

The Board of Commissioners of Fayette County, Georgia met in Regular Session on July 26, 2001, 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: Chris W. Cofty, County Administrator
Carol Chandler, Executive Assistant
William R. McNally, County Attorney
Linda Rizzotto, Chief Deputy Clerk

Chairman Dunn called the meeting to order, offered an 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 policy requires 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 three 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.

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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.

PUBLIC HEARING:

PETITION NO. 1073-01: Zoning Director Kathy Zeitler read the following into the record as follows: Petition No. 1073-01, Charles L. Pailer, III, and Attorney Douglas Dillard, Agent, request to rezone 5.00 acres from A-R to C-H to develop a Small Commercial Development. This property is located in Land Lot 18 of the 6th District and fronts on Redwine Road and S.R. 74 South. The Planning Commission recommended denial to C-H, but recommended approval to O-I subject to the recommended conditions (4-0). Staff recommended denial to C-H, but recommended approval to O-I with conditions. Tabled from the April 26, 2001 meeting.

Attorney Dillard with Dillard and Galloway remarked that this matter was held in April, primarily because of Commissioner Bost's resignation and the special election that was held. He congratulated Commissioner Pfeifer on winning the election. He added that he always enjoyed coming before this Board even though we might not agree with the result, everyone has been very cordial to us and they appreciate that.

Mr. Dillard said this was property that was located at the intersection of Redwine and Highway 74. He stated that he filed a traffic report with the county and an opinion from Kim Wilson, relative to a comparison between office-institutional at this site and what is proposed. He commented that the petitioner originally asked for Highway-Commercial on this property, but since the matter was heard by the Planning Commission, and since they have had an opportunity to address some of the issues that were raised at the public hearing before the Planning Commission, we have amended this application to C-C. He said in doing this we have agreed to limit the commercial uses on this property to exclude a service station, fast food, to restrict it to a neighborhood-community type of retail. He stated by that he meant uses such as restaurants, not fast-food restaurants, not a drive-in restaurant but a restaurant where you can come in, sit down and have a meal, barber shops, dress shops, the types of cleaners, the types of uses that folks need in close proximity to their homes. He said it was also important to note that we need to consider this application in light of the commercial zoning which was immediately across the street from this property. He mentioned that the Board zoned the property across the street several months ago so there would be people coming into this area to shop. He submitted that a high percentage, more than 50 percent of those who come onto this property for retail purposes would be coming there because they were already in the area shopping. He said they would be passing by or coming to and from school, but they would not be making separate destination type trips to come to this particular

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piece of property. He mentioned the burden on the road system would be less for this than it would be under any office use because the office uses would be purely destination type trips.

Mr. Dillard introduced John Walker and stated he was the one responsible for the traffic study and was available to answer any questions. He said he would probably ask that Mr. Walker speak during rebuttal if there were any questions raised. He commented he had just given Mr. Walker to review information submitted from the County Engineer who has dealt with issues that we raised relative to access onto and from Redwine Road. He listed the Engineer's recommendations as (1) That the curb cut be located within 200 feet of the intersection of Redwine and Highway 74, rather than 250 feet which was what the ordinance called for. He said (2) that it tie into the deceleration lanes to the school. He commented that these two conditions were accepted by the applicant. He said the other issue is that the access onto Highway 74 was restricted to right-in, right-out. He stated that if Highway 74 was ultimately widened and there was a median put across in front of this property, which restriction would be self evident, right-in, right-out. He added for most of the traffic that might be southbound on 74, they might opt to turn left on Redwine and take a right into the site. He said, however, they did feel it was important for office/institutional or commercial, to have a full left turn into the property. He said he would ask Mr. Walker to address this. He said where they were proposing the curb cut, they felt that given the traffic requirements the county was placing on the shopping center across the way, there would be sufficient turning lanes to make a safe left-turn lane and still allow southbound traffic to pass by. He said if this was done it would not provide an obstruction but it would give them additional access to their property, be it office/institutional or commercial.

Mr. Dillard said the other important thing he felt was the philosophy of why this property ought to be office versus commercial. He remarked he knew the Board was concerned about development down Redwine Road and this particular piece of property was totally surrounded by land owned by the Board of Education. He said the land they own was five acres.

Mr. Dillard stated that all over the Atlanta region, we have residential backing up to retail where the retail fronts a major artery. He remarked that on the other side of Redwine Road, northbound on Highway 74 in Peachtree City, you have existing retail being built there and there exists nonresidential uses within Peachtree City between Redwine and this property. He said his party did not feel, from a land use perspective, that zoning this property to C-C with the kind of conditions that this party was agreeing to, opened up the flood gates for retail to go down Redwine. He said from his understanding this was the only reason that office-institutional was being suggested here. He remarked the county was certainly not trying to provide some transition for the school, and, if anything, they needed to be protected from the school. He pointed out that if a non-residential activity was going on in this neighborhood that was adversely affecting the residents, it was the 3,500 students going to and from the school

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property every day. He said that would cause more of an impact on those properties across the street from the school on Redwine than this small five acre piece that Mr. Pailer has hung onto and been trying to sell for years and has suffered long enough.

Attorney Dillard stated DeKalb County versus Flynn says that local government should work with the property owner to achieve the highest and best use of his land. He said what he was asking the Board of Commissioners to do tonight was to work with them to give Mr. Pailer a chance to have some flexibility to finally dispose of a piece of property that he has not only not been able to use, you cannot sleep there anymore, but also to try to find a use so that he could sell his property and it would be compatible with what was going on in the neighborhood. He said the commercial gave them that flexibility with the limitations that they were suggesting, and it was a neighborhood-type facility. He said it, in and of itself, would not and did not provide the threat of non-residential down Redwine that was evidenced by staff's report and by the concerns of the neighborhood. He asked the Board to zone the property to C-C. He said he would like to reserve his remaining time for rebuttal. He commented he had his Traffic Engineer there who was prepared to respond. He also said Mr. Pailer was there and Ms. Wilson was there as well. He asked Ms. Wilson to come forward and respond to why this might not be a suitable office site.

Ms. Kim Wilson, President of Wilson Appraisal and Consulting Services, Inc. in Peachtree City stated her firm did commercial real estate appraising, and acreage and consulting services for commercial/acreage properties. She said she was contacted regarding this property just to address what would be the highest and best use on a hypothetical condition with no legal constraints. She said given the physical possibility of the site, location, typography, the surrounding area, traffic counts, and it being located at a prime intersection, this would be considered a pin corner at a major intersection. She stated the highest and best use of this property would point towards a commercial and probably a rather intensive commercial use. She commented if you took this piece of property and, if you were not from this area, and you were riding through this area, looking for a site to put an intensive commercial use on, you would automatically be drawn to this given its physical characteristics and location. Ms. Wilson said there were other considerations involved as you had to consider what was legally permissible. She noted staff recommended O-I and in terms of demand for O-I right now on the south side of Peachtree City, there has been no data, no pent up demand, no ongoing development of any type of office-institutional use on a large scale. She said, in fact, other than the new office building that was built by Don Cobb, on the south side of Peachtree City, she could not think of any other, in the last year or two, that had been built. She said this told her that there was not a significant demand for O-I.

Ms. Wilson stated on top of that the majority of the land along S.R. 74 in Peachtree City was zoned either L-I or zoned G-I. She said further that both of these zoning categories permitted offices in the zoning categories, in addition to the industrial zoning, both light and heavy

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industrial use. She commented if someone wanted to come in and build offices, they have a huge amount of land to choose from that would not be at a prime corner location. She said, there was an article in the newspaper a significant tract zoned to permit office near the soccer fields. She stated she did not see a significant amount of market demand that would translate into any type of that would translate into any type of reasonable market value if this land was zoned O-I. She said if this was zoned C-C as requested by the property owner, you have a lot of community uses that, while they could go into offices like a dentist, an orthodontist, an insurance agent, they are just as likely to go into some type of strip retail center. She gave Braelinn Center as an example. She said this type of use was in there and this type user liked to go into retail as opposed to office where they could have their front glass, their sign and that type of deal. She stated basically the O-I property would limit this significantly, and by permitting C-C, and you would not only permit the uses that could go into O-I, but you would also open up additional potential uses for the property. She asked the Board if they had any questions.

Commissioner VanLandingham stated Ms. Wilson remarked that there was not a demand for O-I at this time. He asked if this was a constant or did it change.

Ms. Wilson said there was not a significant demand and it constantly changed.

Commissioner VanLandingham said if O-I constantly changed then the points Ms. Wilson raised would not be valid.

Ms. Wilson noted that what she said would be a valid point in speaking as of today.

Commissioner VanLandingham said the Board could not change the land use to the need today because tomorrow it may change.

Ms. Wilson said this was correct just as the interest rates could change and the economy could change. She commented this didn't stop one from going forward with their life.

Vice Chair Wells said Ms. Wilson referred several times to C-C and the request was for C-H.

Ms. Wilson stated she understood that the request was for C-C as Attorney Dillard was speaking. She added she did not know this until she heard him speak.

Attorney Dillard said his party amended the request to C-C and this was in his cover letter.

Chairman Dunn asked if the Board received his request to change to C-C.

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Ms. Zeitler said Mr. Dillard requested a revision to C-C in a letter prior to the April 26th meeting.

Chairman Dunn said the information before the Board reflects a request to C-H.

Ms. Zeitler said that was correct, the agenda was a carry over from the April agenda. She said she believed they changed it at the last minute in April so the agenda should say C-C.

Chairman Dunn said the agenda did not and neither did staff's study mention it.

Ms. Zeitler said their application still says C-H, she believed the only thing that said C-C was their correspondence just prior to the April meeting.

Attorney Dillard said he thought the correspondence in April was sufficient to amend the application to C-C.

Chairman Dunn said this very well may be but he was just saying what was in front of the Board now was a request to C-H.

Mr. Dillard said this was not from the applicant, it might have been reviewed by the staff but he requested C-C.

Chairman Dunn said he had no problem with adjusting the request if the other members of the Board did not object.

Commissioner Frady asked what exclusions the petitioner said he would take out of C-C.

Attorney Dillard mentioned that it was hard to negotiate unilaterally with yourself, but the uses they heard from the opposition have been fast food and convenient store/gas station usage. He said they agreed to eliminate those. He added if there were other permitted uses under C-C that were also objectionable then they were certainly more than willing to consider them. He said basically these were community-type uses which they felt were consistent with uses the Board approved across the street. He pointed out they were not going to have anything like a big grocery store but if there was any other type of use that concerned the Board, then they were prepared to address those as well.

Commissioner VanLandingham said he was still a little confused. He stated he had two letters, one dated July 26th and one dated April 25th. He said the second paragraph read, "Accordingly we herewith amend modified change of request from C-H to C-C". A copy of the letters, identified as "Attachment No. 1", follow these minutes and become an official part hereof.

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Commissioner Frady commented that was in April.

Commissioner Wells pointed out that it also said the same thing in the letter tonight.

Attorney Dillard stated that was also in the April letter. He commented the July letter was a restatement of the April letter, except the first paragraph. He asked members of the Board to turn to the April letter, page two, "Accordingly, we submit the C-C amendment as an effort to compromise this matter".

Commissioner Wells said she just wanted to make sure that someone was not miss speaking so if it was C-C, and we all understand it's C-C, that will put us all on the same page.

Chairman Dunn asked the Board if anyone had any objections to this petition going forward as a C-C request and there were none.

Attorney Dillard remarked that at the time Ms. Wilson was asked to do her report, the application was C-H but her focus was really on the office market so whether the application was for C-H or C-C really didn't affect her report.

