

1 THE SUPERIOR COURT OF FULTON COUNTY
2 STATE OF GEORGIA

3 CHURCH OF SCIENTOLOGY OF)
4 GEORGIA, INC., a Georgia)
5 Corporation,)
6 Plaintiff,) CIVIL ACTION FILE

7 vs.) NO. 2010-CV-180058
8)

9 CITY OF SANDY SPRINGS, GEORGIA,)
10 a Municipal Corporation of the)
11 State of Georgia; the CITY)
12 COUNCIL of the CITY OF SANDY)
13 SPRINGS, GEORGIA; EVA GALAMBOS,)
14 Mayor of the City of Sandy)
15 Springs, Georgia; and JOHN)
16 PAULSON, DIANNE FRIES, WILLIAM)
17 COPPEDGE COLLINS, JR., ASHLEY)
18 JENKINS, TIBERIO DeJULIO, and)
19 KAREN MEINZEN McENERNY,)
20 Individually in Their Official)
21 Capacities as Members of the)
22 CITY COUNCIL of the CITY OF)
23 SANDY SPRINGS, GEORGIA,)
24 Defendants.)

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Transcription of Audio CD in Re:

19 Sandy Springs, Georgia
20 City Council
21 RZ09-001/CV09-006
22 December 15, 2009

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

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- - -
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Marietta, Georgia 30062
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1 CITY COUNCIL MEMBERS PRESENT:
Eva Galambos, Mayor
2 Doug MacGinnitie - District 1
Dianne Fries - District 2
3 Rusty Paul - District 3
Ashley Jenkins - District 4
4 Tibby DeJulio - District 5
Karen Meinzen McEnergy - District 6

5

6 STAFF PRESENT:
Michael Casey, City Clerk
7 Nancy Leathers, Director of Community Development
Patrice Ruffin, Asst. Director of Planning and
8 Zoning
Wendell Willard, City Attorney
9 Cecil McLendon, City Attorney

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11 - - -

12 MAYOR GALAMBOS: All right. Well, now
13 we've gotten to the place that everybody has been
14 waiting for tonight. And we will allow 20 minutes
15 for each side so that should be sufficient time for
16 a thorough discussion of the zoning petition.

17 So if the clerk would please read out the
18 zoning number and the item.

19 MR. CASEY: This is agenda item number
20 09-316, RZ09-001 with CV09-003 for 5395 Roswell
21 Road. The applicant is the Church of Scientology
22 to rezone from a light conditional to O-I to allow
23 for a church in the existing building and to expand
24 the building by enclosing the existing parking deck
25 with concurrent variances presented by Assistant

1 Director Patrice Ruffin.

2 MS. RUFFIN: If the Mayor and Council
3 recall, the last time you heard this case staff --
4 the applicant had revised their site plan to allow
5 for additional parking on the office site. And you
6 wanted to send it back to Planning Commission to
7 allow them time to review that proposal.

8 The petition was heard at the November
9 19th Planning Commission hearing. And the
10 Commission recommended approval subject to staff's
11 conditions.

12 If you also recall, staff presented two
13 sets of conditions of staff-recommended conditions
14 and an alternate set of conditions. And again, the
15 Planning Commission recommended approval subject to
16 staff conditions.

17 MAYOR GALAMBOS: Do you think it would be
18 worthwhile at this point to read out the staff
19 conditions?

20 MS. RUFFIN: They're lengthy. I don't
21 know if you want to go one by one or --

22 MAYOR GALAMBOS: The most important one.

23 MS. RUFFIN: Okay. Basically, staff
24 recommended that the building be left as is, that
25 the parking area underneath not be enclosed, and

1 that the applicant be allowed to use the parking
2 as-is on site.

3 MAYOR GALAMBOS: Thank you. Mr.
4 Galloway?

5 MR. GALLOWAY: Members of Council, my
6 name is Woody Galloway with Dillard & Galloway.
7 I'm here representing the applicant, the Church of
8 Scientology, in this application.

9 This application involves 1.7 acres of
10 land which is located in the northeast corner of
11 Roswell Road and Glenridge. The property is
12 currently zoned to the O-I classification. We're
13 seeking a rezoning to the O-I classification in
14 order to allow the Church of Scientology to move
15 their church to this location and to allow a
16 43,916-square-foot church to be operated at this
17 location.

18 The issue in this case has not been one
19 of land use. It has been one of parking and a
20 perceived issue as it relates to traffic. Neither
21 one of which are currently a problem given the fact
22 that the applicant has made a number of changes to
23 the request.

24 The Sandy Springs parking regulations
25 require churches and other places of worship to

1 provide one space for every 3.5 fixed seats or one
2 space for every 30 square feet in the largest
3 assembly area.

4 If you apply that ratio to the Church of
5 Scientology's site, 46 parking spaces would be
6 required. Under the original proposal, 81 parking
7 spaces were proposed.

8 Staff originally expressed concern as it
9 relates to the adequacy of parking provided because
10 of the relatively small size of the chapel.

11 We then worked with staff and your City
12 Attorney's office to develop the alternate
13 conditions, which are also recommended for approval
14 by staff, that puts -- that put an occupancy cap on
15 the total number of occupants that could be in the
16 building at any one time at 283 people. That was
17 based on 81 parking spaces. And the staff
18 recommended approval, indicating that that was
19 adequate parking to serve the needs of the site.

20 Even after we gained approval from the
21 staff based on the 283 person cap, the Church of
22 Scientology continued to work to try to address any
23 perceived issues as it relates to this application.

24 As a result, the Church of Scientology
25 voluntarily reduced the cap from 283 to 170 and

1 increased the number of parking spaces on site from
2 81 to 111. The result is a proposal of one space
3 for every 1.5 occupants in the building.

4 Under Sandy Springs code, as I indicated,
5 the requirement is one space for every 3.5 fixed
6 seats or one space for every 30 square feet of
7 assembly space.

8 Again, applying that ratio to the site,
9 it would require 46 spaces. With 111 spaces being
10 proposed, we're providing 2.4 times what the code
11 requirements of Sandy Springs are.

12 In addition to that, we are imposing a --
13 self-imposing at that -- a cap on the occupants at
14 170.

15 You will note that at the bottom of page
16 2 on the staff's recommendation they find, quote,
17 "It is staff's opinion that the proposed request of
18 43,916 square feet would meet the level of parking
19 necessary to support the proposed use at an
20 occupancy of 170 persons. Therefore, staff
21 concludes that there would be an adequate amount of
22 parking for the proposed 43,916 square feet with
23 the occupancy limited to 170."

24 The Church of Scientology has agreed to
25 these conditions and imposed these limitations on

1 itself; limitations that you could not impose on
2 the Church of Scientology. But they've done that
3 in order to address any perceived issues as it
4 relates to the church.

5 We believe that the alternate conditions
6 address all reasonable concerns regarding the
7 church and ask that you approve the request
8 pursuant to the alternate conditions.

9 I'd like to reserve the remainder of my
10 time for rebuttal. Thank you.

11 MAYOR GALAMBOS: Thank you, Mr. Galloway.
12 Is there anyone else that wishes to speak in behalf
13 of the application?

14 MR. CASEY: I have a speaker card from
15 Bob Adams.

16 MR. ADAMS: We'll reserve that for
17 rebuttal.

18 MAYOR GALAMBOS: Anyone else in favor?
19 No one else in favor? All right. Then we're ready
20 to go for the opposition.

21 MR. CASEY: First speaker card I have is
22 from Daniel Hubbell.

23 MR. HUBBELL: Good evening. My name is
24 Daniel Hubbell. I'm an architect with 18 years of
25 experience, an owner of a Sandy Springs

1 architecture firm. I'm a resident of The
2 Courtyards of Glenridge.

3 In all my years as an architect, I have
4 never seen a zoning case that has such a serious
5 deficiency in minimum required parking as this one.

6 To make matters worse, there are several
7 problems with this application. The applicant
8 clearly has not been professionally advised in the
9 property's land use facts or what may be reasonably
10 permissible according to ordinance. Here are the
11 facts:

12 Number one. Wrong building square
13 footage. At the last Planning Commission meeting,
14 by the way, in which the Planning Commission denied
15 the use of four floors, Mr. Galloway admitted that
16 the square footage in the application was wrong and
17 underquoted by almost 1,500 square feet.

