

October 20, 2005

ZONING MEETING – OCTOBER 20, 2005

PRESENT: Chairman Eldrin Bell, Vice Chairman Virginia B. Gray, Commissioner Charley Griswell, Commissioner Carl Rhodenizer, Commissioner Wole Ralph, and Clerk Shelby D. Haywood.

A. Chairman Bell called the meeting to order.

B. Chairman Bell asked everyone to stand for a moment of silence in honor of Sergeant Mike Davis. Chairman Bell said the funeral would be held on Saturday, October 22, 2005, at 12:00 p.m. at Salem Bible Church in Atlanta. Invocation was led by Commissioner Carl Rhodenizer. Pledge of allegiance to the flag was led by Chairman Bell.

C. Approval of the Zoning Agenda.

Vice Chairman Gray asked that the following petitions be deferred to the November 17, 2005 Zoning Meeting:

1. Move of God Miracle Cathedral, Inc. (petition number two (2) on the agenda).
2. Duane Barner (petition number eight (8) on the agenda).

Motion by Vice Chairman Gray, second by Commissioner Ralph, to amend the agenda, and to approve the amended agenda as the official agenda of the October 20, 2005 Zoning Meeting. Vote unanimous.

D. Approval of the Zoning Minutes of the September 22, 2005 Zoning Meeting.

Motion by Vice Chairman Gray, second by Commissioner Rhodenizer, to approve the minutes of the September 22, 2005 Zoning Meeting, as all Commissioners have copies before them. Vote unanimous.

Vice Chairman Gray recognized Patricia Hussey, former Tax Commissioner for Clayton County, who was in attendance. She also called attention to the artwork displayed in the lobby outside the Commissioners' Board Room. Vice Chairman Gray stated the artwork is done by students from Clayton County Schools and that we are very proud of them.

1. B. KAY BUILDERS (LUP & REZ-200506-01)

Petition of B. Kay Builders for 2.24 acres on Bouldercrest Road in Land Lot 215 of the 12th District.

Proposed Land Use Plan amendment from Low Density Residential to General Commercial. Zoning Advisory Group recommendation is denial.

Proposed rezoning of property from RS-180 to GB for a Convenience Store. Zoning Advisory Group recommendation is denial.

Chairman Bell reminded everyone the opposition would have a total of ten minutes to state their case. He

suggested that one (1) or two (2) persons be appointed to represent the group, or two (2) minutes per person would be allotted until the ten minutes has expired.

Ms. Shea Roberts was present to represent the petition. Ms. Roberts handed out additional information to the Commissioners including a revised site plan with proposed right-of-way improvements on Bouldercrest Road and Anvilblock Road. She said B-Kay Builders had previously brought a similar request before the Board of Commissioners and it was denied. This denial was prior to the approval of the PUD zoning for the Villages of Ellenwood which is directly across Bouldercrest Road from the proposed rezoning.

She further stated the Villages of Ellenwood is proposed to have more than 300,000 sq. ft. of commercial space. This development sets a precedent of commercial development in this high traffic area. Ms. Roberts said that given the proximity of the Villages of Ellenwood to the intersection, and the road improvements, it is extremely unlikely the subject property could be developed for residential. Therefore, the property will decline in value unless the Commissioners will rezone the property for commercial use.

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The applicant is proposing to construct a 3,500 sq. ft. convenience store with covered gas pumps, and is willing to place two (2) conditions on this site. First, the petitioner would use the same architectural features and landscaping features that will be used at the Villages of Ellenwood. The second component would be that the petitioner is willing to donate the land that is going to be required for the right-of-way improvements rather than the county having to pay for it. Ms. Roberts said the petitioner wants the proposed convenience store to look consistent with the development across the street and it would be a valuable asset to the corner. She further stated there should be no adverse impact on the surrounding properties. They will comply with all of the buffers that are required and will be landscaping the sparsely vegetated areas. Ms. Roberts asked the Commissioners to approve the petition.

Chairman Bell asked if anyone else would like to speak on behalf of this petition. No one else spoke on behalf of the petition.

Chairman Bell asked if anyone would like to speak in opposition to the petition.

Ms. Lisa Bohler, of 4736 Bouldercrest Road, stated she lives about eleven houses from the proposed site. Ms. Bohler said there are approximately seven (7) gas stations within a mile of her house. She also said an increase in gas stations will bring about more crime in the neighborhood. As people walk to these convenience stores, they steal children's toys and lawn mowers from the yards. She went on to say if B-Kay Builders really cared about the neighborhood, it would have already landscaped the property. She said the residents came before the Board about a year and a half ago because of mud in the intersection. This is a residential area and the residents want to enjoy their homes. She asked the Commissioners to deny the petition.

Ms. Doris Patillo, of 4588 Bouldercrest Road, stated her home is directly parallel to the 2.24 acres that B-Kay Builders is requesting to have rezoned to GB. Ms. Patillo read a letter to the Board of Commissioners stating several reasons why she is opposed. She asked the Board to deny the petition.

Mr. Robert Bohler, of 4736 Bouldercrest Road, said he is opposed because of the problem with mud collecting in the street when it rains, and water run-off that causes flooding in the street. He asked the Commissioners to deny the petition.

Ms. Shea Roberts rebutted. She said the area will have more greenspace than if it were developed for residential. There will be a detention pond to alleviate any water run-off problems. Ms. Roberts said while it has been residential, it is clearly turning toward commercial use. She asked the Board to approve the petition.

Vice Chairman Gray stated she did not recall Ms. Roberts being involved with this petition. She mentioned Ms. Suzanne Taylor as the person who previously presented this petition. Vice Chairman Gray said when the subdivision was built, there was a sign on the property indicating the subject property was a part of the subdivision. She further stated that as a result of that property, the Commissioners designed an Ordinance regarding out-parcels. This piece of property was the impetus for the Ordinance in identifying out-parcels as commercial. Vice Chairman Gray said the house directly across the street from subject property appears to be a \$500,000.00 house. She also said there are several new properties on that street.

Ms. Roberts stated she has not seen them, and they may have been built before the Board approved the Villages of Ellenwood.

Vice Chairman Gray stated no, these homes are brand new, and there is another one under construction. She also said it is not her district, but she remembers seeing the sign during construction of the subdivision, and she understands how the residents feel.

Motion by Commissioner Rhodenizer, second by Commissioner Ralph, to deny the petition. Vote unanimous.

The legal description of this property is as follows:

All that tract or parcel of land lying and being in Land Lot 215 of the 12th District.

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Beginning point being an iron pin on the southeast corner of Bouldercrest Road and Anvil Block Road, thence running south 13 degrees 37 feet west on the east right-of-way line of Bouldercrest Road 131.00 feet to an iron pin; thence running south 13 degrees 32 feet west feet to a pin; thence running south 13 degrees 06 feet west 100.00 feet to an iron pin; thence running north 87 degrees 13 feet east 45.17 feet to an iron pin; thence running south 57 degrees 50 feet east 342.32 feet to an iron pin; thence running north 00 degrees 02 feet east 296.69 feet to an iron pin; Said iron pin being on the south right-of-way of Anvil Block Road; thence along said right-of- way north 48 degrees 22 feet west 114.66 feet to an iron pin; thence running north 49 degrees 30 feet west 107.28 feet to an iron pin; thence running north 49 degrees 37 feet west 115.69 feet to the point of beginning.

Said parcel consist of 2.24 acres of land.

