



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

KENNESAW PLANNING COMMISSION

March 3, 2021 – 7:00 P.M.

Meeting Minutes

City Hall Council Chambers

Upcoming Mayor and Council Meeting: March 15, 2021 – 6:30 P.M.

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 technology allowing the public simultaneous access to the public meeting.

You may attend the meeting in person with limited seating available at both City Council Chambers and the Ben Robertson Community Center. If you are unable to attend in-person and will like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 P.M. the night of the regular meeting. Your comment on a specific agenda item will be read aloud or grouped into categories for the record. Please note that the Planning Commission serves as an advisory board that makes recommendations to Mayor and Council unless otherwise noted.

The meeting may be accessed using Facebook Live via the following link:

<https://www.Facebook.com/City of Kennesaw/>

I. Call Meeting to Order/Roll Call

- Meeting called to order at 7:00 p.m. by Chairman Doug Rhodes.
- Roll Call: Doug Rhodes, Cindi Michael, Don Bergwall, Phillip Jackson, Dan Harrison and Lacey Ragus
- Absent: SaVaughn Irons
- Staff Present: Darryl Simmons (Zoning Administrator), Albert Trevino (Assistant Zoning Administrator & Planner) & Tanyel Aviles (Zoning Clerk)
- Applicants present: Bhavin Shah and Mike Patel (SLUP2021 - 01)

II. Approval of Meeting Minutes: February 3, 2021

- Chairman Rhodes introduced the next order of business which is the approval of meeting minutes for the February 3rd meeting. He stated if there were no edits, additions or omissions (seeing as the February minutes were quite thorough) to go ahead and call for a motion if there were no edits.
- Motion by Vice Chairman Michael to approve the February 3, 2021 Meeting Minutes.
- Seconded the motion by Commissioner Bergwall.



**The next scheduled meeting of the Kennesaw Planning Commission
April 07, 2021 at 7:00pm**

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- Affirmed by Vice Chairman Michael, Commissioner Harrison, Commissioner Bergwall, Commissioner Jackson and Commissioner Ragus
- **Motion carried by vote 5 - 0**

III. Public Hearing:

1. **SLUP2021-01** – Consideration to approve a special land use permit request submitted by Bhavin Shah. Said request is to allow for the use of a smoke shop at 1600 Kennesaw Due West Road, Suite 405. The property is zoned Neighborhood Retail Commercial (NRC) and consists of 7.38 +/- acres and lies in Land Lot 216, Tax Parcel 19.
 - Commissioner Rhodes introduces the first item of new business, and asks Mr. Simmons if staff has a presentation.
 - Mr. Simmons states yes that he will present and give an introduction before yielding the floor to the applicant for questions. Firstly, however, he stated he will introduce the new planning and zoning staff. He then states they are doing a fine job, and he is very relieved, as a manager, to have more support staff that will make things run a lot smoother. He introduces the newly-hired Zoning Clerk, who was taking the minutes, Tanyel Aviles, and re-introduces the new Assistant Zoning Administrator and City Planner, Albert Trevino. With that said, Mr. Simmons moves on to the first application of the evening stating: 1600 Kennesaw Due West Road, Suite 405 known as the Stilesboro Crossing Shopping Center (SLUP2021-01). He references the displayed pictures of the shopping center on the shared screen for review. He states that it is a commercial strip that has five detached buildings. It was constructed in 2007, and sits on 7.38 acres. The established zoning in that area is at the southernmost boundary for the City of Kennesaw, and borders Stilesboro and Kennesaw Due West Roads. The property was annexed in 2018 and was approved by Mayor and Council granting the re-zoning and annexation. This location and the use being proposed is in line with our Comprehensive Plan for that area as well as Cobb County's 2040 Comprehensive Plan for that area. That whole intersection has commercial and retail uses. So, the smoke shop on our zoning ordinance is allowed under retail/commercial, but it does require a special land use permit. This requires two hearings: one with the Planning Commission and one with Mayor and Council. We asked the applicant to provide with their application an inventory of all of the products that would be at this location. Staff has reviewed all of the items, and did not see anything that was suspect or inappropriate for our definition of base function. Again, the Stilesboro Crossing Shopping Center has several other suites with uses such as: Workout Anytime, Subway, Little Caesar's, School of Rock, Urgent Care and other neighborhood retail shops and services. The applicant is here to answer any





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questions particular or specific to the types of items that the smoke shop will be providing. Your Planning and Zoning Department recommends approval of the Special Land Use Permit (SLUP).

