

**Commissioners:**

Don Bergwall - Chairman
Phillip Jackson - Vice
Chairman
Lacey Ragus
Rebecca Patterson
Trey Bodenhamer
Todd Vande Zande
Carolyn Greenall

**Planning Commission
Meeting Agenda
August 2, 2023 6:30 PM
Council Chambers**

1. Call to Order / Roll Call**2. Announcements**

- A. This public meeting is being conducted via the use of real-time telephonic technology, allowing the public simultaneous access to the public meeting. The meeting may be accessed using Facebook Live via the following link: [www.Facebook.com/City of Kennesaw/](https://www.facebook.com/CityofKennesaw/). However, comments made on Facebook Live will not be visible by City staff. If you would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 p.m. the night of the regular meeting. Your comment will be read aloud or grouped into categories for the record. All interested parties may attend the meeting in person with limited seating available at the City Hall Council Chambers and the Ben Robertson Community Center, if needed. Please note that the Planning Commission serves as an advisory board that makes recommendations to the Mayor and Council unless otherwise noted.
- B. New business items on this agenda will be heard by the Mayor and Council on August 21, 2023.
- C. Pending zoning applications may be viewed on an interactive map via the Planning & Zoning webpage or using the following link: <https://arcg.is/1q1ubX0>.

3. Approval of the Meeting Minutes

- A. Meeting Minutes from 5-3-2023 (Regular Meeting)
- B. Meeting Minutes from 6-14-2023 (Special Call)

4. New Business

- A. Approval of ORDINANCE granting a rezoning modification request submitted by CF&G Enterprises, Inc. located at 0 Ellison Lakes Drive (PIN: 20017500170). The property is zoned as Planned Village Community (PVC) and lies in Land Lot 175, Tax Parcel 17 of the 20th District, 2nd Section, Cobb County Georgia and consists of 2.72 +/- acres. Case #RZ2023-03.
- B. Approval of a RESOLUTION for an amendment to the current 2022 Future Land Use Map submitted by the City of Kennesaw. The proposed 2023 Future Land Use Map amendments include various parcels city-wide. Case #MISC2023-06
- C. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 2, 3, 8 and 9. Case #MISC2023-07

5. Staff Comment

- A. Upcoming Training: "Practices for Successful Meetings," offered by the City Clerk's Office
- B. "Historic Downtown Walking Tour," offered by the Historic Preservation Commission on Friday, September 22nd @ 2PM and 6PM and Saturday, September 23rd @ 10AM and 2PM presented by Andrew J. Bramlett. This event is free. Register online. Each tour is approximately half-a-mile, lasts 45-minutes and can accommodate up to 20 people.

6. Adjourn



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KENNESAW PLANNING COMMISSION

May 3, 2023 – 6:30 P.M.

Meeting Minutes

City Hall Council Chambers

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Upcoming Mayor and Council Meeting: Monday, May 15, 2023 @ 6:30 P.M.

I. Call Meeting to Order/Roll Call

- Chairman Bergwall calls the meeting to order at 6:30 p.m.
- Roll Call: Don Bergwall, Phillip Jackson, Rebecca Patterson, Trey Bodenhamer, Todd Vande Zande, and Carolyn Greenall
- Absent: Commissioner Lacey Ragus
- Staff present: Darryl Simmons (Zoning Administrator) and Albert Trevino (Assistant Zoning Administrator and Planner)
- Applicant present: Mrs. Ann Moorman (homeowner for case LU2023-01)

II. Approval of Meeting Minutes: March 1, 2023

- Chairman Bergwall calls for a motion to approve the March 1, 2023 Meeting Minutes as submitted.
- Motion by Commissioner Bodenhamer, Second by Commissioner Greenall
- All in favor, 5-0. **Meeting Minutes approved.**
- Before the floor is opened for the new business item, Chairman Bergwall informs the Planning Commission and public about the rules of engagement. He says "I will state the ground rules for our public hearing meeting this evening and be will be accessible upon request and incorporated into the minutes here too, as exhibit A. A persons both favoring and opposing the proposed agenda items will be provided an opportunity to address the Commission, the applicant for the zoning case or the applicants designated representative, if any, will be entitled to speak for a total of 10 minutes. They will speak first collectively. Those who oppose the proposed zoning case will then be permitted to speak for a total of 10 minutes and then those who are proponents of the zoning case will also be allotted a total of 10 minutes to speak. We'll get into a little more detail on that as

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June 7, 2023 at 6:30 p.m.





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that unfolds. By a majority of vote, the Commission may increase the total time for speakers, provided that each side is given the same amount of time. If there is more than one speaker for a side, the chair will or presiding Commissioner may limit the time allowed to each individual speak. Other than the zoning applicant, be respectful of your time as you come up to make your comments. The zoning applicant may be given time after the public hearing is conducted for his or her rebuttal. Speakers must adhere to the common rules of the meeting. Prior to speaking, each speaker shall sign in first and then clearly state their full name and their current address. Each speaker shall speak only to factors pertinent to the proposed zoning application under consideration, and shall address remarks only to the Commission. During public comment, please note that all persons speaking shall refrain from commenting on issues that are unrelated to the zoning application on the agenda or making derogatory remarks. If this occurs, the presiding officer, the chairman of the Commission, may refuse a speaker the right to continue. After being cautioned, the speaker continues to violate the rules of the meeting they will be refused to speak any further. Ladies and gentlemen, you have heard our rules of conduct for the public hearing”.

III. New Business

1. **LU2023-01** – Consideration for approval of a land use permit request located at 1205 Mountain Springs Drive as submitted by Ann Moormann. Said request is for obtaining a home occupation business license for making soaps and bath related products. Property is zoned R-10 (Single-Family Residential), consists of 0.2 +/- acres and lies in land lot 128 tax parcel 278.
 - Chairman Bergwall proceeds to the first business item.
 - Mr. Albert Trevino approaches the podium and introduces the new business item. Mr. Trevino says “Good evening Planning Commissioners. This first agenda item tonight is for a land use permit application submitted by Ann Moormann located at 1205 Mountain Springs Drive and zoned R-10 (single-family residential). Ms. Moormann is requesting to obtain a home occupational business license to make soaps and bath related products. The city offers two types of residential business licenses: a limited home occupational license and a regular home occupational license. Due to the activities that are involved in creating these products, it exceeds the allotted rules for the limited home occupational license. She is here before you tonight for your consideration to approve a land use permit request to obtain a regular home occupational license. The applicant has supplied us with a product list that includes soaps, bath bombs, solid bubble bath bars, shampoo bars, shower steamer bars and lip balm. These products are crafted by the applicant with the list of ingredients that the applicant has provided you all within your agenda packets. In addition, the applicant has provided us with pictures of her work space and of the equipment that she uses which includes: impulse sealer, immersion blender, hand mixer, heat gun, bur grinder and hot plate. Most if not all of these items are commonly found

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within a household. Once the products are created, the applicant will sell her products through multiple avenues. She intends to sell at craft fairs and farmers markets as well as online through social media. Online orders will be delivered via local carrier services. The applicant has ensured staff that customers will not be allowed to pick up orders in person at her place of residence. The applicant's ultimate goal would be to sell her products wholesale or at consignment shops. If the land use permit request is approved, the permit is valid for 24-months per section 4.04.05 of the Unified Development Code. Staff is recommending approval with the following conditions:

- The land use permit is limited to, exclusive for and only valid for the current applicant and the life of this particular business and use, and it is not transferrable. Any changes would require additional review and approval.
 - There shall be no clients, customers or employees at this location. Nor shall there be any evidence of a home based business visible from the public right-of-way.
 - Finally, for the record, proper notification for this land use permit application has been executed. Legal ads ran in the Marietta Daily Journal on April 14th and 21st. A public notice sign was posted on the property on April 18, 2023 and certified letters were mailed to all property owners within 200-feet of the property".
 - Chairman Bergwall asks the applicant to come to the podium for comments.
 - The applicant, Mrs. Ann Moorman comes to the podium and introduces herself and lets the Commission know she will take any questions they have.
 - Chairman Bergwall opens the floor to public comment. After no response he closes the floor to public comment.
 - Commissioner Bodenhamer asks the applicant to make sure she signed in.
 - Chairman Bergwall asks if there are any other questions or comments from the Commission. After no response he closes the floor for questions and calls for a motion in regard to the land use permit with the conditions as outlined by staff.
 - Motion by Vice-Chairman Jackson to approve the land use permit application with conditions.
 - Second by Commissioner Vande Zande.
 - Chairman Bergwall proceeds with a roll call for approval.
 - **All in favor 5-0. Motion Approved.**
2. **RZ2023-02** – Consideration for approval to rezone seven properties as submitted by the City of Kennesaw. Said request is to change the zoning from their current zoning designation to Central Business District (CBD). This is a city initiated rezoning project known as the CBD Expansion Project Phase 2. Each property address will be heard separately.
- RZ2023-02 (A)** – Consideration for approval to rezone subject property located at 0 Cobb Parkway or parcel number 20013900990 and owned by the City of Kennesaw. Property is a vacant detention pond located in Adams Park. It is currently zoned

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Highway General Business (HGB), consists of 0.36 +/- acres and lies in land lot 139 and tax parcel 99.

- Mr. Trevino introduces the next item of business and states “So agenda item 2 tonight is for the rezoning of seven properties from the current zoning category to our Central Business District. Each item was applied for by the City of Kennesaw, and each address will be of course, heard and voted on separately. So just to give a preface to this item, I'd like to start by going back to the origins of the Central Business District and why it was created. The City of Kennesaw created this district back in 2002, which laid the groundwork for a brand new comprehensive mixed-use zoning district that allows for a mixture of uses that are appropriate for a city's downtown. It also allows for flexibility and design standards, which means that design driven building placement is encouraged and reviewed. Also, standards on beautification of downtown, such as incorporating plazas, benches, lighting and art. The CBD zoning district continues today to aim and encourage quality development. It also aims at the preservation of our historical character of downtown Kennesaw. Council adopted the zoning district in 2002. In 2003, the city initiated a grand rezoning effort to invite various property owners throughout the downtown core to be a part of this progressive measure. More than 100 property owners agreed, and the city was able to apply this new zoning. Category throughout the downtown core of Kennesaw. In 2005, another attempt was made to bring more property owners into the Central Business District. About 30 more property owners agreed to be rezoned to CBD. Fast forward to present day, downtown Kennesaw has seen its successes through various projects both large and small and needless to say, downtown is thriving, but there is still more work to be done. We are here before you tonight because in January 2023, the City mailed out invitation letters to another round of property owners who own property in downtown Kennesaw to be a part of the CBD district. The goal for this is to plug in the holes where there are islands of residential and commercial districts surrounded by or adjacent to the Central Business District and to expand the Central Business District. Zoning case #RZ2023-02(A) is to rezone a city owned property. It is a vacant parcel so for the record I will identify it as 20013900990. The property is a vacant detention pond located in Adams Park. This detention pond appears to have been created in the late 1990s and early 2000s. It captures the water runoff from Adams Park and it is also connected to the City's regional detention pond facility located at 4025 Kennesaw Drive NW which is directly behind the QT gas station on Cobb Parkway and Pine Mountain Court. All this water funnels to the smaller pond as well as a regional. Our goal here is to create a contiguous zoning category for Adams Park. This is the last portion that remain a different category than Adams Park, which is CBD. Staff ran legal ads in the MDJ on April 14th and 21st. A public notice sign was posted on the property on April 18th and certified letters were mailed to all property owners within 200-feet of the property. Staff is recommending approval for RZ2023-02(A)”.
- Chairman Bergwall opens the floor up to public comment.

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- Citizen, Fred Moore (3001 N Main Street), comes to the podium to ask if the detention facility still be active and if it would be moved underground.
- Mr. Trevino answers that the detention facility will remain as is and the city will not be selling the property. The detention pond is city owned and will remain.
- Chairman Bergwall asks if there are any other questions from the public. After no response, he moves to ask if the Commissioners have any questions.
- Commissioner Bodenhamer asks if the property is ever sold it would be sold as one designation including the detention pond.
- Mr. Trevino responds and states the city has no intentions of ever selling a public domain and public park.
- Chairman Bergwall asks if there are any other questions from the Commissioners. After no response, he says he will entertain a motion
- Chairman Bergwall calls for a motion to approve the rezoning application as presented.
- Motion by Commissioner Greenall.
- Second by Commissioner Bodenhamer.
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor 5-0. Motion Approved.**

RZ2023-02 (B) – Consideration for approval to rezone subject property located at 2681 S Main Street or parcel number 20016700140 and owned by Old South Village, LLC c/o Kodiak Ventures. Property is an existing mobile home community known as “Old South Village.” The property consists of approximately 30 +/- mobile home lots. It is currently zoned Mobile Home Park (MHP), consists of 3.6 +/- acres and lies in land lot 167 and tax parcel 14.

- Mr. Trevino states “The next item of new business, zoning case number RZ2023-02(B) is to rezone the property located at 2681 S Main Street currently owned by Old South Village LLC c/o Kodiak Ventures. The mobile home park was built in the early 1980s. It was purchased by the current owner in 2015. During the 2022 Comprehensive Plan update adopted in June 2022, staff along with the input of the community through two public engagement meetings, coordinated efforts to expand the boundaries of downtown Kennesaw. The result of this decision can be seen within the Future Land Use Map as the Downtown Activity Center was carried down on South Main Street. South Main Street has seen a recent boom of activity with the current land clearing of 2652 S Main Street which will make room for multi-family residential, single-family townhomes and commercial establishments as well as the approved rezoning for thirty-five townhome unit subdivision at 1972, 1994 & 2004 Duncan Drive. Rezoning this piece from Mobile Home Park to Central Business District will allow the property owner the opportunities seen of its neighbors for future growth in greater housing densities, housing types and commercial businesses on

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Main Street. There are no pending or current plans for development for this mobile home park at this time. The mobile home park may carry on as a mobile home park. The Central Business District will still allow for new manufactured homes to be placed within this park if there are vacant spaces and under the guidance of the property owner. This rezoning is only to change the zoning designation from Mobile Home Park to Central Business District which will allow for a more contiguous zoning designation on South Main Street. For any future plans that may come into our office, staff would help facilitate that applicant or developer to go through our Central Business District Project application process. This process must meet all of the codes and standards found within the CBD zoning ordinance under section 4.02.03. The new development shall abide by the policies found within the 2022 Comprehensive Plan Update Policy Matrix for the Historic Central Business District Area, as well as be compatible to the Historic District Design Standards as adopted and referenced by the Kennesaw Historic Preservation Commission. The CBD project approval process is a three-step process. The applicant submits plans for development and it must go through the Kennesaw Downtown Development Authority for review and recommendation, the Historic Preservation Commission for review and recommendation and finally to Mayor and Council for a decision. Staff ran legal ads in the MDJ on April 14th and 21st. A public notice sign was posted on the property on April 18th and certified letters were mailed to all property owners within 200-feet of the property. Staff is recommending approval for RZ2023-02(B)".

- Chairman Bergwall asks if this property were to be rezoned from the MHP to CBD, can it remain as a mobile home park and is that only if it stays in the ownership of the current owner or can someone else buy the property and maintain it as a mobile home park?
- Mr. Trevino responds another owner could come in and continue the mobile home park use and maintain it.
- Chairman Bergwall asks if mobile home park an acceptable use in CBD.
- Mr. Trevino responds it is not but would be a grandfathered use for the CBD district so we would allow it because it is existing.
- Chairman Bergwall opens the floor to public comment. After no response, he moves to comments from the Commission.
- Commissioner Bodenhamer asks if the mobile home park were to be torn down if the grandfather clause disappear.
- Mr. Trevino states that once the occupancy and CO change from mobile home park to something else, then the grandfather clause disappears.
- Chairman Bergwall asks if there are any other questions from the Commission. After no response he proceeds to call to entertain a motion.
- Motion by Commissioner Vande Zande to approve as presented.

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- Second by Commissioner Patterson.
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor 5-0. Motion Approved.**

RZ2023-02 (C) – Consideration for approval to rezone subject property located at 2716 S Main Street or parcel number 20013801750 and owned by Hugh E. Byrd. Property currently has an occupied single-family detached home. It is currently zoned R-15 (Single-Family Residential), consists of 1.27 +/- acres and lies in land lot 139 and tax parcel 99.

- Mr. Trevino states “The next item of new business, zoning case number RZ2023-02(C) is to rezone the property located at 2716 S Main Street currently owned by Reverend Hugh E. Byrd. The property has an existing occupied single-family detached home. It is a four sided brick home built in 1966. It contains 1,687 square feet and has 2 accessory buildings, most likely sheds in the rear. The structure is not designated as historic nor is located within the historic district. The property is located within the Kennesaw Downtown Development Authority (KDDA) district and it is not located within the entertainment district. It is currently zoned R-15 (Single-Family Residential) and consists of 1.27 +/- acres. This property is nestled along the intersection of South Main Street and Duncan Drive. The existing senior apartment complex known as “The Enclave” is next door to the northwest and there are three vacant parcels to the east of the property. Mr. Byrd does not own the three vacant parcels to the East. Staff did mail out invitation letters to those property owners, however, we do not receive a response to partake in the CBD rezoning. This rezoning is only for the property located at 2716 S Main Street. By rezoning this parcel to CBD it would help establish a more contiguous zoning pattern along South Main Street. There are no plans pending or submitted to the City for this property at this time. This is merely just a zoning change from single-family to CBD. Any future proposed new development shall abide by the policies found within the UDC, the 2022 Comprehensive Plan Update Policy Matrix for the Historic Central Business District Area, as well as be compatible to the Historic District Design Standards as adopted and referenced by the Kennesaw Historic Preservation Commission. Anything new will have to go through the formal CBD Project approval three-step process. Staff ran legal ads in the MDJ on April 14th and 21st. A public notice sign was posted on the property on April 18th and certified letters were mailed to all property owners within 200-feet of the property. Staff is recommending approval for RZ2023-02(C)”.
- Chairman Bergwall adds in there are three other parcels on the side of the property that will remain R-15 and under a different owner.
- Mr. Trevino responds that we were unable to get ahold of the owner for those properties for this rezoning and they are not on the agenda tonight. There is a property to the right that was approved for 35 unit townhomes back in 2021 and still in the works.
- Chairman Bergwall opens the floor to public comment. After no response he moves to questions or comments from the Commission. After no response he moves to entertain a motion.
- Motion by Commissioner Greenall to approve as presented.

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- Second by Commissioner Bodenhamer.
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor 5-0. Motion Approved.**

RZ2023-02 (D) – Consideration for approval to rezone subject property located at 2753 Watts Drive or parcel number 20013900590 and owned by the City of Kennesaw. Property is the current location of the Ben Robertson Community Center. It is currently zoned Office/Institutional (O&I), consists of 2.61 +/- acres and lies in land lot 139 and tax parcel 59.

- Mr. Darryl Simmons introduces the next business item. He states “It is the Ben Robertson Community Center. This is the final piece as part of the Adams Park facility that is not in the Central Business District and is part of the proposed expansion of the Central Business. As noted before, the detention pond, which was to the left of the property, has been rezoned. This facility is part of the overall Adams Park facility and it will remain in ownership and operation under the City of Kennesaw in perpetuity. The staff analysis support lays out the location of the Ben Robertson Center in relation to the rest of the park. The city staff recommends approval of the rezoning to again continue the contiguity and make it contiguous. The Central Business District and making all of the Adams Park facilities under one zoning district”.
- Chairman Bergwall opens the floor to public comment. After no response he moves to questions or comments from the Commission. After no response he moves to entertain a motion.
- Chairman Bergwall calls for a motion to approve the rezoning application as presented.
- Motion by Commissioner Bodenhamer.
- Second by Vice-Chairman Jackson.
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor 5-0. Motion Approved.**

RZ2023-02 (E) – Consideration for approval to rezone subject property located at 2754 S Main Street or parcel number 20013801880 and owned by Bencivenga Gabriel Living Trust 7/9/02, Gabriel Bencivenga, LLC. Property has two commercial eating establishments within one building. It is currently zoned General Commercial (GC), consists of 0.67 +/- acres and lies in land lot 138 and tax parcel 188.

- Mr. Darryl Simmons introduces the next business item. He states “As mentioned before in the preamble, this property was given the invitation back in 2003, they opted out at that time as their right to do so. As the downtown developed and started to be revitalized again, phase two is to reach out to all of the property owners and asking for a second invitation to come into the city of Kennesaw's Central Business District. As you noted in the packet, there are two existing businesses. One is the Fern Gully Jamaican restaurant and the other one is a Thai restaurant. Fern Gully was established back in 2017 and a Thai restaurant was established back in 2012.

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Well, as you can see in the location, it is totally surrounded by the Central Business District. We feel that as part of the contiguity for downtown, this is a great opportunity to fill that hole along Main St. as mentioned before. The properties that are the commercial with an existing business will continue. This rezoning will not affect the operation or the rights of the property owner to continue the business. It is going to continue under central business district, if rezoned, there is no grandfathering required because eating and drinking establishments are allowed by right in the Central Business District anyway. So the recommendation from staff is to recommend the rezoning of this property and to allow the businesses to continue on under the Central Business District”.

- Chairman Bergwall opens the floor to public comment.
- Citizen, Danny Toledo (4041 Single Post Lane Roswell, GA), comes to the podium and says his uncle is the property owner of the property in question and wants to know what long term benefits he can see by the changing of zoning.
- Mr. Simmons responds “One of the biggest benefits of being in the Central Business District is flexibility regarding setbacks. In other words, if the property owner wishes to redevelop the property or add on square footage, or add to the back of the property you would not be subject to the standard zoning setback regulations, the Central Business District is design driven. It gives the property owner more flexibility as far as how to design additions or improvements to the property”.
- Mr. Toldeo asks if a restaurant or apartments an option.
- Mr. Simmons says yes but there are specific guidelines for apartments in the Central Business District.
- Citizen, Fred Moore (3001 N Main Street), comes to the podium and makes the comment that he and other citizens in the community are concerned and realize that there is a large increase in high density across the city and they would like to not see that increase. Kennesaw isn't the small village that it used to be and there are apartments everywhere.
- Chairman Bergwall states the Commission is a citizen advisory board and have no control over the increase in density and understands the communities concerns and these cases are heard on a case by case basis.
- Mr. Toldeo states the property owner has no desire to change what is currently there and wants to keep it with the restaurants.
- Chairman Bergwall asks if there are any questions from the Commissioners.
- Commissioner Bodenhamer asks for the website where you can see all the zonings in the city.

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- Mr. Simmons responds the zoning dashboard on the city's website under the GIS tab and introduces one of the creators and the GIS specialist Jon Paul Faix that is in the audience.
- Mr. Simmons states the purpose of the zoning dashboard is to show the ratio and breakdown of single-family residential and multi-family in the city.
- Commissioner Bodenhamer advises the public to visit the website and says compared to the other surrounding cities, Kennesaw has a much smaller ratio of residential and it is not as large as it seems.
- Chairman Bergwall asks are there any other questions or comments from the Commission. After no response he moves to entertain a motion.
- Motion by Vice-Chairman Jackson calls for a motion to approve the rezoning application as presented.
- Second by Commissioner Vande Zande.
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor 5-0. Motion Approved.**

RZ2023-02 (F) – Consideration for approval to rezone subject property located at 2817 Sardis Street or parcel number 20013800770 and owned by the City of Kennesaw. Property is vacant and located in Depot Park. It is currently zoned R-15 (Single-Family Residential), consists of 0.9 +/- acres and lies in land lot 138 and tax parcel 77.