2. CRAIG SAGON (REZ-200507-07)

Petition of Craig Sagon for 0.77 acres at 821 Dixon Road located in Land Lot 239 of the 13th District.

Proposed rezoning of property from GB to GB w/CUP (for Automotive Body Shop). Zoning Advisory Board recommendation was approval with stipulations.

Ms. Brenda Wetherford was present to represent the petition. Ms. Wetherford said Mr. Sagon is asking for a Conditional Use for an Automotive Body Repair Shop. The property is currently zoned GB and is surrounded by GB and LI properties.

Chairman Bell asked if anyone else would like to speak on behalf of this petition. No one else spoke on behalf of the petition.

Chairman Bell asked if anyone would like to speak in opposition to the petition. No one spoke in opposition to the petition.

Commissioner Griswell said he understands the property is already zoned GB, but he is not going to vote for it to be rezoned for a body shop.

Motion by Commissioner Griswell, second by Commissioner Rhodenizer, to deny the petition. Vote unanimous.

The legal description of this property is as follows:

All that tract or parcel of land lying and being in Land Lot 239 of the 13th District, Clayton County, Georgia and being known as lot 4 as more particularly described as follows:

Beginning at a point marked by an iron pin on the southwesterly side of Dixon Road a distance of 175.00 feet northwesterly as measured along the southwesterly side of Dixon Road from its intersection with the westerly side of U. S. Highway 41 (AKA Tara Boulevard) 190 feet R/W and Dixon Road 50 feet R/W; thence South 02 degrees 28 feet 19 inches East a distance of 199.59 feet to a point; thence South 10 degrees 47 feet 00 inches West a distance of 126.55 feet to a point; thence N 77 degrees 02 feet 00 inches West a distance of 90.00 feet to a point; thence North 00 degrees 36 feet 00 inches East a distance of 329.30 feet to a point; thence South 75 degrees 27 feet 47 inches East a distance of 102.61 feet to a point; this point being the point of beginning.

Said tract contains 0.77 acres.

3. BLACKHAWK DEVELOPMENT (REZ-200411-01)

Petition of Blackhawk Development for 138 acres on Sams Road and Woolsey Road located in Land Lots 14 and 15 of the 5th District.

Proposed rezoning of property from A to RS-180 for Single Family Residential Conservation Design. For Board of Commissioners review only.

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Mr. Doug Dillard, of Dillard and Galloway, was present to represent the petition. Mr. Dillard stated this petition came before the Board of Commissioners one (1) year ago. Since that time, there has been a lawsuit, and it has now been remanded back to the Board from Superior Court.

The Court is asking for the Board to find a constitutional use of the property. The property contains 138 acres. The developer is asking for 332 lots. The minimum lot size would be 7,000 sq. ft. with a minimum width of 70 ft., and a minimum front yard of 25 ft. There would be 44 acres of openspace which would include a 6.9 acre lake. The property is not located in a designated floodplain area and the developer is asking for the property to be rezoned CR. Mr. Dillard stated copies of the stipulations have been presented to the Board. He asked that the stipulations be included in the record.

1. Single Family detached homes with a minimum of 2,300 sq. ft.,
15 % will have 3,000 sq. ft.
2. All homes will have a double garage, side entry garage where appropriate.
3. Minimum lot size will be 7,000 sq. ft.
4. 25 % of homes will have four (4) sides masonry (brick, stone, or stucco, or a combination).
5. 5 % of homes will have three (3) sides masonry (brick, stone, or stucco) with hardi-plank for remainder of homes.
6. Median price range will be \$250,000.00.
7. Street lights and sidewalks throughout the subdivision.
8. Utilities will be underground.
9. Lots will be on sewer at expense of petitioner.
10. Buffers around subdivision will be in compliance with the ordinance requirements.
11. A 200 ft. buffer on Inman Road. (Some discussion about buffer being a conservation easement if requirement from Board, as long as it can be used as a part of openspace under the ordinance.)
12. Brick and wrought iron fence along Woolsey Road, with brick and wood fencing along Inman and Sams Road.
13. No water run-off directed along Sams Road. (Their information indicates they can control the surface water drainage so it will be directed away from Sams Road and contained within the project.)
14. Minimum of 25% of project will have openspace including a six (6) acre lake.
15. Amenities will include: 1,200 sq. ft. clubhouse, swimming pool, picnic area, playground, tennis courts, and walking trails throughout.
16. Two (2) divided entrances off of Woolsey Road (rendering of entrance given to Commissioners). Landscaping with round-about off of Woolsey Road, with fountain and rock.
17. Mandatory Homeowners' Association.
18. Existing hardwoods will remain to the extent possible with evergreens planted in the sparsely vegetated areas along buffer and setback on Sams Road.
19. Excel and decel lanes provided as required by Georgia Department of Transportation and Clayton County Department of Transportation.

Mr. Dillard asked the Commissioners to rezone this property to CR, and the above stipulations be incorporated into the rezoning of the property along with the site plan which has been submitted.

Chairman Bell asked if anyone else would like to speak on behalf of this petition.

Mr. Darrin Allen, of 1083 Hampton Road, stated he feels the price point is sufficient and he was present to support the rezoning.

Chairman Bell asked if anyone would like to speak in opposition.

Mr. Hershel Trawick, of 599 Inman Road, stated he represents the Panhandle Preservation Association which is a group of residents who are opposed to the Blackhawk rezoning petition. He said his house is directly across the street from the proposed development. He asked those present who are opposed to the rezoning to raise their

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hands. Mr. Trawick stated, as could be seen, there are a lot of people who are opposed to this rezoning. He said he had provided the Commissioners with a package as a backup to what he would be saying. He further stated he had given a copy to the clerk and he asked that it be included in the minutes.

Mr. Trawick asked what had changed since November 2004. The Zoning Advisory Group and the Board of Commissioners were unanimous in turning down the same rezoning request at that time. The residents have seen only degradation since then. There are more students in the schools, more traffic, and possible code violations. Blackhawk submitted a new site plan dated October 10, 2005 and printed on October 12, 2005. This did not give the community time to evaluate the plan and the effects on the public health, safety, morality, and general welfare. Mr. Trawick said he would like to challenge the Commissioners to give the residents one reason, on any of the previously mentioned four (4) points, that the proposed development will improve on these four (4) points. If the Board did so, they would leave and go home.

Mr. Trawick stated there had been improper signs and notices in the paper. Both of these notifications reflected the rezoning to be from A to RS-180, when in fact, the developer is asking for CR. Blackhawk did not follow property procedure when they challenged the Commissioners' decision denying the rezoning last year. They sued the county in Superior Court. The Clayton County Planning and Zoning policy states appeals should be filed in Magistrate Court. Mr. Trawick said the Superior Court does not have the jurisdiction or power to order the Commissioners to act in a manner that violates county code.

Mr. Trawick mentioned a number of problems that might be associated with this rezoning. First, there are environmental hazards associated with an increase in sewage output. Blackhawk stated in the Zoning Advisory Group that they plan to put in a sewer system. He stated according to Clayton County Water Authority, they have not been contacted by Blackhawk concerning this development. Most of the Panhandle does not have sewer service, and according to the Comprehensive Plan Use, there are no plans for expansion of sewer service for the Panhandle area. He expressed concern that Blackhawk Development might seek a variance to allow septic tanks. Mr. Trawick stated that is not feasible because most of the residents are on well water which would lead to contamination of drinking water, or the county taxpayers might have to pay for bringing sewer service to the development.

