widening of these state routes comes the increased pressure for nonresidential development. The County is now in the position where it must balance this demand with its own growth and transportation policies. These state routes are first and foremost transportation corridors; the efficient flow of traffic must be maintained. Nonresidential land uses are indicated on the Land Use Plan Map where their location and intensity is most appropriate for the surrounding area.

In order to better facilitate the desired development along its transportation corridors, Fayette County has adopted an Overlay District on SR 54 and several Overlay Zones. The particular requirements pertaining to these transportation corridors are discussed below.

SR 54 West Overlay District: With the widening of SR 54 West, the Board of Commissioners adopted the SR 54 West Overlay District. This District identifies the county's goals and recommendations for the corridor and sets out the desired development pattern. SR 54 connects the communities of Fayetteville and Peachtree City, and serves as the only major east-west thoroughfare through the county. The following section defines the District.

Existing Development: Existing **residential development** is scattered along the SR 54 West Corridor. Residential tracts range in size from large agricultural tracts of as much as 200 acres down to minimum one (1) acre subdivisions. Large tracts are still used for agricultural purposes and may or may not contain a single-family residence. These tracts vary in size from approximately five (5) to 200 acres. The majority of the larger tracts are located between Sandy Creek and Tyrone Roads. Single-family residential development consists of smaller lots, varying in size from one (1) to five (5) acres, fronting on SR 54 West or within subdivisions which access SR 54 West. Three single-family residential subdivisions (Newton Estates, Fayette Villa, and The Landings) are developed in this area. These subdivisions are zoned for one (1) acre minimum lots. Fayette Villa and The Landings are located between Flat Creek Trail west to Sumner Road (north) on the north side of SR 54 West. Newton Estates is located west of Huiet Drive on the south side of SR 54 West. Existing **nonresidential development** consists of two commercial areas, one at Tyrone Road and one at Sumner Road (south).

Future Development: SR 54 West is first and foremost a transportation corridor. The efficient flow of traffic must be maintained. High intensity nonresidential uses should be targeted to the major intersection with Tyrone Road and SR 54 West. As one moves away from this node, the intensity of nonresidential development should decrease. The **goals** of the SR 54 West Overlay District are: (1) to maintain the efficient traffic flow of SR 54 West as the County's only major east-west thoroughfare; (2) to maintain a non-urban separation between Fayetteville and Peachtree City; and (3) to protect existing and future residential areas in the SR 54 West Corridor.

If lots which front on SR 54 West are allowed to change from a residential use to a nonresidential use, care must be taken to protect existing or future residential property. This can be accomplished by requiring enhanced landscaping, buffers and berms to protect these residential areas.

Recommendations: The intent of the SR 54 West Overlay District is to offer existing tracts of five +/- acres the option to convert to office uses. Outside of the commercial designation at Tyrone Road and the commercial and office-institutional designation at Sumner Road (south), these parcels would be considered for the Office-Institutional Zoning District. Conditions should be placed on property at the time of rezoning to address unique situations.

In certain situations a change from a residential zoning to the Office-Institutional Zoning District should not be given consideration due to the impact on abutting residential property in platted and recorded subdivisions. These situations include, but are not limited to the following:

- ***Parcels platted and recorded in a residential subdivision as individuals purchased lots within these subdivisions with the assurance that it would remain a residential area;***

- ***Any lot that is less than five (5) acres and is fully surrounded on side and rear lot lines by a platted and recorded residential subdivision or subdivisions. Parcels of at least five (5) acres could be considered in that additional setbacks and buffers could be required as a condition of zoning while leaving adequate area for development.***

Other Transportation Corridors: Section 7-6 Transportation Corridor Overlay Zone of the Fayette County Zoning Ordinance establishes Overlay Zones on state highways that traverse Fayette County. Regardless of the underlining zoning, any new nonresidential development along these corridors must meet the requirements of the particular Overlay Zone. The Zoning Ordinance establishes Overlay Zones on SR 54 West and SR 74 South, SR 85 North, and a General State Route Overlay Zone on all other state routes.

Fayette County
GEORGIA

Where Quality Is A Lifestyle

To: Fayette County Board of Commissioners

From: Tom Williams, Assistant Director of Planning and Zoning

Date: February 20, 2008

Subject: Discussion of the SR 54 West Overlay District in the Fayette County Comprehensive Plan.

Since the SR 54 West Overlay District was adopted in 1995, there have been three rezoning requests to O-I zoning for lots within recorded residential subdivisions. Of these three requests, one has been approved (Petition 963-97) and two have been denied (Petitions 994-98 and 1201-07).

Petition 963-97 was a rezoning request for R-20 to O-I on a lot in Burch's Deep Forest Subdivision located at the corner of SR 54 and Hickory Avenue (see attached map & minutes). The rezoning request was approved with conditions. The conditions are as follows:

1. That a six (6) foot high fence or wall to create a 100 percent visual screen be placed along the interior of the required 30 foot buffer along the southern boundary of the subject property. The fence or wall shall be limited to wood, brick, concrete of concrete block covered with an architectural treatment. This fence or wall would be in addition to buffer planting required in Section 5-23 of the Fayette County Zoning Ordinance.

