

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
October 16, 2023 6:30 PM
Council Chambers**

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. Consideration to approve a Land Use Permit application for the property located at 2800 Dominion Lane submitted by applicant Ali Jackson. Case #LU2023-02.
- B. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 4 and 5. Case #MISC2023-08

11. Consent Agenda

- A. Approval of the September 25, 2023 City Council work session minutes.
- B. Approval of the October 2, 2023 City Council regular meeting minutes.
- C. Approval of RESOLUTION authorizing contract amendment regarding the City Clerk.
- D. Consideration to approve the Day With Santa road closure extension.
- E. On October 9, 2023, Gary Craft purchased three (3) cemetery lots in Kennesaw City Cemetery. This lot is located in Section III, Plot 11, Lots B,C and D. Requesting authorization for the Mayor to sign a supporting deed for the purchase of this lot. The City Clerk recommends approval.

12. General and Administrative

- A. Consideration for approval of a Massage License for Huajian, LLC d/b/a A1 Feeling Massage located at 2839 Cherokee Street NW STE D Kennesaw, GA 30144. Applicant: Bangqiong Li.

13. Public Safety

- A. Receipt of the September 2023 Crime Statistics.

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

- 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: October 16, 2023
TITLE: Consideration to approve a Land Use Permit application for the property located at 2800 Dominion Lane submitted by applicant Ali Jackson. Case #LU2023-02.

Summary:

Said request is for the purpose of obtaining a home occupational business license to become a cottage food operator that would allow for the baking and selling of cookies. The property is zoned RM-8 (Multi-Family 8 units per acre), consists of 0.03 +/- acres, and lies on Land Lot 139 and Tax Parcel 117. This public hearing was advertised in the Marietta Daily Journal on September 15, 2023 and a public notice sign has been posted on-site. At their October 4, 2023 meeting, the Planning Commission voted to approve the Land Use Application with the conditions as outlined by staff.

Recommendation:

The Zoning Administrator recommends approving the Land Use Application with the following conditions:

- 1.) The land use permit is limited to, exclusive to and only valid for the current applicant and the life of this particular business and use, and it is not transferrable. Any changes would require additional review and approval.
- 2.) There shall be no clients, customers or employees at this location. Nor shall there be any evidence of a home-based business visible from the public right-of-way.
- 3.) This land use permit shall be valid for 24 months after the date of business license issuance.

Fiscal Impact:

Attachments:

1. LU2023-02 - Application - 2800 Dominion Lane_Redacted
2. LU2023-02_Aerial Map
3. LU2023-02_Staff Analysis_2800 Dominion Lane
4. LU2023-02 Notification Packet
5. 10-4-23 Planning Commission Draft Minutes



**Community Development
Planning & Zoning Department
2529 J. O. Stephenson Avenue 770-590-8268**

**Darryl Simmons
Planning & Zoning Administrator**

LAND USE & SPECIAL LAND USE APPLICATION

If property identified is located within the Kennesaw Historic District and there are exterior improvements or changes to be made such as, façade, parking, landscaping, signage, etc. applicant must follow application procedures to the Historic Preservation Commission. Please consult with Planning and Zoning Staff.

For questions, please feel free to contact the Planning and Zoning Department at 770-590-8268.

Planning Commission meetings are held on the 1st Wednesday of each month at 7:00 P.M.
The Mayor and Council meetings are held the first and third Monday of the month at 6:30 P.M.
Both meetings are held in the City Hall Council Chambers, 2529 J.O. Stephenson Avenue.

When the application and all checklist items have been properly completed and filed with the Planning and Zoning Department, the applicant will be notified of the date of hearing(s).

- ☒ **Original application completed, signed and notarized**
- ☐ **Land Use & Special Land Use fees – \$250.00**
- ☒ **A copy of the warranty deed for said property that includes the full legal description/ in word format.**
- ☒ **A copy of the current taxes paid in full for said property from the Cobb County Tax and City of Kennesaw Tax Departments**
- ☒ **Current copy of boundary survey and plot plan, to scale, prepared by a registered surveyor or registered engineer. 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. Copy sized 8 1/2 x 11 inches.**
- ☒ **Applicant or agent must be present at all public hearings**
- ☒ **Documentation authorizing petitioner to submit application by property owners if petitioner is not owner**
- ☒ **Completed application and supporting documents listed on one Flash Drive or email to zoningdept@kennesaw-ga.gov in PDF format**

Note: The Department of Planning & Zoning reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

- ☒ Floor plan sketch
- ☒ Photos of workspace, equipment, finished product(s)
- ☒ HOA letter



LAND USE & SPECIAL LAND USE APPLICATION

CONSISTENT WITH THE UNITED STATES CONSTITUTION AND THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000, THE CITY OF KENNESAW DOES NOT DISCRIMINATE ON THE BASIS OF RELIGION IN THE APPLICATION OF ITS LAWS, POLICIES, OR PROCEDURES, INCLUDING THE APPLICATION OF ITS LAND USE REGULATIONS AND ZONING LAWS.

Under the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), no government, including the City of Kennesaw, may apply its zoning or land use laws in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution. RLUIPA also provides that no government, including the City of Kennesaw, may apply a land use regulation in a manner that treats a religious assembly or institution (a church, for example) on less than equal terms than a nonreligious institution or assembly (a day care center or movie theater, for example). Finally, RLUIPA provides that no government, including the City of Kennesaw, may impose or implement a land use regulation in a manner that discriminates against a religious assembly or institution.

If you believe that the City of Kennesaw, or any other local government or municipality, has discriminated against you in the implementation of its zoning or land use laws, please contact the United States Department of Justice at:

**United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Ave. N.W. –G St.
Washington, DC 20530**

**LAND USE & SPECIAL LAND USE APPLICATION**

Required Fee \$250.00

Date Received 8/11/2023Staff's Initials AT☒ **LAND USE APPLICATION**☐ **SPECIAL LAND USE APPLICATION**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.****(Applicant or agent must be present at all public hearings)**Date of Consultation 8/2/2023Staff's Initials AT**PURPOSE OF LAND USE REQUEST** To obtain a home occupational business license to be a food cottage operator. Applicant will be baking cookies from home and selling them online or by word of mouth.Each cookie is hand painted with a piping bag.
LAND USE PROPERTY ADDRESS 2800 Dominion LaneLand Lot 139 Tax Parcel 117 Lot Size .023 Current Zoning RM-8**APPLICANT** Ali Jackson**APPLICANT EMAIL** [REDACTED]**Applicant address** 2800 Dominion Lane, Kennesaw, GA 30144

(Home#) _____ (Fax#) _____ (Work#) _____

(Cell#) [REDACTED]**Applicant Signature** [Signature]Signed, sealed and delivered in presence of: [Signature] 8/2/23**REPRESENTATIVE** William Mark Jackson(Fax #) _____ (Work#) _____ (Cell#) [REDACTED]Representative Signature [Signature]Signed, sealed and delivered in presence of: [Signature] 8/2/23**TITLEHOLDER:** Same as Applicant **Telephone:** Same as Applicant**Signature:** [Signature] **Address:** Same as ApplicantSigned, sealed and delivered in presence of: [Signature] 8/2/23



CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

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? **WRITE 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.

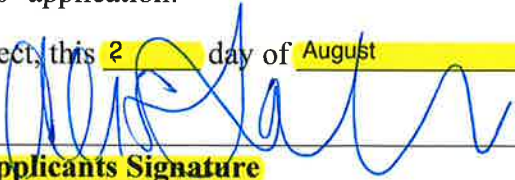
Please supply the following information that will be considered as the required disclosure:

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 2 day of August, 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.



CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

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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? **WRITE 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:

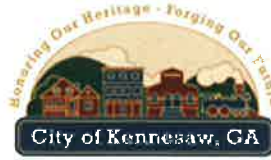
An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application:

I certify that the foregoing information is true and correct, this 14 day of August, 2023

[Signature]
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.



PLEASE TAKE NOTICE

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

To obtain a home occupational business license to be a food cottage operator.

Applicant will be baking cookies from home and selling them online or by word of mouth.

The property referred to is located at:

2800 Dominion Lane

and is within a 200-foot radius of your property. It is described as Land Lot 139 20th District, 2nd Section, Tax Parcel 117 in the City of Kennesaw.

The said application will come up for hearing before the Planning Commission on 10/4/2023 at 6:30 p.m., and the Mayor and Council on 10/16/2023 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 08/02/23

Signed by the owner or applicant



CERTIFICATION AUTHORIZATION

I hereby attest to the fact that a certified mailing to property owners within 200 feet was sent out on or before September 15, 2023 in accordance with the application requirements.

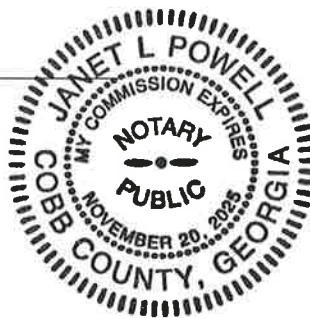
08/02/23

Date

Applicant or Authorized Agent Signature

Sworn and subscribed before me this 2 day of August 2023

Notary Public





Section 2100, Part 5 Standards for Decisions – Only Land Use Permits

Land Use Permits may be granted in such individual cases based on the standards for decisions as follows, please comment using additional pages if necessary.

COMMENTS:

(1) Safety, health, welfare, and moral concerns involving the surrounding neighborhoods.	Very low impact type of establishment. All activities indoors. No toxic materials or heavy equipment. No additional traffic or clients coming to the property.
(2) Parking and traffic considerations.	None. Products delivered to the house by FedEx/Amazon/UPS. No customers visiting the property, therefore no additional traffic generated.
(3) Number of non-related employees.	None. Zero non-related employees.
(4) Number of commercial and business deliveries.	None. Supplies ordered through Amazon. No large delivery trucks. Supplies are delivered by Amazon, FedEx, or UPS.
(5) The City's general presumption that residential neighborhoods should not allow non-compatible business uses.	Low impact business. All activities conducted inside. No traffic generated or customers coming to the property.
(6) Compatibility of the business use to the neighborhood.	Business is compatible with the neighborhood. The HOA wrote a letter of approval (attached).
(7) Hours of operation.	I bake and decorate outside of my full-time job. Hours of operation are weeknights and weekends. Operations take place inside the privacy of my own home. No posted business hours to the public.
(8) Existing business uses in the vicinity.	To my knowledge, there are no existing businesses operating out of the surrounding neighbor properties.
(9) Effect on property valued of surrounding property.	None. No effect to the value of the surrounding properties.
(10) Circumstances surrounding neighborhood complaints.	To my knowledge, there are no complaints.
(11) Intensity of the proposed business use; and	Low intensity business. All business activities take place inside the home.
(12) Location of use within the neighborhood.	Utilizing my kitchen in my house, which is the very last property in my neighborhood.

Return to: MCMANAMY MCLEOD HELLER, LLC
3520 PIEDMONT RD, SUITE 110
ATLANTA, GA 30305
File # 20-01-11425
Parcel ID: 20-0139-0-117-0

STATE OF GEORGIA
COUNTY OF FULTON

LIMITED WARRANTY DEED

THIS INDENTURE made this **13th day of November, 2020** between

Wesley Matthew Jackson

as party or parties of the first part, hereinafter called Grantor; and

Ali Sikes Jackson

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS and other good and valuable consideration (\$10.00) 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, the following described property:

**ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT NO. 139, OF THE 20TH DISTRICT, 2ND SECTION, OF COBB COUNTY, GEORGIA, BEING LOT NO. 2800 A/K/A UNIT 11, THE DOMINION AT KENNESAW TOWNHOMES SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK 210, PAGES 47-48, COBB COUNTY, GEORGIA RECORDS, AS REVISED AT PLAT BOOK 240, PAGES 32-33, COBB COUNTY, GEORGIA RECORDS, WHICH PLAT IS HEREBY ADOPTED AND MADE A PART HEREOF BY REFERENCE THERETO FOR A MORE COMPLETE DESCRIPTION OF SAID PROPERTY, BEING IMPROVED PROPERTY NOW OR FORMERLY KNOWN AS 2800 DOMINION LANE, ACCORDING TO THE PRESENT SYSTEM OF NUMBERING IN COBB COUNTY, GEORGIA.
MAP PARCEL NUMBER 20-0139-0-117-0**

Subject to all easements and restrictive covenants of record.

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 passing by or through Grantor.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this first day and year first above written.

Signed, sealed and delivered in the presence of:

Unofficial Witness

Notary Public
My Commission expires:

[Notary Seal]



 (Seal)
Wesley Matthew Jackson

____ (Seal)

____ (Seal)



Printed: 7/27/2023

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:
WELLS FARGO REAL ESTATE TAX SERVICE

JACKSON ALI SIKES

Payment Date: 9/27/2022

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2022	20013901170	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	\$2,710.48	\$0.00



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



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 #						
20013901170	3/3-BOND - KENNESAW CITY	235736						
Property Owner/Location/Description		Taxable Value						
JACKSON ALI SIKES 2800 DOMINION LN UNIT 3		105,448						
Levies	Taxable Value	Exemptions	=	Net Assessment	X	Tax Rate	=	Net Tax
BOND	105,448	0		105,448		1.5000000000		\$158.17
CITY OF KENNESAW	105,448	25,564		79,884		8.0000000000		\$639.07

Exemptions:

111 - Floating Exemption

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

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

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

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

Current Year Tax	\$797.24
Interest	\$0.00
Penalty	\$0.00
Other Fees	\$0.00
Payments Received	\$797.24
Other Amounts Due	\$0.00
Total Due	\$0.00
Due Date	12/01/2022



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

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

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

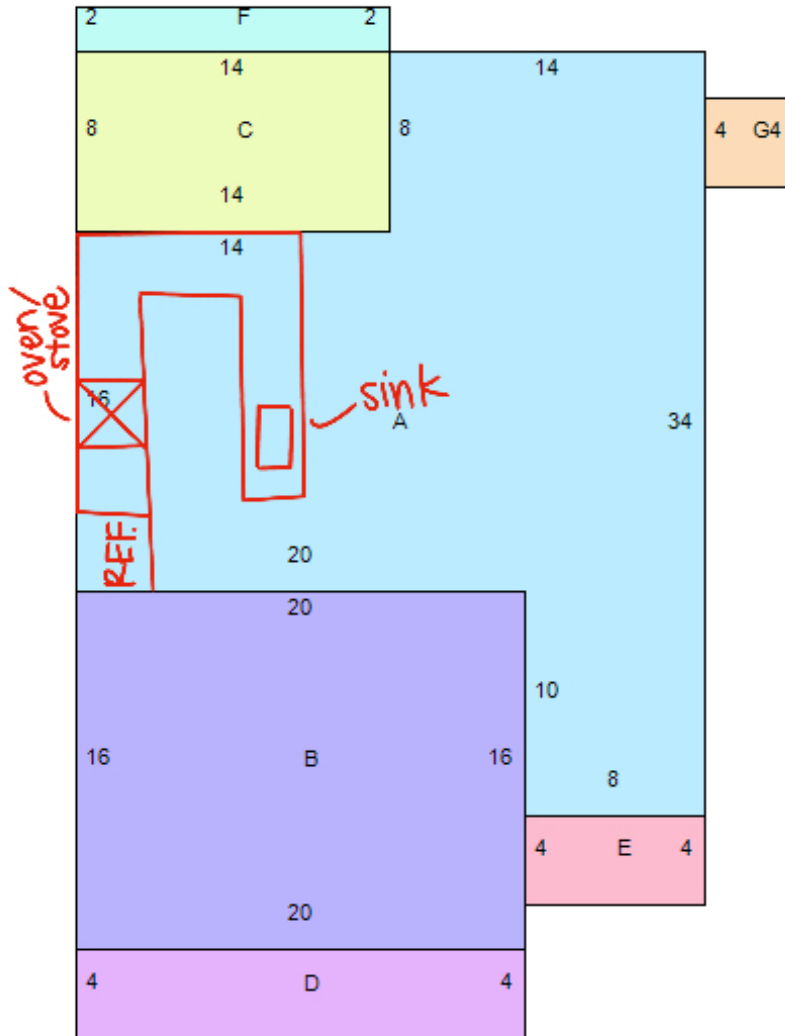
Parcel ID: 20013901170
Amount Due: \$0.00
Bill#: 235736
Due Date: 12/01/2022

AMOUNT PAID

JACKSON ALI SIKES
2800 DOMINION LN NW
KENNESAW, GA 30144

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

Room Type	Area
A Main Area	640
B 1 STORY FRAME/FRAME GARAGE	320
C 1 STORY FRAME/UNFIN BASEMENT	112
D FRAME GARAGE	80
E OPEN PORCH	32
F FRAME OVER HANG	28
G WOOD DECK	16







August 2, 2023

To whom it may concern:

According to the Dominion at Kennesaw Covenants, Ms. Ali Jackson who resides at 2800 Dominion Lane, Kennesaw, GA 30144 is allowed to have an office for business purposes out of her home as long as it does not create regular customer traffic. Please see the specific rule below:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use. The use of a portion of a dwelling as an office by an Owner shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. The use of a dwelling or a portion thereof for business meetings, entertainment, or the enjoyment or business of the Owner's employees, trustees, agents, clients, or customers shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. Nothing herein shall be construed to prohibit or prevent Declarant or any builder of residences on the Property from using any Lot owned by Declarant or such builder for the purpose of carrying on business related to the development and sale of Lots and/or new homes on Lots.

If you have any questions, please do not hesitate to contact me.

Thank you!

