



LAWRENCEVILLE

GEORGIA

PLANNING COMMISSION MINUTES

Monday, May 1, 2023
6:00 PM

Council Assembly Room
70 S. Clayton St, GA 30046

CALL TO ORDER: 6 p.m.

Called to Order

PRESENT

Chairperson Bruce Hardy

Vice-Chairperson Jack "Jay" Johnston, Jr.

Commission Member Jen Young

ABSENT

Commission Member Stephanie Henriksen

Commission Member James Nash

APPROVAL OF AGENDA: 6:01 p.m.

Motion made to **AMEND the Agenda as PRESENTED** by Board Member Johnston, Jr., and
Seconded by Board Member Young

- Table the public hearing relating to Item No. 2 of an Ordinance to Amend Article 1; Article 2; Article 5; Article 6, and Article 7 of the Zoning Ordinance until the Monday, June 5, 2023 Planning Commission public hearing.

Voting Yea: Chairperson Hardy, Commission Member Johnston, Jr., Commission Member Young.

Motion made to **APPROVE the Agenda as AMENDED** to add, withdraw or table agenda items as shown below by Commission Member Young, and Seconded by Commission Member Johnston, Jr.

Voting Yea: Chairperson Hardy, Commission Member Johnston, Jr., Commission Member Young.

APPROVAL OF PRIOR MEETING MINUTES: 6:03 p.m.

Motion made to **Approve the Planning Commission Meeting Minutes** as shown below
Commission Member Johnston, Jr., and Seconded by Commission Member Young

- **Monday, March 6, 2023, Meeting Minutes**

Voting Yea: Chairperson Hardy, Commission Member Johnston, Jr., Commission Member Young

NEW BUSINESS

1. **6:04 p.m. - RZR2023-00046** – Applicant: West Crogan Capital, LLC; Property Owners: West Crogan Capital, LLC: An application to rezone the Subject Property from OI (Office Institutional District) to BG (General Business District) to install an Electric Messaging Center (EMC) Sign; The property is located at 439 West Crogan Street; Tax Parcel ID R5143 162; Approximately 0.46 acres.

Motion made **to recommend DENIAL of RZC2023-00046** by Commission Member Johnston, Jr., Seconded by Commission Member Young.

Voting Yea: Chairperson Hardy, Commission Member Johnston, Jr., Commission Member Young

- Proponent: Eric Crawford (Applicant)
- Opposition: None

2. **6:16 p.m. - An Ordinance to Amend Article 9 of the Zoning Ordinance (as amended)**

Motion made **to recommend APPROVAL of An Ordinance to Amend Article 9 of the Zoning Ordinance** by Commission Member Johnston, Jr., Seconded by Commission Member Young.

Voting Yea: Chairperson Hardy, Commission Member Johnston, Jr., Commission Member Young

PUBLIC COMMENT

No Public Comment

FINAL ADJOURNMENT: 6:24 p.m.

Motion made **to Adjourn** by Commission Member Johnston, Jr., and Seconded by Commission Member Young.

Voting Yea: Chairperson Hardy, Vice-Chairperson Nash, Board Member Young, Board Member Henrikson

**AN ORDINANCE TO AMEND
THE ZONING ORDINANCE OF THE CITY OF LAWRENCEVILLE, GEORGIA**

The City Council of the City of Lawrenceville, Georgia hereby ordains that the City of Lawrenceville Zoning Ordinance is amended as follows:

Section 1. **Delete Article 9, Administration and Enforcement in its entirety and replace it as follows:**

Administration and Enforcement

900. General Provisions

A. Decision-Making Responsibilities

The following table provides a summary of the decisions and applicable decision-makers for each of the determinations to be made in this Article.

