



**MAYOR AND COUNCIL MEETING  
MONDAY, FEBRUARY 18, 2019  
6:00 PM  
DALTON CITY HALL**

**A G E N D A**

**WORK SESSION – 5:30 P.M. – COUNCIL CHAMBER**

1. Review of Agenda

**REGULAR MEETING – 6:00 P.M. – COUNCIL CHAMBER**

**Call to Order**

**Pledge of Allegiance**

**Approval of Agenda**

**Public Commentary:** *(Please State Name and Address for the Record)*

**Special Recognitions:**

- [2.](#) Certificate of Excellence in Financial Reporting - City of Dalton Finance Department

**Minutes:**

- [3.](#) Work Session Minutes of February 4, 2019
- [4.](#) Regular Meeting Minutes of February 4, 2019

**Unfinished Business:**

- [5.](#) Dalton-Whitfield Planning Commission Recommendations:
  - A. Ordinance 19-05  
Recommendation to amend the Unified Zoning Ordinance to permit Breweries, Distilleries, Wineries, Brewpubs, Micro-wineries, Micro-distilleries and Micro-breweries in the City of Varnell as well as to update the definition of Boutique Hotel mirroring the current text for the City of Dalton.
  - B. Ordinance 19-04  
The request of Johnny Bonds to rezone from Heavy Manufacturing (M-2) to Limited Commercial (C-1A) a tract of land totaling 0.29 acres located at 400 Rowena Street.

**New Business:**

- [6.](#) Resolution 19-01 Authorized City Streets for PTV Operations
- [7.](#) Resolution 19-02 Action Plan Amendment
- [8.](#) First Reading - Ordinance 19-03 Donation Bins

**Supplemental Business:**

**Adjournment**



Government Finance Officers Association  
203 North LaSalle Street, Suite 2700  
Chicago, Illinois 60601-1210  
312.977.9700 fax: 312.977.4806



January 9, 2019

The Honorable Dennis Mock  
Mayor  
City of Dalton  
PO Box 1205  
Dalton, GA 30722-1205

Dear Mayor Mock:

We are pleased to notify you that your comprehensive annual financial report (CAFR) for the fiscal year ended 2017 qualifies for GFOA's Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

When a Certificate of Achievement is awarded to a government, an Award of Financial Reporting Achievement (AFRA) is also presented to the individual(s) or department designated by the government as primarily responsible for its having earned the Certificate. This award has been sent to the submitter as designated on the application.

We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. A sample news release is enclosed to assist with this effort.

We hope that your example will encourage other government officials in their efforts to achieve and maintain an appropriate standard of excellence in financial reporting.

Sincerely,

A handwritten signature in black ink that reads 'Michele Mark Levine'.

Michele Mark Levine  
Director, Technical Services Center



## **PRESS RELEASE**

### **02/07/19**

The Certificate of Achievement for Excellence in Financial Reporting has been awarded to the **City of Dalton** by the Government Finance Officers Association (GFOA) for its Comprehensive Annual Financial Report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

The CAFR has been judged by an impartial panel to meet the high standards of the program, which includes demonstrating a constructive “spirit of full disclosure” to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

This award has been presented to:

**Cindy Jackson, Director of Finance**



*Pictured left to right are City of Dalton Finance office employees: Ina Gabe, Mechelle Champion, Cindy Jackson, Nancy Ware, and Rhonda Sissom.*



THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
WORK SESSION  
FEBRUARY 4, 2018

The Mayor and Council held a Work Session this evening beginning at 5:15 p.m. in the Council Chambers of City Hall. Present were Mayor Dennis Mock, Council Members Denise Wood, Annalee Harlan, Tyree Goodlett and Gary Crews, City Administrator Jason Parker, Attorney Jonathan Bledsoe and several department heads.

AGENDA REVIEW

The Mayor and Council reviewed the agenda items, in specific the following agenda items:

Consulting Agreement with Evergreen Solutions

Human Resources Director Greg Batts explained the consulting agreement will review the City's compensation system. The cost of the agreement is \$28,000.00.

EMCOR Contract Renewal for City Hall HVAC

Human Resources Director Greg Batts stated the Renewal Contract is for preventative maintenance for City Hall's HVAC system. Batts stated there is no additional cost from last year's agreement.

Dalton Police Department Renewal of Federal Equitable Sharing Agreement

Police Chief Cliff Cason stated the agreement allows the Police Department to continue participation in the Federal Asset Forfeiture Program.

Resolution 19-01 Authorized City Streets for PTV Ordinance

Assistant Police Chief Chris Crossen briefed the Mayor and Council on the few details gathered regarding a serious teen accident driving a PTV in Varnell. Council member Denise Wood asked the Mayor and other Council members to table this item until they could gain further information regarding the accident to see if the current draft ordinance needed to be amended to include anything further. Crossen stated as more details become available he will update the Mayor and Council.

Ordinance 19-05

Ethan Calhoun, Asst. Planning Director-Northwest Georgia Regional Commission updated the Mayor and Council on Ordinance 19-05 stating the ordinance provides a text amendment to the Unified Zoning Ordinance insuring that Varnell's Ordinance will be updated to reflect the adoption of a boutique hotel definition and to make sure it was a 35 unit occupancy and the Ordinance will also to change the definition of permitted use tables so that Breweries, Distilleries, Wineries, Brewpubs, Micro-wineries, Micro-distilleries and Micro-breweries are permitted in the city of Varnell. Calhoun stated that although it's for Varnell, all Cities must vote on the text amendment.

Ordinance 19-04

Ethan Calhoun, Asst. Planning Director-Northwest Georgia Regional Commission stated to the Mayor and Council the rezoning request would allow Johnny Bonds to subdivide his current property.

Mayor and Council  
Work Session Minutes  
Page 2  
February 4, 2019

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was adjourned at 5:56 p.m.

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Bernadette Chattam  
City Clerk

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Dennis Mock, Mayor

Recorded  
Approved: \_\_\_\_\_  
Posted: \_\_\_\_\_

THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
FEBRUARY 4, 2019

The Mayor and Council held a meeting this evening at 6:00 p.m. in the Council Chambers of City Hall. Present were Mayor Dennis Mock, Council Members Denise Wood, Annalee Harlan, Tyree Goodlett and Gary Crews, City Administrator Jason Parker, Attorney Jonathan Bledsoe and several department heads.

APPROVAL OF AGENDA

On the motion of Council member Harlan, second Council member Goodlett, the Mayor and Council approved the agenda and removed the Executive Session item. The vote was unanimous in favor.

PUBLIC COMMENTARY

Rob Cowan praised and thanked Michael Corbin for serving as the City Solicitor for 13 years.

Steve Foster stated one should not be jailed/imprisoned for less than 1 ounce of marijuana.

DDDA Executive Director Catherine Edgemon reminded the Mayor and Council that the Downtown Development's launch of their new Master Plan will be February 5, 2019 and asked all to attend.

PLEDGE OF ALLEGIANCE

Mayor Mock led the audience in the Pledge of Allegiance.

