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COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Community Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Dennis Dutton/Pete Frisina

Preferred Meeting Date: Thursday, January 24, 2008

Wording for the Agenda:

Consideration of Petition No. 1204-07, Roza K. Adamczyk and Rosa E. Clements, Owners, and Attorney Newton Galloway of Galloway & Lyndall, LLP, Agent, request to rezone 9.70 acres from A-R to O-I to develop a Medical Office Park. This property is located in Land Lots 7 and 8 of the 7th District and fronts on Huiet Road and Lester Road.

Background/History/Details:

On July 1, 1998, the Planning Commission unanimously recommended denial of Petition No. 990-98 to rezone the subject property from A-R to O-I to develop a Medical Office Park. The applicants withdrew their request at the Board of Commissioners Public Hearing on July 23, 1998.

What action are you seeking from the Board of Commissioners?

Final Vote

Staff recommended denial.
P.C. recommended denial (5-0).

If this item requires funding, please describe:

N/A

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

If so, when? July 23, 1998

Do you need audio-visual for the presentation? Yes

Back-up Material Submitted? Yes

STAFF USE ONLY

- ○ Finance Review Complete
- ○ Purchasing Review Complete
- ○ Legal Review Complete
- ◉ Administrative Staff Review Complete

Administrator's Approval Yes

Confirmed Meeting Date Thursday, January 24, 2008

- ○ Recognition/ Presentation
- ◉ Public Hearing
- ○ Old Business
- ○ New Business
- ○ Consent
- ○ Report
- ○ Other

PETITION NO. 990-98: Zoning Administrator Kathy Zeitler read the rezoning as follows: Consideration of Petition No. 990-98, Dr. Roza Adamczyk and Dr. Rosa Clemente, Owners, and Michael Lorber, Agent, request to rezone 9.7 acres from A-R to O-I to develop a Medical Office Park consisting of approximately eight (8) lots. This property is located in Land Lots 7 and 8 of the 7th District and fronts on Huiet Road and Lester Road.

Dr. Adamczyk asked for a postponement for now. She submitted a letter requesting postponement which follows these minutes and is identified as "Attachment No. 4".

Chairman Sprayberry confirmed that Dr. Adamczyk wished to withdraw her application.

Commissioner Gosa asked Dr. Adamczyk for clarification on the letter she submitted. He said her letter states she would like to postpone her zoning application until the Land Use Plan has been revised in the area of the hospital. He said what we were discussing here was a little different. He asked if he was to understand that she wants it as it is written in her letter, after the Land Use Plan has been reviewed.

Dr. Adamczyk stated yes.

Kathy Zeitler commented it may take several months to revise the Land Use Plan. She said it was not clear if the applicant wants to withdraw and reapply, or postpone for several months.

Agent Michael Lorber explained that he and the applicant understood the county was in the process of updating the Land Use Plan, not in this area, but in other areas of the county and it is probably best if we hold off on this application, whether it is two months, six months, or whatever, just to give the county time to study the area and then when that is completed, we will come back and resubmit this proposal.

Commissioner Gosa asked Mr. Lorber if he wished to withdraw and reapply when and if the Land Use Plan is revised and Mr. Lorber stated yes.

Commissioner Bost asked Mr. Lorber where he heard the county was reviewing the Land Use Plan and Mr. Lorber said he heard from staff. Mr. Lorber added he heard comments made at the Planning Commission meeting also.

County Attorney McNally suggested that with the indefiniteness of when this would be done that this be treated as a withdrawal application.

A gentleman from the audience inquired as to whether there had to be a vote taken on a withdrawal and Chairman Sprayberry confirmed there was no requirement for a vote.

A copy of the Ordinance and Resolution for withdrawal, identified as "Attachment No. 5", follows these minutes and become an official part hereof.

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PLANNING COMMISSION REZONING REPORT

PETITION NO.: 1204-07

APPLICANT: Roza K. Adamczyk and Rosa E. Clemente
[redacted]

STAFF RECOMMENDATION: **DENY**

PLANNING COMMISSION HEARING: January 3, 2008

PLANNING COMMISSION RECOMMENDATION: **DENY (5-0)**

BOARD OF COMMISSIONERS HEARING: January 24, 2008

COMMISSION DECISION: _____

REQUEST: Request to rezone 9.70 acres from A-R to O-I to develop a Medical Office Park.

PARCEL SIZE: 9.70 acres

EXISTING USE: Vacant

PROPOSED USE: Medical Office Park

LOCATION: Land Lots 7 and 8 of the 7th District and fronts on Huiet Road and Lester Road

ZONING OF SURROUNDING PROPERTY: A-R, R-40, and C-H

LAND USE PATTERN: in the area of Low Density Residential (1 unit/1 to 2 acres) and Office

PLANNING COMMISSION HEARING NOTES:

See Attached Minutes.

MOTION AND VOTE OF PLANNING COMMISSION:

Tim Thoms made a motion to deny the petition. Bill Beckwith seconded the motion. The motion for denial unanimously passed 5-0.

REASON(S) FOR RECOMMENDATION:

Not in compliance with the Fayette County Comprehensive Plan.

PLANNING COMMISSION RECOMMENDATION

DATE: January 3, 2008

TO: Fayette County Commissioners

The Fayette County Planning Commission recommends that Petition No. 1204-07, the application of Roza K. Adamczyk and Rosa E. Clemente to rezone 9.70 acres from A-R to O-I, be:

_____ Approved _____ Withdrawn ✓ Disapproved 5-0

_____ Tabled until _____

This is forwarded to you for final action.

DOUGLAS L. POWELL

AL GILBERT

BILL BECKWITH

TIM THOMS

JIM GRAW

Remarks:

Fayette County GEORGIA

Where Quality Is A Lifestyle

To: Fayette County Board of Commissioners

From: Dennis S. Dutton, Fayette County Planning & Zoning

Date: January 8, 2008

Subject: Board of Commissioners Public Hearing, January 24, 2008

The attached report is submitted for your consideration and contains the Staff's and the Planning Commission's Recommendations on a rezoning application and revised final plat scheduled for public hearing on January 24, 2008.

PAGE	PETITION NUMBER	LOCATION/ REQUEST	STAFF RECOMMENDATION	PLANNING COMMISSION RECOMMENDATION
1-1	1204-07	Huiet Road and Lester Road/ Medical Office Park	**DENY**	**DENY (5-0)**
2-1	RP-041-07	Sandy Creek Road/ Subdividing Lot 2 into 3 lots	**APPROVE WITH FOUR CONDITIONS**	**APPROVE WITH FOUR CONDITIONS (5-0)**

DSD/rsw

cc: Peter A. Frisina, Director of Planning & Zoning
Tom Williams, Assistant Director of Planning & Zoning
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

PETITION NO: 1204-07

REQUESTED ACTION: A-R (Agricultural-Residential) to O-I (Office-Institutional)

PROPOSED USE: Medical Office Park

EXISTING USE: Vacant

LOCATION: Huiet Road and Lester Road

DISTRICT/LAND LOT(S): 7th District, Land Lot(s) 7 and 8

OWNER: Roza K. Adamczyk and Rosa E. Clemente

APPLICANT: Newton Galloway of Galloway & Lyndall, LLP

PLANNING COMMISSION PUBLIC HEARING: January 3, 2008

BOARD OF COMMISSIONERS PUBLIC HEARING: January 24, 2008

APPLICANT'S INTENT

Applicant proposes to develop a Medical Office Park consisting of one (1) lot on 9.70 acres.

STAFF RECOMMENDATION

DENY

INVESTIGATION

A. PROPERTY SITE

The subject property is a 9.70 acre tract fronting on Huiet Road and Lester Road in Land Lot(s) 7 and 8 of the 7th District. Huiet Road and Lester Road are classified as Minor Arterial roads on the Fayette County Thoroughfare Plan. The subject property is undeveloped and is currently zoned A-R.

History:

On July 1, 1998, the Planning Commission unanimously recommended denial of Petition No. 990-98 to rezone the subject property from A-R to O-I to develop a Medical Office Park. The applicants withdrew their request at the Board of Commissioners Public Hearing on July 23, 1998.

B. SURROUNDING ZONING AND USES

The general situation is a 9.70 acre tract that is zoned A-R. In the vicinity of the subject property is land which is zoned A-R, R-40, and C-H. See the following table and also the attached Zoning Location Map.

The subject property is bound by the following adjacent zoning districts and uses:

Direction	Acreage	Zoning	Use	Comprehensive Plan
North	20 acres (estimated)	A-R	Vacant	Office
South (across Lester Road)	WaterLace Subdivision	R-40	Single-Family Residential Subdivision	Low Density Residential (1 unit/1 to 2 acres)
East	6.60	A-R	Church	Low Density Residential (1 unit/1 to 2 acres)
West (across Huiet Road)	Heritage Farms Subdivision	R-40	Single-Family Residential Subdivision	Low Density Residential (1 unit/1 to 2 acres)
	2.019 Postal Commons Subdivision	C-H	Vacant	Commercial

C. COMPREHENSIVE PLAN

The subject property lies in the area designated as Low Density Residential (1 unit/1 to 2 acres) and Office. However, the majority of the subject property is within the Low Density Residential (1 unit/1 to 2 acres) land use designation (see attached Land Use Plan map). This request does not conform to the Fayette County Comprehensive Plan.

D. ZONING/REGULATORY REVIEW

The applicant seeks to rezone from A-R to O-I for the purpose of developing Medical Office Park.