Chairman Dunn asked if there was anyone who wished to speak in favor of this application and seeing none, he asked if there was anyone who wished to speak in opposition to the application and hands were raised.

Commissioner Wells confirmed there were about sixteen people standing who opposed the application.

Chairman Dunn confirmed there were six people who wished to speak in opposition.

Robert Donaldson, stated he was a resident of the Chimneys located adjacent to Starrs Mill High School complex. He said he was the President of the Homeowners Association which involved sixty homes. He noted a little more than eight percent of the homeowners were there tonight. Mr. Donaldson stated the homeowners were sympathetic with the property owner who found himself in a quandary in terms of how he would maintain a residence when things around him were changing. He said he and his neighbors understood when they moved to this part of the county, that additional development would be forthcoming.

He added the neighborhood was looking for some of the conveniences to make living there more enjoyable, but it needed to be mindful of the appropriateness of our land use, and it needed to blend in with their residential neighborhoods. He stated he found it kind of interesting that we were standing here debating whether it was office or whether it commercial or what grade of commercial it was. He said it was as though the zoning description had the

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full power to decide how the development should actually go and actually it should be the opposite. He stated he personally felt that we had an irresponsible development issue here, not a zoning issue. He remarked we all want more amenities to help us but the reality was we were trying to cram over 40,000 square feet of some type of retail space into a five-acre plot. He said we were trying to figure out what the best entrance and exit plan would be off of State Route 74 as the traffic there increases as well as off of Redwine Road. He added we were also trying to figure out why we have not been able to connect the city sewer at this location, and find ourselves in a septic tank situation which concerns us about the health and well being of our children that are at play just to the south of that.

Mr. Donaldson stated what was amazing to him was he didn't know why we couldn't look at how to reconstruct the development design first so that it met some of the issues, and then move from that point to the correct zoning process.

Mr. Donaldson pointed out Ms. Wilson spoke a moment ago about the soft market for office space but yet Wilshire across the street with the center property will have space available in that area for those homeowners that were there today. He said he saw no office space anywhere. He commented to speak to the fact that we have a need for office space, if we have it zoned, that probably was the way that we should go. He mentioned we should take care of some of the development issues first before we push forward with a rezoning at all.

Dennis Parham said he lived in the Mills Farm Subdivision across the street from Mr. Pailer. He commented he found himself sitting on a fence tonight. He said he felt like the community, including himself, caused the traffic problem. He added that the school system which included almost everyone in the room have caused the problem here by allowing the school system to buy the property that surrounds Mr. Pailer's house and made him virtually an island. Mr. Parham said he had five children that he had to be concerned about in this situation and they would all be attending the school across the street so he did not want to negatively impact that situation. He remarked he finds himself saying, gee, as a community we have done a poor service to Mr. Pailer and all of us would benefit by driving a half mile to a restaurant rather than five miles to a restaurant and congesting the rest of the community. He said, however, when his children go home from school, he really didn't want them loitering around a restaurant either. He stated he could see an office might be a good option. He commented he was not well versed and he did not know what restrictions could be put on commercial, but if we could put some type of restrictions that would not negatively impact the school situation nearby, he felt like this would be a good use as well. He added the traffic situation was created by all of the neighbors, not by somebody putting up a building that we were going to use. He said he could see it go either way, but unless we could restrict the commercial operation there to where the children were not negatively impacted, he saw office as a better alternative.

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Jim Strauss, 265 Lodge Trail, Fayetteville, Ga., 30215, commented the first thing he noticed was that the Board recommended for it to be zoned O-I, four to zero and he would like to at least support that. He said he felt that was the strong recommendation and that was the way we should leave it. He said there was a big concern about traffic in that area. He remarked that nobody was talking about the land, whether it was Redwine or Highway 74, but the huge issue to him was that there was an enormous school complex there. He said if anyone has been there at 3:30 p.m. in the afternoon, or at 8:00 a.m. in the morning, there were a lot of young drivers and he thought safety was a huge concern. He said he was not familiar with what the C-C zoning was, he did not know what the code allowed for and what would be excluded. He said we should not be amending what the code was, he felt that O-I zoning was the better recommendation for this rezoning. He mentioned as far as the appraiser was concerned he felt like there was a bias there, and he felt for the homeowner, but whoever paid for the service there obviously was probably going to get the best recommendation there for their services. He said basically the area there boiled down to the safety concerns of the children. He stated at 3:30 p.m. was probably a high commercial time for people going to stores and restaurants and he didn't feel that area now was suited for that kind of traffic. He said he felt like O-I was more destination oriented and people could schedule around that. Mr. Strauss said that he supported the Board's first decision for O-I which was unanimous, and the concern for safety.

Chip Gjertson, 160 Mockingbird Trail, Peachtree City, Ga., 30269, said he was a representative of the Peoples Elementary PTO. He stated he spoke before the Board concerning this matter back in March and he wished to restate the PTO's position here. He said the PTO was opposed to the highway-commercial that has been presented. He commented they had to accede to O-I zoning, and that looked to be the best possibility that the Board could consider at this time. He said they would like the Commission to consider the impact that this type of development would have on the school complex next door. He added that this complex was going to be placed on a septic system and at 30,000 plus square feet, we don't know what kind of usage that was going to generate on a daily basis. He commented that Mr. Pailer has lived there for years and probably has never had a problem but if you have ever lived in Fayette County this could be an issue, if not immediately, then he was certain it would be an issue down the road.

Mr. Gjertson offered his ideas to the Commission. He said he didn't think the matter had been discussed before or at least brought up as far as a use for this piece of property. He stated in the past it seemed like Fayette County has been behind to a certain extent on having service made available to its business owners and homeowners. He added that it seemed to come after the fact as far as fire stations, and a sheriff's department annex such as we have in the Pavilion. He said possibly this was a piece of property that could be considered for this type of use and the members of the PTO would like the Board to consider that.

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Julie Matulia, 190 Manor Drive, Fayetteville, Ga., 30215, thanked the Board for letting her speak tonight. She stated she wanted to mention a few things that weren't mentioned about the traffic. She called attention to Article VIII, Sections 8.217 and 8.218 of the Development Regulations and stated this section was okay but it looked like the regulations were adjusted to maybe fit this particular plan. She added that she did know that this particular piece of property would have a difficult time following acceptable regulations. She commented while the Board allows the citizens to come and talk about the traffic issues, the State Highway Department finalizes these decisions, they do not hear us talk about the traffic, they do not live down here, we do. She said it seems that the most recent example for the Walmart here at Highway 74 and 54 that they were in a position where they were forced to make it work once the zoning was approved and she hoped we didn't put anyone in that kind of situation ever. She said we should plan accordingly. She remarked that she thought the O-I plan was wonderful for that area. She said because of the plans for having a lower traffic node of an O-I versus a higher traffic node of the retail was a great place for this rezoning. Ms. Matulia stated she noticed that there was access to delivery men and grounds keepers taking a break at the back of any retail establishment and, while we don't know their criminal backgrounds, we can see that they can easily entice these children or at least talk to them and ask them to meet them somewhere later. She said it does happen just that way. She added that if there was not some sort of county or city regulation to protect or at least give some sort of a buffer between a school facility that we entrust our children to and a retail establishment, maybe this was something already in place and if not, it would be nice to have something like that. She commented though she sympathized with Mr. Pailer and his situation, perhaps there could be a public fund raiser to purchase the home and use it for events such as weddings, wedding receptions, and the like which could be profitable decision.

Kelly Jinks, 245 Manor Drive, Fayetteville, Ga., 30215, stated she was here with a twofold purpose, one representing her subdivision with the same concerns that Mr. Donaldson spoke of earlier. She commented she also had a concern regarding the possibility of over building commercial property. She said at the present time the Plantation Center was being planned across the street from this property and there was another development, the Wilshire Pavilion less than 2,000 feet down the road. She said she has not heard any mention of any studies regarding the ability of this area to support this many retail stores. She stated none of the citizens wanted to see empty stores whether they were new buildings or old. She said she found information on the internet which projected that spending was expected to increase from 1998 to 2002, but at a pace that was fourteen percent lower than that of the proceeding five years. She added that the website also gave average vacancy rates for unanchored strip centers of between 9.5 percent and 17 percent, higher than any other form of retailing. She mentioned that she had noticed in Fayetteville that tenants will pay a premium for new space in any shopping mall or strip center and once it was more than five years old the long-time retailers would leave for space at the pavilion. She said when retailers leave rent was lowered leaving less profits to maintain the structure and in general this led to disuse.

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Ms. Jinks said she wondered, as an example, how binding the restrictions would be if there was no fast food. She stated if this property was zoned commercial how binding would the restrictions be. She said there were areas that were a short distance from this property that were less densely populated and her concern was whether or not there were enough residential folks living that far down in the county that would support this additional commercial business. She said she felt it was in the best interest of the area and the county to stay with O-I zoning.

Chairman Dunn asked if there was any rebuttal.

Attorney Dillard said he had three rebuttal witnesses and then he would conclude and make it brief. He stated his party had heard from the opposition issues regarding sewer and septic facilities and he asked Mike Lorber to come and address this. He said, also, we have had issues regarding a comparison between office traffic and commercial traffic and he asked John Walker to address this. He said to talk in terms of a potential compromise that Mr. Walker might suggest something on this restriction of right-in, right-out on Highway 74. He commented in conclusion that he would ask Mr. Pailer to speak and then he would have some brief summary remarks.

Mike Lorber, Land Planner, stated as far as sewer use was concerned, he spoke with the Water and Sewer Authority in Peachtree City about commercial versus office, and their feedback to him was there would be about a thirty percent increase in sewer use under O-I. He added to get into a medical facility would be an even greater usage than that. He claimed that this piece of property has a buffer of fifty foot as far as commercial use was concerned, but if it was rezoned to O-I, it would be reduced to thirty foot based on the county's ordinance. He said Mr. Pailer would need as much septic tank field as he could get in order to handle the sewage from the use of this property. He mentioned the plan the Board saw on the table was a revised plan and the revised plan showed 30,000 square feet of commercial use and 3,000 with the Pailer property already in place. He said this represented 45 percent of the land for parking and buildings and 55 percent of the property was in open space. Mr. Lorber stated concerning the schools that if this property was approved O-I, we were looking at people coming to work at 8:00 a.m. in the morning, and if the property went to C-C, we would be looking at people coming to work at 9:30 a.m. or 10:00 a.m. He mentioned if you were looking at the conflict with traffic then you probably want to go commercial if you want to do a land plan study on the property. Mr. Lorber said the only other thing was the plan had been revised where the traffic study will show that they were further away from the intersections and there will be safer access in and out of the property. He asked if there were any other questions concerning the land plan and there were none.

John Walker, Kimley, Horn and Associates, Norcross, Georgia, said the firm was tasked with providing the traffic impact evaluation for this rezoning. He said there were a couple of items

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that he would like to bring to the Board's attention. He said he looked at the C-H zoning and full build out of the five acres plus full build out of the property across the street known as Plantation Center at Starr's Mill. He said the level of service at the signal, at Highway 74 and Redwine Road was going to be an acceptable level service C on the build out of both parcels. He said this was good so there was not a capacity or level service problem at that signal. He said the next thing he was asked to do was to compare C-H versus C-C zoning, which of course with C-C zoning you will remove the fast-foot restaurant and gas station convenience which are higher traffic generators and compare this with O-I. He stated with O-I you can get more square footage on the site because of buffering requirements. He said comparing those three, C-H versus C-C versus O-I, C-H was the highest traffic generator. He continued saying with C-C versus O-I, that O-I would produce slightly more traffic. He commented what he wanted to point out was during the morning rush hour, the O-I generates considerably more traffic because it is office. He said many commercial type land uses do not even open up until 9 a.m. or 10:00 a.m. so you really didn't have that high traffic generated in the morning with a C-C zoning.