- Mr. Darryl Simmons introduces the next business item. He states “As you can see in the aerial, this is going to be the property that was purchased by the City of Kennesaw. It was a former homestead of a family in Kennesaw. This parcel was purchased as part of our improvement, not just along Sardis Street but also as part of a key element in expanding the contiguous portion of Depot Park. As you can see this property is now part of a permanent addition to the Depot Park. The parcel has been absorbed into the redevelopment and creation of Depot Park and the last remaining item is to again clear up the zoning to make it more contiguous instead of the original R-15 zoning, since that use has gone away. It is no longer used for single family residential. It is now part of the Depot Park. It will always be part of Depot Park and this again is to continue the contiguity and cleaning up of our Central Business District”.
- Chairman Bergwall asks if this parcel is going to be a part of the amphitheater.
- Mr. Simmons says that is further over from this parcel. The amphitheater is under construction right now and in a few months you will actually see the boundaries start to come out of the ground but this is on the other side. We do recommend approval.
- Chairman Bergwall opens the floor to public comment. After no response he moves to questions or comments from the Commission.
- Commissioner Vande Zande asks why this parcel took so long to be rezoned and not included when the rest of the park was done.
- Mr. Simmons says there were many other issues dealing with transportation and there were particular deadlines that needed to be met and that was the main focus for the Depot part. There were some setbacks that pushed the timeline back so a

The next scheduled meeting of the Kennesaw Planning Commission
June 7, 2023 at 6:30 p.m.





City Hall
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

Commissioners:
Don Bergwall - Chairman,
Phillip Jackson - Vice-Chairman,
Lacey Ragus, Rebecca Patterson,
Trey Bodenhamer, Todd Vande Zande,
Carolyn Greenall

rezoning wasn't the priority at that time. The Depot Park improvements and creation were top priority.

- Vice-Chairman Jackson makes the suggestion of reducing the speed limit in the parking lot of the Depot Park from 35-mph to 25-mph. It is a good idea to have everything in the central business district at 25.
- Commissioner Bodenhamer asks if that is something the city controls
- Mr. Simmons says yes and he will definitely relay the comment to the City Manager and the Police Department to see what the procedures are.
- Chairman Bergwall asks are there any other questions or comments from the Commission. After no response he moves to entertain a motion.
- Motion by Commissioner Greenall to approve the rezoning application as presented.
- Second by Commissioner Bodenhamer.
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor 5-0. Motion Approved.**

RZ2023-02 (G) – Consideration for approval to rezone subject property located at 2971 N Main Street or parcel number 20013900200 and owned by David & Kathryn Collier. Property currently has an unoccupied historic single-family detached home located in the North Main Street historic district. It is currently zoned R-15 (Single-Family Residential), consists of 1.5 +/- acres and lies in land lot 139 and tax parcel 20.

- Mr. Darryl Simmons introduces the next business item. He states "I would like to give you some background on this particular request, as Mr. Trevino mentioned, we sent out letters of invitation to a number of parcels. We identified this property as being close to or adjacent to the Central Business District. The property owner, Ms. Collier responded that she would be in favor of being considered to be included in the Central Business District. This property, as noted, is in the Historic District on North Main Street. The North Main Historic District goes back down towards Lewis Street. It is the WB Adams house built in 1907. It has gone through some changes over the years such as ownership, the use, inside and outside improvements like the color of the home. One of the interesting things staff realized about this location is that it is on the cusp of two things. One you're leaving the central business district along, Lewis and Main Street. It is directly next to our budding residential character of North Main Street, which is predominantly residential and very well maintained. One of the things that we take into consideration with each rezoning consideration is the fact that we try to balance the needs of the Community, the concerns of the Community as well as the needs and the concerns for the property owner. Through this process hopefully find out what is appropriate here. Obviously the central business district has a long list of allowed uses, some of which would cause concern for anyone within the immediate area. Before I go any further, I want to make sure I mentioned for the record that we did receive emails of opposition. The first one that was dated April 18th was written and submitted to the city by Mr. Dane Thomas, and he wrote.

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Letter of opposition regarding and his concern for this rezoning application and recommends and disagrees with the proposal and he asked that this this rezoning application be denied. The second. E-mail was a collaborative e-mail with signatures from concerned citizens and residents of North Main Street. It was dated April 27th, 2023, and there was an attachment of all of the signatures of property owners along Main Street from 2981 all the way through 3001 North Main Street. The e-mail or the letter gave specific concerns regarding the rezoning application and that was entered into the record. I would also like to mention that we did attempt to receive an e-mail that was prepared and sent by Miss Cindy Thomas. I spoke to her on the phone. She did try to resend it. I did not receive it, but she is in attendance and she'll have the opportunity during public comment to reiterate her concerns for the records. I just want to make sure that that was placed in the record before I continue my presentation. As you can see up on the monitor, the blue indicates the current historic district for North Main Street and it extends beyond the subject property we're discussing this evening down Lewis St. almost touching at Dallas Rd. The reason I'm mentioning that is the North Main Street, though predominantly residential, does have more than one type of residential component to it and there is one portion that is commercial. The real issue here is what is the appropriate use or types of uses for this. Obviously there's a couple of things that would make the retail as a challenge for this property. One, the limited access to the property. Two, if you look across the street, there is a church directly across the street. Close proximity to church would rule out alcohol license or any type of alcohol application for this location. A couple of definitive things I want to state because of the location is this. The 2022 update to our comprehensive plan clearly identified this property as being in the downtown activity center, which means that this rezoning request is in line with the currently adopted comp plan. It also says all the properties north of this property is in low density residential and there is no intent or even a consideration for any further encroachment up North Main Street. I know that is a concern for citizens. I want to make sure I definitively say that on record that there had never been or has been any discussions for any type of change in the North Main Street residential area. It is a protected by our comp plan. It's protected by our Historic District standards to be residential in nature. The second thing is this property has a historic home or structure on it. There were discussions in the past from developers wanting to add townhomes, apartments, two, three story flats, tiny homes, etc. We've had a number of requests and proposals, all have been thrown out and rejected. The primary function here is it is an established historic structure in the Historic District and the character is to preserve that property whether it's in CBD or residential. This structure is going to stay and is going to be maintained under our Historic District standards. I just wanted to make sure that was clearly stated. Staff realized in our staff analysis that we went through line by line and we looked at some of the questionable central business district uses that we felt would not be appropriate at this location if the rezoning is considered. We went through a number of things,

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including, of course, multifamily, townhomes, massage therapy, retail, or growlers. There's a number of things, and as part of our recommendation, we're going to clearly state some of the uses that are strictly prohibited as additional restrictions if this is to be considered. I had the opportunity to talk with some of the citizens prior to this meeting, and I did listen, we did understand the concerns because there's obvious pride in this community. The city of Kennesaw is very proud of the historic districts and this is one of the few remaining districts that kept the character through today and we want to make sure that is not undermined in any way through any actions by the City of Kennesaw. I wanted to make sure that I state that because my tenure here, we know exactly what our responsibilities are, and that is to maintain and preserve the character of our existing neighborhoods and at the same time open up opportunities for property owners. In this case, this property is heading into downtown and we felt that it is an appropriate location to consider bringing the central business district given what's immediately to the South of the property and also what some of the uses that cannot be entertained there. I would like to state the recommendations from staff with some very specific zoning conditions, if the city of Kennesaw wishes to consider this rezoning.

- Chairman Bergwall grants Mr. Simmons additional time for this application with no objection from the other Commissioners.
- Mr. Simmons continues "The additional zoning conditions that staff is recommending is as follows:
 - General retail uses prohibited: animals hospitals, butchers, bakeries, fraternity and sorority house, residence halls, growlers establishments, massage therapy establishments, Pets stores
 - Service and professional uses prohibited: banks and other financial institutions, medical and dental laboratories.
 - Services and facilities uses prohibited: auction houses, bed and breakfast inns and residential type inns, broadcast studios, butcher shops, caterers, alternative wireless communication facilities, hotels, laundromats, motels, hotels, parking lot and garages, commercial or public, pet boarding, tobacco shops, taverns, cocktail lounges, eating and drinking establishments.
 - Residential uses prohibited: condominiums, mixed-use, residential, commercial, townhomes and apartments.
 - If the property is brought into the Central Business District prior to occupancy, a minimum 20 foot landscaping buffer zone shall be established along any property line that abuts a single family residential district prior to issuance of a certificate of occupancy. This is part of the Central Business District Ordinance as it is currently adopted.

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- The WB Adams House must be preserved and any repairs must be done in full compliance with the adopted Historic Preservation design standards and the review process.
- We understand the sensitivity of the location. We also understand that what we have is a vacant piece of property that the city would like to see occupied, whether by a family and/or a business. The Central Business District would not restrict this house to be used as residential. It does open up opportunities for more flexible occupants that would give a greater probability for occupancy or sale. We do understand the issues and concerns from our citizens and we are hoping that we can find a common ground somewhere in the middle. Hopefully through this process and through this continued discussion and of course the Planning Commission's insightful questions to staff and the Community”.
- Chairman Bergwall asks for those in the public that have comments or questions to come forward to the podium and sign in. More time will be given to the citizens.
- Citizen, Kimberly Watkins (2975 N Main Street) comes to the podium and reads a letter from her and neighbors opposing the rezoning of this property and details how this is a viable single family neighborhood that the city should acknowledge and protect.
- Citizen, James Stewart (2975 N Main Street) comes to the podium and expresses his denial for the rezoning and says he is concerned about what a thriving business would do to the families in the neighborhood there encroaching into what is traditionally and historically been a family neighborhood.
- Citizen Madeline Orochena (2981 N Main Street) comes to the podium and expresses denial for the rezoning and says houses like theirs are hard to find and rezoning this home would price out any residential buyers who want to make the historic district their forever home.
- Citizen John Powell (3410 Jiles Rd & 3015 N Main Street) comes to the podium and says his denial for the rezoning.
- Citizen Jerry Weeks (property owner on Main Street) comes to the podium and expresses his denial for the rezoning. He says he has been in Kennesaw 77 years and appreciates everyone coming to show support.
- Citizen Mary Kline (2995 N Main Street) comes to the podium and expresses her denial for the rezoning. She says there is no need for this home to be vacant and it should remain residential and a historic home.
- Chairman Bergwall asks are there any questions or comments from the public. After no response he asks if the property owner is present and would like to speak in favor of the rezoning. After no response he moves to take questions or comments from the Commission.

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- Vice-Chairman Jackson asks if the property owner sent a letter to withdraw the application.
- Mr. Simmons says no it was a concerned citizen trying to send an email of opposition and there was some technical issues with receiving it. The citizen, Cindy Michael is in the audience and he spoke with her before the meeting to hear her concerns.
- Commissioner Bodenhamer asks the question if this building were to become commercial what standards it would be held to since the CBD standards and historic district standards overlap.
- Mr. Simmons says it would be held in the historic district standards regarding the architecture and all the contributing elements must remain. It will be subject to the building standards for a commercial occupancy such as ADA ramp access, parking lots and handicap parking. Internal improvements would be needed as well to fit commercial standards. A freestanding sign would be entitled. Both standards would have to be upheld central business district and historic district. There are several examples around Kennesaw that match this description. The intent is to not create a high traffic or high volume area.
- Commissioner Bodenhamer makes reference to the future use map and what is current in the area. According to the comp plan is supposed to stay residential and the city would be subjected to litigation if they went against the comp plan and added something completely different. The comp plan is really a city's guide.
- Mr. Simmons states the state of Georgia allows all the jurisdictions every five years to go through an amendment for things like this. The comp plan was written by input from those in the community through meetings and surveys and the city put it together.
- Commissioner Patterson asks if this rezoning doesn't get approved if this will be revisited when it comes time to create a new comp plan.
- Mr. Simmons states staff would take feedback from the community and decide on something everyone can live with.
- Chairman Bergwall says the best use for this property is finding balance for the community.
- Commissioner Vande Zande states it would have been great to hear from the property owner and why they chose to rezone.
- Commissioner Greenall states the property hasn't been publicly put up for sale but there has been interest expressed in buying it so it isn't left vacant.
- Chairman Bergwall calls for a motion to deny the rezoning application as presented.
- Motion by Vice-Chairman Jackson. Second by Commissioner Patterson
- **4-1 in favor of denial. Motion Denied.**
 - Commissioner Bodenhamer opposed the decision for denial.

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3. **MISC2023-02** – Consideration for approval of a text amendment request as submitted by the City of Kennesaw. Said request is to amend the Unified Development Code, Appendix A, Chapter 5 “Standards for Accessory and Temporary Uses,” Section 5.03.14 and Section 5.03.18 of said chapter regarding political campaign signage.
- Mr. Simmons introduces the last business item. He states “This item is simply just to bring our sign ordinance that's pertaining to campaign signs in alignment with the OC GA standard. In the OC GA16-7-5A.A2 it states in part that no municipal, county or consolidated government may restrict by regulation or other means the length of time a political campaign sign may be displayed, or the number of signs which may be displayed on private property for which permission has been granted. Under that section there was a conflict in our sign ordinance that was identified and our city attorney drafted the text amendments that would bring it more in line with the state statutes. There were exemptions and the sections that are proposed to be inserted refers back to OC GA16-7-58.82 in all four of the sections, and it's pretty much says the same thing. This section in the sign ordinance does not apply to political campaign signs, which are governed by the O.C.G.A standard. We added additional language which talks about the general sign location. Our protocol is no sign should be on our public right away and with this text amendment we wanted to make sure it was clearly written. No sign shall be erected on or encroached on any public right away except as authorized by governmental unit or agencies. Of course they went on into more detail on setbacks and what is allowed in easements. The main purpose is to make sure that the sign ordinance is in alignment with the OG code dealing with campaign signs. We recommend approval of the text amendment as submitted and reviewed by our city attorney”.
 - Chairman Bergwall confirms if signs can't be on the public right of way but the owner has to provide prior approval that it is allowed to be on their property.
 - Mr. Simmons says yes.
 - Chairman Bergwall asks if there are any comments from the public.
 - Citizen, Fred Moore (3001 N Main Street), comes to the podium to ask if there is a time limit for political signs and can't have a sign up all year.
 - Mr. Simmons responds, “Yes, the way the current code reads says between the date of qualification and finally termination of each ballot issue or candidate of a political election. Each lot may display an unlimited number of standard informational signs so what they took out was the time period. O.C. G.A clearly states that the municipality cannot regulate the length of time a political sign can be displayed so that is the change”.
 - Chairman Bergwall asks are there any questions or comments from the Commission. After no response he moves to entertain a motion for approval.
 - Motion by Commissioner Greenall to approve the text amendment as presented.
 - Second by Vice-Chairman Jackson.
 - **All in favor 5-0. Motion Approved.**

IV. Zoning Administrator & Staff Comments

1. CivicPlus Civic Clerk – New program for meeting agendas, minutes and recordings

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- Mr. Trevino speaks about the new program Civic Clerk that is being launched by the City Clerk's office as an organized and user friendly way to access meeting agendas, minutes, and recording. Links will be sent out to the Commissioners in order to access meeting agendas on the civic clerk site. This will start on the next scheduled Planning Commission meeting.
- 2. Commissioner City e-mail accounts and City internet policy form
 - Mr. Trevino lets the Commissioners know that there city email accounts have been created and ready for them to use. They are informed to sign a city internet policy form agreeing to the policy on conducting business using city email accounts
 - He thanks everyone for a job well done.

V. Adjourn

- **Adjourn 8:42 p.m.**

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MEETING MINUTES
PLANNING COMMISSION SPECIAL CALL MEETING
CITY OF KENNESAW
Council Chambers
June 14, 2023
6:30 P.M.

1. Call to Order / Roll Call
 - Chairman Bergwall calls the meeting to order at 6:29 p.m.
 - Roll Call: Don Bergwall, Phillip Jackson, Lacey Ragus, Rebecca Patterson, Todd Vande Zande, Carolyn Greenall
 - Absent: Trey Bodenhamer
 - Staff present: Darryl Simmons (Zoning Administrator) and Albert Trevino (Assistant Zoning Administrator and Planner)
2. Announcements
 - A. Mr. Darryl Simmons reads the preamble: This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. The meeting may be accessed using Facebook Live via the following link [www.Facebook.com/City of Kennesaw/](https://www.facebook.com/CityofKennesaw/), however, comments made on Facebook Live will not be visible by City staff. If you will like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 p.m. the night of the regular meeting. Your comment will be read aloud or grouped into categories for the record. All interested parties may attend the meeting in person with limited seating available at the City Hall Council Chambers and the Ben Robertson Community Center, if needed. Please note that the Planning Commission serves as an advisory board that makes recommendations to Mayor and Council unless otherwise noted.
 - B. Pending zoning applications may be viewed on an interactive map via the Planning & Zoning webpage or using the following link: <https://arcg.is/1q1ubX0>
 - C. New business items on this agenda will be heard by Mayor and Council on June 19, 2023.
3. New Business
 - A. Approval of ORDINANCE to amend the Unified Development Code, Appendix A, Chapter 1, Section 1.06.01, Section 1.06.03 and Chapter 10. Said amendments are regarding changes to zoning procedure law as submitted by the City of Kennesaw. Case #MISC2023-05.
 - Mr. Albert Trevino comes to the podium to present the new business item. He states: “Thank you Chairman Bergwall. Good evening Planning Commissioners and good evening to our virtual audience tuning in on Facebook Live. Tonight’s agenda is very light. We have one item to discuss which is a text amendment to amend the Unified Development Code or UDC, Chapters 1 and 10. I wanted to be thorough but brief, so I have put together key highlights of the text amendments on powerpoint to go over with you all this evening. The Chapter 1 amendments covers updates to the titles of the City’s Building Official as well as the Zoning Administrator. The text amendments include referring to the Building Official within the UDC as the “Building Services Director,” and referring to the Zoning Administrator as the “Planning and Zoning Administrator. Chapter 10 updates includes a number of items. First being, where ever “Building Official” and/or “Zoning

Administrator” are found within this chapter, the UDC will now refer to them with their new titles. For the sake of time, these title changes can be found within the zoning code sections as listed on the screen. Second, last year, Georgia Legislators passed House Bill 1405, which lays new ground rules for public notice deadlines as well as new rules for local government initiated zoning changes of property from single-family to multi-family residential. Third, the UDC will be updated to match the states rules on initiating annexation requests. Fourth, we are updating the UDC’s section on the City’s Comprehensive Plan’s Future Land Use Map. The language within this section is out of date. And last, I’ll touch on changes to our final plat certificates and plat signature requirements. Section 10.00.05 (A) is for public notification procedures and the amendments include instead of listing out individual zoning applications like “rezonings and variances,” it requires that notification procedures be executed for “All applications that pertain to zoning decisions as defined in O.C.G.A. 36-66-3(4) that go for a public hearing before Mayor and Council and Planning Commission.” Of course, you all are aware that these public notification procedures are publishing a legal ad in the newspaper, posting of a yellow sign and mailing certified letters to surrounding property owners. Here on this slide lists how O.C.G.A. defines a “Zoning Decision.” In this section, an amendment is made to remove the requirement for the City to publish a legal advertisement in the newspaper for two consecutive weeks. Now the requirement is only one legal ad published once within the Marietta Daily Journal. In this section, it allows us to still hold a public hearing and for the Planning Commission and Mayor and Council to take action if when a public notice sign is posted on a property and it becomes vandalized or lost by natural occurrence before a decision has been made. It is the City’s responsibility to post the sign at least 15 days prior to the first public hearing. Regarding this section, staff needs to go over the changes that were made in great detail. This section 10.00.05 (G) that you all received in your packets will be marked out in its entirety. Staff along with our legal team had an in depth discussion today and decided that this section, although is mandated by House Bill 1405, does not apply to the City of Kennesaw. This is because the Kennesaw Planning Commission makes recommendations and can impose zoning conditions on zoning applications but they do not make the final zoning decision. This section will be struck through because it applies for those municipalities that have a Zoning Board of Appeals, where that board is a quasi-judicial board whereas they make final zoning decisions on appeals to the Zoning Administrative or decisions on variance applications. This section does not apply to the City and will be strike through on the final version. In its place, everything then got moved up. So what was section 10.00.05 (H) in your packets now gets moved up to section 10.00.05 (G). The new section 10.00.05 (G) is in regards to House Bill 1405. HB 1405 has a rule that if a local jurisdiction such as a city or a county initiate a rezoning request from single-family to multi-family, revise one or more single-family zoning classifications or definitions relating to single-family residential property so as to authorize multi-family residential, that the zoning decision must be adopted with the following rules; which I will cover on the next slide. Please note that this does not apply to a property owner wanting to file a rezoning for their property from single-family to multi-family. In addition to the existing public notification rules, the additional rules must take place: The additional new public notification rules are that: a zoning decision must be adopted at 2 regular Council meetings during a period of not less than 21 days apart; such public hearings shall be held at least 3 months and not more than 9 months prior to the date of final action on the zoning decision; at least one of the public hearing meetings must be held between 5 p.m. and 8 p.m.; when more than 500 parcels are affected, a public notice sign is required every 500-feet; A published notice must be at least nine column inches in size and shall not be located in the classified advertising section of the newspaper. A zoning decision must be adopted in accordance with the new rules also, if a local government makes: a request is made to abolish all single-family residential zoning classifications within the territorial boundaries of the city; or a zoning decision that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of the city to multifamily residential uses of property. Again, these new rules on public notification procedures does not apply when a property owner or authorized agent of the owner of such property requests to rezone their property from single-family to multi-family. This section updates the City’s UDC to be consistent with the States rules how when we can accept or initiate annexation requests. This includes by local

act of the general assembly, by 100% of landowners, by 60% of the land and 60% of electors or by resolution and referendum. This section adds in language to allow for the Planning Commission and Mayor and Council to motion for an item be withdrawn “with prejudice.” Currently, the UDC is silent on “with prejudice” within this section. Section 10.01.03 gets an update to align with our most recent Comprehensive Plan Update in 2022. All previous comp plans included a section called “Character Areas” and “Character Area Map.” In the 2022 Comp Plan, we decided to move away with the term “Character” and just shorten it to “Area” or “Area Map.” Areas will comprise of a conglomerate of neighborhoods and that usually have a distinction from other areas such as “Jiles and Baker Area” or “Old 41 and Barrett Area.” We eliminated the word “Character” altogether within this section since our current comp plan does not use that term any longer. And finally, the last of the text amendments that I want to touch on is updating our final plat certificate requirements. Currently, our final plat ordinance requires two signatures from the City Engineer and two signatures from the Mayor. We have updated this section to allow for each of them to only have to sign the plat one time. That is all of the text amendments to cover this evening. Staff has advertised this item within the Marietta Daily Journal on May 26 and June 2, 2023. We will be taking your recommendation to Mayor and Council at their regularly scheduled meeting on June 19, 2023. Staff is recommending approval. Thank you”.