MINUTES

The Mayor and Council reviewed the Work Session Minutes and Regular Meeting Minutes of January 7, 2019. On the motion of Council member Wood, second Council member Harlan, the minutes were approved. The vote was unanimous in favor.

PROCLAMATION - GEORGIA DAY

The Mayor and Council proclaimed February 12, 2019 as "Georgia Day" in the City of Dalton and called upon citizens to celebrate the State's proud and rich heritage on its 286<sup>th</sup> Anniversary.

SPECIAL RECOGNITION

The Mayor and Council recognized Officer Bart Chandler as Dalton Police Department's Police Officer of the Year.

2019 ALCOHOL APPLICATION

On the motion of Council member Harlan, second Council member Goodlett, the Mayor and Council approved the following applications:

Business Owner:	Jeff Moses
d/b/a:	MBF Company
Applicant:	Jeff Moses
Business Address:	302 Dayton St.
Type:	Wholesale Beer, Wine, Liquor (Mini Warehouse)
Disposition:	New

The vote was unanimous in favor.

CONSULTING AGREEMENT WITH EVERGREEN SOLUTIONS

The Mayor and Council reviewed the Consulting Agreement with Evergreen Solutions to provide certain human resources management consulting services in the amount of \$28,000.00. On the motion of Council member Wood, second Council member Harlan, the Council authorized the Mayor to execute the contract. The vote was unanimous in favor.

EMCOR CONTRACT RENEWAL FOR CITY HALL HVAC

The Mayor and Council reviewed the EMCOR Contract Renewal for City Hall HVAC. Human Resources Director Greg Batts stated the contract will remain the same as the previous year at \$1626.00 per quarter effective February 1, 2019. On the motion of Council member Wood, second Council member, the Mayor and Council approved the renewal agreement. The vote was unanimous in favor.

DALTON POLICE DEPARTMENT RENEWAL OF FEDERAL EQUITABLE SHARING AGREEMENT

The Mayor and Council reviewed the Dalton Police Department Renewal of Federal Equitable Sharing Agreement that renews the department participation in the Federal Asset Forfeiture Program. On the motion of Council member Harlan, second Council member Goodlett, the Mayor and Council approved the agreement. The vote was unanimous in favor.

RESOLUTION 19-01 AUTHORIZED CITY STREETS FOR PTV OPERATIONS

This item was tabled until the next regular meeting.

DALTON-WHITFIELD PLANNING COMMISSION RECOMMENDATIONS  
FIRST READING

Ordinance 19-05

The Mayor and Council held a first reading to amend the Unified Zoning Ordinance to permit Breweries, Distilleries, Wineries, Brewpubs, Micro-wineries, Micro-distilleries and Micro-breweries in the City of Varnell as well as to update the definition of Boutique Hotel mirroring the current text for the City of Dalton.

Ordinance 19-04

The Mayor and Council held a first reading for the request of Johnny Bonds to rezone from Heavy Manufacturing (M-2) to Limited Commercial (C-1A) a tract of land totaling 0.29 acres located at 400 Rowena Street.



APPOINTMENTS

Boards and Authorities Appointments

On the motion of Council member Crews, second Council member Wood, the Mayor and Council approved the following appointments:

CVB - George Woodward  
Housing Authority - Antoine Simmons  
Planning & Zoning - Jody McClurg  
WL&SF - Mark Mixer

The vote was unanimous in favor.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was adjourned at 6:17 p.m.

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Bernadette Chattam  
City Clerk

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Dennis Mock, Mayor

Recorded  
Approved: \_\_\_\_\_  
Posted: \_\_\_\_\_



## Mayor and Council Agenda Request

Council Meeting Date: \_\_\_\_\_

Department: \_\_\_\_\_

Subject: \_\_\_\_\_

Cost: \_\_\_\_\_ Already in Current Year Budget? Yes \_\_\_\_ No \_\_\_\_

Provide Funding Source if Not in Budget: \_\_\_\_\_

Reviewed/Approved By City Attorney? \_\_\_\_\_

Please provide a summary of your request, including background to explain the request

Requested By:

City Administrator Recommendation

City Clerk Notations

Motion/Second

Approved

Date

## **Ordinance 19-05**

**To Amend Unified Zoning Ordinance Of Whitfield County, Georgia; To Provide An Effective Date; To Repeal All Conflicting Ordinances; To Provide For Severability; And For Other Purposes.**

**BE IT ORDAINED** by the Mayor and Council of the City of Dalton, and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

### **Section 1.**

The Unified Zoning Ordinance of Whitfield County, Georgia is hereby amended to delete the definition for Boutique Hotel in its entirety and in lieu thereof insert the following definition for Boutique Hotel:

*A small lodging facility with 35 or fewer guest rooms that are rented to occupants on a daily basis for not more than 14 consecutive days. Access to each guest room shall be through an inside lobby that is supervised at all hours.*

### **Section 2.**

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

### **Section 3.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

### **Section 4.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2019.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, second by Councilmember \_\_\_\_\_ and upon the question the vote is \_\_\_\_ ayes, \_\_\_\_ nays and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, CITY OF DALTON

**DALTON-WHITFIELD COUNTY PLANNING COMMISSION**  
**503 WEST WAUGH STREET**  
**DALTON, GA 30720**

**MEMORANDUM**

**TO:** Whitfield County Board of Commissioners  
Mark Gibson  
Robert Smalley  
Jean Price-Garland  
City of Dalton Mayor and Council  
Kim Witherow  
Jason Parker  
City of Varnell Mayor and Council  
Mike Brown

**FROM:** Jim Lidderdale  
Chairman

**DATE:** January 29, 2019

**SUBJECT: The staff recommendation to amend the Unified Zoning Ordinance to permit Breweries, Distilleries, Wineries, Brewpubs, Micro-wineries, Micro-distilleries and Micro-breweries in the City of Varnell as well as to update the definition of Boutique Hotel mirroring the current text for the City of Dalton. (*Dalton, Whitfield, Varnell*)**

The most recent meeting of the Dalton-Whitfield County Planning Commission was held on January 28, 2019 at 6:00 p.m. at the Whitfield County Administrative Building #2, 214 West King Street. A portion of the agenda included a public hearing concerning the above matter. A quorum of five members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met.

The petition was represented by Ethan Calhoun, the secretary of the Dalton, Whitfield and Varnell Planning Commission.

**Public Hearing Summary:**

Mr. Calhoun began the public hearing with opening remarks to inform the members of the reasoning for the proposed text amendment. He stated that this change is proposed in order to create consistency among the two cities within the Unified Zoning Ordinance. Mr. Calhoun made note that this amendment would simply mirror the current text for the City of Dalton in order to permit the previously mentioned uses within the City of Varnell. He went on to clarify that this amendment would in no way alter the definitions of Breweries, Distilleries, Wineries, Brewpubs, Micro-wineries, micro-distilleries and micro-breweries the previously stated uses or affect the permitted use table in regards to the City of Dalton or Whitfield County.

With no other comments heard for or against this public hearing closed 6:19p.m.

