

The Board of Commissioners of Fayette County, Georgia met in Official Session on April 26, 2001, at 7:00 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

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

STAFF MEMBERS PRESENT:   Chris W. Cofty, County Administrator  
                                      Carol Chandler, Executive Assistant  
                                      William R. McNally, County Attorney  
                                      Linda Rizzotto, Chief Deputy Clerk

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Chairman Dunn called the meeting to order, offered an invocation and led the pledge to the Flag.

**PRESENTATION/RECOGNITION:**

**PRESENTATION OF PROCLAMATION RECOGNIZING THE MONTH OF MAY, 2001 AS**

**“OLDER AMERICANS MONTH”**: Chairman Dunn commented he wished to read a Proclamation honoring the senior citizens of Fayette County. He said the county would recognize the month of May as “Older American Month” as we had the best of seniors in our county. He added that it was a particular pleasure of his to do this. He stated the county worked closely with senior citizens and it tried to provide the best it could for their needs. He introduced those present who were to receive the Proclamation. They were Sharon Cummings, Vice President of the Board of Directors for Fayette Senior Services, Joan Neal, Treasurer, Frances Reeves who was not present, and Kathy Sams, a member of the Board of Directors. He said that Kathy Sams was also the Chairman of the Capital Campaign Committee to try to raise money for the new senior center and Andy Carden who is the Director of Fayette Senior Services. Chairman Dunn stated that these folks and their Board did a tremendous job taking care of the elderly folks in our community and right now they were involved in a tremendous challenge of raising money to build a fine senior center that will service the people of Fayette County for years to come. He said those of us who don’t need it yet, will need it soon, and he hoped that all citizens would be active participants in that program. Chairman Dunn read and presented the proclamation to Sharon Cummings, Vice President of the Board of Directors for Senior Services.

Ms. Cummings said it was an honor and a privilege to accept the award. She commented that this county thinks of its seniors so highly we have such a great Board. She said with their support the Capital Campaign that is coming up this year has been very inspiring and they have been so supportive. Ms. Cummings brought the Board up to date on the campaign for the senior center. She said that out of a 3.2 million-dollar budget the seniors were trying to raise, they have raised to date \$1,002,000. She noted that the campaign was almost a third

of the way to its goal. She mentioned that it was exciting and if anyone had any interest in being involved in the Capital Campaign, she urged those interested to call the Senior Services Center as she would love to have help. She said if anyone in the audience wished to make a donation tonight, she would be happy to talk with them later.

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### **REZONING HEARINGS:**

Chairman Dunn explained the next items on the agenda were a series of public hearings for rezoning actions and he would like to explain some of the rules. He stated, right now, the Board had an extraordinary situation on its hands in that there was an empty chair there that was going to be empty for quite a while. He verified that there was somebody there to represent each applicant.

Chairman Dunn explained there were several rules that the Board had to go by for rezonings to make sure that everybody was treated fairly. He stated the applicants tonight had some options. He said the first option was that the applicant could have their case heard tonight like it was supposed to be heard tonight; the Board would be one Commissioner short and he wanted everybody to know that a two to two vote on any motion was a denial of that motion. He commented the petitioner would need three votes to successfully have a motion passed. He added if anyone wished to have their petition heard tonight, they should be making a strategic decision right now in their brain. He said the next rule was to allow one to defer any action for sixty days (60) and they would only have to pay for the cost of the re-advertising, and they would not have to go through the whole process again. He explained the option with this decision. He commented that the county had an election to fill the vacant seat on June 19, 2001 and sixty (60) days from now would be June 25, 2001. He said he believed that the county would not have a Commissioner by then because there were so many people expressing interest in running for that seat. He added in all likelihood, there would be a runoff election, and if that were to happen, the runoff election would be on the tenth of July which would be beyond the sixty (60) day deferral period. He said the petitioner may defer if he wishes to, however, if we didn't have another Commissioner after sixty days, they would still go before the Board that was sitting in front of them tonight. He advised another option was to withdraw the application and start all over again when the county had a five-member Board. He stated the other alternative that the Board discussed was to amend our rules to take care of this special situation and if any of the Board members would like to present a motion, he would accept a change in the rules at this time.

***On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to suspend county policy on deferring petitions and allow anyone who wishes to defer until the 26<sup>th</sup> day of July, to have their petition heard and it will be***

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***their responsibility to pay for all re-advertising fees. The motion includes those petitioners who may be heard next month.***

Commissioner VanLandingham said he would like to see in this process, the ones that were deferring first, be heard first, because there were applications already in progress.

Chairman Dunn stated that two people have already asked to have their cases deferred because last month Commissioner VanLandingham wasn't here. He added the people who have had to defer have been considerably bothered by this whole process, as we have up here, but we want to make sure that everybody has an equal opportunity, or the opportunity they choose to be heard, and we want to be fair to each and every person.

***The motion carried 4-0.***

Chairman Dunn asked for the decision from the agent for the petition.

Attorney Doug Dillard of Dillard and Galloway, representing Lou Pailer, asked about the policy rule that states one can't defer more than one time.

Chairman Dunn confirmed this rule was included in the rules that were suspended.

Attorney Dillard said on behalf of Mr. Pailer, Petition No. 1073-01 that he would like to be heard on July 26, 2001.

Chairman Dunn asked Carl Westmoreland, representing Robert H. Brooks for his decision on Petition No. 1071-01 and Petition No. RDP-002-01.

Mr. Westmoreland stated he wanted Petition No. 1071-01 and Petition No. RDP-002-01 to be heard tonight.

Chairman Dunn stated that Clayton Carmack, Owner, and Mukut Gupta, Agent, had previously requested in writing to defer Petition No. 1074-01. He remarked they were not present this evening and would be scheduled for the 26<sup>th</sup> of July, 2001. He apologized to members of the audience who were here to speak tonight. He added that these folks had attended many meetings on this issue in the past year.

Mr. Jefferson Brown representing Petition No. 1075-01, 3D Properties, Owners, said the applicant would like to be heard tonight.

Mr. Thomas Fedor, agent for Lynn Fedor stated the applicant for Petition No. 1072-01 would like to be heard tonight.

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Attorney Newton Galloway, representing Nancy Cooper and Mitchell Cooke, Petition No. 1072-01 stated his client preferred to be heard tonight.

Chairman Dunn confirmed that Mr. Carmack's Petition and Mr. Pailer's petition were both deferred until July 26, 2001. He thanked everyone for their patience.

Chairman Dunn took a brief time for the room to clear and then asked for the audience's attention to continue the meeting.

**PUBLIC HEARING:**

**REZONING PETITIONS:**

Commissioner Wells welcomed everyone who was there tonight and thanked them for participating in their government. She reviewed how the rezoning processed works. She remarked that each one of these petitions will be called individually. She commented when the petition was called, the petitioner and/or his and her representative would come up to the lectern and they will make the presentation for their proposal. She said once they were finished we would then ask if there was anyone here who would like to speak in favor. She said at that time anyone wishing to speak in favor could come up to the lectern and they had three minutes to voice their support for this particular petition. She added everyone who did come up to the lectern, to please sign the speakers' list laying on the counter beside the lectern. She commented once the petition was called, the petitioner or representative for the petitioner would be allowed 15 minutes in which to present the details of the request, followed by anyone who wanted to voice support for the request. She stated that the Chairman would then allow all those individuals who were opposed to the rezoning to stand for a moment to display their opposition. She said the Chairman would then ask those individuals who wished to come to the podium to speak to remain standing so the Board and staff could get an idea of how to allocate its time. She said the Board would allow up to 3 minutes for each speaker. She said when the persons speaking in opposition had finished, the petitioner would be given an opportunity to rebut any of the points raised. She remarked in fairness to all parties, the petitioner would be entitled to have the opportunity to refute any of the issues he or she would like to refute. She said once that part was finished the decision and the discussion comes back to the Board and once that has happened, there will be no comments accepted from the audience.

Commissioner Wells further remarked that these hearings were a part of the permanent record and speaking at the podium with the microphone helped staff with their task of recording comments and ensured everyone being heard.

