



Record for letter appeal by  
Ryan A. Lee from decision of the  
Zoning Administrator received by  
the City of Kennesaw on  
June 25, 2020.



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# APPENDIX 1

**MAYOR**

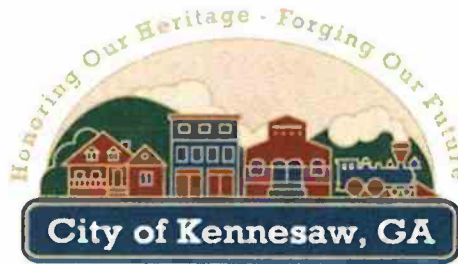
Derek Easterling

**City Manager**

Jeff Drobney

**City Clerk**

Lea Addington

**COUNCIL**

Mayor Pro Tem Pat Ferris

James Eaton

Tracey Viars

Chris Henderson

David Blinkhorn

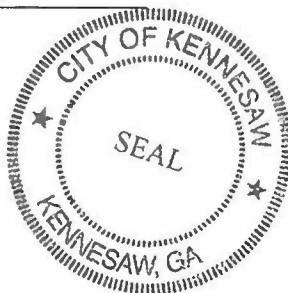
CLERK'S CERTIFICATIONCITY OF KENNESAW  
GEORGIA, COBB COUNTY

I, Lea Addington, hereby certify that I am the City Clerk for the City of Kennesaw and the lawful custodian of the books and records of said municipality, and as such do hereby certify the attached City of Kennesaw Planning Commission's March 4, 2020 minutes is a true and correct copy of records on file at City Hall.

WITNESS, my hand and Seal of the City of Kennesaw, Georgia, on this 30<sup>th</sup> day of June 2020.

ATTEST:

Lea Addington, City Clerk





Doug Rhodes, Chairman  
Cindi Michael, Vice-Chair  
Dan Harrison, Don Bergwall,  
Phillip Jackson  
SaVaughn Irons

March 04, 2020

Planning Commission Minutes  
7:00PM

City Hall Council Chambers

Meeting of the Kennesaw Planning Commission called to order by Vice-Chairman Michael at 7:00p.m. in the Council Chambers, 2529 J.O. Stephenson Avenue. Roll call taken with the following members present: Cindi Michael, Donald Bergwall, Phillip Jackson and SaVaughn Irons. Absent: Doug Rhodes, Dan Harrison.

City Staff Darryl Simmons, Zoning Administrator was present. Council members Blinkhorn, Ferris and Henderson were present.

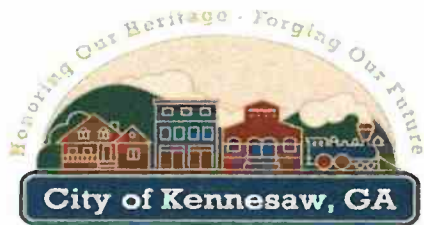
The Planning Commission serves as an Advisory Board that makes recommendations to the Mayor and Council, which will be heard on March 16, 2020 6:30p.m. unless otherwise noted. Anyone giving comments in the public session are to sign in and note that limitation of 10 minutes per side will be allowed.

**Action on Minutes – February 05, 2020.**

Don Bergwall made motion, seconded by SaVaughn to approve the minutes of the February 05, 2020, Planning Commission as submitted. ***Vote: 3-0. Don Bergwall, Phillip Jackson and SaVaughn Irons.***

**Public Hearing:**

1. **RZ2020-01 Rezoning Request** Consideration to approve a rezoning request submitted Fountain Residential Partners for property located at 1465 Shiloh Road. Said request to rezone from City R-30 to City RM-12 for property containing 4.4+/- acres for purpose of proposed student housing development. Property identified as Land Lot 60, Tax Parcel 31. **(Mayor and Council 3.16.2020)**
  - **ZV2020-01 Variance Request** Consideration to approve a zoning variance request submitted by Fountain Residential Partners for property located at 1465 Shiloh Road. Said request to seek variance to 1) Increase the RM-12 zoning district max. density from 12 units/acre to 15.55 units/acre (68 units total); and 2) Reduce the front yard setback along Shiloh Road from 40 ft. to 30 ft.; Property identified as Land Lot 60, Tax Parcel 31, containing 4.4+/- acres. **(Mayor and Council 3.16.2020)**



Doug Rhodes, Chairman  
Cindi Michael, Vice-Chair  
Dan Harrison, Don Bergwall,  
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SaVaughn Irons

Zoning Administrator, Darryl Simmons, presented the case for rezoning and variances on the property identified and located at 1465 Shiloh Road with some background activity in the past regarding the property.

The property was annexed into the City in 2000. There were a number of rezoning requests and approvals to the current zoning of R-30 with the request to RM-12. Past rezoning requests included UVC (Urban Village Commercial); O&I (Office & Intuition); CRC (Community Retail Commercial).

2017 same applicant requested rezoning of three properties (1465 Shiloh Rd., 4058 & 4068 Ayers Dr.) to proposed student housing that would be located on 6.02 acres and incorporate 125 units. Request for rezoning and associated variances was **denied**. Traffic implications to the entrance to Pinetree subdivision was cited.

Zoning Administrator, Darryl Simmons, commented that he was in receipt of a letter dated March 04, 2020 from Richard Calhoun of the law firm Gregory, Doyle, Calhoun & Rodgers regarding this matter. He noted that he briefly reviewed the letter.

In addition, he referenced a letter dated February 18, 2020 from the applicant's attorney, Douglas Dillard clarifying the request for rezoning and variances, which included the density from 12 units per acre to 15.5 units per acre along with the reduction of the front setback to 30 feet.

As noted below part of the Zoning Administrator's staff analysis and its history of the proposal is reflected with history of the character area as designated in the City's Comprehensive Plan as well as this proposal only includes one parcel and not four parcel when presented back in 2017. Density less, parking less. There is a need for student housing in both the County and City. Both parties are working together with the University to see how this can be accomplished.

**Land Use/Development Proposal Information:** for the property identified as 1465 Shiloh Road, Land Lot 60, Tax Parcel 31

- Subject property located in Future land Use category for CAC ( Community Activity Center )
- The Character are as designated in the adopted comprehensive plan- Cherokee Street Commercial Corridor
- Purpose built student housing does not have an adopted zoning standard
- Similar approved developments within city limits were rezoned to RM-12 with variances and conditions
- Character area for university programming was included in the 2017 comprehensive plan update. University Living was included as a character area for both existing student housing developments- West 22 and UClub @Frey.
- Shiloh Rd contains Industrial, residential and retail uses.
- Proposing 68 units=248 beds an increase in density from 12 units per acre to 15.55 units per acre
- Three story building
- 262 parking spaces provided which allows one space per bedroom plus guest parking
- Building placement will be closer to Shiloh Road to allow adequate parking in rear yard area



Doug Rhodes, Chairman  
Cindi Michael, Vice-Chair  
Dan Harrison, Don Bergwall,  
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**The Zoning Administrator recommends approval of the rezoning request to RM-12 with associated variances to reduce front setback and increase density with the following conditions:**

1. Reversionary clause that requires that construction permits and activity be initiated within 24 months of the date of the rezoning and variance approval. Failure to obtain permits and start construction activity within the 24 month period will result in the reversion of the rezoning and variances and the property will revert back to the prior zoning of R-30.
2. Submission of a traffic impact study that demonstrates either the development will not have a negative impact on existing traffic conditions or that the negative impacts of the development can be mitigated through traffic improvements that will be incorporated as part of the development plan. Traffic counts shall be no more than three years old from date of the study and shall be taken during a time of year when the academic calendar is in session for nearby universities and schools.
3. The principal access for the development shall be an arterial or major collector roadway, as identified in the City of Kennesaw Unified Development Code or similar classification document.
4. Parking requirements: Sites shall be designed to accommodate on-site parking for at least one (1) vehicle per bedroom with additional parking for visitors
- 5 Security requirements:
  - a. The property management company shall submit a security plan in accordance with the standards of Crime Prevention through Environmental Design (CPTED). The security plan shall be submitted to the City of Kennesaw Police Department for review and safe-keeping and shall be updated annually at the beginning of each calendar year, no later than January 31. Any such security plan shall require that on-site management shall be required 24 hours per day, seven days per week.
  - b. All access points on the property shall be secured with gated entry and shall be self-closing;
  - c. The development shall be enclosed with a minimum six-foot high privacy fence along the entire property line.
  - d. The property shall be equipped with a security camera system that shall be monitored by the property management company on-site. Any such system shall record and store video images located throughout the common areas, including the parking areas, and signs shall be posted throughout the development notifying residents and visitors of the security camera system;
  - e. All common area doors and access gates shall be secured with electronic locks;
  - f. All apartment units shall be equipped with a door that features a 180-degree peep hole;
  - g. For every 200 parking spaces, the development shall feature at least one Emergency Blue Light Phone that is connected to the Cobb County Public Safety's 24-hour communications center and identify the phone location if the caller is unable to talk.
  - h. Lighting: In order to ensure adequate illumination of the development and promote safety and security, the Parking Lot Design Guide standards set forth for Basic Enhanced Security, Security, and High Security as set forth in the Illuminating Engineering Society Lighting Handbook (IESNA), latest edition, as amended, is adopted as the standard for the installation and operating of lighting in parking lots.



Doug Rhodes, Chairman  
Cindi Michael, Vice-Chair  
Dan Harrison, Don Bergwall,  
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6 All façade materials to be installed similar to the elevations provided by the applicant and be in compliance with the City of Kennesaw architectural Standards

7 Maximum height of building will be 35 feet as defined in our zoning ordinance chapter one that defines how building height is measured.

8. Maximum number of units allowed will be 68 units with a maximum of 248 beds

Attorney, Douglas Dillard came forward on behalf of their client Fountain Residential who is proposing the project for Student Housing on Shiloh Road on the 4.4+/- acre tract. Mr. Dillard commented that city staff presented the case for rezoning and variances clearly as to the density and setback variances. This project is half of what had been presented in 2017 and is consisted with the City's Comprehensive Plan. The project is located on a thorough fare and located along a commercial, non-residential and residential area. There is a need for housing in the community as Kennesaw State University grows generating this need. **Point of record the applicant is in support of the conditions made part of the staff analysis.**

A representative of Fountain Residential Communities, Trevor Tollett, came forward. He noted that the units on the 4.4+/- acre tract is to be leased by bed under the academic calendar year. This proposal is almost 56% less than the previously submitted designed plan. Project to be in keeping with codes, including landscaping, buffers, security (blue lights throughout the parking area) and parking.

Meetings with neighbors who voiced concerns with drainage, which with approval of this project can alleviate problems that currently exist today. Screening to the surrounding residents can be addressed with plantings, fencing. Conclusion, the City must plan for the future by diligent education through community outreach and to identify areas of opportunities best suited for these uses in order to meeting the planning goals of both Kennesaw State University, Cobb County and City of Kennesaw. With the help of the Purpose Built Student Housing Standards under consideration now.

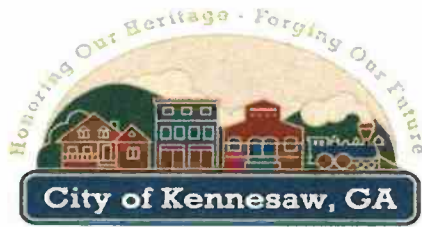
Bob Vance from Kimley Horn briefly explained the underground, gravity feed detention pond for the project. In turn, can and will assist with any drainage problems currently existing today, helping the surrounding property owners concerns to drainage.

Motion made to open the meeting for public comment.

A number of residents within the area came forth to voice concerns about the proposed student housing project running along Shiloh Road. In addition, representation for 75 Wade Green Business Center Association brought forth their concerns about the requesting variances for parking and front setback.

Matters of concerns included and not limited to:

- Parking concerns #of spaces being created for both residents and guests as being insufficient
- Parking off-site concerns that would affect the customer parking for the commercial businesses adjacent to the project
- Impervious surface matters
- Quality of Life



*Doug Rhodes, Chairman  
Cindi Michael, Vice-Chair  
Dan Harrison, Don Bergwall,  
Phillip Jackson  
SaVaughn Irons*

- Cutting through the neighborhood (Pine Tree County Club)
- Noise problems with resident activities including within the parking lot area
- Site matters dealing with landscaping and tree plantings taking 3-5 years to grow before it would be beneficial
- Buffer matters along the commercial side
- Water, drainage matters
- Traffic issues
- Proposed multifamily use conflicts with the City's future land use plan and limitation on variances to approve does not allow for the request of density under Section 9.02.02
- Definition of "Family" is affect by the number of unrelated students living as one house keeping unit
- Property is not the right area of the proposed use in the CAC (Community Activity Center)

One resident came forward in support of the project, stating there is a need for student housing as Kennesaw State University grows. This proposal can help solve issues about student housing for both Cobb County and City of Kennesaw.

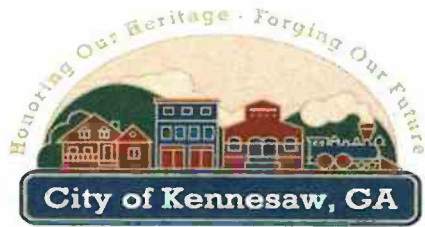
Motion made to close the meeting for public comment.

Applicant's attorney, Mr. Dillard responded to concerns from the public. The zoning classification requested is the best economic use of the property. They meet the parking standards under the request and as to traffic, traffic is here and the commission cannot use traffic as a consideration for their decision. Everyone has talked about water, drainage and having been addressed by Mr. Vance that the proposed plan would help reduce run off from the property better than it currently stands.

Darryl Simmons, Zoning Administrator, read into the record his recommendation and his approval of both the rezoning and variances as requested. The project is unique in that the City and County must work together as road matters are the jurisdiction of Cobb County. The City is trying to create a safe and controlled student housing project and work collectively with Cobb County. City has increased its personnel with additional Code Enforcement Officers to address security, quality of life, parking and all access matters to the proposed project.

During this time, the City is reviewing and considering new standards for Purpose Built Student Housing to be adopted under the City's Unified Development Code.

Trevor Tollett, applicant representative came forward to address some of the concerns that were voiced by the public. Matter of landscaping to adjacent commercial property the 5 (Five) foot buffer will be pursued further with additional screening, fencing, plantings etc. A reference to drainage was addressed earlier noting that the proposed project could actually improve what is currently happening on the site.



Doug Rhodes, Chairman  
Cindi Michael, Vice-Chair  
Dan Harrison, Don Bergwall,  
Phillip Jackson  
SaVaughn Irons

Motion was made by Don Bergwall, seconded by SaVaughn Irons to approve the request for rezoning to RM-12 per staff's recommendations with noted changes as follows:

3. The principal **ALL** access for the development shall be an arterial or major collector roadway, as identified in the City of Kennesaw Unified Development Code or similar classification document.

5. Security requirements:

c. The development shall be enclosed with a **minimum eight-foot privacy fence** ~~six-foot high privacy fence~~ along the entire property line.

h. Lighting: In order to ensure adequate illumination of the development and promote safety and security, the Parking Lot Design Guide standards set forth for Basic Enhanced Security, Security, and High Security as set forth in the Illuminating Engineering Society Lighting Handbook (IESNA), latest edition, as amended, is adopted as the standard for the installation and operating of lighting in parking lots. **No over flow of light onto/into the adjacent property.**

**Item number 9 (Nine) to be added to the eight conditions as follows: The right side of property the 5foot buffer be pursued further.**

Vote: 3-0. Yea: Don Bergwall, Patrick Jackson and SaVaughn Irons. Nay: None

Motion was made by Don Bergwall, seconded by Patrick Jackson to deny the variance request for density and to reduce the front setback on Shiloh Road to 30 feet. Vote: 2-1. Yea: Don Bergwall and Patrick Jackson. Nay: SaVaughn Irons.

**Staff Comments** – There were no additional comments from Staff.

**Adjournment** There being no further business, motion made by Donald Bergwall to adjourn this meeting at 9:00 p.m. Motion carried. Vote: 3-0. The next meeting is scheduled for April 01, 2020.

# **APPENDIX 2**

**MAYOR**

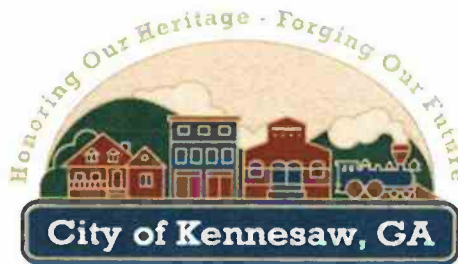
Derek Easterling

**City Manager**

Jeff Drobney

**City Clerk**

Lea Addington

**COUNCIL**

Mayor Pro Tem Pat Ferris

James Eaton

Tracey Viars

Chris Henderson

David Blinkhorn

CLERK'S CERTIFICATION

CITY OF KENNESAW  
GEORGIA, COBB COUNTY

I, Lea Addington, hereby certify that I am the City Clerk for the City of Kennesaw and the lawful custodian of the books and records of said municipality, and as such do hereby certify the attached City of Kennesaw Mayor and Council March 16, 2020 meeting minutes is a true and correct copy of records on file at City Hall.

WITNESS, my hand and Seal of the City of Kennesaw, Georgia, on this 30<sup>th</sup> day of June 2020.

ATTEST:

  
\_\_\_\_\_  
Lea Addington, City Clerk

**MINUTES OF MAYOR & CITY COUNCIL MEETING  
CITY OF KENNESAW  
Council Chambers  
Monday, March 16, 2020  
6:30 p.m.**

---

Present: Mayor Derek Easterling  
Mayor Pro Tem Pat Ferris  
Councilmember James Eaton  
Councilmember Tracey Viars  
Councilmember Chris Henderson  
Councilmember David Blinkhorn  
City Manager Jeff Drobney  
Deputy City Clerk Lea Addington  
City Attorney Randall Bentley

Mayor Easterling greeted the public and shared the meeting was being streamed on Facebook Live as a result of precautionary measures taken to slow the spread of COVID-19. Earlier today, Governor Kemp signed a State of Emergency for the State of Georgia and the City of Kennesaw is working to be proactive in taking care of our community.

**I. INVOCATION**

City Attorney Randall Bentley led the invocation.

**II. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Easterling

**III. CALL TO ORDER**

**IV. ANNOUNCEMENTS**

- A. If you would like to provide public comment on an agenda item, but do not want to attend a Mayor and City Council meeting, you can email Lea Addington at [laddington@kennesaw-ga.gov](mailto:laddington@kennesaw-ga.gov) no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud for the record.

Mayor Easterling reminded the public individuals were afforded the opportunity to email the Deputy City Clerk with any comments pertaining to agenda items if he or she was unable to attend the meeting and that those comments were forwarded to the relevant department. A new email address, [kennesawcouncil@kennesaw-ga.gov](mailto:kennesawcouncil@kennesaw-ga.gov), was created for this purpose and was spelled aloud for the public.

**V. PRESENTATIONS**

- A. Presentation of a proclamation to declare March 20, 2020 as Arbor Day for the City of Kennesaw.

Mayor Easterling announced to help with social distancing, department heads were not required to attend the meeting. Mayor Easterling reassured he will present the Arbor Day proclamation to Public Works Director Ricky Stewart and his team in a different setting but still wanted to recognize their efforts.

*[The City Attorney swore-in any witnesses or individuals offering comments on the agenda.]*

## **VI. PUBLIC COMMENT/BUSINESS FROM THE FLOOR**

6:38 PM Floor Open for Public Comments on agenda items

RON SANDERS: Mr. Sanders brought up a procedural concern; however, did not return to finish his public comment at the end of the meeting.

6:40 PM Floor Closed to Public Comments on agenda items

## **VII. OLD BUSINESS**

No items.

## **VIII. NEW BUSINESS**

- A. Approval of a **RESOLUTION NO. 2020-09, 2020** authorizing the Mayor and Police Chief to sign Memorandum of Understanding with the City of Acworth. The purpose of this Memorandum of Understanding is to establish that in the event staffing levels of either police department are decreased as a result of the COVID-19 crisis, Acworth and Kennesaw Police Officers may be duly-sworn-in, granted inter-jurisdictional authority, and will have all rights and responsibilities of each agency. This action will be taken to ensure the continuity of public safety services to our citizens in both cities. Personnel will be governed by their home agency's standard operating policy and procedure while responding to calls for service or police related actions within the neighboring jurisdiction. Police Chief recommends action, pending legal review.

Chief Westenberger presented the resolution as a team effort between the City of Acworth and the City of Kennesaw's police departments to address staffing issues that could arise due to COVID-19.

Motion by Councilmember Blinkhorn to approve the RESOLUTION to authorize the Mayor and Police Chief to sign the Memorandum of Understanding with the City of Acworth, pending legal review, seconded by Councilmember Viars.

Councilmember Blinkhorn asked if an announcement would be made to the public in the event inter-jurisdictional authority is needed. Mayor Easterling said the public would be made aware via social media platforms.

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

*[In accordance with O.C.G.A. §50-14-1 (e)(1), in part: "...Failure to include on the agenda an item which becomes necessary to address during the course of the meeting shall not preclude considering and acting upon such item." Three items listed below required immediate attention due to the COVID-19 pandemic].*

Motion by Councilmember Ferris to add three emergency orders to the agenda, seconded by Councilmember Henderson. Vote taken, approved unanimously 5-0. Motion carried.

- B. Approval of a **RESOLUTION NO. 2020-10, 2020** to adopt the City of Kennesaw's Emergency Operations Policy. The City of Kennesaw's Emergency Operations policy is to provide procedures for the operations of the city in the event of suspension of normal operations or emergency closure. The City Manager recommends approval.

City Manager Jeff Drobney presented the three emergency orders to Mayor, Council and the public. Mr. Drobney worked with staff to prepare policies so the City maintains business continuity and to focus on essential services. The first resolution is to deal with emergency operations for an extended period for both full-time and part-time employees. It spells out how we will notify the public, employees, and who is considered essential.

Motion by Councilmember Eaton to approve the RESOLUTION to adopt the City of Kennesaw's Emergency Operations Policy, as presented and pending legal review, seconded by Councilmember Henderson. Vote taken, approved unanimously 5-0. Motion carried.

- C. Approval of a **RESOLUTION NO. 2020-11-, 2020** to adopt the City of Kennesaw's Public Health Emergency Policy. The City of Kennesaw's Public Health Emergency policy is to provide procedures for use in COVID- 19 pandemic event as determined by the World Health Organization for all City of Kennesaw employees. The City and its employees bear responsibility for a safe and productive workplace environment and this policy will be administered in accordance with all federal and state laws and regulations, including the ADA and the FMLA (where a serious health condition is involved). The City Manager recommends approval.

City Manager Jeff Drobney presented a resolution regarding a public health emergency policy. This policy is to provide procedures to use during a pandemic event as determined by the World Health Organization for all City of Kennesaw employees. These procedures address if employees present symptoms related to the pandemic illness, if they are diagnosed with the pandemic illness, if they have been exposed to an individual documented with the pandemic illness, etc. The City will be paying employees while they are quarantined for the 14-day period. This policy will be administered in accordance with all federal and state laws and regulations, including the ADA and the FMLA.

Motion by Councilmember Viars to approve the RESOLUTION to adopt the City of Kennesaw's Public Health Emergency policy, as presented and pending legal review, seconded by Councilmember Blinkhorn. Vote taken, approved unanimously 5-0. Motion carried.

- D. Approval of a **RESOLUTION NO. 2020-12, 2020** to adopt the City of Kennesaw's Telework and Remote Access Policy. The City of Kennesaw's Telework and Remote Access policy is to address the use of the City's remote access systems by authorized users as well as to provide the option of teleworking to eligible employees as a workplace strategy to balance organizational objectives with employee wellbeing. During a closure under the Emergency Operations policy, the city will suspend all teleworking previously authorized under this policy for the duration of the closure. During such event, the department director/manager will identify those authorized individuals to telework and who must follow the provisions of this policy. The City Manager recommends approval.

City Manager Jeff Drobney presented a resolution regarding a telework and remote access policy. This policy is in place to identify key personnel that can work remote, have access to the City's servers, and continue essential services. Each designated employee must sign a statement of responsibility to acknowledge that he or she understands the policy.

Motion by Councilmember Eaton to approve the RESOLUTION to adopt the City of Kennesaw's Telework and Remote Access policy, as presented and pending legal review, seconded by Councilmember Henderson. Vote taken, approved unanimously 5-0. Motion carried.

#### **IX. COMMITTEE AND BOARD REPORTS**

No items.

#### **X. PUBLIC HEARING(S)**

*[Councilmember Viars recused herself and left the dais for items X. A-C]*

- A. FINAL PUBLIC HEARING: Approval of an ORDINANCE to amend Appendix A "Unified Development Code," Chapter 1 "General Provisions," Section 1.09.02 "Definitions," and adding a new section under Chapter 4 "Site Design Standards," Section 4.06.00 "University Living-PBSH" (Purpose Built Student Housing). The proposed code amendments address the housing use that deals directly with purpose built student housing located within city limits. The proposed zoning district to be added to chapter four along with the associated definitions was presented to the Planning Commission at their regular scheduled meeting February 5, 2020. Don Bergwall motioned to adopt the code amendments and new zoning district as submitted, seconded by SaVaughn Irons. Vote 3-0. Legal reviewed and helped develop. This public hearing item was postponed from the February 17 and March 3, 2020 Mayor and Council meetings. Upon further discussion and review of the new definitions in Chapter 1 and zoning district in Chapter 4, staff is preparing revisions to the proposed draft for review and staff recommends postponing until the April 6, 2020 meeting.

Zoning Administrator Darryl Simmons presented an ordinance to amend Chapter 1 and add a new section under Chapter 4 in the Unified Development Code regarding University Living- Purpose Built Student Housing. Staff is currently preparing amendments to the

proposed draft for review and recommends postponing this item until the April 6, 2020 Mayor and Council meeting.

6:55 PM Floor Open for Public Comments

RYAN LEE [Architect on Shiloh Road]: Mr. Lee recognizes staff mentioned they need to go back and do more research on the proposed ordinance but he wanted to point out a few areas on which he'd like Council to focus. Mr. Lee believes there should be a serious look at the quantity of density to acreage and currently, the proposed ordinance has no density requirement. He is interested in the amendment of the definition of "family" and says there is need for clarification. He believes there are good aspects of this ordinance but as it stands today, he would be opposed.

6:58 PM Floor Closed to Public Comments

Motion by Councilmember Henderson to postpone the approval of an ORDINANCE to amend Chapter 1 and add a section under Chapter 4 for "University Living-Purpose Built Student Housing" to the April 6, 2020 Mayor and Council meeting at 6:30 PM, seconded by Councilmember Eaton. Vote taken, approved 4-0-1 (Councilmember Viars recused). Motion carried.

*[Items X.B and X.C were presented concurrently.]*

- B. Authorization for approval of ORDINANCE for rezoning request submitted by Fountain Residential Partners. Property located at 1465 Shiloh Road being identified as Land Lot 60, Tax Parcel 31, 2nd Section, Cobb County. Said request to rezone property consisting of 4.4+/- acres. Project proposal is student built housing with a rezoning request from City R-30 to City RM-12. The application was advertised in the Marietta Daily Journal on February 14, 2020 and February 21, 2020 with property posting on February 18, 2020. The Planning Commission, at a meeting held on March 04, 2020, made recommendation, vote 3-0, to approve the rezoning subject to staff's recommendation with the following item #9 added by the Commissioners:
1. Reversionary clause that requires that construction permits and activity be initiated withing 24 months of the date of the rezoning and variance approval. Failure to obtain permits and start construction activity within the 24 month period will result in the reversion of the rezoning and variances and the property will revert back to the prior zoning of R-30.
  2. Submission of a traffic impact study that demonstrates either the development will not have a negative impact on existing traffic conditions or that the negative impacts of the development can be mitigated through traffic improvements that will be incorporated as part of the development plan. Traffic counts shall be no more than three years old from date of the study and shall be taken during a time of year when the academic calendar is in session for nearby universities and schools.
  3. All access for the development shall be an arterial or major collector roadway, as identified in the City of Kennesaw Unified Development Code or similar classification document.

4. Parking requirements: Sites shall be designed to accommodate on-site parking for at least one (1) vehicle per bedroom with additional parking for visitors total equals 263 parking spaces to be provided

5. Security requirements:

a. The property management company shall submit a security plan in accordance with the standards of Crime Prevention through Environmental Design (CPTED). The security plan shall be submitted to the City of Kennesaw Police Department for review and safe-keeping and shall be updated annually at the beginning of each calendar year, no later than January 31. Any such security plan shall require that on-site management shall be required 24 hours per day, seven days per week.

b. All access points on the property shall be secured with gated entry and shall be self-closing;

c. The development shall be enclosed with a minimum eight (8)-foot high privacy fence along the entire property line.

d. The property shall be equipped with a security camera system that shall be monitored by the property management company on-site. Any such system shall record and store video images located throughout the common areas, including the parking areas, and signs shall be posted throughout the development notifying residents and visitors of the security camera system;

e. All common area doors and access gates shall be secured with electronic locks;

f. All apartment units shall be equipped with a door that features a 180-degree peep hole;

g. For every 200 parking spaces, the development shall feature at least one Emergency Blue Light Phone that is connected to the Cobb County Public Safety's 24-hour communications center and identify the phone location if the caller is unable to talk.

Lighting: In order to ensure adequate illumination of the development and promote safety and security, the Parking Lot Design Guide standards set forth for Basic Enhanced Security, Security, and High Security as set forth in the Illuminating Engineering Society Lighting Handbook (IESNA), latest edition, as amended, is adopted as the standard for the installation and operating of lighting in parking lots. No over flow of light onto/into the adjacent property.

6. All façade materials to be installed similar to the elevations provided by the applicant and be in compliance with the City of Kennesaw architectural standards.

7. Maximum height of building will be 35 feet as per the adopted zoning ordinance chapter one that defines how building height is measured.

8. Maximum number of units allowed will be 52 units with a maximum of 241 beds.

9. Right side of property - minimum 5 foot buffer be installed.

Zoning Administrator Darryl Simmons presented an ordinance for a rezoning request regarding property located at 1465 Shiloh Road as well as two variance requests. As of the Planning Commission meeting, the applicant submitted a revised site plan that reduced the number of units as well as a new setback that will be in compliance with RM-12. Due to the unique circumstances of the pandemic and the amount of individuals wanting to participate in these public hearings but cannot, it is staff's recommendation to postpone the public hearings to the May 18, 2020 Mayor and Council meeting at 6:30

PM. This postponement will allow Mayor and Council to look at the new data coming in, the public a chance to physically participate, and gives both parties the opportunity to review the item and add relevant information, if needed.

7:05 PM Floor Open for Public Comments

DARRYL SIMMONS [Zoning Administrator]: Mr. Simmons read into the record the names of individuals who emailed the Deputy City Clerk before 6 PM in opposition to the rezoning. Those names include: Bill and Lori Hicks; Barry D. Snell; Tim and Karen Brown; Jay Lauer; Jean and Howard Fingerhut; Bill Alexander; Ashford Jaggernauth; Shanna Trahan; Ken Champion; Patricia and Don Stamps; George Alexander; Tony and Courtney Taliercio; John Isenhour; Michael and Lorraine Tyrell; Johnny Faulk; Dianne Hunter; Dallas Otterlee; Marvin and Ann Crutchfield; Courtney Taliercio; Dianne McPherson; Nancy Grant; Jim Musgrave; Michael Peter Atheam; KC Hamill; Ivey and David Olson; Brad and Lisa Wells; Paul Franklin; Jeff and Mary Clarice Hathaway; Jeff Hathaway; Loretta Byrne; Richard Calhoun; Brendan Cosgrove; Greg LaBrie; George Beck; Brenda Eubank; Jill Cox-Cordova and Anthony Cordova; and Merle Jaggernauth. Mr. Simmons also relayed five common concerns throughout the emails, which included increased traffic, the addition of multi-story housing to a residential area, a lack of parking, spikes in crime, and a reduction in quality of life.

DOUG DILLARD [Dillard Sellers Attorneys at Law]: Attorney Dillard, representing the applicant, shared his office has not had an opportunity to respond to any of these concerns. Attorney Dillard wanted reassurance if the public hearing was postponed to the May 18, 2020 meeting, that staff would give notice of all comments and place a deadline on when those comments can come in. Attorney Dillard would like an opportunity to respond to any concerns before the meeting occurs.