**Recommendation:**

Chairman Lidderdale sought a motion on the staff's suggested amendments. **Mr. DeLay made a motion to accept the proposed amendments as written. Mr. Thomas seconded the motion and a unanimous recommendation followed, 4-0.**

**STAFF ANALYSIS**  
**TEXT AMENDMENTS FOR**  
***UNIFIED ZONING ORDINANCE***

**January 2019**

**(Referencing the attached spreadsheets for details)**

*The Unified Zoning Ordinance was adopted by Dalton, Varnell, and Whitfield County in July and August of 2015. Since that time the staff, who works to administer the Ordinance on a daily basis, identified needed corrections or clarifications, and identified oversights, all for the purpose of improving the context and readability of the zoning text.*

*The resulting text changes, as proposed, are listed in a spreadsheet (attached) that identifies the current text or current zoning, then proposes the corrected text or new zoning. The legal advertisement ran on Friday, January 11, 2019; copies of the proposed amendments were made available to the public in the Office of the Whitfield County Board of Commissioners, and in the Clerk's Office at Varnell City Hall.*

**Proposed Text Amendments:** The proposed text amendments are numbered in sequence with the affected Section or passage identified in the third column. The spreadsheet also shows you the current language of the ordinance (column 4), then provides the proposed language in the last column to the right. For the staff, the proposed amendments are considered clean-up and clarification of past ordinances in the new format of the Unified Zoning Ordinance. It remains possible that more amendments may be found and a new list will be started by the staff as we move forward with administration. Maintaining an effective ordinance is part of the process.

Just as a note, the advertisement and the availability of the proposed amendments for public review is part of the process. Simultaneously, consideration of additions all the way through the public hearing is possible. If a citizen presents a proposed change at the public hearing, then consideration of that proposal, yea or nay, is part of the process. Any such additions will be highlighted and the paperwork following the public hearing will be thorough in identifying the proposed amendments in their final form in readiness for final action by each government participating in the Unified Zoning Ordinance.

*Staff Recommendation: The proposed text amendments are recommended for adoption to modify the ordinance text in order to create greater interjurisdictional consistency.*

## Defining “Boutique Hotels” in the Unified Zoning Ordinance Text

2019 Proposed Text Amendments - Dalton, Whitfield, Varnell Unified Zoning Ordinance				
Amendment	Purpose	Text Section	Current Text	Revised/Amended Text
<b>1</b>	Update the description for Boutique Hotel to conform with Whitfield and Dalton	Article II Definitions; Page 4	Boutique Hotel. A small lodging facility with 30 or fewer guest rooms that are rented to occupants on a daily basis for not more than 14 consecutive days. Access to each guest room shall be through an inside lobby supervised at all hours.	Boutique Hotel. A small lodging facility with <u>35</u> or fewer guest rooms that are rented to occupants on a daily basis for not more than 14 consecutive days. Access to each guest room shall be through an inside lobby supervised at all hours.

## Permitting Breweries, Distilleries, Wineries, Brewpubs, Microbreweries, Micro-Wineries and Micro-Distilleries in appropriate zone districts for the City of Varnell

2019 Proposed Text Amendments - Dalton, Whitfield, Varnell Unified Zoning Ordinance				
Amendment	Purpose	Text Section	Current Text	Revised/Amended Text
<b>2</b>	Brewpubs, Microbrewery, Micro-winery	Permitted Use Table Page 2 of 7	Brewpubs, Microbrewery, Micro-winery Permitted outright in C-2, C-3, C-4 and MU Only within the City of Dalton	Same permitted zones Within the Cities of Dalton and Varnell
<b>3</b>	Brewery, Winery, Distillery	Permitted Use Table Page 2 of 7	Brewery, Winery, Distillery Permitted outright in M-2 Only within the City of Dalton	Same permitted zones Within the Cities of Dalton and Varnell
<b>4</b>	Micro-Distillery	Permitted Use Table Page 2 of 7	Micro-Distillery Permitted outright in C-2, C-3 and C-4 Only within the City of Dalton	Same permitted zones Within the Cities of Dalton and Varnell

\*Mixed Use review requires the applicant to submit a preliminary site plan as part of their application. There are instances where this use may be applicable within a Mixed Use district given the proper circumstances.

\*Special conditions for all Microbreweries, Micro-distilleries/wineries are as follows:

1. an off street or alley loading dock is required;
2. drive through service is not allowed.



## **ORDINANCE NO. 19-04**

To Rezone Property Of Johnny Bonds As Executor Of The Estate Of Herl Bonds From A M-2 Classification To A C1-A Classification; To Provide for an Effective Date; To Provide For the Repeal of Conflicting Ordinances; To Provide For Severability; And For Other Purposes.

**WHEREAS**, Johnny Bonds, as Executor of the Estate of Herl Bonds, has petitioned for rezoning of his property from a M-2 classification to a C1-A classification; and

**WHEREAS**, all other procedures as required by Georgia law have been followed.

**NOW, THEREFORE, BE IT HEREBY ORDAINED**, by the Mayor and Council of the City of Dalton, Georgia, as follows:

### **Section 1.**

The real property as described in Exhibit “A” (the “Property”), which is attached to and incorporated herein as a part of this Ordinance, is hereby rezoned from a M-2 classification to a C1-A classification.

### **Section 2.**

This Ordinance shall be effective as of the date of approval of this Ordinance.

### **Section 3.**

The City Clerk is instructed to send a copy of this Ordinance to the Dalton-Whitfield Zoning Administrator with a request to record this rezoning on the Official Zoning Map of Whitfield County, Georgia.

### **Section 4.**

All ordinances and parts of ordinances in conflict with this Ordinance are repealed.

### **Section 5.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall

not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, CITY OF DALTON

EXHIBIT "A"

**A tract of land located in the City of Dalton, 12th District and 3rd section of Whitfield County, Georgia, being City Lots Nos. 97, 98, 99 and 100 of the Ford Subdivision, according to plat of said subdivision recorded in Deed Book 9, Page 35, in the Office of the Clerk of the Superior Court of Whitfield County, Georgia, reference to said plat being herein made for a more full and complete description of said property.**

**DALTON-WHITFIELD COUNTY PLANNING COMMISSION**  
**503 WEST WAUGH STREET**  
**DALTON, GA 30720**

**MEMORANDUM**

**TO:** City of Dalton Mayor and Council  
Kim Witherow  
Jason Parker  
Jim Bisson  
Jean Price-Garland

**FROM:** Jim Lidderdale  
Chairman

**DATE:** January 29, 2019

**SUBJECT: The request of Johnny Bonds to rezone from Heavy Manufacturing (M-2) to Limited Commercial (C-1A) a tract of land totaling 0.29 acres located at 400 Rowena Street (Parcel 12-218-06-038) (Dalton)**

The most recent meeting of the Dalton-Whitfield County Planning Commission was held on January 28, 2019 at 6:00 p.m. at the Whitfield County Administrative Building #2, 214 West King Street. A portion of the agenda included a public hearing concerning the above matter. A quorum of five members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met.