Setbacks and Buffers

Zoning District	Zoning Setbacks	Minimum Lot Size	Minimum House Size	Lot Width at Building Line	Buffer
O-I (proposed zoning district)	F - 75' Arterial F - 70' Collector F - 55' Minor S - 15' R - 15'	1 Acre* 0.5 Acre**		125'	30' buffer required adjacent to residential or A-R zoning districts
A-R (existing zoning district)	F - 100' Arterial F - 100' Collector F - 75' Minor S - 50' Side R - 75' Rear	5 Acres	1,200 sq ft	250'	N/A

* A minimum lot size of one (1) acre where a central water distribution system is provided.

** One-half (.50) acre where a central sanitary sewage and central water distribution systems are provided.

Platting

Should this request be approved, the applicant is reminded that should the subject property be subdivided that before any lots can be sold or building permits issued for the proposed subdivision or if any new right of ways are proposed, a Preliminary Plat must be approved by the Planning Commission. Once the Preliminary Plat is approved and the proposed roads built, a Final Plat must be submitted to the Planning & Zoning Department, approved by all applicable county departments, and recorded into public record. If no Preliminary Plat is required and the property is proposed to be subdivided into lots of less then five (5) acres, a Final Plat will still be required.

West Fayetteville Bypass

The County is in the process of developing the West Fayetteville Bypass which will alter the alignment of Huiet and Lester Roads in the area of the subject property. This phase of the West Fayetteville Bypass will be a four-lane roadway running south from Sandy Creek Road to the west of the hospital intersecting with Huiet Road at S.R. 54 West and then proceeding south along a new alignment of Huiet and Lester Roads. The bypass is planned to go through the subject property. Attorney Don Comer is in communication with the applicant concerning the acquisition of property for the bypass.

Access

The Concept Plan submitted indicates one (1) access from Huiet Road and one (1) access from Lester Road.

Site Plan

Should this petition be approved, the owner/developer must submit a Site Plan as required by Section 8-26., c. of the Development Regulations. Access must comply with the provisions of Section 8-53. of the Development Regulations and the Georgia D.O.T., as appropriate. The subject property must comply with Fayette County ordinances including but not limited to: Section 5-18. Screening Required and Section 5-19. Screening Standards of the Fayette County Zoning Ordinance and 8-159. Fayette County Landscape and Buffer Requirements, Article VI. Tree Retention, Protection, and Replacement, and Article VIII. Off-Street Parking and Service Requirements of the Fayette County Development Regulations.

E. TRAFFIC AND TRIP GENERATION

Proposed Use: Medical Office Park
Size: 70,700 sf

Land Use Category – Medical-Dental Office Building			
	Weekday	**Saturday**	**Sunday**
Trip Gen. Rate	36.13	8.96	1.55
Total S.F./1,000	70.7	70.7	70.7
24 hr Trip Ends	**2,554**	**633**	**110**

Per the Engineering Department, this parcel is part of the West Fayetteville Bypass, Phase I, right-of-way and slope area.

F. REVIEW OF CONCEPT PLAN

The applicant is advised that the Concept Plan is for illustration purposes only. Any deficiencies must be addressed at the time of submittal of the Preliminary Plat, Final Plat, and/or Site Plan.

Deficiencies include, but not limited to: Lester Road and Huiet Road are classified as arterials which require a seventy-five (75) foot setback.

G. DEPARTMENTAL COMMENTS

Water System

Water is available; however, the developer is responsible for any adjustments to the water line due to construction.

Engineering

Floodplain:

The property does not contain floodplain per FEMA FIRM panel 13113C0080D.

Wetlands:

The property does not contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map.

Watershed Protection:

Per the USGS Tyrone Quadrangle, there is an unnamed intermittent stream subject to the County watershed protection buffers and setbacks. There is a 50 foot undisturbed buffer and a 75 foot building setback from the streambank.

Groundwater Recharge Area:

The property is within the groundwater recharge area, as delineated on the Georgia Department of Natural Resources' 1992 Ground-Water Pollution Susceptibility Map of Georgia (Hydrologic Atlas 20). The minimum lot size requirements of the A-R and O-I zoning districts meets the minimum lot size requirements of the Groundwater Recharge Area Protection Ordinance.

Stormwater:

A conceptual stormwater plan was provided but not reviewed as part of this rezoning review. (Compliance with Development Regulations is not normally check at rezoning.)

Environmental Health Department

No comments regarding the rezoning application.

Fire and EMS

Fire Suppression and Fire Prevention: No issues.

Emergency Medical Services: No issues.

Emergency Management Agency: No issues.

Public Works

The proposed West Fayetteville Bypass runs through the center of this parcel.

Board of Education

If this application is approved, school system data shows it will not impact the school system with additional students.

STAFF ANALYSIS

This request is based on the petitioner's intent to rezone said property from A-R to O-I for the purpose of developing Medical Office Park. Per Section 11-10 of the Fayette County Zoning Ordinance, Staff makes the following evaluations:

1. The request for rezoning from A-R to O-I is not consistent with the Fayette County Land Use Plan. The subject property lies in the area designated as Low Density Residential (1 unit/1 to 2 acres) and Office. However, the majority of the subject property is within the Low Density Residential (1 unit/1 to 2 acres) land use designation (see attached Land Use Plan map). The subject property is located at an intersection formed by Huiet Road, Lester Road and Heritage Farm Lane. The other corners of this intersection contain residential subdivisions (Heritage Farms Subdivision and Waterlace Subdivision).

2. The proposed rezoning could adversely affect the existing use or usability of adjacent or nearby property within surrounding residential subdivisions. Approval of this rezoning request could provide leverage for the rezoning of lots within these subdivisions which occupy the other corners of this intersection.

3. The proposed rezoning will not result in a burdensome use of utilities, or schools. The development of a Medical Office Park would produce approximately 2,554 additional vehicular trips on Huiet and Lester Roads.

4. Existing conditions and the area's development as a single-family residential district to the west and south do not support this petition.

Based on the foregoing Investigation and Staff Analysis, Staff recommends **DENIAL.**

MEMORANDUM

Date: January 15, 2008

To: Fayette County Board of Commissioners

From: Tom Williams

RE: Additional Staff Comments on Rezoning 1204-07, Huiet Road at Lester Road
Applicant's Consultant Analysis

As requested I have reviewed the zoning analysis prepared for the applicants of proposed rezoning (1204-07) at Huiet Road and Lester Road. The analysis was prepared by Strategic Planning Initiatives, LLC, and was presented at the January 3, 2008 meeting of the Fayette County Planning Commission. Due to this analysis not being available during the normal staff review period, my comments as presented herein, will be transmitted directly to the Fayette County BOC as additional staff comments.

Overview of Consultants Analysis

The consultant's methodology was to review the site under three zoning categories: A-R (current zoning), R-40 and O-I (requested by applicant). "Uses-by-right" and "conditional uses" in each zoning category are listed, with comments regarding the application to this site. Goals and Objectives from the Land Use section of the Fayette County Comprehensive Plan were then selected for a brief discussion as to applicability to the subject rezoning request to support the applicant's position (see Strategic Planning Initiatives' analysis included in the rezoning package)

A zoning analysis was then presented as a discussion of appropriateness for each of the zoning districts (A-R, R-40 and O&I). A summary of the consultant's comments are as follows:

> A-R: No A-R uses in the area, likely due to high land costs that are being forced upwards by recent and on-going development in the area including upscale residential, commercial and institutional. Concludes that houses in the mid-$400's will not occur in this area due to land costs and likewise that land costs make 5-acre residential lots impractical.
>
> R-40: The analysis presents residential and institutional uses as incompatible. States that institutional uses, such as the place of worship that is adjacent to the subject site, can introduce owner disputes and lower the quality of life in the neighborhood.
>
> O&I: The consultants' analysis presents the argument that the applicants' site is in a developing nonresidential node. Concludes that uses surrounding the site are institutional in nature and that undeveloped land adjacent to the site is not deemed desirable for single family residential development. Supports the O&I zoning.

Evaluation

The consultant's analysis and recommendations are based on the premise that the subject site and abutting institutional uses on Lester Road are part of the developing hospital/medical area on SR54 and do not relate to the residential developments that comprise the surrounding area

including the other three corners of this intersection. The Land Use Plan does not recognize this area as part of the hospital/medical area. The division of nonresidential and residential land uses on the Land Use Plan is based on the configuration of parcels that front on SR 54 which are designated Office and parcels which front Huiet and/or Lester Roads which are designated Low Density residential. The institutional developments on Lester Road, including two Fayette County schools (in the City of Fayetteville) and two churches (which are allowed in residential and A-R zoning districts in the unincorporated County) are support uses for residential areas, including the subject property and surrounding subdivisions.

It should be noted that this line of demarcation between residential and non-residential land uses extends due west of Huiet Road along the alignment of Old Chapel Road. This line was established based on established zoning north of Old Chapel Road and existing uses to the south of Old Chapel Road, including the Heritage Farms subdivision.

The subject site in fact is a key piece of the land use plan for the intersection at Lester and Huiet. Approval of this rezoning request could provide leverage for the rezoning of lots within these subdivisions which occupy the other corners of this intersection.

Conclusion

The following Objective and Policies from the adopted 2004-2025 Comprehensive Plan represent the most applicable official county policy statements on land use policy challenges.