Mr. Simmons responded staff would continue to submit comments as quickly as possible.

Attorney Bentley asked if Attorney Calhoun, representing 75 Wade Green Business Center Association, Inc., concurred with postponement.

Councilmember Blinkhorn made a motion to postpone the ORDINANCE for rezoning request submitted by Fountain Residential Partners to the May 18, 2020 Mayor and Council meeting at 6:30 PM, seconded by Councilmember Eaton.

RICHARD CALHOUN [Gregory, Dole, Calhoun and Rogers, LLC]: Attorney Calhoun responded in agreement but asked Mayor and Council to take a serious look at the objections provided to them in the letter they received between now and May.

Mayor Easterling reminded the public, despite the recommendation of postponement, we are still having the public hearing because it was advertised.

Councilmember Ferris wanted to clarify for the public that once this item is revisited in May, the floor will be open again for all to speak.

JIM MUSGRAVE [3123 Bentgrass Lane NW and HOA President]: Mr. Musgrave is an HOA president for a small subdivision of 19 homes that are unanimously opposed to the rezoning. He offered through email, comments, which are available and were partly read by Mr. Simmons. Mr. Musgrave wanted to point out additional concerns regarding travel routes students will have to take leaving the University and trying to get to I-75. He suggested to the developer and Council to look at a traffic map to see where students are going to go to get easy access to the proposed complex. Speeding might get worse with the added traffic of the students.

RYAN LEE [Architect on Shiloh Road]: Mr. Lee pointed out we have a new zoning standard being voted on soon and this current item being discussed seems tied together. One will have public comment on April 6<sup>th</sup> and the later item will have public comment on May 18<sup>th</sup>. It seems to be convenient to have one before the other. He suggests either voting on them on the same agenda or vote on this rezoning item first.

7:27 PM Floor Closed to Public Comments

Vote taken, approved 4-0-1 (Councilmember Viars recused). Motion carried.

*[Items X.B and X.C were presented concurrently.]*

- C. Authorization for approval of variance requests submitted by Fountain Residential Partners, LLC. for property located at 1465 Shiloh Road. Property located at 1465 Shiloh Road being identified as Land Lot 60, Tax Parcel 31, 2nd Section, Cobb County. Said proposal is for purpose built student housing. Said variance requests for the following: (1) Increase the RM-12 zoning district max. density from 12 unites/acre to 15.55 units/acre (68 units total); (2) Reduce the front yard setback along Shiloh Road from 40 ft. to 30 ft. on property consisting of 4.4+/- acres. Application was advertised in the Marietta Daily Journal on February 14, 2020 and February 21, 2020 with property posting on February 18, 2020. The Planning Commission, at a meeting held on March 04, 2020, vote 2-1, made recommendation to deny the requested variances for density and front setback reduction. Staff recommendation: Darryl Simmons, Zoning Adminstrator, recommends the approval of the density and setback variances, as requested.

Motion by Councilmember Blinkhorn to postpone the variance requests submitted by Fountain Residential Partners, LLC for property located at 1465 Shiloh Road to the May 18, 2020 Mayor and Council meeting at 6:30 PM, seconded by Councilmember Ferris.

7:05 PM Floor Open for Public Comments

*[See comments under agenda item X. B]*

7:27 PM Floor Closed to Public Comments

Councilmember Henderson noted these variances were no longer applicable. He asked if they should be denied to remove them from the record. Mr. Simmons recommended keeping them on.

Vote taken, approved 3-1-1 (Councilmember Henderson opposed, Councilmember Viars recused). Motion carried.

*[Councilmember Viars returned to the dais].*

- D. Approval of a **RESOLUTION 2020-13, 2020** and transmittal of the updated Capital Improvement Element (CIE) and Short-Term Work Program (STWP) report. Transmittal of report and approved resolution, this CIE-STWP report will reflect Fiscal Years 2020-2024. Request is for approval of transmittal Resolution to Atlanta Regional Commission (ARC) and Georgia Department of Community Affairs (DCA) for review and comments prior to final adoption by Mayor and Council later in 2020 at a scheduled hearing following proper public notice. Department of Community Affairs requires participating local governments to submit an update to these project reports as required for the City of Kennesaw to maintain Qualified Local Government status. This report identifies short-term goals and projects over a five-year period. The public hearing was advertised in the Marietta Daily Journal on February 28, 2020 and March 6, 2020. Staff Recommendation: Darryl Simmons, Planning and Zoning Administrator, recommends transmitting the proposed draft for regional review by the Atlanta Regional Commission and Department of Community Affairs.

Zoning Administrator Darryl Simmons presented a resolution and the transmittal of the updated Capital Improvement Element (CIE) and Short-Term Work Program (STWP) Report. This report will reflect fiscal years 2020-2024 and will be transmitted to the Atlanta Regional Commission and the Georgia Department of Community Affairs for review and comments prior to the report's final adoption by Mayor and Council later this year. Submittal of update to these project reports is required by the Department of Community Affairs to maintain Qualified Local Government status.

Motion by Councilmember Ferris to approve the RESOLUTION and transmittal of the updated CIE-STWP report, as presented, seconded by Councilmember Eaton.

7:30 PM Floor Open for Public Comments

No comments.

7:31 PM Floor Closed to Public Comments

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

*[Items X, E and F were presented concurrently].*

- E. FIRST PUBLIC HEARING: Approval of an ORDINANCE to repeal Metricom Franchise Agreement, Appendix E of the City of Kennesaw Code of Ordinances. On June 20, 2000, the Mayor and City Council adopted Ordinance #2000-12 wherein the City entered into an agreement with Metricom Inc. to grant a franchise to construct, operate and maintain wireless communication systems within the City of Kennesaw right of way. Upon information and belief, Metricom and its successor are no longer in business, the City is not receiving franchise fees from

Metricom or any of its successors, and there are no wireless communication system facilities owned by Metricom or its successors in the City right of way. The Metricom Franchise expired by its own terms on June 20, 2016 and the City sent notice to Metricom of its expiration on February 12, 2020. The public hearings were duly advertised in the Marietta Daily Journal March 6, 2020 and March 13, 2020 editions. The final public hearing will be held on April 6, 2020 at the Mayor and Council regular meeting. The City Clerk and legal recommends approval.

City Manager Jeff Drobney presented ordinances to repeal Metricom Franchise Agreement, Appendix E, and MediaOne Franchise Agreement, Appendix F, of the City of Kennesaw Code of Ordinances. Metricom and MediaOne do not exist and the City is not receiving any franchise fees from the companies.

7:32 PM Floor Open for Public Comments

No comments.

7:33 PM Floor Closed to Public Comments

No action taken.

*[Items X, E and F were presented concurrently].*

- F. FIRST PUBLIC HEARING: Approval of an ORDINANCE to repeal MediaOne Franchise Agreement, Appendix F of the City of Kennesaw Code of Ordinances. On November 19, 2001 the Mayor and City Council of the City of Kennesaw adopted Ordinance 2001-33 wherein the City entered into an agreement with Mediaone of Colorado, Inc. (hereinafter "Mediaone") to grant a franchise to construct, operate, upgrade and maintain a cable system along the public right of way within the franchise area, for the purpose of providing cable services (hereinafter the Mediaone Franchise). The Mediaone franchise expired by its own terms on November 19, 2011. While the City may be receiving franchise fees from Comcast pursuant to its state issued franchise agreement in the City, the City is not receiving franchise fees from Mediaone or any of its successors pursuant to the Mediaone franchise. The public hearings were duly advertised in the Marietta Daily Journal March 6, 2020 and March 13, 2020 editions. The final public hearing will be held on April 6, 2020 at the Mayor and Council regular meeting. The City Clerk and legal recommends approval.

7:32 PM Floor Open for Public Comments

No comments.

7:33 PM Floor Closed to Public Comments

No action taken.

## **XI. CONSENT AGENDA**

- A. Approval of the February 24, 2020 Executive Session minutes and March 2, 2020 Mayor and City Council meeting minutes.
- B. On March 2, 2020, Jennifer Henderson purchased one (1) cemetery lot in the Kennesaw City Cemetery. The lot is located in Section III, Plot 34, Lot H for the burial of her mother Patricia White. City Clerk recommends authorizing the Mayor to sign the supporting deed for purchase of the lot.
- C. Approval of **RESOLUTION NO. 2020-14, 2020** and authorization for the Mayor to execute the Lease Supplement with Georgia Municipal Association (GMA) for the direct leasing program for one (1) 2020 F250 Truck. The total amount of the loan is \$22,554. Through GMA the City will finance the truck for a four year period with annual payments of \$5,086.26 at an annual interest rate of 4.14%. Funding will be through Magnolia Bank via GMA. Finance Director recommends approval.  
100.8000.58.1200 Total principal \$22,554.00 over lease term  
100.8000.58.2200 Total interest \$2,877.30 over lease term
- D. Approval of a **RESOLUTION NO. 2020-15, 2020** to amend the Cobb Framework Agreement for McCollum Pkwy @ Ben King Road. The City of Kennesaw entered into a Cobb Framework Agreement with Cobb County, Georgia on January 26, 2016, for services associated with McCollum Parkway @ Ben King Road Intersection Improvements (PROJECT), Project No. X2309. At the time the parties anticipated the total project costs to be Two Million and No/100 Dollars (\$2,000,000.00) and agreed on a funding split of 70% COUNTY (\$1,400,000.00) and 30% CITY (\$600,000.00). The project design has been completed, the ROW acquisition completed and the project was advertised for construction on October 10, 2019. The total project costs are now anticipated to be \$3,720,000 and increasing the maximum financial contributions of each party as follows: County 70% \$2,604,000 City 30% \$1,116,000. Cobb County is asking the City to allow it's portion of the increased cost to be advanced from the Mack Dobbs project (also a joint County/City 2016 SPLOST project) while County and City staff work on the scope and budget for Mack Dobbs. Cobb County believes potential savings can be found in the McCollum @ Ben King Road project after plan set/quantities review and closely managing construction allowances thereby reducing the City's portion of the overall project cost. Recommendation is for the Council to authorize the Mayor to sign to allow this much needed road and traffic safety project to proceed.
- E. Request to sell or surplus eight Police Vehicles. The Chief of Police requests permission to sell or surplus eight (8) older vehicles in the fleet. The vehicle information is as follows: 2005 GMC Yukon VIN:3GKEC16Z05G228967; 2006 Ford Crown Victoria VIN: 2FAFP71W76X130780; 2007 Ford Crown Victoria VIN: 2FAFP71W07X145090; 2007 Ford Crown Victoria VIN: 2FAFP71W07X145089; 2007 Ford Crown Victoria VIN: 2FAFP71W07X130694; 2008 Ford Crown Victoria VIN: 2FAFP71V68X128500; 2011 Ford Crown Victoria VIN: 2FABP7BV1BX110927; and a 2011 Dodge Ram 1500 VIN: 1D7RV1CT0BS539607 (purchased with forfeited funds). The Chief of Police and the City Fleet Manager recommend removing the aforementioned vehicles from the fleet.

- F. Request to surplus and dispose of Public Works vehicle. With Council's approval to purchase a new vehicle in the FY 2020 budget, Public Works now has a surplus truck that needs to be disposed. Staff will attempt to sell the surplus item in the open market; however, if no bids are received then the items will be sold as scrap metal. The surplus vehicle is a 2001 Chevrolet 3500, VIN #3GBKC34FO1M102983. The Public Works Director recommends declaring the aforementioned vehicle as surplus.
- G. Road Closures for July 3rd and Day with Santa. The following road closures support the Salute to America, July 3rd event on Friday, July 3rd.
- Main Street will be closed from Moon Station Rd to Summers St: 8:00 AM – 12:00 Midnight
  - Cherokee Street will be closed from Big Shanty to Main Street 8:00 AM – 12:00 Midnight
  - Lewis Street will be closed from Dallas St to Main St from 12:00 Noon – 12:00 Midnight
  - J.O. Stephenson Avenue will be closed from Little General Cloggers Lane to Main Street from 12:00 Noon – 12:00 Midnight
  - Watts Drive will be closed from Little General Cloggers Lane to Main Street from 12:00 Noon – 12:00 Midnight
  - The City parking lot at Tunnel Plaza will be closed 8:00 AM – 12:00 Midnight
  - Shirley Drive will be closed Cherokee St to Carruth St 9:00 PM until 10:30 PM.
- The following road closures support the Day with Santa event on Saturday, December 5th:
- Main Street will be closed from Lewis St to Summers St 12:00 Noon – 10:00 PM;
    - To accommodate the parade Main Street will also be closed from Park Dr to Lewis St: 1:45 PM – 3:15 PM.
  - The following roads will be closed at Main St 12:00 Noon – 10:00 PM: J.O. Stephenson Ave., Cherokee St., Watts Dr.
    - To accommodate the parade the following roads will be closed at Main St 1:45 PM - 3:15 PM: Park Dr., Lewis St., Dallas St., Whitfield Pl., Moon Station Rd.,
  - Watts Dr. will be closed just west of the new parking lot entrance at 1:45 PM for approx. 30mins. Dallas St. will be closed at Watts Dr. for approx. the same 30mins.
  - Cherokee St will be closed from Big Shanty Dr. to Main St: 12:00 Noon – 10:00 PM
  - Watts Dr. will be closed from Little General Cloggers Lane to Main Street from 12:00 Noon – 10:00 PM.
- The Events Committee recommends approval.

Motion by Councilmember Viars to approve the Consent Agenda engross, seconded by Councilmember Blinkhorn. Vote taken, 5-0 approved unanimously. Motion carried.

## **XII. FINANCE AND ADMINISTRATION**

**GINA AULD, Finance Director**

No items.

**XIII. PUBLIC SAFETY**

**BILL WESTENBERGER, Police Chief**

**LINDA DAVIS, 911 Communications Director**

- A. Receipt of 2020 January and February Crime Statistics.

Chief Westenberg presented the January and February 2020 crime statistics.

Motion by Councilmember Henderson to receive the January and February 2020 crime statistics, seconded by Councilmember Blinkhorn. Vote taken, 5-0 approved unanimously. Motion carried.

**XIV. INFORMATION TECHNOLOGY**

**RICK ARNOLD, Co-Director**

**JOSHUA GUERRERO, Co-Director**

No items.

**XV. PUBLIC WORKS**

**RICKY STEWART, Director**

**ROBBIE BALENGER, Building & Facilities Manager**

No items.

**XVI. RECREATION AND CULTURE**

**RICHARD BANZ, Museum and Agency Director**

**STEVE ROBERTS, Parks and Recreation Director**

**ANN PARSONS, Smith-Gilbert Gardens Director**

No items.

**XVII. COMMUNITY DEVELOPMENT**

**ROBERT FOX, Economic Development Director**

**DARRYL SIMMONS, Zoning Administrator**

**SCOTT BANKS, Building Official**

No items.

**XVIII. PUBLIC COMMENT/BUSINESS FROM THE FLOOR**

**XIX. CITY MANAGERS REPORT – Jeff Drobney**

- A. City Manager reports, discussions and updates.

No items.

**XX. MAYOR'S REPORT**

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

Mayor Easterling appointed Ann Langan and Britt Doss to fulfill vacancies on the Kennesaw Downtown Development Authority with terms ending Dec 2021 and Dec 2023, respectively. Mayor Easterling also appointed Kevin Tidwell to fulfill a vacancy on the Kennesaw Development Authority with a term ending Dec. 2023.

Motion by Councilmember Viars to ratify the appointments of Ann Langan, Britt Doss, and Kevin Tidwell, seconded by Councilmember Blinkhorn. Vote taken, 5-0 approved unanimously. Motion carried.

## **XXI. COUNCIL COMMENTS**

Councilmember Pat Ferris mentioned how pollen season has begun and he is allergic to everything. Feel better, Councilmember Ferris!

Councilmember David Blinkhorn thanked the Mayor and the City Manager whom have been in constant communication with state and local agencies and have been keeping Council informed. He is grateful for all they are doing.

Councilmember James Eaton exclaimed wow—what a week!

Councilmember Chris Henderson joked Councilmember Blinkhorn stole his thunder but wanted to say thank you for everything. He now knows why he chose not to homeschool his children.

Councilmember Tracey Viars asked everyone to be safe, patient, and kind.

Mayor Derek Easterling announced effective 5:00 PM today, City Hall would be closed to public access until further notice.


## **XXII. EXECUTIVE SESSION –Land, Legal, Personnel**

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

No items.

## **XXIII. ADJOURN**

Mayor Easterling adjourned at 7:39 P.M. The next regularly scheduled meeting will be held Monday, April 6, 2020 at 6:30 p.m. in the Council Chambers. The public is encouraged to attend.



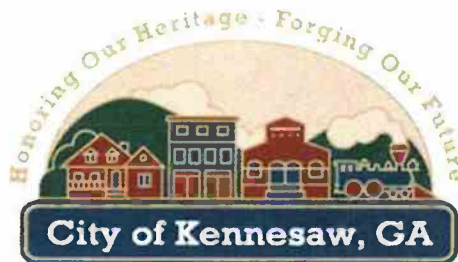
Lea Addington, Deputy City Clerk

# **APPENDIX 3**

**MAYOR**  
Derek Easterling

**City Manager**  
Jeff Drobney

**City Clerk**  
Lea Addington



**COUNCIL**

Mayor Pro Tem Pat Ferris  
James Eaton  
Tracey Viars  
Chris Henderson  
David Blinkhorn

CLERK'S CERTIFICATION

CITY OF KENNESAW  
GEORGIA, COBB COUNTY

I, Lea Addington, hereby certify that I am the City Clerk for the City of Kennesaw and the lawful custodian of the books and records of said municipality, and as such do hereby certify the attached City of Kennesaw Mayor and Council June 15, 2020 meeting minutes with unrelated and duplicated documents from within and from the June 15, 2020 agenda omitted is a true and correct copy of records on file at City Hall.

WITNESS, my hand and Seal of the City of Kennesaw, Georgia, on this 30<sup>th</sup> day of June 2020.

ATTEST:

  
\_\_\_\_\_  
Lea Addington, City Clerk



**MINUTES OF MAYOR & CITY COUNCIL MEETING  
CITY OF KENNESAW  
Council Chambers/ Ben Robertson Community Center  
Monday, June 15, 2020  
6:30 p.m.**

---

Present: Mayor Derek Easterling  
Mayor Pro Tem Pat Ferris  
Councilmember James Eaton  
Councilmember Tracey Viars  
Councilmember Chris Henderson  
Councilmember David Blinkhorn  
City Manager Jeff Drobney  
Assistant City Manager Marty Hughes  
City Clerk Lea Addington  
City Attorney Randall Bentley, Sr.

Pursuant to Governor Kemp's Executive Order Number 03.14.20.01 declaring a Public Health State of Emergency and in compliance with O.C.G.A. §50-14-1, this meeting was conducted in person and via the use of Zoom Meeting and Facebook Live as the real-time telephonic technologies allowing the public simultaneous access to the public meeting.

The public had access to the Facebook Live via the following link:  
<https://www.facebook.com/CityofKennesaw/>

**I. INVOCATION**

City Attorney Randall Bentley, Sr. led the invocation.

**II. PLEDGE OF ALLEGIANCE**

Ed Setzler, Georgia State Representative for District 35, led the Pledge of Allegiance.

**III. CALL TO ORDER**

**IV. ANNOUNCEMENTS**

- A. Pursuant to Governor Kemp's Executive Order Number 03.14.20.01 declaring a Public Health State of Emergency and in accordance with O.C.G.A. §50-14-1 et seq., as may be amended or extended, this public meeting is being conducted via the use of real-time telephonic technologies allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center.

In addition to in person public appearance, Mayor and Council will be conducting their meeting through Zoom Meeting and Facebook Live and you can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>

- B. If you would like to provide public comment on a specific agenda item, you can email [kennesawcouncil@kennesaw-ga.gov](mailto:kennesawcouncil@kennesaw-ga.gov) no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record.

*[The City Attorney swore-in any witnesses or individuals offering comments on the agenda].*

## **V. PRESENTATIONS**

No items.

## **VI. PUBLIC COMMENT/BUSINESS FROM THE FLOOR**

6:35 PM Floor Open for Public Comments on agenda items

*[Mayor Easterling asked Assistant City Manager Marty Hughes if any individual in the Ben Robertson Community Center overflow room wanted to speak about the 1465 Shiloh Road rezoning. Mr. Hughes responded at least three. Mayor Easterling asked they go first so Councilmember Viars can recuse herself].*

*[Councilmember Viars recused herself from the Council Chambers].*

*[Please note: residency is listed after individuals that either verbally referenced or placed in writing his or her address during public comment].*

KC HAMILL (Cobb County resident): Mr. Hamill spoke against the letter the Pinetree Civic Association sent to Council in support of the 1465 Shiloh Road rezoning item. He is an active member of his community and was shocked when he found out the Association sent the letter. The people who live adjacent from the property and a majority of those who live in Pinetree neighborhood disapprove of the rezoning application.

CINDY MCKINLAY (Cobb County resident): Ms. McKinlay is a member of the Pinetree Civic Association and she was not aware of the letter as well. She believes every member, to the best of her knowledge, is against the rezoning and they did not find out about this letter until the very last minute. Ms. McKinlay stated the letter does not represent any of the members of Pinetree.

PHIL ANZALONE (Cobb County resident and Pinetree Civic Association President): Mr. Anzalone shared the Association has done a lot of work in regards to purpose built student housing, especially with Cobb County. Support for the 1465 Shiloh Road rezoning was not given lightly as there were many tradeoffs. There are two big issues: privacy and traffic. Mr. Anzalone mentioned Fountain Residential Partners has been working to find solutions to those issues. He has a good feeling the community will not experience the same problems they are having with West 22. He says the Association strongly endorses the proposal.

JOE BOZEMAN (City of Kennesaw property owner and Cobb County resident): Mr. Bozeman lives in Pinetree; however, he is not a member of the country club. He believes

the project on Shiloh Road will be good for the City of Kennesaw. He asked Council to approve the rezoning.

TIMOTHY HEYING (City of Kennesaw resident): Mr. Heying expressed the necessity of approving the rezoning item. There are more people looking for housing in Kennesaw every year and this project would keep things more centralized and be more beneficial to the school.

GEORGE WILLIAMS IV (Kennesaw State University student): Mr. Williams IV is a Resident Assistant at Kennesaw State University (KSU) and is on the front lines of student housing. KSU saw an approximate 7% increase in student housing this past school year – a university typically sees only a 3% increase. This student housing project is important for students who will be looking for affordable housing options. If the concern is for the safety of homeowners, it makes sense to support projects like this one that gives students their own space to live.

COLEEN HOSACK (Attorney for Bentley Bentley & Bentley): Ms. Hosack clarified for the record this particular item is regarding 1465 Shiloh Road rezoning. The phrase "purpose built student housing" had been used several times during the meeting and it is a separate issue from the rezoning item.

MARTY HUGHES (Assistant City Manager for City of Kennesaw): Mr. Hughes read the names of individuals who sent emails to [kennesawcouncil@kennesaw-ga.gov](mailto:kennesawcouncil@kennesaw-ga.gov) and his or her respective position regarding the 1465 Shiloh Road rezoning into the record. The names and positions are as follows:

In support, Jennifer R. Taylor, a member of Dillard Sellers Attorneys at Law, shared correspondence from the Pinetree Civic Association endorsing the Fountain Residential project. Please see "Comments - A."

In opposition, Ronda Porta; Katrina Champion; Philip Walerski; Robert DeVillar (resident of Pinetree neighborhood); Ty Kataja; Tony Scaturro; Miriam Tilley; Cindy McKinlay (Member of Pinetree Civic Association); Dennis M. McKeon, Sr.; Deanna L. Davis; Michael Tyrell (President of Archery Shooters Association, LLC); Ryan Lee (President and CEO of R.A. Lee & Associates, Architects); Diane McPherson; Gloria Behrle; Matt and Susan Hopkins (resident of Pinetree neighborhood); Lonnie Roberts (resident of Pinetree neighborhood); Suly Sriver (Paralegal for GDCR Attorneys at Law) sent letters and various exhibits in opposition of the request on behalf of 75 Wade Green Business Center Association, Inc.; Barry Miller (resident of Fairways to Pinetree neighborhood); Buzz Alexander; Arthur L. Way (Property owner of Elk River Properties, LLC); Jeffery Davis (resident of Pinetree neighborhood); Nancy Dowling; Brendan Cosgrove (resident on Ayers Drive); and Mary Clarice Hathaway. Please see "Comments - B."

*[Councilmember Viars returned to the Council Chambers].*

MATT SOUTHWELL (City of Kennesaw resident): Mr. Southwell pointed out before every meeting we stand and pledge allegiance to the United States of America. It is the flag of our country. The flag that has been a point of so much contention here in Kennesaw lately was carried into battle in defense of ideals that are contrary to the American fundamentals

of life, liberty, and the pursuit of happiness. He respects history but a flag does nothing to teach history. Museums are where these symbols belong so they can be properly contextualized. It is time to take a stand and take the flag down so the community can move forward.

BRENT PEABODY (City of Kennesaw resident): Mr. Peabody thanked the Mayor and Council for presiding over a civil procedure and asked them to take the flag down. The vast majority of people in favor of removing the flag are young. They are the new generation and change is happening. What the City of Kennesaw needs to decide is whether they are going to embrace this change or resist it. He wants us to leave a good legacy.

GEORGE WILLIAMS IV (Kennesaw State University student): Mr. Williams IV reminded the Mayor and Council there will be many new students coming to Kennesaw State University in the fall. This school prides itself on diversity and inclusion. Just down the road, however, flies a flag that stands for the opposite. Mr. Williams IV does not want to have to warn the upcoming freshmen about places to avoid. He does not want to have to avoid these places either. He asked for the Confederate flag and all related symbols be removed.

JIMMY DICKENS (City of Kennesaw resident and business owner): Mr. Dickens shared with the Mayor and Council how he has lived, worked, and served in the City of Kennesaw. It is his home and he loves it; however, he wishes it loved him back. Many symbols within Kennesaw represent the Confederacy including the City's logo, its streets, and its events. He suggested the Southern Museum be both a Civil War and Civil Rights museum. Include everybody! He told Council the community stands with them and asks them to represent the City of Kennesaw as a whole.

LEAH WOOD (Cobb County resident): Ms. Wood lived in the City of Kennesaw for most of her life. When she was 10 years old, she went on a field trip to the Southern Museum and wandered into Wildman's Civil War Surplus Shop. She was shocked at what she saw; however, she looked across the street and saw the same flags covering Wildman's store flying over the City of Kennesaw. She read Kennesaw's vision statement to the Mayor and Council and shared if we want to move forward, the flag needs to be removed.

DEBRA WILLIAMS (City of Kennesaw resident): Ms. Williams shared much of what she has heard tonight has been emotional—she wants to speak from facts and law. She said by willingly and knowingly removing the flag, the Mayor and Council are breaking state law. If they proceed with this action, all involved should be removed from office. Emotional leadership comes at a high price.

REBECCA MILLER (Cobb County resident): Ms. Miller grew up within the City of Kennesaw limits. One of the first impressions people have when visiting Kennesaw is its downtown is a memorial to the Confederacy. On one side is Wildman's store on the other side, is the Confederate flag. The flag represents hatred, not heritage. If it is a question of Southern pride, there are many other symbols to represent it. It is time to take down the flag.

VISHAL PATEL (Cobb County resident): Mr. Patel has also lived near Kennesaw his entire life. The fact that he has to qualify his statements by saying where he lives to address the hatred represented by the flag is ridiculous; but he will, because he wants to be a part of the community. This is his first time attending a Mayor and Council meeting, largely due to the flag. He loves his community, but every time he sees the flag, it is as though his community is telling him they do not want him here. He asked the Mayor and Council to remove the symbols of hate and prejudice in our community and embrace everyone.

DR. LISA ADKINS (City of Kennesaw resident): Dr. Adkins noted she has been in front of the Mayor and Council numerous times regarding various projects. As Ms. Williams said, this issue is regarding following the law or not following the law. If Council wanted to speak about drafting a proposal to send to the State of Georgia to ask them to change the law, that would be the proper procedure for this Council. To break the law and to ask the taxpayers to foot the bill for whatever legal ramifications arise from that decision, is wrong.

JOY CAMPBELL (Cobb County resident): Ms. Campbell asked for the removal of the flag, as it is a symbol of racism in this country. It is unfair to the black citizens of Kennesaw to be constantly reminded of a racist history. It is not history because it is still happening today. The least Kennesaw can do is show solidarity with its black citizens starting by condemning and removing Confederate memorabilia.

ALICIA ADAMS (City of Kennesaw resident): Ms. Adams is a 16-year resident of the City of Kennesaw and is proud to say she is a part of a multicultural community. She shared she was never taught to hate or be intolerant. She told Council you could not legislate away hate as it starts from within. The issue is not the symbol; the issue is what we associate with it. She encourages everyone to love one another and for the Mayor and Council to do what is legally appropriate.

C.W. ELLIOTTE (Cherokee County resident): Mr. Elliotte shared this conversation is taking place in the middle of a period of racial pain and division. We have an opportunity here to send a message of love and support by removing the Confederate flag.

PRISCILLA SMITH (Cobb County resident): Ms. Smith's mother was one of the first teachers at Big Shanty Elementary. She applauds the Mayor and Council for what they are doing and stands with them. If the Mayor and Council receive any legal backlash for their decision, she will do whatever she can to support them. Ms. Smith believes what they are trying to do is a brave act.

VINCENT CHARLES BEETLES JR. (Cobb County resident): Mr. Beetles, Jr. mentioned there are always two sides to any argument. The most common argument for keeping the Confederate flag flying is its representation of states' rights, but it was for the states' right to keep slavery. He thanked the Mayor and Council for taking up the issue and the removal of the flag is a good first step.

ZACHARY SMITH (Cobb County resident): Mr. Smith strongly encouraged the Mayor and Council to remove the Confederate flag. He said there is a space for the flag in a museum; it should not fly in a public space.

EDIE SINCLAIR (Cobb County resident): Ms. Sinclair is ashamed that when other people think of the South, they think of the Confederate flag. There are other things to be proud of regarding the South including a rich oral tradition and great food. Being Southern does not have to be synonymous with hatred. Ms. Sinclair does not want to be a part of a community that ignores the pain of others. She asks Mayor and Council to remove the flag.

MARY MILLER (City of Kennesaw resident): Ms. Miller shared this is not only an issue for young people. She wants to make the South somewhere we can be proud of and for the flag to be removed.

JOHNNY HAWKINS (Cobb County resident): Mr. Hawkins encouraged the Mayor and Council to keep the flag flying and not break any laws. If they do, they should be removed from office. He said our country is in a terrible place right now and wants everyone to come together and love each other.

CARLY SEIFERT (Cobb County resident): Ms. Seifert is not a native of the South. She has a black son and they moved from Montana to Kennesaw two years ago in search of a more diverse community. In Montana, hate groups that branded themselves with the symbol of the Confederate flag frequently targeted them. Today, she does not take her children to downtown Kennesaw because of the Confederate flag that flies. She does not know how to explain to them that the same symbol that was used to show them hate is in their new community. She asked for it to be removed.

ALLEN J. PAULSON (Cobb County resident): Mr. Paulson asked the Mayor and Council to take down the flag. It serves no purpose anymore and it should be displayed in a museum.

ANONYMOUS: The individual did not want to share his or her name as people have been targeted for standing up and speaking out. The individual stated we do not need the Confederate flag to know about the Civil War and asked for it to be removed.

REBECCA CARLSON (Cobb County resident): Ms. Carlson loves history. She shared what we are talking about tonight is not history and how the shoes she is wearing has lasted longer than the Confederacy. At no point did the Confederate flag stand for anything noble and should not be flown on any public property. Ms. Carlson applauds keeping the flag down and if it goes back up, it should be taken down again until the law changes.

JENNIFER CASTILLO (did not provide address): Ms. Castillo went to school in the City of Kennesaw. She reiterated there are so many other ways to show Southern pride. The community is asking for change and having this conversation is a step in the right direction. Ms. Castillo pointed out to Council they want people to feel comfortable coming here; however, many do not. She asked them to remove the flag.

