

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

CHURCH OF SCIENTOLOGY OF)	
GEORGIA, INC., a Georgia)	
Corporation,)	
Plaintiff,)	CIVIL ACTION FILE
)	
vs.)	NO. 2010-CV-180058
)	
CITY OF SANDY SPRINGS, GEORGIA,)	
a Municipal Corporation of the)	
State of Georgia; the CITY)	
COUNCIL of the CITY OF SANDY)	
SPRINGS, GEORGIA; EVA GALAMBOS,)	
Mayor of the City of Sandy)	
Springs, Georgia; and JOHN)	
PAULSON, DIANNE FRIES, WILLIAM)	
COPPEDGE COLLINS, JR., ASHLEY)	
JENKINS, TIBERIO DeJULIO, and)	
KAREN MEINZEN McENERNY,)	
Individually in Their Official)	
Capacities as Members of the)	
CITY COUNCIL of the CITY OF)	
SANDY SPRINGS, GEORGIA,)	
Defendants.)	

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Transcription of Audio CD in Re:

Sandy Springs, Georgia
Planning Commission
RZ09-001/CV09-006
November 19, 2009

Transcribed by:
Kimberly S. Bennett, RPR, CRR, CBC, CCP
Certified Court Reporter and Notary Public

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BENNETT REPORTING, INC.
2910 Holly Pointe Court, N.E.

Marietta, Georgia 30062

(770) 973-0348

1 BOARD MEMBERS PRESENT:

2 Lee Duncan, Chair
3 Wayne Thatcher, Vice Chair
4 Al Pond
5 David Rubenstein
6 Roger Rupnow
7 Susan Maziar

8 STAFF PRESENT:

9 Nancy Leathers, Director of Community Development
10 Patrice Ruffin, Asst. Director of Planning and
11 Zoning
12 Linda Abaray
13 Mark Moore
14 Terry Robinson
15 Nathan Ippolito
16 Doug Trettin

17

18

- - -

19

CHAIRMAN DUNCAN: Patrice?

20

MS. RUFFIN: RZ09-001/CV09-003, 5395

21

Roswell Road. The applicant is the Church of

22

Scientology. The applicant's requesting to rezone

23

the subject property from O-I conditional to O-I to

24

allow for a church in the existing building and to

25

expand the building by enclosing the existing

26

parking deck. The applicant is also requesting

27

five concurrent variances.

28

Following the previous Planning

29

Commission hearing, the applicant submitted a

30

revised site plan including some additional parking

31

areas on site.

32

The Mayor and City Council at the October

1 footprint of the building but utilize the building
2 that's there and improve the basement.

3 The issue that is before you is a zoning
4 issue, but the property is already zoned to the O-I
5 classification. The use has not really been a big
6 issue in this case. That's why the main issue that
7 has been discussed is as it relates to parking.

8 The property is zoned O-I. It's along
9 Roswell Road, and so the use has not been the major
10 focus.

11 As far as parking is concerned, the Sandy
12 Springs requirement for parking as far as for a
13 church use states that churches and other places of
14 worship must provide one space for every 3.5 fixed
15 seats in the largest assembly area or one space for
16 every 30 square feet in the largest assembly area
17 without fixed seats.

18 Sandy Springs and Fulton County before
19 that has always utilized this parking ratio as
20 applied to churches. Applying these ratios to the
21 Church of Scientology would require that they
22 provide 46 spaces.

23 In the original submittal we had 81
24 spaces provided. Staff expressed concern with
25 regard to the number of parking spaces provided

1 because of the relatively small size of the
2 church's chapel.

3 And as a result we then sat down with the
4 City staff, with the City Attorney's office,
5 negotiated a set of conditions to address the
6 concerns that they rose.

7 And those conditions included placing an
8 occupancy cap on the total number of occupants that
9 could be in the building at any one time based on
10 the number of parking spaces provided. And that
11 was originally 283 people.

12 However, the last time this came before
13 you with that cap and with the negotiated
14 conditions you recommended denial, in spite of the
15 staff's recommendation of approval with the
16 negotiated conditions, indicating that the 81
17 spaces were still not enough based on the 283
18 person cap.

19 As a result of that, the Church of
20 Scientology has proposed a further compromise that
21 not only reduces the occupancy proposed from 283 to
22 170 people but also increases the number of parking
23 spaces provided from 81 spaces to 111 spaces.

24 The result is that there will be one
25 space provided for every 1.5 people that's allowed

1 to be in the building.

2 Under Sandy Springs code, as I stated
3 before, churches are required to provide one space
4 for every 3.5 seats in the largest auditorium.
5 That does not account for people that could be in
6 the building and the Sunday school room or other
7 areas of the building.

8 The cap that we are placing on this case
9 by having 170 people will be an absolute cap based
10 on the 111 spaces that we are providing. There
11 could be no more than 170 people in the building at
12 any one time.

13 There is no other church in Sandy Springs
14 that has either a cap, other than (inaudible) which
15 is in this case would be over 1,000 people for this
16 building. And there's no other church in Sandy
17 Springs that has a parking ratio of the type that
18 we're proposing where we have one space for every
19 1.5 people in the building.

20 You'll note that on page 9 of the staff's
21 recommendation they find that, quote, "It is the
22 staff's opinion that the proposed request of 43,916
23 square feet would meet the level of parking
24 necessary to support the proposed use at an
25 occupancy of 170 persons. Therefore, staff

1 concludes that there will be an adequate amount of
2 parking for the proposed 43,916 square street with
3 the occupancy limited to 170 people."

4 The Church of Scientology has agreed to
5 conditions such as limitations on occupancy and
6 such as requiring parking that's far beyond what
7 the code requires and providing that of their own
8 volition in order to demonstrate that the church
9 will not cause a problem for the City or its
10 residents.

11 We believe that the alternative
12 conditions address any reasonable concerns
13 regarding the Church of Scientology and ask that
14 you approve this request in accordance with the
15 alternate conditions.

16 I'd like to reserve the remainder of my
17 time for rebuttal.

18 This is a site plan that does show what
19 the changes are. And there are changes in the
20 striping and there were changes by adding an
21 additional 14 spaces to the site. The restriping
22 accommodates up to 97 places just by restriping,
23 making efficient use of the existing spaces out
24 there where you can have 97 spaces without changing
25 anything other than the actual striping.