Objective L-2: The County's land use pattern protects, enhances and/or maintains stability in established residential neighborhoods

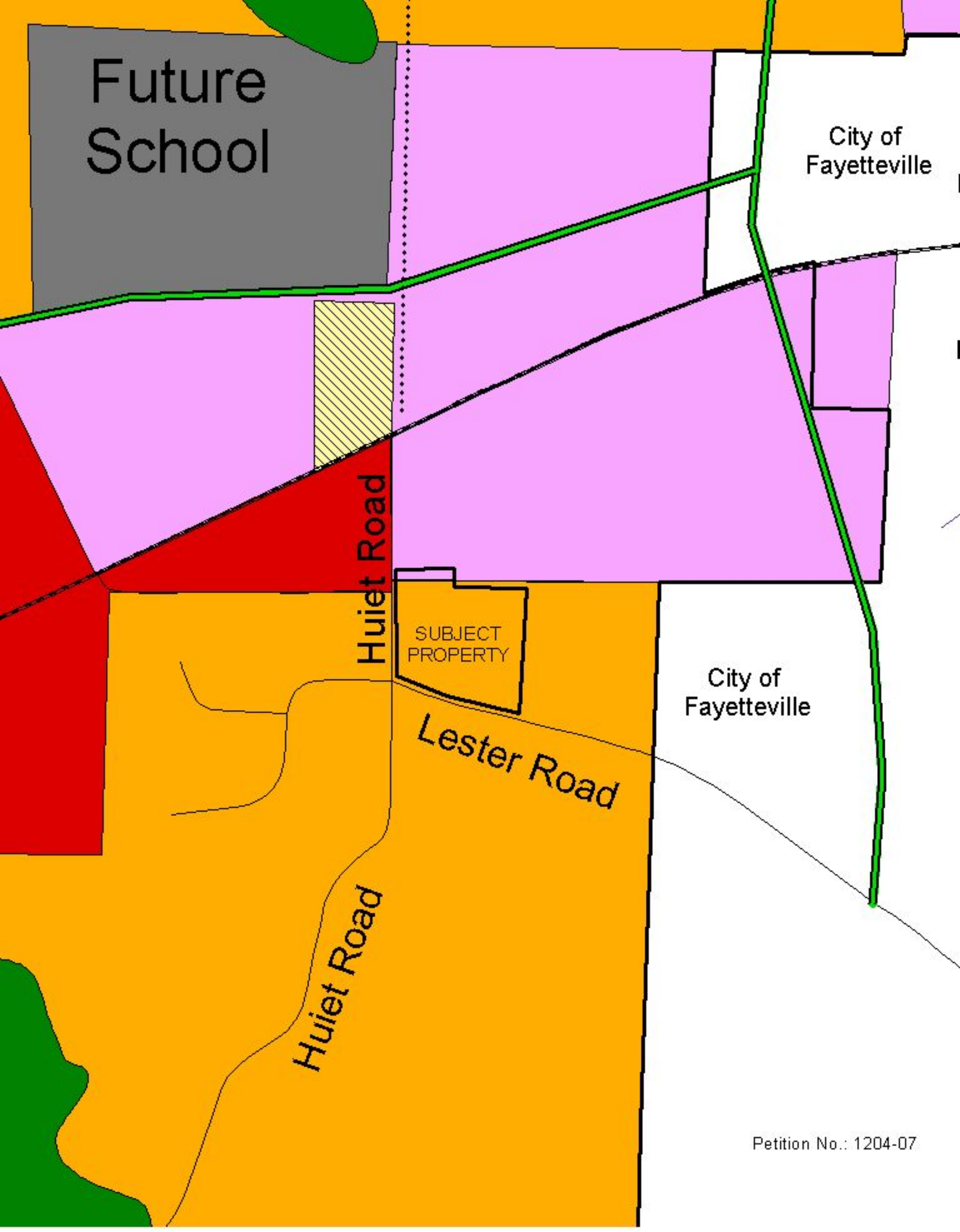
Policy A. Protect and enhance existing neighborhoods by ensuring that infill development is of compatible use, density/intensity, and that adverse impacts on public facility and transportation systems, the environment, and the surrounding area will not occur. Note: Infill development is the development of new housing or other buildings on scattered vacant sites in a built-up area.

Policy B. Prevent the encroachment of incompatible land uses, both residential and nonresidential, into established or designated land use areas. Prohibit access to nonresidential uses via residential areas.

Based on existing County policy, the requested non-residential land use and zoning should be denied for this site.

cc: Jack Krakeel, Interim County Manager
Pete Frisina, Director of Planning and Zoning
Dennis Dutton, Zoning Administrator

R-70
R-70
CITY OF FAYETTEVILLE
SR 54
CITY OF FAYETTEVILLE
R-70
Sub-Station
O-I
Huiet Road
A-R
O-I
A-R
SR 54
C-H
SUBJECT PROPERTY
A-R
R-40
Lester Road
R-40
CITY OF FAYETTEVILLE
A-R
R-40
Petition No.: 1204-07
Aerials - 1999



Petition No.: 1204-07

LAND USE

- AGRICULTURAL RESIDENTIAL (1 Unit/5 Acres, 5 Acre Min.)
- RURAL RESIDENTIAL (1 Unit/2 to 3 Acres)
- LOW DENSITY RESIDENTIAL (1 Unit/1 to 2 Acres)
- LOW MEDIUM DENSITY RESIDENTIAL (1 to 2 Units/1 Acre)
- MEDIUM DENSITY RESIDENTIAL (2 to 4 Units/1 Acre)
- HIGH DENSITY RESIDENTIAL (5 Units/1 Acre)
- MOBILE HOME PARK
- OFFICE
- COMMERCIAL
- LIGHT INDUSTRIAL
- HEAVY INDUSTRIAL
- PUBLIC FACILITIES/INSTITUTIONAL
- CONSERVATION AREAS
- PARKS AND RECREATION
- TRANS., UTIL., & COMMUNICATIONS

5. **Consideration of Petition No. 1204-07, Roza K. Adamczyk and Rosa E. Clemente, Owners, and Attorney Newton Galloway of Galloway & Lyndall, LLP, Agent, request to rezone 9.70 acres from A-R to O-I to develop a Medical Office Park. This property is located in Land Lots 7 and 8 of the 7th District and fronts on Huiet Road and Lester Road.** *Staff recommended denial.*

Attorney Newton Galloway presented a plat indicating the master plan of the hospital area. He made the following comments:

1. Owners purchased the property in 1994.
2. Owners petitioned to rezone the property in 1998.
3. Significant changes since 1998, include: the construction of the hospital, no development on S.R. 54 West, the development of WaterLace Subdivision, no development on the commercial property, which now consists of the Post Office and Convenience Store, the school was not constructed, and the churches had not been constructed or were just beginning to be constructed.
4. December of 2006, the owners learned that the County was reviewing the Hospital Study Area.
5. Request was made to meet with the study group to ask that the subject property be included in the Hospital Study Area.
6. Neck of property goes into the Hospital Study Area.
7. Land Use Plan was modified and there is almost a reverse mirror image across S.R. 54 West.
8. There are not residential uses along the north side of Lester Road.
9. A-R requires a five (5) acre minimum lot size, which renders that use impractical.
10. Dwellings in the mid $400,000 range will not be built on such lots, as the cost of land renders such lot sizes equally impractical; therefore, A-R is not a viable alternative for the reasonable use of the property.
11. An Expert Planner was hired to review the policies and implementation of the policies. (See report prepared by Strategic Planning Initiatives, LLC)
12. Expert Planner stated that the Lester Road right-of-way forms a definitive boundary separating use classes and thereby buffering and creating a necessary transition that protects the neighborhood. Assignment of an R-40 zoning district of this property, flanked by potential commercial and existing institutional uses would be inconsistent with the viable policies of the Fayette County Comprehensive Plan. The Hospital Study Area extends further away from S.R. 54 West in the other direction than the Adamczyk and Clemente property. O-I is an acceptable class on the property.
13. A-R is not an appropriate class on the property.
14. A subdivision on the property would not be of a character or caliper that Fayette County wants to see or that would be consistent with what is at WaterLace Subdivision.

15. Land Use policies deal with transition and step-down from S.R. 54 West to the residential properties located south of Lester Road and all of those factors support the rezoning.
16. The proposed landscaping and buffer requirements exceed the required requirements and the design standards for office development. Elevations will be consistent with Fayette County aesthetics.
17. Fayette County has an obligation to give the doctors reasonable use of property and economic use of the property. A-R is not appropriate and would cause damage to the owners in WaterLace Subdivision. R-40 does not provide the development that Fayette County wants to see.
18. Can provide a development which limits ingress/egress by tying into the triangle area.
19. Property to the north will develop commercially, probably as office property.
20. For purposes of tonight, the property should be considered as not being subject to acquisition for the West Fayetteville By-Pass. The zoning of the property will not impact the value of the property, if it is condemned for a four-lane highway.
21. When the application was filed, owners did not have knowledge that the road was considered to go through the tract.

Chairman Powell asked how much time was left.

Robyn Wilson replied that there was no time left.

Chairman Powell asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition.

The following people spoke in opposition:

1. Jack Miller of 200 Heritage Farm Lane.
2. Wayne Maycumber of Heritage Farm Subdivision.
3. Joe Peavy of 210 Heritage Farm Lane.
4. Raissa Chandler of 197 Huiet Road.
5. Chesley Hanshew of 152 WaterLace Way.

The following are points/concerns made by those in opposition:

1. Homeowners have lived in the area for 25 years. This is a stable area of well kept homes.
2. S.R. 54 West corridor provides for commercial.
3. When you purchase property zoned A-R, you take pot luck.
4. Intersection cannot afford another area of zoning.
5. Property sets less than 100 feet from homes and residences. There are 43 residences across the street in one direction and there are residences in the other direction.

