

STATE OF GEORGIA

COUNTY OF CLAYTON

RESOLUTION NO. 2007 - 108

A RESOLUTION TO ADOPT A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR LAND USE AMENDMENTS, AS WELL AS APPLICATIONS FOR REZONING OF PARCELS OF LAND OR BUILDINGS, AS THEY RELATE TO EXISTING OR PROPOSED PROPERTIES WITHIN ALL ZONING DISTRICTS WITHIN CLAYTON COUNTY LOCATED ON PROPERTY FRONTING ON SPUR 138 EASTWARD FROM ITS INTERSECTION WITH HIGHWAY 138, NORTH AVENUE, TO ITS INTERSECTION WITH HIGHWAY 138, STOCKBRIDGE ROAD, AND WALT STEPHENS ROAD AND ON HIGHWAY 138 EASTWARD FROM THE CITY LIMITS OF THE CITY OF JONESBORO TO THE HENRY COUNTY LINE TO BE IN EFFECT FROM ENACTMENT, THROUGH AND INCLUDING OCTOBER 31, 2007, OR EARLIER; TO ADOPT THE PURPOSE OF THE MORATORIUM; TO ADOPT THE FINDINGS IN CONSIDERATION OF THE MORATORIUM; TO ADOPT THE DURATION OF THE MORATORIUM; TO ADOPT AN APPEAL PROCESS; TO ADOPT AN EFFECTIVE DATE OF THIS RESOLUTION; AND FOR OTHER PURPOSES.

WHEREAS, the County desires to further study and to implement its study for the land use and development of property in the subject area and for possible revision of certain provisions of its Code of Ordinances, specifically relating to land use and zoning in the subject area; and,

WHEREAS, the Board of Commissioners believes that certain knowledge derived

from such a study and consideration of possible implementations of said study as well as possible revisions to the Zoning Ordinance will provide a more effective and efficient plan for overall development within the County; and,

WHEREAS, the Board of Commissioners previously has entered into a contract with a Consultant for revision of the Clayton County Zoning Ordinance as it relates to all properties within all zoning districts within Clayton County and is in the process of evaluating and reviewing all revisions to the Zoning ordinance. Said moratorium as set out herein would preserve the *status quo* as to existing or proposed properties in the subject area while the County's Planning and Zoning staff and Board of Commissioners can complete their study, consideration, and recommendations for adoption amendments to the Clayton County Zoning Ordinance, including, but not limited to, amendments related to land use amendments, as well as to rezoning of parcels of land or buildings, in existing or proposed properties within the various zoning districts in the subject area and within Clayton County; and

WHEREAS, the Board of Commissioners deems it in the County's best interest and the objectives provided herein can be best served by affirming and ratifying the adoption of the moratorium for the stated purposes and reasons.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS
OF CLAYTON COUNTY, GEORGIA AND IT IS HEREBY RESOLVED

Section 1. Declaration, purposes, and intent.

It being essential to the proper government and administration of the County and to protect the health, safety, and welfare of its citizens, the Clayton County Board of

Commissioners hereby determines that it is necessary to enact a moratorium on zoning activities as they relate to applications for land use amendments, as well as to applications for rezoning of parcels of land or buildings, in existing or proposed properties within all zoning districts within Clayton County located on the county's principal east-west traffic corridor, Spur 138 eastward from its intersection with Highway 138, North Avenue to its intersection with Highway 138, Stockbridge Road, and Walt Stephens Road and, in addition, Highway 138 eastward from the city limits of the City of Jonesboro to the Henry County line. The policy and purpose of this moratorium is intended to allow sufficient time to further study and to implement the study, to propose revisions, and to adopt amendments to the Zoning Ordinance as they relate to the following:

(a) To maintain the excellent appearance of the County, lessen congestion, further traffic safety, provide adequate light and air, prevent overcrowding of land, avoid urban sprawl, and facilitate the adequate provision of transportation and other public requirements; and

(b) To provide for the continued orderly development of land in accordance with the principles to maintain, to preserve, and to improve the high quality of life, growth, aesthetics, and the environment now existing in the subject area and within the County.

Section 2. Findings of fact.