Table 900-1: Summary Table of Procedures and Decision-Making Roles				
	Director of Planning and Development	Board of Appeals	Planning Commission	City Council
Administrative Variance	√			
Appeals		√		√
Building Permit	√			
Certificate of Occupancy	√			
Special Uses			√	√
Temporary Use Permit	√			
Variances		√	√	√
Zoning Ordinance Enforcement	√			
Zoning Ordinance Text Amendments			√	√
Zoning Map Amendments			√	√

901. Policies and Procedures

A. Policies and Procedures Governing Hearings on Zoning Decisions

For purposes of this section the term “zoning decision” shall have the meanings set forth in O.C.G.A. §36-66-3. Prior to making any zoning decision, the City Council shall conduct a public hearing. The public hearing shall be called, and public notice provided in accordance with the provisions of O.C.G.A §36-66-4. At any such public hearing, the following procedures shall apply:

- 1.** A member of the planning staff will briefly summarize the requested zoning change; and shall respond to any questions from the City Council regarding the staff recommendations related to the proposed zoning change.
- 2.** The applicant shall be provided with an opportunity to be heard, and may present any evidence, information, or materials which the applicant desires for the City Council to consider in arriving at its determination. The applicant’s presentation shall be counted against the time allowed for proponents of the application.
- 3.** Public comments will be accepted and individuals making public comments may present any evidence, information and/or materials the individual desires for the City Council to consider in arriving at its determination.
- 4.** The City Council may place reasonable time limitations on the presentation of the applicant and on public comments by individuals in support of or opposition to the zoning decision. An equal period be allowed for presentation data, evidence, and opinion by proponents of the zoning decision and by opponents of the zoning decision, and in no event shall the minimum time period allowed for presentation be less than 10 minutes per side.
- 5.** Persons speaking either in support of or in opposition to a zoning decision shall be recognized by the mayor, shall state their name and address for the public record, and shall present any written documents which they desire to be included in the record of the meeting to the City Clerk and Director of Planning and Development.
- 6.** All comments shall be directed to the City Council and shall be made in an orderly manner.

7. The applicant and any opponents to the zoning decision shall acquaint themselves with the provisions of §36-67a-3 and shall comply with the provisions of that statute.

B. Policies and Procedures Governing Hearings on Quasi-Judicial Decisions

For purposes of this section the term “quasi-judicial decision” shall include hearings on appeals of administrative decisions and hearings on applications for variances, special administrative permits, special exceptions, conditional use permits, and other similar permits. Prior to making a quasi-judicial decision, the Zoning Board of Appeals or the City Council shall conduct a public hearing. The public hearing shall be called, and public notice provided in accordance with the provisions of O.C.G.A. §36-66-4. At any such public hearing, the following procedures shall apply:

1. A member of the planning staff will briefly summarize the request and shall respond to any questions regarding the staff recommendations related to the request.
2. The applicant shall be provided with an opportunity to be heard, and may present any evidence, information, or materials which the applicant desires for the Board of Appeals or City Council to consider on arriving at its determination. The applicant’s presentation shall be counted against the time allowed for proponents of the application.
3. Public comments will be accepted and individuals making public comments may present any evidence, information, or materials the individual desires for the Board of Appeals or City Council to consider in arriving at its determination.
4. The Board of Appeals or City Council may place reasonable time limitations on the presentation of the applicant and on public comments by individuals in support or opposition to the quasi-judicial matter. An equal period shall be allowed for presentation of data, evidence, and opinion by proponents of the matter and by opponents of the matter, and in no event shall the minimum time period allowed for presentation be less than 10 minutes per side.
5. Persons speaking either in support of or in opposition to a matter shall be recognized by the chairman/mayor, shall state their name for the public record, and shall present any written documents which they desire to be

included in the record of the meeting to the Director of Planning and Development and/or City Clerk.

6. All comments shall be directed to the Zoning Board of Appeals or City Council and shall be made in an orderly manner.
7. The applicant and any opponents to the zoning decision shall acquaint themselves with the provisions of §36-67a-3 and shall comply with the provisions of that statute.

DRAFT

902. Planning and Development Director

A. Role of the Director of Planning and Development

- 1.** The Director of Planning and Development shall administer and enforce this Ordinance with the assistance of the Planning and Development and Code Enforcement staff and other people as designated by the Director of the Planning and Development Department.
- 2.** The Director shall have the authority to approve and issue Administrative Variances, Building Permits, Certificates of Occupancy, and Temporary Outdoor Activity, and to make interpretations and determinations of the Zoning Ordinance and Zoning Map in order to carry out the intent and purpose of this Zoning Ordinance.