Commissioner Wells stated that the Board wanted to hear from everyone who had something to say and they would pay close attention to each point raised. She said it would not be necessary for the same point to be raised over and over. She remarked at the end of that

time the Board will take a vote and there may be discussion after which they will take a vote and that petition will be finished. She thanked everyone for their participation and announced that the Zoning Administrator would begin introducing each request in the order they appeared on tonight's agenda.

**PETITION NO. 1073-01:** Charles L. Pailer, III, Owner, and Attorney Douglas Dillard, Agent, requested to rezone 5.00 acres from A-R to C-H to develop a Small Commercial Development. This property is located in Land Lot 18 of the 6<sup>th</sup> District and fronts on Redwine Road and S.R. 74 South.

***Attorney Dillard confirmed the rules were suspended to request a deferment only once and he requested a seconded deferment until July 26, 2001. The Board unanimously consented to this request.***

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**PETITION NO. 1071-01:** Robert H. Brooks, Owner, and Integrated Science and Engineering, Agent, requested to rezone 127.459 acres from A-R to PUD-PRD to develop a single-family residential subdivision consisting of 60 additional single-family dwelling lots to Whitewater Creek Community. This property is located in Land Lot 3 of the 6<sup>th</sup> District and Land Lot 224 of the 4<sup>th</sup> District and fronts on Redwine Road, Bernhard Road, and Troon Drive.

Mr. Carl Westmoreland, 191 Peachtree Street, Atlanta, stated he was representing the applicant, Cypress Development on this case. He said this was an application for a PUD. He also stated it was a 127-acre tract, located at the intersection of Redwine and Bernhard Roads, adjacent to the Whitewater Development. He claimed as Ms. Zeitler has indicated, it seeks approval for the development of sixty lots. He stated the application meets the requirements on its own for a PUD but as you know, there has been discussion at the meetings with Whitewater homeowners about inclusion of the property into that development. He said he felt the primary reasons they were interested in that was obviously to control what went on, on that property, and to insure that the development on that property was subject to the covenants and conditions of their development as well as to have the benefit of the impact fees and assessments generated from the development. He commented there would be access through Whitewater to one of the existing gated entries. He said there would also be another point of entry on Bernhard Road. Also, developed with a controlled access gate. He said there was a 100-foot buffer along both Bernhard and Redwine Roads on the exterior and there was a separate agreement with Whitewater, which is contingent of course, on the rezoning. Mr. Westmoreland said, as indicated on the plan, there was a point of access both on Bernhard and going out through the Whitewater Development back to Redwine Road. He said there would also be a fence along the perimeter of this which would match the existing fence at the Whitewater Development. He commented, again, it was important to know that

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while this could be a stand alone PUD, and it met all of the qualifications, in fact, it had about five times the open space requirement that the ordinance contains for this development. He stated his party would be willing to and had worked out an agreement with Whitewater, if it were to come in, which they have apparently found acceptable. He said Becky Morris with Integrated Science could describe the plan that has been submitted at this time.

Ms. Morris with Integrated Science and Engineering, 275 South Lee Street, Fayetteville, commented like Mr. Westmoreland was saying, there is a 100-foot open space around the perimeter of this on Bernhard and Redwine Road. She said this was a very generous buffer when you consider that was the maximum buffer that most cities take into account. She added generally you cannot see what was going on, on the other side of the 100-foot buffer. She said also there was also in the flood plain areas, even though it was not required by the ordinance, we have allowed another 100-foot setback from the flood plain.

Chairman Dunn said the setback was required by the ordinance.

Ms. Morris said she checked with David Borkowski and there is a 1000-foot setback from Whitewater Creek which she pointed to on the map.

Chairman Dunn asked Ms. Zeitler what the setback was from the flood plain and Ms. Zeitler said if it was a watershed buffer, it would be a 50-foot setback from the 100-foot buffer.

Chairman Dunn said there was a 100-foot buffer outside of this and Ms. Morris said she thought this was explained in the review in the packet.

Chairman Dunn stated he felt there was a difference of opinion as to what it says, not where it is.

Ms. Morris said they had this on there first and then when Dave Borkowski said it was not required Kathy and she discussed it and decided to just leave it as a greenspace anyway on those lots.

Chairman Dunn said he needed to be sure here and asked Ms. Zeitler what the requirement was. He commented we have a 100-year flood plain here and he understood the rules to be that we need another 100 feet from the end of the flood plain.

Ms. Zeitler stated if it is determined that it is a perineal stream that is a tributary, then it is subject to watershed protection requirements which would be the 100-foot buffer and the 50-foot setback, and it is usually measured from the 100-year flood elevation line.

Chairman Dunn asked what this request was.

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Ms. Morris pointed out that there were two flood plains going on this property. She said her party was 1000 feet from Whitewater Creek that was actually 2,000 feet of flood plain, so we were over the standard to the first lot in the back cul-du-sac.

Ms. Zeitler stated the lots twelve through fourteen that have the actual watershed protection requirements on them and it is showing the 100-foot buffer and a 50-foot setback on those lots.

Chairman Dunn remarked that one of the areas requires 100 feet and the other one doesn't.

Ms. Zeitler explained that it looked like the flood plain area to the south of the open space area, on the north side, it looks like they are showing a 100-foot buffer around that and also a 50-foot setback from that.

Chairman Dunn said he must have a different map than Ms. Zeitler did.

Ms. Zeitler commented that at the time of the preliminary and final plat was when they would give us more detailed information on an actual watershed.

Ms. Morris stated this still shouldn't affect their layout because with the buffer and the setback there would be plenty of room to build all of the houses.

Chairman Dunn said the amount of common use area could be affected by this.

Ms. Morris commented that was actually not open space area, it is greenspace area that would be let on the lots.

Chairman Dunn stated he would permit Ms. Morris to proceed but somebody was going to have to answer this question. He asked if there was a 100-foot requirement from this or not.

Vice Chair Wells commented we do have a 100-foot requirement.

Ms. Zeitler replied that we had a 100-foot setback in some areas and the lots that actually backup to Whitewater, lots 12 through 14 . . .

Chairman Dunn interrupted Ms. Zeitler to ask if she would advise him which lots required the 100-foot setback and which did not.

Ms. Zeitler said she did not have that information at this time because it is something that is usually provided at the time the preliminary plat comes in. She said what was before the Board tonight was a concept plan and they do show that there is a buffer around all of the flood plain on the north side.

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Chairman Dunn stated that perhaps he was not articulating correctly. He added the problem he had was if they want this to count as PUD common use area, if they want to leave space open to be nice people, then that was fine, but if we require something that they can't use the land for, then that doesn't count.

Ms. Morris said there was 16.08 acres shown on the plan that was common area that was not in the flood plain. She noted it was the lighter blue section as shown on the map.

Chairman Dunn said he understood this and when he received an answer to his question, it should be an interesting one but he didn't know if it was going to affect the total acreage or not.

Ms. Morris said they were only required to have five and they have 16 acres so like Mr. Westmoreland said, we are more than five times the required amount for open space for a PUD and that was not including the greenspace she was just talking about. She pointed out if that was included, it would even be more, but that was part of those lots, but outside the lots, there were 16.08 acres of open space.

Chairman Dunn stated the map indicated that there was 16.084 acres of open space. He pointed out that all open space was not common use area.

Ms. Zeitler explained that on the map, it was the very light shaded area and the darker shaded area . . .

Ms. Morris remarked the darker shaded area was 100 feet out, inside the property from the roads so there was a 100-foot separation between the backs of all the lots and the roadways.

Chairman Dunn asked Ms. Morris to continue. He said the information Ms. Morris gave had application, perhaps not at this very moment, but later tonight it will probably have application on just how much land we are talking about here.

Ms. Morris continued and said that the petitioner was tying into Troon drive. She added there was an access easement that was platted with the final plat of Whitewater, which was their tie in. She noted there was a recreation area at the back of the existing Prestwick area so that those houses will not be affected because those people will just be the common open space. She stated there would be a gazebo and some bike paths that will have a cart path system in that small recreation area that will also go over to the golf course. She added there was another golf cart path or bike path connection between lots eight and nine, for access to the golf course. Ms. Morris commented there was originally, when they were before the Planning Commission, 63 lots, but the Planning Commission wanted to see a little bit more varied lot sizes. She said these lots varied from one to six acres in size. She added they eliminated



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three lots and one of those lots was a five-acre lot which was spread through some of the other lots.

