Mayor
Derek Easterling
City Manager
Jeff Drobney, ICMA-CM
City Clerk
Lea Alvarez, CMC

Council
Mayor Pro-Tem Tracey Viars
Lynette Burnette
Pat Ferris
Antonio Jones
Trey Sinclair

City Council
Meeting Agenda
August 21, 2023 6:30 PM
Council Chambers

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1. **Invocation**
2. **Pledge of Allegiance**
3. **Call to Order**
4. **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. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed.
   Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: https//www.facebook.com/CityofKennesaw/

   B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. **Presentations**
6. **Public Comment/Business from the Floor**
7. **Old Business**
8. **New Business**
9. **Committee and Board Reports**
10. **Public Hearing(s)**

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 Amendment Map includes various parcels city-wide. Case #MISC2023-06.

1. Approval to change the future land use category for property located at 2985 Mack Dobbs Road (parcel number 20014100100) from Planned Unit Development (PUD) to Community Activity Center (CAC).

2. Approval to change the future land use category for property located at 6045 Pine Mountain Road (parcel number 20016601430) from Residential Low/Medium (RL) to Public/ Institutional (PI).

3. Approval to change the future land use category for property located at 2971 North Main Street (parcel number 20013900200) from Downtown Activity Center (DAC) to Residential Low/Medium (RL).

4. Approval to change the future land use category for property located at 0 Kennesaw Due West Road (parcel number 20017600460), 2360 Kennesaw Due West Road (parcel number 20017600450), and 2404 Kennesaw Due West Road (parcel number 20017600050) from Industrial (I) to Community Activity Center (CAC).

5. Approval to change the future land use category for property located at 1973 Cobb Parkway (parcel number 20020700080) from Community Activity Center (CAC) to Park/Recreational/Conservation (PRC).

6. Approval to change the future land use category for property located at 1650 Cobb Parkway (parcel number 20020801300) from unassigned to Regional Activity Center (RAC).

C. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 2, 3, 8 and 9. Case #MISC2023-07.

11. Consent Agenda

A. Approval of the July 31, 2023 Special Called First Property Tax Public Hearing minutes.

B. Approval of the July 31, 2023 City Council work session minutes.

C. Approval of the July 31, 2023 City Council executive session minutes.

D. Approval of the August 7, 2023 Special Called Second Property Tax Public

Hearing minutes.

E. Approval of the August 7, 2023 City Council regular meeting minutes.

F. Consideration for approval of a parcel combination plat application submitted by Cherokee Growth, LLC for 0 N Cobb Parkway (PIN: 20014100920) & 0 N Cobb Parkway (PIN: 20014100100). Case #PC2023-01.

G. On August 11, 2023, Douglas and Toni Smith purchased four (4) cemetery lots in the Kennesaw City Cemetery. These lots are located in Section III, Plot 4, Lots A - D. Authorize the Mayor to sign the supporting deeds for the purchase of these lots.

H. On August 17, 2023, Christopher Aut purchased one (1) lot in the Kennesaw City Cemetery. This lot is located in Section III, Plot 29, Lot H. Authorize the Mayor to sign the supporting deed for the purchase of this lot. The City Clerk recommends approval.

12. General and Administrative

A. Consideration for approval of an Alcohol License for Beer, Wine, and Sunday Sales for Chioma's African Cuisine, LLC d/b/a/ Chioma's African Cuisine located at 2655 Cobb Pkwy, Kennesaw, GA 30152. Applicant: Chukwuemeka Ohaeri

13. Public Safety

A. Receipt of the July 2023 crime statistics.

14. Information Technology

15. Public Works

16. Recreation and Culture

17. Community Development

A. Appeal Hearing for Edson Macedo located at 3101 Old 41 Highway (also known as 3101 North Main Street) (parcel number 20012700180) regarding denial of his site plan for chickens.

18. Public Comment/Business from the Floor

19. City Manager's Report

A. Reports, Discussions, and Updates

20. Mayor's Report

A. Mayor and Council (re)appointments to Boards and Commissions. This item is for (re)appointments made by the Mayor to any Board, Committee, Authority,

or Commission requiring an appointment to fill any vacancies, resignations, and to create or dissolve boards and commissions, as deemed necessary.

21. Council Reports & Discussions

22. Executive Session

Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

23. Adjourn

Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: August 21, 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.

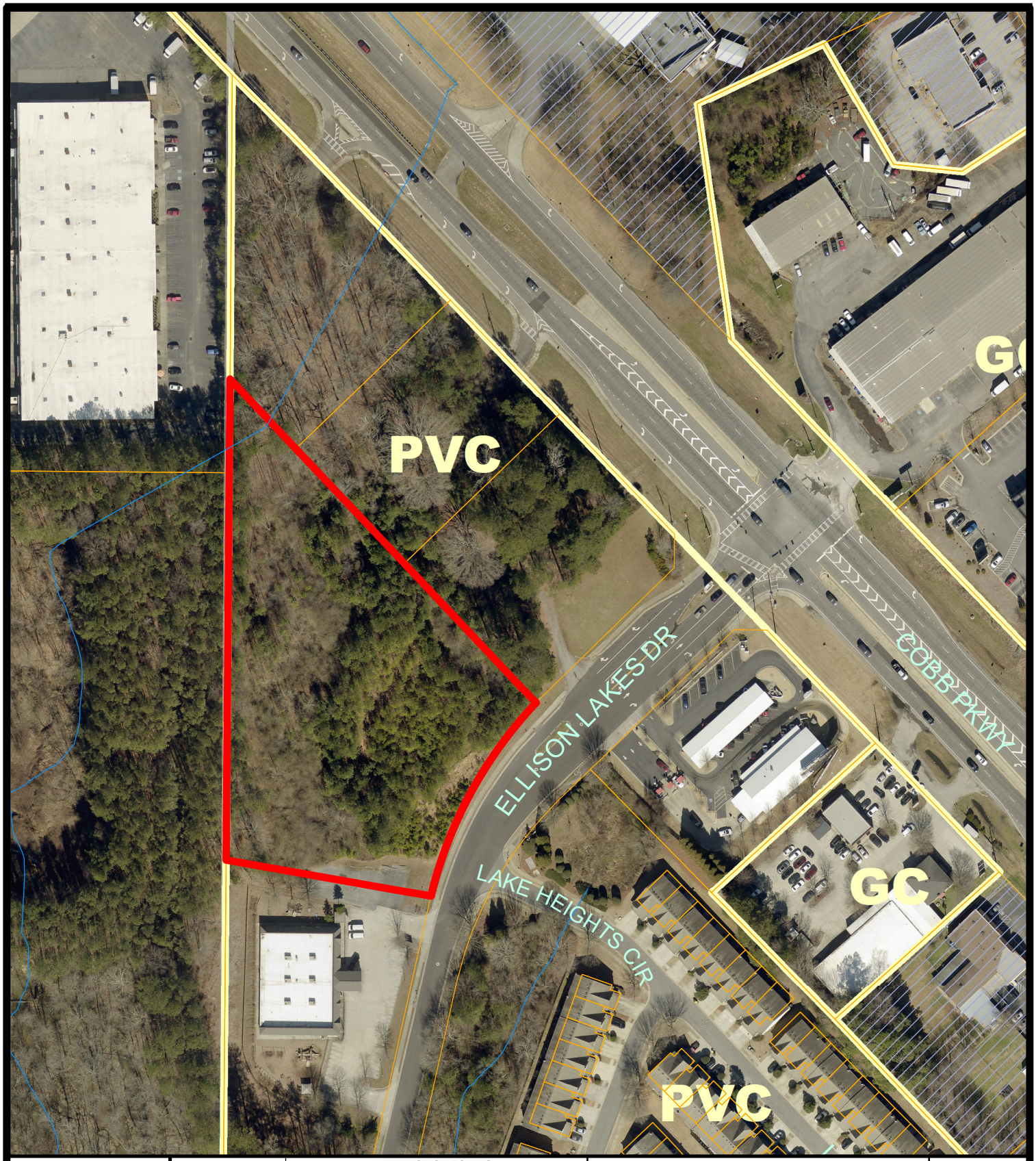
Summary:
The applicant is seeking to modify the zoning conditions under ordinance #2001-06 to allow for fee-simple single-family residential condominiums. The project consists of a four-story building with 40-to-50 units, consisting of one, two, and three bedroom units. Amenities will include a dog walking area, electric vehicle charging stations and private garages. The current zoning of the property is Planned Village Community (PVC), and this is a master-planned community known as Ellison Lakes. At their regularly scheduled meeting on August 2, 2023, the Planning Commission recommended approving the rezoning modification request with the stipulations outlined within the staff report with changes to condition #3 by adding that the Homeowner's Association will be responsible for upkeep of the building facade and roof as well as changes to condition #5 to cap the maximum number of rental units within this development from 15% to 10%. This public hearing was advertised in the Marietta Daily Journal on July 14, 2023 and a public notice sign was posted on July 18, 2023.

Recommendation:
The Zoning Administrator recommends approval of conditions as outlined within the staff report with the changes made by the Planning Commission regarding condition #3 and condition #5.

Fiscal Impact:

Attachments:
1. RZ2023-03_Aerial Map
2. Staff Report - 0 Ellison Lakes Drive - RZ2023-03

3. RZ2023-03_Ordinance_0 Ellison Lakes Drive PIN 20017500170
4. RZ2023-03 - Rezoning Application - 0 Ellison Lakes Dr-Redacted
5. Site Plan and Renderings - 0 Ellison Lakes Drive
6. RZ2023-03_Public Notification packet
7. ORD 2001-06 - Ellison Lakes Rezone
8. ORD 2001-05 - Ellison Lakes Annex
9. ORD 2004-08 - Ellison Lakes Amend Ord. 2001-06
10. 12-17-01 Mayor and Council Minutes
11. PC Meeting Minutes- 08-02-2023



LAND CASES		LAND USE OR ZONING FROM	TO
AV	LU		
AX	RZ2023-03	PVC	PVC
DX			
HBR			
SLUP			
ZV			

AV – Administrative Variance
AX – Annexation
DX – De-annexation
HBR – Historic Board Review
LU – Land Use
RZ – Re-zoning
SLUP – Special Land Use
ZV – Variance

R-10 ZONING
KENNESAW CITY LIMITS
COBB COUNTY
99 LAND LOT

0 Ellison Lakes Drive
Land Lot 175, Tax Parcel 17
Subject Property

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

Derek Easterling MAYOR
Lea Alvarez CITY CLERK

Scale: 1 " = 150 '
Print Date: 6/28/2023
RZ2023-03_Aerial Map

ZONING ADMINISTRATOR
DARRYL SIMMONS

ASSISTANT ZONING ADMINISTRATOR/PLANNER
ALBERT TREVINO

CONTACT US

OFFICE: (770) 590-8268
WEBSITE: www.kennesaw-ga.gov
EMAIL: zoningdept@kennesaw-ga.gov

City of Kennesaw, GA
Honoring Our Heritage - Forging Our Future

COMMUNITY DEVELOPMENT
Planning and Zoning

2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

MAYOR AND COUNCIL
AUGUST 21, 2023

PLANNING COMMISSION
AUGUST 2, 2023

LEGAL ADVERTISEMENT
JULY 14, 2023

PUBLIC NOTICE SIGN
JULY 18, 2023

APPLICATION DEADLINE
MAY 19, 2023

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

Property Address
0 Ellison Lakes Drive
Applicant
CF&G Enterprises, Inc.
Representative
Eric Federspiel
Property Owner
CF&G Enterprises, Inc.
Current Zoning
Planned Village Community (PVC)
Current Future Land Use Category
Neighborhood Activity Center
Project Request: Rezoning modification to edit the original zoning conditions for Ellison Lakes.
Please see page 4 & 5 for project request description.



Aerial view of subject property (Cobb Tax Assessor)

PROPERTY DETAILS

Within 1/2 mi from Unincorporated Cobb Co: Yes
Historic District: No
Cemetery: No **Floodplain:** Yes **Stream:** Yes
Parcel ID #: 20017500170
Land Lot #: 175 **Tax Parcel #:** 17
Land Area: 2.72 +/- acres
Existing Building Total SQFT: None
Proposed Building SQFT: 50,100 SF
Proposed Streets: Internal driveway

RECOMMENDATION

Staff Recommendation
Approval with conditions
Planning Commission Recommendation
Approval with conditions

Please see page 23 for basis for recommendation.

ADJACENT PROPERTY DETAILS

Surrounding Zoning Dist. and Future Land Use

North: COBB PARKWAY
Zoning: PVC
Future Land Use: Commercial Activity Ctr (CAC)

South: ELLISON LAKES DRIVE
Zoning: PVC
Future Land Use: Neighborhood Activity Center

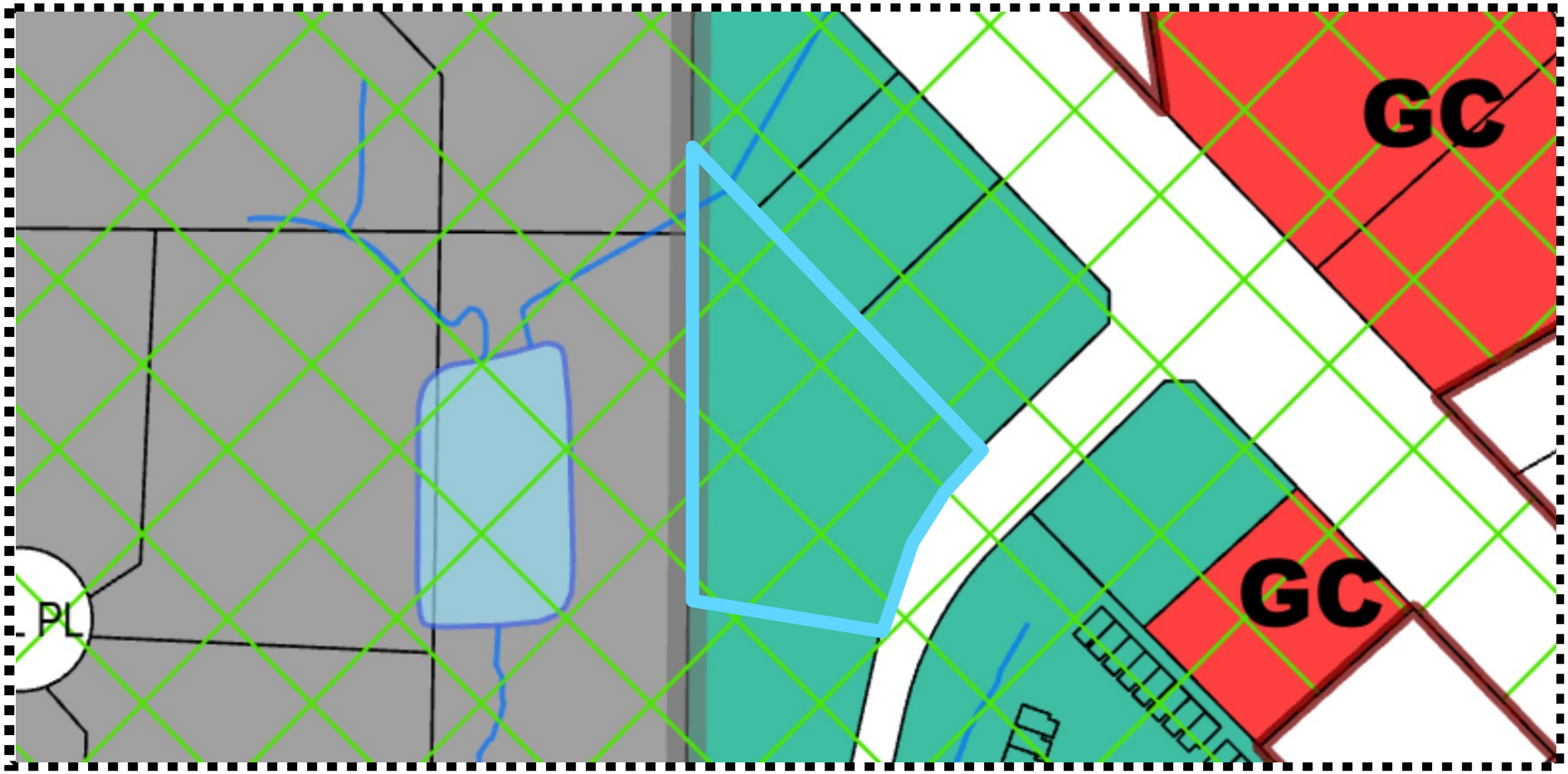
East: ELLISON LAKES DRIVE
Zoning: PVC
Future Land Use: CAC & Residential High (RH)

West: COBB INTERNATIONAL BLVD
Zoning: Heavy Industrial (HI)
Future Land Use: Industrial (I)

Please see page 2 for current zoning map.

ZONING MAP

ZONING CASE #: RZ2023-03



Zoning Districts

CBD	HGB	OI	R-12	RA-5
CRC	HI	PBSH	R-15	RA-6
FST	LI	PSC	R-20	RM-8
GC	MHP	PUD-R	R-30	RM-12
NRC	NS	PVC	R-40	RM-16
		R-10	RA-4	UVC

Zoning Overlays

- Airport Hazard District
- Historic Districts
- Historic Preservation Village
- Senior Living

- Acworth City Limits
- Kennesaw City Limits
- Kennesaw Mtn Nat'l Battlefield
- 139 Land Lots
- Marietta City Limits

2

GOOGLE EARTH AERIAL VIEW

ZONING CASE #: RZ2023-03



= Approximate project location

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

DESCRIPTION OF ZONING REQUEST: **REZONING MODIFICATION**

This is a rezoning modification request to amend the zoning conditions under ordinance number 2001-06 and ordinance number 2004-08 to allow for for-sale residential condominiums.

PROJECT INTENT

The current zoning conditions allow for a maximum of 537 multi-family units and a maximum of 309 townhome units. This modification is to allow for 40 to 50 for-sale single-family residential condominium units with the following details:

Number of units: 45 proposed; 40-min and 50-max
Number of parking spaces: +/- 97
Building Height: 4-stories
Building Total SF: 50,100 SF
Building Footprint: 12,525 SF
Land Area (this site): 2.72 acres
Land Area (entire site): 130 acres
Open Space: 0.65 acres
Amenities: Dog walk, private garages, EV charging

Pre-Application Meeting
April 13, 2023

Application Submitted
May 15, 2023

Fees Paid
$375

Certified Letters Mailed By
July 14, 2023

PVC ZONING DESIGN STANDARDS

Front: 40 feet (local road)
Side: 15 feet
Rear: 30 feet
Max. Coverage: 75% impervious
Max. Height: 6 stories or 75 feet
Min. Floor Area: Per approved site plan
Min. Lot Area: N/A
Min./Max. Acreage Req.: 5-acres

GOOGLE STREET VIEW



STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

PROJECT DETAILS

Proposed Number of Units

- 45-units are being proposed, however, there will be a minimum of 40-units and maximum of 50-units.

Bedroom and Bathroom Counts

- 10 +/- units with one bedroom and one bathroom
- 18 +/- units with two bedrooms and 2 bathrooms
- 12 +/- units with three bedrooms and 2.5 bathrooms

Square Footage

- One bedroom is 1,200 +/- SF
- Two bedroom is 1,450 +/- SF
- Three bedroom is 1,625 +/- SF

For Sale or For Rent

- All units will be for sale

Property Management

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

Price Points

- One bedroom: +/- $380,000
- Two bedroom: +/- $425,000
- Three bedroom: +/- $485,000

Building Aesthetics and Design

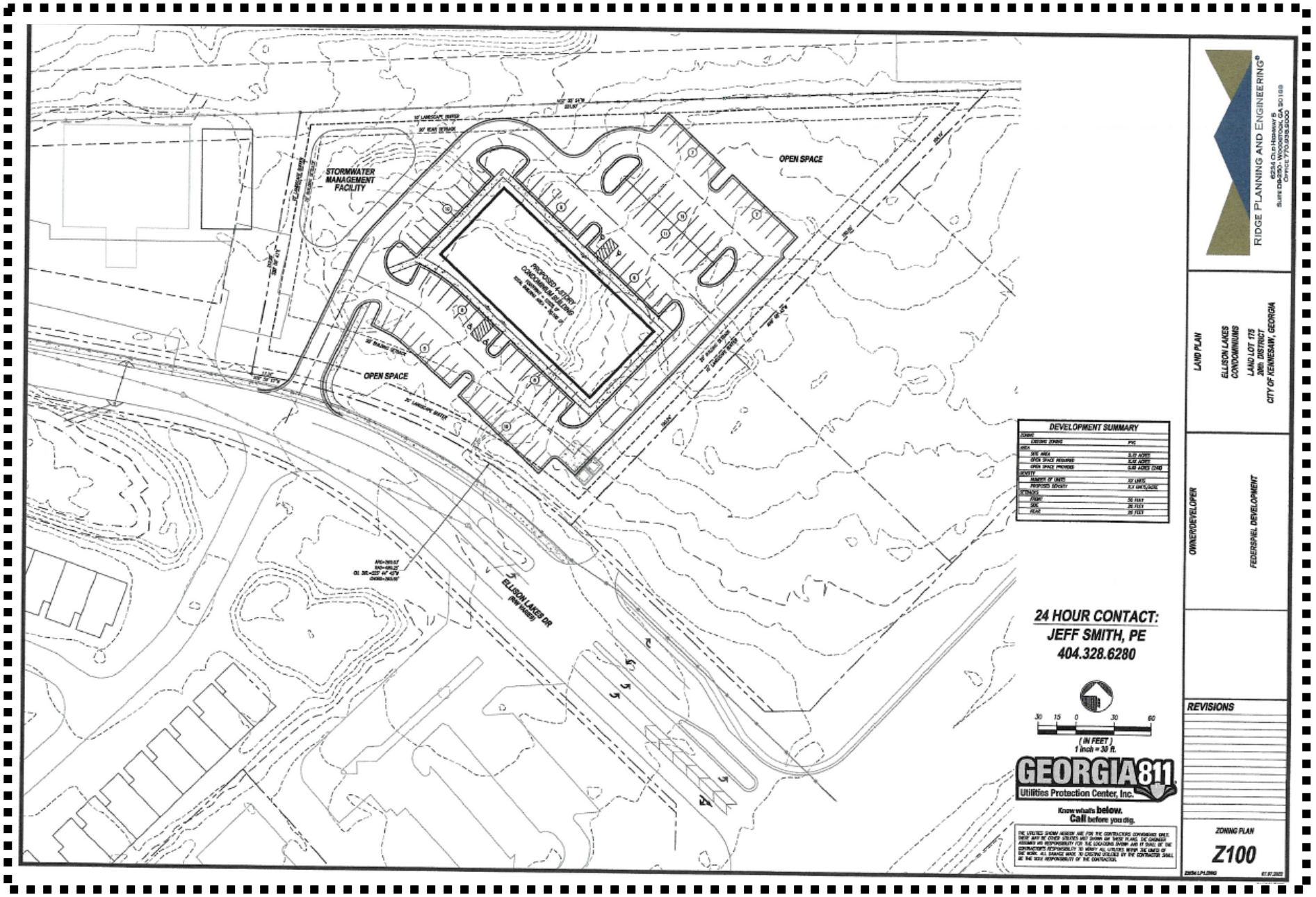
- Exterior - 100% brick and stone
- Interior - Hardwoods, carpet and tile. Grant and quartz countertops. Standard 4” base mold and 4” crown
- Amenities - Dog walking area, electric car charging stations both inside and outside of the private garages

Parking Space Count

- 2 parking spaces per unit plus 0.35 parking spaces per unit for guests. Electric vehicle charging stations both inside and outside of the garages. Site plan shows a total of 97 parking spaces.

SITE PLAN

ZONING CASE #: RZ2023-03



CONCEPTUAL RENDERING 1 OF 2

City of Kennesaw, GA
Honoring Our Heritage - Forging Our Future

ZONING CASE #: RZ2023-03



CONCEPTUAL RENDERING 2 OF 2

City of Kennesaw, GA
Honoring Our Heritage - Forging Our Future

ZONING CASE #: RZ2023-03



8

ZONING CONDITIONS - ORDINANCE #2001-06 (PAGE 1 OF 2)

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
   (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 Attic 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.

ATTACHMENT A: ZONING STIPULATIONS[2]

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.

ZONING CASE #: RZ2023-03

ZONING CONDITIONS TO MODIFY - ORDINANCE #2001-06 (PAGE 2 OF 2)

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.

ZONING CONDITIONS TO MODIFY - ORDINANCE #2004-08

SECTION 1. That Ordinance #2001-06 is hereby amended with the following changes:

1) By changing the conditions of rezoning, being more particularly the letter of stipulation dated December 14, 2001 from Brock, Clay, Calhoun, Wilson & Rogers, PC, more specifically Stipulation #2, by deleting it in it's entirety and replacing it with the language to read as follows:

   The maximum number of multi-family units shall be reduced to 537, and the maximum number of town home units shall be increased to 309. There should be a parking ratio of 1.75 parking spaces per unit.

2) By adding the following additional stipulations, for tract F and Tract G to the amenity package, per letter of stipulation dated January 28, 2004 from Brock, Clay, Calhoun, Wilson & Rogers PC:

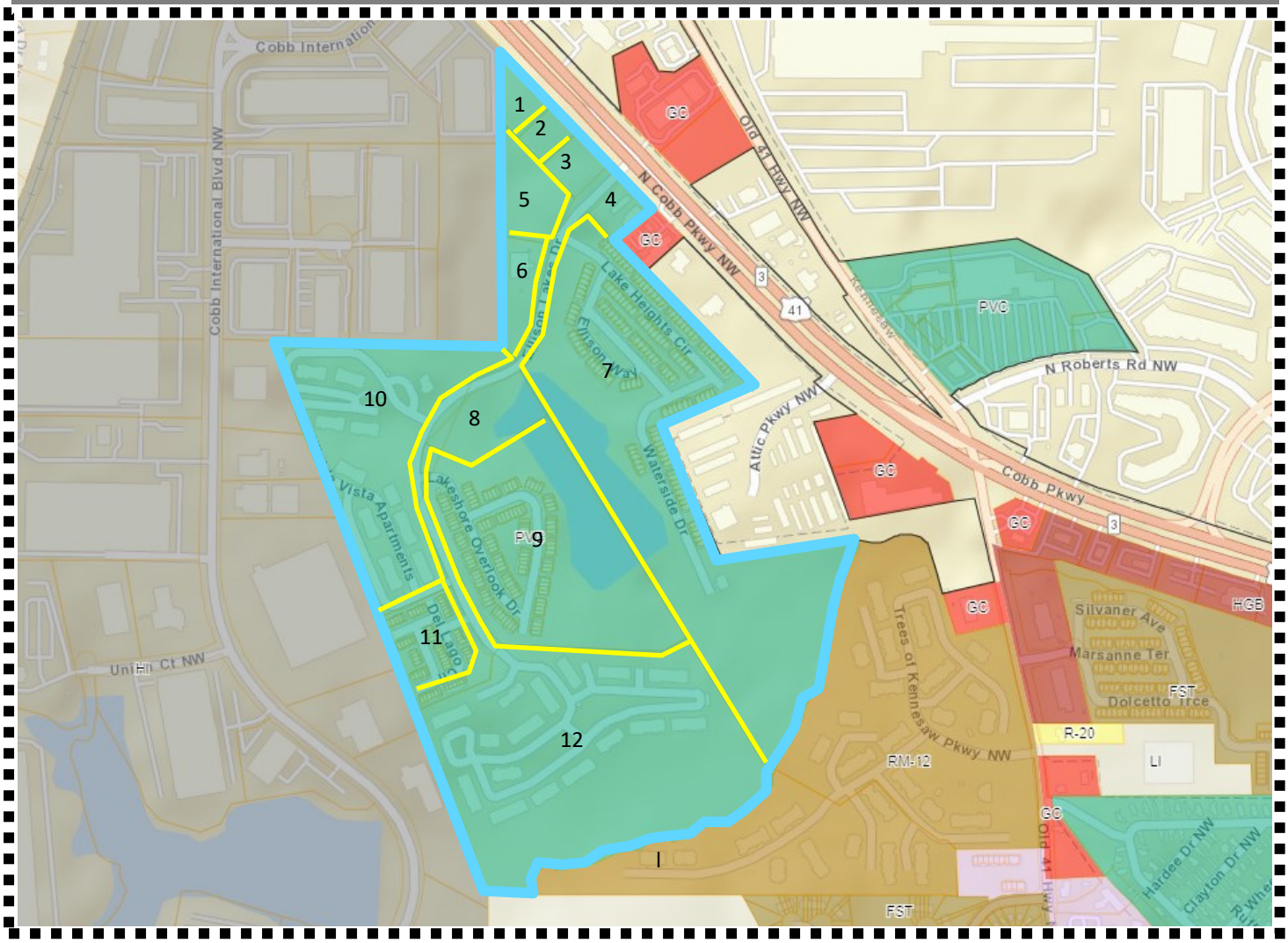
   On tract "F" substitute two playgrounds with playground equipment, two barbeque areas, two gazebos and one car wash, for three of the tennis counts originally proposed.

   On tract "G", substitute one playground with playground equipment, one barbeque area and one gazebo, for three of the tennis courts originally proposed for Tract G.

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

ELLISON LAKES UNIT COUNT



1. Commercial: Oil Change Facility 1,725 SF
2. Commercial: vacant
3. Commercial: vacant
4. Commercial: Car Wash
5. Proposed Condominium: 40-50 units
6. Commercial: Daycare 11,070 SF
7. Ellison Lakes Townhomes: 136 units
8. Open Space
9. Overlook Townhomes: 112 units
10. Hillside Vista Apartments: 212 units
11. Lakeview Townhomes: 61 units
12. Park at Kennesaw Apartments: 324 units

Maximum Number of Units: 898 units

Maximum Multi-Family Units: 537 units

Maximum Townhome Units: 309 units

Existing Number of Units: 845 units

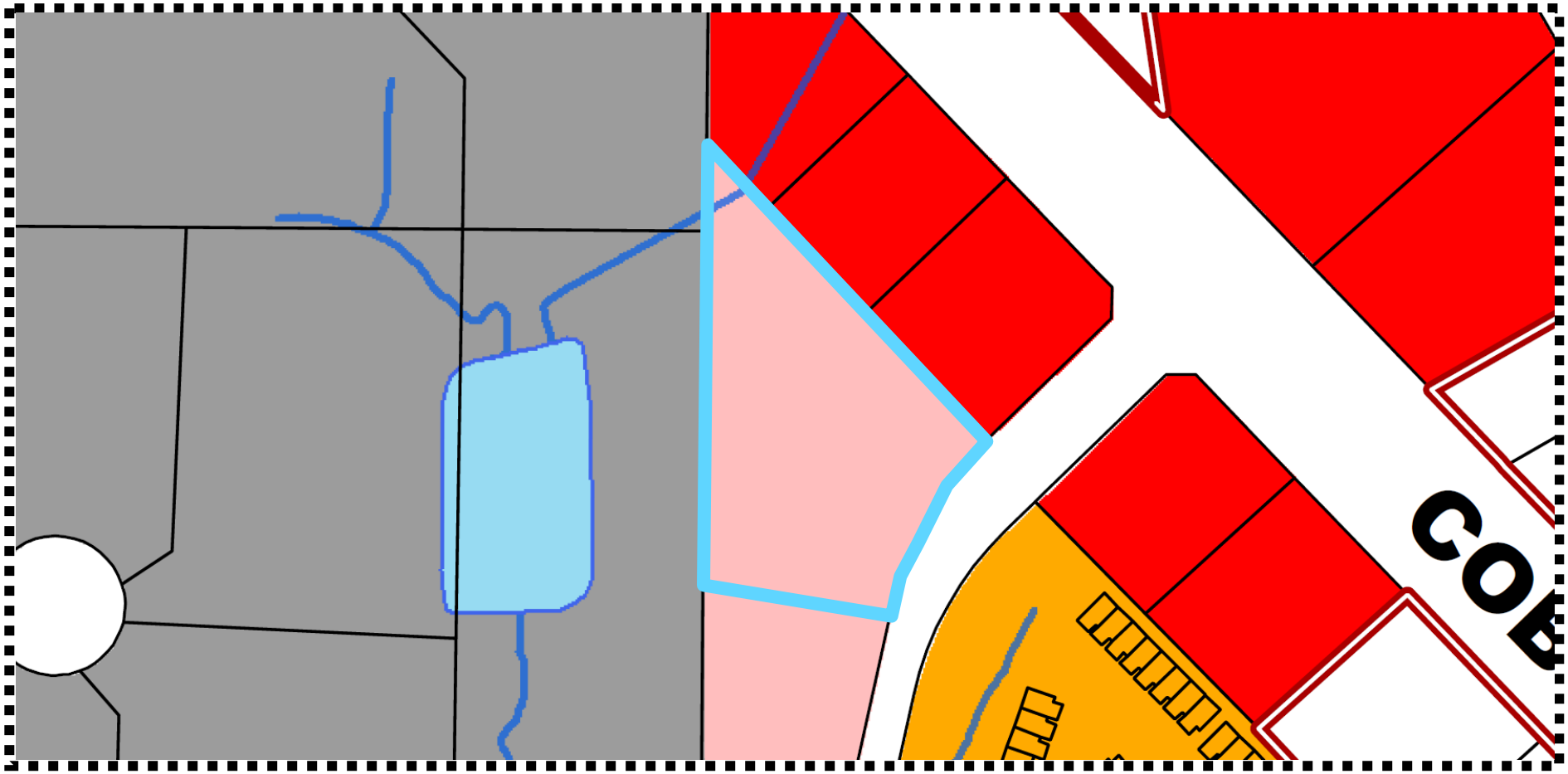
Existing Multi-Family Units: 536 units

Existing Townhome Units: 309 units

Number of available residential units in subdivision: 53

FUTURE LAND USE MAP

ZONING CASE #: RZ2023-03



Future Land Use

- NAC - Neighborhood Activity Center
- CAC - Community Activity Center
- DAC - Downtown Activity Center
- RAC - Regional Activity Center
- I - Industrial
- PI - Public Service/Institutional
- PRC - Park/Recreation/Conservation
- RL - Residential Low/Medium
- RH - Residential High
- PUD - Planned Unit Development
- TCU - Transportation Communication Utilities
- Kennesaw City Limits
- Acworth City Limits
- Kennesaw City Limits
- Kennesaw Mtn Nat'l Battlefield
- 139 Land Lots
- Marietta City Limits

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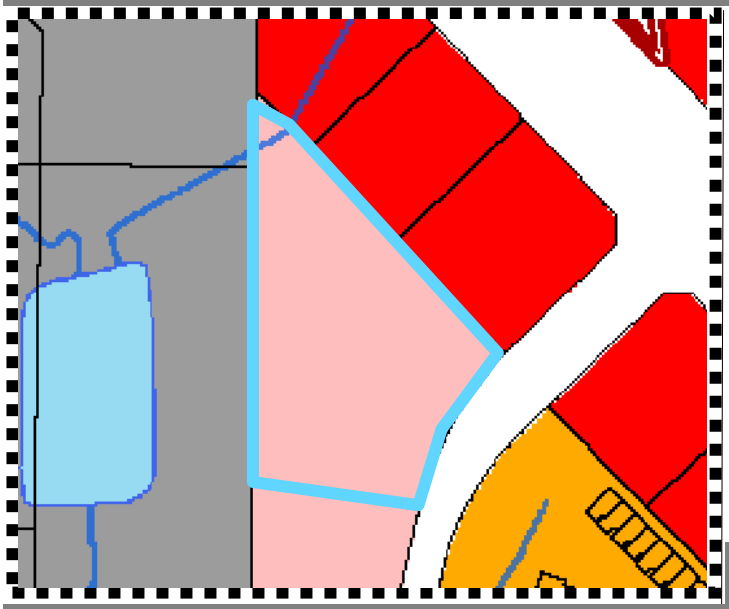
STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

KENNESAW 2022 COMPREHENSIVE PLAN UPDATE - FUTURE LAND USE



The Future Land Use Map is a general guide for the character of development within the City. A description of the identified category is provided below. New development should be monitored for its impact on water quality within the City and region.

As a built-out city, any new growth within the City of Kennesaw will be redevelopment. Currently, within the city, 86% of the city's parcels are residential which is a challenge for any new development. The Future Land Use Map is a general guide for character of development within the city.

LEGEND

- NAC - Neighborhood Activity Center
- CAC - Community Activity Center
- I - Industrial
- RH - Residential High

ACTIVITY CENTERS

Activity Centers are areas of commercial, office and residential land uses. These are located along major transportation corridors. New development should reflect the character of the existing development within these areas.

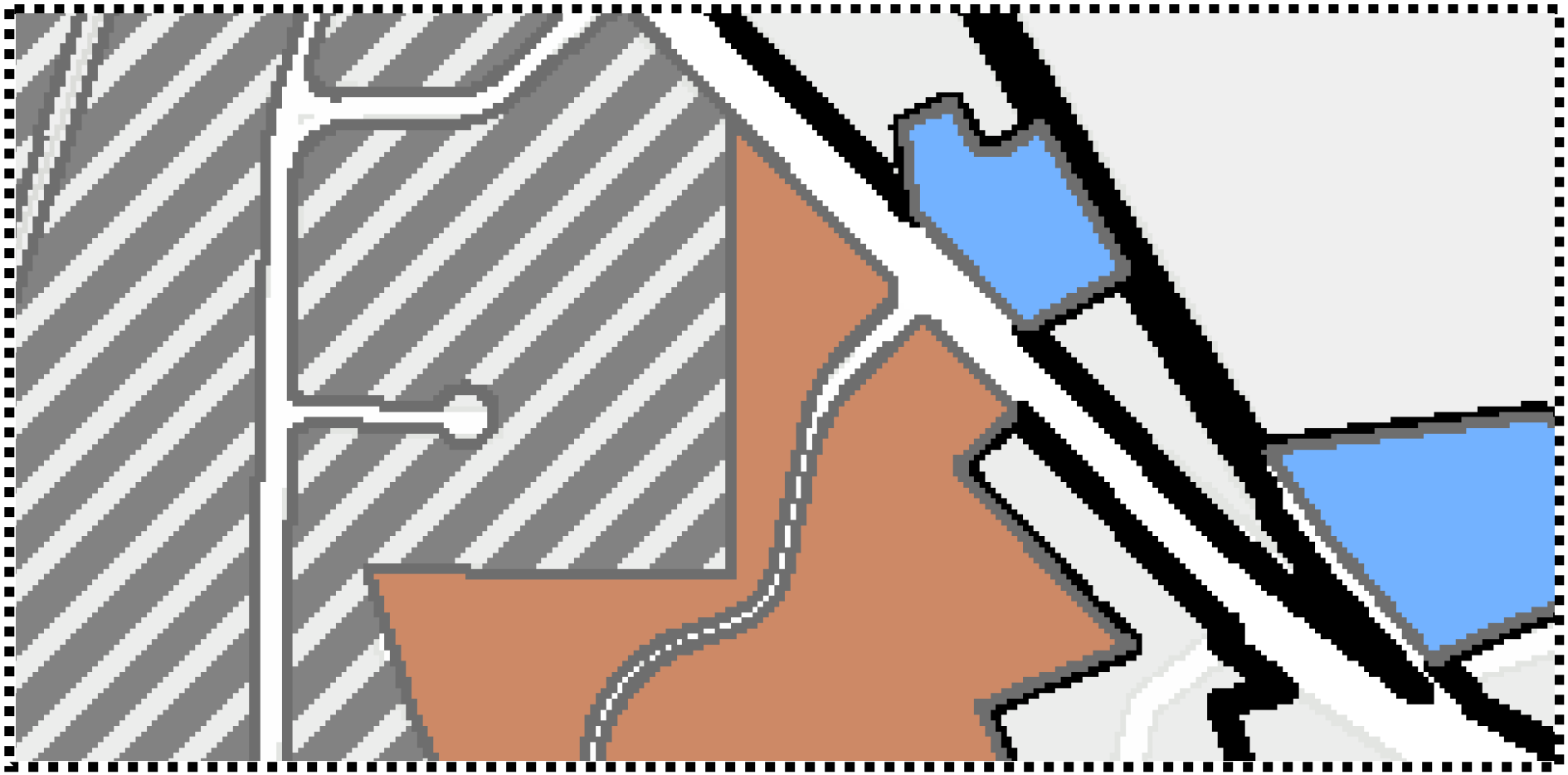
FUTURE LAND USE CATEGORY

NAC - DOWNTOWN ACTIVITY CENTER

This area is the traditional downtown of Kennesaw. For this area, the City of Kennesaw completed a Liveable Centers Initiative plan study in 2015 that should be used as the guiding plan.

COMPREHENSIVE PLAN AREAS MAP

ZONING CASE #: RZ2023-03

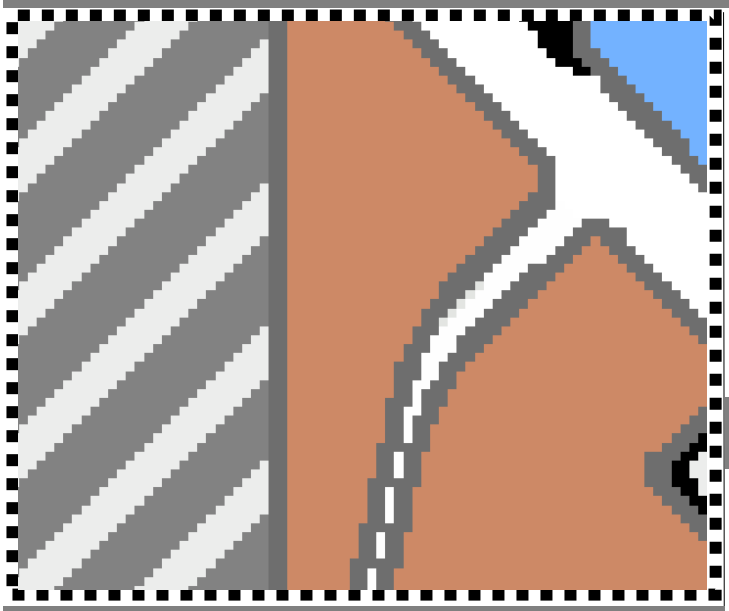


- Barrett and Old 41
- Campus Living
- Cherokee Street Commercial Corridor
- Cobb International Industrial Corridor
- Cobb Parkway Commercial Corridor
- East Pine Mountain Revitalization
- Historic Central Business District
- In-Town Living
- Jiles and Baker
- Kennesaw Due West
- Kennesaw Marketplace
- McCollum Industrial Corridor
- Moon Station Industrial Corridor
- North Cherokee
- Ridenour
- Swift-Cantrell
- West Pine Mountain

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

COMPREHENSIVE PLAN - AREAS



LEGEND

- Barrett and Old 41
- Cobb International Industrial Corridor
- Cobb Parkway Commercial Corridor

COMPATIBLE FUTURE LAND USE

- Commercial Activity Center (CAC)
- Neighborhood Activity Center (NAC)
- Park/Recreation/Conservation (PRC)
- Residential High (RH)
- Residential Low (RL)

In addition to the established Future Land Use Map, the City would like to further define an appropriate development atmosphere to ensure compatible and unified development within specified areas of the City.

Furthermore, please refer to the Policy Matrix which should be used for new development within each of the described areas.

BARRETT AND OLD 41

Barrett and Old 41 is an area that is largely single-family residential with some multi- family housing and neighborhood commercial uses. Most of the residential developments have been built in the last 20 years. Located in the southeast corner of the City limits, the Barrett and Old 41 area is situated between the Cobb International Industrial Corridor area, Cobb Parkway and Ernest W. Barrett Parkway.

The proximity to I-75, Cobb Parkway and Barrett Parkway makes this an attractive location for residents who commute south to Marietta, to south Cobb County and the Metro Atlanta region for employment. Employment centers are also located just across Cobb Parkway in the retail and office districts adjacent to Ernest W. Barrett Parkway.

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

COMPREHENSIVE PLAN - POLICY MATRIX - BARRETT AND OLD 41

Policy Matrix as defined within the 2022 Comprehensive Plan

1. Encourage pedestrian access to nodal developments via sidewalks and trail systems to maximize use of public transportation hubs.
2. Follow Best Management Practices for stormwater management as defined in the Georgia Erosion and Sedimentation Act.
3. Have new development reflect the most recent architectural and design styles that complement adjacent neighborhoods.
4. Adhere to the City's architectural and site design guidelines.
5. Locate higher intensity businesses away from the edges to protect surrounding residential land uses.
6. Locate lower intensity businesses towards the outer edges to provide a transitional buffer between higher-intensity uses and neighboring residential areas.
7. Promote open space and tree preservation.
8. Include a variety of housing and professional office or retail choices.
9. Locate commercial, moderate- and high-density housing and/or light industrial operations along the outer boundary of the character area. Reserve the inner area for traditional single family detached housing.
10. Encourage higher density housing types to be located closer to Major Roads and transit facilities.
11. Connect neighborhoods to the local and regional network of greenspace and trails, available to pedestrians and bicycles, for both tourism and recreational purposes.
12. Enhance the pedestrian-friendly environment by adding or improving sidewalks and creating multi-use trail/bike routes linking neighboring communities and major destinations, such as the Neighborhood Retail Centers and parks.
13. Promote parks and open space within developments.
14. Include a variety of housing choices based on single-family residential concepts.
15. Encourage housing types to reflect traditional neighborhood styles.
16. Assure compatibility of infill development with adjacent homes, surrounding neighborhoods and businesses.
17. Provide an interconnected system of streets within new development that is also connected to existing development.

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

TRANSPORTATION DATA

ROAD #1	AERIAL OF ROAD #1

Roadway Name
Ellison Lakes Drive

Roadway Classification
Local

Speed Limit
25-MPH

Jurisdictional Control
City of Kennesaw

Minimum Right-of-Way Requirement
50-feet minimum



ROAD #2	AERIAL OF ROAD #2

Roadway Name
N/A

Roadway Classification
N/A

Speed Limit
N/A

Jurisdictional Control
N/A

Minimum Right-of-Way Requirement
N/A

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

ENVIRONMENTAL

Floodplain:
- ☑ Yes
- ___ No
- ___ Not Verified

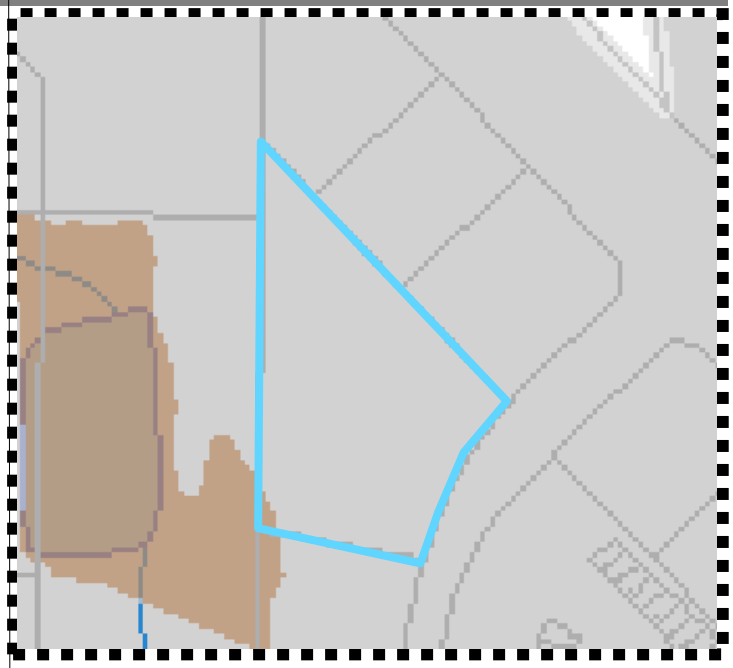
Wetlands:
- ___ Yes
- ☑ No
- ___ Not Verified

Drainage Basin:
- ___ None
- ☑ FEMA 100-year floodplain area
- ___ Flood Damage Prevention Ordinance[1]
- ___ Project subject to Cobb County Damage Prevention Requirements
- ___ Dam Breach Zone (Upstream)[2]
- ___ Owner/Developer is responsible for obtaining any required wetland permits from the United States Army Corps of Engineers

Streams and Creeks:
- ___ Metropolitan River Protection Area[3]
- ___ Chattahoochee River Corridor Tributary Area[4]
- ___ Georgia Erosion-Sediment Control Law and County Ordinance[5]
- ___ Georgia DNR Variance for work being done in 25-foot stream bank buffers (may be required)
- ___ City Stream Buffer Required
- ☑ No Stream Buffer Required

Public Works Comments: A small portion of a floodplain and stream cut across a very small portion of parcel. Will not effect development.

FEMA FLOOD ZONE MAP



Special Flood Hazard Areas

0 435 870 1,740 Feet

2018 Flood Zones
- AE
- AE, FLOODWAY
- X, 0.2 Pct Annual Chance
- Land Lots
- Kennesaw City Limits
- Subject Property

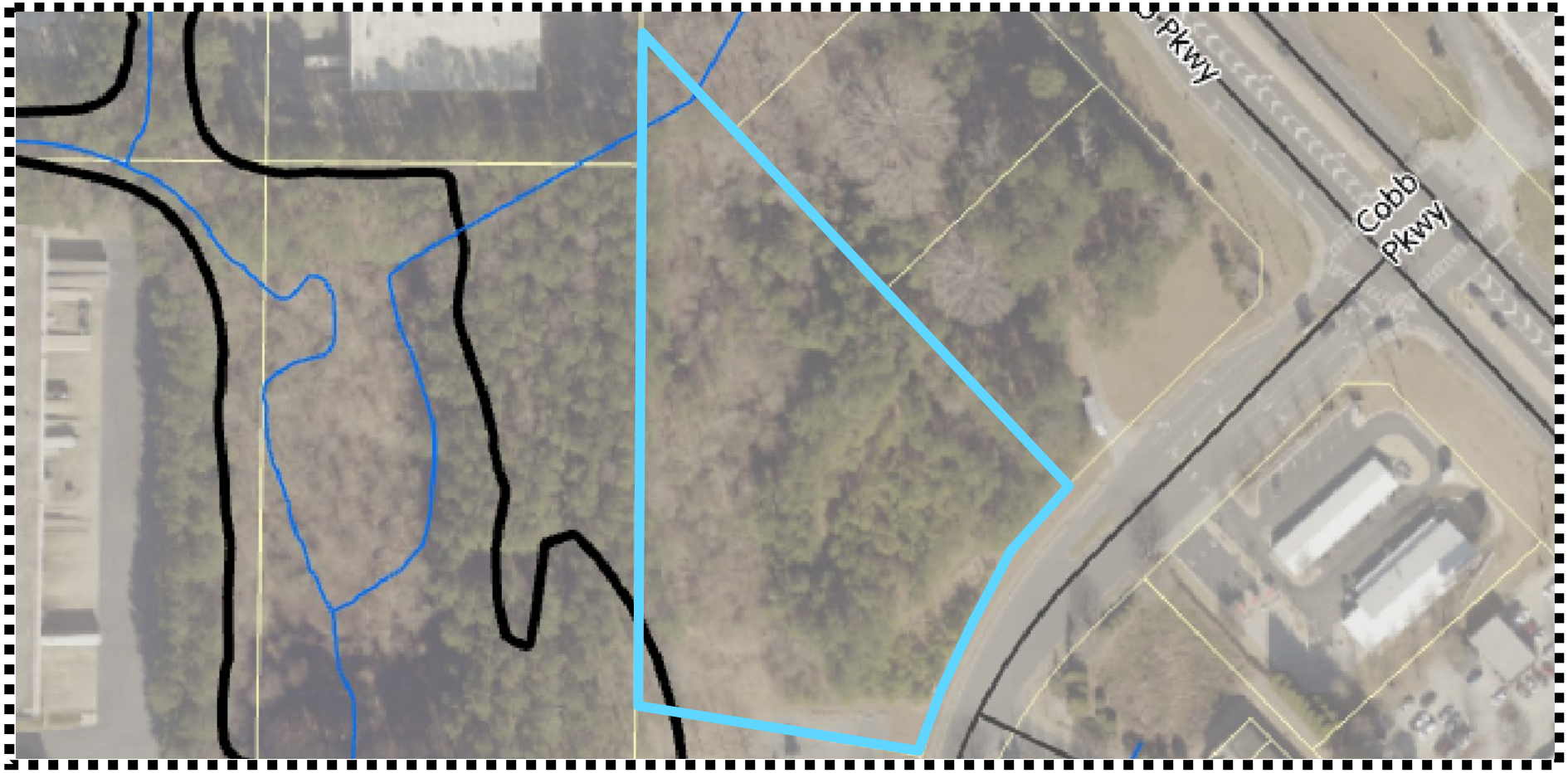
ADDITIONAL COMMENTS REGARDING PROJECT:

- Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be resolved in the plan review process.
- Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains and obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.
- Applicant will be responsible to meet all City of Kennesaw Development & Zoning Ordinance Standards, State, County and applicable Federal regulations as part of the plan review approval process. All conceptual representations submitted with the application and acted on by Mayor and Council does not relieve applicant and property owners from meeting all development standards.

1. Designated flood hazard
2. Need to keep residential buildings out of hazard.
3. Within 2000-feet of the Chattahoochee River. ARC review 35-feet undisturbed buffer each side of waterway.
4. Cobb County review (___-feet undisturbed buffer on each side)
5. State of Georgia and Cobb County review.

STREAMS & FLOODPLAIN MAP

ZONING CASE #: RZ2023-03



= Stream

= Floodplain

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

COBB COUNTY SCHOOL DISTRICT

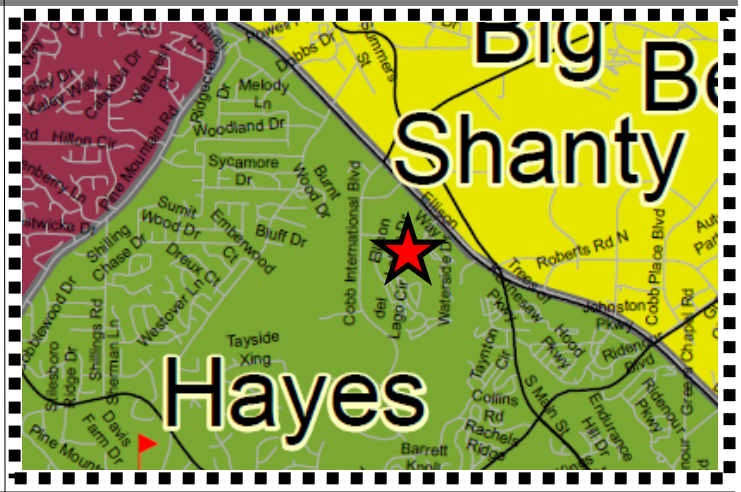
ELEMENTARY SCHOOL

School Name
Hayes Elementary School

Distance to School
1.8 miles

School Population
891 +/- students (2022-23)

ATTENDANCE ZONE MAP



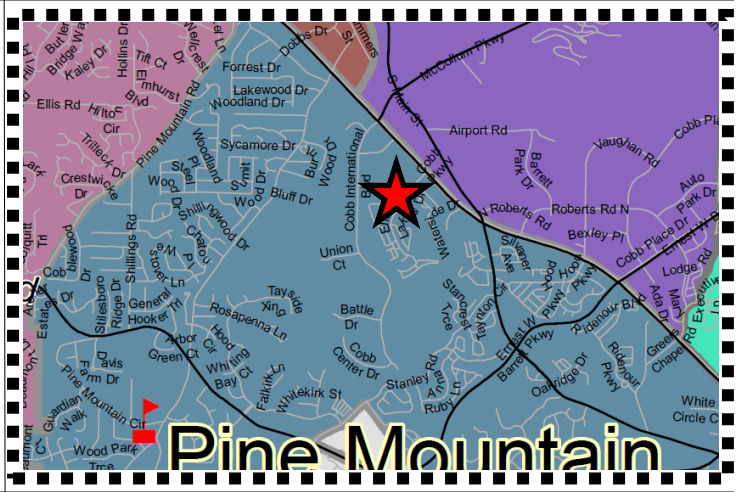
MIDDLE SCHOOL

School Name
Pine Mountain Middle School

Distance to School
4.3 miles

School Population
676 +/- students (2022-23)

ATTENDANCE ZONE MAP



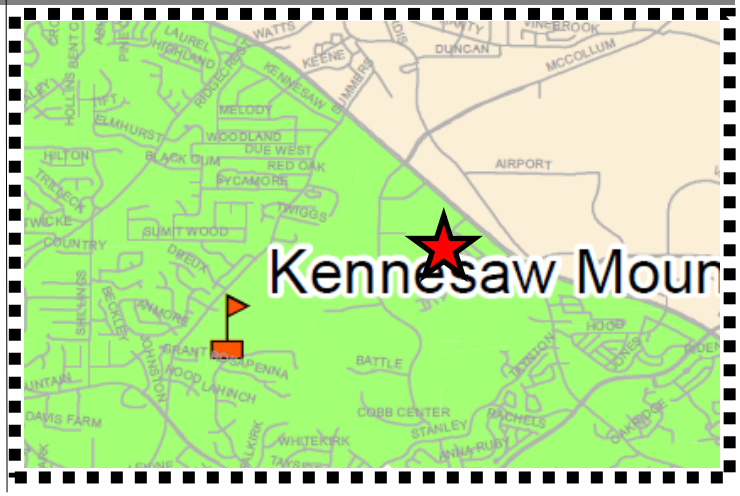
HIGH SCHOOL

School Name
Kennesaw Mountain High School

Distance to School
2.8 miles

School Population
1,794 +/- students (2022-23)

ATTENDANCE ZONE MAP



★ = Proposed project location

Source: *www.publicschoolreview.com*

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

PLANNING & ZONING

Site Visit:
✓ Yes
___ No

Staff Member:
Name: Albert Trevino
Date of Visit: 7/18/2023

Land Use Recommendation:
Single-family residential is a compatible use

Historic Preservation:
Not in a historic district

Cemetery Preservation:
No cemeteries on site

Required Parking:
For 45 units, 95 spaces are required

DENSITY & PARKING ANALYSIS

LAND AREA (THIS SITE): 2.72 +/- ACRES
LAND AREA (ENTIRE SIRE): 130 ACRES
COMMERCIAL: None proposed
RESIDENTIAL:

# of Units	Required Parking	Density
40 units	84 spaces	14.7 U/A
45 units	95 spaces	16.5 U/A
50 units	105 spaces	18.3 U/A

Overall Site Development Density: 6.84 units/acre
Proposed Parking: 97 spaces

ZONING ADMINISTRATOR'S RECOMMENDATION: **APPROVAL WITH CONDITIONS**

The Zoning Administrator recommends **approval with conditions** of case number #RZ2023-03

Zoning Conditions: Please see page 24 & 25

BASIS FOR ZONING ADMINISTRATOR'S RECOMMENDATION

The original master plan for Ellison Lakes called for multi-family apartments, townhomes and commercial. This rezoning modification is to allow for a third type of housing within this subdivision which is condominiums. The current zoning conditions have capped the maximum number of units at 898 units. With a total number of 845 units already built, yields a total of 53 available residential units that could be built before reaching the maximum capacity.

This rezoning modification, case #RZ2023-03 is to allow for a maximum of 50 for-sale single-family residential condominium units. This is a brand new residential housing type for this subdivision as well as for the City. Introducing this housing type and proposed number of units will not be a burden on existing adjacent development on the utilities, infrastructure or traffic.

Keeping the total number of units for the Ellison Lakes subdivision at or below 898 units will not go above the 10.2 units per acre density cap that was conditioned in 2001.