The petition was represented by Johnny Bonds, the property owner and petitioner.

**Public Hearing Summary:**

Mr. Calhoun oriented the audience to the subject property and summarized the staff analysis which was in favor of the requested C-1A rezoning.

Johnny Bonds confirmed that the staff analysis accurately reflected his request and would satisfy his desire to sub-divide the subject property in order to separate the existing structures for individual sale. Mr. Minor noted the issue of mortgage lenders refusing to lend for properties zoned for commercial use even though in this case residential would be a permitted use. Mr. Sanford inquired if Mr. Bonds could rezone to C-1A in order to sub-divide the subject property as desired and later rezone the two new parcels to strictly residential. Ms. Price-Garland stated that the proposed parcels of land would not meet the minimum lot size and therefore would not be eligible for a residential rezoning. Some brief discussion occurred on this concern and Mr. Bonds stated that the requested C-1A rezoning would satisfy his need. Ms. Price-Garland stated that the subject property's owner would be required to submit a plat to the Planning Commission for approval in the event the C-1A rezoning is approved.

With no other comments heard for or against this public hearing closed 6:31p.m.

**Recommendation:**

Chairman Lidderdale sought a motion on the requested C-1A rezoning. **Mr. DeLay made a motion to recommend approval of the C-1A rezoning based on his agreement with the content of the staff analysis. His motion was seconded by Mr. Sanford which then passed unanimously, 4-0.**

**STAFF ANALYSIS  
REZONING REQUEST  
*Unified Zoning Ordinance***

**ZONING CASE:** Johnny Bonds is seeking to rezone from Heavy Manufacturing (M-2) to Limited Commercial (C-1A) a tract of land (parcel 12-218-06-038) containing 0.29 acres. The tract currently contains two single family dwellings. The rezoning request to C-1A is sought to serve a single purpose on the site: Reverse the subject property's non-conforming status in order for the petitioner to sub-divide and sell the subject property for residential use.

The surrounding uses and zoning are as follows: 1) To the north, is a single vacant tract totaling 0.2 acres zoned M-2. 2) To the east, are two adjacent tracts that are each approximately 0.2 acres in size zoned M-2. Each of the eastern adjacent tracts contain a single family dwelling; 3) To the south across Ford Street, is a 0.3 acre tract that contains a single family dwelling zoned R-5. 4) To the west across Rowena Street, is a 0.34 acre tract containing a single family dwelling zoned M-2. All in all, a review of the zoning map shows the subject property to be flanked by R-5 zoned tracts along its entire southern boundary. Land uses in this area appear to be a mix of single-family and multi-family residential.

The subject property is within the jurisdiction of the City of Dalton Mayor and Council.

<u>Administrative Matters</u>		<u>Yes</u>	<u>No</u>	<u>N/A</u>
A.	Is an administrative procedure, like a variance, available and preferable to a rezoning?	—	<u>X</u>	—
B.	Have all procedural requirements been met?	<u>X</u>	—	—
	1. Legal ad January 11, 2019 (16 days notice)			
	2. Property posted January 11, 2019 (Yes -- one sign on the lot frontage; 16 days notice.)			
C.	Has a plat been submitted showing a subdivision of land?	—	<u>X</u>	—
D.	The following special requirements have an impact on this request:			
	<b>100-year flood plain</b> (land is filled to the 100-year flood level)	—	<u>X</u>	—
	<b>Site Plan</b> (none required)	—	<u>X</u>	—
	<b>Buffer Zones</b> (none required)	—	<u>X</u>	—
	<b>Soil Erosion/Sedimentation Plan</b>	—	<u>X</u>	—
	<b>Storm Water Requirements</b>	—	<u>X</u>	—

## **CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS**

**(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.**

Although the subject property is zoned M-2 it has been utilized residentially for some time. It is worth noting, however, that one of the two structures on the subject property has been utilized commercially at a point in time. It is also worth pointing out that the distance between the two existing structures is approximately twelve feet. Although the density of these structures is slightly higher than the surrounding residential tracts they have existed this way for some time with no noticeable effect on this area. Although C-1A is not an adjacent or common zone district in this vicinity it is the only zone district where the subject property could be both sub-divided and utilized for either residential or limited commercial use. Due to the required setbacks in C-1A, however, the existing structures will still be encroaching on both the side and rear setbacks and would require a variance in the event a minor subdivision plat is later approved.

**(B) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.**

The current M-2 zone is a wide-open industrial district that allows a variety of intense uses unlike those permitted in the proposed Limited Commercial C-1A zone district. The surrounding residences would likely benefit from the proposed rezoning. It is fair to say, however, that this non-conforming M-2 island is highly unlikely to ever be developed for a conforming M-2 use based on limited lot sizes and existing residential development on the majority of lots within the island.

**(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.**

Due to the limited size of the subject property, as well as the structures occupying it, it is unlikely that an M-2 business would locate itself on the subject property if it remains industrially zoned. It is, however, more likely that the subject property will remain utilized for residential uses for the foreseeable future.

**(D) Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.**

As stated previously the current M-2 zone is an inappropriate zone district for the subject property based on surrounding land use, residential street access, and the subject property's size. The proposed C-1A zone district is a much more appropriate district for the subject property and surrounding neighborhood than the existing M-2 zone district. This property's current state is likely a result of the City's previous pyramid style zoning ordinance which allowed all uses to exist within an M-2 zone district along with less strict setbacks.

**(E) Whether the proposed (C-1A) amendment, if adopted or approved, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.**

There would be no burden on infrastructure or utilities created by rezoning the subject property given that C-1A is a much less intensive zone district requiring much less infrastructural capacity than M-2. It is worth noting that this property is served by both public drinking water as well as sanitary sewer.

**(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses which are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses which are compatible to the existing uses in the vicinity.**

The Future Development Map designates this area as a Town Neighborhood Revitalization Area. These neighborhoods are historic but have experienced disinvestment and decline due in part to the demolition of residences to accommodate commercial uses, parking areas, apartment buildings and industrial uses. Prevalent zoning of properties for industrial uses further contributes to the neighborhoods' instability and diminishing potential for revitalization. Recent planning efforts, including the City of Dalton Urban Redevelopment Plan (2012), Neighborhood Infill Guidelines (2003), Dalton Historic Housing Infill Study (2006), and the Believe Greater Dalton Housing Strategy address these areas and the issues of neighborhood revitalization opportunities for new growth with infill. Primary land uses for this character area should be limited to single-family residential, townhomes, mixed use (live/work units), neighborhood commercial (as identified in the City of Dalton Urban Redevelopment Plan's concept plans), parks, and public/institutional.

**(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an "entering wedge" and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.**

None identified. In this case, the requested C-1A zone is a less intensive zone district than the subject property's current zoning. It is also worth noting that C-1A shares permitted uses with the adjacent R-5 zone district.

**(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues that influence the development of the subject property under any zoning designation.**  
N/A.