MIKE SMITH (Paulding County resident): Mr. Smith shared he came back from fighting for the American flag and all the freedoms it represents in Vietnam 52 years ago. He

encouraged everyone to be careful before walking on people's freedoms. Mr. Smith asked what symbols will be removed next.

CHRIS KENNEDY (City of Kennesaw resident): Mr. Kennedy said this topic makes him emotional and shared the Confederate flag has no place in public view. He asked for the flag to be taken down and placed in a museum- whatever means necessary.

GEORGE WILLIAMS IV (Kennesaw State University student): Mr. Williams IV said if anyone knows the price of freedom it is his ancestors, yet, he still feels the effects of oppression to this day. He mentioned a previous comment about dealing with facts instead of emotions and continued to share information about the Fourteenth Amendment.

MARTY HUGHES (Assistant City Manager for the City of Kennesaw): Mr. Hughes divided the emails sent to [kennesawcouncil@kennesaw-ga.gov](mailto:kennesawcouncil@kennesaw-ga.gov) into three categories: opposition to the removal of the flag, support for the removal of the flag with options, and support for the removal of the flag. The emails were read into groups as follows:

In opposition: Charles and Vicki Frey; Wil MacFarlane Goldstein; Michael Reither (Cobb County resident); James Bishop; Benjamin Wren; Bryan Babyak; James R. Bonds; Jeffrey Wright; Garry Daniell; Eddie Hensley; Sarah Peterson; Carol Robertson (City of Kennesaw resident); Jennifer Jordan; and Veronica Cochran. Please see "Comments – C."

In support but provided suggestions regarding its removal including placement in the Southern Museum: Jennifer Zila; Mark Reardon; Georgia Lowry; Mac Badstibner; Brandon Flores; Shauna Stewart; and Rebecca Carlson. Please see "Comments – D."

In support: Traci Stafford; Timothy Huntley; Lauren Paul; Kimberly Clemmons; Ryan and Mandy Cochran; Karen Gambon; Olga Sidilkovskaya; Kenadee Knight; Ruthanna Wilson; Emily Cameron; Savannah Bray; Kate Jacobson; Gregg Walker (City of Kennesaw resident); Cris Eaton Welsh (City of Kennesaw business owner); Kristen Nichols; Kaelyn Putnam; Ali Brendel; Ariel Beedles; Tyler Chambers; Janelle Armstrong; Briana Harrison; Alice Harrison; Cody and Mary Harmon; Coty and Jeffrey Melvin; Kimberly Street-Robison; Sean McDonald; Jason Kirk; Karmen Blackwell (City of Kennesaw resident); Sandy Martin (City of Kennesaw resident); Jerome and Anne Atkins (City of Kennesaw residents); Rajah S. Mitchell (Cobb County resident); Josh Monroe; Nancy Lesser (City of Kennesaw resident); Zoe Speer; Philip Knowlton; Adrienne McGahee Jackson; Sharlande Nicolas; Kristin Thomas (City of Kennesaw resident); and Gary and Lisa Hasty (City of Kennesaw residents). Please see "Comments – E."

JOE BOZEMAN (City of Kennesaw property owner and Cobb County resident): Mr. Bozeman stated he has been a resident of Kennesaw his entire life. He has talked to every member of Council numerous times about the removal of the flag. He pointed out to everyone the park is actually known as "Fuller Park" and not "Memorial Park." It was named after Captain William Fuller of the Great Locomotive Chase. He is ashamed of some of the things he has heard tonight and offered the Council an alternative flag as a replacement for the Confederate flag flying in the park.

DEBRA WILLIAMS (City of Kennesaw resident): Ms. Williams addressed a comment by an earlier speaker asking him to not look at her and make any judgments. She shares no one can hear him when he is screaming and asks no one to judge her until he or she knows her.

CHARLIE DARRIEN (City of Kennesaw resident): Mr. Darrien addressed a previous speaker who asked the question about which monument or symbol is next to be removed. Mr. Darrien responded any and all that create division.

Georgia State Representative Ed Setzler (District 35): Representative Setzler shared the City of Kennesaw will not break the law but will follow the rules. The majority cannot wipe away the rights of the minority – that is the reason there is law; however, appropriate measures will not be prohibited. He read O.C.G.A § 50-3-1. Mr. Setzler said one thing is clear: Fuller Park has no historical relation to the image of the Confederate battle flag. He provides the Mayor and City Council a recommendation to follow the provision within the statute to consider a symbol that is relevant to Georgia in 1862. Mr. Setzler presented to the Mayor and Council a historically significant flag that complies with the law: the flag of the State of Georgia in the early 1860s.

8:52 PM Floor Closed for Public Comments on agenda items

Motion by Mayor Pro Tem Ferris to recess for 10 minutes, seconded by Councilmember Blinkhorn. Vote taken. Motion approved unanimously, 5-0. Motion carried.

8:56 PM – Meeting broke for a recess

9:06 PM – Meeting reconvened

Motion by Mayor Pro Tem Ferris to take agenda item XX-C out of sequence, seconded by Councilmember Viars. Vote taken. Motion approved unanimously, 5-0. Motion carried.

Mayor Easterling spoke to Councilmember Blinkhorn stating he brought this discussion to the forefront during the previous work session and gave him the floor to speak.

Councilmember Blinkhorn thanked everyone for his and her participation. The community made its voice heard and it was a great example of democracy in action. It is the responsibility of the elected officials to hear that voice and act.

Councilmember Henderson reassured the public no laws would be broken tonight. While O.C.G.A § 50-3-1 protects the existence of the monument in question, it also provides the City the right and obligation to protect the interpretation of the monument. Regardless of origin, a very common interpretation of the Confederate battle flag is one of hate and he believes because of that, it is their obligation to ensure the focus of the memorial is on its reason for existence: honoring those that served during the Great Locomotive Chase, Phillips' Legion, and all veterans. Today, Council will take a stand for history by ensuring the accuracy of the symbols they display and stand against hate by removing the symbol with which it is commonly associated. Councilmember Henderson called for the reading of the Resolution.

Mayor Derek Easterling read a "Resolution regarding the Confederate battle flag monument at Commemorative Park" into the record.

Motion by Councilmember Henderson to approve **Resolution No. 2020-19, 2020**, as read, seconded by Councilmember Viars. Vote taken. Motion approved unanimously, 5-0. Motion carried.

## **VII. OLD BUSINESS**

No items.

## **VIII. NEW BUSINESS**

No items.

## **IX. COMMITTEE AND BOARD REPORTS**

No items.

## **X. PUBLIC HEARING(S)**

*[Councilmember Viars recused herself from the Council Chambers for item X-A & B].*

- A. Authorization for approval of ORDINANCE for rezoning request submitted by Fountain Residential Partners. Property located at 1465 Shiloh Road being identified as Land Lot 60, Tax Parcel 31, 2nd Section, Cobb County. Said request to rezone property consisting of 4.4+/- acres. Project proposal is student housing with a rezoning request from City R-30 to City RM-12. The application was advertised in the Marietta Daily Journal on February 14, 2020 and February 21, 2020 with property posting on February 18, 2020. The Mayor and Council meeting scheduled for June 15, 2020 was duly advertised through published legal ads run May 15 and May 22 2020. The property was reposted on May 19, 2020. The Planning Commission, at a meeting held on March 04, 2020, made recommendation (vote 3-0) to approve the rezoning with conditions. Staff Recommendation: Darryl Simmons, Zoning Administrator recommends approval of the RM-12 zoning district subject to staff's recommendation with the following item #9 added and referenced in the applicant's attorney letter dated March 13, 2020:

1. Reversionary clause that requires that construction permits and activity be initiated within 24 months of the date of the rezoning and variance approval. Failure to obtain permits and start construction activity within the 24 month period will result in the reversion of the rezoning and variances and the property will revert back to the prior zoning of R-30.
2. Submission of a traffic impact study that demonstrates either the development will not have a negative impact on existing traffic conditions or that the negative impacts of the development can be mitigated through traffic improvements that will be incorporated as part of the development plan. Traffic counts shall be no more than three years old from date of the study and shall be taken during a time of year when the academic calendar is in session for nearby universities and schools.

3. All access for the development shall be an arterial or major collector roadway, as identified in the City of Kennesaw Unified Development Code or similar classification document.
4. Parking requirements: Sites shall be designed to accommodate on-site parking for at least one (1) vehicle per bedroom with additional parking for visitors total equals 263 parking spaces to be provided
5. Security requirements:
  - a. The property management company shall submit a security plan in accordance with the standards of Crime Prevention through Environmental Design (CPTED). The security plan shall be submitted to the City of Kennesaw Police Department for review and safe-keeping and shall be updated annually at the beginning of each calendar year, no later than January 31. Any such security plan shall require that on-site management shall be required 24 hours per day, seven days per week.
  - b. All access points on the property shall be secured with gated entry and shall be self-closing;
  - c. The development shall be enclosed with a minimum eight (8)-foot high privacy fence along the entire property line.
  - d. The property shall be equipped with a security camera system that shall be monitored by the property management company on-site. Any such system shall record and store video images located throughout the common areas, including the parking areas, and signs shall be posted throughout the development notifying residents and visitors of the security camera system;
  - e. All common area doors and access gates shall be secured with electronic locks;
  - f. All apartment units shall be equipped with a door that features a 180-degree peep hole;
  - g. For every 200 parking spaces, the development shall feature at least one Emergency Blue Light Phone that is connected to the Kennesaw 911's 24-hour communications center and identify the phone location if the caller is unable to talk.  
Lighting: In order to ensure adequate illumination of the development and promote safety and security, the Parking Lot Design Guide standards set forth for Basic Enhanced Security, Security, and High Security as set forth in the Illuminating Engineering Society Lighting Handbook (IESNA), latest edition, as amended, is adopted as the standard for the installation and operating of lighting in parking lots.  
**No over flow of light onto/into the adjacent property.**
6. All façade materials to be installed similar to the elevations provided by the applicant and be in compliance with the City of Kennesaw architectural Standards.
7. Maximum height of building will be 35 feet as per the adopted zoning ordinance chapter one that defines how building height is measured.
8. Maximum number of units allowed will be 52 units with a maximum of 241 beds.
9. Right side of property - minimum 5 foot buffer be installed.

Zoning Administrator Darryl Simmons presented the second public hearing for rezoning request submitted by Fountain Residential Partners. Property located at 1465 Shiloh Road being identified as Land Lot 60, Tax Parcel 31, 2nd Section, Cobb County This is the second of two public meetings.

Mr. Simmons read into the record emails he had received in support and opposition of the rezoning item. The emails he received are as follows:

In opposition: Brendan Cosgrove (Cobb County resident) and Matt and Susan Hopkins (Cobb County residents). Please see "Comments – F."

In support: Reverend Father Ben Day, Rector of Christ Episcopal Church (Cobb County); Bryan and Amanda Broyles (City of Kennesaw business owners); Mark Allen (City of Kennesaw business owner and Chair of Kennesaw Downtown Development Authority); Pinetree Civic Association; Joe Bozeman (City of Kennesaw property owner and Cobb County resident); Kelly Trim (City of Kennesaw resident); and Robert Trim (City of Kennesaw resident). Please see "Comments – G."

Approved by the Planning Commission with nine conditions, Mr. Simmons read the Ordinance into the record. He yielded the floor to the applicant but shared he was available for any questions.

TREVOR TOLETT (Executive Vice President of Fountain Residential Partners): Mr. Tolett presented a PowerPoint to the Mayor and Council. Fountain Residential Partners visited this property in 2017 and came back in 2020 with a new plan. They decided to leave single family lots on Ayers Drive alone and mentioned there are no points of ingress and egress on the aforementioned road. The only access points for the property are on Shiloh Road. Fountain Residential Partners are here because of the explosive growth of Kennesaw State University. It is important to address a growing university with not enough housing; if you do not, students will begin to move into single-family homes in neighborhoods without any conditions. Fountain Residential Partners has worked hard with community stakeholders to make sure the project is as low impact as possible. What they have accomplished with Pinetree is a model they want to implement with developments in the future with other municipalities.

PHIL AZALONE (Cobb County resident and Pinetree Civic Association President): Mr. Azalone mentioned how Kennesaw State University has grown significantly. This development has advantages such as privacy and the security of keeping a residential community residential. There is a major issue of up to five or six students living in one house throughout Cobb County.

DOUG DILLARD (Attorney for Dillard Sellers, Attorneys at Law – Counsel for Applicant): Mr. Dillard announced he would like to reserve three minutes for rebuttal.

RICHARD W. CALHOUN (Attorney for Gregory, Doyle, Calhoun & Rogers, LLC – Counsel for 75 Wade Green Business Center Association, Inc.): Attorney Calhoun's team tendered various exhibits into the record and provided copies for the Mayor and Council. Please see "Exhibits A-F". *[Note: "Exhibit G" is a DVD of audio from West 22. It will be*

*included in the minutes and available upon request in the City Clerk's office].* He mentioned the March 16, 2020 letter given to the Mayor and Council was not included in the agenda packet. Several affidavits from homeowners within Pinetree Country Club and an opposition letter from Ryan A. Lee of R.A. Lee & Associates, Architects were entered into the record as well. Please see "Exhibit H" and "Exhibit I", respectively. Attorney Calhoun brought up several issues of concern including legal ads that ran during the Mayor's Executive Order – 02 staying all zoning matters, spot zoning, and examples of disruption from similar developments.

RYAN LEE (President and CEO of R.A. Lee & Associates, Architects): Mr. Lee is a licensed architect and owns R.A. Lee. He is in opposition to the rezoning because it fails to meet RM-12 rezoning standards. Mr. Lee told the Mayor and Council the request would be detrimental to his office park and the three single-family homes nearby. He asks them to deny the request as submitted.

Motion by Councilmember Henderson to approve **ORDINANCE NO. 2020-06, 2020** for rezoning request submitted by Fountain Residential Partners, as presented, seconded by Councilmember Blinkhorn.

10:21 PM Floor Open for Public Comments

No comment.

10: 22 PM Floor Closed for Public Comments

Vote taken. Motion approved, 3-1-1 *[Mayor Pro Tem Ferris opposed, Councilmember Viars recused]*. Motion carried.

*[Attorney Doug Dillard stated for the record the variance request was removed].*

- B. Authorization for approval of variance requests submitted by Fountain Residential Partners, LLC for property located at 1465 Shiloh Road Property located at 1465 Shiloh Road being identified as Land Lot 60, Tax Parcel 31, 2nd Section, Cobb County. Said proposal is for purpose built student housing. The variance requests are for the following: (1) Increase the RM-12 zoning district max. density from 12 unites/acre to 15.55 units/acre (68 units total); (2) Reduce the front yard setback along Shiloh Road from 40 ft. to 30 ft. on property consisting of 4.4+/- acres. The application was advertised in the Marietta Daily Journal on February 14, 2020 and February 21, 2020 with property posting on February 18, 2020. The Planning Commission, at a meeting held on March 04, 2020, vote 2-1, made recommendation to deny the requested variances for density and front setback reduction. Staff recommendation: Darryl Simmons, Zoning Administrator, recommends the removal of the density and setback variance application due to the compliance of the RM-12 density and setback regulations presented in the revised site plan prepared by Kimley Horn dated 3-13-20.

No action taken.

*[Councilmember Viars returned to the Council Chambers].*

## **XI. CONSENT AGENDA**

- A. Approval of the June 1, 2020 Mayor and City Council meeting minutes.
- B. Approval of **RESOLUTION NO. 2020-20, 2020** authorizing an Intergovernmental Agreement For Ben King Road Between The City Of Kennesaw and Cobb County The City has a 2016 SPLOST project to make improvements to Ben King Road. These improvements require the need to acquire additional right of way and easements for construction. There are properties that front the project area that are not within the city limits of Kennesaw. In order to acquire property outside of the City's jurisdictional limits, an agreement between the City and Cobb County must first be in place. The agreement presented will satisfy this requirement. Legal has reviewed and approved. The Public Works Director recommends approval and for the Council to authorize the Mayor to sign the attached Intergovernmental Agreement.
- C. On May 29, 2020, Robert and Susan Strevens purchased two (2) cemetery lots in the Kennesaw City Cemetery. The lots are located in Section III, Plot 64, Lots G & H. Authorize Mayor to sign the supporting deed for purchase of the lots. City Clerk recommends approval.

Motion by Councilmember Eaton to approve the Consent Agenda engross, seconded by Councilmember Henderson.

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

## **XII. FINANCE AND ADMINISTRATION** **GINA AULD, Finance Director**

- A. Consideration for approval of an Alcohol License for Beer, Wine, Liquor and Sunday Sales for The Cigar Cellar, LLC d/b/a Cigar Cellar located at 2500 Cobb Parkway, Suite B-3, Kennesaw, GA 30152. Applicant: Eric Wilhelm. The applicant has completed the required alcohol workshop per Sec. 6-69. Signs have been posted and it has been properly advertised per Sec. 6-36. Current application, background check and fingerprint results are on file. Finance Director recommends approval.

Motion by Councilmember Blinkhorn to approve an Alcohol License for Beer, Wine, Liquor and Sunday Sales for The Cigar Cellar, LLC d/b/a Cigar Cellar, seconded by Councilmember Viars.

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

## **XIII. PUBLIC SAFETY** **BILL WESTENBERGER, Police Chief** **LINDA DAVIS, 911 Communications Director**

No items.

**XIV. INFORMATION TECHNOLOGY**  
**RICK ARNOLD, Co-Director**  
**JOSHUA GUERRERO, Co-Director**

No items.

**XV. PUBLIC WORKS**  
**RICKY STEWART, Director**  
**ROBBIE BALENGER, Building & Facilities Manager**

No items.

**XVI. RECREATION AND CULTURE**  
**RICHARD BANZ, Museum and Agency Director**  
**STEVE ROBERTS, Parks and Recreation Director**  
**ANN PARSONS, Smith-Gilbert Gardens Director**

No items.

**XVII. COMMUNITY DEVELOPMENT**  
**ROBERT FOX, Economic Development Director**  
**DARRYL SIMMONS, Zoning Administrator**  
**SCOTT BANKS, Building Official**

No items.

**XVIII. PUBLIC COMMENT/BUSINESS FROM THE FLOOR**  
No comments.

**XIX. CITY MANAGERS REPORT – Jeff Drobney**

A. City Manager reports, discussions and updates.  
No items.

**XX. MAYOR'S REPORT**

- A. Mayor and Council (re)appointments to Boards and Commissions. This item is for (re)appointments made by the Mayor to any Board, Committees, Authority or Commission requiring an appointment to fill any vacancies, resignations, and to create or dissolve committees, as deemed necessary.
- B. Approval of proposed slate of officers for the Georgia Municipal Association's District 3 West 2020-2022 election. The following city officials have been nominated as Georgia Municipal Association's District 3 West Officers for 2020-2022: Al Thurman, Mayor of City of Powder Springs as President and Sam Davis, Councilmember of City of Douglasville as Vice President.

Motion by Councilmember Viars to approve Al Thurman, Mayor of City of Powder Springs as President and Sam Davis, Councilmember of City of Douglasville as Vice President for the Georgia Municipal Association's District 3 West 2020-2022 election, seconded by Councilmember Blinkhorn. Please see "Exhibit J".

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

## **XXI. COUNCIL COMMENTS**

Mayor Pro Tem Ferris shared it was good to turn on his own microphone as opposed to muting and unmuting Zoom. He was pleased to be back and recognized all the hard work that went into this meeting.

Councilmember Viars said the City took a great step regarding the flag. She was proud of the progress.

Mayor Henderson thanked everyone for his or her support in making this change tonight.

Councilmember Eaton asked when the flag was going to go up. The City Manager responded tomorrow morning.

Councilmember Blinkhorn talked about groups of people in our community still affected by COVID-19, particularly children out of school who are looking for lunches everyday as well as the elderly still in quarantine and in need of help. He encourages the public to reach out to organizations who are helping these individuals during this time.

Mayor Easterling thanked the community for its engagement and commitment to making the City of Kennesaw a better place.

## **XXII. EXECUTIVE SESSION –Land, Legal, Personnel**

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

No items.

## **XXIII. ADJOURN**

Mayor Easterling adjourned at 10:30 P.M. The next regularly scheduled meeting will be held Monday, July 6, 2020 at 6:30 p.m. in the Council Chambers/ Ben Robertson Community Center.

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Lea Addington, City Clerk

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

PLEASE MAKE SURE YOUR NAME IS LEGIBLE AND CLEAR

Mayor & Council Regular Meeting

6/15/2020

Public Comment Sign-in

	Name	Address	Topic
1	Richard Calhoun	49 Atlanta Street Marietta 30060	Fountain Residential
2	Ryan Lee	1301 STILLWATER ROAD; Suite 321 Kennesaw, GA 30144	Fountain Residential
3	Jimmy Dickens	2044 Jebbs Ct Kennesaw GA 30144	Comments
4	Charlie Darrien	2044 Jebbs Ct Kennesaw, GA 30144	Flag
5	Mary Miller	3905 Collier Trace Kennesaw, GA	Flag
6	Phil ANDALONE	3182 PINE KNOLL KENNESAW	FOUNTAIN
7	Carly Seifert	115 Lake Latimer Cove Kennesaw	Flag
8	Martha Juanita Ruiz	2036 Pine Hill Cir Kennesaw	Flag
9	Rebecca Carlson	4014 Carya Buckle Pkwy	Flag
10	JULIE BUZEMAN	1516 WIMALEDAW DR	KENNESAW
11	Debra Williams	3126 Kates Ct	Kennesaw
12	Lisa Adkins	4005 Webster Dr NW	Kennesaw Flag
13	Allen J Pallison	4044 GEORGIA STARKWY	Kennesaw Flag
14	Trevor Tolett	3600 Cigar Lake Dr	Fountain Residential
15			
16			
17			
19	ED SETZLER	1555 Boxwood Trace	FLAG

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

PLEASE MAKE SURE YOUR NAME IS LEGIBLE AND CLEAR

Mayor & Council Regular Meeting

6/15/2020

Public Comment Sign-in

	Name	Address	Topic
1	George William IV	<del>4008 Kyles Dr</del>	The Flag
2	KC Hamill	4008 Kyles Dr	Zany
3	Cindy McKinlay	1351 Stonehenge Ct	Housing
4	Timothy Hains	2059 White Oak	Trans
5	MATT SOUTHWELL	1027 TRAVELER TRAIL	THE FLAG
6	Brent Peabody		
7	Leah Wood	3456 Dallas Acworth Hwy	Confederacy
8	Rebecca Miller	4515 Twin Creek Dr NE	Removing Flag
9	Vishal Patel	1815 Brachendale Rd	Flag
10	Joy Campbell	1000 Chastain Rd	Flag
11	Dr. Ellinthe	5641 Oak Grove Drive	Flag
12	Vincent Beethes	1500 Bellemead Dr SW	Flag
13	Zachary Smith	4515 Twin Creek Dr NE	Flag
14	Edie Sinciere	4515 Twin Creek Dr NE	Flag
15	Johnny Hawkins	3577 Hogan Dr.	Flag
16	Kris Kounoy	3888 English Oaks	The Flag
17			
19			

**From:** Jennifer Taylor <jtaylor@dillardsellers.com>  
**Sent:** Friday, June 12, 2020 4:03 PM  
**To:** Derek Easterling; kennesawcouncil; James Eaton; Tracey Viars; Patrick Ferris; Christopher Henderson; David Blinkhorn  
**Cc:** Darryl Simmons; Randall Bentley (external); Coleen Hosack; Doug Dillard; Baxter Russell  
**Subject:** RZ2020-01 - Rezoning Request for 1465 Shiloh Road  
**Attachments:** Ltr to Mayor and Council.pdf; Statement of Support for the Fountain Student Purpose Housing Project.pdf

Good afternoon,

Please see attached correspondence forwarded on behalf of counsel for Applicant, Fountain Residential.  
Thank you.

Jennifer R. Taylor



d (404) 665-1244 e [jtaylor@dillardsellers.com](mailto:jtaylor@dillardsellers.com)

1776 Peachtree Street, NW, Suite 390N  
Atlanta, Georgia • 30309

DILLARDELLERS.COM

**From:** Ronda Porta <[REDACTED]>  
**Sent:** Monday, June 15, 2020 3:54 PM  
**To:** kennesawcouncil  
**Subject:** Rezoning Tonight

Hello Council,

I oppose the redoing on 1465 Shiloh Road for several reasons:

- The traffic is already heavy on Shiloh and Wade Green roads
- The traffic in the residential neighborhood is such that the neighborhood is used to cut-thru to both of those roads as well as KSU
- The roads aren't maintained like they should be in the neighborhood and it will add to the wear and tear of the roads
- The cars racing through the neighborhood are not going the speed limit. It's dangerous to walk on the streets of the neighborhood
- Kennesaw is full of apartment complexes. How many more do you need? The new tagline could be, "Kennesaw the home of apartment complexes"
- There is land closer to KSU that can be used to build more apartment complexes if you feel Kennesaw needs more apartment complexes despite the previous reason

If you lived in this neighborhood, you would NOT approve an apartment complex near the neighborhood. The community of Pinetree has a lot of issues in this neighborhood already. Let the residents of Pinetree know that you care about the quality of life in Kennesaw by voting NO to another apartment complex.'

Please vote NO to allowing an apartment complex to be built.

Thank You,

Ronda Porta  
Resident of Pinetree



Lea Addington

---

**From:** Katrina Champion <~~ktrichamp@kennsawga.gov~~>  
**Sent:** Monday, June 15, 2020 6:10 PM  
**To:** kennesawcouncil  
**Subject:** rezoning for the 1465 Shiloh Road

Dear Kennesaw Zoning Commission,

As a 20 year resident of Pine Tree Country Club, I am in strong opposition to the rezoning for 1465 Shiloh Road. We the residents of Pine Tree, surrounding small businesses, and surrounding neighborhoods, have packed the zoning room in Kennesaw multiple times to express our opposition to having student housing in or adjacent to our neighborhood. I could repost the oppositions here, but you have already heard it, and are once again ignoring us. I think it was quite sneaky of Kennesaw to push through yet another proposal during our Covid and country crises. Most of us are of the demographics that are slower to venture out during this time.

When I first heard about this new proposal, we were told it was a done deal. Today I hear there is actually a meeting. More deception.

The proposal makes a lot of promises that sound good. Living at 3875 Shiloh Trail West, behind both the commercial properties on Cherokee Street, I know first hand how commercial builders promise things and do not deliver. I am also all too familiar with the city Kennesaw not following its own ordinances. Both properties on Cherokee street have drainage violations, and one has fencing violations, so I have little confidence in either agency's following through. And yes, we made the city aware of the problems, multiple times. There was even a lawsuit by one of my neighbors.

We are living in sad times. Tax paying, law abiding citizens are ignored. Rioters and looters get what they want.

Sincerely,  
Katrina Champion  
*Pine Tree Resident*

✓  
**Lea Addington**

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**From:** Philip Walerski <[REDACTED]>  
**Sent:** Monday, June 15, 2020 5:16 PM  
**To:** kennesawcouncil  
**Subject:** 1465 Shiloh Rd. Student Center,

To Whom It May Concern:

This will also divert students to cut through the neighborhood even further and put our children in jeopardy.

As a resident of Pinetree neighborhood, I strongly oppose the rezoning of 1465 Shiloh Rd. Student Center, as it fails to meet the requirements of the RM-12 rezoning and will be a detriment to our community if approved.

It's density does not comply with rezoning requirements, it's unit sizes do not comply with the rezoning requirements, its density is going to tax the current sewer infrastructure beyond his capabilities, and its increase in impervious surface will cause an increase in volume of stormwater runoff that will be a detriment to the surrounding properties.

Furthermore as a member of the Pinetree civic association, we were recently informed that the association committee members drafted correspondence to the city of Kennesaw giving approval of this project. This is NOT something that they discussed with their members, and have NOT represented the disapproval of the project from their members. That was an erroneous letter, and is not representative of any one

of its members votes, and therefore should be disregarded.

✓

## Lea Addington

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**From:** Robert A. DeVillar <[REDACTED]>  
**Sent:** Monday, June 15, 2020 5:34 PM  
**To:** kennesawcouncil  
**Subject:** Objection to Rezoning Application Request

Dear Council Members,

I appreciate this opportunity to voice, in writing, my opposition to the re-zoning request related to the 1465 Shiloh Road property. My reasoning coincides with that of architect Ryan Lee, specifically:

1. Objection of density
2. Objection of unit sizes and violation of zoning standards
3. Objection to an insufficient infrastructure
4. Objection of impervious surfaces, storm weather management, and water runoff
5. Objection of future retaining walls and physical structures
6. Objection to rezoning due to current national crisis and possible market shifts

I refer you to his letter to you of June 15, 2020 and urge your, individually and as a collective body, to deny the re-zoning application.

Thank you for your consideration.

Sincerely,

Robert A. DeVillar  
Binbin DeVillar  
1314 Shiloh Trail East NW  
Kennesaw, GA 30143

[REDACTED]

Sent from my iPhone

✓  
**Lea Addington**

---

**From:** Ty Kataja [REDACTED]  
**Sent:** Monday, June 15, 2020 5:51 PM  
**To:** kennesawcouncil  
**Subject:** rezoning 1465 Shiloh Road

I oppose rezoning of 1465 Shiloh Road

Ty Kataja

**Lea Addington**

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**From:** Anthony Scaturro <[REDACTED]>  
**Sent:** Monday, June 15, 2020 2:47 PM  
**To:** kennesawcouncil  
**Subject:** Against the rezoning of 1465 Shiloh road property

I am against the rezoning of 1465 Shiloh road property. The area surrounding Pine Tree and Pine Tree is too congested as it is and does not need anymore traffic.

Thank you,

Tony Scaturro

## Lea Addington

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**From:** Miriam Tilley <miriam.tilley@kennesawga.net>  
**Sent:** Monday, June 15, 2020 3:42 PM  
**To:** kennesawcouncil  
**Subject:** Letter of Opposition to Rezoning 1465 Shiloh Rd.

To Whom It May Concern:

As a resident of Pinetree neighborhood, I strongly oppose the rezoning of 1465 Shiloh Rd. Student Center, as it fails to meet the requirements of the RM-12 rezoning and will be a detriment to our community if approved.

It's density does not comply with rezoning requirements, it's unit sizes do not comply with the rezoning requirements, its density is going to tax the current sewer infrastructure beyond his capabilities, and its increase in impervious surface will cause an increase in volume of stormwater runoff that will be a detriment to the surrounding properties.

Furthermore as a member of the Pinetree civic association, we were recently informed that the association committee members drafted correspondence to the city of Kennesaw giving approval of this project. This is NOT something that they discussed with their members, and have NOT represented the disapproval of the project from their members. That was an erroneous letter, and is not representative of any one of its members votes, and therefore should be disregarded.

Sincerely,  
Miriam Tilley  
Sent from my iPad

## Lea Addington

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**From:** Cindy McKinlay <[REDACTED]>  
**Sent:** Monday, June 15, 2020 2:14 PM  
**To:** kennesawcouncil  
**Subject:** Letter of Opposition to Rezoning 1465 Shiloh Rd.

To Whom It May Concern:

As a resident of Pinetree neighborhood, I strongly oppose the rezoning of 1465 Shiloh Rd. Student Center, as it fails to meet the requirements of the RM-12 rezoning and will be a detriment to our community if approved.

It's density does not comply with rezoning requirements, it's unit sizes do not comply with the rezoning requirements, its density is going to tax the current sewer infrastructure beyond his capabilities, and its increase in impervious surface will cause an increase in volume of stormwater runoff that will be a detriment to the surrounding properties.

Furthermore as a member of the Pinetree civic association, we were recently informed that the association committee members drafted correspondence to the city of Kennesaw giving approval of this project. This is NOT something that they discussed with their members, and have NOT represented the disapproval of the project from their members. That was an erroneous letter, and is not representative of any one of its members votes, and therefore should be disregarded.

Sincerely,  
Cindy McKinlay

**From:** Dennis McKeon <dennis@mckeon.com>  
**Sent:** Monday, June 15, 2020 2:21 PM  
**To:** kennesawcouncil  
**Subject:** Rezoning of 1465 Shiloh Road, Kennesaw, Ga. 30144.