18 Number two. Violation of rezoning
19 procedures. This applicant is defective in a
20 number of ways and, therefore, not in accord with
21 Article 27 of our ordinance's petition
22 requirements. For example, the site plan is
23 missing important information.

24 Number three. The property is already
25 overdeveloped. By public zoning records, this

1 building already exceed the City's density
2 restrictions by 3,000 square feet. Still, the
3 applicant proposes to exceed these restrictions by
4 10,000 square feet. If done, this would be notably
5 disastrous.

6 Number four. Nonconforming land use
7 density. The actual building square footage with
8 the enclosure of the basement is in violation of
9 the City's Comprehensive Land Use Plan and exceeds
10 the maximum allowed square foot acre density.

11 Number five. Not enough on-site parking.
12 If standard formulas of three per thousand square
13 feet for offices, five per thousand square feet for
14 classrooms, and one per 30 for sanctuary were
15 applied to just three floors, this application
16 requires a minimum of 156 parking spaces. Four
17 floors require a minimum of 200 spaces.

18 But the applicant is now only proposing
19 111 spaces for four floors. And guess what? On
20 the latest site plan only 70 are permanent on-site
21 spaces. That's right. 41 spaces are not even on
22 the property but located in a nonexclusive
23 easement. Let me repeat: A nonexclusive easement.

24 This is parking which is not served,
25 quote, "only to designated use" as required by

1 ordinance.

2 Number six. The building's program is
3 too intense. 24 assembly spaces have been crammed
4 into a structure that was designed and conditioned
5 as for offices. Per building code, the classrooms
6 and sanctuaries allow six times more occupants than
7 offices. Where is the additional parking for the
8 assembly uses?

9 Number seven. Many of the other
10 permitted uses under office and institutional,
11 including assembly hall, school or traditional
12 church, would be considered underparked for this
13 property. These are uses which require much more
14 parking of their assembly occupancy.

15 Number eight. The parking ratio is
16 ridiculously low. Only 2.46 spaces for 1,000
17 square feet is grossly insufficient for a proposal
18 that adds another floor and converts 45 percent of
19 the building to more intensive assembly uses.

20 The typical office building requires a
21 minimum of three spaces per thousand. The City's
22 compelling interest is sufficient parking. It's
23 obvious by any professional standard the applicant
24 is unable to provide the required parking for
25 assembly spaces and cannot satisfy the parking

1 intent per land use requirements of the zoning
2 ordinance. Thank you.

3 MAYOR GALAMBOS: Thank you, sir.

4 MR. CASEY: The next speaker card I have
5 is from Jane Kelley.

6 MS. KELLEY: I'm Jane Kelley, 4590
7 Windsor Park Place, and I represent the High Point
8 Civic Association with about 500 active members.

9 We strongly oppose the expansion of the
10 building and allowing insufficient parking. The
11 applicant wants to increase the square footage by
12 33 percent, yet decrease the available area for
13 parking. Enclosing the basement garage would
14 remove 30 spaces.

15 This is a self-imposed hardship. They
16 propose to squeeze 111 parking spaces into the
17 surface area that currently accommodates 81 spaces
18 not just by restriping but also by paving over
19 three areas of green space to create 18 spaces. As
20 you see on the screen, carving in the setback areas
21 to add 12 new spaces. Asking to have the packing
22 islands with shade trees entirely paved and cutting
23 down four trees.

24 This requires four variances. Why have
25 ordinances if we're not going to enforce them?

1 be passed, this building will be rendered a white
2 elephant, probably unusable by any other
3 organization without major renovation to restore
4 the basement parking and decrease the square
5 footage to something acceptable for the site.

6 This site is already overdeveloped. It's
7 not a suitable site for increased density and
8 insufficient parking for any organization. Thank
9 you.

10 MAYOR GALAMBOS: Thank you, Miss Kelley.

11 MR. CASEY: Next public comment card is
12 from Robin Beechey.

13 MR. BEECHEY: Good evening. I'm Robin
14 Beechey of 20 Willow Glen representing the Willow
15 Glen Condominium Association.

16 This church has ambitions to grow. Why
17 else would it spend \$5.6 million on acquisition of
18 the site and \$3.5 million on alterations for a
19 building four times the size of its Dunwoody
20 premises.

21 There are many inconsistencies and
22 inaccuracies in this application. It speaks of a
23 current membership of 120, yet the church's PR
24 representative has been quoted as saying, "We have
25 about 600 members. 200 are the regular members,

1 then on our rolls there are literally thousands. I
2 would say pretty close to 10,000 that have joined
3 since the inception of the organization in
4 Atlanta." This has never been contradicted.

5 We reported this several times. It's
6 never been contradicted. There's not a Church of
7 Scientology on every street corner. This is not
8 just another parish church. According to the
9 Church's Web site, this will be their flagship, not
10 just for Atlanta but for the whole of the deep
11 south. With this number of parking spaces?

12 Once the church is established on this
13 site, you'll be on a slippery slope with little or
14 no control over futures growth of it.

15 This is the fourth attempt by the
16 applicant to sidestep the parking requirements.
17 Besides the numerous hurdles and the solutions
18 worked out behind closed doors, it still failed to
19 do so for nearly a year. The applicant has been
20 trying to flip a quart into a pint pot.

21 And now there's a major flaw in the
22 application concerning an unexclusive easement.
23 Not only do they not have just over 60 percent of
24 the spaces that they claim in the application, but
25 this also lack of space also makes a complete

1 nonsense of all the parking ratios in the staff
2 report and all the occupancy caps proposed by the
3 applicant and staff. As stated on there, those
4 ratios are meaningless.

5 We fail to see how any application can be
6 approved tonight, whether for three floors or for
7 four floors, when the parking claim to support it
8 is not there and has never been there.

9 I'm sure this is not a point that will be
10 lost on the lawyers among you. The objector's
11 attorney will explain why Section 28 of the
12 ordinance can't be used as a magic wand to remedy
13 these fundamental defects in the application.

14 The applicant has applied for and
15 insisted it needs four floors. What earthly reason
16 is there to grant conditional approval for three,
17 something that neither the applicant nor the
18 neighborhoods want.

19 If despite our arguments, despite all our
20 arguments, you're determined to approve this
21 application in some form, we ask you to include the
22 community conditions sought by the local
23 neighborhoods. And they're on the slide.

24 The citizens of Sandy Springs see this as
25 a test of the resolve of the City Council to uphold

1 the principle of better protection of neighborhoods
2 upon which this City came into existence.

3 We also see it as a test of the Council's
4 willingness to treat both applicant and
5 neighborhoods evenhandedly, to follow the procedure
6 requirements of your own ordinances, to adhere to
7 best practices in matters of open government.

8 Thank you, Madame.

9 MAYOR GALAMBOS: Thank you, sir.

10 MR. CASEY: Next public comment card is
11 from Patty Burns.

12 MS. BURNS: Patty Burns, 5400 Roswell
13 Road, president of Round Hill Condominium.

14 The staff's opinion of the zoning impact
15 analysis is incorrect because it suggests this
16 proposed use is suitable in view of the use and
17 development of adjacent and nearby property.

18 When looking at the aerial view of this
19 location, seven-eighths of the surrounding area are
20 high density residential townhomes and condominium
21 communities and not commercial developments. They
22 are directly adjacent to the site and will be
23 adversely affected.

24 In addition, and again contrary to the
25 staff's own recommendation, it will become

1 excessive and burdensome to the existing
2 infrastructure of the adjacent streets and
3 intersections.

4 The applicant has owned this building
5 since 2005. We have seen nothing but deterioration
6 and neglect of the building and property.

7 The next two slides show that this lack
8 of basic upkeep still continues. This is
9 disrespectful to our neighborhoods and if approved
10 will devalue our properties.

11 We, the taxpayers, the homeowners and
12 residents of Sandy Springs, strongly oppose this
13 rezoning.

14 There are 16 homeowners and civic
15 associations submitting letters of objection. We
16 have now 700 -- 700 -- petitions from surrounding
17 neighborhoods that will be severely affected.

18 Most describe this intersection as being
19 a public safety hazard with dangerous and erratic
20 traffic.

21 We hope the Mayor and City Council will
22 step back and look at the overall picture of this
23 tremendous growth that this organization has
24 planned. Please deny this rezoning request and
25 thank you very much.