ZONING CASE #: RZ2023-03

PROPOSED ZONING CONDITIONS:

1. All conditions and stipulations of rezoning approved by adoption of Ordinance #2001-06 and Ordinance #2004-08 shall remain in effect, however, the stipulations and conditions set forth herein, where not in conflict, shall replace and supersede in full any and all prior stipulations and conditions which are currently in place concerning the property which constitutes the subject matter of the rezoning modification application as submitted by CF&G Enterprises, Inc. on May 15, 2023.
2. The Subject Property shall be developed for a residential community consisting of a maximum of fifty (50) fee simple single-family attached condominiums given that the minimum parking ratio requirements are met. There shall be a parking ratio of 1.75 parking spaces per unit and an additional 0.35 parking spaces per unit for guest parking. All resident and guest parking must be located on-site.
3. The creation of a mandatory homeowners association ("HOA") to be managed by Applicant or a 3rd party professional HOA management company until such time the HOA is "turned-over" to the homeowners which is typically at 100% buildout. Applicant shall fund any shortfall in the operating budget until such time as the HOA is "turned-over" to the homeowners. The homeowners association shall be solely responsible for the upkeep and maintenance of all common areas, mail kiosk, amenities, and amenity areas; including the entrance areas, boundary landscape buffers, detention pond(s), driveways and parking lot.
4. Additionally, and in conjunction with the creation of the mandatory homeowners association, Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules, and regulations applicable to the proposed community.
5. The HOA covenants shall limit the number of rental units to not exceed 15% of the total number of units in the community or such percentage as approved by the City Council.
6. The architectural style, composition and design of the building shall be in reasonable conformity to the renderings/elevations/photographs which are being submitted concurrently herewith as shown in “Exhibit A” and/or “Exhibit B.” Exterior materials on all four sides shall consist of a mixture of brick and stone. Any other materials may be considered through Plan Review and approval by the Zoning Administrator or their designee. Stucco and/or vinyl siding cannot be used as exterior building materials.
7. The minimum area of heated and cooled space within each unit shall be as follows: 800 square feet for a 1-bedroom unit, 1,200 square feet for a 2-bedroom unit and 1,400 square feet for a 3-bedroom unit.
8. Security requirements:
    a. Entry to the building, common area doors and access gates shall be via keycard and/or punch code pad. Entry doors to the primary building shall be self closing.
    b. The primary entry door to all residential units shall be equipped with a door that features a 180-degree peep hole
9. Amenities to include: dog park/walk, private garages and a minimum of 4 outdoor electric vehicle charging stations.
10. The utilization of low-intensity, environmental type, down-lighting which shall be subject to review and approval by staff.

ZONING CASE #: RZ2023-03

PROPOSED ZONING CONDITIONS:

11. The protection of all required stream buffers affecting the property and shall utilize such areas as a passive amenity for the proposed community.
12. Compliance with recommendations from the Public Works Director with respect to traffic and transportation.
13. The installation of 5 foot (5') wide sidewalks within the development around the building, to common areas, to amenity areas and sidewalk connectivity to Ellison Lakes Drive.
14. All utilities within the proposed community shall be underground.
15. The storm water management facilities and system shall be constructed and installed consistent with all requirements of the City and Cobb County. This storm water management facility does not have to be underground.
16. The proposed community shall utilize the City or Cobb County; utility services as is typical for such residential development.
17. Compliance with all City and Cobb County development standards and ordinances relating to project improvements.
18. The entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, or combinations thereof, with accents architecturally consistent with the proposed condominium building. The entry monument shall be externally lit at night for better visibility.
19. Landscaping of the entrance areas as well as the frontage of the proposed community along all public streets , shall be professionally designed and implemented, which shall include the installation of an irrigation system in areas where appropriate. Maintenance of the entrance area and public street frontage at the entrance shall be by the third-party management company.
20. All construction vehicles will be parked on-site on the Property at all times. No construction vehicles shall be parked outside the community or other surrounding streets to the proposed development.
21. Developer will maximize the preservation of mature trees where possible.
22. The applicant agrees that construction activity will begin within two years of the approval date of the rezoning. If no land development activity is initiated, then the subject property will automatically revert back to the original zoning and all previously imposed conditions.
23. The Zoning Administrator shall be imbued with the express authority to approve minor modifications to these stipulations, the site plan, architectural rendering/elevation and all other components of this development as it proceeds through the Plan Review Process and thereafter. However, the Zoning Administrator shall not have the authority to approve modifications or revisions which:
    a. Increase the density and/or FAR.
    b. Reduce the size or composition of an approved buffer or landscape strip adjacent to contiguous properties.
    c. Relocate a structure closer to a perimeter property line.
    d. Increase the height of the building over the maximum height allowed under the Planned Village Community zoning district.
    e. Seek additional waivers from the City of Kennesaw Zoning Ordinance other than those depicted on the current site plan.

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

PLANNING COMMISSION RECOMMENDATION:

At their regularly scheduled August 2, 2023 meeting, the Planning Commission recommended approval with staff's conditions with the following staff conditions modified:

Modified Staff Conditions (as shown as a strikethrough and underline):

Condition #3: The creation of a mandatory homeowners association ("HOA") to be managed by Applicant or a 3rd party professional HOA management company until such time the HOA is "turned-over" to the homeowners which is typically at 100% buildout. Applicant shall fund any shortfall in the operating budget until such time as the HOA is "turned-over" to the homeowners. The homeowners association shall be solely responsible for the upkeep and maintenance of all common areas, mail kiosk, amenities, and amenity areas; including the entrance areas, boundary landscape buffers, detention pond(s), driveways ~~and~~, parking lot, the exterior façade of the building and roof of the building.

Condition #5: The HOA covenants shall limit the number of rental units to not exceed ~~15%~~ 10% of the total number of units in the community or such percentage as approved by the City Council.

MAYOR AND COUNCIL DECISION:

To be determined on August 21, 2023

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2023-03

EXHIBIT A



EXHIBIT B



CITY OF KENNESAW, GEORGIA

ORDINANCE NO. 2023-

AN ORDINANCE TO AMEND ORDINANCE #2001-06 TO CHANGE A CONDITION OF ZONING PLACED ON THE GWINNETT PARTNERS, LLC REZONING APPLICATION FROM COUNTY HEAVY INDUSTRIAL (HI) & GENERAL COMMERCIAL (GC) TO CITY PLANNED VILLAGE COMMUNITY (PVC) FOR PROPERTY LOCATED ON US 41 KNOWN AS THE ELLISON PROPERTY, MORE SPECIFICALLY IDENTIFIED AS 0 ELLISON LAKES DRIVE (PARCEL NUMBER 20017500170)

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

WHEREAS, CF&G Enterprises has made an application to amend a condition of zoning to add a third type of residential housing, which is a for-sale single-family residential condominium product, to the overall master planned development, but specifically to the property located at 0 Ellison Lakes Drive (parcel number 20017500170), identified as 20th District, Land Lot 175, Tax Parcel 17, containing 2.72 +/- acres (as more particularly described below); and

WHEREAS, said amendment is to add a maximum number of 50 for-sale single-family residential condominium units with the stipulations as shown below; and

WHEREAS, Ordinance #2001-06 was adopted with stipulations of rezoning to include a maximum number of multi-family units of 650, a maximum number of town home units of 248 and an overall maximum number of units for the entire development not to exceed 898; and

WHEREAS, Ordinance #2004-08 was adopted with an amendment to the original zoning conditions to include reducing the number of multi-family units to 537 and increasing the maximum number of townhome units to 309; and

WHEREAS, all other conditions and stipulations or rezoning approved by adoption of Ordinance #2001-06 on December 17, 2001 by the Mayor and Council granting the rezoning for Gwinnett Partners, LLC shall remain in effect; and

WHEREAS, all other modifications of rezoning approved by adoption of Ordinance #2004-08 on February 2, 2004 by the Mayor and Council granting a rezoning modification for Ellison Lake Partners, LLC, Vista Del Lago, LP, Hillside Vista, LP and Precision Design and Development Co., Inc. c/o Richard Calhoun shall remain in effect; and

WHEREAS, notice was advertised in the Marietta Daily Journal on July 14, 2023 of a public hearing before the Kennesaw Planning Commission held on August 2, 2023 and the Mayor and Council on August 21, 2023; and

WHEREAS, the Kennesaw Planning Commission held a public hearing on this proposal at a meeting held August 2, 2023; and

WHEREAS, the Mayor and Council held a public hearing to consider this proposal at a meeting held August 21, 2023; and

WHEREAS, the Mayor and Council have determined that the proposed amendment to the original conditions of rezoning is in the public interest and meets the standards established in the Kennesaw Zoning Code and all other conditions of rezoning as approved in Ordinance #2001-06 and Ordinance #2004-08.

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

SECTION 1. That Ordinance #2001-06 is hereby amended to modify the zoning conditions to include the following items for the particularly described property:

1. Adding a third type of housing to the overall development.

2. Allowing a maximum number of 50 for-sale single-family residential condominium units.

3. To include the stipulations found within Section 2.

LEGAL DESCRIPTION
0 ELLISON LAKES DRIVE
PARCEL NUMBER 20017500170

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.

SECTION 2. BE IT FURTHER ORDAINED THAT the amendment to the original zoning conditions outlined in Section 1 above is adopted with stipulations as follows:

1. All conditions and stipulations of rezoning approved by adoption of Ordinance #2001-06 and Ordinance #2004-08 shall remain in effect, however, the stipulations and conditions set forth herein, where not in conflict, shall replace and supersede in full any and all prior stipulations and conditions which are currently in place concerning the property which constitutes the subject matter of the rezoning modification application as submitted by CF&G Enterprises, Inc. on May 15, 2023.

2. The Subject Property shall be developed for a residential community consisting of a maximum of fifty (50) fee simple single-family attached condominiums given that the minimum parking ratio requirements are met. There shall be a parking ratio of 1.75 parking spaces per unit and an additional 0.35 parking spaces per unit for guest parking. All resident and guest parking must be located on-site.

3. The creation of a mandatory homeowners association ("HOA") to be managed by Applicant or a 3rd party professional HOA management company until such time the HOA is "turned-over" to the homeowners which is typically at 100% buildout. Applicant shall fund any shortfall in the operating budget until such time as the HOA is "turned-over" to the homeowners. The homeowners association shall be solely responsible for the upkeep and maintenance of all common areas, mail kiosk, amenities, and amenity areas; including the entrance areas, boundary

landscape buffers, detention pond(s), driveways, parking lot, the exterior façade of the building and the roof of the building.

4. Additionally, and in conjunction with the creation of the mandatory homeowners association, Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules, and regulations applicable to the proposed community.

5. The HOA covenants shall limit the number of rental units to not exceed 10% of the total number of units in the community or such percentage as approved by the City Council.

6. The architectural style, composition and design of the building shall be in reasonable conformity to the renderings/elevations/photographs which are being submitted concurrently herewith as shown in “Exhibit A” and/or “Exhibit B.” Exterior materials on all four sides shall consist of a mixture of brick and stone. Any other materials may be considered through Plan Review and approval by the Zoning Administrator or their designee. Stucco and/or vinyl siding cannot be used as exterior building materials.

7. The minimum area of heated and cooled space within each unit shall be as follows: 800 square feet for a 1-bedroom unit, 1,200 square feet for a 2-bedroom unit and 1,400 square feet for a 3-bedroom unit.

8. Security requirements:

    a. Entry to the building, common area doors and access gates shall be via keycard and/or punch code pad. Entry doors to the primary building shall be self closing.

    b. The primary entry door to all residential units shall be equipped with a door that features a 180-degree peep hole.

9. Amenities to include: dog park/walk, private garages and a minimum of 4 outdoor electric vehicle charging stations.

10. The utilization of low-intensity, environmental type, down-lighting which shall be subject to review and approval by staff.

11. The protection of all required stream buffers affecting the property and shall utilize such areas as a passive amenity for the proposed community.

12. Compliance with recommendations from the Public Works Director with respect to traffic and transportation.

13. The installation of 5 foot (5') wide sidewalks within the development around the building, to common areas, to amenity areas and sidewalk connectivity to Ellison Lakes Drive.

14. All utilities within the proposed community shall be underground.

15. The storm water management facilities and system shall be constructed and installed consistent with all requirements of the City and Cobb County. This storm water management facility does not have to be underground.

16. The proposed community shall utilize the City or Cobb County; utility services as is typical for such residential development.

17. Compliance with all City and Cobb County development standards and ordinances relating to project improvements.

18. The entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, or combinations thereof, with accents architecturally consistent with the proposed condominium building. The entry monument shall be externally lit at night for better visibility.

19. Landscaping of the entrance areas as well as the frontage of the proposed community along all public streets , shall be professionally designed and implemented, which shall include the installation of an irrigation system in areas where appropriate. Maintenance of the entrance area and public street frontage at the entrance shall be by the third-party management company.

20. All construction vehicles will be parked on-site on the Property at all times. No construction vehicles shall be parked outside the community or other surrounding streets to the proposed development.

21. Developer will maximize the preservation of mature trees where possible.

22. The applicant agrees that construction activity will begin within two years of the approval date of the rezoning. If no land development activity is initiated, then the subject property will automatically revert back to the original zoning and all previously imposed conditions.

23. The Zoning Administrator shall be imbued with the express authority to approve minor modifications to these stipulations, the site plan, architectural rendering/elevation and all other components of this development as it proceeds through the Plan Review Process and thereafter. However, the Zoning Administrator shall not have the authority to approve modifications or revisions which:

a. Increase the density and/or FAR.

b. Reduce the size or composition of an approved buffer or landscape strip adjacent to contiguous properties.

c. Relocate a structure closer to a perimeter property line.

d. Increase the height of the building over the maximum height allowed under the Planned Village Community zoning district.

e. Seek additional waivers from the City of Kennesaw Zoning Ordinance other than those depicted on the current site plan.

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.

PASSED AND ADOPTED by the Kennesaw City Council on this ___ day of August, 2023.

ATTEST: CITY OF KENNESAW:

_____ _____

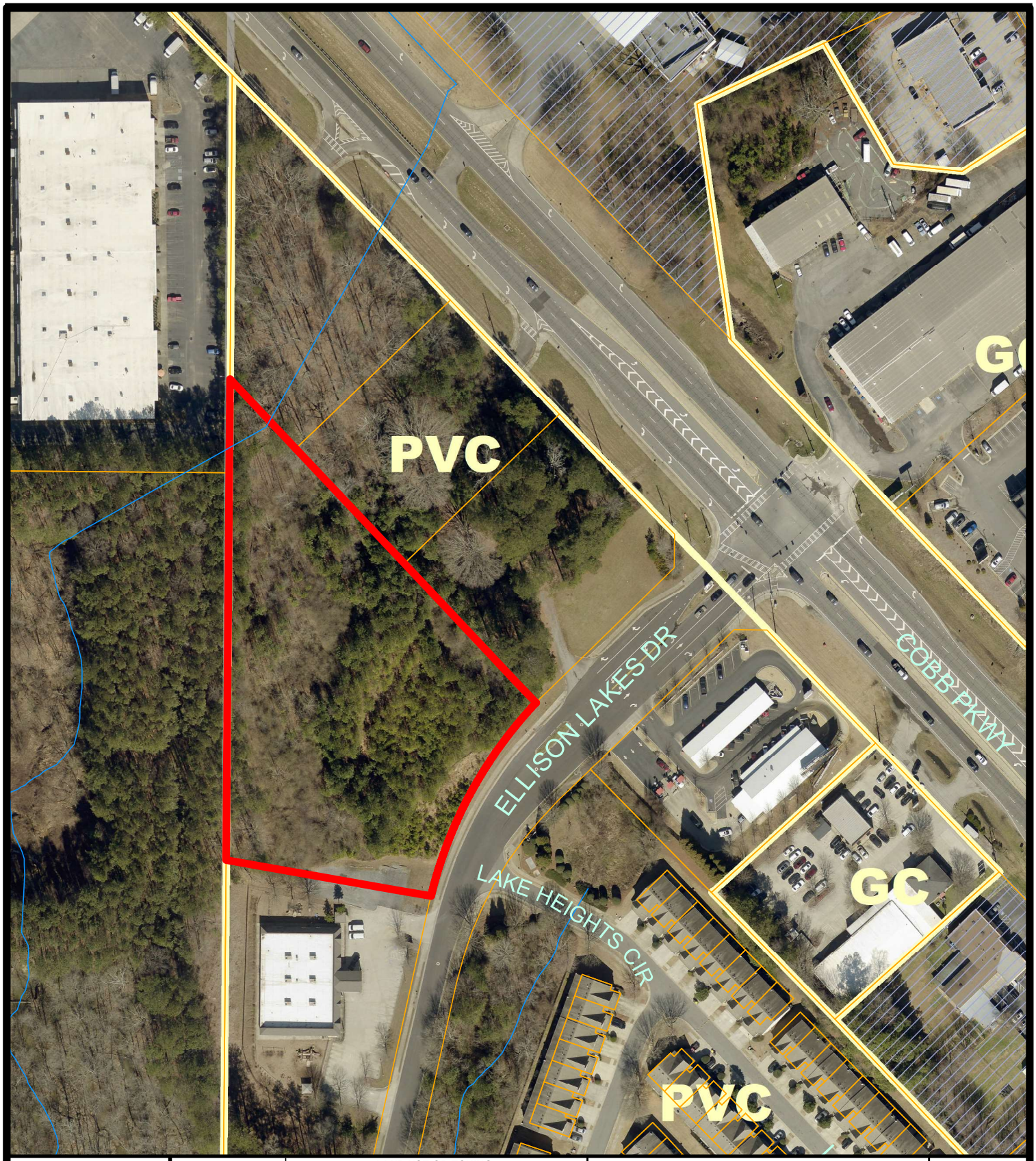
Lea Alvarez, City Clerk Derek Easterling, Mayor

“EXHIBIT A”



“EXHIBIT B”





LAND CASES		LAND USE OR ZONING FROM	TO
AV	LU		
AX	RZ2023-03	PVC	PVC
DX			
HBR			
SLUP			
ZV			

AV – Administrative Variance
AX – Annexation
DX – De-annexation
HBR – Historic Board Review
LU – Land Use
RZ – Re-zoning
SLUP – Special Land Use
ZV – Variance

R-10 ZONING
KENNESAW CITY LIMITS
COBB COUNTY
99 LAND LOT

0 Ellison Lakes Drive
Land Lot 175, Tax Parcel 17
Subject Property

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

Derek Easterling MAYOR
Lea Alvarez 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 _____ Date 5/10/23

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

KEBBRA SCHERF NOTARY EXPIRES GEORGIA 6/10/2024 PUBLIC COBB COUNTY

REPRESENTIVE Eric G. Federspiel

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

Representative Signature _____ Date 5-10-23

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

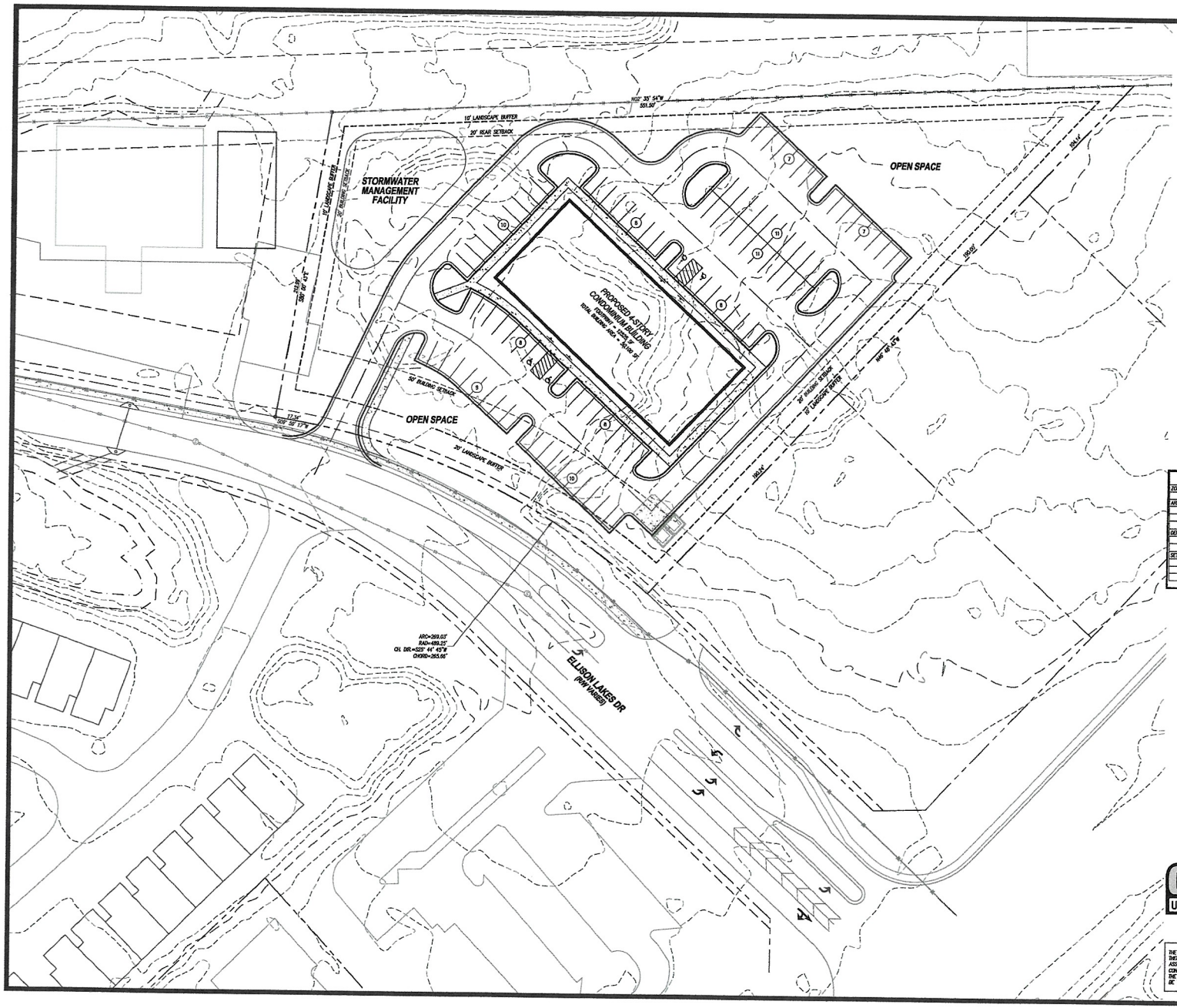
KEBBRA SCHERF NOTARY EXPIRES GEORGIA 6/10/2024 PUBLIC COBB COUNTY

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

Signature: _____ **Address** 515 Rippling Water Lane, Johns Creek, GA 30097

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

KEBBRA SCHERF NOTARY EXPIRES GEORGIA 6/10/2024 PUBLIC COBB COUNTY



DEVELOPMENT SUMMARY	
ZONING	
EXISTING ZONING	PIC
AREA	
SITE AREA	3.73 ACRES
OPEN SPACE REQUIRED	X.XX ACRES
OPEN SPACE PROVIDED	0.85 ACRES (24%)
DENSITY	
NUMBER OF UNITS	XX UNITS
PROPOSED DENSITY	X.X UNITS/ACRE
SETBACKS	
FRONT	50 FEET
SIDE	20 FEET
REAR	20 FEET

24 HOUR CONTACT:
JEFF SMITH, PE
404.328.6280

30 15 0 30 60
(IN FEET)
1 inch = 30 ft.

GEORGIA811
Utilities Protection Center, Inc.
Know what's **below.**
Call before you dig.

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

RIDGE PLANNING AND ENGINEERING®
6234 OLD HIGHWAY 5
SUITE D9-250 - WOODSTOCK, GA 30189
OFFICE 770.928.9000

LAND PLAN
ELLISON LAKES CONDOMINIUMS
LAND LOT 175
20th DISTRICT
CITY OF KENNESAW, GEORGIA

OWNER/DEVELOPER
FEDERSPIEL DEVELOPMENT

REVISIONS

ZONING PLAN
Z100

23034 LP1.DWG 07.07.2022

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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.

Corporate Office
515 Rippling Water Lane
Johns Creek, GA 30097
(678) 521-8347

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

Corporate Office
515 Rippling Water Lane
Johns Creek, GA 30097
(678) 521-8347

CAMPAIGN DISCLOSURE REPORT[1] BY APPLICANT[2]

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:

[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.

5/10/23
Date

Laura C. Jones
Applicant or Authorized Agent

KEBBRA SCHERF NOTARY EXPIRES GEORGIA 6/10/2024 PUBLIC COBB COUNTY

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

Kebbra Scherf
Notary Public Signature

[Notary Stamp]

KEBBRA SCHERF NOTARY EXPIRES GEORGIA 6/10/2024 PUBLIC COBB COUNTY

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 requre 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 amendement 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)

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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

3
Chat

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:

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

Per House Bill 960, to arrive at the property tax interest rate, divide10.5% 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.

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 "Federspirl 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.]

IN WITNESS WHEREOF, the Parties have signed and sealed this instrument, this the 16th 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)

KEBBRA SCHERF
NOTARY PUBLIC
COBB COUNTY
GEORGIA
EXPIRES
6/10/2024

CF&G ENTERPRISES, INC.

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

[CORPORATE SEAL]

[Signatures continue on the following page]

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

Signed, sealed and delivered
in the presence of:

Unofficial Witness

Notary Public

My Commission Expires:

6/10/24

(NOTARIAL SEAL)

FEDERSPIEL DEVELOPMENT, LLC

By: [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 degrees11 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 01degrees 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. Church [1]
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 STIPULATIONS[2]

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

[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

49 ATLANTA STREET
MARIETTA, GEORGIA 30060

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D. Glenn Brock
Charles C. Clay
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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

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

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

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

(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 Attic 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.

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

[illegible]

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 degrees11 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 01degrees 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. Church[1]
Leonard L. Church, Mayor

Attest:

Diane H. Coker
Diane H. Coker, City Clerk

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

Mayor and Council
Regular Meeting
December 17, 2001

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 why 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 be 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

0. 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.

Bidders	Price
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, 200l 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, 200l 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 polices 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

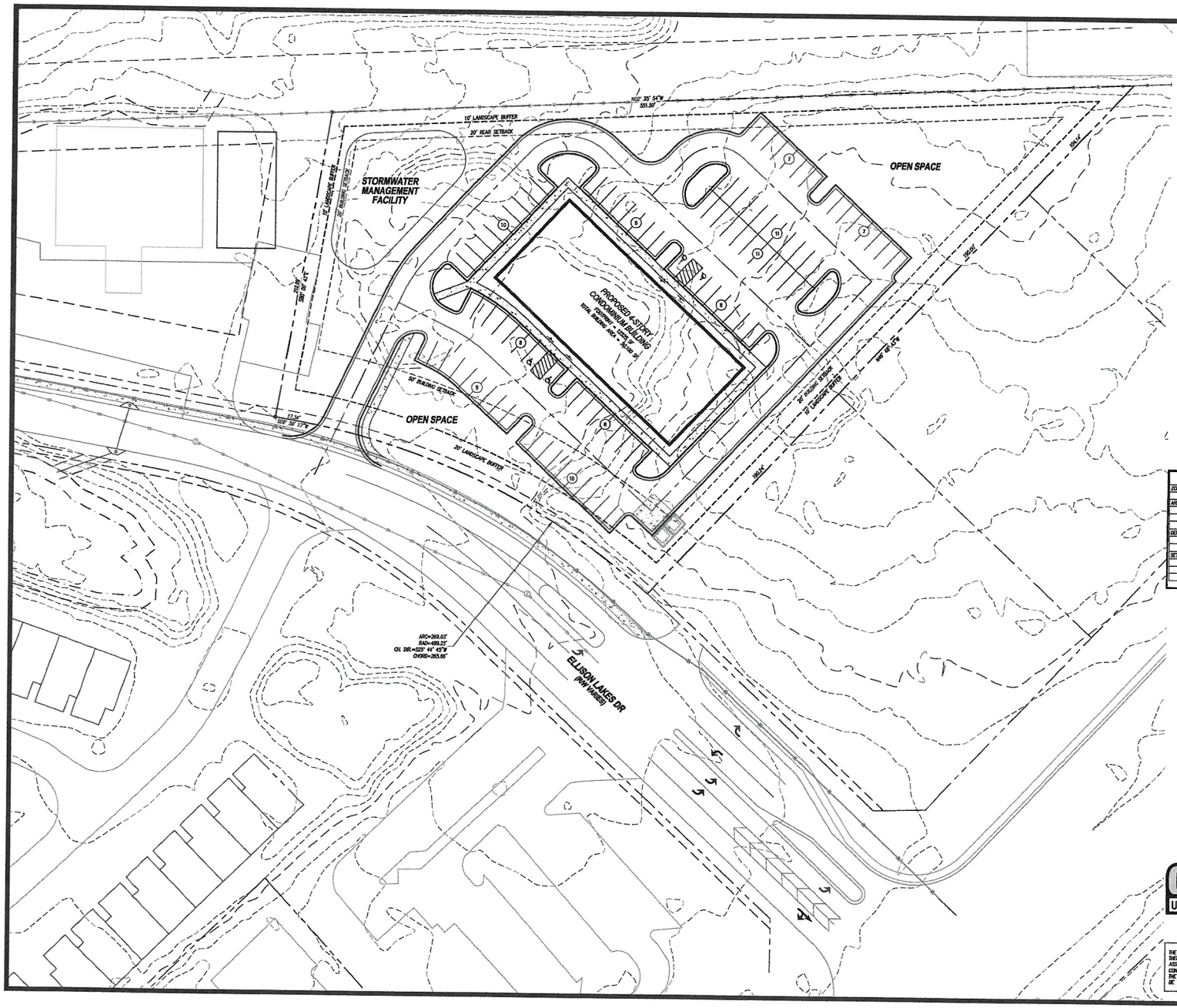
EXECUTIVE SESSION – Land Legal, Personnel

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



DEVELOPMENT SUMMARY	
ZONING	
EXISTING ZONING	PIC
AREA	
SITE AREA	3.71 ACRES
OPEN SPACE REQUIRED	X.XX ACRES
OPEN SPACE PROVIDED	0.85 ACRES (24%)
DENSITY	
NUMBER OF UNITS	XX UNITS
PROPOSED DENSITY	X.X UNITS/ACRE
SETBACKS	
FRONT	50 FEET
SIDE	20 FEET
REAR	20 FEET

24 HOUR CONTACT:
JEFF SMITH, PE
404.328.6280

30 15 0 30 60
(IN FEET)
1 inch = 30 ft.

GEORGIA811
Utilities Protection Center, Inc.
Know what's **below.**
Call before you dig.

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

RIDGE PLANNING AND ENGINEERING®
6234 OLD HIGHWAY 5
SUITE D9-250 - WOODSTOCK, GA 30189
OFFICE 770.938.9000

LAND PLAN
ELLISON LAKES CONDOMINIUMS
LAND LOT 175
20th DISTRICT
CITY OF KENNESAW, GEORGIA

OWNER/DEVELOPER
FEDERSPIEL DEVELOPMENT

REVISIONS

ZONING PLAN
Z100

23034 LP1.DWG 07.07.2023

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07.18.2023 09:48

gov.

7:14-2023

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

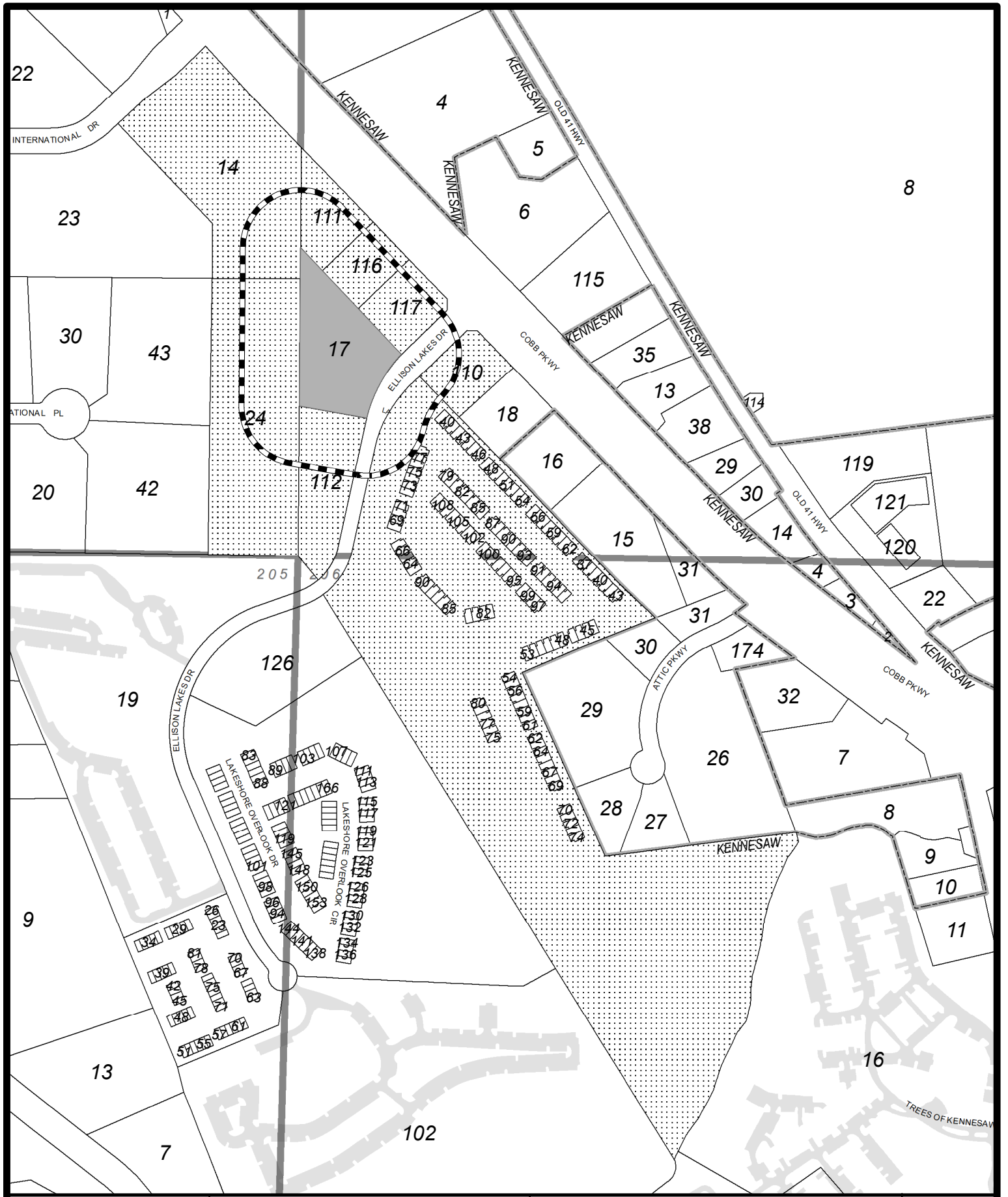
Notice is hereby given that the City of Kennesaw shall hold public hearings to give consideration for a zoning modification request submitted by CF&G Enterprises, Inc. Said request is to modify the zoning conditions to the approved rezoning ordinance #2001-06 located at 0 Ellison Lakes Drive or parcel 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


KENNESAW
OLD 41 HWY
INTERNATIONAL DR
ELLISON LAKES DR
COBB PKWY
ATTIC PKWY
LAKESHORE OVERLOOK DR
LAKESHORE OVERLOOK CIR
TREES OF KENNESAW
Subject Parcel
200' Radius
Properties Notified
0 Ellison Lakes Drive
Land Lot 175,
Tax Parcel 17
RZ2023-03
200' PROPERTY NOTIFICATION
Date: 6/28/2023
RZ2023-03_Notification Map
CITY OF KENNESAW
PLANNING & ZONING DEPT.
770-590-8268
Derek Easterling MAYOR
Lan Alvarez CITY CLERK
1 " = 433 '

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

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 degrees11 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 01degrees 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. Church [1]
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 STIPULATIONS[2]

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

[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

49 ATLANTA STREET
MARIETTA, GEORGIA 30060

770.422.1776
FACSIMILE 770.426.6155
INSIDE GA 800.971.3555
www.bccwr.com

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

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

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

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

(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 Attic 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.

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

I:\home\clients\Gwinnett Partners GW\NP 116\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 degrees11 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 01degrees 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. Church[1]
Leonard L. Church, Mayor

Attest:

Diane H. Coker
Diane H. Coker, City Clerk

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

CITY OF KENNESAW, GEORGIA

ORDINANCE NO. #2004-08

AN ORDINANCE TO AMEND ORDIANCE #2001-06 TO CHANGE A CONDITION OF ZONING PLACED ON THE GWINNETT PARTNERS, LLC. REZONING APPLICATION FROM COUNTY HI & GC TO PVC (CITY PLANNED VILLAGE COMMUNITY) FOR PROPERTY LOCATED ON US 41 KNOWN AS THE ELLISON PROPERTY.

WHEREAS, Ellison Lake Partners, LLC, Vista Del Lago, LP, Hillside Vista, LP and Precision Design & Development Co., Inc. c/o Richard Calhoun has made an application to amend a condition of zoning to change the number of townhomes and multi-family units, placed on the Gwinnett Partners, LLC rezoning application approved by Mayor and Council on 12/17/01 by the adoption of Ordinance #2001-06.

WHEREAS, ordinance #2001-06 was adopted with stipulations of rezoning as follows: 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. (Copies Attached.)

WHEREAS, this request amends the letter of stipulation dated December 14, 2001 from Brock, Clay, Calhoun, Wilson & Rogers, PC, being more particularly stipulation # 2 which reads as follows: 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.

Said amendment is to delete the original language of stipulation #2 of Brock, Clay, Calhoun, Wilson & Rogers, PC letter of 12/14/01 and replace it with the following per letter of stipulation dated January 28, 2004:

The maximum number of multi-family units shall be reduced to 537, and the maximum number of town home units shall be increased to 309. There should be a parking ratio of 1.75 parking spaces per unit.

WHEREAS, this request amends ordinance #2001-06 by adding the following additional stipulations, for tract F and Tract G to the amenity package per letter of stipulation dated January 28, 2004:

1) **On tract "F" substitute two playgrounds with playground equipment, two barbeque areas, two gazebos and one car wash, for three of the tennis counts originally proposed.**
2) **On tract "G", substitute one playground with playground equipment, one barbeque area and one gazebo, for three of the tennis courts originally proposed for Tract G.**

WHEREAS, all other conditions and stipulations of rezoning approved by adoption of Ordinance #2001-06 on 12/17/01 by the Mayor & Council granting the rezoning for Gwinnett Partners, LLC shall remain in effect.

WHEREAS, notice was advertised in the Marietta Daily Journal on December 26, 2003 of a public hearing before the Kennesaw Planning Commission held on January 12, 2004 and the Mayor and Council on February 2, 2004; and

WHEREAS, The Kennesaw Planning Commission held a public hearing on this proposal on January 12, 2004; and

WHEREAS, the Mayor and Council held a public hearing on this proposal on February 2, 2004; and

WHEREAS, the Mayor and Council have determined that the proposed amendment to the original conditions of rezoning is in the public interest and meets the standards established in the Kennesaw Zoning Code and all other conditions of rezoning as approved in Ordinance #2001-06.

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

SECTION 1. That Ordinance #2001-06 is hereby amended with the following changes:

1) By changing the conditions of rezoning, being more particularly the letter of stipulation dated December 14, 2001 from Brock, Clay, Calhoun, Wilson & Rogers, PC, more specifically Stipulation #2, by deleting it in it's entirety and replacing it with the language to read as follows:

   The maximum number of multi-family units shall be reduced to 537, and the maximum number of town home units shall be increased to 309. There should be a parking ratio of 1.75 parking spaces per unit.

2) By adding the following additional stipulations, for tract F and Tract G to the amenity package, per letter of stipulation dated January 28, 2004 from Brock, Clay, Calhoun, Wilson & Rogers PC:

   On tract "F" substitute two playgrounds with playground equipment, two barbeque areas, two gazebos and one car wash, for three of the tennis counts originally proposed.

   On tract "G", substitute one playground with playground equipment, one barbeque area and one gazebo, for three of the tennis courts originally proposed for Tract G.

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 2nd **DAY OF** February, **2004.**

City of Kennesaw

Leonard Church, Mayor

Attest:

CITY OF KENNESAW SEAL KENNESAW, GA

Diane Coker, City Clerk

Mayor and Council
Regular Meeting
December 17, 2001

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 why 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 be 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

0. 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.

Bidders	Price
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, 200l 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.

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   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,
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- 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 polices 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

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

MEETING MINUTES
PLANNING COMMISSION
CITY OF KENNESAW
Council Chambers
August 2, 2023
6:30 P.M.

1. Call to Order / Roll Call

- Chairman Bergwall calls the meeting to order at 6:30 p.m.
- Roll Call: Don Bergwall, Phillip Jackson, Lacey Ragus,Trey Bodenhamer, and Todd Vande Zande
- Absent: Rebecca Patterson & Carolyn Greenall
- Staff present: Darryl Simmons (Zoning Administrator) and Albert Trevino (Assistant Zoning Administrator and Planner)
- Speakers: Eric Federspiel (CF&G Enterprises)

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/, 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. 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)

- Chairman Bergwall calls for a motion to approve meeting minutes from May 3rd as submitted.
- Motion of approval by Commissioner Bodenhamer
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Meeting minutes are approved.**

B. Meeting Minutes from 6-14-2023 (Special Call)

- Chairman Bergwall calls for a motion to approve meeting minutes from the Special Call meeting on June 14th as submitted.
- Motion of approval by Commissioner Vande Zande
- Second by Commissioner Ragus
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Meeting minutes are approved.**

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.

- Chairman Bergwall introduces the first new business item.
- Mr. Darryl Simmons comes to the podium and states “This property was annexed into the city back in 2001 as a master planned and a mixed-use community. The first of its kind brought into the city and design regarding the Cobb Parkway corridor. It has a combination of front line commercial along Cobb Parkway and towards the inside of the property you have a combination of townhomes, multifamily units, a lake, connecting trails and playgrounds and a Daycare Center. The agenda item this evening is before you for consideration to amend a portion of the master plan in this case. In 2001, as part of all of the zoning conditions for PVC, the maximum number of residential units was capped at 898. In 2004, there was an amendment to the master plan, where it allowed for the decrease of multifamily and the increase of additional townhomes still under the cap of 898. At that time there was 537 multifamily units and 309 townhomes. The existing residential count in Ellison lakes is 845 residential units. The proposal before us this evening would be adding a proposed condominium unit building, which will have an additional 45 for sale condominium apartments. Even with the addition, it would still be under the maximum 898 units. The staff analysis which was provided gave you the background of the property, the master plan and how this proposal fits into the master plan. The proposal does not require or show any need for variances based on our current zoning district and the established zoning setbacks that was established for this master plan community. In the staff analysis, our staff put together a number of conditions based on our recommendation to approve the amendment to allow for these condominium units to be erected and I would like to read the 22 conditions. There will be online for anyone to review”.

- Mr. Simmons proceeds to go through all 22 conditions of the rezoning modification and says “Staff recommends approval. We've determined that this additional housing type, if approved, would be the first residential condominium housing unit housing type in the City of Kennesaw. We currently do not have any condominium residential units in the city. The original intent of the Ellison Lakes Master plan is to encourage and promote a variety of housing units, housing styles, as well as a combination of appropriate commercial along Cobb Parkway. We feel that this amendment is appropriate and in keeping with the original intent of the master plan”.
- Vice-Chairman asks if this property is the same property visited by the Commissioners.
- Mr. Simmons responds yes and staff looked at the location and determined townhomes would not be appropriate because of the number of townhomes that were capped. They later withdrew the application. The applicant owns the property as well as the childcare facility nearby and this concept would not affect the childcare center.
- The applicant, Eric Federspiel, comes up to the podium to introduce himself. He says he has been in the real estate business for 25 years and lived in Atlanta for 52 years. He and his wife are excited about bringing the new concept to the city of Kennesaw. They have designed a couple different renderings for a four story building and waiting on the FAA approval for the height regulation which is 55 feet. He looks forward to the Planning Commission approval.
- Chairman Bergwall asks for clarification on the condition #3 in relation to the homeowners association and asks if there is consideration to a condominiums owners association. He asks if the HOA will be responsible for the exterior and roof structures on the building and where the garages will be located on the buildings since it wasn’t included on the site plan.
- Mr. Federspeil states “This will be included under common area maintenance. The garages weren't added yet. We were going to add them on the back of the property to block the school so they wouldn't have to see as much into the playgrounds. The way we positioned the building was to face Ellison lakes and the front and rear of the building won't look at our school. We're going to plan it as an option to do half, so if we build 40 or 45 units or 50 units and we'll do 25 garages, single car garages as an option to those units that are for sale. If a 3 bedroom homeowner wants to buy a single car garage he/she can buy that or opt out of it”.
- Chairman Bergwall opens up the floor to public comment.
- Mr. H. Verrill (3247 White Oak Circle) comes up to the podium to state that parking is very expensive and can take up a lot of space and to ask why you would need to increase the number of parking spaces.
- Commissioner Bodenhamer explains the additional parking spaces are not only for residents but for guests as well.
- Vice-Chairman asks if the developer would want a waiver for less parking.
- Mr. Simmons states no and there are a variety of bedroom sizes and square footage so there won’t be a need for a reduction.
- Commissioner Bodenhamer asks if the parking garages would be included in the count for the max number of parking spaces required for the project.

- Mr. Trevino states yes the surface parking and garages would be counted in the total parking count. There will be a percentage dedicated to private garages and a percentage dedicated to standard surfaces.
- Chairman Bergwall asks if there are any other questions or comments from the Commission. After no response he closes the floor and calls for a motion to approve the rezoning modification with the 22 conditions listed by staff, but with the following zoning condition modifications: **Condition #3:** The creation of a mandatory homeowners association ("HOA") to be managed by Applicant or a 3rd party professional HOA management company until such time the HOA is "turned-over" to the homeowners which is typically at 100% buildout. Applicant shall fund any shortfall in the operating budget until such time as the HOA is "turned-over" to the homeowners. The homeowners association shall be solely responsible for the upkeep and maintenance of all common areas, mail kiosk, amenities, and amenity areas; including the entrance areas, boundary landscape buffers, detention pond(s), driveways ~~and~~, parking lot, the exterior façade of the building and roof of the building. **Condition #5:** The HOA covenants shall limit the number of rental units to not exceed ~~15%~~ 10% of the total number of units in the community or such percentage as approved by the City Council.
- Motion of approval by Commissioner Bodenhamer
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Motion is approved.**

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

- Chairman Bergwall introduces the next business item.
- Mr. Albert Trevino comes up to the podium and states “Thank you Mr. Chairman and good evening Commissioners. I want to preface agenda item #2 with it is not a rezoning. Agenda item #2 is to amend the 2022 Comprehensive Plan’s Future Land Use Map. I repeat this is not a rezoning. Going into details about the maps that we use, the Planning and Zoning Department primarily uses two types of maps. One map is a zoning map, which shows a property’s current zoning designation. The zoning determines how a property owner can use their property in present day. The second map that we use is called a future land use map. This map is adopted concurrently with the City’s Comprehensive Plan every 5-years with optional annual updates. It is designed for long term planning. It is a product of community engagement and public input. It marks every parcel in the City with a future land use category. This category tells us what the citizens want the City of Kennesaw to look like in the future. Staff uses the future land use map for guidance on staff recommendations for zoning applications. I just want to emphasize that this map bears no weight to the City’s current zoning map. This agenda item will not change the zoning to any property. The zoning map and future land use map are completely separate maps that display different information. With that said, I want to go over the Future Land Use Map amendments. There are 6 parcels or areas that we’d like to recommend changes to. The first site we recommend a future land use map category change is located at 2985 Mack Dobbs Road. This site is

currently split with two categories: Planned Unit Development and Community Activity Center and it is currently under construction for a one-story 14,000 square foot medical office facility. This amendment is to change the entire site to a Community Activity Center category. This is a rendering of what is currently under construction. The second site is located at 6045 Pine Mountain Road. This is an amendment to change the site from a Residential Low/Medium to a Public Institutional (PI). PI is a common designation for schools, churches, hospitals cultural institutions and cemeteries. This site received a certificate of occupancy for a religious institution in April of this year. The third site is located at 2971 N Main Street. It is currently designated as Downtown Activity Center. Through recent public input during the Central Business District Phase 2 Expansion project that was done in May 2023, we want to take into consideration the community feedback that was received during those public hearings which was that this parcel should remain low density residential as is what can be seen up North Main Street. Our recommendation is to change this to a Residential Low/Medium category or RL. This picture shows the current state of the property being that it has a historic single-family home. The fourth site is located along Kennesaw Due West Road and it is commonly referred to as "The Columns" property. It has a current future land use designation as Industrial, however, through recent traffic engineer reports and traffic impact studies, lends this site to being unconducive to conventional industrial development. The studies showed that it would be difficult for a semi-truck to safely and efficiently get onto and out of the site. Kennesaw Due West Road is a two-lane road used for commuter traffic. We are recommending this site be designated as Community Activity Center. Site five is located at 1973 Cobb Parkway. It is currently a natural wetland. This site is adjacent to a stream and stays wet all year round. We are recommending changing the future land use category from Community Activity Center to Park/Recreation/Conservation. This shows a picture of the site. This sixth site is located at 1650 Cobb Parkway on the corner of Cobb and Barrett Parkway. This property was recently annexed into the city limits in March 2023. Being that it was just annexed from Cobb County, it was not assigned a future land use category last year during the Comprehensive Plan Update. We are recommending that this parcel be assigned a Regional Activity Center, which matches the surrounding future land use categories and neighboring developments of Ridenour and Kennesaw Marketplace. This agenda item was advertised in the Marietta Daily Journal on July 14th. Each site was posted with at least one or multiple signs. The property owners for each of these sites were notified and the amendments were thoroughly discussed with each owner with no objections. Staff received many phone calls regarding the public notice signs and were able to inform the public that this was not a rezoning but merely a future land use map amendment update. We did not receive any e-mails for or against this proposal. Staff is recommending to approve the 2023 Future Land Use Map Amendments as presented".

- Chairman Bergwall asks if this proposal was presented before as part of the downtown business area and was denied so what is different this time.
- Mr. Trevino responds that according to the 2017 comp plan it was designated RL for low density residential but at the community engagement meeting, staff proposed that the downtown activity center be extended because the community

wanted to see more of downtown Kennesaw. All of the single family historic homes and other homes on North Main Street should remain as their current designation. As the downtown area grows and the community is changing we would like to change it for this parcel.

- Mr. Trevino and Mr. Simmons have a discussion about what the difference between the zoning map, what a future land use map entails and what the comp plan states.
- Chairman Bergwall opens the floor to public comment.
- Mr. Gilbert Meredith (1973 Cobb Pkwy) comes to the podium to speak about his disapproval of the future land use map for said property. He reads a letter from the property owners stating the change is wrong and the property category should stay the same.
- Chairman Bergwall comments that the area is designated as a wetland and in his experience it takes a lot of time, money, and energy to go through the state process of changing this. You have to get permission from the Corps of Engineers and the government to complete any type of maintenance.
- Vice-Chairman Jackson ask if the property tax would change in the future based on the future land use map.
- Mr. Simmons responds, “Anytime that a property is vacant and there's no improvements to it, it's taxed at a certain rate. As soon as the property is improved upon through construction, occupancy by a tenant or whatever the use is, that's when the Cobb County tax assessor assess the value of the property at that time. The reason why we recommended this future land use designation is correct because it takes a long time if you're even successful in making this a buildable lot. Currently, in our ordinance, we have not issued or we will not be issuing any building permits to construct anything in the floodplain, that's the citywide protocol. What we would require is if the property owner or the family goes to the Corps of Engineers, goes through the state of Georgia, goes through all of the mitigation and then presents the document to the City of Kennesaw. In the future saying we have now been successful in making this a buildable piece of property and the city would honor that. For our long term planning goal, we don't see this happening in the next 5-10 years. Just based on experience, it takes a very, very, very long time. It's 100% wet right now, so putting it in this designation does not take away any value from the property owner. It does not restrict the property owner or the family to any additional restrictions. It's strictly just saying this is what we know for the property as of right now”.
- Mr. Meredith comes back to the podium and states he doesn’t want the Commission or city to be prejudice about the property and give someone a chance to change it around.
- Ms. Denise Fred (2022 Ellison Way) comes up to the podium to state her subdivision has a detention pond that drains into the wetland property and to maintain this it is $3,500 monthly. She and the other members of her community are concerned that if anyone touches the wetland area it could cause a backflow into her housing community.
- Mr. Simmons states that we don’t have a professional engineer to speak on this issues so as of right now it is hypothetical scenarios. Before any disturbance or future improvements upstream or downstream, the parties would have to provide to

the Corps of Engineers in the state of Georgia and the City of Kennesaw and everyone else how that storm capacity will not go up or be exceeded that could be detrimental to private property that's already existing. Until there is a study done, we cannot say for certain what can or can't become of the wetland area.

- Mr. Meredith continues to give his argument of why the area should be left alone and how it isn't causing any issues currently for the adjacent properties. He states if the designation is changed now that it would be hard with future administrators to get it changed back.
- Commissioner Vande Zande asks if there is any harm done by not changing the designation and does the city benefit from this change.
- Mr. Simmons states "One of the things that each jurisdiction is responsible for is identifying environmentally sensitive areas, and that's a regional partnership with the state of Georgia. This is why you have regional areas and their studies of all the different drainage areas, wetland areas and discharge areas so the state knows what we have. It does not cause a hardship if it's left in CAC but one thing that I've explained to the gentleman on the phone is that the state of Georgia has a very, powerful and strong law regarding property rights. If the case is made that they've done all the work and follow the Planning Commission's recommendation coming back to the city, saying we've met all the requirements to designate this as a buildable lot, the city of Kennesaw would not be against or be in a position to deny someone the use of their property. That's basic property rights and there's no denying of rights. There's no hardship. But I just want to put it in the record that regardless of the future land use designation that it's on right now, if the property owner did their due diligence, they did their homework, the city would honor it, we would welcome commercial redevelopment on the property if it's done properly. But there is a goal and responsibility that we try to align our future land use map with what we see in the future short and long term plan. For right now it's a floodplain area with wetlands, and we need to identify that somewhere in our comprehensive plan as we're being city planners, that's what we're supposed to be doing".
- Chairman Bergwall asks if there are any other questions or comments from the Commission or the community. After no response he closes the floor for questions and calls for a motion to amend the agenda to vote on the items as individuals.
- Motion of approval by Commissioner Vande Zande
- Second by Commissioner Bodenhamer
- All in favor, 4-0. Motion passes.
    - Location #1: 2985 Mack Dobbs Rd
        - Chairman Bergwall calls to entertain a motion.
        - Commissioner Bodenhamer calls for a motion to approve.
        - Second by Commissioner Ragus.
        - **All in favor, 4-0. Motion is Approved.**
    - Location #2: 6045 Pine Mountain Rd
        - Chairman Bergwall calls to entertain a motion.
        - Commissioner Vande Zande calls for a motion to approve.
        - Second by Vice-Chairman Jackson.
        - **All in favor, 4-0. Motion is Approved.**
    - Location #3: 2971 North Main Street

- Chairman Bergwall calls to entertain a motion.
- Commissioner Bodenhamer calls for a motion to approve.
- Second by Commissioner Ragus.
- **All in favor, 4-0. Motion is Approved.**

- Location #4: 2985 Mack Dobbs Rd
  - Chairman Bergwall calls to entertain a motion.
  - Vice-Chairman Jackson calls for a motion to approve.
  - Second by Commissioner Ragus.
  - **All in favor, 4-0. Motion is Approved.**
- Location #5: 1973 Cobb Pkwy
  - Chairman Bergwall calls to entertain a motion.
  - Commissioner Vande Zande calls for a motion to deny.
  - Second by Commissioner Bodenhamer.
  - Commissioner Ragus and Vice-Chairman Jackson voted against the denial.
  - Chairman Bergwall voted as tie breaker in favor of denial.
  - **3-2 in favor of denial. Motion is Denied**
- Location #6: 1650 Cobb Pkwy
  - Chairman Bergwall calls to entertain a motion.
  - Commissioner Bodenhamer calls for a motion to approve.
  - Second by Commissioner Vande Zande.
  - **All in favor, 4-0. Motion is Approved.**

C. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 2, 3, 8 and 9. Case #MISC2023-07

- Chairman Bergwall introduces the last business item.

- Mr. Simmons states “This is more of a cleanup of our codes. Every year we go through, with our city attorney, to look at items that need to be amended either because of legislation or something dealing with state code or court rulings that would influence the Unified Development Code. This ordinance primarily deals with the rules dealing with filing an appeal of either decisions from staff or rendering from the Mayor and Council. We want to have accurate references to the OCG title code and making sure that it's all very clear and cohesive. When you look at all the chapters, we've crossed out and made amendments. Any party that doesn’t agree or person agreed by the decision of the Merit Council may appeal such decision to the Superior Court of Cobb County. In the manner provided by the law under chapter 3, title 5 of the OOC GA code, and so we're making a change. It was a previous reference that has been amended on the OCGA. The city attorney provided the correct reference for the appeal process, and we went ahead and made those changes in all of the chapters 2, 3, 8 and 9.
- The list of the exact changes being made are: 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. A link to the full ordinance can be found on page 104 of the agenda packet here: https://kennesawga.portal.civicclerk.com/event/171/files

- Chairman Bergwall calls for a motion to approve the text amendment as presented.
- Motion of approval by Vice-Chairman Jackson.
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- All in favor, 4-0. Meeting minutes are approved.

5. Staff Comment

A. Upcoming Training: "Practices for Successful Meetings," offered by the City Clerk's Office

- Mr. Trevino informs the Commission of an upcoming training opportunity on August 18, 2023 that is being presented by the University of Georgia Carl Vinson Institute. They will be going over how to run effective and efficient meetings through tools such as Roberts Rule of Order and agenda settings. There will be two sessions, one at 9:30 a.m. and the other at 2:00 p.m.

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 45minutes and can accommodate up to 20 people.

- Mr. Trevino talks about the walking tour being hosted by Andrew Bramlett walking through the Historic District. He highly encourages any citizens and Commissioners to participate in this opportunity.

6. Adjourn

- Time: 8:27pm

DRAFT

Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: August 21, 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 Amendment Map includes 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. The 2023 Future Land Use Map Amendment includes changes to Future Land Use Map categories for the following properties: #1) 2985 Mack Dobbs Road or parcel number 20014100100 from Planned Unit Development (PUD) to Community Activity Center (CAC); #2) 6045 Pine Mountain Road from Residential Low/Medium (RL) to Public/Institutional (PI); #3) 2971 N Main Street from Downtown Activity Center (DAC) to RL; #4) 0, 2360, 2404 Kennesaw Due West Road or parcel numbers 20017600460, 20017600450 and 20017600050 from Industrial (I) to CAC; #5) 1973 Cobb Parkway or parcel number 20020700080 from CAC to Park/Recreational/Conservation (PRC); and #6) 1650 Cobb Parkway or parcel number 20020801300 from unassigned to Regional Activity Center (RAC). At their regularly scheduled meeting on August 2, 2023, the Planning Commission voted to amend their agenda to vote on these sites separately. They voted to approve changing the future land use category designations for the following locations: #1) 2985 Mack Dobbs Road or parcel number 20014100100, #2) 6045 Pine Mountain Road, #3) 2971 N Main Street, #4) 0, 2360, 2404 Kennesaw Due West Road or parcel numbers 20017600460, 20017600450 and 20017600050, and #6) 1650 Cobb Parkway or parcel number 20020801300. They voted to deny the future land use category designation change for: #5) 1973 Cobb Parkway or parcel number 20020700080. This item was advertised in the Marietta Daily Journal on July 14, 2023 and a public notice sign was posted on each property.

Recommendation:
The Zoning Administrator recommends approval of the proposed 2023 Future Land Use Map amendments for all properties identified as #1 through #6.

Fiscal Impact:

Attachments:
1. RESOLUTION- Future Land Use Map Amendment
2. EXHIBIT B - RESOLUTION
3. Overview of FLUM Changes
4. 2023 Future Land Use Map Amendment - Location and Description
5. 2023 Future Land Use Map Amendment_DRAFT
6. 2022 Future Land Use Map_Adopted
7. 1973 Cobb Parkway - Owner Letter of Denial
8. Public Notification Packet
9. PC Meeting Minutes- 08-02-2023

CITY OF KENNESAW
GEORGIA

RESOLUTION NO. 2023-__, 2023

A RESOLUTION TO ADOPT THE 2023 FUTURE LAND USE AMENDMENT MAP WHICH IS AN UPDATE TO THE CITY OF KENNESAW'S 2022 COMPREHENSIVE PLAN'S FUTURE LAND USE MAP

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

WHEREAS, the City of Kennesaw has made a request to amend the 2022 Comprehensive Plan Future Land Use Map so as to change the future land use category designations on select parcels located within the City Limits as shown on Exhibit "A" (as more particularly described below); and

WHEREAS, the Mayor and Council adopted the 2022 Comprehensive Plan Update on June 20, 2022 under Resolution #2022-24; and

WHEREAS, notice was advertised in the Marietta Daily Journal on July 14, 2023; and

WHEREAS, the Kennesaw Planning Commission held a public hearing on this proposal on August 2, 2023

WHEREAS, the Mayor and Council held a public hearing on this proposal on August 21, 2023; and

WHEREAS, the Mayor and Council have determined the proposed amendment to the 2022 Future Land Use Map is in the public interest and meets the standards established in the Kennesaw Unified Development Code and as reflected on the boundary map and identified as Exhibit "B" (copy attached and made a part hereto).