Mr. Walker said he was handed something earlier, before the meeting started and he wanted to mention that the proposed driveway on Highway 74 in his report was evaluated as a full movement driveway. He added that this was a DOT facility and they believe the DOT would support a full movement driveway. He said one of the recommended conditions was to have a right-in, right-out only driveway on Highway 74. He stated someone coming along Highway 74 that wanted to make a left hand turn into the site could very easily go ahead and turn left at the signal on Redwine Road and then make a right hand turn. He said by not allowing that left turn in may not be a detriment. He added the left turn out was still going to be very important to have, otherwise, they would have to turn left out onto Redwine come to the signal and then turn left again to go Highway 74. He said this would be sort of a compromise, limit the left in but still allow the left turn out. He spoke of long range plans for Highway 74. He commented if, in the future, Highway 74 was widened there would likely be a median through this section of road so then it would become a right in, right out, but until that time he felt the left turn out would be advantageous.

Chairman Dunn mentioned the traffic at certain times of the day there will back up beyond Mr. Pailer's property so if you were trying to make a left turn onto Highway 74 out of there, you could be caught like we get caught here in Fayetteville. He said you just can't get out for long periods of time so this was one of those things that it would just be better to go the other way. Mr. Dunn asked Mr. Walker if he had done an afternoon study when school was letting out.

Mr. Walker said this was a good question. He commented the peak hour was from about 7:15 a.m. until 8:15 a.m. and the afternoon peak occurred between 5:30 p.m. and 6:30 p.m. He said this would be your heavy retail in's and out's. He said he was not really sure when the schools let out.

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Mr. Pailer asked if his daughter, Donna O'Kelly could speak.

Chairman Dunn advised that rebuttal had already gone overtime.

Ms. O'Kelly addressed her situation that her children would be at Peebles Elementary School next year. She stated her house she lived in now was two miles from the house she grew up in. She said if she thought by any means that her son's grandfather's home where her family was looking to develop their land would endanger her son, she would not nor would her father ever recommend it. She said if she thought this property was going to effect her home's value or those of her neighbors, she would not recommend that this be rezoned tonight. She said this completely effects everything that she does. She said she was the real estate broker that had been trying to sell this home for the last two years. She commented the only reason they were asking for C-C or C-H was because that was the only interest that anyone ever showed about the property. She said her family had tried everything to sell this property and it just hasn't happened and the only thing to do was to rezone it to C-C.

Mr. Lou Pailer stated he had a petition of 165 people which he wanted made part of the record. A copy of the petition identified as "Attachment No. 2", follows these minutes and becomes an official part hereof. Mr. Pailer said he has lived in Fayette County since 1972. He said when he moved to this home it was considered a plantation, it was surrounded by countryside, and there was no school. He said everywhere he went he saw pictures of the house, he was proud to live there and did not wish to move. He said this county and the schoolsystem have forced him to move out of his house. He said almost five months ago, you were potentially going to put a Kroger store across the street and he would have been looking right at Kroger's front door. He said no one had come to him asking him for O-I zoning, maybe we talked about commercial, whether it would be a cleaners, barber shop or beauty parlor, he was not looking to degrade the neighborhood and he respectfully requested his zoning be approved C-C.

Attorney Dillard stated he appreciated the leniency the Board had given in this presentation. He said he couldn't add to what the Pailer's have said here. He asked that the Board work with his client and give his client that flexibility to do something good for the neighborhood and good for Mr. Pailer.

Chairman Dunn asked those in the audience to stand who were in favor of having the property zoned to C-C and there were about thirteen people who stood. He asked for comments from members of the Board.

Commissioner Frady remarked that he had mixed emotions about this piece of property and the way all of this came about. He said he knew how most of the people felt, he had been serving on the Board a long time and he understood their feelings, both for and against this

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project. He said there were even those who talked earlier who seemed indecisive. He said he remembers nothing being in the area when Mr. Pailer purchased his home. Mr. Frady said he had to look at both sides of the fence. He commented Mr. Pailer has an investment here the same as any landowner, he has been encroached upon the same as some other homeowners and he has been impacted more than a store would impact anyone's property. He remarked he has sat at the traffic light at 3:30 p.m., before and it took him 20 - 25 minutes before the traffic cleared. He said he felt he could support this property to C-C with conditions, not to have the fast food, the service station or convenient store.

Commissioner Frady made a motion to approve Petition No. 1073-01 to C-C with the conditions. The motion died for lack of a second.

Vice Chair Wells moved to deny Petition No. 1073-01 to C-C zoning. Commissioner VanLandingham seconded the motion for discussion.

Commissioner Frady asked for clarification on Ms. Wells' motion. Chairman Dunn repeated the motion and second.

Commissioner VanLandingham said he didn't believe that there would be anyone in the county that has been encroached upon as much as this property has been and he felt that the results of progress was sometime very cruel. He said sometimes things happen that we wish had never happened. He said to Mr. Pailer that he wished Mr. Pailer still lived in the country. He said, however, he could not support any of the commercial development that was out there now and he thought it would be hypocritical for him to support this now. He said for this reason he would not support C-C but he would support O-I. He said he had a great deal of feeling about this and he was very sorry. He said he felt this property was wonderful but it was out of place right now.

Vice Chair Wells clarified her motion to deny C-C but to allow O-I. Commissioner VanLandingham said he could support that. She said she wished to second what Commissioner VanLandingham has said and that was that this was no doing of Mr. Pailer's. She said she had been on the Board and Mr. Pailer had been before her and her colleagues several times, and each and every time she had said it was unfortunate for the school to come around and encroach upon someone's property. She said she did go back to the fact that she grew up in an era when there were community schools and she did not think that having the school was necessarily a bad thing. She said it may not be in an area Mr. Pailer wishes to reside but in the past we did have schools and we did have neighborhoods around them, and she could not see that they were mutually exclusive. She said she would much rather have schools in an area of residential than commercial because the children today were enticed into so many things. She said the county was not the one who put the school there, it was the school system, and this Board had no input on that. She reiterated that whenever the commercial

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area was zoned near Starr's Mill recently, she was adamantly opposed to that because she believed there should be no commercial along Highway 74. She said she wanted to maintain the rural community but unfortunately that was not being maintained. She commented at the time the Board revisited this, everybody on the Board said that they felt that the least offensive, the best usage of that area at that point in time, in order to protect everyone in the future was O-I. She said it was her belief that nothing had changed since that was done about six months ago. She said it was unfortunate but she felt the best thing for the whole community had to be taken into effect and that was what made her job so difficult. She said the Board could see both sides of the situation but it did have to do what was best for the largest number of people. She said for this reason she had made her motion tonight.

Commissioner Pfeifer stated that he agreed with the sentiments expressed by Commissioners Wells and VanLandingham. He said that Mr. Pailer certainly had not been well treated by this whole process, but again his concerns were the same as theirs and that would be to make the situation worse than it was now and that was moving commercial to that side of the road and what that might do. He said that was his concern and why he supported the motion made by Commissioner Wells.

Chairman Dunn said he had mentioned to Mr. Pailer in the past that once the School Board put that school there, life changed for Mr. Pailer and everyone else that lived in that immediate region. He said there were conditions that were recommended by the staff and in the motion there were no conditions. He said he didn't know whether or not this was to pass without any conditions. He said there was a condition there that there was a two-way inter parcel access between the school and this piece of property which he could not support. He said he felt the school children should not be driving in and out of this property or cutting through it to get out on the road and beat the light and this kind of thing. He said he thought if it was an O-I complex and we had an inter parcel road, we would have more problems than you could imagine there and he believed it would be unsafe for people doing business in this O-I complex. He commented children did not always think about the safest thing when they were coming and going from school. He said the students were trying to get out of the school and the light sometimes keeps them there quite awhile. He said we should not have that inter parcel connection. He said he would not support the condition for an inter parcel connection but he would support the other two conditions.

The Commissioners agreed the conditions were not included in the motion.

Commissioner Frady asked if Mr. Dunn was discussing the one where Mr. Salmons' recommendation was a right-in, right-out onto to Highway 74.

Chairman Dunn stated that was not a condition. He said he was in favor of the exception that Mr. Salmons was recommending.

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Commissioner Frady said somebody brought that up to change it and he didn't want that changed. He said he was in agreement with Mr. Salmons' recommendation and wanted it in there.

Chairman Dunn said we should make this an exception to our policy for safety reasons and he appreciated the engineer taking a look at that. He said he would support this motion provided that it had the other two conditions in it. He said one of the conditions was there needed to be 10 feet of right-of-way to create a total of 50 feet of right-of-way to measure from the centerline of the road.

Vice Chair Wells asked Ms. Zeitler what the purpose of condition number three was.

Ms. Zeitler said this was to decrease the amount of traffic that would be coming to and from the school site, having to go out on the road to access this property just to help the circulation.

Chairman Dunn said he could not imagine a lot of school traffic going in and out of an O-I site. He said he could see it if there were commercial stores there but he still would not want it done there because of the nature of this intersection. He said he would not support that. He said he was hung up here trying to figure this out with the motion that we had.

Commissioner Frady asked that the motion be restated.

Vice Chair Wells amended her motion to deny the petitioner's request for rezoning to C-C but rather approve O-I with conditions one and two.

Chairman Dunn asked the County Attorney if Mr. Salmons' exception for a right in, right out could be listed as a condition. He said he wanted to be sure that this property have an entrance on both roads.

Vice Chair Wells said that was not one of the staff's conditions here.

Chairman Dunn confirmed that the right-in, right-out exception was not one of the conditions but it was an exception to policy and he thought that would be required here.

Commissioner Frady said Mr. Salmons stated he would make exception to this under his power. He said under special cases, Section 8-53 (3) did permit the county to make exceptions for technical reasons.

Attorney McNally said he also would like to recommend that the Board be sure to clarify on the record that it had amended the motion and that there be a second to the amendment before the Board went forward.

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Vice Chair Wells said the second to the motion had not happened yet.

Attorney McNally said he thought he heard Commissioner VanLandingham second the motion made by Commissioner Wells but he had not heard a vote yet.

Chairman Dunn inquired if Commissioner Wells had withdrawn her motion .

Vice Chair Wells clarified that Commissioner Frady wanted the motion to be restated and when she restated it, she amended it.

Chairman Dunn said there was an amended motion on the floor now.

Commissioner VanLandingham seconded the amended motion to deny Petition 1073-01 for C-C and to approve O-I with recommended conditions one (1) and two (2). The amended motion carried 5-0. A copy of the Resolution and Ordinance approving Petition No. 1073-01 O-I with conditions one (1) and two (2), identified as "Attachment No. 3", follow these minutes and become an official part hereof. A copy of the recommended conditions, staff's analysis and investigation, identified as "Attachment No. 4", follow these minutes and become an official part hereof.