6. Acceleration at the crossroad of churches, a school, and school buses.
7. Property is located approximately 0.25 miles from S.R. 54 West.
8. Post Office and Convenience Store were developed.
9. Use of tractor-trailers and postal vehicles which hinder the traffic flow.
10. Lights shining into houses 24 hours per day.
11. Area is seeing an explosion of residential and community expansion.
12. School children walk down the streets.
13. Adams Farm, which is agricultural, is located west of the property.
14. In the past, the panel has seen fit to keep the area residential and it is greatly appreciated.
15. Residential development with half a million dollar homes.
16. Community activity, but no retail.
17. You can call O-I what you like, but it is retail.
18. Can make promises that it will be utilized for medical; however, it could be utilized for biomedical waste, which will be put in dumpsters, which you hear at 2:00 A.M.
19. Property will not be a secluded quiet neighborhood, but one of activity which is not conducive to schools, churches, or residences.
20. S.R. 54 West corridor has gone from agriculture to the hospital.
21. No need for development of property for medical offices. There are empty massive buildings available around hospital.
22. Concern about increased traffic.
23. Long term improvements need to be mandated as follows: utilities should be in place, including electrical, water, sewer, and telecommunications, plan for adequate storm sewer and drainage, acceleration/deceleration lanes should be constructed from the intersection of Lester Road and Huiet Road to S.R. 54 West, provide a turning radius for paved areas will allow for an 18-wheeler to turn around on the property, install side walks along Huiet Road and Lester Road, provide turning lanes, and install signalization at S.R. 54 and Huiet Road.
24. Runoff goes straight to Heritage Farm Subdivision.
25. Children in area who are autistic.
26. Has to be a better way to use the property.

Chairman Powell asked how rebuttal would be handled since the time has been exhausted with the presentation.

Pete Frisina replied that according to the B.O.C.'s Policy, equal time is given for opposition and rebuttal.

At this time, Chairman Powell closed the floor from the public.

The P.C. made the following comments:

1. Churches and schools are permitted in the A-R zoning district.
2. Comprehensive Plan designates the property in the vicinity of Low Density Residential (1 unit/1 to 2 acres) and Office.
3. Area is residential not O-I.
4. Spot zoning is illegal.

Bill Beckwith recognized Attorney Galloway in order to hear his rebuttal. He added that he did not agree with the P.C.'s time limit but favored the B.O.C.'s time limit.

Al Gilbert advised that in the past, the P.C. has given each side five (5) extra minutes; therefore, if Attorney Galloway is given extra time, those in opposition should be given extra time.

In rebuttal, Attorney Galloway stated the Camp Creek South and the Camp Creek West. He said that the reasons or the experiences which were conveyed to the P.C., by the opponents, show the reasons this is not residential subdivision property.

At this time, Chairman Powell opened the floor for those in opposition.

The following spoke in opposition:

1. Wayne Maycumber of Heritage Farm Subdivision.

The following are points/concerns made by those in opposition:

1. The reasons stated before are every reason to keep the property residential.
2. It is residential. It is all residential.
3. The property is not located on S.R. 54 West. It is off S.R. 54 West.
4. Homes can be built there.

At this time, Chairman Powell closed the floor from the public.

The P.C. made the following comments:

1. There are numerous uses under the A-R zoning district.
2. Property does not have to be developed as residential due to the other uses which are allowed.
3. Land Use Plan does not designate the property as O-I for this area.
4. O-I is an improper zoning for the property.
5. Would R-40 be a more appropriate zoning for the property?

6. Property is being considered for acquisition by the County to further increase the infrastructure by routing traffic in and around the City of Fayetteville. West Fayetteville By-Pass has been considered for many years.
7. Property has been looked at for acquisition for the by-pass and it may not be prudent, at this point, to rezone the property in light of the fact that the County is looking at it for acquisition.

Jim Graw asked the names of the members who served on the committee for the Hospital Study Area.

Pete Frisina stated the members from the County consisted of: Chairman Greg Dunn, County Administrator Chris Venice, and Planner Pete Frisina.

He said that the members from the City of Fayetteville consisted of: Mayor Ken Steele, City Manager Joe Morton, and Planner Eldridge Gunn.

Mr. Frisina confirmed that the committee made a report to the Board of Commissioners and the City Council on December of 2006.

The P.C. made the following comments:

1. Properties along the S.R. 54 West corridor have been rezoned to O-I.
2. Most of O-I along the corridor was in support to the hospital area.
3. It may be beneficial to rezone the property to R-40 to keep it consistent with the surrounding neighborhood.
4. If the property is rezoned to R-40, some of the uses would be eliminated. There are uses allowed in the A-R zoning district which are more conducive to keeping the integrity of the community, which has been there 20 years or more.
5. Concerned about higher density.
6. Oppose O-I because it conflicts with the Land Use Plan.
7. There are future roads which are planned to tie into the bypass and the future school on the property across from S.R. 54 West.
8. O-I would impact existing neighborhoods and lead to a higher density and use.
9. The infrastructure is not yet in place to support O-I.
10. Buildings could be up to 40 feet in height.
11. One of the intents of the Land Use Plan is to protect the integrity and character of the established neighborhood.
12. A-R allows a church and a day care facility which tie into a neighborhood better than O-I.

13. The uses allowed in the corridor minimize the impact to the neighborhood. It was not intended for nonresidential development to extend toward Lester Road or down Huiet Road and away from the corridor.

Tim Thoms made a motion to deny the petition. Bill Beckwith seconded the motion. The motion for denial unanimously passed 5-0.

Al Gilbert asked Staff about the property being zoned R-40.

Pete Frisina advised that R-40 is in compliance with the Land Use Plan; however, final action had been taken on a motion.

Al Gilbert made a motion to approve the petition as R-40 since R-40 is prevalent in the area. Jim Graw seconded the motion.

Tim Thoms called for a point of order stating that action had been taken on the petition.

Mr. Frisina replied that action had been taken to deny the petition.

Motion died.

Roza K. Adamczyk and Rosa E. Clemente Property
9.7-acre Tract at Huiet Road and Lester Road

Background

A 9.70-acre tract has been proposed for rezoning from A-R, Agricultural-Residential District to O-I, Office-Institutional District. The property was used as a home site that has been abandoned and is situated near Highway 54, a four-lane, with only one intervening tract. A place of worship, an institutional use, lies immediately adjacent to the Adamczyk and Clemente property. Surrounding uses are a combination of residential, commercial and institutional uses. The institutional uses include a U.S. Post Office, two places of worship and a public school. Significantly, no residential uses are found north of Lester Road which forms a definitive boundary, separating present and planned neighborhoods from the institutional and commercial uses.

Impacting the zoning application is a planned re-alignment of Huiet Road and Lester Road at their intersection. The re-alignment would virtually bisect the tract, creating two irregularly shaped tracts. The Adamczyk and Clemente property is located on the north frontage of Lester Road.

Analysis

This report analyzes the appropriateness of the A-R zoning, a residential zoning district that may be imposed by Fayette County and the proposed O-I zoning. The report considers these three zoning districts in light of the present road network and the planned re-alignment of Huiet Road and Lester Road. Significant characteristics of these districts are presented below:

A-R Agricultural-Residential District

The Agricultural-Residential District is "composed of certain lands and structures having a very low density single-family residential and agricultural character and designed to protect against the depreciating effects of small lot, residential development and those uses which are incompatible with such a residential and agricultural environment."

The following uses are allowed "by right" in the A-R Zoning District:

- Single-family dwellings
- Recreation centers and similar institutions
- Accessory buildings and uses

- Growing of crops and the on-premise sale of produce and agriculture
- Plant nurseries and greenhouses
- Raising of livestock

The following uses are allowed as conditional uses:

- Aircraft Landing Area
- Animal Hospital, Kennel (Commercial or Non-commercial), or Veterinary Clinic
- Cemetery and Mausoleum
- Church, Temple or Place of Worship
- Church or Religious Tent Meeting
- Commercial Driving Range
- Colleges and University
- Day Care Facility
- Developed Residential Recreational/Amenity Area
- Farm Outbuildings and Greenhouse
- Golf Course
- Home Occupation
- Hospital
- Processing, packaging or handling of perishable agricultural products
- Rifle Range
- School (Private and Special), and Accessory Sports Arena, Stadium or Recreation Field
- Telephone, Electric or Gas Sub-Station or Other Public Utility Facility
- Temporary Carnival or Rodeo

Minimum lot size in the A-R district is 217,800 square feet or five acres.

R-40 Single-Family Residential District

The R-40 Single-Family Residential District is "composed of certain lands and structures having a low density single-family residential character and designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment."

The following uses are allowed "by right" in the R-40 Zoning District:

- Single-family dwelling
- Accessory buildings and uses
- Growing crops, gardens

The following uses are allowed as conditional uses:

- Church, Temple or Place of Worship
- Developed Residential Recreational/Amenity Area
- Home Occupation
- School (Private and Special), and Accessory Sports, Arena, Stadium or Recreation Field
- Telephone, Electric or Gas Sub-Station or other Public Utility Facility

Minimum lot size in the R-40 district is as follows:

- Where central sanitary sewage or central water distribution systems are provided, 43,560 square feet comprising one acre
- Where neither a central sanitary sewage nor a central water distribution system is provided, 65,340 square feet comprising one and one-half acres

O-I, Office-Institutional District

The Office-Institutional District is "composed of certain lands and structures having office and institutional uses which are compatible with or provide a transition into low-intensity land uses."