1 To get up to 111 requires some minor
2 changes to the parking lot.

3 And again, the church is willing to do
4 that and incur that expense to demonstrate that
5 there will not be any problem as it relates to
6 parking on the site.

7 With that, I'd like to reserve the
8 remainder of my time for rebuttal.

9 CHAIRMAN DUNCAN: Thank you. Anybody
10 else speaking in favor of this application? All
11 right. Any opposition?

12 MR. HUBBELL: Mr. Chairman, the
13 opposition would like to make a request a request
14 for an additional ten minutes, please.

15 CHAIRMAN DUNCAN: Is it the feeling of
16 the commission members?

17 MR. POND: We can decide if we keep
18 hearing the same thing again and again.

19 (Inaudible discussion with multiple
20 people.)

21 CHAIRMAN DUNCAN: Is the microphone on?

22 MR. RUPNOW: Ten minutes is enough.

23 MR. RUBENSTEIN: I tend to agree with Al.
24 I mean, unless we hear some new information that we
25 haven't heard before, I don't know why we need to

1 go beyond ten minutes.

2 CHAIRMAN DUNCAN: All right. Let's try
3 ten minutes and see where we get to.

4 MR. HUBBELL: Good evening. My name is
5 Daniel Hubbell. I'm an architect with 18 years of
6 experience and an owner of a Sandy Springs
7 architecture firm. I'm a resident of The
8 Courtyards of Glenridge.

9 In all my years as an architect I have
10 never seen a zoning case that has such a serious
11 deficiency in the minimum required parking as this
12 one does.

13 It is obvious by any professional
14 standard that this site is too small to accommodate
15 the appropriate required parking.

16 The parking shown on the revised site
17 plan does not correlate with the building increase
18 in density and the number of new assembly spaces.

19 Paving more area, allowing variances and
20 restriping for compact cars does nothing. Because
21 providing only 111 spaces is close to insufficient
22 for this use.

23 The density of this property is already
24 excessive. Fulton County zoning records prove that
25 this site is overdeveloped when we talk about the

1 property is already not in conformance with its
2 existing density and zoning restriction. This
3 application proposes to increase the density even
4 more.

5 They want to add another floor and
6 convert 45 percent of the building to more
7 intensive assembly uses. All without providing any
8 additional parking.

9 The applicant's program is simply too
10 intense for the building, and the required minimum
11 parking is impossible to provide.

12 In fact, there's many of the other
13 permitted other uses under O-I ordinance, including
14 a library, assembly hall, community center, health
15 club, school and church would be considered
16 underparked for this property. These are uses that
17 require much more parking because of their assembly
18 occupancy.

19 With recent events, the intensity of use
20 at this location would be notably disastrous.

21 Another reason this application should be
22 denied: The proposed addition of the development,
23 enclosure of the basement, violates the City's
24 Comprehensive Land Use Plan because it exceeds the
25 maximum allowed square foot per acre density.

1 That's because the new total square
2 footage of the building per the applicant's latest
3 plans is 45,390 gross square feet, much more than
4 the application states.

5 Having reviewed the applicant's zoning
6 impact analysis for four floors -- this is a slide
7 of the program the applicant submitted. There are
8 24 assembly spaces, including 14 classrooms and
9 seminar rooms, representing a large amount of gross
10 building area. Per building code, classrooms and
11 sanctuaries allow six times more occupants than
12 offices. Where is the parking for this assembly
13 use?

14 Realistically, if the standard formulas
15 of three per thousand for office use, five per
16 thousand for classroom and assembly use, and one
17 per 30 for sanctuary were applied to the building
18 to calculate minimum required parking as is
19 standard zoning practice, this application for four
20 floors would require a minimum of 205 parking
21 spaces. But the applicant is now willing to pave
22 110 spaces for four floors.

23 To make matters worse, the latest site
24 plans reveals a new parking ratio of only 2.46
25 spaces per thousand square feet, down from 3.46

1 spaces per thousand that staff previously promoted.

2 This new ratio is ridiculously low and
3 grossly insufficient, especially considering the
4 applicant is proposing to add space and increase
5 the assembly area by 45 percent. Apparently,
6 office use requires a minimum of three spaces per
7 thousand.

8 It's obvious the applicant is unable to
9 provide the required parking for assembly spaces
10 and cannot satisfy the parking intent for land use
11 requirements of the zoning ordinance. Thank you.

12 CHAIRMAN DUNCAN: Thank you.

13 MS. KELLEY: My name is Jane Kelley. I
14 live at 4590 Windsor Park Place and represent the
15 High Point Civic Association with about 500 active
16 homeowner members.

17 We strongly oppose the expansion of the
18 building and allowing insufficient parking. I'd
19 like to discuss parking and precedent.

20 Parking. The applicant purchased this
21 three-floor property zoned "offices only" four
22 years ago with eyes open. Now they want to
23 increase the square footage by 33 percent, yet
24 decrease the area available for parking. Enclosing
25 the basement garage would remove 30 parking spaces.

1 Perhaps even more if they restriped.

2 This is a self-imposed hardship. They
3 propose to squeeze 111 parking spaces into the
4 surface area that currently accommodates 81 spaces.
5 Not just by restriping but also by carving into
6 three currently landscaped areas to add 18 spaces,
7 reducing setback areas. 12 of those spaces would
8 be in setback areas. And asking to have a required
9 parking island with shade trees entirely waived and
10 cutting down four trees. Likely violating our tree
11 canopy requirement as well.

12 This is preferential treatment and
13 negates environmental regulations put in place to
14 protect our neighborhoods. And this requires four
15 variances.

16 Why have ordinances if we're not going to
17 require them?

18 Plus, the number of parking spaces will
19 be further reduced when intersection improvements
20 are made to correct the public safety hazard of a
21 poorly configured intersection, possibly leaving
22 only 100 spaces for a 45,000-square-foot structure.

