



City Hall
2529 J O Stephenson Avenue
Kennesaw, GA 30144

Commissioners:
Chairman: Don Bergwall
Vice Chairman: Dan Harrison
Phillip Jackson, Lacey Ragus,
Trey Bodenhamer, Todd Vande Zande,
Rebecca Patterson

KENNESAW PLANNING COMMISSION

April 6, 2022 – 6:30 P.M.

Meeting Minutes

City Hall Council Chambers

This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. The meeting may be accessed using Facebook Live via the following link: www.Facebook.com/City of Kennesaw/. **Comments made on Facebook Live will not be visible by City staff.**

If you 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 will be read aloud or grouped into categories for the record. All interested parties may attend the meeting in person with limited seating available at the City Hall Council Chambers and the Ben Robertson Community Center, if needed. Please note that the Planning Commission serves as an advisory board that makes recommendations to Mayor and Council unless otherwise noted.

Mayor and Council Meeting: April 18, 2022 @ 6:30 P.M.

I. **Call Meeting to Order/Roll Call**

- Meeting called to order at 6:30 p.m. by Don Bergwall.
- Roll Call: Todd Vande Zande, Don Bergwall, Phillip Jackson, Trey Bodenhamer, Rebecca Patterson, and Lacey Ragus
- Absent: Dan Harrison
- Staff present: Albert Trevino (Assistant Zoning Administrator and Planner) and Tanyel Aviles (Community Development Specialist)
- Applicants present: Hank Dudek (representing Devin Riley, LLC) and Garvis Sams (East Park JV, LLC)

II. **Approval of Meeting Minutes: March 9, 2022**

- Chairman Bergwall asks if there are any comments, questions or corrections to the March 9, 2022 Meeting Minutes. Hearing none, he calls for a vote.
- Motion to approve the March 9, 2022 Meeting Minutes by Commissioner Vande Zande.
- Second the motion by Commissioner Bodenhamer.
- **Approval forwarded with the vote totaling 4-0-1. Commissioner Ragus abstains.**

III. **Old Business**

1. **RZ2022-01** - Consideration to rezone property located at 1972, 1994 & 2004 Duncan Drive from Single-Family Residential (R-20) to Central Business District (CBD) as submitted by Devin Riley, LLC. Said request to rezone property is for thirty-seven (37) single-family townhome units. Properties consists of 3.79 +/- acres and lying in Land Lot 138 and Tax Parcels 47, 190 & 194.

The next scheduled meeting of the Kennesaw Planning Commission
May 4, 2022 at 6:30 p.m.





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- Chairman Bergwall introduces case #RZ2022-01
- Mr. Trevino approaches the podium to present case #RZ2022-01, and greets the Commission. He states that this first agenda item was brought before the Commission the previous month during a Special Call meeting held on March 9, 2022. He wants to discuss why this case is being brought before the Commission again.

After the meeting last month, information was brought to the applicant's attention regarding the CBD code requiring that all utilities including Stormwater retention areas must be underground. With that information, the applicant went back to the drawing board and revised a new site plan. They sent a new site plan to Staff on March 14, 2022. Staff presented this new site plan to Mayor and Council during their regularly scheduled March 14, 2022 Work Session meeting.

With this new information, Staff felt that it was appropriate to recommend that Mayor and Council postpone the rezoning application, and take this new site plan back to the Planning Commission for review. At their regularly scheduled meeting held on March 21, 2022, Mayor and Council voted to honor Staff's recommendation and postponed the case to be publicly heard again at the April 6, 2022 Planning Commission meeting and the April 18, 2022 Mayor and Council meeting.

The site plan that was received on March 14, 2022 showed a total of thirty-seven (37) units. However, four (4) units were placed above the underground retention area. Staff reached out to our Public Works department and were informed that residential units cannot be built above Stormwater facilities. With this information, the applicant submitted a new and final site plan on April 1, 2022 showing a total of thirty-five (35) townhome units, none of which are located above the underground Stormwater facility. The new site plan also shows fourteen (14) guest parking spaces.

Devin Riley, LLC has returned to the Commission to request a rezoning for 1972, 1994 and 2004 Duncan Drive where they seek to rezone three (3) contiguous properties from single-family R-20 to CBD. The final proposal is for thirty-five (35) for-sale, two thousand (2,000) square feet minimum townhome units with three (3) bedrooms and two (2) bathroom minimums as well. Each unit will also have a two (2) car garage.