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

SECTION 1. The 2022 Future Land Use Map of the City of Kennesaw, Georgia is hereby amended so as to change the future land use category designations for the following described properties:

All parcels of property as shown in Exhibit "A" and identified on district boundary map and shown as Exhibit "B" (copy of exhibit A & B attached and made a part hereto).

SECTION 2. BE IT FURTHER ORDAINED THAT this Resolution and the attached map shall become effective from and after its adoption and execution by the Mayor.

PASSED AND ADOPTED by the Kennesaw Mayor and Council on this ___st day of August, 2023

ATTEST:

_____

Lea Alvarez, City Clerk

CITY OF KENNESAW:

_____

Derek Easterling, Mayor

Exhibit A							
District	Land Lot	Property Address	Parcel ID #	Current Future Land Use	Proposed Future Land Use	Mailing Address	Owner Name
20	141	2985 Mack Dobbs Road	20014100100	PUD	CAC	3333 RIVERWOOD PKWY SUITE 250, ATLANTA, GA 30339	CHEROKEE GROWTH LLC
20	166	6045 Pine Mountain Road	20016601430	RL	PI	2750 JILES RD SUITE 109, KENNESAW, GA 30144	SUFFA DAWAT CENTER INC
20	139	2971 N Main Street	20013900200	DAC	RL	411 HERITAGE ROW, WOODSTOCK GA 30188	JUDVYTIS MINDAUGAS
20	176	0 Kennesaw Due West Road	20017600460	I	CAC	345 S JEFFERSON AVE STE 403, ALLARDT TN 38504	KENNTENN PROPERTIES LLC
20	176	2360 Kennesaw Due West Road	20017600450	I	CAC	345 S JEFFERSON AVE STE 403, COOKEVILLE TN 38501	KENNTENN PROPERTIES LLC
20	176	2404 Kennesaw Due West Road	20017600050	I	CAC	345 S JEFFERSON SUITE 403, COOKEVILLE TN 38501	TERESA M MCNABB 2008 REAL ESTATE PARTNERSHIP
20	207	1973 Cobb Parkway	20020700080	CAC	PRC	3396 BURT CREEK RD, DAWSONVILLE GA 30534 3133	MORGAN JEAN MCINTOSH C/O MRS GILBERT MEREDITH
20	208	1650 Cobb Parkway	20020801300	None	RAC	1045 1185 WEST GEORGIA ST, VANCOUVER BC CANADA	MASAL PARTNERS LTD LP & AMAK PARTNERS LP



LAND CASES		LAND USE OR ZONING FROM	TO
AV	LU		
AX	RZ		
DX			
HBR			
SLUP			
MISC2023-06			

AV – Administrative Variance
AX – Annexation
DX – De-annexation
HBR – Historic Board Review
LU – Land Use
RZ – Re-zoning
SLUP – Special Land Use
ZV – Variance

R-10 ZONING
KENNESAW CITY LIMITS
COBB COUNTY
99 LAND LOT

Various Parcels

2023 Future Land Use Amendments

Subject Property

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

Derek Easterling, MAYOR
Lea Alvarez, CITY CLERK

Scale: 1 " = 2,217
Print Date: 8/10/2023
COA2023-14_Aerial Map

ZONING MAP

- A map that shows a property's current **zoning district** designation.
- This map is used to determine how a property owner can use their property today.

FUTURE LAND USE MAP

- A map that shows a property's **future land use category** designation.
- This map is used for rezonings.
- A future land use category designation is for long range planning. It is the community's vision for what it wants an area to look like in the future.

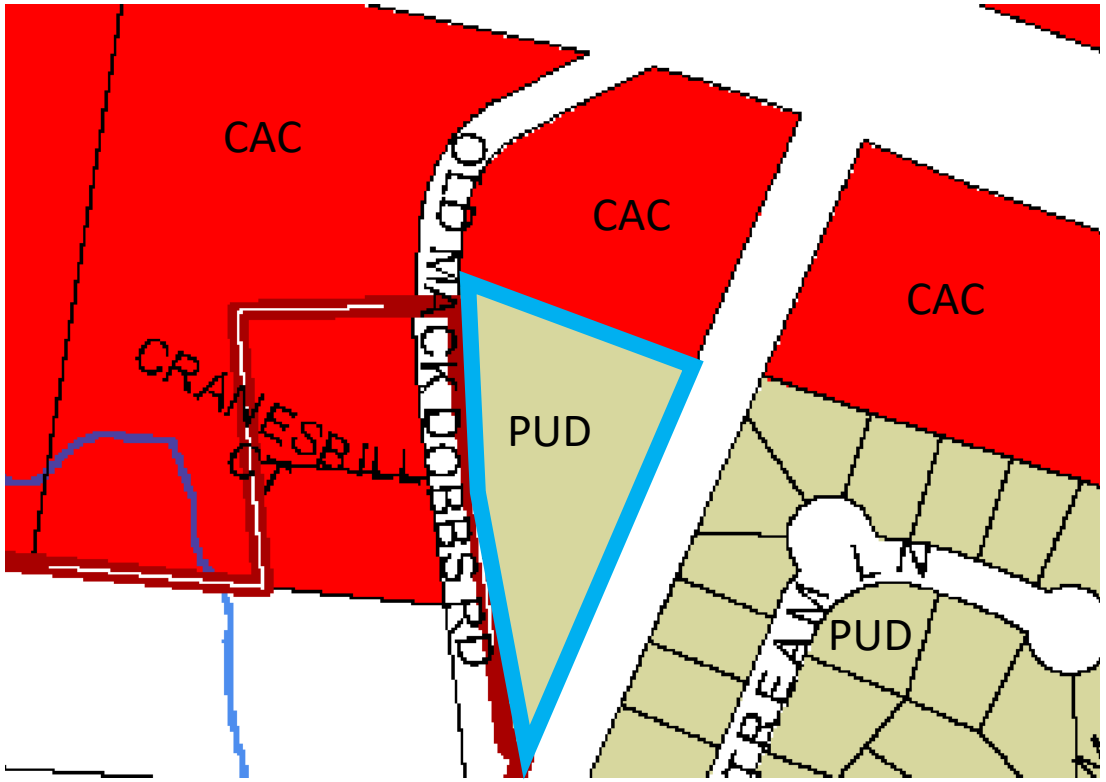
Intent of Agenda Item:

- This agenda item **will not** change the zoning to any property.
- This agenda item is to make some minor amendments the adopted 2022 Future Land Use Map.

2985 Mack Dobbs Road (1 of 6)

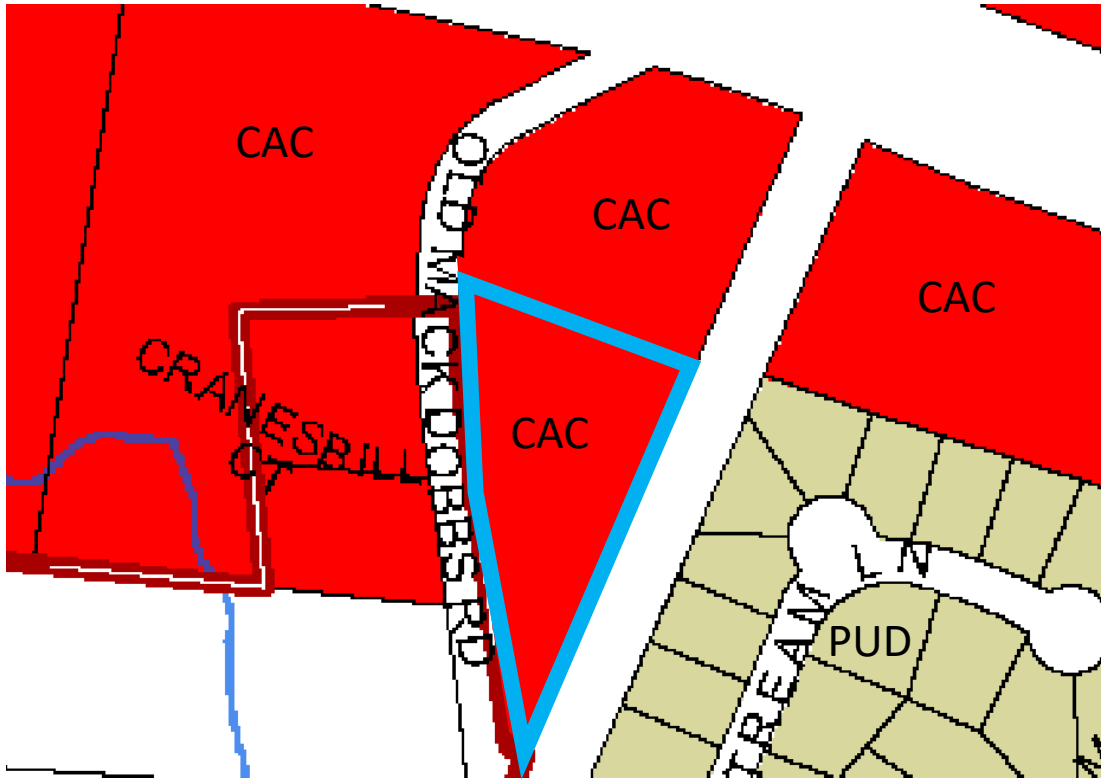
Currently

Planned Unit Development (PUD)



Change to

Community Activity Center (CAC)

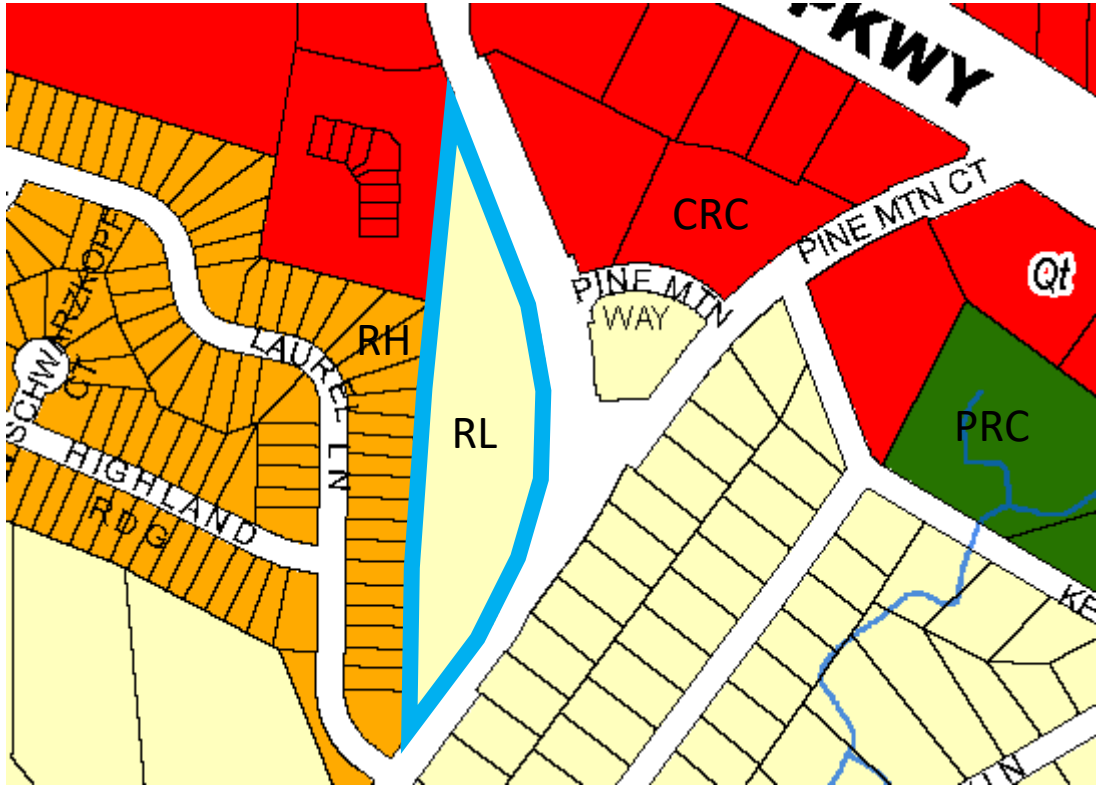




6045 Pine Mountain Road (2 of 6)

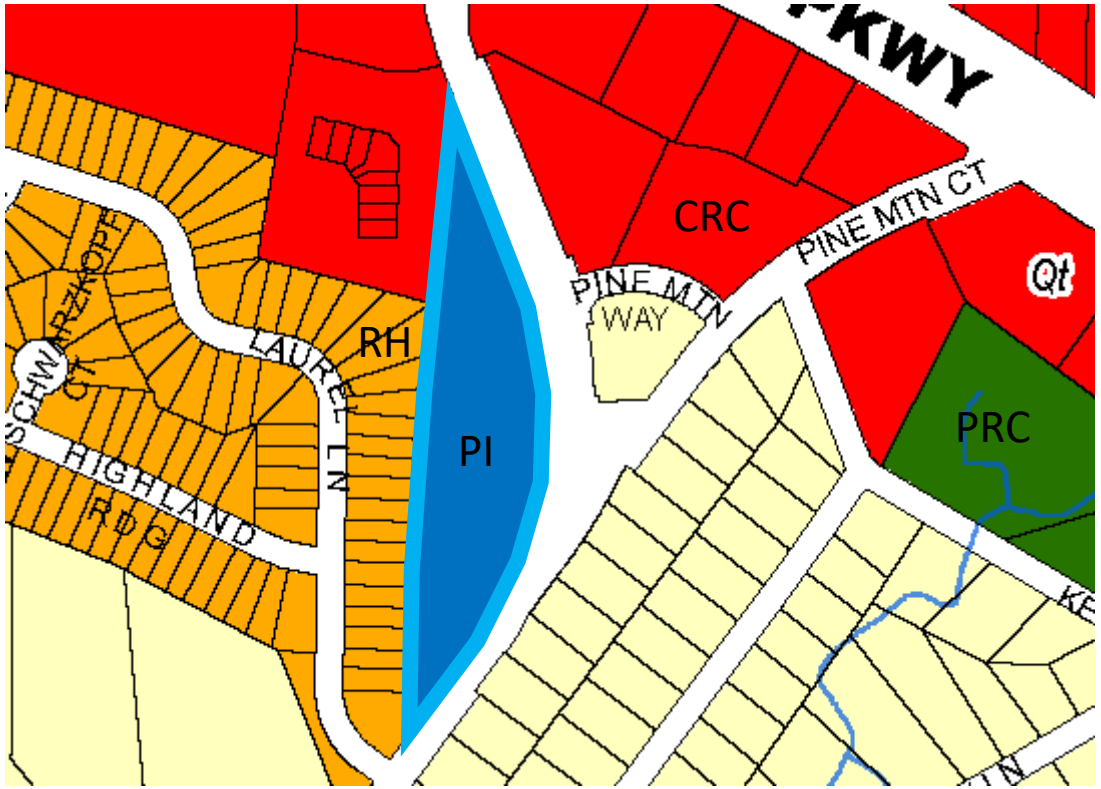
Currently

Residential Low/Medium (RL)



Change to

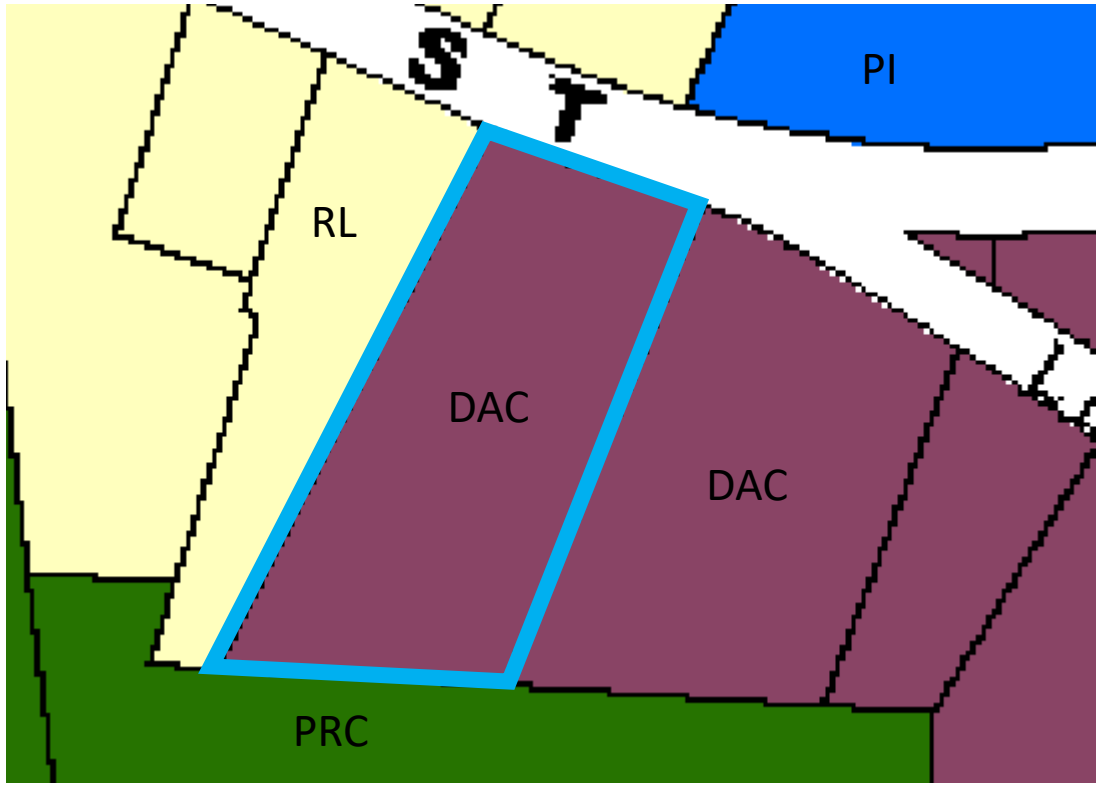
Public/Institutional (PI)



2971 N Main Street (3 of 6)

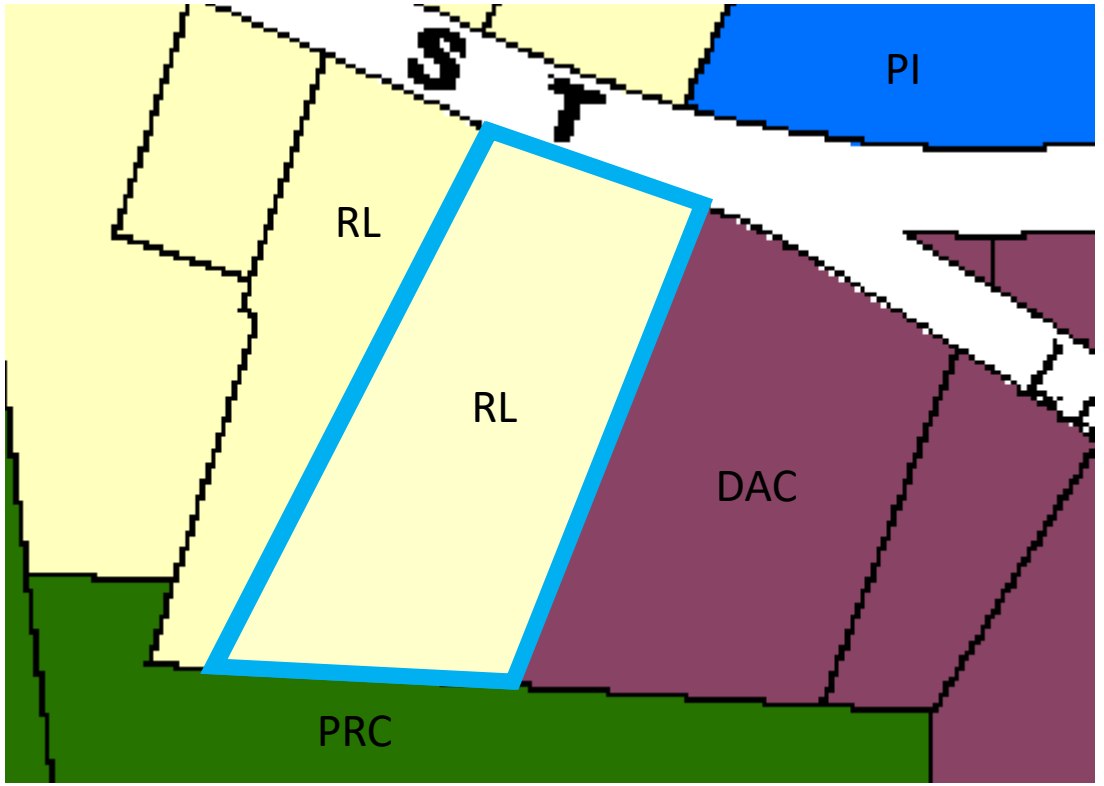
Currently

Downtown Activity Center (DAC)



Change to

Residential Low/Medium (RL)

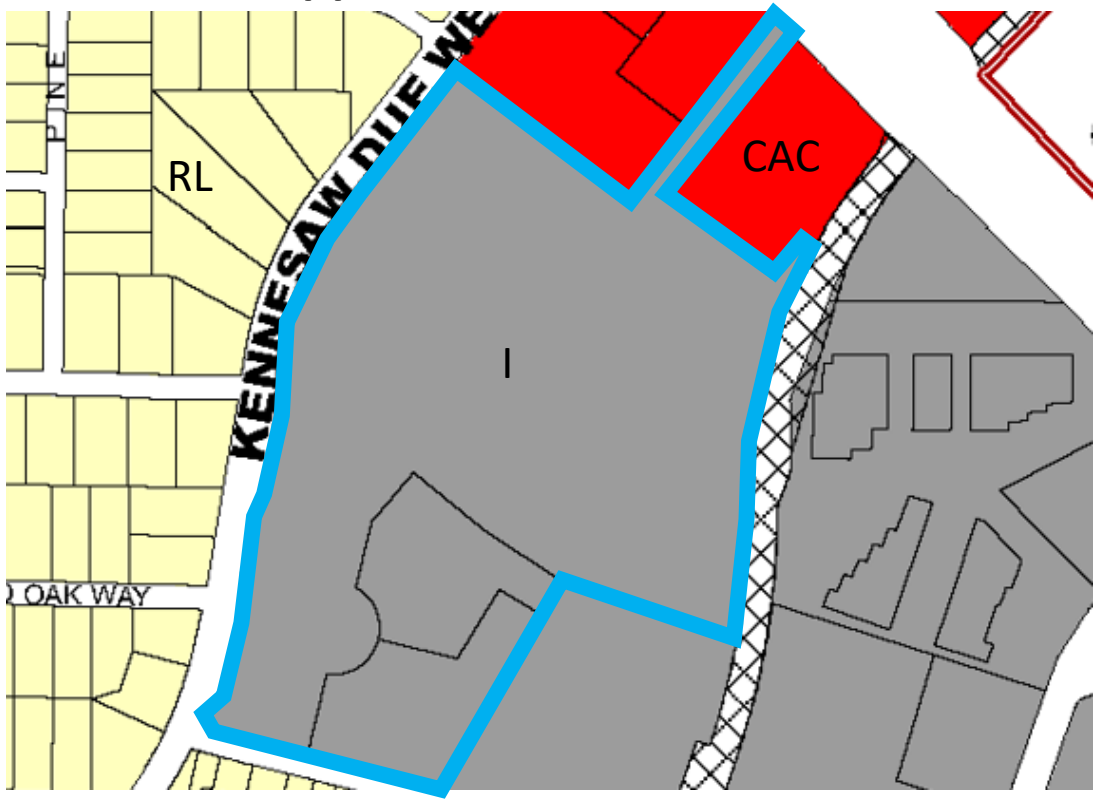




0 Kennesaw Due West Road
2360 Kennesaw Due West Road
2404 Kennesaw Due West Road (4 of 6)

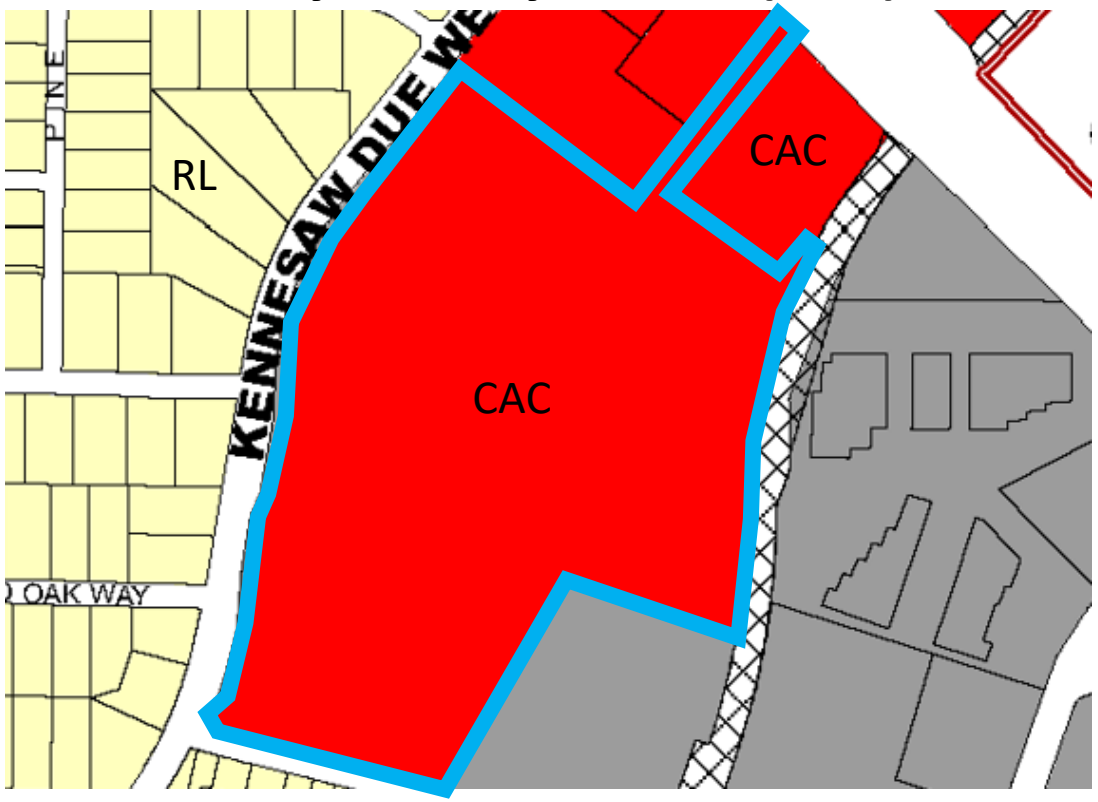
Currently

Industrial (I)



Change to

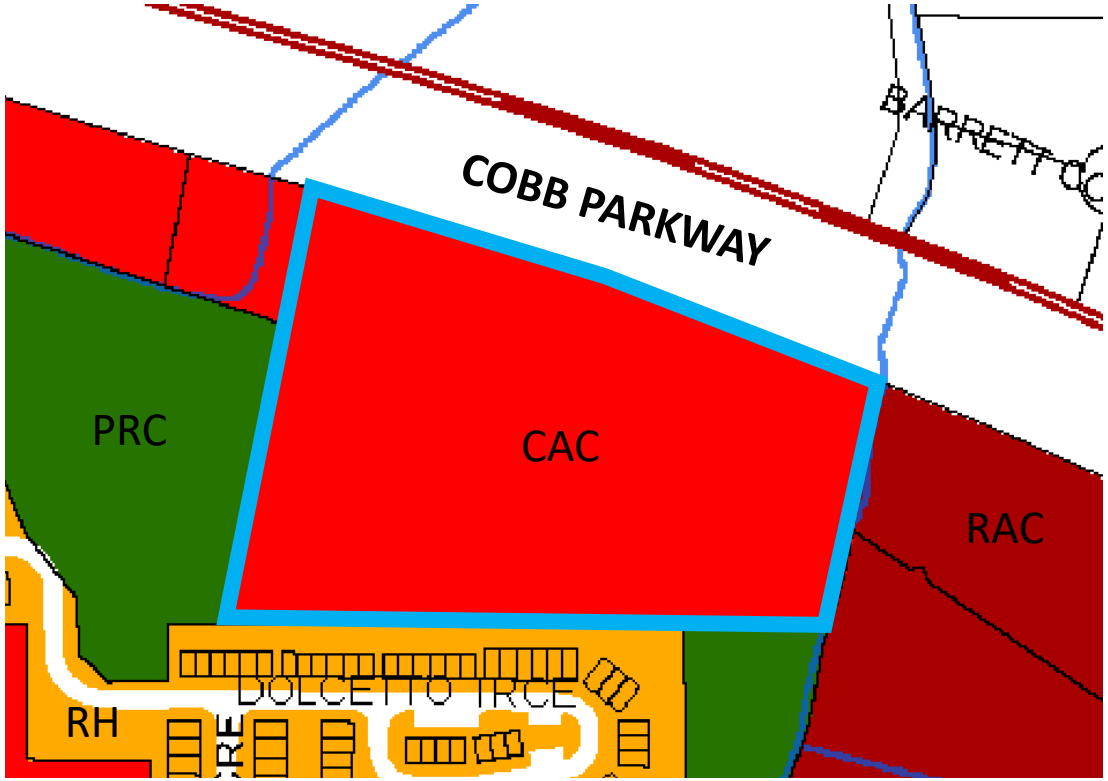
Community Activity Center (CAC)



1973 Cobb Parkway (5 of 6)

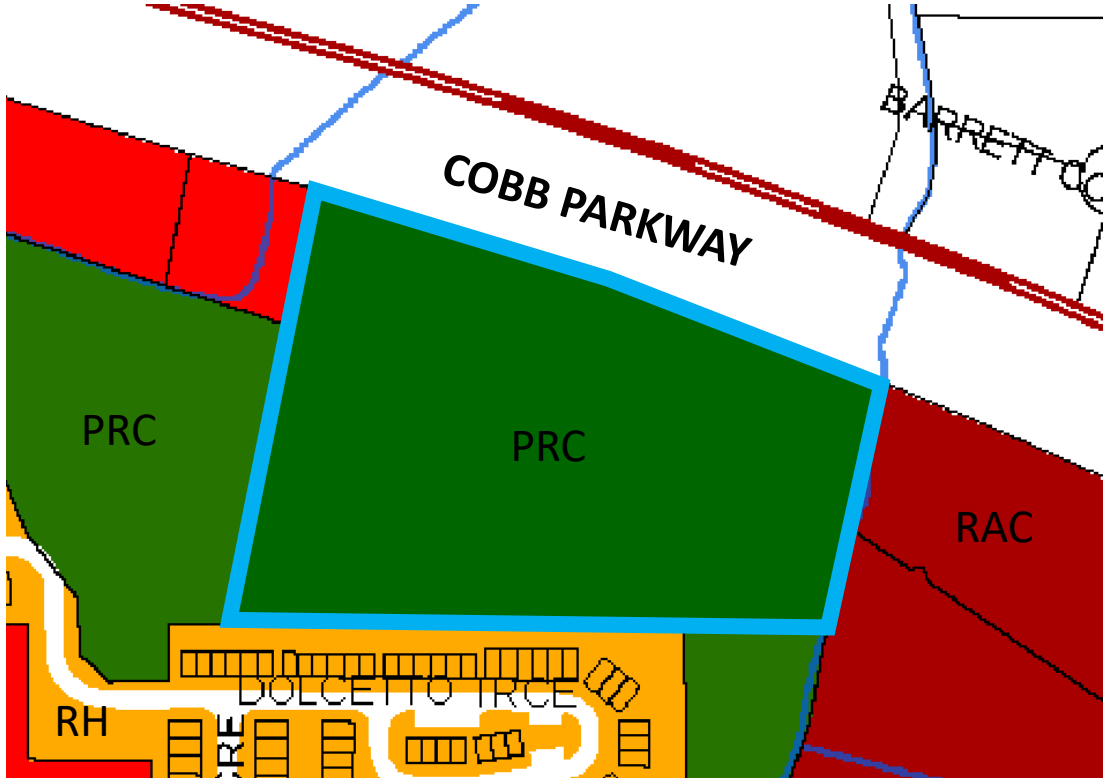
Currently

Community Activity Center (CAC)



Change to

Park/Recreation/Conservation (PRC)

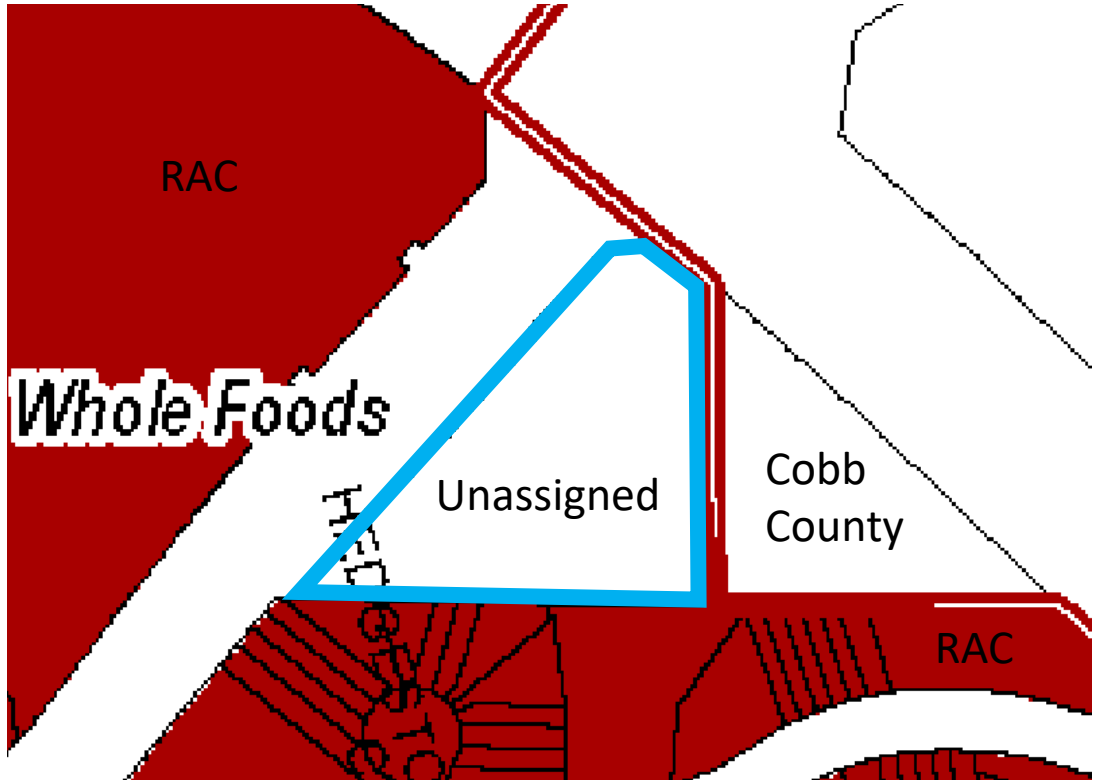




1650 Cobb Parkway (6 of 6)

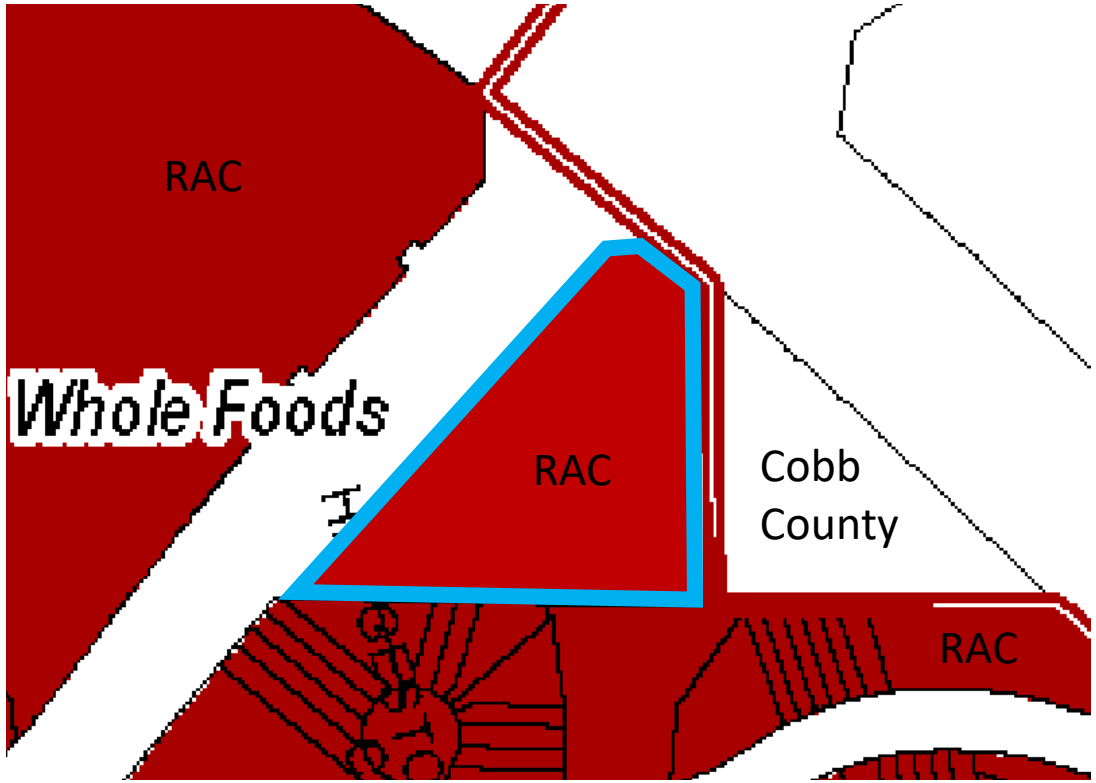
Currently

Unassigned



Change to

Regional Activity Center (RAC)



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

Propose change to CAC

Propose change to RL

Propose change to PI

Propose change to CAC

Propose change to PRC

Propose change to RAC

DISCLAIMER:
Unshaded property within the city limits will be updated in the 2027 Comprehensive Plan. This Future Land Use Map does not categorize any land use as Undeveloped or Agricultural/Forestry; development is anticipated throughout the City of Kennesaw.

Future Land Use

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

Version July 3, 2023

DISCLAIMER:
Unshaded property within the city limits will be updated in the 2027 Comprehensive Plan. The Future Land Use Map does not categorize land use as Undeveloped or Agricultural/Forestry; development is anticipated throughout the City of Kennesaw.

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- PI - Public Service/Institutional
- PRC - Park/Recreation/Conservation
- RL - Residential Low/Medium
- RH - Residential High
- PUD - Planned Unit Development
- TCU - Transportation Communication Utilities

- Kennesaw City Limits
- Airport
- Lakes & Ponds
- Rivers & Streams

2023 Future Land Use Amendment Map

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

City of Kennesaw, GA
Honoring Our Heritage - Forging Our Future

Derek Easterling
MAYOR
Lea Alvarez
CITY CLERK

Revised: Jul 12, 2023
File: FutureLandUse_2023_ep

1" = 700'

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- RH - Residential High
- PUD - Planned Unit Development
- TCU - Transportation Communication Utilities
- 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'

MEMORANDUM

DATE; August 2, 2023

FROM: BONNIE JEAN MORGAN MEREDITH and
LACHLAN MORGAN LAMBERT

TO: City of Kennesaw, GA, Planning Commission.
City of Kennesaw, Mayor and Council.

SUBJECT: Future Land Use Map Category Change (Case # MISC2023-06)
1973 Cobb Parkway, Kennesaw, GA 30144 -Parcel ID 20020700080,
from CAC to PRC.

The undersigned, who are the owners of said property, object to the proposed change based on the belief that such change will have the effect of prejudicing current and future commissions and councils and permitting authorities against the development of the property; and they further believe that their failure to object will be seen by such authorities as their acquiescence to such prejudice against development.

These owners have been in contact with engineers, attorneys and others about the possible development of the property by means of Wetlands Mitigation procedures.

These owners request that this memorandum will be made a part of the record in the considerations by the Planning Commission and by the Mayor and Council; and they appoint Gilbert B. Meredith and / or Gerald P. Lambert to represent them in all matters concerning this property.

Thank you.

Bonnie Jean Morgan Meredith

Bonnie Jean Morgan Meredith

Lachlan Morgan Lambert

Lachlan Morgan Lambert

MAYOR
Derek Easterling

City Manager
Jeff Drobney, ICMA-CM

City Clerk
Lea Alvarez, CMC

COUNCIL
Mayor Pro Tem Tracey Viars
Lynette Burnette
Pat Ferris
Antonio Jones
Trey Sinclair

July 13, 2023

Pamela Mabry, County Clerk, Cobb County
100 Cherokee Street, #355
Marietta, Georgia 30090-9679

Subject: Future Land Use Map Category Change (Case #MISC2023-06)

Dear Ms. Mabry,

The Kennesaw Planning and Zoning Department is considering changes to the adopted 2022 Comprehensive Plan Future Land Use Map. This letter is written to provide you notice of the proposed change and for Cobb County to provide any feedback as needed.

A Future Land Use Designation is assigned to properties citywide every five years under the City's Comprehensive Plan Update. A Future Land Use Designation does not determine how a property owner can use their property, rather, it helps guide City Staff, the Kennesaw Planning Commission and Mayor and Council to determine and consider a future proposed zoning change. The last Future Land Use Map was adopted in June 2022.

This year, the Planning and Zoning Department has identified properties for changes to their Future Land Use Designation that are more in line with the City's long-term goals in strategic growth and land use planning. A few of the identified properties are directly adjacent to or near the Cobb County border.

We will be taking the proposed 2023 Future Land Use Map Amendment for public hearings before the **Planning Commission on August 2, 2023** and **Mayor and Council on August 21, 2023**. Both meetings will be held at 2529 J.O. Stephenson Avenue, Kennesaw, GA 30144 at 6:30 P.M.

Thank you for your attention. If you have any questions, please contact me at (770) 590-8268 or zoningdept@kennesaw-ga.gov.

Sincerely,

Albert Trevino

Albert Trevino
Assistant Zoning Administrator and Planner

Enclosed: 2023 Future Land Use Map Proposed Amendment

cc: **Jessica Guinn, AICP, Community Development Agency Director (Via E-mail)**
Dr. Jackie McMorris, Cobb County Manager (Via E-mail)
Phillip Westbrook, Senior Planner, Cobb County Community Development (Via E-mail)
Donald Wells, Intergovernmental Coordinator/Planner III, Cobb County Community Dev.
Dr. Jeff Drobney, City Manager, City of Kennesaw (Via E-mail)
Albert Treviño, Assistant Zoning Administrator & Planner, City of Kennesaw (Via E-mail)
India Aldred, Community Development Administrative Assistant, City of Kennesaw

MAYOR
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City Manager
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City Clerk
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COUNCIL
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Lynette Burnette
Pat Ferris
Antonio Jones
Trey Sinclair

May 16, 2023

Property Owner
Address
Kennesaw, GA 30144

Subject: Future Land Use Map Category Change (Case #MISC2023-06)
Address, Kennesaw, GA 30144 - Parcel ID

Dear Property Owner,

The Planning and Zoning Department is considering changes to the subject property's Future Land Use Designation. This letter is written to provide you notice of the proposed change.

A Future Land Use Designation is assigned to properties citywide every five years under the City's Comprehensive Plan Update. The last Future Land Use Map was adopted in June 2022. In 2023, the Planning and Zoning Department hand-picked six properties for changes to their future land use designation, and your property was one of the six. A Future Land Use Designation does not determine how a property owner can use their property, rather, it helps guide City Staff, the Kennesaw Planning Commission and Mayor and Council to determine and give consideration to a proposed zoning change.

Please review the attached document which provides insight into the subject property's current Future Land Use Designation and what City Staff is proposing to change it to.

We will be taking the proposed 2023 Future Land Use Map Amendment for public hearings before the Planning Commission on August 2, 2023 and Mayor and Council on August 21, 2023. Both meetings will be held at 2529 J.O. Stephenson Avenue, Kennesaw, GA 30144 at 6:30 P.M.

Thank you for your attention. If you have any questions, please contact me at (770) 590-8268 or zoningdept@kennesaw-ga.gov.

Sincerely,

Albert Trevino

Albert Trevino
Assistant Zoning Administrator and Planner

Enclosed: 2023 Future Land Use Map Proposed Amendment

EXAMPLE

8001 Juvenile/Youth/Family

while responsive pleadings are not mandatory they are permissible and you are encouraged to file with the clerk of this court and serve upon guardian ad litem attorney for the child, Chelcie Griffith, 32 Waddell Street, Cobb County Juvenile Court 6th floor, Marietta, Georgia 30090, an answer or other responsive pleading within sixty (60) days of the date of the order for service by publication.
All concerned parties are informed that they are entitled to have an attorney represent them and if a party requests appointed counsel and qualifies for such appointment, then the court will appoint counsel at no cost if the party is unable, without financial hardship, to employ counsel.
Witness the Honorable Amber N. Patterson, Presiding Judge of said court.
This 27th day of June, 2023.
JENNIFER LEHR, CLERK
JUVENILE COURT OF
COBB COUNTY
7:7,14,21,28-2023

MDJ-5677
GPN-10
IN THE JUVENILE COURT OF
COBB COUNTY, GEORGIA
IN THE INTEREST OF:
O.J.B.; SEX-M; AGE-1; DOB: 7-17-21
CASE #: 23CV0274-08
B.R.B.; SEX-M; AGE-2; DOB: 2-22-20;
CASE #23CV0275-08
Children Under the Age of
18 Years old.
NOTICE OF SUMMONS
TO: Dafona Burchfield, the mother; Kyle Bagwell, the putative father, and any unknown and unnamed father.
YOU ARE NOTIFIED that a Petition for Termination of Parental Rights in regard to the above referenced child was filed in the Juvenile Court of Cobb County, Georgia, on the 9th day of February, 2023, and that by reason of an Order for Service by Publication entered by the court on the 31st day of May, 2023;
YOU ARE HEREBY COMMANDED AND REQUIRED to appear before the Juvenile Court of Cobb County, Georgia, in Marietta, Georgia, on the **14th day of August, 2023 at 9:00 o'clock a.m.** The hearing is for the purpose of determining whether parental rights should be terminated. The effect of a termination judgment as set forth under O.C.G.A. § 15-11-284, includes the following: Georgia law provides that you (i.e., a parent) can permanently lose your rights as a parent. A Petition for Termination of Parental Rights has been filed requesting the juvenile court of Cobb County, Georgia, terminate your parental rights to your children (i.e., the above identified children). If you fail to appear at the hearing on the Petition for Termination of Parental Rights, then the court can terminate your parental rights in your absence. If the court at the trial finds that the facts set out in the petition are true and that termination of your rights will serve the best interests of your children, the court can enter a judgment ending your rights to your children. If the judgment terminates your parental rights, you will no longer have any rights to your children. This means that you will not have the right to visit, contact, or have custody of your children or make any decisions affecting your children or your children's earnings or property. Your children will be legally free to be adopted by someone else. Even if your parental rights are terminated, you will still be responsible for providing financial support (child support payments) for your children's care unless and until your children are adopted and your children can still inherit from you unless and until your children are adopted. The Petition for Termination of Parental Rights is a very serious matter and it is suggested that you contact an attorney immediately so that you can be prepared for the court hearing on such petition. You have the right to hire an attorney and to have the attorney represent you. If you cannot afford to hire an attorney, then the juvenile court of Cobb County, Georgia, will appoint an attorney to represent you if the court finds that you are an indigent person. Whether or not you decide to hire an attorney or seek appointed counsel, you have the right to attend the hearing on such petition, to call witnesses on your behalf, and to question those witnesses brought against you.
A copy of the petition for termination of parental rights may be obtained from the clerk of the Juvenile Court of Cobb County, Georgia, which is located at 32 Waddell Street, Marietta, Cobb County, Georgia 30090, during regular business hours, Monday through Friday, 8:00 a.m. until 5:00 p.m., exclusive of holidays. A free copy shall be available to you. Upon request to the clerk, the copy will be mailed to you. The child is in the temporary custody of the Department of Family and Children Services of Cobb County, Georgia.
The general nature of the allegations are that parental responsibilities and obligations owed to said children have been abandoned.
YOU ARE FURTHER NOTIFIED that while responsive pleadings are not mandatory, they are permissible. You are encouraged to file with the clerk of this court and serve upon petitioner's attorney, Lori A. Cheatham, 2774 Cobb Parkway NW, Suite 109-118, Kennesaw, Georgia, 30152, an answer or other responsive pleading within sixty (60) days of the date of the order for service by publication.
All concerned parties are informed that they are entitled to have an attorney represent them and if a party requests appointed counsel and qualifies for such appointment, then the court will appoint counsel at no cost if the party is unable, without financial hardship, to employ counsel.
Witness the Honorable
Wayne E. Grannis,
Judge of said court.
This 27th day of June, 2023.
JENNIFER LEHR, CLERK
JUVENILE COURT OF
COBB COUNTY
7:14,21,28; 8:4-2023

8003 Public Hearing

MDJ-5460
GPN-16
City of Acworth
Public Hearing
The City of Acworth hereby gives notice that a Public Hearing will be held to give consideration to a city-initiated rezoning request for property located in Land Lots 7 & 32, Parcels 1 of the 20th District, 2nd Section of Cobb County, Georgia (4350 Allatoona Gateway). The applicant is requesting to rezone a portion of the tract from C-2, Community Retail Commercial to PPF, Public Parks & Facilities.
The City of Acworth hereby gives notice that a Public Hearing will be held to consider a proposed annual update to the City's Comprehensive Plan Capital Improvement Element and Short-Term Work Program.
The Planning and Zoning Commission will hold a Public Hearing on this matter on Tuesday, July 25, 2023 at 7:00p.m. at the Council Chambers located at 4415 Center Street.
The Mayor and Board of Aldermen will hold a Public Hearing on this matter on Monday, July 31st at 6:30p.m. and give final consideration on this matter on Thursday, August 3rd, 2023 at 7:00p.m. at the Council Chambers at City Hall located at 4415 Center Street, Acworth, Georgia.
Anyone wishing to attend the public hearings may do so and be heard relative thereto.
"Pursuant to O.C.G.A. 36-67A-3, any applicant for rezoning and any opponent of a rezoning action who has made a campaign contribution or gift aggregating $250.00 or more to a local government official within two (2) years immediately preceding the filing of the application for rezoning shall file a disclosure at least five (5) calendar days prior to the first hearing by the local government or any of its agencies on the rezoning application."
Alex Almadovar
Development Director
7:14,21-2023

MDJ-5420
GPN-16
City of Kennesaw
Notice to the Public
Notice is hereby given that the City of Kennesaw shall hold public hearings to give consideration to amend the current Future Land Use Map as adopted within the 2022 Comprehensive Plan. Said request is to change the Future Land Use Map category for the following properties: #1) 0 Cobb Parkway or parcel number 20014100920 from PUD to CAC; #2) 4045 Pine Mountain Road from RL to PI; #3) 2971 N Main Street from DAC to RL; #4) 0, 2360, 2494 Kennesaw Due West Road or parcel numbers 20017600460, 20017600450 and 20017600200 from I to CAC; #5) 1973 Cobb Parkway or parcel number 20020700080 from CAC to PRC; and #6) 1650 Cobb Parkway or parcel number 20020801300 from unincorporated Cobb County to RAC. The purpose of these hearings is to brief the community on the 2023 Future Land Use Map amendments and allow for public comment on the proposed map changes. Any interested persons may attend and be heard relative thereto. Any questions related to the project should be directed to the Assistant Zoning Administrator and City Planner, Albert Trevino, by calling (770) 424-8274 ext. 3172 or e-mailing atrevino@kennesaw-ga.gov.
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

8003 Public Hearing

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

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

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/CityofKennesaw/
Any interested citizens are invited to email **kennesawcouncil@kennesaw-ga.gov**.
7:14-2023

MDJ-5701
GPN-16
City of Austell
Public Hearing
The City of Austell hereby gives notice that a Public Hearing to give consideration for a special land use permit request by Emmanuel Oreyeka for property located in Land Lot 26, Parcel 51 of the 18 th District, 2nd Section of Cobb County, Georgia (Tax ID#18002600510 - 5825 Mulberry Street). The applicant is seeking approval for a special events hall. The property is currently zoned CBD.
The Planning and Zoning Commission will hold a Public Hearing on this matter on Tuesday, August 8, 2023 at 6:00 pm at the Austell Threadmill Complex located at 5000 Austell Powder Springs Road.
The Mayor and Council will hold a Public Hearing on this matter on Monday, September 11, 2023 at 7:00 p.m. at City Hall located at 2716 Broad Street.
Anyone wishing to attend the public hearings may do so and be heard relative thereto.
"Pursuant to O.C.G.A. 36-67A-3, any applicant for rezoning and any opponent of a rezoning action who has made a campaign contribution or gift aggregating $250.00 or more to a local government official within two (2) years immediately preceding the filing of the application for rezoning shall file a disclosure at least five (5) calendar days prior to the first hearing by the local government or any of its agencies on the rezoning application."
7:14,21-2023

8004 Public Sales/Auctions

MDJ-4841
GPN-17
STORAGE TREASURES AUCTION
Extra Space Storage will hold a public auction to sell personal property described below belonging to those individuals listed below at the location
2095 Attic Pkwy NW Kennesaw, GA on 07/26/2023 at 5pm
6054
Penelope Heaton
Household items
6014
Ayda Khaleghi
Household items
3075
Destiney Grate
Household items
The auction will be listed and advertised on **www.storagetreasures.com**.
Purchase must be made with cash only and paid at the above referenced facility in order to complete the transaction. Extra Space Storage may refuse any bid and rescind any purchase up until the winning bidder takes possession of the personal property.
7:7,14-2023

MDJ-4951
GPN-17
Extra Space Storage will hold a public auction to sell personal property described below belonging to those individuals listed below at the location indicated: 4676 S Atlanta Rd SE Atlanta, Ga 30339 **07-26-2023 @ 3:00 pm**
STORAGE TREASURES AUCTION
1152 Keysha Porter-household Items
1179 Alesia Burnette-household Items
1189 Eugene Johnson-household Items
1541 Tommie Felton-household Items
2215 Sanford Barden-household Items
2221 Kimberly Grant-Bynoe-household Items
2289 Aniellica Sharpe-household Items
2329 Stephon Williams-household Items
2388 Alfonzo DeBoae-household Items
2543 Joe Clayton-household Items
2555 Crystal Hamilton-household Items
2645 Tanesha Smith-household Items
3644 shemica cunningham-household Items
The auction will be listed and advertised on www.storagetreasures.com. Purchases must be made with cash only and paid at the above referenced facility in order to complete the transaction. Extra Space Storage may refuse any bid and may rescind any purchase up until the winning bidder takes possession of the personal property.
7:7,14-2023

MDJ-4952
GPN-17
Extra Space Storage will hold a public auction to sell personal property described below belonging to those individuals listed below at the location indicated. 795 Veterans Memorial Hwy SE Mableton, Ga 30126 **Tuesday- July 25th, 2023 at 2:30 pm**
1071: Demetri Ricks- Bed, Living room set
2012: Brandon Farmer- Couch, boxes.
2211: Joyce Blyden- furniture, jewelry, designer clothes.
2148: Danta McNeal- sectional couch, tv
3645: Latanya Downer- House hold items.
3081: Shantis Johnson- Sofa and dinner table.
The auction will be listed and advertised on www.storagetreasures.com. Purchases must be made with cash only and paid at the above referenced facility in order to complete the transaction. Extra Space Storage may refuse any bid and may rescind any purchase up until the winning bidder takes possession of the personal property.
7:7,14-2023

Mdj5058
apn17
Extra Space Storage will hold a public auction to sell personal property described below belonging to those individuals listed below at the location indicated
3720 Tramore Pointe Pkwy Austell, GA


KOMATSU
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 LA
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
770.405.0100
vcpbrokers.com
Tracey Viars
678.467.
UNDER CONTRACT

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 10:18

Public Notice

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

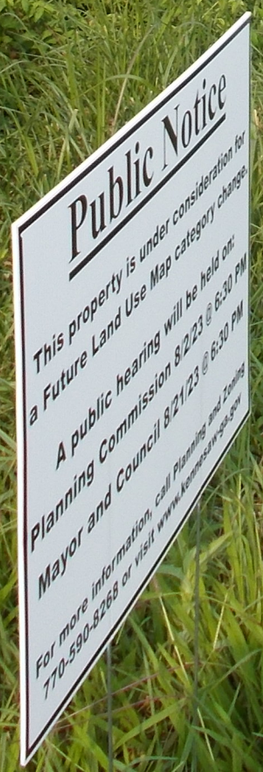
A public hearing will be held on:

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



07.18.2023 09:57

DO NOT
ENTER

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

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

MEETING MINUTES
PLANNING COMMISSION
CITY OF KENNESAW
Council Chambers
August 2, 2023
6:30 P.M.

1. Call to Order / Roll Call

- Chairman Bergwall calls the meeting to order at 6:30 p.m.
- Roll Call: Don Bergwall, Phillip Jackson, Lacey Ragus,Trey Bodenhamer, and Todd Vande Zande
- Absent: Rebecca Patterson & Carolyn Greenall
- Staff present: Darryl Simmons (Zoning Administrator) and Albert Trevino (Assistant Zoning Administrator and Planner)
- Speakers: Eric Federspiel (CF&G Enterprises)

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/, 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. 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)

- Chairman Bergwall calls for a motion to approve meeting minutes from May 3rd as submitted.
- Motion of approval by Commissioner Bodenhamer
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Meeting minutes are approved.**

B. Meeting Minutes from 6-14-2023 (Special Call)

- Chairman Bergwall calls for a motion to approve meeting minutes from the Special Call meeting on June 14th as submitted.
- Motion of approval by Commissioner Vande Zande
- Second by Commissioner Ragus
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Meeting minutes are approved.**

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.

- Chairman Bergwall introduces the first new business item.
- Mr. Darryl Simmons comes to the podium and states “This property was annexed into the city back in 2001 as a master planned and a mixed-use community. The first of its kind brought into the city and design regarding the Cobb Parkway corridor. It has a combination of front line commercial along Cobb Parkway and towards the inside of the property you have a combination of townhomes, multifamily units, a lake, connecting trails and playgrounds and a Daycare Center. The agenda item this evening is before you for consideration to amend a portion of the master plan in this case. In 2001, as part of all of the zoning conditions for PVC, the maximum number of residential units was capped at 898. In 2004, there was an amendment to the master plan, where it allowed for the decrease of multifamily and the increase of additional townhomes still under the cap of 898. At that time there was 537 multifamily units and 309 townhomes. The existing residential count in Ellison lakes is 845 residential units. The proposal before us this evening would be adding a proposed condominium unit building, which will have an additional 45 for sale condominium apartments. Even with the addition, it would still be under the maximum 898 units. The staff analysis which was provided gave you the background of the property, the master plan and how this proposal fits into the master plan. The proposal does not require or show any need for variances based on our current zoning district and the established zoning setbacks that was established for this master plan community. In the staff analysis, our staff put together a number of conditions based on our recommendation to approve the amendment to allow for these condominium units to be erected and I would like to read the 22 conditions. There will be online for anyone to review”.

- Mr. Simmons proceeds to go through all 22 conditions of the rezoning modification and says “Staff recommends approval. We've determined that this additional housing type, if approved, would be the first residential condominium housing unit housing type in the City of Kennesaw. We currently do not have any condominium residential units in the city. The original intent of the Ellison Lakes Master plan is to encourage and promote a variety of housing units, housing styles, as well as a combination of appropriate commercial along Cobb Parkway. We feel that this amendment is appropriate and in keeping with the original intent of the master plan”.
- Vice-Chairman asks if this property is the same property visited by the Commissioners.
- Mr. Simmons responds yes and staff looked at the location and determined townhomes would not be appropriate because of the number of townhomes that were capped. They later withdrew the application. The applicant owns the property as well as the childcare facility nearby and this concept would not affect the childcare center.
- The applicant, Eric Federspiel, comes up to the podium to introduce himself. He says he has been in the real estate business for 25 years and lived in Atlanta for 52 years. He and his wife are excited about bringing the new concept to the city of Kennesaw. They have designed a couple different renderings for a four story building and waiting on the FAA approval for the height regulation which is 55 feet. He looks forward to the Planning Commission approval.
- Chairman Bergwall asks for clarification on the condition #3 in relation to the homeowners association and asks if there is consideration to a condominiums owners association. He asks if the HOA will be responsible for the exterior and roof structures on the building and where the garages will be located on the buildings since it wasn’t included on the site plan.
- Mr. Federspeil states “This will be included under common area maintenance. The garages weren't added yet. We were going to add them on the back of the property to block the school so they wouldn't have to see as much into the playgrounds. The way we positioned the building was to face Ellison lakes and the front and rear of the building won't look at our school. We're going to plan it as an option to do half, so if we build 40 or 45 units or 50 units and we'll do 25 garages, single car garages as an option to those units that are for sale. If a 3 bedroom homeowner wants to buy a single car garage he/she can buy that or opt out of it”.
- Chairman Bergwall opens up the floor to public comment.
- Mr. H. Verrill (3247 White Oak Circle) comes up to the podium to state that parking is very expensive and can take up a lot of space and to ask why you would need to increase the number of parking spaces.
- Commissioner Bodenhamer explains the additional parking spaces are not only for residents but for guests as well.
- Vice-Chairman asks if the developer would want a waiver for less parking.
- Mr. Simmons states no and there are a variety of bedroom sizes and square footage so there won’t be a need for a reduction.
- Commissioner Bodenhamer asks if the parking garages would be included in the count for the max number of parking spaces required for the project.