B. ADMINISTRATIVE VARIANCES

- 1.** The Director shall have the power to grant variances (except for density and use) from the development standards of this Ordinance where, in his or her opinion, the intent of the Ordinance can be achieved, and equal performance obtained by granting a variance. The authority to grant such variance shall be limited to variances from the following requirements:
 - a.** Front yard or yard adjacent to a public street - variance not to exceed twenty (20) percent.
 - b.** Side yard - Variance not to exceed twenty (20) percent.
 - c.** Rear yard - Variance not to exceed twenty (20) percent.

C. BUILDING PERMITS REQUIRED

No building or structure shall be erected, moved, added to, or structurally altered without a permit issued by the Director of the Planning and Development Department. No building permit shall be issued except in conformity with the provisions of this Ordinance unless the Director receives a written order from the Board of Appeals in the form of an administrative review or variance as provided by this Ordinance.

D. APPLICATION FOR BUILDING PERMIT

- 1.** The applicant for a building permit shall submit plans at a suitable scale showing the shape, size, and location of the lot to be built upon; the shape, size, height, use, and location of the buildings to be erected,

altered, or moved and of any buildings already occupying the lot; the number of dwelling units the building is designed to accommodate; the setback line of the buildings on adjoining lots; and any other information needed to determine whether the provisions of this Ordinance are being followed.

2. If the plans conform to the provisions of this Ordinance, the City building Ordinances, and other Ordinances of the City, the permit shall be issued upon payment of the required fee. If compliance does not result, the building permit shall be refused by the Planning and Development Director stating such refusal in writing with the cause.
3. If no visible progress on construction or modification has been made within 12 months of the date that said permit is issued, the permit becomes invalid. The Director may renew the permit pending review and recommendation of the Building Inspector. A renewal fee is required to be paid by the applicant before the permit is renewed.

E. CERTIFICATE OF OCCUPANCY REQUIRED

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both until a Certificate of Occupancy has been issued by the Director of Planning and Development or their designee stating that the proposed use of the building or land conforms to the provisions of this Ordinance.
2. A record of all Certificates of Occupancy shall be kept on file in the Planning and Development Department and a copy shall be furnished, upon request, to any person.

903. Board of Appeals

A. ESTABLISHMENT AND PROCEDURE

1. COMPOSITION, APPOINTMENT, AND TENURE

The Board of Appeals (BOA) shall consist of five (5) members, appointed by the Mayor and with the consent of the City Council. The terms of the members shall be for four years each with staggered terms. No member of the Board of Appeals may hold any other public office or position in the Municipality.

2. VACANCIES

Vacancies shall be filled by appointments for unexpired terms only and in the same manner as the original appointment.

3. REMOVAL

Any member of the Board of Appeals may be removed by the Mayor, with the consent of the City Council, for any reason after written notice and a public vote. Any member who misses more than three meetings in any one calendar year without excuse shall be removed from the Board by the City Council. The Director of Planning and Development shall keep an attendance record and report if a member's attendance does not meet this requirement to the mayor's office.

4. COMPENSATION

All members of the Board of Appeals shall receive compensation in an amount to be determined by the City Council.

5. OFFICERS AND RULES OF PROCEDURE

The Board of Appeals shall elect one of its members as Chairman who shall serve for one year or until such person is reelected or a successor is elected. The Director of the Planning and Development Department or his/her designee shall act as Secretary for the Board of Appeals. Meetings shall be heard regularly, once a month, at the call of the Chairman and at such other times as the Board may determine. The Board of Appeals shall follow the rules adopted by the City Council in accordance with the provisions of this Section; shall keep minutes of its proceedings showing the absence, vote, or the failure to vote of each member; and shall keep records of its examination and other official actions, which minutes and

records shall be filed in the Planning and Development Department and open to the public for inspection.

6. QUORUM

For the purpose of transacting business, a quorum of the Board of Appeals shall be considered to be three (3) of the five (5) members.

B. BOARD OF APPEALS HEARINGS.

The Board of Appeals shall conduct public hearings on all applications or referrals, within a reasonable time and place to advertise as required by State law. Any party of interest may appear in person, or by an agent or by an attorney, and be heard. Hearings shall be conducted in accordance with the provisions set for in Article.