23 Parking requirements in our zoning
24 ordinance are based on square footage and useage.
25 Yet this applicant is being allowed to use parking

1 studies and a basically unenforceable occupancy
2 limit to justify inadequate parking and in a
3 building slated to be nearly half assembly spaces.

4 Staff's reliance upon parking ratios from
5 studies with insufficient data and inappropriate
6 sampling comparing incongruent cities is
7 disappointing.

8 But even staff found a deficit in parking
9 based on the studies. And the staff report
10 recommends restricting the use of the property to
11 the existing square footage with the existing
12 parking.

13 The applicant offers to attempt to limit
14 occupancy to 170 people. Well, based on their own
15 Dunwoody parking figures, 170 people would require
16 162 parking spaces. That is 50 spaces underparked.

17 And the proposal allows an increase in
18 the occupancy cap. 365 days a year by the use of
19 off-site parking. Relying on off-site parking
20 leases is a weak plan, if not ridiculous. If the
21 leases are lost, the development would still stand.
22 This would place an undue burden upon residents to
23 report violations and the City to attempt to
24 enforce them.

25 Why should Sandy Springs give this

1 applicant special treatment by allowing them to
2 base parking on unenforceable occupancy numbers or
3 insufficient parking data studies?

4 Precedent. Even if the applicant's
5 alternate conditions were to be passed, this
6 building will be rendered a white elephant.
7 Probably unusable by any other organization without
8 major renovation to restore the basement parking
9 level and decrease the square footage to something
10 acceptable for the site.

11 If approved, this would allow future
12 cases with intensive uses to be treated on a
13 case-by-case basis rather than following the
14 technical requirement and intent of our zoning
15 ordinance.

16 This site is already overdeveloped. I
17 cannot emphasize enough that this is not a suitable
18 site for increased density and insufficient parking
19 for any organization.

20 We strongly oppose the expansion of the
21 building and allowing insufficient parking. Thank
22 you.

23 MS. BURNS: Good evening. My name is
24 Patty Burns. I represent Round Hill Condominiums
25 at 5400 Roswell Road, Sandy Springs.

1 The neighborhoods' taxpayers and
2 homeowners of Sandy Springs request that you deny
3 this rezoning application.

4 The staff's opinion of the zoning impact
5 analysis is incorrect because it suggests the
6 proposed use is suitable in view of the use and
7 development of adjacent and nearby property.

8 When looking at the aerial view of the
9 location, seven-eighths of the surrounding areas
10 are residential communities and not office
11 developments. They are directly adjacent to the
12 site and will be adversely affected.

13 The staff also states the proposed use
14 will not cause an excessive or burdensome use of
15 the existing infrastructure. That is, streets,
16 transportation, facilities, utilities, et cetera.

17 The proposed application will render the
18 property 33 percent more densely developed. This
19 will undoubtedly increase the total traffic
20 entering and leaving the building. Therefore, it
21 will become excessive and burdensome to the
22 existing infrastructure on the adjacent streets and
23 intersections.

24 The applicant provided a chart at the
25 last meeting that a four-story church 43,916 square

1 feet will generate 400 daily trips. But at the
2 last Planning Commission meeting, Mr. Moore
3 mentioned applying a junior college -- a junior
4 community college model to the classroom
5 calculation portion as it seemed a best fit for
6 adults coming and going throughout the day.

7 Mr. Moore believes this facility will
8 operate much like a general office and would add
9 more than 708 trips daily. Sorry. How can 708
10 trips not be more impacted than 400?

11 We also believe there will be
12 considerably more than 708 daily trips because of
13 the variety of uses in this building. In fact, we
14 were amazed that there were no traffic studies and
15 no mention of traffic on the staff report --

16 MS. ABARAY: Time.

17 CHAIRMAN DUNCAN: How much more do you
18 have?

19 MS. BURNS: I have about another minute
20 and a half.

21 CHAIRMAN DUNCAN: And the gentleman
22 behind you?

23 MR. ELKOURI: I think I can squeeze it
24 into three.

25 CHAIRMAN DUNCAN: And the lady behind?

1 Doing the math in my head here, sounds like five
2 minutes might cover it. Did I just add that up in
3 my head?

4 MS. MAZIAR: Five should do it.

5 CHAIRMAN DUNCAN: Okay. Let's go to five
6 minutes. Is that okay with everybody? Thank you.

7 MS. BURNS: Thank you. The special
8 public safety impacts for this rezoning are more
9 than parking, trip count and traffic issues.

10 There will be more negative impact
11 resulting from a limited and dangerous ingress and
12 egress points of this site with one staging area on
13 the road.

14 Cars entering into the Post Office
15 driveway from Glenridge must come to a stop and
16 turn left onto the site and yield to the oncoming
17 traffic. As the site fills up with cars with a
18 limited number of parking spaces, the conditions
19 will worsen. 25 cars arriving the same time, there
20 be 24 cars stopped on Glenridge Road.

21 Cars entering from Roswell Road would
22 come to a stop and make sure the site is clear for
23 them to proceed right or left into the parking
24 area. Again, 25 cars arriving at the same time,
25 there will be 24 cars stopped on Roswell Road.

1 More cars, more problem, more traffic problem.

2 It is clearly possible at any time there
3 can be up to 50 cars trying to enter or exit the
4 site. And with the average daily trip
5 calculations, the issue of ingress and egress and
6 the lack of road space for staging this area will
7 be a disaster.

8 This intersection is dangerous. It is
9 overused, convoluted, and a three-way maze with
10 several dangerous corners and limited turns. It's
11 a public safety hazard and will be greatly impacted
12 by the attendance of the applicant's quoted 10,000
13 Atlanta members. Not the 100 members reported on
14 their application.

15 They plan to hold classes day and night,
16 seven days per week with no current restrictions on
17 operating hours.

18 This scenario is reminiscent of the Greek
19 Trojan horse that was accepted by the unsuspecting
20 city of Troy and once admitted within the walls was
21 multiplied by hundreds and then thousands.

22 The applicant has owned this building
23 since late 2005. We have seen nothing but
24 deterioration, neglect of the building and the area
25 that it surrounds.

1 At the last Planning Commission meeting,
2 the applicant led you to believe that this issue
3 had improved. Please look at the next two slides
4 and pictures that are dated and stamped.