The following uses are allowed "by right" in the O-I Zoning District:

- Office
- Art Gallery
- Clinic (Human Treatment)
- College or University
- Dance Studio or School
- Financial Institution
- Health Club or Fitness Center
- Insurance Carrier, Agent or Broker

- Laboratory, Medical or Dental
- Legal Services
- Massage Therapy
- Museum
- Performing Arts Theater
- Professional Services
- Real Estate Agent or Broker
- School, Private and Special

Use permitted in office parks having 100,000 square feet of floor area or greater include the following:

- Beauty or Barber Shop
- Blueprinting
- Cafeteria
- Commercial Art or Drafting Service
- Day Care Facility
- Delivery or Messenger Service
- Drug Store
- Florist
- Gift Shop
- Photocopying and Reproduction
- Restaurant
- Stenographic or Typing Service
- Teleconferencing Center
- Travel Agency or Ticket Office

The following uses are allowed as conditional uses:

- Church, Temple or Other Place of Worship
- Church or Religious Tent Meeting
- Day Care Facility (Nursery School or Kindergarten)
- Hospital
- Hotel
- Single-Family Residence
- Care Home, Convalescent Center or Nursing Home
- Animal Hospital and/or Veterinary Clinic (no animal boarding or outdoor runs)

Minimum lot size in the O-I district is as follows:

- Where a central water distribution system is provided, 43,560 square feet comprising one acre
- Where a central sanitary sewage and central water distribution systems are provided, 21,780 square feet comprising one-half acre

Buffer: If the rear or side yard abuts a residential or A-R zoning district, a minimum buffer of 30 feet adjacent to such lot line shall be provided in addition to the required setback, and the setback shall be measured from the buffer. Additional buffer and setback requirements may be established as a condition of zoning approval.

Height limit: 40 feet as defined in Article III, Sec. 3-14.

Lot coverage limit, including structure and parking area: 60 percent of total lot area.

Fayette County Comprehensive Plan, a Fundamental Guide to Zoning Decisions

The analysis is based on standards contained in Article 11, Sec. 11-10 of the Fayette County Zoning Ordinance. These standards are used here to assess the appropriateness of the various zoning districts to the Adamczyk and Clemente property. The first standard poses a fundamental question governing land use and zoning, that is, "Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein." Sec. 11-10, in fact, acknowledges a "special emphasis being placed on the relationship of the proposal to the Land Use Plan and related development policies of Fayette County." Excerpts from the Fayette County Comprehensive Plan 2004-2025 are reprinted below:

The goal concerning Land Use in the Fayette County Comprehensive Plan 2004-2025 states:

> "Growth and development should be consistent with the county's land use plan, which provides for the orderly, balanced and quality development of all land uses consistent with the physical and economic limitations of the county. Growth should take place in accordance with criteria and standards designed to preserve, enhance and protect an orderly mix of residential, commercial and/or industrial facilities, and open space without compromising existing residential development."

Objective L-1 of the Plan states: "The county's land use plan should project a clear vision of an attractive, prosperous, harmonious and efficient community." An associated land use policy states: "Direct growth and development to occur in locations and in a manner which enhances community identity and can be supported by the availability of public facilities."

A second land use policy highlights the importance of maintaining the individual character and identity of established communities, neighborhoods and rural areas. A third policy seeks to "Identify the location of nodes to accommodate nonresidential development and prevent the sprawl of strip development."

Objective L-2 of the Plan states: "The county's land use pattern protects, enhances and/or maintains stability in established residential neighborhoods." An associated policy aims to "Prevent the encroachment of incompatible land uses, both residential and nonresidential, into established or designated land use areas. Prohibit access to nonresidential uses via residential areas."

The intensity of land use has a direct effect on the ability to provide adequate levels of service for transportation and public facilities. The Comprehensive Plan is the primary mechanism available to the county for establishing appropriate locations for various levels of land use intensity. Through this mechanism, development occurs in accord with the Plan, at intensities that can assist in achieving various county goals. For instance, higher intensity uses will be located in areas of the county where public facilities can best accommodate the demands from such uses, thereby efficiently using county resources.

Objective L-3 establishes that "The location and level of development intensity should be utilized as a means to best accommodate the demands on county resources." A policy supporting this objective emphasizes a blending of uses with the surrounding context: "Development in the unincorporated areas should be of less intensity than those in the incorporated areas and blend in with the character of the surrounding area." A related policy focuses on the incremental impact of development on public infrastructure: "Limit development intensity to that which can be accommodated at acceptable levels of service with consideration of the cumulative, long-term impacts of development on the adequacy of public facilities and transportation systems.

Objective L-5 states: "The County seeks to achieve a harmonious and attractive development pattern which minimizes undesirable visual, auditory, environmental, and other impacts created by potentially incompatible uses." A policy containing specific mechanisms for achieving this objective is adopted in the Plan: "Achieve compatible transitions between adjoining land uses through a step down of land use density and/or intensity and the use of appropriate landscaping, buffering, berms, setbacks, a smooth transition in building height, and consistent architectural design.

Additional mechanisms are contained in the following policy: "Stabilize residential neighborhoods adjacent to nonresidential areas through the establishment of transitional land uses, vegetated buffers and/or architectural screens, and the control of vehicular access." A policy found under Objective L-5 emphasizes supplemental site design standards to minimize the impact of nonresidential uses: "Require additional site design standards when necessary to minimize the affect of nonresidential uses both visually and environmentally."

Finally, potentially adverse environmental impacts of nonresidential development are addressed in the following Plan policy: "Promote nonresidential development which does not produce excessive noise; smoke, dust, or other particulate matter; vibration; toxic or noxious waste materials; odors; fire; and explosive hazards or other detrimental impacts to minimize impacts on any nearby residential property."

Zoning Analysis as Roads are now Configured

The following analysis considers the appropriateness of the A-R zoning, a residential zoning and the proposed O-I zoning as Huiet Road and Lester Road are now configured. This analysis focuses on the Article XI standards of the Fayette County Zoning Ordinance.

Appropriateness of the A-R Agricultural-Residential District

As the current zoning of the Adamczyk and Clemente property is considered presumptively valid with the burden of proof on the applicant, an analysis of the A-R zoning is included here.

Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein.

Objective L-1 of the Comprehensive Plan states: "The county's land use plan should project a clear vision of an attractive, prosperous, harmonious and efficient community." An associated land use policy highlights the importance of <u>maintaining the individual character and identity of</u> established communities, neighborhoods and <u>rural areas</u>. Residential and institutional development on the ground and pending has served to erode the character of this former

agricultural area. The purpose of the A-R district illustrates this circumstance: "composed of certain lands and structures having a very low density single-family residential and agricultural character and designed to protect against the depreciating effects of small lot, residential development and those uses which are incompatible with such a residential and agricultural environment." The designation of the property on the Future Land Use Map does not support the current A-R district. Rather, the Adamczyk and Clemente property is designated as "Low Density Residential" and "Office." The A-R zoning is inconsistent with the county's Future Land Use Map.

Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The present A-R zoning permits certain uses "by right" that could be extremely injurious to the use of nearby property. These include recreation centers and similar institutions as well as the raising of livestock. Recreation centers could generate substantial noise and spillover lighting that would affect quality of life in nearby subdivisions. Livestock is often the source of conflict among new residents in rural areas and traditional agricultural uses. These conflicts are often related to odor.

A broad range of conditional uses could also adversely affect the existing use or usability of nearby property. These include aircraft landing area, commercial driving range and rifle range. Adverse impacts of these uses include noise and spillover lighting.

Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools.

While none of the permitted uses of the A-R district would cause such burdensome use, a number of uses allowed as conditional uses could generate such excessive or burdensome use. These include places of worship, colleges and universities, day care facilities, hospitals, schools, accessory sports arenas, stadiums and temporary carnival or rodeo. The uses are associated with peak traffic volumes, and can create a burdensome use of existing streets.

Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

No agricultural uses are found in the vicinity of the Adamczyk and Clemente property. This is likely based on the high land costs driven by upscale residential development and intense commercial and institutional uses nearby and adjacent to the property. Residential use of the property, permitted by the A-R zoning, requires a 5-acre lot minimum, rendering that use impractical. Dwellings in the mid-$400,000 range will not be built on such lots as the cost of land renders such lot sizes equally impractical. Therefore, the A-R not a viable alternative for the reasonable use of the property.

Appropriateness of the R-40 Single-Family Residential District

The applicant is challenging the recommendation by Planning Commission to the Board of Commissioners. The following analysis applies the standards of the Fayette County Zoning Ordinance to the Adamczyk and Clemente property.

Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein.

Objective L-2 of the Comprehensive Plan states: "The county's land use pattern protects, enhances and/or maintains stability in established residential neighborhoods." An associated policy aims to "Prevent the encroachment of incompatible land uses, <u>both residential and nonresidential</u>, into established or designated land use areas."

Development under an R-40 Single Family district would promote just such encroachment as no residential uses are found along the north frontage of Lester Road, the location of the Adamczyk and Clemente property. The Lester Road right-of-way forms a definitive boundary, separating use classes and thereby buffering and creating a necessary transition that protects the neighborhoods. Assignment of an R-40 district to this property, flanked by potential commercial and existing institutional uses, would be inconsistent with vital policies of the Fayette County Comprehensive Plan.

Objective L-5 stresses the importance of land use compatibility: "The County seeks to achieve a harmonious and attractive development pattern which minimizes undesirable visual, auditory, environmental, and other impacts created by potentially incompatible uses." A companion

policy addresses transition among incompatible uses: "Achieve compatible transitions between adjoining land uses through a step down of land use density and/or intensity and the use of appropriate landscaping, buffering, berms, setbacks, a smooth transition in building height, and consistent architectural design."

Fostering residential development directly adjacent to institutional and well-situated property that may well develop in commercial use would not advance this policy. Establishment of commercial and institutional uses adjacent to residential uses does not achieve the "step down" in land use intensity favored by the above land use policy.

Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

Placement of low density residential uses near existing institutional uses, such as the place of worship that is adjacent to the property can introduce owner disputes and lower the quality of life in the neighborhood. Similarly, the undeveloped property situated between the Adamczyk and Clemente property and Highway 54 could introduce conflicts based on development of that property. That property is flanked by a commercial use on Huiet Road and considering its frontage on a four-lane and the gateway to a new subdivision, will likely develop in a commercial use.

Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools.

The staff report concludes that the O-I proposal would not burden streets or utilities, presumably, an R-40 district would not create an excessive burden as well. School services would be impacted by a residential zoning, however, given the magnitude of the potential development, not in an inordinate manner.

Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

The R-40 Single-Family Residential District is described as being "composed of certain lands and structures having a low density single-family residential character and <u>designed to protect against</u> the depreciating effects of small lot development and <u>those uses incompatible with such a residential environment</u>." Establishment of institutional uses adjacent and near the property diminishes its attractiveness as a residential site.

None of the properties north of Lester Road, that is, on land lying between Highway 54 and Lester Road, are developed in residential use. The development of nonresidential uses on these properties has established a clear pattern of nonresidential use.

Appropriateness of the O-I Office-Institutional District

The applicant is seeking an O-I Office-Institutional District for the Adamczyk and Clemente property. The following analysis applies the standards of the Fayette County Zoning Ordinance to that property.

Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein.

Objective L-1 of the Fayette County Comprehensive Plan states: "The county's land use plan should project a clear vision of an attractive, prosperous, harmonious and efficient community." An associated land use policy states: "Direct growth and development to occur in locations and in a manner which enhances community identity and can be supported by the availability of public facilities."

Given the significant institutional uses established in the vicinity of the Adamczyk and Clemente property, this location can be supported by the availability of public facilities. Accordingly, the proposed O-I district is consistent with this land use policy.

Another land use policy under Objective L-1 seeks to "Identify the location of nodes to accommodate nonresidential development and prevent the sprawl of strip development."

The Adamczyk and Clemente property is arguably within a developing node on Highway 54. Rather than extend a nonresidential strip along Highway 54, office development on the property would be within this nonresidential node.

Objective L-2 of the Plan states: "The county's land use pattern protects, enhances and/or maintains stability in established residential neighborhoods." An associated policy aims to "Prevent the encroachment of incompatible land uses, both residential and nonresidential, into established or designated land use areas. Prohibit access to nonresidential uses via residential areas."

Encroachment represented by the proposed O-I district zoning would not be more than the existing, nonresidential uses. Both the proposed offices and the institutional uses are located north of Lester Road, away from neighborhoods further removed from the Highway 54 corridor. Importantly, neighborhood "cut-through" traffic will not occur, as the primary route serving the property would be Highway 54, located only several hundred feet to the north and providing nearly direct access to the Adamczyk and Clemente property.

Objective L-5 of the Comprehensive Plan states: "The County seeks to achieve a harmonious and attractive development pattern which minimizes undesirable visual, auditory, environmental, and other impacts created by potentially incompatible uses." A policy indicated with this objective is to "Achieve compatible transitions between adjoining land uses through a step down of land use density and/or intensity and the use of appropriate landscaping, buffering, berms, setbacks, a smooth transition in building height, and consistent architectural design."

Office uses are typically considered just such a "step down" transition between residential and higher intensity commercial. The proposed O-I zoning district will implement this land use policy as the property is situated directly between institutional and commercial uses on Highway 54 and existing and planned neighborhoods south of Lester Road. The description of the O-I district is also consistent with this land use policy and the district is well suited to the pattern of land use in this portion of Fayette County. As stated in the zoning ordinance, the Office-Institutional District is "composed of certain lands and structures having office and institutional uses which are compatible with or provide a transition into low-intensity land uses."

Buffers on the property enforced as a condition of zoning could implement the following policy: "Stabilize residential neighborhoods adjacent to nonresidential areas through the establishment of transitional land uses, vegetated buffers and/or architectural screens, and the control of vehicular access." Access controls, also enforced as a condition of zoning could also implement the policy for office locations adjacent to nearby neighborhoods. For example, such controls may limit vehicle access to Huiet Road.

A Plan initiative intended to implement the objective of minimizing "undesirable visual, auditory, environmental, and other impacts created by potentially incompatible uses" is found in the following policy: "Require additional site design standards when necessary to minimize the affect of nonresidential uses both visually and environmentally." Such standards as berming, supplemental buffers, enhanced landscaping and architectural compatibility as can be enforced as conditions of zoning approval are the type of standards that can minimize potential ill effects of nonresidential development.

A final Plan policy advanced by the proposed O-I district zoning application emphasizes environmentally friendly development: "Promote nonresidential development which does not produce excessive noise; smoke, dust, or other particulate matter; vibration; toxic or noxious waste materials; odors; fire; and explosive hazards or other detrimental impacts to minimize impacts on any nearby residential property." The proposed office use is highly responsive to this policy.

Hospital Study Area. Fayette County recently adopted a "Hospital Study Area" designating properties appropriate for office and medical uses. These properties adjoin the Adamczyk and Clemente property, and, in fact, the Study Area extends further away from Highway 54 than the Adamczyk and Clemente property in other locations of the Study Area. Accordingly, the Adamczyk and Clemente property is situated similarly to nearby properties that have been designated for the office use being sought through rezoning.

Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The permitted scale of development under the O-I zoning, including a maximum height of 40 feet, will tend to minimize the impact on nearby property. All property adjacent to the Adamczyk and Clemente property has developed, or can be expected to develop, in an institutional or commercial use. The proposed office use will have impacts consistent with those uses.

Required buffers and additional buffers that may be adopted as a condition of zoning can also diminish the adverse impacts of office uses on nearby residential uses. The lot coverage limit, effectively a 40 percent greenspace ratio, found in the O-I district will also protect nearby residential property.

Finally, as concerns impact on nearby residential uses, office uses are primarily a 9:00 AM –5:00 PM, daytime activity with little or no nighttime or weekend use. This operating pattern renders office uses, provided proper setbacks and buffering is enforced, that "step down" in use intensity sought in the Comprehensive Plan. Such uses preserve the quiet evening and weekend hours essential to quality neighborhoods.

Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools.

Office development on a 9.7-acre site will not cause a burdensome use of streets given the proximity to a four-lane regional arterial offering tremendous capacity for handling traffic volumes. Development restrictions contained in the O-I district, such as the lot coverage limit of 60 percent, inclusive of structures and parking areas, and building height restrictions, tend to limit the impact on utilities. Public facilities such as water and sewer and services such as public safety are in place in this section of the county. Finally, the proposed O-I district will not impact the County school system. The Fayette County Staff report concurs that "The proposed rezoning will not result in a burdensome use of utilities or schools."

Residential development will impact Fayette County schools while office development will have no direct impact on the student population at these schools.

Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Establishment of institutional uses adjacent and near the property diminishes its attractiveness as a residential site. The location may be characterized as a transitional area from more intense commercial and institutional uses on Highway 54 and on property north of Lester Road to single family neighborhoods south of Lester Road. Land use surrounding this property is institutional in nature and undeveloped land adjacent to the property is not deemed desirable for single family residential development. The evolving land use pattern argues in favor of a low intensity commercial zoning designation, such as the O-I district, rather than a single family dwelling district.

NAME: Roza K. Adamczyk & Rosa E. Clemente PETITION NUMBER:

ADDRESS: 105 Casting Cove, Fayetteville, Georgia 30215

PETITION FOR REZONING CERTAIN PROPERTY IN THE UNINCORPORATED AREAS OF FAYETTE COUNTY, GEORGIA.

Roza K. Adamczyk & Rosa E. Clemente affirms that he is the owner or the specifically authorized agent of the property described below. Said property is located in a(n) AR Zoning District. He/She respectfully petitions the County to rezone the property from its present classification and tenders herewith the sum of $ 390.00 to cover all expenses of public hearing. He/She petitions the above named to change its classification to OI.

This property includes: (check one of the following)

[ ] See attached legal description on recorded Warranty Deed for subject property or

[X] Legal description for subject property is as follows:

See Attached Exhibit "A"

PUBLIC HEARING to be held by the Planning Commission of Fayette County on the 4th day of Oct, 20 07 at 7:00 P.M.

PUBLIC HEARING to be held by the Board of Commissioners of Fayette County on the 25th day of Oct, 20 07 at 7:00 P.M.

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 20___.

17 Amie LaRue Fuller
NOTARY PUBLIC July 31, 2007

Amie LaRue Fuller NOTARY EXPIRES GEORGIA FEB. 7, 2010 PUBLIC PIKE COUNTY

Rosa E. Clemente
APPLICANT'S SIGNATURE

Petition No. 1204-07

Exhibit "A"

Legal Description of Subject Property:

All that 9.70 acre tract or parcel of land lying and being in landlots 7 & 8 of the 7th land district, of Fayette County, Georgia and being more particularly described as follows:

Beginning at an iron stake located at the intersection of the North margin of Lester Road and the East margin of Huiet Road. Thence N00 00'58"W 445.77' along the East margin of Huiet Road to a point. Thence N02 13'21"W 155.79' along the East margin of Huiet Road to an iron stake. Thence N89 03'13"E 274.91' to an iron stake; Thence S00 23'58"W 135.00' to an iron stake located on the North boundary of landlot 8; Thence N89 03'13"E 396.52' along the North boundary of landlot 8 to an iron stake; Thence S00 00'51"E 669.39' to an iron stake located on the North margin of Lester Road; Thence along the North margin of Lester Road an arc distance of 692.93', said arc being subtended by a chord bearing of N73 53'36"W and a chord distance of 691.55' to an iron stake and the point of beginning.

Property is bound as follows: North by Now or Formerly Sara A. Rivers East by Now or Formerly Congregation of Jehovah, South by Lester Road, West by Huiet Road.