1 front of you. The site plan is a little bit
2 misleading because the site plan that's part of
3 this application reflects property that is not
4 physically owned by the Church of Scientology.

5 Now, there is a property line there. I'm
6 not saying there is not. But if you look at the
7 overall site plan that's part of the application,
8 it doesn't really show you that those 41 spaces
9 can't be counted for their on-site parking.

10 And if you limit it to the 20 percent
11 that I think 19.3.6 of the ordinance requires, then
12 only 23 of those off-site spaces can be counted
13 toward the required parking.

14 Now, I know Woody stood up and said that
15 under the ordinance they'd only be required to have
16 46 spaces. But the applicant throughout this
17 process has made a great deal of effort to point
18 out that this church does not operate like a
19 traditional church and that their main focus is not
20 on the sanctuary; that it's on these smaller
21 meeting rooms.

22 It's completely appropriate for staff to
23 do what it did as far as analyzing this as offices
24 and classrooms and things like that because the
25 applicant has made a point throughout the process

1 to say they are not a traditional sanctuary-driven
2 church that governs what the required parking
3 should be.

4 Based on their parking studies that
5 that's what they asked staff to go by, then they
6 come up with 113 required spaces. Well, of that
7 113 required spaces, 23 of them could be off-site
8 by way of an easement.

9 The second piece that you have here is
10 that this easement is not exclusive. It is a
11 nonexclusive easement. And the ordinance requires
12 that parking to be dedicated to them entirely.

13 Since it's not exclusive, it can't be
14 counted at all. And that limits them down to 70
15 spaces.

16 So now you're going to be talking about
17 putting in a 43,000-square-foot building that only
18 has 70 spaces. That's a completely unmanageable
19 building, and there's no way you're ever going to
20 be able to keep up with or enforce the parking
21 conditions.

22 We'd respectfully ask that you-all
23 decline.

24 MAYOR GALAMBOS: Thank you, sir.

25 MR. CASEY: Next card I have is from

1 Sheila O'Shea.

2 MS. O'SHEA: My name is Sheila O'Shea.
3 I'm a resident of Round Hill Condominiums at 5400
4 Roswell Road. I hope that this will be my last
5 statement on the matter.

6 Despite Mr. Galloway's efforts to dismiss
7 the neighborhoods' concerns as merely a parking
8 issue, there are, as those before me have
9 explained, far more serious issues.

10 The petitioner claims the square footage
11 must be expanded for them to use this building.
12 The building is already too large for the space it
13 occupies. Yet it only exists on that lot by being
14 grandfathered in from previous variances.

15 Even the staff recommendations of three
16 floors would be tantamount to denial as the
17 petitioner has been quite insistent on the
18 enclosure of the basement to the point of making
19 the absurd argument that denying them this would be
20 religious discrimination.

21 If the square footage of this building is
22 indeed insufficient, then they should find a
23 property that already has the space they need
24 instead of overbuilding this one.

25 The clearest path is to deny them

1 outright. They have been disingenuous to the point
2 of deception and should not be rewarded for it.
3 Thank you.

4 MAYOR GALAMBOS: Thank you, ma'am.
5 Anyone else that wishes to speak in opposition? If
6 not, Mr. Galloway, it's time for your rebuttal.

7 MR. ADAMS: Councilmembers, my name is
8 Bob Adams. I'm vice president of the Church of
9 Scientology International headquartered in Los
10 Angeles, California.

11 And I came here tonight to talk to you
12 for a bit about the church and its zoning
13 application.

14 We wholly support your support of our
15 application as it is written and as the statute for
16 the City and the County read.

17 That's really all we ask; that we are
18 granted the same rights as anyone else.

19 As with all of our cities, everywhere we
20 have a church, in 8,100 churches and missions in
21 165 countries, in those cities the city fathers and
22 citizens know that we're good citizens.

23 We pay attention to our responsibilities
24 as a group of citizens themselves. And that is the
25 message that I have from all of the parishioners

1 around the world and in particular here in Sandy
2 Springs.

3 All the parishioners here really look
4 forward to moving into their new home, their new
5 church where it stands and being able to carry out
6 their religious practices as have been defined
7 here.

8 We do need that space. And it is really
9 the way our religion operates.

10 So with all due respect, thank you very
11 much. I hope your decision does take all of this
12 into the matter and that the decision is based on
13 the foregoing. So thank you very much.

14 MAYOR GALAMBOS: Thank you, Mr. Adams.

15 MR. CASEY: I have an additional card in
16 support from Nancy Davis.

17 MS. DAVIS: Hello. I'm Nancy Davis. I
18 live at 17218 Deer Trail in Alpharetta, Georgia.
19 I'm a very long-term Scientologist. I'm an Atlanta
20 native. And I've come back to Atlanta after being
21 in many other cities for several years.

22 I've been to many different Churches of
23 Scientology, and the Atlanta church is now my home.
24 I'm very excited about us being able to move into
25 our new facility and having our own sanctuary.

1 It's very important to us. I'm sure many
2 of you wouldn't want to have a church without
3 having your chapel or sanctuary present. So that
4 is an important place for us.

5 And we do understand and have taken very
6 seriously the concerns about parking. All I want
7 to say is that where I've been and in every Church
8 of Scientology I've participated in, we've always
9 been a good neighbor. We do keep our word once
10 given, and we do really become and we will become
11 an even better member of the community.

12 So we realize this is a difficult
13 decision for everyone. It's an emotional issue.
14 And certainly I'm very sorry that it's turned into
15 that when, in fact, we just want to be a very good
16 member of the Sandy Springs community.

17 We're very excited about being a part of
18 this community and having our church here with you.
19 Thank you very much.

20 MAYOR GALAMBOS: Thank you, Miss Davis.

21 MR. GALLOWAY: We've addressed a number
22 of issues that came up.

23 First of all, this church bought this
24 site with their eyes wide open. They bought the
25 site knowing that the property was zoned O-I,

1 knowing what the parking was out there, but also
2 knowing what the code requires and what the City of
3 Sandy Springs has always applied. And that's one
4 space for every 3.5 seats in the main auditorium.

5 And in this case if you apply that
6 ordinance, it only requires 46 parking spaces. And
7 there are 81 on site.

8 As it relates to easement, there is a
9 permanent easement over the property adjacent to
10 this that when this property was divided, the Post
11 Office wanted additional property. Prior to the
12 development of the Post Office the property was
13 subdivided, but an easement, a permanent easement
14 was kept on that property.

15 The City Attorney's office has reviewed
16 all of that. The issue came up very early on in
17 the process. They agree that the easement is
18 sufficient and meets the requirements of the code.

19 The site is not overdeveloped as it
20 relates to the Land Use Plan. The Land Use Plan
21 indicates, as is confirmed by the staff in the
22 analysis, that up to 25,000 square feet is allowed
23 under the Land Use Plan for development on this
24 property in compliance with the Sandy Springs
25 regulation.

1 As it relates to square footage, we have
2 a number of different documents, including the
3 original survey, the due diligence by (inaudible)
4 Property Services that was given to the purchaser
5 at the time that the church -- at the time they
6 purchased this property that indicate the square
7 footage is 43,916 square feet. As is also
8 confirmed by the land-air survey which was dated
9 February 12, 2007, and the floor layout by Peacock
10 & Associates which was included in the due
11 diligence report. Peacock & Associates Architects
12 had indicated the square footage was less than
13 43,916 square feet. Gensler has also prepared a
14 full set of architectural and building plans for
15 this property based on that square footage and has
16 independently confirmed the square footage.

17 It's really a meaningless argument as it
18 relates to square footage anyway because what we
19 have done is we have applied a cap of the number of
20 people that can be in the property -- in the church
21 at any one time at 170.

22 So in terms of impact as it relates to
23 anybody outside the building, the only impacts are
24 dictated by how many cars come in and out. There
25 is adequate parking, public services that are

1 provided. That's dictated on how many people are
2 in the building.

3 And if we cap it at 170, where there are
4 no caps at all under the existing office, or under
5 the proposal at 32,000 square feet, there would be
6 no cap.