5 As you can see, this issue associated
6 with the lack of basic upkeep continues. This is
7 disrespectful to the character of our neighborhood.
8 And as taxpayers and homeowners, we take pride in
9 our homes to live the dream of keeping Sandy
10 Springs beautiful.

11 This is exactly why we voted for a new
12 city and are depending on your committee to protect
13 our neighborhoods. We strongly oppose this
14 rezoning.

15 Letters have been submitted by 16
16 homeowners and civic association objecting to this
17 rezoning. We have over 700 petitions from the
18 surrounding neighborhoods that will be severely
19 affected. Most of these letters mention parking
20 and traffic.

21 CHAIRMAN DUNCAN: You have people behind
22 you now.

23 MR. BURNS: I know. Thank you.

24 CHAIRMAN DUNCAN: You've burned up two
25 and a half minutes.

1 MS. BURNS: Okay. We respectfully ask
2 for denial of this rezoning. Thank you.

3 MR. ELKOURI: Good evening. My name is
4 Manuel Elkouri. I live at 5425 Glenridge Drive,
5 across Glenridge Drive from this site. And I've
6 lived in Sandy Springs for 32 years and I'm
7 representing the Willow Glen Homeowners
8 Association.

9 Because of time I'm going to just hit
10 some bullet points. And if you have any questions,
11 you can ask me later.

12 The main points I want to talk about are
13 density and parking but from a little different
14 twist.

15 This density proposed is double any
16 neighboring O-I density and, of course, far more
17 than double the surrounding high density
18 residential areas.

19 The problem this causes is, these offices
20 close by and the residential areas close by, all
21 have to get out of their areas onto Roswell Road
22 with one curb cut that's very close to this site.

23 And so with an increased traffic and the
24 ingress-egress issues, it's going to cause a
25 backup. These people are going to have difficulty

1 getting in and out of their neighborhoods,
2 including me, and the office buildings.

3 Concerning parking, just three quick
4 points. The alternate conditions proposed by the
5 applicant allow for determining parking
6 requirements based on occupancy. But the zoning --
7 parking zoning ordinance has no provision for
8 determining parking based on occupancy. Everything
9 in the ordinance says parking based on square
10 footage by use.

11 Now, the staff has alluded to two -- to
12 Section 28 about why they want to use this
13 occupancy. And we don't see how that applies.

14 We do see a Section 18 that says the
15 staff can limit parking but only up to 10 percent
16 below the required amount when it lists five
17 conditions, none of which this application
18 provides, requires or is consistent with.

19 And so we don't understand how we can
20 just brush aside the parking ordinance that
21 requires double -- roughly double the 111 spaces
22 and say just because there are going to be 107
23 people of occupancy which we can't enforce and --

24 MS. ABARAY: Time.

25 MR. ELKOURI: You all discussed last time

1 that that was unenforceable. So thank you very
2 much. We ask you to deny this rezoning request.

3 CHAIRMAN DUNCAN: Do you want to go the
4 extra 30 seconds? Okay. You got your time. 30
5 seconds. 50 seconds.

6 MS. O'SHEA: One minute.

7 CHAIRMAN DUNCAN: One minute. You are
8 going to negotiate.

9 MS. O'SHEA: I timed it.

10 MR. RUPNOW: You have one minute.

11 MS. O'SHEA: My name is Sheila O'Shea.
12 I'm a resident of Round Hill Condominiums, 5400
13 Roswell Road.

14 This is not a compromise. This is a
15 catastrophe. Cutting down existing trees in order
16 to make room for cars is absolutely unacceptable.
17 Lowering the self-imposed occupancy limit only
18 increases the likelihood that our resources will be
19 wasted on enforcement (inaudible).

20 The mere fact that the petitioner
21 requires zoning variances in order to even attempt
22 to resolve the issues is just further evidence that
23 it will not work.

24 If they are truly in need of as much
25 space as they claim, the matter should have been

1 settled four years ago when they were seeking a new
2 location in the first place. Clearly they bought
3 the wrong building.

4 A number of concessions needed to make
5 the right building for them would be devastating to
6 the surrounding area. The clearest choice, just as
7 it was the last time this was before you, is to
8 recommend denial. Thank you.

9 CHAIRMAN DUNCAN: Thank you. Linda,
10 what's the time now the applicant has with his
11 balance, plus the six minutes?

12 MR. ROBINSON: 9:46.

13 MR. GALLOWAY: It's got to be more than
14 that, isn't it?

15 MR. ROBINSON: Went up to eight with the
16 five and plus another minute.

17 MR. GALLOWAY: I'd like to address a
18 number of issues that have been raised. First of
19 all, we don't need any variances with regard to
20 this proposal.

21 The only reason we have asked for
22 variances is to address issues that have been
23 raised by the opposition. In an attempt to address
24 issues that have been raised by the opposition such
25 as parking.

1 They've raised the issue of parking. The
2 code -- and when the Church of Scientology
3 purchased this building, they were very aware of
4 what the code required. And the code required 46
5 parking spaces. And they provided 81. That's what
6 was available to them outside the building with no
7 changes whatsoever. And without changing anything
8 outside they didn't need anything at all.

9 And so the only reason there are
10 variances proposed is to try to address the alleged
11 issue in this case, which is parking.

12 We have tried to address that issue in a
13 couple of ways. One is by providing additional
14 parking spaces. And the provision of those
15 additional parking spaces will have absolutely no
16 adverse impact on anyone because all of the
17 additional parking spaces are located behind a
18 brick wall and are not visible.

19 And the parking islands that we are
20 seeking to be exempted from do not exist now. So
21 if this application is denied, they won't exist.
22 If this application is approved at 32,000 square
23 feet, they won't exist. And neither will the trees
24 that would have been in them in the parking
25 islands.

1 The whole concept was to try to do
2 everything possible to address the alleged
3 concerns.

4 The Church of Scientology does not
5 believe they need as many parking spaces as they
6 are proposing to provide.

7 The reason is because they use a
8 tremendous amount of square footage for each
9 occupant or for each member of their church that is
10 in the building at any one time.