Another problem would be the environmental hazard of run-off into Inman and Woolsey Roads. Residents on these two (2) roads have been plagued with persistent run-off during heavy rains. The developer needs to make sure there will be no run-off problems. The developer should be required to pay impact fees related to the cost to provide appropriate infrastructure facilities to manage storm drainage and run-off created by the development. The national average for the fees per household is \$1,260.00 per dwelling. Property value in the Panhandle will be greatly diminished with an additional 275 to 332 low priced, low quality, high density homes. Current homes in the area are situated on one (1) to 15 acre

tracts. The current Comprehensive Land Use Plan states the rural character and greenspace of the southern Panhandle area are unique assets for the county that should be protected and preserved.

There would be an additional need for an increase in fire and police protection for people moving into Victoria Meadows. Woolsey Road is a narrow two (2) lane road that was not designed for and cannot accommodate the influx of additional traffic. As of the first of October of this year, there were 274 homes listed as foreclosures. Many of these homes are in the Panhandle area. These homes will eventually be occupied by Section Eight residents. Section Eight Housing is noted for gang activity, violence, drug activity, and other crimes. Clayton County already has more than its share.

This development would bring 275 to 332 households to the community, many of which will include children who need to attend school. The schools in the district are already overcrowded. Overcrowded schools equal more disciplinary problems, negative media coverage, and fewer people interested in relocating to Clayton County. Mr. Trawick urged the Commissioners to make sure the proposed rezoning will not adversely affect the public health, safety, and general welfare as outlined in Code Section 804 of the Clayton County Code. Mr. Trawick further stated that since the residents of the Panhandle area last appeared before the Board of Commissioners in November 2004, the EPD has fined Blackhawk Development for failure to submit required documentation, and to pay land disturbance fees. Blackhawk has an unsatisfactory rating with The Better Business Bureau.

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Several Victoria Meadows residents feel that Blackhawk is in violation of their contract with them, having failed to address the punch list. Mr. Trawick further stated Blackhawk has not made any substantial changes to the petition that was presented November 2004 and was denied by the Board of Commissioners.

Mr. Trawick stated the residents who are opposed to this petition understand that Clayton County is faced with a financial crisis, and that may result in the approval of the rezoning request because of the tax revenue that would be generated for the county. He further stated that he knows from previous zoning meetings some of the Commissioners consider Brian Sealy, an employee of Blackhawk, to be like a son. However, the longtime residents of the Panhandle, implore the Board to look beyond a quick fix for any financial issues that plague the county and beyond any personal feelings it may have for Blackhawk Development. He asked the Commissioners to remember the reasons they were voted into office. Mr. Trawick went on to say if the Commissioners approve this rezoning request, they will be accepting the doom this development will foretell for the Panhandle area, and they will not be considering the best interest of the citizens of Clayton County as a whole. Mr. Trawick stated that in the February 24, 2005 issue of the News Daily, Chairman Bell promised to guard against over development in the lower part of the county. Mr. Trawick also said Chairman Bell stated that the people had spoken with a strong voice regarding what they wanted to see in that region. Mr. Trawick stated their voice has not changed. He asked the Board to be mindful of its responsibilities to the entire county and vote its conscience.

Mr. Dillard rebutted. He stated that Mr. Trawick mentioned code violations, and those are done in Magistrate Court. This case is a challenge to whether or not the current AR classification is Constitutional. Constitutional issues are in the court of original jurisdiction, and that is rightly in Superior Court. A Superior Court Judge has sent this back to the Board of Commissioners for its consideration. Public health and safety is an issue, but that is the developer's issue to show that the current zoning does

not promote public health, safety and welfare. If the position is taken that the development of property adversely affects public health, safety and welfare, no property would be developed.

Mr. Dillard stated the Constitution requires that the developer seeks a reasonable use based on the criteria that has been set out in the zoning ordinance. The developer feels he has done that. On the issue of a sewer service, Mr. Dillard stated the houses will be 7,000 sq. ft. and cannot be put on a septic tank. This developer must run a sewer line. There is a code with very stringent requirements concerning water run-off. The developer will provide and protect surface water run-off to and from this property. The improvements made on this property will be sufficient to take care of any impact fees. Mr. Dillard stated the price of the homes in the proposed development is consistent with the existing homes, and it will increase the quality of life in this area.

Mr. Dillard stated that given the proposed ingress/egress lanes and acceleration/deceleration lanes, the roadways can handle the traffic. The school issue is something the Board of Education must handle. He stated the problem in Georgia is that you cannot build schools under the state law until the children are there. He further stated we are always behind in building schools. It is not a good system, but that's the way it is. This developer is not going to adversely affect the public's health, safety and welfare. Mr. Dillard stated the quality of this development is extremely well planned and thought-out. The homes will be consistent with what has already been built in certain parts of the Panhandle of Clayton County. It is a consistent Constitutional use, and it is a balance. The developer is asking that this property be developed to a density that is consistent with the Comprehensive Land Use Plan.

Commissioner Ralph asked Attorney Jack Hancock to come forward and speak about some of the legal issues.

Mr. Jack Hancock stated he would concur with Mr. Dillard that Superior Court was the proper place for this case. This case was properly before a Superior Court Judge on the appeal of the denial of a petition to rezone that was heard by the previous Board of Commissioners in November of 2004. That application sought the rezoning of the property to RS-180, and it was denied at that point in time, leaving the property zoned Agricultural. Mr. Hancock stated there are a couple of concerns the Board should be aware of. There is a conflict between the Code and the Land Use Plan as they were considered by the previous Board regarding the size of Agricultural zoning. In addition, the present Land Use Plan does not provide for any estate residential which is our residential zoning that has only one (1) acre. There was some concern about leaving the property

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zoned as Agricultural. He further stated he did not think there was any agricultural land presently proposed on Clayton County's Land Use Plan.

All that has happened to this point, in this case, is that it has come back to the Board of Commissioners. There is no recommendation from the court, there are no mandates upon the Board from the court other than those that were before the previous Board, and that is that the property be zoned Constitutionally. Mr. Hancock said that is the only requirement which he believes to be appropriate.

Chairman Bell asked Mr. Hancock to explain the meaning of zoning the property Constitutionally. Mr. Hancock stated the law requires that a piece of property be zoned in such a manner that the owner can use

the property for a profitable use as zoned. It does not mean that the owner has to make the most money he can possibly make on it, but it has to be a useable zoning for a reasonable use.

Chairman Bell said an issue was raised by Mr. Trawick. Blackhawk has submitted a new site plan dated October 10, 2005, and printed on October 12, 2005. Chairman Bell asked Mr. Hancock to respond to that issue.

Mr. Hancock stated if the Board believes that the information which it received at the time did not allow ample time to review, this would give the Board grounds to deny the petition. There are no rules and regulations as to when information must be submitted. He said he would be more concerned with that than if the Board thought it appropriate to defer it. In and of itself, however, it is not grounds to deny it. The only notice requirement by law is what the property is zoned now, what it is sought to be zoned, and when the hearing is. That is all the law requires notice of and, once a Constitutional Challenge is filed, the Board has the right to rezone the property to any zoning that it deems to be appropriate. For example, if there were not a Constitutional Challenge, and someone applies to have a piece of property rezoned from Agricultural to RS-180, the Board can only approve it or deny it. If there is a Constitutional Challenge filed, the Board is permitted to rezone the property to any other classification it deems to be Constitutional.

Chairman Bell asked Mr. Hancock if he had in his possession a letter from the developer.

Mr. Hancock stated yes.