C. POWERS AND DUTIES

The Board of Appeals shall have the following powers and duties:

1. VARIANCES

If literal enforcement of the provisions of this Ordinance would result in unnecessary hardship due to special conditions and not to the intentional conduct of the requesting party, the Board of Appeals may authorize such variance if it is not contrary to the public interest. A variance from the terms of this Zoning Ordinance shall not be granted by the Board of Appeals unless and until:

- a.** A written application for a variance is submitted demonstrating that:
 - i.** Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - ii.** That the special conditions and circumstances did not result from the actions of the applicant.
 - iii.** No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings on other districts shall be considered grounds for the issuance of a variance.

- b.** Notice of a public hearing shall be given as provided in this Ordinance.
- c.** Where the strict application or literal enforcement of the requirements of this Zoning Ordinance would result in the applicant suffering practical difficulties, the Board of Appeals shall have the power to authorize a variance from the terms of this Zoning Ordinance to relieve such difficulties. In granting a variance, the Board of Appeals may impose such conditions as may be necessary to comply with the factors herein to reduce or minimize potential injurious effects of such variance upon neighboring properties and to carry out the general purpose and intent of this Zoning Ordinance. In making such a determination, the Board of Appeals shall consider all the following factors, including whether:
 - i.** The property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance.
 - ii.** The variance is substantial.
 - iii.** The essential character of the neighborhood would be substantially altered, or adjoining properties would suffer a substantial detriment as a result of the variance.
 - iv.** The variance would adversely affect the delivery of government services (i.e., water, sewer, garbage).
 - v.** The property owner purchased the property with knowledge of the zoning restriction.
 - vi.** The property owner's predicament feasibly can be obviated through some method other than a variance.
 - vii.** The spirit and intent behind the zoning requirement would be observed and substantial justice is done by granting the variance; and
 - viii.** Any other relevant factor to assist the Board of Appeals in weighing and balancing the public and private benefits and harms of the requested relief is necessary.

- d.* In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the intent of this Ordinance.
- e.* Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under the provisions of this Ordinance.
- f.* Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or to allow any use expressly or by implication prohibited by the terms of this Ordinance in said district.

2. APPEAL OF ADMINISTRATIVE REVIEW:

a. HEARINGS, APPEALS, NOTICE

- i.* Appeals to the Board of Appeals concerning interpretation or administration of the Zoning Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision rendered.
- ii.* Such appeals shall be submitted within 30 days of the action by filing with the Director of Planning and Development a notice of appeal specifying the grounds thereof.
- iii.* The Director of Planning and Development or his or her designee shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of an appeal; give due notice thereof to all parties in interest; and after hearing, decide the same within a reasonable time. At the hearing, any party of interest may appear in person, or by agent or attorney, and be heard by the Board of Appeals.

b. STAY OF PROCEEDINGS

- i.* An appeal stays all proceedings in furtherance of the action appealed from, unless the Director, or other person or agency from whose action the appeal is taken certifies to the Board of Appeals after the notice of appeal is filed that by reason of facts

stated in such certification a stay would, in the opinion of the person making the certification, cause imminent peril to life and property.

- ii.* In such cases, proceedings may be stayed by a restraining order issued by the Board of Appeals, or by a court of record, on the application, on notice to the parties of interest, and for good cause shown.

c. HEARING OF APPEAL

The Board of Appeals shall conduct a public hearing.

d. POWERS TO REVERSE OR AFFIRM

In exercising the above-mentioned powers so long as such action is in conformity with the terms of this Ordinance, the Board shall have the power to reverse or affirm, wholly or partly, or to modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Director, or other person or agency from whom the appeal is taken. The concurring vote of three members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination from which the appeal was made, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation in the application of the Ordinance.

e. BOARD OF APPEALS DECISIONS.

A written version of all Board of Appeals decisions shall be mailed to the applicant and any interested parties who make a written request for a copy of the written decision without unreasonable delay after the close of the hearing. Where an application has been denied, no new application on substantially the same facts shall be filed within twelve months of the date the previous denial, unless the Board of Appeals, for good cause shown by the applicant, grants permission to do so.

f. APPEALS FROM THE BOARD OF APPEALS TO THE CITY COUNCIL.