Barbi D'Ambruoso
Community Association Manager for Dominion at Kennesaw
Homeside Properties
900 North Point Parkway
Suite 325
Alpharetta, GA 30005



LAND CASES		FROM LAND USE OR ZONING TO		2800 Dominion Lane Land Lot 139, Tax Parcel 117 Subject Property		
AV	LU2023-02			City of Kennesaw Planning & Zoning Department CITY OF KENNESAW PLANNING & ZONING DEPT. 770-590-8268 Debra Easterday Mayor Lisa Murray CITY CLERK Scale: 1" = 100' Print Date: 8/22/2023 LU2023-02_Aerial Map		
AX	RZ					
DX	AV – Administrative Variance AX – Annexation DX – De-annexation HBR – Historic Board Review	R-10 ZONING KENNESAW CITY LIMITS COBB COUNTY 99 LAND LOT				
HBR	LU – Land Use RZ – Re-zoning					
SLUP	SLUP – Special Land Use ZV – Variance					
ZV						

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



COMMUNITY DEVELOPMENT
Planning and Zoning

2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

MAYOR AND COUNCIL
OCTOBER 16, 2023

PLANNING COMMISSION
OCTOBER 4, 2023

LEGAL ADVERTISEMENTS
SEPTEMBER 12, 2023

PUBLIC NOTICE SIGN
SEPTEMBER 19, 2023

APPLICATION SUBMITTED
AUGUST 11, 2023

STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

Property Addresses

2800 Dominion Lane

Applicant

Ali Jackson

Representative

William Mark Jackson

Property Owner

Same as applicant

Current Zoning

RM-8 (Multi-Family - 8 Units/Acre)

Current Future Land Use Category

Residential High (RH)

Project Request: Land use permit to acquire a business license for home occupation.

[Please see page 4 for project request description.](#)



Street view of subject property (Cobb Tax Assessor)

PROPERTY DETAILS

Within 1/2 mi from Unincorporated Cobb Co: No
Historic District: No
Cemetery: No Floodplain: No Stream: No
Parcel ID #: 20013901170
Land Lot #: 139 Tax Parcel #: 117
Land Area: 0.03 +/- acres or 1,307 SQFT
Existing Building Total SQFT: 1,740 SQFT
Proposed Building SQFT: N/A
Proposed Streets: N/A

RECOMMENDATION

Staff Recommendation

Approval with conditions

Planning Commission Recommendation

To be determined on October 4, 2023

[Please see page 16 for basis for recommendation.](#)

ADJACENT PROPERTY DETAILS

Surrounding Zoning Dist. and Future Land Use

North: Paulding Street

Zoning: R-15 (Single-Family)

Future Land Use: Residential Low/Medium (RL)

South: No Street

Zoning: Highway General Business (HGB)

Future Land Use: Comm. Act. Center (CAC)

East: Park Drive

Zoning: R-15 (Single-Family)

Future Land Use: Residential High (RH)

West: Jiles Road

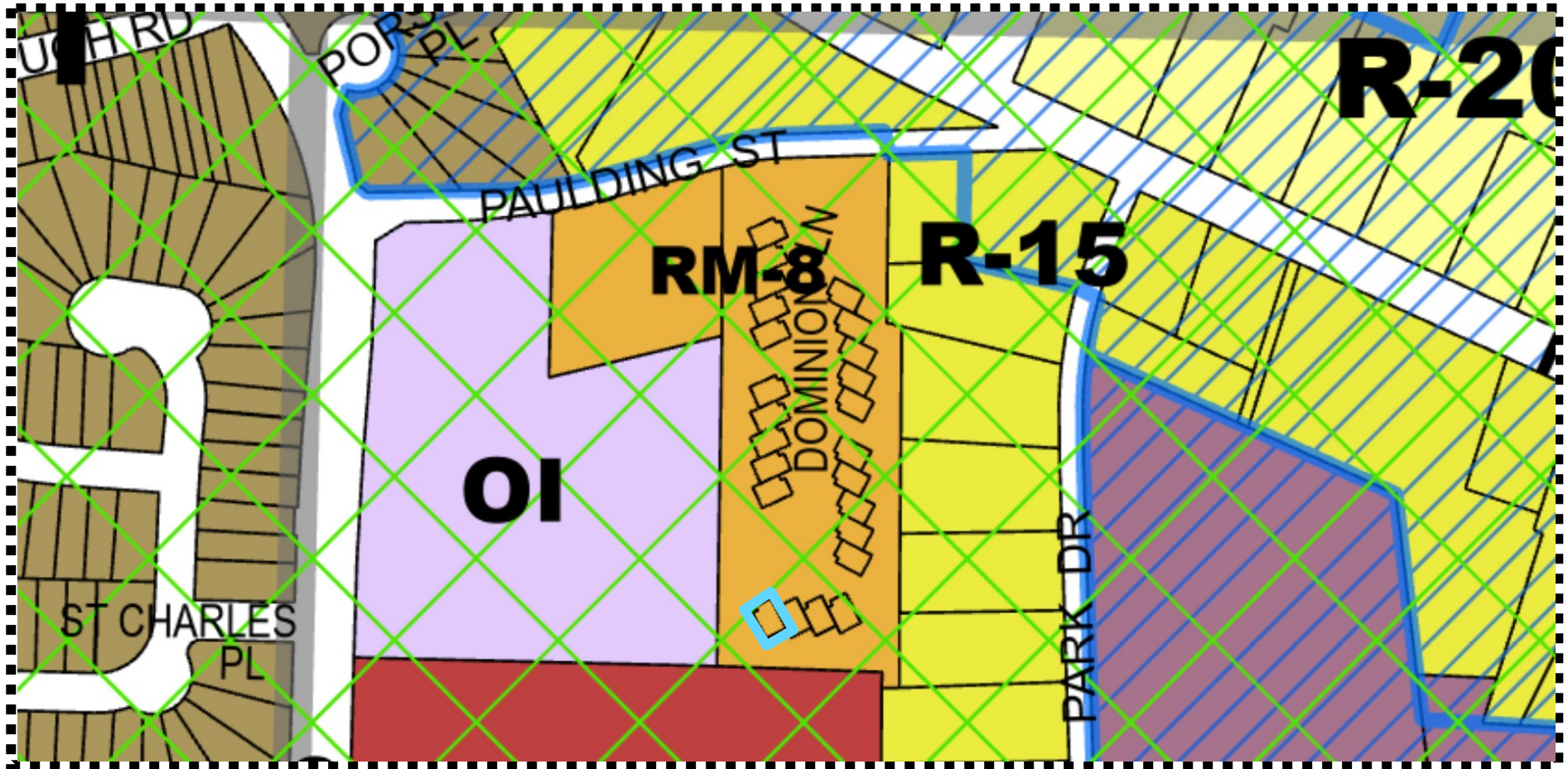
Zoning: Office/Institutional (OI)

Future Land Use: Nbhd. Activity Center (NAC)

[Please see pages 2 for zoning map.](#)

ZONING MAP

ZONING CASE #: LU2023-02



Zoning Districts

	CBD		HGB		OI		R-12		RA-5
	CRC		HI		PBSD		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		Acworth City Limits
	Historic Districts		Kennesaw City Limits
	Historic Preservation Village		Kennesaw Mtn Nat'l Battlefield
	Senior Living		Land Lots 139
			Marietta City Limits

GOOGLE EARTH AERIAL VIEW

ZONING CASE #: LU2023-02



= Approximate project location

STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

DESCRIPTION OF ZONING REQUEST: **LAND USE PERMIT**

This is a land use permit request for a home occupational business license.

PROJECT INTENT

The applicant is requesting to obtain a home business license to bake and sell cookies. This activity is known as a "cottage food operator."

[Please see page 5 for photos of cookies](#)

[Please see page 6 for photos of equipment used](#)

[Please see page 7 for sketch of work space in home](#)

QUESTIONS TO APPLICANT BY STAFF

How do you market or get the word out about your products?

I will market through social media and word-of-mouth.

How will the desserts get to the consumer or customer? Do they get delivered or picked-up?

My cookies will be delivered to my customers. No customers will pick up cookies at the house.

Pre-Application Meeting

August 2, 2023

Application Submitted

August 11, 2023

Fees Paid

\$250.00

Certified Letters Mailed

September 15, 2023

COTTAGE FOODS DEFINITIONS

- "Cottage food operator" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence and only for sale directly to the consumer.
- "Cottage food products" means non-potentially hazardous baked goods, jams, jellies, preserves, and other non-potentially hazardous foods produced in the home kitchen of a domestic residence.

[State of Georgia - Subject 40-7-19 COTTAGE FOOD REGULATIONS](#)

GOOGLE STREET VIEW OF THE RESIDENCE



STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

TYPES OF HAND PIPED COOKIES - PHOTOS PROVIDED BY THE APPLICANT



STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

TYPE OF EQUIPMENT USED - PHOTOS PROVIDED BY THE APPLICANT



PROPOSED FLOOR PLAN OF WORKSPACE LOCATED IN THE KITCHEN

The diagram shows a floor plan with the following components:

- Top Left:** A small cyan rectangle labeled 'F' with dimensions 2 and 2.
- Top Center:** A yellow rectangle labeled 'C' with dimensions 14 (width) and 8 (height).
- Top Right:** A large light blue rectangle with dimensions 14 (width) and 34 (height).
- Far Right:** A small orange rectangle labeled 'G4' with dimensions 4 (width) and 4 (height).
- Bottom Left:** A purple rectangle labeled 'B' with dimensions 20 (width) and 16 (height).
- Bottom Center:** A pink rectangle labeled 'E' with dimensions 4 (width) and 4 (height).
- Bottom Right:** A light purple rectangle labeled 'D' with dimensions 4 (width) and 4 (height).
- Handwritten Annotations (Red):**
 - 'over stove' with an arrow pointing to a small square area on the left side of the light blue rectangle.
 - 'sink' with an arrow pointing to a small rectangle on the right side of the light blue rectangle.
 - 'REF.' with an arrow pointing to a small square area on the left side of the light blue rectangle.
- Dimensions:** Various numerical values are placed around the rectangles to indicate their sizes, such as 14, 8, 20, 16, 34, 4, and 2.

STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

HOA MANAGEMENT APPROVAL LETTER



August 2, 2023

To whom it may concern:

According to the Dominion at Kennesaw Covenants, Ms. Ali Jackson who resides at 2800 Dominion Lane, Kennesaw, GA 30144 is allowed to have an office for business purposes out of her home as long as it does not create regular customer traffic. Please see the specific rule below:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use. The use of a portion of a dwelling as an office by an Owner shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. The use of a dwelling or a portion thereof for business meetings, entertainment, or the enjoyment or business of the Owner's employees, trustees, agents, clients, or customers shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. Nothing herein shall be construed to prohibit or prevent Declarant or any builder of residences on the Property from using any Lot owned by Declarant or such builder for the purpose of carrying on business related to the development and sale of Lots and/or new homes on Lots.

If you have any questions, please do not hesitate to contact me.

Thank you!

Barbi D'Ambruoso
Community Association Manager for Dominion at Kennesaw
Homeside Properties
900 North Point Parkway
Suite 325
Alpharetta, GA 30005

STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

HOA MANAGEMENT APPROVAL E-MAIL CORRESPONDENCE

From: [Barbi D'Ambruoso](#)
To: [Albert Trevino](#)
Subject: Ali Jackson approval
Date: Thursday, September 7, 2023 11:52:08 AM
Attachments: [image001.png](#)
[image002.png](#)

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 morning Albert!
Please find below the agreement as discussed.

The Dominion at Kennesaw Board of Directors has approved the baking of cookies and goods at the home of Ali Jackson, located at 2800 Dominion Lane, Kennesaw, GA 30144 provided:

- All the proper permits and licenses are acquired
- There will not be any customer traffic

Should you have any questions, please do not hesitate to contact me.
Thank you!

Respectfully,

Barbi D'Ambruoso

Community Association Manager for Dominion at Kennesaw HOA

Homeside Properties - Associa® - *To bring positive impact and meaningful value to every community.*

678.297.9566 (Office) | 678.297.9491 (Fax) | 678.248.8852 (Direct)

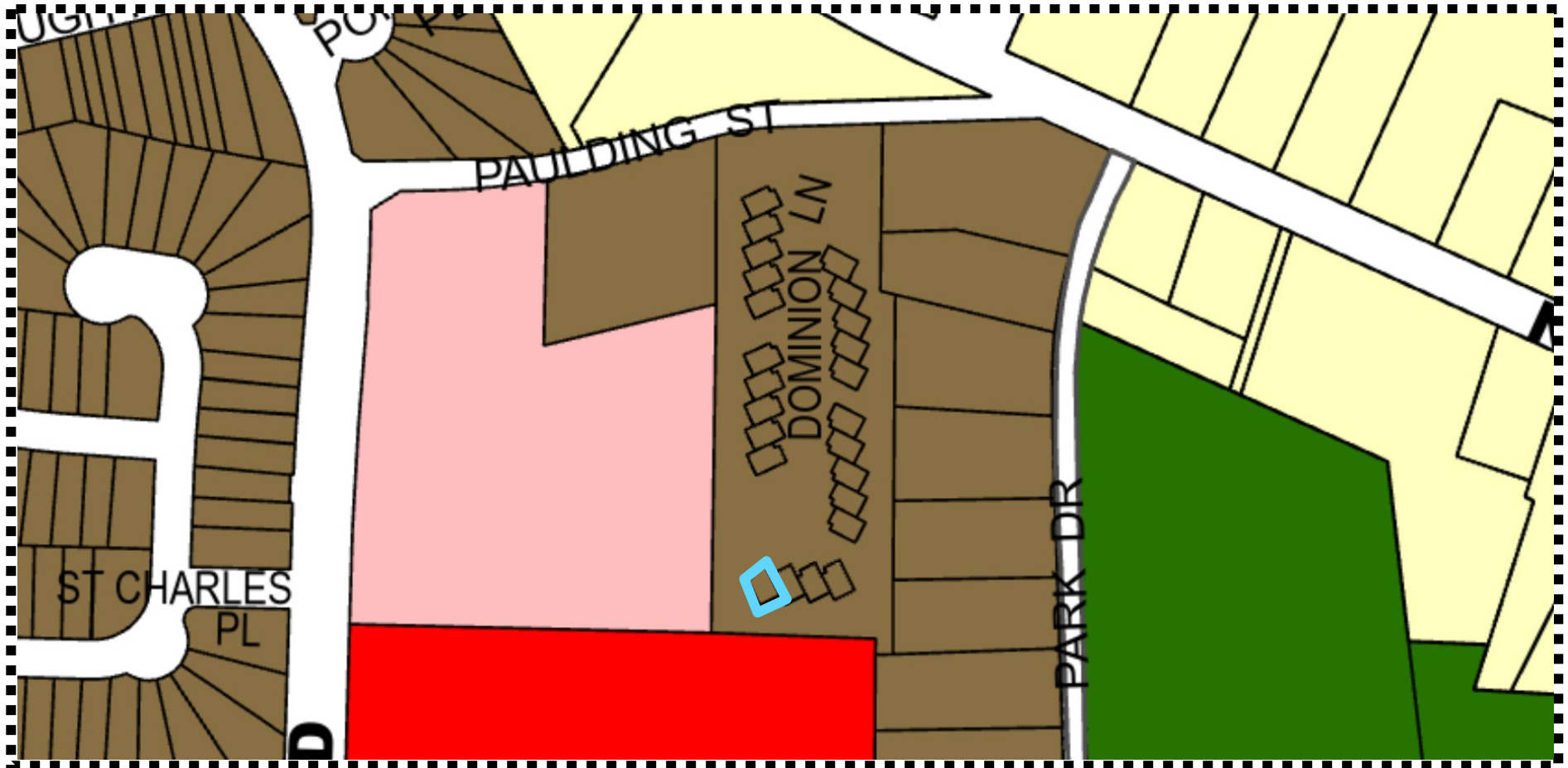
900 North Point Pkwy, Suite 325, Alpharetta, GA 30005

PLEASE NOTE: Our office is open, however **You must make an appointment to visit the office.**

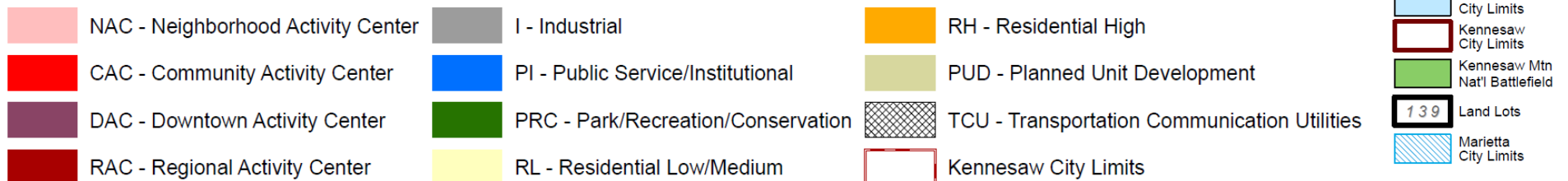
Hours are: Monday through Thursday, 8:30 AM to 5:00 PM, and Friday, 8:30 AM to 2:30 PM.

FUTURE LAND USE MAP

ZONING CASE #: LU2023-02



Future Land Use

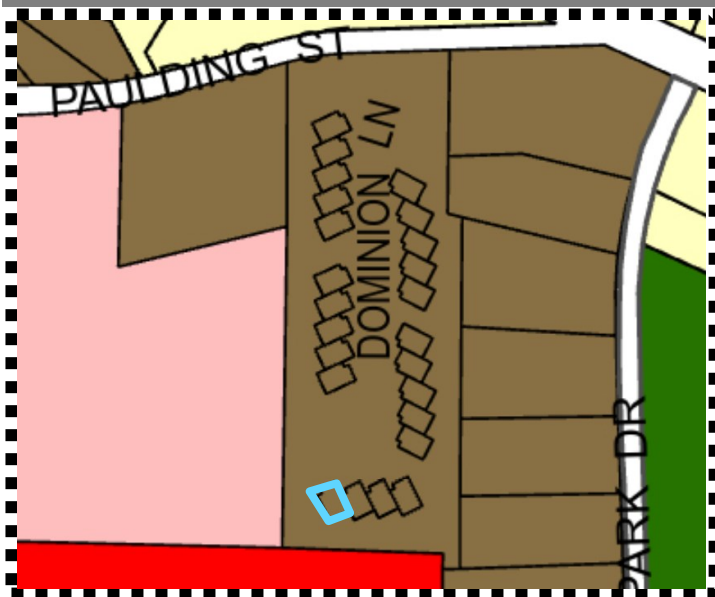


STAFF ANALYSIS REPORT



ZONING CASE #: LU2023-02

2022 COMPREHENSIVE PLAN UPDATE



LEGEND

	RH - Residential High
	RL - Residential Low/Medium
	PRC - Park/Recreation/Conservation
	NAC - Neighborhood Activity Center
	CAC - Community Activity Center

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.