11 They bought the building with their eyes
12 open knowing what they were proposing to do,
13 knowing what the code requirements were, and
14 knowing what the site afforded on the site.

15 The issue with regard to parking is a
16 false one because we are providing 111 parking
17 spaces for an occupancy of 170 people. How can
18 anyone possibly argue that that is not enough
19 parking in a church setting for 170 people?

20 You got many other churches -- and I did
21 an informal survey yesterday calling on that have
22 substantially more higher occupancy loads.

23 Lutheran Church of the Apostle has a -- they're
24 building a 450-seat sanctuary. They have 121
25 spaces to serve that. And they provide Sunday

1 school at the same time as they occupy their
2 chapel. Dunwoody Community Church also has a large
3 occupancy with only -- occupancy of 450 or 500
4 people and with 174 parking spaces.

5 What you can't do is you can't enforce
6 one regulation as it relates to one church and
7 another regulation as it relates to another church.

8 In this case we are trying to address the
9 alleged issue, but you cannot enforce a code that
10 as it relates to one church and enforce a different
11 church -- a different code as it relates to another
12 church.

13 As it relates to traffic. The ITE trip
14 generation rates which is something that the
15 Institute of Transportation of Engineers, the daily
16 rate for a 43,916-square-foot church is 156 fewer
17 daily weekday trips than the 32,000-square-foot
18 office building that's there today.

19 That's based on national studies. That's
20 not based on any study of this particular
21 situation. And it doesn't take into account the
22 fact that in this church situation they're limiting
23 the total occupancy to 170 people.

24 It would be far -- a much greater
25 difference in trip generation if you actually

1 studied it based on 170 people versus the office
2 building with 32,000 square feet.

3 There is no cap on the office building at
4 32,000 square feet. There's also no cap on the
5 proposed recommended conditions of the church at
6 32,000 square feet.

7 But we have voluntarily agreed and it was
8 a negotiated set of conditions between the staff,
9 between City Attorney's office and the applicant to
10 place a cap and set it at 170 total people.

11 That is an enforceable cap. First of
12 all, you could station somebody outside to watch.

13 Secondly, the fire department has a
14 mechanism to count people if they choose to count.
15 There are occupancy counts on every single
16 auditorium, every single building, every single
17 restaurant in the City of Sandy Springs. And the
18 fire department has that ability to do that. The
19 zoning enforcement division has the ability to do
20 that. Staff has indicated that is not a problem,
21 not an issue for them.

22 There is no residential use that is
23 directly adjacent to this site. There are
24 multifamily residential uses across Glenridge and
25 across Roswell Road from this site. But we

1 directly adjoin a post office and an office
2 building.

3 We've elected to adjoin a five-lane road.
4 There is not a traffic issue as it relates to this
5 proposal.

6 If this property is utilized as an office
7 building as it's currently developed, it would
8 provide -- it would have more traffic, have more
9 traffic impact on the surrounding uses than the
10 proposed use. Particularly now that we have
11 proposed to limit the occupancy.

12 In that also the use of the building, the
13 times at which it is used is different than an
14 office use which typically has more demand in the
15 a.m. peak and the p.m. peak than a church use
16 would. And in which case that would certainly be
17 the case.

18 So the bottom line is that the church has
19 done everything that they possibly can to address
20 the issues that have been raised in this case.

21 We have attempted to address the concern
22 with regard to the number of parking spaces by
23 agreeing to provide additional spaces.

24 The Church of Scientology does not
25 believe they need those spaces, but they've agreed

1 to provide them in order to address the perceived
2 need for them in the community.

3 They've also agreed to place a limitation
4 or a cap on the number of people.

5 There was a lot of discussion earlier by
6 one of the opposition speakers about square footage
7 and the number of assembly spaces. What does it
8 matter how many assembly spaces there are in this
9 building if the cap is 170 people? You can have
10 them scattered in 170 different rooms; it wouldn't
11 matter. The whole point is that there's a cap of
12 170 people and no more than 170 people could be
13 located within the building at any one time.

14 This is not a mega church. This church
15 has existed since the '70s. And there are a
16 hundred active members. The largest number of
17 people that have ever been in the Dunwoody church
18 at any one time is 60 people.

19 That is not going to have a significant
20 effect. Do they want to grow? Certainly they want
21 to grow. But they capped the number of people that
22 can be in the building at any one time to 170
23 people.

24 Traffic is not an issue. Staff has
25 indicated, Mark Moore has indicated that if even if

1 you look at this in the worse case scenario, it
2 does not -- it will not generate more traffic than
3 the existing use would. And that does not take
4 into account the cap. Does not look at it with the
5 cap.

6 The use is not the issue. The property
7 is zoned O-I. O-I allows church as an allowed use
8 within the O-I district. The proposal is
9 consistent with the Comprehensive Land Use Plan.
10 The density that is proposed is consistent with the
11 recommended density under the Comprehensive Land
12 Use Plan for Sandy Springs.

13 Again, we are not next to single-family.
14 The parking is already zoned O-I. They bought this
15 property with their eyes wide open, knowing this
16 property was zoned, knowing that in Sandy Springs
17 you can do churches within residential districts,
18 you can do churches along two-lane roads in
19 neighborhoods.

20 And here we've got a proposed church
21 along a four-lane U.S. highway that is already
22 zoned O-I and had adequate parking based on the
23 code.

24 And what we're proposing is to provide
25 far more parking spaces than the code requires.

1 Bottom line is that --

2 MS. ABARAY: Time.

3 MR. GALLOWAY: -- the application should
4 be approved pursuant to the staff's alternate
5 conditions. Thank you.

6 CHAIRMAN DUNCAN: Thank you, sir. Now
7 with that, we're going to close the public hearing
8 and we're going to go to members of the Planning
9 Commission.

10 Anybody want to start us off on this?

11 MR. POND: I've got a couple of questions
12 for Mr. Galloway. In your request to expand the
13 building an additional 10,000 plus feet, plus or
14 minus square feet, you indicate that the maximum
15 size of any assembly room would be 1,300 square
16 feet.