Chairman Dunn asked if there was anybody here to speak in favor of this rezoning and hands were raised.

Nancy Tracy, 150 Troon Drive, Fayetteville, commented that the access road (Troon Drive) to this property will be directly in front of the property that she owns. She said she did meet with the south residents of Whitewater Creek and voted unanimously in favor of this. She commented her and her neighbors were proud of Whitewater and they felt like this would be a boost for Fayette County, for the community, to add high end housing and to upgrade the property values. Ms. Tracy said there was also a subdivision meeting and the vote in favor of the proposal was 98 to 22. She said this proposal would be a boost to the community rather than have this property go commercial and not being able to control what goes into this area. She said this could be a plus for everybody.

Vice Chair Wells asked Ms. Tracy on a point of clarification, who they met with on the first meeting they had.

Ms. Tracy stated it was with the residents in the south part of Whitewater Creek. She explained there were three entrances to Whitewater.

Vice Chair Wells asked how many residents lived in that area.

Ms. Tracy noted there were 25 lots in that area and she believed there were 18 people who attended the meeting. She added there were other people who could not make the meeting but who were in favor of this proposal.

Vice Chair Wells confirmed the 18 people who attended were different lot owners. She asked Ms. Tracy about the subdivision meeting where the vote was 98 to 22. She also asked how many people lived in that subdivision.

Ms. Tracy said she was not sure of the exact number but she believed it might be approximately 260 lots.

Vice Chair Wells asked if that was lots or people.

Ms. Tracy said that was lots.

Vice Chair Wells asked concerning the vote taken of 98 - 22, if Ms. Tracy knew if this was lots or individuals and Ms. Tracy stated those were lots to the best of her knowledge.

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Chairman Dunn said in the meeting of the Planning and Zoning Commission, he believed a Mrs. Suggs said there was in excess of 300 homeowners in Whitewater Creek.

Ms. Tracy said she did not know the number, she only knew her area. She said it was only the people present that had a vote, and you had to be present to vote.

Vice Chair Wells said that was what she was trying to clarify, a unanimous vote of whom.

Ms. Tracy confirmed you had to be present at that meeting to have a vote. She said at her first meeting, one did not have to be present to have a vote.

Chairman Dunn pointed out one could say that less than one third of the people voted for this.

Ray Chaudoin, 125 Carnoustie Way, Fayetteville said his street was one of the streets that would be accessed by the proposed new development. He said with regard to the meetings they have had lately that Ms. Tracy alluded to that he attended that meeting of which there were 18 residents present. He commented there was a follow-up meeting at the clubhouse for the entire neighborhood, and there was a proxy present to conduct and have that vote which was held. He said he wanted to mirror what Ms. Tracy was saying and also to advise the Board that Mr. Gilley who was involved in the project had been very thorough and forthcoming in information that he provided the residents in the neighborhood. He added Mr. Gilley has been admirable and ethical in the way he has acted, he has explained his proposed ideas when he first met with the people in our side of the neighborhood. He commented when you look at the map he has provided you, you see their street Carnoustie Way that comes in off of Redwine. He said we made it very clear that it was important to us to have Carnoustie Way to jog up Troon Drive and then back into the new sector of the development and he understood completely so he has been very positive and supportive of what the people in the development would prefer to have. He said he wanted the opportunity tonight to address you all and advise that many of the residents were extremely supportive of what he has done.

James Tracy, 150 Troon Drive, Fayetteville commented that he agreed entirely with what his wife had said. He added that they owned two lots in the area and from the standpoint that more lots were going to dilute the property base but he did not think so. He said from this past weekend when a church group across the way had their hootenanny of sorts, he could say he would much prefer having homes in there and less of a noise consideration. He stated this fit in very well with the Whitewater Subdivision and he was in support of Mr. Gilley and everything he has done.

Chairman Dunn asked if anybody was there to speak in opposition and hands were raised.

Phyllis Aguayo, 117 Stonington Drive, Peachtree City asked when you remove all of the required buffers, when you remove the flood plain and the required buffer from it, when you

take out the infrastructure, what is the actual zoning in this equivalent to, and how does that compare with what we would want to see there if this were not a PUD? She inquired further if this actually met our requirements for PUD as far as the open space that would be given apart from that space that you could not build on. She said all of those lots that are large acre lots, wide acre lots because the lot line extends into unbuildable areas, or were they actually large acre lots? She said she was left with more questions than she had answers to.

Bob Craft, 200 Bridger Point Road, Fayetteville, stated he and his wife were some of the first residents to purchase in Whitewater Creek in 1985. He commented the Whitewater Creek concept was the first PUD outside of Peachtree City in the county itself. He said there were so many changes made in that PUD at the very beginning that it was not anything close to what the original PUD was suppose to be. He said, for example, part of the original greenspace was going to be for horses. He stated the horse paddock area was changed into one-acre lots which buffer up against five-acre homes that are sitting there. He mentioned people on Quarters Road build on five-acre lots thinking there was going to be horses behind them and now they have one-acre zoning. He said he thought that was a major mistake. He remarked he was fundamentally opposed to PUDs as he felt they were just an end run to get around zoning. He said a PUD to him should have varied lot sizes, something artistically interesting and, instead, we end up with your typical one-acre subdivision with cookie cutter lots out of an area that was currently zoned right now for one house per five acres. He commented if we were to build one house per five acres as currently zoned for twenty-five houses, and one for a variance, that would end up being 26. He said they were asking for 60 and that was a tremendous increase. He remarked if they had 27 houses there, it would be a gift from the Commissioners, if they had 28 or 30, it would be even more so. He stated he would prefer to see three-acre zoning in that area because that was closer to the five-acres that it was currently zoned, he was not worried about it going commercial because this has a lot of wetlands on it and three-acre zoning would give you a total of 42 houses. He claimed with varied lot sizes, it would be something interesting and different, something that would be unique and something that would add onto Whitewater Creek Community Club. He said he had a concern about the 100-foot buffer and he was going to measure it one night. He said he thought 100 feet was about to the wall back there, he would step it off tonight because it was always something he wanted to use. He stated he considered that basically right-of-way along the highway there because when that road gets widened, it will end up being taken anyway.

Mr. Craft said another condition that has always concerned him was every time somebody donates property to the county, they say well, we are going to give you 16 acres of open space and we will give you this and we are going to donate it to the county. He stated this was basically property they could not use or could not do anything with. He said if we would look at the Chimneys and the land that they donated to the citizens, this property has a big sign out there and says, "Chimneys residents only," so that was not dedicated to the citizens.

Dan Carpenter, 130 Broadmoor Drive, Fayetteville, stated he lived in Whitewater Creek Subdivision and he wished to ensure that the Commissioners were in possession of certain data that invalidates the basic premise upon which the annexation proposal they were being asked to consider was based. He commented that Petition No. RDP-002-01 seeks to add land area and density to an existing PUD, Whitewater Creek Community and therein lies the invalid premise. He said the Whitewater Creek Community does not now comply, nor has it ever complied with the county's requirement for a PUD. He claimed in 1983, this Commission reviewed a plat of the Whitewater Creek Development Plan. He said in the plan there were proposed residences, a golf course as the required open space, and lakes and other land as additional amenities. He continued based upon the definition of a PUD, which awards open space with additional density, the Commission approved the PUD. He said, however, after plan approval, the property was illegally subdivided contrary to the requirements of this Commission. He stated the golf course and the lakes were sold to a third party, leaving only the residences in the PUD. He said a review of the minutes of the Board of Commissioner's meeting held on August 25, 1983, indicates that the surveyor and the engineer for the Whitewater Creek Development told the Commissioners that the proposed plan contained six times the county's requirement for open space. He commented that a review of a memo dated April 5, 2001 by the county's Zoning Administrator states the following: "This golf course which was approved as the required open space for the Whitewater Creek PUD and required to be deeded to the Homeowners Association as common area, is now under private ownership. I suggest to you that the criteria established by this Commission for the Whitewater Creek Community to become a valid PUD was never accomplished. He remarked that the open space which was the golf course, was never deeded to the Homeowners Association. He suggested that with the current definition of a PUD, Whitewater Creek did not comply with the open space requirement for that, and there was no open space in the Whitewater Creek Subdivision." He asked the Board how it could add land area and density to an invalid PUD? He also asked the Commission if the county's authority expired upon approval of the zoning? He asked if he could submit a new retail center to the Commission and if it was approved because it had the prerequisite parking requirement, could he sell it to another developer so that he could use it as his requirement for parking. He asked if his zoning still existed, could he continue to operate as if he still had the components that the Board approved, or had he committed a violation of the county's zoning ordinances. Mr. Carpenter stated after the Board's approval of the Whitewater Creek Development Plan as a PUD, the property was subdivided without the Commission's approval, in violation of the county's approved zoning of the property, causing all of the open space to be removed from ownership and control for the Homeowners Association.