FUTURE LAND USE CATEGORY

RH - Residential High

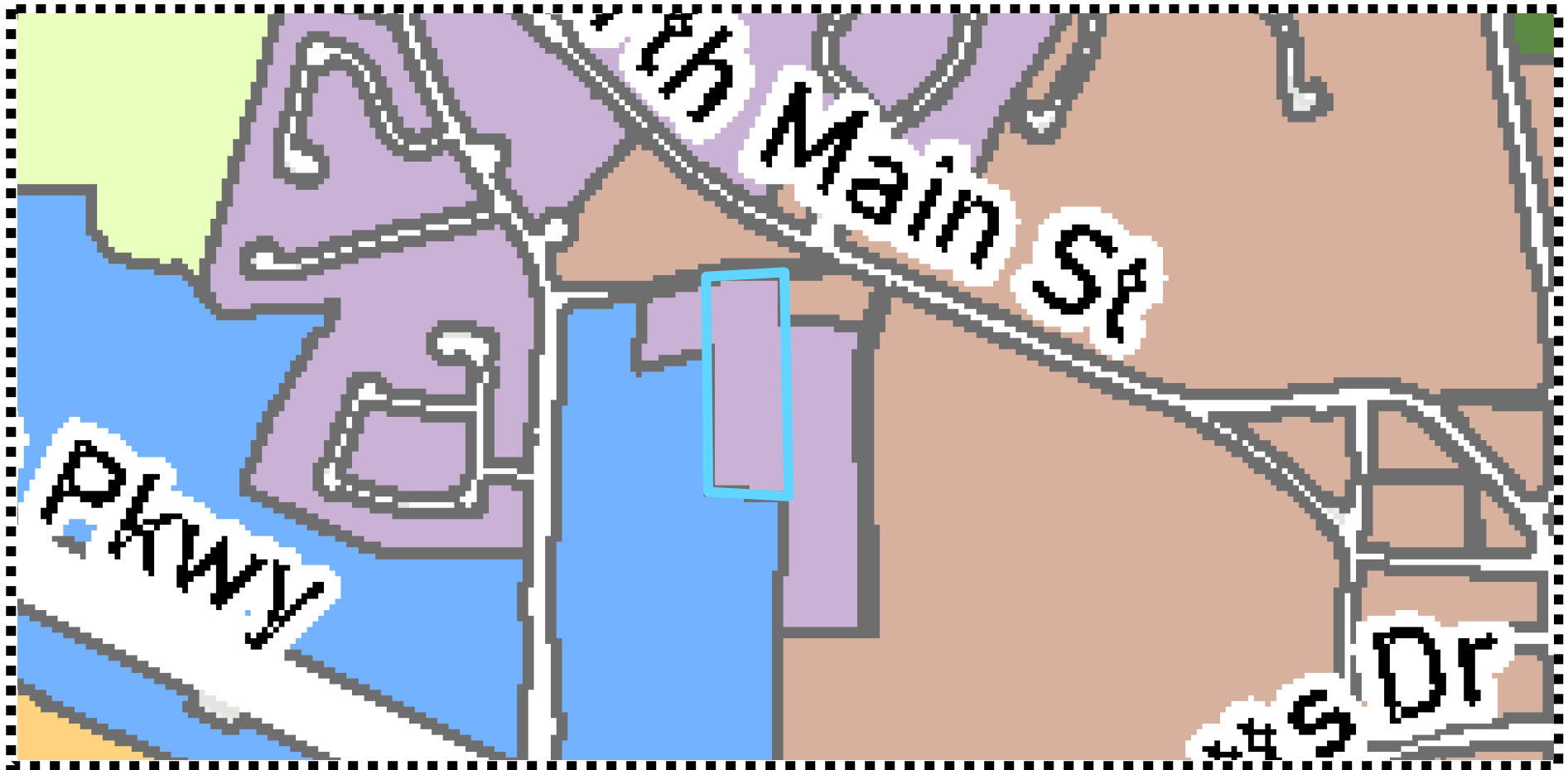
These are areas of residential land uses within the City. This may be single-family or multi-family housing. New development should reflect the character of the surrounding development.

Recommendations:

- Density: 4-16 units per acre
- Internal amenities
- Walkable; Connectivity to adjacent parcels
- Conservation of natural resources
- Percentage of housing dedicated to being affordable

COMPREHENSIVE PLAN AREAS MAP

ZONING CASE #: LU2023-02

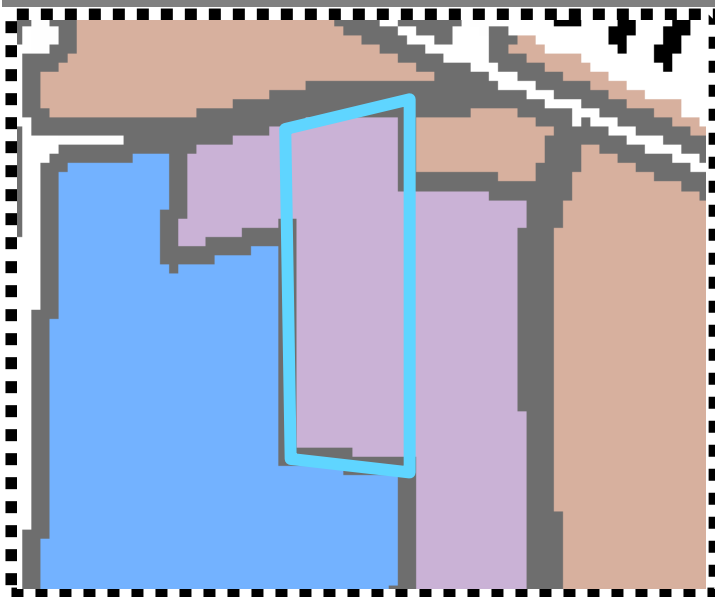


- | | | |
|---|--|--|
|  Barrett and Old 41 |  Historic Central Business District |  Moon Station Industrial Corridor |
|  Campus Living |  In-Town Living |  North Cherokee |
|  Cherokee Street Commercial Corridor |  Jiles and Baker |  Ridenour |
|  Cobb International Industrial Corridor |  Kennesaw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

STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

COMPREHENSIVE PLAN - AREAS



LEGEND

-  **Jiles and Baker**
-  **Historic Central Business District**
-  **Cobb Parkway Commercial Corridor**

COMPATIBLE FUTURE LAND USE

- Neighborhood Activity Center (NAC)
- Park/Recreation/Conservation (PRC)
- Planned Unit Development (PUD)
- 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.

JILES AND BAKER

The Jiles and Baker area is a unique blend of older and newer housing developments mixed with neighborhood-compatible retail. This is the largest of the residential character areas in land area and in population. Located in the northwest quadrant of the City, the area spans from Moon Station Road west to near the Acworth city limits and from Main Street north to Baker Road. Single-family detached residential is the predominant land use. Most of the homes are part of a neighborhood or planned unit developments. Notable public features of the area include the Kennesaw Community Trail and being adjacent to Swift-Cantrell Park.

STAFF ANALYSIS REPORT



ZONING CASE #: LU2023-02

TRANSPORTATION DATA

ROAD #1	AERIAL OF ROAD #1
Roadway Name Dominion Lane Roadway Classification Local Speed Limit 25-MPH Jurisdictional Control Inside City Limits - Privately Owned Street Minimum Right-of-Way Requirement 40-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 #: LU2023-02

ENVIRONMENTAL

Floodplain:

- ☐ Yes
☒ No
☐ Not Verified

Wetlands:

- ☐ Yes
☒ No
☐ Not Verified

Drainage Basin:

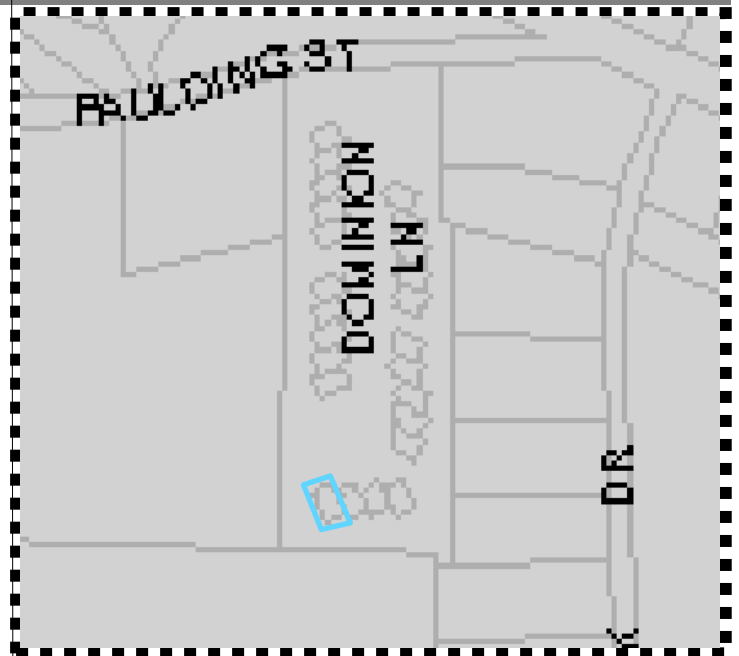
- ☒ None
☐ FEMA 100-year floodplain area
☐ Flood Damage Prevention Ordinance¹
☐ Project subject to Cobb County Damage Prevention Requirements
☐ Dam Breach Zone (Upstream)²
☐ Owner/Developer is responsible for obtaining any required wetland permits from the United States Army Corps of Engineers

Streams and Creeks:

- ☐ Metropolitan River Protection Area³
☐ Chattahoochee River Corridor Tributary Area⁴
☐ Georgia Erosion-Sediment Control Law and County Ordinance⁵
☐ 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: N/A

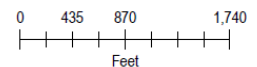
FEMA FLOOD ZONE MAP



Special Flood Hazard Areas

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-foot undisturbed buffer each side of waterway.
 4. Cobb County review (___-feet undisturbed buffer on each side)
 5. State of Georgia and Cobb County review.

STAFF ANALYSIS REPORT

ZONING CASE #: LU2023-02

PLANNING AND ZONING

Site Visit:

☐ Yes
☒ No

Staff Member:

Name: N/A
Date of Visit: N/A

Land Use Recommendation:

Home occupational use is compatible

Historic Preservation:

Not in a historic district

Cemetery Preservation:

No cemeteries on site

Required Parking:

2 spaces for single-family dwelling

DENSITY ANALYSIS

COMMERCIAL: Home kitchen square-footage only

RESIDENTIAL: None proposed

Proposed Parking:

Existing parking spaces

ZONING ADMINISTRATOR'S RECOMMENDATION: APPROVAL WITH CONDITIONS

The Zoning Administrator, Darryl Simmons, recommends **approval with conditions** of case #LU2023-02.

Conditions:

1. The land use permit is limited to, exclusive for and only valid for the current applicant and the life of this particular business and use, and it is not transferrable. Any changes would require additional review and approval.
2. There shall be no clients, customers or employees at this location. Nor shall there be any evidence of a home based business visible from the public right-of-way.
3. The land use permit is valid for 24-months after date of approval.

BASIS FOR ZONING ADMINISTRATOR'S RECOMMENDATION

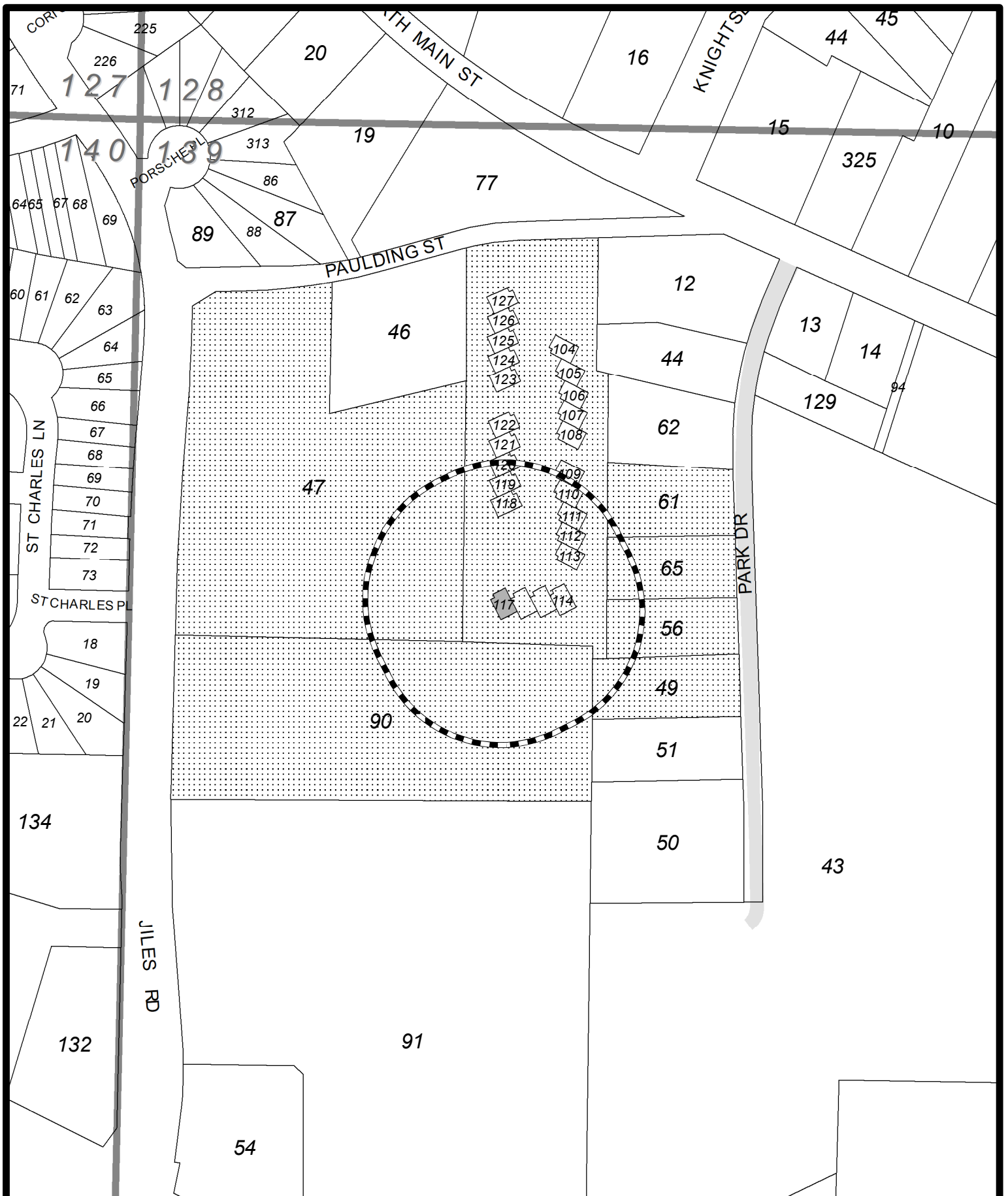
This land use permit request is for an in-home business to bake cookies and sell and distribute them to friends, family members and other customers off-site. The proposed activity would be performed entirely in the applicant's kitchen and they will use normal household equipment such as mixers, blenders and a kitchen oven. There will be no commercial equipment used. Each cookie design is hand piped. Cottage food operation is allowed within townhomes and would be a non-nuisance type activity for the adjacent property owners. The applicant shall follow all rules related to cottage food operators as defined within the Unified Development Code in Chapter 1, Section 1.09.02 and home occupational licenses found within Chapter 4, Section 4.04.05.

PLANNING COMMISSION RECOMMENDATION:

To be determined on October 4, 2023.

MAYOR AND COUNCIL DECISION:

To be determined on October 16, 2023.



 Subject Parcel
 200' Radius
 Properties Notified

2800 Dominion Lane
Land Lot 139,
Tax Parcel 117

LU2023-02
200' PROPERTY NOTIFICATION

CITY OF KENNESAW
 PLANNING & ZONING DEPT.
 770-590-8268
Derek Eastwood
 MAYOR
Lee Murray
 CITY CLERK

Date: 8/22/2023
 LU2023-02 Notification Map

 1" = 200'

Tax Parcel - 20013901110

CAMPBELL DAVID B
2619 SANDY PLAINS RD
MARIETTA GA 30066

Tax Parcel - 20013900650

MORTON DEBORAH & MORTON WALLACE D JR
5145 ORTEGA TRL NW
ACWORTH GA 30101

Tax Parcel - 20013901090

THOMAS MARIA KAY & THOMAS STEVEN JOHN
336 SUMMER CREEK DR
DALLAS GA 30157

Tax Parcel - 20013901200

KELLY SHERI D
2808 DOMINION LN NW
KENNESAW GA 30144

Tax Parcel - 20013901130

SILVA MITZI Y MANZO
2799 DOMINION LN NW
KENNESAW GA 30144

Tax Parcel - 20013901100

MCAFEE TIPHANIE & BRENDA JOYCE
2805 DOMINION LN
KENNESAW GA 30152

Tax Parcel - 20013901150

BURKES REMY Y
2795 DOMINION LN NW
KENNESAW GA 30144

Tax Parcel - 20013900610

THE TANOJO FAMILY LIVING TRUST
11 FINCH
LAKE FOREST CA 92630

Tax Parcel - 20013901160

RODRIGUEZ HECTOR F & PARRA MARTHA L
2802 DOMINION LN NW
KENNESAW GA 30144

Tax Parcel - 20013901120

GONZALEZ EMILIO
2801 DOMINION LN
KENNESAW GA 30144

Tax Parcel - 20013901140

MORRIS KEITH S
2797 DOMINION LN
KENNESAW GA 30144

Tax Parcel - 20013901180

RANDALL ROBERT IV
9024 ENDICOTT PL
LORTON VA 20079

Tax Parcel - 20013900470

KENNESAW BG PROPCO LLC C/O BLUEGRASS
RE HOLDINGS LLC
330 N WABASH AVE SUITE 3700
CHICAGO IL 60611

Tax Parcel - 20013900900

SAFFARI INVESTMENT LLC
2750 JILES RD STE 100
KENNEAW GA 30144

Tax Parcel - 20013900560

WILLIAMS KENNETH F II
3561 WENNINGTON TRACE 26
ALPHARETTA GA 30004

Tax Parcel - 20013900490

ROSENBAUER TODD
2519 PARK DR NW
KENNESAW GA 30144

Tax Parcel - 20013901280

DOMINION AT KENNESAW HOA INC
117 TOWNELAKE PKWY STE 300
WOODSTOCK GA 30188

Tax Parcel - 20013901190

ELLISON RENEE
2806 DOMINION LN NW
KENNESAW GA 30144

the purpose of examination and inspection by the public.