PETITION NO. 1074-01: Ms. Zeitler read Petition No. 1074-01, Clayton O. Carmack, Owner, Mukut Gupta, Agent, request to rezone 40.55 acres from A-R to R-72 to develop a single-family residential subdivision consisting of 18 lots. This property is located in Land Lot 4 and Land Lot 29 of the 5th District and fronts on Old Senoia Road. *The Planning Commission recommended approval subject to the recommended conditions (5-0). Staff recommended denial. Tabled from the April 26, 2001 meeting.*

Attorney George Rosenzweig representing Clayton Carmack stated that some of the Board members may remember that he was here approximately a year ago talking about the rezoning of this property to R-55. He commented he was back once again and this time it was to talk about R-72. He said he had put a booklet together going through the objective criteria in the zoning ordinance, hopefully to move this process along pretty quickly tonight. A copy of the booklet, identified as "Attachment No. 5", follows these minutes and become an official part hereof. He said the first two pages were a cover analyzing things and then there were attached tabs. He said his party viewed this as a compromise. He added they still thought the highest and best use was R-40 or R-45. He said by making this presentation tonight we were not waiving their right to a later claim but that was the constitutional zoning. He stated there were a couple of things to stress about this application. He mentioned these were two-acre lots, they were not small, tiny, condensed, crammed together lots. He said in figuring a

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3,000 - 4,000 square foot home, one would be talking about using 5 percent of the total lot. He commented in going through the rezoning criteria, the rezoning application should be approved because it was consistent with the Land Use Plan.

Attorney Rosenzweig called attention to Tab 2 in the booklet as well as a drawing for everyone to view. He stated this was the Land Use Plan showing that this property was low density-residential. He said one and two acre lots were right across the street from the property. He indicated on the map that Rebecca Lakes Subdivision was directly across the street and was zoned R-40, R-45, even though it was on the other side of Harp Road. He pointed out at Tab 5 there was a letter from the property owner on the north side who's property was zoned A-R and he consents to this development and states that he doesn't propose any further development of his property.

Attorney Rosenzweig stated the second thing behind Tab 1, was a zoning vicinity map showing other rezonings that have been approved in the area. He commented the map showed approximately fourteen other subdivisions and some of them, particularly Rebecca Lakes which was a larger subdivision.

Attorney Rosenzweig addressed the third objective criteria, demand on schools and infrastructures. He said he knew this had been an issue here before. He said one of the gentlemen who spoke earlier very eloquently stated, "prior development decisions, people move into the county and that leads to traffic, and leads to schools." He said now we have someone that was at the tail end of the line and we are talking about the difference of 10 lots, and the question of whether to deny the difference between 18 lots and 10 lots based on school overcrowding and traffic that was already there. He mentioned at Tab 10 there was a revised school district analysis. He said this was quite interesting because the school district has broken out for us, not only the facility capacity with the current enrollment but what the additional enrollment would be under rezonings that presumably the Commissioners have already approved. He said he was not sure he understood where the school system got some of their figures because they did differ above and below the line, but it appears that anyway you look at this, these few extra students were going to vary from Spring Hill Elementary, perhaps a 1 percent difference to the middle school and Fayette County High School, 2/10 or 1/10 of a percent difference. He said if we look at the raw numbers we were talking about a 2 percent increase. He said the school district had shown him that it was the prior development decisions that have lead already to overcrowding.

Attorney Rosenzweig stated finally the other criteria that we have here we spoke about last time and he purchased a copy of the Fayette County Growth Management Plan. He said there was a partial copy of that at Tab 3. He said the Plan shows that this site was in the short term growth area. He said even if it was in the long term growth area, it would still be consistent. He stated on the next page it showed our short term growth was one dwelling unit per acre and

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long term growth was two dwelling units per acre so we are consistent with the Growth Management Plan. He remarked another thing the Board would see at Tab 4 was the petition they were confronted with a year ago when they appeared before the Board. He said at that meeting some 75 citizens signed a petition that encouraged the Board to concur with the Planning staff's recommendation of R-72 for the property. He said they have highlighted on the petition and then attached the minutes of the Planning Commission meeting in order to show the Board that every person who spoke at the Planning Commission meeting opposing this current application was a person, who a year ago, signed a petition saying this property should be zoned R-72. He said with regard to staff's recommendation reports behind Tabs 7 and 8. He said a year ago staff recommended R-72 and now staff says that even though none of the conditions have changed, the staff recommended against approval based on community opposition. He spoke of a recent case which involved the Town of Tyrone in a somewhat similar situation involving commercial zoning. He said the Town of Tyrone had agricultural zoning that was a relic from old holding zones. He said the Town tried to say that even though they had zoned inconsistently around the A-R, that they could nonetheless hold agricultural zoning. He added that not only did the Superior Court of this county buy into that argument, the Superior Court granted general commercial zoning. He said R-72 was better than the alternative such as R-40 and R-45 which he thought was the highest and best use, and they thought this was supported by the 14 subdivisions that surround this site and have R-40 or R-45 zoning.

Attorney Rosenzweig said in summary the county had received their constitutional letter and if the Commissioners did not have it, there was one in the back of the booklet. He said his party hoped this would be granted as they believe this was the last alternative that they had. He concluded they believed that anything other than granting the rezoning would deny them equal rights under the law, the rights that the other 14 subdivision owners have had to develop their property. He said they believe that it would be fundamentally unfair to deny them the right to the 10 extra lots.

Chairman Dunn called attention to the statement Attorney Rosenzweig earlier when he said "the staff recommended denial based on community opposition." He asked the attorney to show him where the staff said this.

A gentleman in the room stated this information was on page 33, in the third paragraph.

Vice Chair Wells stated this was stretching the interpretation a bit.

Clay Carmack, one of the owners of the property, stated he wished to talk about the Land Use Plan and Staff's report. He remarked the Land Use Plan clearly designates this property for one to two acre zoning. He said the way he read Staff's report brushes over that fact and spends virtually no time on it and instead, focuses on a couple of select A-R tracts in the area.

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He said for example, the staff report focuses on the A-R tract to the immediate north of his property which was owned by Louis Roberts and they had already presented a letter from Mr. Roberts tonight stating that he has no objection to this application. He said a little bit further north, the staff report completely ignores Rolling Meadows and Still Wood Subdivisions. He said these subdivisions were less than one mile from subject property, were zoned R-40 and R-45, and they were not mentioned in staff's report at all. He said the report also focuses on an A-R tract to the west of his property, and basically ignores the fact that Surrey Park is less than one mile to the west and was zoned R-45. He stated most importantly the staff report fails to mention the following subdivisions: Apple Wood Trace, Noble Forest, Greenfield and Asbury Ridge. He said these were all subdivisions approximately one mile or less from the subject property which was zoned R-40 and R-45.

Mr. Carmack said Harp Road was the demarcation between one to two-acre zoning to the north and two to five-acre zoning to the south. He said again the property lies on the appropriate side of the line of demarcation. He said it was noted by the Planning Commission in April that R-72 would serve as a nice transition zoning between the more density zoned property to the north and the less density property to the south of Harp Road.

Concerning traffic, Mr. Carmack stated that shortly there will likely be some folks before the Board to tell them how bad the traffic was on Old Senoia Road. He said the first thing the folks would focus on would be the intersection of Harp Road and Georgia 85. He said the Georgia Department of Transportation has an enormous budget to study traffic in the State and the DOT has elected not even to signalize this intersection. He said he thought the DOT's silence on this issue spoke volumes. He added if it was as busy or as dangerous as indicated, there would be a signal light there. He said next the folks would tell the Board about some of the cut-through motorists on Old Senoia Road causing traffic problems. He said he did not live in Fayette County but the times he has traveled on Old Senoia Road, he has not noticed any traffic at all, in fact he was often shocked to see another vehicle on the road. He said if traffic was causing a problem on Old Senoia Road, he really did not know how that could be blamed on his proposal because that traffic was going to be there whether his property was developed or not.

Mr. Carmack said in addressing the domino effect that some folks were probably going to say to the Board tonight that the property owners to the north with A-R tracts would be a good reason not to rezone his property. He said there were only two A-R property owners to the north of his property, one was Louis Roberts and a letter was already presented saying he had no intentions of developing his property. He said the other man related to him was George Roberts who has said he would never rezone his property. He stated the domino effect began years ago. He said dominos exist in every direction of this county and subject property was no exception. He said these dominos did not have numbers but they have names we all know.

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He pointed out to the north, there were Lakemont, Stillwood Village, Rolling Meadows, and Applewood Trace, to the east, we have Asbury Ridge, Greenfield, Farrington, Whipporwill Ridge, to the south, Rebecca Lakes, Shannon and Chesselhurst, to the west Surrey Park, Noble Forest and Whitewater Creek. He said there were clearly subdivisions in every direction and they were the last domino, if anything. He said he was not starting any trends, they were following a precedent.

Mr. Carmack said concerning adjoining property owners that someone presented a petition with 100 signatures at the Planning Commission meeting. He said he wished more had signed it because they actually supported R-72 property. He encouraged the Board not to forget about the silent majority. He said in our society today it has become an issue that the squeaky wheel always gets the attention, and now it's those who kick and scream who get all the attention. He said there were over 90,200 residents in this county and that meant over 91,000, maybe more, did not sign any petition and were not at the meeting. He said Louis Roberts did not sign any petition and he was sitting here tonight, yet he was the most affected by this decision. He commented as the Planning Commission noted when these adjoining property owners purchased their property, the Land Use Plan had been in effect for many years so they should have been aware that this property was set to be one to two acre zoning at some point. He added that a lot of people who object to this application, both orally and in the petition, themselves live in R-40 and R-45 zoning and he felt it was disingenuous of them to come here and express this grave concern that this land might some day be developed just like the land they live on.

Mr. Carmack commented that folks at the last meeting expressed some concern and tried to portray his family as outsiders to Fayette County who were looking to sell their property to the highest bidder. He said this could not be further from the truth. He said in reality his family had owned that land longer than most people in this room have been alive. He said his grandmother's family lived in Fayette County since the mid 1800's and his grandfather purchased this land during the great depression when it was not so popular to live in Fayette County. He added that his mother who was here tonight, Carolyn Carmack, was raised on this property and attended Fayette County Schools and she had owned part of this property since 1985, paid taxes and never tried to do anything with it and just kept quiet. He said finally he would like to make sure that everyone understood that he intended R-72 to be a true compromise. He said if we were looking to sell his property to the highest bidder he would have come in here tonight and ask for R-40 or R-45 zoning. He added let us not forget how many R-40 and R-45 zonings were in the area which he mentioned earlier in his statement. He concluded by saying he felt that R-72 was again an extremely fair compromise between the concern of these folks here tonight and his constitutional right as property owners to develop his property in accordance with the predominant character of the area.

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Chairman Dunn asked if there was anyone present who wished to speak in favor of the petition, hearing none he asked if there was anyone present who wished to speak in opposition and there were three citizens who wished to speak in opposition.

John Davis, 527 Old Senoia Road stated he had lived here for 21 years. He stated he and his wife were requesting that the Commissioners deny this rezoning for the following reasons. He said this would add traffic to an already dangerous intersection at Harp Road/Georgia 85. He commented there was not be a light there now and someone usually has to get killed and then a light would be put there. He said they used the intersection every day and it was a dangerous intersection and more traffic was not going to help the situation. He said this development was going to empty directly into Old Senoia Road with no other ingress/egress. He said Senoia Road was used as a cut-through road from Redwine Road to Harp Road and there were times when it was heavily traveled and times when you would hardly see anyone. He said there was an impact on adding students to an already over-crowded school system. He said this land was incompatible with the surrounding area. He said 22 out of the 24 pieces of property that look directly at subject property from Whipperwill Ridge or touch the property on any side was larger than two acres. He said his number one concern was the impact on future rezonings. He stated there were two other pieces of Roberts property north of this site and they may have a letter saying that they do not ever intend to rezone it and we all know how property was handed down and somebody else decides to do something with the property that it was not originally intended for. He said there was another piece of property on the north end of Old Senoia Road which was larger than 100 acres and it will be impacted by this rezoning. He said there was another piece of property larger than 50 acres on the northeast side of Old Senoia Road. He remarked that this request would impact those pieces of property. He said this was a precedent setting vote which the Board would be giving here tonight. He asked that the request be denied.