Commissioner VanLandingham called attention to the statement Mr. Carpenter made five times when he said "this Commission." He wanted it made clear that he was not on the Board then and Mr. Carpenter corrected his statement to mean the Fayette County Commission.

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Alicia Craft, 200 Bridger Point Road, Fayetteville, commented that most everything had been covered that she wanted to say except she wanted to clear up a couple of things. She said she thought it was Ms. Tracy who had mentioned that the Board would have no control over it and she wanted to clear that up. She commented the Board had all of the control over it, whether it passed or not, because this Board always had control on what was going to go on that property. She added the fact that high end homes did bring high taxes into the city and county, but it was also going to bring a lot of infrastructure expenses to the taxpayers. She said this would be in terms of additional schools, additional classrooms, more teachers, and more school buses. She pointed out the people that purchased the new homes, if it turned out to be 61 instead of 25, were going to have a minimum of 1.6 children per household. She commented if this happened the county would need a lot more expenses to educate these children. She said as an example, if one of the houses brought in \$3,000 or \$4,000 dollars a year in property taxes and if they have two children in the house, it was going to have quite an impact on it. She mentioned if the rezoning was approved with three acres and there were 42 houses, there would still be an impact. She commented the way it was zoned at 25 homes on 127 acres, that was the way it was zoned and that was the way the property had been planned out by all of us who worked on the Land Use Plan for years and that was the way it should be built. She remarked there was no reason to ask for a rezoning except to get higher density.

Chairman Dunn asked if there was anyone else who wished to speak in opposition and there was none. He asked for rebuttal.

Carl Westmoreland said in rebuttal that this application was really depending on the validity of the Whitewater PUD. He said this was not an issue. He stated he understood there may be some problems with it and he didn't even have the answers to that but this is, as your staff has found, does meet the requirements on its own. He said with regard to Whitewater's position, he received a message from their attorney today, Mr. Nowack who obviously is not here. He noted that this Board was very careful not to say anything on this application but he said in his message, "you have the right and I would encourage you to represent that the membership voted to bring it in and the vote was not even close." He said he thought that was consistent with what the Board heard from the neighbors. He remarked be that as it may, he thought they took that position because they saw, as they have expressed to this Board tonight, certain advantages to their property values and their base in Whitewater from inclusion of this development. He commented in terms of control over the property obviously that is achieved by the covenants. He said whether we have an interesting design or not, he thought this was not a typical subdivision given the open space that you've got and it is not just the flood plain. He added even if didn't count the 100-feet around on both roads, you still have in excess of the 3.4 acres that otherwise would be required under the county ordinance for common space. He said as Ms. Morris stated, this is above and beyond the amount of flood plain. He stated the density, again, as staff found identical to that in the adjacent PUD. He said under the Land Use Plan which he believed would range from .2 to .5 units an acre, at

the higher end of that he felt the applicant could have 48 lots or so and he was talking about an additional 12 lots over what you could do to be consistent with the Land Use Plan. He added it was also a density consistent with the adjacent neighborhood. He said the question was whether you want to have 12 more lots and have them subject to the conditions and covenants of what has been described, generally in these meetings, as a subdivision that is a benefit to the county, or whether you want to have a stand alone PUD with fewer lots. He said he thought most of the residents in Whitewater felt they were better off to have included it in their development. He stated that was what the plan did with sixty lots. He commented that Ms. Morris wanted to clear up a couple more points about the buffer.

Ms. Morris said she found in her file, the note from Dave Borkowski clearing up the buffer and asked that it be given to the Board. She commented in regard to the lady who said she was concerned about the lots, that all of the lots have as a minimum, according to county regulations, at least one acre out of the flood plains. She said there was concern about the 100-foot open space being reduced around. She added that an agreement had already been signed that we would donate ten feet on both Bernhard and Redwine Roads for the widening because these roads are suppose to be 100 feet and they are 80 feet now. She said the 100-foot open space was in addition to the 10-feet.

Commissioner Frady asked if anyone knew for a fact that the fairways on the golf course were actually sold to someone else or did they lease it.

Chairman Dunn replied that Mr. Bob Brooks owns it.

Chairman Dunn brought the issue back to the Board for discussion. He pointed out that he wanted to agree with one thing Mr. Westmoreland said that we are not right now considering whether or not to plug this into the Whitewater PUD, we are only considering whether we are going to rezone this from A-R to a PUD. He said the second action will follow.

Chairman Dunn asked again if there was any discussion.

Commissioner Frady questioned Mr. Westmoreland as to whether or not he had a complete PUD here regarding the amenities. He stated there was a gazebo and some open space but he thought a PUD had to have a little more amenities than that.

Vice Chair Wells asked if Mr. Frady was asking a question.

Commissioner Frady said he was making a statement that he felt it did not meet the PUD at this particular time because it has no amenities there on a stand alone PUD.

Ms. Morris remarked that it did have enough recreation on the 16.8 acres and the recreation areas can be a stand alone PUD.

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Commissioner Frady stated he felt most PUDs would have like a swimming pool and a community pool and maybe a play ground for children and things like that.

Ms. Morris replied that each lot still has a golf course membership that will be with the lot and then they have direct access to the golf course.

Commissioner Frady said he did not know that they were in the golf course area, he was looking at the zoning for PUD now.

Ms. Morris stated there was plenty of open space there and the Homeowners Association could put any type of recreation there they want to. She said it was big enough to put tennis courts, play areas and it's good high land.

Commissioner Frady said he felt a PUD called for a little more than that. He added he thought it need varied uses as it has different size lots. He said it has all of these, it doesn't have many varied uses because you can't have condominiums there because you don't have sewer so this part of it is out. He said no one was asking for commercial in there which you could but he still thought that a stand alone PUD, not thinking about what may happen to it next week, should have a recreation area that is more than what you have.

Ms. Morris commented that Mr. Gilley was intending to put a play area in. She asked if she could let him speak to that.

Chairman Dunn stated the only thing that shows here is a gazebo.

Mr. Clay Gilley pointed out on the map the eleven areas by the pond. He said the plan before the Board tonight was strictly a preliminary plan. He commented we have talked about putting a gazebo. He remarked there was discussion about possibly having a dock near the pond for the children to fish on and each lot, as Ms. Morris has previously said, has a membership with the country club. Mr. Gilley said there was a natural willow walking trail through there and they have talked with the Homeowners Association and the Board with what they would like to go on that area there.

Commissioner Frady said there would be no Homeowners Association there until after he had a lot of work there.

Commissioner VanLandingham asked Mr. Gilley which Homeowners Association did he consult with on this.

Mr. Gilley said he talked with all Homeowners' Associations in Whitewater. Mr. Gilley said he was a resident there.

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Chairman Dunn commented what everyone was talking about here had nothing to do with the Homeowners Association.

Mr. Gilley remarked that was why he said he had eleven acres there where he would put a gazebo, and have fishing, bicycling and hiking trails there for the children.

