STATE OF GEORGIA

COUNTY OF CLAYTON

RESOLUTION NO. 2017 – 26

A RESOLUTION TO PROVIDE FOR EXCEPTIONS TO THE MORATORIUM FOR RESIDENTIAL VARIANCES; 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, has begun drafting and is preparing to adopt new zoning related ordinances and has been studying the County's best estimates and projections of the type of development which could be anticipated within the unincorporated areas of the County; and

WHEREAS, on April 19, 2016, the Clayton County Board of Commissioners passed Resolution 2016-80 adopting a moratorium on the acceptance of all zoning related applications for review and consideration by the Clayton County Board of Commissioners, the Zoning Advisory Board, the Board of Zoning Appeals, and the Clayton County Department of Community Development as they relate to existing or proposed properties within all zoning districts within Clayton County to be effective from enactment through and including August 19, 2016; and

WHEREAS, on August 16, 2016, the Clayton County Board of Commissioners passed Resolution 2016-160 extending the moratorium through and including November 31, 2016; and

WHEREAS, on November 15, 2016, the Clayton County Board of Commissioners passed Resolution 2016-175 extending the moratorium through and including January 31, 2016, and exempting from the moratorium (1) down zoning to agricultural, (2) applications for variance for property zoned commercial or industrial; and (3) the geographical area bound to the north by the Jonesboro City Limit, bound to the west by Tara Boulevard, bound to the east by South Main Street and bound to the south by Old Poston Road; and

WHEREAS, on January 17, 2017, the Clayton County Board of Commissioners voted to extend the moratorium through and including March 21, 2017; and

WHEREAS, on March 21, 2017, the Clayton County Board of Commissioners voted to extend the moratorium through and including May 31, 2017; and

WHEREAS, the Clayton County Board of Commissioners now wishes to exempt applications for variance for property zoned residential from the moratorium;

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, "[t]o 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 continued 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 zoning related applications shall include, but not be limited to all rezoning applications, zoning related permit applications, sign applications, and variance applications; and

WHEREAS, per Resolution 2016-175, the moratorium for the acceptance of zoning related applications shall not include (1) down zoning to agricultural, (2) applications for variance for

property zoned commercial or industrial; or (3) the geographical area bound to the north by the Jonesboro City Limit, bound to the west by Tara Boulevard, bound to the east by South Main Street and bound to the south by Old Poston Road; and

WHEREAS, as of the effective date of this Resolution, the moratorium for the acceptance of zoning related applications shall not include applications for variance for property zoned residential; 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.

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) The Clayton County Zoning Ordinance is in the process of being reviewed and revised and the Board of Commissioners is in the process of preparing the staff for the administration of the new Zoning Ordinance;

(b) The above processes require a limited cessation of the acceptance of all zoning related applications;

(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 County of all zoning related applications;

(2) The duration of this moratorium shall be until May 31, 2017;

(3) This moratorium shall continue in effect 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 Resolution 2016-80. 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 Resolution 2016-80;

(5) As of the effective date of Resolution 2016-80, no applications for development, permits or licenses for the above described uses will be accepted by any agent, employee or officer of the County with respect to any property in the unincorporated portions of the County, with the exception of those residential 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. Exemptions

As of the effective date of this Resolution, in addition to the previous exemptions established in Resolution 2016-175, this moratorium shall exclude applications for variance for property zoned residential.

SECTION 4. 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 5. All Resolutions or parts of Resolutions in conflict with this Resolution are, to the extent of such conflict, hereby repealed.

SECTION 6. 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 18th day of April, 2017.

CLAYTON COUNTY BOARD OF COMMISSIONERS

JEFFREY E. TURNER, CHAIRMAN

MICHAEL EDMONDSON, VICE CHAIRMAN

SONNA GREGORY, COMMISSIONER

GAIL B. HAMBRICK, COMMISSIONER

FELICIA FRANKLIN WARNER, COMMISSIONER

ATTEST:

SANDRA DAVIS, CLERK