James Baker, 275 Zelkova Drive, Fayetteville, stated he owned property north of the proposed site. He said he was not against the land owner for selling or developing his land. He said what he was against was developing the property in a way that was detrimental to the county and its residents. He remarked that Mr. Carmack stated and the Planning Commission agreed in the last Planning Commission meeting that the staff recommendation was inconsistent when it said that nothing had changed since the last rezoning proposal. He said they argued that since the Planning Commission recommended approval the last time, it should this time since nothing had changed. He said what the staff was referring to was that nothing had changed since the Commissioner's meeting on this rezoning in August. He said the Commissioners after hearing arguments opposing the rezoning, voted denial unanimously for the rezoning and that was what was different.

Mr. Baker said he had two young sons attending Fayette public schools, all of which had a large number of trailers at each one. He added there would be more trailers coming for the

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next school year. He mentioned he spoke with a representative from the Fayette Board of Education, Mr. Mike Satterfield, and he stated that the county now has 100 trailers on school campuses with another 30 being added next year. He said he felt the school children deserved a school classroom and not a trailer. He said Mr. Satterfield also told him about House Bill 1187 and said this was further going to complicate space and overcrowd our schools because the bill requires no more than 23 students per classroom. He said Spring Hill has 879 students enrolled and it was built for 800 and House Bill 1187 would require no more than 675 students and the projected enrollment for next year was 952. He commented that Whitewater Middle School has 914 enrolled, capacity was 825 and HB 1187 drops the numbers to 759, and next year's expected enrolled was 1,000 plus. He said Fayette County High School has 2,006 students enrolled, it was built for 1,800, HB 1187 target number was 1,800 and projected enrollment for next year was 2,200. Mr. Baker said according to the school records, Fayette County schools grow by 750 - 800 students annually. He commented this meant that the county would need a new school each year just to keep up. He said we were 3 - 4 years behind in building schools and we need to be more proactive and less reactive when it comes to solving our schools overcrowding issues. He stated we have to curb building housing developments just to catch up. He said he was proud of the schools we have and he wanted to see the same quality of education we have now. He said in conclusion that he was not against change, change was good, but we need to solve some of our growth problems and not add to them.

Chairman Dunn wanted to clarify for the record that the petition that was handed to him was a petition signed by 113 people requesting that this rezoning be denied. He said he had no idea how many people lived in this area at this point, nor whether there were several in each household like he saw in the letters he was presented.

Terry Durant, 511 Old Senoia Road, said she lived on the property immediately adjacent to the property in question. She mentioned that there had been a fatality at Georgia 85 and Harp Road and there was also a school bus accident there since she had lived on her property. She quoted one of her favorite authors, John D. McDonald. She added that few people realize the subliminal messages McDonald was sending concerning the preservation of Florida's natural beauty and resources, especially regarding the Everglades and the Barrier Islands. She read a quote from the book, "he invade against greed head developers and cold hearted schemers who flock to Florida to pave over another Cypress swamp for a shopping mall or instant subdivision." To make her point, Ms. Durant asked the Board to substitute Fayette County in the reading for Florida. She said we must take a stand to preserve our natural resources before it was too late. She added it was true, you never miss the water till the well runs dry or turns to mud, or becomes too polluted to use for anything except watering the yard. She said we have an absent landlord here, an absentee builder anxiously awaiting the time they utterly devastate this land in question and the way of life that we have worked for, for many years.

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Attorney Rosenzweig stated in rebuttal that he wanted to address people who were signatories on the last petition advocating R-72 zoning. He said even though they seem like nice folks, he knew they held their beliefs sincerely. He said it was pretty clear that they were against any development on the property of anything other than A-R. He said with regard to the issues of traffic and schools, etc., he noted in the zoning criteria, including the information placed on the table at the back of the room tonight, it says specifically that special emphasis will be placed on the relationship of the proposal to the Land Use Plan and related development policies of Fayette County. He said he felt this was the situation here where everyone was following the Plan which has led to results, demands and so forth. He said one still has a good plan and there was no reason to depart from it, particularly, when the argument seems to be that the horses were out of the barn and now was the time to close it. He said with regard to water he did not mention the conditions that they find acceptable in the staff report. He said one of the conditions that was acceptable was extending the waterline.

Mr. Rosenzweig said he had a box full of things that he could discuss with the Board, maps that he could show, but he felt he pretty well covered the point that he wanted to. He said Mr. Gupta, Mr. Carmack and he would be happy to answer any questions if the Board had any.

Chairman Dunn confirmed from Attorney Rosenzweig that the petitioner still agreed to all of the conditions.

Mr. Carmack pointed out one more thing that caught his attention last time in reading over the minutes from this meeting was some mention that Old Senoia Road, in addition to Harp Road, should serve as a buffer or line of demarcation. He said when you look at the zoning maps, that was not the case. He said historically Surrey Park, Stillwood Village and Rolling Meadows which were all to the west of Old Senoia Road, including Whitewater Creek and Noble Forest. He said there was development on the west side and he wanted to make sure everyone understood that. Mr. Carmack said he knew there were 3 schools at issue here but he noticed Whitewater Middle School was completing a fairly large edition to that school. He said he assumed whoever planned that type of decision was allocating for growth and also addressing any overcrowding concerns. He mentioned he called the Sheriff's Office about the traffic accidents for the past 10 years and they told him there was not a single fatality at that intersection of Georgia Highway and Harp Road. He said he did not remember the exact number but it seemed like there were a couple of accidents and non fatal. He thanked the Commissioners for their time.

Commissioner VanLandingham stated Mr. Carmack made a point of all of the surrounding subdivisions. He said he hammered this point pretty heavy. He asked Mr. Carmack on his domino effect, if this wasn't this the same thing.

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Mr. Carmack said he didn't understand what Commissioner VanLandingham was asking.

Commissioner VanLandingham commented that Mr. Carmack said the domino effect would stop here or he was the end of it, but Mr. Carmack had drawn a conclusion that all of these subdivisions around here were approved and so Mr. Carmack's petition should be approved too.

Mr. Carmack said he felt this was in line with the way the land has been developed in the Land Use Plan but the domino effect, the way he understood it was, once one domino fell, the adjoining property owners would fall and his point was that all the land around that had already fallen. He asked if that answered Mr. VanLandingham's question.

Mr. VanLandingham said it sort of answered it.

Mr. Carmack said he would like to answer, but he was trying to follow Mr. VanLandingham's reasoning.

Commissioner VanLandingham said Mr. Carmack made a strong point when he said this would not be a domino effect, this would be the end of it.

Mr. Carmack said he did not know how much land was left there. He said he could not speak for the surrounding landowners, he did not own their property but he was just saying this would be the tail end of the dominos, not the first domino.

Commissioner VanLandingham said he saw quite a few acres that were available that could continue this way and the next person could use the same argument that Mr. Carmack was trying to use of the existing subdivisions.

Mr. Carmack said that may happen, he could not speak for what someone else may say.

Attorney Rosenzweig asked if he could speak a moment on the point raised by Mr. VanLandingham. He said he thought the point was this was kind of a phase down or step down or middle ground the way the Planning Commission viewed it. He pointed out the surrounding subdivisions were one-acre lots, ours are two-acre lots, and we thought that was a natural transition.

Chairman Dunn stated he thought one could make the point that if you allowed that natural transition, you very well may create a domino effect in this neighborhood.

Attorney Rosenzweig said yes, that was very logical.

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Commissioner VanLandingham said that was his point.

Chairman Dunn stated if this wasn't approved then you may stop the domino effect in this area.

Attorney Rosenzweig said again, one would have to be inconsistent with the Land Use Plan and the Growth Management Plan. He said their argument was like the hole in the donut. He acknowledged Chairman Dunn's point and said the rest of the hole could go to two acres too.

Chairman Dunn pointed out that the letter from Mr. Robertson did not say that he would never develop the property, he said he had no plans to rezone it, but certainly if his neighbor was a more dense development then he or his descendants in the future may want to do that. He said he was trying to clear the record here.

Chairman Dunn asked for a motion before this was discussed any further.

On motion made by Commissioner VanLandingham to deny Petition No. 1074-01, seconded by Vice Chair Wells. Discussion followed.

Commissioner VanLandingham said this property was completely surrounded by A-R and that fact had not been discussed except for Senoia Road. He stated to him there was some difference in the interpretation but he understood that. He said this would be putting different zoning amongst A-R so to him that was borderline spot zoning. He commented this would open up approximately another 150 acres or greater for the same thing. He said the small number of houses that the Board was looking at now suddenly became larger and then we have the impact. He said as far as the traffic and the fatalities were concerned, he felt part of the Board's responsibility as Commissioners was to prevent these situations from happening, and not to contribute to them up by adding more and more. He said there had been six accidents there in the last twenty-six months. He said he had never seen an accident on a road like this that someone did not get hurt, but he thought part of the Commissioner's responsibility was to look at the potential, and not add to the problem. He said this was the reason he could not support this petition. He added there was a great need for a traffic light there but strangely enough and as callous as it sounds, people have to get killed before the DOT will consider the intersections. He stated did that mean that the Board fix it so the DOT would put a light there, no, he felt the Board should prevent accidents if it possibly could. He said for these reasons he could not support this request.

Vice Chair Wells commented she seconded this motion because she had similar reasons when she denied this rezoning back in August of last year. She said what we have failed to realize and what we have not heard tonight, and what had been intimated was that if the Board

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did not rezone this, it would be in violation of some holy grail. She stated the Board was not compelled to consider this rezoning as a must. She stated that A-R was a legal zoning and, although it complies with the Land Use Plan per se, it doesn't necessarily comply with the Comprehensive Growth Management Plan. She commented one of the important aspects to that was it states that our objective was to include the staging of development. She said a development happens at different times in different parts of the county and at this point in time all of the infrastructure of that part of the county was straining at its seams. She said part of that staging included roads, water, schools, and keeping stable neighborhoods. She commented she did not believe the Board could do that at this point in time. She remarked that the schools could not build to future growth, they were limited by legislation, they must build at growth. She said if the Board rezoned this property and the 150-acres plus around this were rezoned, that would mean the number of students would triple in an already overcrowded school system. She said just to reiterate the traffic there was horrific and the DOT did have to have fatalities and this was what happened at Carnegie Way. She said we had to have 3 fatalities before anything was done. She said it was incumbent upon the Commissioners to protect our citizens. She remarked the Comprehensive Land Use Plan gave the Board that latitude and the property was legally and acceptably zoned at this time.

Commissioner Pfeifer commented on what Commissioner VanLandingham said. He added he thought if the Board rezoned this property, it would be guaranteeing the result that Attorney Rosenzweig referred to in Tyrone and that was squeezing it down and forcing all of that land to go to 2-acres.

