

STATE OF GEORGIA

COUNTY OF CLAYTON

RESOLUTION NO. 2019 – 15

A RESOLUTION ADOPTING A MORATORIUM ON THE ACCEPTANCE OF ALL APPLICATIONS FOR DEVELOPMENT OR BUILDING PERMITS FOR REVIEW AND CONSIDERATION BY THE CLAYTON COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT AS THEY RELATE TO EXISTING OR PROPOSED PROPERTIES ZONED URBAN VILLAGE WITHIN COMMISSION DISTRICT 4 WITHIN CLAYTON COUNTY TO BE IN EFFECT FROM ENACTMENT THROUGH AND INCLUDING JUNE 30, 2019, OR EARLIER; TO ADOPT AN EFFECTIVE DATE OF THIS RESOLUTION; AND FOR OTHER PURPOSES.

WHEREAS, the Clayton County Board of Commissioners, as a part of planning, zoning and growth management, created and rezoned certain property to the Urban Village zoning classification; and

WHEREAS, during the public meetings held in connection with the consideration of said rezoning process multiple property owners appeared and expressed concerns about the proposed development; and

WHEREAS, the Board of Commissioners deems it in the best interest of the County to further analyze and discuss the Urban Village zoning classification and specifically the rezoning of the property located adjacent to Walt Stephens Road in Commission District 4 to Urban Village; and

WHEREAS, the County deems it necessary to adopt a Moratorium on the acceptance of applications for building or development permits for the development of properties zoned Urban Village within Commission District 4 to allow additional

input from the owners of the property located therein and for additional time for the Commissioners to consider the ramifications of said classification and rezoning; and

WHEREAS, the Board has been vested with substantial powers, rights and functions to generally regulate the practice, conduct or use of property for the purposes of maintaining the health, morals, safety, security, peace and the general welfare of the unincorporated portions of the County; and

WHEREAS, Georgia law recognizes that local governments may impose moratoria on zoning decisions, building permits, and other development approvals where exigent circumstances warrant the same, pursuant to case law found at Taylor v. Shetzen, 212 Ga. 101, 90 S.E.2d 572 (1955); Lawson v. Macon, 214 Ga. 278, 104 S.E.2d 425 (1958); and most recently County of Roswell et al v. Outdoor Systems, Inc., 274 Ga. 130, 549 S.E.2d 90 (2001); and

WHEREAS, the Courts take judicial notice of a local government's inherent ability to impose moratoria on an emergency basis; and

WHEREAS, the Georgia Supreme Court, in the case of DeKalb County v. Townsend, 243 Ga. 80 (1979), held that, "To justify a moratorium, it must appear first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and second, that the means are reasonably necessary for the accomplish of the purpose, and not unduly oppressive upon individuals." The Board of Commissioners has found that the interests of the public necessitate the enactment of a moratorium for health, safety, morals and general welfare purposes by means which are reasonable and not unduly oppressive; and

WHEREAS, the Moratorium for the acceptance of applications for building and development permits shall include, but not be limited to all permit applications, zoning related permit applications, sign applications, and variance applications; and

WHEREAS, the Board deems it in the County's best interest and the objectives provided herein can be best served by adopting this Resolution to provide that the above referenced Moratorium should remain in effect through and including June 30, 2019.

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

**SECTION 1. Findings of Fact**

The Board of Commissioners hereby makes the following findings of fact:

(a) It appears that the Urban Village classification as created in the Clayton County's Zoning Ordinance needs further review and discussion and the Board of Commissioners and the staff of the zoning office are in the process of conducting additional meetings with owners of property located in Commission District 4 in the areas around properties zoned Urban Village;

(b) The above processes require a limited cessation of the acceptance of all applications for permits for development of properties zoned Urban Village;

(c) It is necessary and in the public interest to delay, for a reasonable period of time, the processing of any applications for such period of time, to ensure that the same are consistent with the long-term planning objectives of the County.

**SECTION 2. Imposition of Moratorium**

(1) There is hereby imposed a Moratorium on the acceptance by the County of all building and development related applications for the development of properties zoned Urban Village within Commission District 4;

(2) The duration of this Moratorium shall be until June 30, 2019;

(3) This Moratorium shall be effective as of the date of adoption of this Resolution;

(4) This Moratorium shall have no effect upon applications submitted to the County prior to the adoption of this Resolution. The provisions of this Resolution shall not affect any approvals or permits previously issued, permits for repairs or renovations, or as to development plans previously submitted and approved by the County. The provisions of this Resolution shall not affect the issuance of permits or site plan reviews that have been approved by the County on or before the effective date of this Resolution or prior to the adoption of this Resolution;

(5) As of the effective date of this Resolution, no applications for development or building, permits or licenses will be accepted by any agent, employee or officer of the County with respect to any property in the above described area of the County, with the exception of those permits for the restoration of properties destroyed by fire or other acts of nature, or for accessory buildings and accessory uses and any application of such license or permit so accepted for filing will be deemed in error, null and void and of no effect whatsoever and shall constitute no assurance whatsoever of any right to engage in any act, and any action in reliance on any such license or permit shall be unreasonable;

### **SECTION 3. Severability**

It is hereby declared to be the intention of the Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this Resolution are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase therein. It is hereby further declared to be the intention of the Board of Commissioners to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Resolution is mutually

dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution. In the event that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Resolution and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Resolution shall remain valid, constitutional, enforceable, and of full force and effect.

**SECTION 4.** All Resolutions or parts of Resolutions in conflict with this Resolution are, to the extent of such conflict, hereby repealed.

**SECTION 5.** The preamble of this Resolution shall be considered to be and is hereby incorporated by reference as if fully set out herein.

SO RESOLVED, this 2<sup>nd</sup> day of January, 2019.

{Signatures on the following page}

CLAYTON COUNTY BOARD OF COMMISSIONERS



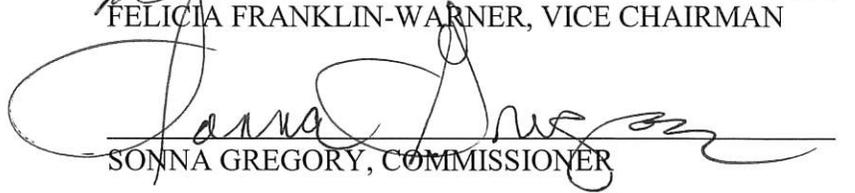
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JEFFREY E. TURNER, CHAIRMAN



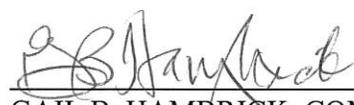
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FELICIA FRANKLIN-WARNER, VICE CHAIRMAN



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SONNA GREGORY, COMMISSIONER



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GAIL B. HAMBRICK, COMMISSIONER



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DEMONT DAVIS, COMMISSIONER

ATTEST:



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SANDRA T. DAVIS, CLERK