2. That the subject property, consisting of two (2) ½ tracts be joined to fulfill the one (1) acre minimum of the O-I Zoning District. A Final Plat joining the two (2) ½ tracts must be submitted, approved and recorded and recorded prior to Site Plan approval and issuance of a zoning compliance for office uses.

3. That the curb cut onto Hickory Avenue be closed.

Petition 994-98 was a rezoning request for R-40 to O-I on a lot in Lakeview Estates Subdivision located at the corner of SR 54 and Lakeview Lane (see attached map & minutes). The lot fronts three roads, SR 54, Lakeview Lane and Old Mill Court. The rezoning request was denied. A subsequent court case upheld the denial.

Petition 1201-07 was a rezoning request for R-40 to O-I on a lot in Lakeview Estates Subdivision (see attached map & minutes). The lot fronts SR 54. The rezoning request was denied.

Staff is proposing an amendment to the SR 54 Overlay District section of the Land Use Element of the Fayette County Comprehensive Plan to clarify the County's position for rezoning requests within recorded residential subdivisions (see attached).

Essentially, Staff is seeking permission from the BOC to proceed with public hearings in April before the Planning Commission and Board of Commissioners for adoption of proposed amendments to the Fayette County Comprehensive Plan.

Transportation Corridors

Over the next twenty years, a number of state routes in Fayette County are scheduled to be widened from a two-lane highway to four-lane divided highways. These state routes are the connecting corridors for the incorporated municipalities in Fayette County and neighboring counties. With few exceptions, in the unincorporated areas of the county these roads traverse residential and/or agricultural land uses.

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> **Future Development:** SR 54 West is first and foremost a transportation corridor. The efficient flow of traffic must be maintained. High intensity nonresidential uses should be targeted to the major intersection with Tyrone Road and SR 54 West. As one moves away from this node, the intensity of nonresidential

development should decrease. The **goals** of the SR 54 West Overlay District are: (1) to maintain the efficient traffic flow of SR 54 West as the County's only major east-west thoroughfare; (2) to maintain a non-urban separation between Fayetteville and Peachtree City; and (3) to protect existing and future residential areas in the SR 54 West Corridor.

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Recommendations: The intent of the SR 54 West Overlay District is to offer existing tracts of five +/- acres the option to convert to office uses. Outside of the commercial designation at Tyrone Road and the commercial and office-institutional designation at Sumner Road (south), these parcels would be considered for the Office-Institutional Zoning District. Conditions should be placed on property at the time of rezoning to address unique situations.

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- ***Parcels platted and recorded in a residential subdivision where the residential subdivision is oriented to and has access to SR54 from one or more internal streets as individuals purchased lots within these subdivisions with the assurance that it would remain a residential area;***

- ***Any lot that is less than five (5) acres and is surrounded on side and rear lot lines by a platted and recorded residential subdivision or subdivisions. Parcels of at least five (5) acres could be considered in that additional setbacks and buffers could be required as a condition of zoning while leaving adequate area for development.***

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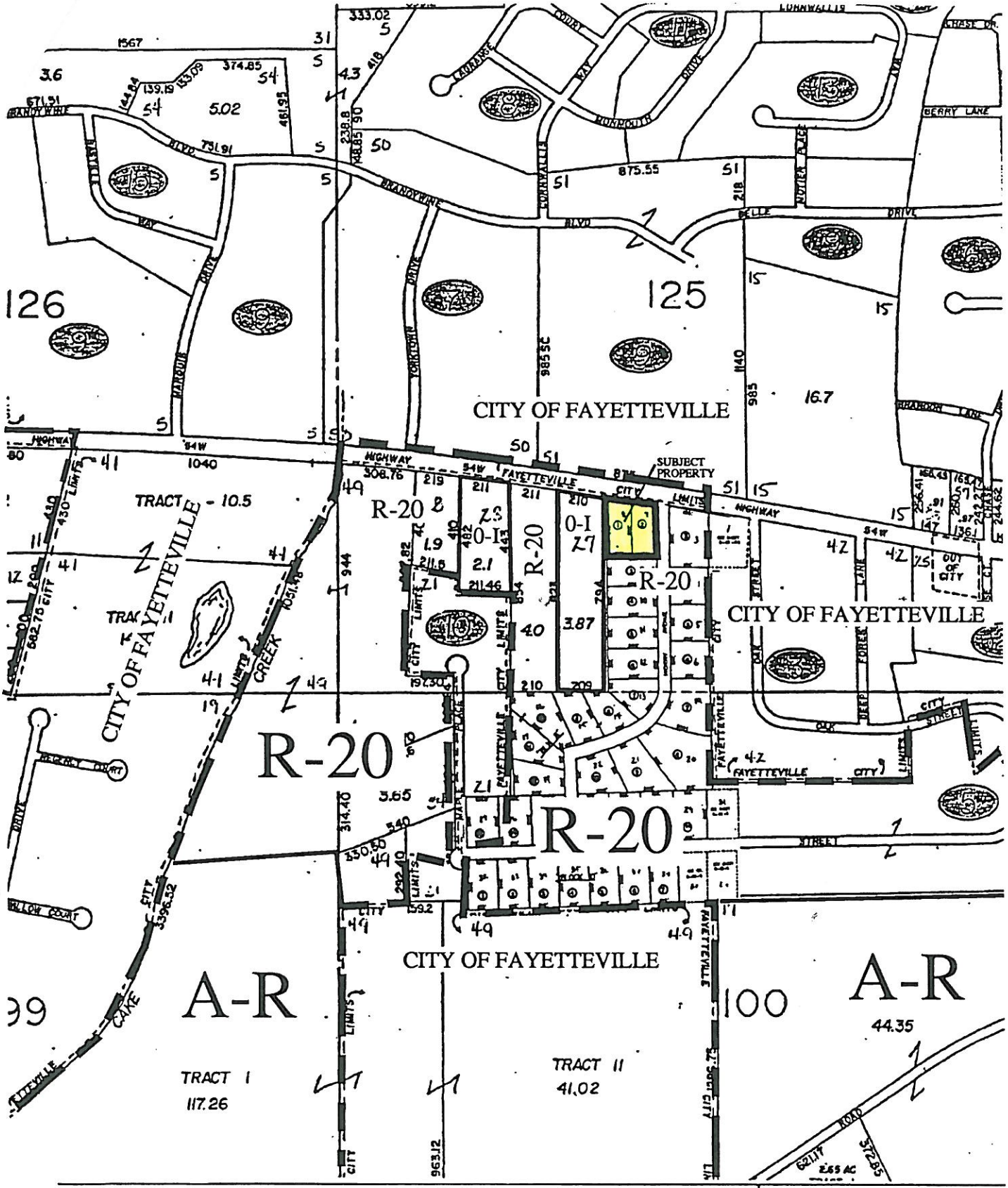