The Board of Commissioners hereby adopts the following findings of fact as the basis for the imposition of this moratorium:

(a) A moratorium on zoning activities as they relate to all applications for land use amendments, as well as to all applications for rezoning of parcels of land or buildings, in

existing or proposed properties within all zoning districts in the subject area and within Clayton County is necessary as an emergency measure to preserve the *status quo* while the County's Planning and Zoning staff and consultants can study, consider, and recommend for adoption amendments to the Clayton County Zoning Ordinance.

(b) The moratorium is temporary in nature and is not a "final legislative action" and therefore is not considered a "zoning decision" that is subject to the Zoning Procedures Laws.

(c) The imposition of this moratorium is in furtherance of a legitimate government purpose, and is deemed to be in the best interest of the County, the citizens therein, and public in general.

Section 3. Moratorium.

Subject to the Administrative provisions hereinafter set forth, the Board of Commissioners hereby adopts the imposition of a moratorium, and the duration of this moratorium, with the following policies to be in effect:

(a) No applications, as they relate to applications for land use amendments as well as to applications for rezoning of parcels of land or buildings, in existing or proposed properties within all zoning districts in the subject area within Clayton County, shall be accepted.

Section 4. Duration.

The Board of Commissioners hereby adopts that the moratorium shall commence on the date of its enactment and remain in effect for a period through and including October 31, 2007, or until such time as the revisions to the Zoning Ordinance are completed and

adopted by the Board of Commissioners, whichever date first occurs.

Section 5. Administrative procedures.

The Board of Commissioners hereby adopts that certain property rights may have vested prior to the imposition of this moratorium in individuals who file a zoning application. In such event, the Board of Commissioners may accept an application, provided the Board is shown sufficient credible evidence of the expenditure of funds in reliance upon the current Zoning Ordinance absent the moratorium.

Further, the Board may require the submission of all evidence to be presented on or attached to such form—as the Board may provide—outlining all activities and the costs expended for each activity. Judging the sufficiency of the documents and/or evidence indicating the vesting of property rights shall remain in the sole discretion of the Board of Commissioners. The Board's decision in this regard shall be issued in writing to the applicant within three (3) days of receipt of the application with supporting documentation and/or evidence.

Section 6. Appeals—the granting of variances.

The Board of Commissioners hereby adopts the following appeal process:

1. Any party aggrieved by an administrative decision which results in the failure to accept an application related to land use amendment, or to rezoning of parcels of land or buildings, in existing or proposed properties within all zoning districts in the subject area within Clayton County and who otherwise advocates that his or her property has been severely and unjustifiably impacted by this moratorium, may file an appeal to the Board of Commissioners requesting relief or a variance from the requirements of the moratorium.

2. All appeals must be filed in writing with the Clerk of the Board of Commissioners, specifically stating the grounds of the appeal.

3. The appeal shall be docketed and a hearing scheduled at the next regular meeting of the Board of Commissioners, or such other time as the aggrieved party may request.

4. The appropriate County Department shall review the grounds of the appeal and provide a recommendation of the Board of Commissioners relative to the merits of the appeal.

5. In considering whether to grant relief or a variance from the moratorium, the Board of Commissioners shall consider the following:

(a) The existence of extraordinary and exceptional conditions pertaining to a particular piece of property which would deprive the aggrieved party of rights enjoyed by other property owners in the vicinity of where the subject property is located;

(b) The amount expended by the aggrieved party for engineering, architectural design, or other professional work performed in accordance with the existing Zoning Ordinance absent the moratorium; and

(c) Such other factors as will do substantial justice under all the exigencies of the circumstances.

6. The Board of Commissioners shall render a decision on the appeal no later than its next regularly scheduled meeting.

7. Any aggrieved party dissatisfied with the decision of the Board of Commissioners may file a *de novo* appeal to the Superior Court of Clayton County.

Section 7. This Resolution shall be effective on the date of its approval by the Board of Commissioners.

SO RESOLVED, this 3rd day of July, 2007.

CLAYTON COUNTY BOARD OF COMMISSIONERS

Eldrin Bell
ELDRIN BELL, CHAIRMAN

Sonna Singleton
SONNA SINGLETON, VICE CHAIRWOMAN

Virginia Burton Gray
VIRGINIA BURTON GRAY, COMMISSIONER

Absent (att.)
WOLE RALPH, COMMISSIONER

AA
MICHAEL EDMONDSON, COMMISSIONER

ATTEST:

Shelby D. Haywood
SHELBY D. HAYWOOD, CLERK