- Chairman Bergwall asks if there is someone that periodically checks or patrols the signs posted.
- Mr. Trevino states there is a sign technician that creates and checks on signs that are posted on properties. If he notices a sign has been removed or vandalized, he will notify city staff right away and replace the sign as needed.
- Chairman Bergwall asks if there are any other questions from the Commissioners. After no response, he says he will entertain a motion to approve the text amendment changes as presented.
- Motion by Commissioner Ragus.
- Second by Commissioner Greenall.
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor 5-0. Motion Approved.**

4. Staff Comments

- Mr. Trevino comes up to the podium and talks to the Commission about subscribing to the city's public portal website in order to get city communications.

5. Adjourn

- Time: 6:57 p.m.



Item Report

TO: The Planning Commission

FROM: Darryl Simmons, Zoning Administrator

DATE: August 2, 2023

TITLE: Approval of ORDINANCE granting a rezoning modification request submitted by CF&G Enterprises, Inc. located at 0 Ellison Lakes Drive (PIN: 20017500170). The property is zoned as Planned Village Community (PVC) and lies in Land Lot 175, Tax Parcel 17 of the 20th District, 2nd Section, Cobb County Georgia and consists of 2.72 +/- acres. Case #RZ2023-03.

Summary:

The applicant is seeking to modify the zoning conditions under ordinance #2001-06 to allow for fee-simple residential condominiums. The project consists of a four-story building with 40-to-50-units, consisting of one, two and three bedroom units. Amenities will include a dog walking area, electric vehicle charging stations and private garages.

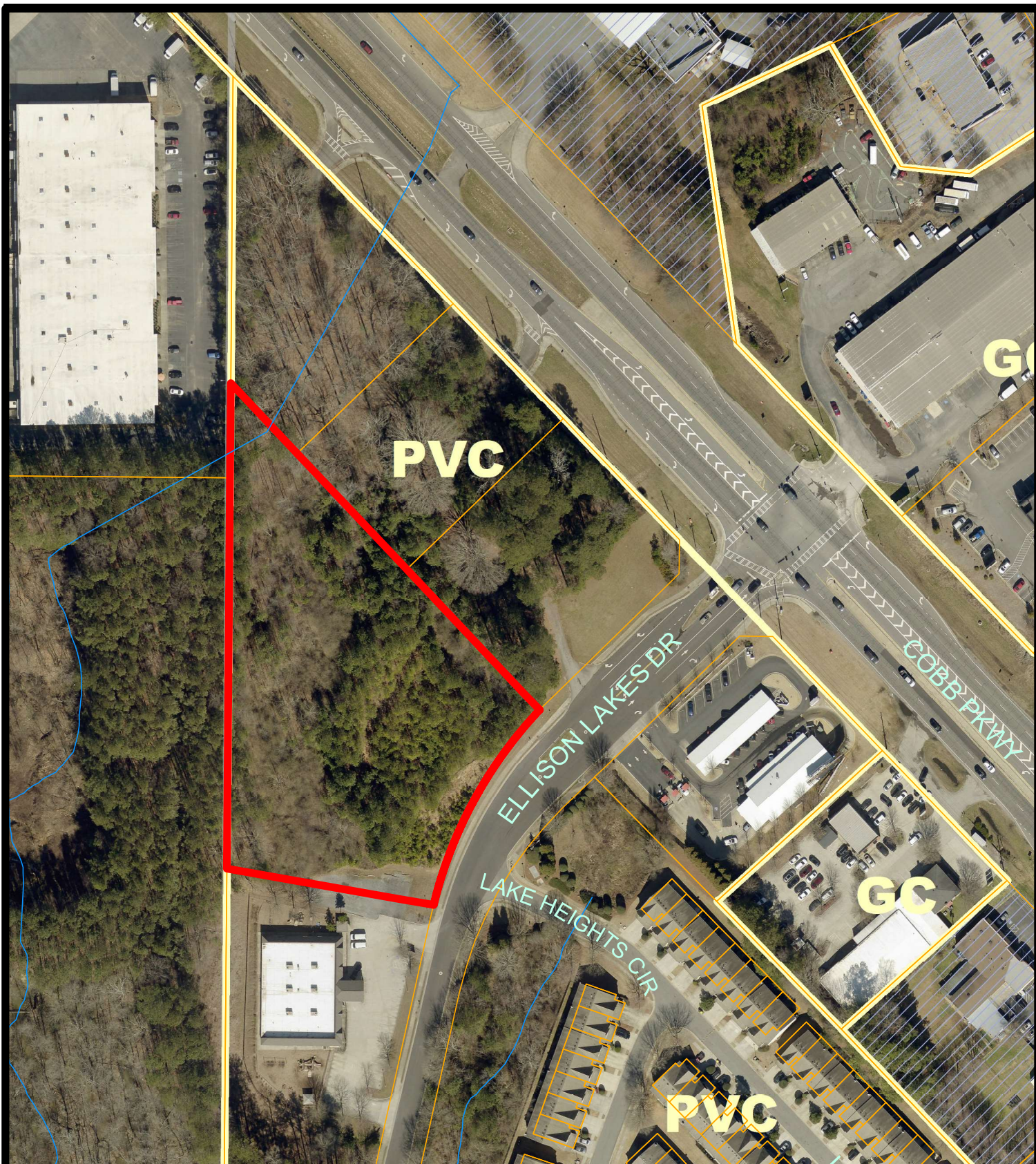
Recommendation:

The Zoning Administrator recommends approval with conditions

Fiscal Impact:

Attachments:

1. RZ2023-03 - Rezoning Application - 0 Ellison Lakes Dr-Redacted
2. RZ2023-03_Aerial Map
3. Site Plan and Renderings - 0 Ellison Lakes Drive
4. RZ2023-03_Public Notification packet



LAND CASES		LAND USE OR ZONING	
		FROM	TO
AV	LU		
AX	RZ2023-03	PVC	PVC
DX	AV – Administrative Variance AX – Annexation DX – De-annexation HBR – Historic Board Review	ZONING KENNESAW CITY LIMITS COBB COUNTY LAND LOT	
HBR	LU – Land Use RZ – Re-zoning SLUP – Special Land Use ZV – Variance		
SLUP			
ZV			

0 Ellison Lakes Drive
Land Lot 175, Tax Parcel 17

Subject Property

CITY OF KENNESAW
 PLANNING & ZONING DEPT.
 770-590-8268

Deirdre Easterting
 MAYOR

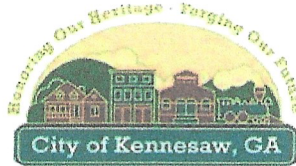
Lisa Murray
 CITY CLERK

Scale: 1" = 150'

Print Date: 6/28/2023

RZ2023-03_Aerial Map

#RZ2023-03



REZONING APPLICATION

Required Fee \$375.00

Date Received 5/15/2023
Staff's Initials AT

Fees paid by check on 5/21/2023 - AT

Is this property located within the Kennesaw Historic District (yes) _____ (no) X ?

A MINIMUM OF ONE CONSULTATION WITH PLANNING AND ZONING ADMINISTRATOR AND STAFF PRIOR TO THE SUBMISSION OF THE REQUESTED APPLICATION IS MANDATORY.

Date of Consultation 4/13/2023 Staff's Initials AT

REZONING PROPERTY ADDRESS 0 Ellison Lakes Drive (Parcel #20017500170)

Land Lot 175 Tax Parcel 17 Lot Size 2.81 +/- acres

Resident Population _____ Housing Units _____ Other Buildings _____

Present Zoning PVC To: PVC

For the purpose of: Amend PVC zoning conditions to allow for a for-sale multi-story residential condo building.

APPLICANT NAME CF&G Enterprises, Inc

APPLICANT EMAIL [REDACTED]

Applicant Address 515 Rippling Water Lane, Johns Creek, GA 30097

(Phone #) [REDACTED]

Applicant Signature [Signature] Date 5/10/23

Signed, sealed and delivered in presence of: Kebbra Scherf 5/10/23
Notary Date

REPRESENTATIVE Eric G. Federspiel

(Fax #) _____ (Work #) _____ (Cell #) [REDACTED]

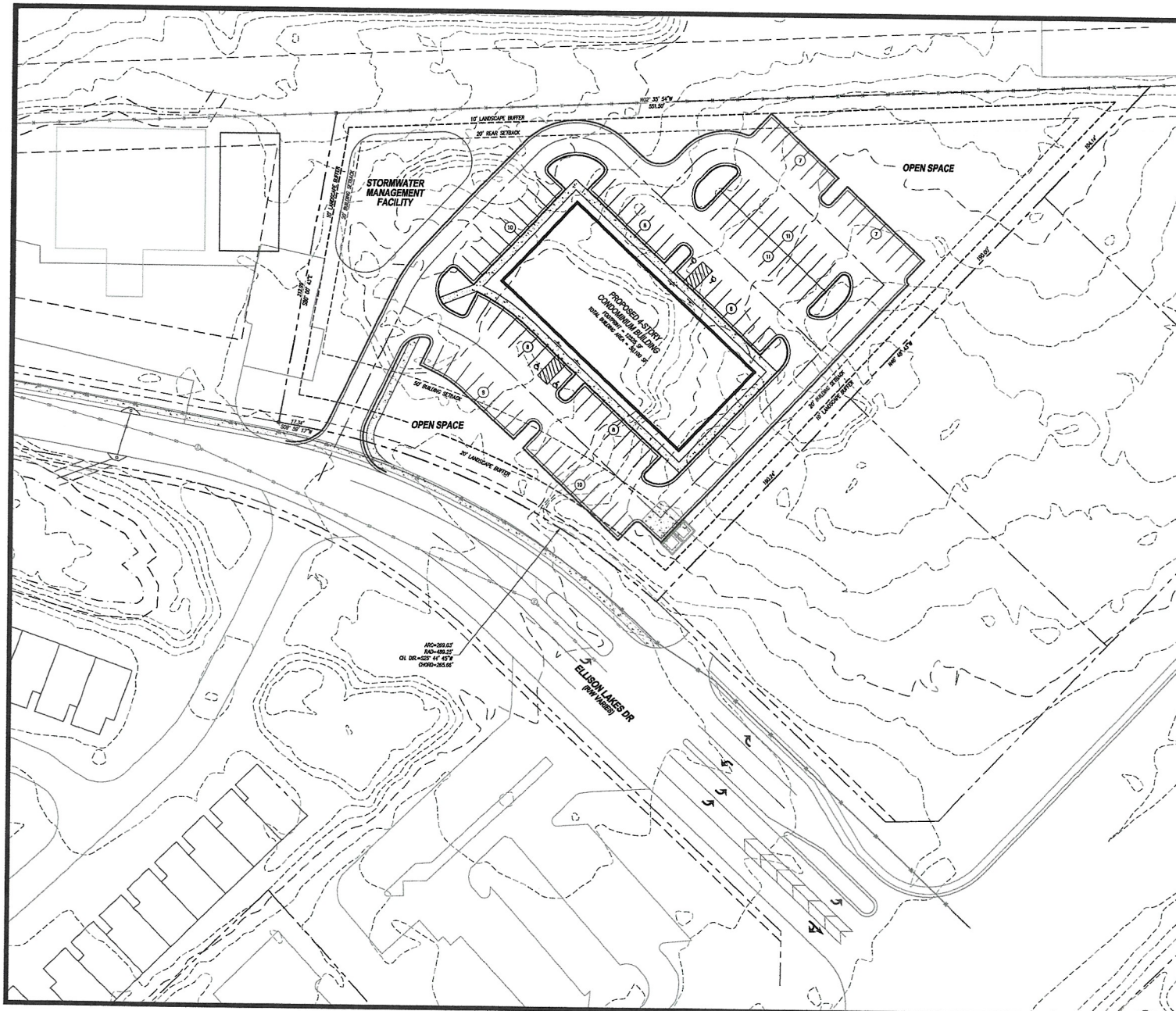
Representative Signature [Signature] Date 5-10-23

Signed, sealed and delivered in presence of: Kebbra Scherf 5/10/23
Notary Date

TITLEHOLDER: CF&G Enterprises, Inc. (Phone #) [REDACTED]

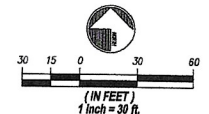
Signature: [Signature] Address 515 Rippling Water Lane, Johns Creek, GA 30097

Signed, sealed and delivered in presence of: Kebbra Scherf 5/10/23
Notary Date



DEVELOPMENT SUMMARY		
ZONING	EXISTING ZONING	PIC
AREA	SITE AREA	2.72 ACRES
	OPEN SPACE REQUIRED	2.00 ACRES
	OPEN SPACE PROVIDED	0.85 ACRES (4ND)
QUANTITY	NUMBER OF UNITS	25 UNITS
	PROPOSED DENSITY	9.2 UNITS/ACRE
	STREETS	50 FEET
	TRUCK	30 FEET
	SIDE	30 FEET
	REAR	30 FEET

24 HOUR CONTACT:
JEFF SMITH, PE
404.328.6280



THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S CONFORMANCE ONLY. THERE MAY BE OTHER UTILITIES NOT SHOWN ON THESE PLANS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATION SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL UTILITIES WITHIN THE LIMITS OF THE WORK. ALL CHANGES MADE TO EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.



LAND PLAN
 ELLISON LAKES
 CONDOMINIUMS
 LAND LOT 175
 2ND DISTRICT
 CITY OF KENNESAW, GEORGIA

OWNER/DEVELOPER
 FEDERSPIEL DEVELOPMENT

REVISIONS

ZONING PLAN
Z100







CF&G Enterprises, Inc.

Condominium Details for RZ2023-03
0 Ellison Lakes Drive

Please see the response to your questions regarding this project listed below.

1. How many condominium units are being proposed? What is the minimum number of units that need to be established for the project to work? Is there a maximum unit count for the project?

We are proposing to construct 45 total condominium units. At a minimum 40 units and the maximum count would be 50 condominium units.

2. Please provide us with a unit count of the number of bedrooms and number of bathrooms. For example, there will be 20 units with one bedroom and one bathroom, 10 units with two bedrooms and two bathrooms and 5 units with three bedrooms and two bathrooms.

We are proposing the following number of units as follows;

10 units with 1 bedroom and 1 bathroom

18 units with 2 bedrooms and 2 bathrooms

12 units with 3 bedrooms and 2 ½ bathrooms

3. What is the average unit size in square feet for 1-bedroom, 2-bedrooms and 3-bedroom units?

We are proposing to construct the 1-bedroom units with a total square footage of 1,200, our 2-bedroom units with a total square footage of 1,450, and the 3-bedroom units with a total square footage of 1,625.

4. Will these condominiums be for sale (fee simple) or for rent?

The proposed condominium units are for sale.

5. Who will manage the condominium building, common spaces, landscape and parking lot for upkeep and maintenance?

There will be a third-party property management company that will be responsible for oversight of the buildings, common spaces, landscape and parking lot upkeep and maintenance.

6. Describe your target market and include what the proposed unit price points will be.

Our target market is the first-time homebuyer or transient business relocation buyer. The proposed basic unit price will start as follows:

- 1 bedroom and 1 bathroom - \$380,000**
- 2 bedrooms and 2 bathrooms - \$425,000**
- 3 bedrooms and 2 ½ bathrooms - \$485,000**

7. Describe the building design, exterior materials, interior materials, interior finishes, and amenities.

The proposed product is a 4-story condo flat.

Exterior - 100% brick and stone.

Interior - Hardwoods, carpet, and tile. Granite and quartz countertops. Standard 4" base mold and 4" crown.

Amenities - Dog walking area, Electric car charging stations both inside and outside of the Private Garages.

8. Is there adequate parking spaces for the proposed total number of residential and commercial spaces? What is the parking ratio as broken down into the number of parking spaces per residential unit? Will there be Electric Vehicle charging stations provided for residents?

The proposed project will provide adequate parking as there will be 4 parking spaces per unit constructed. Electric vehicle charging stations will be available both inside and outside of the garages.

Please let me know if you need any further information to make a determination on our zoning request for the condominiums. We are excited to get our project underway and are pleased to be working with the City of Kennesaw on this project.

Kind Regards,



Laura C. Federspiel
CEO



CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

Each applicant must complete a separate form

Has the applicant made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application?

Regarding the above statement, please answer "Yes" or "No": No

If "Yes," the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of the City of Kennesaw within ten (10) days after this application is first filed.

Please supply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made:

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution:

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application:

I certify that the foregoing information is true and correct, this 5th day of May, 2023

Applicant Signature:

Faura C. [Signature]

¹ If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the Mayor and Council of the City of Kennesaw, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

² Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.



**Community Development
Planning & Zoning Department
2529 J. O. Stephenson Ave.
Kennesaw, GA 30144**

PLEASE TAKE NOTICE

That the undersigned has applied to the Planning Commission and Mayor and Council of the City of KENNESAW for the following:

Amend approved PVC zoning conditions to allow for a for-sale unit, multi-story, residential condominium building.

The property referred to is located at:

0 Ellison Lakes Drive - Parcel Number 20017500170

and is within a 200 foot radius of your property. It is described as Land Lot 175 20th District, 2nd Section, Tax Parcel 17 in the City of Kennesaw.

The said application will come up for hearing before the Planning Commission on 8/2/2023 at 6:30 p.m., and the Mayor and Council on 8/21/2023, at 6:30 p.m. in the City Hall Council Chambers, 2529 J.O. Stephenson Avenue, Kennesaw, Georgia. You may appear in person or by attorney and may present any objections, which you may have to the granting of this request. All documents relating to this application are enclosed for your review. The applicant, by order of the Planning Commission, Mayor and Council, sends this notice to you.

Dated: 05/05/2023

Applicant Signature:



Community Development
Planning & Zoning Department
2529 J. O. Stephenson
Kennesaw, GA 30144

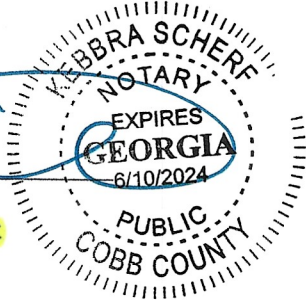
CERTIFICATION AUTHORIZATION

I hereby attest to the fact that a certified mailing to property owners within 200-feet will be mailed out on or before July 14, 2023 in accordance with the application requirements.

7/10/23

Date

Laura C. Johnson
Applicant or Authorized Agent



Sworn and subscribed before me this 10 day of May 20 23

Keobra Scherf

Notary Public Signature

[Notary Stamp]





Section 1908 Standards for Decisions- Rezoning

Section 1908 of the Kennesaw Zoning Code details thirteen zoning review factors, which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. Please provide responses to the following using additional pages if necessary

COMMENTS

(1) Would the proposed amendment be consistent and compatible with the City's land use and development, plans, goals and objective?	Yes
2) Would the proposed amendment tend to increase, decrease, or have no impact on traffic safety and congestion in the streets?	Small Increase in traffic.
(3) Would the proposed amendment tend to increase, decrease, or have no relationship to safety from fire and other dangers?	None
(4) Would the proposed amendment tend to promote, diminish, or have no influence on the public health and general welfare of the city?	This would assist in promoting the welfare of the city.
(5) Would the proposed amendment tend to increase, decrease, or have no influence on the adequate (provisions) of light or air?	No influence.
(6) Would the proposed amendment tend to cause, prevent, or have no influence on the overcrowding of land?	No influence.
(7) Would the proposed amendment tend to cause, prevent, or have no relationship on the population distribution within the city creating any area as dense in population as to adversely affect the health, safety, and general welfare of the city?	No relationship.
(8) Would the proposed amendment tend to impede, facilitate, or have no impact on the adequate provision of transportation, water, sewerage, other public services, utilities or facilities?	This amendment will have little to no impact, but will facilitate adequate provisions.
(9) Would the proposed amendment tend to be compatible with environmental conditions in light of surrounding developments? If compatible, what factors, if any, would diminish the value, use and enjoyment of surrounding properties?	Project would be compatible with surrounding developments and would not diminish the value or use of surrounding properties.
(10) Would the proposed amendment tend to require only reasonable expenditures of public funds, or would the amendment tend to require an excessive or premature expenditure of public funds?	This would require only reasonable expenditures of public funds.
(11) Would the proposed amendment tend to promote, diminish or have no influence upon the aesthetic effect of existing and future uses of property and the surrounding area?	This amendment will improve and promote the surrounding area.
(12) Would the proposed amendment have measurable adverse economic effect on the value of the surrounding or adjacent property?	The amendment would not have measurable adverse economic effect.

Letter of Intent

THIS LETTER OF INTENT (the "Document") made as of this 21st day of April, 2023 (the "Execution Date"),

BETWEEN:

CF&G Enterprises, Inc. of 2400 Ellison Lakes Dr, Kennesaw, GA 30152, USA
City Of Kennesaw Georgia of 2529 J O Stephenson Ave NW, Kennesaw, GA 30144, USA

(individually the "Party" and collectively the "Parties")

BACKGROUND:

This Document will establish the basic terms used in a future agreement between the Parties. The terms contained in this Document are not comprehensive and it is expected that additional terms may be added, and existing terms may be changed or deleted. The basic terms are as follows:

Non-Binding

1. This Document does not create a binding agreement between the Parties and will not be enforceable. Only the future agreement, duly executed by the Parties, will be enforceable. The terms and conditions of the future agreement will supersede any terms and conditions contained in this Document. The Parties are not prevented from entering into negotiations with third parties with regard to the subject matter of this Document.

Transaction Description

2. The subject of this transaction is described as follows:
 - Our intent is to develop, build and sell 40-55 for sale condo units, in a 4-5 story midrise building within the City limits of Kennesaw Georgia

Closing Date

3. The transaction will be completed on or about the 31st day of July, 2023 (the "Closing Date"). All obligations as indicated in the future agreement will be completed and met by the Closing Date.

Representations

4. The Parties represent and warrant that their respective assets, real property or personal property, which constitutes any or all of this proposed transaction, are free and clear of any liens, charges, encumbrances or rights of third parties. If the representations of one or more of the Parties are untrue upon the Closing Date, then any remaining Parties may terminate any future agreement without penalty and any deposits must be refunded.

This Document accurately reflects the understanding between the Parties, signed on this 21st day of April, 2023.

Per: _____ (Seal)
CF&G Enterprises, Inc. (Party)

Per: _____ (Seal)
City Of Kennesaw Georgia (Party)



Printed: 5/5/2023

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
Laura Federspiel

CORNERSTONE BANK

Payment Date: 10/4/2022

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2022	20017500170	10/15/2022	Pay: N/A or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$3,502.15	\$0.00



Scan this code with your
mobile phone to view
this bill!!

Operating Account: Account Activity Transaction Details

Post date: 11/28/2022

Amount: -1,097.48

Type: Other payment

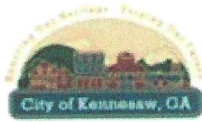
Description: City of Kennesaw DES:PAYMENT
[REDACTED] INDN:CF&G Enterprises
[REDACTED]

Merchant name: CITY OF KENNESAW



**Merchant
information:**

**Transaction
category:** Cash, Checks & Misc: Other Bills



City of Kennesaw
PROPERTY TAX DIVISION
2529 J. O. STEPHENSON AVE
KENNESAW, GA 30144-2780
(770) 429-4542

2022 Property Tax Bill

Parcel ID	Tax District	Bill #							
20017500170	3/3-BOND - KENNESAW CITY	238568							
Property Owner/Location/Description		Fair Market Value	Taxable Value						
CORNERSTONE BANK ELLISON LAKES DR		288,480	115,392						
Levies	Taxable Value	-	Exemptions	=	Net Assessment	x	Tax Rate	=	Net Tax
BOND	115,392		0		115,392		1.5000000000		\$173.09
CITY OF KENNESAW	115,392		0		115,392		8.0000000000		\$923.14

Exemptions:

Per House Bill 960, to arrive at the property tax interest rate, divide 10.5% by 12, which equals .875%. This interest rate will continue to accrue on a monthly basis, based on an annual calculation of Federal Prime Rate (7.5%) plus 3%.