- Chairman Rhodes thanks Mr. Simmons and asks if any of the Commissioners have any questions.
- Commissioner Harrison asks where the location of the applicant's other smoke shop is.
- Mr. Simmons states that the other location is in Acworth, and that he will introduce the applicant and have him go into detail about how they are operating their Acworth smoke shop. The applicant also provided some pictures of that store. Mr. Simmons confirms with the applicant that the pictures of the Acworth store are included in the application. They are on page 26 (twenty-six).
- Commissioner Harrison clarifies that he wants to know the physical location of the Acworth store.
- Mr. Simmons explains the applicant will come up and give the Commissioners more detail on the Acworth store.
- Chairman Rhodes asks if there are any more questions for Mr. Simmons before the applicant takes the floor. There are no more questions. Chairman Rhodes thanks Mr. Simmons, and the applicant approaches the podium.
- The applicant, Mr. Mike Patel, introduces himself, and states the Acworth smoke shop is located at 4974 Cowan Rd Acworth, GA 30101 in answer to Commissioner Harrison's previous question.
- Commissioner Harrison asks how many customers a day the applicant would expect to have during the week and on the weekends at the new location.
- Mr. Patel states that on weekdays he would expect about 50 (fifty), and, on weekends, about 70 (seventy) to 75 (seventy-five).
- Commissioner Harrison asks what the applicant's particular attraction was to this location at Stilesboro and Kennesaw Due West.
- Mr. Patel responds that they were just looking for an area that wasn't covered. That it just seemed like a good location. There is a lot of traffic.
- Commissioner Harrison asks if the applicant is aware that there are several schools that are fairly close to that location.
- Mr. Patel responds that yes, he is aware, and states they did not want to be located on the road where the smoke shop would be visible, and that they are located kind of in between. So, the traffic that is driving by would not be able to see the store at all.
- Commissioner Harrison asks if they are going to be located more toward the middle of the shopping center.
- Mr. Patel responds that yes, they are more in the middle, and that traffic would have to drive all the way into the shopping center to see where the store is located. It is kind of in the back area as opposed to the front.
- Commissioner Harrison thanks the applicant.
- Mr. Patel thanks the commissioners and returns to his seat.





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- Chairman Rhodes opens the floor for public comments, and asks if there is anyone present.
- Mr. Simmons approaches the podium. He states that there is no one present for public comment.
- Chairman Rhodes closes the public comment portion, and states if there is no discussion or questions then he will call for a motion.
- However, Chairman Rhodes pauses and addresses Mr. Simmons with a question. He asks what the duration of the SLUP would be. Would it be a 12 (twelve) or 24 (twenty-four) month SLUP or is it indefinite?
- Mr. Simmons responds that it is indefinite, and that the SLUP is a one-time application. He also states that the permit can be tailored to the life of this particular business. The City of Kennesaw has the authority to make the SLUP valid for the life of this business. And if someone wants to come into that location, that suite, and, do the exact same thing, they would have to come back for another Special Land Use Permit. And it's non-transferable. It would not be eternal or in perpetuity. It would have to be subject to an application and a new applicant. And, they would come back in to Mayor and Council.
- Vice Chairman Michael asks if they have to stipulate in their motion that the SLUP be applicable to this applicant only.
- Mr. Simmons replies that she is correct.
- Chairman Rhodes asks if there are any other questions or comments.
- Commissioner Bergwall states that he has a question. He asks, if the laws in Georgia would allow the sale of marijuana, would that qualify in this store or would that require additional approval.
- Mr. Simmons responds that it would depend on the wording of the law. If it is something that requires additional approval by local authorities, then he would side on whatever the state law said. However, the applicant would have to come back to Mayor and Council and the Planning Commission to add a newly approved use that was not on the original application. Mr. Simmons states he would move forward on the side of caution, and bring it back to amend the SLUP.
- Commissioner Bergwall asks if Mr. Simmons knows what other states do in similar situations. Whether there are distinct sales outlets for marijuana or what.
- Mr. Simmons states that he is not fully versed on other state's protocols on marijuana sales, but that staff will keep that in mind. If the law changes, and it was not part of this original application and if Georgia state law says you have to return and the local authority has to grant it or there is some sort of process, we will certainly follow it.
- Commissioner Bergwall replies and states that with the applicant providing a detailed list on the materials they would offer for sale and roughly what that makes up as far as percentage their offering, it would seem that it might be something we would want to stipulate to say that if the laws were to change then that chart would have to be expanded and reviewed again. We're more so reviewing what the applicant is saying they're going to have.