9:8,15,22-2023

MDJ-7240

GPN-16

City of Kennesaw

Land Use Permit Request

Notice is hereby given that the City of Kennesaw shall hold a public hearing to give consideration for a land use permit request submitted by Ali Jackson. Said request is to obtain a home occupational business license to allow for the baking and selling of cookies at 2800 Dominion Lane. Property consists of 0.03 +/- acres, lies in Land Lot 139, Tax Parcel 117 and is zoned RM-8 (Multi-Family Residential 8 Units per Acre).

Said meetings shall be held before the Planning Commission on October 4, 2023 at 6:30 P.M. and the Mayor and Council will hold a public hearing on October 16, 2023, at 6:30 P.M. 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 and you can access the meeting via the following link: <https://www.facebook.com/City-ofKennesaw/>

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

9:15-2023



**CITY OF KENNESAW
LAND USE NOTICE**

APPLICATION # **LU 2023-02**

PURPOSE Land use permit for home occupation license

DATE OF PUBLIC MEETING: **10/4/2023** TIME: **6:30PM**

DATE OF PUBLIC MEETING: **10/16/2023** TIME: **6:30PM**

PLACE: **CITY HALL KENNESAW, GA**

Due to the priority for public health and safety, the City of Kennesaw will implement a public meeting protocol - system for community participation in compliance to social distancing protocol. For specific public meeting guidelines and access to all application information please visit our website

HTTP://WWW.KENNESAW-GA.GOV

FOR FURTHER INFORMATION PLEASE CALL:
PLANNING AND ZONING DEPARTMENT 770-590-8268

09.19.2023 09:12

**MINUTES OF PLANNING COMMISSION MEETING
CITY OF KENNESAW
Council Chambers
October 4, 2023
6:30 PM**

1. Call to Order / Roll Call

- Meeting called to order at 6:30 p.m. by Don Bergwall.
- Roll Call: Phillip Jackson, Todd Vande Zande, Trey Bodenhamer, and Carolyn Greenall
- Absent: Rebecca Patterson and Lacey Ragus
- Staff present: Darryl Simmons (Zoning Administrator) and Natalie Faustine (Community Development Administrative Assistant)
- Applicants present: Mark Jackson (Representing applicant Ali Jackson)

2. Announcements

- A. This public meeting is being conducted via the use of real-time telephonic technology, allowing the public simultaneous access to the public meeting. The meeting may be accessed using Facebook Live via the following link: [www.Facebook.com/City of Kennesaw/](https://www.facebook.com/CityofKennesaw/). However, comments made on Facebook Live will not be visible by City staff. If you would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 p.m. the night of the regular meeting. Your comment will be read aloud or grouped into categories for the record. All interested parties may attend the meeting in person with limited seating available at the City Hall Council Chambers and the Ben Robertson Community Center, if needed. Please note that the Planning Commission serves as an advisory board that makes recommendations to the Mayor and Council unless otherwise noted.
- B. Pending zoning applications may be viewed on an interactive map via the Planning & Zoning webpage or using the following link: <https://arcg.is/1q1ubX0>.
- C. New business items on this agenda will be heard by the Mayor and Council on October 16th, 2023.

3. Approval of the Meeting Minutes

- A. Meeting minutes from September 6th, 2023

- Motion to approve the September 9, 2022 Meeting Minutes by Commissioner Greenall.
- Second the motion by Commissioner Jackson.
- **Approval forwarded with the vote totaling 3-0. Commissioner Bodenhamer abstains.**

4. New Business

A. Consideration to approve a Land Use Permit application for the property located at 2800 Dominion Ln submitted by applicant Ali Jackson. Case #LU2023-02

- Chairman Bergwall introduces the first new business item.
- Mr. Darryl Simmons comes to the podium and states “This land use application submitted by Ali Jackson for the residential occupancy for a home-based business that is primarily for the creation and baking of cookies using the kitchen that’s located within the residential unit at the subject location. The existing building square footage is 17,140 square feet as per our ordinance is required to have for a land use permit. The different examples of the baked cookies that would be created at the location of the applicant can be seen in the staff analysis, provided by the applicant. The applicant also submitted photos showing the area that will be used, which is the kitchen in the townhouse unit, as well as the regular kitchen noncommercial grade equipment used to create these cookies. They also submitted the floor plan or a schematic showing the location of the kitchen and the area where the preparation would be conducted. You should have two documents in your packet, one is a letter from the Dominion of Kennesaw HOA board as well as a detailed e-mail which spells out the board directors approving the baking goods and cookies at 2800 Dominion Lane. The location again is an established townhome community located off of Paulding, which connects Jiles Road and N Main St. Dominion Lane is the main drive through the development.”
- Mr. Simmons proceeds with staff recommendation “we hereby recommend approval of the land use application for a period of 24 months with the following three conditions that shall be stated for the record. 1. The land use permit is limited to exclusive for and only ballot for the current applicant and the life of this particular business in use, and it is not transferable. Any changes would require additional review and approval by the City of Kennesaw. 2. There shall be no clients, customers or employees at this location, nor shall there be any evidence of a home based business visible from the public right-of-way. 3. The land use permit is valid for 24 months after the date of approval. Those are the three conditions by planning and zoning staff. We recommend approval, and if there's any questions or staff will be happy to answer them during this proceeding.”
- Chairman Bergwall invites the applicant to the podium.
- Mr. Mark Jackson (representative of applicant Ali Jackson) states that the only

business that would occur in the property of interest would be part-time decorating the cookies, as they are baked elsewhere. He states their advertising is limited so the customer base is small. All of the cookies are delivered, so there will be no traffic or obvious evidence that was decorating and selling cookies.

- Chairman Bergwall opens the floor for public comment.
- Mr. Emilio Gonzalez (2801 Dominion Ln) goes to the podium and explains that he is against changing the classification of the neighborhood because of his concerns regarding limited parking and the future of the neighborhood.
- Chairman Bergwall asks him to clarify his main concerns.
- Mr. Gonzalez claims he is concerned about the neighborhood becoming more commercial.
- Chairman Bergwall acknowledges his concerns and asks if anyone else has comments.
- Dr. Barry Leath (2808 Dominion Ln) comes to the podium and states "Good evening everyone, my name is Doctor Barry Leath and I'm a resident in the area. I think that the proposal presented really wasn't disseminated throughout the Community properly by the HOA. I just looked and saw where they went ahead and approved it, but there was never a meeting conducted by or invitation to a meeting prior to this being presented to the Commissioners, so I feel blindsided by the fact that, OK, the HOA is conducting business and making decisions, but no one in the Community was properly informed of their approval of this action. Truly, I have nothing against my neighbor. She's wonderful. It absolutely has nothing to do with her. It's the protocol that wasn't followed, or the protocol that you would expect from an HOA. Whenever we have other situations in the Community, we go to the HOA and they and they govern, and I mean strongly govern how we conduct our business in there, like to eliminate parking for the residents. They go out and paint red areas where you cannot even park in front of your own home. To say that this is treated so cavalier and just with open arms is really a huge conflict, and I would ask that the commission tables the item until the HOA comes back and informs us and allows us to speak on it, as opposed to just going ahead and approving it without consulting the community."
- Chairman Bergwall asks if it was the management association or the board of directors of the HOA that provided the approval and Dr. Leath claims that he believes it was the property management company, but the property management is responsible for communicating with the president of the board of directors of the HOA.
- Chairman Bergwall explains "Generally with an HOA, there are covenants, bylaws, and any other design standards, or rules and regulations that are the governing documents for the HOA. As long as the board has felt that they are in compliance with those, then they can make the approval. It doesn't require a vote of the entire community. Generally only things like a change to the bylaws or covenants would require the whole community to vote, and those require a 2/3 majority. If the management company made the approval without consulting the HOA, then either they were delegated to or based their review on the covenants and bylaws. That I guess maybe is an unknown at this point."
- Chairman Bergwall acknowledges Dr. Leath's concerns and asks if there are any

more comments.

- Renee Ellison (2806 Dominion Ln) comes to the podium and explains that she objects the land use permit because she is concerned that the lot will be considered commercial, which may increase the taxes in the community. She also notes that other people are cooking commercially in the neighborhood and it is a fire hazard.
- Chairman Bergwall responds that would be a separate issue of concern and should be addressed.
- Ms. Ellison goes on to explain that she believes if we give this house the permit, the other houses will too and it will be a continuous effect.
- Chairman Bergwall clarifies "For right now, let's say that every application that is made is an individual consideration for the request made by that individual for the particular type of activity that they're going to do. Now, if this individual was saying I'm going to be roasting chickens out in the driveway, which could be considered nuisance to the community because of smoke and smell and all that. Sort of thing, you know. This is confined to the kitchen area. And it even sounds like they're not even baking the cookies there. They're just decorating the cookies there."
- Ms. Ellison asks if her taxes will increase since there will be commercial activity.
- Chairman Bergwall responds they will not, because this is a land use permit in a multifamily townhouse area.
- Mr. Simmons takes the podium to further answer the questions raised. He explains that the property in question is residentially zoned, and the land use permit is only for a limited period of time for a specific activity that has to be approved by Mayor and Council. He noted some of the other concerns the citizens voiced, and explained that those will have to be handled individually. He restates the terms of this land use permit and adds that if any conditions are violated the city has the right to void the business license.
- Commissioner Bodenhamer clarifies that this is a land use permit, not an application for rezoning.
- Chairman Bergwall adds that comments regarding traffic and parking are covered in the stipulations that go with the permit.
- Mr. Simmons advises that the issues with the internal protocol for the neighborhood should be addressed internally.
- Chairman Bergwall responds that approval by the HOA board or Management Company is outside our jurisdiction. All comments by citizens were addressed by the stipulations.
- Chairman Bergwall opens the floor for comment.
- Mr. Gonzalez comes to the podium and asks that if there is no stipulation in the bylaws of Dominion in terms of trying to get a permit as a business and the HOA approved it, is it right for the Commission to approve something that's not in the community bylaws. He goes on to claim that the citizens of the community should have the opportunity to examine and discuss the case before the commission makes a decision.
- Chairman Bergwall reiterates that is an internal issue.

- Mr. Gonzalez asks if this permit will be approved on October 16th at the Mayor and Council meeting.
- Chairman Bergwall advises “We serve as a body that makes recommendations to the mayor and the City Council. You'll have your opportunity to go to the City Council meeting and register your same concerns with the mayor and City Council. They could agree or they might disagree with whatever recommendation that we would make. I have probably read covenants and bylaws from over 100 communities in the experience that I've had here in Georgia and in Ohio on planning commissions and I have not seen one that says that you can't work from home. Most say that you can't work from home if it is noticeable to the community as far as having employees come to your house, having large amounts of material coming in and out of your house, or having commercial vehicles that you can't get in your garage that are left in the driveway. All of those types of things are covered, but for somebody to just work out of their house and that be transparent to the community, I've never seen covenants or bylaws that restrict that.”
- Mr. Gonzalez and Chairman Bergwall discuss the Commission's obligation on the matter and the responsibilities and interests of the HOA.
- Commissioner Bergwall asks if there are any other comments.
- Mr. Jackson comes back to the podium to claim his daughter, the applicant, is just trying to do the right thing and restates her purpose. He ensures the commission that the business is transparent from the outside of the home and it will not generate traffic.
- Sheri Kelly Leath (2802 Dominion Ln) comes to the podium and requests more transparency in the communication from the city regarding the stipulations and conditions. She states that she felt the only way to get additional information was to attend the Commission meeting.
- Mr. Simmons responds that everything that was submitted to the City is available on our website, and recommends that the citizens present have a community meeting with their HOA and the management company. He reiterates that the applicant did her due diligence and followed the City's public notification process.
- Chairman Bergwall agrees that if there is something in the community management's bylaws that is different than the City's covenants, it should be brought to the Mayor and Council at the October 16th meeting.
- Chairman Bergwall opens the floor for comments by commissioners.
- Commissioner Jackson comments that Mr. Simmons did a great job with the stipulations, and points out the stipulation where the business cannot be noticeable from the street.
- Motion to approve the land use permit application by Commissioner Vande Zande with the following:
 - All staff conditions as outlined within the staff report.
- Second the motion by Commissioner Bodenhamer.
- Approval forwarded with the vote totaling 4-0. All in favor.

B. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 4 and 5. Case #MISC2023-08

- Chairman Bergwall introduces the next agenda item.
- Mr. Simmons informs the Commission that the intent of this code amendment is to add clarification and more definition and depth to the home occupation ordinance.
- Mr. Simmons gives further detail on the item, explaining “To start off, there are two basic types. There's type A and Type B home occupation permits. Type A is only referred to as a limited home occupation, which is very limited to administrative office functions such as using your computer, filing, making calls, sending out correspondence, what you're doing at your home office. Type B is similar to the process of what we went through tonight, which is anything that is beyond a regular home office administration process, whether it's producing or putting together a product or creating something that's being consumed or will be sold to the general public. What we found is through review of our codes that post COVID a lot of folks decided that they want to work from home and we looked at our codes and we did not specifically define what we call a virtual office. A virtual office is a home office where you're using a computer and related accessories for business use.”
- Mr. Simmons outlines the notable changes to the general provisions and prohibited uses for all home occupation permits, including:
 1. Incorporating standards to not allow employees, customers, or clients at the property and to limit the delivery of goods and services that is beyond what is normally done in a residential area.
 2. Clarifying the responsibilities of the Planning and Zoning department, the Business License Department and Code Enforcement
 3. Address potential nuisances.
 4. Clarify that only people living in the dwelling can be employed in such occupation, and that all such use must be conducted within the dwelling.
- Mr. Simmons continues to explain the changes to section D, specific criteria for type A home occupations,
 1. More details on the allowance of delivery personnel for business use.
 2. Only one type A land use permit is allowed per dwelling in order to prohibit multiple businesses in one location.
- Mr. Simmons goes on to explain the changes to section E, specific criteria for type B home occupations,
 1. Adding the public notification process that is used for rezoning and variances from Chapter 10 of the UDC
 2. Add more details on how business should be conducted in a residential area
 3. A 24 month time period was instated that requires re-application, re-advertisement, and another public hearing of the case.
- Mr. Simmons points out the checks and balances in this process in order to protect the integrity of the neighborhood. The standards for decisions were

added to the ordinance to ensure that the safety, health, welfare, and concerns of the surrounding neighborhood are considered in the decision making process. These standards include

1. parking and traffic considerations
 2. number of nonrelated employees
 3. Number of commercial and business deliveries
 4. The city's general presumption that residential neighborhoods should not allow non-compatible business uses, compatibility of the business use to the neighborhood
 5. Hours of operation
 6. Existing business uses in the vicinity
 7. Effect on property values of surrounding property, circumstances surrounding neighborhood complaints
 8. Intensity of the proposed business use
 9. Location of use within the neighborhood.
- Mr. Simmons clarifies that these standards do not limit the additional questions that the Planning Commission or Mayor and Council may raise through the proceeding
 - Mr. Simmons explains item H, which states that in order to address the matter of type A land use applications submitted from multifamily apartment complexes, the city staff sent letters to all of the property management companies in the city stating our intentions with this ordinance amendment. It is clearly stated that if an HOA or a property management company are against this type of use, either through their rental agreement or their conditions, that the city would not override that in order to preserve the property rights of the management company. Therefore, if we do not have a written agreement from the apartment complex we are not going to approve a home-based business.
 - Mr. Simmons states that the ordinance amendment has been reviewed by the city attorney and continues to recommend approval and states he is happy to answer any questions.
 - Chairman Bergwall responds asking "On page two, under item D1, it says no clients, nonresident employees, customers, or delivery personnel are allowed on the premises. And how is it that you're going to be able to distinguish delivery personnel as relative to the business versus relative to the personal needs of the occupant of the residence?" He also points out item E, which states no deliveries of supplies for the use of the home occupation or pickups of the items produced. He acknowledges the importance of pickups not being allowed, but again he points out that it is difficult for the city to determine what deliveries are for personal use and which are for business.
 - Mr. Simmons responds that what we would determine as a gauge is not necessarily what is inside the packages, but rather the intensity and the capacity or amount of deliveries and what we feel is excess to a residential home.
 - Chairman Bergwall and Mr. Simmons discuss how the code could be more explicit, but the business license manager and their staff as well as zoning code enforcement do periodic inspections of every business, so it will not go unchecked.

- Chairman Bergwall states “it seems like that needs a little bit of rewording to be enforceable.” And continues that section E item 6 states that customers may only visit the site between the hours of 8 am and 8 pm, but this contradicts some previous ordinance items.
- Mr. Simmons clarifies that section refers to home occupation uses for people who require clients to come to their property by appointment such as counselors or tutors. Chairman Bergwall requests the code to be clearer on that matter. Mr. Simmons responds that they tried to make the code more generalized so it could apply to everyone, but he will look into the issue further with the city attorney.
- Mr. Simmons and Chairman Bergwall converse about the difference between type A and type B home occupation for customer visitation.
- Chairman Bergwall opens the floor for public comment.
- Mary Whitlock (2927 Larry St) asks about the limitations of equipment storage under this ordinance.
- Mr. Simmons answers that if it is a type A home occupation it is recommended that the business owner keeps storage off-site. In the case of type B home occupations, questions regarding the appropriateness and safety of equipment storage at the home would be addressed in the public hearings on the case.
- Commissioner Jackson asked Mr. Simmons about how this will be applied to people who are working from home for an existing company, and Mr. Simmons responds that the home occupation permit is only necessary for people who are operating an independent business from their home.
- Commissioner Bodenhamer reiterates the intent of the amendment.
- Motion to approve the ordinance by Commissioner Bodenhamer with the following:
 - Understanding of potential changes to items E2 and E6.
- Second the motion by Commissioner Greenall.
- **Approval forwarded with the vote totaling 4-0. All in favor.**

5. Staff Comment

6. Adjourn

- Adjourned at 7:43 p.m. by Chairman Bergwall



Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: October 16, 2023

TITLE: Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 4 and 5. Case #MISC2023-08

Summary:

Said request is to amend the Kennesaw Code of Ordinances by amending Appendix A "Unified Development Code," Chapter 4 "Site Design Standards" Section 4.04.05 "Standards for Home Occupations," Chapter 5 :Standards for Accessory and Temporary Uses" Section 5.03.05 "Permit Required" and Section 5.03.18 "Restrictions Based on Location."