***On motion made by Vice Chair Wells, seconded by Commissioner VanLandingham to deny Petition No. 1071-01. Chairman Dunn asked if there was any discussion.***

Commissioner VanLandingham said he, too, felt that if you were looking for a PUD, it has to stand by itself and we cannot draw the amenities from the existing PUD that were not considering in this petition. He added in looking at that, he agreed with Mr. Frady that there is not anything extraordinary about the petition that would let it be recognized as a PUD. He stated a PUD is not just a vehicle to get higher density, there is a reason for that, and that is if you have extenuating circumstances on a configuration of the land or the need of the community, then a PUD is used. He claimed to him, to see density increased using flood plain as a greenspace, minimum buffers, one-acre lots, cul-du-sacs, he saw nothing extraordinary about the plan except it is a high-class subdivision, not a PUD.

Commissioner Frady stated he was not totally against PUDs, he felt if there was a PUD here he might be able to support it, but he felt the applicant didn't have one yet on a stand alone situation. He commented that a PUD was something that he could live with or not live with. He said he would support a PUD if it was totally a PUD. He added there was something the applicant could do to make it one.

Chairman Dunn remarked if some of you can count you probably have figured out what he had to say would not mean much. He commented when he looked at this, he thought technically that it did have enough to be a stand alone PUD. He said he did not like what they had done with it, but he felt it had enough to be a stand alone PUD. He stated that it looked to him like there was an assumption made that if we made this a PUD we could plug it into Whitewater Creek and therefore have amenities here but those amenities did not exist for Whitewater Creek either. He added that this was privately owned property and the club and golf course were private and there was no common use area there to plug it into. He said, in effect, if you go into the Whitewater Creek PUD, or Prestwick, you would have the only common use area in the whole thing. He commented everybody who lived in Whitewater Creek may be using the Gazebo in Prestwick. He remarked the Board did have some problems here with the way it has been constructed obviously. He said he would be a little more lenient in referring to it as a PUD because the yield on the land was the exact same yield as the rest of the existing PUD in Whitewater and across the road in High Grove.



***The motion to deny carried 3-1 with Chairman Dunn opposing.*** A copy of the Resolution and Ordinance denying Petition No. 1071-01, identified as "Attachment No. 1" follows these minutes and are made an official part hereof.

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Chairman Dunn stated the next action on the agenda was whether or not the Board should consider this land if it was approved as a PUD and plug it into Whitewater Creek. He pointed out that the people in Whitewater Creek must understand that the original PUD includes High Grove, and The Farms, it was not just Whitewater Creek. He commented it was a much larger area than Whitewater Creek and so there were a whole lot of issues to deal with. He pointed out it was nice when they held a meeting and took a vote of 98 to 22 but they didn't poll the 300 people across the road which were also in the PUD. He said from the standpoint of who wanted it and who didn't, perhaps everybody in High Grove would have said no. He said he didn't know. He asked if the applicant would like to present their case here.

Carl Westmoreland said he didn't think he needed to waste any more time because they couldn't come in unless the Board approved the previous zoning as a PUD and the Board turned that down.

**PETITION NO. RDP-002-01:** Consideration to revise a Development Plan to add land area and density (60 lots and 16.84 acres of open space) to an existing Planned Unit Development, Whitewater Creek Community. This property is located in Land Lot 3 of the 6<sup>th</sup> District and Land Lot 224 of the 4<sup>th</sup> District and fronts on Redwine Road, Bernhard Road, and Troon Drive.

***On motion made by Commissioner VanLandingham, seconded by Vice Chair Wells to deny Petition No. RDP-002-01. The motion carried 4-0.*** A copy of the Resolution, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

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**PETITION NO. 1074-01:** Clayton O. Carmack, Owner, Mukut Gupta, Agent, request to rezone 40.55 acres from A-R to R-72 to develop a single-family residential subdivision consisting of 18 lots. This property is located in Land Lot 4 and Land Lot 29 of the 5<sup>th</sup> District and fronts on Old Senoia Road.

Chairman Dunn said he received written notice to defer this petition and it will be included in the original motion to defer until July 26, 2001.

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**PETITION NO. 1075-01:** 3D Properties, Owners, and Tony Davis, Agent, request to rezone 8.10 acres from A-R to O-I to develop a Medical Office. This property is located in Land Lot 39 of the 7<sup>th</sup> District and fronts on S.R. 54 West.

Jefferson Brown of Jefferson Brown Design Group, representing 3D Properties, stated he would like to request to reuse the existing residential home there based upon the approval of A-R to O-I. He commented that he would like to maintain the residential-architectural style adding a front porch in keeping with the residence to give them a full year and acceptable entrance where we can provide some life safety ramps to comply with ADA.

Chairman Dunn asked if anyone else wished to speak in favor of this petition and there was none. He asked if there was anyone who wished to oppose the rezoning. Seeing none Chairman Dunn brought the matter back to the Board for discussion.

***On motion made by Commissioner Frady, seconded by Vice Chair Wells to approve Petition No. 1075-01.***

Chairman Dunn asked Mr. Brown what he was going to do with the land in front of the building.

Mr. Brown remarked that right now there were no current plans. He said they have recommendations that Mr. Nubbs, once they received approval, would not be able to sell produce out there.

Chairman Dunn said the county was going to lose an institution here.

Mr. Brown agreed with Chairman Dunn's statement and commented that, fortunately, he did have another place to move to at Highway 54 and Ebenezer Road so he would still be a fixture.

***The motion carried 4-0.*** A copy of the Resolution and Ordinance approving Petition No. 1075-01, identified as "Attachment No. 3", follow these minutes and are made an official part hereof. A copy of Staff's Investigation and Analysis, identified as "Attachment No. 4", follow these minutes and are made an official part hereof.

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**PETITION NO. 1077-01:** Lynn Fedor, Owner, and Thomas Fedor, Agent, requested to rezone 0.63 of an acre from A-R to O-I to develop an Insurance/Financial Planning Office. This property is located in Land Lot 121 of the 5<sup>th</sup> District and fronts on S.R. 54 East and Plantation Drive.

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Mr. Thomas Fedor, Agent and Applicant, stated his wife, Lynn Fedor, was the owner of the property. He commented their request was to change from a single-family home from A-R to O-I to develop an insurance and financial office for his wife who has been in the business eighteen years. He said their intent for the home is to use the same exterior brick walls, brick in the existing carport for use of the garage, remove and rebuild the roof from a 412 pitch to an 812 pitch, add dormers, reconfigure the front porch and wrap it around on the west side.

Chairman Dunn asked if there was anyone to speak in favor, hearing none, he asked if anyone wished to speak in opposition and no one raised their hand. He brought the matter back to the Board for a motion.

***On motion made by Commissioner Vice Chair Wells, seconded by Commissioner Frady to approve Petition No. 1077-01.***

Chairman Dunn said the drawing he had before him showed that there was one parking space short. He asked Ms. Zeitler if this had been adjudicated.

Ms. Zeitler said Mr. Fedor would have to get a variance if he did not meet the parking requirement.

Chairman Dunn inquired if Mr. Fedor understood the need for the parking requirement. He advised Mr. Fedor that he needed six parking spaces to do this and there was only 5 shown in the drawing. He added that with 5, Mr. Fedor would have to go before another Board.

Mr. Fedor said yes sir, he understood.

***The motion carried 4-0.*** A copy of the Resolution and Ordinance approving Petition No. 1077-01, identified as "Attachment No. 5", follow these minutes and becomes an official part hereof. A copy of staff's Investigation and Analysis, identified as "Attachment No. 6", follow these minutes and becomes an official part hereof.

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**PETITION NO. 1072-01:** Nancy Cooper and Mitchell Edwin Cooke, Owners, and Landrum Family Limited Partnership and Attorney Newton Galloway, Agents, request to rezone 6.18 acres from A-R to C-H to develop a Self-Storage Facility. This property is located in Land Lot 70 of the 5<sup>th</sup> District and fronts on S.R. 85 South. This item was tabled from the March 22, 2001 meeting.