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- Mr. Simmons replies that they can make that stipulation part of the motion for the SLUP. It can be a stipulation requiring that they stick with the exhibit that was presented for the services. And, if approved by Mayor and Council, that same list will be given to the business license department when they approve the business license. So, at least we have a reference on what they're providing.
- Commissioner Bergwall says ok.
- Chairman Rhodes thanks Mr. Simmons and calls for a motion.
- Commissioner Bergwall moves that they approve the SLUP for the smoke shop facility at 1600 Kennesaw Due West Road, and that the exhibits as presented would be the limits of the products that could be offered at that facility. Not necessarily in the percentages but the limits of what were displayed in the chart.
- Vice Chairman Michael seconds the motion with the stipulation that this SLUP is exclusive to this owner.
- Chairman Rhodes asks if Vice Chairman Michael would like to withdraw her second and allow Commissioner Bergwall to re-state his motion so that it's cohesive.
- Vice Chairman Michael withdraws her second.
- Chairman Rhodes asks Commissioner Bergwall to make another motion.
- Commissioner Bergwall moves to approve the SLUP for the smoke shop at 1600 Kennesaw Due West Road with the provision that the product offering be limited to the items as listed on their application, and it also be limited to the current applicant. Any changes to that would require additional review and approval.
- Vice Chairman Michael seconds the motion.
- Chairman Rhodes calls for a vote.
- Affirmed by Vice Chairman Michael, Commissioner Bergwall, Commissioner Jackson and Commissioner Ragus
- Denied by Commissioner Harrison
- **Motion carried by vote 4 – 1**

Sidebar: Chairman Rhodes addresses Mr. Simmons and expresses concern that the Planning and Zoning Department be prepared for potential changes in State Law regarding the distribution and sale of previously illegal substances. He states that Commissioner Bergwall's question posed a significant trend that we see throughout the United States right now where there is legalization of what were illegal drugs in the past and it would be a good idea for us as the Planning and Zoning Commission and staff to be proactive in looking at: Exactly where those kind of retail shops are located. If it was legalized in Georgia, how would we handle that? By law where would they go? Etc.





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Chairman Rhodes continued by saying that, in other cities, shops selling previously illegal substances appear to be in light industrial areas and commercial areas. They are not really in direct contact with residential areas. So, it would be a good idea for staff to start looking at that sooner than later.

Mr. Simmons agrees with Chairman Rhodes' statement and with the Commissioners' concerns regarding national trends. He refers to what the Planning and Zoning Department did with sexually oriented businesses in the past, and stated that they had to protect the City of Kennesaw from certain uses or at least proliferation of those. So, the Commission came in and did exactly what Chairman Rhodes is describing. That is, the Commission would go through the city and identify all the locations with proximity to churches, educational facilities, playgrounds, etc. Then they would come up with some parameters: Distance from certain uses, what streets the shops could be located on, the zoning districts. All those things have to be hashed out and adopted into the zoning ordinance before the City of Kennesaw can start granting business licenses. So, it has to be proactive. Mr. Simmons agreed that, if this is going to continue, that we get ahead of this thing and start identifying where we are going to place them if state law changes.

- Chairman Rhodes thanks Mr. Simmons and moves on.
- 2. **RZ2021-01** – Consideration to approve a rezoning amendment request submitted by Beazer Homes, LLC. Said request is to amend a rezoning condition from Ordinance 2018-01, 2018, condition #4, in order to vary from the style and elevations of the nine approved single-family home product types. Said properties are addressed as 666, 4003 & 4005 Pine Mountain Road and 0 Wellcrest Drive and lie in Land Lot 165, Tax Parcels 4, 5, 66 and 75.
- Chairman Rhodes introduces the next order of new business and asks if there is a presentation.
- Albert Trevino approaches the podium, introduces himself and gives the following presentation: "Good evening Mr. Chair and Planning Commissioners, I have not yet formally introduced myself. My name is Albert Trevino and I am happy to serve and be a resource to you all as your Assistant Zoning Administrator and Planner with the City. Agenda Item #2 tonight is petitioning to amend a previously approved zoning condition from Ordinance #2018-01, 2018. This project is located at 666, 4003 and 4005 Pine Mountain Road and 0 Wellcrest Drive. The site sits on approximately 44.30 +/- acres, is currently zoned Planned Unit Development – Residential and is proposed to have eighty-three new single-family residential dwelling units. Back in 2018, Venture Homes, Inc. applied for a rezoning and annexation of the property from the county to the city and the request was approved by Mayor and Council with twenty-eight conditions. Fast forward to 2021, the applicant of case #RZ2021-01 and current owner of the property is Beazer Gain, LLC. The request that they have applied for is to amend condition number four which states: Homes within the proposed community shall be substantially similar in style and architecture to the elevations attached hereto as Exhibit "B" and similar to the following nine (9) product types: Hampton, Hawthorne, Kingsgate,