Penalty will accrue at 5% after 120 days with an additional 5% assessed after each successive 120 days to a maximum of 20% of the principle amount due (House Bill 960).

Payments can be made online at www.municipalonlinepayments.com/kennesawga, in person, by mail or via our dropbox. Tax bills are mailed annually on October 1, with a due date of December 1.

Any questions concerning ownership changes or change of address should be directed to Cobb County Tax Commissioner's Office. For all other questions or concerns regarding this statement, give us a call at 770-429-4542.

Current Year Tax	\$1,096.23
Interest	\$0.00
Penalty	\$0.00
Other Fees	\$0.00
Payments Received	\$1,096.23
Other Amounts Due	\$0.00
Total Due	\$0.00
Due Date	12/01/2022



City of Kennesaw
PROPERTY TAX DIVISION
2529 J. O. STEPHENSON AVE
KENNESAW, GA 30144-2780

Please make check or Money Order Payable to :
City of Kennesaw Property Tax Division and
include the Parcel ID on your check.

For your convenience, you may pay by check,
money order, Discover, Mastercard, AMEX, VISA.
3% fee and \$3.50 per transaction fee added to
debit/credit card payments. \$1.25 fee per ECheck
transaction paid online.

Parcel ID: 20017500170
Amount Due: \$0.00
Bill#: 238568
Due Date: 12/01/2022

AMOUNT PAID

CORNERSTONE BANK
2060 MT PARAN RD NW SUITE 100
ATLANTA, GA 30327

City of Kennesaw
PROPERTY TAX DIVISION
2529 J. O. STEPHENSON AVE
KENNESAW, GA 30144-2780



Project Submission Success

Project Name: CF&G -000793892-23

Project CF&G -000793892-23 has been submitted successfully to the FAA.

Your filing is assigned Aeronautical Study Number (ASN):
2023-ASO-16131-OE

Please refer to the assigned ASN on all future inquiries regarding this filing.

Please return to the system at a later date for status updates.

It is the responsibility of each e-filer to exercise due diligence to determine if coordination of the proposed construction or alteration is necessary with their state aviation department. Please use the link below to contact your state aviation department to determine their requirements:

[State Aviation Contacts](#)

To ensure e-mail notifications are delivered to your inbox please add noreply@faa.gov to your address book. Notifications sent from this address are system generated FAA e-mails and replies to this address will NOT be read or forwarded for review. Each system generated e-mail will contain specific FAA contact information in the text of the message.

Once Recorded Return To:
Adams and Reese LLP
3424 Peachtree Road, NE, Suite 1600
Atlanta, GA 30326
Attn: 029035-000001

Cross-Reference:
Deed Book 15342, Page 6386
Deed Book 15352, Page 2254
Deed Book 15956, Page 1622
Cobb County, Georgia Records.

Tax Parcel ID NO. 20017500170

CANCELLATION OF DEED UNDER POWER OF SALE AND REAFFIRMATION OF VESTING DOCUMENTS

This CANCELLATION OF DEED UNDER POWER OF SALE AND REAFFIRMATION OF VESTING DOCUMENTS (the "Agreement") is made by and between Coastal States Bank, a South Carolina banking corporation, ("Coastal States"), as successor-in-interest to Cornerstone Bank ("Cornerstone"), as party of the first part, and CF&G Enterprises, Inc., a Georgia corporation ("CF&G"), and Federspiel Development, LLC, a Georgia limited liability company ("Federspiel Development", and together with CF&G and Coastal States, hereinafter sometimes referred to as the "Parties") as parties of the second part, is effective as of June 1, 2022 (the "Effective Date").

WHEREAS, in order to secure repayment of a debt obligation from Federspiel Development to Cornerstone (the "Debt Obligation") on June 6, 2016, Federspiel Development, as grantor, executed a Deed to Secure Debt, Assignment of Rents and Security Agreement (the "DSD") in favor of Cornerstone that was recorded at Deed Book 15342, Page 6386 of the official records maintained by the Clerk of the Superior Court of Cobb County (the "Cobb Records" and the "Clerk");

WHEREAS, by execution of the DSD, Federspiel Development conveyed to Cornerstone a security interest in, and title to, a parcel of real property that is situated in Land Lot 175 of the 20th Land District of Cobb County, Georgia, commonly situated on Ellison Lakes Dr., Kennesaw, Georgia, and designated as Cobb County Tax Parcel ID No. 20017500170, all as more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Vacant Tract");

WHEREAS, subsequent to the execution of the DSD, Federspiel Development attempted to convey title to the Vacant Tract to CF&G by virtue of that certain “Quitclaim Deed” that was recorded in the Cobb Records at Deed Book 15352, Page 2254 (the “QCD”);

WHEREAS, the pertinent title information on the QCD was filled out in handwriting by Eric G. Federspiel, the Managing Member of Federspiel Development, and was not completely legible;

WHEREAS, the Clerk indexed the QCD in the Real Estate Index of the Cobb Records and listed the Grantor as “Federspiel Development, LLC” instead of “Federspiel Development, LLC” (the “Recording Error”). The QCD is not cross-referenced to any other recorded instruments in the Cobb Records, and does not reference any other recorded instrument. As a result of the Recording Error, an individual performing an examination of the Cobb Records with respect to Federspiel Development, exercising a reasonable degree of care and diligence, would not locate the QCD transfer of the Vacant Tract into CF&G during the ordinary course of his or her search;

WHEREAS, in or about June 2017, Federspiel Development and certain of its affiliates defaulted on their obligation to repay the Debt Obligation to Cornerstone in accordance with its terms;

WHEREAS, as a result of this default, Cornerstone began steps to foreclose upon the Vacant Tract pursuant to the power of sale contained in the DSD. In preparation for the foreclosure, Cornerstone commissioned a search of title for the Vacant Tract (the “Title Search”);

WHEREAS, due to the Recording Error, the Title Search did not identify the QCD (or any other reference to the transfer of the Vacant Tract from Federspiel Development to CF&G);

WHEREAS, CF&G filed for bankruptcy relief under Chapter 11 of Title 11 of the United States Code on July 5, 2021, in a case entitled In re CF&G Enterprises, Inc., United States Bankruptcy Court for the Northern District of Georgia, Case No. 21-55042 (the “Bankruptcy”), thus giving rise to an automatic stay pursuant to 11 U.S.C. § 362 (the “Automatic Stay”);

WHEREAS, Coastal States i) is a secured creditor of CF&G; ii) was scheduled in the Bankruptcy as a secured creditor; and iii) was deemed secured by the Final Cash Collateral Order in the Bankruptcy;

WHEREAS, CF&G properly disclosed its ownership of the Vacant Tract under Schedule A/B in its original bankruptcy schedules filed with the Bankruptcy Court on July 19, 2021;

WHEREAS, without knowledge that the Vacant Tract had been conveyed to CF&G by virtue of the QCD, Cornerstone advertised in the Marietta Daily Journal for a foreclosure sale of Federspiel Development’s interest in and to the Vacant Tract on August 3, 2021;

WHEREAS, Cornerstone conducted a foreclosure sale of the Vacant Tract on August 3, 2021 (the “Foreclosure Sale”), and on August 18, 2021 recorded a Deed Under Power of Sale

conveying the Vacant Tract from Federspiel Development to Cornerstone at Deed Book 15956, Page 1622 of the Cobb Records (the “DUP”);

WHEREAS, Coastal States acquired the assets of Cornerstone, including the Debt Obligation and the DSD, on October 31, 2021;

WHEREAS, CF&G, by and through its bankruptcy counsel, has made Coastal States aware of:

- a) The conveyance of the Vacant Tract to CF&G under the QCD; and
- b) The Automatic Stay arising out of the Bankruptcy, which rendered the Foreclosure Sale, and the resulting DUP, invalid;

WHEREAS, on May 3, 2022, CF&G confirmed a Plan of Reorganization in the Bankruptcy (the “Plan”) that provides for a stream of 300 monthly payments to Coastal States based on a balance of \$3,100,000, to be paid over twenty-five years at 5.25% (the “Plan Payments”);

WHEREAS, in order to eliminate the break in the chain of title with respect to the Vacant Tract, the Parties hereto wish to cancel the DUP of record and return the status of the title to the Vacant Tract to the *status quo ante* prior to August 3, 2021;

NOW, THEREFORE, for and in consideration of the promises and obligations set forth herein, the validity and sufficiency of which are herewith acknowledged by all Parties to this Agreement, the Parties herewith obligate themselves to take the following actions, and make the following conveyances, for all purposes under Georgia law.

1. **Cancellation of the Deed Under Power.** The Parties hereby acknowledge and agree that the DUP was *void ab initio*. The DUP is herewith cancelled, void and of no further effect. Title to the Vacant Tract will herewith revert back to its status prior to the recordation of the DUP. Coastal States is authorized and instructed to record this Agreement in the Cobb Records, and cross reference same to the DUP, in order to effectuate said cancellation.

2. **Acknowledgement and Consent to the Conveyance to CF&G.** The Parties acknowledge that the DSD contains a “due on sale” clause, and the attempted conveyance of the Vacant Tract by Federspiel Development to CF&G constituted a default under the Debt Obligation due to Cornerstone. Notwithstanding such default, and Coastal States’ rights and remedies arising therefrom, Coastal States herewith consents to the QCD conveyance of the Vacant Tract to CF&G for all purposes under Georgia law, such that title to the Vacant Tract is herewith vested in CF&G, subject to the security title in favor of Coastal States created by the DSD, and all liens arising out of same, as modified in the Plan.

3. **Acknowledgement of the Continued Validity of the DSD and the Lien in Favor of Coastal States.** Federspiel Development and CF&G acknowledge and agree that i) the DSD is valid and enforceable in accordance with its terms; ii) Coastal States’ security title in the Vacant

Tract has not been altered or modified, except as modified in the Plan and iii) the DSD continues to constitute a first-in-priority lien on the Vacant Tract in favor of Coastal States.

4. **Net Effect.** The net effect of this Agreement, after the acknowledgements and agreements set forth herein and the recordation of this Agreement, is that the Vacant Tract will be owned by CF&G, subject to the DSD, as modified by the Plan, in favor of Coastal States, with the payment obligations under the DSD to be controlled by the Plan and the Plan Payments specified therein.

5. **Cross References to the Cobb Records.** The Clerk is hereby requested and instructed to cross-reference this Agreement to:

- a. The DSD, being that certain Deed to Secure Debt, Assignment of Rents and Security Agreement, filed and recorded June 6, 2016 at Deed Book 15342, Page 6386, Cobb Records;
- b. The QCD, being that certain Quit Claim Deed, filed and recorded July 5, 2016 at Deed Book 15352, Page 2254, Cobb Records; and
- c. The DUP, being that certain Deed Under Power of Sale, filed and recorded August 18, 2021 at Deed Book 15956, Page 1622, Cobb Records.

6. **Default under the Bankruptcy Plan.** Any default by CF&G under the Plan or the Plan Payments shall constitute a default under the DSD, subject only to the provisions of the Plan regarding notice and right to cure. Upon a failure by CF&G to cure any such default after the required notice, Coastal States will be authorized to exercise any of its state law and contractual rights in and to the Vacant Tract, including, but not limited to, foreclosure of same.

7. **Waiver and Quitclaim of Defenses.** For and in consideration of the acknowledgements set forth herein, CF&G and Federspiel Development, acting on their own behalf and on behalf of their subsidiaries, affiliates, parents, representatives, agents, successors and assigns, specifically waive and quitclaim any and all defenses or objections that they may have, or claim to have, to the validity and enforceability of the DSD, including, but not limited to, those that go to merger of title.

8. **Perpetual Security Interest.** The Parties intend for the DSD to establish a perpetual or indefinite security interest in the Vacant Land, pursuant to Official Code of Georgia Annotated (“O.C.G.A.”) §44-14-80 (a).

[Remainder of page intentionally blank. Signatures on following pages.]

16th IN WITNESS WHEREOF, the Parties have signed and sealed this instrument, this the day of October, 2022.

Signed, sealed and delivered
in the presence of:

Cheryl Brown
Unofficial Witness

Kebbra Scherf
Notary Public

My Commission Expires:

6/10/24

(NOTARIAL SEAL)



CF&G ENTERPRISES, INC

By Laura C. Federspiel
Name: Laura C. Federspiel
Its: CEO

[CORPORATE SEAL]



[Signatures continue on the following page]

16th IN WITNESS WHEREOF, the Parties have signed and sealed this instrument, this the day of October, 2022.

Signed, sealed and delivered
in the presence of:

Cheryl B...
Unofficial Witness

Kubbra Scherf
Notary Public

My Commission Expires:

6/10/24

(NOTARIAL SEAL)



FEDERSPIEL DEVELOPMENT, LLC

By: E. G. Federspiel [SEAL]

Name: Eric G. Federspiel

Its: CEO



[Signatures continue on the following page]

IN WITNESS WHEREOF, the Parties have signed and sealed this instrument, this the _____ day of October, 2022.

Signed, sealed and delivered
in the presence of:

Unofficial Witness

Notary Public

My Commission Expires:

(NOTARIAL SEAL)

COASTAL STATES BANK INC.,
a South Carolina banking corporation,
as successor-in-interest to
CORNERSTONE BANK

By: _____

Name: _____

Its: _____

[BANK SEAL]

EXHIBIT "A"**LEGAL DESCRIPTION**

All that tract or parcel of land lying and being in Land Lot 175 of the 20th Land District, in the City of Kennesaw, Cobb County, Georgia containing 2.372 acres of land, more or less, and being more particularly described as follows:

BEGINNING at an Iron pin at the Land Lot Corner common to Land Lots 175, 176, 205, and 206, thence along the Land Lot Line common to Land Lots 175 & 176 North 02 degrees 35 minutes 54 seconds West 517.59 feet to an iron pin and being the TRUE POINT OF BEGINNING; thence continuing along said Land Lot Line, North 02 degrees 35 minutes 54 seconds West, 511.41 feet to an iron pin set; thence departing said Land Lot Line South 46 degrees 42 minutes 35 seconds East. 447.55 feet to an iron pin set on the westerly margin of the right-of-way of Ellison Lakes Drive (right-of-way width varies); thence along the margin of said right-of-way the following courses and distances; 229.66 feet along the arc of a curve to the left having a radius of 489.25 feet, chord bearing of South 23 degrees 26 minutes 09 seconds West, and chord distance of 227.56 feet to a point; South 09 degrees 59 minutes 17 seconds West, 32.08 feet to an iron pin set; thence departing said right-of-way North 80 degrees 00 minutes 43 seconds West, 209.69 feet to the TRUE POINT OF BEGINNING.

As shown on the ALTA/ACSM Land Title Survey for Georgia Trust Bank, Ellison Park, LLC and Stewart Title Guaranty Company, prepared by Development Consultants Group, dated October 31, 2007.

TOGETHER WITH those easement rights arising under that certain Shared Driveway Easement Agreement by and between Pinnacle Properties II, LLC, a Georgia limited liability company and Ellison Park LLC, a Georgia limited liability company, dated as of November 29, 2007, filed for record December 6, 2007 at 10:16 a.m., recorded in Deed Book 14560, page 6316, Records of Cobb County Georgia ; as amended by that certain Amendment to the Shared Driveway Easement Agreement by and between Pinnacle Properties II, LLC and Ellison Park, LLC dated as of March 30, 2011, filed for record April 4, 2011 at 4:22 p.m., recorded in Deed Book 14845, Page 1441, aforesaid records.

CITY OF KENNESAW, GEORGIA

ORDINANCE NO. #2001-06

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF KENNESAW, GEORGIA SO AS TO CHANGE THE ZONING DISTRICT DESIGNATION FROM COUNTY HI & GC TO CITY PLANNED VILLAGE COMMUNITY HEREAFTER KNOWN AS PVC W/ STIPULATIONS FOR PROPERTY LOCATED AT AND RUNNING ALONG HIGHWAY 41 NEAR THE INTERSECTION OF OLD HIGHWAY 41

WHEREAS, Gwinnett Partners, LLC, c/o Richard Calhoun has made application to amend the Official Zoning Map of the City of Kennesaw, Georgia so as to change the zoning designation from County HI & GC to City PVC (site plan specific) w/ stipulations on approximately 130.9 -acre parcel located at and running Highway 41 near the intersection of Old Highway 41 (as more particularly described below); and

WHEREAS, notice was advertised in the Marietta Daily Journal on September 21, 2001 of a public hearing before the Kennesaw Planning Commission held on October 8, 2001 and the Mayor and Council on November 5, 2001; and

WHEREAS, The Kennesaw Planning Commission held a public hearing on this proposal on October 8, 2001; and

WHEREAS, the Mayor and Council held a public hearing on this proposal on November 5, 2001; and

WHEREAS, the Mayor and Council have determined that the proposed amendment to the Official Zoning Map is in the public interest and meets the standards established in the Kennesaw Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS.

SECTION 1. The Official Zoning Map of the City of Kennesaw, Georgia is hereby amended so as to change the zoning district designation from County HI & GC To City PVC w/ stipulations for the following described property:

All that tract or parcel of land lying and being in Land Lots 175, 205 and 206 of the 20th District, 2nd Section of Cobb County, Georgia, and being a portion of the property shown on plat of survey prepared by J.P. Phillips, Surveyor, dated June 5, 1950 and being more particularly described as follows:

LEGAL DESCRIPTION

Beginning at an iron pin located at the common corners of Land Lots 176, 175, 206 and 205, said District and Section, and running thence north 01 degree west, 1435 feet to an iron pin located on the southeasterly right-of-way of the 200 foot right-of-way of U.S. Highway 41 (4-Land Highway); running thence in a southeasterly direction along said right-of-way and forming an exterior angle of 136 degrees 20 minutes with the preceding course, a distance of 1248 feet to an iron pin and corner; running thence south 47 degrees 10 minutes west, 240 feet to an iron pin and corner; running thence south 44 degrees 40 minutes east, 762.5 feet to an iron pin and corner; running thence south 66 degrees 25 minutes west, 497 feet to an iron pin; running thence south 24 degrees 30 minutes east, 700 feet to an iron pin and corner, running thence north 82 degrees 15 minutes east, 708 feet to a point located on the center-line of Noonday Creek; running thence in a southwesterly direction along the center-line of said creek and following the meanderings thereof a distance of 2380 feet to a point located on the southerly line of Land Lot 206, running thence south 89 degrees west, 160 feet to the iron pin located at the common corners of Land Lots 205, 206, 213 and 214, said District and Section, running thence north 25 degrees 25 minutes west, 2360 feet to an iron pin, running thence in a northwesterly direction along property now or formerly owned by L.P. Daniel, a distance of 450 feet to the northerly line of Land Lot 205, running thence north 89 degrees east along said land lot line, a distance of 1155 feet to the iron pin at the point of beginning, and containing approximately 130.9 acres.

LESS AND EXCEPT:

All that tract or parcel of land lying and being in Land Lot 205 and 206 of the 20th District, 2nd Section of Cobb County, Georgia, and being a portion of the property shown on plat of survey prepared by J.P. Phillips, Surveyor, dated June 5, 1950 and being more particularly described as follows:

Beginning at an iron pin located at the common corners of Land Lots 205, 206, 213 and 214, said District and Section and running thence North 25 degrees 25 minutes west, a distance of 2250 feet (more or less) to a point and corner, running thence in an easterly direction a distance of 874 feet (more or less) to a point located on the east line of Land Lot 205; running thence in a southerly direction along said land lot line a distance of 1850 feet (more or less) to the iron pin at the point of beginning, and being a triangular shaped parcel of land containing 18.559 acres.

AND LESS AND EXCEPT:

All that tract or parcel of land lying and being in Land Lot 205 of the 20th District, 2nd Section of Cobb County, Georgia and being a portion of that property shown on plat of survey prepared by J.P. Phillips, Surveyor, dated June 5, 1950, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, start at an iron pin located at the common corners of Land Lots 205, 206, 213 and 214, said District and Section and run thence North 01 degree West along the easterly line of Land Lot 205, said District and Section, a distance of 1850 feet, more or less, to a point, THIS BEING THE TRUE POINT OF BEGINNING; continuing thence along said land lot line 725 feet, more or less, to a point and corner; running thence westerly a distance of 928.48 feet to property now or formerly owned by L.F. Daniel; running thence in a southeasterly direction along said Daniel property, 727.1 feet, more or less, to a point and corner; running thence easterly along the northern line of property previously deeded to grantees herein (by Warranty Deed dated December 28, 1977 and recorded in Deed Book 1849, Page 196, Cobb County Records) a distance of 874 feet, more or less, to the point of beginning, and containing 15.0 acres.

AND LESS AND EXCEPT:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 175, 20th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found at the intersection of the common land lot line of Land Lot 175 and Land Lot 176 and the southwesterly right of way line of U.S. 41 (200 foot right of way), proceed South 44 degrees 40 minutes East a distance of 635.42 feet along said right of way line to a fence corner; thence proceed South 54 degrees 11 minutes 57 seconds West a distance of 162.89 feet to a fence corner, thence proceed South 24 degrees 52 minutes 46 seconds East a distance of 103.04 feet to a fence corner; thence proceed South 12 degrees 1 minute 43 seconds West a distance of 475.85 feet to a point; Thence proceed North 77 degrees 58 minutes 17 seconds West a distance of 156.77 feet to a point on the common land lot line of Land Lot 175 and Land Lot 176: thence proceed North 01 degrees West a distance of 1,073.57 feet along said land lot line to an iron pin and the POINT OF BEGINNING; said tract containing 5.84 acres, according to survey for Andrew J. Ellison & Edith Knox Ellison dated December 22, 1990, prepared by Thomas M. Ginn, Sr. (Georgia Registered Land Surveyor No. 1549) on behalf of Southern Surveying & Mapping Co., Inc.

SECTION 2. BE IT FURTHER ORDAINED THAT the amendment to the Official Zoning Map outlined in Section 1 above is adopted subject to the site plan dated 10-16-01 entitled Annexation Exhibit for Gwinnett Partners with the following stipulations: Letter of stipulations dated 12-14-01 from Brock, Clay, Calhoun, Wilson & Rogers and the zoning stipulations shown as Attachment A, and that these stipulations, such that if there are any conflicts between the two, the more restrictive will prevail. **(Copy of the letter of stipulations dated 12-14-01 and copy of Attachment "A" Zoning Stipulations attached and made a part hereto.)**

SECTION 3. BE IT FURTHER ORDAINED THAT it is hereby declared to be the intention of this ordinance that its sections, paragraphs, sentences, clauses, and phrases are severable, and if any section, paragraph, sentence, clause, and phrase is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance.