7 And so what we've done is we have
8 proposed a cap to address that issue. In addition,
9 staff will review any plans for renovation and
10 improvement of the site and they will only approve
11 43,916 square feet.

12 As it relates to the variances, we can do
13 97 spaces on the property that we control based on
14 restriping. The only reason we're going above that
15 is to try to address the perceived lack of parking.

16 The studies that have been provided by
17 professional licensed engineers that did traffic
18 studies in Nashville and Buffalo based on Dunwoody
19 all show that the parking that we have out there
20 today meets the requirements and meets any
21 anticipated demand.

22 If you look at those churches that have
23 been in establishment for a longer period of time
24 and then extrapolate and then apply it from those
25 ratios based on the number of square feet at the

1 proposed location, we far exceed the number of
2 parking spaces that would be necessary.

3 Again, the variances are only required
4 because we're trying to address an issue that they
5 raise.

6 We do not in any respect agree with the
7 fact there's not adequate parking out there today
8 or that the City Council could impose anything
9 other than looking at the one space for every 3.5
10 seats in the largest auditorium, which is what
11 you've done for every other church.

12 And RLUIPA, which is the act that governs
13 this in addition to the general law, indicates you
14 can't discriminate between church. You can't
15 discriminate on the basis of religion. That's what
16 this country is founded on. And yet that's exactly
17 what they are asking to you do. The parking is
18 there.

19 As it relates to the unenforceability of
20 the cap, you certainly have the ability to enforce
21 that. Your code sets forth the responsibilities,
22 and the staff has indicated they certainly can
23 enforce that cap. You do it as it relates to fire
24 code. And you would certainly do it as it relates
25 to this.

1 You've done it and approved it as it
2 relates to schools. And you can do it here. The
3 penalty for violation is a thousand dollars per day
4 or imprisonment or both. So you have the ability
5 to enforce it.

6 As it relates to the Dunwoody figures, if
7 you apply -- if you apply the studies that we
8 actually did and submitted, they prove that --
9 because the Church of Scientology uses so much
10 square feet per person. They're an inefficient
11 user of space. So they require in the practice of
12 their religion they require an inordinate amount of
13 space per person. And as a result, their parking
14 and their traffic plans are very low.

15 And that was what was proven by the study
16 that we submitted by a national engineering firm.
17 John Walker is here with Kimley Horn. He can
18 address any questions that you have when we looked
19 at two different sites to show that. That was
20 before we proposed to increase the number of
21 parking spaces on site, before we proposed a cap at
22 170.

23 Those were all things the church did in
24 order to address -- try to address the perceived
25 problem. Not an actual problem. A perceived

1 problem.

2 As it relates to traffic, ITE trip
3 generation rates show that the existing office use
4 that's on the property would generate far more
5 trips per day. And not only that, those trips
6 would be concentrated during the a.m. and p.m. peak
7 hours where traffic is the biggest issue.

8 Basically you have three choices before
9 you: You can deny the request which would leave
10 the property zoned O-I. There would be no caps
11 under O-I. There are no caps on this existing
12 property. It would generate more traffic than the
13 proposed use. And you have no control, no ability
14 to control the number of people that come in and
15 out of the site, how many are there at any one time
16 and the traffic generated by that.

17 You have the option to approve pursuant
18 to the 32,000-square-foot recommendation by
19 Planning Commission. Again, that would indicate
20 there would be no cap. You'd have a use of a
21 church, but you would have no cap as far as how
22 many people could be there.

23 The fire occupancy for this site on the
24 four floors is over a thousand people. So there
25 effectively is no occupancy cap as it relates to --

1 as it relates to a church use or an office use
2 other than the fire code. And that would allow
3 substantially more people than what we are
4 proposing.

5 The 32,000-square-foot limitation would
6 not work for the church. It does not address their
7 needs and the rights that they have to occupy the
8 space and to use it for its intended purposes for
9 their religious exercise and would hamper and
10 greatly burden their ability to do that to the
11 point where they cannot use the site. So it is not
12 acceptable to them at all at the 32,000-square-foot
13 level.

14 We have proven to your staff, to your
15 City Attorney's office that the applicant has a
16 great need for space. It is part of their
17 religious doctrine, is actually written into some
18 of their doctrinal statements as far as the need
19 for space for each of the people that come, their
20 attendees, as well as their staff.

21 And we have shown each of you and to the
22 City Attorney's office and the staff how they use
23 that space and the fact that they have four or five
24 classrooms that will be dictated by one classroom
25 or that they have a staff that's during the day,

1 that -- they have one staff during the day; they
2 have one staff at night and weekends. And that
3 they provide space allocated for each of those
4 individuals. And so they have a need for a great
5 deal of space.

6 And there is absolutely no reason to
7 limit the square footage to 32,000 square feet.
8 You don't gain anything. By our -- by approving
9 43,916 square feet, we are willing to accept
10 conditions that you can't impose on the church.
11 We're willing to accept the condition of 170
12 people. We're willing to accept regulations as far
13 as what happens going off-site to get parking.
14 Nancy would have to approve that. She'd have to
15 approve a transportation plan as it relates to any
16 off-site parking.

17 The Church of Scientology does not
18 anticipate a need for any off-site parking for any
19 time in the immediate future and even in the
20 long-term future.

21 Again, if you look at Nashville which is
22 five times -- has five times the active membership
23 that the Church of Scientology does here, if you
24 apply those ratios to the Church of Scientology
25 here, there would be I think it was 45 or 55 spaces

1 required. And that's five times the size.

2 And we are proposing to provide 111
3 parking spaces, which again is 2.4 times what your
4 requirement is, that your code requirement is.

5 That's the only thing that you can impose
6 is a code requirement of 2.4 times. And that is
7 one space for every 1.5 people in the facility.

8 If you look at the other churches within
9 Sandy Springs, other churches -- I did an informal
10 survey. I looked at a lot of different churches
11 within Sandy Springs, called around. They don't
12 have these limitations.

13 We are imposing those on ourselves.
14 Again, they are regulated by the one space for
15 every 3.5 in their largest assembly room, yet they
16 operate Sunday schools during the same time as
17 their largest assembly room's operating. They also
18 operate their --

19 MR. CASEY: One minute remaining.

20 MR. GALLOWAY -- alternate things at the
21 same time. And so effectively that ratio is more
22 like one space for every 5.5 or six people in the
23 building.

24 The bottom line is, there's absolutely no
25 reason to deny this request. Your staff has

1 recommended approval pursuant to the alternate
2 recommendation, alternate conditions which are
3 acceptable to us. We worked with your City
4 Attorney's office and with the staff to develop
5 those. Those are acceptable to us.

6 Traffic is not an issue. Parking is not
7 an issue. Use is not an issue. We are adjacent to
8 nine residential uses. Your ordinance allows a
9 church in residential. We're on a five-lane
10 highway. This is not imposing a mega church into
11 the middle of a subdivision.

12 There are churches in Sandy Springs on
13 two-lane roads. We're on a five-lane U.S. and
14 state highway with a light, with adequate parking,
15 and we've proven that through our studies.

16 I'd be glad to answer any questions that
17 you have with regard to this proposal. Thank you.

18 MAYOR GALAMBOS: Thank you, Mr. Galloway.
19 Do you have any questions for members of the
20 Council? If not, that will close the public
21 hearing. Oh, you have a question?

22 COUNCILMEMBER McENERNY: Yes. I have a
23 question of Nancy Leathers, and I have a question
24 for the two lawyers if I could. Miss Leathers or
25 Miss Ruffin.

1 COUNCILMEMBER RUFFIN: Ruffin.

2 COUNCILMEMBER McENERNY: Ruffin, I'm
3 sorry. Is it true that the assertions that this
4 application complies with the Comp Plan in terms of
5 the density of 25,000 square feet per acre? Is
6 that correct or --

7 MS. RUFFIN: That is correct. The 43,916
8 square feet comes out to 24,671 square feet per
9 acre.

10 COUNCILMEMBER McENERNY: At 1.7 acres of
11 property?

12 MS. RUFFIN: Yes.

13 COUNCILMEMBER McENERNY: So you take
14 43,916 divide by 1.7?

15 MS. RUFFIN: 1.78.

16 COUNCILMEMBER McENERNY: All right. Just
17 one second, please. Thank you very much. Okay.

18 Second question to either of you. Is it
19 true that Section 19.3.6 of the zoning code limits
20 additional off-site parking to 20 percent of the
21 total requirement?