Recommendation:

The Zoning Administrator recommends approval of the text amendments.

Fiscal Impact:

Attachments:

1. ORDINANCE - Ch 4 Code Amendment
2. Proposed Ordinance - Revised
3. Public notification
4. 10-04-23 Planning Commission Draft Minutes

**CITY OF KENNESAW,
GEORGIA**

ORDINANCE NO. 2023-, 2023

**AN ORDINANCE TO AMEND THE KENNESAW CODE OF ORDINANCES
BY AMENDING APPENDIX A “UNIFIED DEVELOPMENT CODE,” CHAPTER 4
“SITE DESIGN STANDARDS” SECTION 4.04.05 “STANDARDS FOR HOME
OCCUPATIONS”**

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

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

WHEREAS, the Kennesaw Code of Ordinances of the City of Kennesaw, Georgia Appendix A “Unified Development Code,” Chapter 4 “Site Design Standards,” will be amended adding those words that are underlined, to read as follows:

SECTION 4.04.05 STANDARDS FOR HOME OCCUPATIONS

A. *Intent and Purpose.* Certain occupational uses termed "home occupations" are allowed in dwelling units on the basis that such uses are incidental to the use of the premises as a residence. They have special regulations that apply to ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The regulations ensure that the accessory home occupation remains subordinate to the residential use and the residential viability of the dwelling is maintained. The regulations recognize that many types of jobs can be done in a home with little or no effect on the surrounding neighborhood and, as such, may be permitted provided such uses:

1. Are incidental to the use of the premises as a residence;
2. Are conducted within the bona fide residence of the principal practitioner;
3. Are compatible with residential uses;
4. Are limited in extent and do not detract from the residential character of the neighborhood.

B. *Definition of Accessory Home Occupations.* There are 2 types of home occupations, Type A and Type B. Permit requirements and uses allowed in each type vary and are allowed only if they comply with all of the requirements of this ordinance. Deviation from any standard requires approval of a land use permit from the City Council. For purposes of the section, Virtual Home Office means a single computer and related accessories dedicated to business use.

1. In Type A home occupations, resident(s) use their home as a Virtual Home Office only. . Employees, clients, customers, or delivery personnel are prohibited from coming to the residence.
2. In Type B home occupations resident(s) use their home for work, home office, sales, deliveries, or business mailing address which requires or results in an employee, consultant, agent, subcontractor, customer, or delivery personnel coming to the residence. Examples are counseling, tutoring, and certain office uses. Type B home occupations must obtain a special land use permit from the City Council due to their greater possible impact on the surrounding neighborhood as a result of individuals and visitors from outside the neighborhood coming to the property.

C. *General Provisions and Prohibited Uses.* All home occupations shall meet the following:

1. A home occupation shall be incidental and accessory to the use of a dwelling as a residence. No more than 750 square feet or 25% of the floor space of the dwelling unit, whichever is less (including attached garages), may be used for the occupation.
 2. There shall be no exterior evidence of the home occupation or alteration of the residence and/or accessory buildings to accommodate the home occupation. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting. Any alteration or addition which expands the floor area of the principal structure dedicated to the home occupation use shall void the existing business license and require a new business license be obtained, subject to property compliance verification by the Planning and Zoning Department. For Type B home occupations, a new public hearing must be held for the rights associated with the special land use permit to be reestablished.
 3. There shall be no outside operations or exterior storage of inventory or materials to be used in conjunction with a home occupation.
 4. Off-site employees of the resident shall not congregate on the premises for any purpose concerning the home occupation nor park their personal vehicles at the location.
 5. No article, product, or service used or sold in connection with such activity shall be other than those normally found on the premises.
 6. No more than 1 vehicle associated with the home occupation may be parked at the site. Such vehicle is limited to 1½-ton carrying capacity and must be used exclusively by the resident and parked on a valid improved surface.
 7. No use or activity may create a nuisance, including but not limited to, noise, dust, glare, vibration, smoke, smell, electrical interference or any fire hazard.
 8. All home occupations shall be subject to periodic inspections by the Business License Department or Code Enforcement.
 9. Any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, marine engines, lawn mowers, chain saws and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts is prohibited.
 10. Group instruction, assembly, or activity shall be prohibited.
 11. Accessory home occupations may not serve as headquarters or dispatch centers where employees come to the site and are dispatched to other locations.
 12. Such use shall be conducted entirely within the dwelling unit, and only persons living in the dwelling unit shall be employed in such occupation.
 13. The Business License Department must approve all business licenses which shall be recertified annually.
- D. *Specific Criteria for Type A Home Occupations.* In addition to the general criteria established in Subsection C., Type A home occupations are subject to the following restrictions:
1. No clients, nonresident employees, or customers are allowed on the premises.
 2. Deliveries in regard to the business shall be made to an off-site location.
 3. No signage regarding the home occupation is permitted on the property.

4. No advertisement shall be placed in any media (including flyers soliciting business) containing the address of the property.
 5. No more than one Type A home occupation per dwelling is permitted.
 6. Type A home occupation applications shall be submitted to the Business License Manager for approval. The denial of an application by the Business License Manager may be appealed to the City Council.
- E. *Specific Criteria for Type B Home Occupations.* In addition to the general criteria established in Subsection C., Type B home occupations are subject to the following restrictions:
1. A Land Use Permit must be obtained from City Council following a public hearing, which shall follow the same procedures and fees set forth in Chapter 10 of the UDC and be advertised in the same manner as applications for rezoning and that public hearing will be held thereon in the same manner as application for rezoning are so conducted. City Council shall consider the desires of the immediate neighborhood, the nature of the proposed business, the availability of parking, traffic generation and any other issue that may detract from the residential character of the area and property values.
 2. No more than one Type B home occupation per dwelling is permitted.
 3. Uses that may be permitted as Type B home occupations include those in which only the occupants of the dwelling and 1 additional employee or consultant or agent or subcontractor shall be authorized to work on the premises. Visitation by clients in conjunction with a home occupation shall be limited to 2 per week; provided however, that the following exception is made for purposes of meeting overriding public goals of education:

Tutoring or the instruction of music, dance, arts and crafts and similar subjects, limited to 2 students in home at 1 time.
 4. The following uses are specifically prohibited as Type B home occupations (list not all-inclusive): auto sales or auto repair; restaurants or any preparation of food or drink; animal hospitals; veterinary clinics; kennels or the keeping of animals; funeral homes; retail or wholesale shops; personal service establishments; special events facilities; lodging services; or day care.
 5. Customers may visit the site only between the hours of 8:00 a.m. and 8:00 p.m.
 6. In no event shall the Mayor and City Council grant a land use permit for a period in excess of 24 months except on re-application, re-advertisement, and public hearing.
- F. Standards for decision. The Mayor and City Council shall consider, at a minimum, the following in its determination of whether or not to grant a land use permit:
1. Safety, health, welfare, and moral concerns involving the surrounding neighborhood;
 2. Parking and traffic considerations;
 3. Number of nonrelated employees;
 4. Number of commercial and business deliveries;
 5. The city's general presumption that residential neighborhoods should not allow non-compatible business uses;
 6. Compatibility of the business use to the neighborhood;
 7. Hours of operation;

8. Existing business uses in the vicinity;
 9. Effect on property values of surrounding property;
 10. Circumstances surrounding neighborhood complaints;
 11. Intensity of the proposed business use; and
 12. Location of use within the neighborhood.
- G. A land use permit is a privilege permit and may be revoked by the Mayor and City Council following notice and hearing should the use be deemed to be a nuisance or create a safety hazard.
- H. A land use permit does not guarantee that the proposed use by the applicant complies with homeowners associations' declarations and covenants or lease agreements. Said covenants or lease agreements may contain additional provisions that limit the applicant's ability to operate a home occupation. It shall be the sole duty of the applicant to determine whether said declaration or agreements allow a home occupation. This section is not intended to interfere with any contractual provision contained in said covenants or agreements.

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

ATTEST:

CITY OF KENNESAW:

Lea Alvarez, City Clerk

Derek Easterling, Mayor

4.04.05712.04 Standards for Hhome occupations.

- A. *Intent and Purpose.* Certain occupational uses termed "home occupations" are allowed in dwelling units on the basis that such uses are incidental to the use of the premises as a residence. They have special regulations that apply to ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The regulations ensure that the accessory home occupation remains subordinate to the residential use and the residential viability of the dwelling is maintained. The regulations recognize that many types of jobs can be done in a home with little or no effect on the surrounding neighborhood and, as such, may be permitted provided such uses:
1. Are incidental to the use of the premises as a residence;
 2. Are conducted within the bona fide residence of the principal practitioner;
 3. Are compatible with residential uses;
 4. Are limited in extent and do not detract from the residential character of the neighborhood.
- B. *Definition of Accessory Home Occupations.* There are 2 types of home occupations, Type A and Type B. Permit requirements and uses allowed in each type vary and are allowed only if they comply with all of the requirements of this ordinance. Deviation from any standard requires ~~a variance~~ approval of a land use permit from the City Council. For purposes of the section, Virtual Home Office means a single computer and related accessories dedicated to business use.
1. In Type A home occupations, resident(s) use their home as a ~~place of work, home office~~ Virtual Home Office only. ~~or business mailing address.~~ Employees, clients, ~~or customers,~~ or delivery personnel are prohibited from coming to the ~~residence~~ site. ~~Examples include artists, crafts people, writers and consultants.~~
 2. In Type B home occupations resident(s) use their home for work, home office, sales, deliveries, or business mailing address which requires or results in ~~either an employee, or consultant, or agent, or subcontractor, or customer,~~ or delivery personnel coming to the ~~site~~ residence. Examples are counseling, tutoring, and certain office uses. Type B home occupations must obtain a special land use permit from the City Council due to their greater possible impact on the surrounding neighborhood as a result of individuals and visitors from outside the neighborhood coming to the property.
- C. *General Provisions and Prohibited Uses.* All home occupations shall meet the following:
1. A home occupation shall be incidental and accessory to the use of a dwelling as a residence. No more than 750 square feet, or 25% of the floor space of the dwelling unit, whichever is less (including attached garages), may be used for the occupation.
 2. There shall be no exterior evidence of the home occupation or alteration of the residence and/or accessory buildings to accommodate the home occupation. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting. Any alteration or addition which expands the floor area of the principal structure dedicated to the home occupation use shall void the existing business license and require a new business license be obtained, subject to property compliance verification by the ~~Department of Development Services~~ Planning and Zoning Department. For Type B home occupations, a new public hearing must be held for the rights associated with the special land use permit to be reestablished.
 3. There shall be no outside operations or exterior storage of inventory or materials to be used in conjunction with a home occupation.
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4. Off-site employees of the resident shall not congregate on the premises for any purpose concerning the home occupation nor park their personal vehicles at the location.
 5. No article, product, or service used or sold in connection with such activity shall be other than those normally found on the premises.
 6. No more than 1 vehicle associated with the home occupation may be parked at the site. Such vehicle is limited to 1½-ton carrying capacity and must be used exclusively by the resident and parked on a valid improved surface.
 7. No use or activity may create a nuisance, including but not limited to, noise, dust, glare, vibration, smoke, smell, electrical interference or any fire hazard.
 8. All home occupations shall be subject to periodic inspections by the ~~Department of Development Services~~ Business License Department or Code Enforcement.
 9. Any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, marine engines, lawn mowers, chain saws and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts is prohibited.
 10. Group instruction, assembly, or activity shall be prohibited.
 11. Accessory home occupations may not serve as headquarters or dispatch centers where employees come to the site and are dispatched to other locations.
 12. Such use shall be conducted entirely within the dwelling unit, and only persons living in the dwelling unit shall be employed in such occupation.
 13. ~~The Business License Department of Development Services~~ must approve all business licenses which shall be recertified annually.
- D. *Specific Criteria for Type A Home Occupations.* In addition to the general criteria established in Subsection C., Type A home occupations are subject to the following restrictions:
1. No clients, nonresident employees, ~~or~~ or customers, ~~or delivery personnel~~ are allowed on the premises.
 2. ~~Pickups from and deliveries to the site in regard to the business shall be restricted to vehicles which have no more than 2 axles and shall be restricted to no more than 2 pickups or deliveries per day between the hours of 8:00 a.m. and 6:00 p.m. Deliveries in regard to the business shall be made to an off-site location.~~
 3. No signage regarding the home occupation is permitted on the property.
 4. No advertisement shall be placed in any media (including flyers soliciting business) containing the address of the property.
 5. No more than one Type A home occupation per dwelling is permitted.
 6. Type A home occupation applications shall be submitted to the Business License Manager for approval. The denial of an application by the Business License Manager may be appealed to the City Council.
- E. *Specific Criteria for Type B Home Occupations.* In addition to the general criteria established in Subsection C., Type B home occupations are subject to the following restrictions:
1. A ~~Special~~ Land Use Permit must be obtained from City Council following a public hearing, which shall follow the same procedures and fees set forth in ~~Division 720~~ Chapter 10 of the UDC and be advertised in the same manner as applications for rezoning and that public hearing will be held thereon in the
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same manner as application for rezoning are so conducted. City Council shall consider the desires of the immediate neighborhood, the nature of the proposed business, the availability of parking, traffic generation and any other issue that may detract from the residential character of the area and property values.

~~2. No Type B home occupation may be established in districts zoned for multifamily residential purposes.~~

~~2. There shall be no deliveries of supplies for use in the home occupation or pickups of the items produced by the occupant by commercial carriers.~~

~~23.~~ No more than one Type B home occupation per dwelling is permitted.

~~34.~~ Uses that may be permitted as Type B home occupations include those in which only the occupants of the dwelling and 1 additional employee or consultant or agent or subcontractor shall be authorized to work on the premises. Visitation by clients in conjunction with a home occupation shall be limited to 2 per week; provided however, that the following exception is made for purposes of meeting overriding public goals of education:

Tutoring or the instruction of music, dance, arts and crafts and similar subjects, limited to 2 students in home at 1 time.

~~45.~~ The following uses are specifically prohibited as Type B home occupations (list not all-inclusive): auto sales or auto repair; restaurants or any preparation of food or drink; animal hospitals; veterinary clinics; kennels or the keeping of animals; funeral homes; retail or wholesale shops; personal service establishments; special events facilities; lodging services; or day care.

~~56.~~ Customers may visit the site only between the hours of 8:00 a.m. and 8:00 p.m.

~~67.~~ In no event shall the Mayor and City Council grant a land use permit for a period in excess of 24 months except on re-application, re-advertisement, and public hearing.

~~7.~~ The applicant for any proposed Type B home occupation must provide city staff with a copy of the most recent recorded protective covenants applicable to the subject property. The applicant must submit a copy of the request to the homeowner's association, if any, and must provide a copy of the response, if any, to the city staff. The burden of proof shall be upon the applicant to show that the proposed use is allowed by the protective covenants; and

~~8.~~ If the proposed use clearly violates the subdivision covenants, staff shall have the authority to deny the application. The applicant may appeal the denial to City Council at the next regularly scheduled meeting, but such an appeal shall not require a public hearing. If Staff's decision is affirmed by City Council, the matter shall be concluded. If City Council reverses staff's decision, the matter would be placed on a subsequent City Council agenda for a full public hearing.

~~F.~~ Standards for decision. The Mayor and City Council shall consider, at a minimum, the following in its determination of whether or not to grant a land use permit:

~~1. Safety, health, welfare, and moral concerns involving the surrounding neighborhood;~~

~~2. Parking and traffic considerations;~~

~~3. Number of nonrelated employees;~~

~~4. Number of commercial and business deliveries;~~

~~5. The city's general presumption that residential neighborhoods should not allow non-compatible business uses;~~

~~6. Compatibility of the business use to the neighborhood;~~

~~7. Hours of operation;~~

~~8. Existing business uses in the vicinity;~~

~~9. Effect on property values of surrounding property;~~

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- 10. Circumstances surrounding neighborhood complaints;
 - 11. Intensity of the proposed business use; and
 - 12. Location of use within the neighborhood.

G. A land use permit is a privilege permit and may be revoked by the Mayor and City Council following notice and hearing should the use be deemed to be a nuisance or create a safety hazard.

H. A land use permit does not guarantee that the proposed use by the applicant complies with homeowner's associations declarations and covenants or lease agreements. Said covenants or lease agreements may contain additional provisions that limit the applicant's ability to operate a home occupation. It shall be the sole duty of the applicant to determine whether said declaration or agreements allow a home occupation. This section is not intended to interfere with any contractual provision contained in said covenants or agreements.