I oppose the rezoning of 1465 Shiloh Road, Kennesaw, Ga. 30144.

Dennis M. McKeon Sr.

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**RE: LETTER OF OPPOSITION TO THE REZONING OF 1465 SHILOH ROAD**

To the honorable Mayor and City Council of Kennesaw,

I write in opposition of the rezoning of 1465 Shiloh Road by the applicant Fountain Residential Partners. The design and application provided fails to meet the requirements of the RM-12 rezoning and will be a detriment to our community if approved. My objections and reasons follow:

**Item 1 – Objection of density**

Pursuant to the zoning code (see excerpts attachment A) of ordinances for Kennesaw a "Dwelling Unit" is defined as being "occupied by one family", additionally "Family" is defined in the ordinance as "not more than (3) persons not related". The applicant's design provides for 41 (78%) of their 52 units as five (5) bedroom units which will be occupied by more than three persons not related. This is in direct violation of the zoning code for Kennesaw and a non-conforming design to the RM-12 zoning.

Understanding that the rezoning application has been recommended for approval by staff, conditional. Condition 8, provides for the ability of the applicant to construct 241 beds and 52 units. This condition DOES NOT alleviate the defining conditions in the zoning code that "not more than (3) persons not related" define a "Dwelling Unit".

Presuming that all of the residents will not be related, the actual unit count would be 81 total units (241 beds divided by 3 persons unrelated). Reverse engineering, using the maximum dwelling units per RM-12 of 52, times 3 per persons unrelated, your maximum bedrooms allowable would be 156 beds. There has been no request of variance in the increase in density of unit count, to match the 81 units, and the conditional increase in bedroom count is in violation of the zoning process by way of not being a variance.

Pursuant to section 4.01.00 Site Design Standards for Base Zoning Districts § 4.01.01

Application of Regulations of the Zoning Code of Ordinances of Kennesaw § B - "Unless a proper variance is granted, no building shall hereafter be erected or altered so as: §2 - "To accommodate or house a greater number of families."

As the definition of "Dwelling Unit" is controlled by the definition of "Family" and that definition cannot be altered unless a proper variance is granted, the proposed density via design, by the applicant, and the additional condition to increase the bed count proposed by staff, without variance, in my professional opinion, is in violation of the code of ordinances for Kennesaw, nonconforming as submitted, a violation of the rezoning process, and should be denied.

June 15, 2020  
1465 Shiloh Road  
2 of 7

**Item 2 – Objection of unit sizes and violation of zoning standards**

Pursuant to the table in section 4.01.02 Dimensions Standards for Development (see below) the minimum floor area required is established in the zoning code, this presumes all units meet the definition of "Dwelling Unit". Presuming that, a three-bedroom unit, minimum area, is 900 SF and each additional bedroom would be an additional 450 SF. Using this data, a five-bedroom unit would be required to be a minimum of 1800 SF.

The below image is taken from the applicant's presentation material, as you can see the net area is 1600

SF. As the zoning code requires a 'minimum' area of 1800 SF the design provided is below the minimum required and appears to have been developed for the sole purpose of increasing the density beyond the allowable for this property.

As previously indicated the applicant has provided for 41 (78%) of the 52 units to be five bedroom and five bath units, as they are 200 SF short of the minimum, this is no minor deviation than can be approved by staff. No variance or condition has been presented as part of the application. I would also contend that even if presented, it should not be approved. Though difficult to see in the upper left corner of this plan, the minimum bedroom size is listed as 9'-7 1/2" wide. Taking out the

June 15, 2020

1465 Shiloh Road

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wall widths you only have a 9'-0" wide usable width for a bedroom! Is this really the applicant's idea of a "upscale student housing development" as indicated in their application? Additionally, this condition not only is present in this bedroom, but ALL BEDROOMS in this unit type. This would be the predominant bedroom usable width for the entire property given that 41 of the 52 units are this unit type.

Regardless, the applicant has failed to provide the minimum floor areas per 4.01.02 and this rezoning should be denied.

### **Item 3 – Objection due to insufficient infrastructure**

Pursuant to the utility mapping provided by Cobb County (see below) the largest utility line in that area is a single tap for sewer of an 8" diameter line. Normal engineering indicates that an 8" sewer line will handle 1600 DFU (Drainage Fixture Units), to put this in perspective a bathroom group generates approximately 5 DFU's, a kitchen normally 2 DFU's, and a washing machine 2 DFU's. The applicant's project will generate:

241 bathrooms x 5 DFU's = 1295 DFU's

52 kitchens x 2 DFU's = 104 DFU's

52 Washers x 2 DFU's = 104 DFU's

Total DFUs required 1503 of a 1600 maximum available for just this project. You are upstream from the 75 Wade Green Office park (see image below for sewer routing) the remain 97 DFU's will only service another 20 bathrooms to an office park that contains hundreds of bathrooms. You are taxing that infrastructure beyond its limit by increasing the density of this property when it wasn't originally intended to be this dense. The previous zoning, assuming three-bathroom homes, would have had a maximum of six lots with a load of 19 DFU's per lot, totaling 114 DFU's. You are 13 times more load on the infrastructure that what it was intended.

Again, this rezoning should not be approved.

June 15, 2020

1465 Shiloh Road

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### **Item 4 – Objection of impervious surfaces, storm water management, and water runoff**

Pursuant to the applicant's site plan it states that the subject property will have 70% of the property as impervious surfaces. This means that approximately 3.08 acres of the 4.40 acre property will be taking on storm water and cannot be absorbed into the earth. Currently, my best guess is that the existing property has about 20% impervious surface. I'll concede that this 70% impervious surface water can be managed, stored, and released, but this property's original zoning, R-30, was set up for single family lots at a minimum lot area of ¼ acres, with setbacks on each property, and driveways. Your maximum impervious surface, at my best estimates, would have been 40-50%.

Pursuant to Cobb County's GIS mapping, the contours of that property will cause the storm water runoff to go to the three properties to the south, lots 1440, 1432, and 1420, see image below. The applicant's civil engineer will manage the flow so that the storm water will flow at the same rate as the current property normally drains, but it's going to have to flow a larger volume of water which the properties to the south have not been prepared for due to the existing zoning being single family. You will have wet streams in lieu of dry consistently. Additional erosion will be caused and in my professional opinion devaluation of their properties.

The surrounding properties (lots 1440, 1432 and 1420) are not prepared for this development and as a result of the rezoning will be a detriment. I argue against the applicant's statement on their response to question 9 below (in their application) that this rezoning is "compatible with current environmental conditions in light of development on surrounding properties. The Applicant's

*proposed student housing community will increase the value, use and enjoyment of surrounding properties by providing much needed, additional stormwater infrastructure at the Property."*

June 15, 2020

1465 Shiloh Road

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How is adding a 70% impervious surface parking lot with additional stormwater runoff volume increasing the surrounding properties value? Additionally, how is the runoff from a parking lot, which will have debris, oil, and gas in that runoff going to benefit the residence to the south and be "compatible with the environment"?

Again, I would argue that this development is not in the best interest of this community and should be denied.

**Item 5 – Objection of future retaining walls and physical structures**

The applicant has provided in its presentation that it will require the use of retaining walls in order to grade the property to construct its proposed parking. These retaining walls are in some cases 20'-0" in height. This information has only been shown towards the single-family properties, specifically lots 1432 and 1440, and no information has been provided for the abutment to 75 Wade Green office park. My office is located at this location and I suspect my second story window will now be looking at a retaining wall and/or their dumpster enclosure. To give you a point of perspective I'm currently looking at a grove of trees. This will devalue my property and will cause issues with me renting my office space to prospective tenants.

Additionally, the applicant is indicating the use of a modular retaining walls. Physically I do not see how this is going to be constructed without an easement from 75 Wade Green office park. As a member of that association it would be my vote that no easement be granted.

I ask the Mayor and City Council provide relief to my business by denying this application as its physical design, at the office park property line, will harm my business during both construction and in operation of this student housing property.

**Item 6 – Objection to rezoning due to current national crisis and possible market shifts**

The Covid-19 health crisis has provided a tectonic shift in the multifamily, student housing, and general business markets. Many colleges, as I suspect KSU may be one of them, are evaluating new dynamics in remote teaching and I'm hearing from multiple student housing developers that there are growing concerns about defaults in the fall or possible occupancy reductions due to social distancing and reduction in enrollment. While I'm not necessarily opposed to a multifamily development at this location, if designed and developed correctly, I do believe at this specific moment, it is NOT in the best interest of Kennesaw to rezone this property.

My fear is that the applicant's five-bedroom units may be completely empty in the future, if KSU chooses to change its teaching methods, the city of Kennesaw and the surrounding existing properties would then be left to deal with a dark box of a majority of five-bedroom units that could never be rented.

June 15, 2020

1465 Shiloh Road

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**Summary**

This application for rezoning should be denied. Its density does not comply with the rezoning requirements, its unit sizes do not comply with the rezoning requirements, its density is going to tax the current sewer infrastructure beyond its capabilities, its increase in impervious surface will cause an increase in volume of storm water runoff that will be a detriment to the surrounding properties, the physical retaining walls and density will cause harm to my business and will cause a reduced market value of my property. Finally, the national crisis of the Covid-19 virus has placed doubt on if this rezoning will be needed for our community.

I appreciate your consideration in this matter and request you deny this rezoning in its entirety.

Sincerely,

Ryan A. Lee, Architect, President & CEO

R.A. Lee & Associates, Architects

1301 Shiloh Road, Suite 321

Kennesaw, Georgia 30144

Attachment "A" – Zoning References

June 15, 2020

1465 Shiloh Road

## Attachment "A"

### Copies of Zoning References

*Pursuant to section 1.09.00 Definitions of the Zoning Code of Ordinances of Kennesaw.*

**Dwelling Unit:** One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

**Family:** One or more related persons by blood, legal adoption, or marriage or not more than three (3) persons not related, occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boardinghouse, rooming house or hotel, as herein defined. Maximum residential occupancy for a residential dwelling unit will be calculated by the number of residents per square foot of floor space as per the currently adopted International Property Maintenance Code.

#### **Density:**

1. The overall intensity of land use for the total project.
2. Residential density is the number of housing units permitted per acre in the zoning district involved in accordance with the terms of the zoning ordinance or as authorized under conditional zoning by the Mayor and City Council. The maximum residential density per developable acre authorized for R-30, R-20, R-15, R-12, R-10, PUD-R, RA-4, RM-8, RM-12, and FST zoning districts are set forth in Chapter Four of the Unified Development Code. These maximums could be lowered by conditional zoning by the Mayor and City Council. A developable acre shall not include any part or parts of rivers, streams, floodplains and natural lakes which are not the result of manmade dams. The maximum allowable dwelling units per acre shall in no event exceed any of the following:
  - a. The maximum set forth in article VIII of this appendix for such zoning district;
  - b. The maximum dwelling units per acre which can be constructed without violating any other restrictions, limitations, and/or requirements of such zoning district or the maximum authorized under conditional zoning by the Mayor and City Council.

*Pursuant to section 4.01.00 Site Design Standards for Base Zoning Districts § 4.01.01*

*Application of Regulations of the Zoning Code of Ordinances of Kennesaw:*

**B. Height and density.** Unless a proper variance is granted, no building shall hereafter be erected or altered so as:

1. To exceed the height limits;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area; or
4. To have narrower or smaller rear yards, front yards, side yards, courtyards or other open spaces, than herein required; or in any other manner contrary to the provisions of this ordinance

## Lea Addington

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**From:** Deanna Davis <[ddavis@richmonttrauma.com](mailto:ddavis@richmonttrauma.com)>  
**Sent:** Monday, June 15, 2020 2:21 PM  
**To:** kennesawcouncil  
**Subject:** Rezoning of Property

To The Kennesaw City Council,

I am writing to strongly oppose the proposed rezoning of the property at 1465 Shiloh Road by Fountain Residential Partners.

I live in the Pinetree neighborhood and am going on my 3rd decade as a Kennesaw resident. I am committed to our community for the long haul. While I am grateful to have a university in our area, as I am sure you know, this neighborhood continues to be assaulted with increased and unenforced university traffic that endangers residents, and code violations that harm property values and quality of life.

I urge you to think through the consequences of more apartments in Kennesaw, particularly right next to Pinetree knowing it will increase cut-through traffic, and particularly with so many issues that are repeatedly brought up when new developers, with no stake in our community other than profit, attempt to build more student apartment housing:

- the lack of infrastructure such as traffic lights, sidewalks, etc.
- the lack of study on traffic patterns, noise impact, increase in crime, etc
- the misplacement of this facility next to a neighborhood, when there are other less impactful locations to build this type of housing.

Please reject this rezoning to ensure a greater quality of life and safety to the residents of Kennesaw.  
Thank you,

*Deanna L. Davis LMFT*

*Richmont Trauma Center*

*<https://richmonttraumacenter.com>*

*1900 The Exchange SE*

*Atlanta Ga, 30339*

*Bldg 100, Suite 180*

*770-575-9393 ext 6229*

*[ddavis@richmonttrauma.com](mailto:ddavis@richmonttrauma.com)*

*"Keep vigilant watch over your heart; that's where life starts." King Solomon, Pr. 4:23*

## Lea Addington

---

**From:** Mike Tyrell <[REDACTED]>  
**Sent:** Monday, June 15, 2020 2:26 PM  
**To:** kennesawcouncil  
**Subject:** Shiloh Rd Rezoning

After reviewing the proposal for this property I am totally against any development that does not comply with the housing codes as they are currently written. As an owner of a home in Pinetree Country Club, and an office condo unit immediately adjacent to the proposed construction, we will be the victims of the damage that this development will bring to the sanctity of both our home and our workplace.

Please deny this proposal.

Mike



### Michael Tyrell, President

Archery Shooters Association, LLC  
1301 Shiloh Rd, #720  
Kennesaw, GA 30144  
770-795-0232 (office)  
770-335-5313 (cell)

**Lea Addington**

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**From:** rlee@raleearchitects.com  
**Sent:** Monday, June 15, 2020 2:51 PM  
**To:** kennesawcouncil  
**Subject:** Letter of opposition to the rezoning of 1465 Shiloh Road  
**Attachments:** 2020 06-13 RA LEE LTR - Shiloh Rezoning REV1.pdf

Please find attached my letter of opposition to the rezoning for 1465 Shiloh Road.

Thanks,

**Ryan A. Lee | Architect**  
**R.A. Lee & Associates, Architects**  
1301 Shiloh Road, Suite 321  
Kennesaw, Georgia 30144  
(o) 678-903-8892 (c) 678-360-8171  
[www.raleearchitects.com](http://www.raleearchitects.com)



**R.A. Lee & Associates, Architects**  
Residential · Commercial · Planning · Construction Management

June 15, 2020

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

**RE: LETTER OF OPPOSITION TO THE REZONING OF 1465 SHILOH ROAD**

To the honorable Mayor and City Council of Kennesaw,

I write in opposition of the rezoning of 1465 Shiloh Road by the applicant Fountain Residential Partners. The design and application provided fails to meet the requirements of the RM-12 rezoning and will be a detriment to our community if approved. My objections and reasons follow:

**Item 1 – Objection of density**

Pursuant to the zoning code (see excerpts attachment A) of ordinances for Kennesaw a "Dwelling Unit" is defined as being "occupied by one family", additionally "Family" is defined in the ordinance as "not more than (3) persons not related". The applicant's design provides for 41 (78%) of their 52 units as five (5) bedroom units which will be occupied by more than three persons not related. This is in direct violation of the zoning code for Kennesaw and a non-conforming design to the RM-12 zoning.

Understanding that the rezoning application has been recommended for approval by staff, conditional. Condition 8, provides for the ability of the applicant to construct 241 beds and 52 units. This condition DOES NOT alleviate the defining conditions in the zoning code that "not more than (3) persons not related" define a "Dwelling Unit".

Presuming that all of the residents will not be related, the actual unit count would be 81 total units (241 beds divided by 3 persons unrelated). Reverse engineering, using the maximum dwelling units per RM-12 of 52, times 3 per persons unrelated, your maximum bedrooms allowable would be 156 beds. There has been no request of variance in the increase in density of unit count, to match the 81 units, and the conditional increase in bedroom count is in violation of the zoning process by way of not being a variance.

Pursuant to section 4.01.00 Site Design Standards for Base Zoning Districts § 4.01.01 Application of Regulations of the Zoning Code of Ordinances of Kennesaw § B - "Unless a proper variance is granted, no building shall hereafter be erected or altered so as: §2 - "To accommodate or house a greater number of families."

As the definition of "Dwelling Unit" is controlled by the definition of "Family" and that definition cannot be altered unless a proper variance is granted, the proposed density via design, by the applicant, and the additional condition to increase the bed count proposed by staff, without variance, in my professional opinion, is in violation of the code of ordinances for Kennesaw, non-conforming as submitted, a violation of the rezoning process, and should be denied.

1301 Shiloh Road, Suite 321

| Kennesaw, Georgia 30144

| 678-360-8171

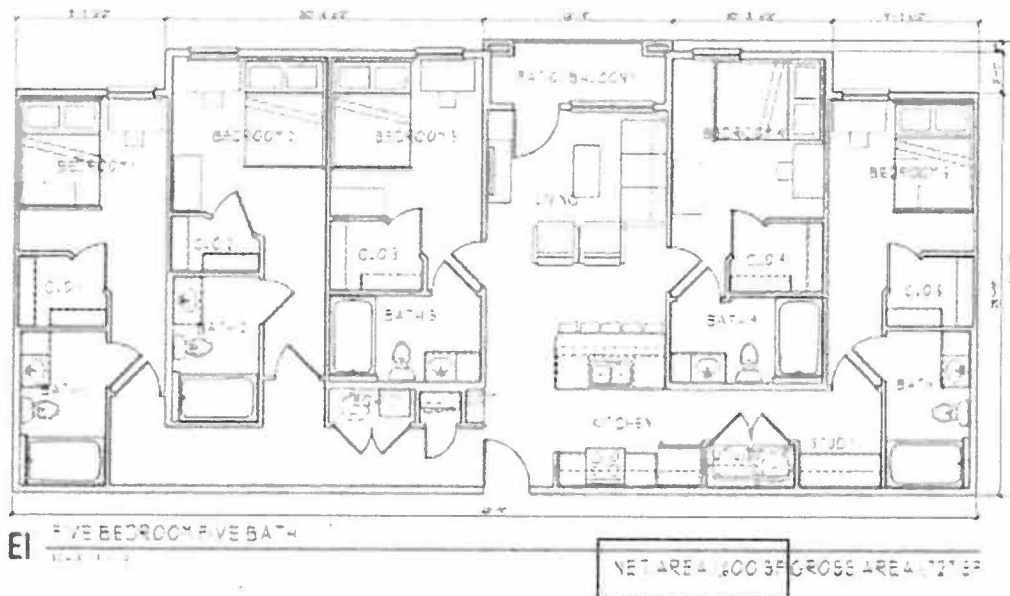
June 15, 2020  
1465 Shiloh Road  
2 of 7

Item 2 – Objection of unit sizes and violation of zoning standards

Pursuant to the table in section 4.01.02 Dimensions Standards for Development (see below) the minimum floor area required is established in the zoning code, this presumes all units meet the definition of "Dwelling Unit". Presuming that, a three-bedroom unit, minimum area, is 900 SF and each additional bedroom would be an additional 450 SF. Using this data, a five-bedroom unit would be required to be a minimum of 1800 SF.

Design	Designation	Min Lot Area (sq ft)	Min Area Allowed	Max Area Per Acre (TA)	Min. Floor Area (sq ft)	Min. Lot Area (sq ft)	Minimum Front Yard Setback (feet)	Min. Side Yard Setback (feet)	Min. Rear Yard Setback (feet)	Max. Coverage (%)	Max. Height (feet)
Single-Family Detached	Single-Family Detached	10,000	10,000	10,000	1,000	10,000	10	5	5	30	35

The below image is taken from the applicant's presentation material, as you can see the net area is 1600 SF. As the zoning code requires a 'minimum' area of 1800 SF the design provided is below the minimum required and appears to have been developed for the sole purpose of increasing the density beyond the allowable for this property.



As previously indicated the applicant has provided for 41 (78%) of the 52 units to be five bedroom and five bath units, as they are 200 SF short of the minimum, this is no minor deviation than can be approved by staff. No variance or condition has been presented as part of the application. I would also contend that even if presented, it should not be approved. Though difficult to see in the upper left corner of this plan, the minimum bedroom size is listed as 9'-7 1/2" wide. Taking out the

June 15, 2020  
1465 Shiloh Road  
3 of 7

wall widths you only have a 9'-0" wide usable width for a bedroom! Is this really the applicant's idea of a "upscale student housing development" as indicated in their application? Additionally, this condition not only is present in this bedroom, but ALL BEDROOMS in this unit type. This would be the predominant bedroom usable width for the entire property given that 41 of the 52 units are this unit type.

Regardless, the applicant has failed to provide the minimum floor areas per 4.01.02 and this rezoning should be denied.

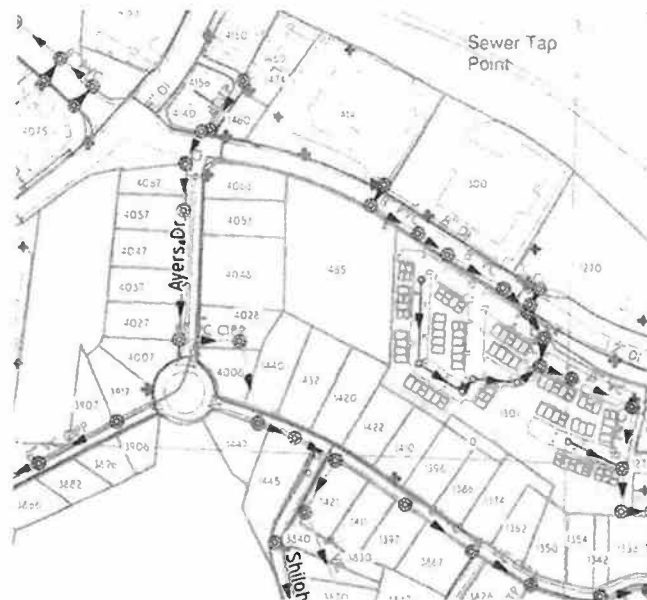
### Item 3 – Objection due to insufficient infrastructure

Pursuant to the utility mapping provided by Cobb County (see below) the largest utility line in that area is a single tap for sewer of an 8" diameter line. Normal engineering indicates that an 8" sewer line will handle 1600 DFU (Drainage Fixture Units), to put this in perspective a bathroom group generates approximately 5 DFU's, a kitchen normally 2 DFU's, and a washing machine 2 DFU's. The applicant's project will generate:

241 bathrooms x 5 DFU's =	1295 DFU's
52 kitchens x 2 DFU's =	104 DFU's
52 Washers x 2 DFU's =	104 DFU's

Total DFUs required 1503 of a 1600 maximum available for just this project. You are upstream from the 75 Wade Green Office park (see image below for sewer routing) the remain 97 DFU's will only service another 20 bathrooms to an office park that contains hundreds of bathrooms. You are taxing that infrastructure beyond its limit by increasing the density of this property when it wasn't originally intended to be this dense. The previous zoning, assuming three-bathroom homes, would have had a maximum of six lots with a load of 19 DFU's per lot, totaling 114 DFU's. You are 13 times more load on the infrastructure that what it was intended.

Again, this rezoning should not be approved.



Item 4 – Objection of impervious surfaces, storm water management, and water runoff

Pursuant to the applicant's site plan it states that the subject property will have 70% of the property as impervious surfaces. This means that approximately 3.08 acres of the 4.40 acre property will be taking up storm water and cannot be absorbed into the earth. Currently, my best guess is that the existing property has about 20% impervious surface. I'll concede that this 70% impervious surface water can be managed, stored and released, but this property's original zoning, R-30, was set up for single family lots at a minimum lot area of  $\frac{3}{4}$  acres, with setbacks on each property, and driveways. Your maximum impervious surface, at my best estimates, would have been 40-50%.

Pursuant to Cobb County's GIS mapping, the contours of that property will cause the storm water runoff to go to the three properties to the south, lots 1440, 1432, and 1420, see image below. The applicant's civil engineer will manage the flow so that the storm water will flow at the same rate as the current property normally drains, but it's going to have to flow a larger volume of water which the properties to the south have not been prepared for due to the existing zoning being single family. You will have wet streams in lieu of dry consistently. Additional erosion will be caused and in my professional opinion devaluation of their properties.



The surrounding properties (lots 1440, 1432 and 1420) are not prepared for this development and as a result of the rezoning will be a detriment. I argue against the applicant's statement on their response to question 9 below (in their application) that this rezoning is "compatible with current environmental conditions in light of development on surrounding properties. The Applicant's proposed student housing community will increase the value, use and enjoyment of surrounding properties by providing much needed, additional stormwater infrastructure at the Property."

- 9) **Would the proposed amendment tend to be compatible with environmental conditions in light of surrounding developments? If compatible, what factors, if any, would diminish the value, use and enjoyment of surrounding properties?**

The proposed rezoning and student housing development are compatible with current environmental conditions in light of development on surrounding properties. The Applicant's proposed student housing community will increase the value, use and enjoyment of surrounding properties by providing much needed, additional stormwater infrastructure at the Property.

How is adding a 70% impervious surface parking lot with additional stormwater runoff volume increasing the surrounding properties value? Additionally, how is the runoff from a parking lot, which will have debris, oil, and gas in that runoff going to benefit the residence to the south and be "compatible with the environment"?

Again, I would argue that this development is not in the best interest of this community and should be denied.

#### **Item 5 – Objection of future retaining walls and physical structures**

The applicant has provided in its presentation that it will require the use of retaining walls in order to grade the property to construct its proposed parking. These retaining walls are in some cases 20'-0" in height. This information has only been shown towards the single-family properties, specifically lots 1432 and 1440, and no information has been provided for the abutment to 75 Wade Green office park. My office is located at this location and I suspect my second story window will now be looking at a retaining wall and/or their dumpster enclosure. To give you a point of perspective I'm currently looking at a grove of trees. This will devalue my property and will cause issues with me renting my office space to prospective tenants.

Additionally, the applicant is indicating the use of a modular retaining walls. Physically I do not see how this is going to be constructed without an easement from 75 Wade Green office park. As a member of that association it would be my vote that no easement be granted.

I ask the Mayor and City Council provide relief to my business by denying this application as its physical design, at the office park property line, will harm my business during both construction and in operation of this student housing property.

#### **Item 6 – Objection to rezoning due to current national crisis and possible market shifts**

The Covid-19 health crisis has provided a tectonic shift in the multifamily, student housing, and general business markets. Many colleges, as I suspect KSU may be one of them, are evaluating new dynamics in remote teaching and I'm hearing from multiple student housing developers that there are growing concerns about defaults in the fall or possible occupancy reductions due to social distancing and reduction in enrollment. While I'm not necessarily opposed to a multifamily development at this location, if designed and developed correctly, I do believe at this specific moment, it is NOT in the best interest of Kennesaw to rezone this property.

My fear is that the applicant's five-bedroom units may be completely empty in the future, if KSU chooses to change its teaching methods, the city of Kennesaw and the surrounding existing properties would then be left to deal with a dark box of a majority of five-bedroom units that could never be rented.

June 15, 2020  
1465 Shiloh Road  
6 of 7

Summary

This application for rezoning should be denied. Its density does not comply with the rezoning requirements, its unit sizes do not comply with the rezoning requirements, its density is going to tax the current sewer infrastructure beyond its capabilities, its increase in impervious surface will cause an increase in volume of storm water runoff that will be a detriment to the surrounding properties, the physical retaining walls and density will cause harm to my business and will cause a reduced market value of my property. Finally, the national crisis of the Covid-19 virus has placed doubt on if this rezoning will be needed for our community.

I appreciate your consideration in this matter and request you deny this rezoning in its entirety.

Sincerely,

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

Attachment "A" – Zoning References

## Attachment "A"

### Copies of Zoning References

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*Pursuant to section 1.09.00 Definitions of the Zoning Code of Ordinances of Kennesaw.*

**Dwelling Unit:** One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

**Family:** One or more related persons by blood, legal adoption, or marriage or not more than three (3) persons not related, occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boardinghouse, rooming house or hotel, as herein defined. Maximum residential occupancy for a residential dwelling unit will be calculated by the number of residents per square foot of floor space as per the currently adopted International Property Maintenance Code.

**Density:**

1. The overall intensity of land use for the total project.
2. Residential density is the number of housing units permitted per acre in the zoning district involved in accordance with the terms of the zoning ordinance or as authorized under conditional zoning by the Mayor and City Council. The maximum residential density per developable acre authorized for R-30, R-20, R-15, R-12, R-10, PUD-R, RA-4, RM-8, RM-12, and FST zoning districts are set forth in Chapter Four of the Unified Development Code. These maximums could be lowered by conditional zoning by the Mayor and City Council. A developable acre shall not include any part or parts of rivers, streams, floodplains and natural lakes which are not the result of manmade dams. The maximum allowable dwelling units per acre shall in no event exceed any of the following:
  - a. The maximum set forth in article VIII of this appendix for such zoning district;
  - b. The maximum dwelling units per acre which can be constructed without violating any other restrictions, limitations, and/or requirements of such zoning district or the maximum authorized under conditional zoning by the Mayor and City Council.

*Pursuant to section 4.01.00 Site Design Standards for Base Zoning Districts § 4.01.01 Application of Regulations of the Zoning Code of Ordinances of Kennesaw:*

**B. Height and density.** Unless a proper variance is granted, no building shall hereafter be erected or altered so as:

1. To exceed the height limits;
2. To accommodate or house a greater number of families.
3. To occupy a greater percentage of lot area; or
4. To have narrower or smaller rear yards, front yards, side yards, courtyards or other open spaces, than herein required; or in any other manner contrary to the provisions of this ordinance.

**Lea Addington**

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**From:** Dianne McPherson Contractor <Dianne.McPherson\_Contractor@img.com>  
**Sent:** Monday, June 15, 2020 2:57 PM  
**To:** kennesawcouncil  
**Subject:** Against Shiloh Road zoning

Please do not approve the Shiloh Road zoning tonight Thank you Dianne Mcpherson

Sent from my iPad please excuse typos.

The preceding e-mail message (including any attachments) contains information that may be confidential, may be protected by the attorney-client or other applicable privileges, or may constitute non-public information. It is intended to be conveyed only to the designated recipient(s) named above. If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete all copies of it from your computer system. Any use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

## Lea Addington

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**From:** Gloria Behrle <[REDACTED]>  
**Sent:** Monday, June 15, 2020 3:03 PM  
**To:** kennesawcouncil  
**Subject:** Re: Letter of Opposition to Rezoning 1465 Shiloh Rd.

To Whom It May Concern:

As a resident of Pinetree neighborhood, I strongly oppose the rezoning of 1465 Shiloh Rd. Student Center, as it fails to meet the requirements of the RM-12 rezoning and will be a detriment to our community if approved.

It's density does not comply with rezoning requirements, it's unit sizes do not comply with the re-zoning requirements, its density is going to tax the current sewer infrastructure beyond his capabilities, and its increase in impervious surface will cause an increase in volume of stormwater runoff that will be a detriment to the surrounding properties.

Furthermore as a member of the Pinetree Civic Association, we were recently informed that the association committee members drafted correspondence to the city of Kennesaw giving approval of this project. This is NOT something that they discussed with their members, and have NOT represented the disapproval of the project from their members. That was an erroneous letter, and is not representative of any one of its members' votes, and therefore should be disregarded.

Best regards,

Gloria Behrle

## Lea Addington

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**From:** Darryl Simmons  
**Sent:** Monday, June 15, 2020 12:37 PM  
**To:** SUSAN HOPKINS  
**Cc:** Lea Addington; Marty Hughes; Jeff Drobney  
**Subject:** RE: Shiloh road zoning change

Good afternoon Mr. and Mrs. Hopkins,

Thank you for submitting your comments and concerns. City staff will make sure this is made part of the record.