17 MR. GALLOWAY: Yes.

18 MR. POND: Two quick things. Number one
19 is, can you describe the function, what goes on
20 during the week? Is this just show up -- most
21 typical church will have a very small usage during
22 the week. And what you're proposing has small
23 uses. So is this an ongoing seven-day-a-week usage
24 for these 170 folks that you're talking about?

25 MR. GALLOWAY: Well, first of all, you've

1 got a couple of different things, a couple
2 different questions embedded in there.

3 I don't agree with your analysis that a
4 typical church does not function during the week.
5 The churches I've been involved in have been very
6 functional during the week, during the day and at
7 night during the week.

8 In this case the Church of Scientology,
9 the way they will operate, they operate seven days
10 a week. They typically offer classes from 9:30 in
11 the morning till about 9:30 at night and three
12 different -- or three to four different sessions of
13 normally about two hours a session. And so they
14 will have classes during the week, during the day
15 and during the evening.

16 They offer a -- they have a chapel
17 service that occurs on the weekend. And that is
18 where they come together for chapel. It is not
19 like a congregational style church like you may be
20 accustomed to that everybody turns out at the same
21 time every week for one particular hour or a series
22 of several hours. They don't typically do that.

23 They do have a service that occurs on the
24 weekend. And so the chapel will be used for that
25 service, which is the largest assembly room, 1,300

1 square feet. And it may be used for a seminar
2 during the week but only on an occasional basis.
3 Otherwise it will be -- the general use of the
4 building will be the offices, for counseling and
5 classroom study.

6 MR. POND: You continue to point back to
7 the regulation and criteria for churches, but in
8 most cases the churches and these criteria are set
9 up where they typically have one large congregation
10 or one session once or twice a week, and the usage
11 of the church is at a minimum the rest of the week.

12 As you describe this application, it
13 appears to me this usage of the building is more in
14 line with a office building than a church from a
15 usage standpoint. Religion aside. Is that a fair
16 statement?

17 MR. GALLOWAY: No. Because you're
18 proposing more definition of church use whereas if
19 you look at the church use definition under the
20 Sandy Springs code, it certainly complies with the
21 church use definition.

22 If you look at the definition of church
23 use in the application of that under the federal
24 statutes and under the Constitution, it certainly
25 falls in with that.

1 As an engineer, you know that when you
2 buy a piece of property and you go to a -- and you
3 go to a community and you look at -- you're charged
4 with responsibility of looking at the regulations
5 to find out what the regulations will be that will
6 govern the use and development of that property.

7 And in this case if you look in Sandy
8 Springs' regulations -- this is the parking
9 regulation here. It states that churches and other
10 places of worship -- churches and other places of
11 worship. So it anticipates a broad definition.

12 And it indicates that the minimum
13 requirement is one space for every 3.5 fixed seats
14 in the largest assembly area and one space for
15 every 30 square feet in the largest assembly area
16 depending on whether or not you have fixed seats or
17 we have moveable seats.

18 And if you come to a community, you need
19 to be able to look at the regulations and know how
20 to apply those regulations. The Church of
21 Scientology did that in this case. They knew what
22 the regulations were. They bought the property in
23 reliance on those regulations and in reliance on
24 the fact that this city and the county before it
25 has always, always imposed and interpreted that

1 regulation in the same manner.

2 And so consistency in interpretation of
3 the regulation is certainly a requirement.

4 CHAIRMAN DUNCAN: Let's try to just
5 answer the question as it's asked and keep this
6 moving along, if you will, please. Al, anything
7 more?

8 MR. POND: I'm good.

9 MR. RUPNOW: I have a question of Nancy.
10 Under your first set of conditions, what would the
11 parking requirements be there?

12 DIRECTOR LEATHERS: Give me one second
13 here.

14 CHAIRMAN DUNCAN: Page 18, Nancy.

15 MR. RUPNOW: No. I think it's page 26.
16 I think.

17 CHAIRMAN DUNCAN: On the computer it's
18 26. On the paper it's 18.

19 MR. POND: You have an analysis on page
20 17. 111 is what is stated.

21 DIRECTOR LEATHERS: Yeah. It's 111 for
22 32,000.

23 MR. RUPNOW: Okay. That is what the
24 ordinance would require would be the 111 with a
25 32,000 square feet?

1 DIRECTOR LEATHERS: That's about what the
2 ordinance would require. I'm not exactly sure
3 because this was a larger property than -- when it
4 was originally zoned. So I'm not sure exactly how
5 that calculated when Fulton County did it.

6 MR. RUPNOW: Okay. I guess my question
7 really is: Looking at -- I was trying to get some
8 sense of what, using your recommended conditions,
9 what the parking would be there. And you were --
10 111 is a reasonable figure? All right. Thank you.

11 MR. POND: And the requirement would be
12 97 minimum, correct?

13 DIRECTOR LEATHERS: Correct.

14 CHAIRMAN DUNCAN: Susan?

15 MS. MAZIAR: Under the staff's
16 recommended conditions 1B, no overnight stays 11:00
17 p.m. to 6:00 a.m., does that mean no overnight
18 stays or no activity at all?

19 DIRECTOR LEATHERS: No. That is --
20 that's relating to a residential occupancy. That's
21 just staying overnight.

22 MS. MAZIAR: Are there any hours of
23 operation in the code?

24 DIRECTOR LEATHERS: There are not because
25 there aren't any for churches in general and it

1 didn't seem to us, given its location, that it
2 would be appropriate here either.

3 CHAIRMAN DUNCAN: David?

4 MR. RUBENSTEIN: Nancy, I know we've been
5 through this and I'm trying to go between pages, so
6 maybe you could help me. Your regular -- staff's
7 regular recommendation and the alternate. How does
8 the total number of parking spaces change? Or does
9 it?

10 DIRECTOR LEATHERS: It does not.

11 MR. RUBENSTEIN: Does not. So in the
12 alternate you're saying the same number of parking
13 spaces, but they're enclosing --

14 DIRECTOR LEATHERS: The difference is
15 that in the original set of conditions that the
16 staff recommended it is based just on the square
17 footage, and there's no control on the total
18 occupancy in the building at any one time other
19 than that which would be in the building for the
20 fire code.

21 In the alternate set of conditions there
22 is a limitation at any one time in the building for
23 the number of occupants that might be there.