AGREEMENT TO DEDICATE PROPERTY FOR FUTURE RIGHT-OF-WAY

I/We, Roza K. Adamczyk & Rosa E. Clemente said property owner(s) of subject property requested to be rezoned, hereby agree to dedicate, at no cost to Fayette County, 50 feet of right-of-way along Hurst Road & Lester Road as measured from the centerline of the road.

Based on the Future Thoroughfare Plan Map streets have one of the following designations and the Fayette County Development Regulations require a minimum street width as specified below:

Local Street (Minor Thoroughfare) 60 foot right-of-way (30' measured from each side of road centerline)

Collector Street (Major Thoroughfare) 80 foot right-of-way (40' measured from each side of road centerline)

Arterial Street (Major Thoroughfare) 100 foot right-of-way (50' measured from each side of road centerline)

Sworn to and subscribed before me this _____ day of _____, 20____.

SIGNATURE OF PROPERTY OWNER

Rosa E. Clemente
SIGNATURE OF PROPERTY OWNER

Amie LaRue Fuller
July 31, 2007
NOTARY PUBLIC

Amie LaRue Fuller
July 31, 2007

Amie LaRue Fuller NOTARY EXPIRES GEORGIA FEB. 7, 2010 PUBLIC PIKE COUNTY

Amie LaRue Fuller NOTARY EXPIRES GEORGIA FEB. 7, 2010 PUBLIC PIKE COUNTY

18

NOT APPLICABLE

DEVELOPMENTS OF REGIONAL IMPACT (DRI)

Rezoning Applicant:

A. Please review the attached "Thresholds: Developments of Regional Impact" established by the State Department of Community Affairs (DCA) to determine if the proposed project meets or exceeds these thresholds. If the proposed project does not meet the established thresholds (is less than those listed) then skip to section C. below and complete.

B. If the project does meet or exceed the established thresholds for the type of development proposed, the applicant is responsible for completing the Atlanta Regional Commission's (ARC) "Developments of Regional Impact: Request for Review Form" prior to submittal of the rezoning application. You may contact ARC at (404)463-3311 to request the form. A copy of the completed form and documentation that the form has been submitted to ARC for review is required to be included with this rezoning application.

C. I have reviewed and understand the attached "Thresholds: Developments of Regional Impact".

[XX] The proposed project related to this rezoning request DOES NOT meet or exceed the established DRI thresholds .

[ ] The proposed project related to this rezoning request DOES meet or exceed the established DRI thresholds and documentation regarding the required ARC's DRI Request for Review Form is attached.

Signed this 13 day of August, 2007.

Aug 08 07 01:52p Fayette County 770 p.4

GALLOWAY & LYNDALL, LLP
ATTORNEYS AT LAW
THE LEWIS-MILLS HOUSE ▪ 406 NORTH HILL STREET ▪ GRIFFIN, GEORGIA 30223 ▪ (770) 233-6230 ▪ FACSIMILE (770) 233-6231

NEWTON M. GALLOWAY
TERRI M. LYNDALL

BY HAND DELIVERY

August 1, 2007

Mr. Pete Frisina, Director
Fayette County Department of Planning & Zoning
140 Stonewall Avenue, West
Suite 202
Fayetteville, Georgia 30214

Re: Rezoning Application/Dr. Roza Adamczyk and Dr. Rosa Clemente
9.7 Acres Lester Road/A-R to O-I

Dear Pete:

You will please find included herewith the following documents pertinent to the above subject property:

a. Rezoning Application (and supporting documents including Constitutional Objection) seeking to rezone the subject property from A-R to O-I;

b. Filing fee in the sum of $390.00; and

c. Concept Design plan (20 copies) (Prior plan submittal; new concept plan to be supplied.).

Please stamp the duplicate copy with your filing information and date to confirm receipt and filing.

The owners, Drs. Adamczyk and Clemente purchased the subject property years ago anticipating its development with medical offices, including the relocation of their respective practices. Given the significant confusion and frustration they experienced with the Hospital Corridor Study Group process and the recent reference to possible road construction, the owners feel that it is in their best interests to proceed with the rezoning application at this time. The Concept plan included with this application is tendered for the purpose of complying with the filing requirements of the zoning ordinance. However, the owners will submit a new Concept plan to support this application in the future.

(continued on following page)

We request that Staff review be held, pending receipt of the new Concept Plan. This should place the application on the Planning Commission's October, 2007 agenda. If this presents a problem, please let me know.

I appreciate your cooperation and assistance with this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

GALLOWAY & LYNDALL, LLP

Newton M. Galloway/alf

Newton M. Galloway

NMG/alf
Enclosures

cc: Dr. Roza Adamczyk
Dr. Rosa Clemente

CONSTITUTIONAL OBJECTION TO CURRENT ZONING

As applied to the property of Dr. Roza K. Adamczyk and Dr. Rosa E. Clemente, subject of the attached Rezoning Application, the Zoning Ordinance of Fayette County as presently applied to the subject property, zoned Agricultural-Residential (A-R), is unconstitutional in that the owners' property rights in and to the property have been destroyed without first receiving fair, adequate and just compensation for such property rights. As applied to the subject property, the Zoning Ordinance of Fayette County deprives the owners of constitutionally protected rights in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Application of the Zoning Ordinance of Fayette County to the subject property is unconstitutional, illegal, arbitrary, capricious, null and void, constituting a taking of the subject property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph 1, and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States thereby denying the owner an economically

viable use of the land while not substantially advancing legitimate state interests.

Inasmuch as it is impossible for the owner to use the land and simultaneously comply with the Zoning Ordinance of Fayette County, the Zoning Ordinance constitutes an arbitrary, capricious, and unreasonable act by Fayette County without any rational basis therefore and constitutes an abuse of discretion in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Application of the Zoning Ordinance of Fayette County to the subject property is unconstitutional and discriminates against the owner in an arbitrary, capricious, and unreasonable manner between the owner and others similarly situated in violation of Article I, Section I, Paragraph 2 of the Constitution of the State of Georgia of 1983 and the Equal protection Clause of the Fourteenth Amendment to the Constitution of the United States.

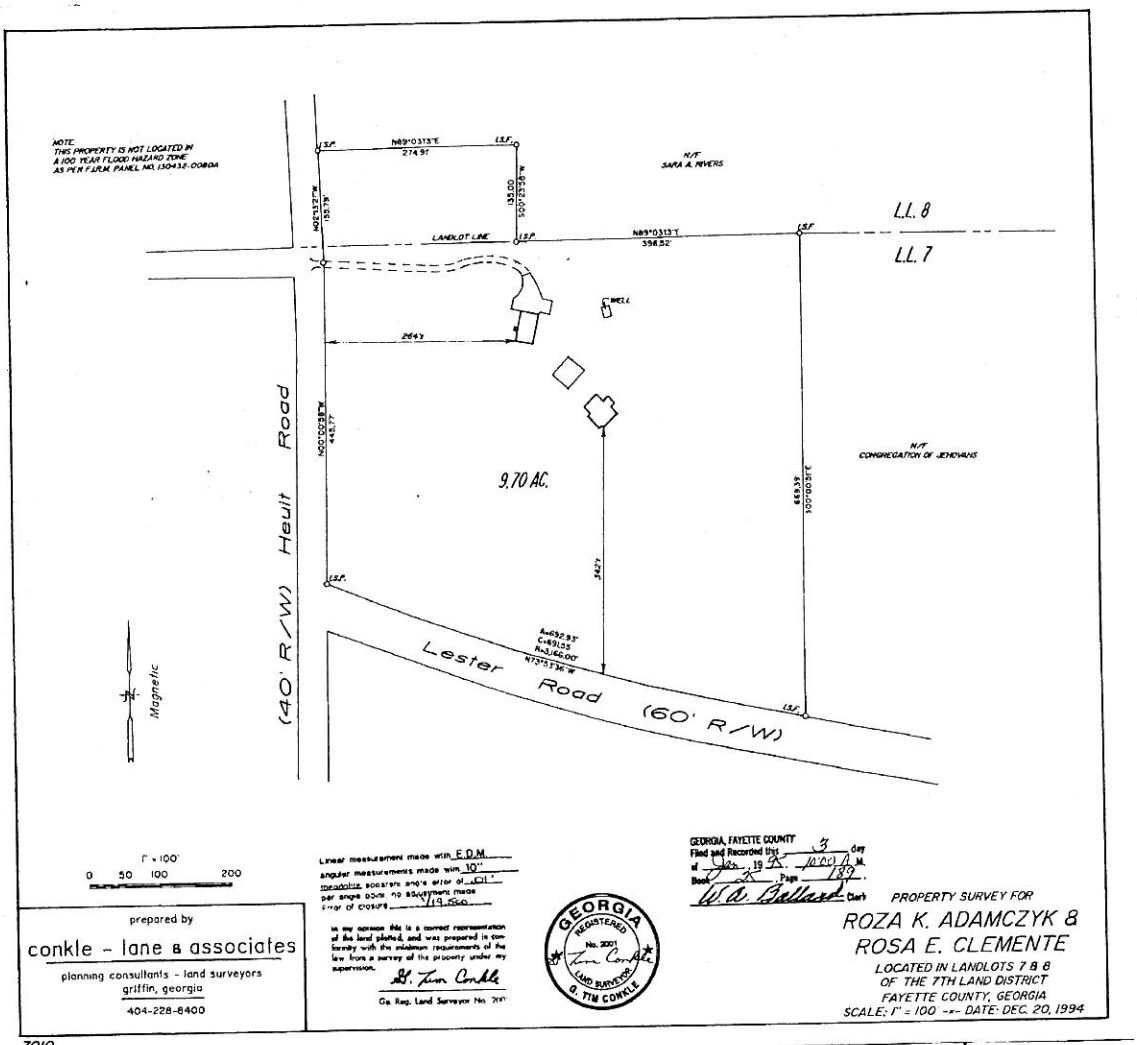
WHEREFORE, Dr. Roza K. Adamczyk and Dr. Rosa E. Clemente request that the Fayette County rezone the subject property to Office-Institutional Use (O-I), as specified and designated in this Application.