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Laurelwood, Brentwood, Riverton, Cambridge, Princeton and Sterling. These plans will have fully enclosed garages and front elevations shall be in general conformity with the attached elevations. As a general rule, the applicant will use masonry (for instance: brick, stone or stacked stone or any combination thereof) as well as stucco, cement fiber board & batten, cement lap siding, cement shake or cedar shake shingles or combination thereof as shown in the attached plans. Applicant shall be governed by this general style of product to be constructed on the Property as per Exhibit "B". Side and rear elevations may also utilize masonry (for instance: brick, stone, stacked stone or any combination thereof) as well as stucco, cement fiber board & batten, cement lap siding, cement shake or cedar shake shingles or combination thereof in keeping with the appropriate style and use of such products on the front elevations. Instead of the approved nine product types, Beazer Gain, LLC wishes to construct five product types known as: Canton, Grayson, Milton, Oakwood and Tucker that differ slightly in style and elevation than what condition number four is stating. Earlier in the week, it was brought to staff's attention that a portion of the public notification process was executed improperly. As you know, for this item to be considered for a recommendation, the city must advertise the case in the Marietta Daily Journal, which occurred on February 12th, the city posted a public notice sign on the property, which was done on February 16th and the applicant was tasked with mailing out certified letters to all property owners within 200-feet of the affected parcels. Due to the certified notification letters containing the wrong Planning Commission date of March 1st instead of March 3rd, staff has made the decision to recommend to the commission that we postpone this item and push it to the April Planning Commission meeting public hearing date which is April 7th. This will allow the city to re-advertise the legal ad in the newspaper, post new public notice signs and allow the applicant and/or representative to send out corrected notification letters to eliminate any confusion of the public hearing date to the adjacent property owners. Because we advertised this case item, we will still hold a public hearing and we will like to invite the public to come forward if they have any comments. I will like to point out that because staff is recommending that we push this case to next month that we won't hold a full blown public hearing and we will save all of the major details for next month's meeting. If the Commissioners have any comments or concerns, staff is here to answer any questions."

- Chairman Rhodes asks if there are any questions for Mr. Trevino.
- Commissioner Harrison congratulates Mr. Trevino on a job well done and asks if the exhibits will be made available in a timely manner before the meeting.
- Mr. Trevino states that yes, within the packet there is provided a side by side comparison of what was approved in 2018 and what it was in 2021. He states that they paired similar styles from then and now, and showed which models aren't being proposed at all.
- Chairman Rhodes asks Mr. Trevino, from a material stand point, if the property owner is downgrading any materials being used. And, if they are changing the size and some of the square footages.





