



# R.A. Lee & Associates, Architects

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Residential · Commercial · Planning · Construction Management

June 21, 2020

**KENNESAW CITY COUNCIL**  
2529 J O Stephenson Avenue  
Kennesaw, Georgia 30144

**RE: LETTER OF APPEAL FROM DECISION OF THE PLANNING AND ZONING  
ADMINISTRATOR**

To the honorable Mayor and City Council of Kennesaw,

Pursuant to section 10.05.00 APPEALS, § 10.05.01 APPLICABILITY, item A of the Uniform Development Code I formally seek appeal to the Mayor and Council on the following decision from the Zoning Administrator.

Per the attached email sent to Mr. Simmons on June 17, 2020 I presented the following questions regarding the 1465 Shiloh Road rezoning and its future code enforcement. The following were the pertinent questions and responses that are in regard to my appeal:

*First Question: It's my understanding that the rezoning is NOT a site plan specific rezoning. The rezoning will only be per the ordinance document to be signed by the City Clerk and Mayor Easterling. Essentially outlining the RM-12 zoning and conditions. This document would be used as verification of zoning when the applicant submits technical documents for building permit review and final zoning compliance. Please confirm my understanding when you have a moment.*

***Response Question 1- The rezoning is not site plan specific however the rezoning approval is subject to all the additional conditions agreed upon by the applicant. The site plan that will be submitted during the construction plan review process will be reviewed for compliance of all the standards under RM-12 zoning and the additional zoning conditions.***

*Second Question: As part of the administration and enforcement of zoning is it your interpretation that a property zoned as RM-12, for student housing, is allowed to have five-bedroom units that will house more than three persons not related?*

***Response Question 2- The city of Kennesaw approved the zoning for purpose-built student housing with the floor plan for five-bedroom units to be incorporated as one of the floor plan types. The city of Kennesaw legal team and staff addressed the definition of family and how it applies or in this case does not apply to this use at the public hearing.***

June 21, 2020  
1465 Shiloh Road  
2 of 2

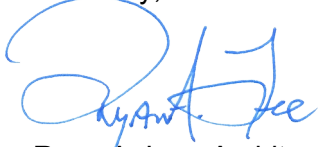
In Mr. Simmons response to question two (2) he states that the city of Kennesaw approved the zoning for purpose-built student housing with the floor plan for five-bedroom units to be incorporated as one of the floor plan types. This is factually incorrect. The zoning was approved for RM-12, not purpose-built student housing, additionally per his response to question one (1) the rezoning is not site plan specific therefore no units were approved as part of the zoning. Additionally, the zoning approved conditional has no mention of changing the definition of family and neither has a variance been received to accommodate or house a greater number of families per section 4.01.01 item B, in the UDC, where it specifically states that 'unless a proper variance is granted, no building shall hereafter be erected or altered so as to accommodate or house a greater number of families'.

There was no vote from Mayor and Council regarding the statement from the applicant's attorney that "Because the individual student tenants do not operate as a "single housekeeping unit" under the City's code of definitions, the definition of "family" does not apply to the proposed development so as to limit the units to three bedroom".

I request appeal to the above decision from Mr. Simmons on how this definition is to be enforced and request a vote from the Mayor and Council either confirming or denying this interpretation per UDC section 10.05.00 APPEALS.

I believe a vote is necessary on this decision as it will provide a direct bearing on the upcoming actual new ordinance on Purpose-Built Student Housing (PBSH) on July 6<sup>th</sup> because if his decision is upheld, on the question, no new PBSH code is needed. Additionally, if confirmed this will cause every home owner in city limits, who owns property of either single family or multifamily units, to be able to rent out to more than three persons not related if they rent out by the bedroom to students. I ask that the decision for the enforcement by the zoning administrator be appealed and be enforced as written in the code, that for a RM-12 zoning, a unit cannot be designed to house more than three people not related, which would cause a maximum unit type of three people for RM-12 zonings for student housing, unless a specific variance has been approved by Mayor and Council.

Sincerely,



Ryan A. Lee, Architect, President & CEO  
R.A. Lee & Associates, Architects  
1301 Shiloh Road, Suite 321  
Kennesaw, Georgia 30144

Attachment "A" – Full Email of July 17, 2020 email to Mr. Simmons

# Attachment "A"

rlee@raleearchitects.com

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**From:** Darryl Simmons <dsimmons@kennesaw-ga.gov>  
**Sent:** Thursday, June 18, 2020 10:48 AM  
**To:** rlee@raleearchitects.com  
**Cc:** Randall Bentley; Coleen Hosack; Jeff Drobney  
**Subject:** RE: 1465 Shiloh Road - Rezoning

Good morning Mr. Lee,

I will answer your questions in order.

Question 1- The rezoning is not site plan specific however the rezoning approval is subject to all the additional conditions agreed upon by the applicant. The site plan that will be submitted during the construction plan review process will be reviewed for compliance of all the standards under RM-12 zoning and the additional zoning conditions.

Question 2- The city of Kennesaw approved the zoning for purpose built student housing with the floor plan for five bedroom units to be incorporated as one of the floor plan types. The city of Kennesaw legal team and staff addressed the definition of family and how it applies or in this case does not apply to this use at the public hearing.

Question 3- The applicant will be required to meet all the minimum square footage requirements for units as per table 4.01.02 of the unified development code. . No variances were requested or granted.

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**From:** rlee@raleearchitects.com <rlee@raleearchitects.com>  
**Sent:** Wednesday, June 17, 2020 4:09 PM  
**To:** Darryl Simmons <dsimmons@kennesaw-ga.gov>  
**Subject:** 1465 Shiloh Road - Rezoning

Dear Mr. Simmons,

Good afternoon. Appreciate your efforts for the 1465 Shiloh Road rezoning and respect your decision to support the application. I'm working with 75 Wade Green Office park and multiple residents at Pinetree subdivision regarding the decision. A few questions have come up that I need some assistance on to guide any next steps our group would like to take.

First Question: It's my understanding that the rezoning is NOT a site plan specific rezoning. The rezoning will only be per the ordinance document to be signed by the City Clerk and Mayor Easterling. Essentially outlining the RM-12 zoning and conditions. This document would be used as verification of zoning when the applicant submits technical documents for building permit review and final zoning compliance. Please confirm my understanding when you have a moment.

Second Question: As part of the administration and enforcement of zoning is it your interpretation that a property zoned as RM-12, for student housing, is allowed to have five-bedroom units that will house more than three persons not related?

Third Question: As part of the administration and enforcement of zoning is it your interpretation that a property zoned RM-12, for student housing, is not required to meet the unit minimum floor area per table 4.01.02? Specifically, the applicants five-bedroom unit which is described as being 1600 SF vs. the 1800 SF required of table 4.01.02.

I ask these questions as we didn't hear any response from you after our presentation regarding these issues and I'd like to know your views. Additionally, I've recommended we seek your interpretation prior to making any decisions about

appeals and would appreciate your thoughts when you have a moment. Our thinking is that you may be asking for changes to the plans of the applicant, after the rezoning, and this would have a direct bearing on any decision our group would be making.

Please advise when you have a moment.

Sincerely,

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