Petition No.: 963-97

Planning and Zoning

Request to rezone 1.038 acres from R-20 to O-I to develop a Office.

Date: September 4, 1997

PETITION NO. 963-97:
Zoning Administrator Robyn Moore read Petition No. 963-97, Robert A. and Delores Fizell Schuster, Owners/Agents, request to rezone 1.038 acres from R-20 to O-I to develop an office. She said the property was located in Land Lots 125 of the 5th District and fronts on S.R. 54 West and Hickory Avenue. She noted the Planning Commission recommended approval with conditions 4-0 and staff recommended approval with conditions.

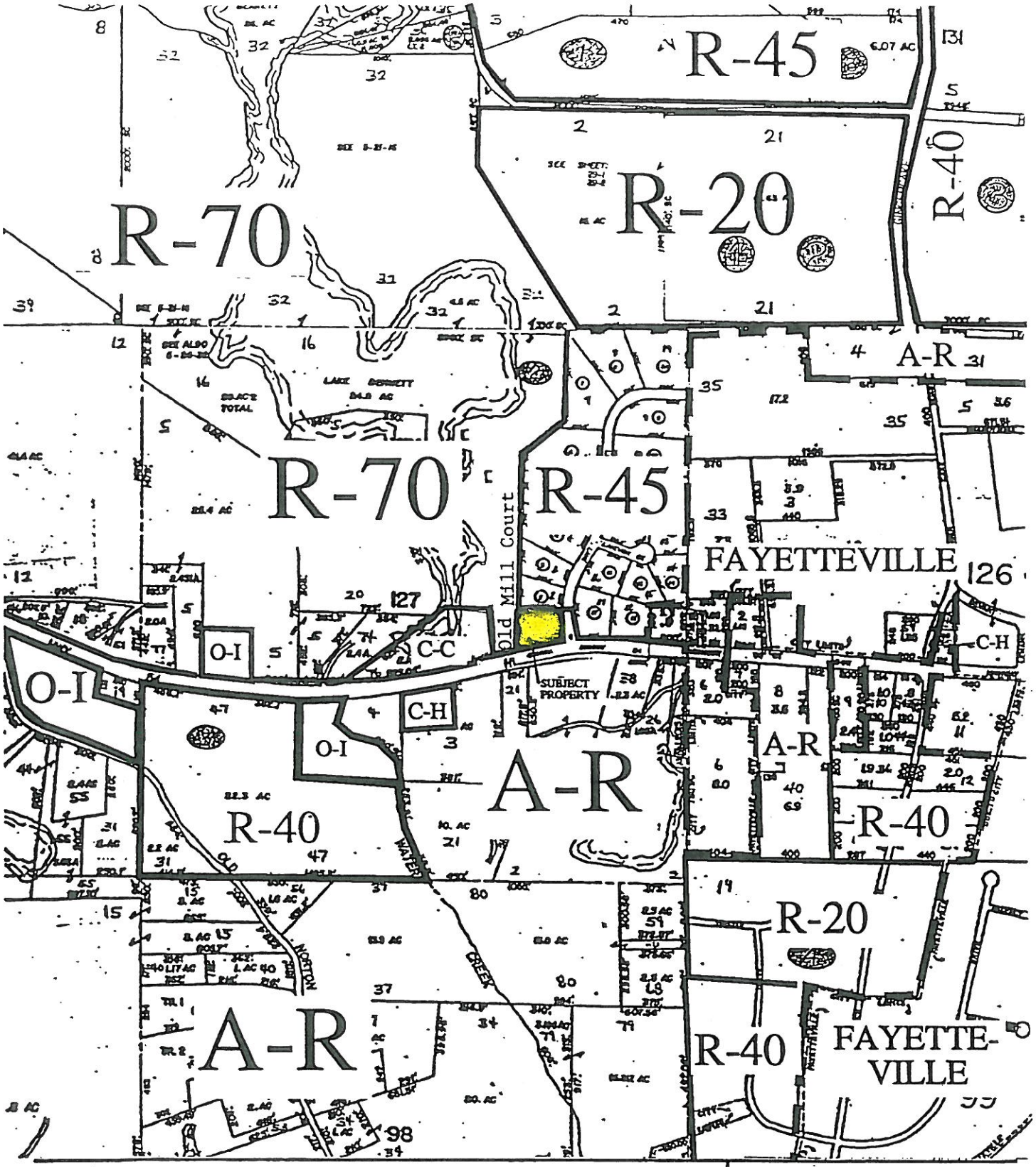
Robert Schuster, 103 Hickory Avenue said he was requesting the rezoning of his property from R-20 to O-I in accordance to the Fayette County Land Use Plan.