- Mr. Trevino states yes the surface parking and garages would be counted in the total parking count. There will be a percentage dedicated to private garages and a percentage dedicated to standard surfaces.
- Chairman Bergwall asks if there are any other questions or comments from the Commission. After no response he closes the floor and calls for a motion to approve the rezoning modification with the 22 conditions listed by staff, but with the following zoning condition modifications: **Condition #3:** The creation of a mandatory homeowners association ("HOA") to be managed by Applicant or a 3rd party professional HOA management company until such time the HOA is "turned-over" to the homeowners which is typically at 100% buildout. Applicant shall fund any shortfall in the operating budget until such time as the HOA is "turned-over" to the homeowners. The homeowners association shall be solely responsible for the upkeep and maintenance of all common areas, mail kiosk, amenities, and amenity areas; including the entrance areas, boundary landscape buffers, detention pond(s), driveways ~~and~~, parking lot, the exterior façade of the building and roof of the building. **Condition #5:** The HOA covenants shall limit the number of rental units to not exceed ~~15%~~ 10% of the total number of units in the community or such percentage as approved by the City Council.
- Motion of approval by Commissioner Bodenhamer
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Motion is approved.**

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

- Chairman Bergwall introduces the next business item.
- Mr. Albert Trevino comes up to the podium and states “Thank you Mr. Chairman and good evening Commissioners. I want to preface agenda item #2 with it is not a rezoning. Agenda item #2 is to amend the 2022 Comprehensive Plan’s Future Land Use Map. I repeat this is not a rezoning. Going into details about the maps that we use, the Planning and Zoning Department primarily uses two types of maps. One map is a zoning map, which shows a property’s current zoning designation. The zoning determines how a property owner can use their property in present day. The second map that we use is called a future land use map. This map is adopted concurrently with the City’s Comprehensive Plan every 5-years with optional annual updates. It is designed for long term planning. It is a product of community engagement and public input. It marks every parcel in the City with a future land use category. This category tells us what the citizens want the City of Kennesaw to look like in the future. Staff uses the future land use map for guidance on staff recommendations for zoning applications. I just want to emphasize that this map bears no weight to the City’s current zoning map. This agenda item will not change the zoning to any property. The zoning map and future land use map are completely separate maps that display different information. With that said, I want to go over the Future Land Use Map amendments. There are 6 parcels or areas that we’d like to recommend changes to. The first site we recommend a future land use map category change is located at 2985 Mack Dobbs Road. This site is

currently split with two categories: Planned Unit Development and Community Activity Center and it is currently under construction for a one-story 14,000 square foot medical office facility. This amendment is to change the entire site to a Community Activity Center category. This is a rendering of what is currently under construction. The second site is located at 6045 Pine Mountain Road. This is an amendment to change the site from a Residential Low/Medium to a Public Institutional (PI). PI is a common designation for schools, churches, hospitals cultural institutions and cemeteries. This site received a certificate of occupancy for a religious institution in April of this year. The third site is located at 2971 N Main Street. It is currently designated as Downtown Activity Center. Through recent public input during the Central Business District Phase 2 Expansion project that was done in May 2023, we want to take into consideration the community feedback that was received during those public hearings which was that this parcel should remain low density residential as is what can be seen up North Main Street. Our recommendation is to change this to a Residential Low/Medium category or RL. This picture shows the current state of the property being that it has a historic single-family home. The fourth site is located along Kennesaw Due West Road and it is commonly referred to as "The Columns" property. It has a current future land use designation as Industrial, however, through recent traffic engineer reports and traffic impact studies, lends this site to being unconducive to conventional industrial development. The studies showed that it would be difficult for a semi-truck to safely and efficiently get onto and out of the site. Kennesaw Due West Road is a two-lane road used for commuter traffic. We are recommending this site be designated as Community Activity Center. Site five is located at 1973 Cobb Parkway. It is currently a natural wetland. This site is adjacent to a stream and stays wet all year round. We are recommending changing the future land use category from Community Activity Center to Park/Recreation/Conservation. This shows a picture of the site. This sixth site is located at 1650 Cobb Parkway on the corner of Cobb and Barrett Parkway. This property was recently annexed into the city limits in March 2023. Being that it was just annexed from Cobb County, it was not assigned a future land use category last year during the Comprehensive Plan Update. We are recommending that this parcel be assigned a Regional Activity Center, which matches the surrounding future land use categories and neighboring developments of Ridenour and Kennesaw Marketplace. This agenda item was advertised in the Marietta Daily Journal on July 14th. Each site was posted with at least one or multiple signs. The property owners for each of these sites were notified and the amendments were thoroughly discussed with each owner with no objections. Staff received many phone calls regarding the public notice signs and were able to inform the public that this was not a rezoning but merely a future land use map amendment update. We did not receive any e-mails for or against this proposal. Staff is recommending to approve the 2023 Future Land Use Map Amendments as presented".

- Chairman Bergwall asks if this proposal was presented before as part of the downtown business area and was denied so what is different this time.
- Mr. Trevino responds that according to the 2017 comp plan it was designated RL for low density residential but at the community engagement meeting, staff proposed that the downtown activity center be extended because the community

wanted to see more of downtown Kennesaw. All of the single family historic homes and other homes on North Main Street should remain as their current designation. As the downtown area grows and the community is changing we would like to change it for this parcel.

- Mr. Trevino and Mr. Simmons have a discussion about what the difference between the zoning map, what a future land use map entails and what the comp plan states.
- Chairman Bergwall opens the floor to public comment.
- Mr. Gilbert Meredith (1973 Cobb Pkwy) comes to the podium to speak about his disapproval of the future land use map for said property. He reads a letter from the property owners stating the change is wrong and the property category should stay the same.
- Chairman Bergwall comments that the area is designated as a wetland and in his experience it takes a lot of time, money, and energy to go through the state process of changing this. You have to get permission from the Corps of Engineers and the government to complete any type of maintenance.
- Vice-Chairman Jackson ask if the property tax would change in the future based on the future land use map.
- Mr. Simmons responds, “Anytime that a property is vacant and there's no improvements to it, it's taxed at a certain rate. As soon as the property is improved upon through construction, occupancy by a tenant or whatever the use is, that's when the Cobb County tax assessor assess the value of the property at that time. The reason why we recommended this future land use designation is correct because it takes a long time if you're even successful in making this a buildable lot. Currently, in our ordinance, we have not issued or we will not be issuing any building permits to construct anything in the floodplain, that's the citywide protocol. What we would require is if the property owner or the family goes to the Corps of Engineers, goes through the state of Georgia, goes through all of the mitigation and then presents the document to the City of Kennesaw. In the future saying we have now been successful in making this a buildable piece of property and the city would honor that. For our long term planning goal, we don't see this happening in the next 5-10 years. Just based on experience, it takes a very, very, very long time. It's 100% wet right now, so putting it in this designation does not take away any value from the property owner. It does not restrict the property owner or the family to any additional restrictions. It's strictly just saying this is what we know for the property as of right now”.
- Mr. Meredith comes back to the podium and states he doesn’t want the Commission or city to be prejudice about the property and give someone a chance to change it around.
- Ms. Denise Fred (2022 Ellison Way) comes up to the podium to state her subdivision has a detention pond that drains into the wetland property and to maintain this it is $3,500 monthly. She and the other members of her community are concerned that if anyone touches the wetland area it could cause a backflow into her housing community.
- Mr. Simmons states that we don’t have a professional engineer to speak on this issues so as of right now it is hypothetical scenarios. Before any disturbance or future improvements upstream or downstream, the parties would have to provide to

the Corps of Engineers in the state of Georgia and the City of Kennesaw and everyone else how that storm capacity will not go up or be exceeded that could be detrimental to private property that's already existing. Until there is a study done, we cannot say for certain what can or can't become of the wetland area.

- Mr. Meredith continues to give his argument of why the area should be left alone and how it isn't causing any issues currently for the adjacent properties. He states if the designation is changed now that it would be hard with future administrators to get it changed back.
- Commissioner Vande Zande asks if there is any harm done by not changing the designation and does the city benefit from this change.
- Mr. Simmons states "One of the things that each jurisdiction is responsible for is identifying environmentally sensitive areas, and that's a regional partnership with the state of Georgia. This is why you have regional areas and their studies of all the different drainage areas, wetland areas and discharge areas so the state knows what we have. It does not cause a hardship if it's left in CAC but one thing that I've explained to the gentleman on the phone is that the state of Georgia has a very, powerful and strong law regarding property rights. If the case is made that they've done all the work and follow the Planning Commission's recommendation coming back to the city, saying we've met all the requirements to designate this as a buildable lot, the city of Kennesaw would not be against or be in a position to deny someone the use of their property. That's basic property rights and there's no denying of rights. There's no hardship. But I just want to put it in the record that regardless of the future land use designation that it's on right now, if the property owner did their due diligence, they did their homework, the city would honor it, we would welcome commercial redevelopment on the property if it's done properly. But there is a goal and responsibility that we try to align our future land use map with what we see in the future short and long term plan. For right now it's a floodplain area with wetlands, and we need to identify that somewhere in our comprehensive plan as we're being city planners, that's what we're supposed to be doing".
- Chairman Bergwall asks if there are any other questions or comments from the Commission or the community. After no response he closes the floor for questions and calls for a motion to amend the agenda to vote on the items as individuals.
- Motion of approval by Commissioner Vande Zande
- Second by Commissioner Bodenhamer
- All in favor, 4-0. Motion passes.
    - Location #1: 2985 Mack Dobbs Rd
        - Chairman Bergwall calls to entertain a motion.
        - Commissioner Bodenhamer calls for a motion to approve.
        - Second by Commissioner Ragus.
        - **All in favor, 4-0. Motion is Approved.**
    - Location #2: 6045 Pine Mountain Rd
        - Chairman Bergwall calls to entertain a motion.
        - Commissioner Vande Zande calls for a motion to approve.
        - Second by Vice-Chairman Jackson.
        - **All in favor, 4-0. Motion is Approved.**
    - Location #3: 2971 North Main Street

- Chairman Bergwall calls to entertain a motion.
- Commissioner Bodenhamer calls for a motion to approve.
- Second by Commissioner Ragus.
- **All in favor, 4-0. Motion is Approved.**

- Location #4: 2985 Mack Dobbs Rd
  - Chairman Bergwall calls to entertain a motion.
  - Vice-Chairman Jackson calls for a motion to approve.
  - Second by Commissioner Ragus.
  - **All in favor, 4-0. Motion is Approved.**
- Location #5: 1973 Cobb Pkwy
  - Chairman Bergwall calls to entertain a motion.
  - Commissioner Vande Zande calls for a motion to deny.
  - Second by Commissioner Bodenhamer.
  - Commissioner Ragus and Vice-Chairman Jackson voted against the denial.
  - Chairman Bergwall voted as tie breaker in favor of denial.
  - **3-2 in favor of denial. Motion is Denied**
- Location #6: 1650 Cobb Pkwy
  - Chairman Bergwall calls to entertain a motion.
  - Commissioner Bodenhamer calls for a motion to approve.
  - Second by Commissioner Vande Zande.
  - **All in favor, 4-0. Motion is Approved.**

C. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 2, 3, 8 and 9. Case #MISC2023-07

- Chairman Bergwall introduces the last business item.

- Mr. Simmons states “This is more of a cleanup of our codes. Every year we go through, with our city attorney, to look at items that need to be amended either because of legislation or something dealing with state code or court rulings that would influence the Unified Development Code. This ordinance primarily deals with the rules dealing with filing an appeal of either decisions from staff or rendering from the Mayor and Council. We want to have accurate references to the OCG title code and making sure that it's all very clear and cohesive. When you look at all the chapters, we've crossed out and made amendments. Any party that doesn’t agree or person agreed by the decision of the Merit Council may appeal such decision to the Superior Court of Cobb County. In the manner provided by the law under chapter 3, title 5 of the OOC GA code, and so we're making a change. It was a previous reference that has been amended on the OCGA. The city attorney provided the correct reference for the appeal process, and we went ahead and made those changes in all of the chapters 2, 3, 8 and 9.
- The list of the exact changes being made are: 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. A link to the full ordinance can be found on page 104 of the agenda packet here: https://kennesawga.portal.civicclerk.com/event/171/files

- Chairman Bergwall calls for a motion to approve the text amendment as presented.
- Motion of approval by Vice-Chairman Jackson.
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- All in favor, 4-0. Meeting minutes are approved.

5. Staff Comment

A. Upcoming Training: "Practices for Successful Meetings," offered by the City Clerk's Office

- Mr. Trevino informs the Commission of an upcoming training opportunity on August 18, 2023 that is being presented by the University of Georgia Carl Vinson Institute. They will be going over how to run effective and efficient meetings through tools such as Roberts Rule of Order and agenda settings. There will be two sessions, one at 9:30 a.m. and the other at 2:00 p.m.

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 45minutes and can accommodate up to 20 people.

- Mr. Trevino talks about the walking tour being hosted by Andrew Bramlett walking through the Historic District. He highly encourages any citizens and Commissioners to participate in this opportunity.

6. Adjourn

- Time: 8:27pm

DRAFT

Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: August 21, 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." At their regularly scheduled meeting on August 2, 2023, the Planning Commission recommended to approve the text amendment request as presented by staff. This agenda item was advertised in the Marietta Daily Journal on July 14, 2023.

Recommendation:
The Zoning Administrator recommends approval of the text amendments as presented.

Fiscal Impact:

Attachments:
1. ORD 2023- Appellate Ordinance - Zoning
2. Overview of Text Amendment
3. UDC Changes - Legal Ad
4. PC Meeting Minutes- 08-02-2023

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 permitee 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 denovo~~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:

_____
Lea Alvarez, City Clerk

CITY OF KENNESAW:

_____
Derek Easterling, Mayor

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 Office 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

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/CityofKennesaw/

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

7:14-2023

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

MEETING MINUTES
PLANNING COMMISSION
CITY OF KENNESAW
Council Chambers
August 2, 2023
6:30 P.M.

1. Call to Order / Roll Call

- Chairman Bergwall calls the meeting to order at 6:30 p.m.
- Roll Call: Don Bergwall, Phillip Jackson, Lacey Ragus,Trey Bodenhamer, and Todd Vande Zande
- Absent: Rebecca Patterson & Carolyn Greenall
- Staff present: Darryl Simmons (Zoning Administrator) and Albert Trevino (Assistant Zoning Administrator and Planner)
- Speakers: Eric Federspiel (CF&G Enterprises)

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/, 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. 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)

- Chairman Bergwall calls for a motion to approve meeting minutes from May 3rd as submitted.
- Motion of approval by Commissioner Bodenhamer
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Meeting minutes are approved.**

B. Meeting Minutes from 6-14-2023 (Special Call)

- Chairman Bergwall calls for a motion to approve meeting minutes from the Special Call meeting on June 14th as submitted.
- Motion of approval by Commissioner Vande Zande
- Second by Commissioner Ragus
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Meeting minutes are approved.**

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.

- Chairman Bergwall introduces the first new business item.
- Mr. Darryl Simmons comes to the podium and states “This property was annexed into the city back in 2001 as a master planned and a mixed-use community. The first of its kind brought into the city and design regarding the Cobb Parkway corridor. It has a combination of front line commercial along Cobb Parkway and towards the inside of the property you have a combination of townhomes, multifamily units, a lake, connecting trails and playgrounds and a Daycare Center. The agenda item this evening is before you for consideration to amend a portion of the master plan in this case. In 2001, as part of all of the zoning conditions for PVC, the maximum number of residential units was capped at 898. In 2004, there was an amendment to the master plan, where it allowed for the decrease of multifamily and the increase of additional townhomes still under the cap of 898. At that time there was 537 multifamily units and 309 townhomes. The existing residential count in Ellison lakes is 845 residential units. The proposal before us this evening would be adding a proposed condominium unit building, which will have an additional 45 for sale condominium apartments. Even with the addition, it would still be under the maximum 898 units. The staff analysis which was provided gave you the background of the property, the master plan and how this proposal fits into the master plan. The proposal does not require or show any need for variances based on our current zoning district and the established zoning setbacks that was established for this master plan community. In the staff analysis, our staff put together a number of conditions based on our recommendation to approve the amendment to allow for these condominium units to be erected and I would like to read the 22 conditions. There will be online for anyone to review”.

- Mr. Simmons proceeds to go through all 22 conditions of the rezoning modification and says “Staff recommends approval. We've determined that this additional housing type, if approved, would be the first residential condominium housing unit housing type in the City of Kennesaw. We currently do not have any condominium residential units in the city. The original intent of the Ellison Lakes Master plan is to encourage and promote a variety of housing units, housing styles, as well as a combination of appropriate commercial along Cobb Parkway. We feel that this amendment is appropriate and in keeping with the original intent of the master plan”.
- Vice-Chairman asks if this property is the same property visited by the Commissioners.
- Mr. Simmons responds yes and staff looked at the location and determined townhomes would not be appropriate because of the number of townhomes that were capped. They later withdrew the application. The applicant owns the property as well as the childcare facility nearby and this concept would not affect the childcare center.
- The applicant, Eric Federspiel, comes up to the podium to introduce himself. He says he has been in the real estate business for 25 years and lived in Atlanta for 52 years. He and his wife are excited about bringing the new concept to the city of Kennesaw. They have designed a couple different renderings for a four story building and waiting on the FAA approval for the height regulation which is 55 feet. He looks forward to the Planning Commission approval.
- Chairman Bergwall asks for clarification on the condition #3 in relation to the homeowners association and asks if there is consideration to a condominiums owners association. He asks if the HOA will be responsible for the exterior and roof structures on the building and where the garages will be located on the buildings since it wasn’t included on the site plan.
- Mr. Federspeil states “This will be included under common area maintenance. The garages weren't added yet. We were going to add them on the back of the property to block the school so they wouldn't have to see as much into the playgrounds. The way we positioned the building was to face Ellison lakes and the front and rear of the building won't look at our school. We're going to plan it as an option to do half, so if we build 40 or 45 units or 50 units and we'll do 25 garages, single car garages as an option to those units that are for sale. If a 3 bedroom homeowner wants to buy a single car garage he/she can buy that or opt out of it”.
- Chairman Bergwall opens up the floor to public comment.
- Mr. H. Verrill (3247 White Oak Circle) comes up to the podium to state that parking is very expensive and can take up a lot of space and to ask why you would need to increase the number of parking spaces.
- Commissioner Bodenhamer explains the additional parking spaces are not only for residents but for guests as well.
- Vice-Chairman asks if the developer would want a waiver for less parking.
- Mr. Simmons states no and there are a variety of bedroom sizes and square footage so there won’t be a need for a reduction.
- Commissioner Bodenhamer asks if the parking garages would be included in the count for the max number of parking spaces required for the project.

- Mr. Trevino states yes the surface parking and garages would be counted in the total parking count. There will be a percentage dedicated to private garages and a percentage dedicated to standard surfaces.
- Chairman Bergwall asks if there are any other questions or comments from the Commission. After no response he closes the floor and calls for a motion to approve the rezoning modification with the 22 conditions listed by staff, but with the following zoning condition modifications: **Condition #3:** The creation of a mandatory homeowners association ("HOA") to be managed by Applicant or a 3rd party professional HOA management company until such time the HOA is "turned-over" to the homeowners which is typically at 100% buildout. Applicant shall fund any shortfall in the operating budget until such time as the HOA is "turned-over" to the homeowners. The homeowners association shall be solely responsible for the upkeep and maintenance of all common areas, mail kiosk, amenities, and amenity areas; including the entrance areas, boundary landscape buffers, detention pond(s), driveways ~~and~~, parking lot, the exterior façade of the building and roof of the building. **Condition #5:** The HOA covenants shall limit the number of rental units to not exceed ~~15%~~ 10% of the total number of units in the community or such percentage as approved by the City Council.
- Motion of approval by Commissioner Bodenhamer
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- **All in favor, 4-0. Motion is approved.**

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

- Chairman Bergwall introduces the next business item.
- Mr. Albert Trevino comes up to the podium and states “Thank you Mr. Chairman and good evening Commissioners. I want to preface agenda item #2 with it is not a rezoning. Agenda item #2 is to amend the 2022 Comprehensive Plan’s Future Land Use Map. I repeat this is not a rezoning. Going into details about the maps that we use, the Planning and Zoning Department primarily uses two types of maps. One map is a zoning map, which shows a property’s current zoning designation. The zoning determines how a property owner can use their property in present day. The second map that we use is called a future land use map. This map is adopted concurrently with the City’s Comprehensive Plan every 5-years with optional annual updates. It is designed for long term planning. It is a product of community engagement and public input. It marks every parcel in the City with a future land use category. This category tells us what the citizens want the City of Kennesaw to look like in the future. Staff uses the future land use map for guidance on staff recommendations for zoning applications. I just want to emphasize that this map bears no weight to the City’s current zoning map. This agenda item will not change the zoning to any property. The zoning map and future land use map are completely separate maps that display different information. With that said, I want to go over the Future Land Use Map amendments. There are 6 parcels or areas that we’d like to recommend changes to. The first site we recommend a future land use map category change is located at 2985 Mack Dobbs Road. This site is

currently split with two categories: Planned Unit Development and Community Activity Center and it is currently under construction for a one-story 14,000 square foot medical office facility. This amendment is to change the entire site to a Community Activity Center category. This is a rendering of what is currently under construction. The second site is located at 6045 Pine Mountain Road. This is an amendment to change the site from a Residential Low/Medium to a Public Institutional (PI). PI is a common designation for schools, churches, hospitals cultural institutions and cemeteries. This site received a certificate of occupancy for a religious institution in April of this year. The third site is located at 2971 N Main Street. It is currently designated as Downtown Activity Center. Through recent public input during the Central Business District Phase 2 Expansion project that was done in May 2023, we want to take into consideration the community feedback that was received during those public hearings which was that this parcel should remain low density residential as is what can be seen up North Main Street. Our recommendation is to change this to a Residential Low/Medium category or RL. This picture shows the current state of the property being that it has a historic single-family home. The fourth site is located along Kennesaw Due West Road and it is commonly referred to as "The Columns" property. It has a current future land use designation as Industrial, however, through recent traffic engineer reports and traffic impact studies, lends this site to being unconducive to conventional industrial development. The studies showed that it would be difficult for a semi-truck to safely and efficiently get onto and out of the site. Kennesaw Due West Road is a two-lane road used for commuter traffic. We are recommending this site be designated as Community Activity Center. Site five is located at 1973 Cobb Parkway. It is currently a natural wetland. This site is adjacent to a stream and stays wet all year round. We are recommending changing the future land use category from Community Activity Center to Park/Recreation/Conservation. This shows a picture of the site. This sixth site is located at 1650 Cobb Parkway on the corner of Cobb and Barrett Parkway. This property was recently annexed into the city limits in March 2023. Being that it was just annexed from Cobb County, it was not assigned a future land use category last year during the Comprehensive Plan Update. We are recommending that this parcel be assigned a Regional Activity Center, which matches the surrounding future land use categories and neighboring developments of Ridenour and Kennesaw Marketplace. This agenda item was advertised in the Marietta Daily Journal on July 14th. Each site was posted with at least one or multiple signs. The property owners for each of these sites were notified and the amendments were thoroughly discussed with each owner with no objections. Staff received many phone calls regarding the public notice signs and were able to inform the public that this was not a rezoning but merely a future land use map amendment update. We did not receive any e-mails for or against this proposal. Staff is recommending to approve the 2023 Future Land Use Map Amendments as presented".

- Chairman Bergwall asks if this proposal was presented before as part of the downtown business area and was denied so what is different this time.
- Mr. Trevino responds that according to the 2017 comp plan it was designated RL for low density residential but at the community engagement meeting, staff proposed that the downtown activity center be extended because the community

wanted to see more of downtown Kennesaw. All of the single family historic homes and other homes on North Main Street should remain as their current designation. As the downtown area grows and the community is changing we would like to change it for this parcel.

- Mr. Trevino and Mr. Simmons have a discussion about what the difference between the zoning map, what a future land use map entails and what the comp plan states.
- Chairman Bergwall opens the floor to public comment.
- Mr. Gilbert Meredith (1973 Cobb Pkwy) comes to the podium to speak about his disapproval of the future land use map for said property. He reads a letter from the property owners stating the change is wrong and the property category should stay the same.
- Chairman Bergwall comments that the area is designated as a wetland and in his experience it takes a lot of time, money, and energy to go through the state process of changing this. You have to get permission from the Corps of Engineers and the government to complete any type of maintenance.
- Vice-Chairman Jackson ask if the property tax would change in the future based on the future land use map.
- Mr. Simmons responds, “Anytime that a property is vacant and there's no improvements to it, it's taxed at a certain rate. As soon as the property is improved upon through construction, occupancy by a tenant or whatever the use is, that's when the Cobb County tax assessor assess the value of the property at that time. The reason why we recommended this future land use designation is correct because it takes a long time if you're even successful in making this a buildable lot. Currently, in our ordinance, we have not issued or we will not be issuing any building permits to construct anything in the floodplain, that's the citywide protocol. What we would require is if the property owner or the family goes to the Corps of Engineers, goes through the state of Georgia, goes through all of the mitigation and then presents the document to the City of Kennesaw. In the future saying we have now been successful in making this a buildable piece of property and the city would honor that. For our long term planning goal, we don't see this happening in the next 5-10 years. Just based on experience, it takes a very, very, very long time. It's 100% wet right now, so putting it in this designation does not take away any value from the property owner. It does not restrict the property owner or the family to any additional restrictions. It's strictly just saying this is what we know for the property as of right now”.
- Mr. Meredith comes back to the podium and states he doesn’t want the Commission or city to be prejudice about the property and give someone a chance to change it around.
- Ms. Denise Fred (2022 Ellison Way) comes up to the podium to state her subdivision has a detention pond that drains into the wetland property and to maintain this it is $3,500 monthly. She and the other members of her community are concerned that if anyone touches the wetland area it could cause a backflow into her housing community.
- Mr. Simmons states that we don’t have a professional engineer to speak on this issues so as of right now it is hypothetical scenarios. Before any disturbance or future improvements upstream or downstream, the parties would have to provide to

the Corps of Engineers in the state of Georgia and the City of Kennesaw and everyone else how that storm capacity will not go up or be exceeded that could be detrimental to private property that's already existing. Until there is a study done, we cannot say for certain what can or can't become of the wetland area.

- Mr. Meredith continues to give his argument of why the area should be left alone and how it isn't causing any issues currently for the adjacent properties. He states if the designation is changed now that it would be hard with future administrators to get it changed back.
- Commissioner Vande Zande asks if there is any harm done by not changing the designation and does the city benefit from this change.
- Mr. Simmons states "One of the things that each jurisdiction is responsible for is identifying environmentally sensitive areas, and that's a regional partnership with the state of Georgia. This is why you have regional areas and their studies of all the different drainage areas, wetland areas and discharge areas so the state knows what we have. It does not cause a hardship if it's left in CAC but one thing that I've explained to the gentleman on the phone is that the state of Georgia has a very, powerful and strong law regarding property rights. If the case is made that they've done all the work and follow the Planning Commission's recommendation coming back to the city, saying we've met all the requirements to designate this as a buildable lot, the city of Kennesaw would not be against or be in a position to deny someone the use of their property. That's basic property rights and there's no denying of rights. There's no hardship. But I just want to put it in the record that regardless of the future land use designation that it's on right now, if the property owner did their due diligence, they did their homework, the city would honor it, we would welcome commercial redevelopment on the property if it's done properly. But there is a goal and responsibility that we try to align our future land use map with what we see in the future short and long term plan. For right now it's a floodplain area with wetlands, and we need to identify that somewhere in our comprehensive plan as we're being city planners, that's what we're supposed to be doing".
- Chairman Bergwall asks if there are any other questions or comments from the Commission or the community. After no response he closes the floor for questions and calls for a motion to amend the agenda to vote on the items as individuals.
- Motion of approval by Commissioner Vande Zande
- Second by Commissioner Bodenhamer
- All in favor, 4-0. Motion passes.
    - Location #1: 2985 Mack Dobbs Rd
        - Chairman Bergwall calls to entertain a motion.
        - Commissioner Bodenhamer calls for a motion to approve.
        - Second by Commissioner Ragus.
        - **All in favor, 4-0. Motion is Approved.**
    - Location #2: 6045 Pine Mountain Rd
        - Chairman Bergwall calls to entertain a motion.
        - Commissioner Vande Zande calls for a motion to approve.
        - Second by Vice-Chairman Jackson.
        - **All in favor, 4-0. Motion is Approved.**
    - Location #3: 2971 North Main Street

- Chairman Bergwall calls to entertain a motion.
- Commissioner Bodenhamer calls for a motion to approve.
- Second by Commissioner Ragus.
- **All in favor, 4-0. Motion is Approved.**

- Location #4: 2985 Mack Dobbs Rd
  - Chairman Bergwall calls to entertain a motion.
  - Vice-Chairman Jackson calls for a motion to approve.
  - Second by Commissioner Ragus.
  - **All in favor, 4-0. Motion is Approved.**
- Location #5: 1973 Cobb Pkwy
  - Chairman Bergwall calls to entertain a motion.
  - Commissioner Vande Zande calls for a motion to deny.
  - Second by Commissioner Bodenhamer.
  - Commissioner Ragus and Vice-Chairman Jackson voted against the denial.
  - Chairman Bergwall voted as tie breaker in favor of denial.
  - **3-2 in favor of denial. Motion is Denied**
- Location #6: 1650 Cobb Pkwy
  - Chairman Bergwall calls to entertain a motion.
  - Commissioner Bodenhamer calls for a motion to approve.
  - Second by Commissioner Vande Zande.
  - **All in favor, 4-0. Motion is Approved.**

C. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 2, 3, 8 and 9. Case #MISC2023-07

- Chairman Bergwall introduces the last business item.

- Mr. Simmons states “This is more of a cleanup of our codes. Every year we go through, with our city attorney, to look at items that need to be amended either because of legislation or something dealing with state code or court rulings that would influence the Unified Development Code. This ordinance primarily deals with the rules dealing with filing an appeal of either decisions from staff or rendering from the Mayor and Council. We want to have accurate references to the OCG title code and making sure that it's all very clear and cohesive. When you look at all the chapters, we've crossed out and made amendments. Any party that doesn’t agree or person agreed by the decision of the Merit Council may appeal such decision to the Superior Court of Cobb County. In the manner provided by the law under chapter 3, title 5 of the OOC GA code, and so we're making a change. It was a previous reference that has been amended on the OCGA. The city attorney provided the correct reference for the appeal process, and we went ahead and made those changes in all of the chapters 2, 3, 8 and 9.
- The list of the exact changes being made are: 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. A link to the full ordinance can be found on page 104 of the agenda packet here: https://kennesawga.portal.civicclerk.com/event/171/files

- Chairman Bergwall calls for a motion to approve the text amendment as presented.
- Motion of approval by Vice-Chairman Jackson.
- Second by Commissioner Vande Zande
- Chairman Bergwall proceeds with a roll call for approval.
- All in favor, 4-0. Meeting minutes are approved.

5. Staff Comment

A. Upcoming Training: "Practices for Successful Meetings," offered by the City Clerk's Office

- Mr. Trevino informs the Commission of an upcoming training opportunity on August 18, 2023 that is being presented by the University of Georgia Carl Vinson Institute. They will be going over how to run effective and efficient meetings through tools such as Roberts Rule of Order and agenda settings. There will be two sessions, one at 9:30 a.m. and the other at 2:00 p.m.

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 45minutes and can accommodate up to 20 people.

- Mr. Trevino talks about the walking tour being hosted by Andrew Bramlett walking through the Historic District. He highly encourages any citizens and Commissioners to participate in this opportunity.

6. Adjourn

- Time: 8:27pm

DRAFT

Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: August 21, 2023

TITLE: Approval of the July 31, 2023 Special Called First Property Tax Public Hearing minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:
1. 07-31-23 First Property Tax Public Hearing Draft Minutes

MINUTES OF CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
July 31, 2023
6:00 PM

Present	Mayor Derek Easterling Mayor Pro Tem Tracey Viars Councilmember Lynette Burnette Councilmember Pat Ferris Councilmember Antonio Jones Councilmember Trey Sinclair Deputy City Clerk Lily Smith City Manager Jeff Drobney City Attorney Fred Bentley Jr.

1. Invocation

City Attorney Fred Bentley, Jr. led the invocation.

2. Pledge of Allegiance

City resident Andrew Bramlett led the Pledge of Allegiance.

DRAFT

3. Call to Order

Mayor Easterling called the meeting to order at 6:01 p.m.

4. 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. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed.
Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: https//www.facebook.com/CityofKennesaw/

B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. Presentations

6. Public Comment/Business from the Floor

7. Old Business

8. New Business

9. Committee and Board Reports

10. Public Hearing(s)

A. First Public Hearing on the proposed RESOLUTION to adopt the Maintenance and Operation (M&O) Millage Rate.

Property Tax Administrator Latisha Gunn presented the first public hearing on the proposed resolution to adopt the Maintenance and Operation (M&O) Millage Rate. The City of Kennesaw is proposing a millage rate of 7.750 mills for M&O, which is 0.25 mills lower than last year. She noted that the first public hearing was properly advertised according to O.C.G.A. 48-5-32 in the Marietta Daily Journal on July 22, 2023. The second display will be published in the Marietta Daily Journal on July 29, 2023. Property Tax Administrator Latisha Gunn then reiterated to the public that the second and third public hearings will take place on August 7, 2023, at 10:30 a.m. and 6:30 p.m., respectively.

6:06 p.m. Floor Open for Public Comments

No comments.

DRAFT

6:07 p.m. Floor Closed for Public Comments

Mayor Pro Tem Viars said that she was happy to see the reduction in the millage rate. Mayor Easterling congratulated City Manager Jeff Drobney and the staff on the hard work that it took to get the city to this point financially. Mayor Easterling and Councilmember Ferris celebrated this result after years of Councilmember Ferris asking for a reduction in the millage rate.

B. First Public Hearing on the proposed RESOLUTION to adopt the Bond Millage Rate.

Mayor Easterling clarified that these are two separate public hearings.

Property Tax Administrator Latisha Gunn presented the first public hearing on the proposed resolution to adopt the Bond Millage Rate. The City of Kennesaw is proposing a millage rate of 1.5 for the bond, which is the same as last year. She noted that the bond millage rate is levied to fund the debt service on the $15 million Recreation and Traffic Safety Bonds that were approved by the voters on September 21, 2004. The dates of the public hearings were properly advertised in the Marietta Daily Journal on July 22, 2023, in accordance with O.C.G.A. 48-5-32. She advised that the second display would be published in the Marietta Daily Journal on July 29, 2023. Ms. Gunn reminded the public that the second and third public hearings will take place on August 7, 2023, at 10:30 a.m. and 6:30 p.m., respectively.

6:07 p.m. Floor Open for Public Comments

No comments.

6:08 p.m. Floor Closed for Public Comments

Councilmemeber Ferris inquired about possibly paying off these bonds early. Finance Director Gina Auld stepped up and noted that she would need to consult with the City's financial advisors from Raymond James. She said that she would have an answer regarding paying the bonds off early later this fall. Councilmember Ferrris clarified if the consultation would happen after the millage rate hearings and Financial Director Gina Auld confirmed it would. Councilmember Ferris concluded the conversation by expressing his interest in hearing what the financial advisors would have to say in the coming months.

11. Consent Agenda

12. General and Administrative

13. Public Safety

14. Information Technology

15. Public Works

16. Recreation and Culture

DRAFT

17. Community Development

18. Public Comment/Business from the Floor

19. City Manager's Report

20. Mayor's Report

21. Council Reports & Discussions

22. Executive Session

Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

23. Adjourn

Mayor Easterling adjourned the meeting at 6:11 p.m. The next regularly scheduled meeting will be held Monday, August 7, 2023 at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

_____
Lily Smith, Deputy City Clerk

DRAFT

Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: August 21, 2023

TITLE: Approval of the July 31, 2023 City Council work session minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 07-31-23 City Council Draft Work Session Minutes

MINUTES OF CITY COUNCIL WORK SESSION MEETING
CITY OF KENNESAW
Council Chambers
July 31, 2023
6:30 PM

Present	Mayor Derek Easterling Mayor Pro Tem Tracey Viars Councilmember Lynette Burnette Councilmember Pat Ferris Councilmember Antonio Jones Councilmember Trey Sinclair Deputy City Clerk Lily Smith City Manager Jeff Drobney City Attorney Fred Bentley, Jr.

1. Invocation

2. Pledge of Allegiance

3. Call to Order

Mayor Easterling called the meeting to order at 6:30 p.m.

DRAFT

4. 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. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed.
Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: https//www.facebook.com/CityofKennesaw/

B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. Presentations

6. Public Comment/Business from the Floor

7. Old Business

8. New Business

A. Approval of RESOLUTION to adopt findings on proposed local amendment to Plumbing Code for Water Efficiency Submission of proposed amendment to the Department of Community Affairs.

City Attorney Fred Bentley, Jr. presented a resolution to adopt findings on proposed local amendments to the plumbing code for water efficiency with submission of the proposed amendment to the Department of Community Affairs. He started his presentation by noting that the city is part of the 15- county Metropolitan North Georgia Water Planning District. He went on to explain the city must comply with all standards and therefore must adopt new standards when available. The new standards that are being adopted are more stringent than those currently being used in the state's plumbing code to improve water efficiency and clarify allowable practices. Under O.C.G.A 8-2-25 and 26, the city is required to notify anyone who comes into the city to apply for certain permits regarding standards that will now vary from established state standards. Mr. Bentley, Jr. recommended approval to avoid future issues.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

9. Committee and Board Reports

DRAFT

A. Approval of road closures for the 2023 Taste of Kennesaw.

Assistant City Manager Marty Hughes presented road closures for the upcoming Taste of Kennesaw event. Mr. Hughes made the public aware that the road closures would be the same as closures in previous years. He noted that the only change is that Eaton Chiropractic has now changed to The Hive. The Events Committee recommends approval.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

10. Public Hearing(s)

A. Approval of ORDINANCE to amend the Code of Ordinances of the City of Kennesaw, Georgia, Section 2-101, “Appeals”; Section 2-115, “Established”; Section 22-8, “Application; Review and Approval or Denial of Application”; Section 22-24, “Inspection of Books and Records”; Section 22-399, “Issuance of License”; Section 22-404, “Hearing; Revocation and Suspension; Appeal”; Section 46-12, “Administrative Remedy”; Section 46-225, “Judicial Review”; Section 46-462, “Administrative Appeal and Judicial Review; Section 62-9, “Community Redevelopment Tax Incentive Program”; Section 74-38, “Required Service; Fees; Security Deposit”; Section 74-39, “Fee Waiver for Active Duty Military.”

City Clerk Lea Alvarez presented an ordinance to amend various sections of the code regarding appellate procedures for administrative decisions. The amendments will reflect the changes set forth in O.C.G.A, Chapter 3, Title 5, which went into effect on

July 1, 2023. This public hearing was duly advertised in the Marietta Daily Journal on July 28, 2023 and will again be advertised on August 4, 2023.

B. Third and Final Public Hearing on the proposed RESOLUTION to adopt the Maintenance and Operation (M&O) Millage Rate.

Finance Director Gina Auld presented the third and final public hearing on the proposed resolution to adopt the Maintenance and Operation (M&O) Millage Rate, which will take place at the regular meeting on Monday, August 7, 2023 at 6:30 p.m. Ms. Auld also reminded the public the hearings were properly advertised in the Marietta Daily Journal on July 22, 2023 and July 29, 2023.

C. Third and Final Public Hearing on the proposed RESOLUTION to adopt the Bond Millage Rate.

Finance Director Gina Auld presented the third and final public hearing on the proposed resolution to adopt the Bond Millage Rate, which will take place at the regular meeting on Monday, August 7, 2023 at 6:30 p.m. Ms. Auld also reminded the public the hearings were properly advertised in the Marietta Daily Journal on July 22, 2023 and July 29, 2023.

11. Consent Agenda

A. Approval of the July 10, 2023 City Council work session minutes.

B. Approval of the July 10, 2023 Special Called FY 2023-2024 Budget work session minutes.

C. Approval of the July 17, 2023 City Council regular meeting minutes.

DRAFT

12. General and Administrative

A. Approval of RESOLUTION to adopt the City of Kennesaw's Budget & Fund Balance Financial Management Policy.

Assistant to the City Manager James Friedrich presented a resolution to adopt the City of Kennesaw's Budget and Fund Balance Financial Management policy. Mr. Friedrich elaborated on how these policies will help the city remain in good financial health, and continue stability and best practices. These funds will apply to all budgeted funds and clearly define various types of funds and fund balance classifications. The City Manager and Finance Director recommend approval.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

B. Approval of RESOLUTION to adopt the City of Kennesaw's Cash & Investment Financial Management Policy.

Assistant to the City Manager James Friedrich presented a resolution to adopt the City of Kennesaw's Cash and Investment Financial Management policy. Mr. Friedrich elaborated on how these policies will help the city to maximize interest earnings, emphasizing legal compliance while providing cash flow and liquidity with the city's

financial obligations. The policy will apply to cash and investments, both short term and long term. He stated that these policies would all be the responsibility of the Finance Director while achieving the general objectives outlined in this policy, including safety, liquidity, and
yield.The City Manager and Finance Director recommend approval.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

C. Approval of RESOLUTION authorizing the Mayor or his designee to execute a grant agreement between the City and the Department of Housing and Urban Development for the City's Neighborhood Improvement Project.

Assistant to the City Manager James Friedrich presented a resolution authorizing the Mayor or his designee to execute a grant agreement between the City of Kennesaw and the Department of Housing and Urban Development for the city's Neighborhood Improvement Project. The City of Kennesaw's Neighborhood Improvement Project will address various infrastructure issues including street resurfacing, sidewalk installations, and drainage improvements specifically in the Kencrest neighborhood. Mr. Friedrich noted the funds will come from Community Project Funding that was recently authorized via Congress and distributed through the Department of Housing and Urban Development (HUD). The city has received $1,000,000 to improve the Kencrest neighborhood. Mr. Friedrich recommended approval pending legal review.

DRAFT

Councilmember Ferris followed the presentation with a line of questioning about the types of projects that would be included in this initiative. Mr. Friedrich responded with road resurfacing, sidewalk installation and curb/ drainage improvements. Councilmember Ferris stated he was happy to hear about these kinds of improvements due to the volume of questions he has received recently.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

13. Public Safety

14. Information Technology

15. Public Works

16. Recreation and Culture

A. Approval of RESOLUTION to award bid and authorize the Mayor to execute a contract with Signature Tennis Courts Inc. for the Adams Park tennis court rehabilitation project.

Public Works Director Bill McNair presented a resolution to award the bid and authorize the Mayor to execute a contract with Signature Tennis Courts, Inc. for the Adams Park court rehabilitation project. Mr. McNair specified this project would encompass removal and disposal of the existing court surfaces and perimeter fencing, subsurface gravel

leveling and compaction, new asphalt surface, new black vinyl coated fence posts and fence mesh, color coating of new court surfaces, new court striping that accommodates both tennis and pickleball, and new net posts and nets. Signature Tennis Courts Inc. was the lowest qualified bid in the amount of $115,000 and, pending legal review, the Parks and Recreation Director recommended approval. He added that this project will be paid for by 2016 SPLOST Dollars.

Councilmember Ferris inquired about the use of asphalt on projects such as this one. Public Works Director Bill McNair answered that these types of projects are usually asphalt and then are covered by an additional surface. Councilmember Ferris added that a concrete surface would last longer, but Mayor Easterling and Mayor Pro Tem Viars added there is some functionality that could be lost when playing with a ball if the incorrect surface is used. Councilmember Jones asked if there was some type of alternative recycled material that the court could be constructed with instead of asphalt. It was reiterated that there would be functionality lost and that asphalt would be the best material for this type of project.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

17. Community Development

A. DISCUSSION ONLY: Presentation of proposed storyboard designs and locations in Phase 3 of the Wayfinding Signage Project

DRAFT

Downtown and Main Street Manager Miranda Taylor discussed proposed storyboard designs and locations for the third phase of the Wayfinding Signage project. Ms. Taylor reminded the public about the twenty directional pedestrian signets that have already been put up in various locations around the city, in addition to refreshing some of the information kiosks that were recently put up as well. She spoke about Phase 3 of the Wayfinding Signage project, which will include four story boards that will be put up in various places around the downtown area. The proposed locations include: the Historic Spring area (behind City Hall), Memorial Park, Kennesaw City Cemetery, and Depot Park. She thanked Andrew Bramlett and the Southern Museum for helping her with the content development of this project. Lastly, Ms. Taylor spoke about the branding that would be used. Councilmember Jones expressed his excitement about this project.

18. Public Comment/Business from the Floor

19. City Manager's Report

A. Reports, Discussions, and Updates

B. DISCUSSION ONLY: RFP for security cameras at City parks.

Assistant City Manager Marty Hughes discussed a possible request for proposals regarding security cameras in various city parks. Mr. Hughes stated that the Council had wanted to install cameras for all city parks and that city staff had been speaking with a consulting firm to assess coverage. He presented the various camera coverage

maps for each park and gave an estimate for equipment of approximately $250,000. Mr. Hughes added that this price will not include any labor or any additional equipment that may be needed during the installation. Mr. Hughes asked for permission to begin phase two, which would involve creating the request for proposals and getting everything ready for bid.

Councilmember Jones asked a few questions regarding biometric capabilities on the camera and was informed that this was not an option at that time due to the exuberant cost. Councilmember Jones insisted that biometrics be a priority and researched thoroughly. Councilmember Ferris inquired about the data storage and connectivity systems that the cameras would use. Mr. Hughes replied the cameras would be wired and then the data would be transferred to a centralized hub. Councilmember Ferris also asked for a strict retention policy for this type of footage as well as more research on possible biometric abilities. Mayor Pro Tem Viars also voiced her support for this kind of capability as well.

C. Authorize use of ARPA funds to install conduits at the amphitheater side of Depot Park.

Assistant City Manager Marty Hughes requested authorization to use American Rescue Plan Act (ARPA) funds to install conduits on the amphitheater side of Depot Park. Mr. Hughes brought attention to the fact that the amphitheater-side of Depot Park has access to the electrical infrastructure while other construction projects are going on. The city can use this opportunity to install conduits for eight new security cameras. Staff will use ARPA Funding for this project. Mr. Hughes said this would drastically save time and money on not having to re-open the ground after the amphitheater project is completed.

DRAFT

Councilmember Jones inquired the price and Assistant City Manager Marty Hughesreplied it would be cost $20,000.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

20. Mayor's Report

A. Mayor and Council (re)appointments to Boards and Commissions. This item is for (re)appointments made by the Mayor to any Board, Committee, Authority, or Commission requiring an appointment to fill any vacancies, resignations, and to create or dissolve boards and commissions, as deemed necessary.

21. Council Reports & Discussions

22. Executive Session

Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from

the City Attorney; and/or personnel matters; and/or real estate matters.

Motion by Councilmember Burnette to enter into Executive Session as allowed by O.C.G.A. Sec. 50-14-3 for discussing personnel. Motion seconded by Mayor Pro Tem Viars.

After receiving visual and verbal confirmation from Council, motion approved unanimously, 5-0. Motion carried.

6:53 P.M. Recess to Executive Session

Mayor, City Council, City Attorney, City Manager, Assistant City Manager, City Clerk and Deputy City Clerk attended Executive Session.

7:10 P.M. Reconvene to Open Session

Councilmember Burnette read the Board back into Open Session and directed the Mayor and City Council to execute an affidavit in compliance with O.C.G.A. Sec. 50-14-4. Motion seconded by Mayor Pro Tem Viars.

After receiving visual and verbal confirmation from Council, motion approved unanimously, 5-0. Motion carried.

DRAFT

23. Adjourn

Mayor Easterling adjourned the meeting at 7:12 P.M. The regular meeting will be held Monday, August 7, 2023 at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

_____
Lily Smith, Deputy City Clerk

Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: August 21, 2023

TITLE: Approval of the July 31, 2023 City Council executive session minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 08-07-23 City Council Executive Session Affidavit

MAYOR
Derek Easterling

City Manager
Jeff Drobney

City Clerk
Lea Alvarez

COUNCIL
Mayor Pro Tem Tracey Viars
Lynette Burnette
Pat Ferris
Antonio Jones
Trey Sinclair

Verification the Mayor and City Council have reviewed Minutes from the

July 31st, 2023 Executive Session.

(please initial next to your name)

Mayor Derek Easterling _____ Date: 08/07/2023

Mayor Pro Tem Tracey Viars _____ Date: 8/7/23

Councilmember Lynette Burnette Lynette Burnette Date: 8/7/23

Councilmember Pat Ferris _____ Date: 8/7/2023

Councilmember Antonio Jones _____ Date: 8/7/2023

Councilmember Trey Sinclair _____ Date: 8/7/2023

These Minutes were approved at the August 7th, 2023 Mayor and City Council meeting.

ATTEST:

_____
Lily Smith, Deputy City Clerk

Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: August 21, 2023

TITLE: Approval of the August 7, 2023 Special Called Second Property Tax Public Hearing minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:
1. 08-07-23 Second Property Tax Public Hearing Draft Minutes

MINUTES OF CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
August 7, 2023
10:30 AM

Present	Mayor Derek Easterling
	Mayor Pro Tem Tracey Viars
	Councilmember Lynette Burnette
	Councilmember Pat Ferris
	Councilmember Antonio Jones
	Councilmember Trey Sinclair
	City Clerk Lea Alvarez
	City Manager Jeff Drobney

1. Invocation

2. Pledge of Allegiance

3. Call to Order

Mayor Easterling called the meeting to order at 10:30 a.m.

DRAFT

4. 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. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed. Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: https//www.facebook.com/CityofKennesaw/

B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. Presentations

6. Public Comment/Business from the Floor

10:31 a.m. Floor Open for Public Comments

No comments.

10:32 a.m. Floor Closed for Public Comments

7. Old Business

8. New Business

9. Committee and Board Reports

10. Public Hearing(s)

A. Second Public Hearing on the proposed RESOLUTION to adopt the Maintenance and Operation (M&O) Millage Rate.

Property Tax Administrator Latisha Gunn presented the second public hearing for the proposed resolution to adopt the Maintenance and Operation (M&O) Millage Rate. The City of Kennesaw is proposing a millage rate of 7.750 mills for M&O, which is 0.25 mills lower than last year. The public hearings have been properly advertised in accordance with O.C.G.A 48-5-32 in the Marietta Daily Journal on July 22, 2023 and July 29, 2023. The third and final public hearing will be held on Monday, August 7, 2023 at 6:30 p.m.

10:32 a.m. Floor Open for Public Comments

No comments.

DRAFT

10:33 a.m. Floor Closed for Public Comments

B. Second Public Hearing on the proposed RESOLUTION to adopt the Bond Millage Rate.

Property Tax Administrator Latisha Gunn presented the second public hearing on the proposed resolution to adopt the Bond Millage Rate. The City of Kennesaw is proposing a millage rate of 1.5 for the bond, which is the same as last year. Ms. Gunn stated the bond millage rate is levied to fund the debt service on the $15 million Recreation and Traffic Safety bonds that were approved by the voters on September 21, 2004. The public hearings have been properly advertised in accordance with O.C.G.A 48-5-32 in the Marietta Daily Journal on July 22, 2023 and July 29, 2023. The third and final public hearing will be held on Monday, August 7, 2023 at 6:30 p.m.

10:33 a.m. Floor Open for Public Comments

No comments.

10:34 a.m. Floor Closed for Public Comments

11. Consent Agenda

12. General and Administrative

13. **Public Safety**

14. **Information Technology**

15. **Public Works**

16. **Recreation and Culture**

17. **Community Development**

18. **Public Comment/Business from the Floor**

19. **City Manager's Report**

20. **Mayor's Report**

21. **Council Reports & Discussions**

22. **Executive Session**

    Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

DRAFT

23. **Adjourn**

Mayor Easterling adjourned the meeting at 10:34 p.m. The third and final public hearing will be held Monday, August 7, 2023 at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

_____
Lea Alvarez, City Clerk

Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: August 21, 2023

TITLE: Approval of the August 7, 2023 City Council regular meeting minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:
1. 08-07-23 City Council Draft Minutes

MINUTES OF CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
August 7, 2023
6:30 PM

Present	Mayor Derek Easterling Mayor Pro Tem Tracey Viars Councilmember Lynette Burnette Councilmember Pat Ferris Councilmember Antonio Jones Councilmember Trey Sinclair Deputy City Clerk Lily Smith City Manager Jeff Drobney City Attorney Randall Bentley, Sr.

1. Invocation

City Attorney Randall Bentley, Jr. led the invocation.

2. Pledge of Allegiance

City Clerk Lea Alvarez led the Pledge of Allegiance.

DRAFT

3. Call to Order

Mayor Easterling called the meeting to order at 6:30 p.m.

4. 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. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed.
Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: https//www.facebook.com/CityofKennesaw/

B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. Presentations

6. Public Comment/Business from the Floor

[The City Attorney swore-in any witnesses or individuals offering comments on the

agenda].

6:32 p.m. Floor Open for Public Comments

No comments.

6:33 p.m. Floor Closed for Public Comments.

7. Old Business

8. New Business

9. Committee and Board Reports

10. Public Hearing(s)

A. Approval of ORDINANCE to amend the Code of Ordinances of the City of Kennesaw, Georgia, Section 2-101, “Appeals”; Section 2-115, “Established”; Section 22-8, “Application; Review and Approval or Denial of Application”; Section 22-24, “Inspection of Books and Records”; Section 22-399, “Issuance of License”; Section 22-404, “Hearing; Revocation and Suspension; Appeal”; Section 46-12, “Administrative Remedy”; Section 46-225, “Judicial Review”; Section 46-462, “Administrative Appeal and Judicial Review; Section 62-9, “Community Redevelopment Tax Incentive Program”; Section 74-38, “Required Service; Fees; Security Deposit”; Section 74-39, “Fee Waiver for Active Duty Military.”

DRAFT

City Clerk Lea Alvarez presented an ordinance to amend various sections of the code regarding appellate procedures for administrative decisions. The amendments will reflect the changes set forth in O.C.G.A, Chapter 3, Title 5, which went into effect on July 1, 2023. This public hearing was duly advertised in the Marietta Daily Journal on July 28, 2023 and on August 4, 2023. The City Clerk recommends approval.

Motion by Mayor Pro Tem Viars to approve **ORDINANCE NO. 2023-14, 2023** to amend the Code of Ordinances of the City of Kennesaw, Georgia, Section 2-101, “Appeals”; Section 2-115, “Established”; Section 22-8, “Application; Review and Approval or Denial of Application”; Section 22-24, “Inspection of Books and Records”; Section 22-399, “Issuance of License”; Section 22-404, “Hearing; Revocation and Suspension; Appeal”; Section 46-12, “Administrative Remedy”; Section 46-225, “Judicial Review”; Section 46-462, “Administrative Appeal and Judicial Review; Section 62-9, “Community Redevelopment Tax Incentive Program”; Section 74-38, “Required Service; Fees; Security Deposit”; Section 74-39, “Fee Waiver for Active Duty Military,” as presented. Seconded by Councilmember Sinclair.

6:33 p.m. Floor Open for Public Comments

No comments.

6: 34 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 5-0. Motion carried.

B. Third and Final Public Hearing on the proposed RESOLUTION to adopt the Maintenance and Operation (M&O) Millage Rate.

Property Tax Administrator Latisha Gunn presented the third and final public hearing on the proposed resolution to adopt the Maintenance and Operation (M&O) Millage Rate. The city has proposed a rate of 7.75 mills, which is .25 mills lower than last year. The dates of the public hearings, the current 2023 Tax Digest and the Five Year History of the Levy were properly advertised in the Marietta Daily Journal on July 22, 2023 and July 29, 2023. In accordance with O.C.G.A. 48-5-32, the first and second public hearings were held on July 31, 2023 at 6 p.m. and August 7, 2023 at 10:30 a.m. The Finance Director recommends approval.

Motion by Councilmember Burnette to approve **RESOLUTION NO. 2023-32, 2023** to adopt the Maintenance and Operation (M&O) Millage Rate, as presented. Seconded by Mayor Pro Tem Viars.

6:35 p.m. Floor Open for Public Comments

No comments.

DRAFT

6:36 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 5-0. Motion carried.

C. Third and Final Public Hearing on the proposed RESOLUTION to adopt the Bond Millage Rate.

Property Tax Administrator Latisha Gunn presented the third and final public hearing on the proposed resolution to adopt the Bond Millage Rate. The City of Kennesaw is proposing a millage rate of 1.5 for the bond, which is the same as last year. Ms. Gunn noted that the bond millage rate is levied to fund the debt service on the $15 million Recreation and Traffic Safety Bonds that were approved by the voters on September 21, 2004. The dates of the public hearings, the current 2023 Tax Digest and Five Year History of Levy were properly advertised in the Marietta Daily Journal on July 22, 2023 and then again on July 29, 2023, in accordance with O.C.G.A. 48-5-32. Ms. Gunn also noted that the second and third public hearings took place July 31, 2023, at 6:30 p.m. and August 7, 2023, at 10:30 a.m., respectively. The Finance Director recommends approval.

6:36 p.m. Floor Open for Public Comments

No comments.

6:37 p.m. Floor Closed for Public Comments

Motion by Councilmember Sinclair to approve RESOLUTION NO. 2023-33, 2023 to adopt the Bond Millage Rate, as presented. Seconded by Councilmember Jones.

Vote taken, motion unanimously approved 5-0. Motion carried.

11. Consent Agenda

Motion by Mayor Pro Tem Viars to approve the Consent Agenda engross. Seconded by Councilmember Burnette.

Vote taken, motion unanimously approved 5-0. Motion carried.

A. Approval of the July 10, 2023 City Council work session minutes.

B. Approval of the July 10, 2023 Special Called FY 2023-2024 Budget work session minutes.

C. Approval of the July 17, 2023 City Council regular meeting minutes.

D. Approval of RESOLUTION to adopt findings on proposed local amendment to Plumbing Code for Water Efficiency Submission of proposed amendment to the Department of Community Affairs.

RESOLUTION NO. 2023-34, 2023

E. Approval of road closures for the 2023 Taste of Kennesaw.

F. Approval of RESOLUTION to adopt the City of Kennesaw's Budget & Fund Balance Financial Management Policy.

RESOLUTION NO. 2023-35, 2023

G. Approval of RESOLUTION to adopt the City of Kennesaw's Cash & Investment Financial Management Policy.

RESOLUTION NO. 2023-36, 2023

H. Approval of RESOLUTION authorizing the Mayor or his designee to execute a grant agreement between the City and the Department of Housing and Urban Development for the City's Neighborhood Improvement Project.

RESOLUTION NO. 2023- 37, 2023

I. Approval of RESOLUTION to award bid and authorize the Mayor to execute a contract with Signature Tennis Courts Inc. for the Adams Park tennis court rehabilitation project.

RESOLUTION NO. 2023- 38, 2023

J. Authorize use of ARPA funds to install conduits at the amphitheater side of Depot Park.

K. On July 28, 2023, John and Anna Hall purchased one (1) cemetery lot in the Kennesaw City Cemetery. This lot is located in Section III, Plot 35, Lot A. Mayor to sign supporting deed for purchase of this lot. City Clerk recommends approval.

DRAFT

L. On August 1, 2023, Dorothy M Quinley purchased one (1) cemetery lot in the Kennesaw City Cemetery. This lot is located in Section III, Plot 29, Lot F. Mayor to sign supporting deed for purchase of this lot. City Clerk recommends approval.