**CONCLUSION:** This analysis is not a difficult one due to the consistent development pattern of the existing residential development adjacent and nearby the subject property.

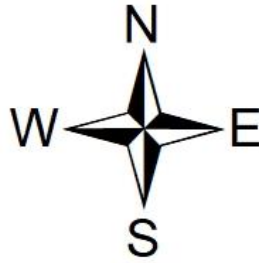
The staff can provide a recommendation for the C-1A zone at this location:

- 1) The main reason for this recommendation is that by rezoning the subject property to C-1A the permitted uses would reflect the majority of residential properties nearby as opposed to the current M-2 zone;
- 2) The Limited Commercial (C-1A) request is considered much more consistent with the Comprehensive Plan's Town Neighborhood Revitalization character area than the current M-2 zone district;
- 3) There is not an expectation that this location is to expect industrial development for the foreseeable future.
- 4) The issues of the existing two structures encroaching the required setbacks will exist regardless

the zoning of the subject property, but there is no minimum lot size requirement within the requested C-1A zone district and would therefore create the opportunity for the subject property to be subdivided into two tracts.



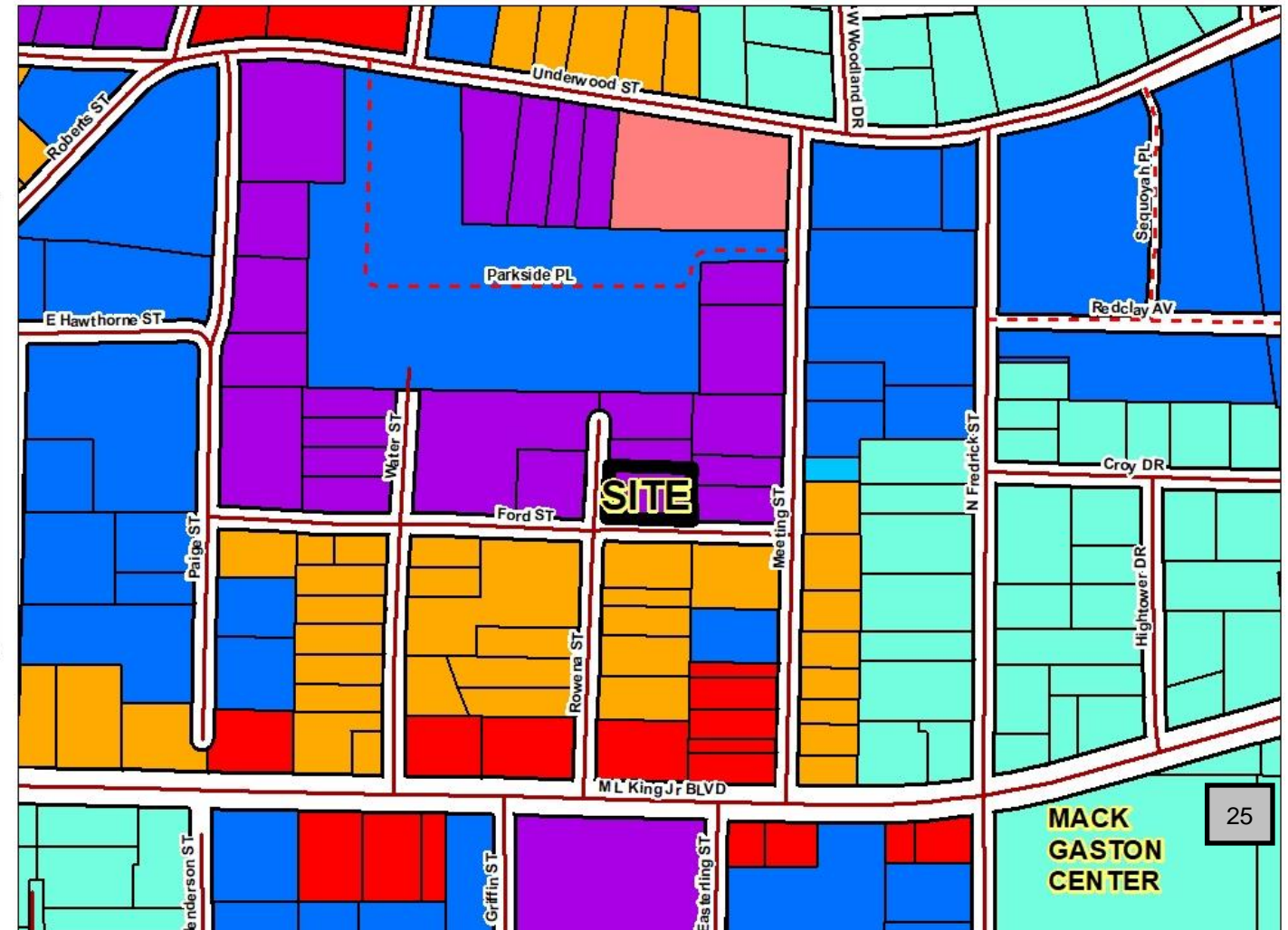
# Bonds Rezoning Request M-2, Heavy Manufacturing to C-1A, Limited Commercial City of Dalton Jurisdiction



## ZONING

	Medium Density Single Family Residential (R-3)
	Rural Residential (R-5)
	Transitional Residential (R-6)
	High Density Residential (R-7)
	Neighborhood Commercial (C-1)
	General Commercial (C-2)
	Heavy Manufacturing (M-2)