22 DIRECTOR LEATHERS: Yes, that's correct.
23 And I think that I would like the City Attorney to
24 respond more fully on that question. But that is
25 what is before me.

1 MR. McLENDON: Sure. The Code Section
2 19.3.6.1B2 provides that there's a 20 percent
3 requirement for off-site parking. I think that
4 under this application that parking was previously
5 allowed. That area was previously allowed into the
6 easement area that was already adjacent to this
7 parcel.

8 So there is a distinction in that the
9 area we're talking about was already part of this
10 by virtue of the previous zoning in Fulton County.
11 So I'm saying that's a distinction.

12 MAYOR GALAMBOS: You are saying that we
13 are not in contravention of that section of the
14 code?

15 MR. McLENDON: I will tell you that it's
16 a distinction that's probably not addressed
17 specifically in that code.

18 COUNCILMEMBER McENERNY: Okay. But isn't
19 it true that this entire application is coming
20 before us for a whole new land use? And,
21 therefore, just like we are in a couple minutes
22 going to deal with Holy Innocents, the 41 spaces
23 that the opponents are suggesting are nonexclusive
24 and, therefore, fall under the additional parking,
25 would that not obviate your grandfathering

1 suggestion?

2 MR. McLENDON: With the new use coming
3 in, it would be a very clear distinction. If this
4 was brought in and there were attempting to append
5 that easement area onto the parcel with their
6 pre-existing fact that these were both part of a
7 zoning, I think we would have an issue there.

8 And if Nancy as the interpreter of the
9 ordinance says she thinks that meets that
10 requirement, I would absolutely defer to that
11 interpretation on it.

12 COUNCILMEMBER McENERNY: And so the
13 opponent's argument that the 41 easements,
14 nonexclusive easement spaces that exist on the --
15 for the patrons of the Post Office you're saying
16 are not under your viewpoint additional parking?

17 MR. McLENDON: I'm going to say it's a
18 matter of law. When I read that code section, I
19 don't think it's got -- it's got to go. As I read
20 this, the code section of our zoning ordinance --
21 and I understand that that previous, that easement
22 area was involved in the prior zoning and they were
23 both brought forward in the prior zoning as one
24 parcel -- I would not say that that is a basis to
25 reject this at this time.

1 MAYOR GALAMBOS: Thank you, Mr. McLendon.

2 Ms. Fries?

3 COUNCILMEMBER FRIES: Nancy, let me get
4 some clarification on something. There's been some
5 discussion about the cap, the cap of 170. And
6 there was discussion -- I think Woody had mentioned
7 it -- we do have caps in some other things and he
8 mentioned the schools.

9 Isn't it my understanding or am I
10 understanding it correctly that the school cap
11 is -- we don't monitor that in the same fashion
12 that we might have to monitor this. It is a once a
13 year they send us the total number from their
14 enrollment? Is that correct?

15 DIRECTOR LEATHERS: That's correct.
16 However, these conditions do incorporate a monthly
17 reporting from the church, which is something new
18 to us. Yes. When it comes to these caps, we've
19 not had that before.

20 COUNCILMEMBER FRIES: Okay. So it would
21 require us to at minimum monthly go and do a
22 spot-check?

23 DIRECTOR LEATHERS: I don't believe that
24 we would do that, but we would get those reports
25 monthly. And we would have to assess them and

1 determine how we would handle them. We've not done
2 that before.

3 COUNCILMEMBER FRIES: Okay. Thank you.

4 MAYOR GALAMBOS: Any other questions?

5 COUNCILMEMBER PAUL: Madame Mayor, I've
6 got a few if I can get Mr. Galloway back to the
7 microphone just for a brief series of questions.

8 Mr. Galloway, I've just got some basic
9 general questions. Maybe you can answer them.
10 Maybe someone, one of your clients might be able to
11 do.

12 It's been talked about this being a
13 regional church that would reach across Atlanta
14 metro as well as Georgia and the southeast. Is
15 that an accurate statement? Would there be people
16 coming from different locations?

17 MR. GALLOWAY: It is. And it is an
18 inaccurate statement. This will be -- this is
19 their main church in Georgia for now. But in
20 terms -- in Scientology you move up levels in terms
21 of your understanding and the course work you've
22 done, et cetera.

23 Once you get above a certain level,
24 anybody from the southeast would go to Clearwater,
25 Florida, which is more their regional area and a

1 higher level church in terms of what they offer.
2 And there are also other areas or other churches
3 that offer a higher level of course study than
4 would ever be offered at this location.

5 If we ever exceed the need in terms of
6 the number of people, if we ever get to that point
7 or if the church ever gets to that point, then they
8 would establish mission churches in the surrounding
9 areas that would address the need in terms of
10 space.

11 So this would not -- it's seen as a
12 statewide or potentially even a multi-state
13 location. But there are limitations on that and
14 anyone that would again go to Clearwater or another
15 higher level church once you reach a certain level.

16 COUNCILMEMBER PAUL: So you have to move
17 in essence?

18 MR. GALLOWAY: No, you don't. You go
19 there for a period of time to do a course of study.

20 COUNCILMEMBER PAUL: Okay. You made the
21 statement that the practice of their religion
22 requires an inordinate -- and I'm paraphrasing
23 here. You may not have used exactly these words.
24 So clarify it for me if I am incorrect. That the
25 practice of their religion requires an inordinate

1 amount of space. Can you tell me why that is the
2 case?

3 MR. GALLOWAY: I can go through the space
4 plan drawings if you want to. I have those here.
5 But in terms of --

6 COUNCILMEMBER PAUL: I'm asking about
7 the -- you said "the practice." What is it about
8 their practice that each individual person needs an
9 inordinate amount of space? That's how I
10 interpreted what you said.

11 MR. GALLOWAY: Because, for example,
12 there is a classroom on the second floor that that
13 classroom -- people would go to that classroom at
14 the beginning of a course of study. It's more or
15 less a study hall-type atmosphere. You would then
16 do self-directive study.

17 And they proceed to make application of
18 what you just learned in a number of associated
19 classrooms, four or five in some instances, such as
20 you would go -- you might -- there would be --
21 there's an adjacent room where you might go in with
22 a study buddy and go through an exercise. In
23 another room there's a film room.

24 So you would proceed, during that same
25 period of time you would proceed through as many as

1 five additional classrooms. So there has to be
2 five seats available for one person in that
3 particular area.

4 In addition, they have a library. They
5 have a bookstore. They have a large viewing area
6 which is more or less a museum area. They have a
7 daytime staff. They have a nighttime staff. Yet
8 they allocate square footage for each of those
9 staffs in their -- each staff member would have
10 their own office, for example.

11 And in addition to that, each staff
12 member also has other areas where they would come
13 together to perform certain tasks.

14 COUNCILMEMBER PAUL: Is this bookstore
15 open to the public?

16 MR. GALLOWAY: It is. But --

17 COUNCILMEMBER PAUL: It's like a
18 commercial venture like a retail bookstore?

19 MR. GALLOWAY: No. It's like a bookstore
20 that is in my church or in many churches where they
21 sell books.

22 COUNCILMEMBER PAUL: They sell books. So
23 they are by definition a retail enterprise. If
24 you're selling something to the public, isn't it
25 your understanding that that is a retail activity,

1 or is a wholesale activity?

2 MR. GALLOWAY: It is an associated use
3 with the principal use. So it is an accessory use
4 that is allowed under the code, allowed under your
5 ordinance. And but --

6 COUNCILMEMBER PAUL: But I as a member of
7 the public could come in --

8 MAYOR GALAMBOS: I don't think they
9 should be arguing.

10 COUNCILMEMBER PAUL: I'm trying to
11 understand the practice.

12 MAYOR GALAMBOS: Well, try to understand
13 the --

14 COUNCILMEMBER PAUL: Madame Mayor, this
15 is my last one, though.

16 MAYOR GALAMBOS: Well, make sure it's
17 allowable.

18 COUNCILMEMBER PAUL: I know, but I've got
19 some questions I need to get answered. Please bear
20 with me. Okay? I know that you're impatient, but
21 please bear with me.