Attorney Newton Galloway stated he was there on behalf of the Landrum Family Partnership, who was the contract purchaser for this property. He thanked the Board for indulging his

request to hold him until the end because he had a zoning commitment in Spalding County as well. He commented that had he known the Whitewater Creek Subdivision had been on the agenda, he might not have bothered to write the county a letter but he appreciated the county's cooperation with him.

He said the Landrum Family Partnership consists of Mr. Bill Landrum and Mr. Bill Norris who are present and they are contract purchasers for this tract which is 6.18 acres. He distributed a duplicate of the materials submitted to the Planning Commission. He mentioned that this property was just below the city limits of the City of Fayetteville and the property was presently owned by Ms. Nancy Cooper. He stated the property was presently zoned A-R, but if you look in the section of the materials dealing with the zoning map, you will see that all of the property down that small neck on Ga. 85, with the exception of the church tract at the corner of Price Road, and the property that was immediately to the south of this tract was already zoned C-H. He said he was requesting to rezone to C-H, for a use that the county identifies as an allowed use in this zoning district for the development of personal storage facilities. He said the application comes to the Board with a 4-0 recommendation from the Planning Commission and one member was absent when he appeared before them.

Mr. Galloway suggested one modification. He stated the Planning Commission basically looked at the conditions that the staff had recommended and he has not had time to sit down with the staff by the time the Planning Commission met, and while technically they did not recommend any conditions, plainly it was their intent to direct the applicant to sit down with the staff and work on the conditions and so that was what they did. He said subsequent to the Planning Commission meeting, they had a very productive meeting with Ms. Zeitler and he thanked her for her time in meeting with them. He commented that both parties worked reasonably to develop a set of conditions that were acceptable for the project and those were attached and identified in your first tab in the materials which were the revised staff recommendations. He said those recommendations (conditions) come to the Board and while they consist of five proposed recommendations (conditions), all of which go to modify the plan as it existed at the time it was heard by the Planning Commission, all of the conditions go to improve aesthetics and the appearance of the property. He added the conditions particularly address the protection of the abutting agriculturally zoned property that was located immediately to the south. He said the conditions as they are revised have the support of the applicant and staff.

Mr. Galloway said the application process in this case proposes a use that is consistent with the county Land Use Plan, it is consistent with the development of the adjoining properties across the road, and above and below the property. He stated with the cooperation of staff, the parties have agreed to conditions which would provide quality aesthetics and protection for the residential tract located to the south. He asked for approval of this petition.

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Chairman Dunn asked if anybody wished to speak in favor of this petition. Seeing none he asked if there was anybody who wished to speak in opposition to the petition and hands were raised.

Julie Matulia, 190 Manor Drive, Fayetteville, commented that when she heard about this it was purely by accident. She advised that she did not have any interest in normally being involved in these types of things. She stated the thing that most concerned her at the Planning Commission's meeting, which she attended for the Pailer house, was that this particular planned project was going to be 86 percent impervious surface. She said she talked with Ms. Zeitler and they had whittled that down to 82 percent. She commented barring there were no regulations for commercial property in the county concerning impervious surfaces, there would be no regulation to go by. She said she did do some research on it, and, in the county, she couldn't find anything and there were no overlays for that area either. She remarked there were regulations in the city for 40 percent impervious surface for commercial, and 70 percent for industrial. She said she felt like this was stretching the rubber band a bit too far at 82 percent. She said not only did she feel very strongly about the impervious issue, she felt this way about the architectural integrity of this particular subject property. She added, while again, there were no regulations for architectural design in the county in that particular overlay, she asked if perhaps that could be changed very soon. She also suggested, in the absence of any regulations, that the Board use the City's regulations, since this particular piece of property actually abuts the City in the back if she was not mistaken. She remarked if the Board did not want to use the city's regulations that maybe it could use another overlay from a different area, of possibly 50 percent impervious surface on commercial.

Ms. Matulia stated since Ms. Zeitler will be the only one working on this plan design, once the meeting was over and everyone was gone tonight, if this was approved commercial which she understood was really the issue here, she and others like her would not be here to do the plan design, we will not be here to whittle that impervious surface down to 50 percent. She said right now, not that the county had a choice, but the county needed to look at what it was doing with this commercial zoning. Ms. Matulia asked if it was a medical office or a public storage as there was a big difference. She added if it was a medical office and brick and similar in architectural integrity, great.

Chairman Dunn asked Ms. Matulia if she had seen the new conditions that the applicant had agreed to.

Ms. Matulia stated yes she had a copy of the conditions.

Mr. Kevin Fannin, 235 Royal Ridge Way, Fayetteville, commented he was representing the Royal Ridge Homeowners Association as Vice Chairman. He asked if it was possible to have the new revised conditions reviewed as he was not aware of them. He said he may miss speak not knowing them.

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Chairman Dunn advised Mr. Fannin to go ahead and speak as the Board probably would correct any of his misgivings.

Mr. Fannin said the concern of the Homeowners Association was not only the impervious surfaces, but that this was setting a precedent. He commented he had been around long enough to know that as time progressed, progress would march down Highway 85. He said the Association's concern was if they accepted this proposal without the revised conditions, not knowing what they were, that a precedent might be set, and as progress moved closer to their subdivision entrance, they would lose their right to speak out against it. He stated in reference to the impervious surfaces, he was up and down the road all of the time and if you have ever seen what happens on Highway 85 in a light rain, you would see paving 82% of that six-acre property was only going to cause more problems for the folks up and down Highway 85. He said further it would ultimately impact his subdivision with the runoff coming that way. He said once more that if he did not take a stand here, he may be setting a precedent going forward. He said other concerns were the fact that the garage doors face outward, the restrictions with the lighting, the parking of RV and rental trucks and things of that nature. He said these are the things that were mentioned in the original petition, the conditions that the staff recommended that were waived at the first presentation. He stated he was through, however, he was concerned about setting a precedent, especially in light of the fact that he was not aware of the new conditions.

Chairman Dunn inquired of Ms. Zeitler if she had determined what the percentage was for impervious surface.

Ms. Zeitler said she had not calculated it because she did not have anything but the concept plan. She added that the recommended conditions would help the impervious surface. She stated she did not have the calculation but she felt that 82 percent would probably be pretty high. She mentioned once she had the sight plan she felt it would be much lower than 82 percent.

Chairman Dunn asked Ms. Matulia where she got the 82 percent from.

Ms. Matulia responded that the 82 percent was actually in the plan that was revised. She said it sounded to her that this was a matter of opinion that it would be lower. She commented she was looking at rates that were 70 percent impervious that were commercial so she wished to reiterate that she was not going to be here when Ms. Zeitler was sitting down with Mr. Cooke.

Vice Chair Wells pointed out that on pages four and five Ms. Zeitler was quoted as pointing out the buffer required, etc. etc., and she added that if the property were to be rezoned to a non-residential zoning district prior to this development, being site plan approved, then the buffer would be reduced. Ms. Wells said Ms. Zeitler also pointed out that the impervious surface for industrial uses was limited to 70 percent, and even though this was in a

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commercial zoning, and a more light industrial use, it far exceeds the amount of impervious surface which the county liked to see.

Ms Zeitler stated that before the conditions were revised, the revised conditions increased the landscaping a lot so all along the front, the sides and the rear, the landscaping areas were increased and the plan did not show that.

Vice Chair Wells commented that the Board really did not have any idea what the impervious surface was going to be.

Ms. Zeitler replied that she had not recalculated it and neither did she know where Ms. Matulia came up with the 82 percent. Ms. Zeitler said it was originally 86 percent on the plan that they submitted and that was an incorrect plan because it did not show the 50-foot buffer, and then with the recommended conditions, it would be much less than that.

Chairman Dunn said the county did not have a specific requirement anyway.

Ms. Zeitler said that was correct and any concerns that did come out when she received a site plan that was more specific could be addressed at the site plan stage with additional conditions.

Commissioner VanLandingham asked if the Board members felt they should be a little more specific about the impervious surface now. He commented that he was concerned if the Board approved this request without more specific information on the plan. He stated there was a growing awareness on the storm water runoff and our county was going to have to address this at some point in time. He said when there was this much asphalt and concrete in one area like this, then somebody was going to have to pay for this. He commented that he felt the county should not go along with this and the Board not approve this until it knew what it was doing.