Chairman Sprayberry asked if anyone wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition. There were no comments in opposition.

Chairman Sprayberry asked the Board for its pleasure in this matter.

Commissioner Gosa remarked the petition appeared to be in compliance with the Land Use Plan and compatible with the surrounding area and he was in favor of the petition.

On motion made by Commissioner Gosa, seconded by Commissioner Bost to approve Petition No. 963-97 with conditions as presented. The motion carried 5-0. A copy of the recommended conditions, staff's analysis and investigation, identified as "Attachment No. 4", follow these minutes and are made an official part hereof. A copy of the Ordinance and Resolution granting Petition No. 963-97, identified as "Attachment No. 5", follow these minutes and are made an official part hereof.



Petition No.: 994-98

Zoning Department

Request to rezone 1.021 acres from R-40 to O-I to develop Office Uses.

Date: September 3, 1998

PETITION NO. 994-98:
Zoning Director Kathy Zeitler read Petition No. 994-98, James Randal Holt, Owner/Agent, request to revise the recorded plat for Lakeview Estates to remove Lot 1 from the subdivision and to rezone the lot from R-40 to O-I for future nonresidential development. She said the property was located in Land Lot(s) 127 of the 5th District and fronts on S.R. 54 West, Lakeview Lane, and Old Mill Court. She stated the Planning Commission recommended denial 4-1 and Staff recommended denial.

Carl Westmoreland, 191 Peachtree Street, Atlanta remarked that he represented Randy Holt. He said the property was located at the intersection of S.R. 54 and Lakeview Lane. He remarked that Mr. Holt had purchased the property in 1980 and had lived there until three or four months ago. He said Mr. Holt had tried to sell the property under the existing residential classification both before and after the widening of Highway 54 to a divided four lane highway. He said Mr. Holt had no interest in purchase of the property as residential. He said Mr. Holt had a problem in selling the property based on the change of conditions that had occurred to not only him but also to other property owners along S.R. 54 with the development and the road widening project.

Mr. Westmoreland stated that Mr. Holt's house was the only affected house in the subdivision. He said there was not a house directly across Lakeview from Mr. Holt's house. He remarked the houses further north away from S.R. 54 were downhill and substantially much more away from the road. He said there was almost an identical situation with the property at the corner of S.R. 54 and Hickory Avenue that the Board had rezoned in September of 1997. He said in that case there was a house directly across Hickory Avenue and that house was located on a slightly smaller lot and closer to the other lots in that subdivision. He said Mr. Holt had applied for O-I zoning which was consistent with the overlay district for S.R. 54 West. He said based on the earlier staff analysis they had recommended approval with fourteen conditions and now they had recommended denial. He said all of the fourteen conditions were acceptable with Mr. Holt and basically dealt with landscaping, orientation of the house and the traffic out to S.R. 54.

Mr. Westmoreland said Mr. Holt was proposing to have access come off S.R. 54. He felt the issues in the past with this application had been whether or not this was a part of the subdivision. He said it was the only house in the subdivision that was substantially affected by S.R. 54 and he felt it should be treated differently for that reason. He said with regard

to the affect on other properties, there was only one other house in the subdivision that was close to this property. He said the conditions that staff had recommended regarding buffer, berming and planting would deal with this situation. He stated another issue had been the access to the property. He said Mr. Holt proposed to close the driveway on Lakeview and to have access only off S.R. 54. He remarked a question had come up as to whether or not this would be allowed by the State. He presented a letter to the Board from the Georgia State Department of Transportation indicating that they would allow access from S.R. 54. He said any office use of the property would have to face and be oriented out to the highway. He stated this was shown on the site plan and given the construction of the house this would be a fairly easy thing to accomplish.