**From:** SUSAN HOPKINS <~~mandahopkins@kennesawga.net~~>  
**Sent:** Monday, June 15, 2020 11:25 AM  
**To:** Darryl Simmons <dsimmons@kennesaw-ga.gov>  
**Subject:** Shiloh road zoning change

Mr. Simmons,

We will not be attending the meeting tonight due to the virus. We have attended all of the meetings prior to this one and would like to make a couple of comments. We listened to your argument that is change is for the good of the University. What about the good of the community? DOES ANYONE CARE? I understand that economically if it was not for the university, Kennesaw would be broke but at what cost? We also heard you start to say "Pine Tree is declining", then you stopped yourself. That statement told me that you do not care about the residents in Pine Tree. Your main concern is to increase the tax base and help the developers. I have a minor in Urban Planning. I was taught that putting inconsistent activity's (office park, high density housing) together is asking for depressed tax bases and unhappy citizens. Did you not learn that? What is the occupancy rate for all of the apartments in downtown Kennesaw? What is the occupancy rate for all of the many other student housing that already exists? The town has turned into high density living without the infrastructure to support it (roads).

Traffic and trash are some of our main concerns. The location of this project is going to turn Shiloh Trail East into a secondary road, not a residential road. The only way to get to this property will be to cut through Pine Tree. Going to campus from this property students will have turn right onto Shiloh and then over 75. Coming home the only way they will be able to get back to the property is to cut through on Frey Lake Road, Club Drive, and Shiloh Trail East/ Ayers Drive. The county is already working on the intersection adding lanes. Adding an additional 80 cars everyday is ill-planned. You do not have the power nor does the city to correct this. The answer to Pine Tree's issue is to close the entrance from the campus. Put a gate with a knock box on it for emergency personnel only.

One more comment. During your last presentation to the council you stated that an offer to do a traffic study was turned down by the residents. This is patently FALSE. I was never offered any such thing nor were any of our neighbors. I suspect the residents/owners who want to sell were the only ones who were surveyed. The traffic study should be completed prior to any more discussion.

We have attended every meeting over the past 10 years while you have been attempting to get this pushed through. I hope that you will take the few minutes it takes to read this and think about more taxes and money. We all know that is about money, not students.

Thank you for your time.

Matt and Susan Hopkins  
1338 Shiloh Trail East, NW

Lea Addington

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**From:** Lonnie Roberts <lonnie.roberts@kennesawga.gov>  
**Sent:** Monday, June 15, 2020 12:13 PM  
**To:** kennesawcouncil  
**Subject:** Rezoning of 1465 Shiloh Road

Dear City Council,

I am in opposition to the rezoning of the property located at 1465 Shiloh Road due to the following reasons.

1. The traffic that would be routed through Pinetree would increase.
2. I do not believe the infrastructure is in place to handle the additional waste.
3. The storm water runoff cannot be adequately addressed. I do not wish to have a constant flowing stream through my yard.

Lonnie Roberts  
1432 Shiloh Trail East NW  
Kennesaw

Richard W. Calhoun  
E-mail: [rcalhoun@gdcrlaw.com](mailto:rcalhoun@gdcrlaw.com)

June 15, 2020

**VIA E-MAIL**

City of Kennesaw Mayor and Council  
2529 J.O. Stephens Avenue  
Kennesaw, Georgia 30144  
Email: [kennesawcouncil@kennesaw-ga.gov](mailto:kennesawcouncil@kennesaw-ga.gov)

RE: Z2020-01: City RM-12 rezoning, and concurrent variance, request submitted by Fountain Residential Partners for property located at 1465 Shiloh Road.

Dear Mayor and Council,

Our firm represents 75 Wade Green Business Center Association, Inc. regarding the above rezoning request submitted by Fountain Residential Partners. Our client, and many other neighboring property owners, are opposed to this rezoning request for the following reasons:

1. Our client incorporates those objections raised in its March 4, 2020 letter (attached as Exhibit "A"), March 16, 2020 letter (attached as Exhibit "B"), which was omitted from the Mayor and Council's Agenda Packet, and May 28, 2020 letter (attached as Exhibit "C") as if each were fully stated herein.

2. The June 15, 2020 "final public hearing" on the above rezoning application is premature and improper for the following reasons:

- a. The Mayor's attached Executive Orders on March 25, 2020 and May 6, 2020 (Exhibits "D" and "E") stayed, or superseded, any "land use or zoning matter" until the official termination of the declared state of emergency;
- b. Because the Mayor's Executive Order No. 02 was not "rescinded" until May 29, 2020 (attached as Exhibit "F"), the May 15 and May 22, 2020 notices required for this rezoning hearing are invalid;
- c. Because the May 15 and May 22, 2020 public advertisements were invalid, there has been no 15 – 45 day published notice of said hearing as required by O.C.G.A. § 36-66-4(a); and

49 Atlanta Street  
Marietta, Georgia 30060

2951 Flowers Road South, Suite 220  
Atlanta, Georgia 30341

Gregory, Doyle, Calhoun & Rogers, LLC

- d. Therefore, any decision made related to this rezoning application, following these invalid public advertisements, is equally invalid. McClure v. Davidson, 258 Ga. 706 (1988); Hoechstetter v. Pickens Cnty., 341 Ga. App. 213 (2017).
3. Various members of the 75 Wade Green Business Center Association, Inc., residents of the Pine Tree Country Club, and numerous other Kennesaw residents have signed the Petition attached to Exhibit "C" opposing this rezoning application and the proposed PBSH Zoning Ordinance.
4. Council member Viars' status as listing agent for *Beaucoup Properties, LLC*, which is the property owner in this rezoning and an intended beneficiary of this rezoning application (and the proposed PBSH text amendments), raises a factual issue of whether her conduct has tainted this rezoning and the adoption of the proposed PBSH text amendments. Such conduct renders this rezoning and the proposed amendments subject to invalidation. Dunaway v. City of Marietta, 251 Ga. 727 (1983).
5. The proposed rezoning of the property at 1465 Shiloh Road is spot zoning; it specifically benefits Fountain Residential Partners and is to the detriment of surrounding single-family residential properties as well as the long-established 75 Wade Green Business Association, Inc. property.
6. The proposed rezoning will effect a taking and damaging of our clients' (and surrounding property owners') properties without compensation, and a denial of equal protection in violation of Article I § 1 ¶ 1 and 2, and Article I § 3, ¶ 1 of the Georgia Constitution, and corresponding provisions of the U.S. Constitution.
7. The City's zoning existing ordinance defines "family" as "one or more related persons by blood, legal adoption or marriage or *not more than three (3) persons not related...*" Any student housing *unit* with more than three bedrooms is designed to exceed this limit. This project would constitute a direct violation of the City's zoning ordinance, and an intentional evasion of a community and ordinance standard applicable to *every other* residential zoning category, arguably a violation of equal protection rights as well.
8. U Club and West 22 are constant problems for Kennesaw's Police Department. Adding another student housing development will result in additional police calls and further drain Kennesaw's resources.

For example, between January 1, 2017 and March 27, 2020, Kennesaw's Police Department responded to 650 incidents at U Club and 699 incidents at 22 West. The incidents responded to included noise complaints, illegal parking, rape, vandalism, robbery, theft and illegal drugs, among many other types of incidents. See the summaries of police calls attached to the May 28, 2020 letter, attached as Exhibit "C". Sent as a separate, e-mailed attachment and referred to as Exhibit "G" is a composite recording of evening and late night music and other noises as experienced by neighboring homes to the West 22 development – the same character and frequency

of disturbance could be expected to emanate from the proposed development if this rezoning is approved.

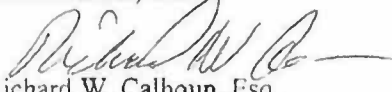
If Kennesaw approves this rezoning application, then the surrounding businesses in the business center and the residents in Pine Tree County Club will suffer a significant detriment, damage or injury, and would, therefore, be deprived of the reasonable use and enjoyment of their property. This rezoning has no reasonable relationship to the public health, safety or welfare of Kennesaw's residents, and would deprive adjacent and adjoining owners of their due process and equal protection rights afforded to them under Georgia's (and the United States') Constitution.

9. Though there are inherent challenges of holding public meetings electronically (and often in-person), the City has failed to conduct its meetings related to this rezoning application (and the PBSH text amendment) fairly and orderly:

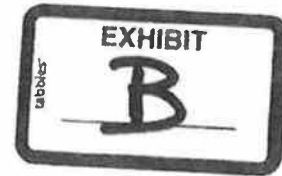
- a. At the March 16, 2020 public meeting, the City truncated the opposition's ten minutes of presentation time. In fact, the opponents only had their names identified or their comments *paraphrased*, or with respect to our client's March 16, 2020 letter, never read, period. See March 16, 2020 Legal Minutes, p. 7. At no point were any opposition letters or e-mails which had been submitted to the Mayor and Council (or to [kennesawcouncil@kennesaw-ga.gov](mailto:kennesawcouncil@kennesaw-ga.gov)) read aloud for the Council's consideration.
- b. On the other hand, at the June 8, 2020 work session, the *applicant's* June 8, 2020 letter to the City was read aloud, *verbatim*, and into the record; however, for tonight's hearing, our client's March 16, 2020 objections (and many others as referenced in Paragraph 9(a)) are not included in the Mayor and Council's Agenda Packet.
- c. A failure to provide opponents with their statutorily prescribed ten (10) minutes time for presentation would violated O.C.G.A. 36-66-5(a) and Kennesaw's UDC, and would further deprive these adjacent and adjoining owners of their due process rights under Georgia's (and the United States') Constitution. See *Yost v. Fulton Cnty.*, 256 Ga. 324 (1986).

For the foregoing reasons, we respectfully submit that the Mayor and Council should reject this rezoning request.

Sincerely,  
**GREGORY, DOYLE, CALHOUN  
& ROGERS, LLC**

  
Richard W. Calhoun, Esq.  
For the Firm

CC:   Derek Easterling, Mayor                               James "Doc" Eaton, Council Post 1  
      Tracey Viars, Council Post 2                       Pat Ferris, Council Post 3  
      Chris Henderson, Council Post 4                 David Blinkhorn, Council Post 5  
      Darryl Simmons, Planning and Zoning Administrator  
      Doug Dillard, Esq.  
      75 Wade Green Business Association, Inc.



rcalhoun@gdcrlaw.com

March 16, 2020

City of Kennesaw  
Mayor and City Council  
2529 J. O. Stephens Avenue  
Kennesaw, GA 30144

Re: Rezoning and Variance Request Z 2020-01 and ZV 2020-01; 1465 Shiloh Road

Dear Mayor and Council:

As you know, this firm represents 75 Wade Green Business Center Association, Inc. (the "Association") with reference to the above applications. We believe it is in everyone's interest that you consider the following prior to making any decisions in this matter:

**1. The present applications are a textbook example of *spot zoning*.**

- Spot zoning is the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners" *East Lands v Floyd County* 244 Ga. 761 (1979).<sup>1</sup>
- Rezoning the subject property to multifamily would create a "spot zone" bordered on two sides by single family residential property, and on the other by quiet, established office park.
- There is no support in the city's comprehensive plan for multi family zoning in a Community Activity Center, or in the Cherokee St. Commercial Corridor where this property is located. (see excerpts attached).
- If any speaker suggests to you that the City's comprehensive plan recommends such a use for this location, ask them to find and read that portion of the comprehensive plan to you.

<sup>1</sup> This and other legal authority on the importance of adhering to the land use plan, are excerpted from Mr. Dillard's book on land use and zoning and attached.

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Marietta, Georgia 30060

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Atlanta, Georgia 30341

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2. What has changed since June, when the city's staff wrote that the *best* zoning options for this property were O&I, PUD, and PUD-R?

- See the attached 6-14-19 email to Council Member Viars recommending the O&I and PUD zoning classifications.
- See also July 22, 2019 emails from Council Member Viars acknowledging the appropriateness of the O&I classification and the requirement that any rezoning be "in accordance with Kennesaw's land use map".
- These emails speak for themselves.<sup>2</sup> Notably absent is any mention of multi family housing, student housing, or anything of that nature.

3. "Density variances" are *not* allowed under the City's unified development code.

- UDC §9.02.02 - Types of Variances, states:  
A request for a variance *shall be limited to vary the following*: 1) maximum building height; 2) minimum lot width; 3) required spacing for driveways; 4) minimum front, side, or rear yard setbacks; or dimensional standards for parking or loading spaces.
- The applicant claims UDC § 4.01.01, which refers to "proper variances" in connection with building construction, not zoning variances, allows "density variances". This is incorrect. UDC §9.02.02, which does not include density as a permitted type of variance, was adopted *after*, §4.01.01, and is therefore controlling<sup>3</sup>. Because density is not listed in UDC §9.02.02 as a type of variance which can be granted, it is unlawful to grant a variance on density.
- Even if a "density variance" were legal, there is nothing in the present variance application which supports, much less requires, a variance.  
The subject property is 4.4 acres of evenly rectangular land with gentle topography and no floodplain. It has been used residentially as well as for a heavy construction business. There is no peculiarity of size, shape or topography which even exists on this property, much less one which would be in any way alleviated by a so called "density variance".

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<sup>2</sup> Ms. Viars' involvement as a representative of the property owner in this matter may have created a conflict of interest. Rezoning that is tainted by conflicts of interest are subject to being set aside and invalidated. Dunaway v. City of Marietta, 251 Ga. 727 (1983)

<sup>3</sup> More importantly, however, as seen in the attached strike through copy of Ordinance 2018-23, the words "dimensional standards" were intentionally deleted, meaning that the intent of the amendment was to cover *all* types of variances, not just "dimensional standards".

- There is no hardship here. The only result of a “density variance” would be to increase developer profit— without regard to the detrimental effects of such a variance on surrounding properties.

**4. 45 out of 68 proposed multi family units will violate the City’s zoning ordinance.**

- A multi family dwelling is “a building designed for or occupied exclusively by three or more *families* with separate housekeeping facilities for each *family*” UDC §1.09.00.
- 3 unrelated persons living together qualifies as a “family”, but 4 or 5 (or more) unrelated persons living together are not a “family” UDC §1.09.00.<sup>4</sup>
- The applicant’s contention that the UDC definition of “family” does not apply to a *multi family* development is simply wrong. (Apparently, the applicant thinks it would be perfectly acceptable under the city’s zoning ordinance for 4, or 5 (or more) unrelated persons to occupy every unit of every apartment in the City.)

**5. Previous student housing developments approved in other locations do not warrant disregarding the City’s ordinances in this location.**

The circumstances of other student housing developments have no bearing on the present application.

- The present proposal conflicts with the City’s comprehensive plan. There is nothing in this plan that suggests high density student housing is recommended or even permitted in a Community Activity Center.
- The density variance requested is not permitted under the City’s UDC. The plain language of UDC simply does not include the density as something which can be “varied”.
- The vast majority of apartment units proposed for this development would exceed the maximum number of unrelated persons per unit in the City’s code, (exposing the City to the risk of legal action by others cited for exceeding this limit in single family, multi family, or other districts).

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<sup>4</sup> See attached UDC definitions

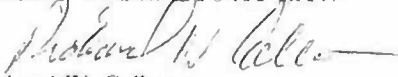
Mayor and City Council  
City of Kennesaw  
March 16, 2020  
Page 4

The City cannot ignore the provisions of its duly enacted land use plans and zoning ordinances which prohibit this type of use, particularly in this location.

There is nothing to recommend this development in this location other than private benefit to the developer. No benefit to the public at large, and certainly not to the surrounding property owners, will result from such a development.

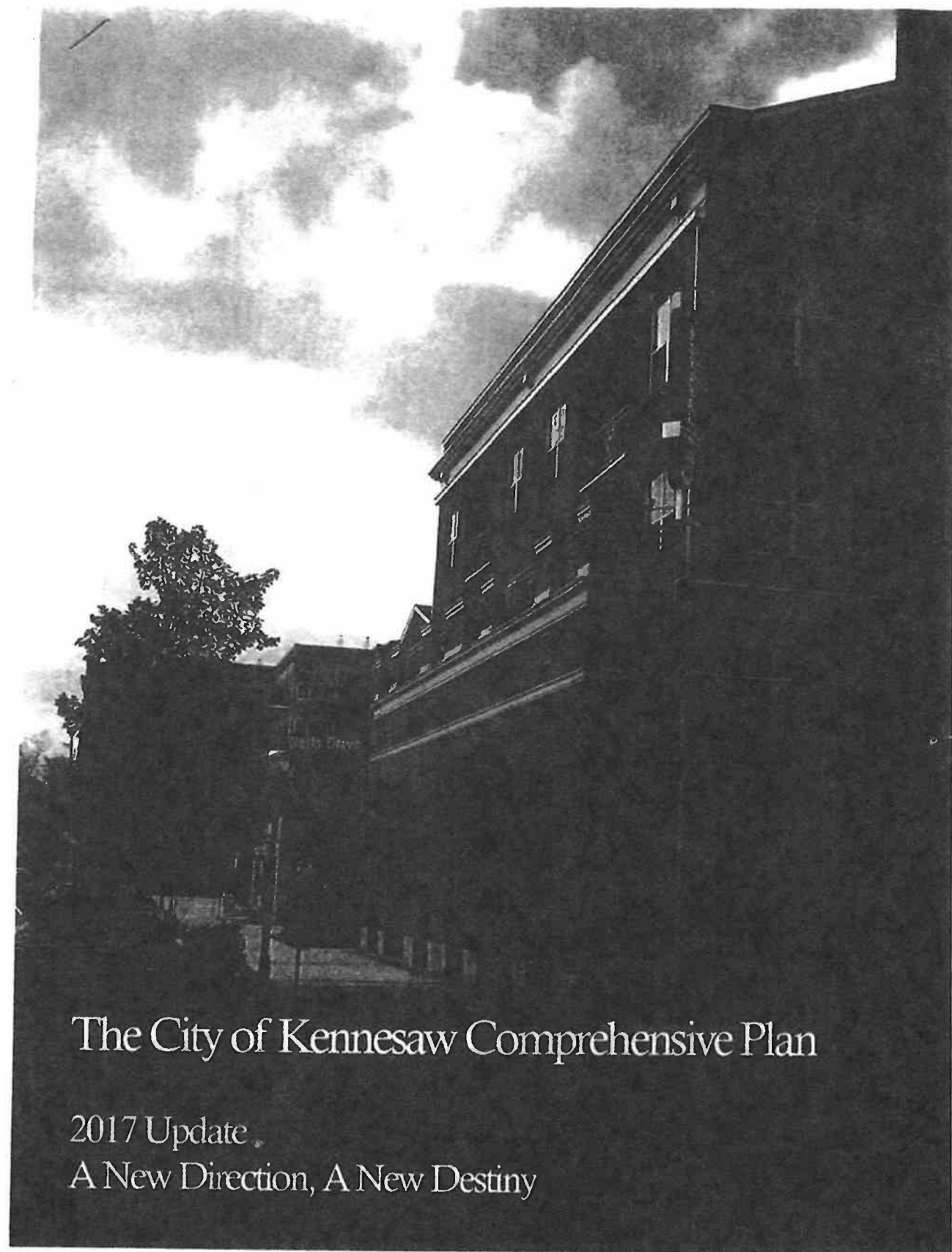
It is the wrong use for the area in which it is proposed to be located, and we respectfully urge the Mayor and Council to again reject this applicant's proposal.

Sincerely yours,  
**GDCR ATTORNEYS AT LAW**

  
Richard W. Calhoun  
For the Firm

RWC/sws

cc: Derek Easterling, Mayor  
James "Doc" Eaton, Council Post 1  
Tracey Viars, Council Post 2  
Pat Ferris, Council Post 3  
Chris Henderson, Council Post 4  
David Blinkhorn, Council Post 5  
Darryl Simmons, Planning and Zoning Administrator  
Doug Dillard, Esq.  
75 Wade Green Business Center Association, Inc.



# The City of Kennesaw Comprehensive Plan

2017 Update

A New Direction, A New Destiny

## Our Future Land Use

As a built-out city, any new growth within the City of Kennesaw will be redevelopment. Currently within the city, 86% of the city's parcels are residential which is a challenge for any new development. The Future Land Use Map is a general guide for character of development within the city. A description of each category is provided below. Sample photos on the following pages, show options of what may be appropriate in each category. New development should be monitored for its impact on water quality within the city and region.

### Activity Centers

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

#### Activity Center Types

##### Regional Activity Center

These are areas of large developments and serve as regional destinations for employment and retail.

##### Downtown Activity Center

This area is the traditional downtown of Kennesaw. For this area the City of Kennesaw completed an LCI study and that should be used as the guiding plan.

##### Community Activity Center

These areas provided services to the community but are not as intense as the Regional Activity Center.

##### Neighborhood Activity Center.

These areas provide services to small areas within the community.

### Transportation Communication and Utilities

Areas of Utilities and transportation

### Public/Institutional

This category includes certain state, federal or local government uses, and institutional land uses. Government uses include government building complexes, police and fire stations, libraries, prisons, post offices, schools, military installations, etc. Examples of institutional land uses include colleges, churches, cemeteries, hospitals.

### Industrial

These are areas intended for manufacturing facilities, processing plants, factories, warehousing and wholesale trade facilities.

### Lake

Bodies of Water

### Park/Recreation/Conservation

This category is for land dedicated to active or passive recreational uses. These areas may be either publicly or privately owned and may include playgrounds, public parks, nature preserves, wildlife management areas, national forests, golf courses, recreation centers or similar uses.

### Planned Unit Development

Areas planned under a separate master plan

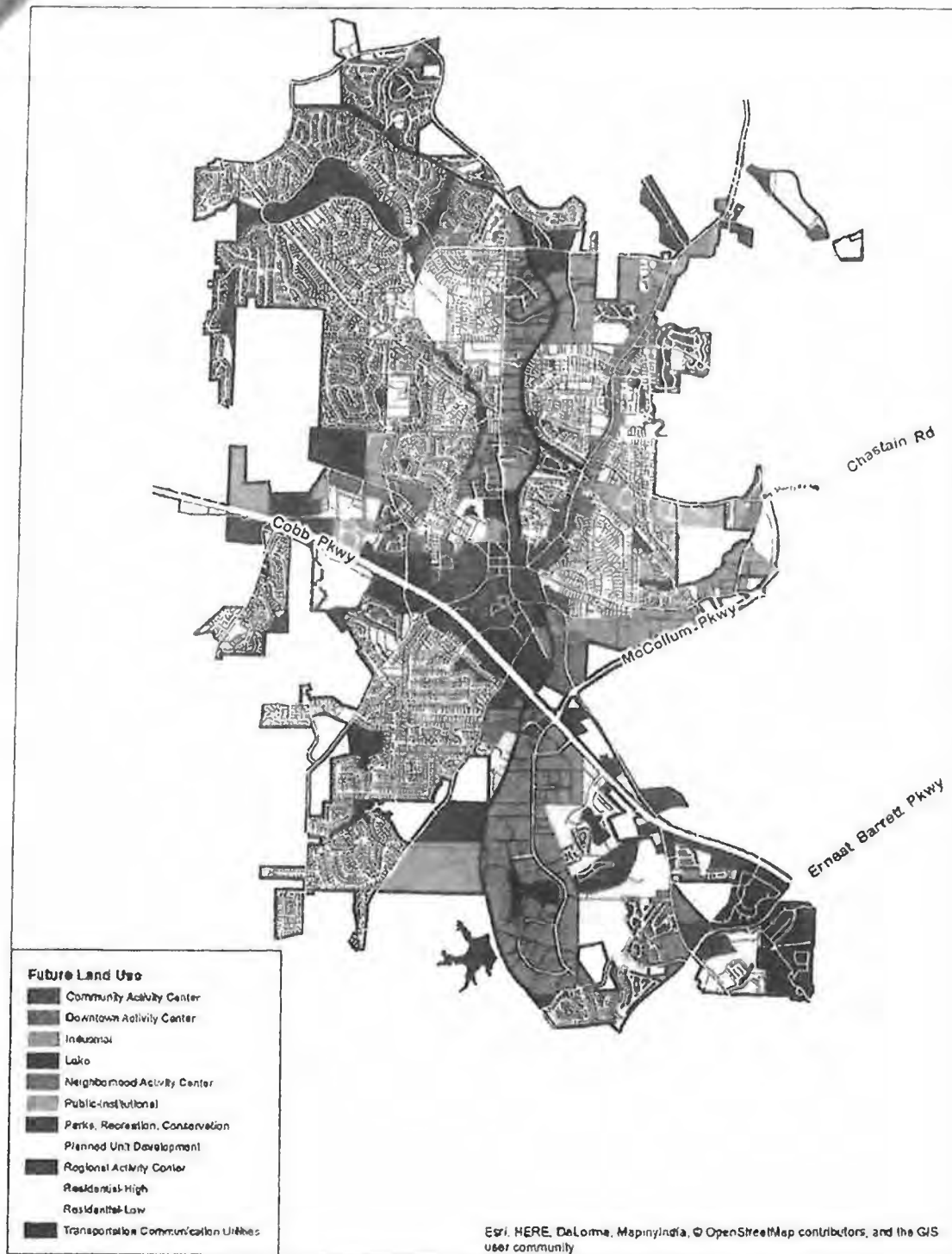
#### Residential High

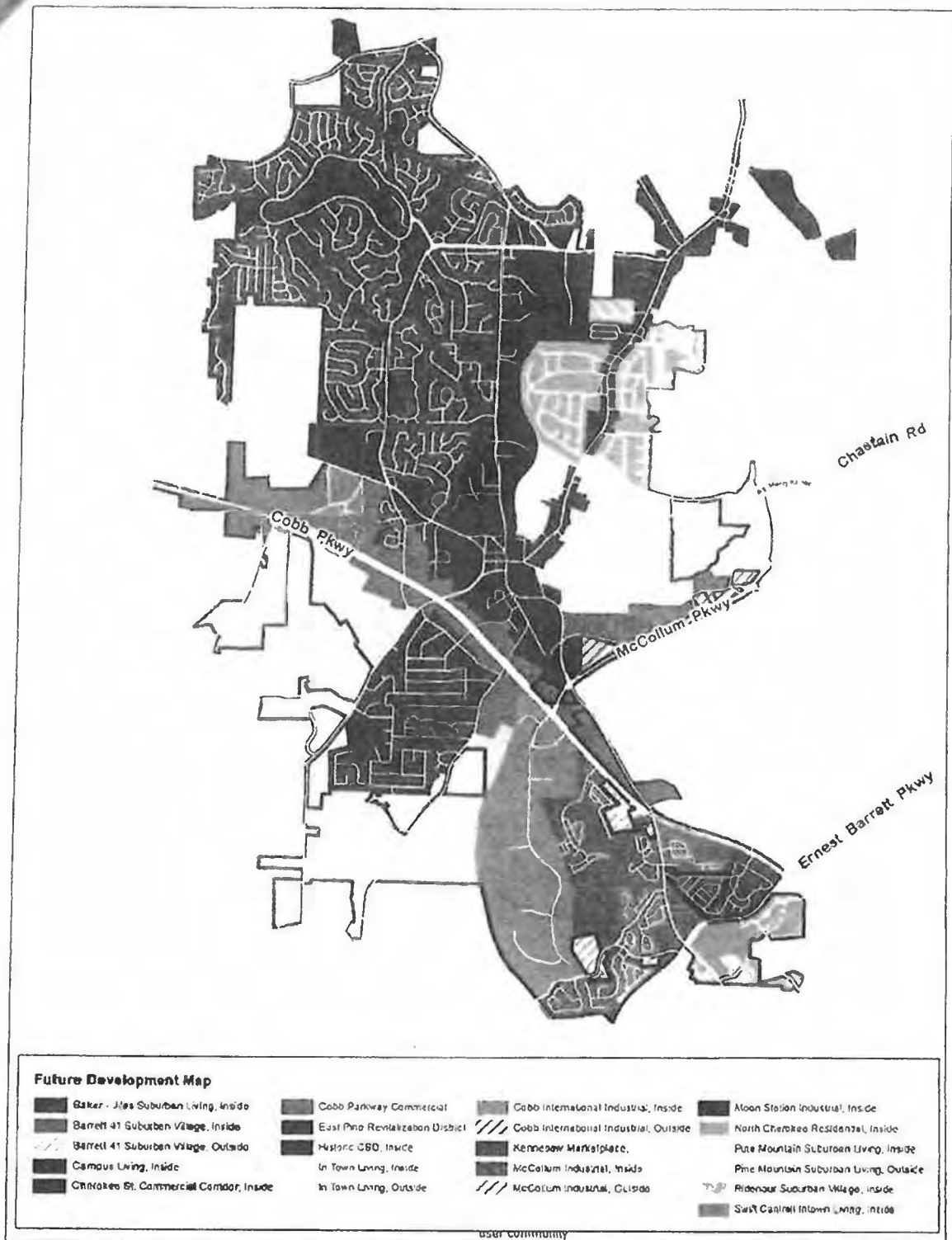
#### Residential Medium

#### Residential Low

These are areas of residential land uses with the city. This may be single family or multi-family but new development should reflect the character of the surrounding development. The recommended densities are:

- Low/Medium 1-4 units per acre
- High 4-16 units per acre





### **Cherokee Street Commercial Corridor**

The Cherokee Street Commercial Corridor is an approximately 1 mile section of Wade Green Road and Cherokee Street extending from the Wade Green and I-75 Interchange south to Ben King Road. This corridor is comprised of neighborhood compatible retail and office developments intermixed with residential and institutional land uses. South of the McCollum Parkway intersection, many of the office and retail uses occur in older homes that have been rezoned to allow commercial use. North of McCollum Parkway to the I-75 interchange are several strip malls and free standing office developments. Sidewalks are frequently used by residents, but are possibly undersized as Cherokee Street and its right-of-way narrows approaching Ben King Road. Parking is often limited to the front or driveway side of the structure. Signage is generally more attractive and visible in the more recent strip developments north of McCollum Parkway.

#### **Future Land Use Categories**

- CAC Community Activity Center
- NAC Neighborhood Activity Center
- PI Public Service/Institutional



Cherokee Street Commercial Corridor



Cobb Parkway Industrial

### **Cobb International Industrial**

The Cobb International Industrial area is located across from the McCollum Parkway and Cobb Parkway intersection. In general, this area is characterized by large manufacturing and distribution warehouses, as well as smaller, retail and office warehouse operations.

The overall area is strategically located near McCollum Airport and the CSX rail line. It also has direct access to Cobb parkway and I-75 via McCollum Parkway. Structures are generally metal buildings with brick or stone facades on the front. Many structures have stone or brick facades on at least two or more sides. Pedestrian access is limited due to the heavy traffic volume of the area. No sidewalk access is provided along this segment of Cobb Parkway or in the industrial park.

#### **Future Land Use Categories**

- CAC Community Activity Center
- I Industrial

battles in which the legislative decision makers are often in a no win position. Approving a rezoning can cost an elected official his or her job and can open the local government to challenges from neighbors, create incompatible land uses, and conflict with the zoning plan for an area. Denying the rezoning may subject the local government to taking claims and other constitutional challenges.

In Georgia, each unit of local government that has adopted a zoning ordinance has its own rules and regulations governing rezoning procedures. Since rezonings are considered "zoning decisions" under the Zoning Procedures Law,<sup>3242</sup> local rezoning procedures must comply with the minimum procedural standards set forth in the state statute.

### § 12.2 Comprehensive Rezoning versus "Piecemeal" Rezoning

A distinction can be drawn between comprehensive rezoning and piecemeal rezoning. Comprehensive rezoning involves the rezoning of several or all of the properties in one area and is generally initiated by a local government. For instance, a local government may choose to rezone multiple properties from single-family residential to multi-family residential if it is in the best interest of the public health, safety and welfare. Typically, this type of comprehensive rezoning undertaken by a local government is afforded a great deal of deference by courts.<sup>3243</sup> Rezoning procedures for comprehensive rezonings initiated by a local government generally differ from the procedures for piecemeal rezonings initiated by an individual property owner.<sup>3244</sup> Both procedures are governed by local ordinance.

"Piecemeal" rezoning encompasses all other rezonings not characterized as comprehensive rezonings.<sup>3245</sup> Generally, piecemeal rezoning involves a property owner applying to rezone an individual parcel of property. Piecemeal rezoning is done on a parcel by parcel basis and in most jurisdictions in Georgia reflects the bulk of the rezonings. The mere fact that the rezoning is sought on a case by case basis is not in and of itself a basis to challenge the rezoning request.