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**MINUTES OF PLANNING COMMISSION MEETING
CITY OF KENNESAW
Council Chambers
October 4, 2023
6:30 PM**

1. Call to Order / Roll Call

- Meeting called to order at 6:30 p.m. by Don Bergwall.
- Roll Call: Phillip Jackson, Todd Vande Zande, Trey Bodenhamer, and Carolyn Greenall
- Absent: Rebecca Patterson and Lacey Ragus
- Staff present: Darryl Simmons (Zoning Administrator) and Natalie Faustine (Community Development Administrative Assistant)
- Applicants present: Mark Jackson (Representing applicant Ali Jackson)

2. Announcements

- A. This public meeting is being conducted via the use of real-time telephonic technology, allowing the public simultaneous access to the public meeting. The meeting may be accessed using Facebook Live via the following link: [www.Facebook.com/City of Kennesaw/](https://www.facebook.com/CityofKennesaw/). However, comments made on Facebook Live will not be visible by City staff. If you would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 p.m. the night of the regular meeting. Your comment will be read aloud or grouped into categories for the record. All interested parties may attend the meeting in person with limited seating available at the City Hall Council Chambers and the Ben Robertson Community Center, if needed. Please note that the Planning Commission serves as an advisory board that makes recommendations to the Mayor and Council unless otherwise noted.
- B. Pending zoning applications may be viewed on an interactive map via the Planning & Zoning webpage or using the following link: <https://arcg.is/1q1ubX0>.
- C. New business items on this agenda will be heard by the Mayor and Council on October 16th, 2023.

3. Approval of the Meeting Minutes

- A. Meeting minutes from September 6th, 2023

- Motion to approve the September 9, 2022 Meeting Minutes by Commissioner Greenall.
- Second the motion by Commissioner Jackson.
- **Approval forwarded with the vote totaling 3-0. Commissioner Bodenhamer abstains.**

4. New Business

A. Consideration to approve a Land Use Permit application for the property located at 2800 Dominion Ln submitted by applicant Ali Jackson. Case #LU2023-02

- Chairman Bergwall introduces the first new business item.
- Mr. Darryl Simmons comes to the podium and states “This land use application submitted by Ali Jackson for the residential occupancy for a home-based business that is primarily for the creation and baking of cookies using the kitchen that’s located within the residential unit at the subject location. The existing building square footage is 17,140 square feet as per our ordinance is required to have for a land use permit. The different examples of the baked cookies that would be created at the location of the applicant can be seen in the staff analysis, provided by the applicant. The applicant also submitted photos showing the area that will be used, which is the kitchen in the townhouse unit, as well as the regular kitchen noncommercial grade equipment used to create these cookies. They also submitted the floor plan or a schematic showing the location of the kitchen and the area where the preparation would be conducted. You should have two documents in your packet, one is a letter from the Dominion of Kennesaw HOA board as well as a detailed e-mail which spells out the board directors approving the baking goods and cookies at 2800 Dominion Lane. The location again is an established townhome community located off of Paulding, which connects Jiles Road and N Main St. Dominion Lane is the main drive through the development.”
- Mr. Simmons proceeds with staff recommendation “we hereby recommend approval of the land use application for a period of 24 months with the following three conditions that shall be stated for the record. 1. The land use permit is limited to exclusive for and only ballot for the current applicant and the life of this particular business in use, and it is not transferable. Any changes would require additional review and approval by the City of Kennesaw. 2. There shall be no clients, customers or employees at this location, nor shall there be any evidence of a home based business visible from the public right-of-way. 3. The land use permit is valid for 24 months after the date of approval. Those are the three conditions by planning and zoning staff. We recommend approval, and if there's any questions or staff will be happy to answer them during this proceeding.”
- Chairman Bergwall invites the applicant to the podium.
- Mr. Mark Jackson (representative of applicant Ali Jackson) states that the only

business that would occur in the property of interest would be part-time decorating the cookies, as they are baked elsewhere. He states their advertising is limited so the customer base is small. All of the cookies are delivered, so there will be no traffic or obvious evidence that was decorating and selling cookies.

- Chairman Bergwall opens the floor for public comment.
- Mr. Emilio Gonzalez (2801 Dominion Ln) goes to the podium and explains that he is against changing the classification of the neighborhood because of his concerns regarding limited parking and the future of the neighborhood.
- Chairman Bergwall asks him to clarify his main concerns.
- Mr. Gonzalez claims he is concerned about the neighborhood becoming more commercial.
- Chairman Bergwall acknowledges his concerns and asks if anyone else has comments.
- Dr. Barry Leath (2808 Dominion Ln) comes to the podium and states "Good evening everyone, my name is Doctor Barry Leath and I'm a resident in the area. I think that the proposal presented really wasn't disseminated throughout the Community properly by the HOA. I just looked and saw where they went ahead and approved it, but there was never a meeting conducted by or invitation to a meeting prior to this being presented to the Commissioners, so I feel blindsided by the fact that, OK, the HOA is conducting business and making decisions, but no one in the Community was properly informed of their approval of this action. Truly, I have nothing against my neighbor. She's wonderful. It absolutely has nothing to do with her. It's the protocol that wasn't followed, or the protocol that you would expect from an HOA. Whenever we have other situations in the Community, we go to the HOA and they and they govern, and I mean strongly govern how we conduct our business in there, like to eliminate parking for the residents. They go out and paint red areas where you cannot even park in front of your own home. To say that this is treated so cavalier and just with open arms is really a huge conflict, and I would ask that the commission tables the item until the HOA comes back and informs us and allows us to speak on it, as opposed to just going ahead and approving it without consulting the community."
- Chairman Bergwall asks if it was the management association or the board of directors of the HOA that provided the approval and Dr. Leath claims that he believes it was the property management company, but the property management is responsible for communicating with the president of the board of directors of the HOA.
- Chairman Bergwall explains "Generally with an HOA, there are covenants, bylaws, and any other design standards, or rules and regulations that are the governing documents for the HOA. As long as the board has felt that they are in compliance with those, then they can make the approval. It doesn't require a vote of the entire community. Generally only things like a change to the bylaws or covenants would require the whole community to vote, and those require a 2/3 majority. If the management company made the approval without consulting the HOA, then either they were delegated to or based their review on the covenants and bylaws. That I guess maybe is an unknown at this point."
- Chairman Bergwall acknowledges Dr. Leath's concerns and asks if there are any

more comments.

- Renee Ellison (2806 Dominion Ln) comes to the podium and explains that she objects the land use permit because she is concerned that the lot will be considered commercial, which may increase the taxes in the community. She also notes that other people are cooking commercially in the neighborhood and it is a fire hazard.
- Chairman Bergwall responds that would be a separate issue of concern and should be addressed.
- Ms. Ellison goes on to explain that she believes if we give this house the permit, the other houses will too and it will be a continuous effect.
- Chairman Bergwall clarifies "For right now, let's say that every application that is made is an individual consideration for the request made by that individual for the particular type of activity that they're going to do. Now, if this individual was saying I'm going to be roasting chickens out in the driveway, which could be considered nuisance to the community because of smoke and smell and all that. Sort of thing, you know. This is confined to the kitchen area. And it even sounds like they're not even baking the cookies there. They're just decorating the cookies there."
- Ms. Ellison asks if her taxes will increase since there will be commercial activity.
- Chairman Bergwall responds they will not, because this is a land use permit in a multifamily townhouse area.
- Mr. Simmons takes the podium to further answer the questions raised. He explains that the property in question is residentially zoned, and the land use permit is only for a limited period of time for a specific activity that has to be approved by Mayor and Council. He noted some of the other concerns the citizens voiced, and explained that those will have to be handled individually. He restates the terms of this land use permit and adds that if any conditions are violated the city has the right to void the business license.
- Commissioner Bodenhamer clarifies that this is a land use permit, not an application for rezoning.
- Chairman Bergwall adds that comments regarding traffic and parking are covered in the stipulations that go with the permit.
- Mr. Simmons advises that the issues with the internal protocol for the neighborhood should be addressed internally.
- Chairman Bergwall responds that approval by the HOA board or Management Company is outside our jurisdiction. All comments by citizens were addressed by the stipulations.
- Chairman Bergwall opens the floor for comment.
- Mr. Gonzalez comes to the podium and asks that if there is no stipulation in the bylaws of Dominion in terms of trying to get a permit as a business and the HOA approved it, is it right for the Commission to approve something that's not in the community bylaws. He goes on to claim that the citizens of the community should have the opportunity to examine and discuss the case before the commission makes a decision.
- Chairman Bergwall reiterates that is an internal issue.

- Mr. Gonzalez asks if this permit will be approved on October 16th at the Mayor and Council meeting.
- Chairman Bergwall advises “We serve as a body that makes recommendations to the mayor and the City Council. You'll have your opportunity to go to the City Council meeting and register your same concerns with the mayor and City Council. They could agree or they might disagree with whatever recommendation that we would make. I have probably read covenants and bylaws from over 100 communities in the experience that I've had here in Georgia and in Ohio on planning commissions and I have not seen one that says that you can't work from home. Most say that you can't work from home if it is noticeable to the community as far as having employees come to your house, having large amounts of material coming in and out of your house, or having commercial vehicles that you can't get in your garage that are left in the driveway. All of those types of things are covered, but for somebody to just work out of their house and that be transparent to the community, I've never seen covenants or bylaws that restrict that.”
- Mr. Gonzalez and Chairman Bergwall discuss the Commission's obligation on the matter and the responsibilities and interests of the HOA.
- Commissioner Bergwall asks if there are any other comments.
- Mr. Jackson comes back to the podium to claim his daughter, the applicant, is just trying to do the right thing and restates her purpose. He ensures the commission that the business is transparent from the outside of the home and it will not generate traffic.
- Sheri Kelly Leath (2802 Dominion Ln) comes to the podium and requests more transparency in the communication from the city regarding the stipulations and conditions. She states that she felt the only way to get additional information was to attend the Commission meeting.
- Mr. Simmons responds that everything that was submitted to the City is available on our website, and recommends that the citizens present have a community meeting with their HOA and the management company. He reiterates that the applicant did her due diligence and followed the City's public notification process.
- Chairman Bergwall agrees that if there is something in the community management's bylaws that is different than the City's covenants, it should be brought to the Mayor and Council at the October 16th meeting.
- Chairman Bergwall opens the floor for comments by commissioners.
- Commissioner Jackson comments that Mr. Simmons did a great job with the stipulations, and points out the stipulation where the business cannot be noticeable from the street.
- Motion to approve the land use permit application by Commissioner Vande Zande with the following:
 - All staff conditions as outlined within the staff report.
- Second the motion by Commissioner Bodenhamer.
- Approval forwarded with the vote totaling 4-0. All in favor.

B. Approval of an ORDINANCE to amend the Unified Development Code, Appendix A, Chapters 4 and 5. Case #MISC2023-08

- Chairman Bergwall introduces the next agenda item.
- Mr. Simmons informs the Commission that the intent of this code amendment is to add clarification and more definition and depth to the home occupation ordinance.
- Mr. Simmons gives further detail on the item, explaining “To start off, there are two basic types. There's type A and Type B home occupation permits. Type A is only referred to as a limited home occupation, which is very limited to administrative office functions such as using your computer, filing, making calls, sending out correspondence, what you're doing at your home office. Type B is similar to the process of what we went through tonight, which is anything that is beyond a regular home office administration process, whether it's producing or putting together a product or creating something that's being consumed or will be sold to the general public. What we found is through review of our codes that post COVID a lot of folks decided that they want to work from home and we looked at our codes and we did not specifically define what we call a virtual office. A virtual office is a home office where you're using a computer and related accessories for business use.”
- Mr. Simmons outlines the notable changes to the general provisions and prohibited uses for all home occupation permits, including:
 1. Incorporating standards to not allow employees, customers, or clients at the property and to limit the delivery of goods and services that is beyond what is normally done in a residential area.
 2. Clarifying the responsibilities of the Planning and Zoning department, the Business License Department and Code Enforcement
 3. Address potential nuisances.
 4. Clarify that only people living in the dwelling can be employed in such occupation, and that all such use must be conducted within the dwelling.
- Mr. Simmons continues to explain the changes to section D, specific criteria for type A home occupations,
 1. More details on the allowance of delivery personnel for business use.
 2. Only one type A land use permit is allowed per dwelling in order to prohibit multiple businesses in one location.
- Mr. Simmons goes on to explain the changes to section E, specific criteria for type B home occupations,
 1. Adding the public notification process that is used for rezoning and variances from Chapter 10 of the UDC
 2. Add more details on how business should be conducted in a residential area
 3. A 24 month time period was instated that requires re-application, re-advertisement, and another public hearing of the case.
- Mr. Simmons points out the checks and balances in this process in order to protect the integrity of the neighborhood. The standards for decisions were

added to the ordinance to ensure that the safety, health, welfare, and concerns of the surrounding neighborhood are considered in the decision making process. These standards include

1. parking and traffic considerations
 2. number of nonrelated employees
 3. Number of commercial and business deliveries
 4. The city's general presumption that residential neighborhoods should not allow non-compatible business uses, compatibility of the business use to the neighborhood
 5. Hours of operation
 6. Existing business uses in the vicinity
 7. Effect on property values of surrounding property, circumstances surrounding neighborhood complaints
 8. Intensity of the proposed business use
 9. Location of use within the neighborhood.
- Mr. Simmons clarifies that these standards do not limit the additional questions that the Planning Commission or Mayor and Council may raise through the proceeding
 - Mr. Simmons explains item H, which states that in order to address the matter of type A land use applications submitted from multifamily apartment complexes, the city staff sent letters to all of the property management companies in the city stating our intentions with this ordinance amendment. It is clearly stated that if an HOA or a property management company are against this type of use, either through their rental agreement or their conditions, that the city would not override that in order to preserve the property rights of the management company. Therefore, if we do not have a written agreement from the apartment complex we are not going to approve a home-based business.
 - Mr. Simmons states that the ordinance amendment has been reviewed by the city attorney and continues to recommend approval and states he is happy to answer any questions.
 - Chairman Bergwall responds asking "On page two, under item D1, it says no clients, nonresident employees, customers, or delivery personnel are allowed on the premises. And how is it that you're going to be able to distinguish delivery personnel as relative to the business versus relative to the personal needs of the occupant of the residence?" He also points out item E, which states no deliveries of supplies for the use of the home occupation or pickups of the items produced. He acknowledges the importance of pickups not being allowed, but again he points out that it is difficult for the city to determine what deliveries are for personal use and which are for business.
 - Mr. Simmons responds that what we would determine as a gauge is not necessarily what is inside the packages, but rather the intensity and the capacity or amount of deliveries and what we feel is excess to a residential home.
 - Chairman Bergwall and Mr. Simmons discuss how the code could be more explicit, but the business license manager and their staff as well as zoning code enforcement do periodic inspections of every business, so it will not go unchecked.

- Chairman Bergwall states “it seems like that needs a little bit of rewording to be enforceable.” And continues that section E item 6 states that customers may only visit the site between the hours of 8 am and 8 pm, but this contradicts some previous ordinance items.
- Mr. Simmons clarifies that section refers to home occupation uses for people who require clients to come to their property by appointment such as counselors or tutors. Chairman Bergwall requests the code to be clearer on that matter. Mr. Simmons responds that they tried to make the code more generalized so it could apply to everyone, but he will look into the issue further with the city attorney.
- Mr. Simmons and Chairman Bergwall converse about the difference between type A and type B home occupation for customer visitation.
- Chairman Bergwall opens the floor for public comment.
- Mary Whitlock (2927 Larry St) asks about the limitations of equipment storage under this ordinance.
- Mr. Simmons answers that if it is a type A home occupation it is recommended that the business owner keeps storage off-site. In the case of type B home occupations, questions regarding the appropriateness and safety of equipment storage at the home would be addressed in the public hearings on the case.
- Commissioner Jackson asked Mr. Simmons about how this will be applied to people who are working from home for an existing company, and Mr. Simmons responds that the home occupation permit is only necessary for people who are operating an independent business from their home.
- Commissioner Bodenhamer reiterates the intent of the amendment.
- Motion to approve the ordinance by Commissioner Bodenhamer with the following:
 - Understanding of potential changes to items E2 and E6.
- Second the motion by Commissioner Greenall.
- **Approval forwarded with the vote totaling 4-0. All in favor.**

5. Staff Comment

6. Adjourn

- Adjourned at 7:43 p.m. by Chairman Bergwall

**MINUTES OF CITY COUNCIL WORK SESSION MEETING
CITY OF KENNESAW
Council Chambers
September 25, 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

2. Pledge of Allegiance

3. Call to Order

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

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. DISCUSSION ONLY: Quarterly Update from Developers, including: the Duncan Drive/Tugg Property- Drew Cunningham with Highpoint Development; the Duncan Drive Townhome development across from the Post Office- Chris Olson & John Wieland with JW Collection Atlanta; and the Town Center Kennesaw - Summer Street development with H. Parke Lammert.

Mayor Easterling reminded the public that this item will be presented at the regular meeting on October 2, 2023.

9. Committee and Board Reports

10. Public Hearing(s)

11. Consent Agenda

- A. Approval of the September 11, 2023 City Council work session minutes.
- B. Approval of the September 11, 2023 City Council executive session minutes.
- C. Approval of the September 18, 2023 City Council regular meeting minutes.

12. General and Administrative

13. Public Safety

14. Information Technology

15. Public Works

- A. Approval of RESOLUTION to Award bid and Contract for Community Development Block Grant (CDBG) Woodland Acres Sidewalk Improvements Phase VII.

Public Works Director Ricky Stewart presented this bid contract for the Community Development Block Grant (CDBG) Woodland Arceres Sidewalk Improvement Phase VII for approval. He went into detail about the scope of this project and the expansion of approximately 2300 linear feet of 5' sidewalk, 4" thick, and ADA ramps along the northern side of Sycamore Drive from Woodland Drive to Kennesaw Due West Road. Public Works received a total of two bids. The lowest bidder was S. H. Creel Contracting for an amount not to exceed \$153,121.45 to perform this project and the second bidder was Curb Atlanta. S. H. Creel Contracting met all of the CDBG requirements and the Public Works Director recommended approval of this contract. Councilmember Ferris inquired as to how much money was given for the CDBG Grant. Mr. Stewart answered that \$135,000 had been received and the city had some money left over from previous years. That amount was approximately \$200,000 that could be used for this project.

After receiving confirmation from Council, Mayor Easterling suggested moving the item

to the Consent Agenda.