Chairman Bell asked Mr. Hancock about the contents of the letter.

Mr. Hancock stated that with all due respect, he felt it would be inappropriate to put the letter in the records because it is still in a court case, and it could arguably be considered some type of negotiation that continued.

Commissioner Ralph asked Mr. Hancock to explain the risks involved with the rezoning of this property. Commissioner Ralph understood it was sent back to the Board by the court, but he wanted to know what the penalty would be if it were sent back to the court and declared to be unconstitutional.

Mr. Hancock stated there are several possible scenarios. He said that as a result of the case coming back to the Board, and the manner in which it did, it will be less likely that the court would impose the death penalty (which is to say it is not zoned at all) should it go back to the court again. If the court found it was not Constitutionally zoned, the court could rule the Board's decision to be unconstitutional. The court gave the Board another chance to rezone it, and as a result of that the court will declare there to be no zoning on the property, and the developer can do whatever he wants to with it. That is the worse case scenario. The second thing that could occur would be the court could say it considers the Boards' actions to be unconstitutional, and it will send the case back to the Board to give it another opportunity to fix it. The court could find that the Board has acted Constitutionally, and the rezoning was Constitutional and leave it that way. Those are the range of options.

Commissioner Rhodenizer asked if a transcript of this meeting would be required if the rezoning is denied.

Mr. Hancock stated yes. The record would be undated to reflect this meeting. The court would base its decision on the Boards' action tonight.

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Chairman Bell stated the Commissioners have worked diligently since this case has come back to the Board. He said Commissioner Ralph had given certain instructions concerning the project and they have been working on it. However, there are some things he has learned tonight he was not aware of, and that troubles him. Chairman Bell said he likes to have the opportunity to look at everything and be fair with everyone involved, and he wants to give such stipulations that are needed in order for the project to address the owner's needs as well as the community's needs. He went on to say that tonight he is hearing the number of 332 households that would be built, and he was just given that number tonight. He said he has not had an opportunity to think it through. It concerns him they have not had ample time to consider all of the stipulations.

Chairman Bell stated that given what the court has asked the Board to do, he believed they had to make a decision at this meeting.

Commissioner Griswell asked if this case goes back to court, and the Board of Commissioners loses, could the developer build 400 houses if he wanted to.

Chairman Bell said he is not asking for a denial; he is asking for time for the Commissioners to consider all of the information that has been brought before them tonight.

Commissioner Griswell stated Chairman Bell was aware of the number of houses involved.

Chairman Bell stated he was not aware of it.

Commissioner Griswell stated he would go along with the Board. He went on to say homes were being built on acre lots in the Panhandle. Certain people were not satisfied with the driveways coming out onto Inman Road and they caused a disturbance. Two (2) of the commissioners who are gone now stopped this development and tried to get another plan. Commissioner Griswell said he is ready to move on with the rezoning.

Motion by Commissioner Ralph, second by Commissioner Rhodenizer, to defer the petition to the November 17, 2005 Zoning Meeting.

The legal description of this property is as follows:

All that tract or parcel of land lying and being in Land Lots 14 & 15 of the 5th District of Clayton County, Georgia and being more particularly described as follows:

Beginning at a point on the northerly right-of-way of Woolsey Road (60' R/W) and the westerly right-of-way of Sams Road (50' R/W); thence along the right-of-way of Woolsey Road South 64 degrees 15 minutes 01 seconds West, a distance of 324.03' feet to a point; thence in a curvature, said curve having an arc length of 1107.35' feet, a radius of 2334.22' feet, a chord bearing of South 50 degrees 43 minutes 08 seconds West, and a chord distance of 1097.00' feet to a point; thence leaving said right-of-way North 50 degrees 51 minutes 58 seconds West, a distance of 330.00' feet to a point; thence South 65 degrees 02 minutes 10 seconds West, a distance of 141.25' feet to a point; thence North 89 degrees 38 minutes 48 seconds West, a distance of 724.78' feet to a point; thence South 00 degrees 21 minutes 05 seconds West,

a distance of 434.32' feet to a point on the North right-of-way of Inman Road (50' R/W) thence along said right-of-way North 89 degrees 13 minutes 16 seconds West, a distance of 70.00' feet to a point; thence North 89 degrees 44 minutes 05 seconds West, a distance of 451.43' feet to a point; thence South 89 degrees 42 minutes 13 seconds West, a distance of 435.18' feet to a point; thence South 89 degrees 03 minutes 11 seconds West, a distance of 247.48' feet to a point; thence leaving said right-of-way North 13 degrees 15 minutes 54 seconds East, a distance of 662.05' feet to a point; thence North 13 degrees 01 minutes 27 seconds East, a distance of 49.64' feet to a point; thence North 13 degrees 14 minutes 53 seconds East, a distance of 228.81' feet to a point; thence North 16 degrees 56 minutes 53 seconds East, a distance of 250.00' feet to a point; thence North 29 degrees 45 minutes 23 seconds East, a distance of 319.66' feet to a point; thence South 83 degrees 36 minutes 17 seconds East, a distance of 534.47' feet to a point; thence North 01 degrees 57 minutes 19 seconds East, a distance of 616.63' feet to a point; thence North 01 degrees 55 minutes 12 seconds East, a distance of 976.86' feet to a point; thence South 89 degrees 11 minutes 08 seconds East, a distance of 592.07' feet to a point; thence South 89 degrees 14 minutes 06 seconds East, a distance of 131.82' feet to a point; thence South 89 degrees 16 minutes 50 seconds East, a distance of

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468.12' feet to a point; thence South 61 degrees 43 minutes 08 seconds East, a distance of 135.51' feet to a point; thence South 65 degrees 17 minutes 17 seconds West, a distance of 771.40' feet to a point; thence South 30 degrees 04 minutes 46 seconds East, a distance of 181.69' feet to a point; Thence North 62 degrees 30 minutes 58 seconds East, a distance of 613.88' feet to a point; thence South 40 degrees 01 minutes 54 seconds East, a distance of 344.19' feet to a point; thence North 49 degrees 58 minutes 06 seconds East, a distance of 250.00' feet to a point on the westerly right-of-way of Sams Road; thence along said right-of-way South 40 degrees 01 minutes 54 seconds East, a distance of 154.28' feet to a point; Thence South 35 degrees 06 minutes 54 seconds East, a distance of 193.53' feet to a point; thence South 31 degrees 05 minutes 51 seconds East, a distance of 173.16' feet to a point; thence South 28 degrees 52 minutes 33 seconds East, a distance of 827.82' feet to a point; thence in a curvature, said curve having an arc length of 148.64' feet, a radius of 273.27' feet, a chord bearing of South 19 degrees 34 minutes 07 seconds East, and a chord distance of 146.82' feet to a point; thence South 02 degrees 52 minutes 15 seconds East, a distance of 53.48' feet to a point; thence in a curvature, said curve having an arc length of 125.57' feet, a radius of 674.56' feet, a chord bearing of South 06 degrees 21 minutes 46 seconds East, and a chord distance of 125.39' feet to the point of beginning, said tract containing 138.10 acres.

4. ELNA V. WLLACE (REZ-200510-01)

Petition of Elna V. Wallace for 0.968 acres at 3312 Anvilblock Road located in Land Lot 216 of the 12th District.

Proposed rezoning of property from A to LC for a Day Care Center. Zoning Advisory Group recommendation was approval with stipulations.