Any person or persons severally or jointly aggrieved by any decision of the Board of Appeals may make an appeal to the City Council. Any

appeal filed by the City shall be filed by the City Manager. Said appeals to the City Council shall be filed within thirty (30) days of the date of the decision of the Board of Appeals. If no appeal of the decision of the Board of Appeals is filed within thirty (30) days, said decision of the Board of Appeals shall be final. Any appeals to the City Council shall be filed with the City Clerk, and upon receipt of the appeal, the City Clerk shall place the matter on the agenda of the next regularly scheduled City Council meeting, which is scheduled at least forty-five (45) days after the date the appeal is received by the City Clerk. The appeal to the City Council shall be a de novo hearing, and the parties to the appeal shall be entitled to present whatever evidence they deem appropriate to the City Council. Evidence submitted to the City Council on the appeal may be in writing or through oral presentation. However, the City Council shall have the right to limit oral presentations to no more than fifteen (15) minutes per side. Upon hearing an appeal, the City Council may render a decision at the meeting or may take the matter under advisement and render a decision at any regularly scheduled or specially called meeting in the next forty-five (45) days. Decisions by the City Council may be in writing or by oral motion but shall be approved at a regular or specially called meeting.

g. APPEALS FROM THE CITY COUNCIL TO THE SUPERIOR COURT OF GWINNETT COUNTY

Any person or persons severally or jointly aggrieved by any decision of the City Council on an appeal from a decision of the Board of Appeals may take an appeal to the Superior Court of Gwinnett County. Said appeal to the Superior Court shall be pursuant to the superior court's appellate jurisdiction from a lower judicatory body and shall be brought by way of a petition for such review as provided in Title 5 of the Official Code of Georgia Annotated. Said appeal must be filed within thirty (30) days from the date of the written decision of the City Council. If no appeal of the decision of the City Council is filed within thirty (30) days, the decision of the City Council shall be final. Any appeals to the Superior Court shall be an appeal based on the record created before the City Council and shall be limited to determining whether the City Council acted arbitrarily or capriciously or abused its discretion in exercising the

powers granted to it. Any such appeal shall be served upon the City Clerk who shall have the authority to approve or issue any form or certificate necessary to perfect the appeal petition.

h. DUTIES OF ADMINISTRATIVE OFFICIAL, BOARD OF APPEALS, CITY COUNCIL AND COURTS ON MATTERS OF APPEAL.

It is the intent of this Ordinance that all questions of interpretation of this Ordinance shall be first presented to the Director of Planning and Development. Questions of interpretation shall be presented to the Board of Appeals only upon appeals from a decision of the Director of Planning and Development. It is further the intent of this Ordinance that any such decision by the Board of Appeals shall be appealable to the City Council, and that the only recourse from the decisions of the City Council shall be to the Courts as provided by law.

DRAFT

904. Planning Commission

A. ESTABLISHMENT AND PROCEDURE.

The Planning Commission shall consist of five (5) members appointed by the Mayor with consent of the City Council for terms of four (4) years on a rotating basis from and among the qualified electors of the City. Members of the Planning Commission shall not hold any other City office.

- 1.** The Planning Commission may make recommendations to the City Council on all matters affecting the physical growth and development of the City, shall be consulted on the Comprehensive Plan and the implementation or amendment thereof, and shall exercise all other responsibilities as may be provided by the City Ordinance, including, but not limited to, this Zoning Ordinance.
- 2.** Meetings of the Planning Commission shall be held once a month as determined by the Planning and Development Department. Hearing dates will be available online and in-person at the Planning and Development Department.
- 3.** The Planning Commission shall follow the rules and procedures adopted by the City Council and shall keep a record of its proceedings, recording the vote upon each question, and shall also keep records of its hearings and other official actions.
- 4.** Actions of the Planning Commission shall be a public record and all meetings of the Planning Commission shall be open to the public except in those instances when the Planning Commission is acting in a quasi-judicial manner; in which case the Planning Commission shall conduct a record hearing and may deliberate in private, and any matters permitted to be closed to the public under applicable Georgia law.