M. On August 1, 2023, Charles W Quinley purchased one (1) cemetery lot in the Kennesaw City Cemetery. This lot is located in Section III, Plot 29, Lot G. Mayor to sign supporting deed for purchase of this lot. City Clerk recommends approval.

12. General and Administrative

13. Public Safety

14. Information Technology

15. Public Works

16. Recreation and Culture

17. Community Development

18. Public Comment/Business from the Floor

DRAFT

6:39 p.m. Floor Open for Public Comments

LEWIS BRAMLETT [City Resident]: Mr. Bramlett shared an interesting story about Dr. John W. Ellis, a well known doctor in the City of Kennesaw for fifty years **(See Exhibit A)**.

6:41 p.m. Floor Closed for Public Comments

19. City Manager's Report

A. Reports, Discussions, and Updates

20. Mayor's Report

A. Mayor and Council (re)appointments to Boards and Commissions. This item is for (re)appointments made by the Mayor to any Board, Committee, Authority, or Commission requiring an appointment to fill any vacancies, resignations, and to create or dissolve boards and commissions, as deemed necessary.

B. Accept the resignation of Travice Baldwin Obas from the Kennesaw Enrichment and Enhancement Program, Kennesaw Sister Cities Commission, and Kennesaw Art and Culture Commission.

[Mayor Easterling called for the Council to vote on items 20.B - 20.D as one item]

Motion by Mayor Pro Tem Viars to accept the resignations of Travice Baldwin Obas from the Kennesaw Enrichment and Enhancement Program, Kennesaw Sister Cities Commission, and Kennesaw Art and Culture Commission; Kimberly Watkins from the Kennesaw Art and Culture Commission; and Mike Ferguson from the Historic Preservation Commission. Seconded by Councilmember Sinclair.

Vote taken, motion unanimously approved 5-0. Motion carried.

C. Accept the resignation of Kimberly Watkins from the Kennesaw Art and Culture Commission.

D. Accept the resignation of Mike Ferguson from the Historic Preservation Commission.

21. Council Reports & Discussions

Mayor Pro Tem Viars was excited about up-coming events going on in the city and the amphitheater that would be completed soon.

Councilmember Ferris advised everyone to use caution as bad weather begins moving into the area. He was also thankful for the weather not being worse.

Councilmemeber Jones praised the police for their hard work when a tree fell down and blocked a road in his neighborhood during a recent storm. He commended them for their quick action in order to ensure the safety of the public.

DRAFT

Mayor Easterling added that all of the city's employees go above and beyond daily to help the public.

Councilmember Sinclair had nothing to add.

Councilmember Burnette noted that she was happy to see the direction that the city was going in and was looking forward to the future.

22. Executive Session

Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

23. Adjourn

Mayor Easterling adjourned the meeting at 6:45 p.m. The next regularly scheduled meeting will be held on Monday, August 21, 2023 at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

_____
Lily Smith, Deputy City Clerk

KENNESAW HISTORY

Dr. John W. Ellis

Dr. John W. Ellis was the town doctor of Kennesaw for fifty years. He started his practice in downtown in 1900, but the road to his success was difficult.

A young Ellis attended school in Cherokee County, where he grew up, and for seven years went to Reinhardt Academy in Waleska. To pay for this schooling, he worked as a janitor.

After graduation, Ellis work on a farm for a year to pay of two years of school at the Southern Medical College (now part of Emory University). After two years of higher education, he returned to the farm to pay for two more years.

Ellis next planned on attending the Georgia College of Eclectic Medicine, and he had to pick cotton (earning 50 cents a day) to pay for two additional years of school. He graduated in 1900 and moved to Kennesaw. At the time of his death in 1950 he was one of Kennesaw's wealthiest landowners.

DRAFT



Dr. John W. Ellis. Image from Carolyn Kemp.

Presented by Andrew J. Bramlett at the August 7, 2023, City of Kennesaw Mayor & Council Meeting

KENNESAW HISTORICAL SOCIETY

Names and Addresses will be disclosed in the Permanent Minutes of the City of Kennesaw

PLEASE MAKE SURE YOUR NAME IS LEGIBLE AND CLEAR

Mayor & Council Regular Meeting
8/7/2023
Public Comment Sign-in

	Name	Address	Topic
1	LEWIS BRAMLETT	2990 Summerfield Ct 30152	local history
2			
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Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: August 21, 2023

TITLE: Consideration for approval of a parcel combination plat application submitted by Cherokee Growth, LLC for 0 N Cobb Parkway (PIN: 20014100920) & 0 N Cobb Parkway (PIN: 20014100100). Case #PC2023-01.

Summary:

This plat combines two vacant parcels into one. This site was awarded a rezoning approval from Planned Unit Development - Residential (PUD-R) to Office/Institutional (OI) under ordinance #2022-07 approved by Mayor and Council on October 17, 2022. A 14,000 square foot medical office facility is currently being constructed at this site. The parcel identified as 20014100920 is approximately 1.905 acres and the other parcel identified as 20014100100 is approximately 1.777 acres. The total acreage of the combined parcels is approximately 3.682 acres. These two parcels were previously known as 0 North Cobb Parkway (PIN: 20014100920) and 0 North Cobb Parkway (PIN: 20014100100). The new address for this site is 2985 Mack Dobbs Road. The Plan Review Committee, including Cobb Fire and Cobb Water, have all reviewed said plat for compliance and recommend approval.

Recommendation:

The Zoning Administrator is recommending approval of the parcel combination plat application.

Fiscal Impact:

Attachments:
1. Aerial Map (RZ2022-05)
2. Application (Redacted)
3. Parcel Combination Plat
4. PRC Approval Letter
5. ORD 2022-07 0 North Cobb Parkway



LAND CASES		LAND USE OR ZONING FROM	TO
AV	LU		
AX	RZ 2022-05	PUD-R	O/I
DX			
HBR			
SLUP			
ZV			

AV – Administrative Variance
AX – Annexation
DX – De-annexation
HBR – Historic Board Review
LU – Land Use
RZ – Re-zoning
SLUP – Special Land Use
ZV – Variance

R-10 ZONING
KENNESAW CITY LIMITS
COBB COUNTY
99 LAND LOT

0 N Cobb Pkwy & 0 N Cobb Pkwy
Land Lots 141, Tax Parcels 10 & 92
Subject Property

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

Derek Easterling MAYOR
Lea Alvarez CITY CLERK

Scale: 1 " = 150 '
Print Date: 8/31/2022
RZ2022_05_Aerial_ap

Current Address: 0 N Cobb Pkwy & 0 N Cobb Pkwy
New Address: 2895 Mack Dobbs Road

Office Use Only:
ZONING CASE# PC2023-01

Date Received 03/02/2023
Staff's Initials AT

PRELIMINARY, FINAL AND REVISE PLAT APPLICATION

Required Application Fee $250.00

Preliminary Plat _____ ***Final Plat*** _____ ***Revised Plat*** _____ ***Parcel Combination*** ✓ ***Parcel Split*** _____

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

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

Date of Consultation 02/01/2023 **Staff Initials** AT

DEVELOPMENT NAME Mack Dobbs Number of Units

PURPOSE OF DEVELOPMENT Medical Practice Office.

WHAT IS THE REVISION BEING MADE Parcel Combination

ADDRESS OF PROPERTY 2895 Mack Dobbs Rd NW, Kennesaw, GA 30152

Parcel ID 20014100920 1.90 20014100100 1.78 Lot Size 3.68 Present Zoning OI

Current Use Undeveloped Proposed Use Office.

APPLICANT Cherokee Growth, LLC

Applicant address 3333 Riverwood Pkwy, Suite 250, Atlanta, GA 30339

(Phone #) [redacted] Email Address [redacted]

Applicant Signature

Signed, sealed and delivered in presence of:

Notary 2-16-23 Date

TANIKO GRIER
NOTARY PUBLIC
DEKALB COUNTY, GEORGIA
MY COMM. EXPIRES
05/31/2025

REPRESENTATIVE _____ (Phone #) _____ Email Address _____

Representative Signature _____

Signed, sealed and delivered in presence of: _____

Notary **Date**

TITLEHOLDER Same as applicant (Phone #) _____

Titleholder Signature _____ Address _____

Signed, sealed and delivered in presence of Notary _____ Date _____

CAMPAIGN DISCLOSURE REPORT[1] BY APPLICANT[2]

A separate form must be completed by each applicant

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 indicate "Yes" or "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:

None

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:

$0

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 16 day of February, 2023

Applicants 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.

Deed Book 16115 Page 484
Filed and Recorded 02/14/23 2:46:00 PM
2023-0010594
Real Estate Transfer Tax $1,075.50
Connie Taylor
Clerk of Superior Court
Cobb County, GA
Participant IDs: 8840855492
7067927936

(Above Reserved for Recording)

Prepared by, and after recording return to:
Arnall Golden Gregory LLP
171 17th Street, NW, Suite 2100
Atlanta, Georgia 30363
Attn.: Russell A. Arouh, Esq.

Tax Parcel Identification Number: Parcel #20-0141-0-092-0 and Parcel #20-0141-0-0100

STATE OF GEORGIA
COUNTY OF Cobb

LIMITED WARRANTY DEED

THIS INDENTURE, made this 9th day of February, 2023, between COX INVESTMENTS, LLC, a Georgia limited liability company (herein called "Grantor") and CHEROKEE GROWTH, LLC, a Delaware limited liability company (herein called "Grantee").

WITNESSETH: That Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed and by these presents does grant, bargain, sell, alien, convey and confirm unto Grantee all that tract or parcel of land described on Exhibit A, attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said bargained premises, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in any wise appertaining, to the only proper use, benefit and behoof of Grantee, forever, **IN FEE SIMPLE**.

This Deed and the warranty of title contained herein are made expressly subject to the items set forth on Exhibit B attached hereto and made a part hereof.

Grantor will warrant and forever defend the right and title to the above-described property unto Grantee against the lawful claims of all persons owning, holding or claiming by, through or under Grantor, but not otherwise.

(The words "Grantor" and "Grantee" include all genders, plural and singular, and their respective heirs, successors and assigns where the context requires or permits.)

(SIGNATURE ON FOLLOWING PAGE)

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered
in the presence of:

Unofficial Witness

Notary Public

My commission expires:
Aug. 10th 2024

[NOTARIAL SEAL]

GRANTOR:

COX INVESTMENTS, LLC,
a Georgia limited liability company

By: _____
Name: Lonnie D. Cox
Its owner / president



EXHIBIT "A"
Legal Description

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

To find the POINT OF BEGINNING, commence at an iron pin (1/2" rebar) located on the southerly right of way of US Highway 41 and the westerly right of way of Mack Dobbs Road, thence, South 23°30'58" West a distance of 303.23 feet to a point said point being the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING, as thus established, proceed, South 23°19'26" West a distance of 439.17 feet to right of way monument; thence, North 76°41'10" West a distance of 49.71 feet to a right of way monument on the easterly right of way of Old Mack Dobbs Road; thence, North 10°31'01" West a distance of 47.15 feet to a point; thence, North 07°17'17" West a distance of 268.54 feet to a point; thence, along a curve to the right, an arc distance of 170.07 feet, having a radius of 1000.34 feet, subtended by a chord bearing, North 02°24'55" East and a chord distance of 169.87 feet to a point; thence, leaving said right of way Old Mack Dobbs Road; South 71°34'51" East a distance of 286.78 feet to a point on the easterly right of way of Mack Dobbs Road and the TRUE POINT OF BEGINNING;

Said tract or parcel contains 77,395 square feet or 1.777 acres.

Together with:

North Tract

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, 2nd Section, Cobb County, Georgia; being designated as 1.8209 acres, also designated as Parcel #6 on that certain plat of survey for Brookstone Partners Property pursuant to the Mack Dobbs Road Realignment, prepared by LRE Engineering, Inc., Franco L. DeMarco, G.R.P.E. No 17655, dated September 19, 1997 and being more particularly described as follows: Beginning at a point located at the intersection of the southerly side of the right-of-way of U.S. 41 a/k/a North Cobb Parkway and the westerly side of the right-of-way of the Realigned Mack Dobbs Road and running thence South 23 degrees 14 minutes 27 seconds West along the westerly side of the right-of-way of the Realigned Mack Dobbs Road for a distance of 297.63 feet to a point and corner; running thence North 72 degrees 33 minutes 03 seconds West for a distance of 280.91 feet to a point and corner located on the easterly side of the former location of Mack Dobbs Road; running thence North 06 degrees 08 minutes 22 seconds East for a distance of 86.75 feet to a point; running thence North 19 degrees 57 minutes 55 seconds East for a distance of 34.14 feet to a point; running thence North 45 degrees 57 minutes 35 seconds East for a distance of 65.07 feet to a point; running thence North 59 degrees 49 minutes 47 seconds East for a distance of 56.05 feet to a point; running thence North 66 degrees 18 minutes 04 seconds East for a distance of 110.56 feet to a point

located on the southerly side of the right-of-way of U.S. 41 a/k/a North Cobb Parkway; running thence South 74 degrees 23 minutes 37 second East along the southerly side of the right- of-way of U.S. 41 a/k/a North Cobb Parkway for a distance of 174.46 feet to the original point of beginning.

Less and Except any portion of subject property conveyed in the following:

1. Right of Way Deed from J. A. Heck to State Highway Department of Georgia, dated July 15, 1948, recorded August 21, 1948 in Deed Book 202, Page 103, Cobb County, Georgia records.

2. Right of Way Deed from John C. M. Mill, Ronald H. Howren, J. Ronald Dilbeck & John F. Mann, Sr. to Cobb County, Georgia, dated December 5, 1997, recorded January 8, 1998 in Deed Book 10926, Page 92, Cobb County, Georgia records.

3. Right of Way Deed from Alice Wylie Heck to Cobb County, Georgia, dated September 10, 199__, recorded May 21, 1998 in Deed Book 11308, Page 76, Cobb county, Georgia records.

EXHIBIT "B"

1. All taxes for the year 2023 and subsequent years, not yet due and payable.

2. Right of Way Deed from J.A. Heck to State Highway Department of Georgia, dated July 15, 1948, recorded in Deed Book 202, page 103, in the Clerk's Office of the Superior Court of Cobb County, Georgia.

3. Easement from Mrs. John A. Heck to Cobb County Electric Membership Corporation, dated March 21, 1988, recorded April 29, 1988, in Deed Book 4900, page 271, aforesaid records.

4. Easement from Alice W. Heck to Cobb County Electric Membership Corporation, dated March 22, 1995, recorded August 14, 1995, in Deed Book 9039, page 80, aforesaid records.

5. Right of Way Deed from John C. M. Mill, Ronald H. Howren, J. Ronald Dilbeck & John F. Mann, Sr. to Cobb County, Georgia, dated December 5, 1997, recorded January 8, 1998, in Deed Book 10926, page 92, aforesaid records.

6. Right of Way Deed from Alice Wylie Heck to Cobb County, Georgia, dated September 10, 199___, recorded May 21, 1998, in Deed Book 11308, page 76, aforesaid records.

7. Permanent Easement from Lonnie D. Cox to Cobb County, Georgia, dated October 23, 2019, recorded November 26, 2019, in Deed Book 15688, page 5901, aforesaid records.

8. Temporary Construction Easement form Lonnie D. Cox to Cobb County, Georgia, dated October 23, 2019, recorded November 26, 2019, in Deed Book 15688, page 5904, aforesaid records.

9. Boundary Line Agreement between John Philip Heck EXLWT of Alice Wylie Heck (First Party) and Robert L. Smith and Leslie G. Smith (Second Party), recorded October 29, 1999, in Deed Book 13027, page 44, aforesaid records.

10. Agreement for the Sale and Purchase of Real Estate between Alice W. Heck a/k/a Alice Wylie Heck a/k/a Mrs. John A. Heck and Beazer Homes Georgia, Inc., dated August 30, 1995, recorded September 7, 1995, in Deed Book 9091, page 286, aforesaid records; as affected by First Amendment to Agreement for the Sale and Purchase of Real Estate, dated July 2, 1997, recorded July 9, 1997, in Deed Book 10482, page 455, aforesaid records.

11. ALTA/ACSM Land Title Survey for Cherokee Growth, et. al. prepared by Meridian Geomatics, dated November 9, 2022, bearing the seal of Bryan C. Long, GRLS. No. 3107 delineates the following:

a. Electric line running within the interior of the property and crossing the various boundary lines;

b. Sewer line intersecting the eastern boundary line of the property; and

c. Eighteen (18) inch reinforced concrete pipe intersecting the northern boundary line.

Deed Book 16115 Page 490
Filed and Recorded 02/14/23 2:46:00 PM
2023-0010595
Connie Taylor
Clerk of Superior Court
Cobb County, GA
Participant IDs: 8840855492
7067927936

(Above Reserved for Recording)

Prepared by, and after recording return to:
Arnall Golden Gregory LLP
171 17th Street, NW, Suite 2100
Atlanta, Georgia 30363
Attn.: Russell A. Arouh, Esq.

Tax Parcel Identification Number: Parcel #20-0141-0-092-0 and Parcel #20-0141-0-0100

STATE OF Georgia

COUNTY OF Cobb

QUITCLAIM DEED

THIS QUITCLAIM DEED, made as of the 9th day of February, 2023, is executed and delivered by COX INVESTMENTS, LLC, a Georgia limited liability company (hereinafter referred to as "GRANTOR") to CHEROKEE GROWTH, LLC, a Delaware limited liability company (hereinafter referred to as "GRANTEE").

W I T N E S S E T H:

THAT GRANTOR, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency of which are hereby acknowledged, by these

presents does hereby remise, convey and forever QUITCLAIM unto GRANTEE, its successors and assigns, all that tract or parcel of land described on Exhibit A attached hereto and made a part hereof.

TO HAVE AND TO HOLD, the said described premises to GRANTEE, so that neither GRANTOR nor any person or persons claiming under GRANTOR, shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

THIS QUITCLAIM DEED may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one document.

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the GRANTOR has signed and sealed this Quitclaim Deed, the day and year first above written.

Signed, sealed and delivered
in the presence of:

Budget J Parker
Unofficial Witness

Christine B Cox
Notary Public

My Commission Expires:

Aug. 10th, 2024

(NOTARY SEAL)

CHRISTINE B COX
NOTARY
EXPIRES
GEORGIA
August 10, 2024
PUBLIC
BARTOW COUNTY

GRANTOR:

COX INVESTMENTS, LLC,
a Georgia limited liability company

By: _____
Name: Lonnie D. Cox
Its owner / president

EXHIBIT "A"

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

To find the POINT OF BEGINNING, commence at an iron pin (1/2" rebar) located on the southerly right of way of US Highway 41 and the westerly right of way of Mack Dobbs Road, said point being the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING, as thus established, proceed, along said right of way of Mack Dobbs Road, South 23°30'58" West a distance of 303.23 feet to a point; thence, leaving said right of way of Mack Dobbs Road, North 71°34'51" West a distance of 286.78 feet to a point; thence, along a curve to the right, an arc distance of 56.82 feet, having a radius of 595.97 feet, subtended by a chord bearing, North 04°41'06" East and a chord distance of 56.80 feet to a point; thence, along a curve to the right, an arc distance of 39.91 feet, having a radius of 595.97 feet, subtended by a chord bearing, North 10°20'07" East and a chord distance of 39.91 feet to a point; thence, along a curve to the right, an arc distance of 83.03 feet, having a radius of 100.33 feet, subtended by a chord bearing, North 35°57'39" East and a chord distance of 80.68 feet to a point; thence, North 59°40'04" East a distance of 66.29 feet to a point; thence, North 67°07'44" East a distance of 112.31 to an iron pin found (1/2" rebar) on the southerly right of way of US Highway 41, thence, along said right of way US Highway 41, South 73°34'19" East a distance of 179.55 feet to an iron pin found (1/2" rebar) and the TRUE POINT OF BEGINNING;

Said tract or parcel contains 82,972 square feet or 1.905 acres.

AND

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

To find the POINT OF BEGINNING, commence at an iron pin (1/2" rebar) located on the southerly right of way of US Highway 41 and the westerly right of way of Mack Dobbs Road, thence, South 23°30'58" West a distance of 303.23 feet to a point said point being the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING, as thus established, proceed, South 23°19'26" West a distance of 439.17 feet to right of way monument; thence, North 76°41'10" West a distance of 49.71 feet to a right of way monument on the easterly right of way of Old Mack Dobbs Road; thence, North 10°31'01" West a distance of 47.15 feet to a point; thence, North 07°17'17" West a distance of 268.54 feet to a point; thence, along a curve to the right, an arc distance of 170.07 feet, having a radius of 1000.34 feet, subtended by a chord bearing, North 02°24'55" East and a chord distance of 169.87 feet to a point; thence, leaving said right of way Old Mack Dobbs Road; South 71°34'51" East a distance of 286.78 feet to a point on the easterly right of way of Mack Dobbs Road and the TRUE POINT OF BEGINNING;

Said tract or parcel contains 77,395 square feet or 1.777 acres.

EXHIBIT

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

Beginning at an iron pin found (1/2" rebar) at the intersection of the southerly right of way of U.S Highway 41 and westerly right of way of Mack Dobbs Road; said point being the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING as thus established, proceed along Mack Dobbs Road, South 23°30'58" West a distance of 303.23 feet to a point; thence, South 23°19'26" West a distance of 439.17 feet to a right of way monument; thence, North 76°41'10" West a distance of 49.71 feet to a right of monument; thence, North 10°31'01" West a distance of 47.15 feet to a point; thence, North 07°17'17" West a distance of 268.54 feet to a point; thence, along a curve to the right, an arc distance of 170.07 feet, having a radius of 1000.34, subtended by a chord bearing North 02°24'55" West and a chord distance of 169.87 feet to a point; thence, along a curve to the right, an arc distance of 56.82 feet, having a radius of 595.97, subtended by a chord bearing North 05°41'06" East and a chord distance of 56.80 feet to a point; thence, along a curve to the right, an arc distance of 39.91 feet, having a radius of 595.97, subtended by a chord bearing North 10°20'07" East and a chord distance of 39.91 feet to a point; thence, along a curve to the right, an arc distance of 83.03 feet, having a radius of 100.33, subtended by a chord bearing North 35°57'39" East and a chord distance of 169.87 feet to a point; thence, North 59°40'04" East a distance of 66.29 feet to a point; thence, North 67°07'44" East a distance of 112.31 feet to an iron pin found (1/2" rebar); thence, South 73°34'19" East a distance of 179.55 feet to an iron pin found (1/2" rebar) and the TRUE POINT OF BEGINNING;

Said tract or parcel contains 160,366 square feet or 3.682 acres.

Owner Name	Year	Parcel ID	Address	Bill Type	Paid	Due	
COX INVESTMENTS LLC	2022	20014100920	N COBB PKWY	Original	Paid	$0.00	View
COX INVESTMENTS LLC	2021	20014100920	N COBB PKWY	Original	Paid	$0.00	

COX LONNIE D	2022	20014100100	N COBB PKWY	Original	Paid	$0.00

Confirmation of paid city taxes are below:

CITY OF KENNESAW	20014100920	$744.80	PAID

CITY OF KENNESAW	20014100100	$273.60	PAID

THIS BLOCK RESERVED FOR COURT CLERK

ZONING: O & I

SETBACKS
- FRONT = 50'
- SIDE = 15'
- MAJOR SIDE = 25'
- REAR = 30'

MIN. LOT SIZE = 20,000 SQ.FT.
MIN. LOT WIDTH = 60'
MAX. IMPERVIOUS COVERAGE = 60%
MAX. HEIGHT = 2 STORIES OR 35'

BOUNDARY REFERENCES:

1. SUBJECT DEED BOOK 15832 , PAGE 946
2. SEE ADJOINERS

ADDRESS(S)

2985 MACK DOBBS ROAD
KENNESAW, GEORIGA, 30152

FLOOD NOTE

AS PER THE F.I.R.M. FLOOD INSURANCE RATE MAP COBB COUNTY COMMUNITY PANEL NO. 13067 C 0019 H DATED OCTOBER 05, 2018. THIS PROPERTY IS NOT IN AN AREA HAVING SPECIAL FLOOD HAZARDS.

BENCHMARK REFERENCE

ALL ELEVATIONS ARE GROUND RUN; ELEVATIONS ARE BASED ON GEORGIA STATE PLANE WEST.

NOTES

1. NO CEMETERIES, ARCHEOLOGICAL OR ARCHITECTUAL LANDMARKS ARE KNOWN TO EXIST ON SITE.

2. REZONING APPROVED WITH CONDITIONS BY MAYOR AND COUNCIL ON OCTOBER 17, 2022 UNDER ORDINANCE #2022-07.

SLOPE EASEMENT

THERE ARE NO SLOPE EASEMENTS ON THIS PLAT. ALL SLOPES ARE CONTAINED WITHIN THE BOUNDS OF THIS TRACT OF LAND. NONE SHOWN.

GEORGIA PLAT ACT NOTES

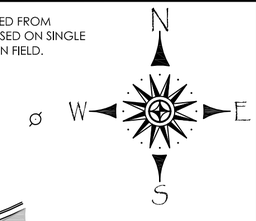
THE DATA SHOWN ON THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND WAS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 421,679 FEET.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 51,736 FEET AND AN ANGULAR ERROR OF 1" PER ANGLE AND WAS ADJUSTED BY COMPASS RULE.

FIELDWORK COMPLETED ON JULY 14, 2022.

INSTRUMENT USED: SOKKIA IX, TOTAL ROBOTIC STATION

ALL BEARINGS ARE CALCULATED FROM ANGLES TURNED, AND ARE BASED ON SINGLE MAGNETIC READING TAKING IN FIELD.



GRAPHIC SCALE
0 15 30 60 90 120

LEGEND

IPF	IRON PIN FOUND		PROPERTY LINE
IPS	1/2" REBAR SET	x x	FENCE
CMP	CORRUGATED METAL PIPE	T	TELEPHONE LINE
R/W	RIGHT OF WAY	G	GAS LINE
℄	CENTER LINE	W	WATER LINE
P.L.	PROPERTY LINE	SS	SANITARY SEWER LINE
FES	FLARED END SECTION		POWER LINE
L.L.L.	LAND LOT LINE	FD C	FIRE DEPT. LINE
T.B.M.	TEMPORARY BENCHMARK	CTP	CRIMP TOP PIPE
INV.	INVERT ELEVATION	RB	REBAR
S	SANITARY SEWER MANHOLE		SIDEWALK LIGHTS
	POWER POLE	D.I.	DRAIN INLET
	FIRE HYDRANT	SMH	SAN. SEWER MANHOLE
	LIGHT POLE	CO	CLEANOUT
ICV	IRRIGATION CONTROL VALVE	WM	WATER METER
P	GEORGIA POWER MANHOLE LID		WATER VALVE
T	TELE COMM. MANHOLE LID	GW	GUY WIRE
GV	GAS VALVE	AC	AIR CONDITIONER
	BENCHMARK	N/F	NOW OR FORMERLY
	IRON PIN FOUND	PT	PERC. TEST (BOREHOLE)
			4x4 TRANSFORMER
		RRT	RAIL ROAD TIE WALL

SITE AREA
PIN: 20014100920
82,972 SQ. FT.
1.905 ACRES

SITE AREA
PIN: 20014100100
77,395 SQ. FT.
1.777 ACRES

CONSOLIDATED 2985 MACK DOBBS ROAD TOTAL SITE AREA

160,366 SQ. FT.
3.682 ACRES

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

Beginning at an iron pin found (1/2" rebar) at the intersection of the southerly right of way of U.S Highway 41 and westerly right of way of Mack Dobbs Road; said point being the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING as thus established, proceed along Mack Dobbs Road, South 23°30'58" West a distance of 303.23 feet to a point; thence, South 23°19'26" West a distance of 439.17 feet to a right of way monument; thence, North 76°41'10" West a distance of 49.71 feet to a right of monument; thence, North 10°31'01" West a distance of 47.15 feet to a point; thence, North 07°17'17" West a distance of 268.54 feet to a point; thence, along a curve to the right, an arc distance of 170.07 feet, having a radius of 1000.34, subtended by a chord bearing North 02°24'55" West and a chord distance of 169.87 feet to a point; thence, along a curve to the right, an arc distance of 56.82 feet, having a radius of 595.97, subtended by a chord bearing North 05°41'06" East and a chord distance of 56.80 feet to a point; thence, along a curve to the right, an arc distance of 39.91 feet, having a radius of 595.97, subtended by a chord bearing North 10°20'07" East and a chord distance of 39.91 feet to a point; thence, along a curve to the right, an arc distance of 83.03 feet, having a radius of 100.33, subtended by a chord bearing North 35°57'39" East and a chord distance of 169.87 feet to a point; thence, North 59°40'04" East a distance of 66.29 feet to a point; thence, North 67°07'44" East a distance of 112.31 feet to an iron pin found (1/2" rebar); thence, South 73°34'19" East a distance of 179.55 feet to an iron pin found (1/2" rebar) and the TRUE POINT OF BEGINNING;

Said tract or parcel contains 160,366 square feet or 3.682 acres.

This plat, having been submitted to the Cobb County Water System and having been found to comply with Cobb County Development Standards, is approved for recording.

COBB COUNTY WATER SYSTEM DATE

THE DATA SHOWN ON THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND WAS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 226,651 FEET.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 51,736 FEET AND AN ANGULAR ERROR OF 1" PER ANGLE AND WAS ADJUSTED BY COMPASS RULE.

CERTIFICATE OF CONFORMITY

I, BRYAN C LONG, THE ENGINEER/SURVEYOR FOR THE SUBDIVISION KNOWN AS MACK DOBBS MEDICAL, LOCATED IN LAND LOT 141 OF THE 20TH DISTRICT, HEREBY CERTIFY THAT NO LOTS PLATTED WITHIN THE SUBDIVISION ARE NON-CONFORMING OR WILL RESULT IN ANY NON-CONFORMING LOTS.

SIGNATURE
BRYAN C. LONG
NAME (PLEASE PRINT)

2551 ROSWELL ROAD - SUITE 410
MARIETTA, GEORGIA, 30062

CCWS

Sign Date

PLANNING AND ZONING

Sign Date

BUILDING AND CONSTRUCTION

Sign Date

PUBLIC WORKS

Sign Date

CITY ENGINEER

Sign Date

MAYOR AND CITY COUNCIL

Sign Date

Nothing herein shall be construed to mean that the City of Kennesaw has accepted the dedication of any rights-of-way, easements or other area as being dedicated to public use.

PLANNING & ZONING DEPARTMENT

DRWN BY B.C.L. JOB NO. 2022-153

JASPER OFFICE
37 COURT STREET
Jasper, Georgia 30143
Office: (706) 253-3312

MARIETTA OFFICE
2551 ROSWELL ROAD - SUITE 410
Marietta, Georgia 30062
Office: (770) 675-6197

MERIDIAN GEOMATICS

REVISIONS:
ADDRESS 2ND ROUND OF MUNICIPAL COMMENTS ~ 4/25/2023

LOT CONSOLIDATION PLAT for
CHEROKEE GROWTH, LLC

2985 MACK DOBBS ROAD
LAND LOT 141 OF THE 20th DISTRICT, 2nd SECTION
COBB COUNTY, GEORGIA
DATE: 02/02/2023 SCALE: 1"= 30'

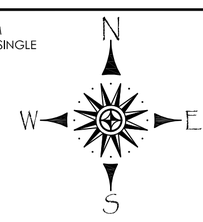
THIS BLOCK RESERVED FOR COURT CLERK

SITE AREA
PIN: 20014100920
82,972 SQ. FT.
1.905 ACRES

SITE AREA
PIN: 20014100100
77,395 SQ. FT.
1.777 ACRES

CONSOLIDATED
2985 MACK DOBBS ROAD
TOTAL SITE AREA
160,366 SQ. FT.
3.682 ACRES

ALL BEARINGS ARE CALCULATED FROM ANGLES TURNED, AND ARE BASED ON SINGLE MAGNETIC READING TAKING IN FIELD.



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MERIDIAN GEOMATICS

CITY OF KENNESAW
GEORGIA

ORDINANCE NO. 2022-07, 2022

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF KENNESAW, GEORGIA SO AS TO CHANGE THE ZONING DISTRICT DESIGNATION FROM CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI) FOR THE PROPERTIES LOCATED AT 0 NORTH COBB PARKWAY (20014100920) & 0 NORTH COBB PARKWAY (20014100100)

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

WHEREAS, Cherokee Growth, LLC made an application to amend the Official Zoning Map of the City of Kennesaw, Georgia so as to change the zoning designation from **CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI);** for properties located 0 North Cobb Parkway (20014100920) and 0 North Cobb Parkway (20014100100) identified as 20th District, Land Lots 141 Tax Parcels 10 & 92 containing +/- 3.682 acres (as more particularly described below); and

WHEREAS, notice was advertised in the Marietta Daily Journal on September 16, 2022 and September 23, 2022 of a public hearing before the Kennesaw Planning Commission held on October 5, 2022 and the Mayor and Council on October 17, 2022; and

WHEREAS, the Kennesaw Planning Commission held a public hearing on this proposal at a meeting held October 5, 2022; and

WHEREAS, the Mayor and Council held a public hearing to consider this proposal at a meeting held October 17, 2022; 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 **CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI)** for the following described property:

Legal Description - 1.780 Acres

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, second Section Cobb County, Georgia being more particularly described as follows:
Beginning at a point located at the intersection of the south right of way of U.S. Highway 41 (having a 200 foot right of way) with the west right of way of Mac Dobbs (having a 90 foot right of way) ; proceeding thence along the western right of way of Mac Dobbs Road south 23 degrees 22 minutes 40 seconds west for a distance of 303.18 feet to a point, said point being the POINT OF BEGINNING; thence continuing along said right of way south 23 degrees 12 minutes 58 seconds west for a distance of 439.38 feet to a point; thence leaving said right of way and proceeding north 76 degrees 30 minutes 46 seconds west for a distance of 49.88 feet to a point on the eastern right of way of Old Mac Dobbs Road (having a 40 foot right of way); thence proceeding along the eastern right of way of Old Mac Dobbs Road the following courses and distances: (i) north 10 degrees 39 minutes 11 seconds west for a distance of 47.15 feet to a point; (ii) north 07 degrees 25 minutes 27 seconds west for a distance of 268.54 feet to a point; (iii) along a curve to the right having a radius of 1000.34 feet, a chord bearing of north 02 degrees 33 minutes 05 seconds west and a chord distance of 169.87 feet for an arc distance of 170.08 feet; thence leaving said right of way and proceeding south 71 degrees 42 minutes 10 seconds east for a distance of 287.21 feet to a point, said point being the POINT OF BEGINNING.
Said Property contains approximately 1.780 acres and is shown and depicted on that certain Boundary Survey for Lonnie Cox dated May 10, 2016, by William C. Smith, Georgia Registered Surveyor No. 1803, which survey is incorporated herein by this reference.

Parcel #20014100100
0 North Cobb Parkway

Legal Description - 1.909 Acres

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, second Section Cobb County, Georgia being more particularly described as follows:
Beginning at a point located at the intersection of the south right of way of U.S. Highway 41 (having a 200 foot right of way) with the west right of way of Mac Dobbs (having a 90 foot right of way), said point being the POINT OF BEGINNING; proceeding thence along the western right of way of Mac Dobbs Road south 23 degrees 22 minutes 40 seconds west for a distance of 303.18 feet to a point; thence leaving said right of way and proceeding north 71 degrees, 42 seconds 02 minutes west for a distance of 287.19 feet to a point on the eastern right of way of Old Mac Dobbs Road (having a 40 foot right of way); thence proceeding along the eastern right of way of Old Mac Dobbs Road the following courses and distances: (i) along a curve to the right having a radius of 595.97 feet, a chord bearing of north 07 degrees 28 minutes 04 seconds east and a chord distance of 96.63 feet for an arc distance of 96.73 feet; (ii) along a curve to the right having a radius of 100.33 feet, a chord bearing of north 35 degrees 49 minutes 29 seconds east and a chord distance of 80.68 feet for an arc distance of 83.03 feet; (iii) north 59 degrees 31 minutes 54 seconds east for a distance of 66.29 feet; and (iv) north

67 degrees 09 minutes 05 seconds east for a distance of 112.61 feet to a point located at the intersection of said right of way with the southern right of way of U.S. Highway 41; thence proceeding along said right of way along a curve to the right having a radius of 5629.58 feet, a chord bearing of south 73 degrees 40 minutes 49 seconds east and a chord distance of 179.51 feet for an arc distance of 179.52 feet to a point, said point being the POINT OF BEGINNING.

Said Property contains approximately 1.909 acres and is shown and depicted on that certain Boundary Survey for Lonnie Cox dated May 3, 2016, last revised February 23, 2021, by William C. Smith, Georgia Registered Surveyor No. 1803, which survey is incorporated herein by this reference.

Parcel # 20014100920
0 North Cobb Parkway

Legal Description - Combined Tracts

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, second Section Cobb County, Georgia being more particularly described as follows:
Beginning at a point located at the intersection of the south right of way of U.S. Highway 41 (having a 200 foot right of way) with the west right of way of Mac Dobbs (having a 90 foot right of way), said point being the POINT OF BEGINNING; proceeding thence along the western right of way of Mac Dobbs Road south 23 degrees 22 minutes 40 seconds west for a distance of 303.18 feet to a point; thence continuing along said right of way south 23 degrees 12 minutes 58 seconds west for a distance of 439.38 feet to a point; thence leaving said right of way and proceeding north 76 degrees 30 minutes 46 seconds west for a distance of 49.88 feet to a point on the eastern right of way of Old Mac Dobbs Road (having a 40 foot right of way); thence proceeding along the eastern right of way of Old Mac Dobbs Road the following courses and distances: (i) north 10 degrees 39 minutes 11 seconds west for a distance of 47.15 feet to a point; (ii) north 07 degrees 25 minutes 27 seconds west for a distance of 268.54 feet to a point; (iii) along a curve to the right having a radius of 1000.34 feet, a chord bearing of north 02 degrees 33 minutes 05 seconds west and a chord distance of 169.87 feet for an arc distance of 170.08 feet; (iv) along a curve to the right having a radius of 595.97 feet, a chord bearing of north 07 degrees 28 minutes 04 seconds east and a chord distance of 96.63 feet for an arc distance of 96.73 feet; (v) along a curve to the right having a radius of 100.33 feet, a chord bearing of north 35 degrees 49 minutes 29 seconds east and a chord distance of 80.68 feet for an arc distance of 83.03 feet; (vi) north 59 degrees 31 minutes 54 seconds east for a distance of 66.29 feet; and (vii) north 67 degrees 09 minutes 05 seconds east for a distance of 112.61 feet to a point located at the intersection of said right of way with the southern right of way of U.S. Highway 41; thence proceeding along said right of way along a curve to the right having a radius of 5629.58 feet, a chord bearing of south 73 degrees 40 minutes 49 seconds east and a chord distance of 179.51 feet for an arc distance of 179.52 feet to a point, said point being the POINT OF BEGINNING.

SECTION 2. BE IT FURTHER ORDAINED THAT the amendment to the Official Zoning Map outlined in Section 1 above is adopted to change the zoning district designation from **CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI)** +/- 3.682 acres with stipulations as follows:

ZONING CONDITIONS:

1. This site to be platted from two lots into one contiguous lot.
2. The architectural style shall be substantially similar in style to the renderings provided by the applicant using a mixture of materials including brick and glass, and final exterior materials shall be approved by the Zoning Administrator, or their designee, during the plan review process.
3. This development shall be pedestrian friendly to include sidewalks and crosswalks throughout as well as pedestrian access to the adjacent right-of-ways including to Cobb Parkway and Mack Dobbs Road.
4. Electric mobility infrastructure utility lines shall be installed on-site to allow for any future equipment installation of at least four electric vehicle charging stations.

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.

PASSED AND ADOPTED by the Kennesaw City Council on this 17th day of October, 2022.

ATTEST:
Lea Alvarez, City Clerk

CITY OF KENNESAW:
Derek Easterling, Mayor

CITY OF KENNESAW SEAL KENNESAW, GA

SLOPE EASEMENT

THERE ARE NO SLOPE EASEMENTS ON THIS PLAT. ALL SLOPES ARE CONTAINED WITHIN THE BOUNDS OF THIS TRACT OF LAND, NONE SHOWN.

OWNER'S ACKNOWLEDGEMENT

I HEREBY CERTIFY THAT I AM THE OWNER OF THE LAND SHOWN ON THIS PLAT (OR A DULY AUTHORIZED AGENT THEREOF) WHOSE NAME IS SUBSCRIBED HERETO. I ACKNOWLEDGE THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY. I UNDERSTAND THAT THE APPROVAL OF THIS PLAT BY COBB COUNTY IS ONLY FOR THE SUBDIVISION OR COMBINATION OF THIS PROPERTY, AND IS NOT MEANT TO SERVE AS APPROVAL OF ANY NON-CONFORMING CONDITIONS THAT CURRENTLY EXIST ON THIS PROPERTY OR WILL BE CREATED BY THE SUBDIVISION OR COMBINATION OF THIS PROPERTY.

AND FURTHER, I WARRANT THAT I OWN FEE SIMPLE TITLE TO THE PROPERTY SHOWN HEREON AND AGREE THAT COBB COUNTY SHALL NOT BE LIABLE TO ME, MY HEIRS, SUCCESSORS, OR ASSIGNS FOR ANY CLAIMS OR DAMAGES RESULTING FROM THE RECORDING OF SAID PLAT, AND ANY OTHER MATTER WHATSOEVER. I FURTHER WARRANT THAT I HAVE THE RIGHT TO SELL AND CONVEY THE LAND ACCORDING TO THIS PLAT AND DO HEREBY BIND OWNERS AND MYSELF SUBSEQUENT IN TITLE TO DEFEND BY VIRTUE OF THESE PRESENTS.

SIGNATURE	STEVE MARK PRINTED NAME	02/02/2023 DATE

OWNER'S CERTIFICATE

The owner of the land shown on this plat and whose name is subscribed thereto, and in person or through duly authorized agents, acknowledges that this plat was made from an actual survey and dedicates to the use of the public forever all streets, parks, drains, easements and public grounds thereon shown which comprises a total of 0.0 acres, for the purposes therein expressed.

OWNER SIGNATURE	STEVE MARK PRINTED NAME	04/17/2023 DATE
SUBDIVIDER SIGNATURE	BRYAN C. LONG PRINTED NAME	04/17/2023 DATE

Provided, however, that nothing herein nor acceptance shall create liability on the part of the City of Kennesaw, its officers, agents or employees for flooding or erosion from storm drains or from flooding from high water of natural creeks or rivers, and the City of Kennesaw is hereby specifically released from any such liability or from liability for the negligent construction or maintenance of all drainage structures, roads, sediment control facilities and all other work performed by the owner or developer of the property, their agent, servants, employees or contractors.

MAYOR AND COUNCIL APPROVAL

Place for approval of the Mayor and Council as follows: "Pursuant to the Land Subdivision sections of this UDC of the City of Kennesaw, Georgia, all the requirements of approval having been fulfilled, this final plat was given final approval by the Mayor and Council of Kennesaw, Georgia on _____

Mayor, Kennesaw, Georgia

_____

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

Beginning at an iron pin found (1/2" rebar) at the intersection of the southerly right of way of U.S Highway 41 and westerly right of way of Mack Dobbs Road; said point being the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING as thus established, proceed along Mack Dobbs Road, South 23°30'58" West a distance of 303.23 feet to a point; thence, South 23°19'26" West a distance of 439.17 feet to a right of way monument; thence, North 76°41'10" West a distance of 49.71 feet to a right of monument; thence, North 10°31'01" West a distance of 47.15 feet to a point; thence, North 07°17'17" West a distance of 268.54 feet to a point; thence, along a curve to the right, an arc distance of 170.07 feet, having a radius of 1000.34, subtended by a chord bearing North 02°24'55" West and a chord distance of 169.87 feet to a point; thence, along a curve to the right, an arc distance of 56.82 feet, having a radius of 595.97, subtended by a chord bearing North 05°41'06" East and a chord distance of 56.80 feet to a point; thence, along a curve to the right, an arc distance of 39.91 feet, having a radius of 595.97, subtended by a chord bearing North 10°20'07" East and a chord distance of 39.91 feet to a point; thence, along a curve to the right, an arc distance of 83.03 feet, having a radius of 100.33, subtended by a chord bearing North 35°57'39" East and a chord distance of 169.87 feet to a point; thence, North 59°40'04" East a distance of 66.29 feet to a point; thence, North 67°07'44" East a distance of 112.31 feet to an iron pin found (1/2" rebar); thence, South 73°34'19" East a distance of 179.55 feet to an iron pin found (1/2" rebar) and the TRUE POINT OF BEGINNING;

Said tract or parcel contains 160,366 square feet or 3.682 acres.

CERTIFICATE OF CONFORMITY

I, BRYAN C LONG, THE ENGINEER/SURVEYOR FOR THE SUBDIVISION KNOWN AS MACK DOBBS MEDICAL, LOCATED IN LAND LOT 141 OF THE 20TH DISTRICT, HEREBY CERTIFY THAT NO LOTS PLATTED WITHIN THE SUBDIVISION ARE NON-CONFORMING OR WILL RESULT IN ANY NON-CONFORMING LOTS.

SIGNATURE
BRYAN C. LONG .
NAME (PLEASE PRINT)

2551 ROSWELL ROAD - SUITE 410
MARIETTA, GEORGIA, 30062

SURVEYOR'S ACKNOWLEDGEMENT

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON, AND IS TO THE ACCURACY AND SPECIFICATIONS REQUIRED BY THE COBB COUNTY DEVELOPMENT STANDARDS.

AS REQUIRED BY SUBSECTION (D) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

SIGNATURE	BRYAN C. LONG PRINTED NAME	04/11/2022 DATE

REGISTERED GA LAND SURVEYOR

WORK PERFORMED ON JULY 14, 2022

SURVEYOR'S CERTIFICATE

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or persons under my supervision; that all monuments shown hereon actually exist or are marked as "future," and that their location, size, type and material are correctly shown; and that all engineering requirements of the Kennesaw Subdivision Regulations have been fully compiled with.

Bryan C. Long - #3107 February 01, 2023.

GEORGIA REGISTERED NO.3107 LAND SURVEYOR BRYAN C. LONG

REVISIONS:
ADDRESS 2ND ROUND OF MUNICIPAL COMMENTS ~ 4/25/2023

2985 MACK DOBBS ROAD
LAND LOT 141 OF THE 20th DISTRICT, 2nd SECTION
COBB COUNTY, GEORGIA
DATE: 02/02/2023
SCALE: 1"= 30'

LOT CONSOLIDATION PLAT for
CHEROKEE GROWTH, LLC

PAGE 2 of 2

Community Development Department
Plan Review Committee

Plan Review Coordinator
Scott Banks, Building Official

Darryl Simmons, Zoning Administrator
Ricky Stewart, Public Works Director
Luke Howe, Economic Development Director

To: Mayor and Council

From: Plan Review Committee

Date: Tuesday, August 1, 2023

The combination parcel was submitted by Cherokee Growth LLC for 0 Cobb Pkwy (20014100920) and 0 Cobb Pkwy (20014100100) and it was received and reviewed by the Plan Review Committee. This plat combines two vacant parcels into one parcel with the intent to build a medical practice office. The total area of the combined lot is 3.682 acres, however individually, the lot closest to Cobb Parkway is 1.905 acres and the other lot is 1.777 acres. Both parcels are zoned Office/Institutional (O&I). A new address of 2985 Mack Dobbs Road has been assigned to the newly combined parcel. All members of the Plan Review Committee have verified said plat and all comments were addressed. The combination parcel is in compliance and ready for your consideration and approval.

Scott Banks, Building Official

CITY OF KENNESAW
GEORGIA

ORDINANCE NO. 2022-07, 2022

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF KENNESAW, GEORGIA SO AS TO CHANGE THE ZONING DISTRICT DESIGNATION FROM CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI) FOR THE PROPERTIES LOCATED AT 0 NORTH COBB PARKWAY (20014100920) & 0 NORTH COBB PARKWAY (20014100100)

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

WHEREAS, Cherokee Growth, LLC made an application to amend the Official Zoning Map of the City of Kennesaw, Georgia so as to change the zoning designation from **CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI);** for properties located 0 North Cobb Parkway (20014100920) and 0 North Cobb Parkway (20014100100) identified as 20th District, Land Lots 141 Tax Parcels 10 & 92 containing +/- 3.682 acres (as more particularly described below); and

WHEREAS, notice was advertised in the Marietta Daily Journal on September 16, 2022 and September 23, 2022 of a public hearing before the Kennesaw Planning Commission held on October 5, 2022 and the Mayor and Council on October 17, 2022; and

WHEREAS, the Kennesaw Planning Commission held a public hearing on this proposal at a meeting held October 5, 2022; and

WHEREAS, the Mayor and Council held a public hearing to consider this proposal at a meeting held October 17, 2022; 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 **CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI)** for the following described property:

Legal Description - 1.780 Acres

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, second Section Cobb County, Georgia being more particularly described as follows: Beginning at a point located at the intersection of the south right of way of U.S. Highway 41 (having a 200 foot right of way) with the west right of way of Mac Dobbs (having a 90 foot right of way) ; proceeding thence along the western right of way of Mac Dobbs Road south 23 degrees 22 minutes 40 seconds west for a distance of 303.18 feet to a point, said point being the POINT OF BEGINNING; thence continuing along said right of way south 23 degrees 12 minutes 58 seconds west for a distance of 439.38 feet to a point; thence leaving said right of way and proceeding north 76 degrees 30 minutes 46 seconds west for a distance of 49.88 feet to a point on the eastern right of way of Old Mac Dobbs Road (having a 40 foot right of way); thence proceeding along the eastern right of way of Old Mac Dobbs Road the following courses and distances: (i) north 10 degrees 39 minutes 11 seconds west for a distance of 47.15 feet to a point; (ii) north 07 degrees 25 minutes 27 seconds west for a distance of 268.54 feet to a point; (iii) along a curve to the right having a radius of 1000.34 feet, a chord bearing of north 02 degrees 33 minutes 05 seconds west and a chord distance of 169.87 feet for an arc distance of 170.08 feet; thence leaving said right of way and proceeding south 71 degrees 42 minutes 10 seconds east for a distance of 287.21 feet to a point, said point being the POINT OF BEGINNING.
Said Property contains approximately 1.780 acres and is shown and depicted on that certain Boundary Survey for Lonnie Cox dated May 10, 2016, by William C. Smith, Georgia Registered Surveyor No. 1803, which survey is incorporated herein by this reference.

Parcel #20014100100
0 North Cobb Parkway

Legal Description - 1.909 Acres

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, second Section Cobb County, Georgia being more particularly described as follows:
Beginning at a point located at the intersection of the south right of way of U.S. Highway 41 (having a 200 foot right of way) with the west right of way of Mac Dobbs (having a 90 foot right of way), said point being the POINT OF BEGINNING; proceeding thence along the western right of way of Mac Dobbs Road south 23 degrees 22 minutes 40 seconds west for a distance of 303.18 feet to a point; thence leaving said right of way and proceeding north 71 degrees, 42 seconds 02 minutes west for a distance of 287.19 feet to a point on the eastern right of way of Old Mac Dobbs Road (having a 40 foot right of way); thence proceeding along the eastern right of way of Old Mac Dobbs Road the following courses and distances: (i) along a curve to the right having a radius of 595.97 feet, a chord bearing of north 07 degrees 28 minutes 04 seconds east and a chord distance of 96.63 feet for an arc distance of 96.73 feet; (ii) along a curve to the right having a radius of 100.33 feet, a chord bearing of north 35 degrees 49 minutes 29 seconds east and a chord distance of 80.68 feet for an arc distance of 83.03 feet; (iii) north 59 degrees 31 minutes 54 seconds east for a distance of 66.29 feet; and (iv) north

67 degrees 09 minutes 05 seconds east for a distance of 112.61 feet to a point located at the intersection of said right of way with the southern right of way of U.S. Highway 41; thence proceeding along said right of way along a curve to the right having a radius of 5629.58 feet, a chord bearing of south 73 degrees 40 minutes 49 seconds east and a chord distance of 179.51 feet for an arc distance of 179.52 feet to a point, said point being the POINT OF BEGINNING.

Said Property contains approximately 1.909 acres and is shown and depicted on that certain Boundary Survey for Lonnie Cox dated May 3, 2016, last revised February 23, 2021, by William C. Smith, Georgia Registered Surveyor No. 1803, which survey is incorporated herein by this reference.

Parcel # 20014100920
0 North Cobb Parkway

Legal Description - Combined Tracts

All that tract or parcel of land lying and being in Land Lot 141 of the 20th District, second Section Cobb County, Georgia being more particularly described as follows: Beginning at a point located at the intersection of the south right of way of U.S. Highway 41 (having a 200 foot right of way) with the west right of way of Mac Dobbs (having a 90 foot right of way), said point being the POINT OF BEGINNING; proceeding thence along the western right of way of Mac Dobbs Road south 23 degrees 22 minutes 40 seconds west for a distance of 303.18 feet to a point; thence continuing along said right of way south 23 degrees 12 minutes 58 seconds west for a distance of 439.38 feet to a point; thence leaving said right of way and proceeding north 76 degrees 30 minutes 46 seconds west for a distance of 49.88 feet to a point on the eastern right of way of Old Mac Dobbs Road (having a 40 foot right of way); thence proceeding along the eastern right of way of Old Mac Dobbs Road the following courses and distances: (i) north 10 degrees 39 minutes 11 seconds west for a distance of 47.15 feet to a point; (ii) north 07 degrees 25 minutes 27 seconds west for a distance of 268.54 feet to a point; (iii) along a curve to the right having a radius of 1000.34 feet, a chord bearing of north 02 degrees 33 minutes 05 seconds west and a chord distance of 169.87 feet for an arc distance of 170.08 feet; (iv) along a curve to the right having a radius of 595.97 feet, a chord bearing of north 07 degrees 28 minutes 04 seconds east and a chord distance of 96.63 feet for an arc distance of 96.73 feet; (v) along a curve to the right having a radius of 100.33 feet, a chord bearing of north 35 degrees 49 minutes 29 seconds east and a chord distance of 80.68 feet for an arc distance of 83.03 feet; (vi) north 59 degrees 31 minutes 54 seconds east for a distance of 66.29 feet; and (vii) north 67 degrees 09 minutes 05 seconds east for a distance of 112.61 feet to a point located at the intersection of said right of way with the southern right of way of U.S. Highway 41; thence proceeding along said right of way along a curve to the right having a radius of 5629.58 feet, a chord bearing of south 73 degrees 40 minutes 49 seconds east and a chord distance of 179.51 feet for an arc distance of 179.52 feet to a point, said point being the POINT OF BEGINNING.

SECTION 2. BE IT FURTHER ORDAINED THAT the amendment to the Official Zoning Map outlined in Section 1 above is adopted to change the zoning district designation from **CITY PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R) TO CITY OFFICE/INSTITUTIONAL (OI)** +/- 3.682 acres with stipulations as follows:

ZONING CONDITIONS:

1. This site to be platted from two lots into one contiguous lot.
2. The architectural style shall be substantially similar in style to the renderings provided by the applicant using a mixture of materials including brick and glass, and final exterior materials shall be approved by the Zoning Administrator, or their designee, during the plan review process.
3. This development shall be pedestrian friendly to include sidewalks and crosswalks throughout as well as pedestrian access to the adjacent right-of-ways including to Cobb Parkway and Mack Dobbs Road.
4. Electric mobility infrastructure utility lines shall be installed on-site to allow for any future equipment installation of at least four electric vehicle charging stations.

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.

PASSED AND ADOPTED by the Kennesaw City Council on this 17th day of October, 2022.

ATTEST:

Lea Alvarez, City Clerk

CITY OF KENNESAW:

Derek Easterling, Mayor

CITY OF KENNESAW SEAL KENNESAW, GA

Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: August 21, 2023

TITLE: On August 11, 2023, Douglas and Toni Smith purchased four (4) cemetery lots in the Kennesaw City Cemetery. These lots are located in Section III, Plot 4, Lots A - D. Authorize the Mayor to sign the supporting deeds for the purchase of these lots.

Summary:

Recommendation:

Fiscal Impact:

Attachments:
1. Cemetery Deeds for III, 4 A-D

Deed Number: 2023-07

City of Kennesaw
Cemetery Deed
Cobb County, Georgia

This Indenture, made the 11 day of August, 2023 between the City of Kennesaw, a political subdivision of Cobb County existing under the Laws of the Sate of Georgia, hereinafter called Grantor, and:

Name	Address	City, ST ZipCode
SMITH, DOUGLAS R.	P.O. Box 1054	Villa Rica, GA 30180
SMITH, TONI	P.O. Box 1054	Villa Rica, GA 30180

Hereinafter called Grantee.

WITNESSETH that: Grantor, for and in consideration of the sum of
ONE THOUSAND FIVE HUNDRED DOLLARS AND 0 CENTS ($1,500.00)
and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby transfer remise and convey unto the said grantee that certain lot or tract located in the Kennesaw City Cemetery in Land Plot 74 of the 20th District, Cobb County, Georgia, said cemetery lot being more particularly described as follows:

SECTION	PLOT	LOT	PRICE
III	4	A	$1,500.00

To have and to hold the said premised to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said coneyance is for the purpose of interment of human remains, and for no other purpose; and the grantee herein further does hereby agree to maintain the above demised premises in a neat and orderly condition and abide by the rules and regulations concerning said cemetery as they may from time to time by promulgated by the grantor herein.

Chapter 30- CEMETERIES Code of Ordinance, Kennesaw, Georgia
Regulations and Non-Liability of City:
Section 30-8 states:

(a) The Mayor and Council reserve to themselves and their successor in the office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions set for in this chapter and any time it is deemed advisable to do so in order to carry out the purpose of this chapter.

(b) There shall be no liability whatsoever, either tort or contractual, on the part of the city, or its officials or officers, or their successors in office, or its agents or employees, to any purchasers of any lots in the cemetery, or to any person holding under then, or to the family or relatives of any person buried in the cemetery, or to any person or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any act, thing, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all provisions of this chapter are valid and that he and his heirs and assigns shall hold such lot subject to all provisions of this chapter and subject to all amendments to this chapter made by the Mayor and Council.

This deed is given by virtue of and under authority granted by the City Council of the City of Kennesaw at its regular meeting on the 21 day of August, 2023.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed the day and year first above written.

This deed hereby accepted subject to the conditions herein set forth.

Purchaser

Mayor

Purchaser

City Clerk

Deed Number: 2023-08

City of Kennesaw
Cemetery Deed
Cobb County, Georgia

This Indenture, made the 11 day of August, 2023 between the City of Kennesaw, a political subdivision of Cobb County existing under the Laws of the Sate of Georgia, hereinafter called Grantor, and:

Name	Address	City, ST ZipCode
SMITH, DOUGLAS R.	P.O. Box 1054	Villa Rica, GA 30180
SMITH, TONI	P.O. Box 1054	Villa Rica, GA 30180

Hereinafter called Grantee.

WITNESSETH that: Grantor, for and in consideration of the sum of
ONE THOUSAND FIVE HUNDRED DOLLARS AND 0 CENTS ($1,500.00)
and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby transfer remise and convey unto the said grantee that certain lot or tract located in the Kennesaw City Cemetery in Land Plot 74 of the 20th District, Cobb County, Georgia, said cemetery lot being more particularly described as follows:

SECTION	PLOT	LOT	PRICE
III	4	B	$1,500.00

To have and to hold the said premised to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said coneyance is for the purpose of interment of human remains, and for no other purpose; and the grantee herein further does hereby agree to maintain the above demised premises in a neat and orderly condition and abide by the rules and regulations concerning said cemetery as they may from time to time by promulgated by the grantor herein.

Chapter 30- CEMETERIES Code of Ordinance, Kennesaw, Georgia
Regulations and Non-Liability of City:
Section 30-8 states:

(a) The Mayor and Council reserve to themselves and their successor in the office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions set for in this chapter and any time it is deemed advisable to do so in order to carry out the purpose of this chapter.

(b) There shall be no liability whatsoever, either tort or contractual, on the part of the city, or its officials or officers, or their successors in office, or its agents or employees, to any purchasers of any lots in the cemetery, or to any person holding under then, or to the family or relatives of any person buried in the cemetery, or to any person or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any act, thing, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all provisions of this chapter are valid and that he and his heirs and assigns shall hold such lot subject to all provisions of this chapter and subject to all amendments to this chapter made by the Mayor and Council.

This deed is given by virtue of and under authority granted by the City Council of the City of Kennesaw at its regular meeting on the 21 day of August, 2023.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed the day and year first above written.