22 MR. GALLOWAY: There are very few
23 churches that don't have a bookstore that somebody
24 from the public could walk in -- a lot of churches
25 in Sandy Springs do.

1 COUNCILMEMBER PAUL: But in the museum,
2 is it open to the public?

3 MR. GALLOWAY: It is -- all of the space
4 is highly regulated and secure. You have to pass
5 through security in order to get --

6 COUNCILMEMBER PAUL: But it is open to
7 the public?

8 MR. GALLOWAY: It is technically open to
9 the public. And they would -- people that are
10 interested in the Church of Scientology can come in
11 and go into those areas just like they can go in
12 every other church in Sandy Springs.

13 COUNCILMEMBER PAUL: Then, okay, that's
14 the issue. It's a public building in essence, open
15 to anybody who may -- I mean, most churches have
16 sort of a "y'all come" kind of mentality.

17 MR. GALLOWAY: They, the Church of
18 Scientology, has an open policy, but they are very
19 strict about their security because of groups in
20 the United States that oppose the Church of
21 Scientology and have done some pretty awful things.
22 They've gone in and destroyed areas. They've made
23 threats. They've made anthrax threats, for
24 example.

25 COUNCILMEMBER PAUL: So if you lived in

1 that neighborhood, would you be concerned about
2 your security?

3 MR. GALLOWAY: No; because of their
4 security.

5 COUNCILMEMBER PAUL: But that's inside.
6 What about the adjacent areas?

7 MR. GALLOWAY: Well, you mean to disallow
8 a church because --

9 COUNCILMEMBER PAUL: I didn't disallow
10 anything. I was just asking a question.

11 MR. GALLOWAY: I do not believe that it's
12 a security threat at all.

13 COUNCILMEMBER PAUL: Would the City of
14 Sandy Springs, should they take that into
15 consideration if there are threats to public
16 safety? Would that not be something that we should
17 seriously consider?

18 MR. GALLOWAY: It's something to be aware
19 of. They've operated in the city of Atlanta and in
20 the metropolitan area, in particular in Dunwoody.
21 They've been in Atlanta since the '70s. They've
22 not had a incident in terms of something that would
23 cause a public problem.

24 But again, just because there are people
25 that disagree with them, that is absolutely no

1 reason to base a decision on zoning.

2 COUNCILMEMBER PAUL: But as you said,
3 that they have had threats and they have had
4 actions taken that in essence could create a public
5 safety issue.

6 MR. WILLARD: So have bars and so have
7 synagogues and --

8 MAYOR GALAMBOS: I think you made your
9 point, councilman.

10 COUNCILMEMBER PAUL: How do they recruit
11 members?

12 MR. GALLOWAY: Same way other churches
13 do.

14 COUNCILMEMBER PAUL: So, and they are
15 coming here because of growth, right?

16 MR. GALLOWAY: Certainly. They would
17 like to grow. And because they are out of room in
18 their current location. They found this location
19 in 2005, purchased it. The entire church was going
20 through an organizational effort to determine
21 what -- how each church should be organized.

22 That is part of the reason there was a
23 delay in this process. And, of course, we've been
24 in this zoning process for a year. But they are
25 prepared and have complete building and

1 architectural drawings ready to file to start
2 construction.

3 COUNCILMEMBER PAUL: Madame, may I have
4 one last question if I may? You indicated that
5 Nashville is a church that has five times the
6 membership of the Atlanta church, yet the
7 metropolitan area is significantly larger. Why is
8 that discrepancy?

9 Would you -- I mean, is it because it's
10 one of those, like, regional churches that you move
11 to after you've gone to a certain level, or is it
12 somewhat comparable in practice to what you would
13 anticipate in Atlanta?

14 MR. GALLOWAY: It is comparable to what
15 they anticipate in Atlanta. It also has what's
16 called a celebrity center that's associated with
17 it. But one church in one city may be better than
18 another church in another city.

19 So they are five times bigger than the
20 church in Atlanta in terms of active membership.
21 And they have four times the staff.

22 Yet when you apply the parking study, the
23 actual number is -- if you apply the actual results
24 in Nashville to the size church that we are
25 proposing at the corner of Roswell Road and

1 Glenridge, 52 spaces would be required with a
2 church that's five times the size. So that's based
3 on actual data that Kimley Horn gathered in the
4 process of their going forward with the study.

5 And the reason for that is because it's
6 spread out. And they don't have a lot of people
7 that come at any one time. It's not a
8 congregational style of worship like you're used
9 to. It is a lot of independent study. It is a lot
10 of counseling, that type of thing.

11 The highest number of people at any one
12 time in Dunwoody is 60 people. The highest number
13 during the day when the study was done, the highest
14 in that three-month period of time is 15 people.

15 COUNCILMEMBER PAUL: Thank you.

16 MAYOR GALAMBOS: Miss Fries?

17 COUNCILMEMBER FRIES: Nancy, I have a
18 couple more questions for you, if I may. Woody
19 actually I believe, if I wrote it down correctly,
20 and I'll quote him, he said that they bought it
21 with their eyes wide open.

22 My question to you is: It was bought in
23 '05. We were not a city until December and it was
24 bought much earlier in the year.

25 Would it be a correct assumption for them

1 to think that Fulton County would have just
2 automatically approved closing the underground
3 parking?

4 Is that something that you'd have to go
5 through zoning for that? It's not something that
6 could have been done just when they bought it.

7 DIRECTOR LEATHERS: I don't believe so
8 because the same conditions, the zoning which apply
9 here, applied in Fulton County. It's the same
10 case. And the square footage that was approved is
11 the square footage that's on the site.

12 COUNCILMEMBER FRIES: So they wouldn't
13 have been able to buy that and two weeks later go
14 ahead and close that in; they would have had to go
15 through this same process?

16 DIRECTOR LEATHERS: That's correct.

17 COUNCILMEMBER FRIES: Okay. Also,
18 something I'm just concerned about and I mentioned
19 this early on. I think I mentioned it to Woody.

20 I still have a problem with the value of
21 the building once if it was enclosed, that parking
22 deck, because the easement -- you know, they don't
23 own all of the land.

24 And the easement there, you know, what
25 if -- I mean, they can go away at some time. And

1 if they've got that thing closed off, I just worry
2 about when they decide, okay, we're through with
3 this facility, we need to go somewhere else. Maybe
4 they grow; maybe they don't. And the economy hits
5 them and they can't afford it, whatever the reason,
6 and they leave. I'm really worried about the City
7 being left with a building that doesn't function
8 typically.

9 DIRECTOR LEATHERS: Well, I think that
10 the City Attorney needs to speak to that issue
11 because he really did address that issue as part of
12 those conditions that are before you.

13 MR. WILLARD: Yeah. That's part of what
14 we were looking at. And you're right; we have what
15 is a general use type property development with the
16 building there being mostly sort of a normal form
17 of a office-type building as opposed to what you
18 see as the traditional church situation.

19 So the concern I first brought up was:
20 Are we allowing something as far as a change in
21 that building? And ultimately if the church is no
22 longer used, I don't know whatever could happen,
23 but say that it's no longer used, someone coming
24 behind the church and say, We've got a right to
25 have a use of the property that we acquired which

1 had previously permitted with this enclosure.

2 It's going to be difficult to pry back
3 away from what we've already granted as a use and
4 change of use.

5 COUNCILMEMBER FRIES: Well, I really
6 appreciate the applicant working with staff in
7 trying to fix some of these, but I am extremely
8 uncomfortable with a lot of them.

9 I think it's putting undue pressure on
10 the City to enforce things. Even with the idea
11 of -- wait a second -- with the idea of putting the
12 parking lot back when they're ready to sell it.
13 Who's going to push that point to get it really
14 done?

15 I don't know that I am comfortable with
16 the City being in this regulation of all aspects of
17 this. So I'd like to make a motion if I may.

18 COUNCILMEMBER McENERNY: I still have
19 some factual questions.

20 MAYOR GALAMBOS: Well, she can make a
21 motion and then you-all can discuss.

22 COUNCILMEMBER McENERNY: Well, I'm not
23 finished gathering facts, Mayor. If you'll --

24 MAYOR GALAMBOS: You can do that after
25 she makes a motion. You can still gather facts.

1 COUNCILMEMBER FRIES: I'm not trying to
2 rush it. I mean, I do want to get home before
3 tomorrow. I mean --

4 MAYOR GALAMBOS: You can still gather
5 facts.

6 COUNCILMEMBER FRIES: If the motion is
7 seconded, then it's open for discussion again.

8 Well, anyway, I would like to move that
9 we approve this with staff recommendations which
10 does not include enclosing that parking deck.