GALLOWAY & LYNDALL, LLP

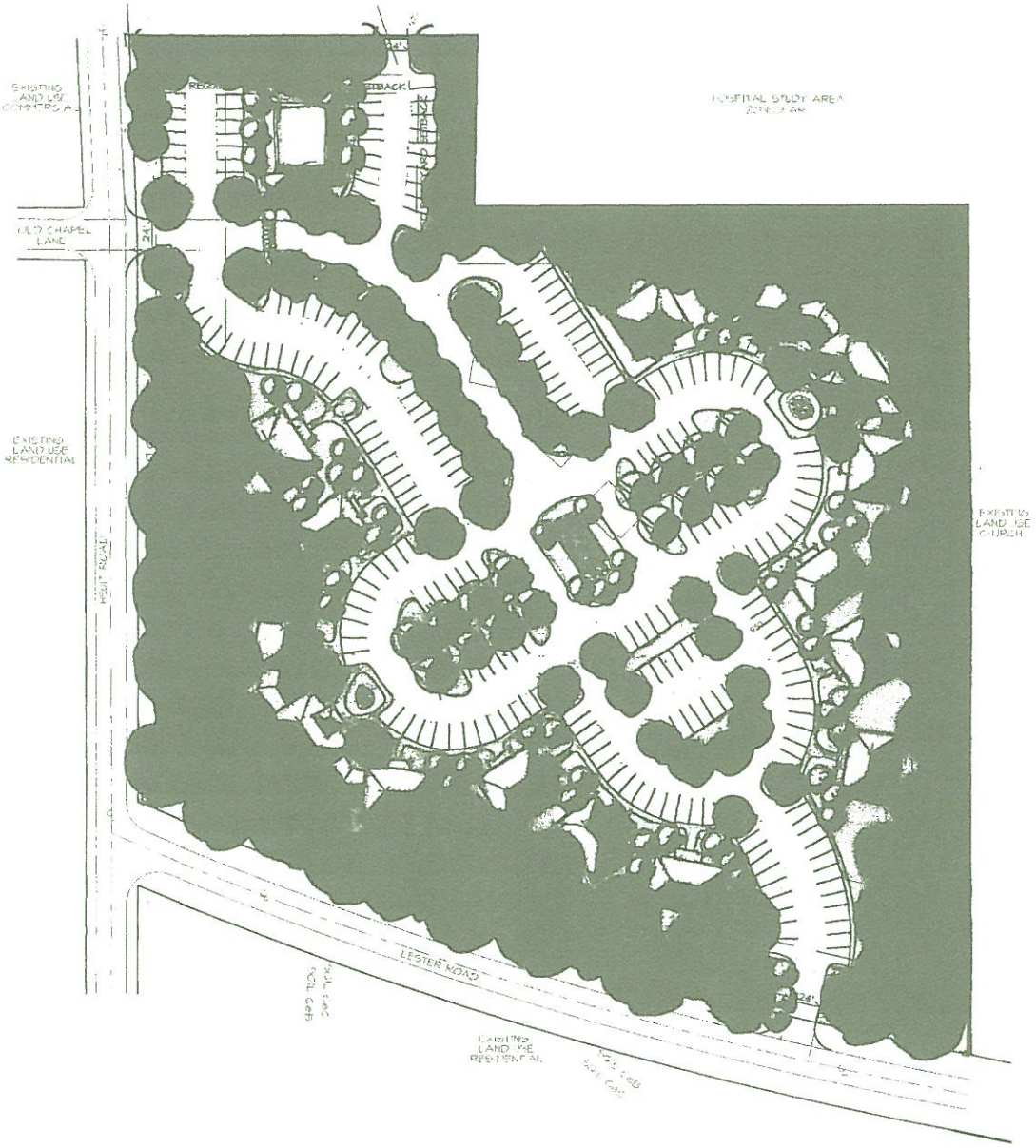
Newton M. Galloway
Georgia Bar No.: 283069

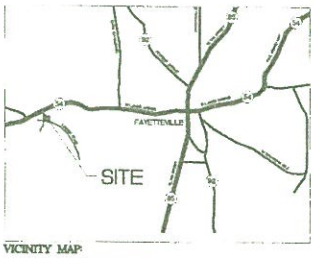
Counsel for Dr. Roza K. Adamczyk
and Dr. Rosa E. Clemente

The Lewis Mills House
406 North Hill Street
Griffin, Georgia 30223
(770) 233-6230 telephone
(770) 233-6231 facsimile


NOTE:
THIS PROPERTY IS NOT LOCATED IN
A 100 YEAR FLOOD HAZARD ZONE
AS PER FIRM PANEL NO. 130432-0080A
N89°03'13"E
274.91'
N89°03'13"E
356.52'
N/F
SARA A. RIVERS
L.L. 8
L.L. 7
LANDLOT LINE
WELL
264.3'
9.70 AC.
N/F
CONGREGATION OF JEHOVAHS
Hewlit Road
(40' R/W)
Lester Road
(60' R/W)
Magnetic
1" = 100'
0 50 100 200
Linear measurement made with E.D.M.
angular measurements made with 10"
meandolite accuracy angle error of ±01'
per angle point no adjustments made
error of closure 1:19,500
GEORGIA, FAYETTE COUNTY
Filed and Recorded this 3 day
of Jan. 19 95 10:00 A.M.
Book 1 Page 189
W. A. Ballard Clerk
GEORGIA
REGISTERED
No. 2001
LAND SURVEYOR
G. TIM CONKLE
PROPERTY SURVEY FOR
ROZA K. ADAMCZYK &
ROSA E. CLEMENTE
LOCATED IN LANDLOTS 7 & 8
OF THE 7TH LAND DISTRICT
FAYETTE COUNTY, GEORGIA
SCALE: 1" = 100' -*- DATE: DEC. 20, 1994
prepared by
conkle - lane & associates
planning consultants - land surveyors
griffin, georgia
404-228-8400
Ga. Reg. Land Surveyor No. 2001
7010

File#:





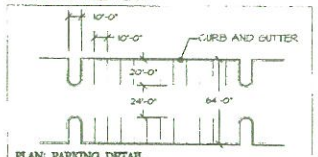
VICINITY MAP:

DEVELOPMENT SUMMARY:

EXISTING ZONING:	A R
PROPOSED ZONING	O-I
PROPOSED USE IS MEDICAL OFFICE BUILDING	
TOTAL AREA:	4.10 ACRES
TOTAL COVERAGE (BUILDINGS AND PARKING):	144,534 SF
TOTAL COVERAGE ALLOWED (60 PERCENT):	253,514 SF
BUILDING SQUARE FOOTAGE:	70,100 SF
PARKING SPACES:	236
PARKING RATIO:	1 SPACE PER 300 SF

NOTES:

- THE PROPERTY IS LOCATED IN LAND LOT 7 & 8; 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA.
- THE OWNER OF THE PROPERTY IS ROGLAD, L.L.C. 105 CASTING COVE, FAYETTEVILLE, GA 30215 770-634-1998
- THE DESIGN PROFESSIONAL: DEVISTOR LANGHAM, INC. 81 WOODSTOCK ROAD ROSWELL, GA 30075
- THERE IS NO FLOOD PLAIN ON THE PROPERTY.
- THERE ARE NO EXISTING EASEMENTS ON THE PROPERTY.
- THERE APPEAR TO BE NO STATE WATERS ON THE PROPERTY.
- THERE ARE NO WETLANDS ON THE PROPERTY.
- BOUNDARY INFORMATION PROVIDED BY: CONKLE LANE & ASSOCIATES DATED: DECEMBER 20, 1994
- TOPOGRAPHIC INFORMATION FROM USGA QUADRANGLE MAPS
- LIGHTING WILL BE PROVIDED FOR OFF-STREET PARKING AND WILL MEET ALL COUNTY CODES AND ENGINEERING STANDARDS.
- LANDSCAPE AREAS AND BUFFERS WILL BE PLANTED WITH APPROPRIATE VEGETATION AND MEET ALL COUNTY CODES AND REQUIREMENTS.
- ALL EXISTING BUILDINGS TO BE REMOVED
- BOUNDARY INFORMATION PROVIDED BY: ROSS CONSULTING ENGINEERING, P.C. SEE ATTACHED PLAN



PLAN: PARKING DETAIL

SCALE: 1"=50'-0"

NOTE: PARKING WILL MEET ALL COUNTY SPECIFICATIONS AND DETAILS

SOIL LEGEND:

CED - CECIL SANDY LOAM, 2 TO 6 PERCENT SLOPES

CEC - CECIL SANDY LOAM, 6 TO 10 PERCENT SLOPES

NOTE: SLOPE INFORMATION OBTAINED FROM SOIL CONSERVATION SERVICE MAPS

NOVEMBER 28, 2007
JOB #: 07-012

0' 25' 50' 100'

ZONING PLAN
HEUIT MEDICAL CENTER
FAYETTE COUNTY, GEORGIA

81 Woodstock Road
Roswell, Georgia 30075
770 640 1333

PRIMARY OFFICE BUILDINGS

SECONDARY OFFICE BUILDINGS

NOVEMBER 28, 2007
JOB # 07-012
NOT TO SCALE

BUILDING PERSPECTIVES

HEUIT MEDICAL CENTER

FAYETTE COUNTY, GEORGIA

DAVICTOR LANDRUM