24 MR. RUBENSTEIN: Okay. So the parking --
25 the total number of parking spaces stays the same,

1 but you accommodate for that by reducing the
2 occupancy?

3 DIRECTOR LEATHERS: Yes.

4 MR. RUBENSTEIN: All right. And now what
5 happens to the parking spaces that were underground
6 or under the building, where do those get replaced?

7 DIRECTOR LEATHERS: Well --

8 MR. RUBENSTEIN: Where is the applicant
9 suggesting --

10 DIRECTOR LEATHERS: If you take a look --
11 let's see where that map is.

12 MR. RUBENSTEIN: And I know we've been
13 through this. I can't seem to go back.

14 DIRECTOR LEATHERS: We have a map that
15 actually shows --

16 MR. RUBENSTEIN: Maybe I should ask Woody
17 that. It might be more appropriate. Sorry.

18 MR. GALLOWAY: The site plan indicates
19 where those get -- as I indicated before, that 97
20 spaces would be restriped and get to 97 spaces.
21 The additional spaces occur along the front of the
22 building. This is Roswell Road. There are
23 parallel spaces that exist right now here and we
24 would convert those into parking spaces. Add some
25 additional spaces here and here. So those are the

1 additions.

2 MR. RUBENSTEIN: So your concession here
3 is you are taking the spaces that we were formerly
4 losing and you are, by restriping, putting them on
5 the surface spot?

6 MR. GALLOWAY: That, and by adding an
7 occupancy cap which does not exist in the --

8 MR. RUBENSTEIN: We'll get to occupancy
9 in a second. But thank you. Nancy?

10 DIRECTOR LEATHERS: Yes.

11 MR. RUBENSTEIN: How from a practical
12 standpoint -- and I heard Woody's argument and he
13 makes a good argument. He's good at what he does.

14 But from a practical standpoint, what do
15 we do if we think that -- if the City thinks that
16 they are not abiding by this occupancy cap?

17 How do we from a practical standpoint
18 week in/week out, day in/day out, how do we enforce
19 this occupancy without bringing up the fire
20 marshal? Or how is it done on a daily basis?

21 DIRECTOR LEATHERS: It would have to -- I
22 mean, other than the self-reporting mechanism, if
23 we believe that there was a violation and it were
24 reported, we would send someone out to count the
25 occupancy.

1 Any -- as you know, every day is a new
2 violation. So if there were complaints on several
3 days and we send an officer out several days, then
4 there would be -- those would be separate events
5 and they would be treated separately.

6 MR. RUBENSTEIN: From a practical
7 standpoint, though, I mean, does someone show up
8 and make everyone leave the building and you count
9 heads? How is that done?

10 DIRECTOR LEATHERS: We would count them
11 in the building, but I don't think we'd make them
12 leave the building.

13 MR. RUBENSTEIN: Okay. And is that a
14 burdensome thing on the City?

15 DIRECTOR LEATHERS: It would be difficult
16 to do if we had to do it every day. I would assume
17 that if there were violations, several violations
18 and we successfully prosecuted them, that would
19 probably reduce the number of violations.

20 MR. THATCHER: Mr. Chairman? Mr.
21 Hubbell, can you -- you stated that there's 45,309
22 gross square feet in this building. The applicant
23 says there's 43,916. And every parking space is
24 computed based on square footage of the building.

25 Why can't we get these two parties to

1 building and then maybe I can multiply that by cars
2 per thousand.

3 MR. HUBBELL: Well, the plans were given
4 to us I guess in June by Mr. Galloway. And these
5 are from their architect.

6 And I took those plans, scanned them in
7 and checked the square footage as to what was being
8 reported on the application.

9 And I found that that was a discrepancy.
10 And I actually went so far as to examine the survey
11 at the Open Records in the City Hall here and found
12 that there was an error in the survey which
13 accounted for why there was discrepancy from what
14 was on the application and what I was coming up
15 with.

16 Later on in the July 21st Planning
17 Commission meeting Chairman Duncan requested the
18 staff and Nancy to verify the square footage, which
19 as I understand they didn't do that.

20 But the applicant did, because Mr.
21 Galloway came back with some plans that he
22 circulated to the City Council. And we have a copy
23 of those. And it was done by the architect I would
24 assume or the engineer. And each of the plans it
25 says total building 45,309 gross square feet.

1 So I didn't come up with that number.
2 They came up with that number. I did come up with
3 a discrepancy where the square footage is actually
4 more than what's on the application. So that's how
5 we came up with the 45,309.

6 The footprint of the basement you would
7 think would be the same size as the footprint.
8 Does that answer your question?

9 CHAIRMAN DUNCAN: Woody, weigh in on it.

10 MR. THATCHER: Well, it's Woody's number.
11 We now find out that the 45,309 comes from a
12 document that Mr. Galloway presented or Mr.
13 Galloway's architects.

14 Woody, we haven't ask you to come here
15 yet. (Laughter) And I have -- I don't understand
16 why when you team, your architect presents a 45,000
17 number that that doesn't appear in your application
18 somewhere and that the neighborhood folks have to
19 bring that to fore.

20 And I just can't -- I don't understand
21 why we have to deal with this kind of stuff because
22 the smaller you make that building, the less
23 parking they require.

24 And I think that if two architects, your
25 architect, Mr. Galloway, and Mr. Hubbell, who is an

1 architect, both say it's 45,000 feet, why doesn't
2 this application say it's 45,000 feet? Mr.
3 Galloway?

4 MR. GALLOWAY: First of all, I did not
5 figure any numbers. You don't want me to figure
6 any numbers.

7 MR. THATCHER: You're an attorney and we
8 understand that.

9 MR. GALLOWAY: It was the architect
10 Gensler who went back and refigured there was an
11 error made. And the error was the number that he
12 indicated, 45,309 square feet.

13 We went back and had them reverify based
14 on surveys, based on Gensler looked at it, they had
15 the surveyors look at it.

16 Bottom line is, you're trying to get the
17 parking based on square footage. But if you go
18 square footage wise, we're required to provide 46
19 parking spaces.