11 These, for the audience, these would --

12 MR. WILLARD: Enclosing the ground floor
13 of the existing building?

14 COUNCILMEMBER FRIES: Yeah. Right.

15 MR. WILLARD: That's all a parking deck.

16 MAYOR GALAMBOS: Do I have a second?

17 COUNCILMEMBER FRIES: That ground floor,
18 that's what --

19 DIRECTOR LEATHERS: If I could, I believe
20 the time is to move approval of the staff
21 recommended conditions, not the alternate
22 conditions.

23 COUNCILMEMBER FRIES: Exactly. The staff
24 recommendations which actually it pretty much -- so
25 they will know, it pretty much mirrors the Planning

1 Commission.

2 MAYOR GALAMBOS: And do I have a second
3 on that motion?

4 COUNCILMEMBER PAUL: Second.

5 MAYOR GALAMBOS: All right. Further
6 discussion? You can go first.

7 COUNCILMEMBER McENERNY: Absolutely.

8 COUNCILMEMBER JENKINS: I just have --
9 'cause I was completely confused between your
10 discussion with Karen.

11 Is there a nonexclusive easement for the
12 41 parking spaces with the Post Office?

13 MR. GALLOWAY: There is an easement.

14 COUNCILMEMBER JENKINS: Is there an
15 exclusive easement to the benefit of Scientology,
16 or is it a nonexclusive easement?

17 MR. McLENDON: I don't have the easement
18 in front of me. To my knowledge it was a
19 nonexclusive easement.

20 COUNCILMEMBER McENERNY: I think there's
21 been a title search. When I get to my point, I'll
22 bring that out.

23 MAYOR GALAMBOS: Mr. DeJulio is next.

24 COUNCILMAN DeJULIO: Yeah. I've got some
25 problems. I'm probably the one who lives the

1 closest there. And I'm not going to come and count
2 your people at your church.

3 How big is your congregation up in --
4 where is it, Nashville which is your larger
5 congregation in the area? How many members do they
6 have?

7 MR. GALLOWAY: Nashville it has five
8 times the membership. So it has 500 active
9 members.

10 COUNCILMEMBER DeJULIO: 500 active
11 members.

12 MR. GALLOWAY: And 80 staff.

13 COUNCILMEMBER DeJULIO: And 80 staff.

14 And this one has got has got -- this church here as
15 got a hundred active members.

16 MR. GALLOWAY: And 20 staff.

17 COUNCILMEMBER DeJULIO: And 20 staff. So
18 a hundred active members and 20 staff. If my math
19 serves some me right, that's 120 people. And I
20 think our metropolitan area is pretty much, I don't
21 know, three, four, five times the size of
22 Nashville.

23 Looks like in about two weeks the
24 occupancy of this building could be 2-, 3-, 400
25 people. And I don't think I want to go and count

1 meet the code. They meet the code.

2 COUNCILMEMBER DeJULIO: And, Woody, I
3 don't think taking and doing away with green space
4 is another thing we had in mind when we went ahead
5 and put in parking regulations. If anything, we
6 have been encouraging people to put more green
7 space in parking regulations.

8 And, you know, you've heard me say over
9 and over again in this forum here that I think that
10 is one of the worse intersections in the whole City
11 of Sandy Springs. And whoever put that
12 intersection together had a grudge against
13 humanity.

14 And I really -- I really question the
15 additional traffic, the lack of parking.

16 You're telling me we have to have
17 security in the church because people want to come
18 in. And I can't walk in that church because I
19 don't have a security card for that church, and yet
20 it's a non -- it's a nontraditional church and we
21 should have nontraditional rules to go along with
22 nontraditional churches.

23 This just doesn't make sense to me. It
24 doesn't make sense to me. I went to church on
25 Sunday night. And if you want to come with me on

1 Sunday night, you're going to come into church
2 without sliding in, without having to pass any
3 security test, without having anybody frisk you or
4 go through any detectors like we have here.

5 And I've got a real problem with this
6 thing, Woody.

7 MR. GALLOWAY: But most major churches
8 have security. You may not know it, but most major
9 churches have security. In this situation the only
10 reason they have security is because they want to
11 make sure that they are -- that it is a safe
12 environment for their parishioners and it is a safe
13 environment for the people around it.

14 COUNCILMEMBER DeJULIO: Woody, I was the
15 head usher at Peachtree Presbyterian for 15 years.
16 We had no security.

17 MAYOR GALAMBOS: Well, I'm sure that we
18 can think of all kind of different examples of
19 where there is security and where there is not.

20 COUNCILMEMBER DeJULIO: I'm done. Okay.
21 Then thank you.

22 COUNCILMEMBER McENERNY: Mayor, maybe if
23 Mr. MacGinnitie or anyone else would like to make
24 any comments. I've already made one, but I had
25 some other questions.

1 MAYOR GALAMBOS: Go ahead.

2 COUNCILMEMBER McENERNY: Okay. My
3 question is factual, and then I would like to
4 follow up with my comments since we are in the
5 discussion area.

6 And my question of Mr. Daughdrill is
7 that -- a factual question. And this regards the
8 chain, the title that you have recently looked at.

9 Is it true that there is no exclusive
10 easement that has been granted to the church or its
11 predecessors in title that would grandfather the 41
12 nonexclusive easement parking places?

13 MR. DAUGHDRILL: I'll answer that in two
14 ways. First of all, the whole concept of
15 grandfathering vaporizes when you're here on a new
16 zoning application. You're not grandfathered
17 because you're here on a new application. So
18 that's gone as soon as you're here.

19 Now, if you deny it, they're
20 grandfathered or whatever use that existed out
21 there as it stands.

22 But if they come in for an application,
23 they can't say on the one hand I want to hold onto
24 what I have by grandfather and on the other hand I
25 want to see what else I can scoop up. You can't do

1 to park on either as it's presently configured 25
2 spaces or 41 spaces if you allow them to
3 reconfigure. They don't have the right to
4 exclusivity to that.

5 So those spaces under your ordinance
6 Section 18.2 cannot be counted toward their
7 required parking count. It cannot. And you can't
8 look at this and say it's grandfathered because
9 you're a new application.

10 MAYOR GALAMBOS: If we can hear from Mr.
11 Galloway on that point and you can ask more
12 questions. But I'd like to put this point to bed
13 and see where we go on this.

14 MR. GALLOWAY: I have not run title on
15 this, but I will tell that you that there is a
16 nonexclusive easement on the site. It is a
17 permanent nonexclusive easement. There are 51
18 spaces on site. The requirement is 46 spaces.

19 What staff did was they analyzed the need
20 for the site based on a lot of different factors,
21 and they came up with their recommendation.

22 But they also did look at the easement,
23 the City Attorney looked at the easement and
24 concluded there was adequate permanence to that to
25 indicate that it could be counted.

1 MAYOR GALAMBOS: Can we hear from our
2 staff on that again too so we can --

3 COUNCILMEMBER McENERNY: Sure. Then I
4 have a quick follow-up.

5 MAYOR GALAMBOS: Mr. MacGinnitie, do you
6 have a comment to make regarding --

7 MR. WILLARD: I do. I wanted to clear up
8 one thing. Excuse me, Nancy. The issue of the
9 parking. We all recognize they have an easement.
10 We recognize it's nonexclusive. Our ordinance
11 doesn't require that there be off-premises
12 additional parking to be exclusive.

13 COUNCILMEMBER McENERNY: Okay. I thought
14 there was a 20 percent rule according to Section
15 19.3.6. Yeah. And that was my initial question on
16 that.

17 Does 19.3.6.1 apply? Is there a 20
18 percent cap on additional parking not on site that
19 is not exclusive?

20 MR. McLENDON: That's where Mr.
21 Daughdrill has opined that the grandfathering goes
22 out the window because of the new application. And
23 that's not something I necessarily agree with.
24 Because that easement was previously appended to
25 the larger parcel, and it's a permanent easement

1 that's in place, even if it's nonexclusive. It's a
2 permanent easement that's in place and it's part of
3 that larger parcel that was subject to the previous
4 Fulton County zoning.