**FEET**  
**200**



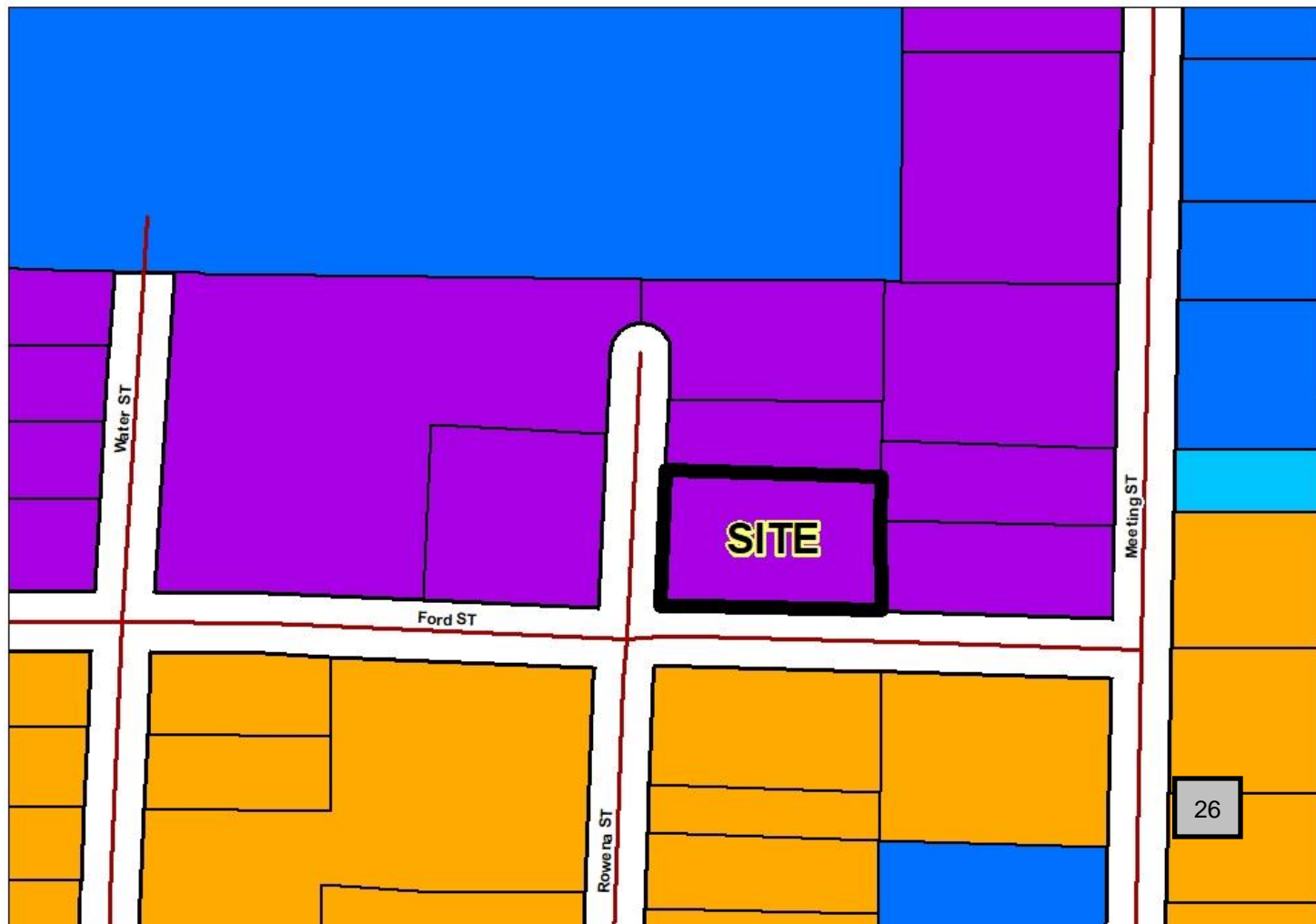
**Bonds Rezoning Request  
M-2, Heavy Manufacturing  
to  
C-1A, Limited Commercial  
City of Dalton Jurisdiction**



**ZONING**

	Rural Residential (R-5)
	Transitional Residential (R-6)
	High Density Residential (R-7)
	Heavy Manufacturing (M-2)

**FEET**  
**100**





# Bonds Rezoning Request M-2, Heavy Manufacturing to C-1A, Limited Commercial City of Dalton Jurisdiction



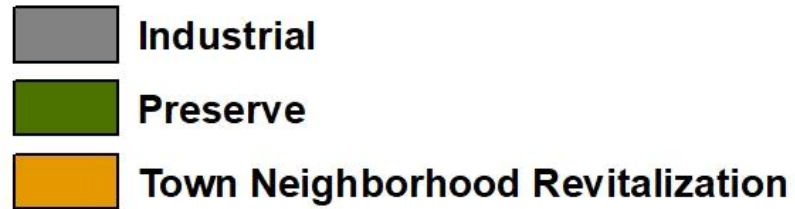
**FEET**  
**100**



# Bonds Rezoning Request M-2, Heavy Manufacturing to C-1A, Limited Commercial City of Dalton Jurisdiction



## FUTURE DEVELOPMENT MAP



**FEET**  
**200**







## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 02-04-19

**Agenda Item:** Resolution 19-01 Authorized City Streets for PTV Operations

**Department:** Administration; Police; Public Works

**Requested By:** Jason Parker

**Reviewed/Approved by City Attorney?** Yes

**Cost:** N/a

**Funding Source if Not in Budget** N/A

**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

Resolution to add list of authorized streets upon which PTVs may be operated. Public Works and Police department supplied a favorable recommendation to add all streets within Windmere Subdivision to those authorized for PTV authorization, pursuant to City Ordinance 114-116. Note: this recommendation does not authorize operation of PTVs along or across the right of way of Haig Mill Road. Pursuant to a written request from the Windmere HOA, Public Works and Police Department will evaluate the feasibility and safety aspects of establishing an approved PTV crossing.

**RESOLUTION 19-01**

**A RESOLUTION TO AUTHORIZE PERSONAL TRANSPORTATION VEHICLES  
WITHIN THE WINDEMERE SUBDIVISION**

**WHEREAS**, Chapter 114, Article VII of the 2001 Revised Code of the City of Dalton, Georgia (“Dalton Code of Ordinances”) authorizes the use of Personal Transportation Vehicles (“PTV”) upon certain streets designated by resolution of the Mayor and Council ; and

**WHEREAS**, representatives of the Windemere Subdivision have requested that PTVs be authorized for use on all streets within said subdivision; and

**WHEREAS**, said streets comply with all requirements of O.C.G.A. §40-6-330, et. seq., and the Dalton Code of Ordinances for designation as authorized streets for PTV use;

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Council of the City of Dalton hereby designate the following streets as authorized streets for PTV use pursuant to City of Dalton Code of Ordinances Sec. 114-416:

Bedford  
Cameron  
Canterbury  
Chadwell  
Chatham  
Coventry  
Essex  
Hathaway  
Tolchester  
Wellington  
Wycliffe

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**BE IT FURTHER RESOLVED**, that these Resolutions shall take effect immediately upon their adoption.

**SO RESOLVED** this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF DALTON, GEORGIA**

\_\_\_\_\_  
Dennis Mock, Mayor

ATTESTED TO:

\_\_\_\_\_  
City Clerk

## Jason Parker

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**From:** Andrew Parker  
**Sent:** Friday, December 14, 2018 6:37 PM  
**To:** Jason Parker  
**Cc:** Benny Dunn; Chris Crossen  
**Subject:** Windemere PTVs  
**Attachments:** Golf Cart Neighborhood Letter (Signed).pdf

Jason,

Last Thursday, PD and PW reviewed the streets in Windemere for PTV use appropriateness. PD actually provided their golf cart, and we traversed all of the streets within the subdivision with ease. In order to allow PTVs to utilize the streets within the subdivision, we recommend adding PTV (golf cart) warning signs at all three (3) entrances of the subdivision. Also, we recommend adding a few signs inside the subdivision in advance of the steeper grades to warn PTV drivers to use caution when traveling down steep grades. The PD golf cart was able to make an abrupt stop on the steep grades with ease traveling at a higher rate of speed (note: the pavement was actually still wet when the test run was completed).

The attached letter didn't request the City perform an analysis of the crossing on Haig Mill Lake Road to the park. We will evaluate that crossing if that request is made in the future.

One important note is that Phase 1 (Canterbury Dr.) and Phase 2 (Coventry & Chatham) of the subdivision have no street connectivity. The PTV ordinance prohibits use on sidewalks and streets with posted speed limit higher than 25MPH, so Windemere Landowners Assoc. would have to provide their own path outside the right of way if they wish to travel from Phase 1 to Phase 2 of the subdivision.