SECTION 4. BE IT FURTHER ORDAINED THAT this ordinance shall become effective from and after its adoption and execution by the Mayor, pursuant to Section 2.11 of the City Charter of the City of Kennesaw.

ADOPTED THIS 17th DAY OF December, 2001.

City of Kennesaw

Leonard L. Church¹
Leonard Church, Mayor

Attest:

Diane H. Coker
Diane Coker, City Clerk

¹ Original executed document on file in the Clerk's Office.

ATTACHMENT A: ZONING STIPULATIONS²

STAFF RECOMMENDATIONS FOR REZONING CASE RZ20-01 FOR 130 ACRES LOCATED ON US 41. AS SUBMITTED BY GWINNETT PARTNERS, LLC.

Staff recommends approval of this rezoning application with the following conditions:

1. Overall density of this project not to exceed 10.2 dwelling units per acre with the total maximum residential units not to exceed 898.
2. All efforts to be explored to reduce impervious surface area with the reduction of parking space ratio per unit not to exceed 1.75 spaces per unit.
3. Interconnecting walking trails to be provided throughout development.
4. Applicant to pursue all feasible strategies to protect floodplain, wetland and other environmentally sensitive areas in accordance with Arc's Regional Development Plan policies.
5. Compliance with Georgia Erosion and Sedimentation Act policies dealing with preservation of required buffers along identified creek areas.
6. Total Impervious surface area for project not to exceed 40%
7. Developer to utilize construction practices and materials which will attenuate any noises generated by aircraft utilizing McCollum field.
8. Transportation safety controls must be incorporated into this development including but not limited to the following:
 - Traffic signal to be installed at main entrance. Installation being the responsibility of developer.
 - Emergency access points are provided for this site.
 - Provision of appropriate turn lanes and access lanes to be provided and coordinated with the Cobb DOT.
 - Developer will facilitate provision of space for a bus stop at the entrance of development..
9. Future agreement between Developer and City of Kennesaw to be pursued to allow public access to proposed soccer fields.

² Stipulations approved as an attachment to Zoning Ordinance #2001-06 – Ellison Property

10. Prior to development of this property, the applicant will solicit the advice of the Kennesaw Historic Preservation Commission regarding identification and appropriate protection of any historic features or structures which may be located upon this property.

Developer will be responsible for creating and implementing an appropriate historical preservation strategy plan if historic features or structures are discovered.

³ Letter dated 12-14-01 from Brock, Clay, Calhoun, Wilson & Rogers, PC attached and made a part of zoning ordinance #2001-06.

BROCK, CLAY, CALHOUN, WILSON & ROGERS, P.C.
ATTORNEYS AT LAW

D. Glenn Brock
Charles C. Clay
Richard W. Calhoun
Bonnie L. Wilson*
Randall F. Rogers
Stephen A. Yaklin
E. Linwood Gunn, IV
Sylvia G. Eaves**
Charles M. Dalziel, Jr.
Dale Ann Bandy
Nicholas P. Panayotopoulos

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Bruce A. Dean
John K. Wells
B. Rachel Spitz
Susan J. Doty***
Robert B. Teifher
Suzann M. Wilcox
Raymond C. Buday, Jr.
Eric A. Brewton
Charles L. Carder, III
J. Douglas Findlay, Jr.
Shilpa S. Masih
Tyler C. Dunn

Also admitted in:
*Florida & Texas
**South Carolina
***Massachusetts

December 14, 2001

Mayor and Council of the City of Kennesaw
City Hall
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

Re: Ellison Property ±130A LLS 175, 205 and 206, 20th District, Cobb County, Georgia
Rezoning Application of Gwinnett Partners, LLC

Dear Mayor Church and Members of the City Council:

Now that the ARC's DRI Recommendation has been received, we are taking this opportunity to propose the following stipulations of zoning to you for the above project:

ZONING

1. The subject property shall be zoned to the City's PVC zoning district classification, subject to the revised site plan by Development Consultants Group dated October 16, 2001.
2. The maximum number of multi-family units shall be 650, and the maximum number of town home units shall be 248. There should be a parking ratio of 1.75 parking spaces per unit.
3. The maximum amount of office and retail space shall be 110,000 square feet.
4. The walking trails and three recreational fields shall be provided as shown on the revised site plan.

TRAFFIC IMPROVEMENTS

5. Subject to the approval of the Cobb County DOT and Georgia DOT, the applicant shall make the following traffic improvements as recommended by the ARC:
 - (a) Add double left turn lanes to the east bound and west bound approaches of Old Highway 41; and

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Mayor and Council of the City of Kennesaw
December 14, 2001
Page 2

- (b) Relocate the traffic signal presently located in the vicinity of the subject property on Highway 41; and
- (c) Add an additional traffic lane, curb, gutter, and sidewalk along the entire Highway 41 frontage of the project; and
- (d) Install a traffic signal at the proposed access of the project on Highway 41.

EMERGENCY ACCESS

- 6. Subject to obtaining legal access rights, the applicant will provide a secured emergency access to the proposed development, either through the existing Attie Parkway development to the east, or through the existing Cobb International Industrial Park to the west. County and City public safety agencies shall be provided with keys or access codes to this access point.

AIRPORT PROXIMITY

- 7. The applicant will use construction practices and materials to mitigate interior noise levels from local air traffic at McCollum field. The applicant will comply with all FAA Airspace study requirements as necessitated by the proposed construction. The applicant will further include in each lease a notification regarding the proximity of the development to McCollum field.

STORM WATER MANAGEMENT

- 8. The applicant shall perform and submit to the City as a part of its development plan, a storm water management plan. As a part of this plan, no residential structures shall be constructed within the dam breach zone of the existing lake on the property.
- 9. The storm water management plan shall include a monitoring program, and structural controls shall be designed to accommodate the installation, operation and maintenance of automatic water quality and flow rate monitoring equipment. The monitoring program shall consider the following minimum elements:
 - monitoring of 4 storms per year (one per quarter)
 - collection of flow weighted composite of the inflow to the structure during the entire storm event;
 - collection of a flow weighted composite of the outflow from the structure - the sampling should include the peak outflow resulting from the storm event;
 - analysis of inflow and outflow flow weighted composite samples for biochemical oxygen demand, total suspended solids, zinc, lead, total phosphorous, and total nitrogen; and
 - collection of grab samples at the inlet and outlet locations during the periods of peak inflow and outflow for pH, dissolved oxygen, and fecal coliform bacteria.

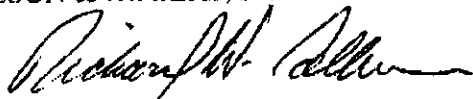
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Mayor and Council of the City of Kennesaw
December 14, 2001
Page 3

Of course, should you have any questions, or require any further information regarding these proposed conditions of zoning, please do not hesitate to contact the undersigned.

Yours truly,

BROCK, CLAY, CALHOUN,
WILSON & ROGERS, P.C.



Richard W. Calhoun, Esq.
For the Firm
RWC:hlh

Enclosure

cc: Mike McDowell, City Manager
Daryl Simmons, Zoning Administrator
Marty Kennedy
Bill Butler
Steve Gaultney
Stuart McClimans

[\\home\\clients\\Gwinnett Partners GW\\NP 116\\C Correspondence\\Mayor Church 12 13 01.wpd]

CITY OF KENNESAW, GEORGIA

ORDINANCE NO. 2001-05

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF KENNESAW, GEORGIA SO AS TO ANNEX PROPERTY INTO THE CORPORATE LIMITS OF THE CITY OF KENNESAW, GEORGIA AN TO CHANGE THE CITY BOUNDARY LIMITS ON THE OFFICIAL ZONING MAP FOR PROPERTY LOCATED AT AND RUNNING ALONG HIGHWAY 41 NEAR THE INTERSECTION OF OLD HIGHWAY 41

WHEREAS, Gwinnett Partners, LLC, c/o Richard Calhoun (Ellison Property) has made application to amend the Official Zoning Map of the City of Kennesaw, Georgia so as to be annexed into the corporate limits of the City of Kennesaw an approximately 130.9 +/-acre parcel located at and running Highway 41 near the intersection of Old Highway 41 (as more particularly described below); and

WHEREAS, notice was advertised in the Marietta Daily Journal on September 21, 2001 of a public hearing before the Kennesaw Planning Commission held on October 8, 2001 and the Mayor and Council on November 5, 2001; and

WHEREAS, the Kennesaw Planning Commission held a public hearing on this proposal on October 8, 2001; and

WHEREAS, the Mayor and Council held a public hearing on this proposal on November 5, 2001; and

WHEREAS, conditions of home rule annexation as set forth by the State Legislature have been met; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS.

SECTION 1. The following property to wit:

All that tract or parcel of land lying and being in Land Lots 175, 205 and 206 of the 20th District, 2nd Section of Cobb County, Georgia, and being a portion of the property shown on plat of survey prepared by J.P. Phillips, Surveyor, dated June 5, 1950 and being more particularly described as follows:

LEGAL DESCRIPTION

Beginning at an iron pin located at the common corners of Land Lots 176, 175, 206 and 205, said District and Section, and running thence north 01 degree west, 1435 feet to an iron pin located on the southeasterly right-of-way of the 200 foot right-of-way of U.S. Highway 41 (4-Land Highway); running thence in a southeasterly direction along said right-of-way and forming an exterior angle of 136 degrees 20 minutes with the preceding course, a distance of 1248 feet to an iron pin and corner; running thence south 47 degrees 10 minutes west, 240 feet to an iron pin and corner; running thence south 44 degrees 40 minutes east, 762.5 feet to an iron pin and corner; running thence south 66 degrees 25 minutes west, 497 feet to an iron pin; running thence south 24 degrees 30 minutes east, 700 feet to an iron pin and corner, running thence north 82 degrees 15 minutes east, 708 feet to a point located on the center-line of Noonday Creek; running thence in a southwesterly direction along the center-line of said creek and following the meanderings thereof a distance of 2380 feet to a point located on the southerly line of Land Lot 206, running thence south 89 degrees west, 160 feet to the iron pin located at the common corners of Land Lots 205, 206, 213 and 214, said District and Section, running thence north 25 degrees 25 minutes west, 2360 feet to an iron pin, running thence in a northwesterly direction along property now or formerly owned by L.P. Daniel, a distance of 450 feet to the northerly line of Land Lot 205, running thence north 89 degrees east along said land lot line, a distance of 1155 feet to the iron pin at the point of beginning, and containing approximately 130.9 acres.

LESS AND EXCEPT:

All that tract or parcel of land lying and being in Land Lot 205 and 206 of the 20th District, 2nd Section of Cobb County, Georgia, and being a portion of the property shown on plat of survey prepared by J.P. Phillips, Surveyor, dated June 5, 1950 and being more particularly described as follows:

Beginning at an iron pin located at the common corners of Land Lots 205, 206, 213 and 214, said District and Section and running thence North 25 degrees 25 minutes west, a distance of 2250 feet (more or less) to a point and corner, running thence in an easterly direction a distance of 874 feet (more or less) to a point located on the east line of Land Lot 205; running thence in a southerly direction along said land lot line a distance of 1850 feet (more or less) to the iron pin at the point of beginning, and being a triangular shaped parcel of land containing 18.559 acres.

AND LESS AND EXCEPT:

All that tract or parcel of land lying and being in Land Lot 205 of the 20th District, 2nd Section of Cobb County, Georgia and being a portion of that property shown on plat of survey prepared by J.P. Phillips, Surveyor, dated June 5, 1950, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, start at an iron pin located at the common corners of Land Lots 205, 206, 213 and 214, said District and Section and run thence North 01 degree West along the easterly line of Land Lot 205, said District and Section, a distance

of 1850 feet, more or less, to a point, THIS BEING THE TRUE POINT OF BEGINNING; continuing thence along said land lot line 725 feet, more or less, to a point and corner; running thence westerly a distance of 928.48 feet to property now or formerly owned by L.F. Daniel; running thence in a southeasterly direction along said Daniel property, 727.1 feet, more or less, to a point and corner; running thence easterly along the northern line of property previously deeded to grantees herein (by Warranty Deed dated December 28, 1977 and recorded in Deed Book 1849, Page 196, Cobb County Records) a distance of 874 feet, more or less, to the point of beginning, and containing 15.0 acres.

AND LESS AND EXCEPT:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 175, 20th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found at the intersection of the common land lot line of Land Lot 175 and Land Lot 176 and the southwesterly right of way line of U.S. 41 (200 foot right of way), proceed South 44 degrees 40 minutes East a distance of 635.42 feet along said right of way line to a fence corner; thence proceed South 54 degrees 11 minutes 57 seconds West a distance of 162.89 feet to a fence corner, thence proceed South 24 degrees 52 minutes 46 seconds East a distance of 103.04 feet to a fence corner; thence proceed South 12 degrees 1 minute 43 seconds West a distance of 475.85 feet to a point; Thence proceed North 77 degrees 58 minutes 17 seconds West a distance of 156.77 feet to a point on the common land lot line of Land Lot 175 and Land Lot 176: thence proceed North 01 degrees West a distance of 1,073.57 feet along said land lot line to an iron pin and the POINT OF BEGINNING; said tract containing 5.84 acres, according to survey for Andrew J. Ellison & Edith Knox Ellison dated December 22, 1990, prepared by Thomas M. Ginn, Sr. (Georgia Registered Land Surveyor No. 1549) on behalf of Southern Surveying & Mapping Co., Inc.

SECTION 2. That the above-described property is hereby annexed into the corporate limits of the City of Kennesaw, Georgia with the zoning of PVC w/ stipulations as follows:

- Zoned to the site plan dated 10-16-01 entitled Annexation Exhibit for Gwinnett Partners
- Subject to Letter of stipulations dated 12-14-01 from Brock, Clay, Calhoun, Wilson & Rogers.
- Subject to the zoning stipulations submitted as Attachment A, (as submitted by staff).
- And that these stipulations, such that if there are any conflicts between the two, the more restrictive will prevail. **(Copy of the letter of stipulations dated 12-14-01 and copy of Attachment "A" Zoning Stipulations attached and made a part hereto.)**

SECTION 3. BE IT FURTHER ORDAINED THAT it is hereby declared to be the intention of this ordinance that its sections, paragraphs, sentences, clauses, and phrases are severable, and if any section, paragraph, sentence, clause, and phrase is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance.

SECTION 4. BE IT FURTHER ORDAINED THAT this ordinance shall become effective from and after its adoption and execution by the Mayor, pursuant to Section 2.11 of the City Charter of the City of Kennesaw.

ADOPTED THIS 17th DAY OF December, 2001.

City of Kennesaw

Leonard L. Church¹
Leonard L. Church, Mayor

Attest:

Diane H. Coker
Diane H. Coker, City Clerk

¹ Original executed document on file in the clerk's office.

Invocation – Fred Bentley Jr.

Pledge of Allegiance to the American Flag – Mike McDowell

Call to Order

Mayor Church called the meeting to order.

The following people were present: Councilman Robertson, Councilman Mathews, Councilman Ferris, Councilman Rowland and Councilman Dowdy. City Manager, Mike McDowell and Fred Bentley, Jr. City Attorney.

Announcements - Sandy and Steve Roberts of Samarah's Floral Designs

Mayor Church thanked Sandy and Steve Roberts of Samarah's Floral Designs for the beautiful Christmas decorations in the City Hall lobby.

Old Business

1. Consideration for Watts Drive parking (Overflow from City Hall).

Councilman Dowdy advised he is looking into another alternative for parking and asked that this item be continued for two weeks.

Councilman Dowdy made a motion that this item be tabled for two weeks. Seconded by Councilman Robertson.

Vote taken, approved 5-0.

2. Consideration of the concept of 3 wards and 2 at-large positions for election of officials in the City of Kennesaw.

Councilman Dowdy presented the concept of changing to wards and at large positions for the election of elected officials in the City. Councilman Dowdy advised this system would give the citizens the most equal and comprehensive representation.

Councilman Dowdy made a motion to change to 3-wards and 2-at large positions for electing officials for the City. Seconded by Councilman Ferris.

Councilman Mathews questioned what is the benefit to the City? Currently the City has five representatives and he strongly disagrees with this concept and that the City is doing fine the way we do elections now.

Councilman Ferris advised he likes the balance as presented and does not believe demographics are limited to minorities. He likes the concept and believes the City is not doing fine, look at some of the areas in the City, across the 4-lane and some of the mobile home parks. Neighborhoods are a big part of demographics, by going to this concept for wards, this gives specific identifiable areas that have a lot of common problems a stronger voice and I believe that is important. Again there is a balance and I like the concept.

Councilman Mathews questioned whose fault is it, that there is no representation from across the 4-lane. There are no dividing lines within the City as far as I am concerned.

Councilman Rowland advised he believes we need a ward structure, because we do have different problems within the different parts of the City. Legacy Park does not have the same problems as the people across the 4-lane. I believe these areas need their representation and I am for it.

Mr. Peter Popham advised if he wants to get something done in the County, he calls his County Commissioner and he can hold him responsible in the next election. If he wants to get something done in his district, he calls his representative. When he calls in Kennesaw, it is very difficult to get a response and in touch with someone to help. I would like to see the people vote on the issue. Call a special election and let them vote whether or not to go to wards. I personally support Pat's argument. We need representation; it's the only way to hold government accountable.

Councilman Robertson advised the trouble with wards is that, when you have people on the Council and they do anything and it has an effect on the people, and then I can't vote for them, that's wrong. Mr. Robertson advised if you have to have wards, then he believes the proposal is good, however, the issue can be argued on either side and I support at large, it's a gut feeling.

More discussion followed concerning the change.

Mayor Church asked Councilman Dowdy which map he is proposing to accept?

Councilman Dowdy replied map #4 exhibit "A".

Mayor Church called for the vote on the motion for approval of the concept as presented by Councilman Dowdy.

Vote taken, Councilman Ferris, Councilman Rowland and Councilman Dowdy vote yes. Councilman Mathews and Councilman Robertson vote no. Motion passes 3-2.

Public Comment/Business from the Floor

Mr. Peter Popham spoke about the Watts Drive rezoning from the previous meeting and the fact that the City let Mr. Floyd withdraw his application. Mr. Popham advised he is concerned about the Planning & Zoning Department, and advised he had asked for the inventory of

historical sites, and was told there was not one. It is required by DNR and he is concerned that we do not know that and the fact that the developer was not required to provide required studies and plans. There are several other issues that the Planning & Zoning Department are not aware of and he would ask the Mayor to personally intervene in this area to make sure this does not happen again and to become more involved in the process to preserve our historic sites.

Mayor Church advised that a survey has been prepared and he needs to file his request with the City Clerk for a copy.

Public Hearing

TITLE OF ITEM: Public Hearing on the updated Capital Improvements Element and Short-Term work program report for 2001 through 2005 and authorization for approval to transmit the Resolution to Atlanta Regional Commission for review and comments prior to final adoption by Mayor and Council in 2002 at a scheduled hearing following proper public notice.

AGENDA COMMENTS: Georgia Department of Community Affairs requires participating local governments to submit an update to these projects reports as required for City of Kennesaw to maintain Qualified Local Government status.

STAFF RECOMMENDATIONS: Staff recommends approval

FUNDING LINE: N/A

Mr. Darryl Simmons presented the updates to the Short Term Work Program and the Capital Improvement Element for 2001 through 2005. Mr. Simmons advised these updates are required in order to maintain our qualified local government status. Mr. Simmons advised staff recommends approval of the resolution to transmit the updated plan to ARC.

Mayor Church opened the public hearing.

Mr. Peter Popham questioned where on the updated plan was the historical preservation? Is there anything regarding updating our historical districts? Mr. Popham advised we should have plans in place now to enhance and preserve our historic districts and sites. I would like to make my request to see all maps and surveys of all our sites.

Mayor Church advised Mr. Popham to make that request with the clerk.

Mayor Church closed the public hearing.

Mayor Church called for the vote on the implied motion for approval of the resolution to transmit the updated plan to ARC. This is for transmittal of the plan only.

Vote taken, approved 5-0.

Consent Agenda

Mayor Church advised we would read items C – M for renewal of the alcohol license to see if the applicants are present and if there are any questions. Mayor Church asked each applicant as his or her name is read to please stand up and if you are not the applicant to please give us your name for the record.

- A. Approval of Minutes from regular Mayor and Council meeting of December 3, 2001
- B. **TITLE OF ITEM:** Authorization for approval for **Revised Final Plat Phase B (The Cove At Mountain View)** request submitted by Beazer Homes for property located at Collins Road near Stanley Road and Barrett Parkway.

AGENDA COMMENTS: Property identified as Land Lot 213 of the 20th District, 2nd Section. Owner is requesting a final plat approval 23 unit town homes. Parcel consists of 4.28 acres with a density of 5.3 units per acre. Property zoned **FST-** with stipulations.

The only change being: to remove “Not Yet Begun” to revise the bearings and distances around units 2901-2905 (to reflect as-built conditions).

Letter dated June 21, 2001 prepared by Woody McFarlin, Director of Public Works that itemized the following:

- A. Performance bond agreements for installation of all infrastructures and proper installation of sidewalks in this phase.
- B. Letter from Cobb EMC confirming required street light contributions have been

This letter serves as written confirmation from Public Works staff for approval.