Mr. Calvin Goss and Ms. Kathy Goss were present to represent the petition. Mr. Goss said they are asking for a change in zoning from A to LC for a day care center. They are asking for this in compliance with DHR regulations so they can have a maximum of up to eighteen children. The Fire Marshall has told them of their requirements. Mr. Goss said they have plans to fence in the backyard, build a playground for the children, and widen the driveway to meet the codes of Clayton County. There will not be any overnight care. The parents will drop their children off in the morning and pick them up in the

afternoon. Mr. Goss stated he has a letter of support from one of the residents in the community. He also said they would like to provide quality day care, and he feels they can do a good job of supporting the community.

Chairman Bell asked if anyone else would like to speak on behalf of this petition. No one else spoke on behalf of the petition.

Chairman Bell asked if anyone would like to speak in opposition.

Ms. Doris Patillo, of 4588 Bouldercrest Road, stated the proposed day care is on the opposite side of the street from her home, and about 1,000 ft. from the previous case of B-Kay Builders. She stated the movement in that area seems to be from Agricultural zoning to Commercial zoning which changes the makeup of that community. She expressed her concern about how busy Anvilblock Road is, and people are in a hurry in the morning to drop off their children for day care, and this would create a hazardous situation. In addition, this zoning would change the current zoning from residential to some form of commercial.

Ms. Lisa Bohler, of 4736 Bouldercrest Road, stated at I-675 and Bouldercrest Road there is a lot of land that would be ideal for a day care. She said that in a residential area there is not enough clearance for a day care center. She also said if a precedent is set now allowing people to come in and use their homes for businesses, their area will no longer be residential and a place to call home. She asked the Board to deny the petition.

Mr. Roberto Bohler, of 4736 Bouldercrest Road, stated a day care center is supposed to have so many square feet per child within the building. He also said the owner of the proposed day care center bought the home as a residence, and now wants to change it into a day care center. He said he built there nine (9) years ago when it was nothing but woods. He further stated it is a nice area and they want it to continue to be residential.

Mr. Goss rebutted. He said he is not proposing to tear the house down and then build a building that looks like

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a business. The appearance of the home will stay the same, so people riding through will see the same community as it is now. There is no overnight care so there will not be people there all times of the night. Under the LC zoning the county would regulate what changes could be made. He is prepared to fence in the front yard if needed. It is a large lot with 78 ft. from the front of the home to the street. That should address the concerns of the community as far as any changes and the safety of the children. Mr. Goss said the number of children that are allowed is regulated by DHR.

Ms. Goss stated that according to DHR, eighteen children is the maximum they could have. She further stated the property has been listed as Agricultural since day one. She said her neighbor's father originally owned the property. The only way the property can be used as a day care center is for it to be rezoned as Limited Commercial.

Commissioner Rhodenizer asked Mr. Eddie Williams, Director of Community Development, if the property is zoned specifically for day care, and the number of children is legally limited, could it be used for anything else.

Mr. Williams stated no.

Chairman Bell asked Mrs. Goss the age range of the children she would be keeping in the day care.

Mrs. Goss said she would be allowed to keep children starting at six (6) weeks up to eighteen years of age.

Chairman Bell asked why the day care center would be limited to eighteen children.

Mrs. Goss said it would be a group day care home, not a day care center. She said there is a difference. A day care center allows 35 children and up, but Mrs. Goss stated she only wants eighteen.

Chairman Bell asked Mrs. Goss if they could expand if they decided to.

Mrs. Goss stated they do not want to expand, and if they did, they would have to come back before the Board for approval. DHR would also have to approve the expansion.

Vice Chairman Gray asked Mrs. Goss if the rezoning is approved, would that zoning classification allow her to keep children overnight if she wanted to.

Mrs. Goss said she could keep up to six (6) children overnight now.

Commissioner Rhodenizer said he is familiar with this property and has talked with Planning and Zoning concerning the property. He has also met with Mr. and Mrs. Goss in regard to the rezoning. Commissioner Rhodenizer stated he would make a motion to approve the petition.

Motion by Commissioner Rhodenizer, second by Commissioner Ralph, to approve the petition.

Commissioner Griswell said he is not opposed to a day care center, but a business should not be run from a residential house. He further stated if the petitioner were planning to tear the existing house down and build a new structure, he would support it. Commissioner Griswell stated he would abstain from voting.

There were two (2) votes in favor of the motion, two (2) opposed, and one (1) abstention. Commissioners Rhodenizer and Ralph voted in favor of the motion. Chairman Bell and Vice Chairman Gray voted in opposition to the petition. Commissioner Griswell abstained from voting. There was no decision on the motion.

Vice Chairman Gray stated the Board just turned down a rezoning of property directly across the street from this proposed day care center. She said the Board could not justify one business and not another.

Chairman Bell said the petition would be deferred to the November 17, 2005 Zoning Meeting. He referred Mr. and Mrs. Goss to Ms. Dawn Dickerson, Zoning Administrator, if they had any questions.

The legal description of this property is as follows:

All that tract or parcel of land containing 0.968 of an acre, lying and being in Land Lot 216 of the 12th District, of Clayton County, Georgia, being Lot 1 shown on plat of survey made for L. F. Wilhoit Estate by Richard T. Conner, Registered Land Surveyor, Dated December 29, 1980, of record in Deed Book 1021, Page 570, Clayton County Records; said plat and the record thereof being incorporated herein by reference for description and all other legal purposes.

5. NOVELLA POLITE (REZ-200510-02)

Petition of Novella Polite for 0.729 acres at 6570 King George Way located in Land Lot 144 of the 13th District.

Proposed rezoning of property from RS-110 to RS-110 W/CUP for a Personal Care Home. Zoning Advisory Group recommendation was denial.

Ms. Allison Thomas was present to represent the petition. Ms. Novella Polite, the owner of the property, was also present. Ms. Thomas stated she would be the administrator of the Personal Care Home. Ms. Thomas stated a Personal Care Home is a residence that houses adults. She said their plans are to house four (4) senior citizens. The Office of Regulatory Services dictates who and who cannot have a Personal Care Home and what the guidelines are. Personal Care Homes are permitted to provide essential living activities such as eating three meals a day, assistance with hygiene, and possibly assistance with medication.

Ms. Novella Polite stated she and Ms. Thomas both work in the health care field. Ms. Polite said she is a registered respiratory therapist and Ms. Thomas is a registered nurse. Ms. Thomas further stated a Personal Care Home has to meet certain safety criteria and that is also regulated by the Office of Regulatory Services. She also said they are not allowed to provide medical assistance to the residents, just a living facility. The house would still be considered residential, but with four (4) additional members in the house. Ms. Thomas stated they will not change the outside appearance of the house. She also said the house was originally a foreclosure and in bad condition, but they have made repairs and renovations inside and outside. Ms. Thomas presented pictures of the house to the Board.

Chairman Bell asked if anyone else would like to speak in favor of this petition. No one else spoke on behalf of the petition.

Chairman Bell asked if anyone would like to speak in opposition to the petition.

Ms. Joyce McLean, of 6492 King George Way, spoke in opposition. She said she lives down the street from the proposed Day Care Center, and she would like for the area to stay residential and not be subject to businesses moving in. She further stated there are children who live in the neighborhood and go to a school within two (2) blocks. She expressed concern about what the Personal Care Home would do in case of an emergency. She asked the Board to help maintain the community as residential.

Ms. Lucretia Gloyd, of 6570 King George Way, spoke on behalf of the petition. She stated Ms. Polite offered her a home when she had nowhere else to go. She said she has asthma, and she is a diabetic. Ms.