B. AMENDMENTS TO THE ZONING ORDINANCE AND MAP (REZONING)

- 1.** Petitions for amendments to the Zoning Ordinance or Zoning Map shall be made to the Planning Commission and City Council if the petition is City initiated or non-City initiated. If a petition is made for a Zoning Map amendment, the petition shall only be considered if one or more owners of property in the proposed area or an authorized agent are party to the petition.

2. The Planning and Development Department shall create a yearly calendar of all meetings and shall provide notice of each hearing as required by State law.

C. SPECIAL USES

The Planning Commission shall review and make a recommendation to the City Council regarding the establishment or material change in Special Uses as regulated in this *Section*.

1. The Planning Commission shall give due regard to the nature and condition of all adjacent uses and structures and in authorizing a special use may impose such requirements and conditions, in addition to those expressly stipulated in this Zoning Ordinance, as it may deem necessary for the protection of adjacent properties and the public interest.
2. In deciding a special use, the Planning Commission may recommend conditions as may be necessary to comply with the standards set forth herein to reduce or minimize potential injurious effects upon neighboring properties and to carry out the general purpose and intent of this Zoning Ordinance.
3. A special use shall become null and void at the expiration date recommended by the Planning Commission; set and approved by the City Council.
4. The Planning Commission shall not recommend a special use unless it, in each specific case, makes specific findings of fact directly based upon credible evidence as to all the following:
 - a. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.
 - b. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or will not substantially diminish and impair property value within the neighborhood.
 - c. The establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

- d.** Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.
 - e.** Adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets; and
 - f.** The special use will be in a district where such use may be permitted and that all requirements set forth in this Zoning Ordinance and applicable to such conditional use will be met.
- 5.** The special use permit is designed to be used when:
 - a.** A special use listed under the zoning district is desired for development in a more intensive zoning district which contains that use as a use by right would not be appropriate for the property; or
 - b.** A special use listed under the zoning district is desired for development and no zoning district contains that use as a use by right; or
 - c.** The height of a building may affect the overall density of development; or
 - d.** The height of any structure may affect neighboring properties; and,
 - e.** The special use would be consistent with the needs of the neighborhood or the community, be compatible with the neighborhood, and would not conflict with the overall objectives of the comprehensive plan.
- 6.** To accommodate these special uses, the special use permit allows the City Council to approve a special use on a particular lot without changing the general zoning district.
- 7.** Such approval shall be subject to the requirements set forth below and any additional conditions deemed necessary to ensure the compatibility of the special use with the surrounding properties.
- 8.** All special use permit applications shall be for planned developments only and shall not be used for securing early zoning for conceptual proposals which may not be undertaken for some time. A special use permit application shall be considered only if it is made by the owner of the property or his/her authorized agent.

9. If a special use permit is granted, any non-conforming use of property shall end within six (6) months of the granting of the special use permit and all non-conforming use rights shall terminate unless otherwise specifically authorized in the conditions granting the special use permit.

D. DECISIONS OF THE PLANNING COMMISSION

1. The Planning Commission may, by a vote of not less than a simple majority of the members, present at a meeting:
 - a. Recommendation to City Council that the proposed amendment to the Zoning Map or Zoning Ordinance or a Special Use be **Approved as Requested**; or
 - b. Recommendation to City Council that the proposed amendment to the Zoning Map or Zoning Ordinance or a Special Use be **Approved with Conditions**; or
 - c. Recommend to City Council **Denial** of the proposed amendment to the Zoning Map or Zoning Ordinance or a Special Use; or
 - d. Recommend to City Council to **Table** the proposed amendment to the Zoning Map or Zoning Ordinance or a Special Use.
2. The recommendation shall be forwarded in writing to City Council within 30 days of the Planning Commission's vote, after which a public hearing shall be held by City Council in accordance with its rules of procedure.