5 I think if that was the basis that this
6 did not go forward, it could potentially be
7 problematic.

8 MAYOR GALAMBOS: Are you saying that our
9 ordinance does not require that it be exclusive?

10 MR. WILLARD: One thing, it doesn't
11 require it to be exclusive. What Cecil addressed
12 the fact because they come in for this rezoning
13 doesn't mean they now lose that ability to include
14 what they have as a permanent easement for
15 additional parking.

16 COUNCILMEMBER McENERNY: That wasn't the
17 question. That wasn't the question. Does the 20
18 percent rule apply in this case in this new
19 application? Does it not apply?

20 MR. WILLARD: I can't give an you
21 off-the-cuff opinion.

22 MR. McLENDON: That's an off-the-cuff
23 opinion; but I tell you, I don't think that's the
24 strongest basis for this not to go forward.

25 COUNCILMEMBER McENERNY: So you don't

1 know at this point whether it applies. Okay. I
2 just have some follow-up, some concluding comments,
3 Mayor.

4 MAYOR GALAMBOS: Go ahead.

5 COUNCILMEMBER McENERNY: Just to relay
6 the history in this one-year saga. Initially the
7 staff reviewed the parking. And to me this is an
8 issue of parking and the protection of the general
9 public welfare and safety of the community. This
10 is about parking.

11 And initially the staff calculated the
12 amount of parking based on Section 18.2.1 which is
13 upon the proportion that each use contributes to
14 the total. And that is because -- and that would
15 have generated 41 seats or, using Mr. Galloway's
16 number, 41 looking at the strict interpretation of
17 the zoning ordinance relative to a sanctuary area.

18 The difference in the two numbers relates
19 to the fact that the staff looked at it as one
20 parking place per 30 seats for their sanctuary of
21 1,218. That was the first way they looked at it,
22 the staff, 41 parking places.

23 Upon further review they went to the --
24 they went to Section 28.1, paragraph 3, and they
25 looked at the ability of the Council to impose

1 conditions relative to protecting the public
2 health. And they analyzed the parking impact by
3 parking studies submitted by the applicant.

4 MAYOR GALAMBOS: Excuse me. We've heard
5 that. We have all read it.

6 COUNCILMEMBER McENERNY: So, Mayor, and
7 so in that analysis they suggested 3.5 parking
8 places per thousand. A recent analysis on
9 proportion, proportional use, which I admit is not
10 in the zoning ordinance but neither is the 3.5, it
11 came out at 148 spaces.

12 So all over the map here we have
13 different numbers in terms of adequate parking.

14 And I am -- I am not convinced that
15 whether it is 1.5 parking as the applicant has
16 voluntarily requested or should it be 148 spaces.
17 It's all over the board.

18 And I think the evidence to me suggests
19 that it is overdeveloped and underparked. And I am
20 going to vote to deny. Thank you.

21 MAYOR GALAMBOS: Mr. MacGinnitie?

22 COUNCILMEMBER MacGINNITIE: I have two
23 very short questions. I think I know the answers,
24 but I want to confirm before I vote. Nancy, I know
25 your staff has worked long and hard with the

1 applicant.

2 And at end of that process you recommend
3 not what the applicant has asked for but instead
4 alternate or staff conditions that allow the
5 building basically to sit as-is and be used in that
6 form. Is that my -- is that a correct
7 understanding?

8 DIRECTOR LEATHERS: We have. But we also
9 have indicated to you our set of alternate
10 conditions that we can also support.

11 COUNCILMEMBER MacGINNITIE: Okay. And
12 when the Planning Commission heard the same matter
13 that's before us tonight last month, they too did
14 not grant what the applicant was looking for but
15 instead agreed that staff conditions were
16 appropriate and voted in favor of that.

17 DIRECTOR LEATHERS: That's correct.

18 COUNCILMEMBER MacGINNITIE: And, Woody,
19 not to put words back in your mouth, but you have
20 stated tonight that those conditions are
21 unacceptable to the church.

22 MR. GALLOWAY: That is correct. Because
23 it doesn't allow them to operate and to use to
24 practice their religion.

25 COUNCILMEMBER MacGINNITIE: I don't need

1 an explanation; I just wanted to make sure I
2 understood.

3 MR. WILLARD: The thing too I think is
4 whether it provides space to practice their
5 religion. So to a degree to an extent their
6 practice may be --

7 COUNCILMEMBER MacGINNITIE: Okay. I
8 understand. That helps me. Thank you very many.

9 COUNCILMEMBER JENKINS: I'm ready to call
10 the question.

11 MAYOR GALAMBOS: All right. The question
12 has been called. All in favor?

13 COUNCILMEMBER PAUL: The motion to call
14 the question.

15 MAYOR GALAMBOS: All in favor of calling
16 the question.

17 (Aye)

18 MAYOR GALAMBOS: All right. You got a
19 motion on the floor. Diane, would you like to
20 repeat your motion, if you remember it?

21 COUNCILMEMBER FRIES: Thank you. I just
22 move to approve with the staff recommendations, not
23 the --

24 MR. WILLARD: And identify which staff
25 recommendation so we don't have any --

1 COUNCILMEMBER FRIES: The staff
2 recommendation, not the --

3 MAYOR GALAMBOS: The alternate.

4 COUNCILMEMBER FRIES: Not the alternate.

5 MR. WILLARD: The one that came through
6 from the Planning Commission.

7 COUNCILMEMBER FRIES: Yes.

8 COUNCILMEMBER PAUL: Can we read those
9 conditions into the record?

10 MR. WILLARD: It would be helpful.

11 MAYOR GALAMBOS: Don't read the whole
12 blessed thing. Just the part that you're all
13 talking about.

14 COUNCILMEMBER JENKINS: It is the whole
15 blessed thing.

16 MR. WILLARD: The document can be
17 identified. It might be better if you can identify
18 your document and give a synopsis of that applies.

19 COUNCILMEMBER FRIES: I would like to --
20 let me make clarification so the Council knows what
21 I'm talking about.

22 I would like to approve this with staff
23 recommendations which is page 14 of our packet. 14
24 and the top part of 15. So it's one, two, three of
25 them.

1 COUNCILMEMBER MacGINNITIE: Do you know
2 how many sections there are?

3 MS. RUFFIN: Look at the bottom of the
4 page and the page number that the staff --

5 COUNCILMEMBER FRIES: That's what I've
6 got.

7 COUNCILMEMBER McENERNY: Mine is page 13.

8 COUNCILMEMBER FRIES: Page 14 and 15.
9 Oh, shoot.

10 COUNCILMEMBER McENERNY: 13, 14, 15.

11 COUNCILMEMBER FRIES: I put them back.
12 I'm sorry. It's a different page.

13 MS. RUFFIN: It's page 19.

14 COUNCILMEMBER FRIES: Yep. 19 and 20.
15 And does it continue on to --

16 COUNCILMEMBER DeJULIO: Staff recommended
17 condition.

18 MR. WILLARD: Actually, it's those two
19 pages.

20 COUNCILMEMBER FRIES: 19 and 20 of 24.

21 DIRECTOR LEATHERS: And if you could
22 incorporate into your motion any associated site
23 plans that are referenced in the condition.

24 COUNCILMEMBER FRIES: All right. Here we
25 go again. Staff recommendations with conditions

1 page 19 and 20 of our packet.

2 COUNCILMEMBER DeJULIO: And any
3 documents --

4 COUNCILMEMBER FRIES: And any site --

5 DIRECTOR LEATHERS: Any associate site
6 plans referenced --

7 COUNCILMEMBER FRIES: That are referenced
8 with these conditions.

9 COUNCILMEMBER DeJULIO: I second.

10 MAYOR GALAMBOS: All right. You've heard
11 the motion and you've got a second. All in favor
12 of the motion please raise your hand. Opposed?
13 I'm going to go with the motion. All right,
14 gentlemen and ladies, we've had a very long and
15 thorough discussion.

16 COUNCILMEMBER FRIES: Can we take a
17 break, Mayor?

18 MAYOR GALAMBOS: We'll take a break.

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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 69, 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