Chairman Dunn commented that the Land Use Plan certainly would allow R-72 in this area but it did not dictate that it must be done. He said some people look at the plan as if this was some sort of law we had to comply with. He stated it was our plan that said when the conditions were right and the area was ripe for development or when the conditions in the county were such that it has to be developed, if it ever comes, then one and two-acre lots would be acceptable. He said at a certain time in history, perhaps, but it did not require this Board to act because someone asked for it to be done at a specific time. He said he felt Attorney Rosenzweig and his party realized that. He said this to him would represent something very close to a spot zoning if we were to take an A-R area and allow an R-72 lot in it. He commented from what he heard the Board saying, they were fairly consistent with what they said the last time and that was the area was A-R and at this point the Board saw no reason to change that. He said he would not support the changing at this time.

Commissioner Frady commented that this piece of property was similar to a lot of properties that were in the county. He said at one time all of the A-R zoning was one-acre, and it was changed some time subsequent to the original zoning. He said this was the reason you could see while this has A-R on the south of it, it's not A-R. He said there was .9 (nine tenths) of an acre lot, a 2.9-acre lot and 2.7-acre lot and he could not tell what some of the lots were. He

said that was not A-R even though it says A-R, it has been changed. He added there was a lot of zonings in the county that had been changed from A-R and there was nothing that dictates that the Board has to do anything in our ordinances to any piece of property or zoning.

The motion to deny Petition No. 1074-01 carried 4-0-1. Commissioner Frady abstained. A copy of the Resolution and Ordinance for Petition 1074-01, identified as "Attachment No. 6", follow these minutes and become an official part hereof.

PETITION NO. 1082-01: Fayette Youth Protection Home, Inc., Owners, and Aston Peart, Agent, request to rezone 5.11 acres from C-C Conditional to C-C Conditional to revise a condition of approval to include a proposed Day Care use. This property is located in Land Lot 250 of the 5th District and fronts on S.R. 279 and Twiggs Way. The Planning Commission recommended approval with (1) one condition (3-0). Staff recommended approval with one (1) condition.

Aston Peart, Representing Agent, stated he was there to request a conditional change in the current zoning on this particular piece of property to include a day care center in what use to be the old Kenwood School. He said the property was already zoned C-C with special conditions for the Fayette Youth Protection Home. He said he was there to ask for an additional condition to include a day-care center.

Chairman Dunn asked if there was anyone here to speak in favor of the applicant.

Asden Johnson, 331 Gingercake Trail, Fayetteville, stated she was a member of the Board of the Fayette Youth Protection Home and her Board supports the addition to the conditions of the use. She commented the Youth Home would stay where it is but they would like to sell part of that land and they felt a day-care center was a compatible use right next door to them.

Chairman Dunn asked if there was anyone else who wished to speak in favor of the petition, hearing none, he asked if there was anyone who wished to speak in opposition and hands were raised.

Kathy Allgood, 155 Kenwood Road, Fayetteville, commented that she attended the rezoning hearings in 1987 regarding the Fayette Youth Protection Home. She said she could recall the arguments, the concerns and the conditions that went along with the rezoning. She remarked this was described as a much needed facility in the county. She said most of the people were naive to this fact. She mentioned the concerns of the residents in the area was the

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commercial zoning required to build the facility. She said the petitioners assured the residents that they wanted the facility to coincide with the residential area that it was going into. She said it would not in any way look like an institution or a facility of any kind as they wanted it to blend. She commented assurance was given that this was to operate as a home, that these children would be permitted to attend the local schools instead of having to go to neighboring counties where they were having to go at that time. She said these children were being put in Douglas County, Fulton County and Fayette County needed something desperately, but they had to get commercial zoning in order to build the facility. She stated the residents were assured there would be no signs. She said this made sense, they needed to protect these kids and they didn't need intruders or someone to come along and see what was going on there. She said this made the commercial impact on the area to be nothing and there was no impact in the Kenwood area. She said there was a group of people working hard to build a safe haven for these children and that area looked to be the best. She stated on the other hand there were residents of Kenwood not wanting that commercial tag there because of the potential for more to follow. She said the residents concerns today were the same as they were 14 years ago. She added this was not a commercial area, nor did they want it to become one. Ms. Allgood said back then the Commissioners assured us that they didn't want anything to happen like what happened on Old National Highway and she hoped that this was the Board's mission as well. She said the commercial zoning allows a wide variety and she realized the petitioner was just requesting a condition change but this was still a zoning issue. She said there were a lot of people against this request, this was a historical area, and the county needed to protect it.

Steve Allgood stated when he came to the zoning meeting in 1987 he found this was the ultimate spot zoning that had ever been done in this county, but it was done for the kids home. He commented to him the people had no right to go from C-C and sell off C-C when the residents were assured by the Commissioners' predecessors that if anything ever happened there, the property would revert back to A-R and then they would have to go before the Commissioners once more to get another spot zoning for commercial or C-C. He said that section of land there was zoned C-C for the kids, not to be sold off in 5 or 10-acre tracts when somebody says now they just want it for a kinder care or day care and then keep on with the domino effect and build a dry cleaners for the day care.

Mr. Peart said with regards to the previous speaker, the Youth Protection Home has been in existence at its particular site for well over 10 years and had met a lot of needs for its children. He said the petitioner had no intention to change the environment that was currently already developed there, they were there to help improve the environment and not to become a commercial strip site. He stated the conditions that have been put on the property will not allow him to do that, nor do they have any intentions down the road to do that. He said with regard to the comments made by Mr. Allgood on developing a dry cleaners and other types of businesses coming in there, this was not their intention. He said the site was for children

and they believe that it lines up with the current use on the property to maintain it for the children. He commented that he was not looking to go out and say they were looking for C-C approval with conditions with the intention of coming back later on and say they would like to put in a drive-thru McDonalds or something there. He said that was not their intention, they were looking to use the building which was already there, improve it to blend in with the rest of the neighborhood so that one really couldn't tell that it was an actual day care. He said it would blend in with the neighborhood. He also said it would be an educational center and not just a baby sitting center.

Vice Chair Wells asked Ms. Johnson to explain her Board's intention to sell the property.

Ms. Johnson said that was what they would do, they would sell the property, probably divide it in to and the old Kenwood School was what Mr. Peart would buy. She mentioned the property was about 2.5 acres. She remarked there was still property behind the Protection Home that they had. She said in the beginning the Home Board thought it might put a couple of homes there but they have found in working with the children that it was better to have just one single home. She said since then they have built another home in Brooks. She remarked they didn't want the property to be a campus thing and yet they thought the day care facility was compatible.

Monica Peart, 1808 Georgia Highway 92 North, Fairburn, 30213, stated she wanted to speak to the folks who spoke in opposition to this petition. She said the growth in the area would compliment the residential area and if you look at the school that is abandon there and only used for Sunday and Wednesday night services by a church, this, if approved, would give it full use, Monday through Friday. She added that the DHR and the State regulations for the amount of playground space and septic field lines there were really not a problem. She said there were a whole lot of other things one could do other than to expand that area so it wouldn't look much different then it does right now. Ms. Peart said this would be improving the property and it would look a lot better and the surrounding community and citizens should be proud of what it looks like after it was finished.

On motion made by Commissioner Frady to approve Petition 1082-01 with one (1) condition. Chairman Dunn seconded the motion for discussion.

Commissioner Frady commented that the Planning Commission did a decent job on this as he read their comments and discussions. He said he was pleased with the way the property would be divided.

Commissioner Pfeifer asked Mr. Nally if this property was subdivided and this use was permitted for it, what would happen a couple of years from now if they decide they want to get

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out of the day care business and someone else wants to put a different C-C permitted business in there. He asked if the Board would have any standing to do anything about that.

Attorney McNally said they would have to come back to the Board but he felt realistically when it was zoned C-C, it was zoned C-C.

Chairman Dunn said one of the things that struck him and one of the reasons he voted against the first petitioner tonight was that they wanted C-C and they put certain restrictions on themselves. He added the problem with that was once it was zoned, it was zoned, and if somebody in the future wanted to do something with that zoning, they would have a certain amount of rights. He said that was why he felt this Board was so careful about any kind of deviation from zoning they were not sure of. He commented in this case, to him this was an acceptable use of this C-C property even though it wasn't intended in the beginning. He said he thought this was a lot better than any alternative he could think of that could be there should somebody in the future want to use that property in a less positive way. He said it was legally zoned C-C and the Board was here to set another condition which he thought was reasonable. He said he would support Mr. Frady's motion. He added there may be a time when he would say he wished they had not have done this years ago and put C-C in that area. He stated he did not know if this Board would do it today, but it was there and this was an acceptable use in C-C.

Vice Chair Wells stated she would have to be the grinch here for the very reason that a C-C zoning was a C-C zoning. She said she supported anything in this regard when we were helping the people less fortunate or the children in need. She commented she had a real hard time with this because in the past she had dealt with the Council on Domestic Violence and she knew that we needed shelters and things of this nature. She said her problem with this though was that the special conditions were created for a Youth Protection Home, and if this was not going to be divided and sold, and operated as a for profit business, then she would say there was not a problem with it, it was just an adjunct of what this was for. She stated it was unconscionable for us to divide this piece of property that was C-C conditional. She said she was sure that 14 years ago there was quite a discussion as to what this would do to the community and the surrounding area and it was definitely a spot zoning but it served a good purpose. She commented she was not sure if dividing this property, selling it and creating a for profit-center serves a good purpose and she was afraid this encroaches upon the neighborhood to a degree that the Board should not allow. She stated it was easy for us to get emotional over what was being done well and the needs of the children, mixed up with the change in strategies here. She felt dividing this property, selling it, and creating a day care for-profit, that if the day care center went belly up, somebody else was going to come in with a C-C zoning and the Board would not have a great deal of control over it. She felt this would be a disservice to the citizens of that neighborhood if the Board allowed this.

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Commissioner Frady stated the Board had never rezoned anything for profit as far back as he could remember. He added that most commercial property was a profit bearing business.

Vice Chair Wells said the Youth Home was allowed because it was not a for-profit business. She said to change this now was not fair.

Commissioner VanLandingham said he shared the same feeling as Ms. Wells up to a point. He commented that the first thing he wrote down when this came up was it changed the original use or the intended use. He felt there was a definite need for the Youth Protection Home in our community. He said he looked at the joint use and he wondered where this was going. He asked if the joint use was going to be from now on, or was it going to be a just for-profit organization in this school building. He stated the use of the day care center had a great amount of concern for him. He commented that there were a lot of nice homes around the Kenwood area. He said he also knew the center would have to accommodate at least 40 - 50 children to make a profit. He said if this was so, that was going to cause a problem in a residential neighborhood. He said this was a change in the original use and to say that it was C-C conditional now was another step to putting that dry cleaner there next year or 10 years from now. He said to do this in a residential zone was a bad decision and he knew that this would probably penalize the Youth Protection Home. He stated he did not feel he could support this because it was in a residential area and there was nothing else there to divide it.

Commissioner Frady commented he looked at this situation differently than Commissioner VanLandingham. He said the place was already zoned C-C and there were many uses they could put their besides a childcare center. He said he thought this was a way to protect the property because they were not going to have anything else in there except the childcare center. He said if this was not zoned C-C he would not zone it C-C but it was there and there were many things that could be put in there that was less desirable than a childcare center in his opinion.

Commissioner VanLandingham said his point was that this was zoned C-C for a Youth Protection Home and that was the condition. He stated the condition that we were applying tonight was going to be just like the one that was applied 14 years ago. He said if another idea comes along, it could be changed. He remarked that while he thought it would be a good use for a school building, he couldn't think of anything else, but the condition that was put on it was that it be used for a protection home for children.

Commissioner Frady commented that he didn't think many things were zoned around here without conditions.