Mr. Westmoreland remarked that Mr. Holt had a situation where he had property that was not marketable and if marketable at all would be sold at a substantial reduction from what other properties not affected by S.R. 54 would be. He said this would not be good for the neighborhood and it would have a negative affect on the value of the houses in the neighborhood. He felt a reasonable solution would be to zone the property O-I. He said this would be consistent with actions that this Board had taken in the past and with the conditions that staff had recommended. He said this would not have any negative affect on the balance of the subdivision. He asked for the Board's consideration in approving this request to rezone the property O-I and include staff's conditions.

Randy Holt said he would like to clear up some issues in this rezoning. He said he had been made out to be the bad guy in this situation and he had done nothing wrong. He said all he wanted to do was to rezone his property. He stated before he had ever started this process he had gone to one of the Commissioners and asked what he could do with his property. He said the Commissioner suggested that he rezone the property O-I. He said from there he went and filled out an application and proceeded with the process. He said he had lived on the property since 1980 and when he purchased the home S.R. 54 was a two lane road. He said when he found out that the highway was going to be four laned, he put his house on the market. He remarked he had no luck in selling the property and he had to take it off the market. He said after the road was completed, he put it on the market again and still there was no success. He asked for the Board's consideration in approving his request for rezoning.

Chairman Sprayberry asked if anyone wished to speak in favor of the petition.

Shelba Thompson, 200 Williamsburg Way, Fayetteville stated that thirty years ago she had lived in a house on S.R. 54 that was now an office. She said when she lived there she had no idea that S.R. 54 would become a four lane highway or her home would ever be an office. She felt this rezoning was the same situation. She said the property on the corner of Hickory and S.R. 54 was now zoned O-I with a Hickory address and not a S.R. 54 address. She remarked most of the property on S.R. 54 past Grady Avenue heading toward Peachtree City was zoned commercial or O-I. She felt Mr. Holt's petition should be granted. She said the property was obviously not a residential piece of property anymore.

She said it would be hard to punish him or deny him the petition to make the property remain residential.

Chairman Sprayberry asked if anyone else wished to speak in favor of the petition. Hearing none, he asked if anyone wished to speak in opposition.

Jerry Walaford said he was a resident of Crystal Lake Subdivision which adjoined the Lakeview Estates Subdivision. He said he was also currently president of the Crystal Lake Garden Club which was composed of the 29 residents of the Crystal Lake Subdivision. He said it was in that capacity that he was speaking on their behalf. He said the Planning and Zoning Commission as well as the Commission had received letters from the residents in opposition to this rezoning request. He said he had also presented a petition at the Planning Commission meeting which was signed by the residents of the Crystal Lake Subdivision in opposition to this request. He stated there were several reasons why they felt the request should be denied. He said firstly this would be a traffic safety hazard and especially for the residents of Crystal Lake. He stated there had been a deceleration lane on S.R. 54 from Lakeview Estates to Crystal Lake Subdivision of approximately 225 feet in length. He said the curb cut that would be required would require that the deceleration lane be eliminated. He said this was already a precarious situation and he felt that a curb cut off S.R. 54 would present a major safety hazard.

Mr. Walaford further remarked that this particular house in Lakeview Estates was constructed as an intricate part of the subdivision and continued to be part of the subdivision. He said this property actually faced on Lakeview Estates rather than on S.R. 54. He stated Mr. Holt's representative had indicated that the fair market value could not be gotten for this house but there was no evidence that he had seen to indicate that. He said he had lived there for nine years and other residents had lived there longer. He said he had seen Mr. Holt's house for sale occasionally but not on a regular basis. He said there was a house deep within the subdivision approximately a half mile in that had been for sale for over five years. He said there were several houses that had been for sale for over two years. He questioned whether Mr. Holt's house had an adequate opportunity to get fair market value. He said the logo for Fayette County was "Where Quality was a Way of Life". He felt this involved incorporating a plan for residential with office space and commercial. He said there were twenty-nine residents in the subdivision and there were about fourteen homeowners who owned their own businesses within Fayette County and three along the S.R. 54 corridor. He said the residents felt like the rezoning of Mr. Holt's property would totally change the integrity and character of the neighborhood and they therefore requested that the Commission deny this request.

Chairman Sprayberry asked if anyone else wished to speak in opposition to the petition. Hearing none, he asked the petitioner if there was any rebuttal.

Mr. Westmoreland remarked on the traffic issue. He said the Georgia D.O.T. would review this issue and would either approve or deny a curb cut based on their standard of safety

criteria. He said the D.O.T. had indicated that a curb cut would be appropriate but felt this would be up to the D.O.T. He said as far as being part of the subdivision, he felt the property was substantially separated from the Crystal Lake Subdivision by the grade of the property and also by a wooded buffer. He said there was not even a house across Lakeview that faced S.R. 54. He said whether it was part of the subdivision at one time or not it was certainly impacted differently than any other house in the subdivision. He said with evidence of what the house might be worth, he would take Mr. Holt's word for the efforts that he had taken to try and sell. He said he had also given the Board a letter from a real estate agent who indicated that they felt the property was unmarketable as single family residential. He commented that the house did face the subdivision street at this time but this was one of the conditions recommended by staff and one of the things that he said he would agree to would be to close the driveway and have the curb cut off S.R. 54 and change the orientation of the house so that it no longer faced the single family residential street.