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- Mr. Trevino states that, according to Beazer, they are upgrading the materials to use more stone, brick, and architectural features. So, it will definitely be an upgrade to what was approved.
- Chairman Rhodes asks if there are any more questions.
- Vice Chairman Michael asks if all of the elevations they are submitting are in excess of the minimum square footage that was stipulated and if they're basically using the same quality materials that are listed or better.
- Mr. Trevino replies that she is correct. Beazer has verified with us that they are meeting that minimum square footage requirement. Mr. Trevino states he believes it was condition number 3 (three), and that Beazer will meet that minimum requirement. Mr. Trevino also confirms that Beazer will use materials equal to or greater than what they were approved for.
- Chairman Rhodes opens the floor for public comment, and stipulates that this will be heard next month by the Planning and Zoning Commission as there was a clerical error in what the applicant sent out to the adjacent property owners.
- Commissioner Bergwall states there are no representatives from the community present. And poses another question. He asks if staff have seen a preliminary plat of lot layout. He states that it was up to 83 (eighty-three) homes, and asks if there are going to be 83 (eighty-three) homes or will there be less?
- Mr. Trevino replies that Beazer's final plat is in review, and their final plat indicates 83 (eighty-three) lots, new single family lots. He states that it's going to be built in two phases. The first phase will be platted first. So, he assumes that the building permits for that phase will be pulled first, and states the first phase is located closer to Pine Mountain Road. He reaffirms that 83 (eighty-three) lots were on the plat, and that it has not been approved yet. It is currently in review, but they hope to have it approved within the month.
- Commissioner Bergwall suggests that, if the plat can be to the point where the public could see it, it might be helpful to have that shown along with the architectural elevations that were proposed.
- Mr. Simmons interjects. And states, if you remember what we created because there was great concern about the flood plain and the buffers. So, it drove staff to create a Pine Mountain Road advisory committee that was made up of the residents in that area and Beazer agreed to send out this type of information to that group who then in turn distributed it to all the residents. So, they're our distribution and sound board, and we keep them updated on any changes to the project we think that they need to be aware of. We've created that committee. So, yes, we intend to send out at least a link. As anything we receive, we put on our city website. So, it's going to be easy for us to send out a link to that group, and that board will then get it out to everyone waiting to look at the units as well as the plat that could be under review by Mayor and Council within a month or so.
- Commissioner Bergwall states that he thinks they have seen a plat and there was some discussion because we also have modification to the plat because of the creek and access....





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- Mr. Simmons states that it affected three lots.
- Commissioner Bergwall states he assumes that Beazer would've wanted to make some kind of changes from what they had seen in the past when they took ownership and would like confirmation as to what their plan is.
- Mr. Simmons states that Beazer came in for a variance because of that stream buffer encroachment that affected three lots, and it kind of meandered through a little cul-de-sac. They were able through public works and engineering to meet the criteria so that they did not have to give up those three lots. So, it was designed in a way where they met our criteria for stream buffers through engineering methods. So, it turns out that they have the 83 (eighty-three) lots platted out and it's under review right now. Staff would be happy to submit that and have it accessible to the general public. But staff specifically wanted to make sure that the committee was formed because of the number of concerns both from county and city residents that surround that project. So, that's a sound board, so they're all aware of it.
- Commissioner Bergwall states that that is good.
- Mr. Simmons replies that, yes, it's really a good thing that we did that.
- Vice Chairman Michael states that the application before us deals only with the modification of the models that are being used. It doesn't have anything to do with the number of lots.
- Mr. Simmons confirms that, no, all of the zoning conditions are in place. They will remain in place. He states that when Venture got approved for this project their elevations or housing types were not as detailed as they should've been, and kind of vanilla. So, Beazer looked at their product line and said that instead of nine, they could do five well-made housing types. And, when you look at the comparison, there's a lot more details on the materials and more architectural features and character to the five, and it would meet all of our other zoning conditions including square footage and setbacks, etc. So, nothing else is being affected. Just going from nine product types down to five.
- Chairman Rhodes asks staff if, as a point of procedure, they should take a vote on tabling this; or, due to the clerical error, does it need to be tabled.
- Mr. Simmons replies yes. Because of the improper notification by the applicant, legally we have to motion to direct the staff to re-advertise and repost, and the applicant must follow the public notification to the adjoining property owners. So, the Commission would be deferring this application to the April 7th meeting, and Mayor and Council would be on the 19th.
- Chairman Rhodes states that if there are no more questions or comments, he will call for a vote to table this until the April meeting.
- Commissioner Harrison motions to table this item to the April 7th Meeting.
- Commissioner Johnson seconds the motion.





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- Affirmed by Vice Chairman Michael, Commissioner Harrison, Commissioner Bergwall, Commissioner Jackson and Commissioner Ragus.
- **Motion carried by vote 5 – 0**

IV. Staff Comments

- Chairman once again welcomes new staff members and congratulates Mr. Trevino on a successful presentation, and Mr. Trevino is further praised by the Commission for his previous work.

V. Adjourn

- Chairman Rhodes states that if there is nothing else he would like to take a motion to adjourn.
- Commissioner Harrison motions to adjourn.
- Chairman Rhodes asks if all are in favor.
- Affirmed by Vice Chairman Michael, Commissioner Harrison, Commissioner Bergwall, Commissioner Jackson and Commissioner Ragus
- **Motion carried by vote 5 – 0**

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