### § 12.3 "Spot Zoning"

"Spot zoning" has been defined as "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners."<sup>3246</sup>

<sup>3242</sup> O.C.G.A. § 36-66-1 et seq.

<sup>3243</sup> 3 Arden H. Rathkopf & Daren A. Rathkopf, *Rathkopf's The Law of Zoning and Planning* § 38:14 (2005).

<sup>3244</sup> See e.g., O.C.G.A. § 36-66-4(b); Chapter V, § 5.3 (ZPL requires different notice procedures depending on whether an individual applies to change the zoning on property or whether the local government, on its own motion, seeks to change the zoning).

<sup>3245</sup> 3 Arden H. Rathkopf & Daren A. Rathkopf, *Rathkopf's The Law of Zoning and Planning* § 38:15 (2005).

<sup>3246</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 764(3), 262 S.E.2d 51 (1979) quoting *Jones v. Zoning Bd. of Adjustment*, 32 N.J.Super. 397, 108 A.2d 498, 502 (1954).

Courts are skeptical of "spot zoning" because of the underlying personal interests and favors that may be involved with rezoning one parcel of property. However, "if a change of zone is reasonable and is in accordance with the comprehensive plan of the zoning ordinance and can be justified as contributing to the public health, safety and general welfare, it will not be held invalid as 'spot zoning,' even though the reclassification affects only a single piece of property or may incidentally discriminate in favor of the owner thereof."<sup>3247</sup> In Georgia, "spot zoning" is heavily scrutinized by courts reviewing decisions of local governing bodies. For example, in *East Lands v. Floyd County*,<sup>3248</sup> a property owner sought to rezone a 15-acre tract of land from low density residential to a multi-family residential classification that would allow an apartment complex.<sup>3249</sup> The planning commission recommended denial of the rezoning but the Board of Commissioners approved the rezoning of the 15-acre parcel.<sup>3250</sup> The Georgia Supreme Court invalidated the Commissioner's decision to rezone the 15-acre parcel as arbitrary and capricious "spot zoning."<sup>3251</sup>

The Court found that the rezoning had no relation to the County's comprehensive plan and was incompatible with surrounding low-density zoning classifications.<sup>3252</sup> The Court stated that it is "uniformly recognized in other jurisdictions that the touchstone for determining whether the zoning of a given piece of property in a manner different than the property surrounding it constitutes illegal spot zoning, is whether such zoning is arbitrary or whether it is done in accordance with a comprehensive plan."<sup>3253</sup> In *East Lands*, the Court seemed particularly concerned about the potential for abuse if local governments were permitted to "spot zone" based on the interests of the individuals involved in a case rather than on the public interest.<sup>3254</sup> This neglect of the public welfare would violate the bounds of the police power and make the exercise of zoning arbitrary and capricious in many instances.<sup>3255</sup> The *East Lands* case overruled several prior Georgia cases which had permitted local governments to "spot zone."<sup>3256</sup>

<sup>3247</sup> *Cross v. Hall County*, 238 Ga. 709, 235 S.E.2d 379 (1977) (Hall, J., concurring) quoting 1 *Bathke's The Law of Zoning and Planning* 26-14 (1974).

<sup>3248</sup> 244 Ga. 761, 262 S.E.2d 51 (1979).

<sup>3249</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 761-762, 262 S.E.2d 51 (1979).

<sup>3250</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 762, 262 S.E.2d 51 (1979).

<sup>3251</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 762-763, 262 S.E.2d 51 (1979).

<sup>3252</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 764, 262 S.E.2d 51 (1979).

<sup>3253</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 764, 262 S.E.2d 51 (1979).

<sup>3254</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 764, 262 S.E.2d 51 (1979).

<sup>3255</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 764, 262 S.E.2d 51 (1979).

<sup>3256</sup> *East Lands, Inc. v. Floyd County*, 244 Ga. 761, 764, 262 S.E.2d 51 (1979).

**Davis Feder**

---

**From:** Darryl Simmons <dsimmons@kennesaw-ga.gov>  
**Sent:** Friday, June 14, 2019 3:47 PM  
**To:** tracey@creativeresultsinc.com  
**Subject:** RE: 1465 Shiloh Road

OI – office institutional which can accommodate the following uses:

- Office condos
- Professional offices
- Health care related businesses
- Childcare ( not schools)
- Personal care homes
- Nursing homes
- Memory care facility
- Banks
- Clinics
- Medical and Dental Laboratories
- Religious assembly
- Sports medical physical therapy

PUD- Planned Unit Development- residential- with a SLO overlay ( senior living overlay):

- Ranch style homes for 55+ adults
- Three story senior condo ( if market can support it)
- Age in place senior campus from dependent to independent homes and services on the same property

PUD-R single family residential- regular homes with modest density range from 2-6 (dwelling units per acre) (portion of homes can be below market- workforce housing)

**From:** tracey@creativeresultsinc.com <tracey@creativeresultsinc.com>  
**Sent:** Friday, June 14, 2019 2:28 PM  
**To:** Darryl Simmons <dsimmons@kennesaw-ga.gov>  
**Subject:** 1465 Shiloh Road

Hey Daryl -

As i told you, I got the listing on the property at 1465 Shiloh Road (Butch Nasar's property that was turned down for student housing a couple of years ago). Can you send me a list of the best zoning options for that property? I know he's got it listed as residential now but I need to put together a marketing package for it.

Tracey Viars  
Commercial Real Estate Advisor  
Singleton Commercial Real Estate  
Specializing in Suburban Downtown Development  
Owner / Creative Results, Inc.  
WRITING.THAT.SPEAKS  
Kennesaw City Council / Post 2

**Davis Feder**

---

**From:** Tracey Viars <tracey@kennesawbroker.com>  
**Sent:** Monday, July 22, 2019 12:21 PM  
**To:** Darryl Simmons  
**Subject:** RE: 1465 Shiloh Road

Thank you – I'll make that more clear...

T

**From:** Darryl Simmons <dsimmons@kennesaw-ga.gov>  
**Sent:** Monday, July 22, 2019 12:19 PM  
**To:** Tracey Viars <tracey@kennesawbroker.com>; Robert Fox <rfox@kennesaw-ga.gov>  
**Subject:** RE: 1465 Shiloh Road

Its zoned residential right now so you might want to emphasize the potential uses and zoning to be pursued according to our future land use map.. The way I read the brochure implies it already has the OI zoning already. It could be the way I read it.

**From:** Tracey Viars <tracey@kennesawbroker.com>  
**Sent:** Monday, July 22, 2019 12:15 PM  
**To:** Robert Fox <rfox@kennesaw-ga.gov>; Darryl Simmons <dsimmons@kennesaw-ga.gov>  
**Subject:** 1465 Shiloh Road

It's listed & official. Seller motivated. Let me know if you run across anyone who fits!



**Tracey Viars**

*Real Estate Advisor*  
Singleton Real Estate, LLC  
678-467-1326  
2765 S Main St #200,  
Kennesaw GA 30144  
[Tracey@KennesawBroker.com](mailto:Tracey@KennesawBroker.com)  
[www.KennesawBroker.com](http://www.KennesawBroker.com)



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**FOR  
SALE:**

**LAND FOR SALE**  
**1465 Shiloh Road, Kennesaw, GA 30144**



**4.41 +/- Acres / Commercial**  
**\$1,699,000**

**Property Highlights**

- Approximately 421' of Frontage on Shiloh Road
- Close to I-75
- Easy access to both Wade Green Road & Chastain Road Exit/Entry Ramps to I-75
- Close to Kennesaw State University
- Minutes from Downtown Kennesaw
- Shopping, Restaurants, Entertainment, Churches & Fire Station Nearby
- In the path between KSU Campus & \$268MM East Park Mixed Use Development
- Inside Kennesaw City Limits
- Many allowable uses under O/I, PUD-Residential with Senior Living Overlay & PUD-R Single Family Residential



For more information on this opportunity, contact:

**Tracey Viars**  
Real Estate Advisor  
678-467-1326  
[Tracey@KennesawBroker.com](mailto:Tracey@KennesawBroker.com)

**SINGLETON**  
**REAL ESTATE**

Singleton Real Estate, LLC  
420 Chambers Street  
Woodstock, GA 30188  
404-419-7700  
[www.SingletonRealEstate.com](http://www.SingletonRealEstate.com)

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**LAND FOR SALE**  
1465 Shiloh Road  
Kennesaw, GA 30144

000092

**ZONING: O/I**

**O/I Allowable Uses:**

Office Condos  
Professional Offices  
Health Care Related Businesses  
Childcare (not schools)  
Personal Care Homes  
Nursing Homes  
Memory Care Facilities  
Banks  
Clinics  
Medical/Dental Laboratories  
Religious Assembly  
Sports Medicine Physical Therapy

**PUD – Planned Unit Development – Residential with a SLO (Senior Living Overlay)**

**Allowable Uses:**

Ranch Style Homes for 55+  
Three Story Senior Condo  
Age in Place Senior Campus from dependent to independent homes & services on the same property

**PUD-R – Single Family Residential**

**Allowable Uses:**

Homes with Modest Density Range from 2 – 6 Dwelling units per acre (portion of homes came be below Market – workforce housing)

**Davis Feder**

---

**From:** Tracey Viars <tracey@kennesawbroker.com>  
**Sent:** Monday, July 22, 2019 2:37 PM  
**To:** Darryl Simmons  
**Subject:** Better?  
**Attachments:** 1465 Shiloh presentation package.pdf; 1465 Shiloh Road - Kennesaw - Land Available.pdf

Is this more accurate? Thanks for your feedback.



**Tracey Viars**

*Real Estate Advisor*  
Singleton Real Estate, LLC  
678-467-1326  
2765 S Main St #200,  
Kennesaw GA 30144  
[Tracey@KennesawBroker.com](mailto:Tracey@KennesawBroker.com)  
[www.KennesawBroker.com](http://www.KennesawBroker.com)



**SALE:**

**1465 Shiloh Road, Kennesaw, GA 30144**



**4.41 +/- Acres  
\$1,699,000**

### Property Highlights

- Approximately 421' of Frontage on Shiloh Road
- Close to I-75
- Easy access to both Wade Green Road & Chastain Road Exit/Entry Ramps to I-75
- Close to Kennesaw State University
- Minutes from Downtown Kennesaw
- Shopping, Restaurants, Entertainment, Churches & Fire Station Nearby
- In the path between KSU Campus & \$268MM East Park Mixed Use Development
- Inside Kennesaw City Limits
- Rezoning in accordance with Kennesaw's Future Land Use Map would allow possible uses including: O/I, PUD-Residential with Senior Living Overlay & PUD-R Single Family Residential



For more information on this opportunity, contact:

**Tracey Viars**  
Real Estate Advisor  
678-467-1326  
[Tracey@KennesawBroker.com](mailto:Tracey@KennesawBroker.com)

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**LAND FOR SALE**  
1465 Shiloh Road  
Kennesaw, GA 30144

**ZONING: RESIDENTIAL**

Potential uses with rezoning to be pursued in accordance with Kennesaw's future land use map:

**O/I Allowable Uses:**

Office Condos  
Professional Offices  
Health Care Related Businesses  
Childcare (not schools)  
Personal Care Homes  
Nursing Homes  
Memory Care Facilities  
Banks  
Clinics  
Medical/Dental Laboratories  
Religious Assembly  
Sports Medicine Physical Therapy

**PUD – Planned Unit Development – Residential with a SLO (Senior Living Overlay)**

**Allowable Uses:**

Ranch Style Homes for 55+  
Three Story Senior Condo  
Age in Place Senior Campus from dependent to independent homes & services on the same property

**PUD-R – Single Family Residential**

**Allowable Uses:**

Homes with Modest Density Range from 2 – 6 Dwelling units per acre (portion of homes came be below Market – workforce housing)

**CITY OF KENNESAW, GEORGIA**

**ORDINANCE NO. 2018-23, 2018**

**AN ORDINANCE TO AMEND CHAPTER 9 OF THE UNIFIED DEVELOPMENT CODE IN ORDER TO BRING IT INTO COMPLIANCE WITH GEORGIA STATE LAWS THAT GOVERN LOCAL LAWS RELATING TO NONCONFORMING USES, VARIANCES, APPEALS, ADMINISTRATIVE VARIANCES, AND REPEAL OF CERTAIN PROVISIONS**

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

**WHEREAS**, Chapter 9 of the Unified Development Code ("UDC") provides ordained mechanisms for obtaining relief from the provisions of the UDC, including relief for nonconforming uses, relief through the variance process, relief through the administrative variance process, appeal provisions, and the recognition of vested rights.

**WHEREAS**, over the course of the last several years, Georgia law has clarified the circumstances under which a municipal government may enact regulations that provide these relief mechanisms and the City wants to amend Chapter 9 to ensure that it is compliant with Georgia law (including but not limited to City of Cumming v. Flowers, 300 Ga. 820 (2017); Southern States-Bartow County, Inc. v. Riverwood Farm Homeowners Association, 300 Ga. 609 (2017));

**WHEREAS**, as a result of amending Chapter 9, certain definitions in Chapter 1 of the UDC also need to be amended and updated;

**WHEREAS** the City finds that that the attached ordinance amendments as set forth in Exhibits "A" and "B" protect the health, safety and welfare of the citizens of the City of Kennesaw and that the City incorporates the above "WHEREAS" clauses in such findings so as to for the citizens of the City of Kennesaw so as to support the justification to adopt the amendments to the UDC as set forth in Exhibits "A" and "B";

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

**SECTION 1**

That the City of Kennesaw hereby amends definitions as set forth in Exhibit "A" in alphabetical order to existing terms currently set forth in Section 1.09.02 of Chapter 1 of the Unified Development Code;

**SECTION 2**

That the City hereby adopts amendments to Chapter 9 as set forth in Exhibit "B";

**SECTION 3**

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

SECTION 4

This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Kennesaw.

SO ORDAINED this 15<sup>th</sup> day of October, 2018.

ATTEST

CITY OF KENNESAW

Debra Taylor  
Debra Taylor, City Clerk

Derek Easterling  
Derek Easterling, Mayor

SEAL



CITY OF KENNESAW  
ORDINANCE NO. 2018-23, 2018

## EXHIBIT B

### Chapter 9 - VARIATIONS

#### 9.00.00 - GENERALLY

The purpose of this chapter is to provide mechanisms for obtaining relief from the provisions of this UDC. There are several ways that potential relief from hardship is addressed. Section 9.01.00 addresses relief through requirements regarding nonconforming development. Section 9.02.00 addresses relief through the grant of a variance in a particular situation due to the characteristics of the land to be developed based on the required site design standards. Section 9.03.00 addresses relief through specific exceptions to the conditions of zoning. Section 9.04.00 addresses relief through the grant of an administrative waiver in specific situations. ~~Section 9.05.00 addresses relief through recognition of vested rights regarding use and/or design.~~

#### 9.01.00 - NONCONFORMING LOTS, STRUCTURES, AND USES

- A. The lawful use of any building, structure or land existing at the time of the enactment of this UDC may be continued even though such use does not conform with the provisions of this UDC except that the use of a principal nonconforming building, structure or land shall not be:

Changed to another nonconforming use;

Re-established after discontinuance or abandonment for one (1) year; ; Discontinuance or abandonment means the failure to devote the property to the permitted nonconforming use evidenced by an overt act or failure to act (or combination of the two) sufficient to support the implication of an intent to relinquish the right to continue the nonconforming use.

Expanded, enlarged or extended, either on the same or adjoining parcel, except in conformity with this ordinance;

Rebuilt, altered, replaced, or repaired after damage exceeding fifty percent (50%) of its replacement cost at the time of destruction as determined by the building official except in conformity with this ordinance. ; For those situations where the damage does not exceed fifty (50%) of its replacement value, any such and provided such rebuilding, alteration, replacement or repair shall be is-completed within twelve (12) months of such damage;

Altered, except if less than thirty percent (30%) of the floor space of a building or structure is found by the building inspector to be structurally unsafe then a permit may be issued to correct the unsafe condition.

- B. At the time of the enactment of this UDC, every owner of a nonconforming building or structure shall have sixty (60) days to indicate in writing to the Zoning Administrator which building or structure or group of buildings or structures will be considered the "principal" nonconforming building or structure defined in Section A above. In the event that more than one (1) building or structure is classified as "principal" under this section, said classification must be justified by the owner and accepted in writing by the Zoning Administrator. In the event that multiple buildings or structures are accepted by the Zoning Administrator as being the "principal" nonconforming building or structure as defined in Section A above, then all percentage figures stated in this section will pertain to the total area of the multiple buildings or structures so accepted.
- C. All nonconforming buildings, structures and uses shall be discontinued and made to conform within the time periods set forth below:
1. All nonconforming uses of land where no buildings are involved—Six (6) months from date of adoption of this UDC.
  2. All nonconforming uses of land on which are located demountable or portable buildings or structures—twelve (12) months from date of adoption of this ordinance unless approved by the Georgia Department of Community Affairs (DCA).

## 9.02.00 - VARIANCES

### 9.02.01 - Generally

- A. The Mayor and City Council may authorize upon appeal in specific cases such variance from the terms of this UDC as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship.
- B. A variance shall be authorized only so that the spirit of this UDC shall be observed, public safety and welfare secured, and substantial justice done.
- C. A variance shall not be granted to allow a use of land that is otherwise prohibited in the zoning district applicable to the property, for a use of land or structures that is prohibited by this UDC in the district in question.
- D. The existence of a nonconforming use on adjacent land, buildings, or structures in the same or in other districts shall not constitute a reason for a variance.
- E. The Mayor and City Council shall be responsible for consideration and a decision regarding requests for variances, pursuant to the notice and hearing requirements set forth in Chapter 10.

### 9.02.02 - Types of Variances

A request for a variance shall be limited to vary the following ~~dimensional standards~~: 1) maximum building height; 2) minimum lot width; 3) required spacing for driveways; 4) minimum front, side, or rear yard setbacks; or 5) dimensional standards for parking or loading spaces.

### 9.02.03 - Requirements for Variances

~~Zoning Variances~~ may be granted using the following criteria in such individual cases of practical difficulty or unnecessary hardships as follows:

- A. There is extraordinary and exceptional conditions pertaining to the ~~particular piece of property in question~~ because of its size, shape or topography;
- B. The application of the UDC standards ~~this chapter~~ to the ~~this particular piece of property~~ would create practical difficulty or unnecessary hardship;
- C. Such The practical difficulty and/or unnecessary hardship are conditions which are peculiar to the particular piece of property involved; and
- D. Relief, if granted, would not cause substantial detriment to the public good or impede ~~impair~~ the purposes and intent of the UDC this chapter.

### 9.02.04 - Requirements for Making Variance Applications

- A. An applicant for a variance shall file with the zoning department ~~prior to processing the application,~~ the following:
  - 1. A completed application on forms prescribed by the zoning department;
  - 2. The notarized signature of the applicant and record titleholder upon the application.
  - 3. The application fee.
    - a. These fees shall be established from time to time by resolution of the Mayor and City Council.
    - b. A copy of the fee schedule shall be maintained in the City Clerk's Office.
  - 4. A current boundary survey and plot plan, to scale, that bears the signature and seal of a registered surveyor, engineer, architect or landscape architect. Such plans shall also include such other information thereon as may be required by the zoning department, including preliminary plans for

Mayor Mathews called for a vote on the implied motion to approve Ordinance No. 2015-04, 2015 to change the zoning district designation City CRC with amended condition for properties located at the intersection of Kennesaw Due West Road and Cobb Parkway to modify existing stipulations and allow for gun, knife or weapon sales and to allow for full service operation for an indoor shooting range with a retail store. Vote taken, approved unanimously, 5-0. Motion carried.

- D. Authorization to adopt **ORDINANCE NO. 2015-05**, 2015 to amend multiple parts of Appendix A, Chapters 2, 4, 5 and 6 of the Kennesaw Unified Development Code. The purpose of this Ordinance is to address religious assembly standards previously addressed as a Special Exception Use and Land Use application. These new standards would bring the City of Kennesaw into compliance with recommended changes from the Department of Justice. An ordinance amending multiple parts of Appendix A, Chapter 1, Section 1.09.02 - "Definitions," multiple Sections of Appendix A, Chapter 2 - "Zoning Districts," Multiple Sections of Appendix A, Chapter 4 - "Site Design Standards," multiple Sections of Appendix A, Chapter 5 - "Standards for Accessory and Temporary uses," multiple Sections of Appendix A, Chapter 6 - "Infrastructure Improvements," and Appendix A, Chapter 6, Section 6.06.09 "Required Spaces - Table 6.06.09A" of the City of Kennesaw Code of Ordinances. The proposed changes were advertised in the Marietta Daily Journal March 13, 2015 and March 20, 2015. At the Planning Commission meeting held on April 02, 2015, motion was made by Cindi Michael, seconded by Stephen McFerrin to recommend the Mayor and Council consider the following points of concern by the Planning Commission before approving the amendment request including discussion on more language and wording to be incorporated into the ordinance: 1) Clarification of height requirement for religious assembly use as it appears there are none included in the proposed ordinance. Planning Commission feels the need for the height requirement; 2) Sound ordinances as it relates to religious assembly use; and 3) Impact on other business opportunities dealing specifically with business license and alcohol sales. The open-ended blanket approval for the religious assembly use in all districts.

Zoning Administrator Darryl Simmons presented recommended changes to the Unified Development Code (UDC) to address religious assembly standards previously addressed as a Special Exception Use and Land Use application. These new standards would bring the City of Kennesaw into compliance with recommended changes from the Department of Justice. Amendments will be made to multiple parts of Appendix A, Chapter 1, Section 1.09.02 - "Definitions," multiple Sections of Appendix A, Chapter 2 - "Zoning Districts," Multiple Sections of Appendix A, Chapter 4 - "Site Design Standards," multiple Sections of Appendix A, Chapter 5 - "Standards for Accessory and Temporary uses," multiple Sections of Appendix A, Chapter 6 - "Infrastructure Improvements," and Appendix A, Chapter 6, Section 6.06.09 "Required Spaces - Table 6.06.09A" of the City of Kennesaw Code of Ordinances. The Planning Commission questions/recommendations were addressed by staff and the City Attorney. Standards that were of concern are addressed in other areas of the UDC.

Councilmember Sebastian asked for clarification regarding height limitations on houses of worship. Mr. Simmons replied that height restrictions on religious assembly locations is dependent on the zoning of the property.

7:03 PM Floor Open to Public Comments

No comments

7:04 PM Floor Closed to Public Comments

Motion by Councilmember Church to approve Ordinance No. 2015-05, 2015 as submitted, seconded by Councilmember Sebastian. Vote taken, approved unanimously, 5-0. Motion carried.

**X. CONSENT AGENDA**

- A. Approval of the April 1, 2015 Special Call and April 6, 2015 Regular minutes of the Mayor and City Council.
- B. Approval of the April 1, 2015 Mayor and City Council Executive Session minutes.
- C. Authorize data connectivity Request For Proposals (RFP) bid award to Comcast Business, award contract pending legal review, and direct the Mayor to execute documents. The RFP was created to increase the speed between our remote buildings from 4.5 MB to 1 GB. Four bids were received and Comcast Business provide the recommended solution for the City. This will be a savings of approximately \$1,350 per month over our current provider. The Information Technology Committee recommends approval of the bid award contract pending legal review and directs the Mayor to execute documents.
- D. Receipt of February and March 2015 Crime Statistics for Police Department.
- E. Authorization for approval of a final plat Phase I for subdivision identified as Victoria Crossing. Request submitted by Barnes Mill VDL, LLC for property located on Fox Trot Trail at Moon Station Road. Property identified in Land Lot 101 within the residential zoned PUD-R with a Senior Living Overlay (SLO) district consisting of 9.57+/- acres. The property was zoned to PUD-R with a Senior Living Overlay (SLO) and approved with stipulations by the Mayor and Council on December 16, 2013 under Ordinance 2013-18, 2013. The property was granted preliminary plat approval in April, 2014. Plan Review Committee recommends approval.

Mayor Mathews called for a vote on the implied motion to approve the Consent Agenda, engross. Vote taken, approved unanimously, 5-0. Motion carried.

**XI. PUBLIC SAFETY**

**BILL WESTENBERGER, Police Chief (Councilmember Tim Killingsworth)**

**BOBBIE DUKE, 911 Communications Director (Councilmember Debra Williams)**

No items.



APPLICANT: Fountain Residential Partners CASE NO: ZV2020-01/RZ2020-01  
PRESENT ZONING: R-30 (4.4+/- acres)

Land Lot 60 Tax Parcel 31  
1465 Shiloh Road

\*\*\*\*\*

ZV2020-01 Consideration to approve the requested rezoning to RM-12 and variances: (1) Increase the RM-12 zoning district max, density from 12 units/acre to 19.55 units/acre (86 units total); (2) Reduce the front yard setback along Shiloh Road from 40 ft. to 20 ft; (3) Reduce required parking from 172 spaces (2 spaces/unit) to 152 spaces (1.75 spaces/unit). (Mayor and Council 03-16-2020)

**SCHOOL COMMENTS**

\*School attendance zones are  
subject to revision at anytime

NAME OF SCHOOL	ENROLLMENT	PARKING SPACES	NUMBER OF PORTABLE CLASSROOMS

Additional Comment

\*\*\*\*\*

**TRANSPORTATION COMMENTS**

Site Visitation: No \_\_\_ Yes \_\_\_ (date \_\_\_) Signature \_\_\_\_\_

ROADWAY	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MINIMUM RIGHT OF WAY REQUIREMENT
SHILOH ROAD	arterial	35 mph	cobb	100

Comments and Observation:

The road is under Cobb County Jurisdiction moreover, reducing front set back to 20 feet will not recommended. In this issue, it is prefer to get Cobb County's comment.

Recommendations



APPLICANT: Fountain Residential Partners CASE NO: ZV2020-01/RZ2020-01  
PRESENT ZONING: R-30 (4.4+/- acres)

Land Lot 60 Tax Parcel 31  
1465 Shiloh Road

**DRAINAGE COMMENTS**

Site Visitation : No \_\_\_ Yes \_\_\_ (date \_\_\_\_\_) Signature \_\_\_\_\_

(A) FLOOD HAZARD: ☐ YES ☐ NO ☐ POSSIBLY, NOT VERIFIED

(B) DRAINAGE BASIN: \_\_\_\_\_ FLOOD HAZARD INFORMATION

1. \_\_\_\_\_ FEMA Designated 100 year Floodplain Flood
2. \_\_\_\_\_ Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD
3. \_\_\_\_\_ Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements
4. \_\_\_\_\_ Dam Breach Zone from (upstream) (onsite) lake – need to keep residential buildings out of hazard

(C) WETLANDS: ☐ YES ☐ NO ☐ POSSIBLY, NOT VERIFIED

Location: \_\_\_\_\_

☐ The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

(D) STREAMBANK BUFFER ZONE: ☐ YES ☐ NO APPLICABLE ☐ YES ☐ NO

1. \_\_\_\_\_ Metropolitan River Protection Area (within 2000' of Chattahoochee River) Arc (review 35' undisturbed buffer each side of waterway).
2. \_\_\_\_\_ Chattahoochee River Corridor Tributary Area – County review (\_\_\_\_\_ undisturbed buffer each side).
3. \_\_\_\_\_ Georgia Erosion-Sediment Control Law and County Ordinance-County review/State review.
4. \_\_\_\_\_ Georgia DNR Variance may be required to work in 25-foot stream bank buffers.
5. \_\_\_\_\_ City Buffer Ordinance: 75' each side of creek measure from the point of wrested vegetation.

**SPECIAL SITE CONDITIONS**

**ADDITIONAL COMMENTS/SUGGESTIONS**



APPLICANT: Fountain Residential Partners CASE NO: ZV2020-01/RZ2020-01  
PRESENT ZONING: R-30 (4.4+/- acres)

Land Lot 60 Tax Parcel 31  
1465 Shiloh Road

Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

\*\*\*\*\*

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains and obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

\*\*\*\*\*

Applicant will be responsible to meet all City of Kennesaw Development & Zoning Ordinance Standards, State, County and applicable Federal regulations as part of the plan review approval process. All conceptual representations submitted with the application and acted on by Mayor and Council does not relieve applicant and property owners from meeting all development standards.

\*\*\*\*\*

PLANNING/ZONING COMMENTS  
Property History

ZV2020-01 Consideration to approve the requested variances as noted for the proposed use for Purposed Student Housing construction of 68 units. (Mayor and Council 03-16-2020)

Variances requested:

1. Increase in density from 12 units per acre to 15.55 units per acre
2. Reduce front yard setback from 40 feet to 30 feet

The property was annexed into the City in 2000. There were a number of rezoning requests and approvals to the current zoning of R-30 with the request to RM-12. Past rezoning requests included UVC (Urban Village Commercial); O&I (Office & Institutional); CRC (Community Retail Commercial). 2017 same applicant requested rezoning of three properties ( 1465 Shiloh Rd., 4058 & 4068 Ayers Dr.) to proposed student housing that would be located on 6.02 acres and incorporate 125 units. Request for rezoning and associated variances was denied. Traffic implications to the entrance to Pinetree subdivision was cited.

Site Visitation : No \_\_\_\_ Yes \_\_\_\_ (date \_\_\_\_\_) Signature \_\_\_\_\_

STAFF MEMBER RESPONSIBLE: Darryl Simmons



APPLICANT: Fountain Residential Partners CASE NO: ZV2020-01/RZ2020-01  
PRESENT ZONING: R-30 (4.4+/- acres)

Land Lot 60 Tax Parcel 31  
1465 Shiloh Road

PROPOSED NUMBER OF UNITS 68 OVERALL DENSITY: 15.55 Units/Acre

PRESENT ZONING WOULD ALLOW          UNITS INCREASE OF:          Units/Lots

HISTORIC PRESERVATION: Not applicable

CEMETERY PRESERVATION No cemeteries on site

Land Use/development proposal Information:

- Subject property located in Future land Use category for CAC ( Community Activity Center )
- The Character are as designated in the adopted comprehensive plan- Cherokee Street Commercial Corridor
- Purpose built student housing does not have an adopted zoning standard
- Similar approved developments within city limits were rezoned to RM-12 with variances and conditions
- Character area for university programming was included in the 2017 comprehensive plan update. University Living was included as a character area for both existing student housing developments- West 22 and UClub @Frey.
- Shiloh Rd contains Industrial, residential and retail uses.
- Proposing 68 units=248 beds an Increase in density from 12 units per acre to 15.55 units per acre
- Three story building
- 262 parking spaces provided which allows one space per bedroom plus guest parking
- Building placement will be closer to Shiloh Road to allow adequate parking in rear yard area

ZONING ADMINISTRATOR'S RECOMMENDATIONS/BASIS FOR RECOMMENDATION

The Zoning Administrator recommends approval of the rezoning request to RM-12 with associated variances to reduce front setback and increase density with the following conditions:

1. Reversionary clause that requires that construction permits and activity be initiated within 24 months of the date of the rezoning and variance approval. Failure to obtain permits and start construction activity within the 24 month period will result in the reversion of the rezoning and variances and the property will revert back to the prior zoning of R-30.
2. Submission of a traffic impact study that demonstrates either the development will not have a negative impact on existing traffic conditions or that the negative impacts of the development can be mitigated through traffic improvements that will be incorporated as part of the development plan. Traffic counts shall be no more than three years old from date of the study and shall be taken during a time of year when the academic calendar is in session for nearby universities and schools.
3. The principal access for the development shall be an arterial or major collector roadway, as identified in the City of Kennesaw Unified Development Code or similar classification document.
4. Parking requirements: Sites shall be designed to accommodate on-site parking for at least one (1) vehicle per bedroom with additional parking for visitors



APPLICANT: Fountain Residential Partners CASE NO: ZV2020-01/RZ2020-01  
PRESENT ZONING: R-30 (4.4+/- acres)

Land Lot 60 Tax Parcel 31  
1465 Shiloh Road

5 Security requirements:

- a. The property management company shall submit a security plan in accordance with the standards of Crime Prevention through Environmental Design (CPTED). The security plan shall be submitted to the City of Kennesaw Police Department for review and safe-keeping and shall be updated annually at the beginning of each calendar year, no later than January 31. Any such security plan shall require that on-site management shall be required 24 hours per day, seven days per week.
- b. All access points on the property shall be secured with gated entry and shall be self-closing;
- c. The development shall be enclosed with a minimum six-foot high privacy fence along the entire property line.
- d. The property shall be equipped with a security camera system that shall be monitored by the property management company on-site. Any such system shall record and store video images located throughout the common areas, including the parking areas, and signs shall be posted throughout the development notifying residents and visitors of the security camera system;
- e. All common area doors and access gates shall be secured with electronic locks;
- f. All apartment units shall be equipped with a door that features a 180-degree peep hole;
- g. For every 200 parking spaces, the development shall feature at least one Emergency Blue Light Phone that is connected to the Cobb County Public Safety's 24-hour communications center and identify the phone location if the caller is unable to talk.
- h. Lighting: In order to ensure adequate illumination of the development and promote safety and security, the Parking Lot Design Guide standards set forth for Basic Enhanced Security, Security, and High Security as set forth in the Illuminating Engineering Society Lighting Handbook (IESNA), latest edition, as amended, is adopted as the standard for the installation and operating of lighting in parking lots.