Gloyd went onto say there are others like her who are homeless. She asked the Board to approve the rezoning.

Mr. Ron Heisterkamp, of 6527 King George Way, stated he lives about one (1) block away from the proposed Day Care Center. He said they did a good job renovating the house, but it looks like a two (2) bedroom house, and he did not think it would be appropriate for three (3) or four (4) people. He went on to say he has lived there for about thirty years and he has good neighbors. Mr. Heisterkamp stated he would like to see the neighborhood stay residential.

Ms. Lucretia Gloyd stated the house has three (3) bedrooms on the first floor with a full bath and lots of closets. She said it has a very nice kitchen with three (3) bedrooms downstairs. She went on to say the house is very clean and has new carpet.

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Ms. Novella Polite rebutted. She stated she understands the residents may have concerns, but the Personal Care Home will not compromise the integrity of the neighborhood. There are a total of six (6) bedrooms in the house with two (2) full bathrooms. She said it will remain residential and there will be no signage.

Vice Chairman Gray questioned the stairs in the house.

Ms. Thomas stated that previously there had been concern about the stairs in the house. She said she had shown pictures showing there is only one (1) step going into the house. Ms. Thomas said she and Ms. Polite would be residing downstairs.

Commissioner Griswell stated he feels sorry for the persons who are in need of this type home. He asked both Ms. Polite and Ms. Thomas if they would be living in the house.

Ms. Thomas stated both she and Ms. Polite would be living there all of the time. That is a requirement of the state.

Commissioner Griswell said that group homes are very profitable, and the state pays a lot of money per person. Ms. Thomas said the state pays between \$900.00 and \$1,200.00 per month per person which is not very profitable. She stated she makes more than that per month as a registered nurse. She further stated the money from the state will cover utilities, living expenses, food, and possibly additional help.

Commissioner Griswell stated he feels sorry for the people, but he will not vote for a group home in a residential area.

Motion by Commissioner Griswell, second by Commissioner Ralph, to deny the petition.

Vice Chairman Gray asked if the county has an ordinance in place against group homes in a subdivision.

Ms. Dawn Dickerson, Zoning Administrator, stated the ordinance was just passed. The petitioner is here tonight asking for a Conditional Use Permit, or she could ask for a commercial zoning.

The vote was unanimous to deny the petition.

The legal description of this property is as follows:

All that tract or parcel of land lying and being in Land Lot 144 of the 13th District of Clayton County, Georgia, and being lot 13, block E of unit 1, Imperial Estates, as per plat recorded in Plat Book 7, page 44, Clayton County, Georgia Records; which plat by reference is made for a more detailed description.

6. SOUTH ATLANTIC CONFERENCE OF SEVENTH DAY ADVENTISTS (REZ-200510-03)

Petition of South Atlantic Conference of Seventh Day Adventists for 7.0 acres at 979 McDonough Road located in Land Lot 113 of the 5th District.

Proposed rezoning of property from A to A w/CUP for a Church. Zoning Advisory Group recommendation was denial.

Ms. Andrea Cantrell Jones, of Dillard and Galloway, was present to represent the petition. Ms. Jones stated there is currently a 3,300 sq. ft. home on this property that the petitioner plans to use as an administrative building. The petitioner is proposing to build a sanctuary in front of the house, and also build an activity building on the property. The sanctuary would have a maximum seating capacity of 120 people and would not exceed 6,500 sq. ft. The building would be four-sided brick. It is a one (1) story building and designed to be very unobtrusive. Ms. Jones stated there were renderings of the building in the Commissioners' package.

The church is designed to provide a 200 ft. buffer from McDonough Road. Ms. Jones stated there is a thick stand of pine trees along McDonough Road that will shelter the church from the street. There will also be a 50 ft. evergreen landscape buffer along the sides of the building. She also said there will be 41 parking spaces placed

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on the west side of the building. Ms. Jones stated the number of persons allowed on the property at any one time would be restricted to 220. This is a small church, and the only difference between them and other Christian religions is that they meet on Saturday instead of Sunday. They are currently renting from the Jonesboro Church of God building and sometimes there is a conflict with meeting times.

Ms. Jones stated this is a reasonable use that is protected under the Land Use and Institutionalized Persons Act which is a Federal Act. This act states that if a church is denied, the government must have a compelling reason and use the least restrictive means possible. Ms. Jones said they are willing to work with the county in any way to make this church palpable. There is a very large church down the street and a school across the street. This type of facility has already been accepted by the county in that area. She asked the Board to approve the petition.

Chairman Bell asked if anyone else would like to speak on behalf of this petition. No one else spoke on behalf of this petition.

Chairman Bell asked if anyone would like to speak in opposition to the petition.

Ms. Donna Parrott, of 966 McDonough Road, stated she would like to read her statement. "According to the Zoning Code, a Conditional Use Permit must ensure the safety, morality, health, and general welfare of the county. If homeowners fall within the definition of county, and I believe that we should, then this petition fails on three (3) counts. As governing officials, familiar with crime within your jurisdiction, you know full well that vacant dwellings are targets of opportunity for illegal activity. This problem of crime exists with any unoccupied building, be they businesses, warehouses, or offices and that is why these types of dwellings are not encouraged to locate next to residential homes. Churches are no exception when they are left unoccupied a greater part of the time. My husband and I have filed numerous reports for theft, vandalism, illegal dumping, and activity of a sexual nature in our parking lot.

Asking the Heard and Davis families on either side of the church's property to accept this undesired risk, places those families and their potential property value in jeopardy. There is an issue of safety for the congregation and motorists on busy McDonough Road. To insure their safety, I would hope that turn lanes from both easterly and westerly directions would be installed if this petition is approved. However, installing such turn lanes would create a safety concern for those of us who have to enter and exit our driveways from across the road. Mr. Heard's property to the west would likely catch the run-off from the parking lot they have planned, and it would definitely be subject to accumulate there due to a fall and rise allowing it no escape. Although a good engineer could correct this problem, it would then end up in a low spot, under a power line to the west.

On the other side of McDonough Road, under that same power line, we have what is basically a swamp getting progressively worse due to impervious services from developments on Tara, Folsom, and English Road. This has created an undesirable mosquito, and rodent infestation near our homes. Add a detention pond to the rear of the church home, and you add insult to injury. A member of the Advisory Group questioned the petitioner about the adequacy of the parking. His calculations indicated a need for 3,000 spaces based on the dimensions of the planned buildings- a 7,200 sq. ft. building in the rear, a 6,000 sq. ft. building in front with a 3,300 sq. ft. home in between. Ms. Cantrell Jones argued that parking was sufficient because the buildings would never be used simultaneously. The very fact that this home has been used for their intended purpose for the past fifteen months, without zoning approval, offers us little comfort that they believe any stipulations or restrictions would apply to them.

If this property is approved under CUP zoning, this property would be an established church entitled to rights under law as a religious organization. Since Ms. Cantrell Jones and Elder L. M. Johnson with the church conference have already accused the Zoning Advisory Group of violating their rights to religious land use by denying their petition, we can anticipate that there are no limits to what they can and will do under protective law once granted. The right of religious freedom, and the practices within those rights, are something that we all support. As it is now, this is a residence only owned by a church conference as a residence only. It is our desire that it remain a residence only. We would be opposed to any and all classifications allowed under CUP on this property because of all the aforementioned concerns. Ms. Cantrell Jones left the Zoning Advisory Meeting declaring us to be a bunch of people who do not want a church in their community. Nothing could be further from the truth. We presently have on McDonough Road Word of God Christian Ministries approved under CUP, Shiloh Methodist, Lovejoy Family Church, Fayette Bible Church, Grace Christian Academy, as well

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as McDonough Road Baptist. How could this have happened if we are as she said? Those churches were selective in the properties they bought and were successful in that they desired to fulfill the spiritual goal of promoting harmony within the community. We are asking that you follow the recommendation of the Advisory Group three times, please deny."