This deed hereby accepted subject to the conditions herein set forth.

Purchaser

Mayor

Purchaser

City Clerk

Deed Number: 2023-09

City of Kennesaw
Cemetery Deed
Cobb County, Georgia

This Indenture, made the 11 day of August, 2023 between the City of Kennesaw, a political subdivision of Cobb County existing under the Laws of the Sate of Georgia, hereinafter called Grantor, and:

Name	Address	City, ST ZipCode
SMITH, DOUGLAS R.	P.O. Box 1054	Villa Rica, GA 30180
SMITH, TONI	P.O. Box 1054	Villa Rica, GA 30180

Hereinafter called Grantee.

WITNESSETH that: Grantor, for and in consideration of the sum of
ONE THOUSAND FIVE HUNDRED DOLLARS AND 0 CENTS ($1,500.00)
and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby transfer remise and convey unto the said grantee that certain lot or tract located in the Kennesaw City Cemetery in Land Plot 74 of the 20th District, Cobb County, Georgia, said cemetery lot being more particularly described as follows:

SECTION	PLOT	LOT	PRICE
III	4	C	$1,500.00

To have and to hold the said premised to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said coneyance is for the purpose of interment of human remains, and for no other purpose; and the grantee herein further does hereby agree to maintain the above demised premises in a neat and orderly condition and abide by the rules and regulations concerning said cemetery as they may from time to time by promulgated by the grantor herein.

Chapter 30- CEMETERIES Code of Ordinance, Kennesaw, Georgia
Regulations and Non-Liability of City:
Section 30-8 states:

(a) The Mayor and Council reserve to themselves and their successor in the office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions set for in this chapter and any time it is deemed advisable to do so in order to carry out the purpose of this chapter.

(b) There shall be no liability whatsoever, either tort or contractual, on the part of the city, or its officials or officers, or their successors in office, or its agents or employees, to any purchasers of any lots in the cemetery, or to any person holding under then, or to the family or relatives of any person buried in the cemetery, or to any person or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any act, thing, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all provisions of this chapter are valid and that he and his heirs and assigns shall hold such lot subject to all provisions of this chapter and subject to all amendments to this chapter made by the Mayor and Council.

This deed is given by virtue of and under authority granted by the City Council of the City of Kennesaw at its regular meeting on the 21 day of August, 2023.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed the day and year first above written.

This deed hereby accepted subject to the conditions herein set forth.

Purchaser

Purchaser

Mayor

City Clerk

Deed Number: 2023-10

City of Kennesaw
Cemetery Deed
Cobb County, Georgia

This Indenture, made the 11 day of August, 2023 between the City of Kennesaw, a political subdivision of Cobb County existing under the Laws of the Sate of Georgia, hereinafter called Grantor, and:

Name	Address	City, ST ZipCode
SMITH, DOUGLAS R.	P.O. Box 1054	Villa Rica, GA 30180
SMITH, TONI	P.O. Box 1054	Villa Rica, GA 30180

Hereinafter called Grantee.

WITNESSETH that: Grantor, for and in consideration of the sum of
ONE THOUSAND FIVE HUNDRED DOLLARS AND 0 CENTS ($1,500.00)
and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby transfer remise and convey unto the said grantee that certain lot or tract located in the Kennesaw City Cemetery in Land Plot 74 of the 20th District, Cobb County, Georgia, said cemetery lot being more particularly described as follows:

SECTION	PLOT	LOT	PRICE
III	4	D	$1,500.00

To have and to hold the said premised to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said coneyance is for the purpose of interment of human remains, and for no other purpose; and the grantee herein further does hereby agree to maintain the above demised premises in a neat and orderly condition and abide by the rules and regulations concerning said cemetery as they may from time to time by promulgated by the grantor herein.

Chapter 30- CEMETERIES Code of Ordinance, Kennesaw, Georgia
Regulations and Non-Liability of City:
Section 30-8 states:

(a) The Mayor and Council reserve to themselves and their successor in the office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions set for in this chapter and any time it is deemed advisable to do so in order to carry out the purpose of this chapter.

(b) There shall be no liability whatsoever, either tort or contractual, on the part of the city, or its officials or officers, or their successors in office, or its agents or employees, to any purchasers of any lots in the cemetery, or to any person holding under then, or to the family or relatives of any person buried in the cemetery, or to any person or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any act, thing, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all provisions of this chapter are valid and that he and his heirs and assigns shall hold such lot subject to all provisions of this chapter and subject to all amendments to this chapter made by the Mayor and Council.

This deed is given by virtue of and under authority granted by the City Council of the City of Kennesaw at its regular meeting on the 21 day of August, 2023.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed the day and year first above written.

This deed hereby accepted subject to the conditions herein set forth.

Purchaser

Purchaser

Mayor

City Clerk

Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: August 21, 2023

TITLE: On August 17, 2023, Christopher Aut purchased one (1) lot in the Kennesaw City Cemetery. This lot is located in Section III, Plot 29, Lot H. Authorize the Mayor to sign the supporting deed for the purchase of this lot. The City Clerk recommends approval.

Summary:

Recommendation:

Fiscal Impact:

Attachments:
1. Cemetery Deed for III 29-H

Deed Number: 2023-11

City of Kennesaw
Cemetery Deed
Cobb County, Georgia

This Indenture, made the 17 day of August, 2023 between the City of Kennesaw, a political subdivision of Cobb County existing under the Laws of the Sate of Georgia, hereinafter called Grantor, and:

Name	Address	City, ST ZipCode
AUT, CHRISTOPHER	1260 WOOLF VALLEY COURT	ACWORTH, GA 30102

Hereinafter called Grantee.

WITNESSETH that: Grantor, for and in consideration of the sum of
ONE THOUSAND FIVE HUNDRED DOLLARS AND 0 CENTS ($1,500.00)
and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby transfer remise and convey unto the said grantee that certain lot or tract located in the Kennesaw City Cemetery in Land Plot 74 of the 20th District, Cobb County, Georgia, said cemetery lot being more particularly described as follows:

SECTION	PLOT	LOT	PRICE
III	29	H	$1,500.00

To have and to hold the said premised to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said coneyance is for the purpose of interment of human remains, and for no other purpose; and the grantee herein further does hereby agree to maintain the above demised premises in a neat and orderly condition and abide by the rules and regulations concerning said cemetery as they may from time to time by promulgated by the grantor herein.

Chapter 30- CEMETERIES Code of Ordinance, Kennesaw, Georgia
Regulations and Non-Liability of City:
Section 30-8 states:

(a) The Mayor and Council reserve to themselves and their successor in the office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions set for in this chapter and any time it is deemed advisable to do so in order to carry out the purpose of this chapter.

(b) There shall be no liability whatsoever, either tort or contractual, on the part of the city, or its officials or officers, or their successors in office, or its agents or employees, to any purchasers of any lots in the cemetery, or to any person holding under then, or to the family or relatives of any person buried in the cemetery, or to any person or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any act, thing, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all provisions of this chapter are valid and that he and his heirs and assigns shall hold such lot subject to all provisions of this chapter and subject to all amendments to this chapter made by the Mayor and Council.

This deed is given by virtue of and under authority granted by the City Council of the City of Kennesaw at its regular meeting on the 21 day of August, 2023.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed the day and year first above written.

This deed hereby accepted subject to the conditions herein set forth.

Purchaser

Mayor

Purchaser

City Clerk

Assignment of Burial Permit

Deed No. 2023-11

The undersigned hereby transfers and assigns the following burial space listed on the first sheet hereof, to the person or persons set forth opposite each space, and requests the Clerk of **City of Kennesaw** located in **Cobb County** to accept and record the same in accordance with the rules and regulations of said Board.

Description

Burial Space(s):	Name
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

_____ _____

Date Signature

Transfer approved and recorded, on _____

_____

City Clerk

Item Report

TO: The Honorable Mayor and City Council

FROM: LaMaya Edmonds, Business License Manager

DATE: August 21, 2023

TITLE: Consideration for approval of an Alcohol License for Beer, Wine, and Sunday Sales for Chioma's African Cuisine, LLC d/b/a/ Chioma's African Cuisine located at 2655 Cobb Pkwy, Kennesaw, GA 30152. Applicant: Chukwuemeka Ohaeri

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Summary:
The applicant has completed the required alcohol workshop per Sec. 6-69. Signs have been posted and it has been properly advertised per Sec. 6-36. The current application and background check results are on file. Sec. 6-42 refers to all locations within 300 feet of a private residence. This location is within 300 feet of a private residence. Sec. 6-42 states that the Mayor and City Council may waive the distance requirement if the quite enjoyment of the premises by the residents thereof shall not be adversely affected and the granting of such license shall not have any adverse effect on the private residence. Sec. 6-43 refers to all locations within 600 of a religious assembly. This location is within 600 feet of a church. Sec 6-43 states the Mayor and City Council may waive the distance requirement of this section if satisfactory evidence shall be produced that no adverse effect on property values or the use of the facilities for the aforesaid purposes would occur if a license was granted.

Recommendation:
Finance Director recommends approval.

Fiscal Impact:
100-0000-32-1100 Application Fee $350.00

Attachments:
1. Chioma's African Cuisine Alcohol License Application - Redacted

City of Kennesaw, GA

Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

Contact Information:
Phone: (770) 424-8274
Fax: (770) 429-4559
www.kennesaw-ga.gov

License Application:
Alcoholic Beverage

APPLICATION

Applying For (Check All That Apply):
- ☐ Liquor
- ☑ Beer
- ☑ Wine
- ☐ Growler
- ☑ Sunday Sales

License Type (Choose one):
- ☐ Manufacturer
- ☐ Wholesaler
- ☐ Retail Package
- ☑ Retail Pouring

Type of Establishment (Choose one):
- ☑ Restaurant
- ☐ Night Club
- ☐ Grocery Store
- ☐ Pub
- ☐ Private Club
- ☐ Bottle House
- ☐ Convenience Store
- ☐ Indoor Entertainment Hall
- ☐ Hotel/Motel
- ☐ Package Store

Business Type (Choose one):
- ☐ Sole Proprietor
- ☐ Corporation
- ☑ LLC
- ☐ Partnership
- ☐ LLP

Please fill out the below information:

1. Full name of business: Chioma's African Cuisine
   Doing Business As (DBA):
   Anticipated start date of business: 2-1-23

2. Business location: 2655 Cobb Pkwy NW # 210
   Email address: chiomasafricancuisine@gmail.com
   Phone Number: 470-207-5675
   Mailing address: 4921 Trail Ridge Pl. Douglasville, GA 30134

3. Do you have a certified survey of the location of the property? yes

Does the certified survey indicate that the business is within the designated distance of the following:

a.	Private residence	300 feet radius	X	Yes	☐ No
b.	School or college	600 feet radius	☐	Yes	☑ No
c.	Church	600 feet radius	X	Yes	☐ No
d.	Public building	600 feet radius	☐	Yes	☑ No
e.	Hospital	600 feet radius	☐	Yes	☑ No
f.	Public park	600 feet radius	☐	Yes	☑ No
g.	Day care center*	600 feet radius	☐	Yes	☑ No
h.	Alcohol or drug treatment center	600 feet radius	☐	Yes	☑ No

Business License department identified within 300 ft of private residence and within 600 ft of a church

Package Sales have additional distance limitations as follows:

Package Sales Only (Liquor): N/A

a.	School or college	300 feet radius	☐ Yes	☐ No
b.	Retail Liquor Package	1500 feet radius	☐ Yes	☐ No
c.	Church	300 feet radius	☐ Yes	☐ No
d.	Day care center*	300 feet radius	☐ Yes	☐ No
e.	Alcohol or drug treatment center	300 feet radius	☐ Yes	☐ No

Package Sales Only (Beer or Wine): N/A

a.	School or college	300 feet radius	☐ Yes	☐ No
b.	Alcohol or drug treatment center	300 feet radius	☐ Yes	☐ No

* Must accept GA Pre-K or HOPE Scholarship Monies

* Must follow a prescribed state curriculum

See Code Sections 6-1, 6-42 and 6-43 for distance measurement definition and limitations.

4. For Retail Pouring license, please indicate the following:

Number of pool tables:	0
Number of video game machines:	0
Size of dance floor:	N/A
Amount of cover charge:	0
Will the location have a DJ, and if so, number of times per week:	N/A

5. How many square feet are the following:

a. Dining are:	
b. Bar area:	N/A
c. % of total dining space that is a bar area:	

Is this location new construction or pre-existing? pre-existing

How is the proposed location zoned? _____

This section is to be completed and signed by the City of Kennesaw Zoning staff:

Zoning verified by City of Kennesaw Zoning Division staff member D.S.

If this is an application for a new establishment, attach proof of adequate parking facilities of one (1) off street parking space for each (200) square feet of total floor area within the building in conformity with the zoning ordinance and regulations of the City of Kennesaw.

If new establishment, parking verified by the Zoning Division staff member _____

If Partnership or LLP:

6. Partnership of LLP Name: N/A

Partner/Member: _____ Social Security #: -
Position: _____ Date of Birth: -
Email Address: _____ % of Ownership: -
Phone Number: _____

Home Address: _____ City: _____
_____ State: _____
ZIP: _____

Partner/Member: _____ Social Security #: -
Position: _____ Date of Birth: -
Email Address: _____ % of Ownership: -
Phone Number: _____

Home Address: _____ City: _____
_____ State: _____
ZIP: _____

Attach additional sheets if needed

If Corporation or LLC:

7. Corporation or LLC Name: Chioma's African Cuisine

President/Member: Chukwuemeka Ohaeri
Email Address: chiomasafricancuisine@gmail.com
Phone Number: [redacted]
Social Security #: [redacted]
Date of Birth: [redacted]90
% of Ownership: 100%

Home Address: 4921 Trail Ridge Pl
Douglasville, GA 30134
City:
State:
ZIP:

VP/Member: Dorcas Ohaeri
Email Address: chiomasafricancuisine@gmail.com
Phone Number: [redacted]
Social Security #: [redacted]
Date of Birth: [redacted]87
% of Ownership:

Home Address: 4921 Trail Ridge Pl
City: Douglasville
State: GA
ZIP: 30134

Secretary/Member: N/A
Email Address:
Phone Number:
Social Security #:
Date of Birth:
% of Ownership:

Home Address:
City:
State:
ZIP:

Treasurer/Member: NA
Email Address:
Phone Number:
Social Security #:
Date of Birth:
% of Ownership:

Home Address:
City:
State:
ZIP:

Attach additional sheets if needed

If the business listed in questions 6 or 7 *is owned by another firm or corporation,* provide the information requested in questions 8 and 9.

8. List corporate name, business name, and % of business owned by the corporation

Corporate Name	Business Name	% Owned
N/A		

9. List name, position, social security number, address, and % owned for each board member of the corporation listed in question 8.

Name	Position	SSN	Home Address	% Owned
N/A				

10. Is the licensee or any owner listed in questions 6 – 9 *currently holding an interest or ever been associated with any alcoholic beverage establishment?* If yes, list below.

Licensee/Owner Name	Business Name	Address
N/A		

11. List full name and other required information of relatives of the licensee or owners *who have or have had any license or any financial or ownership interest in any alcoholic beverage business.*

Name/Relationship	Home Address	Business Name/Address
N/A		

12. List the full name and address of the property owner on which the business is to be conducted.

Property Owner: Ben Josephs

Address: 235 Morton Manor Ct Alpharetta, GA 30022

13. State the total amount of capital funds to be invested in this business.

$ [redacted]

14. State the amount of personal funds invested by the following:

Licensee/Owner $ [redacted] Other

Owners $ _____

15. If capital is borrowed, provide the following and attach a copy of the note (s) or evidence of indebtedness, with all attachments, to this application.

Name of Lender	Address	Amount	Date	Interest Rate
N/A				

16. Name the person (s) that will be the manager of this business and provide the following information.

Name	Address	Compensation
Chukwuemeka Ibeneme	4921 Trail Ridge Pl Douglasville, GA 30134	

17. Provide the name and address of your CPA or accounting firm:

Name	Address
Mobolade CPA	3077 Austell Rd SW Marietta, GA 30008

18. Has the *business or any business associated with this business* been cited, charged, indicted, have a pending charge or been convicted at any time for any violation of Georgia Law, Federal Law or any rule or regulation of the State revenue commissioner or any rule, regulation or ordinance of the City of Kennesaw, Cobb County or other governmental unit? Yes O No ✓

If yes, give full details.

19. Has the licensee, the licensee's spouse or any person having ownership interest in this business or their spouse been:

Arrested	___Yes	✓No	Convicted	___Yes	✓No
Detained	___Yes	✓No	Indicted	___Yes	✓No
Pled Guilty	___Yes	✓No	Pled Nolo Contender	___Yes	✓No
On Probation	___Yes	✓No	Any Pending Criminal Charge	___Yes	✓No

If you answered "YES" to any of these questions, list below in complete detail the name, dates, charges, places of arrest and disposition of charge (s). Failure to make a full disclosure in response to this question will result in denial of the application or a revocation of the license if information requested was not provided.

N/A

20. Has the licensee, the licensee's spouse or any person having ownership interest in this business or their spouse ever had any interest in any business, ever been a licensee or ever been an officer in any business that was cited, had an employee of any business citied, detained, arrested, indicted or convicted for any offense by any federal, state, county or city government or has any business been warned or had any license placed on probation, denied, suspended or revoked by any federal, state, county or city government? Failure to make a full disclosure in response to this question will result in denial of the application or a revocation of the license if information requested was not provided.

NA

21. Indicate the type of alcohol awareness training and the number of hours of training that is required of owners and employees selling alcoholic beverages for the business. Also, indicate if training is required annually and the number of hours required.

TIPS, every 3 years

22. What types of materials (written materials, signs, badges, etc.) are provided with the training of the employees?

23. Have you read and do you understand all the provisions of the City of Kennesaw and State of Georgia Alcoholic Beverage requirements as stated in Chapter Six (6) of the City of Kennesaw Code of Ordinances and Title III of the Official Code of Georgia.

Yes ✓ No ○

24. Are you aware that the sale of alcoholic beverages to an underage person (s) by you or your employees may result in the suspension or revocation of the alcoholic beverage license?

Yes ✓ No ○

25. What procedures do you have in place to ensure that alcoholic beverages are not sold to underage person (s) or any other violation of the City of Kennesaw Code of Ordinances and State Law? Please attach all documentation relating to such procedures and include an explanation as their usage.

Card everyone before sales.

26. What technology, equipment and products have been or will be implemented in the location to ensure compliance with the City of Kennesaw, Cobb County and State Law? Examples include cash registers that require the date of birth to be entered, cameras, signs and calendars). Describe below:

cash register, cameras, signs

27. Estimated gross receipts from this location for the remaining calendar year: $ [redacted]

28. List occupations for the past ten years. Include dates of employment and positions.

From/To Month/Year	Company	City	State	Position/Salary
2010-2014	Kroger	Symrna	GA	Cashier
2014-2018	Wtron	Forest Park	GA	IT
2018-2020	children Health care	Atlanta	GA	IT

29. List previous residences of the licensee for the past ten years.

From/To Month/Year	Address	City	State
2012-2016	76 Silverthorne Cir	Douglasville	GA
2016-Present	4921 Trail Ridge Pl	Douglasville	GA

KENNESAW, GEORGIA
COBB COUNTY

I, Chukwuemeka Ohaeri being duly sworn according to law, do swear that the facts and things stated by me in the above and foregoing answers to questions are true and no false or fraudulent statement is made herein and such answers were made in order to procure the granting of such a license.

I have received a copy of the City of Kennesaw Alcoholic Beverage Code and I am aware that all licenses must be obtained and fees paid no later than two weeks from the date of approval of this application by the Mayor and Council.

Signature of Applicant

Gerardo Ohaeri
Signature of Spouse of Applicant

Sworn to and subscribed before me this
1st day of February, 2023

Clifton Elliott
Notary Public

CLIFTON ELLIOTT
Notary Public - State of Georgia
Cobb County
My Commission Expires Oct 6, 2025

Signature and title of person other than applicant filing out this application

Phone Number

Application received in Kennesaw City Hall by:
Kamaya Brown 7/31/23 11:24 AM

Application to be heard by Mayor & Council
Date & Time: [redacted] 8/21/23 6:30 PM

A REPRESENTATIVE MUST BE PRESENT AT THE MAYOR & COUNCIL MEETING

City of Kennesaw, GA

Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

Contact Information:
Phone: (770) 424-8274
Fax: (770) 429-4559
www.kennesaw-ga.gov

License Application:
Alcoholic Beverage

OWNER/LICENSEE PERSONAL STATEMENT INFORMATION

1. Full name of licensee (No initials): Chukwuemeka Ohaeri
(Include maiden names and alias names if any)

2. Phone Numbers:
   a. Business 470-207-5675
   b. Cell: [redacted]
   c. Home: _____

3. Home Address: 4931 Trail Ridge Pl Douglasville GA 30134
4. Business Address: 2655 Cobb Pkwy NW # 210

Attac



5. Please fill out the following:
   Age: 33 Sex: M Height: 6'3 Color of Hair: Black
   Race: AA Weight: 215 Color of Eyes: Brown

6. Social Security #: [redacted]
7. Place of Birth: Nigeria Date of Birth: [redacted]-90
   U.S. Citizen: yes ☐ By Birth ☑ Naturalized
   If a naturalized citizen, provide certificate #: [redacted]
   and submit original naturalization certificate or U. S. Passport
   If a legal permanent resident, provide alien registration #: _____
   and submit copy of I-551 card
   Derived Parents Certificate #'s: [redacted]
   Date & Port of Entry: 2015

8. How long have you resided in the City of Kennesaw or Cobb County? _____
9. Number of years at this present address? _____

10. Are you (Choose one): ☐ Single ☑ Married ☐ Widowed ☐ Divorced

11. If married, complete the following information on spouse.
    Full Name of Spouse: Dorcas Ohaeri
    Social Security #: [redacted]
    Spouse's Maiden Name: Olayiwola
    Place of Birth: LaGrange, GA
    Date of Birth: [redacted]87
    Place of Marriage: Douglasville, GA
    Date of Marriage: 9-1-17

Name of spouse's employer: Autumn Breeze

Address of employer: 1480 Sandtown Rd Marietta, GA 30008

U.S. Citizen: ✓ ◉ By Birth ○ Naturalized

If a naturalized citizen, provide certificate #: _____

and submit original naturalization certificate or U. S. Passport

If a legal permanent resident, provide alien registration #: _____

and submit copy of I-551 card

Derived Parents Certificate #'s: _

Date & Port of Entry: _____

12. Give names and addresses of all children and stepchildren (regardless of age).

Full Name	Address	Age	Birth Place
Ifeyinwa Okoeni	4921 Trail Ridge PL	7	Marietta
Chidimma Okoeni	" "	6	"
Chidera Okoeni	" "	3	"
Jeremiah Okoeni	" "	0	"

13. Give names and addresses of all immediate living relatives.

	Full Name	Address
Parents:	Samuel & Alice Olayiwola	104 Cameron Pointe Dr. LaGrange, GA 30240
Siblings:	Michael Olayiwola	104 Cameron Pointe Dr. LaGrange, GA 30240
In-Laws:	Evelyn & Mashood Olayiwola	76 Silverthorne Cir. Douglasville, GA 30134

14. Do you or your spouse have financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverage are sold and consumed on the premises? If yes, give details:

NO

15. Are you or your spouse related to anyone who has ownership or is employed by any wholesale or retail alcoholic beverage business? If so, give name, relationship to licensee or licensee's spouse, business name and the amount of interest, and/or type of employment in each.

NO

16. Education: List name of schools attended, address, dates of attendance and degrees earned.

M/YR	to	M/YR	School	Address	City	State	Degree
8/2008		12/2012	Auburn U.		Auburn	AL	BS

Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

Contact Information:
Phone: (770) 424-8274
Fax: (770) 429-4559
www.kennesaw-ga.gov

License Application:
Alcoholic Beverage

OWNER/LICENSEE PERSONAL FINANCIAL STATEMENT

Name: Chukwuemeka Ohaeri
Social Security #: [redacted]
Residence Address: 4921 Trail Ridge Pl
City/State/Zip: Douglasville, GA 30134
Residence Phone: [redacted]

Date of Birth: [redacted]90
Name of Spouse: Doreas Ohaeri
Business/Organization: Chioma's African Cuisine
Business Phone: 470-201-5675
Partner/Officer in any other business? ☐ Yes ☒ ~~No~~

Assets		Liabilities	
Cash on hand in banks		Notes payable to banks - Secured	
Accounts Receivable		Notes payable to banks - Unsecured	
Stocks & Bonds		Accounts Payable	
Real Estate	[redacted]	Unpaid Taxes	
Cash value of Life Insurance		Mortgage on Real Estate	
Automobiles		Other Debts (itemize)	
Deposit Accounts		Total Liabilities	
Credit w/ Financial Institutions		Net Worth	
Other Assets (Itemize)			
Total Assets	[redacted]	**Total Liabilities & Net Worth**	

Source of Annual Income PT Job	Salary [redacted]
Bonus & Commissions	Dividends
Alimony, Child Support, or Separate Income	
Itemize all loan sources & Interest	
Other Income (Itemize)	
Total Income [redacted]	

Unsatisfied judgments or lawsuits pending?		☐ Yes ☑ No
Are any income tax returns made by you for prior years being contested?		☐ Yes ☑ No
If so, what do you estimate as the additional amount you may be required to pay?		
Are any assets pledged or joint names other than as described above?		○ Yes ○ No
Have you ever been declared bankrupt?		○ Yes ○ No
Do you have a will?	Beneficiary:	○ Yes ○ No
Who is named as your executor?	Executor:	

As of June 20 23

City of Kennesaw

Alcohol License

Permit No. A- 91/a

Renewal? Yes or No

Name-Based Criminal History Record Information Consent/Inquiry Form

I hereby authorize *City of Kennesaw* to conduct an inquiry for the purpose listed below and receive any Georgia and/or national criminal history record information as authorized by the state and federal law. City Ordinance 22-121 Solicitation Licensing.

Full Name (print)	Chukwuemeka Onger		
Address	4921 Trail Ridge Pl. Douglasville, GA 30134		
Sex	Race	Date of Birth	Social Security Number
M	AA	[redacted] 90	[redacted]

✓ This authorization is valid for 364 days from date of signature.

Purpose Code Used: (check one)

	NON-CRIMINAL JUSTICE PURPOSES
✓	A- Alcohol License
	B- Bail Bonds
	E- Adult Entertainment
	M- Massage Therapy
	P- Pawn & Precious Metal
	S- Solicitation Permit

The inquiry resulted in the following: (check all that apply)

X	No Criminal Record Available
	Criminal Record (Attached/Released)
X	No NCIC/GCIC Warrant
	Possible NCIC/GCIC Warrant (List Wanting Agency Below)

Wanting Agency Name: —

Wanting Agency Telephone: —

No History
Georgia Only
7-31-23 1249 cm

Have you ever been **arrested, charged** and/**or convicted** of a crime in this Country or any other Country for any offense **in the last five (5) years**? Yes ☐ No ☑

If yes, please list:

Note: Please list all arrests within the last five years regardless of the disposition of the case

Offense/Charge	Arresting Agency	Date	Disposition

Are you **currently** on probation or parole for a drug or alcohol offense? Yes ☐ No ☑

I have received and read a copy of the Kennesaw Ordinance pertaining to obtaining a solicitation permit.
Yes ☐ No ☐

I hereby certify that all information given by me on this application is complete and true to the best of my knowledge. I further understand that **any falsification or intentional omission of requested information will result in denial of my application for a solicitation license.**

Signature of Applicant

For Department Use Only:

GCIC Operator #: CM

Reviewed by Chief of Police or designee

Approved ☑ Denied ☐

Reviewed by Business License Clerk or designee:

City Signature

City of Kennesaw

Alcohol License

Permit No. A- 91/b

Renewal? Yes or No

Name-Based Criminal History Record Information Consent/Inquiry Form

I hereby authorize *City of Kennesaw* to conduct an inquiry for the purpose listed below and receive any Georgia and/or national criminal history record information as authorized by the state and federal law. City Ordinance 22-121 Solicitation Licensing.

Full Name (print)	Dorcas Dhaeri		
Address	4921 Trail Ridge Pl Douglasville, GA 30134		
Sex	**Race**	**Date of Birth**	**Social Security Number**
F	Black	[redacted] 87	[redacted]

____ This authorization is valid for 364 days from date of signature.

Dorcas Dhaeri _____ _____

Purpose Code Used: (check one)

	NON-CRIMINAL JUSTICE PURPOSES
✓	A- Alcohol License
	B- Bail Bonds
	E- Adult Entertainment
	M- Massage Therapy
	P- Pawn & Precious Metal
	S- Solicitation Permit

The inquiry resulted in the following: (check all that apply)

X	No Criminal Record Available
	Criminal Record (Attached/Released)
X	No NCIC/GCIC Warrant
	Possible NCIC/GCIC Warrant (List Wanting Agency Below)

Wanting Agency Name: —

Wanting Agency Telephone: —

No History
Georgia Only
7-31-23 1251 cm

Have you ever been **arrested, charged** and/**or convicted** of a crime in this Country or any other Country for any offense **in the last five (5) years**? Yes ☐ No ☑

If yes, please list:

Note: Please list all arrests within the last five years regardless of the disposition of the case

Offense/Charge	Arresting Agency	Date	Disposition

Are you **currently** on probation or parole for a drug or alcohol offense? Yes ☐ No ☑

I have received and read a copy of the Kennesaw Ordinance pertaining to obtaining an Alcohol License.
Yes ☑ No ☐

I hereby certify that all information given by me on this application is complete and true to the best of my knowledge. I further understand that **any falsification or intentional omission of requested information will result in denial of my application.**

Signature of Applicant

Doreen Draeger

For Department Use Only:

GCIC Operator #: CM

Reviewed by Chief of Police or designee

Approved ☑ **Denied** ☐

Reviewed by Business License Clerk or designee:

City Signature

THE UNITED STATES OF AMERICA

[redacted]

CERTIFICATE OF NATURALIZATION

Personal description of holder as of date of naturalization:

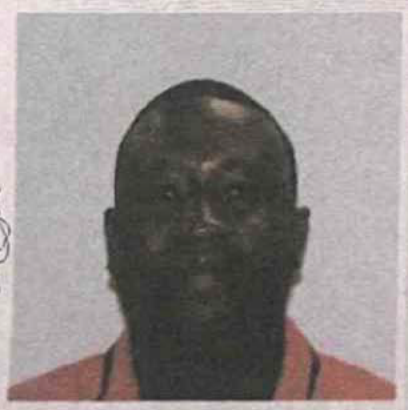
Date of birth: [redacted]1990

Sex: **MALE**

Height: **6** *feet* **2** *inches*

Marital status: **SINGLE**

Country of former nationality: **NIGERIA**



USCIS Registration No. [redacted]

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

(Complete and true signature of holder)

Be it known that, pursuant to an application filed with the Secretary of Homeland Security

at: **ATLANTA, GEORGIA**

The Secretary having found that:

CHUKWUEMEKA OHAERI

residing at: **DOUGLASVILLE, GEORGIA**

having complied in all respects with all of the applicable provisions of th naturalization laws of the United States, being entitled to be admitted a a citizen of the United States, and having taken the oath of allegiance at ceremony conducted by

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

at: **ATLANTA, GEORGIA** *on:* **SEPTEMBER 11, 2015**

such person is admitted as a citizen of the United States of America.

U. S. Citizenship and Immigration Services

RATION OR MISUSE OF THIS DOCUMENT
ERAL OFFENSE AND PUNISHABLE BY LAW

DEPARTMENT OF HOMELAND SECURITY

City of Kennesaw, GA

Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

Contact Information:
Phone: (770) 424-8274
Fax: (770) 429-4559
www.kennesaw-ga.gov

License Application:
Alcoholic Beverage

FOOD SALES AND ALCOHOLIC BEVERAGE SALES AFFIDAVIT

TO BE COMPLETE BY RETAIL POURING APPLICANTS ONLY

NAME OF ESTABLISHMENT: Chiomas African Cuisine (Italia mediterranean grill) formerly
ADDRESS OF ESTABLISHMENT: 2655 Cobb Pkwy NW # 210
LICENSEE'S NAME: Chukwuemeka Ohaeri

FOOD SALES AND ALCOHOLIC BEVERAGE SALES: Financial reports must be attached to support the reported total or CPA certification must be completed attesting to the reported sales. This information must be provided from the financial records of the above establishment on a calendar year basis or such period during which the establishment has been open.

PERIOD FOR WHICH INFORMATION IS PROVIDED:_____ (IF EXISTING BUSINESS, MUST BE A 12 MONTH PERIOD. IF NEW BUSINESS, MUST BE 12 MONTH ESTIMATE.)

Gross Receipts from Food sales this period: $[redacted] %)
Gross Receipts from Alcoholic Beverage sales this period: $[redacted] %)
Total Food sales and Alcoholic Beverage sales this period: $[redacted] %)

Briefly describe the method by which receipts are segregated daily into food sales and alcohol sales:
The cash register app segregates food & alcohol automatically

I certify that I have a working knowledge of the books and records of the establishment whose name appears above, and that to the best of my knowledge the figures presented above represent accurate sale totals for the period specified.

Stephen Farris	Steve Farris, PC	770-942-2214
CPA NAME (PRINTED)	NAME OF CPA FIRM	PHONE
[signature]	8504 [illegible]	Douglasville Ga 30154
CPA SIGNATURE	BUSINESS ADDRESS	CITY/STATE ZIP

[signature] SWORN UNDER OATH THIS 15th DAY OF March, 20 23
SIGNATURE OF NOTARY PUBLIC

HEATHER DALTON NOTARY PUBLIC MY COMMISSION EXPIRES DECEMBER 02, 2023 PAULDING COUNTY, GEORGIA

I hereby affirm and understand that the privilege of selling alcoholic beverages on Sunday from 12:30 p.m. until Monday 2:55 p.m. requires valid alcoholic beverage pouring license, valid Sunday Sales pouring license and that at least 50% of the licensed establishment's annual gross food and alcoholic beverage sales must be derived from the sale of prepared meals and food.

I hereby affirm that I understand that records of food sales and alcoholic beverage sales must be prepared and maintained. Failure to prepare and maintain records of food sales and alcoholic beverage sales is cause for denial or revocation of the alcoholic beverage pouring license, including the Sunday Sales pouring license. I further affirm that I understand that the City of Kennesaw Business License Division may audit our records to verify same at its discretion.

[signature]
Signature of Licensee/Owner

Sworn under oath this 15th day of March, 20 23 [signature] Notary Public

HEATHER DALTON NOTARY PUBLIC MY COMMISSION EXPIRES DECEMBER 02, 2023 PAULDING COUNTY, GEORGIA

TIPS® | 360 TRAINING™
A 360TRAINING COMPANY

CERTIFICATE OF COMPLETION

This certifies that

chukwuemeka ohaeri

is awarded this certificate for

TIPS On-Premise Alcohol Server Training

Hours	Completion Date	Expiration Date	Certificate #
3.00	06/30/2023	06/29/2026	ON-000029038246

Official Signature

THIS CERTIFICATE IS NON-TRANSFERABLE

5000 Plaza on the Lake, Suite 305 | Austin, TX 78746 | 877.881.2235 | www.360training.com

(CUT HERE) (CUT HERE)

TIPS On-Premise

CERTIFIED

Issued: 06/30/2023 Expires: 06/29/2026

Certificate #: ON-000029038246

chukwuemeka ohaeri
4921 trail ridge pl
Douglasville GA 30134

TIPS | 360 TRAINING™

Phone: 800-438-8477
www.gettips.com

This card was issued for successful completion of the TIPS program.

Signature _____

Menu

MAIN COURSE

Jollof Rice + Meat $20
The infamous tomato-based rice, full of flavor and traditional spices, served with plantains and your choice of meet

Fried Rice + Meat $20
A fried rice, flavorful, with mixed vegetables, served with plantains and your choice of meat

White Rice & Stew $20
Stewed tomatoes simmered down with traditional spices and peppers, served with plantain and your choice of meat

Egusi Soup + Meat $20
A rich palm oil-based soup filled with spinach and our native Egusi Melon, spices and flavor, served with FuFu and your choice of meat

Okra Soup + Meat $20
Okra based soup, rich in flavor, filled with spices, crayfish and other native vegetables, served with FuFu and your choice of meat

Efo-Riro + Meat $20
Tomato, bell peppers, and palm oil-based soup, rich in flavor, filled with Spinach, spices, served with FuFu and your choice of meat

Jollof Spaghetti $20
The exact same, infamous jollof rice sauced used to infuse the spaghetti, served with bell peppers, onions for garnishing, served with plantain and your choice of meat

Grilled Fish & Boli $25
Chef Paula's famous grilled to perfection tilapia fish covered in a pepper, and tomato based sauce, filled with spices , served with grilled plantian

Beans & Plantain $20
Honey beans simmered in a tomato and palm oil-based sauce, filled with native spices and peppers, served with your choice of meat

Moi Moi & Salad $20
A bean pie filled with peppers and native spices, served with a creamy cabbage salad, and your choice of meat

Ayamase + White Rice $20
A red pepper, habanero, pepper, palm oil stew simmered with African spices served with one boiled egg. Very Spicy!

APPETIZERS

Calamari	$11
Mussels	$8.99
Plantain	$4
Wings (6) & Fries	$8.99
Suya	$16
Meat Pie	$2.50
Nigerian Coleslaw	$5
Pepper Soup	$18

*All Main Courses served with Goat or Turkey is $3 extra **Some foods contain crayfish**

SIDES

Any Rice	$5
Any Soup	$5
Moi Moi	$4
Salad	$4

DESSERTS

Red Velvet Cake	$7
Chocolate Mousse Cake	$7
Creme Brulee Cheese Cake	$7
Lemoncello Cake	$7

Chioma's African Cuisine

2655 Cobb Pkwy NW #201
Kennesaw, GA 30152

Menu

MAIN COURSE

Fettuccine Alfredo Chicken $19.95
Made with fettuccine and with rich & creamy alfredo sauce

Fettuccine Alfredo Shrimp $21.95
Made with fettuccine and with rich & creamy alfredo sauce

La Piccata $18.95
Lemon butter with spaghetti in special white sauce, capers, artichoke, tomatoes, and chicken

La Marsala $18.95
Made with Marsala wine sauce Portobello Mushrooms over spaghetti and chicken.

Homemade Gnocchi $18.95
Gnocchio pasta served with a specially made marinara sauce, parmesan cheese

Spaghetti Marinara $13.95
Made with homemade Italian marinara sauce.

Spaghetti Bolognese $15.95
Made with homemade beef & marinara sauce.

Fettuccine A La Mediterrenean $23.95
Made with fettucine, little neck clams, shrimps, mussels, with your choice of white wine or marinara sauce

Gnocchi Bolognese $18.95
Dumpling pasts served with homemade beefy marinara sauce.

La Parmigiana $18.95
Spaghetti with a choice of chicken or 2 meatballs in marinara sauce

SALADS

$9
Italian Nonna Salad
Mixed green, fresh tomatoes cucumbers, onions, Greek olives, artichoke, & fresh feta cheese

$8
Ceasar Salad
Romaine lettuce & croutons dressed with homemade Caesar dressing & parmesean cheese

$6
House Salad
Mixed greens, tomatoes, cucumbers, red onions & house dressing

SIDES

Meat Ball (1)	$2.50
Meat Balls (3)	$7
Side of Chicken	$5
Side of Shrimp	$9
Calamari Napoli	$13.95
Mussels Alla Tarantina	$11
Caprese Salad	$12

DESSERTS

Chocolate Mousse Cake	$6.99
Creme Brulee Cheese Cake	$6.99
Lemoncello Cake	$6.99
Tiramisu	$6.99

Italia

GEORGIA DEPARTMENT OF PUBLIC HEALTH
Food Service Establishment Inspection Report

Georgia Department of Public Health

Establishment Name: !!CHIOMA'S AFRICAN CUISINE
Address: 2655 COBB PKWY NW STE 201
City: KENNESAW **Time In:** 11 : 00 AM **Time Out:** 12 : 30 PM
Inspection Date: 06/20/2023 **CFSM:** Dorcas Ohaeri (4/26)
Purpose of Inspection: Routine ○ Followup ○ Initial ● Issued Provisional Permit ○ Temporary ○
Risk Type: 1 ○ 2 ● 3 ○ **Permit#:** FSP-033-005826

Risk Factors are food preparation practices and employee behaviors most commonly reported to the Centers for Disease Control and Prevention as contributing factors in foodborne illness outbreaks. Public Health Interventions are control measures to prevent illness or injury.

Good Retail Practices are preventive measures to control the introduction of pathogens, chemicals, and physical objects into foods.

CURRENT SCORE	CURRENT GRADE
96	A

SCORING AND GRADING: A=90-100 B=80-89 C=70-79 U≤69

FOODBORNE ILLNESS RISK FACTORS AND PUBLIC HEALTH INTERVENTIONS

(Mark designated compliance status (IN, OUT, NA, or NO) for each numbered item. For items marked OUT, mark COS or R for each item as applicable.)
IN=in compliance OUT=not in compliance NO=not observed NA=not applicable COS=corrected on-site during inspection R=repeat violation of the same code provision=2 points

Compliance Status						COS	R
1	IN	OUT	NA	NO	Supervision	4 points	
	●	○			1-2A. PIC present, demonstrates knowledge, performs duties	○	○
	●	○	○		1-2B. Certified Food Protection Manager	○	○
2	IN	OUT	NA	NO	Employee Health, Good Hygienic Practices, Preventing Contamination by Hands	9 points	
	●	○			2-1A. Proper use of restriction & exclusion	○	○
	●	○		○	2-1B. Hands clean and properly washed	○	○
	●	○	○	○	2-1C. No bare hand contact with ready-to-eat foods or approved alternate method properly followed	○	○
						4 points	
	●	○			2-2A. Management knowledge, responsibilities, reporting	○	○
	●	○		○	2-2B. Proper eating, tasting, drinking, or tobacco use	○	○
	●	○		○	2-2C. No discharge from eyes, nose, and mouth	○	○
	●	○			2-2D. Adequate handwashing facilities supplied & accessible	○	○
	●	○			2-2E. Response procedures for vomiting & diarrheal events	○	○
3	IN	OUT	NA	NO	Approved Source	9 points	
	●	○			3-1A. Food obtained from approved source	○	○
	○	○	○	●	3-1B. Food received at proper temperature	○	○
	●	○			3-1C. Food in good condition, safe, and unadulterated	○	○
	○	○	●	○	3-1D. Required records: shellstock tags, parasite destruction	○	○
4	IN	OUT	NA	NO	Protection From Contamination	9 points	
	●	○	○	○	4-1A. Food separated and protected	○	○
	●	○			4-1B. Proper disposition of returned, previously served, reconditioned, and unsafe food	○	○
						4 points	
	●	○	○		4-2A. Food stored covered	○	○
	●	○	○		4-2B. Food-contact surfaces: cleaned & sanitized	○	○

Compliance Status						COS	R
5	IN	OUT	NA	NO	Cooking and Reheating of TCS Foods, Consumer Advisory	9 points	
	○	○	○	●	5-1A. Proper cooking time and temperatures	○	○
	○	○	○	●	5-1B. Proper reheating procedures for hot holding	○	○
						4 points	
	○	○	●		5-2. Consumer advisory provided for raw and undercooked foods	○	○
6	IN	OUT	NA	NO	Holding of TCS Foods, Date Marking of TCS Foods	9 points	
	●	○	○	○	6-1A. Proper cold holding temperatures	○	○
	○	○	○	●	6-1B. Proper hot holding temperatures	○	○
	○	○	●	○	6-1C. Proper cooling time and temperature	○	○
	○	○	●	○	6-1D. Time as a public health control: procedures and records	○	○
						4 points	
	○	●	○	○	6-2. Proper date marking and disposition	○	○
7	IN	OUT	NA	NO	Highly Susceptible Populations	9 points	
	○	○	●		7-1. Pasteurized foods used: Prohibited foods not offered	○	○
8	IN	OUT	NA	NO	Chemicals	4 points	
	○	○	●		8-2A. Food additives: approved and properly used	○	○
	●	○			8-2B. Toxic substances properly identified, stored, used	○	○
9	IN	OUT	NA	NO	Conformance with Approved Procedures	4 points	
	○	○	●		9-2. Compliance with variance, specialized process and HACCP plan	○	○

GOOD RETAIL PRACTICES

(Mark the numbered item OUT, if not in compliance. For items marked OUT, mark COS or R for each item as applicable. R = Repeat Violation of the same code provision = 1 point)
Good Retail Practices are preventive measures to control the introduction of pathogens, chemicals, and physical objects into foods.

Compliance Status			COS	R
10	OUT	Safe Food and Water, Food Identification	3 points	
	○	10A. Pasteurized eggs used where required	○	○
	○	10B. Water and ice from approved source	○	○
	○	10C. Variance obtained for specialized processing methods	○	○
	○	10D. Food properly labeled; original container	○	○
11	OUT	Food Temperature Control	3 points	
	○	11A. Proper cooling methods used: adequate equipment for temperature control	○	○
	○	11B. Plant food properly cooked for hot holding	○	○
	○	11C. Approved thawing methods used	○	○
	○	11D. Thermometers provided and accurate	○	○
12	OUT	Prevention of Food Contamination	3 points	
	○	12A. Contamination prevented during food preparation, storage, display	○	○
	○	12B. Personal cleanliness	○	○
	○	12C. Wiping cloths: properly used and stored	○	○
	○	12D. Washing fruits and vegetables	○	○
13	OUT	Postings and Compliance with Clean Air Act	1 point	
	○	13A. Posted: Permit/Inspection/Choking Poster/Handwashing	○	○
	○	13B. Compliance with Georgia Smoke Free Air Act	○	○

Compliance Status			COS	R
14	OUT	Proper Use of Utensils	1 point	
	○	14A. In-use utensils: properly stored	○	○
	○	14B. Utensils, equipment and linens: properly stored, dried, handled	○	○
	○	14C. Single-use/single-service articles: properly stored, used	○	○
	○	14D. Gloves used properly	○	○
15	OUT	Utensils, Equipment and Vending	1 point	
	○	15A. Food and nonfood-contact surfaces cleanable, properly designed, constructed, and used	○	○
	○	15B. Warewashing facilities: installed, maintained, used; test strips	○	○
	○	15C. Nonfood-contact surfaces clean	○	○
16	OUT	Water, Plumbing and Waste	2 points	
	○	16A. Hot and cold water available; adequate pressure	○	○
	○	16B. Plumbing installed; proper backflow devices	○	○
	○	16C. Sewage and waste water properly disposed	○	○
17	OUT	Physical Facilities	1 point	
	○	17A. Toilet facilities: properly constructed, supplied, cleaned	○	○
	○	17B. Garbage/refuse properly disposed; facilities maintained	○	○
	○	17C. Physical facilities installed, maintained, and clean	○	○
	○	17D. Adequate ventilation and lighting; designated areas used	○	○
18	OUT	Pest and Animal Control	3 points	
	○	18. Insects, rodents, and animals not present	○	○

Person in Charge (Signature) (Print) Theresa Dennis **Date:** 06/20/2023
Inspector (Signature) **Follow-up:** YES ○ NO ● **Follow-up Date:**

Food Establishment Inspection Report Addendum

Violations cited in this report must be corrected within the time frames specified below, or as stated in the Georgia Department of Public Health Rules and Regulations Food Service Chapter 511-6-1, Rule .10 subsections (2)(h) and (i).

Establishment
IICHIOMA'S AFRICAN CUISINE

Permit #
FSP-033-005826

Date
06/20/2023

Address
2655 COBB PKWY NW STE 201

City/State
KENNESAW GA

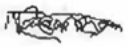
Zipcode
30152

TEMPERATURE OBSERVATIONS

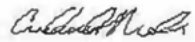
Item/Location	Temp	Item/Location	Temp	Item/Location	Temp
Cold Holding, Main Kitchen, Walk in Cooler, Goat, Cooked Legs	39.0 ° F	Cold Holding, Main Kitchen, Walk in Cooler, Turkey, Cooked Wings	38.0 ° F	Cold Holding, Main Kitchen, Walk in Cooler, Vegetables, Shredded Cabbage	37.0 ° F
Cold Holding, Main Kitchen, Walk in Cooler, Rice, Jollof Rice	37.0 ° F	Cold Holding, Main Kitchen, Reach In Cooler, Dairy, Heavy Cream	41.0 ° F	Cold Holding, Main Kitchen, Reach In Cooler, Cheese, Sliced Mozzarella	39.0 ° F
Cold Holding, Main Kitchen, Reach In Cooler, Spices, Ranch Dressing	36.0 ° F	Cold Holding, Main Kitchen, Reach In Cooler, Cheese, Feta Crumbles	39.0 ° F	Cold Holding, Front Food Service, Prep Top Left, Chicken, Raw Chicken Breast	37.0 ° F
Cold Holding, Front Food Service, Prep Top Left, Dairy, Butter	35.0 ° F	Cold Holding, Front Food Service, Prep Top Left, Rice, White Rice- Bottom RIC	36.0 ° F	Cold Holding, Front Food Service, Prep Top Left, Pasta, Plain Fettucini- Bottom RIC	42.0 ° F
Cold Holding, Front Food Service, Prep Top Right, Tomatoes, Boli Sauce	40.0 ° F	Cold Holding, Front Food Service, Prep Top Right, Cheese, Shredded Mozzarella	37.0 ° F	Cold Holding, Front Food Service, Prep Top Right, Pork, Meatball	36.0 ° F
Cold Holding, Front Food Service, Prep Top Right, Vegetables, Falafel	39.0 ° F	Cold Holding, Front Food Service, Reach In Cooler, Cut Leafy Greens, Shredded Lettuce	38.0 ° F	Cold Holding, Front Food Service, Reach In Cooler, Dairy, Fufu	36.0 ° F
Cold Holding, Front Food Service, Reach In Cooler, Tomatoes, Boli Sauce	38.0 ° F	Cold Holding, Front Food Service, Reach In Cooler, Ambient, RIC	39.0 ° F		

OBSERVATIONS AND CORRECTIVE ACTIONS

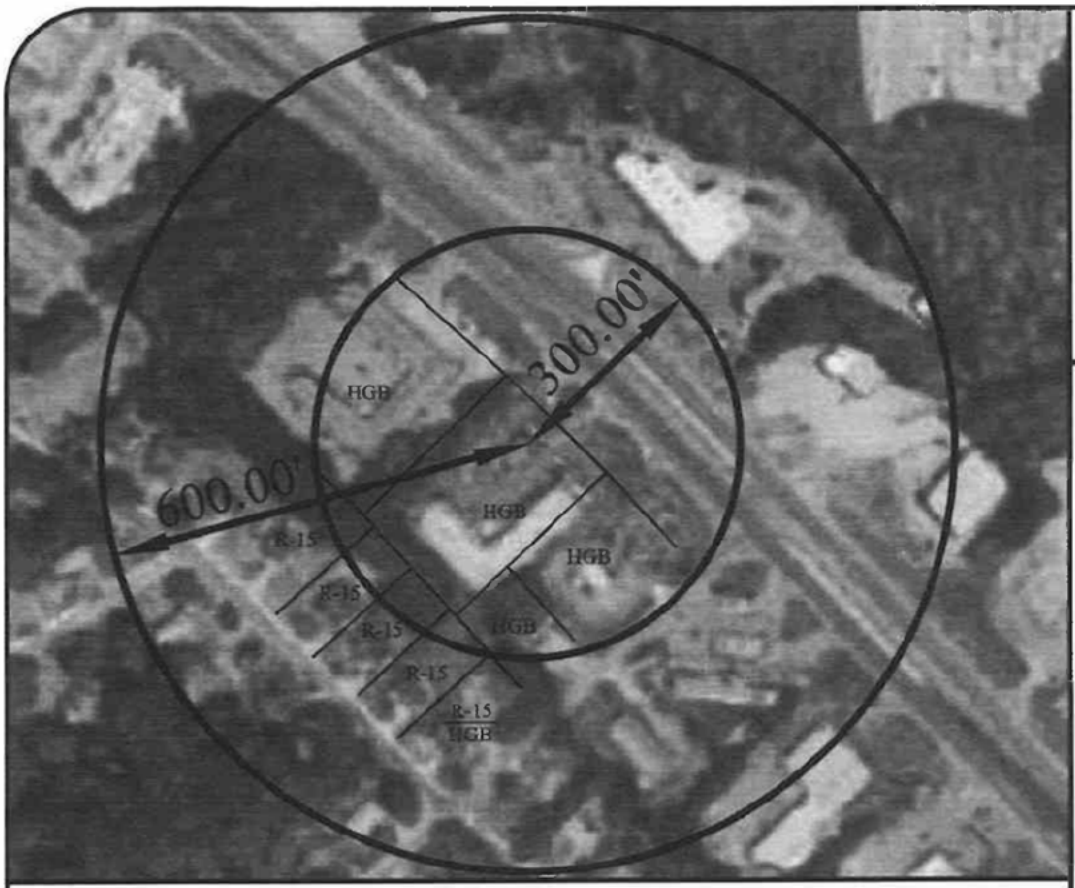
Item Number	
6-2	Violation of Code: [511-6-1.04(6)(g)] Observed cooked food in the main kitchen walk in cooler and front food service prep top cooler without prep or discard dates. CA: Food prepared and held in a food establishment shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded. Food shall not be held more than 7 days. New Violation.
Remarks	Discussed ensuring dishes are air dried before stacking and using scoops with handles that are stored above the food product. Permit recommended pending receipt of Grease Trap Approval. EPA: 84368-1

Person in Charge (Signature) 

Date: 06/20/2023

Inspector (Signature) ANDROMADA MURDEN 

Date: 06/20/2023



MAGNETIC NORTH

SCALE: 1"=250'

ALCOHOL SURVEY

PREPARED FOR: DORCAS OHAERI; CHIOMA'S AFRICAN CUISINE
2655 COBB PARKWAY, NW, SUITE 201, KENNESAW, GEORGIA, 30152
LAND LOT 166, 20TH DISTRICT, 2ND SECTION
COBB COUNTY, GEORGIA - 06/20/2023

NEAREST RESIDENCE: ±227'
3035 KENNESAW DRIVE
KENNESAW, GEORGIA, 30152

NEAREST CHURCH: ±2,655'
KENNESAW FIRST
BAPTIST CHURCH
2958 NORTH MAIN STREET
KENNESAW, GEORGIA, 30144

NEAREST PARK: ±4,894'
BIG SHANTY PARK
2050 KENNESAW DUE WEST ROAD
KENNESAW, GEORGIA, 30152

SITE INFORMATION
BEER & WINE CONSUMPTION
2655 COBB PARKWAY, NW,
SUITE 201
KENNESAW, GEORGIA, 30152

NEAREST ALCOHOL TREATMENT: ±8,129'
NORTH GEORGIA RECOVERY CENTER
1690 ROBERTS BOULEVARD
KENNESAW, GEORGIA, 30144

NEAREST SCHOOL: ±6,368'
KENNESAW MOUNTAIN HIGH SCHOOL
1898 KENNESAW DUE WEST ROAD, NW
KENNESAW, GEORGIA, 30152

NEAREST LIBRARY: ±11,958'
NORTH COBB REGIONAL LIBARY
3535 OLD HWY 41
KENNESAW, GEORGIA, 30144

NEAREST PACKAGE STORE: ±308'
KINGS LIQUOR
2699 COBB PARKWAY NW
KENNESAW, GEORGIA, 30152

MEASUREMENTS DETERMINED FROM FRONT DOOR OF PROPOSED LICENSE PREMISES TO THE PROPERTY LINE OF THE AFOREMENTIONED SITES ALONG A STRAIGHT LINE

THIS PLAT WAS PREPARED FOR THE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON FOR AN ALCOHOL PERMIT OF LICENSE APPLICATION PURPOSES ONLY AND DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT A RE-CERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

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ALL RIGHTS RESERVED.

GEORGIA REGISTERED BEN E. BUTTERWORTH LAND SURVEYOR

FOR THE FIRM BOUNDARY ZONE, INC., LSF #839

BOUNDARY ZONE, INC. SURVEYORS, ENGINEERS AND LAND PLANNERS
800 SATELLITE BLVD., SUWANEE, GA 30024
WWW.BOUNDARYZONE.COM (770) 271-5772

GRAPHIC SCALE - IN FEET

125 0 250 500

PROJECT
25865-01

SHEET
1 OF 1

LOC:
2655 COBB PKWY 201

City of Kennesaw, GA

Honoring Our Heritage - Forging Our Future

Tax Certificate
Professional - Occupational

No.: 2023 030931

CH MA'S AFRICAN CUISINE
[LOC: 2655 COBB PKWY 201]
2655 COBB PKWY 201
KENNESAW GA 30152

Date of Issue: 02/02/2023

CHIOMA'S AFRICAN CUISINE, LLC
Owner

in consideration of which City of Kennesaw, Georgia, has granted a certificate for carrying on the business of

FULL-SERVICE RESTAURANTS

This Certificate Expires On December 31, 2023

[redacted]

Witness my hand and seal with day and year above written

Derek Cox

Clerk

DEREK COX

This Certificate is not transferable and is subject to be revoked if abused.

POST IN A CONSPICUOUS PLACE

Control Number : 22250008

STATE OF GEORGIA

Secretary of State

Corporations Division
313 West Tower
2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF ORGANIZATION

I, **Brad Raffensperger**, the Secretary of State and the Corporation Commissioner of the State of Georgia, hereby certify under the seal of my office that

Chioma's African Cuisine, LLC
a Domestic Limited Liability Company

has been duly organized under the laws of the State of Georgia on **11/22/2022** by the filing of articles of organization in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on **12/02/2022**.

Brad Raffensperger

Brad Raffensperger
Secretary of State

ARTICLES OF ORGANIZATION

Electronically Filed
Secretary of State
Filing Date: 11/22/2022 4:03:30 PM

BUSINESS INFORMATION

CONTROL NUMBER	22250008
BUSINESS NAME	Chioma's African Cuisine, LLC
BUSINESS TYPE	Domestic Limited Liability Company
EFFECTIVE DATE	11/22/2022

PRINCIPAL OFFICE ADDRESS

ADDRESS	4921 Trail Ridge Pl, Douglasville, GA, 30134, USA

REGISTERED AGENT

NAME	ADDRESS	COUNTY
Chukwuemeka Ohaeri	4921 Trail Ridge Pl, Douglasville, GA, 30134, USA	Douglas

ORGANIZER(S)

NAME	TITLE	ADDRESS
Chukwuemeka Ohaeri	ORGANIZER	4921 Trail Ridge Pl, Douglasville, GA, 30134, USA

OPTIONAL PROVISIONS

N/A

AUTHORIZER INFORMATION

AUTHORIZER SIGNATURE	Chukwuemeka Ohaeri
AUTHORIZER TITLE	Organizer

ACBR
ATLANTA COMMERCIAL BOARD OF REALTORS

ATLANTA COMMERCIAL BOARD OF REALTORS®, INC.

Assignment and Assumption of Lease Agreement

REALTOR®

31 EO O.T. up

THIS ASSIGNMENT is dated the January 1st, 2023 by and among Gigi & Oghy LLC ("Assignor") and Chioma's African Cuisine, LLC ("Assignee(s)") and The Windsor Kennesaw LLC ("Landlord").

Whereas, by a lease dated the December 6, 2019 between Madhav Investment Corporation, d/b/a The Windsor, , the Landlord and Gigi & Oghy LLC, the Assignor, the Landlord leased to the Assignor for a term of Five Years, from and including the December 6th day of December 6th, 2019, to and including the December 31st day of December 31, 2024, ("Lease") subject to and upon the terms, covenants and conditions contained in the Lease, certain premises ("Premises") containing an area of approximately 1508 square feet located at 2655 Cobb Parkway, Kennesaw, Georgia 30152 Suite 201, and which Premises are more particularly described in the Lease, a true and correct copy of such Lease being attached to this agreement as Exhibit "A" and incorporated herein by this reference.

Whereas, the Assignor desires that all of its right, title and interest in the be assigned to the Assignee and the Assignee shall assume the obligations of Assignor under the Lease with the prior written consent of the Landlord, such prior written consent being required in accordance with the terms of the Lease;

NOW THEREFORE, in consideration of the terms and conditions hereof, the parties hereto agree as follows:

1. **ASSIGNMENT.**

Assignor hereby grants, conveys, transfers assigns to Assignee all of Assignor's rights, title and interest in the Lease in accordance with and subject to the terms, covenants and conditions contained in this Agreement and the observance and performance by Assignee of all of the terms, covenants and conditions contained in the Lease to be observed and performed by Assignor with respect to Premises and otherwise. The effective date of the Assignment is January 31, 2023 (the "Assignment Date").