Mr. Westmoreland felt this rezoning would have a more stabilizing effect on the property values in these subdivisions. He said to have an office in the property where it could be kept up and be of greater value and be maintained consistent with the conditions of the overlay district and those recommended by staff as opposed to having a house that would be less valuable than others in the subdivision. He said he and Mr. Holt would be glad to answer any questions. He said this property was a difficult piece of property and was affected in ways that the rest of the subdivision was not affected. He felt the solution was to rezone the property O-I subject to the conditions recommended by staff.

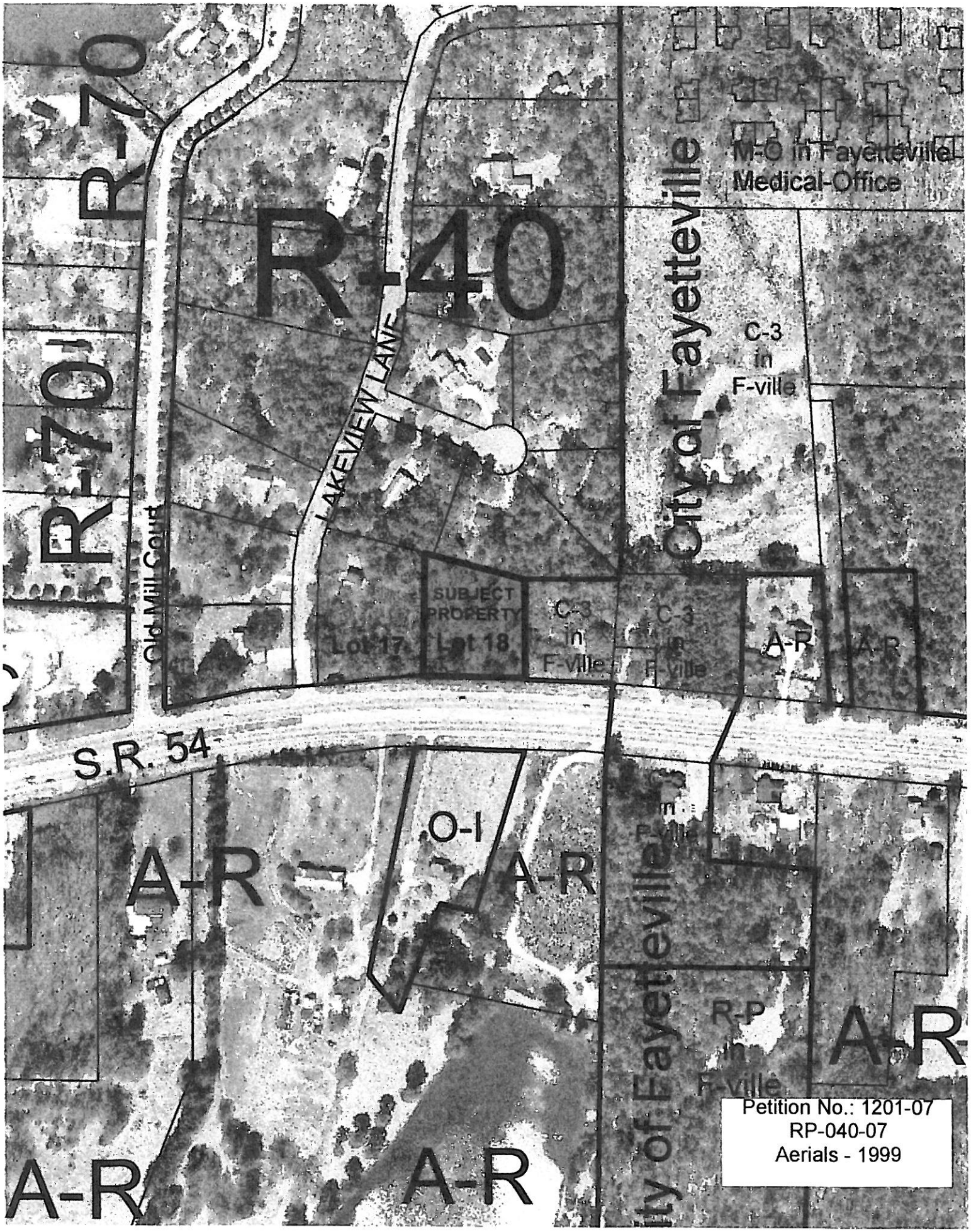
Chairman Sprayberry asked for the Board's pleasure in this matter.

Commissioner Bost felt that this lot did in fact start out as part of the subdivision. He said he was also of the opinion that this lot was still part of the subdivision and he was not ready to start putting O-I in subdivisions in this county. He said he would not be able to support the petition.

On motion made by Commissioner Bost, seconded by Chairman Sprayberry to deny Petition No. 994-98, discussion followed.

Chairman Sprayberry said he agreed with Commissioner Bost and also stated this was a difficult issue. He said he was not sure the timing was appropriate in regard to this piece of property and he said the property was still part of the subdivision. He felt other attempts must be sought for this property zoning.