6 All façade materials to be installed similar to the elevations provided by the applicant and be in compliance with the City of Kennesaw architectural Standards

7 Maximum height of building will be 35 feet as defined in our zoning ordinance chapter one that defines how building height is measured.

8. Maximum number of units allowed will be 68 units with a maximum of 248 beds



#### **1.05.00 - RELATIONSHIP TO THE COMPREHENSIVE PLAN**

The City of Kennesaw Comprehensive Plan is the official development policy and implementation guide for the City to coordinate and direct physical and economic development, related public investment, and, to provide reasonable regulations for the development of private property in the interest of public health, safety, and welfare. This UDC is designed to implement all provisions of that Plan for the development and use of land.

## 2.01.03 - Residential Zoning Districts

The following residential zoning districts are established:

- A. *R-30, Single-Family residential district (30,000 square feet).* The R-30 single-family residential district is established to provide locations for single-family detached dwellings or residentially compatible institutional and recreational uses at low to moderate densities, with access both to public water and sewerage.
- B. *R-20 Single-Family residential district (20,000 square feet)* The R-20 single-family residential district is intended to provide suitable areas for single-family, detached dwellings at medium densities as defined under the City of Kennesaw Comprehensive Land Use Plan, and as may be amended from time to time, with access to both public water and sewerage.
- C. *R-15, Single-Family residential district (15,000 square feet).* The R-15 single-family residential district is intended to provide suitable areas for single-family, detached dwellings at medium densities as defined by the City of Kennesaw Comprehensive Land Use Plan, with access to both public water and sewerage.
- D. *R-12, Single-Family residential district (12,000 square feet).* The R-12 single-family residential district is intended to provide suitable areas for single-family, detached dwellings at medium densities as defined by the City of Kennesaw Comprehensive Land Use Plan, with access to both public water and sewerage.
- E. *R-10, Single-Family residential district (10,000 square feet).* The R-10 single-family residential district is intended to provide suitable areas for single-family, detached dwellings at medium densities, with access to both public water and sewerage within designated medium density areas on the comprehensive land use plan and future land use map.
- F. *PUD-R, Planned Unit Development-residential district.* The PUD-R planned unit development-residential district is established to encourage and provide flexible site plan and building arrangements under a unified plan of development rather than by lot-by-lot regulation. The PUD-R district is not intended to encourage greater density of development, but rather to encourage ingenuity and resourcefulness in land planning to assure the provision of park and recreation land and facilities for the use of the occupants of the development in order to obtain a more desirable environment. The density should be consistent with the surrounding development.
- G. *RA-4, Residential District (Four [4] units per acre).* The RA-4 residential district is established to provide locations for the development of affordable single-family detached or attached residential dwelling units including the combination of duplexes, triplexes, and quadraplexes, with access to both public water and sewerage for medium to high density residential classifications as defined under the City of Kennesaw Comprehensive Land Use Plan, and as may be amended from time to time. The dwelling units are to be designed for placement on an individual lot attached to another dwelling unit or on an adjoining lot where the units will be attached by a common party wall.
- H. *RM-8, Multiple-Family district (Eight [8] units per acre).* The RM-8 multiple-family residential district is established to provide locations for multifamily residential uses or residentially compatible institutional and recreational uses at high densities as defined under the City of Kennesaw Comprehensive Land Use Plan, and as may be amended from time to time, with access to both public water and sewer.
- I. *RM-12, Multiple-Family district (Twelve [12] units per acre).* The RM-12 multiple-family residential district is established to provide locations for multifamily residential uses or residentially compatible institutional and recreational uses at high densities as defined under the City of Kennesaw Comprehensive Land Use Plan, and as may be amended from time to time, with access to both public water and sewerage.

## 1.09.00 - ACRONYMS AND DEFINITIONS

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. Unless otherwise expressly stated, the following words shall have the meaning herein indicated. The following terms are defined for purposes of this UDC.

### 1.09.01 - Acronyms

"A"	A High Risk classification for a flood zone as defined by the Flood Insurance Rate Map (FIRM)
AASHTO	American Association of State Highway and Transportation Officials
ADA	Americans with Disabilities Act
"AD"	A High Risk classification for a flood zone as defined by the Flood Insurance Rate Map (FIRM)
"AE"	A High Risk classification for a flood zone as defined by the Flood Insurance Rate Map (FIRM)
"AH"	A High Risk classification for a flood zone as defined by the Flood Insurance Rate Map (FIRM)
"AO"	A High Risk classification for a flood zone as defined by the Flood Insurance Rate Map (FIRM)
ARC	Atlanta Regional Commission
BCCMP	Bituminous-Coated Corrugated Metal Pipe
BMP	Best Management Practice
BOD	Biological Oxygen Demand
CADD	Computer Aided Design and Drafting
CBD	Central Business District
CCMWA	Cobb County Marietta Water Authority
CCWS	Cobb County Water System
CFR	Code of Federal Regulations
CLG	Certified Local Government

upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration.

*Adult movie house* means any movie theater which on a regular, continuing basis shows films rated "X" by the Motion Picture Coding Association of America or any movie theater which presents for public viewing on a regular, continuing basis so-called "adult films" depicting sexual conduct.

*Agricultural Produce Stand*: A structure not greater than 1,000 square feet for the purpose of seasonal sales of products grown or produced on the premises on which it is located.

*Alignment*: The arrangement of objects along a straight line.

*Alley or Service Drive*: A public or private way permanently reserved as a secondary means of access to abutting property and which may be used for public utility purposes. Frontage on said alley shall not be construed as satisfying the requirements of this ordinance related to frontage on a dedicated street.

*Altered or Alteration of Building*: Any change in the supporting members of a building (such as bearing walls, columns, girders) except changes as may be required for its safety; any addition to a building; any change in use from that one district classification to another; or of a building from one location to another; any act or process that changes the exterior architectural appearance of a building.

*Alternative Tower Structure*: Structures utilized for antenna-mounting purposes that include, but are not limited to, simulated trees, clock towers, steeples, silos, light poles, electric transmission towers and other such structures that are compatible with the natural setting and surrounding structures, and effectively camouflage or conceal the presence of antennas or towers.

*Ancillary Retail Sales (industrial districts)*: Retail sale of goods and services which is secondary in nature to the primary industrial use of the property in so much that the goods for sale have been produced on-site or are in storage at the site for planned distribution to other areas. The ancillary retail sale of goods shall only be conducted as part of the permitted industrial use and shall not be a freestanding business.

*Animal Shows*: Exhibitions of domestic or large animals for a maximum of seven days.

*Animated Illumination or Effects*: Illumination or effects with action, motion, moving characters or flashing lights. This may require electrical energy, but shall also include wind actuated devices. Specifically included is any motion picture or video mechanism used in conjunction with any outdoor advertising structure in such a manner as to permit or allow the images to be visible from any public right-of-way. This definition does not include signs which indicate only time and/or temperature, provided that such time and/or temperature signs do not change or alternate messages more than 12 times a minute or electronic message signs as permitted within.

*Antenna*: Any exterior transmitting or receiving devices mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio, wireless, telecommunications signals or other communications signals. Such definition does not include, for purposes of this ordinance, radar antennas, amateur radio antennas, satellite earth stations, television receiving antennas and direct broadcast satellite dishes.

*Antenna, Array*: Any two or more antennas that operate as components of a complete antenna suite for a single wireless communication facility.

*Antenna, Concealed*: Any antenna designed and erected on or in a building or alternative structure in such a way that it blends in with the existing façade and/or is located such that it is not readily visible to a person at adjacent street level.

*Apartment*: A room or suite of two or more rooms occupied or suitable for occupancy as a dwelling unit for one family in a multiple dwelling or any other building not a single-family dwelling or two-family dwellings.

*Apartment Building*: A building designed for or occupied exclusively by three or more families with separate housekeeping facilities for each family.

- b. Any artificial barrier constructed by the United States Soil Conservation Service, or any other department or agency of the United States Government when such department or agency has designed or approved plans, has supervised construction, maintained the program of inspection, provided however, that this exception shall cease when the supervising federal agency relinquishes authority for the operation or maintenance of such artificial barrier.
- c. Any artificial barrier licensed by the Federal Energy Regulatory Commission or for which a license application is pending with the Federal Energy Regulation Commission; or
- d. Any artificial barrier classified by the state soil and water conservation committee as a dam where improper operation or dam failure would not be expected to result in loss of human life.

*Dam Break Flood Zone:* The area within the flood contour elevations subject to flooding as designated by the city engineer based upon information obtained from the U. S. Corp of Engineers or other federal, state, or county agencies, or local hydraulic studies undertaken as a result of any seepage or failure of any dam.

*Day Care Center:* Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia and licensed by the City of Kennesaw as a group day care home or day care center, wherein are received for pay for group supervision and care, for fewer than 24 hours per day, six or more children under 18 years of age.

*Dead storage:* Storage of goods partly not in use and not associated with any principal commercial or manufactory use.

*Dead-end street:* A street having only one end open for access to another street, the other end being abruptly terminated with no turnaround.

*Deck:* A roofless accessory attached or detached platform without exterior walls, generally constructed of wood, which adjoins a residence. Rails or safety features shall not be deemed to be exterior walls.

*Demolition:* Any act or process that destroys a structure in part or in whole.

#### *Density:*

1. The overall intensity of land use for the total project
2. Residential density is the number of housing units permitted per acre in the zoning district involved in accordance with the terms of the zoning ordinance or as authorized under conditional zoning by the Mayor and City Council. The maximum residential density per developable acre authorized for R-30, R-20, R-15, R-12, R-10, PUD-R, RA-4, RM-8, RM-12, and FST zoning districts are set forth in Chapter Four of the Unified Development Code. These maximums could be lowered by conditional zoning by the Mayor and City Council. A developable acre shall not include any part or parts of rivers, streams, floodplains and natural lakes which are not the result of manmade dams. The maximum allowable dwelling units per acre shall in no event exceed any of the following:
  - a. The maximum set forth in article VIII of this appendix for such zoning district;
  - b. The maximum dwelling units per acre which can be constructed without violating any other restrictions, limitations, and/or requirements of such zoning district or the maximum authorized under conditional zoning by the Mayor and City Council.

*Density Factor:* A unit of measure to prescribe the calculated basal area required for replacement or as existing tree coverage on a site.

*Dentil:* A small rectangular block used in a series below the cornice.

*Department (as pertaining to environmental protection):* The Georgia Department of Natural Resources.

*Drainage Structure:* A device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm-water management, drainage control, or flood control purposes.

*Drip Line:* An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

*Drive-in Establishment:* An establishment which is designed to provide, either wholly or in part, service to customers while in their automobiles parked upon the premises.

*Dwelling:* A building designed, arranged or used for permanent living and/or sleeping quarters (excludes mobile home).

*Dwelling, Multifamily:* A building designed for or occupied exclusively by three or more families with separate housekeeping facilities for each family.

*Dwelling, Single-Family:* A building designed or arranged to be occupied by one family only.

*Dwelling, Two-Family (duplex):* A building designed or arranged to be occupied by two families living independently of each other.

*Dwelling Unit:* One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

*Easement:* A grant by the property owner for the use by the public, a corporation, or persons of a strip of land for specific purposes.

*Eating and drinking establishment:* Retail establishments selling food and drink for consumption on the premises, including lunch counters and refreshment stands selling prepared foods and drinks for immediate on-site consumption.

*Eave:* The underside of a sloping roof projecting beyond the wall of a building.

*Economically and Technically Feasible and Viable:* Refers to the capability of being provided:

1. Through technology which has been demonstrated in actual applications (not simply through tests or experiments) to operate in a workable manner; and
2. In a manner which has a reasonable likelihood of generating a reasonable profit or other financial benefits, when measured over the term of the lease.

*Electronic Display:* Shall mean a message displayed through the use of LED, LCD, plasma, or other similar type of panels or screens.

*Electronic Sign:* A sign in which the message may be changed means a sign whose message may be changed at intervals by computer controller, microprocessor controller or by remote control, and whose message is displayed through the use of LED, LCD, plasma or other similar type of panels or screens, including devices known as commercial electronic message signs or similar devices.

*Element:* An individual defining feature of a building, structure, site or district.

*Elevated Building:* A non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

*Elevation:* A mechanically accurate, "head-on" drawing of a face of a building or object, without any allowance for the effect of the laws of perspective. Any measurement on an elevation will be in a fixed proportion, or scale, to the corresponding measurement on the real building.

*Encounter Center or Rap Establishment:* Any business, agency or person who, for any form of consideration of gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.

*Extreme Flood Protection:* Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

*Façade:* That portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

*False Front:* A front wall which extends beyond the sidewalls of a building to create a more imposing façade.

*Family:* One or more related persons by blood, legal adoption, or marriage or not more than three (3) persons not related, occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boardinghouse, rooming house or hotel, as herein defined. Maximum residential occupancy for a residential dwelling unit will be calculated by the number of residents per square foot of floor space as per the currently adopted International Property Maintenance Code.

*Fanlight:* A window, often semi-circular, over a door, with radiating muntins suggestive of a fan.

*Farm Winery:* A domestic manufacturer of wine in quantities of less than 100,000 gallons of wine per year, that is licensed by the state pursuant to O.C.G.A. 3-6-21.1, or as may be amended from time to time. Provided a license is issued as required by this chapter, a farm winery is authorized to sell wine by the package, by the drink and operate a wine tasting facility on the premises of the farm winery without additional license requirements, except as is required in the city zoning ordinance.

*Fast food restaurant:* An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars, on the premises, or off the premises.

*Fee Simple:* The owner is entitled to the entire property with unconditional power of disposition during his life and which descends to his heirs and legal representatives upon his death intestate.

*Fenestration:* The arrangement and design of windows in a building

*Fill (as pertaining to earthwork):* A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

*Final Plat:* A finished drawing or drawings of the subdivision showing completely and accurately all legal and engineering information and certification necessary for recording. The finished drawing or drawings may consist of one or more drawings of the subdivision which together form the final plat, all of which must comply with the requirements of this chapter.

*Finished Grade:* The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

*Flag:* A piece of fabric or other flexible material solely containing distinctive colors, patterns, standards, words or emblems used as the symbol of an organization or entity.

*Flashing (as pertains to lighting):* Illumination which is not kept constant in intensity at all times when in use and which exhibits sudden or marked changes in lighting effects. The term "flashing" excludes illuminated signs which indicate only time and/or temperature, provided that such time/temperature signs do not change or alternate messages more than 12 times a minute.

*Floatable Oil:* Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

*Flood or Flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

*Sexually oriented business* means an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, an explicit media outlet, or a sexual device shop.

*Shelter (homeless)*. Charitable, nonprofit, short-term housing and/or room and board accommodations for poor, transient, or needy individuals which must meet the following minimum criteria:

1. Adequate showers and restroom facilities must be provided at the location to meet the needs of the overnight guests;
2. Beds must be provided for all overnight guests excluding staff and volunteer workers;
3. No shelter shall be located closer than 1,000 feet to the nearest single-family residence;
4. Guests of the shelter shall be required to leave the shelter premises no later than 7:00 a.m.;
5. All premises shall be maintained in a clean, safe, and sanitary fashion;
6. Adequate provisions for transporting and parking guests shall be submitted to and approved by the zoning administrator or his/her designee.

*Shopping Center*: A group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking provided on the property and related in its location, size and type of shops to the trade area which the unit serves.

*Side Lights*: A vertical line of small glass panes flanking a doorway.

*Sign*: Any name, identification, description, display, illustration, banner, string of lights or device which is affixed to or represented directly or indirectly upon a building, structure, vehicle or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

*Sign, Business*: Any notice or advertisement, pictorial or otherwise which directs attention to goods, commodities, products, services or entertainment sold or offered upon the premises where such sign is located.

*Significant*: Possessing importance to a particular building, structure, site or district; essential to maintaining the full integrity of a particular building, structure, site or district.

*Silviculture*: A branch of forestry which deals with the establishment, development, care and reproduction of stands of timber.

*Single Housekeeping unit*: Means that the occupants of a dwelling unit have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, lease agreement or ownership of the property, expenses and responsibilities; membership in the single housekeeping unit is fairly stable as opposed to transient, and members have some control over who becomes a member of the single housekeeping unit.

*Site*: A plot of land intended or suitable for development; also the ground or area on which a building has been built.

*Slope*: A degree of deviation of surface from the horizontal usually expressed in percent or degree.

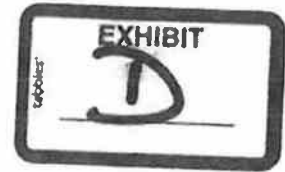
*Soffit*: The underside of a structural part, as of a beam, arch, etc.

*Soffit Sign* means a sign which hangs or is suspended beneath the cover of a walkway or beneath a support extending from a building.

*Softwood Tree*: Any coniferous (cone bearing) tree. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

*Soil and Water Conservation District Approved Plan*: An erosion and sedimentation control plan approved in writing by the Cobb Soil and Water Conservation District.

*Special Exception Use*: A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval of the Mayor and City Council, and subject to special requirements, different from those usual requirements for the district in which the special exception use may be located.



CITY OF KENNESAW, GEORGIA

EXECUTIVE ORDER

EO-02

**WHEREAS**, the novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

**WHEREAS**, on March 1, 2020 a Proclamation Declaring a National Emergency related to COVID-19 was issued by President Donald J. Trump; and

**WHEREAS**, Georgia Governor Brian Kemp issued a disaster proclamation on March 14, 2020, certifying that COVID-19 poses an imminent threat of disaster for all counties and cities in the State of Georgia; and

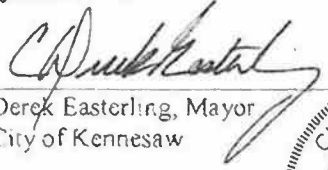
**WHEREAS**, a Declaration of Emergency was executed by the Mayor of the City of Kennesaw and became effective on March 20, 2020; and

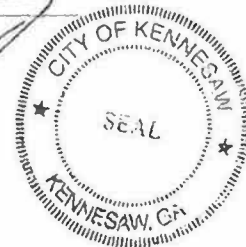
**WHEREAS**, the City recognizes the importance of full public participation in City land use decisions.

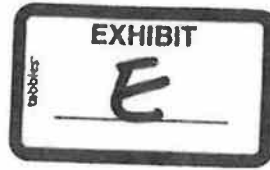
**NOW THEREFORE**, pursuant to the Declaration of Emergency and the Kennesaw Code of Ordinances, Sec. 34-2, it is hereby **ORDERED**:

I. That all land use matters requiring a public hearing, including, but not limited to, all zoning, annexation, variance, special land use, historic preservation and other land use matters are stayed through the expiration of the Declaration of Emergency.

SO ORDERED this 25<sup>th</sup> day of MARCH 2020.

  
Derek Easterling, Mayor  
City of Kennesaw





Office of the Mayor  
City of Kennesaw  
Derek Easterling, Mayor

EXECUTIVE ORDER  
(EO-06)

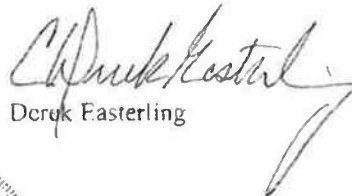
CITY OF KENNESAW, GEORGIA

CONTINUATION OF DECLARATION OF EMERGENCY

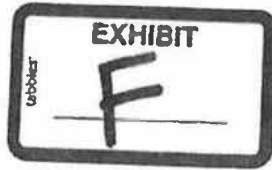
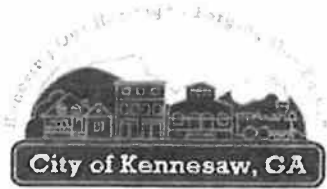
A Declaration of Emergency was executed and became effective on March 20, 2020. Pursuant to the Declaration of Emergency and the Kennesaw Code of Ordinances, Sec. 34-2(a)(3), "no state of emergency shall continue for longer than 30 days, unless renewed by the mayor."

Due to the on-going nature of the Covid-19 emergency, it is hereby ORDERED that the Declaration of Emergency is hereby renewed and the Declaration of Emergency, and any Executive Order(s) related thereto, shall continue until the mayor finds that the emergency no longer exists, at which time the mayor shall execute and file with the city clerk a document marking the end of the state of emergency. The city council may, by resolution, end a state of emergency at any time.

SO ORDERED this 06<sup>TH</sup> day of MAY 2020.

  
Derek Easterling





Office of the Mayor  
City of Kennesaw  
Derek Easterling, Mayor

CITY OF KENNESAW, GEORGIA

RESCINION OF EXECUTIVE ORDER 02

WHEREAS, the novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

WHEREAS, on March 1, 2020, a Proclamation Declaring a National Emergency related to COVID-19 was issued by President Donald J. Trump; and

WHEREAS, Georgia Governor Brian Kemp issued a disaster proclamation on March 14, 2020, certifying that COVID-19 poses an imminent threat of disaster for all counties and cities in the State of Georgia; and

WHEREAS, a Declaration of Emergency was executed by the Mayor of the City of Kennesaw and became effective on March 20, 2020; and

NOW THEREFORE, pursuant to the Declaration of Emergency and the Kennesaw Code of Ordinances, Sec. 34-2, it is hereby ORDERED:

1. Effective immediately, in an effort to restore and resume City business, all land use matters requiring a public hearing, including, but not limited to, all zoning, annexation, variance, special land use, historic preservation, and other land use matters, City of Kennesaw Executive Order 02 is rescinded in effect.

SO ORDERED this 29<sup>TH</sup> day of MAY 2020.

  
Derek Easterling



**Lea Addington**

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**From:** BARRY MILLER <[REDACTED]>  
**Sent:** Monday, June 15, 2020 4:10 PM  
**To:** kennesawcouncil  
**Subject:** Proposed Re-zoning at 1465 Shiloh Trail Road

Dear Sirs:

As a 24 year resident of Fairways To Pine Tree, I want to voice my opposition to the rezoning of 1465 Shiloh Trail Road. Our neighborhood is contiguous to Shiloh Trail Road and we will be negatively impacted by the rezoning.

Although several modifications have been made to the project such as making it impossible for the inhabitants to turn left onto Shiloh Road, there is no such deterrent for keeping students from retuning from campus via Frey Lake Road and turning right onto Shiloh. We know this is what students will do based on experience with other projects close by where developers & representatives from KSU promised us that there were plenty of incentives & alternative transportation services built into their proposals to keep students from traversing through our neighborhood. We were right and they were wrong.

During class changes, cars, trucks, motorcycles are bumper to bumper and many are exceeding the speed limit. The noise and danger from these vehicles are destructive to our status as a residential neighborhood suitable for families with children. Residents sense the neighborhood is no longer a respite from the world and begin making plans for moving while avoiding maintenance or attention to their properties.

I encourage you to vote no to the rezoning.

Respectfully,

Barry Miller  
3691 Frey Lake Road NW  
Kennesaw, GA 30144  
[REDACTED]

## Lea Addington

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**From:** Buzz Alexander <[REDACTED]>  
**Sent:** Monday, June 15, 2020 4:22 PM  
**To:** kennesawcouncil  
**Subject:** Rzoning at 1465 Shiloh Rd

I adamantly oppose the rezoning for the 1465 Shiloh Road property. This act would adversely impact all residents in the Pinetree community regardless of the Pinetree Civic Association's position. The politicians at both local levels have lied to this board, even promising to close Frey Lake Road. The college will never allow that to happen. For once in your careers, start thinking about the people and their needs rather than the developers. KSU does not need this rezoning and neither does the Pinetree community.

--

Please remove all names before forwarding.

## Lea Addington

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**From:** Arthur Way <[REDACTED]>  
**Sent:** Monday, June 15, 2020 4:24 PM  
**To:** kennesawcouncil  
**Subject:** OPPOSITION TO THE REZONING OF 1465 SHILOH ROAD

I am writing to oppose the rezoning of this property at 1465 Shiloh Road.

For the reasons stated below this should not be allowed to move forward:

Density does not comply with the rezoning requirements and it will be a tax on the infrastructure systems.

Storm water runoff will be a detriment to adjacent properties.

Retaining walls will cause harm to the adjacent businesses.

It will cause a reduced market value of the adjacent business properties.

How do we know if KSU will really need more housing after the Covid-19 has changed everything, especially with education.

If not used it will be empty and an eyesore for years to come.

As a property owner in the business park I strongly object to the rezoning and ask that you deny the request.

Sincerely,

Arthur L. Way  
Elk River Properties LLC  
1275 Shiloh Rd., Suite 2130  
Kennesaw, Georgia 30144

**Lea Addington**

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**From:** Jeffrey Davis <[REDACTED]>  
**Sent:** Monday, June 15, 2020 4:30 PM  
**To:** kennesawcouncil  
**Subject:** 1465 Shiloh Road Rezoning

To the honorable Mayor and City Council of Kennesaw,

I write in opposition of the rezoning of 1465 Shiloh Road by the applicant Fountain Residential Partners. The design and application provided fails to meet the requirements of the RM-12 rezoning and will be a detriment to the Pinetree Country Club community if approved. My family has been residents of Pinetree since the late 1970s and I think this rezoning will increase traffic and add further congestion to our neighborhood.

Please do not approve the rezoning of 1465 Shiloh Road.

Sincerely,

Jeff Davis  
3743 Creekwood Xing, Kennesaw, Ga 30144

## Lea Addington

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**From:** Nancy Dowling <[REDACTED]>  
**Sent:** Monday, June 15, 2020 4:52 PM  
**To:** kennesawcouncil  
**Subject:** 1465 Shiloh Rd Rezoning

I live on Frey Lake Road. When college students are in town our traffic is horrendous because so many students cut through from the apartments at Cherokee and McCollum. They cut through going TO and FROM class.

This Shiloh complex would increase traffic coming FROM class far too much more. The exit from the neighborhood on Ayers is the easiest way for them to get back home and practically dumps them in the driveway without crossing traffic!

This development will destroy our quality of life here. Walking the dog will be too dangerous! Please, please do not allow!

Nancy Dowling

## Lea Addington

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**From:** Mary Clarice Hathaway <mary.clarice.hathaway@gmail.com>  
**Sent:** Monday, June 15, 2020 5:07 PM  
**To:** kennesawcouncil  
**Subject:** Rezoning for 1465 Shiloh Road

Dear Mayor and Kennesaw City Council,

While I have already sent correspondence to all of you stating my objections to the new residential development potentially being considered off of Shiloh Road, I am writing this email to reinforce my objections. My previous letter, that I hope and assume that you all read, stated all of my objections specifically. So the point of this email is to reinforce that, but also let you all know that the overwhelming majority of us that live in Pinetree Country Club DO NOT SUPPORT this development in any capacity. However, the Pinetree Civic Association that is supposed to positively promote and support the neighborhood is sending you a letter of support for the development, even knowing that we do not support this.

The PTCA sold out and decided to go against the neighborhood that they are supposed to represent. This development is going to cause traffic issues, noise issues, and land issues. It will devalue our property and the PTCA has already acknowledged that the available "solutions" will still place the burdens and inconveniences that this development will create on the backs of the Pinetree residents.

I have not spoken with one person who is in favor of this. If you all vote to approve this measure, just know that you'll be betraying the very people you are supposed to represent.

Sincerely,

Mary Clarice Hathaway  
Pinetree Resident

**From:** Brendan Cosgrove <[REDACTED]>  
**Sent:** Monday, June 15, 2020 5:06 PM  
**To:** kennesawcouncil; Darryl Simmons  
**Subject:** Objection to Shiloh Student Housing

My name is Brendan Cosgrove. I live at 4028 Ayers Drive, which is situated just behind the proposed development. It's a house that I share with my wife, and, in less than a month, a baby. I had hoped to attend this meeting in person -- as would some of my neighbors -- but the current pandemic and previous engagements has many stuck at home. I hope these words will carry the same impact as my physical presence and I hope my neighborhood's opposition will be considered beyond the page.

I want to be respectful of your time so I'll try to keep this brief.

I feel you won't need much convincing that this development will certainly make one of the city's busiest intersections more dangerous. I don't think it's really in question that this development will have a substantial impact on traffic in our residential neighborhood. But conveniently for the out-of-state developers, it could be years before we know how substantial that impact may be. Or whenever we get a traffic study. It is also clear that property values will be diminished, unless of course the next big housing trends put an emphasis on lack of privacy.

I don't make that comment flippantly. The developers don't seem to have exact specifications for grading and drainage yet, so they can't guarantee what sight lines look like into our houses and yards. One guarantee we do have? A lot of us will have to invest in some quality curtains.

Quality of life will also be affected since overflow parking will almost certainly end up on our streets and in the neighboring business park. I am unpersuaded by the amount of parking spots the development has allocated, especially since such a large amount of them are compact spots. If that's a solution, maybe the developers should just paint twice as many lines. It seems to me that this parking "solution" is merely an attempt to convince the city that they'll get twice as much pizza if they cut the slices in half.

This development also doesn't suit the neighborhood. Weeks ago, someone tried to make the argument that this plot of land is "surrounded by commercial property." That ignores, well, the property that surrounds it.

Please don't mistake my argument for an anti-growth/"Stay out of my neighborhood" critique. I am extremely sympathetic to growth. And I have personally lived in several college towns in this state. I'm not naive enough to think that this city will look the same in 25 years. I'm not trying to stand in the way of progress. But the whole point of zoning laws is to make sure that that progress benefits the community. The whole point of zoning laws is to ensure growth makes sense. This development misses the mark on both counts.

I thank the city council and the mayor for their valuable time. Have a good night.

Brendan Cosgrove  
4028 Ayers Dr NW  
Kennesaw, GA 30144

## Darryl Simmons

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**From:** SUSAN HOPKINS <matt.hopkins@kennesawnet>  
**Sent:** Monday, June 15, 2020 11:25 AM  
**To:** Darryl Simmons  
**Subject:** Shiloh road zoning change

Mr. Simmons,

We will not be attending the meeting tonight due to the virus. We have attended all of the meetings prior to this one and would like to make a couple of comments. We listened to your argument that is change is for the good of the University. What about the good of the community? DOES ANYONE CARE? I understand that economically if it was not for the university, Kennesaw would be broke but at what cost? We also heard you start to say "Pine Tree is declining", then you stopped yourself. That statement told me that you do not care about the residents in Pine Tree. Your main concern is to increase the tax base and help the developers. I have a minor in Urban Planning. I was taught that putting inconsistent activity's (office park, high density housing) together is asking for depressed tax bases and unhappy citizens. Did you not learn that?

What is the occupancy rate for all of the apartments in downtown Kennesaw? What is the occupancy rate for all of the many other student housing that already exists? The town has turned into high density living without the infrastructure to support it (roads).

Traffic and trash are some of our main concerns. The location of this project is going to turn Shiloh Trail East into a secondary road, not a residential road. The only way to get to this property will be to cut through Pine Tree. Going to campus from this property students will have turn right onto Shiloh and then over 75. Coming home the only way they will be able to get back to the property is to cut through on Frey Lake Road, Club Drive, and Shiloh Trail East/ Ayers Drive. The county is already working on the intersection adding lanes. Adding an additional 80 cars everyday is ill-planned. You do not have the power nor does the city to correct this. The answer to Pine Tree's issue is to close the entrance from the campus. Put a gate with a knock box on it for emergency personnel only.