If approved by the Council, the Public Works Department will erect the signs described above and as per State Law, the City is required to post the entrances to the corporate limits of Dalton on State Routes with "PTVs are authorized for use on public streets".

Please let us know if you have any questions or need additional information. Have a good weekend.

**P. Andrew Parker**  
Assistant Public Works Director  
Public Works Department | City of Dalton  
PO Box 1205 | 535 Elm Street  
Dalton, GA 30722  
Office: (706) 278-7077  
FAX: (706) 278-1847



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 2/18/19

**Agenda Item:** Resolution

**Department:** Finance

**Requested By:** Cindy Jackson

**Reviewed/Approved  
by City Attorney?** Yes

**Cost:** N/A

**Funding Source if Not  
in Budget** N/A

**Please Provide A Summary of Your Request, Including Background Information to  
Explain the Request:**

Reallocation of CDBG funds from public service project to public facility project. Dalton Family Promise dissolved and the \$20,000 allocated for funding will be redirected to the Richardson Street Project.



**RESOLUTION 19-02**

A RESOULUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DALTON, GEORGIA, AUTHORIZING THE ADOPTION AND APPROVAL OF THE REALLOCATION AND 2018 ACTION PLAN AMENDMENT FOR FISCAL YEAR 2018-2019 UNDER THE COMMUNITY DEVELOPMENT BLCOK GRANT (CDBG) PROGRAM.

**WHEREAS**, the City of Dalton has been designated as an “Entitlement Community” and therefore receives direct annual funding from the U.S. Department of Housing and Urban Development (HUD) for the Community Development Block Grant Program; and

**WHEREAS**, the City of Dalton has a need to reallocate unexpended CDBG program funds from a public service activity to a public facility activity in the amount of \$20,000.

**WHEREAS**, the Reallocation has been published and public meeting held for the HUD- required 30-day citizen participation, review and comment period;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and City Council of the City of Dalton, Georgia that the Fiscal Year 20181-2019 Annual Action Plan Amendment; and that this Resolution shall be effective upon adoption.

**NOW, THEREFORE**, this Resolution was unanimously adopted by the City of Dalton Mayor and Council on this 18<sup>th</sup> day of February 18, 2019.

**CITY OF DALTON, GEORGIA**

\_\_\_\_\_  
Dennis Mock  
Mayor

**ATTESTED TO:**

\_\_\_\_\_  
City Clerk



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 2/18/19

**Agenda Item:** Ordinance 19-03 Donation Bin

**Department:** Administration

**Requested By:** Jason Parker

**Reviewed/Approved by City Attorney?** Yes

**Cost:** N/A

**Funding Source if Not in Budget** N/A

**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

1 <sup>st</sup> Reading of ordinance to require permit for donation bins within City of Dalton.
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## **ORDINANCE 19-03**

To Amend Chapter 26 Of The 2001 Revised Code Of The City Of Dalton, Georgia Captioned “Businesses”; By Adding Article VIII Captioned “Donation Bins”; To Provide For An Effective Date; To Provide For The Repeal Of Conflicting Ordinances; To Provide For Severability; And For Other Purposes.

**BE IT ORDAINED** by the Mayor and Council of the City of Dalton and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

### **Section 1.**

Amend Chapter 26 Of The 2001 Revised Code Of The City Of Dalton, Georgia Captioned “Businesses”; By Adding Article VIII Captioned “Donation Bins” which shall read as follows:

#### **ARTICLE VIII. DONATION BINS.**

The purpose of this article is to regulate the placement of unattended donation bins. The procedures and requirements of this article are intended to: promote the community's health, safety, and welfare by regulating unattended donation bins for clothing or other salvageable personal property; ensure that unattended donation bins do not pose a hazard to pedestrian and vehicular traffic; ensure that material is not allowed to accumulate outside of the unattended donation bins where it can be scattered by adverse weather conditions, animal contacts and human activities; and establish criteria that avoid attracting vermin, unsightliness, and public health hazards. Donation bins shall be subject to the following:

#### **Section 26-306. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrator* shall mean the City Administrator or any person designated by the City Administrator to enforce the requirements of this article.

*Applicant* means any person or entity who applies for a donation bin permit.

*Bin owner* means the owner of the donation bin and any agent thereof designated to operate such donation bin.

*Donation bin* means any freestanding, unattended container, drop-off box, receptacle, trailer or similar device that is located outdoors and is held out to the public as a place for the public to donate household materials, clothes, or other salvageable personal property to store such items until taken away for donation or resale by one who owns, operates, or maintains such container.

*Property* means any real property within the City of Dalton upon which a donation bin is located or is proposed to be located.

*Property owner* means the owner or leaseholder of any such property upon which a donation bin is located or is proposed to be located, and any agent thereof designated to manage such property.

**Section 26-307. Permit procedure.**

- (a) All bin owners of existing donation bins shall, within 60 days of the effective date of this ordinance, apply for a permit with the Administrator in accordance with this section.
- (b) All bin owners of new donation bins shall apply for a permit in accordance with this section prior to installation.
- (c) An application shall include the following information:
  - (1) The name, address, telephone number, email address (if applicable) of the bin owner and of the property owner. If the property owner or bin owner is not an individual, a specific contact person shall be named to receive notices.
  - (2) A statement signed by the applicant indicating that the applicant is the bin owner or authorized agent of the bin owner, and that applicant is familiar with and shall comply with the responsibilities and obligations of this code section including all penalties for violations thereof.
  - (3) If the applicant is not the property owner, the application shall include a statement signed by the bin owner consenting to the immediate removal and disposal of the donation bin at the request of the property owner.
  - (4) If the applicant is not the property owner, the application shall also include a statement signed by the property owner indicating that the property owner consents to the installation of the donation bin on the property and that the property owner is familiar with the and shall comply with the responsibilities and obligations of this code section including all penalties for violations thereof.
  - (5) A site plan or drawing depicting the size (height, width, and length) and location of any and all donation bins located on the property;

- (6) A description or diagram of any locking mechanism(s) for any lids or covers on the donation bin;
  - (7) A plan stating the frequency and methods by which the donation bin will be inspected for general cleanliness, graffiti, and litter or other rubbish located on or around the donation bin and a plan for remediation of the same;
  - (8) A plan stating the frequency and methods by which the collected materials will be removed from the donation bin;
  - (9) The appropriate registration fee. This fee shall be set by a fee schedule adopted and approved by the Mayor and Council, as may be amended from time to time. The fee schedule for donation bin registrations under this section shall be on file at the City Clerk's office.
- (d) Upon review of a completed application and payment of all fees as set forth in section (c) hereof, and upon determining that the donation bin and proposed location comply with all requirements of this article, the Unified Zoning Ordinance, and all other ordinances and laws, the administrator shall grant the permit. However, the administrator shall deny any application for a bin permit if any of the following circumstances exist:
- (1) The application does not comply with or contain all information required by section (c) hereof;
  - (2) The donation bin or proposed location thereof do not comply with the requirements of this article;
  - (3) The application contains any materially false information;
  - (4) The applicant is currently in violation of any provision of this article or has been found to be in violation of any provision of this article within one (1) prior to the date of submitting the application or has been denied a donation bin permit within one (1) year prior to the date of submitting the application.
- (e) Denial of any application may be appealed to the Mayor and Council by filing a written notice of appeal in the office of the City Clerk with a copy to the City Administrator within fourteen (14) calendar days of the decision date. In the event no appeal is filed within this fourteen period, the decision shall be final.
- (f) In the event that a timely appeal is filed, the Mayor and Council shall review the application, the decision of the administrator, and any information submitted by

the applicant in support of the appeal to determine if the application, the donation bin, and the proposed location of the donation bin comply with the requirements of this article and all other laws and ordinances of the City. The review of the Mayor and Council shall be limited to a determination of whether or not the decision of the administrator was clearly erroneous.