The motion carried 5-0. A copy of the Ordinance and Resolution denying Petition No. 994-98, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.



Petition No.: 1201-07
RP-040-07
Aerials - 1999

PETITION NO. 1201-07 AND RP-040-07:

Director of Community Development Pete Frisina read Petition No. 1201-07, John Alan Bell, Owner/Agent, request to rezone Lot 18 of Lakeview Estates Subdivision consisting of 1.03 acres from R-40 to O-I to develop office-institutional uses. Consideration of Petition No. RP-040-07, John Alan Bell, Owner/Agent, request to revise the Final Plat of Lakeview Estates Subdivision to change the use of said lot from Single-Family Residential to Office Uses. He said the property was located in Land Lot 127 of the 5th District and fronted on S.R. 54 West. He said Staff recommended approval of Petition No. 1201-07 and Petition No. RP-040-07. He remarked that the Planning Commission recommended denial of Petition No. 1201-07; however, no action was taken on Petition No. RP-040-07 since the rezoning application was denied.

John Alan Bell said he was the applicant in this petition and had been a resident of Fayette County for the last 35 years. He said he was the owner of Lot 18 of Lakeview Estates Subdivision located totally on S.R. 54. He asked for the Board's consideration for O-I zoning on this lot. He felt this property was best suited for O-I purposes for the following reasons: (1) He questioned when was the last time a home was built on S.R. 54. He said he had tried to determine that information but all of the records from the 1980's and earlier were lost when the court house burned. He remarked that the houses currently located on S.R. 54 were close to thirty years old. He said a lot had changed in the last thirty years. He said S.R. 54 had gone from mostly residential to mostly business. He said homes were being torn down or converted to offices throughout this area. He said Lot 18 would be no place to raise a family and was located on a major thoroughfare. He said he could not imagine children playing on this lot right next to busy S.R. 54. He said when Lakeview Estates was first subdivided in the early 1970's, S.R. 54 was a very different place. He said it was a two lane road, Peachtree City was in its infancy and there was no hospital. He said this lot was located in the overlay district and met the intent of the zoning. He said if he were to build a residential home on this lot, the highway would devalue his property. He said if Lot 18 was zoned O-I, it would be a great buffer from C-3 zoning directly next to it. He said it would give people a place to work and would be more tax money for Fayette County. He said this lot

had to access from S.R. 54. He said he already had a letter of approval from the Georgia Department of Transportation for an O-I cut. He said there were no restrictive covenants on Lakeview Estates. He said these were just some of the reasons he felt this property was best suited for O-I.

Mr. Bell further remarked that some of the residents of Lakeview Estates did not want him to get the O-I zoning. He said they felt it would interfere with the integrity of the subdivision. He said the only way a person could tell if Lot 18 was included in this subdivision was on paper. He said it was located 200 feet from the entrance. He remarked that he also owned Lot 17 in Lakeview Estates which was adjacent to Lot 18. He said some of the neighbors were concerned that if Lot 18 was approved for O-I, then there would be a domino affect from there. He said he would be willing to zone Lot 18 for O-I with restrictions which would include that Lot 17 remain a residential lot. He said he was aware of the fact that this could be done and he had purchased property in Fayette County that had zoning with restrictions. He said another concern that the neighbors have was that they did not want the final plat of Lakeview Estates to be changed. He remarked that this plat had already been changed once. He said the final plat for Lakeview Estates was first recorded in March of 1974 and was changed in April of 1975 when an extra lot was added. He said this extra lot was Lot 9-A. He said the only way to tell if this lot was included in the Lakeview Estates Subdivision was on paper. He asked how this could affect the integrity of the neighborhood. He said he hoped the restrictions that he would like placed on this rezoning request would ease the surrounding residents' concerns. He said he would like to add that staff had recommended approval of this rezoning request. He presented a copy of the Planning Staff's recommendations to the Board. A copy of the recommendations, identified as "Attachment No. 2", follow these minutes and are made an official part hereof.

Mr. Bell further remarked that Lot 18, while technically a part of the Lakeview Estates Subdivision, did not front on the interior street of the subdivision and only fronted on S.R. 54 West. He said due to this fact, the request did meet the intent of the S.R. 54 West Overlay District. He said the proposed rezoning would not adversely affect the existing use or usability of adjacent or nearby property. He said the subject property was located adjacent to commercial zoning to the East in the City of Fayetteville. He said the O-I zoning district was composed of certain lands and structures having office and institutional uses which were compatible with or provide a transition into low intensity land uses. He said, therefore, the O-I zoning district would provide a transition between commercially zoned property to the East and residentially zoned property to the West. He said the proposed rezoning would not result in a burdensome use of roads, utilities or schools. He remarked that existing conditions in the areas continuing development as a single-family residential district and an office institutional district support this petition. He said the planning staff recommended approval. He said it was his opinion that O-I was clearly the best use of this land.

Chairman Smith asked if anyone wished to speak in favor of this petition. Hearing none, he asked if anyone wished to speak in opposition.

