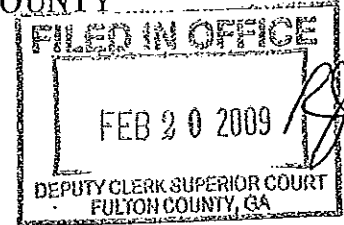


IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA



FDB ROSWELL, LLC,

Plaintiff,

v.

MAYOR AND COUNCIL OF THE CITY
OF ROSWELL; MAYOR JERE F. WOOD,
COUNCILMEN RICH DIPPOLITO, DAVID
TOLLESON, KENT INGLEHART, JERRY
ORLANS, BECKY WYNN and LORI,
HENRY,

Defendants.

CIVIL ACTION
FILE NO. 2008CV149060

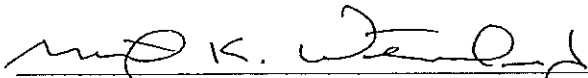
FINAL ORDER

The above-styled matter is currently before the Court on Plaintiff's petition for writ of certiorari and complaint for temporary restraining order and injunctive relief. On February 11, 2009, a non-jury hearing was scheduled for the parties, but instead Counsel requested the Court to decide the issues based upon the pleadings. Plaintiff's petition appeals the zoning decision of Roswell City Council denying small tract status within a uniform development. Having considered the legal and factual arguments set forth in the petition, answer, and record, as well as the applicable principles of law and equity, the Court hereby finds as follows:

The standard of review is whether any evidence exists to support the zoning decision. Emory University v. Levitas, 260 Ga. 894, 897 (1991). "The trial court's obligation is to review the sufficiency of the evidence before the board, but not to reweigh that evidence." Gwinnett County v. Ehler Enterprises, Inc., 270 Ga. 570, 570 (1999). There

is evidence within the record which supports Defendants' decision to deny Plaintiff's zoning request and, as such, it is AFFIRMED and Plaintiff's complaint for injunctive relief is DENIED.

SO ORDERED, this 20th day of February, 2009.



MELVIN K. WESTMORELAND, JUDGE
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

Copies to:
Alan Carl Manheim, Esq.
Robert J. Hulsey, Esq.