STAFF RECOMMENDATION: Staff recommends approval

FUNDING LINE: N/A

- C. **TITLE OF ITEM:** Consideration for approval of 2002 annual renewal of the Alcoholic Beverage License for beer and wine package for **Big Shanty Superette** located at 2778 South Main Street. Applicant: **Marshall Douglas Hunt. (Applicant was present.)**

AGENDA COMMENTS: This is an existing business under the same ownership since 1976. Current application, background check and fingerprinting are in the file. Staff recommends approval. Approval should be contingent upon receiving fingerprint criminal investigation results from the GBI and FBI through the City of Kennesaw Police Dept. and waive the requirement for them to purchase the license within two weeks after approval.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- D. TITLE OF ITEM:** Consideration for approval of 2002 renewal application for Alcohol Beverage License for beer, liquor and wine pouring and Sunday sales for Capalbos Inc. d/b/a **Capalbos Italian Cafe** located at 1635 Old Hwy 41, Suite 403. **Applicant: David Capalbo - (Applicant was present)**

AGENDA COMMENTS: This is an existing business under the same ownership since 2001. Current application, fingerprint and background checks are on file. Staff recommends approval contingent upon receiving fingerprint criminal investigation results from the GBI and FBI.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- E. TITLE OF ITEM:** Consideration for approval of 2002 renewal application for Alcohol Beverage License for beer, liquor and wine pouring and Sunday sales for **El Rodeo Restaurant #11 Inc.** d/b/a **El Rodeo Mexican Restaurant** located at 2774 North Cobb Parkway, Suite 101, Kennesaw, GA 30152. **Applicant: Rafael Jaime (Applicant not present – Juan Morales present representing the applicant.)**

licenses of beer, liquor, and wine pouring and Sunday sales. The ownership is changing from a sole proprietor to a corporation with the same individual applying. Current application, fingerprint and background checks are on file. Staff recommends approval contingent upon receiving fingerprint criminal investigation results from the GBI and FBI.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- F. TITLE OF ITEM:** Consideration for approval of 2002 renewal application for Alcohol Beverage License for beer, liquor and wine pouring for La Fiesta Mexican Restaurant #3 Inc. d/b/a **LA FIESTA MEXICAN RESTAURANT #3** located at 3940 Cherokee Street, Kennesaw, GA 30144. **Applicant: Humberto Ponce (Applicant was present)**

AGENDA COMMENTS: This is an existing business under the same ownership since 2001. Current application, fingerprint and background checks are on file. Staff recommends approval contingent upon receiving fingerprint criminal investigation results from the GBI and FBI.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- G. TITLE OF ITEM:** Consideration for approval of 2002 renewal application for Alcohol Beverage License for beer, liquor and wine pouring and Sunday sales for La Mara #V Inc. d/b/a **Laredo's Mexican Bar & Grill** located at 1635 Old Hwy 41, Suite 101. Applicant: **Rafael Jaime (Applicant was present)**

AGENDA COMMENTS: This is an existing business under the same ownership since 2001. Current application, fingerprint and background checks are on file. Staff recommends approval contingent upon receiving fingerprint criminal investigation results from the GBI and FBI.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- H. TITLE OF ITEM:** Consideration for approval of 2002 annual renewal of the Alcoholic Beverage License for beer and wine package for **Pacer Fuels Retail Inc. d/b/a Pacer Fuels #112 located at 2091 Baker Road.** Applicant: **Janice V. Ferguson (Applicant was present)**

AGENDA COMMENTS: This is an existing business under the same ownership since 1995. Current application, background check and fingerprinting are in the file. Staff recommends approval. Approval should be contingent upon receiving fingerprint criminal investigation results from the GBI and FBI through the City of Kennesaw Police Dept. and waive the requirement for them to purchase the license within two weeks after approval.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- I. TITLE OF ITEM:** Consideration for approval of 2002 annual renewal of the Alcoholic Beverage License for beer and wine package for **Publix Super Markets Inc. d/b/a Publix #559 located at 2774 North Cobb Parkway, Suite 201.** Applicant: **John Willard Westall (Applicant was present)**

AGENDA COMMENTS: This is an existing business under the same ownership since 1996. The corporation remains the same however the manager licensee is changing. Current application, background check and fingerprinting are in the file. Staff recommends approval. Approval should be contingent upon receiving fingerprint criminal investigation results from the GBI and FBI through the City of Kennesaw Police Dept.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- J. TITLE OF ITEM:** Consideration for approval of 2002 annual renewal of the Alcoholic Beverage License for beer and wine package for **Publix Super Markets Inc. d/b/a Publix #769 located at 1635 Old Hwy 41.**
Applicant: **Kevin D Thornton (Applicant not present – Mr. Ed Burg present representing the applicant.)**

AGENDA COMMENTS: This is an existing business under the same ownership since 2001. Current application, background check and fingerprinting are in the file. Staff recommends approval. Approval should be contingent upon receiving fingerprint criminal investigation results from the GBI and FBI through the City of Kennesaw Police Dept. and waive the requirement for them to purchase the license within two weeks after approval.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- K. TITLE OF ITEM:** Consideration for approval of 2002 renewal application for Alcohol Beverage License for beer, liquor and wine package sales for **Shiloh Bottle Shop Inc. d/b/a Shiloh Bottle Shop** located at 3940 Cherokee Street, Suite 204. Applicant: **L. Michael Davis (Applicant was present)**

AGENDA COMMENTS: This is an existing business under the same ownership since 2001. Current application, fingerprint and background checks are on file. Staff recommends approval contingent upon receiving fingerprint criminal investigation results from the GBI and FBI.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- L. TITLE OF ITEM:** Consideration for approval of 2002 annual renewal of the Alcoholic Beverage License for beer and wine package for **QuikTrip Corporation d/b/a QUIKTRIP #753** located at 2761 North Cobb Parkway, Kennesaw, GA 30152. Applicant: **James Allen Kubala (Applicant not present – Alfonso Barrett present representing the applicant.)**

AGENDA COMMENTS: This item has been continued from the meeting on December 3, 2001 due to no representative being present. This is an existing business under the same ownership since 2000. Current application, background check and fingerprinting are in the file. Staff recommends approval. Approval should be contingent upon receiving fingerprint criminal investigation results from the GBI and FBI through the City of Kennesaw Police Dept. and waive the requirement for them to purchase the license within two weeks after approval.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- M. TITLE OF ITEM:** Consideration for approval of 2002 annual renewal of the Alcoholic Beverage License for beer and wine package for **NASY Inc. d/b/a SHELL FOOD MART** located at 3338-B Cherokee Street, Kennesaw, GA 30144. Applicant: **Shaukat A. Huda (Applicant was present)**

AGENDA COMMENTS: The item has been carried over from the meeting of December 3, 2001 due to no representative being present. This is an existing business under the same ownership since 2000. Current application, background check and fingerprinting are in the file. Staff recommends approval contingent upon receiving fingerprint criminal investigation results from the GBI and FBI through the City of Kennesaw Police Dept. and waive the requirement for them to purchase the license within two weeks after approval.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

- N. TITLE OF ITEM:** Approval of expense report submitted by Mayor Church.

AGENDA COMMENTS: Approval of an expense item in the amount of \$40.06 from Mayor Church for a meeting to discuss Kennesaw State University annexation, attended by Mayor Church, Bryan Ginn, Gordon Harrison and Earle Holley.

FUNDING LINE: 100-1100-52.3630 (Meeting Expenses) \$40.06

- O. TITLE OF ITEM:** Authorization for the City Clerk to attend the **IIMC Annual Conference in San Antonio Texas May 19-23, 2002.**

AGENDA COMMENTS: Attendance at IIMC Annual Conferences are required in order to obtain the necessary credit and points to earn the Certified Municipal Clerk status through the International Institute of Municipal Clerks. This is a budgeted item.

**FUNDING LINE: 100 1100 52.3500 Travel
100 1100 52.3710 Professional Development**

- P. TITLE OF ITEM:** Authorization for the establishment of the City of Kennesaw Confiscation Bank Account and approval of the attached policy for handling funds for the Confiscation Bank Account.

AGENDA COMMENTS: On behalf of the Police Department, the Finance Director requests authority to establish one bank account: **City of Kennesaw Confiscation Account with Main Street Bank**. This account is to hold funds confiscated in narcotic related arrests and is pending the Court's decision for distribution of funds. Authorization for signatures on this checking account will be as follows: **Mayor, City Clerk, Mayor Pro-Tem, Assistant City Clerk or City Manager**.

Copy of proposed policy and procedures for management of this account is attached.

Recommend approval for authorization to establish the banking account and approval of the policy as presented.

FUNDING LINE: N/A

- Q. TITLE OF ITEM:** Consideration to purchase (5) Portable Radio's, and (9) Mobile Radio's, **approved by Mayor and City Council in FY 2002 Budget.**

AGENDA COMMENTS: The Portable Radio's will be used by members of the Department, and are issued to all sworn personnel. The Mobile Radio's will be used in new police vehicles, and also to have a couple in reserve in case any current mobiles go out we can replace them with little or no down time. All radios will be purchased from Motorola, they are Sole Source, and also under **Georgia State Contract #980-010-510015**, contract expires **06-30-02**. The Portable Radio's are the MTS2000 JEDI; cost is \$2,686.96 each, total cost for (5) Portable's is \$13,434.75. The Mobile Radio's are the MCS2000 Model II, cost is \$2,699.40 each, cost for the (9) Mobile's is \$24,294.60. Total cost for both Portable and Mobile Radio's is \$37,729.35. This is a Capital Outlay item, and the Department had **\$37,800.00** approved for this equipment.

FUNDING LINE: 3200-54.2510 (Police Equipment)

- R. TITLE OF ITEM:** Consideration for approval to award bid to furnish all materials, labor and equipment to stub 12" DI water line with casing under CSX railroad. Furnish all materials, labor and equipment to install 12" sewer line with casing under CSX railroad. Furnish all materials, labor and equipment to tie sewer line into existing line from museum and to sewer stub located in front of City parking lot on Main Street.

AGENDA COMMENTS: Water line stub is for future use. Sewer line is to eliminate pumping station now used to service the museum, and depot. New sewer line will gravity feed through the system and is sized large enough to serve the museum and future development in this area.

Necessary permits have been obtained from CSX railroad.

<u>Bidders</u>	<u>Price</u>
K. M. Davis Contracting Company, Inc. Marietta, Georgia	\$79,827.00
Tippins Contracting Company, Inc. Marietta, Georgia	93,095.00
Butch Thompson Enterprises, Inc. Kennesaw, Georgia	125,752.00
Tristar of America, Inc. Duluth, Georgia	146,130.00
Nix Enterprises, Inc. Acworth, Georgia	149,810.00

**Recommend awarding contract to K. M. Davis Contracting Company Inc.,
at the bid amount of \$79,827.00.**

FUNDING LINE: 505-4400-54.1440 Sewer System Improvements

- S. TITLE OF ITEM:** Consideration to approve a \$5,000 grant to the Kennesaw Football Association contingent upon receipt of proof of 501c3 non- profit status.

AGENDA COMMENTS: The football association moved into a new location, KMHS High School field that posed some financial difficulties for the association. Although football did provide a tent like structure to provide some concessions on Saturday's, they were not able to provide weekday concession's resulting in loss of revenue. In addition, two game Saturdays were lost limiting concessions on those days as well. Also, expenses including new equipment and new uniforms, transitioning from the Generals to the Kennesaw Mustangs, along with more than projected registration, escalated costs. The Football Association also rented portable toilets and a trailer to store equipment, which was not anticipated.

All of the above circumstances has led to an approximate \$15,000 debt for the Football association. The Football Association has asked for some financial assistance.

Recommend funding from Council Contingency Account # 100-1100-55.1050

- T. TITLE OF ITEM:** Consideration to approve the installation of a 24ft x 10.5Ft extension of the existing storage building at Adams Park to be paid for by the Kennesaw Baseball Association and *upon acceptance of the agreement.*

AGENDA COMMENTS: The Kennesaw Baseball Association needs additional room to store their field maintenance vehicle. This will also free up much needed space for the Parks and Recreation Department to store items, as baseball will release for use one of the storage buildings. Baseball also understands that any such improvement approved by the Mayor and Council will become the property of the City. The Association has agreed to pay all costs. City Building Inspector department has met out at site with Contractor and did not for see any problems with addition.

FUNDING LINE: N/A

(Item amended to read being contingent upon acceptance of the agreement.)

- U. TITLE OF ITEM:** Adoption Policy for ID Badges for the City of Kennesaw Employees.

AGENDA COMMENTS: See attached recommended policy statement. Policy will be implemented as soon as badges are ready for distribution by January 15, 2002.

FUNDING LINE: 100-1100-55.1050 **Contingency Account**

- V. TITLE OF ITEM:** Authorization to donate 7 wall panels detailing the Great Locomotive Chase from the Kennesaw Civil War Museum to the City of Adairsville for display in their recently renovated Depot.

AGENDA COMMENTS: With the renovation of the Kennesaw Civil War Museum it is necessary to remove the existing wall panels (Andrews Raid, The Chase, Confederate Pursuers, End of the Line, Desperate Men Escape, Execution of Eight Raiders, The Andrews Raiders) depicting the Great Locomotive Chase in order for new wall panels and exhibits to be installed by Murphy & Orr. The City of Adairsville has recently completed a restoration of their historic depot and opened a visitors center in the facility. Mayor Penson and the city council have asked that Kennesaw consider donating the wall panels so that they can be placed in the Adairsville Depot thereby highlighting

the connection between Adairsville and the Great Locomotive Chase (unconnected cars from Texas at Adairsville to continue the chase) the wall panels. The City of Adairsville will remove and transport the panels. Recommend that donation require that the donation by the City of Kennesaw be permanently noted by in the Adairsville facility.

FUNDING LINE: N/A

No comments were received from the floor on any alcohol license and all applicants or representatives were present.

Councilman Ferris advised item T should refer to this being done on a contractual basis. Is there a contract?

Mr. McDowell advised there is an agreement accompanying the agenda item.

Councilman Ferris asked that item T be amended to read being contingent upon acceptance of the agreement.

Mayor Church called for the vote on the consent agenda en gross as presented and item T being amended to be contingent upon an agreement and with the agreement being acceptable with the City Attorney.

Vote taken, approved 5-0.

9. Committee and Board Reports

KDDA – Jim Eaton – None

KDA – Mike Serkedakis – None

HPC – David Reap – None

Parks & Recreation Advisory Board – Bill Evans – None

Cemetery Preservation Commission –Councilman John Dowdy, Liaison

Councilman Dowdy advised first he would like to give his own personal comments that are not any reflection of the Mayor and Council, only his opinion. Mr. Dowdy advised concerning the question that has been asked pertaining to fencing, lighting and cameras for the cemetery. Prisons have cameras, lights, fences and armed personnel guards and people continue to try to break out of prisons. Fencing, lights and cameras have no place at a cemetery. A cemetery is a place of respect; it's a place where there is sadness, happiness, love and understanding. The tombstones have meanings, they tell stories. A cemetery is a place that brings harmony and understanding to a family, we don't need fences, lights and cameras to invade on their privacy when they are out there with their loved ones.

Councilman Dowdy advised the cemetery preservation commission that was approved last year by this Mayor and Council, and has been working hard and in the upcoming year we will see a big change in our cemetery. Councilman Dowdy went over the items on the attached list of projects and problems being addressed by the Cemetery Preservation Commission. **(Copy attached and made a part hereto.)**

Councilman Dowdy advised we are going to be working on beautifying the cemetery not destroying it with lights, cameras and fences.

Mr. Peter Popham came forward. Mr. Popham advised about a year and a half ago some 85 graves were desecrated and a city employee was held responsible. In response to that the Mayor promised he would investigate it fully and I understood it meant to prosecute. I had suggested the fence and lighting maybe a gate like they have in Marietta. We have vagrants and a group that hangs in the Wigley section and this was in response to the vagrancy. Fences don't take away from cemeteries. We still need the fence; we need the lighting and proper patrolling. I am asking tonight, it's been a year and a half maybe longer, it's been under investigation and never been prosecuted, I asked Pat Head and he's not going to do it, we need to prosecute the gentlemen responsible and I would like an answer on the issue and secondly I would like to know if you are going to put us up lights and fencing. I agree we don't need cameras. But we need to do something to stop the vagrancy.

Department Reports

COMMUNITY DEVELOPMENT – PAT FERRIS LANGFORD HOLBROOK, DIRECTOR

1. **TITLE OF ITEM:** Authorization for approval for an ordinance for **Rezoning** of property as submitted by Gwinnett Partners, LLC, c/o Richard Calhoun on behalf of the owners, Edith E. Hughes, Edith Ellison, Dorothy Russell, Robert Ellison, Helen E. Harrison, Steve Ragsdale, Warren Ragsdale.

AGENDA COMMENTS: Property identified as Land Lots 175, 205 & 206 of the 20th District, 2nd Section, Tax Parcels 2,3 and 4 and 17. Applicant is requesting approval for Rezoning from **County HI & GC to City PVC**. Property consists of 130 +/- acres fronting on Highway 41 near its intersection with Old Highway 41. Owner to use as proposed mixed use development, including retail, office, townhouse and multi-family housing.

Notice was placed in the Marietta Daily Journal on September 21, 2001 and September 28, 2001.

Planning Commission recommended approval. Vote Unanimous at a meeting held on October 8, 2001, based on staff analysis

- Overall density not to exceed 10 units per acre,

- All efforts to make impervious surface as low as possible with reduction of parking area ratio per dwelling unit from 2 to 1 and
- Density calculations to indicated total developable area left after removal of areas occupied by natural lakes, streams and floodplain.

Mayor and Council meeting held on November 5, 2001. Application was deferred until receipt of the ARC's and GRTA comments pursuant to the applicant's DRI review.

Request to be placed on the December 12, 2001 work session and the regular meeting agenda for December 17, 2001, by way of letter dated 11/29/01.

STAFF RECOMMENDATIONS: Staff recommends approval subject to the stipulations listed on the attached list of stipulations and recommends that council amend the rezoning ordinance to reflect those stipulations.

FUNDING LINE: N/A

Mr. Darryl Simmons presented the rezoning application for property known as the Ellison property, located on Highway 41 near its intersection with Old Highway 41 as submitted by Gwinnett Partners, LLC, for 130 +/- acres from County HI & GC to City PVC, which is a mixed use zoning district. The purpose is for a mixed-use development to include an 110,000 sq. ft of office and retail development, 248 town homes and 650 apartment units. Mr. Simmons presented the site plan and advised it has been revised. (Copy of which is in the agenda packet dated 10/16/01). This project due to its size is required to be reviewed by ARC because of it being a development of regional impact. We have received their comments and they have given us approval of the project (copy of which in the agenda packet). Mr. Simmons advised this also concerns an annexation request, and because of that we have to follow the intergovernmental agreement with Cobb County. We followed that procedure and submitted this concept to Cobb County, and for which they have given us their comments and/or objections. These objections/comments were then brought to mediation between the City and County staff. During that mediation the County deferred their further comments until ARC finished their review and gave their comments. That being done, we sent those to Cobb County for their response, which we have not received back yet.

Mr. Simmons advised after reviewing all the findings from ARC and all comments from Cobb County government and as well as our own development standards, and we have come up with the following. Staff recommends approval for rezoning for this project with these 10 specific items and conditions as noted. **(Copy of list attached and made a part hereto.)**

Mayor Church asked on item # 9 if the developer has agreed to letting citizens/the public use the soccer fields, this references future and will be pursued?

Mr. Calhoun advised this is a new stipulation but they are not adverse to the issue, but will have to look at the liability aspects and they are willing to discuss the issue.

Mayor Church opened the public hearing and advised there would be a 10-minute time limit for each side.

Mr. Richard Calhoun, presenting the applicants came forward. Mr. Calhoun advised they are asking for rezoning and annexation of their property and that they have been through the DRI process as required. We have the ARC review and their comments and it has been found to be in the best interest of the State. We have also reviewed their comments and requests and we have suggested a set of zoning stipulations and the City has come back with a set that is virtually identical. We are in agreement with the proposed stipulations, the one that needs to be clarified is #8, the second bullet, "emergency access points are provided on this site". We don't have legal access right now for the emergency access, we are trying to get it through Cobb International Industrial Park. We are happy to do that and we are trying to work it out. The other is stipulation # 9, of course we will certainly work and talk to the City about these fields, of course it involves a lot of liability issues.

Mr. Calhoun advised with the stipulations as presented and with the site plan presented, we ask that we be annexed and rezoned into the City.

Mr. Peter Popham advised he is not against the project, but he has a question about item #10. What has been decided by the County, because I think Mr. Fortenberry had to do some research or discovery on this property on this point. Mr. Popham asked how will #10 be implemented? What are your requirements?

Mayor Church advised it was his understanding that the County would go along with whatever ARC decided on.

Mr. McDowell advised Dr. Drobney probably has as much experience in these issues, including the Civil War and other aspects as anyone around. Providing that he has free access to the site, I would think that task would be assigned to him.

Mr. Popham advised in the County, the developer has to provide an archoligiest survey. It has to be a certified survey. Is Dr. Drobney qualified to do that.

Mr. Bentley advised that would be included as part of the engineering and site documents required. Dr. Drobney certainly has the ability to review those documents.

More discussion followed concerning the survey's and the documents required.

Councilman Mathews stated he believes item 10 of the stipulations covers these issues. It says the developer will be responsible for creating and implementing an appropriate historical preservation strategy plan if historic features or structures are discovered. The developer has agreed to these stipulations.

Mayor Church closed the public hearing.

Councilman Ferris advised he has a couple of questions, 1) the stipulation and or requirement for retail/commercial space, is there one or does that have to be stipulated?

More discussion followed concerning that issue.

Mr. Bentley advised that this rezoning is site plan specific and that affects the site plan as presented. Mr. Bentley advised it should be noted that it is the site plan dated October 16, 2001.

Councilman Ferris made a motion to approve the rezoning application, site plan specific per the plan dated 10-16-01 entitled Annexation Exhibit for Gwinnett Partners, LLC, that this rezoning have stipulations per attachment "A" Zoning Stipulations as presented by the Kennesaw Planning Staff, in addition the letter of stipulations of Brock, Clay, Calhoun, Wilson & Rogers, dated December 14, 2001 and make these stipulations such that if there are any conflicts between the two, then the more restrictive will prevail. Seconded by Councilman Mathews.

Mr. Bentley advised that there is a provision under the Kennesaw Ordinances, where there are minor site plan revisions based upon actual site conditions, that if it does not change the overall relationship and does not increase the number of units, then they can make those changes without having to come back to Mayor and Council every time.

Mayor Church called for the vote on the motion as stipulated by Councilman Ferris.

Vote taken, approved 5-0.

- 2. TITLE OF ITEM:** Authorization for approval of an ordinance for the **Annexation** of property as submitted by Gwinnett Partners, LLC, c/o Richard Calhoun on behalf of the owners, Edith E. Hughes, Edith Ellison, Dorothy Russell, Robert Ellison, Helen E. Harrison, Steve Ragsdale, Warren Ragsdale.

AGENDA COMMENTS: Property identified as Land Lots 175, 205 & 206 of the 20th District, 2nd Section, Tax Parcels 2,3 and 4 and 17. Applicant is requesting approval for Annexation. Property consists of 130 +/- acres fronting on Highway 41 near its intersection with Old Highway 41. Owner to use as proposed mixed use development, including retail, office, townhouse and multi-family housing.

Notice was placed in the Marietta Daily Journal on September 21, 2001 and September 28, 2001.

Planning Commission recommended approval. Vote Unanimous at a meeting held on October 8, 2001, based on staff analysis

- Overall density not to exceed 10 units per acre,
- All efforts to make impervious surface as low as possible with reduction of parking area ratio per dwelling unit from 2 to 1 and
- Density calculations to indicated total developable area left after removal of areas occupied by natural lakes, streams and floodplain.

Mayor and Council meeting held on November 5, 2001. Application was deferred until receipt of the ARC's and GRTA comments pursuant to the applicant's DRI review.

Request to be placed on the December 12, 2001 work session and the regular meeting agenda for December 17, 2001, by way of letter dated 11/29/01

STAFF RECOMMENDATIONS: Staff recommends approval subject to the stipulations listed on the attached list of stipulations and recommends that council amend the rezoning ordinance to reflect those stipulations

FUNDING LINE: N/A

Councilman Ferris made a motion to annex the property under the zoning as just completed with all the stipulations and requirements therein. Seconded by Councilman Mathews.

Mayor Church called for the vote.

Approved 5-0.

3. **TITLE OF ITEM:** Authorization for approval of an ordinance to adopt an official **Zoning Map** for the City of Kennesaw, which will reflect, all approved annexations and rezoning up and including December 3, 2001, approved by the Mayor and Council.

AGENDA COMMENTS: Adopting the official map will provide clarity on the zones within the city limits.

Planning Commission recommended tabling to January 14, 2002. Vote Unanimous at a meeting held on December 10, 2001

FUNDING LINE: N/A

Councilman Ferris advised that staff is withdrawing this item # 3 for consideration tonight.

Mayor Church called for a 5-minute recess.

Mayor Church called the meeting back to order.