Tommy Long, 145 Lakeview Lane, Fayetteville presented a petition to the Board consisting of 46 signatures in opposition to this rezoning request. A copy of the petition, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. He said all of the people who signed this petition were residents of Lakeview Lane or the adjoining subdivision of Crystal Lake Estates. He said he purchased his lot in this

subdivision and built his home with the assurance that he would be living in a residential area and noted that this was a residential subdivision. He said if the Board approved this rezoning request it would be setting a precedent. He said he had never heard of the County rezoning a lot out of a platted subdivision. He remarked that the intent of this petition did not meet the land use requirements and also it could be developed as a residential lot. He said since the property owner also owned the adjacent lot, there would be no problem in giving an easement for a driveway to this lot and build a home. He respectfully requested that the Board deny this petition.

Chairman Smith asked if anyone else wished to speak in opposition.

Mona MacDonald, 135 Lakeview Lane, Fayetteville appealed to the Board in strong opposition to the rezoning of Lot 18 which was currently R-40 to be rezoned O-I for the following reasons. She said her and her husband had purchased their home to grow into their senior years in a residential platted subdivision and not a mixed use subdivision. She said they had selected this area because of its quiet, rustic and semi-forested location near all conveniences. She said if this rezoning was allowed, it would change the character and integrity of their neighborhood. She said it would also open the door for the beginning of creeping commercialism in the subdivision and the majority of the residents in the subdivision did not desire this. She said if this Board yielded to the request to rezone Lot 18, she questioned on what grounds would the Board deny the next request to rezone another lot which would be certain to come before this Board at some point in the future. She said the residents felt they would be forced into some kind of neighborhood that they did not expect when they purchased their property. She said she had done some research on subdivisions in Fayette County and determined that it would be most uncommon to turn a residential property in a platted subdivision into a commercial office park zoning. She said she also had safety concerns about increased traffic and congestion. She said this area was already highly congested with four turn offs within a few hundred feet of each other. She noted that at busy times of the day it was life threatening to drive out of Lakeview Lane across a double lane highway and turn left onto S.R. 54 East within a couple hundred feet of space. She said adding to the traffic problem, the speed limit was 55 miles per hour, however, many motorists were driving 60 and 65 miles per hour. She said she strongly felt that by increasing business traffic to this already congested area would increase the possibility of serious and possibly deadly automobile accidents. She felt by having two lots side by side presented a wonderful opportunity to build a residential home with a side entrance. She begged the Board to take the desires of the people who live in this subdivision into consideration over the business endeavors of someone who did not live in Lakeview Estates. She thanked the Board members for their consideration.

Chairman Smith asked if anyone else wished to speak in opposition.

Stuart Barnes, 120 Lakeview Court, Fayetteville said he felt by taking a lot out of a platted subdivision would be detrimental on the other residents of Lakeview Estates Subdivision as well as other subdivisions in Fayette County. He pointed out that the Fayette County Planning Commission had unanimously denied this request and he asked for the Board's consideration to deny it as well and protect this neighborhood.

Chairman Smith asked if anyone else wished to speak in opposition. Hearing none, he asked Mr. Bell if he had any rebuttal comments.

Mr. Bell remarked on the comment about doing an easement on the other lot. He said he already had a curb cut and it had one restriction. He said this was because it would be directly across from the median cut in S.R. 54. He said he owned two properties in Lakeview Estates. He said if Lot 18 was approved for rezoning then it would be with restrictions that Lot 17 would not have any change in zoning. He said this would protect the beginning of this neighborhood. He said this particular lot was located far to the side and was approximately 200 feet away from the subdivision.

Mr. Bell asked the Board to think about a situation where Lot 18 was already zoned O-I and he was before the Board asking for residential. He said he did not feel the Board would want him to build a house on this property if he was asking for residential. He said it just would not be safe for a family to live there. He said a lot of the houses currently located on S.R. 54 were being torn down or converted into offices in the entire corridor area. He said he would agree to this rezoning with restrictions. He said the best use of this property was clearly O-I zoning for the buffer and usability.

Chairman Smith declared the public hearing portion closed. He asked for the Board's pleasure in this matter.

A motion was made by Commissioner Pfeifer and seconded by Commissioner Horgan to deny Petition No. 1201-07 as presented, discussion followed.

Commissioner Pfeifer said he would like to note that the County had historically not changed zonings in a platted subdivision and he did not think this should start now.

Commissioner Horgan said he agreed. He said he would not be in favor of removing a lot from a platted residential subdivision for commercial use.

Commissioner Maxwell agreed and said he did not feel this was even a close case. He said the predominant area was low density residential with one unit to one to two acre lots and was a previously platted subdivision. He noted that there had been a prior lawsuit involving Lot 1 that this County had successfully defended. He said he saw no reason to change the current zoning. He said the proposed development would not be compatible with the surrounding area.

Chairman Smith called for the vote.

The motion carried 4-0. Commissioner Frady was absent. A copy of the Ordinance and Resolution denying Petition No. 1201-07, identified as "Attachment No. 4", follow these minutes and are made an official part hereof.

Chairman Smith pointed out that the denial of Petition No. 1201-07 would preclude the Board from making a change to the platted subdivision as requested by the applicant. He said no vote would be necessary on Petition No. RP-040-07.