Mr. Paul Davis, of 1005 McDonough Road, stated he lives right next door to the proposed rezoning. Mr. Davis said he has worked all his life to be able to live in a community like this one. He said he is very religious, but he thinks this would be a bad place for a church because both houses on each side have aggressive animals and they need these animals to fight off the wildlife that come out of the woods. He further stated this church continues to break rules and regulations. He said they started building without a building permit, and after they were told to stop building they still continued to build. He went on to say they have misused the buffer zone. Mr. Davis said he wants to keep his privacy, and he asked the Board to keep the community like it is now.

Vice Chairman Gray asked Mr. Davis if his property is to the right or left of the proposed rezoning.

Mr. Davis stated his property is to the left.

Mr. Thad Heard, of 949 McDonough Road, stated he lives on the west side of the proposed rezoning. He stated that first of all he has nothing against churches. He went on to say he has worked very hard to be able to afford a place where he could have horses in his back yard. Mr. Heard said he would like to see the community remain the same.

Mr. Lee Kimbrel, of 712 McDonough Road, stated he has been in Clayton County thirty-five to forty years. He went on to say he moved to that area because it was residential and most everyone has three (3) to five (5) acres. He said he does not think it is appropriate for a house to be bought and turned into a church. There are restrictions around a church property that would place restrictions on the homeowners near the church. Mr. Kimbrel said there are several churches in Clayton County that are empty and a congregation could buy one of those. He asked the Board to leave the property zoned as it is.

Ms. Jones rebutted. She stated Clayton County's Zoning Ordinance allows a church in an agricultural district with five (5) acres as long as it meet the requirements under the zoning ordinance. This application meets the requirements. Ms. Jones said she could not even respond to someone who would say the church is a danger to the public because there will be crime. A church is a place where a community comes together for the betterment of the people and to worship. It is not like a bar where people would drink and act rowdy. This country values the right of free worship. Ms. Jones further stated this church will have to obey the laws of Clayton County. She went on to say the church has seven (7) acres and it will not look crowded when it is all built. The Board has allowed other churches in this area, and she urged them to consider the law and approve this petition.

Commissioner Rhodenizer asked Ms. Jones if any improvements have been made on the existing facility. Ms. Jones stated no, except for general cleaning and painting.

Vice Chairman Gray asked Ms. Jones if she is the attorney for the petitioner and if she lives in this area. Ms. Jones stated she is the attorney for the petitioner, and she does not live in the area. She went on to say she has two churches in her neighborhood.

Motion by Commissioner Ralph, second by Commissioner Griswell, to deny the petition.

Commissioner Griswell said he thinks this petition will probably go to court. He further stated he would like for them to produce a set of plans showing what they intend to build. He would also like to know if they plan to start building within the next few months, and if they intend to use the house that is already on the property. Commissioner Griswell said the Board might reconsider if they had this information. He went on to say that he still feels a residential house should not be used for business purposes, and God's

house is business. He further stated he would not have a problem if the petitioner brought a set of plans for a building.

Vice Chairman Gray asked Commissioner Griswell if he were making a promise. Commissioner Griswell stated no, he was not making a promise, but he thinks the petition will probably go to court, and he has a reason for seconding Commissioner Ralph's motion.

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The vote was four (4) to one (1) in favor of the motion. Vice Chairman Gray, Commissioner Griswell, Commissioner Ralph, and Commissioner Rhodenizer voted in favor of the motion. Chairman Bell abstained from voting. The motion carried.

The legal description of this property is as follows:

All that tract or parcel of land lying in Land Lot 113 of the 5th District of Clayton County, Georgia as per plat dated November 11, 1975 prepared by John E. Chapman, Jr., Surveyor, and being more particularly described as follows:

Beginning at a point on the Southerly right-of-way of McDonough Road (said road having an 80 foot right-of-way; a distance of 633.3 feet Northeasterly from the intersection of said right-of-way with the Westerly Lot Line of said Land Lot as measured along said right-of-way; from said point of beginning running thence North 85 degrees 10 minutes East, and continuing along said right-of-way, a distance of 176.0 feet to an iron pin found; thence South 21 degrees 00 minutes East a distance of 775.95 feet to an iron pin found; thence South 65 degrees 33 minutes West a distance of 265.4 feet to an iron pin placed; thence North 21 degrees 00 minutes West a distance of 868.7 feet to an iron pin placed and the point of beginning; said tract containing 5.0 acres of land.

Together with:

All that tract or parcel of land situate in Land Lot 113, 5th District of Clayton County, Georgia containing 0.085 acres and shown and designated as Tract 'A' on a Plat of Survey made by Robert E. Worthington, Esther L. Worthington, Joseph Pat Miller and Beverly L. Mikes prepared by Joe Rowan Land Surveying, McDonough, Georgia, May 10, 2000 and revised on June 7, 2000 and again on June 24, 2000 and again on July 24, 2000 with said Plat being recorded in Plat Book 32, Page 25 in the Superior Court Clerk's Office of Clayton County, Georgia.

Together with:

All that tract or parcel of land situate in Land Lot 113, 5th District of Clayton County, Georgia containing 0.114 acres and shown and designated as Tract 'B' on a Plat of Survey made by Robert E. Worthington, Esther L. Worthington, Joseph Pat Miller and Beverly L. Mikes prepared by Joe Rowan Land Surveying, McDonough, Georgia, May 10, 2000 and revised on June 7, 2000 and again on June 24, 2000 and again on July 24, 2000 with said Plat being recorded in Plat Book 32, Page 25 in the Superior Court Clerk's Office of Clayton County, Georgia.

7. NEW MACEDONIA BAPTIST CHURCH (REZ-200510-05)

Petition of New Macedonia Baptist Church for 29.09 acres at the intersection of Highway 85 and Lake Ridge located in Land Lots 201, 202, 216 and 215 of the 13th District.

Proposed rezoning of property from GB to GB w/CUP for a Church. Zoning Advisory Group recommendation was approval.

Commissioner Ralph asked if anyone opposed to the petition. Commissioner Ralph stated he was ready to make a motion if no one on the Board had questions concerning this petition.

Motion by Commissioner Ralph, second by Vice Chairman Gray, to approve the petition. Vote unanimous.

The legal description of this property is as follows:

Beginning at an iron pin located at the common corner formed by the intersection of Land Lots 201, 202, 216, and 215 of said District and County; running thence South 86 degrees 56 feet East along the South line of said Land Lot 202 a distance of eight hundred forty and nine tenths (840.9) feet to an iron pin located on the northwesterly right-of-way line of Georgia S. R. No. 85; running thence North 14 degrees 20 feet East along the northwesterly right-of-way line of Georgia s. R. No. 85 a distance of one thousand one hundred six and one tenth (1106.1) feet to an iron pin; running thence North 88 degrees 40 feet West five hundred fifty-one and seven tenths (551.7) feet to an iron pin; running thence North 14 degrees 10 feet East four hundred and six tenths

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(400.6) feet to an iron pin; running thence North 87 degrees 20 feet West six hundred forty-nine and five tenths (649.5) feet to a marked tree located on the West line of said Land Lot 202; running thence South 01 degrees 00 feet East along the West line of said Land Lot 202 a distance of one thousand four hundred sixty-eight and eight tenths (1468.8) feet to the iron pin located at the common corner formed by the intersection of Land Lots 201, 202, 216 and 215 of said District and County and at the point of beginning, containing 29.42 acres as per survey prepared by Franks Engineering Company, Inc. dated September 20, 1971.