**FINANCE & ADMINISTRATION – BEN ROBERTSON
BEVERLY POOLE, FINANCE DIRECTOR**

1. **TITLE OF ITEM:** Consideration for approval of 2002 annual renewal of the Alcoholic Beverage License for beer and wine package for **A-I Enterprises, Inc d/b/a QUIK STOP FOOD STORE** located at 3655 Cherokee Street, Suite 1. Kennesaw, GA 30144. Applicant: **Fadwar Anwar Ibrahim**.

AGENDA COMMENTS: This item was continued from the meeting of December 3, 2001 pending information on state permit status. Based on information from the police department, the state has placed the store's license on probation status until September of 2002. This is an existing business under the same ownership since 1988. The business is currently on probation through December 31, 2001 for violating the City of Kennesaw Alcohol Code relating to the sale of alcohol to minors. Current application, background check and fingerprinting are in the file. Staff recommends approval if no additional violations have occurred prior to the expiration of their probation. Approval should also be contingent upon receiving fingerprint criminal investigation results from the GBI and FBI through the City of Kennesaw Police Dept. and waive the requirement for them to purchase the license within two weeks after approval.

FUNDING LINE: 100-1510-34.2310 Fingerprinting \$24.00

Mrs. Beverly Poole presented the application for the alcoholic beverage license for beer and wine package for **A-I Enterprises, Inc d/b/a QUIK STOP FOOD STORE** located at 3655 Cherokee Street, Suite 1. Kennesaw, GA 30144. Applicant: **Fadwar Anwar Ibrahim**. Mrs. Poole advised this application was tabled to allow staff time to obtain the status of the State license for this business since they are on probation by the City for the sale of alcohol to a minor. The state has placed this business on probation until September 2002.

Discussion followed concerning if the license could be renewed, that he has a conviction for the sale of alcohol to a minor, that applicant has been in business for 13 years prior to this incident, and the City's zero tolerance policy.

Councilman Mathews made a motion to deny the request for renewal. Motion dies for the lack of a second.

Councilman Ferris made a motion to approve the renewal per the recommendation of staff. Seconded by Councilman Dowdy.

Vote taken, Councilman Robertson, Councilman Ferris, Councilman Rowland and Councilman Dowdy vote yes. Councilman Mathews votes no. Motion passes 4-1.

POLICE DEPARTMENT – JACK ROWLAND

DWAINE WILSON, CHIEF

Councilman Rowland stated all his items have been covered.

**MUSEUM & PRESERVATION – MARK MATHEWS
JEFF DROBNEY, MUSEUM DIRECTOR**

Councilman Mathews stated all his items have been covered.

**PUBLIC WORKS, JOHN DOWDY
WOODY MCFARLIN, DIRECTOR**

1. **TITLE OF ITEM:** Discussion item – speed hump policy for city.

AGENDA COMMENTS: Supporting document is Cobb County's policy with minor changes for your consideration. Due to cost involved and the fact that speed humps were not included in the current year budget, a user charge method, based on Gwinnett County's policy, is also included for your consideration.

FUNDING LINE: N/A

Mr. McFarlin presented a speed hump policy for consideration for approval by the Council and advised he has used Cobb County's and Gwinnett County's policies as a model and has made adjustments from what was seen previously and presented those to Council.

Mr. Bentley advised that our engineering firm should prepare the drawing and specifications for the policy.

Mr. Peter Popham came forward and spoke concerning this policy. Mr. Popham replied he believes with the fees structure being proposed it will prevent some neighborhoods from participating that might want to. Some of the lower income neighborhoods would not participate.

Discussion followed concerning this policy and program and that it was not budgeted and this is a proposal only and is subject to change.

Councilman Ferris made a motion to approve the speed hump policy as submitted by Mr. McFarlin. Seconded by Councilman Robertson.

Councilman Mathews made a substitute motion to table this item until the second meeting in January. Seconded by Councilman Rowland.

Vote taken, Councilman Robertson, Councilman Mathews, Councilman Rowland and Councilman Dowdy vote yes. Councilman Ferris votes no. Motion passes 4-1.

**PARKS & RECREATION – PAT FERRIS
DOUG TAYLOR, DIRECTOR**

Councilman Ferris stated all his items have been covered.

CITY MANAGER’S REPORT – Mike McDowell, City Manager

Mr. McDowell asked the Mayor and Council to add an item to the agenda for consideration of changing our Group Life Insurance coverage from Jefferson Pilot to Canada Life.

Councilman Mathews made a motion to add this item to the agenda. Seconded by Councilman Dowdy, approved 5-0.

Discussion followed concerning the reason we are changing, the type of coverage and the rating of this proposed new company.

Councilman Ferris made a motion to approve the change per staff’s recommendation with the stipulation that their overall rating must be A/B, or comparable to what we currently have and that they be licensed to do business in the state of Georgia. Seconded by Councilman Robertson.

Vote taken, Councilman Ferris, Councilman Robertson and Councilman Dowdy votes yes. Councilman Mathews and Councilman Rowland vote no. Motion passes 3-2.

Councilman Mathews asked that the Mayor consider vetoing the action on the approval of the renewal of the alcohol license tonight for QUIK STOP FOOD STORE , applicant: Fadwar Anwar Ibrahim.

MAYOR’S REPORT – Leonard Church

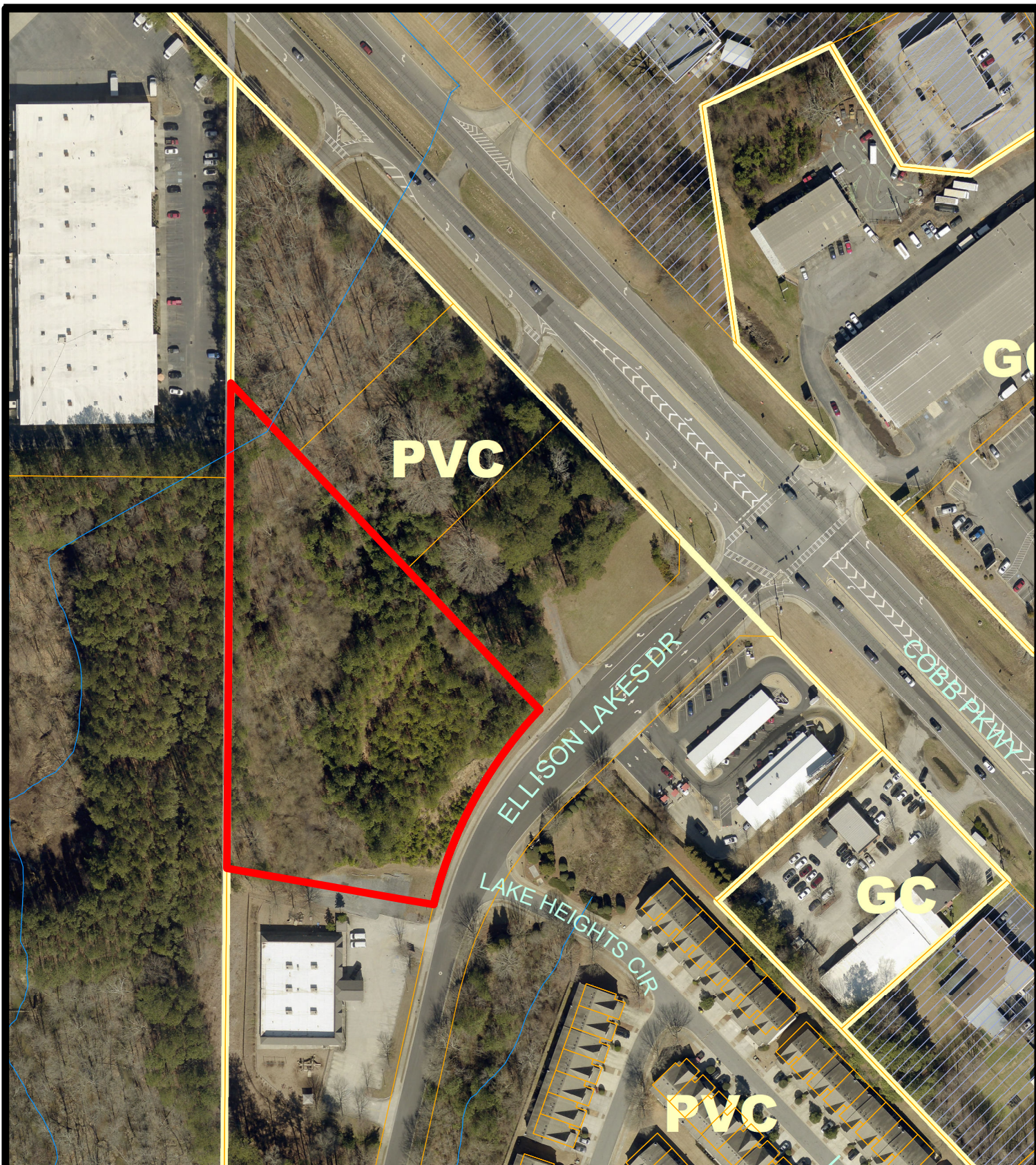
EXECUTIVE SESSION – Land Legal, Personnel

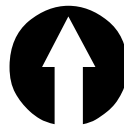
Councilman Dowdy made a motion that this Mayor and Council now enter into closed session as allowed by O.C.G.A. § 50-14-4 and pursuant to advice by the City Attorney, for the purpose of discussing Legal and Land. Seconded by Councilman Mathews. Approved 5-0.

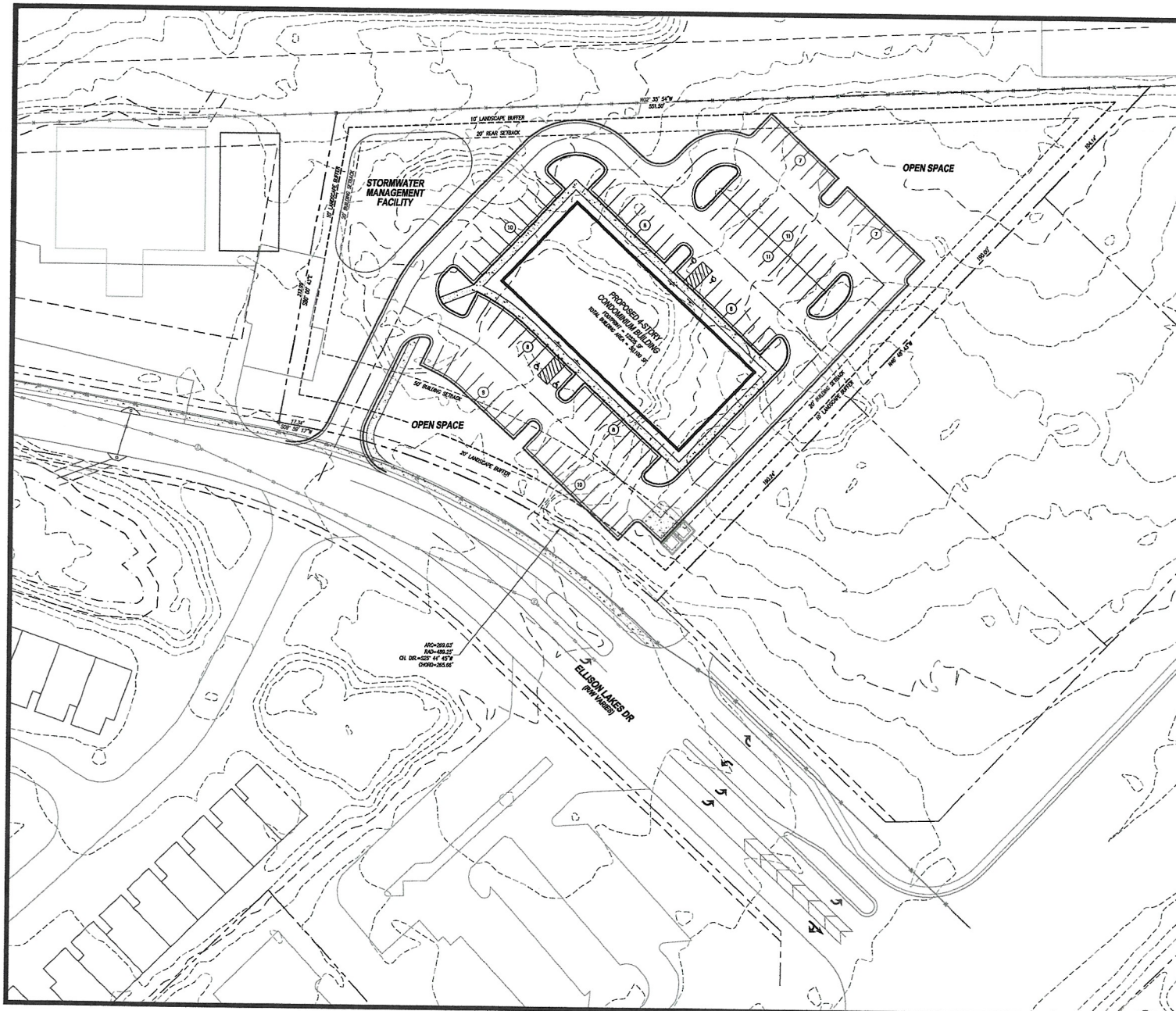
Councilman Dowdy made a motion that this body, in open session, adopt a resolution authorizing and directing the Mayor or presiding officer to execute an affidavit in compliance with O.C.G.A. §50-14-4, and that this body ratify the action of council taken in closed session and confirm that the subject matters of the closed session were within exceptions permitted by the open meetings law. Seconded by Councilman Rowland. Approved 5-0.

Meeting adjourned.

Diane Coker
City Clerk

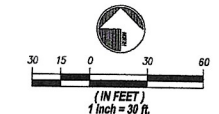


LAND CASES		LAND USE OR ZONING		0 Ellison Lakes Drive Land Lot 175, Tax Parcel 17  Subject Property	 Scale: 1" = 150' Print Date: 6/28/2023 RZ2023-03_Aerial Map
		FROM	TO		
AV	LU			 CITY OF KENNESAW PLANNING & ZONING DEPT. 770-590-8268 <i>Deirdre Estess</i> MAYOR <i>Lisa Murray</i> CITY CLERK	
AX	RZ2023-03	PVC	PVC		
DX	AV – Administrative Variance AX – Annexation HBR – Historic Board Review LU – Land Use RZ – Re-zoning SLUP – Special Land Use ZV – Variance	 ZONING			
HBR		 KENNESAW CITY LIMITS			
SLUP		 COBB COUNTY			
ZV		 LAND LOT			



DEVELOPMENT SUMMARY		
EXISTING ZONING	PDC	
SITE AREA	2.72 ACRES	
OPEN SPACE REQUIRED	2.00 ACRES	
OPEN SPACE PROVIDED	0.85 ACRES (4ND)	
QUANTITY		
NUMBER OF UNITS	25 UNITS	
PROPOSED DENSITY	9.2 UNITS/ACRE	
STREETS	50 FEET	
DEVELOP	50 FEET	
SIDE	30 FEET	
REAR	30 FEET	

24 HOUR CONTACT:
JEFF SMITH, PE
404.328.6280



THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S CONFORMANCE ONLY. THERE MAY BE OTHER UTILITIES NOT SHOWN ON THESE PLANS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATION SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL UTILITIES WITHIN THE LIMITS OF THE WORK. ALL CHANGES MADE TO EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.



LAND PLAN
 ELLISON LAKES
 CONDOMINIUMS
 LAND LOT 175
 2ND DISTRICT
 CITY OF KENNESAW, GEORGIA

OWNER/DEVELOPER
 FEDERSPIEL DEVELOPMENT

REVISIONS

ZONING PLAN
Z100





**CITY OF KENNESAW
LAND USE NOTICE**
APPLICATION # **RZ 2023-03**
Rezoning modification to allow for residential
condominiums.
PURPOSE
DATE OF PUBLIC MEETING: **8/2/2023** TIME: **6:30PM**
DATE OF PUBLIC MEETING: **8/21/2023** TIME: **6:30PM**
PLACE: CITY HALL KENNESAW, GA
Due to the priority for public health and safety,
the City of Kennesaw will implement a public meeting
protocol / system for community participation
in compliance to social distancing protocol.
For specific public meeting guidelines and access to all
application information please visit our website
HTTP://WWW.KENNESAW-GA.GOV
FOR FURTHER INFORMATION PLEASE CALL:
PLANNING AND ZONING DEPARTMENT 770-590-8268

07.18.2023 09:48

gov.

7:14-2023

MDJ-5621**GPN-16****City of Kennesaw****Rezoning Modification Request**

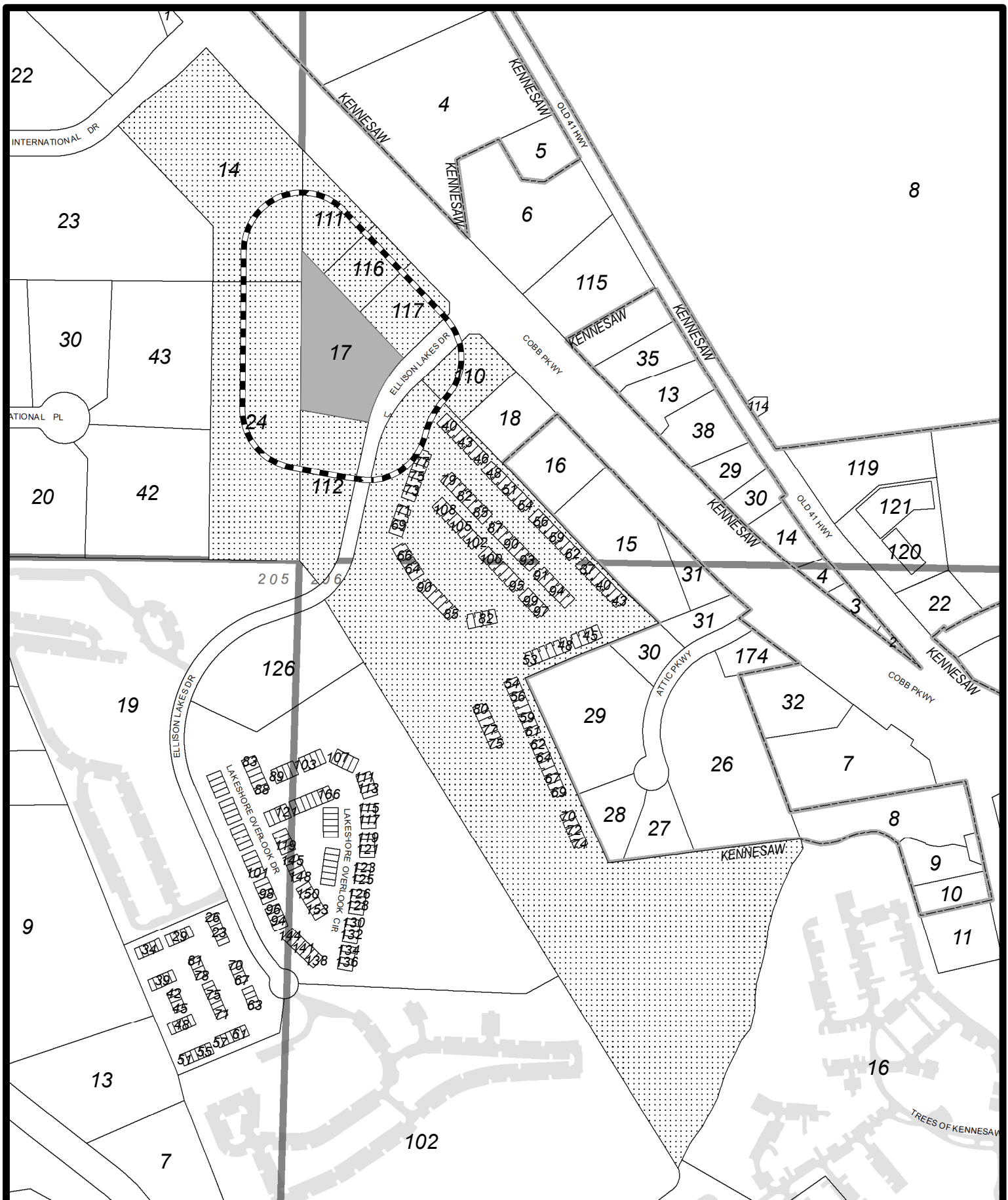
Notice is hereby given that the City of Kennesaw shall hold public hearings to give consideration for a zoning modification request submitted by CF&G Enterprises, Inc. Said request is to modify the zoning conditions to the approved rezoning ordinance #2001-06 located at 0 Ellison Lakes Drive or parcel number 20017500170. The modified condition is to allow for residential condominiums within the Ellison Lakes master planned community. Property is currently zoned Planned Village Community (PVC), comprises of approximately 2.81 +/- acres, and located on land lot 175 and tax parcel 17.

Said meetings shall be held before the Planning Commission on August 2, 2023 at 6:30PM and the Mayor and Council will hold a public hearing on August 21, 2023 at 6:30PM both meetings to be held at 2529 J.O. Stephenson Avenue, Kennesaw, Georgia. Any interested persons may attend and be heard relative thereto.

Mayor and Council will be conducting their meeting in person as well as through Zoom Meeting and Facebook Live and you can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>

Any interested citizens are invited to email kennesawcouncil@kennesaw-ga.gov.

7:14-2023



-  Subject Parcel
-  200' Radius
-  Properties Notified

0 Ellison Lakes Drive
Land Lot 175,
Tax Parcel 17

RZ2023-03
200' PROPERTY NOTIFICATION



CITY OF KENNESAW
 PLANNING & ZONING DEPT.
 770-590-8268

Derek Eastwood
 MAYOR
Lee Murray
 CITY CLERK

Date: 6/28/2023

RZ2023-03 Notification Map



Tax Parcel - 20017500170

CORNERSTONE BANK
2060 MT PARAN RD NW SUITE 100
ATLANTA GA 30327

Tax Parcel - 20017501100

NADG NNN MCW KEN GA LP
3131 MCKINNEY AVE STE L10
DALLAS TX 75204

Tax Parcel - 20017501160

ELLISON LAKES PARTNERS LLC
2771 LAWRENCEVILLE HWY SUITE 210
DECATUR GA 30033

Tax Parcel - 20017501170

PALM CASUAL PATIO FURNITURE ATLANTA LLC
310 N JOHN YOUNG PKWY
ORLANDO FL 32804

Tax Parcel - 20017501120

GLOBAL REAL ESTATE DEVELOPMENT
PARTNERS LLC
515 RIPPLING WATER LN
JOHNS CREEK GA 30097

Tax Parcel - 20017501110

RFT PROPERTIES KENNESAW LLC
2870 PEACHTREE RD
ATLANTA, GA 30305

Tax Parcel - 20017500770

DAPAZ RICARDO V & GOUVEIA ROSANY S
2004 ELLISON WAY NW 15
KENNESAW GA 30152

Tax Parcel - 20017500780

PRINCE KEVIN F
3629 LAKE ESTATES WAY
ATLANTA GA 30349

Tax Parcel - 20017600140

T O H ASSOCIATES LTD
P O BOX 5337
DOUGLASVILLE GA 30154-5337

Tax Parcel - 20020601010

ELLISON LAKE HOMEOWNERS ASSOC INC
C/O ACCESS MANAGEMENT 1100
NORTHMEADOW PKWY
ROSWELL GA 30076

Tax Parcel - 20017600240

COBB INTERNATIONAL PARK ASSOC INC C/O
PROPERTY TAX EXPERTS LLC
94 ATLANTA ST
MARIETTA GA 30060



Item Report

TO: The Planning Commission

FROM: Darryl Simmons, Zoning Administrator

DATE: August 2, 2023

TITLE: Approval of a RESOLUTION for an amendment to the current 2022 Future Land Use Map submitted by the City of Kennesaw. The proposed 2023 Future Land Use Map amendments include various parcels city-wide. Case #MISC2023-06

Summary:

Said request is to make an amendment to the City's adopted 2022 Comprehensive Plan's Future Land Use Map.