When it comes to rezonings within the downtown area, Staff utilizes all of their planning documents and resources including the current Comprehensive Plan, the Livable Centers Initiative Plan and also the Downtown Master Plan. Firstly, the Comprehensive Plan designates this area as "in-town living" and also shows this area as a low-to-medium density for residential. Staff is currently updating their Comprehensive Plan future land use map, and understands that downtown is growing and expanding. So, within the new plan, they are proposing to designate this area as Downtown Activity Center (DAC) which allows for high density. Secondly, referring to the City's Livable Centers Initiative (LCI), the recommendation of the LCI plan called for more rooftops or people living in downtown to support and allow for more foot traffic for downtown businesses. Staff's goal for downtown is to maintain the historic nature, be walkable, and have more people live, work and play downtown. Staff feels as though this proposal checks off all of the boxes for meeting our adopted plans.

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Staff has advertised this case properly in the Marietta Daily Journal on February 18th and 25th as well as March 18th and 25th and a new public notice sign with the April public hearing dates has been posted on the property. Staff is recommending approval with conditions.

Mr. Trevino then invites the applicant to speak, and states that, after the applicant is done with his presentation, they will open the floor for comments from the commissioners to the applicant. After all questions are addressed, they can discuss Staff's recommendation and summarize the conditions.

- Mr. Hank Dudek approaches the podium and introduces himself. He reiterates that it was brought to his attention in the previous meeting that underground detention is mandatory in the CBD district which caught him by surprise. He approached his engineering group and informed them. He states that they never intended to build structures over the underground detention. When they did the hydrology, they expanded the underground detention reducing the number of units from thirty-seven (37) to thirty-five (35). They did know not to build in that area. He states that that is essentially the only change to the plans. They did add another parking spot as well. Other than that the plan is similar to what they had before. He states that installing underground detention will be costlier, but he understands that the City needs each site to handle their own run-off to take pressure off the main basin.
- Chairman Bergwall opens the floor to public comment. Seeing as there is none, he asks for comments or questions from the Commissioners.
- Commissioner Jackson asks if there is a need for a variance on the setbacks.
- Mr. Trevino answers no. He states that the CBD is a flexible zoning district that allows for the buildings to be placed as far as the property line because it is a downtown area. The code is written in such a way to allow for flexibility. Staff has conditioned the applicant to the setbacks within their site plan. That is written in the conditions.
- Commissioner Bodenhamer states that he would like to comment on and clarify the additional stipulation added in the previous meeting regarding the consideration for a traffic light on Big Shanty Rd and Pine Hill Dr. He believes it is not the responsibility of the applicant. If there does need to be a traffic consideration, then that is the responsibility of governing agencies of the area. He would be interested in revoking that stipulation.
- Mr. Trevino states that Staff has reached out to the Public Works Director, Ricky Stewart, regarding the power that could be enforced regarding traffic control. What was proposed was consideration for a traffic light at Big Shanty Rd and Pine Hill Dr or a roundabout. But, to Mr. Bodenhamer's point, that would warrant a traffic study, and this proposal would not trigger the need for a study. The traffic study for the TUG project will determine if there will be a need for a traffic light at S Main St and Duncan Dr, but this case would not affect the area that was previously mentioned for traffic improvements.

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- Commissioner Bodenhamer states that he understands the public's concern about that area, but he does not believe that is a concern of the property owner but instead the City or County.
- Mr. Trevino states that the County would make that determination. If they deem that a traffic light is warranted, then they would install said light.
- Commissioner Jackson agrees that the site doesn't warrant the traffic improvements. However, in his experience, other municipalities have different ways of handling multiple sites. For instance, in North Carolina, many small sites not warranting any traffic related improvements would have to contribute equally as a whole. He doesn't believe it would be fair for this site to have to equally contribute seeing as TUG is responsible for the majority of the warrant.
- Mr. Trevino states that the Public Works Department is actively reviewing the case, and making sure they provide the appropriate information to Staff to take to Mayor and Council. As of now, they have said that this project does not warrant the traffic improvements.
- Chairman Don Bergwall wants to clarify for the record what will be going over the underground detention past unit number thirty-five (35) on the site map.
- Mr. Dudek states he believes it would be landscaping/green space and potentially access to the underground detention. The engineers have submitted those plans to the City for review. Within code, the City engineers will approve that. They are planning to make it look nice, and make the underground detention look non-existent.
- Chairman Bergwall asks if there are any other comments. Seeing as there are none, he calls for a motion.
- Mr. Trevino states that if there is a motion made in support it must include: the new site plan, the engineer who prepared it and the date the site plan was prepared.
- Motion to approve the consideration to rezone the property located at 1972, 1994 & 2004 Duncan Drive from Single-Family Residential (R-20) to Central Business District (CBD) by Commissioner Jackson based on the site plan dated April 1, 2022 prepared by DGM Land Planning Consultants with the stipulations as stated within the Staff report by Planning and Zoning Staff.
- Second the motion by Commissioner Bodenhamer.
- **All in favor. Approval forwarded with the vote totaling 5 – 0.**