***On motion made by Vice Chair Wells, seconded by Commissioner Frady to approve Petition 1072-01 with conditions and with the additional condition that the final product will not exceed seventy (70 percent) impervious surface.***

Vice Chair Wells stated if we can limit our industrial use to 70 percent, and with everything that we know now about groundwater runoff, and about maintaining the integrity of the environment, she did not see why the Board could not at this point in time say, this is the standard we are going to use.

Commissioner Frady stated they could compact some of that soil very easy and he knew of people who had driveways that when you walked on it you felt as though you were walking on

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asphalt. He said one could make a pretty tough surface out of gravel that would still soak water.

Chairman Dunn said one of his concerns was trying to make somebody comply with a non-existent standard. He said he found this to be a little difficult too.

Vice Chair Wells stated that was why she made a motion to approve this petition.

Commissioner Frady said the zoning rules did not cover any conditions to start with so every time you make a condition, you are doing the same thing.

Chairman Dunn said yes, but a condition to put a few extra trees in was one thing but this limits the size of the property.

Commissioner Frady said no, but the principle of the thing was that if you put a condition there, then there were other conditions too because the ordinances did not provide for a conditional zoning.

Chairman Dunn said yes, but we are talking about a reaction to what may or may not happen in the future.

Vice Chair Wells commented that her concern here was we are talking about six acres and could easily have in excess of 70 percent impervious surface. She stated we are not talking about a small one-acre lot where 80 percent of an acre was eight tenths of an acre and that was a lot of impervious surface.

Commissioner Frady said he wondered how much of the ground was covered by buildings because there would be a lot of buildings.

Chairman Dunn said he did not want to hold someone to a lot of rules that were non-existent so he would not support the motion.

Commissioner Frady said he would withdraw his second to see if Chairman Dunn could come up with something better.

Chairman Dunn said we have a motion and a second on the floor.

Commissioner Frady replied you don't have a second now. He added he thought Chairman Dunn had something in mind.

Chairman Dunn said he had nothing in mind because he didn't think this was the time to start setting a new law in the county.



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Commissioner Frady said he commented that we make conditions every rezoning and we are doing the same thing here.

Commissioner VanLandingham said the county has already made conditions on this zoning.

Commissioner Frady said we have five besides the new one.

Commissioner VanLandingham asked what we should do with the others, throw them out.

Chairman Dunn said they petitioner agreed to the other rezoning conditions. He added he disagreed the first time and changes were made.

Commissioner VanLandingham commented that there was an alternative to asphalt. He mentioned that the county was going to try a new system on Quarters Road. He added that there was another product that he just saw at a conference and he had information on it. He said he hated for us to jump off on asphalt when there was an alternative, and we have to start at some point in time.

Chairman Dunn suggested if we were going to do something like that, that we would need to have a review by the staff with recommendations and then change our ordinance.

Vice Chair Wells said that would be the proper way to do it, but barring that, she was going to have to vote in opposition to this petition tonight. She said this was one of those things, do we turn down the petition, something that could easily go there for lack of trying to make it work on the petitioner's behalf because she could only support it if we had a limit on that and she could not support it otherwise.

Commissioner Frady remarked that he would let the second to his motion stand.

Commissioner VanLandingham commented that he was not in opposition to the storage facility, he was in opposition to the asphalt where he felt there was an alternative and if this was going to remain a stated position on the petition, then he could not support it. He stated he did not know where we went from here.

Vice Chair Wells asked Attorney McNally what the precedence was for setting conditions on a rezoning request.

County Attorney McNally said the Commissioners could put particular conditions on a specific site. He commented that in this particular site the Board was approving the zoning but the Board was confining the impervious surface to 70 percent was his understanding. He said Ms. Wells could make that as a motion.

Ms. Zeitler stated that she could do that as an administrative site plan condition. She said she would work very closely with the Engineering Department and the applicant to see if there was an alternative and get the impervious surface percentage as low as possible.

Vice Chair Wells remarked she had a problem with just saying to do that because then she felt the Board was putting a burden on Ms. Zeitler to make judgement calls that the citizens perhaps might think were beyond her assigned duties so we probably need to address it from a directive so that nobody will come back to her and say that she was playing favorites. She said she wanted to protect Ms. Zeitler as much as possible too. She said her motion stood and she could not support this plan any other way. She commented that she was not opposed to the facility, she was just opposed to the impact that it would make to the environment and the neighborhood.

Chairman Dunn said that when it came to laying conditions on applicants he agreed that one could lay reasonable conditions on people, and we do it all the time, and they are relatively minor normally, and he didn't know where the line was between minor and major, but this seemed to him to be a huge condition to put on somebody when we have no substantial law to back it up, we have no policy in the county to back it up.

Vice Chair Wells stated the county did have something to back it up. She commented that the industrial uses were limited to 70 percent. She said she didn't think that this was that far removed from the concept of industrial use.

Commissioner Frady pointed out that the county required all parking spaces to be paved at this time.

Chairman Dunn said there have been times when he felt some of the conditions that we laid on people were a little bit arbitrary. He added that he also felt that everybody has a right to be held accountable to the rules that exist. He stated this Board did not have any problem holding people to the rules.

Ms. Zeitler commented that the county had set a precedent before with many commercial and office projects where we had them subject to an overlay requirement, and that was limited to 50 percent impervious.

Chairman Dunn said Ms Zeitler brought up exactly what he was talking about. He stated the Highway 54 overlay was what she was talking about and we took a two-year study to figure out what the rules should be there. He added that to apply those rules to other pieces of property just because somebody didn't like what they saw when it came through the gate, he did not agree with. He continued that if the Board wanted to have an overlay concept for Highway 85, the Board should staff it and do it right, and be as tough as it wants to be. He said these rules would then apply to everyone.

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Commissioner Frady asked if the county ever did an overlay study on south 85 and Chairman Dunn said we had not.

Ms Zeitler said the county did this on north Highway 85 but not on south 85.

Vice Chair Wells remarked that as far as she was concerned, this was not an overlay, this was looking at every rezoning as we do. She said the Commissioners did not have to rezone, it was something that they could do and each and every time we look at a rezoning we have to look at the totality of its impact on the surrounding area, otherwise, they could leave it as it was zoned because it was legally zoned. She mentioned that if the county had no standard for impervious surfaces, for something that was comparable, she would say we are stepping way beyond the boundaries and it was something that the petitioner could not have reasonably anticipated, but she did not think we were doing that here because we have the 70 percent. She said it was something we could have reasonably anticipated and it may not even be a big deal by the time we have gone back to the buffers and the vegetation, and that kind of stuff. She stated we may be poll vaulting over something that was inconsequential.

Chairman Dunn commented that if the Board was to do something like this, then the developer would have the opportunity of putting all of the buildings in and leaving dirt roads around the buildings. He said then the county would have a bigger mess than this Board would want, especially either in the summer in a drought it would look like desert storm going down Highway 85.

Commissioner VanLandingham said he had a hard time understanding why we had to have asphalt under an RV or a boat that was going to be parked there for 3 weeks. He commented that he had been parking a truck on gravel for 15 years and the truck has not rusted or quit running and water goes through the gravel.

Chairman Dunn stated that was not what he was talking about, he was talking about the roads leading to each place where people drive U-Haul trucks and unload them and then drive out, constantly, all day long in one of these things.

Commissioner VanLandingham remarked he was not talking about that area, he was talking about the parking area.

Chairman Dunn replied that was impervious surface.

Commissioner VanLandingham said then it can be limited to.....

Chairman Dunn said we could limited it by leaving dirt roads around the buildings and we do not want that.

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***The motion carried 3-1 with Chairman Dunn opposing.*** A copy of the Resolution and Ordinance approving Petition No. 1072 -01, identified as "Attachment No. 7", follows these minutes and are made an official part hereof. A copy of Staff's Investigation, Analysis, and Recommended Conditions, identified at "Attachment No. 8", follow these minutes and are made an official part hereof.