20 MR. THATCHER: That's wrong and you know
21 that.

22 (Multiple people speaking at once.)

23 CHAIRMAN DUNCAN: Stop. Stop. Stop.
24 Let him finish, please. Let's not walk on each
25 other here.

1 MR. GALLOWAY: If you ask Nancy, I think
2 she'll have the answer, which is they would only
3 permit based on the 43,916 square feet.

4 DIRECTOR LEATHERS: And actually, that
5 was what I was waiting for the opportunity to say.
6 If the applicant is incorrect and they wanted more
7 but they didn't ask for more and you approved less,
8 then that's what they've got and that's all they
9 can permit.

10 It doesn't matter what they got on their
11 plans now because that's not the condition in here.

12 The condition in here is the 43,000.
13 We've never seen the 45,000. It's not part of the
14 application. We've not reviewed it. So that's
15 where it's at.

16 MR. THATCHER: We've seen those floor
17 layouts that say --

18 DIRECTOR LEATHERS: It doesn't matter.
19 It never was part of the application. It's never
20 been reviewed as part of the application and it is
21 not part of the recommended conditions for either
22 option here. So it is not before you. We've never
23 been submitted a piece of paper that includes it.

24 CHAIRMAN DUNCAN: All right. Any other
25 comments? David.

1 MR. RUBENSTEIN: Minor question. Nancy,
2 in the two alternants, the alternate with the new
3 and improved parking, is there any more or less
4 green space in either way? Maybe Woody said it's
5 the same. Green space, canopy, tree canopy,
6 islands.

7 DIRECTOR LEATHERS: I would defer to him
8 on it whether there are any trees being taken down
9 as part of the exposure of parking area.

10 In terms of the tree island, there would
11 be no impact because this is an existing parking
12 and so you're not taking away any required tree
13 canopy in the tree islands because if it were
14 approved with the existing parking lot, we wouldn't
15 require them to go back and put a tree island in.

16 MR. RUBENSTEIN: You want to comment on
17 that, Woody?

18 MR. GALLOWAY: The only comment I'd make
19 on that is based on what the church's plans are,
20 they would have to adhere to the Sandy Springs
21 streetscape requirements and that would more than
22 likely end up in adding additional trees.

23 There are a couple of trees that would
24 come out as a result of adding the parking spaces.
25 They would be more than made up by the additional

1 trees that would be required by the streetscape.

2 MR. RUBENSTEIN: But would nothing be
3 required anyway?

4 MR. GALLOWAY: No, because you have to
5 meet the 40 percent of the total value of the
6 building. And if you're not adding the additional
7 floor, I don't think they would reach that.

8 CHAIRMAN DUNCAN: Any further questions?
9 Comments? Chair would like to entertain a motion
10 at this point.

11 MR. POND: Mr. Chairman, I would like to
12 make a motion. I think we have two options on the
13 table. I'd suggest we start with the recommended
14 alternate option first which is the 42,000 square
15 feet, with the additional 10,000 feet.

16 And I would make a motion to deny that --
17 deny that application for that variance.

18 MS. MAZIAR: I'll second.

19 MR. RUPNOW: I don't think we have this
20 that before us.

21 MR. POND: Yes, we do. We have two
22 options.

23 CHAIRMAN DUNCAN: So we have a motion and
24 a second by Ms. Maziar. Any discussion on the
25 motion by Mr. Pond?

1 MR. POND: Yes, I would. We have square
2 footage limitations for very good reasons. And
3 it's not only just parking. We keep talking about
4 parking, parking, parking. But we're talking about
5 people also coming in and out of the building.

6 That building was, quite frankly,
7 distressed on that intersection with traffic and
8 all the variables.

9 Second of all, I do not think this City
10 needs to establish a precedent to go around and
11 police the occupancy of every building on a routine
12 basis. I think it's burdensome and I think it's
13 setting a huge and a bad precedent.

14 And number three, they have an existing
15 building. They have indicated that the largest
16 space is 1,300 square feet and they should figure
17 out how to get along with that 32,000 feet.

18 I just don't understand. So that's my
19 feelings about that motion. I think it's important
20 to state those three points.

21 CHAIRMAN DUNCAN: Any further comment?
22 All right. Motion has been made to deny the
23 alternative conditions and seconded. Those in
24 favor?

25 (Aye)

1 CHAIRMAN DUNCAN: Opposition?

2 (Aye)

3 CHAIRMAN DUNCAN: We have a second
4 motion, Mr. Pond?

5 MR. POND: I would move to approve the
6 32,000 square feet with the variances established
7 and the conditions established by the City Council.

8 CHAIRMAN DUNCAN: Do I have a second?

9 MR. RUPNOW: I'll second that. But we're
10 really just recommending this to the City Council.

11 CHAIRMAN DUNCAN: We're recommending all
12 of this to the City Council. We are a recommending
13 body. All right.

14 Any discussion on the motion by Mr. Pond,
15 the second by Mr. Rupnow? Motion on the floor is
16 to approve subject to staff's recommended
17 conditions. Those in favor of the motion?

18 (Aye)

19 CHAIRMAN DUNCAN: Any opposition? Ms.
20 Maziar is in opposition. It's 3 to 2 is the vote
21 on this with Mr. Thatcher and Miss Pond -- Ms.
22 Maziar in opposition. Thank you. Next case,
23 please.

24

25

- - -

1 STATE OF GEORGIA)
)
2 COUNTY OF COBB)

3

4 I, Kimberly S. Bennett, Certified Court
5 Reporter, do hereby certify that I transcribed the
6 foregoing conversations; that the foregoing pages,
7 numbered from 1 to 50, inclusive, constitute a true
8 transcription of the CD as transcribed by me; and that
9 this transcript was prepared under my supervision and
10 control.

11

12 I further certify that I am not an attorney or
13 counsel of any of the parties, nor a relative or
14 employee of any attorney or counsel connected with this
15 action, or financially interested in this action.

16

17 WITNESS my hand and official seal in the City
18 of Marietta, County of Cobb, State of Georgia, this 10th
19 day of March, 2010.

20

21

22

23

24

25

Kimberly S. Bennett, RPR, CRR, CBC

CCR No. B-1172