905. City Council

Under this Ordinance, the City Council shall have only the following duties:

- A.** Considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law;
- B.** Hearing and making a final determinations on Special Uses;
- C.** Hearing and making a final determination on appeals related to this Zoning Ordinance or an interpretation of this Zoning Ordinance;
- D.** Hearing and making final determinations on Zoning Map amendments;
- E.** Establishing a schedule of fees and charges as stated in this Ordinance; and
- F.** Such other duties as may be established by laws of the State of Georgia or subsequently enacted Ordinances of the City.

906. Authority

The City Council may from time to time amend the boundaries of the zoning districts established on the official zoning map or the regulations set forth in this Ordinance or amend the text of this Ordinance.

- A.** Any proposed amendments shall be submitted to the Planning Commission for its recommendation. The Planning Commission shall make a recommendation to the City Council within thirty (30) days, or the Council shall be free to proceed without further awaiting the report of the Planning Commission.
- B.** When acting on an application for a rezoning or a Special Use Permit, the City Council shall have the right to grant the application, to deny the application, to grant a rezoning to less intense zoning classification than the classification requested, or to grant the application with the appropriate conditions. The City Council may also table the proposal or allow the proposal to be withdrawn without prejudice. In granting a rezoning application or Special Use Permit, in addition to imposing appropriate and necessary conditions, the Council shall have the authority to grant variances of the terms and conditions of this Ordinance if an application is allowed to be withdrawn without prejudice there shall be no waiting period for the filing of a new application.

907. Rezoning and Special Use Permit Application Public Hearing Process

The Applicant or representative is encouraged to appear at the Planning Commission Meeting and the City Council Public Hearing. Failure to attend a meeting may result in the tabling of the application until the next meeting of that group. However, the Planning Commission and the City Council may act on the application should they so choose. Meeting dates, times, and locations are available online and in-person at the Planning and Development Department.

A. Schedule Of Events

- 1.** At least one week prior to the scheduled Planning Commission Meeting, the Planning Staff Report and Recommendation will be emailed to the applicant and will be available at the Planning and Development office.
- 2.** The applicant is encouraged to appear before the City of Lawrenceville Planning Commission to present their case in support of the rezoning application. The applicant's presentation shall be counted against the time allowed for proponents of the application. The Planning Commission may ask questions of the applicant and the opposition. The Planning Commission is a recommendation body. Their recommendation will be forwarded to the City Council.
- 3.** The applicant is encouraged to be present at the City Council Work Session.
- 4.** The applicant is encouraged to appear before the City Council for the Public Hearing.
- 5.** If the rezoning application is denied by the City Council, no new application shall be submitted unless it meets the requirements for resubmittal as set forth in this Ordinance.

B. Procedures

- 1.** In the approval process for a zoning proposal application, the City Council shall consider the policies and objectives of the comprehensive plan, particularly in relation to the proposed site and surrounding area and shall consider the potential adverse impacts on the surrounding area, especially with regard to but not limited to traffic, storm drainage, land values, and compatibility of land use activities.

2. If an application is approved and a zoning proposal is granted, all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. All final site plans shall be approved by the Director of Planning and Development or his or her designee prior to the issuance of any permits.
3. Once established, the zoning proposal shall be permanent unless otherwise rezoned. A Special Use Permit may be conditioned in such a manner that it is granted for a limited period of time.
4. Upon approval by the City Council, a zoning proposal shall be identified on the official zoning maps.
5. Upon approval by the City Council of the zoning proposal, the owner of the property shall be issued a notice from the Planning and Development Department, which states the rezoning, the requirements of this section, and any conditions attached to the approval.
6. Any person, persons, or entities jointly or severally aggrieved by any decision of the City Council regarding a zoning proposal application may take an appeal to the Superior Court of Gwinnett County. The appeal must be filed within 30 days of the decision of the City Council, and upon failure of such appeal, the decision of the City Council shall be final.

C. STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

The City Council finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power.

1. Whether a zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
2. Whether a zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
3. Whether the property to be affected by a zoning proposal has a reasonable economic use as currently zoned.

- 4.** Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- 5.** Whether the zoning proposal is in conformity with the policy and intent of the Comprehensive Plan; and
- 6.** Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

DRAFT

908. Variance Public Hearing Procedures

The Applicant is required to appear at the Board of Appeals Meeting. Failure to attend the meeting may result in the tabling of the application until the next meeting of that group. However, the Board of Appeals may act on the application should they so choose. Meeting dates, times, and locations are available online and in-person at the Planning and Development Department.