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***CONSENT AGENDA: On motion made by Vice Chair Wells, seconded by Commissioner Frady to approve the Consent Agenda as presented. The motion carried 4-0.***

**FAYETTE COUNTY SCHOOLS MENTOR PROGRAM:** Approve request from Donna Worcester of the Fayette County Schools Mentor Program to apply for continuation of grant funds from the Governor's Children and Youth Coordinating Council for the Community School Mentor Program and to have the Chairman execute the Certificate of Compliance with the Service Delivery Strategy.

**MINUTES:** Approval of minutes for Board of Commissioners' meeting held on April 12, 2001 and Called Session held on April 18, 2001.

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**PUBLIC COMMENT:**

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

**Bob Craft:** Mr. Craft stated he had a concern where when property/greenspace was donated to the county, that was sweet and great and is part of a rezoning. He gave as an example the Chimneys property on the reservoir which was donated "to save the reservoir" because it was "greenspace for the county", etc. etc., yet you go back there and there is a big sign that says residents of the Chimneys only. He said he thought it was donated to the county and that was what he was concerned about, every time a piece of property is donated to the county. He asked if the donation was part of the amenities kit for the subdivision.

Commissioner Frady addressed Mr. Craft because he seemed concern over one of tonight's rezonings and said the land was deeded to the homeowners.

Mr. Craft said he realized that land was for the amenities when he looked back at it. Mr. Craft said that anytime these rezonings come up and they look like they want to donate the property to the citizens of Fayette County, there was a big difference from donating to the citizens of a subdivision.

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Chairman Dunn asked Attorney McNally if anybody could go on donated county property.

Attorney McNally said he didn't know about any sign at the Chimneys. He said the laddered along the stream behind the Chimneys was a particular area that the county felt would be valuable to the county and have since put together several other parcels so that there is county property that extends, basically from Starr's Mill High School down to Starr's Mill. He remarked that land has been donated to the county and was in the county's name.

Chairman Dunn requested that Mr. Cofty have a marshal check out the site to see if there was a sign restricting people from using county property.

**Steve Ott:** Mr. Ott commented that the American Cancer Society was having its Annual Relay for Life May 18 - 19 and they are trying to expand their event past the typical seventeen to eighteen teams. He informed the Board that each team consisted from ten to fifteen people. He invited the Commissioners to the relay on May 18<sup>th</sup> at 6:00 p.m. at Fayette County High School. He said if the Commissioners could be there they would appreciate having them. He added there was no obligation but members of the Board would be given time to speak if they wanted to.

**Tim Toms:** Mr. Toms stated he lived off Highway 85 and McBride Road. He requested the Board to consider an overlay plan for Georgia Highway 85 south with the development that was happening in the Starr's Mill area and the zoning that happened tonight. He said he felt this was something that needed to be considered. He claimed he knew the Board was aware of this and he just wanted the county to be built the best way it could be.

**Marty Alexander:** Mr. Marty Alexander commented he was President of Royal Ridge Homeowners Association and said he was in favor of what was just mentioned. He stated the residents in the area were aware that development was coming down Highway 85 and they were not opposed to development but the residents in his area would like to see more effort put into what was coming so that they could have more organization than what he saw tonight.

Commissioner Frady asked Mr. Alexander if he had seen the overlay zone for Highway 54.

Mr. Alexander said he had not.

Commissioner Frady said if Mr. Alexander ever went across Highway 54 West, he would find a white brick building that was designed as part of the overlay for that area.

**Alicia Craft:** Ms. Craft asked when funds were allocated to the Fayette County Development Authority and how much money were they given and was advised the funds were allocated

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during budget time. She wanted to know what the Development Authority did with the monies it received.

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**STAFF REPORTS:**

**REQUEST FROM THE KNIGHTS AME CHURCH:** Attorney McNally advised the Board the county has a request from the Knights AME Church in Henry County. He said this church would like to have its property annexed into the City of Stockbridge. He said further that our wetland mitigation site sits between this property and the City of Stockbridge's boundary. He commented this church would like to know whether or not Fayette County would be agreeable to permit the wetland mitigation site to be annexed into the City of Stockbridge so that they in turn can be annexed into the City of Stockbridge. He said he realized the Board may want to give this some thought but it is a request on the part of this church. He stated he would be happy to answer any questions the Board had. He said the Board may want to take this under advisement and he would bring this up at the next meeting and the Board could make its decision then.

Commissioner Frady inquired if there was an upside and/or a downside to this.

Attorney McNally stated he really did not believe that the county has a downside to it. He added it didn't make much difference whether our site be in the unincorporated county or in Stockbridge. He commented that this would help the church with annexing into the city. And we would want them to pay for any costs involved in the matter.

Chairman Dunn commented that an annexation can jump over government property so why couldn't they do this without our agreeing to it.

Attorney McNally said there was a question relative to that because, although we own the property, we are not the government in Henry County.

Vice Chair Wells asked Attorney McNally if he felt comfortable that there was no downside or did he feel the need to explore this a little bit more. She said she wanted to know definitely.

Attorney McNally said he would check into it further and advise the Board.

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**RESOLUTION NO. 2001-07, REDRAWING OF THE UNITED STATES CONGRESSIONAL DISTRICTS WITHIN GEORGIA:** Chairman Dunn briefed the Board concerning the issue of redistricting for the State of Georgia. He stated our legislation

delegation was in the midst of fighting for their lives with some of the Governor's people at the statehouse and there have been several recommendations made and brought up from different jurisdictions which would severely change what Fayette County would look like tied into the Legislature. He stated the Minority Leader of the House called him and they had a very long discussion about this. Chairman Dunn remarked one of the recommendations Mr. Westmoreland had seen would have Fayette County part of three different Congressional Districts in Washington. He said one would be the Third District down here and there would be one coming in from Clayton County lashed up to who knows where, and the other one would be in the northern part of Fayette County and would be a part of Mr. Lewis' District. He said we have an opportunity to send a message and Mr. Westmoreland would like us to help him send the message that Fayette County has a very strong desire that the entire county be in one Congressional District and that Congressional District be the Third Congressional District of Georgia. He stated Mr. Westmoreland has asked that the county get the Resolutions to him by no later than April 30<sup>th</sup> for the next round of meetings that he wants to go to. He said, quite frankly, Mr. Westmoreland did not know if the resolutions would be successful, however, he has asked several counties to help out in the process. He remarked that Fayette County owed Mr. Westmoreland this support, otherwise, the county could look like a Salvador Dali painting by the time we were through redistricting. A copy of Resolution No. 2001-07, identified as "Attachment No. 9", follow these minutes and is made an official part hereof.

**RESOLUTION NO. 2001-06, REDRAWING GEORGIA'S HOUSE OF REPRESENTATIVE DISTRICTS:**

Chairman Dunn briefed the Board involving the second resolution and how it would affect Fayette County. He explained that Fayette County was part of two House District seats in Georgia and one of the seats has a little piece of Coweta and that was Mr. Westmoreland's. He added that Fayette County has had a population increase that would allow us to have two representatives totally within Fayette County. He said one of the suggestions he has had to deal with this past week would have us in eight different house seat districts and he felt Fayette County would not deal well with this, having districts from all over. He stated Mr. Westmoreland has asked if we were in favor of this to give him a resolution requesting that Fayette County have two seats totally within Fayette County. Mr. Dunn said he supported this as well so we would just have two representatives that represent Fayette County and we wouldn't have to deal with eight other people from all over the place.

***On motion made by Chairman Dunn, seconded by Commissioner Frady that the Board sign and deliver to Mr. Westmoreland, the two resolutions included here.*** The motion carried 4-0. A copy of Resolution No's 2001-06, identified as "Attachment No. 10", follow these minutes and become an official part hereof.

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There being no further business to come before the Board, Chairman Dunn asked for a motion to adjourn.

***On motion made by Vice Chair Wells, seconded by Commissioner Frady to adjourn the meeting at 9:05 p.m. The motion carried 4-0.***

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Linda Rizzotto, Chief Deputy Clerk

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Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 24<sup>th</sup> day of May, 2001.

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Linda Rizzotto, Chief Deputy Clerk