Recommendation:

The Zoning Administrator recommends approval of the 2023 Future Land Use Map amendments.

Fiscal Impact:

Attachments:

1. 2023 Future Land Use Map Amendment - Location and Description
2. Public Notice Sign
3. Public Notification Packet

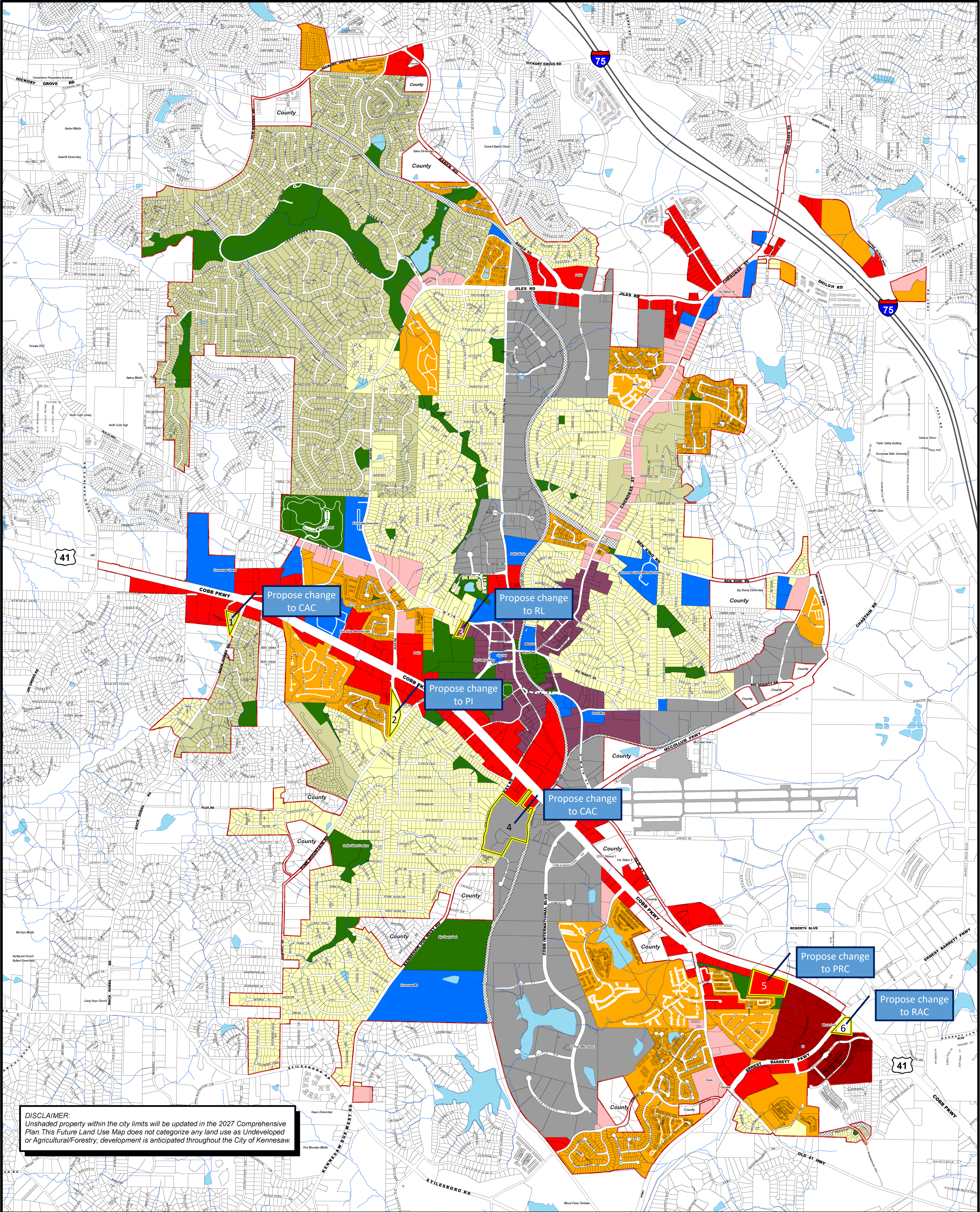
Proposed 2023 Future Land Use Map Amendment

Location and Description of Future Land Use Map Amendments

- 1. Location: 0 Cobb Parkway (Parcel Number 20014100920)**
Amendment: Proposed future land use map category change from Planned Unit Development (PUD) to Community Activity Center (CAC).
Reason for the Amendment: This parcel was rezoned from residential to commercial in 2022.
- 2. Location: 6045 Pine Mountain Road (Parcel Number 20016601430)**
Amendment: Proposed future land use map category change from Residential Low/Medium (RL) to Public/Institutional (PI)
Reason for the Amendment: A certificate of occupancy was issued to a religious institution at this property on April 5, 2023.
- 3. Location: 2971 N Main Street (Parcel Number 20013900200)**
Amendment: Proposed future land use map category change from Downtown Activity Center (DAC) to Residential Low/Medium (RL)
Reason for the Amendment: Through public input, a low density residential category is better suited for this property.
- 4. Location: 0 Kennesaw Due West Road (Parcel Number 20017600460), 2360 Kennesaw Due West Road (Parcel Number 20017600450), 2404 Kennesaw Due West Road (Parcel Number 20017600050)**
Amendment: Proposed future land use map category change from Industrial (I) to Community Activity Center (CAC)
Reason for the Amendment: The existing transportation network and roadway infrastructure does not support industrial type establishments or industrial type vehicles to and from this location. This information is supported by the traffic studies conducted under rezoning & variance case #RZ2022-04/ZV2022-01.
- 5. Location: 1973 Cobb Parkway (Parcel Number 20020700080)**
Amendment: Proposed future land use map category change from Community Activity Center (CAC) to Park/Recreation/Conservation (PRC).
Reason for the Amendment: This parcel is located in a wetland. Due to the inability to be developed, this parcel should remain as passive open green space.
- 6. Location: 1650 Cobb Parkway (Parcel Number 20020801300)**
Amendment: Proposed future land use map category change from Unincorporated Cobb County to Regional Activity Center (RAC)
Reason for the Amendment: This parcel was recently annexed and rezoned into the city limits under in 2023 under case number RZ2023-01/AX2023-01.

City of Kennesaw – 2022 Comprehensive Plan Future Land Use Map

Proposed 2023 Future Land Use Map Amendments



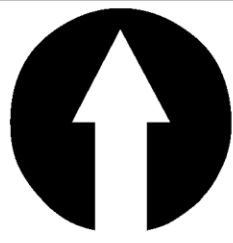
Future Land Use

- | | | |
|------------------------------------|------------------------------------|--|
| NAC - Neighborhood Activity Center | I - Industrial | RH - Residential High |
| CAC - Community Activity Center | PI - Public Service/Institutional | PUD - Planned Unit Development |
| DAC - Downtown Activity Center | PRC - Park/Recreation/Conservation | TCU - Transportation Communication Utilities |
| RAC - Regional Activity Center | RL - Residential Low/Medium | Kennesaw City Limits |

**2022 Comprehensive Plan
Updated Future Land Use Map**

CITY OF KENNESAW
PLANNING & ZONING DEPT.
"ALWAYS PLANNING FORWARD"

Revised: April 20, 2023
File: FutureLandUse_ep



1" = 700'

= Proposed Future Land Use Map Category Change

Public Notice

**This property is under consideration for
a Future Land Use Map category change.**

A public hearing will be held on:

Planning Commission 8/2/23 @ 6:30 PM

Mayor and Council 8/21/23 @ 6:30 PM

**For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov**



Public Notice
This property is under consideration for
a Future Land Use Map category change.
A public hearing will be held on:
Planning Commission 8/2/23 @ 6:30 PM
Mayor and Council 8/21/23 @ 6:30 PM
For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov

07.18.2023 09:25

TRAFFIC
VIOLATORS PROSECUTED
PER O.C.G.A. 40-6-252

Public Notice
This property is under consideration for
a Future Land Use Map category change.
A public hearing will be held on:
Planning Commission 8/2/23 @ 6:30 PM
Mayor and Council 8/21/23 @ 6:30 PM
For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov

07.18.2023 09:43

Public Notice
This property is under consideration for
a Future Land Use Map category change.
A public hearing will be held on:
Planning Commission 8/2/23 @ 6:30 PM
Mayor and Council 8/21/23 @ 6:30 PM
For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov

07.18.2023 09:40

RIGHT LANE
MUST
TURN RIGHT

Public Notice
This property is under consideration for
a Future Land Use Map category change.
A public hearing will be held on:
Planning Commission 8/2/23 @ 6:30 PM
Mayor and Council 8/21/23 @ 6:30 PM
For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov

07.18.2023 09:39



FOR SALE
Slyman
REAL ESTATE
770.465.0100
www.slymanrealestate.com
Tracey Viars
578.467.1111

Public Notice
This property is under consideration for
a Future Land Use Map category change.
A public hearing will be held on:
Planning Commission 8/2/23 @ 6:30 PM
Mayor and Council 8/21/23 @ 6:30 PM
For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov

**UNDER
CONTRACT**

07.18.2023 10:18



Public Notice

This property is under consideration for
a Future Land Use Map category change.

A public hearing will be held on:

Planning Commission 8/2/23 @ 6:30 PM

Mayor and Council 8/21/23 @ 6:30 PM

For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov

07.18.2023 09:30

Public Notice
This property is under consideration for
a Future Land Use Map category change.
A public hearing will be held on:
Planning Commission 8/2/23 @ 6:30 PM
Mayor and Council 8/21/23 @ 6:30 PM
For more information, call Planning and Zoning
770-590-5268 or visit www.kennesaw-gea.gov

07.18.2023 09:57



Public Notice
This property is under consideration for
a Future Land Use Map category change.
A public hearing will be held on:
Planning Commission 8/2/23 @ 6:30 PM
Mayor and Council 8/21/23 @ 6:30 PM
For more information, call Planning and Zoning
770-590-8268 or visit www.kennesaw-ga.gov

07.18.2023 10:02



Item Report

TO: The Planning Commission
FROM: Darryl Simmons, Zoning Administrator
DATE: August 2, 2023
TITLE: Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 2, 3, 8 and 9. Case #MISC2023-07

Summary:

Said request is to amend the Unified Development Code, Appendix A, Chapter 2, Section 2.03.06 "Denial of Site Plan Permit Applications;" Chapter 3, Section 3.01.07 "Variance Procedure," Section 3.01.08 "Violations, Enforcements and Penalties," and Section 3.02.09 "Administrative Appeal and Judicial Review;" Chapter 8, Section 8.02.06 "Appeals," Section 8.04.06 "Appeals;" and Chapter 9, Section 9.02.04 "Requirements for Making Variance Applications."

Recommendation:

The Zoning Administrator recommends approval of the text amendments.

Fiscal Impact:

Attachments:

1. ORD 2023- Appellate Ordinance - Zoning
2. 07-14-2023 UDC Changes -Legal Ad
3. Overview of Text Amendment

**CITY OF KENNESAW
GEORGIA**

ORDINANCE NO. 2023-____, 2023

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF KENNESAW, GEORGIA, SECTION 2.03.06, “DENIAL OF SITE PLAN PERMIT APPLICATIONS”; SECTION 3.01.07, “VARIANCE PROCEDURE”; SECTION 3.01.08, “VIOLATIONS, ENFORCEMENTS AND PENALTIES”; SECTION 3.02.09, “ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW”; SECTION 8.02.06, “APPEALS”; SECTION 8.04.06, “APPEALS”; SECTION 9.02.04, “REQUIREMENTS FOR MAKING VARIANCE APPLICATIONS”

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS:

WHEREAS, the Georgia Legislature amended Chapter 3, Title 5, of the Official Code of Georgia Annotated, which takes effect on July 1, 2023; and

WHEREAS, the Mayor and City Council has determined it is in the best interests of the citizens of Kennesaw to amend the appellate procedures set forth in the Kennesaw Code of Ordinances to comply with the amendment to Chapter 3, Title 5, of the Official Code of Georgia Annotated; and

WHEREAS, public hearings were duly advertised in the Marietta Daily Journal

WHEREAS, the Code of Ordinances of the City of Kennesaw shall be amended as follows:

Section 1:

That section 2.03.06 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

Sec. 2.03.06 – Denial of site plan permit applications

- A. In any instance where the application is denied by the Mayor and Council, the applicant may file an appeal to the Superior Court in the manner provided by law under Chapter 3, Title 5, of the Official Code of Georgia Annotated and as amended.
- B. When an application for a permit under this chapter is denied by the Mayor and Council, the city shall not accept or consider an application for a permit under this chapter from that applicant or for the same exhibit within ninety (90) days of the denial.

(Ord. No. 2013-15, 9-16-13; Ord. No. 2014-09, 7-21-14; Ord. No. 2015-03, 2-16-15)

Section 2:

That section 3.01.07 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

Sec.3.01.07 - Variance Procedures

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development activity, or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this ordinance. A request for a variance may be submitted by an applicant who has been denied a permit by the City of Kennesaw, or by an owner or developer who has not previously applied for a permit for the reasons stated herein above.

1. Requests for variances from the requirements of this ordinance shall be submitted to the City of Kennesaw. All such requests shall be heard and decided in accordance with procedures to be published in writing by the City of Kennesaw. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
2. Any person adversely affected by any decision of the City of Kennesaw shall have the right to appeal such decision to the Mayor and Council as established by the City of Kennesaw in accordance with procedures to be published in writing by the Mayor and Council. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
3. To the extent provided by law, any person aggrieved by the decision of the Mayor and Council may appeal such decision to the Superior Court of Cobb County in the manner provided by law under Chapter 3, Title 5, of the Official Code of Georgia Annotated and as amended.~~as provided in section 5-4-1 of the Official Code of Georgia Annotated.~~
4. Variances may be issued for the repair or rehabilitation of Historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an Historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.
5. Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
6. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
7. In reviewing such requests, the City of Kennesaw and Mayor and Council shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
8. Conditions for Variances:
 - (a) A variance shall be issued only when there is:
 - (i) a finding of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship; and

- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.
 - (b) The provisions of this ordinance are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a Historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 - (c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
 - (d) The City Clerk of the City of Kennesaw shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
9. Any applicant requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the City of Kennesaw and Mayor and Council shall deem necessary to the consideration of the request.
 10. Upon consideration of the factors listed above and the purposes of this ordinance, the City of Kennesaw and the Mayor and Council may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this ordinance.
 11. Variances shall not be issued "after the fact."

(Ord. No. 2018-20, 8-20-18; Ord. No. 2020-13 , § 1(Exh. A), 11-16-20)

Section 3:

That section 3.01.08 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

Sec. 3.01.08 - Violations, Enforcements and Penalties

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

- A. Notice of Violation: If the City determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefor, the notice

of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

1. The name and address of the owner or the applicant or the responsible person;
2. The address or other description of the site upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
6. A statement that the determination of violation may be appealed to the Superior Court of Cobb County in the manner provided by law under Chapter 3, Title 5, of the Official Code of Georgia Annotated and as amended.~~Cobb County Superior Court by filing a written notice of appeal within thirty (30) days after the notice of violation.~~

B. Penalties: In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City may take any one or more of the following actions or impose any one or more of the following penalties.

1. Stop Work Order — The City may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
2. Withhold Certificate of Occupancy — The City may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
3. Suspension, Revocation or Modification of Permit — The City may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

4. Civil Penalties — In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the City shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the City has taken one or more of the actions described above, the City may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains un-remedied after receipt of the notice of violation.
5. Criminal Penalties — For intentional and flagrant violations of this ordinance, the City may issue a citation to the applicant or other responsible person, requiring such person to appear in the Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 2020-13 , § 1(Exh. A), 11-16-20)

Section 4:

That section 3.02.09 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

Sec.3.02.09 - Administrative Appeal and Judicial Review

A. Administrative remedies.

1. The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the permittee submitting the plan or the permittee to a hearing before the Mayor and City Council of the City of Kennesaw within thirty (30) days after receipt by the Local Issuing Authority of written notice of appeal.
2. Variances involving the first twenty-five feet (25') of undisturbed natural vegetative buffer, as measured horizontally from both stream banks, can only be granted by EPD. Appeals must be directed to that office with a copy provided to the Director and LIA.
3. Variances involving the second twenty-five feet (25'), which is between twenty-five feet (25') to fifty feet (50'), of undisturbed natural vegetative buffer as measured horizontally from both stream banks, and activity within the third 25-foot buffer (area where no impervious cover may be installed) can be granted by the mayor and city council of the City of Kennesaw. Variances will only be considered in cases of practical difficulty or necessary hardships as outlined in the Chapter 9.02.00 et seq., variance procedures. All requirements described in Chapter 9.02.00 et seq. variance procedures must be met and the request filed with the Planning and Zoning Administrator to be heard by mayor and city council.

- B. Judicial review. Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies as set forth in Chapter 3.02.09, ~~shall have the right to appeal de novo~~ may appeal to the Superior Court of Cobb County as set forth in O.C.G.A. § 40-13-28 and Chapter 3, Title 5, of the Official Code of Georgia Annotated and as amended.

(Ord. No. 2018-09, Exh. A, 6-4-18)

Section 5:

That section 8.02.06 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

Sec. 8.02.06 - Appeals

- A. Any person or persons jointly or severally aggrieved by any decision of the Kennesaw Historic Preservation Commission may appeal to the Mayor and City Council.
- B. The appeal must be filed within seven (7) days of the decision of the Commission and must be made by written petition delivered to the ~~Zoning Administrator~~ Planning and Zoning Administrator.
- C. The appeal shall be on the application exactly as presented to the Commission.
- D. The appeal shall be advertised for public notice in accordance with this UDC.
- E. Appeals from decisions of the Mayor and City Council may be taken to the superior court of Cobb County in the manner provided by law for appeals under Chapter 3, Title 5, of the Official Code of Georgia Annotated and as amended. ~~from a conviction for municipal or county ordinance violation(s).~~

Section 6:

That section 8.04.06 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

Sec. 8.04.06 - Appeals

Appeals from decisions of the Mayor and Council may be taken to the Superior Court of Cobb County in the manner provided by law ~~for appeals from a~~ under Chapter 3, Title 5, of the Official Code of Georgia Annotated and as amended. ~~conviction for municipal or county ordinance violation(s).~~

(Ord. No. 2013-15, 9-16-13; Ord. No. 2014-09, 7-21-14; Ord. No. 2015-03, 2-16-15)

Section 7:

That section 9.02.04 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

Sec. 9.02.04 – Requirements for Making Variance Applications

- A. An applicant for a variance shall file with the zoning department the following:
 - 1. A completed application on forms prescribed by the zoning department;
 - 2. The notarized signature of the applicant and record titleholder upon the application.
 - 3. The application fee.
 - a. These fees shall be established from time to time by resolution of the Mayor and City Council.
 - b. A copy of the fee schedule shall be maintained in the City Clerk's Office.
 - 4. A current boundary survey and plot plan, to scale, that bears the signature and seal of a registered surveyor, engineer, architect or landscape architect. Such plans shall also include such other information thereon as may be required by the zoning department, including preliminary plans for development, building locations, parking areas, access points, adjacent streets, land lot lines, buffer areas, future right-of-way, wetlands, floodplains, utilities, and retention.
 - 5. Private sewage disposal must be approved by the Cobb County Health Department, and written approval from the health department must be filed with the application.
 - 6. Any other information required by the zoning department which they deem necessary or desirable in processing the application which is related to the present or proposed use of the property.
- B. Posting of public notice. The posting shall be the same as set forth in Chapter 10 for zoning applications.
- C. Rejected applications. Any variance request may not be reconsidered for a period of twelve (12) months after it has been rejected by the Mayor and City Council, unless by court order or pursuant to a settlement of litigation.
- D. Expiration of variance approval. Any variance authorized by the Mayor and City Council, for which construction has not commenced within one (1) year from the date on which the decision of the Mayor and City Council becomes final, shall be deemed abandoned and be void and of no further force and effect.
- E. An appeal of a decision of the Mayor and City Council on a variance application shall be to the Superior Court of Cobb County in the manner provided by law under Chapter 3, Title 5, of the Official Code of Georgia Annotated and as amended, within 30 days of the Mayor and City Council's decision on the application. The date of the decision is the date that the Mayor and City Council vote to grant or deny the application.

(Ord. No. 2018-23, § 2(Exh. B), 10-15-18)

Section 8:

The effective date of this ordinance shall be July 1, 2023.

PASSED AND ADOPTED by the Kennesaw City Council on this ____ day of _____, 2023.

ATTEST:

CITY OF KENNESAW:

Lea Alvarez, City Clerk

Derek Easterling, Mayor

gov.

7:14-2023

MDJ-5622

GPN-16

**CITY OF KENNESAW
PUBLIC NOTICE**

Notice is hereby given that the City of Kennesaw shall hold public hearings to amend the Unified Development Code. The proposed amendment is to amend APPENDIX A, "UNIFIED DEVELOPMENT CODE", SECTION 2.03.06, "DENIAL OF SITE PLAN PERMIT APPLICATIONS"; SECTION 3.01.07, "VARIANCE PROCEDURE"; SECTION 3.01.08, "VIOLATIONS, ENFORCEMENTS AND PENALTIES"; SECTION 3.02.09, "ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW"; SECTION 8.02.06, "APPEALS"; SECTION 8.04.06, "APPEALS"; SECTION 9.02.04, "REQUIREMENTS FOR MAKING VARIANCE APPLICATIONS."

A copy of the amendment to the Unified Development Code is on file in the Office of Planning and Zoning during normal business hours, Monday-Friday from 8 a.m. to 5 p.m. for public viewing. The Planning Commission shall hold a meeting on August 2, 2023 at 6:30 p.m. with a final scheduled hearing and adoption by the Mayor and Council to be considered on August 21, 2023 at 6:30 p.m. Meetings will be held in the Kennesaw City Council Chambers, 2529 J.O. Stephenson Avenue, Kennesaw, GA. All interested persons may attend and be heard relative there to.

Mayor and Council will be conducting their meeting in person and you can access the meeting via the following link: <https://www.facebook.com/City-ofKennesaw/>

Any interested citizens are invited to email kennesawcouncil@kennesaw-ga.gov.

7:14-2023

Overview of Text Amendment

Summary Prepared by Planning and Zoning
Case #MISC2023-07

Text Amendment to Rules on Filing an Appeal

- An applicant has the right to file an appeal to the Superior Court of Cobb County under Chapter 3, Title 5 of the Official Code of Georgia Annotated (O.C.G.A.) for the following:
 - If their site plan is denied
 - If their stormwater management plan or permit is denied
 - If they are aggrieved by a decision or order from the Local Issuing Authority
 - Any decision made by Mayor and Council including a denial of a variance request