16. Recreation and Culture

17. Community Development

A. DISCUSSION ONLY: Jiles Place Lease Agreement.

Economic Development Director Luke Howe presented this property and gave some historical background such as that the property is in the Kennesaw Development Authority's (KDA) name. He acknowledged that his purpose in coming was to give the council an update regarding the lease agreement that will be discussed at the October KDA meeting. Mayor Easterling and Economic Development Director Howe briefly discussed the work that had been done to install utilities and how long the installation took. Councilmember Ferris questioned how the city acquired this property. Economic Director Howe answered that this property was a part of the Revival Apartment projects' negotiations and confirmed that Jiles Place is now in the KDA's name. He noted that this property was worthless with no utilities in place and this negotiation was a way to generate productivity. Councilmember Ferris recalled past efforts to acquire utilities for this property, the struggle to get easements, and also a failed attempt to install services under the railroad. Councilmember Ferris and Economic Director Howe continued the discussion about how this property came to be in city possession.

Then, Councilmember Ferris inquired about the terms of Section Two of the lease and why it had a five-year initial commitment and then up to three additional five-year commitments for a total of 20 years. He made it known that he would prefer a ten-year lease and then renew it as needed. Councilmember Ferris noted that in Section 2.2 (Termination), he did not appreciate the one-sided nature of the termination policies for the tenant. He added that he would like the KDA to have terms that allow them to terminate as needed, in addition to changes to the two-point termination terms as well. Councilmember Ferris then moved to Section 2.3(a), where there was an optional purchase price of \$35,000. He voiced his concern over the \$35,000 being in place for 20 years and the term that allows for the rent to go towards the \$35,000 optional purchase price. He continued by saying that the tenant could pay \$24,000 over 20 years and then, buy out the property at \$11,000. Councilmember Ferris insisted on an escalation of prices as the years accumulated due to inflation. Economic Director Howe added that this property is not attractive to anyone but the current tenant. The current tenant hosts events quarterly and uses the property for overflow parking. He added that his preference would be to sell the property due to his opposition to exempt properties. However, Public Works currently uses the property.

Mayor Easterling, Economic Director Howe, and Councilmember Ferris continued discussing the improvements that had been made to the property, the price of crush and run, and the revenue that the tenant was able to produce. Councilmember Ferris inquired if there was an estimate regarding the number of parking spaces that the tenant would like to put on the property. The Council and Economic Director Howe continued their discussion about the materials that may be used in the parking lot and if there would be sidewalks due to Public Works using the space as a staging area.

Economic Director Howe clarified that sidewalks were a part of previous discussions but not as of recently. Councilmember Ferris reiterated that he would like a price escalator put into place over the next 20 years due to fluctuating inflation rates. He also stated that he did not like the terms that allowed the tenant to get his money back after a certain amount of time. Mayor Easterling suggested a five-year lease with a purchase option. Councilmember Ferris agreed that he did like that option better and made it known that he was opposed to the tenant having the opportunity to sit on the property for nineteen years and then buy out the property for the remaining amount. Mayor Pro Tem Viars inquired as to where the \$35,000 buy-out term came from. Mayor Easterling answered her question by explaining the cost of getting utilities fully installed on the property, even though this will never be a fully developed property. The Council continued discussion until Councilmember Ferris explained that he would like the KDA to come out of the deal with some profit as well as the personal liability raised to one million dollars. Then, Councilmember Ferris moved on to Section 6.2, where he found that the paragraph was poorly written. He explained that it sounded as though if there was partial destruction of the property, KDA could pay for restoration. Economic Development Manager Howe agreed and said that he would make these changes and ideally sell the property to avoid more wasted time. Councilmember Ferris then inquired about the roadway and gate usage on the property. Public Work Director Ricky Stewart clarified how the city uses the property and explained the gate access policies. Councilmember Ferris continued to press about the gate access times and how the property is currently used for storage.

- B. Consideration for approval of a final plat application submitted by Beazer Gain, LLC for 2438-2460 Hidden Creek Rd, 4020 Oleander Ct. Case #FP2023-06

Zoning Administrator Darryl Simmons presented this final plat for Unit 2, Phase 1B of the proposed residential subdivision located along Pine Mountain Road NW. He noted that this plat phase includes 26 detached single-family lots and the area of the site for this phase is 15.756 acres. The Plan Review Committee, including Cobb Fire and Cobb Water and Sewer, have all reviewed said plat for compliance and recommend approval. He also added that when the developer began this project in 2021, the properties were selling for around \$500,000 and now they are selling in the upper \$700,000 range.

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

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

Mayor Easterling adjourned the meeting at 6:52 PM. The next regularly scheduled meeting will be held Monday, October 2, 2023 at 6:30 PM. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

Lily Smith, Deputy City Clerk

DRAFT

**MINUTES OF CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
October 2, 2023
6:30 PM**

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

Absent Councilmember Antonio Jones

1. Invocation

City Attorney Randall Bentley, Sr. led the invocation.

2. Pledge of Allegiance

City resident Ray Fregeolle led the Pledge of Allegiance.

3. Call to Order

Mayor Easterling called the meeting to order at 6:30 p.m. and acknowledged Councilmember Jones' absence.

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].

6:31 p.m. Floor Open for Public Comments

MADELYN OROCHENA [City Resident and Candidate for City Council, Post 1]: Ms. Orochena shared her priorities for this election are city walkability and pedestrian safety. She reminded the public that October is Pedestrian Safety Awareness Month. She then acknowledged the steps that the city has taken to encourage pedestrian safety while pointing out some improvements that she would like to make if elected. Ms. Orochena would like to see speed cameras in school zones, speed cushions, and rumble strips to ensure that crosswalks are as safe as possible. She thanked the individual who biked for an hour to support her campaign.

ANTHONY GUTIERREZ [City Resident and Candidate for City Council, Post 2]: Mr. Gutierrez started his speech by giving all of his social media handles and website information. He spoke about the cost of rent in Kennesaw and how much it has gone up recently. He noted that the average rent in Kennesaw is \$600 above the national average. He made comments about the cost of living for those making more than the minimum wage and how those people are still unable to cover the cost of rent in the city. Mr. Gutierrez described how corporate luxury apartment complexes take advantage of the citizenry and how people cannot afford to live within city limits. He addressed some accusations about his family and gossip about his campaign. He assured the public that he does not support Section 8 housing developments in Kennesaw and does not support misinformation. Mr. Gutierrez let the community know what his stances are on housing, green spaces, taxes, and infrastructure.

6:38 p.m. Floor Closed for Public Comments

7. Old Business

8. New Business

- A. DISCUSSION ONLY: Quarterly Update from Developers, including: the Duncan Drive/Tugg Property- Drew Cunningham with Highpoint Development; the Duncan Drive Townhome development across from the Post Office- Chris Olson & John Wieland with JW Collection Atlanta; and the Town Center Kennesaw - Summer Street development with H. Parke Lammert.

Planning and Zoning Administrator Darryl Simmons introduced the following developers to give updates on various projects around the city.

DREW CUNNINGHAM [Highpoint Development]: Mr. Cunningham gave a PowerPoint presentation on the Tugg Property located on Duncan Drive. He noted construction is going very well as they were able to start going vertical early this month. He gave a summation of the things that still need to be done due to several rain delays during the winter. Mr. Cunningham explained the design of the general complex and showed key parking and other features. Their next steps will be utilities and passing final inspections with Cobb County. That portion of the project should be done in the next few weeks. He anticipates the first move-ins should be at the end of May 2024 and leasing will start 60 days prior to that.

JOHN WEILAND AND CHRIS OLSON [JW Collection- Atlanta]: Mr. Weiland explained the proposed development called Devin's Shire, which is located across from the Tugg property and the post office. The site plan is for 35 homes. He noted that the project had just received approval to start land disturbance. There are three types of townhomes: the Wentworth, the Cambridge, and the Andrews. Mr. Weiland is looking forward to finishing everything and adding a nice traditional feel to the city.

H. PARKE LAMMERTS [Arris Holdings]: Mr. Lammerts gave an update on the Town Center Kennesaw - Summer Street Development. He noted they are finishing phase one on the residential side and have had good leasing velocity so far. Further, they are on schedule and are starting site work on the second phase, which involves 175 multi-family units and commercial space for restaurants and boutique retailers. He also added they have three months left of site work until they are able to go vertical. They are hoping to wrap the entire project up by August of next year with all of their spaces filled.

9. Committee and Board Reports

10. Public Hearing(s)

11. Consent Agenda

- A. Approval of the September 11, 2023 City Council work session minutes.
- B. Approval of the September 11, 2023 City Council executive session minutes.
- C. Approval of the September 18, 2023 City Council regular meeting minutes.
- D. Approval of RESOLUTION to Award bid and Contract for Community Development Block Grant (CDBG) Woodland Acres Sidewalk Improvements Phase VII.

RESOLUTION NO. 2023-44, 2023

- E. Consideration for approval of a final plat application submitted by Beazer Gain, LLC for 2438-2460 Hidden Creek Rd, 4020 Oleander Ct. Case #FP2023-06
- F. On September 28, 2023, Michele Sorkin purchased one (1) cemetery lot in

Kennesaw City Cemetery. This lot is located in Section III, Plot 35, Lot A. Requesting authorization for the Mayor to sign a supporting deed for purchase of this lot. The City Clerk recommends approval.

Motion by Councilmember Sinclair to approve all items on the Consent Agenda. Seconded by Mayor Pro Tem Viars.

Vote taken, motion unanimously approved 4-0 (Councilmember Jones absent). Motion carried.

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

6:50 p.m. Floor Open for Public Comments

ANDREW BRAMLETT [City Resident]: Mr. Bramlett shared the history of City Hall and how the site of today's Council Chambers was once a tennis court (**See Exhibit A**).

6:52 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.

21. Council Reports & Discussions

Mayor ProTem Viars gave a speech about her ongoing campaign. She let the public know that she is extremely accessible and seeks to improve the quality of life through safety and projects such as the amphitheater.

Councilmember Ferris had no comment other than the fact he was enjoying the Scarecrows on Main. He also notified the public about the tree-cutting of the cemetery.

Councilmember Burnette spoke about her re-election campaign as well. She said that it has been an honor to serve and how much she loves the City of Kennesaw. She reminisced about raising her family in the city and her time helping to develop the local airport.

Councilmember Sincaliar Thanked Citizen Andrew Bramlett for his history lesson.

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 6:57 p.m. The next regularly scheduled meeting will be held Monday, October 16, 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

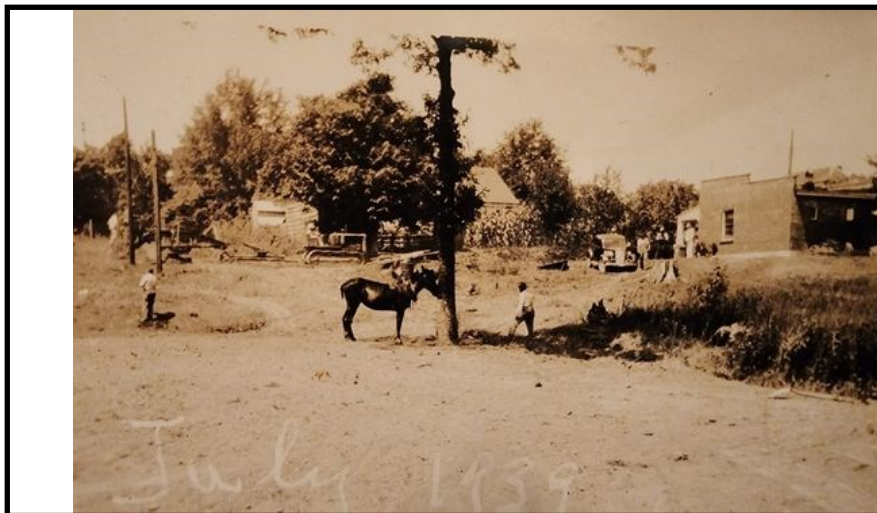
KENNESAW HISTORY

City Hall and Tennis

The site of the Council
Chamber

July 1939

From Kimberly Adams
Conine



In 1936, the first purpose-built City Hall was constructed in our community. It was located on today's J. O. Stephenson Avenue about where the Police Department is today. In 1957, the city offices moved to another building at the corner of Cherokee and Main Streets, and the older building became the city jail. It is not known when it was torn down.

Several months ago, Kimberly Adams Conine shared on Facebook the 1939 photo above of the area where city hall is today. The rear of the old 1936 city hall can be seen on the right. This photo, and a second from Mrs. Conine, revealed that the site of today's council chambers was once a tennis court. According to council minutes, by 1940 the city had a tennis club that charged a \$1 membership fee. It was evidently quite a popular sport, as another court was downtown in Commemorative Park. While it is not known how long these courts were open, they seem to have closed by 1958.

Presented by Andrew J. Bramlett
at the October 2, 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

10/2/2023

Public Comment Sign-in

	Name	Address	Topic
1	Andrew J. Brantley	2990 Summerfield Ct.	Local history
2	Madelyn Orochena	2901 N Main Street	
3	Anthony Cutler/102		
4	Drew Cunningham		
5	John W. Welford		
6	Parker Lammie	1810 Pershing Trail	
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**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2023-__, 2023

RESOLUTION AUTHORIZING CONTRACT AMENDMENT FOR CITY CLERK

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

WHEREAS, the City Clerk's current contract was adopted by Resolution No. 2022-18, 2020, for a two-year term; and

WHEREAS, the City Council authorizes an employment contract amendment with City Clerk Lea Alvarez as shown on Attachment A.

NOW THEREFORE, BE IT RESOLVED, the Kennesaw City Council does hereby authorize the employment contract for City Clerk Lea Alvarez (Attachment A).

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

ATTEST:

CITY OF KENNESAW:

Jeff Drobney, City Manager

Derek Easterling, Mayor

CITY OF KENNESAW EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the “Agreement”) effective the ____ day of October 2023, by and between the City of Kennesaw, a Georgia municipal corporation (“City”), and Lea Alvarez, City Clerk (“City Clerk”).

WITNESSETH:

Section 1 Employment.

- a. On April 1, 2022, Lea Alvarez was duly appointed City Clerk pursuant the Kennesaw Charter and City Ordinances. Pursuant to the Kennesaw Charter, Section 2.10, “The Mayor and City Council shall appoint a City Clerk who shall serve at their pleasure, supervision, and direction. Since April 04, 2020, Lea Alvarez has been paid as an exempt employee. Additional payroll information is contained in Section 6. The City and City Clerk entered into an employment agreement effective April 1, 2022, and ratified by the Mayor and City Council by Resolution No. 2022-18, 2022. This Agreement supersedes said agreement.
- b. The City Clerk shall be responsible for keeping and preserving the City seal and all records of the council; attending meetings of the council and keeping a journal of its proceedings at such meetings, including the names of members present and absent, the vote of each member on each question, each motion considered, and the text of each resolution or ordinance considered; preparing and certifying copies of official records in her office, for which fees may be prescribed by ordinance; and performing such other duties as may be required by law or as tasked or directed by the Mayor and Council.” In addition to Charter and ordinance provisions, she shall be subject to the terms and conditions of this Agreement. City Clerk agrees to remain in the exclusive employ of City and shall not accept employment by any other employer until termination of this Agreement, provided, however, the term "employed" shall not be construed to include occasional teaching, writing, consulting, and military reserve service performed on City Clerk's time off, as provided in Section 9 herein.

Section 2 Term. The Term of this Agreement shall be for a period of two (2) years. The Initial Term shall be for a period ending September 30, 2024, followed by a one-year Renewal Term which shall automatically renew on October 1st of each year unless terminated as set forth in this Agreement. The Final Expiration Date of this Agreement shall be September 30, 2025. Renewal Terms or contract extensions shall be discussed within ninety (90) days of the end of a Renewal Term or the Agreement’s end date. Information regarding termination, removal, and resignation as outlined in Sections 4 and 5 shall remain applicable.

Section 3 Duties. The City Clerk and shall perform the functions and duties specified by the Mayor and City Council under the Charter and Ordinances of the City of Kennesaw in accordance with state laws. Consistent with Section 2.10 of the City Charter of Kennesaw, as set forth in Section 1 above, the City Clerk serves at the pleasure, supervision, and direction of the Mayor and City Council. Unless expressly written in this Agreement, the City Clerk shall operate under the guidance of the City of Kennesaw, Personnel Policy and Procedures Manual (Ordinance #2014-11, September 2, 2014, as amended).

Section 4 Termination, Removal, and Resignation.

- a. The City may terminate the City Clerk for Good Cause at any time without prior notice. The City may terminate the City Clerk without Good Cause on sixty (60) days written notice of termination. The City Clerk may resign at any time and for any reason upon sixty (60) days written notice unless the parties otherwise agree in writing. The City shall provide the City Clerk sixty (60) days written notice of its intention to terminate the services of the City Clerk on the Final Expiration Date of this Agreement. In the event (i) the City Clerk is terminated without Good Cause or (ii) the City elects not to renew this Agreement during a Renewal Term, the City Clerk shall be entitled to Severance as set forth in Section 5 of this Agreement. In the event the City Clerk (i) is terminated with Good Cause, (ii) resigns, (iii) retires, (iv) elects not to renew this Agreement during a Renewal Term or (v) reaches the Final Expiration Date of this Agreement, the City Clerk shall not be entitled to salary or Insurance Benefits, but shall be entitled to Accrued Benefits only as set forth in this Agreement.
- b. For purposes of this Agreement, “Accrued Benefits” includes all vacation time, sick leave, and holiday time accrued.
- c. For purposes of this Agreement, “Good Cause” is defined as:
 - i. Conduct found to constitute a willful and intentional breach of the City Clerk's duties as set forth in the City Charter or this Agreement;
 - ii. City Clerk refuses on repeated occasions to comply with the reasonable policies, standards, and regulations of the City;
 - iii. A less than satisfactory annual evaluation as defined in Section 7;
 - iv. Conviction of Federal or State law constituting a felony or a crime of moral turpitude (City Clerk shall be suspended without pay during the time any such criminal prosecution or appeal is pending); or
 - v. Willful and intentional insubordination as to the Mayor or City Council so long as the requested action did not violate any ethical standards, federal law, state law, or local ordinance.
- d. In the event the City Clerk voluntarily resigns or retires from her position with the City and unless otherwise directed by City, the City Clerk agrees to provide prompt assistance in the hiring of a replacement City Clerk if so requested by Mayor and Council.

Section 5 Termination and Severance Pay.