IV. New Business

1. **RZ2022-03** - Consideration to rezone property located at 2857 N Cobb Parkway (parcel identification number 20014001360) from Mobile Home Park (MHP) to Highway General Business (HGB) as submitted by Mehta Enterprises. Said request to rezone property is for retail use. Property lies in land lot 140, tax parcel 136.
 - Chairman Bergwall introduces case #RZ2022-03.

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- Mr. Trevino approaches the podium to present for case #RZ2022-03. He states that the second agenda item, and first item of new business, is for property located at 2857 N Cobb Parkway. This property is also identified as parcel number 20014001360. Parcel numbers are often used for vacant lots; this lot is considered vacant.

The applicant, Mehta Enterprises has submitted a rezoning application to change the zoning designation from Mobile Home Park (MHP) to Highway General Business (HGB). The intent of this project is to construct two (2) structures for retail. One (1) structure is for a convenience/grocery store with fuel sales totaling a little over eight thousand (8,000) square-feet. The proposed fuel station will contain 5 +/- fuel islands with a canopy totaling 4,200 +/- square-feet. The other structure will be entirely retail with multiple units with an overall square-footage containing 11,620 +/- square-feet.

This parcel is located along the busy Cobb Parkway commercial corridor. The characteristic of this corridor can range from low intensity commercial uses to high intensity commercial uses. This site is also located directly in front of an existing mobile home community known as "The Woodlands," which has been established now for over thirty (30) years. While Staff feels like this proposal is not out of character with the Cobb County corridor, they also want to make sure that there is enough of a buffer or protection from this proposed development to the existing mobile home park residents. After reviewing the site plan, the landscape buffer of forty (40) feet has been met which allows for adequate room to block any visual, sound, light and noise nuisances.

Additionally, Staff provided to the Planning Commission an attorney stipulation letter dated on March 18, 2022 that provided proposed conditions as well as a safety plan that detailed well thought out safety strategies to incorporate protocols such as: safety training, maintaining a 24-hour emergency on-call protocol, ingress/egress security cameras, all areas of the property being well-lit and fencing around the property.

According to the 2017 Comprehensive Plan future land use map, this area is designated "High Density Residential." However, Staff will be updating this parcel and a few other parcels along Cobb Parkway to the "Commercial Activity Center." This future land use category describes areas as "areas that provide services to the community, but are not as intense as the Regional Activity Center." With the new Comprehensive Plan being adopted this summer, this parcel will be designated with this new future land use category which Staff feels is more appropriate than high density residential, and allows for more retail and commercial opportunities to fill a current need. This need being more commercial in the City. This proposal did not warrant for this category update, Staff was able to identify this parcel as needing to be commercial and not high density residential for future land use planning.

This case was advertised in the March 18 and 25, 2022 editions of the Marietta Daily Journal and a public notice sign has been posted on the site. Staff is recommending approval with conditions. The conditions that Staff is recommending is directly word-for-word as outlined within the attorney stipulation letter dated March 18, 2022 as

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they agreed that these were acceptable conditions for this project. And, with that, Mr. Trevino turns the floor over to the applicant.