A. SCHEDULE OF EVENTS

- 1.** After confirming that the conditions for a variance as described in Section 903C.1.a are met, the applicant can apply through the Planning and Development Department.
- 2.** The applicant must post a sign given to them by the Planning and Development Department at least 15 days prior to the public hearing.
- 3.** The applicant shall appear before the City of Lawrenceville Board of Appeals to present their case in support of the variance application. Any opposition to the variance application will be given equal time to present its case.

B. PROCEDURE

- 1.** In the approval process for a variance application, the Board of Appeals shall consider all the factors set forth in this Ordinance for the granting of a variance.
- 2.** Once approved, the applicant may begin development. A variance is a permanent entitlement to the land.
- 3.** Upon approval by the Board of Appeals, the variance shall be archived by the Planning and Development Department.
- 4.** Any person, persons, or entities jointly or severally aggrieved by any decision of the Board of Appeals regarding a variance application may take an appeal to the City Council. The appeal must be filed within 30 days of the decision of the Board of Appeals, and upon failure of such appeal, the decision of the Board of Appeals shall be final.

909. Withdrawal of Application

Once an application for an amendment to the Official Zoning Map or an application for a Variance or Special Use Permit has been made the applicant may withdraw such application without prejudice at any time until the official withdrawal deadline published in the Public Hearing Schedule maintained by the Department has passed.

An application may not be withdrawn by an applicant or property owner under any circumstance after the official withdrawal deadline. Once past the published withdrawal deadline all applications shall be considered by the City Council or Board of Appeals, as appropriate, and shall receive final action, unless the City Council or the Board of Appeals votes to allow the application to be withdrawn without prejudice. Any application that is allowed to be withdrawn without prejudice shall have no waiting period for filing a new application.

DRAFT

910. Lapse of Time for Reapplication and Waiver of said period.

The following shall apply to the reapplication for a Zoning Map Amendment, Variance or Special Use Permit.

- A.** No application or reapplication for any zoning map amendment affecting the same land or any portion thereof shall be made and accepted within 12 months from the date of last action by the City Council unless such 12-month period is waived by the City Council, and in no case may such an application or reapplication be allowed in less than six months from the date of last action by the City Council.
- B.** No application or reapplication for the same type of Variance or Special Use Permit affecting the same land or any portion thereof shall be made or accepted within 12 months from the date of last action by the City Council or Board of Appeals, as appropriate, unless such 12 month period is waived by the City Council or Board of Appeals as appropriate, and in no case may such an application or reapplication be allowed in less than six months from the date of last action by the City Council or Zoning Board of Appeals, as appropriate.

911. Appeals to Superior Court

A. Appeals of Zoning Decision

Any person or persons severally or jointly aggrieved by any zoning decision, as defined in this Ordinance (also see O.C.G.A. Section 36-66-3) and being legislative in nature, shall have a direct constitutional challenge as set forth in O.C.G.A. Section 36-66-5.1. Such challenges shall be by way of a de novo review by the Superior Court of Gwinnett County. Any such direct challenge to the superior court shall be brought within 30 days of the written decision being challenged.

B. Appeals of Quasi-Judicial Decision

Any person or persons severally or jointly aggrieved by any quasi-judicial decision, as defined by this Ordinance, may take an appeal of the quasi-judicial decision to the Superior Court of Gwinnett County. Said appeal to the Superior Court shall be pursuant to the superior court's appellate jurisdiction from a lower judicatory body and shall be brought by way of a petition for such review as provided in Title 5 of the Official Code of Georgia Annotated. Said appeal must be filed within thirty (30) days from the date of the written decision. If no appeal of the quasi-judicial decision is filed within thirty (30) days, the decision shall be final. Any appeals to the Superior Court shall be an appeal based on the record. Any such appeal shall be served upon the City Clerk who shall have the authority to approve or issue any form or certificate necessary to perfect the appeal petition.

IT IS SO ORDAINED, this ____ day of _____, 2022.

Mayor David R. Still

Attest: _____
City Clerk