Chairman Dunn asked Ms. Zeitler which zoning categories were childcare centers permitted uses in.

Ms. Zeitler replied that childcare centers were permitted in A-R, O-I and commercial zoning. She added this zoning has the conditional use that restricts the use of the property and it ran with the land.

The motion was 2-3. Chairman Dunn and Commissioner Frady voted for approval and Vice Chair Wells and Commissioners Pfeifer, and VanLandingham opposed the motion. The motion was denied. A copy of the Resolution and Ordinance, identified as "Attachment No. 7", follow these minutes and become an official part hereof.

PETITION NO. 1083-01, Kathy Zeitler read Petition No. 1083-01 for Sarah Banister, Owner, and Billy Brundage, Agent, request to rezone 42.32 acres from A-R to R-75 to develop a single-family residential subdivision. This property is located in Land Lot 254 of the 5th District and fronts on New Hope Road. The Planning Commission recommended approval with condition #3, only (3-0). Staff recommended approval with conditions.

Agent Billy Brundage, P.O. Box 1926, Fayetteville, Ga. 30214, stated he was a Civil Engineer and Land Planning Consultant and developed the concept plan for the Banister property. He said Barry Banister was there tonight and would also like to address the Board as well. He commented that the Banister family asked for 1-acre zoning on this property last year and was turned down. He remarked there was a recommendation at that time for R-72 zoning on this property which included 2-acre lots. He stated at this time the family was asking for R-75 zoning which included 2-acre zoning. He said the difference between R-72 and R-75 was R-72 called for a minimum of a 2,100 square foot home where R-75 called for a minimum 2,500 square foot home. He said in this case, similar to one of the previous petitions, the immediate adjoining properties were zoned A-R but there was 1-acre and 2-acre zoning all around this property in all directions and in close proximity. He mentioned there was a 1-acre zoning, not immediately across New Hope Road from the property, but diagonal across the next property up the street towards Highway 92.

Mr. Brundage said their concept plan called for the majority of the lots to be close to 500-feet to 600-feet deep and this was measured from the right-of-way to the back of the lot. He stated typically when lots were developed for single-family use, most of the impact, house construction, driveways, lawns, storage buildings, a swimming pool perhaps were going to occur in the front 150-feet to 200-feet of the lot. He said in this case with the 500 to 600 foot deep lots, that left 300-feet to 400-feet of what would typically be natural area in the rear of these lots which was the area that would adjoin any of the adjacent properties. He mentioned

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that along the perimeter of this property there would be a minimal impact to the adjacent properties. He said also along the western side of this property there was a Georgia Power easement which was immediately adjacent to the property which separates this from the property to the west. He stated the Planning Commission unanimously recommended approval of this request and well as the staff. He said he would like to highlight some of the points brought up in staff's analysis.

Mr. Brundage stated (1) staff's analysis has to do with the Land Use Plan and the density of this property. He said the Land Use Plan called for a density range of 0.5 to 1 unit per acre in this area and this property has a net density of 0.49 units per acre which was at the extreme low end of that range and it was in keeping with the Land Use Plan, (2) the proposed rezoning should not adversely effect the existing use or usability of adjacent nearby property, so staff was stating that this was compatible with the adjacent properties, (3) one thing that set this apart from one of the previous petitions was that this would not result in a burdensome use of roads, utilities and schools, and (4) existing conditions of the general area, location in the northern portion of Fayette County and located on an arterial, and the areas continuing development as a single-family residential district support this petition. He said the last sentence of this portion of staff's report states, due to the location of subject property, the proposed 2-acre zoning was compatible with the general area.

Barry Banister, 4510 Dartmoor Drive, Marietta, Ga. 30067, said he would speak on behalf of his Aunt, Sara Banister. He said the family had owned the land since 1951 and have been good taxpayers ever since. He said the family was here a while back looking for 1-acre and we understood that it was preferred to be 2-acre zoning. He reviewed the maps on display and indicated where the various zonings were located. He said they wished to be good neighbors and they felt like this would be compatible with the area based on everything that they had been told by the Zoning and Planning. He said they were looking for the same consideration that was given in the past to those that were immediately close to us in the surrounding area. He mentioned that twenty homes would have a minimum impact on the area. He said again that there was a great bit of distance between them and their neighbor so it would not impair what they have now as their lifestyle because of the natural area that would more than likely be around them. He stated there were 9-acres between he and his neighbor across the power line so there was plenty of distance there. He said they would be more than willing to give an undisturbed setback of 15-feet with one acre but actually he expected it to be much greater than that. He remarked there would be minimal impact or no impact as far as the schools and traffic went. He acknowledged there was A-R next to his property but there was spot zoning in that area with 1-acre lots. He asked for the Board's consideration in approving this zoning.

Chairman Dunn asked if there was anyone who wished to speak in favor of the application and hearing none, he asked if there was anyone who wished to speak in opposition.

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Charlie Reagan, 941 New Hope Road, Fayetteville, commented he lived on the west side of the Banister property and purchased it in 1964, built in 1965 and have been living there ever since. He said he moved out of a subdivision in order to enjoy the area of agriculture section and he would like to see it remain A-R. He said the best data he had to support denial of the request comes from a previous meeting we had in September. He recounted that Ms. Wells said at the September meeting that she had totaled up the acreage that was zoned for A-R and that there were 500 acres that surround the Banister parcel. She also stated that this was a huge amount of acreage that would be impacted by this particular rezoning. She said if the property was developed as a 1-acre tract everybody in the 500 acres could come back and say they wanted 1-acre or 2-acres and this would be the same as if it was developed as 2-acre lots. Mr. Reagan said this would create a tiny island of greater density surrounded by lesser density that the county was always trying to avoid. He said there would be traffic, impact on the schools and an impact on this county that we were not ready to address in this particular area. He read minutes from a previous meeting and stated the Board unanimously voted 5-0 to deny. He requested that it stay A-R.

Mr. Brundage said in rebuttal that he would repeat what was mentioned in the staff report. He said staff and the Planning Commission evaluated this and found that there would not be an adverse impact on the infrastructure of the area, the school system or the surrounding properties.

Mr. Banister said this did touch across the street from his property. He said there was a 1-acre lot there that was already zoned and then actually his neighbor on the other side he was in favor of the rezoning as well. He said concerning the other property that if the owner did not want to have it zoned, he lives there so he has the right not to worry about it being zoned any other way than exactly how he wants it.

Commissioner VanLandingham asked Mr. Banister if he said earlier that there was an easement there and if it has been sold.

Mr. Banister said this was an easement for the power line owned by Oglethorpe Power. He said they have the rights to that area from an agreement with Oglethorpe Power. He said there were 9-acres there which we sold to them in 1966.

Commissioner VanLandingham called attention to the plan where it indicated there would be two lots that would not be 2-acres because of the detention pond. He asked for clarification.

Mr. Banister said Commissioner VanLandingham was correct and this was consistent with what has happened in the rest of the county. He stated the detention ponds were located on individual, private lots.

On motion made by Vice Chair Wells, seconded by Commissioner Pfeifer to deny Petition 1083-01, discussion followed.

Vice Chair Wells commented although it has been referred to a couple of times in the staff analysis and with the Planning Commission that it did not make a tremendous impact currently on the schools in that area was misleading. She said the petitioner's plan indicates there will be anywhere between 30 to 50 students attending the schools. She stated depending upon which area one looked at, if you consider the 500-acres surrounding this area, and with the natural tendency to expand to the widest perimeter, and assuming people in the not to distance future could rezone to 2-acres, that would be twelve times the number of students that we were talking about right now. She said she believed that this could make a tremendous impact on the schools. She said we were not talking about ten students here and ten students there, we are talking about the potential to explode once this island was allowed to encroach upon the surrounding territory. She said even though that particular subdivision would not have a tremendous impact all by itself, we know that we do not exist in isolation and it could have a tremendous impact on the schools and the rest of the infrastructure in that area.

Commissioner VanLandingham stated he could not support this either as it would be inconsistent with the Board's actions and responsibility.

Chairman Dunn spoke of a letter from the School Board and said the way this was written it looked like there was no particular impact on the closest school but the entire school system was entirely overwhelmed. He said the School Board manages this, the Commissioners did not, but there were few aberrations where some schools did not have a full capacity while others have much more than a full capacity. He said the School Board right now was coming to grips with how to sort that out so that they can make best use of their space. He said he would also have to be consistent with his vote on the other petition for the same reason. He said this to him was a spot zoning which would lead to other properties going the same way. He said he felt the same way last year as he did today, it was not time to break up A-R zoning in this area. He said he could not support it.

The motion to deny carried 5-0. A copy of the Ordinance and Resolution for Petition No. 1083-01, identified as "Attachment No. 8", follow these minutes and become an official part hereof.

ORDINANCE NO. 2001-10, AMENDMENTS TO THE FAYETTE COUNTY DEVELOPMENT REGULATIONS REGARDING ARTICLE III. STREET DESIGN STANDARDS AND SPECIFICATIONS BY THE ENGINEERING DEPARTMENT. The Planning Commission recommended approval (3-0).

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Engineering Department Director, Ron Salmons presented revisions concerning Article III, Street Design Standards and Specifications. He stated there were primarily two reasons for doing this. He stated the first reason was to have standards adopted by the county which would have a major impact on the amount of funding that FEMA/GEMA would provide the county should Fayette County suffer the misfortune of a national disaster. He explained that if our infrastructure was impacted, and roads and bridges were washed out or destroyed, Georgia's FEMA would pay 75 percent of the bill and GEMA would pay 25 percent of the bill. He said with these new standards in place basically the county would be out nothing when it came to restoring the infrastructure. He commented the important part was that if we lose a 24-foot wide bridge, and it gets washed out and destroyed, and we have to replace it, if we have codes and standards in place, we can upgrade to those codes and standards. He said it may call for a 40-foot wide bridge, maybe 100 feet longer, or wider, and they pay the entire cost. He stated if the county did not have codes and standards in place approved by the Board, then we can only get paid for bringing it back to pre-disaster condition and any upgrade would be on the county. He said this was one of the important reasons why he had gone through this exercise. He said the other was to try to improve some of our local subdivisions streets with some low cost type improvements. He stated there was a lot of detail in the information he provided and he would be willing to go through every bit of it.

Chairman Dunn said he thought everyone had read the information Mr. Salmons had provided.

Mr. Salmons said if the Board had any questions at all, he would be happy to answer them. He added that he had coordinated this with Public Works, the Road Department and the developers and so he had tried to get all of the stake holders involved in this to try to come to agreement.

Commissioner VanLandingham questioned the information pertaining to curb and gutter. He asked if the county was looking at going ahead and re-enforcing the installation of curb and gutter.

Mr. Salmons said where you have a subdivision of five-acres or more, you were allowed to have a ditch-type section for your roads. He said with smaller lots you had to have the curb and gutter.

Commissioner Frady said he thought the county had discussed about changing all of that.

Commissioner VanLandingham commented he thought for some reason that the county was looking at eliminating this because of future storm water runoff collection. He said once we get into curb and gutter, we have to do something with it then because we have to have collection points and things of this nature.

Mr. Salmons said he discussed with Commissioner Frady some types of parking lots and that type of thing. He said this proposed change did not address that particular issue.

Commissioner VanLandingham said that maybe we ought to start looking at this because the more we add, the more storm water we were going to have to take care of in the future.