- a. In the event City elects to terminate the City Clerk without Good Cause, the City Clerk shall be paid three (3) months of full salary and all Accrued Benefits, including all family Insurance Benefits, the City Clerk was receiving before notice of termination. Provided, however, that in the event the City Clerk (i) is terminated with Good Cause, (ii) resigns, (iii) retires, (iv) elects not to renew her Agreement during a Renewal Term, or (v) is convicted of an act set forth in Section 4(c)(iv), the City shall have no obligation to give any notice of termination, and City Clerk shall not be entitled to three (3) months’ salary or Insurance Benefits but shall be entitled to Accrued Benefits only.
- b. Payments in such case shall be made in periodic installments as set forth in Section 6 and shall include a continuation of all Accrued Benefits. City Clerk may take part-time or

consulting work while receiving severance benefits, but Insurance Benefits would terminate upon the acceptance of full-time employment.

- c. If the City chooses not to renew this Agreement during a Renewal Term, the City Clerk's employment with the City of Kennesaw shall be ended and she shall be entitled to Severance as set forth in Section 5 of this Agreement.

Section 6 Salary.

- a. The City Clerk's Annual Salary shall be \$75,000.00 with an effective date of October 17, 2023, as outlined in Section 1.
- b. The City Clerk shall be paid in installments at the same time as other employees of the City are paid.
- c. The City reserves the right to increase or decrease the base salary and/or other benefits of City Clerk in such amounts and to such extent as the City may determine based upon the annual salary review made in conjunction with City Clerk's performance evaluation. Increased compensation can be in the form of a salary increase and/or bonus.
- d. The City Clerk shall be entitled to all cost-of-living increases afforded other employees of the City.

Section 7 Performance Evaluation.

- a. The Mayor and City Council shall review and evaluate the performance of the City Clerk at least once annually in advance of the adoption of the annual budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Mayor and City Council in addition to the position's job description and conveyed to the City Clerk. Said criteria may be added to or deleted from as the Mayor and City Council may from time to time determine in consultation with the City Clerk. Further, the Mayor and City Council shall provide the City Clerk with a written statement of its findings and provide an adequate opportunity for the City Clerk to discuss the evaluation with the Mayor and City Council.
- b. Annually, Mayor and City Council shall define such goals and performance objectives which they determine necessary for the proper operation of the City and in attainment of the City's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.
- c. In the event of a renewal or extension of this Agreement, it shall be deemed that (a) and (b) above are in compliance by both parties.

Section 8 Hours of Work. The City Clerk shall be expected to perform the duties of the position and be on the job during regular business hours and shall, in addition thereto, be expected to attend all regular and special meetings of the City, work sessions, commissions, and other meetings as are necessary. It is recognized the City Clerk may be required to work in addition to

these specified times and shall be entitled to reasonable compensatory time off; provided, however, that compensatory time shall be taken as City business permits and shall not necessarily be on any strict hour for hour or day for day basis for work performed above and beyond the indicated hours and duties in the first sentence of this section.

Section 9 Outside Activities. City Clerk shall not spend more than ten (10) hours per week in teaching, counseling or other non-City connected business without the prior approval of the Mayor and City Council and shall not undertake any functions, which would conflict, in any way, with her ability to provide undivided fidelity to her duties as City Clerk.

Section 10 Vacation, Sick, and Military Leave.

- a. Vacation time shall be determined at the same rate as other regular, full-time City employees, and is subject to any current or future policies or procedures, as set forth in the “City of Kennesaw Personnel Policy and Procedures Manual” (Ordinance # 2014-11, September 2, 2014, as amended); except that there shall be no cap limits.
- b. Sick leave, holidays, and all other leave shall be accrued at the same basis and at the same rate as regular, full-time City employees, and is subject to any current or future policies or procedures, as set forth in the “City of Kennesaw, Personnel Policy and Procedures Manual” (Ordinance # 2014-11, September 2, 2014, as amended); except that there shall be no cap limits.
- c. All accrued vacation, sick leave, and holiday time accumulated from employment with the City prior to the execution of this Agreement shall be credited to the City Clerk.

Section 11 Health, Disability, and Life Insurance.

“Insurance Benefits” include the following:

- a. The City agrees to allow the City Clerk and her family to participate in the health, hospitalization, surgical, vision, dental, and comprehensive medical insurance plans offered to the same extent as all other employees of the City of Kennesaw. The costs of the selected plans shall be incurred by the City Clerk and calculated at the same rate as all other City employees.
- b. The City agrees to allow the City Clerk to participate in insurance plans designed for short-term and long-term disability coverage. The costs of the selected plans shall be incurred by the City Clerk and calculated at the same rate as all other City employees.

Section 12 Retirement. City Clerk shall be entitled to retirement benefits under the terms and conditions of the City of Kennesaw’s retirement plan.

Section 13 Dues and Subscriptions. City agrees to pay dues for City Clerk for the International Institute of Municipal Clerks Association and Georgia City Clerks Association or any other such professional organizations that the City Clerk deems necessary upon approval of the Mayor and Council.

Section 14 Professional Development. City agrees to permit City Clerk to attend, during regular business hours, the Annual IIMC National Conferences and the state convention of the Georgia Municipal Association. It is expected the City Clerk will make a determination as to the relevance to her duties of the matters covered before attending any of these meetings, but it shall be presumed that the above-specified sessions are relevant. City Clerk may attend such other conferences, meetings, etc. as are approved by the Mayor and City Council. City shall pay reasonable, ordinary, and necessary expenses related to the attendance of said conferences.

Section 15 Automobile, Cellular Phone, and Credit Card. In addition to the base salary, the City shall provide the City Clerk with the following:

- a. The City Clerk will be allowed an automobile mileage reimbursement at the rate given to City employees as set forth in the “City of Kennesaw, Personnel Policy and Procedures Manual” (Ordinance # 2014-11, September 2, 2014, as amended);
- b. The use of a City cellular telephone and other electronic devices to be used in the course of City business, and is subject to any current or future policies or procedures, as set forth in the “City of Kennesaw, Personnel Policy and Procedures Manual” (Ordinance # 2014-11, September 2, 2014, as amended);
- c. The City Clerk shall receive a City credit card that is to be used only for expenditures necessitated by the City Clerk’s employment and is subject to any current or future policies or procedures, as set forth in the “City of Kennesaw, Personnel Policy and Procedures Manual” (Ordinance # 2014-11, September 2, 2014, as amended).

Section 16 Indemnification. To the extent allowed by law, City shall defend, save harmless, and indemnify City Clerk from any tort, professional liability claim, or demand, or other legal action, whether groundless or otherwise, arising out of alleged acts or omissions incurred in the performance of duties as City Clerk. City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon without prior approval of the City Clerk.

Section 17 Bonding. City shall bear the full cost of any fidelity or other bonds required of the City Clerk under the law or ordinances.

Section 18 Other Terms and Conditions of Employment.

- a. The Mayor and City Council, in consultation with the City Clerk, shall fix such other terms and conditions of employment, as it may determine from time to time, relating to the performance of City Clerk, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.
- b. All provisions of the City Charter, ordinances and regulations, and rules of the City relating to vacation and sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended, also shall apply to City Clerk as they would apply to all employees of the City, in addition to said benefits enumerated specifically for the benefit of City Clerk except as herein provided.

Section 19 General Provisions.

- a. If any provision or any portion hereof shall be held to be unconstitutional, invalid, or unenforceable, the remainder of the Agreement or portion thereof, shall be deemed severable and shall not be affected and shall remain in full force and effect. In the event of a conflict between this Agreement and State Law or the Charter, the conflicting provision of this Agreement shall be void.
- b. This Agreement shall be deemed to be made in, and in all respects shall be interpreted, construed and governed by and in accordance with the laws of the State of Georgia and jurisdiction and venue for all disputes under this Agreement shall lie exclusively in the Superior Court of Cobb County, Georgia.

Section 20 Complete Agreement. This Agreement and the rights under the City Charter shall be the sole source of the City Clerk's rights, benefits, and advantages, including but not limited to hearing rights prior to termination.

City of Kennesaw ("City")

Lea Alvarez ("City Clerk")

By: Derek Easterling
Its: Mayor
Dated: _____

Lea Alvarez
Dated: _____

Attested to:

By: Jeff Drobney,
Its: City Manager
Dated: _____



Item Report

TO: The Honorable Mayor and City Council
FROM: Bill McNair, Parks & Recreation Director
DATE: October 16, 2023
TITLE: Consideration to approve the Day With Santa road closure extension.

Summary:

The City of Kennesaw Parks and Recreation Department will host the annual A Day With Santa event in Downtown Kennesaw on Saturday, December 5, 2023. We are asking to extend the Watts Drive road closure for the event from Little General Cloggers Lane to Dallas Street. This will be from 10:00 AM – 8:00 PM. Revival Residents will still have access from the roundabout.

2023 Day with Santa Draft Layout



Recommendation:

The Parks and Recreation Director recommends approval

Fiscal Impact:**Attachments:**

None



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: October 16, 2023

TITLE: On October 9, 2023, Gary Craft purchased three (3) cemetery lots in Kennesaw City Cemetery. This lot is located in Section III, Plot 11, Lots B,C and D. Requesting authorization for the Mayor to sign a supporting deed for the purchase of this lot. The City Clerk recommends approval.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. Lot B
2. Lot D
3. Lot C

Deed Number: 2023-13

City of Kennesaw Cemetery Deed Cobb County, Georgia

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

Name	Address	City, ST ZipCode
CRAFT, GARY WAYNE	4285 BRISTLECONE DRIVE	MARIETTA, GA 30064

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	11	B	\$1,500.00

To have and to hold the said premises to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said conveyance 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 be 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 16 day of October, 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. 2023-13

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

Deed Number: 2023-15

City of Kennesaw Cemetery Deed Cobb County, Georgia

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

Name	Address	City, ST ZipCode
CRAFT, GARY WAYNE	4285 BRISTLECON DRIVE	MARIETTA, GA 30064

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	11	D	\$1,500.00

To have and to hold the said premises to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said conveyance 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 be 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 16 day of October, 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. 2023-15

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

Deed Number: 2023-14

City of Kennesaw Cemetery Deed Cobb County, Georgia

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

Name	Address	City, ST ZipCode
CRAFT, GARY WAYNE	4285 BRISTLECONE DRIVE	MARIETTA , GA 30064

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	11	C	\$1,500.00

To have and to hold the said premises to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said conveyance 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 be 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 16 day of October, 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. 2023-14

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: October 16, 2023

TITLE: Consideration for approval of a Massage License for Huajian, LLC d/b/a A1 Feeling Massage located at 2839 Cherokee Street NW STE D Kennesaw, GA 30144.
Applicant: Bangqiong Li.

Summary:

The applicant has submitted the complete application with the required documentation per Ordinance Sections 22-218 and 22-219, a copy of the Georgia State Massage Therapy license, a certificate of good standing from the Georgia Secretary of State, and a list of all employees.

Recommendation:

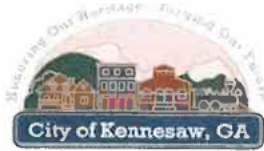
Finance Director recommends approval.

Fiscal Impact:

100-0000-34-2310 \$45

Attachments:

1. 2023 A1 Feeling Massage Application_Redacted



City of Kennesaw
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144
770-429-4540
770-429-4559- Fax
www.kennesaw-ga.gov

APPLICATION FOR MASSAGE THERAPY BUSINESS

Date 09/01/2013
Name of Applicant Bang Diong Li
Address of Applicant 2073 Rock Creek Rd
Buford, GA 30519 Phone # [REDACTED]
Social Security # [REDACTED] Date of Birth [REDACTED] 1969
Business Name An Feeling Massage
Business Address 2839 Cherokee Street NW Ste D
Kennesaw, GA 30144 Phone # 678-265-8920

TO: MAYOR AND CITY COUNCIL MEMBERS

The undersigned, Bang Diong Li, does hereby apply for a license for the purpose of engaging in the business trade or profession of a masseur and or massage therapist and pursuant thereto certifies the following to be true and correct:

1) Applicant has been fingerprinted by the Kennesaw Police Department at least ten (10) days prior to any license being issued.

2) Employment History – (Names and addresses of all employers):

NAME	ADDRESS	TELEPHONE
------	---------	-----------

<u>Cherry Blossom Spa</u>	<u>2011 Little Elm Rd #105, Cedar Park, TX 78613</u>	<u>512-215-9206</u>
<u>Ocean Massage</u>	<u>540 N Ridgewood Ave, Daytona Beach, FL 32114</u>	<u>386-866-4444</u>

3) If the applicant is a corporation the address or addresses of such corporation is as follows:

2839 Cherokee Street NW Ste D, Kennesaw, GA 30144

Names and addresses of the agents and employees of said corporation for the last two (2) years immediately prior to the filing of this application as follows:

NAME	ADDRESS	TELEPHONE
------	---------	-----------

Bangbong Li	540 N Ridgewood Ave Daytona Beach FL 32114	[REDACTED]
-------------	--	------------

7) That the applicant and no employees of the corporation, should it be a corporation, have any police record.

The undersigned certifies that it has received a copy of this chapter or the ordinance from which this chapter is derived and understands the hours of operation allowed for this business or profession.

So certified, this 01 day of 09, 2023.

Banerjee
Applicant

Sworn to and subscribed to before me,

This the 01 day of 09, 2023.

Zeyneba A Habib
Notary Public



OFFICE USE ONLY:

DATE RECEIVED: 9/1/2023

RECEIVED BY: Kevin Checkwood



STATE OF GEORGIA
BRAD RAFFENSPERGER, Secretary of State
Georgia Board of Massage Therapy
LICENSE NO. MT014542

Bangqiong Li

2073 Rock Creek Rd
Buford GA 30519

Massage Therapist

EXP DATE - 10/31/2024 Status: Active
Issue Date: 05/05/2023

GEORGIA
DRIVER'S LICENSE

Governor: *B. Perdue*

Commissioner: *Spencer & Moore*

DRIVER'S LICENSE DL 

4d DL NO. **071139360** 3 DOB **[REDACTED] 1969**
9 CLASS **C** 4b EXP **[REDACTED] 2031**
2 **BANGQIONG**
1 **LI**

8 **2073 ROCK CREEK RD
BUFORD, GA 30519-4363
GWINNETT**

12 REST **A**
9a END **NONE**
4b ISS **[REDACTED]**

15 SEX **F** 18 EYES **BRO**
16 HGT **5'-00"** 17 WGT **132 lb**

5 ID **518859355470020000**  **ORGAN DONOR**

If your passport expires within six months of your date of departure, you may be denied entry into some countries.



SIGNATURE OF BEARER / SIGNATURE DU TITULAIRE / FIRMA DEL TITULAR

PASSPORT
PASSEPORT / PASAPORTE

THE UNITED STATES OF AMERICA

Type/Type/Tipo	Code/Code/Código	Passport No./No. du Passeport/No. de Pasaporte
P	USA	A16287435

Surname/Nom/Apellidos
L

Given names/Prénoms/Nombres

BANGQIONG

Nationality/Nationalité/Nacionalidad
UNITED STATES OF AMERICA

██████████ e de naissance/Fecha de nacimiento

1969

F
Place of birth/Lieu de naissance/Lugar de nacimiento

CHINA

Date of Issue/Date de délivrance/Fecha de expedición

Date of expiration/Date d'expiration/Fecha de caducidad

Authority/Autorité/Autoridad

UNITED STATES DEPARTMENT OF STATE



P<USALI<<BANGQIONG<<<<<<<<<<<<<<<<<<<
A162874356USA6903170F3304134696386463<320226



**Greater DFW International
MASSAGE ACADEMY**
BECOME A LICENSED MASSAGE THERAPIST

WWW.GDIMA.ORG

Bangqiong Li

Has successfully completed the 500-Hour Basic Massage Therapy Program consisting of the following instruction: Anatomy & Physiology, Massage Therapy Technique, Kinesiology, Pathology, Hydrotherapy, Health & Hygiene, First Aid, Universal Precautions and Cardiopulmonary Resuscitation (CPR), Business & Ethics, and Practical Internship.

Given at Plano, Texas

March 20 2023

School Administrator

MS1059





Item Report

TO: The Honorable Mayor and City Council
FROM: Bill Westenberger, Chief of Police
DATE: October 16, 2023
TITLE: Receipt of the September 2023 Crime Statistics.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 2023 September Crime Statistics (M+C) (002)



September 2023 Crime Statistics

Summary

September 2023 Group A Offenses (119) increased by 5% compared to September 2022 (115). A vast majority of the crimes reported in September 2023 were Assault Offenses (40). This trend is also present in the data collected for crimes reported in September 2022. Assault Offenses account for approximately 34% (40) of the crimes that have occurred within our jurisdiction in September 2023. Out of the 600 traffic stops in September 2023, (863) resulted in Citations and 18% (135) Warnings. There were a total of 73 Adult Arrests that took place during the month, which is a 15% decrease from September 2022 (86).

There were 1,223 traffic accidents YTD, 140 of which were classified as Hit and Run. Of the 1,223 accidents 111 had injuries, and 9 involved a pedestrian. YTD 2022 total accidents (1,231) are up compared to 1,223 YTD 2022.

Crimes	September 2023	September 2022	YTD (01/01/2023) – (09/30/2023)	YTD (01/01/2022) – (09/30/2022)
Assault Offenses	40	27	283	236
Motor Vehicle Theft	2	0	14	20
Burglary	2	3	23	19
Homicide	0	0	0	0
Larceny	20	31	196	219
Sex Offenses	1	2	15	20
Robbery	2	1	9	4
Total	67	64	540	518

	September 2023	September 2022	YTD (01/01/2023) – (09/30/2023)	YTD (01/01/2022) – (09/30/2022)
Dispatched Calls for Service	442 (-484)	926	5,333 (-2,086)	7,419
Self-Initiated Activity	845 (-129)	974	9,187 (+587)	8,600
Traffic Citations	863 (-93)	956	9,314 (+2,384)	6,930
Traffic Warnings*	155 (-310)	465	2,304 (-1,411)	3,715
Arrests*	73 (-13)	86	817 (+79)	738

*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