- (g) The Mayor and Council shall make a final determination of the appeal within sixty (60) calendar days of the date the appeal was filed. Any appeal of the decision of the Mayor and Council shall be taken to the Superior Court by a petition for a writ of certiorari.
- (h) Donation bins not permitted within the prescribed timeframe shall be removed at the expense of the property owner and bin owner, and shall be subject to enforcement and fines pursuant to section 26-309.
- (i) The permit for the donation bin shall be valid for a period of two years, after which the applicant shall be required to apply for a new permit.

**Section 26-308. Design, location, safety and maintenance requirements.**

- (a) Donation bins shall only be located in zoning district C-2 as defined by the Unified Zoning Ordinance.
- (b) Donation bins are permitted only on properties where there is an active primary use and shall not be located on vacant lots or abandoned property.
- (c) Donation bins must be placed on a paved surface and be located to the side or rear of the lot. The location of the donation bins must meet the minimum setback requirements for the lot and the donation bins may not be placed in any fire lane, loading zone, drive aisles or circulation area.
- (d) Donation bins are not permitted to be located in a manner that obstructs visibility at intersections or at any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding land uses.
- (e) The maximum size for any donation bin shall be five feet in width by five feet in depth and seven feet in height.
- (f) When multiple donation bins are located on an individual property, they must be adjacent to one another.
- (g) The total allowable number of donation bins depends on the size of the parcel on which the donation bin is located with the following limitations:

- (1) Property equal to or less than one acre shall have a maximum of one donation bin.
  - (2) Property greater than one acre shall allow one donation bin per acre.
- (h) All donation bins must be designed so that they are secured from unauthorized access, and shall have a lid or top to protect the contents from the weather. Such lid or top shall remain closed at all times except when the contents of the collection bin are being removed.
- (i) Donation bins shall be maintained in good condition and appearance with no structural damage, holes, visible rust, or graffiti.
- (j) All donation bins shall have the following clearly identified, in writing on the face of the bin:
  - (1) Specific items and materials requested for donation.
  - (2) Information identifying the organization(s) responsible for the maintenance and monetary proceeds of the donation bin including a contact name, phone number, and website for the organization(s).
  - (3) Statement that no items or materials may be left outside of the donation bins.
  - (4) Statement that the box is not intended for refuse disposal, garbage, candy, food wrappers, drink bottles, etc., and that liquids are prohibited.
  - (5) The City issued permit number shall be affixed to the front face of the donation bin.
- (k) No donation bin shall be permitted to overflow with donated items or to accumulate such items, litter, rubbish, or other materials surrounding it.
- (l) The owner or operator of the donation bin, as well as the property owner of the parcel, shall be responsible for maintaining the area around each donation bin so that it is free of litter, garbage, and any other undesirable material.
- (m) Each donation bin must be serviced at least every two weeks. Servicing shall include the following actions:

- (1) The removal of collected items;
  - (2) The removal of any litter, junk, debris, or other materials surrounding the donation bin;
  - (3) The removal of any graffiti on such bin;
  - (4) The abatement of any nuisance condition;
  - (5) The inspection of the donation bin for any peeling paint, rust, dents, holes, and the repair of any such condition found.
- (n) The bin owner shall maintain a written log showing the date of each service and maintenance action taken under this subsection and shall make such log immediately available to any agent of the City upon request.

**Section 26-309. Enforcement and penalties for violation.**

- (a) The property owner, donation bin owner, and operator of the donation bin shall each be jointly and severally responsible for ensuring compliance with the regulations of this article.
- (b) All notices required under this article shall be provided by email, certified mail, statutory overnight delivery, hand-delivery, or first class U.S. Mail to the address listed for the bin owner and for property owner on the permit application. The bin owner and property owner shall each be responsible for ensuring that all contact information is current.
- (c) The administrator or any other agent of the City shall be authorized to enter upon the property to ensure compliance with this article, the Unified Zoning Ordinance, or any other laws and regulations of the City, which pertain to the donation bin. Upon discovery of any circumstance concerning a donation bin that appears to be in violation of this article (including, but not limited to, overflowing donated items, junk, litter, rubbish or other materials surrounding such bin, the presence of graffiti on such bin, or any physical damage to the donation bin, the administrator, or his/her designee, shall provide written notice to the bin owner and property owner of such condition. The bin owner and the property owner shall remedy, repair, replace or remove such condition within forty-eight (48) hours following such notice. If the condition is donated items, junk, litter, rubbish or other materials surrounding the collection bin and the bin owner or the property owner has not remedied such condition within said 48-hour period, the City is authorized to remove such litter, junk, debris or other materials and to invoice the bin owner and the property owner such clean-up costs. The bin owner and the property owner shall be jointly and severally liable for any such costs, which shall be due and payable within ten (10) days of the City providing written notice of the same to the property owner and bin owner.



- (d) Anyone who violates any provision of this article shall be subject to citation to the municipal court, and upon a determination by the municipal court that a violation of this article has occurred, shall be subject to a civil penalty not to exceed \$1,000.00. If such violation is continuing, the municipal court shall also be empowered to require the abatement of any such violation.
- (e) Any person or entity that is found by the municipal court to be in violation of any provision of this article shall be subject to the suspension of the donation bin permit for 60 days by the public safety commission for the first violation, suspension of the donation bin permit for 180 days by the public safety commission if it is the second violation found by the municipal court within a 12-month period, or revocation of the donation bin permit and the denial of any renewal thereof for a period of five years by the public safety commission if it is the third violation found by the municipal court within a five-year period. A separate offense shall be deemed committed each day during or upon which a violation occurs or is permitted to continue. Any donation bin placed or maintained on a lot in violation of this section for more than fifteen (15) days shall also be subject to removal by the city at the expense of the bin owner or the property owner, who shall be jointly and severally responsible for any such costs.

## **Section 2.**

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

## **Section 3.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

## **Section 4.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2019.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, second by Councilmember \_\_\_\_\_

and upon the question the vote is \_\_\_\_ ayes, \_\_\_\_ nays and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, CITY OF DALTON