Mr. Salmons said he did not want to minimize that at all. He said this was an issue that was a year or less away that he was sure Chairman Dunn was familiar with, the Water Planning Commission. He said he would be more than happy to go back and address this as a separate issue. He said concerning Commissioner Frady's issue that he had not done anything about it because he wanted to keep this proposal on a fast track because of the disaster issue and we were coming into that period of time when we were going to have the storms. He said if it was the Board's desire, he would be more than happy to go back and work on this as a different issue.

Chairman Dunn asked if there was any comment on the amendment under consideration and no one spoke.

On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to approve the amendments as recommended to the development regulations regarding Article III. Street design standards and specifications. The motion carried 5-0. A copy of Ordinance No. 2001-10, identified as "Attachment No. 9", follow these minutes and become an official part hereof.

ORDINANCE 2001-11, PROPOSED AMENDMENTS TO THE FAYETTE COUNTY DEVELOPMENT REGULATIONS REGARDING ARTICLE VIII. OFF-STREET PARKING AND SERVICE REQUIREMENTS BY THE ENGINEERING DEPARTMENT. The Planning Commission recommended approval (3-0).

Mr. Salmons stated this proposal had to do with curb cuts or driveways for commercial property. He said the longer 18-wheel trucks, when they come in to our industrial parks or other commercial areas where they have to try to get into these 30-foot wide driveways were running up over the curbs because they just did not have enough room. He stated from the design standpoint they needed at least 50-feet to be able to pull in the parking area without running over the curb and this was why 50-feet was recommended.

Chairman Dunn asked if there was any public comment and there was none.

On motion made by Commissioner VanLandingham, seconded by Chairman Wells to approve the amendments to the Development Regulations regarding Article VIII. Off-street parking and service requirements. The motion carried 5-0. A copy of Ordinance No. 2001-11, identified as "Attachment No. 10", follow these minutes and become an official part hereof.

OLD BUSINESS:

CONSIDERATION TO ABANDON OLD RIGHT-OF-WAY ON SANDY CREEK ROAD: Mr. John Delash who requested this item be on the agenda had to leave due to a work commitment.

A number of Commissioners said this item had been discussed before and agreed to handle the item tonight.

Chairman Dunn asked the County Attorney if this was okay to go ahead and discuss this request

Attorney McNally said the Board could handle this tonight. He stated Mr. Delash was asking the Board to abandon the road right-of-way in front of his home. He further said Mr. Parrott has indicated that we have a current waterline that extends out to the property and that he was anticipating using the property in front of Mr. Delash's home to extend a future waterline. He stated this was strictly the Board's decision.

On motion made by Commissioner VanLandingham, seconded by Vice Chair Wells to retain possession of the property on Sandy Creek Road because of underground utilities and the Board has use for the land in the future. Discussion followed.

Chairman Dunn said we have no idea what this intersection was going to look like several years from now. He said this would be a major intersection because it was right next to the hospital. He commented if the county gave it away now it would be trying to buy it back years from now. He stated he saw no reason for that and he thought that Mr. Delash's property would be some sort of office use and it looks like this area would be used for a parking lot probably in the mean time. He said he saw no reason why we should enhance his property when we may need it in the future.

The motion to retain the property carried 5-0.

MISSION STATEMENT APPROVED FOR FAYETTE COUNTY: Executive Assistant Carol Chandler said this statement had been worked on several years and Nina Madrid with the Information Systems Department, needed a project for management class and she offered to do this for us. She said we were pleased with the outcome of her project and we are recommending it for approval.

On motion made by Vice Chair Wells, seconded by Commissioner Pfeifer to adopt the Mission Statement for Fayette County as presented.

Chairman Dunn said before voting he wanted to thank Nina Madrid, the staff member who wrote this. He said further, if in fact, Ms. Madrid thinks and believes and works like what was in the Mission Statement, he was glad she worked for the county. He said the statement was outstanding.

County Administrator Chris Cofty said he wanted to echo what Chairman Dunn had said. Mr. Cofty said she really did a tremendous job on this and it was certainly not that easy to summarize what she said in this one statement. He said he encouraged Nina to be here tonight because we are real proud of her but she had a prior commitment.

Commissioner VanLandingham stated he supported the adoption of this but he would like to see it framed and put in every department.

The motion to adopt the Mission Statement carried 5-0. A copy of the Mission Statement, identified as "Attachment No. 11", follows these minutes and becomes an official part hereof.

CONSENT AGENDA: On motion made by Vice Chair Wells, seconded by Chairman Dunn to approve the Consent Agenda as presented. The motion carried 5-0.

MAIN STREET FALL FESTIVAL: Approval of request from Main Street Fayetteville to place a sign on the Old Courthouse lawn from September 23rd through October 7th advertising the October Fall Festival to be held on October 6th and 7th, 2001.

SHERIFF'S DEPARTMENT TO TRANSFER \$18,586: Approval of request from the Sheriff's Department to transfer \$18,586 from the General Fund into the Sheriff's Department Budget Account #130-5435 for repairs to their building due to a delivery truck causing damage.

WATER SYSTEM: Approval of request from Assistant Water System Director Russell Ray to transfer funds from the Water System's fiscal year 2000-2001 to fiscal year 2001-2002 for (a) two mowers (\$9,500) for cutting grass at the Water Plants; (b) three F-150 pickups (\$54,000); and (c) \$5,000 for painting the inside of the office.

PEACHTREE CITY'S REQUEST FOR ELECTIONS TO HOLD THEIR NOVEMBER 2001 ELECTIONS: Approval of the request from Peachtree City to have the Fayette County Board of Elections conduct the municipal election that will be held in November 2001.

FRIENDS OF THE LIBRARY REQUEST FOR SIGNS: Approval of the request from Friends of the Fayette County Public Library to place two signs, one at the northwest entrance to Heritage Way and one at the southeast entrance to Heritage Way.

BID AWARD TO MID STATE TRAFFIC FOR ROAD STRIPING: Approval to award the bid for road striping to the low bidder, Mid State Traffic in the amount of \$19,640.20. A copy of the bids, identified as "Attachment No. 12", follow these minutes and become an official part hereof.

SHERIFF'S DEPARTMENT: Approve request from the Sheriff's Department to transfer funds from the General Budget Fund to the Sheriff's Department budget category #130-5433 for vehicle repair services in the amount of \$187.86.

SHERIFF'S DEPARTMENT: Approve request from the Sheriff's Department to transfer funds from the General Budget Fund to the Sheriff's Department budget category #130-5433 for vehicle repair services in the amount of \$2,688.68.

SHERIFF'S DEPARTMENT: Approve request from the Sheriff's Department to transfer funds from the General Budget Fund to the Sheriff's Department budget category #130-5433 for vehicle repair services in the amount of \$668.60.

SHERIFF'S DEPARTMENT: Approve request from the Sheriff's Department to transfer funds from the General Budget Fund to the Sheriff's Department budget category #130-5433 for vehicle repair services in the amount of \$4,490.79.

MINUTES APPROVED: Approval of minutes for Board of Commissioners Budget Workshop meetings held on June 12, 2001, and June 28, 2001 and regularly scheduled Board of Commissioners' meeting held on June 28, 2001.

PUBLIC COMMENT:

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

THERE WERE NO PUBLIC COMMENTS.

STAFF REPORTS:

Attorney McNally asked for Executive Session to discuss five items of potential litigation.

Commissioner VanLandingham asked for Executive Session to discuss a personnel matter.

Commissioner Frady requested that Mr. Salmons continue to look at the issue of curb and gutter and Mr. Salmons said he would.

APPOINTMENT TO THE PLANNING COMMISSION: Chairman Dunn announced that Fred Bowen had resigned his position on the Planning and Zoning Board. He thanked Mr. Bowen for the great job he did while he was on this Board. He said Mr. Bowen's position on the Board was Post 5, and our policy is that the Commissioner who was from Post 5 gets to nominate a replacement for him. Chairman Dunn holding Post 5, nominated Doug Powell. He said Doug Powell was a man he had known for several years, and he was an outstanding individual. He added that many folks may remember him being the Vice Chairman of our Impact Fee Committee. He said Mr. Powell did a tremendous amount of work and he did a good job for us in getting the initial impact fee recommendations done.

On motion made by Chairman Dunn, seconded by Commissioner Frady to appoint Doug Powell to the Planning Commission, effective immediately, and expiring December 31, 2002. The motion carried 5-0.

RESOLUTION #'S 2001-10 AND 2001-11 CONCERNING WILLIAMS POWER PLANT: Chairman Dunn stated that he and Commissioners Pfeifer and VanLandingham were at a meeting of the Association of Fayette County Governments the other evening and the topic which consumed the evening was the potential rezoning by Fulton County of a piece of property on our border which would allow the placement of a huge 1230 mega watt power plant with four 210' stacks. He said we have been unable to secure much information from the company but there has been a lot of concern expressed by all cities in Fayette County. He commented we are downwind 365 days a year of this facility should it go in there. He expressed that our communities would be affected by any pollution that would be spewed out by the plant. He said only the people in Fulton County directly near it would be affected but almost every citizen in Fayette County would. He said for lack of information it was decided by all of us that attended that meeting and on behalf of our governments, to request that the Fulton County Commission and Union City petition through resolution, the governments of both of those entities. He said the resolution would and request that prior to taking any further zoning actions on those properties, that they get an Environmental Impact Statement done that would stand muster by the EPA. He read the proposed resolution and asked the Board to approve it and to send it to both governments. A copy of Resolution #2001-10 and Resolution #2001-11, identified as "Attachment No. 13", follow these minutes and become an official part hereof.

On motion made by Vice Chair Wells, seconded by Commissioner Frady to adopt Resolution No. 2001-10 and 2001-11. The motion carried 5-0. A copy of the Resolutions, identified as "Attachment No. 14", follow these minutes and become an official part hereof.

EXECUTIVE SESSION: *On motion made by Vice Chair Wells to adjourn to Executive Session to discuss five items of potential threatened litigation and one personnel item. The motion carried 5-0.*

THREATENED POTENTIAL LITIGATION:

The County Attorney briefed the Board on a matter of potential litigation.

On motion made by Commissioner Frady, seconded by Vice Chair Wells to proceed with this matter. The motion carried 5-0.

THREATENED POTENTIAL LITIGATION:

The County Attorney briefed the Board on a matter of potential litigation.

The Board authorized the County Attorney to proceed in this matter.

THREATENED POTENTIAL LITIGATION:

The County Attorney briefed the Board on a matter of potential litigation.

On motion made by Commissioner VanLandingham, seconded by Commissioner Frady to authorize the County Attorney to proceed with negotiations. The motion carried 5-0.

THREATENED POTENTIAL LITIGATION:

The County Attorney briefed the Board on a matter of potential litigation.

The Board took the matter under advisement and there was no action taken.

POTENTIAL LITIGATION:

The County Attorney briefed the Board on a matter of potential litigation.

On motion made by Vice Chair Wells, seconded by Commissioner Frady to authorize the County Attorney to proceed with the matter. The motion carried 5-0.

PERSONNEL:

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Due to the midnight hour the Commissioners decided to table the personnel discussion until a later date.

EXECUTIVE SESSION AFFIDAVIT:

On motion made by Vice Chair Wells, seconded by Commissioner Frady to authorize Chairman Dunn to execute the Affidavit affirming discussion of five (5) potential litigation items in Executive Session. The motion carried 5-0. A copy of the Affidavit, identified as "Attachment No. 15", follows these minutes and

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 12:00 a.m.

Linda Rizzotto, Chief Deputy Clerk

Chairman, Gregory Dunn

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 13th day of September, 2001.

Linda Rizzotto, Chief Deputy Clerk

Gregory Dunn, Chairman