One more comment. During your last presentation to the council you stated that an offer to do a traffic study was turned down by the residents. This is patently FALSE. I was never offered any such thing nor were any of our neighbors. I suspect the residents/owners who want to sell were the only ones who were surveyed. The traffic study should be completed prior to any more discussion.

We have attended every meeting over the past 10 years while you have been attempting to get this pushed through. I hope that you will take the few minutes it takes to read this and think about more taxes and money. We all know that is about money, not students.

Thank you for your time.

Matt and Susan Hopkins  
1338 Shiloh Trail East, NW

## Darryl Simmons

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**From:** Darryl Simmons  
**Sent:** Monday, June 15, 2020 10:57 AM  
**To:** Council  
**Cc:** Lea Addington; Randall Bentley; Marty Hughes  
**Subject:** FW: 1465 Shiloh housing proposal

**From:** Georgia Pinball <gapinball@gmail.com>  
**Sent:** Monday, June 15, 2020 9:28 AM  
**Subject:** 1465 Shiloh housing proposal

Dear Mayor Easterling and Council members,

We have recently learned about the proposed student housing development at 1465 Shiloh Rd and I wish to express our support for this project. We believe that providing and promoting student housing in Kennesaw will bring more tax dollars to our town and will support local businesses like ours. Particularly in the wake of COVID-19 when many small businesses are struggling, we are looking to our city government to make decisions that are in the best interest of the taxpaying citizens and businesses in Kennesaw. The financial health of this city is important and we believe the student housing project has great potential to bolster our economy in many ways.

We have read about some opposition from the residents of Pinetree Country club. It is our understanding that these residents do pay taxes or vote in Kennesaw. Additionally, we have read of opposition from a nearby business center who also does not pay taxes in Kennesaw. Businesses and residents who don't pay taxes or vote in our city should not call the shots on the future of Kennesaw. Concerns have been voiced about increased traffic and that may certainly be an issue. Unfortunately, with growth comes traffic. KSU will continue to grow and there will continue to be a need for safe student housing.

Thank you for your consideration of our support of the proposed student housing development at 1465 Shiloh Rd. We are located about 3 minutes away from there and would love to see if you are in the area!

Sincerely,

Bryan and Amanda Broyles  
Portal Pinball Arcade  
3600 Cherokee Dr, Ste 102  
Kennesaw, GA 30144

## Darryl Simmons

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**From:** Mark Allen  
**Sent:** Monday, June 8, 2020 10:25 AM  
**To:** Patrick Ferris; Christopher Henderson; David Blinkhorn; James Eaton; Tracey Viars; Derek Easterling  
**Cc:** robert@singletonrealestate.com; Darryl Simmons; Jeff Drobney  
**Subject:** 1465 Shiloh Road / A 'Win-Win'

Dear Honorable Mayor and Council Members,

As a Kennesaw taxpayer, business owner and chair of the Kennesaw Downtown Development Authority I wanted to express my support for 1465 Shiloh Road proposed as a student housing project. I believe student housing is the best use for this property given the 'right-turn' out of the property; which has no entry/exit into the Pine Tree Country Club subdivision. I believe more people residing close to downtown translates into more people coming into downtown to spend money. From a tax perspective that property is generating minimal revenue each year while zoned as residential. Shifting it to commercial will certainly generate more ongoing tax revenues for the city not to mention the building permits that would be required once construction began. As I understand it, the majority of the opposition being voiced is from residents in Pine Tree County Club which, as you know, are not residents within the Kennesaw city limits and do not contribute to the property tax base of Kennesaw. I trust the vote you cast will be yours and yours alone without influence from friends, family or people with their own agenda which isn't in the interest of the City of Kennesaw or best for Kennesaw's future. As a business owner I urge you to agree that granting this zoning change is a win-win for Kennesaw all around.

Thank you for your time.

Mark Allen

~~XXXXXXXXXX~~

Chair - Kennesaw Downtown Development  
Manager - Kennesaw Market Monday  
Coordinator - Kennesaw Beer Festival

## Darryl Simmons

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**From:** Kelly Trim <kellytrim@icloud.com>  
**Sent:** Monday, June 15, 2020 12:32 PM  
**To:** Derek Easterling; Jeff Drobney; Darryl Simmons; David Blinkhorn; pferris@kenensaw-ga.gov; Christopher Henderson; Tracey Viars; James Eaton  
**Subject:** Affordable Student Housing - A Mom's Perspective

Dear Mayor Easterling and Kennesaw City Council Members,

I'm reaching out today regarding the proposed student housing (Item B.) on your agenda for tonight's meeting. As a homeowner, taxpayer, voter in the city of Kennesaw and most importantly, mother of rising high school seniors (twins) heading to KSU in the fall of 2021, I'm asking you to fully support this development.

If you've recently researched student housing, you've not only seen the explosion in costs, but are no doubt aware of the waiting lists driven by the lack of housing and the drastic increase in the number of students. Besides the growing need for safe affordable student housing, it is imperative to **support the development proposed for 1465 Shiloh Road** for the following reasons.

**1- Reduces Stress Our Neighborhoods** - Without affordable student housing options, students will look to the neighborhoods for rental housing. Our quaint little family neighborhood, with small children who play on our streets and elderly original owners who enjoy the quiet, will be forced to deal with renting students.

**2- Helps Our Local Economy** - 6 months ago we had no idea that a global pandemic would wreck our economy. We can no longer afford to deny a business that wants to come to Kennesaw to provide essential services...and affordable student housing is essential. If they don't come here, their tax dollars will certainly be welcome by our neighbors.

**3- Improves Safety** - Providing safe, secure housing to KSU students so close to campus protects not only those students, but the entire area. Less commute time and close proximity to available jobs means less driving time and therefore less student drivers on our roads.

I am aware that a few friends who reside outside the city limits of Kennesaw may have shared their concerns over traffic and growth. While all views are important, I respectfully urge you to more carefully consider the views of actual taxpaying Kennesaw City residents on this issue.

Thank you for your kind consideration.

Kelly  
cell/txt: [REDACTED]  
2919 Lula Ln NW  
Kennesaw, GA 30144

## Darryl Simmons

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**From:** Robert Trim <~~roberttrim@me.com~~>  
**Sent:** Monday, June 15, 2020 6:56 PM  
**To:** kennesawcouncil  
**Cc:** Derek Easterling; Jeff Drobney; Darryl Simmons; David Blinkhorn; pferris@kenensaw-ga.gov; Christopher Henderson; Tracey Viars; James Eaton  
**Subject:** I support the Student housing

Please let them know that I am a voter and tax payer with a business located in the city of Kennesaw. I am also an alum of Kennesaw State University.

The list you read while interesting does not give any idea who they are or where they are from.

My address is  
2919 Lula lane  
30144

## Exhibit – H

**IN RE:        Fountain Residential Partners, LLC  
                 City of Kennesaw Rezoning Application RZ 2020-01  
                 City of Kennesaw Variance Application ZV 2020-01  
                 +/- 4.4 acres at 1465 Shiloh Road, Kennesaw, Georgia**

### AFFIDAVIT

**STATE OF GEORGIA  
COBB COUNTY**

1.        My name is **K.C. Hamill**, and after personally appearing before the undersigned attesting officer duly authorized to administer oaths in the State of Georgia and after first being duly sworn, I state, under oath the following:

2.        I am over the age of 21, competent in all respects to testify regarding the facts contained below and suffer no mental or physical infirmities. Unless otherwise stated below, all facts are based upon my personal knowledge.

3.        I give this Affidavit freely and voluntarily for use in connection with the proposed rezoning sought by Fountain Residential Partners, LLC for a certain +/- 4.4 acre tract of land specifically located at and known as 1465 Shiloh Road, Kennesaw, Georgia 30144 (the "Subject Property.")

4.        I own and live at the property located at and known as 4008 Ayers Drive, Kennesaw, Georgia 30144. As shown on the GIS Map attached as Exhibit "A", my property is one property removed from the Subject Property.

5.        I have examined the March 13, 2020 revised site plan and materials filed in connection with Fountain Residential Partners, LLC's rezoning and variance applications, which proposes the construction of a 3-story, 34.75' tall student housing apartment with 52 units and 241 beds on the Subject Property.

6. In my experience, as a homeowner near the Subject Property, and based upon my proximity to Ayers Drive and Shiloh Road, the area experiences increasing problems due to Kennesaw State University students speeding past Ayers Drive, throwing trash, and parking on and around Ayers Drive. I am familiar with property values in the area of my home and it is my opinion that due to my home's location near the Subject Property, my home will be devalued by at least 15-20% if the proposed student housing apartment is allowed to be constructed on the Subject Property.


7. In addition to the problems referenced in Paragraph 6, a 3-story, 34.75' tall apartment building will tower over my house, causing it to further diminish in value due to its proximity to this proposed project. Considering the constant (and similar) problems U Club and West 22 already create for Kennesaw, there is no doubt there will be a substantial increase in lights, noise and other emanations from this project particularly at unusual hours, which will specifically damage and derogate from the reasonable use and enjoyment of my property. For example, listen to the attached composite recordings of evening and late-night music and other noises frequently experienced by homes adjoining the West 22 student housing development.

8. The referenced rezoning applications seek approval of a use that is inconsistent with the residential character of my neighborhood as well with the City of Kennesaw's land use plan and I believe that the proposed rezoning, if granted, would constitute an abuse of the City's zoning power.

9. Approval of this rezoning application would deprive me of the enjoyment of my property without due process (GA Const. Art. 1, § 1, ¶ I), deny me of my equal protection rights (GA Const. Art. 1, § 1, ¶ II), and further shall amount to a taking with compensation being first paid (GA Const. Art. 1, § 3, ¶ I).

FURTHER AFFIANT SAYETH NOT.

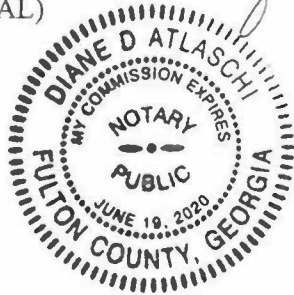
So sworn, this 12 day of June, 2020.

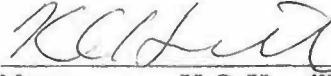


Notary Public

My commission expires: June 19, 2020

(SEAL)





Name:

**K.C. Hamill**

Address:

**4008 Ayers Drive**

**EXHIBIT "A"**



IN RE:           Fountain Residential Partners, LLC  
                  City of Kennesaw Rezoning Application RZ 2020-01  
                  City of Kennesaw Variance Application ZV 2020-01  
                  +/- 4.4 acres at 1465 Shiloh Road, Kennesaw, Georgia

AFFIDAVIT

STATE OF GEORGIA  
COBB COUNTY

1.       My name is **Brendan Cosgrove**, and after personally appearing before the undersigned attesting officer duly authorized to administer oaths in the State of Georgia and after first being duly sworn, I state, under oath the following:

2.       I am over the age of 21, competent in all respects to testify regarding the facts contained below and suffer no mental or physical infirmities. Unless otherwise stated below, all facts are based upon my personal knowledge.

3.       I give this Affidavit freely and voluntarily for use in connection with the proposed rezoning and variances sought by Fountain Residential Partners, LLC for a certain +/- 4.4 acre tract of land specifically located at and known as 1465 Shiloh Road, Kennesaw, Georgia 30144 (the "Subject Property.")

4.       I own and live at the property located at and known as 4028 Ayers Drive, Kennesaw, Georgia 30144. As shown on the GIS Map attached hereto as Exhibit A, my property is adjacent to the Subject Property.

5.       I have examined the March 13, 2020 revised site plan and materials filed in connection with Fountain Residential Partners, LLC's rezoning and variance applications, which proposes the construction of a 3-story, 34.75' tall student housing apartment with 52 units and 241 beds on the Subject Property

6. In my experience, as a homeowner near the Subject Property, and based upon my proximity to Ayers Drive and Shiloh Road, the area experiences increasing problems due to Kennesaw State University students speeding past Ayers Drive, throwing trash, and parking on and around Ayers Drive. I am familiar with property values in the area of my home and it is my opinion that due to my home's location near the Subject Property, my home will be devalued by at least 15-20% if the proposed student housing apartment is allowed to be constructed on the Subject Property.

7. In addition to the problems referenced in Paragraph 6, a 3-story, 34.75' tall apartment building will tower over my house, causing it to further diminish in value due to its proximity to this proposed project. Considering the constant (and similar) problems U Club and West 22 already create for Kennesaw, there is no doubt there will be a substantial increase in lights, noise and other emanations from this project particularly at unusual hours, which will specifically damage and derogate from the reasonable use and enjoyment of my property.

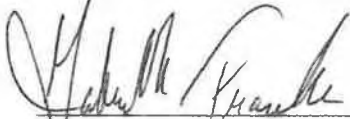
8. The referenced rezoning applications seek approval of a use that is inconsistent with the residential character of my neighborhood as well with the City of Kennesaw's land use plan and I believe that the proposed rezoning, if granted, would constitute an abuse of the City's zoning power. Further, the City of Kennesaw's development code does not permit it to grant at least one of the applicant's requested variances (density). Finally, the applicant has not shown any hardships to justify any variances from the City of Kennesaw's Code, least of all any variance increasing the density to one greater than that allowed by the City of Kennesaw's Code.

9. Approval of these rezoning and variance applications would deprive me of the enjoyment of my property without due process (GA Const. Art. 1, § 1, ¶ I), deny me of my equal

protection rights (GA Const. Art. 1, § 1, ¶ II), and further shall amount to a taking with compensation being first paid (GA Const. Art. 1, § 3, ¶ I).

FURTHER AFFIANT SAYETH NOT.

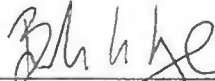
So sworn, this 15 day of June, 2020.



Notary Public

My commission expires: 11/20/2023

(SEAL)



Name: **Brendan Cosgrove**

Address: **4028 Ayers Drive**



**EXHIBIT "A"**



**IN RE:       Fountain Residential Partners, LLC  
              City of Kennesaw Rezoning Application RZ 2020-01  
              City of Kennesaw Variance Application ZV 2020-01  
              +/- 4.4 acres at 1465 Shiloh Road, Kennesaw, Georgia**

**AFFIDAVIT**

**STATE OF GEORGIA  
COBB COUNTY**

1.       My name is **Ryan Lee**, and after personally appearing before the undersigned attesting officer duly authorized to administer oaths in the State of Georgia and after first being duly sworn, I state, under oath the following:

2.       I am over the age of 21, competent in all respects to testify regarding the facts contained below and suffer no mental or physical infirmities. Unless otherwise stated below, all facts are based upon my personal knowledge.

3.       I give this Affidavit freely and voluntarily for use in connection with the proposed rezoning and variances sought by Fountain Residential Partners, LLC for a certain +/- 4.4 acre tract of land specifically located at and known as 1465 Shiloh Road, Kennesaw, Georgia 30144 (the "Subject Property.")

4.       I am the CEO of R.A. Lee & Associates Architects, Inc. ("R.A. Lee"), which owns an office condominium located in the 75 Wade Green Business Center at 1301 Shiloh Road, Suite 321, Kennesaw, Georgia 30144, in which R.A. Lee operates its business. As shown on the GIS Map attached hereto as Exhibit A, R.A. Lee property is adjacent to the Subject Property.

5.       I have examined the March 13, 2020 revised site plan and materials filed in connection with Fountain Residential Partners, LLC's rezoning and variance applications, which proposes the construction of a 3-story, 34.75' tall student housing apartment with 52 units and 241 beds on the Subject Property.

6. In my experience, as a business and property owner in the 75 Wade Green Business Center, adjacent to the Subject Property, and based upon my proximity to Shiloh Road, the area experiences increasing problems due to Kennesaw State University students throwing trash in our office park and on surrounding streets as well as parking in our office park. I am familiar with property values in the area and it is my opinion that due to my property's location adjacent to the Subject Property, my property will be devalued by at least 15-20% if the proposed student housing apartment is allowed to be constructed on the Subject Property.

7. In addition to the problems referenced in Paragraph 6, a 3-story, 34.75' tall apartment building will tower over my office, causing it, as well as my business, to further diminish in value due to its proximity to this proposed project. Considering the constant (and similar) problems U Club and West 22 already create for Kennesaw, there is no doubt there will be a substantial increase in lights, noise and other emanations from this project particularly at unusual and unregulated hours, which will specifically damage and derogate from the reasonable use and enjoyment of my property and will further negatively impact R.A. Lee's business.

8. The referenced rezoning and variance applications seek approval of a use that is inconsistent with the character of our business office park as well with the City of Kennesaw's land use plan and I believe that the proposed rezoning, if granted, would constitute an abuse of the City's zoning power.

9. Approval of this rezoning application would deprive me of the enjoyment of my property without due process (GA Const. Art. 1, § 1, ¶ I), deny me of my equal protection rights (GA Const. Art. 1, § 1, ¶ II), and further shall amount to a taking with compensation being first paid (GA Const. Art. 1, § 3, ¶ I).

[Signature Page Follows]

FURTHER AFFIANT SAYETH NOT.

So sworn, this 15<sup>th</sup> day of June, 2020

Rose Marie Martin

Notary Public

My commission expires: 06-04-2022

(SEAL)



Ryan Lee

R.A. Lee & Associates, Architects, Inc.  
1301 Shiloh Road, Suite 320

EXHIBIT A



IN RE:           Fountain Residential Partners, LLC  
                  City of Kennesaw Rezoning Application RZ 2020-01  
                  City of Kennesaw Variance Application ZV 2020-01  
                  +/- 4.4 acres at 1465 Shiloh Road, Kennesaw, Georgia

**AFFIDAVIT**

**STATE OF GEORGIA**  
**COBB COUNTY**

1.       My name is **Ricardo Zampatti**, and after personally appearing before the undersigned attesting officer duly authorized to administer oaths in the State of Georgia and after first being duly sworn, I state, under oath the following:

2.       I am over the age of 21, competent in all respects to testify regarding the facts contained below and suffer no mental or physical infirmities. Unless otherwise stated below, all facts are based upon my personal knowledge.

3.       I give this Affidavit freely and voluntarily for use in connection with the proposed rezoning and variances sought by Fountain Residential Partners, LLC for a certain +/- 4.4 acre tract of land specifically located at and known as 1465 Shiloh Road, Kennesaw, Georgia 30144 (the "Subject Property.")

4.       I am the CFO of 75 Wade Green Business Center Association, Inc. (the "Association") as well as a board member, which was authorized by the record Declaration of Covenants for the 75 Wade Green Business Center in Kennesaw, Georgia, said covenants recorded in the Cobb County Real Estate Records at Deed Book 13071, Page 533 and Deed Book 13502, Page 1715, and are incorporated herein by reference. As shown on the GIS Map attached hereto as Exhibit A, the Association's property is adjacent to the Subject Property.

5.       I have examined the March 13, 2020 revised site plan and materials filed in connection with Fountain Residential Partners, LLC's rezoning and variance applications, which

proposes the construction of a 3-story, 34.75' tall student housing apartment with 52 units and 241 beds on the Subject Property

6. In my experience, as a business and property owner in the 75 Wade Green Business Center adjacent to the Subject Property as well as CFO of the Association, and based upon the Association's proximity to Shiloh Road, the area experiences increasing problems due to Kennesaw State University students throwing trash in our office park and on surrounding streets as well as parking in our office park. I am familiar with property values in the area and it is my opinion that due to the Association's property's location adjacent to the Subject Property, the Association's property will be devalued by at least 15-20% if the proposed student housing apartment is allowed to be constructed on the Subject Property.

7. In addition to the problems referenced in Paragraph 6, a 3-story, 34.75' tall apartment building will tower over our office park, causing it, as well as the business I operate in the park, to further diminish in value due to its proximity to this proposed project. Considering the constant (and similar) problems U Club and West 22 already create for Kennesaw, there is no doubt there will be a substantial increase in lights, noise and other emanations from this project particularly at unusual and unregulated hours, which will further negatively impact my business and property value as well as the Association's property to a degree, and in a manner, not experienced by other members of the public.

8. The referenced rezoning and variance applications seek approval of a use that is inconsistent with the character of our business office park as well with the City of Kennesaw's land use plan and I believe that the proposed rezoning, if granted, would constitute an abuse of the City's zoning power.

9. Approval of this rezoning application would deprive me of the enjoyment of my property without due process (GA Const. Art. 1, § 1, ¶ I), deny me of my equal protection rights (GA Const. Art. 1, § 1, ¶ II), and further shall amount to a taking with compensation being first paid (GA Const. Art. 1, § 3, ¶ I).

FURTHER AFFIANT SAYETH NOT.

So sworn, this 12 day of June, 2020.

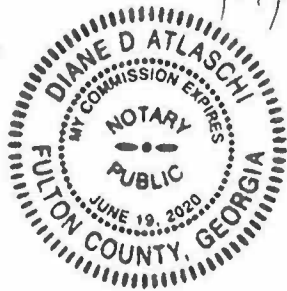
Diane D. Atlaschi

Notary Public

My commission expires: 6/19/20

Center

(SEAL)



Ricardo Zampatti

Name: **Ricardo Zampatti**

**Board Member, 75 Wade Green Business**

**Association, Inc.**

**1301 Shiloh Road, Suite 1621**

EXHIBIT A



IN RE:           **Fountain Residential Partners, LLC**  
                    **City of Kennesaw Rezoning Application RZ 2020-01**  
                    **City of Kennesaw Variance Application ZV 2020-01**  
                    **+/- 4.4 acres at 1465 Shiloh Road, Kennesaw, Georgia**

**AFFIDAVIT**

**STATE OF GEORGIA**  
**COBB COUNTY**

1.     My name is **Kenneth Stavas**, and after personally appearing before the undersigned attesting officer duly authorized to administer oaths in the State of Georgia and after first being duly sworn, I state, under oath the following:

2.     I am over the age of 21, competent in all respects to testify regarding the facts contained below and suffer no mental or physical infirmities. Unless otherwise stated below, all facts are based upon my personal knowledge.

3.     I give this Affidavit freely and voluntarily for use in connection with the proposed rezoning and variances sought by Fountain Residential Partners, LLC for a certain +/- 4.4 acre tract of land specifically located at and known as 1465 Shiloh Road, Kennesaw, Georgia 30144 (the "Subject Property.")

4.     I am the Secretary of 75 Wade Green Business Center Association, Inc. (the "Association"), which was authorized by the record Declaration of Covenants for the 75 Wade Green Business Center in Kennesaw, Georgia, said covenants recorded in the Cobb County Real Estate Records at Deed Book 13071, Page 533 and Deed Book 13502, Page 1715, and are incorporated herein by reference. As shown on the GIS Map attached hereto as Exhibit A, the Association's property is adjacent to the Subject Property.

5.     I have examined the March 13, 2020 revised site plan and materials filed in connection with Fountain Residential Partners, LLC's rezoning and variance applications, which

proposes the construction of a 3-story, 34.75' tall student housing apartment with 52 units and 241 beds on the Subject Property.

6. In my experience, as a business and property owner in the 75 Wade Green Business Center adjacent to the Subject Property as well as Secretary of the Association, and based upon the Association's proximity to Shiloh Road, the area experiences increasing problems due to Kennesaw State University students throwing trash in our office park and on surrounding streets as well as parking in our office park. I am familiar with property values in the area and it is my opinion that due to the Association's property's location adjacent to the Subject Property, the Association's property will be devalued by at least 15-20% if the proposed student housing apartment is allowed to be constructed on the Subject Property.

7. In addition to the problems referenced in Paragraph 6, a 3-story, 34.75' tall apartment building will tower over our office park, causing it, as well as the business I operate in the park, to further diminish in value due to its proximity to this proposed project. Considering the constant (and similar) problems U Club and West 22 already create for Kennesaw, there is no doubt there will be a substantial increase in lights, noise and other emanations from this project particularly at unusual and unregulated hours, which will specifically damage and derogate from the reasonable use and enjoyment of my property as well as the Association's property.


8. The referenced rezoning and variance applications seek approval of a use that is inconsistent with the character of our business office park as well with the City of Kennesaw's land use plan and I believe that the proposed rezoning, if granted, would constitute an abuse of the City's zoning power.

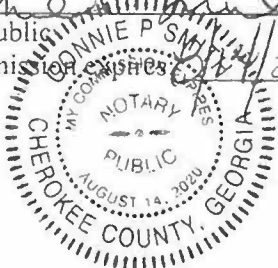
9. Approval of this rezoning application would deprive me of the enjoyment of my property without due process (GA Const. Art. 1, § 1, ¶ I), deny me of my equal protection rights

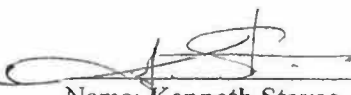
(GA Const. Art. 1, § 1, ¶ II), and further shall amount to a taking with compensation being first paid (GA Const. Art. 1, § 3, ¶ I).

FURTHER AFFIANT SAYETH NOT.

So sworn, this 12<sup>th</sup> day of June, 2020.

  
Notary Public  
My commission expires 8/14/2020  
(SEAL)



  
Name: **Kenneth Stavas**  
Secretary, 75 Wade Green Business  
Center Association, Inc.  
1301 Shiloh Road, Suite 1730

**EXHIBIT A**



**IN RE:           Fountain Residential Partners, LLC  
                  City of Kennesaw Rezoning Application RZ 2020-01  
                  City of Kennesaw Variance Application ZV 2020-01  
                  +/- 4.4 acres at 1465 Shiloh Road, Kennesaw, Georgia**

**AFFIDAVIT**

**STATE OF GEORGIA  
COBB COUNTY**

1.       My name is **Ty Kataja**, and after personally appearing before the undersigned attesting officer duly authorized to administer oaths in the State of Georgia and after first being duly sworn, I state, under oath the following:

2.       I am over the age of 21, competent in all respects to testify regarding the facts contained below and suffer no mental or physical infirmities. Unless otherwise stated below, all facts are based upon my personal knowledge.

3.       I give this Affidavit freely and voluntarily for use in connection with the proposed rezoning and variances sought by Fountain Residential Partners, LLC for a certain +/- 4.4 acre tract of land specifically located at and known as 1465 Shiloh Road, Kennesaw, Georgia 30144 (the "Subject Property.")

4.       I own and live at the property located at and known as 1440 Shiloh Trail NW, Kennesaw, Georgia 30144. As shown on the GIS Map attached hereto as Exhibit "A", my property is adjacent to the Subject Property.

5.       I have examined the March 13, 2020 revised site plan and materials filed in connection with Fountain Residential Partners, LLC's rezoning and variance applications, which proposes the construction of a 3-story, 34.75' tall student housing apartment with 52 units and 241 beds on the Subject Property.

6. In my experience, as a homeowner near the Subject Property, and based upon my proximity to Ayers Drive and Shiloh Road, the area experiences increasing problems due to Kennesaw State University students speeding past Ayers Drive, throwing trash, and parking on and around Ayers Drive. I am familiar with property values in the area of my home and it is my opinion that due to my home's location bordering the Subject Property, my home will be devalued by at least 15-20% if the proposed student housing apartment is allowed to be constructed on the Subject Property.

7. In addition to the problems referenced in Paragraph 6, a 3-story, 34.75' tall apartment building will tower over my house, causing it to further diminish in value due to its proximity to this proposed project. Considering the constant (and similar) problems U Club and West 22 already create for Kennesaw, there is no doubt there will be a substantial increase in lights, noise and other emanations from this project particularly at unusual hours, which will specifically damage and derogate from the reasonable use and enjoyment of my property.

8. The referenced rezoning applications seek approval of a use that is inconsistent with the residential character of my neighborhood as well with the City of Kennesaw's land use plan and I believe that the proposed rezoning, if granted, would constitute an abuse of the City's zoning power.

9. Approval of this rezoning application would deprive me of the enjoyment of my property without due process (GA Const. Art. 1, § 1, ¶ I), deny me of my equal protection rights (GA Const. Art. 1, § 1, ¶ II), and further shall amount to a taking with compensation being first paid (GA Const. Art. 1, § 3, ¶ I).

[Signature Page Follows]

FURTHER AFFIANT SAYETH NOT.

So sworn, this 13<sup>th</sup> day of June, 2020.



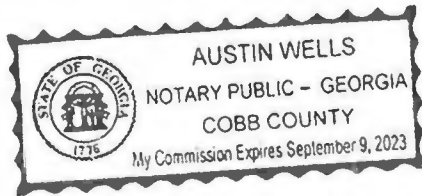
Notary Public

My commission expires: 9/9/23  
(SEAL)



Name: **Ty Kataja**

Address: **1440 Shiloh Trail NW**



**EXHIBIT A**



**IN RE:       Fountain Residential Partners, LLC  
              City of Kennesaw Rezoning Application RZ 2020-01  
              City of Kennesaw Variance Application ZV 2020-01  
              +/- 4.4 acres at 1465 Shiloh Road, Kennesaw, Georgia**

**AFFIDAVIT**

**STATE OF GEORGIA  
COBB COUNTY**

1.       My name is **Lonnie Roberts**, and after personally appearing before the undersigned attesting officer duly authorized to administer oaths in the State of Georgia and after first being duly sworn, I state, under oath the following:

2.       I am over the age of 21, competent in all respects to testify regarding the facts contained below and suffer no mental or physical infirmities. Unless otherwise stated below, all facts are based upon my personal knowledge.

3.       I give this Affidavit freely and voluntarily for use in connection with the proposed rezoning and variances sought by Fountain Residential Partners, LLC for a certain +/- 4.4 acre tract of land specifically located at and known as 1465 Shiloh Road, Kennesaw, Georgia 30144 (the "Subject Property.")

4.       I own and live at the property located at and known as 1432 Shiloh Trail NW, Kennesaw, Georgia 30144. As shown on the GIS Map attached hereto as Exhibit "A", my property is adjacent to the Subject Property.

5.       I have examined the March 13, 2020 revised site plan and materials filed in connection with Fountain Residential Partners, LLC's rezoning and variance applications, which proposes the construction of a 3-story, 34.75' tall student housing apartment with 52 units and 241 beds on the Subject Property.

6. In my experience, as a homeowner near the Subject Property, and based upon my proximity to Ayers Drive and Shiloh Road, the area experiences increasing problems due to Kennesaw State University students speeding past Ayers Drive, throwing trash, and parking on and around Ayers Drive. I am familiar with property values in the area of my home and it is my opinion that due to my home's location near the Subject Property, my home will be devalued by at least 15-20% if the proposed student housing apartment is allowed to be constructed on the Subject Property.

7. In addition to the problems referenced in Paragraph 6, a 3-story, 34.75' tall apartment building will tower over my house, causing it to further diminish in value due to its proximity to this proposed project. Considering the constant (and similar) problems U Club and West 22 already create for Kennesaw, there is no doubt there will be a substantial increase in lights, noise and other emanations from this project particularly at unusual hours, which will specifically damage and derogate from the reasonable use and enjoyment of my property.

8. The referenced rezoning and variance applications seek approval of a use that is inconsistent with the character of our business office park as well with the City of Kennesaw's land use plan and I believe that the proposed rezoning, if granted, would constitute an abuse of the City's zoning power.

9. Approval of this rezoning application would deprive me of the enjoyment of my property without due process (GA Const. Art. 1, § 1, ¶ I), deny me of my equal protection rights (GA Const. Art. 1, § 1, ¶ II), and further shall amount to a taking with compensation being first paid (GA Const. Art. 1, § 3, ¶ I).

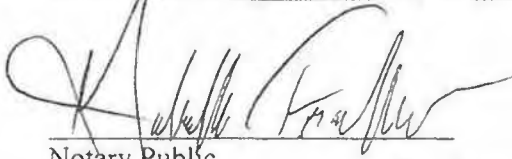
[Signature Page Follows]

EXHIBIT A



FURTHER AFFIANT SAYETH NOT.

So sworn, this 13 day of June, 2020.



Notary Public

My commission expires: 11/20/2023  
(SEAL)



Name: **Lonnie Roberts**

Address: **1432 Shiloh Trail NW**