31 EO O.T. up

2. **ACCEPTANCE AND ASSUMPTION.**

Assignee hereby accepts and agrees to assume and perform all of the terms and conditions of the Lease required to be performed by Assignor, and covenants with Landlord and Assignor that it shall, throughout the Term:

(i) Pay directly to Landlord, the rent including any rent increase, additional rent or other amounts due Landlord under the Lease (collectively "Rent") and assume, observe and perform all of the terms, covenants and conditions on the part of the tenant contained in the Lease to be paid, observed and performed with respect to the Premises, or otherwise.

(ii) Continue to carry on only the permitted uses pursuant to the provisions of the Lease.

3. **COVENANTS OF ASSIGNOR AND ASSIGNEE.**

Assignor and Assignee hereby covenant with the Landlord that notwithstanding any provision of the Lease to the contrary:

(i) Neither this Agreement nor the Lease nor the Premises (nor any part thereof) may be assigned (including an assignment by operation of law), sublet, encumbered or otherwise transferred, nor shall the Assignee part with or share possession of the Premises or any part of it unless Landlord's written consent is first obtained.

(ii) If the Assignee is, or as a result of a permitted assignment of this Agreement subsequently becomes, a corporation, the Assignee is prohibited from effecting or otherwise suffering a change in the effective voting control of the Assignee from the persons holding such effective voting control at the date of execution of this Agreement or permitted assignment of this Agreement, as the case may be, without first

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receiving the written consent of the Landlord, and such consent may be withheld for any reason or without a reason.

(iii) All rental, as well as any other tenant monetary obligations under the Lease, shall have been prorated between Assignor and Assignee as of the Assignment Date. If the proration of any non-rental tenant monetary obligation(s) in favor of Landlord is not calculated as of the such monetary obligation(s), Landlord shall send a bill therefore to Assignee, who shall promptly pay the full amount of such bill to Landlord and send a copy thereof to Assignor, so that the amount of such bill can be prorated between Assignor and Assignee as of the Assignment Date.

(iv) Assignor shall indemnify, defend and hold Assignee harmless from and against any and all obligations, claims, costs, demands, losses, damages, liabilities, lawsuits, actions and other proceedings in law or in equity or otherwise, judgments, awards and expenses of every kind and nature whatsoever, including without limitation, attorneys' fees and tenant improvement costs and leasing commissions, arising out of or relating to, directly or indirectly, the Leases, vesting, accruing and/or arising prior to the Assignment Date. This indemnity shall include without limitation any obligation to complete any pending or incomplete tenant improvements or pay or reimburse any tenant improvement costs or leasing commissions relating to the Leases, vesting, accruing and/or arising prior to the Assignment Date, whether or not completion of such tenant improvements or payment of such tenant improvement costs or leasing commissions is due prior to or after the date hereof.

4. **LANDLORD'S CONSENT AND CONDITIONS.**

Landlord hereby grants its consent to this Assignment subject to the following conditions:

(i) Either (check one):

☐ Assignor hereby covenants with Landlord that it remains jointly and severally liable with the Assignee under the Lease and acknowledges that the Assignor is not released from the liability for payment of Rent or from the performance of any of the terms, covenants and conditions contained in the Lease; and Assignor's obligations hereunder shall continue in favor of Landlord, notwithstanding (a) any exercise by Assignee of any option to extend the term of the lease, (b) any modification or alteration of the Lease, by Landlord and Assignee or their successors and assigns, (c) any further assignment of the Lease or subletting of all or part of the Premises, with or without, the consent of Landlord, (d) Landlord's failure to notify Assignor, of or obtain Assignor's consent for, any modification of the terms of the lease or to notify Assignor of any delinquency or default or Assignee with respect to any covenant, condition, restriction or obligation contained herein or in the Lease, or (e) Landlord's failure or delay to enforce any of its rights against Assignee. In addition, Assignor waives the right to require Landlord to first proceed against Assignee in the event of a default by Assignee under the Lease. The obligations of Assignor hereunder shall inure to the benefit of Landlord, its successors and assigns;

or

☒ As of the Assignment Date hereof, Landlord hereby irrevocably and unconditionally releases Assignor from any and all duties and/or obligations under the Lease, and hereby covenants that this Assignment is accepted and deemed by Landlord as full and complete satisfaction of any and all Assignor's duties and/or obligations, including without limitation the payment of Rent, under the Lease; and Landlord shall indemnify, defend and hold Assignor harmless from and against any and all obligations, claims, costs, demands, liabilities, lawsuits, actions and other proceedings in law or in equity or otherwise, judgments, awards and expenses of every kind and nature whatsoever (except as provided in Section 4(iv) hereof), including without limitation, attorneys' fees and leasing commissions, arising out of or relating to, directly or indirectly, the Lease, vesting, accruing and/or arising after the Assignment Date.

(ii) The Landlord's consent does not constitute a waiver of the necessity of obtaining a subsequent consent of Landlord to any assignment of the Lease or subletting of the Premises or any other transfer of the Lease,

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nor is it to be construed or interpreted as a forfeiture of any of the rights of the Landlord contained in the Lease.

(iii) Any and all costs and expenses, legal or otherwise, incurred by the Landlord with respect to this Agreement and the Landlord's consent provided for in this Agreement shall be borne entirely by the Assignor and the Assignor hereby covenants to promptly indemnify and save harmless the Landlord from and against any and all costs so incurred. In the event Assignor does not pay such costs and expense, Assignee shall be liable therefor.

5. **CONFIRMATION.**

(i) Assignor hereby confirms that the Lease is in full force and effect, unchanged and unmodified except in accordance with this Agreement, it is understood and agreed that except as provided herein, all terms and expressions when used in this Agreement have the same meaning as they have in the Lease.

(ii) The Assignee acknowledges with the Landlord that it has received a copy of the Lease and is familiar with all of the terms, covenants and conditions contained herein.

(iii) The parties acknowledge that Landlord now holds and shall continue to hold the sum of $[redacted] as a security deposit credited to the account of the Assignee, to be applied subject to the terms of the Lease; Assignor hereby releases all claims to said security deposit.

(iv) Assignee and Assignor hereby acknowledge and agree that neither Landlord nor any of Landlord's agents have made any representations not contained in the Lease or in this Agreement and that this Agreement and the Lease contain the entire agreement between the Parties.

(v) Assignee and Assignor specifically acknowledge and agree that Landlord and Landlord's agent has made no representations whatsoever concerning any rights to negotiate a new lease, any first option to accept or reject any proposed lease at the end of the lease term, any option or right to renew, extend or otherwise continue the Lease and Assignee has no rights whatsoever not contained in the original Lease attached hereto or set forth herein.

(vi) Assignor, Assignee and Landlord specifically acknowledge and confirm that Ben Joseph ("Broker") shall be paid a commission by $[redacted] in connection with the Lease, and this Assignment thereof, pursuant to a separate agreement or as otherwise provided herein.

6. **OTHER PROVISIONS.**

1. This assignment will stand null and void if any of the terms stated below are not satisfied by assignor or assignee.
2. Assignor to pay all the back rents until the time of assignment to Landlord before the assignment is signed & become binding.
3. Assignee to pay Nine months rent in advance and Three months rent as Security Deposit at the time of assignment.
4. Landlord will apply Nine month advance rent payment towards the first nine months rent immediately following assignment. Tenant to start paying the rent from 10th month from the assignment as per the lease terms.
5. The three months security deposit by the Assignee will be applied towards last two months rent of the lease terms (Initial lease period or option period if exercised whichever comes later). Any Balance left afterward of Security deposit will be refunded per the lease terms.
6. Tenant/Assignee is still responsible for any or all the rent along with any late fee or charges in full by the end of the lease,
7. Tenant/Assignee and Business Owners (Full Legal Name Chukwuemeka Ohaeri) and his Father in law (full legal name Samuel Olajubutu) will sign the

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attached personal Guarantee form on or before assignment date.
8. Completed Lease assignment and Personal Guarantee documents will be signed and delivered along with $1000 fee to the landlord or their representative with 24 hours of the Sale or the Business or Lease assignment date.

7. **NOTICES.**

Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to be effective when either (l) personally delivered, or (2) deposited in the United States Postal Service, Certified Mail- Return Receipt Requested, postage prepaid, or (3) deposited in the United States Postal Service, Express Mail, postage prepaid, or (4) deposited in Federal Express Overnight Delivery, charges prepaid, addressed to the party being notified at the appropriate address set forth below. United States Postal Service or Federal Express Overnight Delivery shall not be restricted deliver, but shall be deliverable to and receivable by any person in the Premises of addressee. The returned of said Certified Main, Express Mail or Federal Express Overnight Delivery, marked refused, unclaimed or otherwise undeliverable by the United States Postal Service or Federal Express Overnight Delivery shall be deemed to constitute receipt effective on the date of deposit. Any party may change its address for notice from time to time by giving the other parties hereto ten (10) days in advance written notice of the address change.

As to Assignor:	**As to Assignee:**
Gigi & Oghy LLC	Chioma's African Cuisine, LLC
2239 NOELLE PLACE	4921 Trail Ridge Pl
POWDER SPRINGS GA 30127	Douglasville GA 30134

As to Landlord:	**As to Broker:**
The Windsor Kennesaw LLC	X-Team Realty Partners LLC
	Ben Joseph
	235 Morton Manor Ct
	Alpharetta GA 30022

8. **CONDITION OF PREMISES.**

The Assignee accepts the Premises with all latent defects, if any, and in its present condition As Is, Where Is, and without any warranty whatsoever on the part of the Landlord, Assignor any real estate agent or anyone else. Landlord shall not be responsible for performing any work to the Premises to make it suitable for Assignee's use. If required by applicable governmental authority that a Certificate of Occupancy be issued for Assignee's occupancy of the Premises, Landlord shall be furnished with a copy of the unconditional Certificate of Occupancy as a condition to the effectiveness of this assignment and as a condition to Assignee's occupancy of the Premises.

9. **BINDING.**

This Agreement shall be binding upon and shall inure to the benefit of the Premises hereto and their permitted successors, assigns, heirs, executors and administrators.

ATLANTA COMMERCIAL BOARD OF REALTORS, INC. ("ACBR") DISCLAIMER; WAIVER AND RELEASE OF CLAIMS. This "Disclaimer; Waiver and Release of Claims" provision, without any changes, modifications, deletions or revisions, must be included in all ACBR Form documents that include any reference to ACBR.

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The parties hereto hereby acknowledge and agree that: (A) THIS DOCUMENT HAS IMPORTANT CONSEQUENCES, LEGAL, FINANCIAL AND OTHERWISE, AND ACBR HAS ADVISED THE PARTIES THAT THEY SHOULD EACH CONSULT WITH AN ATTORNEY OR OTHER PROFESSIONAL OF THEIR CHOICE WITH RESPECT TO THE TERMS OF, AND/OR THE COMPLETION, MODIFICATION AND/OR EXECUTION OF, THIS DOCUMENT; (B) form documents by their nature are designed to be of general application, and may not be applicable to specific facts and circumstances, may not address a given party's specific conditions or requirements and/or may not reflect the relative bargaining or negotiations of the parties, as such variables may arise on any given transaction; (C) to avoid any possible misunderstanding or confusion as to the original form of this document and any revisions, modifications or changes to it, any and all revisions, modifications or changes to the original should be made readily apparent by highlighting, underscoring or other means to distinguish them from the original ACBR form; (D) ACBR has made the original versions of this document and other document forms available to ACBR"s members as a service, but makes no representation or warranty, express or implied, as to the suitability or applicability of the terms and conditions of, or the enforceability of, this document or other document forms; (E) ACBR document forms are updated by ACBR from time to time, and ACBR strongly recommends to the parties that they use the most current, updated versions of any such document forms; and (F) by executing this document the parties hereto each hereby waive and release ACBR, its officers, directors, members, employees and agents, from any and all claims, demands and/or causes of action (whether known or unknown) arising out of, pertaining to or resulting directly or indirectly from the use of this form document.

-Signatures on Following Page-

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IN WITNESS WHEREOF, Landlord, Assignor, Assignee and Broker have hereunto set their hands and seals as of the date indicated below.

LANDLORD: The Windsor Kennesaw LLC

By: uday patel (Seal)
uday patel (Feb 1, 2023 14:02 EST)

Name: Uday Patel

Title: Partner

Address: 235 Morton Manor Ct. Alpharetta GA 30022

Phone:

Date: 1/31/2023

ASSIGNOR:

By: (Seal)

Name: OKECHI SILVIA TATAGLIONE

Title: OWNER

Address: 2239 NOELLE PLACE POWDER SPRINGS GA 30127

Phone: [redacted]

Date: 1-31-2023

ASSIGNEE:

By:

Name: CHUKWUEMEKA OHAERI

Title: OWNER

Address: 4921 Trail Ridge Place Douglasville GA 30134

Phone: [redacted]

Date: 01/31/2023

BROKER: X-Team Realty Partners LLC

By: Ben Joseph (Seal)
Ben Joseph (Jan 31, 2023 20:55 EST)

Name: Ben Joseph

Title: Managing Broker

Firm License #: H-79553

Phone: 770-317-1937

Date: 1/31/2023

Agent Name(s): Ben Joseph

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Agent License #(s): 337576

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Add additional names & License #'s of other agents involved in connection with this transaction.

_____

_____

_____

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IMG - Lease Assignment - Jan 2023

Final Audit Report 2023-02-01

Created:	2023-02-01
By:	Benedict Joseph (benjosephrealtor@gmail.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3_GVsi6_dFAgOFcjlw8pMa1COLqUk24D

"IMG - Lease Assignment - Jan 2023" History

Document created by Benedict Joseph (benjosephrealtor@gmail.com)
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Signer benjoseph@myreadvisors.com entered name at signing as Ben Joseph
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Signer up.scorp@yahoo.com entered name at signing as uday patel
2023-02-01 - 7:02:30 PM GMT- IP address: 216.195.30.94

Document e-signed by uday patel (up.scorp@yahoo.com)
Signature Date: 2023-02-01 - 7:02:32 PM GMT - Time Source: server- IP address: 216.195.30.94

Agreement completed.
2023-02-01 - 7:02:32 PM GMT

Adobe Acrobat Sign

LEASE AGREEMENT

BETWEEN

Madhav Investment Corporation, d/b/a The Windsor,
("Landlord")

AND

Gigi & Oghy LLC
(collectively, "**Tenant**")

P. T.
OT

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THIS LEASE AGREEMENT (the "**Lease**") is made and entered into as of December 1, 2019 by and between, **Madhav Investment Corporation d/b/a The Windsor** ("**Landlord**"), on the one hand, and **GIGI & OGHV LLC** a Georgia limited liability company (collectively, "**Tenant**"). Each of Pierluigi Tartaglione and Ogechi Tartaglione acknowledge and agree that all duties and restrictions imposed on them as "Tenant" shall be joint and several, with each being personally and fully responsible for the performance of each such duty or restriction, as the case may be. The following exhibits and attachments are incorporated into and made a part of the Lease: **Exhibit A** (Floor Plan), **Exhibit B** (Site Plat), **Exhibit C** (Building Rules and Regulations), and **Exhibit D** (Legal Description).

1. Basic Lease Information.

1.1. "**Retail Center**" shall mean the retail complex, commonly known as **The Windsor**, located at 2655 Cobb Parkway, Kennesaw, Georgia 30152. "**Rentable Square Footage of the Retail Center**", as of the date hereof, is deemed to be **15,941** square feet. The term "**Building**" is used interchangeably herein with the "**Retail Center**".

1.2. "**Premises**" shall mean the area shown on **Exhibit A** to this Lease commonly known as **Suite 201**. The "**Rentable Square Footage of the Premises**" is deemed to be **1,508** square feet plus the outdoor deck and Drive Thru area.

Water + Trash P.T. O.T.

1.3. "**Total Rental Rate** including C.A.M., Taxes and Insurance for a period of 5 years and 2 (5) year options are as follows:

Period or Months of Term	Rental Rate	Annualized Base Rent
Year 1	[redacted]	
Year 2		
Year 3		
Year 4		
Year 5		

1.4. "**FIRST OPTION TO EXTEND LEASE**" shall mean the following:

Tenant is granted the option to extend the term of the Lease for an additional 5 year period, provided that Tenant notifies the Landlord its desire to exercise said option, in writing 60 days prior to the end of Year 5.

In the event Tenant does not notify landlord within the above stated time and manner said Lease shall terminate.

In the event Tenant exercises its option the term of the Lease all terms and conditions shall remain in full force and the rent for the extended time shall be:

Period or Months of Term	Rental Rate	Annualized Base Rent
Year 6	[redacted]	
Year 7		
Year 8		
Year 9		
Year 10		

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1.5. "**SECOND OPTION TO EXTEND LEASE**" shall mean the following:

Tenant is granted the option to extend the term of the Lease for an additional 5 year period, provided that Tenant notifies the Landlord its desire to exercise said option, in writing 60 days prior to the end of Year 10. Rate shall be determined at said time and rate shall not exceed CPI.

In the event Tenant does not notify landlord within the above stated time and manner said Lease shall terminate.

In the event Tenant exercises its option the term of the Lease all terms and conditions shall remain in full force and the rent for the extended time shall be:

1.5. "**Tenant's Pro Rata Share**": INCLUDED IN THE RENTAL AMOUNT.

1.6. "**Term**": A period of Sixty (60) months. The Term shall commence on December 1, 2019 (the "**Commencement Date**") and, unless terminated early in accordance with this Lease, end on the last calendar day of the month that is Sixty (60) months after the Commencement Date (the "**Termination Date**").

1.7. "**Initial Payment**" upon execution of this Lease, Tenant shall deliver to Landlord the first month's rent in the amount of $[redacted] plus the Security Deposit in the amount of $[redacted]

1.8. "**Security Deposit**": $[redacted] (equal to the Monthly Rent), as more fully described in Section 6

1.9. "**Brokerage Disclosure**": N/A

1.10. "**Permitted Use**": Restaurant purposes for listed Tenant only.

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1.11. "**Notice Address(es)**":

Landlord:	**Tenant:**
Madhav Investment Corporation Attn: RJ Patel	Gigi & Oghy LLC Attn: Pierluigi Tartaglione & Oghechi Tartaglione
2655 Cobb Parkway, Suite 108 Kennesaw, Georgia 30152	2239 Noelle Place Powder Springs Ga 30127

1.12. "**Business Day(s)**" are Monday through Friday of each week, exclusive of New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day ("**Holidays**"). Landlord may designate additional Holidays that are commonly recognized by other office buildings in the area where the Retail Center is located.

1.13. "**Tenant's Work**" means the work that Tenant, under Landlord's supervision, is obligated to perform in the Premises pursuant to the plans and specifications (the "**Plans**") attached to this Lease as **Exhibit E**.

1.14. "**Property**" means the Retail Center and the parcel(s) of land on which it is located and, at Landlord's discretion, the parking facilities and other improvements, if any, serving the Retail Center and the parcel(s) of land on which they are located.

2. **Lease Grant.** The Premises are hereby leased to Tenant from Landlord, together with the right to use any portions of the Property that are designated by Landlord for the common use of tenants and others (the "**Common Areas**").

3. **Tenant's Work.**

3.1. **Tenant's Work.** Landlord shall provide Tenant an allowance (in the form of a rental abatement, as provided below) in an amount of up to $[redacted] (as determined pursuant to Section 3.5 below, the "**Allowance**") to be used by Tenant to construct certain improvements on the Premises (collectively, the "Tenant's Work"). The Allowance shall be

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provided via an abatement of rent, and shall be governed by Section 3.5 below. Within ten (10) days of Landlord's approval of each invoice from the Contractor (as defined below), Tenant shall pay Contractor all amounts specified and approved in such invoice.

3.2. Plans. Tenant's Work shall be constructed and completed in accordance with the plans and specifications (the "**Plans**") attached hereto as **Exhibit E**, which is incorporated by reference herein. All Tenant's Work undertaken in the Premises by Tenant shall be installed in a workmanlike manner and in compliance with all applicable laws and regulations. Tenant shall make or cause to be made all such alterations to the Premises as shall be required for compliance with the Americans with Disabilities Act of 1990 and any rules and regulations from time to time promulgated thereunder. If as a result of Tenant's Work there is any damage to any other premises or personal property of either Landlord or any other tenant, Tenant shall, at its sole cost and expense, immediately repair said damage and/or replace said personal property.

3.3. Contractor; Lien Matters. Tenant shall use a contractor approved by Landlord in writing (the "**Contractor**") to complete all of Tenant's Work; Landlord's representative shall further oversee the construction of all of Tenant's Work. Tenant shall not use any other contractor(s) or subcontractor(s) without Landlord's prior written approval. Tenant shall not permit to be created nor to remain undischarged any lien, encumbrance or charge arising out of any work of any contractor, mechanic, laborer or materialmen which might be or become a lien or encumbrance or charge upon the Premises, and Tenant shall not suffer any other matter or thing whereby the interest of Landlord in the Premises or in the Shopping Center might be impaired. Not in limitation of the foregoing, if any lien were filed by virtue of Tenant's Work, Tenant shall cause the same to be fully discharged of record by payment, bond, order of court, or otherwise as required by law within thirty (30) days of filing. Landlord may, at Landlord's option, cause such discharge and Tenant shall reimburse Landlord, with interest, for all of its costs and expenses, including attorneys' fees, incurred by Landlord within ten (10) days of receipt of written demand thereof by Landlord. Nothing in this Lease shall be construed as in any way constituting a consent or request by Landlord, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer, or materialman for the performance of any labor or the furnishing of any materials for any specific or general improvements. All such work including, without limitation, floor covering, lighting, ventilating, heating and air conditioning equipment, wall coverings and store fronts shall, upon termination of this Lease, attach to the realty and become and remain Landlord's property. Tenant agrees not to undertake any Tenant work without Landlord's prior written consent.

3.4. Construction Management Fee. Tenant shall be charged a construction management fee of two and one-half percent (2½%) of the actual cost of Tenant's Work (the "**Construction Management Fee**"). The Construction Management Fee shall be deducted from the Allowance to which Tenant is otherwise entitled.

3.5. Rental Abatement. In consideration for Tenant performing Tenant's Work, Landlord shall provide Tenant the foregoing Allowance (as reduced by the Construction Management Fee) through an abatement of rent, the amount of which shall be the lesser of (i) actual costs incurred by Tenant in performing Tenant's Work; and (ii) $38,200.00. Tenant shall provide Landlord all invoices, receipts and other documentation of costs incurred by Tenant in performing Tenant's Work, which may reasonably be requested by Landlord. The Abatement shall only apply to the Base Rent for the month in question and Tenant shall remain responsible for paying the Taxes and Tenant's Proportionate Share of Common Costs due under the Lease for such months.

4. Rent.

4.1. Rent. Tenant shall pay Landlord, without any setoff or deduction, unless expressly set forth in this Lease, all Rent due for the Term (collectively referred to as "**Rent**"). Tenant shall pay and be liable for all rental, sales and use taxes (but excluding income taxes), if any, imposed upon or measured by Rent. Base Rent and recurring monthly charges of Additional Rent shall be due and payable in advance on the fifth (5th) day of each calendar month without notice or demand, provided that the installment of Base Rent and Additional Rent for Expenses and Taxes for first full calendar month of the Term coming due hereunder shall be payable upon the execution of this Lease by Tenant. All other items of Rent shall be due and payable by Tenant within five (5) days of billing by Landlord. Rent shall be made payable to the entity, and sent to the address, Landlord designates and shall be made by good and sufficient check or by other means acceptable to Landlord. Tenant shall pay Landlord an administration fee equal to five percent (5%) of all past due Rent. In addition, past due Rent shall accrue interest at twelve percent (12%) per annum. Landlord's acceptance of less than the correct amount of Rent shall be considered a payment on account of the earliest Rent due. Rent for any partial month during the Term shall be prorated. No endorsement or statement on a check or letter accompanying payment shall be considered an accord and satisfaction. Tenant's covenant to pay Rent is independent of every other covenant in this Lease.

4.2. Taxes In Excess of Base Year. N/A

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4.3. **Tenant's Pro Rata Share of Expenses.** N/A

4.4. **Expenses.** "**Expenses**" N/A

4.5. "**Taxes**" N/A

5. **Compliance with Laws; Use.** The Premises shall be used for the Permitted Use and for no other use whatsoever. Tenant shall comply with all statutes, codes, ordinances, orders, rules and regulations of any municipal or governmental entity whether in effect now or later, including the Americans with Disabilities Act ("Law(s)"), regarding the operation of Tenant's business and the use, condition, configuration and occupancy of the Premises. Tenant shall promptly provide Landlord with copies of any notices it receives regarding an alleged violation of Law. Tenant shall comply with the rules and regulations of the Retail Center attached as **Exhibit C** and such other reasonable rules and regulations adopted by Landlord from time to time, including rules and regulations for the performance of Alterations (defined in **Section 9**). Additionally, if an increase in any insurance premiums paid by Landlord for the Retail Center is caused by Tenant's use of the Premises, including but not limited to any increase arising out of Tenant's vacating the Premises in violation of this Lease, then Tenant shall pay to Landlord, as additional rent, the amount of such increase within ten (10) days after demand therefore.

Upon occupancy of the Premises, Tenant shall obtain a certificate of occupancy (or its jurisdictional equivalent) from the local authority and shall deliver an original or certified copy to Landlord.

Tenant is granted the license and right to use, for the benefit of Tenant, its employees, customers, invitees and licensees, the parking areas adjacent to the building of which the Premises is a part, on a non-exclusive basis subject to reasonable regulation by Landlord. All parking on any common drive areas by Tenant or any of Tenant's employees, customers, invitees or licensees shall be upon the express condition that all such drives must be kept clear for through traffic of all vehicles, including tractor-trailers. No driving or parking of any vehicles on non-paved area adjoining the building or within the Retail Center is permitted.

6. **Security Deposit.** The Security Deposit shall be delivered to Landlord upon the execution of this Lease by Tenant and held by Landlord without liability for interest (unless required by Law) as security for the performance of Tenant's obligations. The Security Deposit is not an advance payment of Rent or a measure of damages. Landlord may use all or a portion of the Security Deposit to satisfy past due Rent or to cure any Default (defined in **Section 18**) by Tenant. If Landlord uses any portion of the Security Deposit, Tenant shall, within five (5) days after demand, restore the Security Deposit to its original amount. Landlord shall return any unapplied portion of the Security Deposit to Tenant within forty-five (45) days after the later to occur of: (a) determination of the final Rent due from Tenant; or (b) the later to occur of the Termination Date or the date Tenant surrenders the Premises to Landlord in compliance with **Section 25**. Landlord may assign the Security Deposit to a successor or transferee and, following the assignment, Landlord shall have no further liability for the return of the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts.

7. **Building Services.**

7.1. Landlord shall furnish or cause to be furnished the following services to the Premises: (a) water and sewer for use in the Premises; and (b) such other services as Landlord reasonably determines are necessary or appropriate for the Property.

7.2. All other services used in the Premises by Tenant, including but not limited to heating, ventilating and air conditioning systems and services, electricity and gas service, telephone and data service and trash removal, shall all be established, including the installation of individual meters, and paid for by Tenant directly to the applicable service provider.

7.3. Landlord's failure to furnish, or any interruption, diminishment or termination of services due to the application of Laws, the failure of any equipment, the performance of repairs, improvements or alterations, utility interruptions or the occurrence of an event of Force Majeure (defined in **Section 26.3**) (collectively a "**Service Failure**") shall not render Landlord liable to Tenant, constitute a constructive eviction of Tenant, give rise to an abatement of Rent, nor relieve Tenant from the obligation to fulfill any covenant or agreement.

8. **Leasehold Improvements.** All improvements in and to the Premises, including any Alterations (collectively, "**Leasehold Improvements**") shall remain upon the Premises at the end of the Term without compensation to Tenant. Landlord, however, by written notice to Tenant at least thirty (30) days prior to the Termination Date, may require Tenant, at its expense, to remove (a) any Cable (defined in **Section 9.1**) installed by or for the benefit of Tenant, and (b) any other Tenant's Work or Alterations that, Landlord may require (collectively referred to as "**Required Removables**"). Required Removables shall include, without limitation, internal stairways, raised floors, personal baths and showers, vaults, rolling file systems and structural alterations and modifications. The designated Required Removables shall be removed by Tenant before the Termination Date. Tenant shall repair damage caused by the installation or removal of Required Removables. If Tenant

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fails to perform its obligations in a timely manner, Landlord may perform such work at Tenant's expense. Tenant, at the time it requests approval for a proposed Alteration, may request in writing that Landlord advise Tenant whether the Alteration or any portion of the Alteration is a Required Removable. Within ten (10) days after receipt of Tenant's request, Landlord shall advise Tenant in writing as to which portions of the Alteration are Required Removables.

9. Repairs and Alterations.

9.1. Tenant shall periodically inspect the Premises to identify any conditions that are dangerous or in need of maintenance or repair. Tenant shall promptly provide Landlord with notice of any such conditions. Tenant shall, at its sole cost and expense, perform all maintenance and repairs to the Premises that are not Landlord's express responsibility under this Lease, and keep the Premises in good condition and repair, reasonable wear and tear excepted. Tenant's repair and maintenance obligations include, without limitation, repairs to: (a) floor covering; (b) interior partitions; (c) doors; (d) the interior side of demising walls; (e) electronic, phone and data cabling and related equipment that is installed by or for the exclusive benefit of Tenant (collectively, "**Cable**"); (f) air conditioning units, kitchens, including hot water heaters, plumbing, and similar facilities exclusively serving Tenant; (g) plate glass; (h) windows; (i) lights; (j) pest control and extermination; and (k) Alterations. To the extent Landlord is not reimbursed by insurance proceeds, Tenant shall reimburse Landlord for the cost of repairing damage to the Retail Center caused by the acts of Tenant, Tenant Related Parties and their respective contractors and vendors. If Tenant fails to make any repairs to the Premises for more than fifteen (15) days after notice from Landlord (although notice shall not be required in an emergency), Landlord may make the repairs, and Tenant shall pay the reasonable cost of the repairs, together with an administrative charge in an amount equal to ten percent (10%) of the cost of the repairs.

It is agreed between Landlord and Tenant that the day-to-day maintenance of the heating, ventilating and air-conditioning equipment wholly contained in and exclusively serving the Premises (collectively "**HVAC Systems**") shall be the responsibility of the Tenant. Tenant agrees to enter into a third party preventative maintenance agreement covering such HVAC Systems in form and content reasonably acceptable to Landlord.

9.2. Landlord shall be responsible for the maintenance, repair and replacement of the complete roofing system, building structure, including but not limited to exterior and load bearing columns and walls, foundation and floor slab, fire sprinklers or other automatic fire extinguishing system including fire, electrical, and plumbing systems serving the building structure, the electrical service up to electrical panels, water, sewer throughout the Retail Center, and all common areas and exterior areas, sidewalks, driveways, grounds and parking areas, unless the need for such maintenance, repair or replacement arises by the negligence or misuse of Tenant, its employees, contractors or agents, in which event such maintenance, repairs or replacement shall be made by and at the expense of Tenant.

9.3. Tenant shall not make alterations, repairs, additions or improvements or install any Cable (collectively referred to as "**Alterations**") without first obtaining the written consent of Landlord in each instance, which consent shall not be unreasonably withheld or delayed. However, Landlord's consent shall not be required for any Alteration that satisfies all of the following criteria (a "**Cosmetic Alteration**"): (a) is of a cosmetic nature such as painting, wallpapering, hanging pictures and installing carpeting; (b) is not visible from the exterior of the Premises; (c) will not affect the building in which the Premises is located; and (d) does not require work to be performed inside the walls or above the ceiling of the Premises. Cosmetic Alterations shall be subject to all the other provisions of this **Section 9.3**. Prior to starting work, Tenant shall furnish Landlord with plans and specifications; names of contractors acceptable to Landlord required permits and approvals; evidence of contractor's and subcontractor's insurance in amounts reasonably required by Landlord and naming Landlord as an additional insured; and any security for performance in amounts reasonably required by Landlord. Changes to the plans and specifications must also be submitted to Landlord for its approval. Alterations shall be constructed in a good and workmanlike manner using materials of a quality reasonably approved by Landlord. Tenant shall reimburse Landlord for any sums paid by Landlord for third party examination of Tenant's plans for non-Cosmetic Alterations. In addition, Tenant shall pay Landlord a fee for Landlord's oversight and coordination of any non-Cosmetic Alterations equal to ten percent (10%) of the cost of the Alterations. Upon completion, Tenant shall furnish "as-built" plans for non-Cosmetic Alterations, completion affidavits and full and final waivers of lien. Landlord's approval of an Alteration shall not be deemed a representation by Landlord that the Alteration complies with Law.

9.4. Tenant may not enter upon or access the roof of the Building except when accompanied by Landlord. Tenant's entry onto the roof without the accompaniment of Landlord shall be an immediate default of this Lease.

10. Entry by Landlord. Landlord may enter the Premises to inspect, show or clean the Premises or to perform or facilitate the performance of repairs, alterations or additions to the Premises or any portion of the Retail Center. Except in

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emergencies or to provide services, Landlord shall provide Tenant with reasonable prior verbal notice of entry and shall use reasonable efforts to minimize any interference with Tenant's use of the Premises. If reasonably necessary, Landlord may temporarily close all or a portion of the Premises to perform repairs, alterations and additions. Entry by Landlord shall not constitute a constructive eviction or entitle Tenant to an abatement or reduction of Rent. Tenant shall not change the Landlord's lock system without first obtaining Landlord's consent.

11. Assignment and Subletting.

11.1. Except in connection with a Permitted Transfer (defined in **Section 11.4**), Tenant shall not assign, sublease, transfer or encumber any interest in this Lease or allow any third party to use any portion of the Premises (collectively or individually, a "**Transfer**") without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed if Landlord does not exercise its recapture rights under **Section 11.2**. If the entity which controls the voting shares/rights of Tenant changes at any time, such change of ownership or control shall constitute a Transfer unless Tenant is an entity whose outstanding stock is listed on a recognized securities exchange or if at least eighty percent (80%) of its voting stock is owned by another entity, the voting stock of which is so listed. Any attempted Transfer in violation of this Section is voidable by Landlord. In no event shall any Transfer, including a Permitted Transfer, release or relieve Tenant from any obligation under this Lease.

11.2. Tenant shall provide Landlord with financial statements for the proposed transferee, a fully executed copy of the proposed assignment, sublease or other Transfer documentation and such other information as Landlord may reasonably request. Within fifteen (15) Business Days after receipt of the required information and documentation, Landlord shall either: (a) consent to the Transfer by execution of a consent agreement in a form reasonably designated by Landlord; (b) reasonably refuse to consent to the Transfer in writing; or (c) in the event of an assignment of this Lease or subletting of more than twenty percent (20%) of the Rentable Area of the Premises for more than fifty percent (50%) of the remaining Term (excluding unexercised options), recapture the portion of the Premises that Tenant is proposing to Transfer. If Landlord exercises its right to recapture, this Lease shall automatically be amended (or terminated if the entire Premises is being assigned or sublet) to delete the applicable portion of the Premises effective on the proposed effective date of the Transfer. Tenant shall pay Landlord a review fee of $[redacted] for Landlord's review of any Permitted Transfer or requested Transfer.

11.3. Tenant shall pay Landlord fifty percent (50%) of all rent and other consideration which Tenant receives as a result of a Transfer that is in excess of the Rent payable to Landlord for the portion of the Premises and Term covered by the Transfer. Tenant shall pay Landlord for Landlord's share of the excess within thirty (30) days after Tenant's receipt of the excess. Tenant may deduct from the excess, on a straight-line basis, all reasonable and customary expenses directly incurred by Tenant attributable to the Transfer. If Tenant is in Default, Landlord may require that all sublease payments be made directly to Landlord, in which case Tenant shall receive a credit against Rent in the amount of Tenant's share of payments received by Landlord.

11.4. The provisions of this **Section 11** shall not, however, be applicable to an assignment of this Lease by Tenant to a subsidiary or controlling corporation (a "**Permitted Transfer**"), provided (and it shall be a condition of the validity of any such assignment) that such subsidiary or controlling corporation agree directly with Landlord to be bound by all of the obligations of the Tenant hereunder, including, without limitation, the obligation to pay the rent and other amounts provided for under this Lease, and the covenant against further assignment; but such assignment shall not relieve the Tenant herein named of any of its obligations hereunder, and the Tenant shall remain fully liable therefor. Furthermore, it is specifically understood and agreed that said assignment to a subsidiary or controlling corporation shall be valid only for such period of time as said subsidiary or controlling corporation remains a subsidiary or controlling corporation of Tenant; and in the event Tenant shall ever sell or otherwise transfer said controlling interest in said subsidiary to another person or entity, or if said controlling corporation shall cease to control Tenant, unless Landlord shall have specifically assented thereto, the same shall be deemed to be a material breach of this Lease entitling Landlord forthwith to terminate this Lease or to exercise any other remedies set forth herein or allowed at law or in equity.

12. Liens. Tenant shall not permit mechanics' or other liens to be placed upon the Property, Premises or Tenant's leasehold interest in connection with any work or service done or purportedly done by or for the benefit of Tenant or its transferees. Tenant shall give Landlord notice at least fifteen (15) days prior to the commencement of any work in the Premises to afford Landlord the opportunity, where applicable, to post and record notices of non-responsibility. Tenant, within ten (10) days of notice from Landlord, shall fully discharge any lien by settlement, by bonding or by insuring over the lien in the manner prescribed by the applicable lien Law. If Tenant fails to do so, Landlord may bond, insure over or otherwise discharge the lien. Tenant shall reimburse Landlord for any amount paid by Landlord, including, without limitation, reasonable attorneys' fees, and a ten percent (10%) administrative fee.

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13. **Indemnity and Waiver of Claims.** Tenant hereby waives all claims against and releases Landlord and its trustees, members, principals, beneficiaries, partners, officers, directors, employees, Mortgagees (defined in **Section 23**) and agents (the "**Landlord Related Parties**") from all claims for any injury to or death of persons, damage to property or business loss in any manner related to (a) Force Majeure, (b) acts of third parties, (c) the bursting or leaking of any tank, water closet, drain or other pipe, (d) the inadequacy or failure of any security services, personnel or equipment, or (e) any matter not within the reasonable control of Landlord. Except to the extent caused by the gross negligence or willful misconduct of Landlord or any Landlord Related Parties, Tenant shall indemnify, defend and hold Landlord and Landlord Related Parties harmless against and from all liabilities, obligations, damages, penalties, claims, actions, costs, charges and expenses, including, without limitation, reasonable attorneys' fees and other professional fees (if and to the extent permitted by Law) (collectively referred to as "**Losses**"), which may be imposed upon, incurred by or asserted against Landlord or any of the Landlord Related Parties by any third party and arising out of or in connection with any damage or injury occurring in the Premises or any acts or omissions (including violations of Law) of Tenant, the Tenant Related Parties or any of Tenant's transferees, contractors or licensees. Except to the extent caused by the negligence or willful misconduct of Tenant or any Tenant Related Parties, Landlord shall indemnify, defend and hold Tenant, its trustees, members, principals, beneficiaries, partners, officers, directors, employees and agents ("**Tenant Related Parties**") harmless against and from all Losses which may be imposed upon, incurred by or asserted against Tenant or any of the Tenant Related Parties by any third party and arising out of or in connection with the acts or omissions (including violations of Law) of Landlord or the Landlord Related Parties.

14. **Insurance.**

14.1. Tenant shall maintain the following insurance ("**Tenant's Insurance**"): (a) Commercial General Liability Insurance applicable to the Premises and its appurtenances providing, on an occurrence basis, a minimum combined single limit of $[redacted] in excess liability coverage; (b) Property/Business Interruption Insurance written on an All Risk or Special Perils form, with coverage for broad form water damage including earthquake and sprinkler leakage, at replacement cost value and with a replacement cost endorsement covering all of Tenant's business and trade fixtures, equipment, movable partitions, furniture, merchandise and other personal property within the Premises ("**Tenant's Property**") and any Leasehold Improvements performed by or for the benefit of Tenant; (c) Workers' Compensation Insurance in amounts required by Law; and (d) Employers Liability Coverage of at least $[redacted] per occurrence; (e) Primary automobile liability insurance with limits of not less than One Million and No/100 Dollars ($[redacted] per occurrence, covering owned and non-owned vehicles used by Tenant. Any company writing Tenant's Insurance shall have an A.M. Best rating of not less than A-VIII. All Commercial General Liability Insurance policies shall name as additional insureds Landlord (or its successors and assignees), the managing agent for the Retail Center (or any successor), and their respective members, principals, beneficiaries, partners, officers, directors, employees, and agents, and other designees of Landlord and its successors as the interest of such designees shall appear. All policies of Tenant's Insurance shall contain endorsements that the insurer(s) shall give Landlord and its designees at least thirty (30) days' advance written notice of any cancellation, termination, material change or lapse of insurance. Tenant shall provide Landlord with a certificate of insurance evidencing Tenant's Insurance prior to the earlier to occur of the Commencement Date or the date Tenant is provided with possession of the Premises, and thereafter as necessary to assure that Landlord always has current certificates evidencing Tenant's Insurance.

14.2. No policy insuring Tenant's Property will be subject to more than a Twenty-Five Thousand and No/100 Dollars ($25,000.00) deductible limit without Landlord's prior written consent. Landlord reserves the right to require Tenant to carry such other insurance (including, without limitation and as applicable, plate glass insurance, automobile liability insurance, builder's risk insurance and liquor liability insurance) and endorsements in such amounts as Landlord in its sole discretion may deem necessary or appropriate. If Tenant fails to take out or keep in force any insurance required to be carried by Tenant, or to provide evidence of the same, Landlord shall have the right, but shall not be obligated, to obtain such insurance at the sole cost and expense of Tenant, and Tenant shall reimburse Landlord for the cost thereof upon demand.

15. **Subrogation.** Landlord and Tenant hereby waive and shall cause their respective insurance carriers to waive any and all rights of recovery, claims, actions or causes of action against the other for any loss or damage with respect to Tenant's Property, Leasehold Improvements, the Retail Center, the Premises, or any contents thereof, including rights, claims, actions and causes of action based on negligence, which loss or damage is (or would have been, had the insurance required by this Lease been carried) covered by insurance.

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16. **Casualty Damage.**

16.1. If all or any portion of the Premises becomes untenantable by fire or other casualty to the Premises (collectively a "**Casualty**"), Landlord, with reasonable promptness, shall cause a general contractor selected by Landlord to provide Landlord and Tenant with a written estimate of the amount of time required using standard working methods to Substantially Complete the repair and restoration of the Premises and any Common Areas necessary to provide access to the Premises ("**Completion Estimate**"). If the Completion Estimate indicates that the Premises or any Common Areas necessary to provide access to the Premises cannot be made tenantable within two hundred seventy (270) days from the date the repair is started, then either party shall have the right to terminate this Lease upon written notice to the other within ten (10) days after receipt of the Completion Estimate. Tenant, however, shall not have the right to terminate this Lease if the Casualty was caused by the negligence or intentional misconduct of Tenant or any Tenant Related Parties. In addition, Landlord, by notice to Tenant within ninety (90) days after the date of the Casualty, shall have the right to terminate this Lease if: (1) the Premises have been materially damaged and there is less than 2 years of the Term remaining on the date of the Casualty; (2) any Mortgagee requires that the insurance proceeds be applied to the payment of the mortgage debt; or (3) a material uninsured loss to the Building occurs.

16.2. If this Lease is not terminated, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, restore the Premises and Common Areas. Such restoration shall be to substantially the same condition that existed prior to the Casualty, except for modifications required by Law or any other modifications to the Common Areas deemed desirable by Landlord. Upon notice from Landlord, Tenant shall assign to Landlord (or to any party designated by Landlord) all property insurance proceeds payable to Tenant under Tenant's Insurance with respect to any Leasehold Improvements performed by or for the benefit of Tenant; provided if the estimated cost to repair such Leasehold Improvements exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, the excess cost of such repairs shall be paid by Tenant to Landlord prior to Landlord's commencement of repairs. Within fifteen (15) days of demand, Tenant shall also pay Landlord for any additional excess costs that are determined during the performance of the repairs. Landlord shall not be liable for any inconvenience to Tenant, or injury to Tenant's business resulting in any way from the Casualty or the repair thereof. Provided that Tenant is not in Default, during any period of time that all or a material portion of the Premises is rendered untenantable as a result of a Casualty, the Rent shall abate for the portion of the Premises that is untenantable and not used by Tenant.

17. **Condemnation.** Either party may terminate this Lease if any material part of the Premises is taken or condemned for any public or quasi-public use under Law, by eminent domain or private purchase in lieu thereof (a "**Taking**"). Landlord shall also have the right to terminate this Lease if there is a Taking of any portion of the Retail Center or Property which would have a material adverse effect on Landlord's ability to profitably operate the remainder of the Retail Center. The terminating party shall provide written notice of termination to the other party within forty-five (45) days after it first receives notice of the Taking. The termination shall be effective on the date the physical taking occurs. If this Lease is not terminated, Base Rent and Tenant's Pro Rata Share shall be appropriately adjusted to account for any reduction in the square footage of the Retail Center or Premises. All compensation awarded for a Taking shall be the property of Landlord. The right to receive compensation or proceeds are expressly waived by Tenant, however, Tenant may file a separate claim for Tenant's Property and Tenant's reasonable relocation expenses, provided the filing of the claim does not diminish the amount of Landlord's award. If only a part of the Premises is subject to a Taking and this Lease is not terminated, Landlord, with reasonable diligence, will restore the remaining portion of the Premises as nearly as practicable to the condition immediately prior to the Taking.

18. **Events of Default.** Each of the following occurrences shall be a "**Default**": (a) Tenant's failure to pay any portion of Rent when due, if the failure continues for three (3) days after written notice to Tenant ("**Monetary Default**"); (b) Tenant's failure (other than a Monetary Default) to comply with any term, provision, condition or covenant of this Lease, if the failure is not cured within ten (10) days after written notice to Tenant provided, however, if Tenant's failure to comply cannot reasonably be cured within ten (10) days, Tenant shall be allowed additional time (not to exceed 60 days) as is reasonably necessary to cure the failure so long as Tenant begins the cure within ten (10) days and diligently pursues the cure to completion; (c) Tenant or any Guarantor becomes insolvent, makes a transfer in fraud of creditors, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts when due or forfeits or loses its right to conduct business; (d) the leasehold estate is taken by process or operation of Law; (e) Tenant does not take possession of or abandons or vacates all or any portion of the Premises; or (f) Tenant is in default beyond any notice and cure period under any other lease or agreement with Landlord at the Retail Center. If Landlord provides Tenant with notice of Tenant's failure to comply with any specific provision of this Lease on three (3) separate occasions during any twelve (12) month period, Tenant's subsequent violation of such provision shall, at Landlord's option, be an incurable Default by Tenant. All notices sent under this Section shall be in satisfaction of, and not in addition to, notice required by Law.

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19. **Remedies.**

19.1. Upon Default, Landlord shall have the right to pursue any one or more of the following remedies:

19.1.1. Terminate this Lease, in which case Tenant shall immediately surrender the Premises to Landlord. If Tenant fails to surrender the Premises, Landlord, in compliance with Law, may enter upon and take possession of the Premises and remove Tenant, Tenant's Property and any party occupying the Premises. Tenant shall pay Landlord, on demand, all past due Rent and other losses and damages Landlord suffers as a result of Tenant's Default, including, without limitation, all Costs of Reletting (defined below) and any deficiency that may arise from reletting or the failure to relet the Premises. "**Costs of Reletting**" shall include all reasonable costs and expenses incurred by Landlord in reletting or attempting to relet the Premises, including, without limitation, legal fees, brokerage commissions, the cost of alterations and the value of other concessions or allowances granted to a new tenant.

19.1.2. Terminate Tenant's right to possession of the Premises and, in compliance with Law, remove Tenant, Tenant's Property and any parties occupying the Premises. Landlord may (but shall not be obligated to) relet all or any part of the Premises, without notice to Tenant, for such period of time and on such terms and conditions (which may include concessions, free rent and work allowances) as Landlord in its absolute discretion shall determine. Landlord may collect and receive all rents and other income from the reletting. Tenant shall pay Landlord on demand all past due Rent, all Costs of Reletting and any deficiency arising from the reletting or failure to relet the Premises. The re-entry or taking of possession of the Premises shall not be construed as an election by Landlord to terminate this Lease.

19.2. In lieu of calculating damages under **Section 19.1**, Landlord may elect to receive as damages the sum of (a) all Rent accrued through the date of termination of this Lease or Tenant's right to possession, and (b) an amount equal to the total Rent that Tenant would have been required to pay for the remainder of the Term discounted to present value, minus the then present fair rental value of the Premises for the remainder of the Term, similarly discounted, after deducting all anticipated Costs of Reletting.

19.3. If Tenant is in Default of any of its non-monetary obligations under the Lease, Landlord shall have the right to perform such obligations. Tenant shall reimburse Landlord for the cost of such performance upon demand together with an administrative charge equal to ten percent (10%) of the cost of the work performed by Landlord. The repossession or re-entering of all or any part of the Premises shall not relieve Tenant of its liabilities and obligations under this Lease. No right or remedy of Landlord shall be exclusive of any other right or remedy. Each right and remedy shall be cumulative and in addition to any other right and remedy now or subsequently available to Landlord at Law or in equity.

20. **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, THE LIABILITY OF LANDLORD (AND OF ANY SUCCESSOR LANDLORD) SHALL BE LIMITED TO THE LESSER OF (A) THE INTEREST OF LANDLORD IN THE PROPERTY, OR (B) THE EQUITY INTEREST LANDLORD WOULD HAVE IN THE PROPERTY IF THE PROPERTY WERE ENCUMBERED BY THIRD PARTY DEBT IN AN AMOUNT EQUAL TO 70% OF THE VALUE OF THE PROPERTY. TENANT SHALL LOOK SOLELY TO LANDLORD'S INTEREST IN THE PROPERTY FOR THE RECOVERY OF ANY JUDGMENT OR AWARD AGAINST LANDLORD OR ANY LANDLORD RELATED PARTY. NEITHER LANDLORD NOR ANY LANDLORD RELATED PARTY SHALL BE PERSONALLY LIABLE FOR ANY JUDGMENT OR DEFICIENCY, AND IN NO EVENT SHALL LANDLORD OR ANY LANDLORD RELATED PARTY BE LIABLE TO TENANT FOR ANY LOST PROFIT, DAMAGE TO OR LOSS OF BUSINESS OR ANY FORM OF SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGE. BEFORE FILING SUIT FOR AN ALLEGED DEFAULT BY LANDLORD, TENANT SHALL GIVE LANDLORD AND THE MORTGAGEE(S) WHOM TENANT HAS BEEN NOTIFIED HOLD MORTGAGES (DEFINED IN SECTION 23 BELOW), NOTICE AND REASONABLE TIME TO CURE THE ALLEGED DEFAULT.

21. **Relocation.** Landlord, at its expense, at any time before or during the Term, may relocate Tenant from the Premises to space of reasonably comparable size and utility ("**Relocation Space**") within the Retail Center upon sixty (60) days' prior written notice to Tenant. From and after the date of the relocation, the Base Rent and Tenant's Pro Rata Share shall be adjusted based on the rentable square footage of the Relocation Space. Landlord shall pay Tenant's reasonable costs of relocation, including all costs for moving Tenant's furniture, equipment, supplies and other personal property, as well as the cost of printing and distributing change of address notices to Tenant's customers and one month's supply of stationery showing the new address.

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22. **Holding Over.** If Tenant fails to surrender all or any part of the Premises at the termination of this Lease, occupancy of the Premises after termination shall be that of a tenancy at sufferance. Tenant's occupancy shall be subject to all the terms and provisions of this Lease, and Tenant shall pay an amount (on a per month basis without reduction for partial months during the holdover) equal to one hundred fifty percent (150%) of the sum of the Base Rent and Additional Rent due for the period immediately preceding the holdover. No holdover by Tenant or payment by Tenant after the termination of this Lease shall be construed to extend the Term or prevent Landlord from immediate recovery of possession of the Premises by summary proceedings or otherwise. If Landlord is unable to deliver possession of the Premises to a new tenant or to perform improvements for a new tenant as a result of Tenant's holdover and Tenant fails to vacate the Premises within fifteen (15) days after notice from Landlord, Tenant shall be liable for all damages that Landlord suffers from the holdover.

23. **Subordination to Mortgages; Estoppel Certificate.** Tenant accepts this Lease subject and subordinate to any mortgage(s), deed(s) of trust, ground lease(s) or other lien(s) now or subsequently arising upon the Premises, the Building or the Property, and to renewals, modifications, refinancings and extensions thereof (collectively referred to as a "**Mortgage**"). The party having the benefit of a Mortgage shall be referred to as a "**Mortgagee**". This clause shall be self-operative, but upon request from a Mortgagee, Tenant shall execute a commercially reasonable subordination agreement in favor of the Mortgagee. As an alternative, a Mortgagee shall have the right at any time to subordinate its Mortgage to this Lease. Upon request, Tenant, without charge, shall attorn to any successor to Landlord's interest in this Lease. Landlord and Tenant shall each, within ten (10) days after receipt of a written request from the other, execute and deliver a commercially reasonable estoppel certificate to those parties as are reasonably requested by the other (including a Mortgagee or prospective purchaser). Without limitation, such estoppel certificate may include a certification as to the status of this Lease, the existence of any defaults and the amount of Rent that is due and payable.

24. **Notice.** All demands, approvals, consents or notices (collectively referred to as a "**notice**") shall be in writing and delivered by hand or sent by registered or certified mail with return receipt requested or sent by overnight or same day courier service at the party's respective Notice Address set forth in **Section 1**. Each notice shall be deemed to have been received on the earlier to occur of actual delivery or the date on which delivery is refused, or, if Tenant has vacated the Premises or any other Notice Address of Tenant without providing a new Notice Address, three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above. Either party may, at any time, change its Notice Address (other than to a post office box address) by giving the other party written notice of the new address.

25. **Surrender of Premises.** At the termination of this Lease or Tenant's right of possession, Tenant shall remove Tenant's Property from the Premises, and quit and surrender the Premises to Landlord, broom clean, and in good order, condition and repair, ordinary wear and tear and damage which Landlord is obligated to repair hereunder excepted. If Tenant fails to remove any of Tenant's Property within two (2) days after termination of this Lease or Tenant's right to possession, Landlord, at Tenant's sole cost and expense, shall be entitled (but not obligated) to remove and store Tenant's Property. Landlord shall not be responsible for the value, preservation or safekeeping of Tenant's Property. Tenant shall pay Landlord, upon demand, the expenses and storage charges incurred. If Tenant fails to remove Tenant's Property from the Premises or storage, within thirty (30) days after notice, Landlord may deem all or any part of Tenant's Property to be abandoned and title to Tenant's Property shall vest in Landlord.

26. **Miscellaneous.**

26.1. This Lease shall be interpreted and enforced in accordance with the Laws of Georgia and Landlord and Tenant hereby irrevocably consent to the jurisdiction and proper venue of Georgia. If any term or provision of this Lease shall to any extent be void or unenforceable, the remainder of this Lease shall not be affected. If there is more than one Tenant or if Tenant is comprised of more than one party or entity, the obligations imposed upon Tenant shall be joint and several obligations of all the parties and entities, and requests or demands from any one person or entity comprising Tenant shall be deemed to have been made by all such persons or entities. Notices to any one person or entity shall be deemed to have been given to all persons and entities. Tenant represents and warrants to Landlord that each individual executing this Lease on behalf of Tenant is authorized to do so on behalf of Tenant and that Tenant is not, and the entities or individuals constituting Tenant or which may own or control Tenant or which may be owned or controlled by Tenant are not, among the individuals or entities identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists.

26.2. If either party institutes a suit against the other for violation of or to enforce any covenant, term or condition of this Lease, the prevailing party shall be entitled to all of its costs and expenses, including, without limitation, reasonable attorneys' fees. Landlord and Tenant hereby waive any right to trial by jury in any proceeding based upon a breach of this

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Lease. Either party's failure to declare a default immediately upon its occurrence, or delay in taking action for a default, shall not constitute a waiver of the default, nor shall it constitute an estoppel.

26.3. Whenever a period of time is prescribed for the taking of an action by Landlord or Tenant (other than the payment of the Security Deposit or Rent), the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, terrorist acts, civil disturbances and other causes beyond the reasonable control of the performing party ("**Force Majeure**").

26.4. Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations under this Lease and in the Retail Center and Property. Upon transfer Landlord shall be released from any further obligations hereunder and Tenant agrees to look solely to the successor in interest of Landlord for the performance of such obligations, provided that, any successor pursuant to a voluntary, third party transfer (but not as part of an involuntary transfer resulting from a foreclosure or deed in lieu thereof) shall have assumed Landlord's obligations under this Lease.

26.5. Landlord has delivered a copy of this Lease to Tenant for Tenant's review only and the delivery of it does not constitute an offer to Tenant or an option. Tenant represents that it has dealt directly with and only with the Broker as a broker in connection with this Lease. Tenant shall indemnify and hold Landlord and the Landlord Related Parties harmless from all claims of any other brokers claiming to have represented Tenant in connection with this Lease. Landlord shall indemnify and hold Tenant and the Tenant Related Parties harmless from all claims of any brokers claiming to have represented Landlord in connection with this Lease.

26.6. Time is of the essence with respect to Tenant's exercise of any expansion, renewal or extension rights granted to Tenant. The expiration of the Term, whether by lapse of time, termination or otherwise, shall not relieve either party of any obligations which accrued prior to or which may continue to accrue after the expiration or termination of this Lease.

26.7. Tenant may peacefully have, hold and enjoy the Premises, subject to the terms of this Lease, provided Tenant pays the Rent and fully performs all of its covenants and agreements. This covenant shall be binding upon Landlord and its successors only during its or their respective periods of ownership of the Building.

26.8. This Lease does not grant any rights to light or air over or about the Retail Center. Landlord excepts and reserves exclusively to itself any and all rights not specifically granted to Tenant under this Lease. This Lease constitutes the entire agreement between the parties and supersedes all prior agreements and understandings related to the Premises, including all lease proposals, letters of intent and other documents. Neither party is relying upon any warranty, statement or representation not contained in this Lease. This Lease may be modified only by a written agreement signed by an authorized representative of Landlord and Tenant.

26.9. Notwithstanding any language contained in this Lease to the contrary, Landlord makes no representation or warranty, express or implied, that Tenant's use of the Premises is in accordance with applicable laws, codes or ordinances.

26.10. In no event shall Tenant record this Lease or a Memorandum of Lease.

26.11. If any provision of this Lease or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

26.12. Tenant shall serve written notice of any claimed default or breach by Landlord under this Lease upon any lender which is a beneficiary under any deed of trust or mortgage against the Premises. No notice to Landlord shall be effective unless such notice is served upon said lender(s). Said lender(s) shall have a reasonable period of time, following lender's receipt of such notice, to cure any alleged default or breach of the Lease by Landlord.

Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

Madhav Investment Corporation d/b/a The Windsor

Authorized Representative

TENANT:

GIGI & OGHY LLC

Signature

Signature

12/06/19

Date

TENANT:

PIERLUIGI TARTAGLIONE

Signature

12/6/19

Date

TENANT:

~~OGECH~~
~~PIERLUIGI TARTAGLIONE~~

Signature

12/06/19

Date

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EXHIBIT A

FLOOR PLAN

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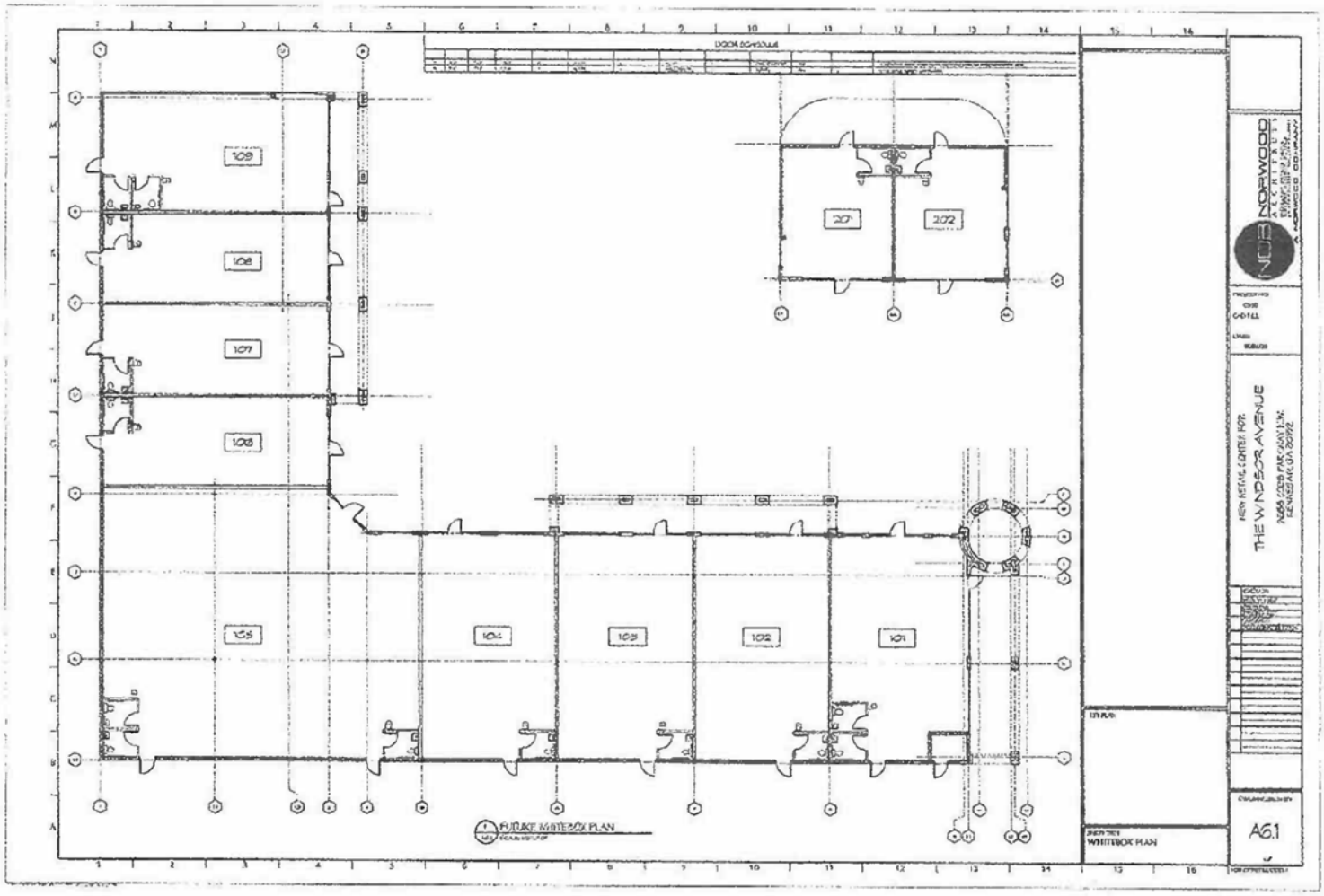

DOOR SCHEDULE
109
108
107
106
105
104
103
102
101
201
202
FUTURE WHITEBOX PLAN
NORWOOD
THE WINDSOR AVENUE
A6.1
WHITEBOX PLAN

P.T.
O.T.

EXHIBIT B

SITE PLAT

P. T.
O. T.



[redacted]

EXHIBIT C

RULES AND REGULATIONS

1. No sign, placard, picture, advertisement, name, notice or sun screening shall be inscribed, displayed, printed or affixed on or to any part of the outside or inside of the Building or any portion of the Retail Center without the written consent of Landlord. In the absence thereof, Landlord shall have the right to remove any such sign, placard, picture, advertisement, name or notice without notice to and at the expense of Tenant. All approved signs of lettering on doors shall be printed, painted, affixed or inscribed at the sole risk and expense of Tenant by a licensed contractor approved by Landlord and subject to all laws, ordinances, rules, regulations and recommendations of all governmental and quasi-governmental authorities having jurisdiction thereover and all insurance companies and fire rating agencies which insure the Retail Center. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the Premises. Landlord may specify a Building standard window covering for all exterior windows.

2. All parking shall be within the property boundaries of the Retail Center and within marked parking spaces. There should be no on-street parking and at no time shall any Tenant obstruct any driveways or loading areas intended for the use of other tenants, their employees, agents, customers and invitees. The driveways and parking areas in the Retail Center are for the joint and non- exclusive use of Landlord's tenants, their employees, agents, customers and invitees, unless specifically marked to the contrary. In the event Tenant, its agents, customers and/or invitees use a disproportionate portion of the parking areas, Landlord shall have the right to restrict Tenant, its agents, customers and/or invitees to certain parking areas. Tenant shall not permit any fleet trucks to park overnight in the Retail Center's parking areas without Landlord's prior written approval.

3. Unless specifically approved by Landlord in writing, no materials, supplies or equipment shall be stored anywhere in, on or about the Retail Center except inside the Premises. Tenant shall furnish its own trash receptacles and shall place such receptacles in a location designated by Landlord.

4. No additional locks, other than Landlord approved entry systems, shall be placed on the doors of the Premises by Tenant nor shall any existing locks be changed unless Landlord is immediately furnished with two keys thereto. Landlord will, without charge, furnish Tenant with two keys for each lock on the entrance doors to the Premises when Tenant assumes possession, with the understanding that at the termination or expiration of the Term of this Lease the keys to the Premises shall be returned to Landlord.

5. Tenant will refer all contractors, contractor's representatives and installation technicians rendering any service on or to the Leased Premises for Tenant to landlord for its approval, such approval shall not be unreasonably withheld, conditioned or delayed, and supervision before performance of any service. This provision shall apply to all work performed in the Retail Center, including, but not limited to, installation of electrical devices and attachments and installations of any nature affecting floors, walls, windows, ceilings, equipment or any other portion of the Retail Center.

6. Tenant shall not, at any time, occupy or allow any person to occupy any part of the Premises or The Retail Center as sleeping or lodging quarters.

7. Tenant shall not place, install or operate on the Premises or in any part of the Retail Center, any engine, stove or machinery, or conduct mechanical operations or cook thereon or therein, or place or use in or about the Premises any explosives, gasoline, kerosene, oil, acids, caustics or any other flammable, explosive or hazardous material without the prior written consent of Landlord. The foregoing shall not prohibit the use of microwave ovens.

8. Windows facing the Building exterior shall at all times be wholly clear and uncovered (except for such blinds or curtains or other window coverings Landlord may approve) so that a full unobstructed view of the interior of the Premises may be had from outside the Building.

9. The sidewalks, parking lots and exits shall not be obstructed by Tenant, its employees, agents, contractors, subtenants or assigns or used for any purpose other than for ingress to and egress from the Premises.

10. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants

P. T. O.T.

of the Retail Center by reason of noise, odors and vibrations, or interfere in any way with other Tenants or those having business in the Retail Center, nor shall any animals or birds be brought in or kept in or about the Premises or The Retail Center.

11. Landlord reserves the right to exclude or expel from the Retail Center any person who, in the reasonable judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who may in any manner do any act in violation of any law or any rule or regulation of the Retail Center.

12. Tenant shall not disturb, solicit or canvass any occupant of the Retail Center and shall cooperate to prevent same.

13. Without the prior written consent of Landlord, Tenant shall not use the name of the Retail Center in connection with or in promoting or advertising the business of Tenant except as Tenant's address.

14. Landlord shall have the right to control and operate the common areas of the Retail Center, the public facilities thereof, as well as the facilities furnished for the common use of all Tenants, in such manner as it deems appropriate, provided such control and operation does not interfere with Tenant's use of the Premises as contemplated by this Lease.

15. No satellite dish, radio, television or other aerial or equipment of any kind may be placed or installed on the roof or on any exterior wall of the Premises or Building or on the grounds or common areas of the Retail Center without the prior written consent of Landlord in each instance. Any equipment so installed without such written consent shall be at the sole risk of Tenant and shall be subject to removal without notice at any time and Tenant shall pay to Landlord, on demand, as additional rent, the cost of any damages occasioned thereby including, but not limited to, the cost to replace any warranty voided or diminished by such installation and the cost of removal and repairs.

16. Landlord shall have the right from time to time to reasonably modify, add to or delete any of these rules and regulations at Landlord's discretion.

P. T. ST.

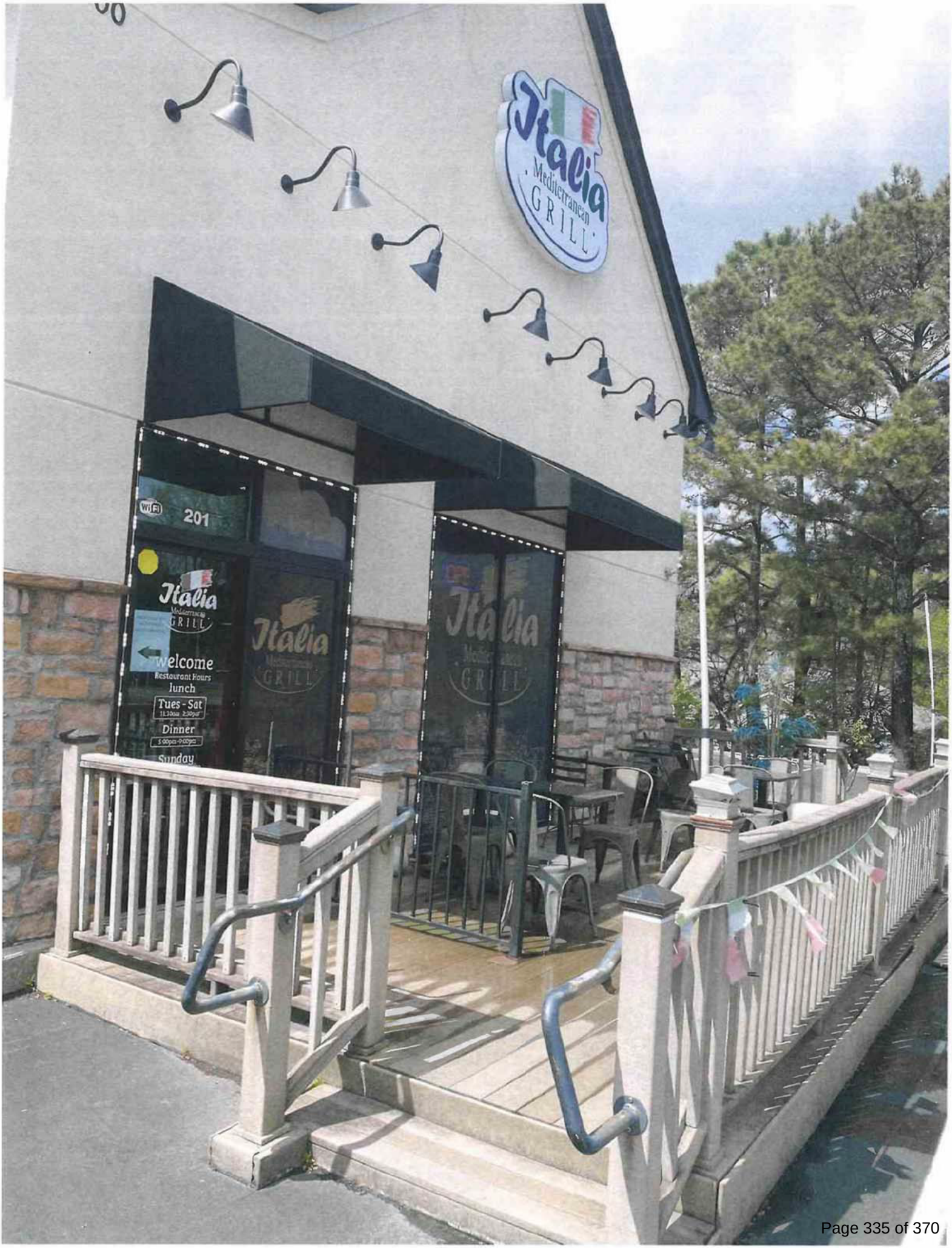
EXHIBIT D

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 166, 20th District, 2nd Section, Cobb County, Georgia Records as more particularly described as follows:

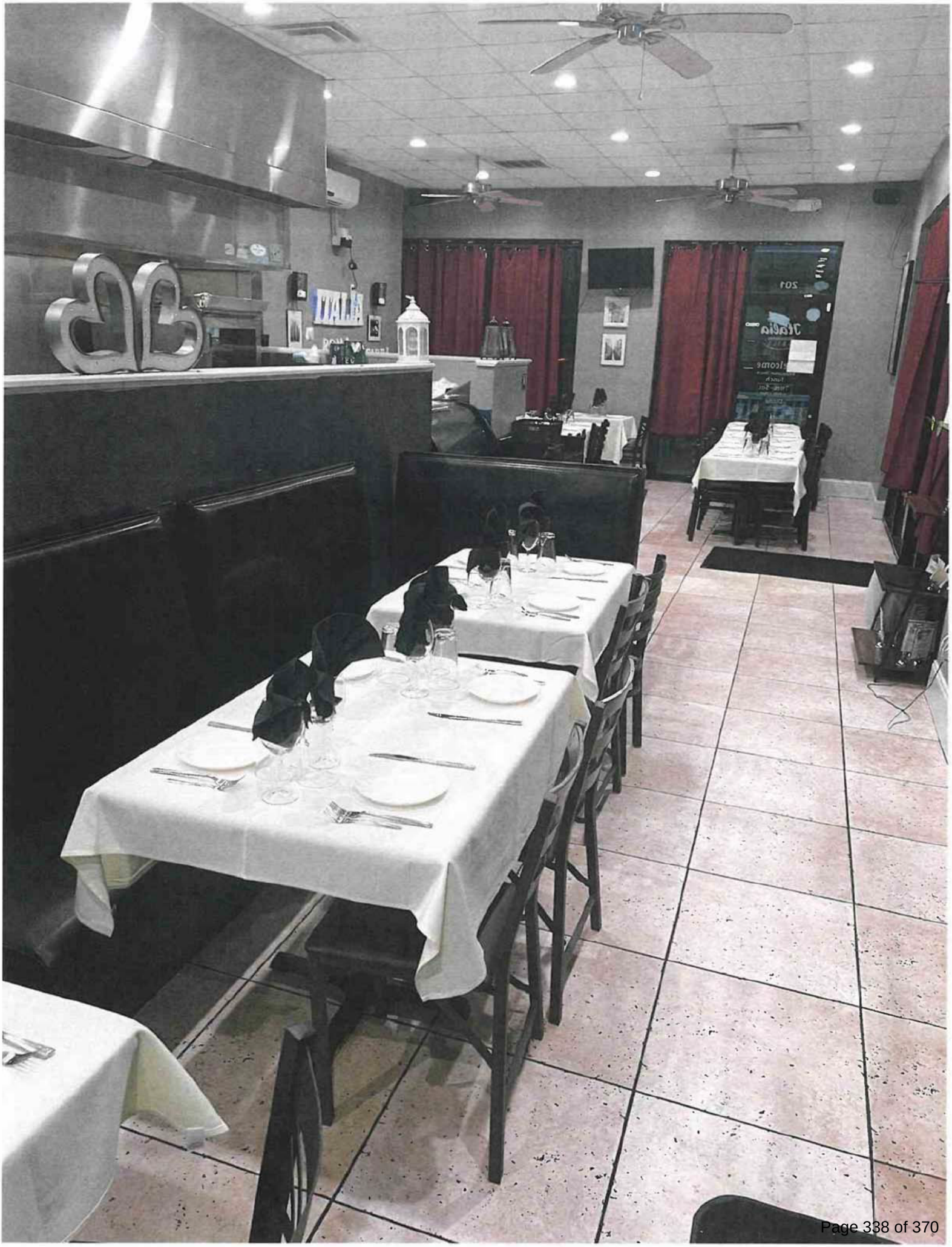
BEGINNING at a 1 inch crimp top pin found located on the southwesterly right-of-way line of Georgia State Highway No. 41 located 150.00 feet northwesterly along said right-of-way line from its intersection with the northwesterly right-of-way line of Dobbs Drive; thence continuing along said southwesterly right-of-way line of Georgia State Highway No. 41 north 39 degrees 14 minutes 30 seconds west a distance of 195.43 feet to a ½ inch rebar found; thence leaving said right-of-way line and running south 53 degrees 22 minutes 00 seconds west a distance of 300 feet to a point; thence south 39 degrees 18 minutes 30 seconds east a distance of 200.00 feet to a point; thence north 55 degrees 04 minutes 00 seconds east a distance of 299.70 feet to the one inch crimp top pin found located at the POINT OF BEGINNING; as said property is depicted on that certain Survey for Chhotu Bhai Patel and Madhav Investment Corp., dated May 9, 1994 prepared by Ga. Land Surveying Co., Inc.; being the same property depicted on Plat recorded at Plat Book 11, Page 34, Cobb County, Georgia Records and being known as 2655 Cobb Parkway (a/k/a U.S. Highway 41), Kennesaw, Cobb County, Georgia 30152.

P.T. 01.

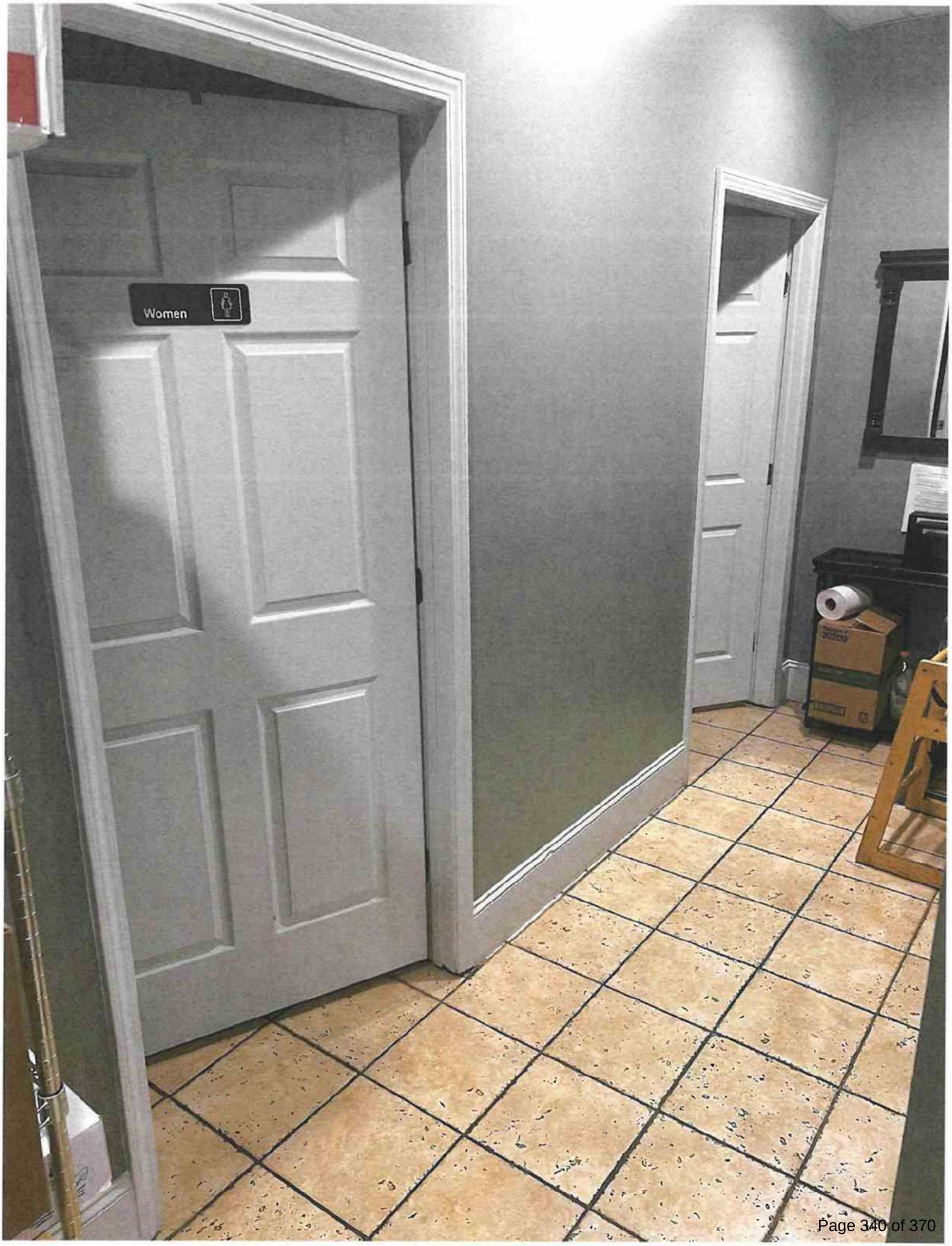

Italia
Mediterranean
GRILL
201
Italia
Mediterranean
GRILL
welcome
Restaurant Hours
lunch
Tues - Sat
Dinner
Sunday
Italia
GRILL
Italia
GRILL

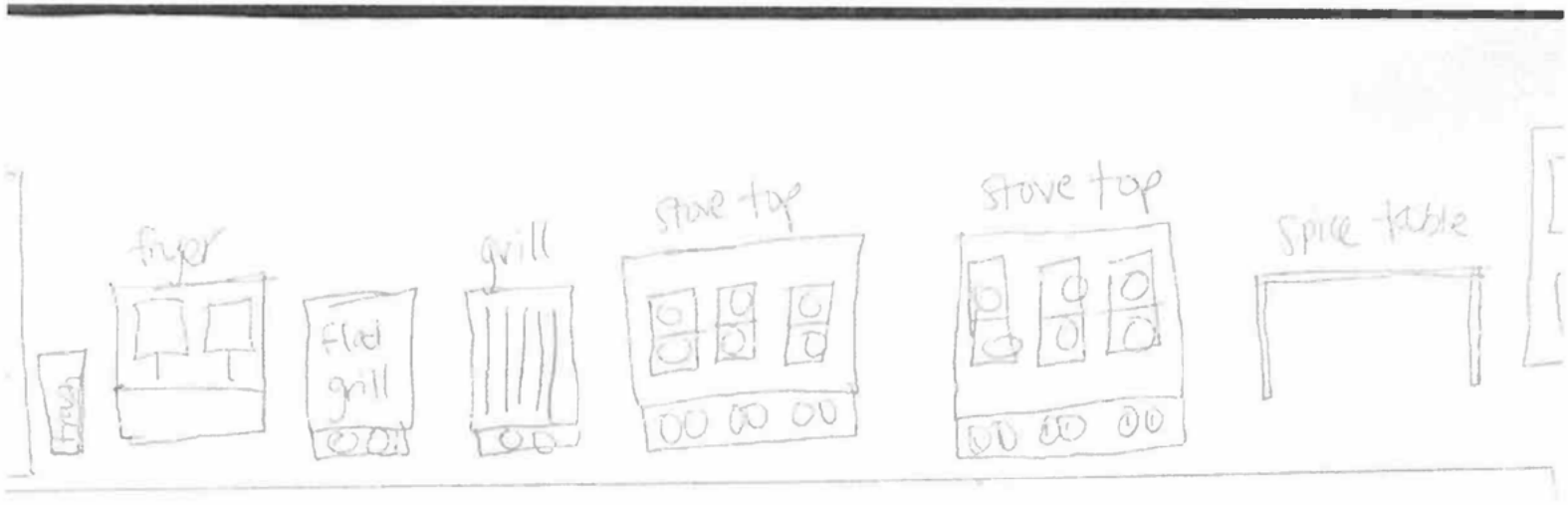

Italia
ITALIA IS HIRING
SERVER & DISHWASHER
470-308-5917

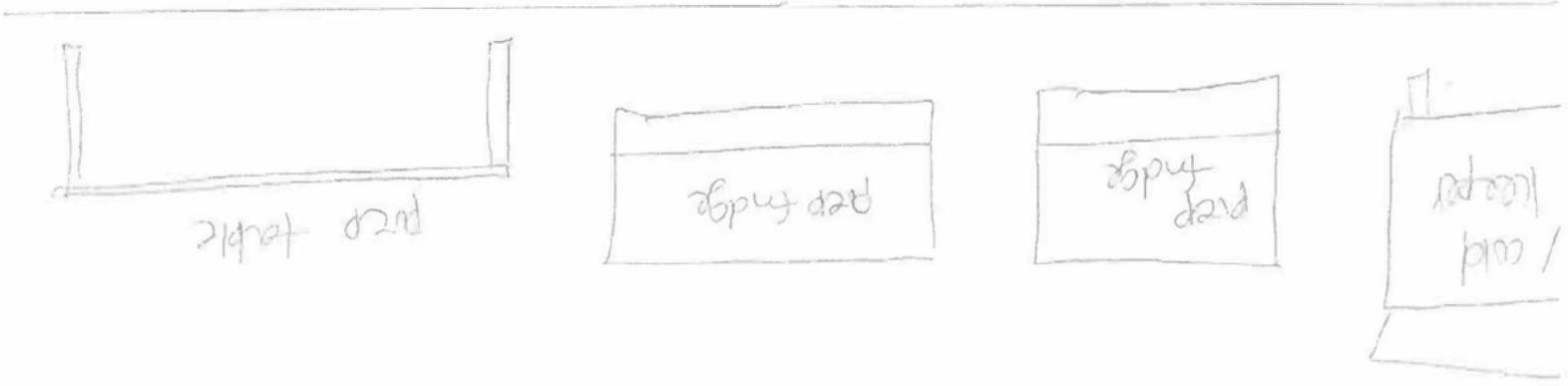

ITALIA
MILANO
ROMA
CAPRI






Women


fryer
flat grill
grill
stove top
stove top
spice table


prep table
prep fridge
prep fridge

Item Report

TO: The Honorable Mayor and City Council

FROM: Bill Westenberger, Chief of Police

DATE: August 21, 2023

TITLE: Receipt of the July 2023 crime statistics.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 2023 July Crime Statistics (M+C)

July 2023 Crime Statistics

Summary

July 2023 Group A Offenses (142) increased by 19% compared to July 2022 (119). A vast majority of the crimes reported in July 2023 were Assault Offenses (42). This trend is also present in the data collected for crimes reported in July 2022. Assault Offenses account for approximately 30% (42) of the crimes that have occurred within our jurisdiction in July 2023. Out of the 601 traffic stops in July 2023, (825) resulted in Citations and 21% (124) Warnings. There were a total of 78 Adult Arrests that took place during the month, which is a 13% increase from July 2022 (69).

There were 942 traffic accidents YTD, 104 of which were classified as Hit and Run. Of the 942 accidents 86 had injuries, and 7 involved a pedestrian. YTD 2023 total accidents are up compared to 926 YTD 2022.

Crimes	July 2023	July 2022	YTD (01/01/2023) –(07/31/2023)	YTD (01/01/2022) – (07/31/2022)
Assault Offenses	42	26	235	186
Motor Vehicle Theft	4	2	10	17
Burglary	4	0	17	14
Homicide	0	0	0	0
Larceny	26	33	162	176
Sex Offenses	1	1	15	10
Robbery	0	0	6	2
Total	77	62	445	405

	July 2023	July 2022	YTD (01/01/2023) – (07/31/2023)	YTD (01/01/2022) – (07/31/2022)
Dispatched Calls for Service	473 (-273)	746	4,433 (-1,421)	5,854
Self-Initiated Activity	820 (+97)	723	7,158 (+465)	6,693
Traffic Citations	825 (+180)	645	7,256 (+1,220)	6,036
Traffic Warnings*	124 (-175)	299	1,983 (-872)	2,855
Arrests*	78 (+9)	69	614 (+31)	583

*Warnings do not include verbal warnings
*Arrest statistics does not include juveniles

Bill Westenberger
Chief of Police

Kennesaw Police Department
2539 J. O. Stephenson Ave., Kennesaw, GA, 30144
911 Call Center: (770) 422-2505
Criminal Investigations Division: (770) 429-4533

Bayleigh Brown
Crime/ Intelligence Analyst

Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: August 21, 2023

TITLE: Appeal Hearing for Edson Macedo located at 3101 Old 41 Highway (also known as 3101 North Main Street) (parcel number 20012700180) regarding denial of his site plan for chickens.

Summary:
On August 1, 2023, the Planning and Zoning staff reviewed and denied Mr. Macedo's concept to have chickens located in the backyard of his property. After reviewing the site plan, Mr. Macedo's plan does not meet the requirements defined in the Unified Development Code (UDC) under section 1.09.02 for "Livestock, Nondomestic and Wild Animals, and Poultry: Animals, nondomestic and wild animals, and species of the aviary family which are or may be raised for the purpose of providing food, transportation, or being resold or bred (excluding only dogs, cats, rabbits, fish, pet mice, hamsters, gerbils, parrots and parakeets)." There are four requirements for non-domesticated animals and they are as follows: #1) shall only be permitted on a lot containing not less than two acres; #2) all buildings used for animals shall be set back not less than 200 feet from any property line; #3) all animals shall be maintained at least 25-feet from any residential property line; and #4) there shall be not less than 5,000 square feet of fenced lot area not covered by the principal structure for each animal, unless the property is a bona fide farm. Pursuant to section 10.05.01, Mr. Macedo has submitted a letter of appeal regarding the Zoning Administrator's decision of administration and enforcement of the UDC to the Mayor and Council. The property is zoned R-20 (single-family residential) and contains 2.6 acres and lies on Land Lot 127 Tax Parcel 18.

Recommendation:
The Zoning Administrator recommends denial of the site plan for chickens.

Fiscal Impact:

Attachments:
1. Aerial Map - 3101 Old 41 Hwy

2. Notice of Appeal - 3101 Old 41 Hwy
3. Site Plan for Notice of Appeal - 3101 Old 41 Hwy
4. 3101 Old 41 Highway - Property Distance Map
5. Review #1 - Site Plan - DENIED on 072523
6. Review #2 - Site Plan - DENIED on 072823
7. Review #3 - Site Plan - DENIED on 080123_Redacted
8. E-mail Correspondence for Plan Reviews_Redacted
9. Property Deed
10. Poultry Standards by Jurisdiction



LAND CASES		LAND USE OR ZONING FROM	TO
AV	LU	NOTICE TO APPEAL	
AX	RZ		
DX			
HBR			
SLUP			

AV – Administrative Variance
AX – Annexation
DX – De-annexation
HBR – Historic Board Review
LU – Land Use
RZ – Re-zoning
SLUP – Special Land Use
ZV – Variance

R-10 ZONING
KENNESAW CITY LIMITS
COBB COUNTY
99 LAND LOT

3101 Old 41 Hwy

Land Lot 127, Tax Parcel 18

Subject Property

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

Derek Easterling MAYOR
Lea Alvarez CITY CLERK

Scale: 1 " = 167 '
Print Date: 8/11/2023
Aerial Map - 3101 Old 41 Hwy

August 10, 2023

The Honorable Derek Easterling
Mayor of Kennesaw

Dear Mayor Derek Easterling,

Greetings!

We are writing this letter of appeal and reconsideration in regards to the denial of the city planning and zoning, over the request of raising chickens for personal use as food consumptions. The way the code is written, it requires that the residents should have at least two acres to raise poultry, in our specific case our land located at 3101 Old 41 Hwy Nw Kennesaw, Ga has 2.6 Acres.

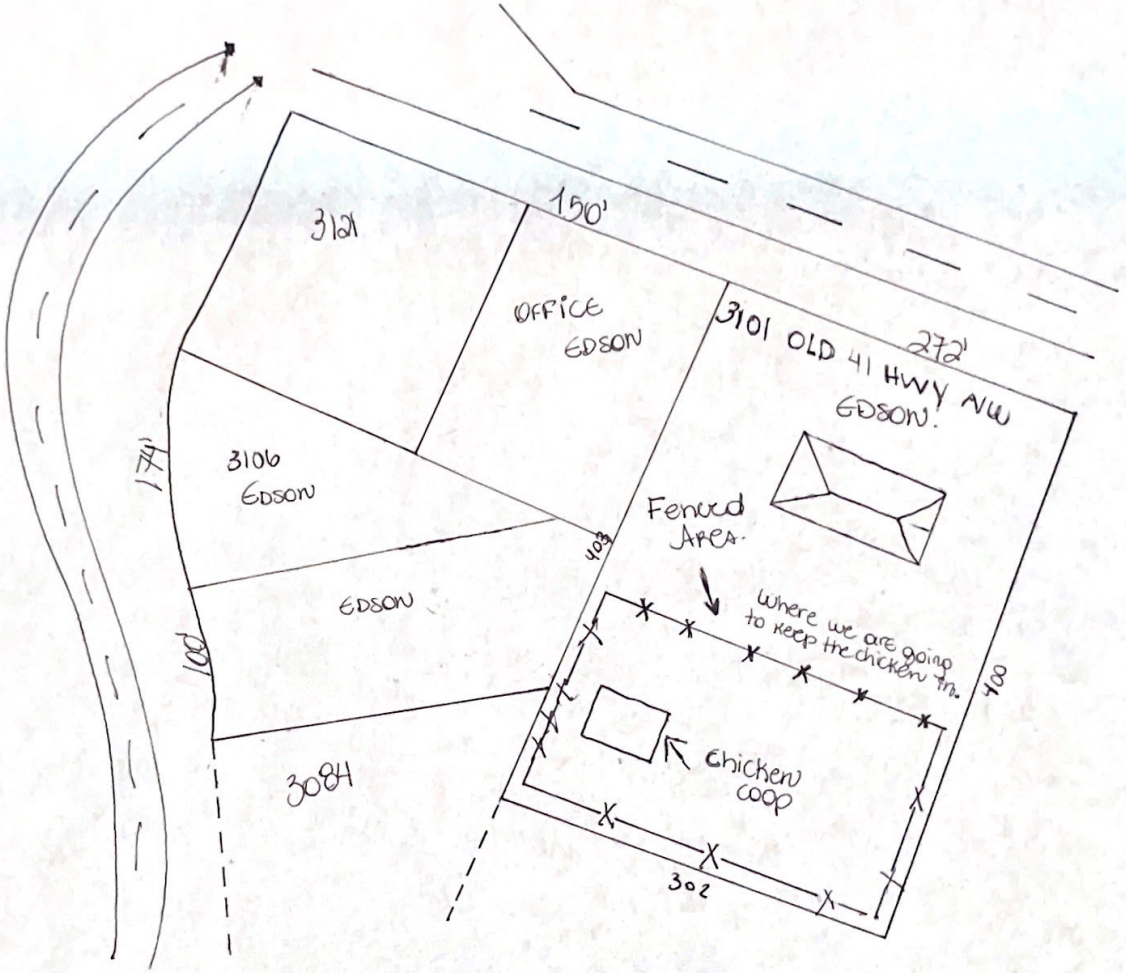
Our intention is to raise 20 chickens. The code also says that if you are raising poultry you need to keep them at least 25 feet from the property line. In order to house them you have to stay 200 feet from any property line. To me it makes no sense that you can have the chickens loose on your land as long as you do not let them get closer to any property line less than 25 feet. Whenever these animals go to sleep and they are inside their coop, or their little house, they need to stay at least 200 feet from any property line. In my case specifically, the northside of 3101 meets with the south side of 3106 vacant lot, planning space.

Going back to 3101 the space where I want to raise the chicken is over 30,000 square feet . What we are kindly requesting here, is that if you have more than 2 acres you should be able to have chickens. Also as long as you stay 25 feet from the property line and you house them, about 55 feet away from the property line. As we all know a chicken only needs 2 square feet to survive, and we have way more than that. Cobb county has adopted a similar rule, Marietta has adopted a similar rule, Woodstock, and Acworth has adopted a much more flexible rule when it comes to the housing of chickens.

With this request we are sending an annex with the property plot, the size of the fenced area, and the distance from neighbors and primary residents. If we are allowed to have chickens on our land, they will be kept in a fenced area measuring 45 feet by 75 feet. The chicken coop will measure 12 feet by 20 feet.

Best regards,

Edson Macedo.


3121
150'
OFFICE
EDSON
3101 OLD 41 HWY NW
EDSON
272'
3106
EDSON
174'
Fenced
Area
403
EDSON
Where we are going
to keep the chicken in.
100
400
3084
Chicken
coop
302

3101 Old 41 Highway



8/11/2023, 9:42:59 AM

CobbParcels
Main rail line
Cobb Roads
Interstates
Arterials
Major Collectors
Minor Collectors
Local
Local-Private
Ramps

1:2,257

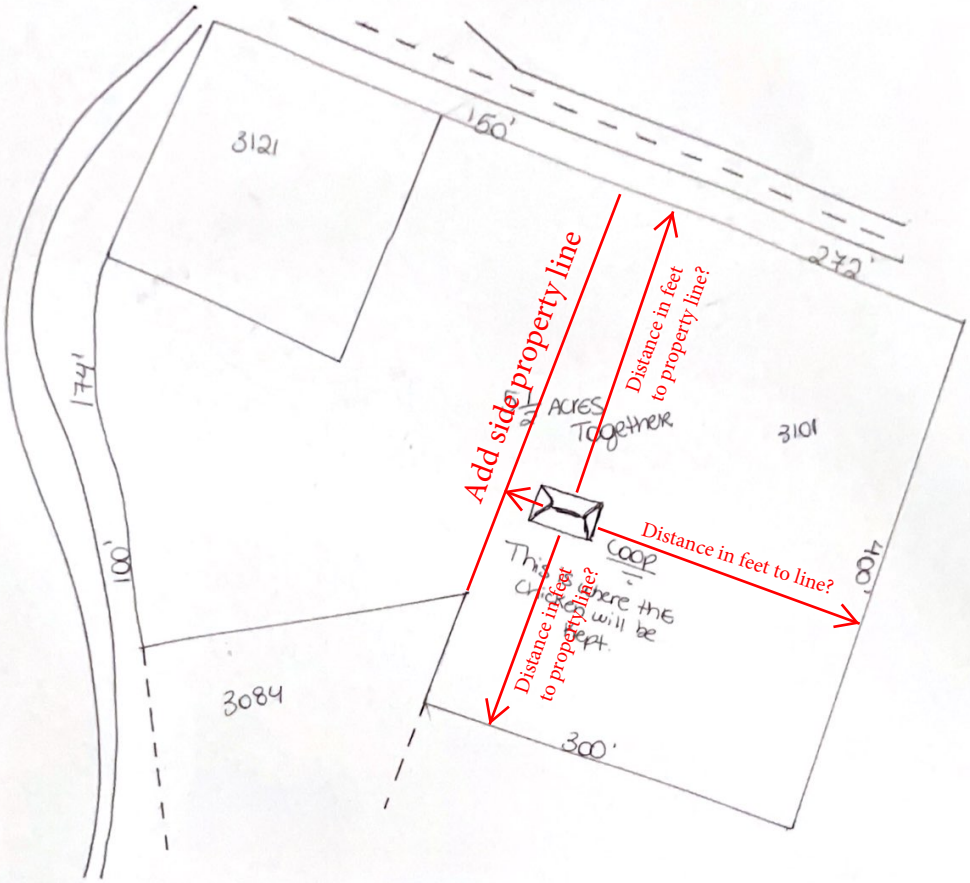
0 0.01 0.03 0.06 mi

0 0.03 0.05 0.1 km

Copyright Cobb County. All rights reserved., Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

This map is a user generated static output from an Internet mapping site and Cobb County GIS

Review #1 - completed on 07/25/2023 by AT



1. Missing distances (in feet) from proposed coop to side and rear property lines
2. Show where the 5,000 SF fenced in area will be

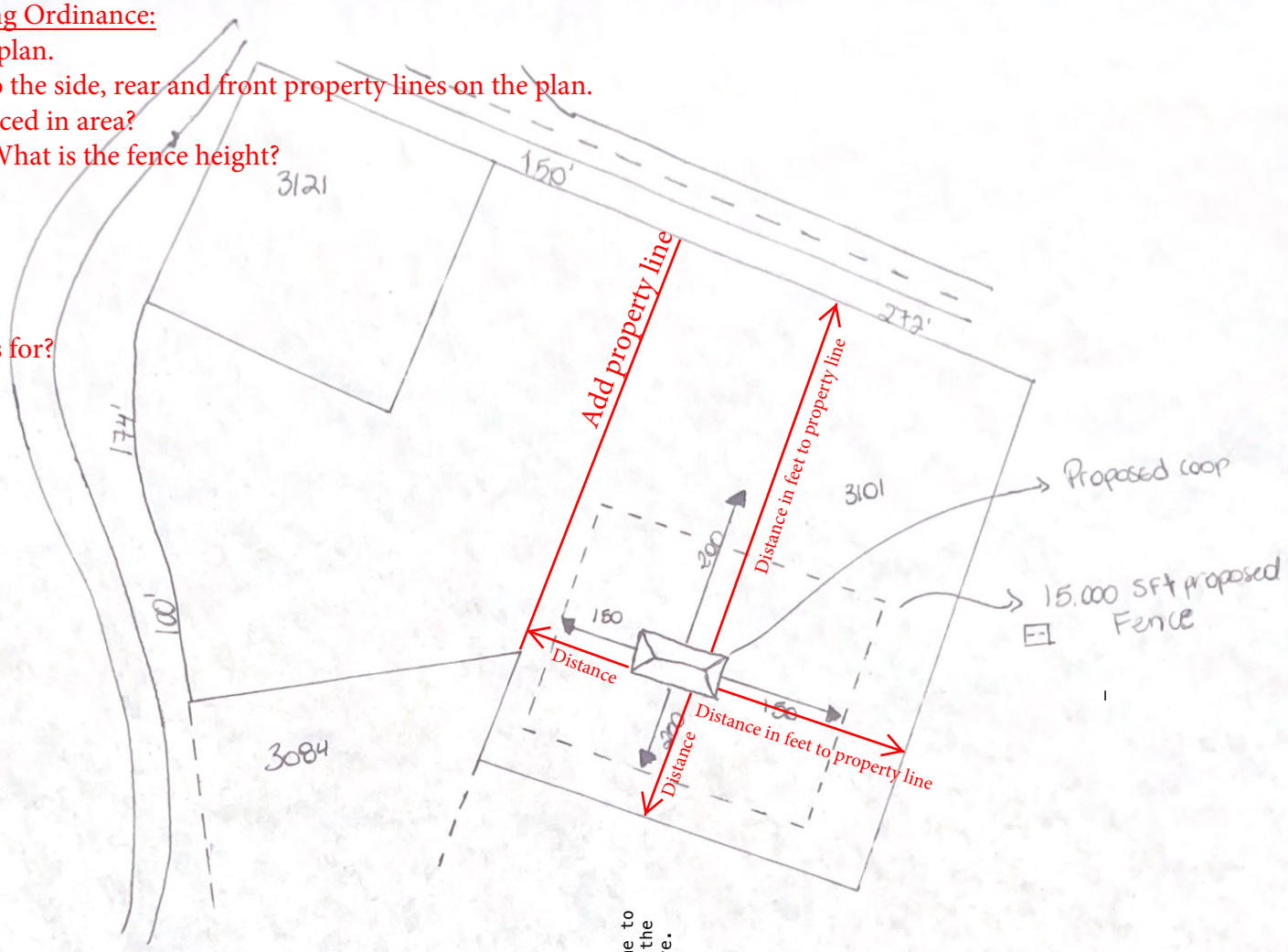
Review #2 - 7/28/23 - Denied by AT

Regarding the Chicken Coop Plan, I am still unable to verify if you meet the Zoning Ordinance:

1. Still missing a property line on the plan.
2. Still missing distances from coop to the side, rear and front property lines on the plan.
3. What are the dimensions of the fenced in area?
4. What is the material of the fence? What is the fence height?

Regarding the free-range idea:

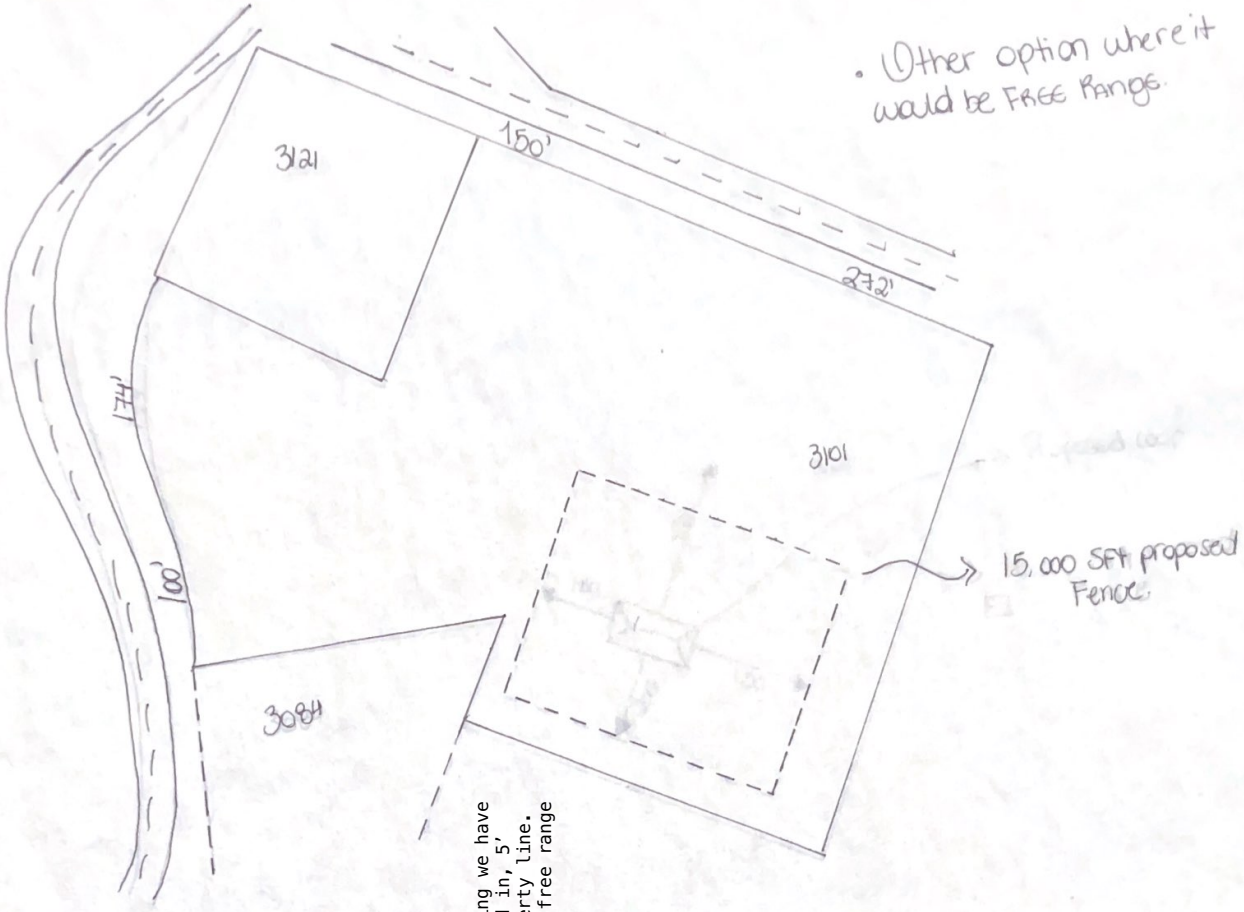
1. How many chickens will you have?
2. What will you be using the chickens for?
3. Where will the chickens nest?
4. Where will the chickens roost?
5. Where will the chickens get water?



In case you guys allow me to build the coop, this is the measurements that we have.

Review #2 - 7/28/23 - Denied by AT

see notes on page 1



In this other drawing we have 15,000 sq ft fenced in, 5' away from the property line. To raise them on a free range type.

From: edson macedo [redacted]
Sent: Tuesday, August 1, 2023 4:13 PM
To: Albert Trevino
Subject: Re: FW: Chicken coop place. - 3101 Old 41 Hwy
Attachments: property drawing .pdf

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

1. There will be 20 chickens.
2. Food
3. Inside the fenced area.
4. Inside the fenced area
5. Water pan filled daily.

Does not meet standards within 1.09.02
Zoning denies site plan for review #3
Appeal may be filed in accordance with section 10.05.01

On Mon, Jul 31, 2023 at 12:17 PM Albert Trevino <atrevino@kennesaw-ga.gov> wrote:

> Good afternoon,
>
> Zoning still does not have enough information to review this request.
>
> Please open the attached PDF and answer all questions/comments in full.
>
> You may e-mail me the revised site plan for a 3rd review. An incomplete submittal will not be accepted.
>
> Thank you,

Albert Treviño | Assistant Zoning Administrator & Planner

Department of Community Development | Planning & Zoning

2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144

Direct: (770) 424-8274 ext. 3172

Office: (770) 590-8268

From: Albert Trevino
Sent: Tuesday, July 25, 2023 9:47 AM
To: 'edson macedo' [redacted]
Cc: Darryl Simmons <dsimmons@kennesaw-ga.gov>
Subject: RE: Chicken coop place. - 3101 Old 41 Hwy

Good morning,

The site plan does not show enough information to review it for compliance. Please see the attached PDF with the reviewer's comments.

Please update the site plan with the requested information and e-mail it to us for an additional review.

Thank you,

Albert Treviño | Assistant Zoning Administrator & Planner

Department of Community Development | Planning & Zoning

2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144

Direct: (770) 424-8274 ext. 3172

Office: (770) 590-8268

From: edson macedo [redacted]
Sent: Wednesday, July 19, 2023 12:04 PM

To: Albert Trevino <atrevino@kennesaw-ga.gov>
Subject: Chicken coop place.

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Mr. Albert down below I have attached a file with a drawing of where the chicken coop would be, let me know if there is anymore information that you would like. Thank you!

--
Sent from Gmail Mobile

Albert Trevino

From: Albert Trevino
Sent: Wednesday, August 2, 2023 8:51 AM
To: 'edson macedo'
Cc: Darryl Simmons
Subject: RE: FW: Chicken coop place. - 3101 Old 41 Hwy

Good morning,

After a third review of your proposed site plan for chickens located at the above subject property, the Planning and Zoning Department has denied this plan because it does not meet the standards as identified in section 1.09.02 for "Livestock, Nondomestic and Wild Animals, and Poultry."

An appeal to this decision may be done in accordance under section 10.05.01.

Thank you,

City of Kennesaw, GA
Honoring Our Heritage - Forging Our Future

Albert Treviño | **Assistant Zoning Administrator & Planner**
Department of Community Development | Planning & Zoning
2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144
Direct: (770) 424-8274 ext. 3172
Office: (770) 590-8268

From: edson macedo [redacted]
Sent: Tuesday, August 1, 2023 4:13 PM
To: Albert Trevino <atrevino@kennesaw-ga.gov>
Subject: Re: FW: Chicken coop place. - 3101 Old 41 Hwy

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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3. Inside the fenced area.
4. Inside the fenced area
5. Water pan filled daily.

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You may e-mail me the revised site plan for a 3rd review. An incomplete submittal will not be accepted.

Thank you,

Albert Treviño | Assistant Zoning Administrator & Planner

Department of Community Development | Planning & Zoning

2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144

Direct: (770) 424-8274 ext. 3172

Office: (770) 590-8268

From: Albert Trevino
Sent: Tuesday, July 25, 2023 9:47 AM
To: 'edson macedo' [redacted]
Cc: Darryl Simmons <dsimmons@kennesaw-ga.gov>
Subject: RE: Chicken coop place. - 3101 Old 41 Hwy

Good morning,

The site plan does not show enough information to review it for compliance. Please see the attached PDF with the reviewer's comments.

Please update the site plan with the requested information and e-mail it to us for an additional review.

Thank you,

Albert Treviño | Assistant Zoning Administrator & Planner

Department of Community Development | Planning & Zoning

2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144

Direct: (770) 424-8274 ext. 3172

Office: (770) 590-8268

From: edson macedo [redacted]
Sent: Wednesday, July 19, 2023 12:04 PM
To: Albert Trevino <atrevino@kennesaw-ga.gov>
Subject: Chicken coop place.

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Mr. Albert down below I have attached a file with a drawing of where the chicken coop would be, let me know if there is anymore information that you would like. Thank you!

--
Sent from Gmail Mobile

Deed Book 15914 Page 4224
Filed and Recorded 5/20/2021 2:13:00 PM
2021-0074457
Real Estate Transfer Tax $220.00
Connie Taylor
Clerk of Superior Court
Cobb County, GA
Participant IDs: 6637408446
7067927936

AFTER RECORDING RETURN TO:
Smith, Tumlin, McCurley & Patrick, P.C.
94 Church Street
Marietta, GA 30060
STMP File No. 21130266

Cobb County Tax Parcel 20012700180

LIMITED WARRANTY DEED

STATE OF ~~GEORGIA~~ TEXAS

COUNTY OF ~~COBB~~ Van Zandt

This Indenture made this 17th day of **May**, in the year Two Thousand **Twenty-One**, between

ROGER C. WILBUR

as party of the first part, hereinunder referred to as "Grantor", and

EDSON MACEDO

as party of the second part, hereinafter referred to as "Grantee" (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

W I T N E S S E T H that: Grantor, for and in consideration of the sum of TEN AND 00/100'S ($10.00) Dollars and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming under, by or through the Grantor.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal this day and year first above written.

(Seal)
ROGER C. WILBUR

NOTARY PUBLIC STATE OF TEXAS
MICHELLE COUNTRYMAN
COMM. EXPIRES 2-01-2023
NOTARY ID 12536332-8

Signed, sealed and delivered
in the presence of:

Unofficial Witness

Notary Public

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 127 of the 20th District, 2nd Section of Cobb County, Georgia, and being 2.6 acres as shown on plat prepared for Oliver G. Wilbur, dated June 12, 1956, recorded in Plat Book 14, Page 149, Cobb County Records and being more particularly described as follows:

BEGINNING at an iron pin located on the South side of Acworth-Marietta Highway (Old Highway No. 41) 400 feet Westerly from the intersection of the South side of said Highway with the Westerly side of Owens Road, and running thence Southwesterly along a fence line and forming an interior angle of 93 degrees 28 minutes for a distance of 401.4 feet to an iron pin and corner; thence running Westerly and forming an interior angle of 86 degrees 32 minutes for a distance of 302 feet to an iron pin and corner; thence running Northerly and forming an exterior angle of 91 degrees 22 minutes and along a fence line for a distance of 400 feet to an iron pin and corner located on the South side of said Highway; thence running Easterly along the Southerly side of said Highway and forming an interior angle of 91 degrees 22 minutes for a distance of 268 feet to the point of beginning.

Poultry Standards by Jurisdiction

City of Marietta

- a maximum of four chickens are allowed and may only be kept on properties with an occupied residence;
- the minimum lot size for the keeping of chickens is 15,000 square feet;
- no roosters allowed;
- chicken coops must not exceed 8 feet in height;
- chickens must also be kept in a fenced area in the back yard at least 20 feet away from any property line, and 10 feet from the principal structure;
- the minimum fenced area for chickens is 25 square feet per chicken;
- an accurately-scaled sketch of the property must be provided that indicates the location of all existing and proposed structures, including coops and fences, as well as their distances from surrounding property lines;
- chicken coops and the enclosed "run area" shall not be more than 100 square feet in area;
- all coops and surrounding areas are to be properly maintained and kept clean so as not to become a nuisance;
- coops and feed are to be secured at all times to prevent any potential nuisance with mice or other rodents and pests;
- a property owner or resident may be required to remove any and all chickens if they are not being properly contained in the manner specified in the city code; and
- Chickens shall only be permitted as pets or for egg production; the chickens shall not be kept for slaughter.

Unincorporated Cobb County

Cobb code states backyard chickens are allowed on properties under 80,000 square feet with the following guidelines, as long as it does not go against any homeowners association's rules or regulations:

- the maximum ratio of one backyard chicken per 5,000 square feet of lot area on any lot less than 80,000 square feet;
- no roosters allowed;
- backyard chickens must be kept/maintained within a fenced area in the back yard;
- coops or other buildings for the chickens must be located at least 25 feet away from any property line;
- chicken owners must keep the property maintained in a fashion that eliminates the potential negative effects resulting from the chickens, including but not limited to odors, pollution, noise, insects, rodents and other wild animals;
- backyard chickens must not cause a nuisance, as defined by state law;
- slaughter of any chicken onsite is prohibited; and
- a person seeking to keep and raise chickens in accordance with this section shall first submit a complete application to the community development department.

City of Acworth

It is permissible within the corporate limits of the City of Acworth to have goats, miniature pigs and backyard chickens if the following standards are met:

- Goats shall not exceed 24 inches in height (at the withers) or 80 pounds in weight. No more than two goats per property are permitted.

- Miniature pigs shall not exceed 22 inches in height or 125 pounds in weight. No more than two goats per property are permitted.

- Backyard chickens raised for the purpose of providing food (eggs) or companionship as a pet (Gallus gallus domesticus):

Total number of hens per lot shall be as follows:

0—1 acre lot = 3 hens

1.01—2 acre lot = 6 hens

2.01—3 acre lot = 9 hens

3.01 + acre lot = 12 hens

- No roosters or crowing hens are permitted.

- Shall be maintained within a covered enclosure and fenced area set back a minimum of ten feet from all property lines and no less than 25 feet from any residential structure on an adjacent property.

- Coops and feed are to be secured at all times to prevent any potential nuisance with mice or other pests.

- All coops and surrounding areas are to be properly maintained and kept clean so as to not become a nuisance.

- No slaughtering of any animal is permitted.

- Properties are subject to compliance with all other city Codes and ordinances where not in conflict with this section.

- If a property is found to have more than the allowable number of animals as specified in this section or if the animals are not cared for or contained in the manner specified in this section, or the animals are creating a nuisance, the property owner or resident may be issued a citation and be required to remove all of the animals in excess of the maximum allowable number specified and/or care for and contain the animals in accordance with all codes and laws.

- If a property owner or resident is cited more than three times within a 365 day period for violating the conditions of this section, in addition to any fine the municipal court may also ban the property owner or resident from having any said animals on the subject property for a period up to one year.

(Code 1983, § 4-30; Ord. No. 2013-12, § 1, 4-18-2013)

City of Smyrna

Backyard chickens not allowed

City of Powder Springs

Livestock and animal quarters shall meet the following requirements:

Permitted livestock. The keeping of a horse on a residential property shall require a minimum lot size of 2 acres for each horse and is limited to 3 horses. The keeping of cattle, sheep, or other authorized livestock (not including poultry and pigs) shall require a minimum lot size of 5 acres and is limited to 6 livestock heads.

Animal quarters. Any building or structure devoted to the quartering of permitted livestock, including barns, stables, corrals, and pens and any others customarily appurtenant to animal raising shall not be located closer than 60' from a property line abutting a residential use or residential zoning district.

Fencing. All livestock shall be confined within a fully fenced area.

Poultry (aka, "Backyard Chickens *").* Poultry means a female pullet or hen of the Gallus domesticus and is also referred to as backyard chickens which are or may be raised for the purpose of non-commercial production of eggs or companionship as a pet. This use is subject to the following standards:

- The poultry shall be kept/maintained within a covered, predator-proof enclosure and fenced area set back a minimum of 20' from all property lines and no less than 50' from any residential structure on an adjacent property and not visible from public right-of-way;

- The owner of the poultry shall keep the property and enclosure maintained in a fashion that eliminates odors, pollution or other negative effects resulting from the poultry. No perceptible odor from the hens or enclosure shall be present at the property line;

- The enclosure and fenced area shall provide adequate ventilation, adequate sun, and shade and must be constructed in such a manner to resist rodents, wild birds, and predators, including cats and dogs;

The enclosure shall include an area darkened for roosting and sleeping with the intent to minimize or eliminate noise at night;

The poultry shall not cause a nuisance, as defined by state law;

There shall be a maximum number of hens per lot as follows:

Size of Lot	**Maximum**
0.5 acre to 1 acre lot	3 hens
1.01 to 2 acre lot	6 hens
2.01 to 3 acre lot	9 hens
3.01 or more acre lot	12 hens

No rooster or crowing hens are permitted;

No breeding of chickens shall occur on the property;

No hen shall be used or trained for the purpose of fighting for amusement, sport or financial gain;

All stored food for the hens must be kept indoors or in a weather resistant container assigned to prevent access by animals. Uneaten food must be removed daily;

Provision shall be made for the storage and removal of manure. All manure for composting or fertilizing shall be contained in a well-aerated garden compost pile. The enclosure and surrounding area shall be kept free from trash and accumulated droppings; and

The slaughter of any hen on site is strictly prohibited.

No person shall keep or maintain within the city, any poultry, fowl, rabbits, horses, mules, ponies, cows or cattle, unless the same are kept or maintained on property having a total area of not less than 2½ acres bordered on all sides by a fence not less than five feet in height and which fence at any point shall be at least 50 feet distant from any residence of any adjoining property owner.

(Code 1976, § 9-3015; Code 1985, § 4-2; Ord. of 10-3-1977)