8. DEVELOPMENT COMPANY OF AMERICA, LLC (REZ-200510-06)

Petition of Development Company of America, LLC for 11.51 acres at 7468 Jonesboro Road located in Land Lot 80 of the 12th District.

Proposed rezoning of property from HI to HI w/CUP for a Church. Zoning Advisory Group recommendation was denial.

Mr. George Burnett was present to represent the petition. Mr. Burnett said they are asking for a Conditional Use Permit to allow The Word of Life Tabernacle to use 10,000 sq. ft. of office space for a church. He said the office space is in the old Conair building. The total square footage of the building is 280,000 sq. ft. and is mostly vacant. There are currently two (2) other tenants occupying the building. Mr. Burnett went on to say the building has been empty for approximately two (2) years. He asked the Board to approve the petition. He said they have satisfied the criteria for the Conditional Use Permit, as

required by the Clayton County Ordinance, and to deny this petition would be unconstitutional and in violation of the Due Process and Equalization Clause of Georgia and the United States Constitution.

Reverend Michael McCoy spoke on behalf of the petition. He said he has been in the ministry for fifteen years. The last three (3) years he has been the pastor of Word of Life Full Gospel Baptist Church which is the Word of Life Tabernacle. He went on to say he has looked over this area, and there is not any adult entertainment in the area or liquor stores. Reverend McCoy stated he has talked to Mr. Eddie Williams, Director of Community Development, who told him the building would need to be rezoned. He also talked with Mr. Joe Murphy, Assistant Director of Community Development, who also told him the building could not be used until it had been brought up to code. Mr. Murphy informed him the section of the building to be used for a church would have to be rezoned for an assembly. Reverend McCoy said that to date, they have completed 100% of the work needed for their office, and 99.9% of the work is completed for the assembly. He asked the Board to approve the petition.

Chairman Bell asked if anyone else would like to speak on behalf of this petition. No one else spoke on behalf of this petition.

Chairman Bell asked if anyone would like to speak in opposition to the petition. No one spoke in opposition to the petition.

Commissioner Rhodenizer asked if the church has purchased the property. Reverend McCoy stated the property is owned by The Development Company of America. He went on to say the church has secured a five (5) year lease for the portion of the building they would be using.

Commissioner Griswell said he would make a motion to defer this petition. He further stated he would like to know how far away the bottled gas company is that's next door to the building for the proposed church. He asked Mr. Williams and Mr. Murphy to check into that issue. Commissioner Griswell said he would personally see how far apart the two (2) buildings are.

Motion by Commissioner Griswell, second by Commissioner Rhodenizer, to defer the petition to the November 17, 2005 Zoning Meeting. Vote unanimous.

Commissioner Griswell went on to say he hoped the petitioner is abiding by the rules and regulations of the zoning ordinances of Clayton County.

The legal description of this property is as follows:

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All that tract and parcel of land lying and being in Land Lot 80 of the 12 District of Clayton County, Georgia, more particularly described as follows:

Beginning at a point marked by an iron pin on the eastern side of Georgia State Highway No. 54 (said State Highway No. 54 having a 100 foot right-of-way) a distance of 593 feet South 10 degrees 45 minutes West from the intersection of the eastern side of Georgia State Highway No. 54 with the south side of Battle Creek Drive, as measured along the eastern side of Georgia State Highway No. 54, said beginning point being at the northwest corner of that certain tract of land acquired by William A. Mitchell from Flora Blalock, Carolyn Blalock, Ida Louise Huie Lenihan and Arthur A. Huie, Jr., under warranty deed dated August 4, 1959, recorded in Deed Book 199, page 291, Clayton County public records; thence

continuing South 10 degrees 45 minutes west along the eastern side of Georgia State Highway No. 54 a distance of 700 feet to an iron pin; thence North 86 degrees 41 minutes East 879.06 feet to a railroad spike at the southwest right-of-way line of Central of Georgia Railroad; thence North 11 degrees 26 minutes West along the southwest right-of-way of Central of Georgia Railroad 670 feet to an iron pin at the northeast corner of said tract of land acquired by William A. Mitchell from Flora Blalock, Et Al, hereinbefore referred to; thence South 88 degrees 07 minutes West 614.32 feet to the iron pin on the eastern side of Georgia State Highway No. 54 at the point or place of beginning; containing 11.51 acres as shown on plat of survey entitled "Property survey Kawneer Company" made by Thomas M. Lowe, Jr. & Associates, Inc. Consulting Engineers, dated October 3, 1961, revised October 13, 1961.

The above described property is conveyed subject to existing easement for high pressure gas lines in favor of Transcontinental Gas Pipe Line Corporation, dated June 24, 1949, recorded in Deed Book 69, page 131, Clayton County public records, and subject to right-of-way of the Old Jonesboro Road extending along the East line of said property.

9. The following action was taken by the Board of Commissioners during the Zoning Meeting of October 20, 2005:

Consider the following three (3) Reversion Zonings:

I. Consider the Reversion Zoning of property located in Land Lot 121 of the 12th District. This property is currently in the ownership of Susan W. Wood, 3584 Tuxedo Road, N. W., Atlanta, Georgia 30305.

The Zoning Administrator recommends extending the existing CB zoning an additional twelve months through October 19, 2006. The Future Land Use Plan depicts this area as Medium Density Residential.

J. Consider the Reversion Zoning of property located in Land Lot 75 of the 13th District. This property is currently in the ownership of:

Amlie Lee's Mill Ltd. Partnership	McCondichie Properties LP2
c/o Charles C. Kraft, Treasurer	4780 Old Dixie Highway
125 South Wacker Drive, Suite 3100	Forest Park, GA 30297
Chicago, IL 60606	

The Zoning Administrator recommends extending the existing GB zoning an additional twelve months through October 19, 2006. The Land Use Plan depicts this area as LI, Light Industrial.

K. Consider the Reversion Zoning of property located in Land Lot 234 of the 13th District. This property is currently in the ownership of Dr. Ruben Fernandez, 620 Warren Drive, Riverdale, Georgia 30296.

The Zoning Administrator recommends extending the existing NB zoning through October 19, 2006. The existing zoning is consistent with the current Land Use Plan and seems appropriate given the surrounding zoning, land use and adjacent roadways.

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By the general consensus of the Board of Commissioners, the Reversion Zonings were deferred to the November 17, 2005 Zoning Meeting.

There being no further business, motion by Vice Chairman Gray, second by Chairman Bell, to adjourn the Zoning Meeting of October 20, 2005 at 9:03 p.m. Vote unanimous.

CLAYTON COUNTY BOARD OF

COMMISSIONERS

/s/ ELDRIN BELL, CHAIRMAN

/s/ VIRGINIA B. GRAY, VICE CHAIRMAN

/s/ J. CHARLEY GRISWELL, COMMISSIONER

/s/ CARL RHODENIZER,

/s/ WOLE RALPH,

COMMISSIONER

COMMISSIONER

ATTEST:

/s/ SHELBY D. HAYWOOD