- Mr. Garvis Sams approaches the podium, greets the Commission and introduces himself. He takes a moment to congratulate new Chairman, Don Bergwall, and compliment City Staff on the new Staff Analysis Report. He begins by stating that this property consists of 3.63 acres located on Cobb Pkwy. The property is undeveloped. It was zoned concurrently with the mobile home park. He states the site has some topography constraints and a stream with jurisdictional waters that traverses a portion of the property. Towards the middle of the property, those are not jurisdictional waters, but they've had a wetlands and floodplain delineation done. They are in discussions with the Corp of Engineers as to what will be required. There is no encroachment into any stream buffers. It just has to do with how the stream is treated whether it's jurisdictional waters or not. They have that under control. He continues that the property is located on a State Highway. It should accommodate the type of use that is being discussed. He states, in reference to the mobile home park, that he believes the City would rather have its key position retail directly on the corridor and not hidden. And furthermore, he believes the City would prefer to see a development that will add to the tax base as this will. It is a total commercial use, and not an expansion of MHP. This will be a down-zoning in terms of density from MHP to HGB. They do have Staff's recommendation for approval, and it better suits the character of this area. A key part of this application, the applicant has made sure there is sufficient buffer, fencing and other components that will make certain that nothing emanates from this site that will interfere with the residential enjoyment of the residents of the mobile home park. He states that they have submitted a safety plan. It is not required, but was created and attuned specifically for this site. When there is a convenience store component, there is some concern about safety. However, they have outlined surveillance, a liaison with the Kennesaw Police Department, and a safety plan. There was quite a lot of thought put into the safety plan, and it was created by experts. It provides great rules, regulations and protocols. The owner's names are posted. The hours of operation are posted. There is constant monitored video surveillance in key, strategically positioned locations. They submitted a stipulation letter on March 18, 2022. The two (2) buildings are almost twenty thousand (20,000) square feet. He states that it is a convenience store with fuel areas, but it is more like a grocery store and there is a huge retail component. Typically, there is sixty-two hundred (6,200) square foot prototype for a convenience store. Outside of those that are QuickTrip or Racetrack type stores, you're seeing a little bit smaller convenience store and a retail component with it. The applicant is amenable to omitting any onerous or potentially onerous uses. All they want is retail, and they want to keep it maximally eliminated. They want to make sure all the safety protocols are in place. They have agreed to all that Staff has recommended. They have self-imposed, deliberate stipulations based on consultation with Staff. The stipulations were crafted with Staff, and Staff has

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adopted them verbatim. They have spoken with the Public Works Director, the City Engineer, and the Fire Marshal. The stipulation letter is replete with Fire Marshal recommendations. For instance, one somewhat new thing, it includes International Fire Code (IFC) 510 that requires for buildings or combinations of buildings over a ten thousand (10,000) square foot threshold have radio coverage for emergency responders. Also, the internal circulation in the site is to the Fire Marshal's liking as well. They have built into the stipulation letter that the Zoning Administrator, Mr. Darryl Simmons, or his designee would have the latitude or authority to make minor modifications during plan review. There is a limit to what he can do, but site plans often change and need tweaked. After stating that the proposed uses are conducive to what the City is trying to see on the Cobb Pkwy corridor, Staff's recommendation to approve, and Mr. Trevino's characterization of what they intend to do in the future in terms of designation this area as a "Community Activity Center," he requests that the Planning Commission recommend approval to Mayor and Council.

- Chairman Bergwall opens the floor to public comment.
- Ms. Jewel Campbell approaches the podium and introduces herself as the District Manager of Yes Communities who own and manage The Woodlands of Kennesaw. She requests more information regarding the plans for security, lighting and fencing as the proposed convenience store is adjacent to their residential community and may attract unwanted visitors or crime.
- Mr. Sams offers to exchange cards with Ms. Campbell, and will provide her all of the information she requests.
- Chairman Bergwall asks if there is any more public comment. Seeing as there is none, he opens the floor to comments and questions from the Commissioners.
- Commissioner Jackson asks if there has been a request for a stream buffer variance.
- Mr. Trevino utilizes visuals to show that the development is located outside the buffers according to the current site plan, and does not require a variance.
- Commissioner Bodenhamer has a concern regarding the safety plan. He would like the applicant to reconsider the fire arm provision in the prohibited items section to be amended to be in compliance with States and Local ordinances since there is no on-site security.
- Mr. Trevino clarifies that he is referring to the rule under Section VI, Prohibited Items, regarding fire arms on page 9 of the Attorney Stipulation Letter dated March 18, 2022
- Commissioner Bodenhamer confirms.
- Mr. Sams explains that the Attorney Stipulation Letter was drafted March 18, 2022 before the law stating there is no need for a carry permit came into effect. It could be that it is not legally enforceable, but that can be adjusted. As far as people discerning whether the rules are being broken or not, there will be monitored video surveillance and security personnel in the form of assistant manager on site specifically designated for security purposes.

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- Commissioner Bodenhamer states that he wants to make sure the provision is not restricting citizens who are operating according to Local and State law.
- Mr. Sams states that he will confer with Staff on the subject.
- Chairman Bergwall states that considering the nature of the property, being a small narrow lot, and being adjacent to the very active Cobb Pkwy and a residential location, some of the permitted uses for this zoning classification should be restricted or omitted from this parcel. Including:
 1. Automotive Paint and Body Repair
 2. Recycling Collection Locations
 3. Fraternity and Sorority Houses/Residence Halls
 4. Helicopter Landing Areas
 5. Outdoor Golf Driving Ranges
 6. Pawn Shops
 7. Flea Markets
 8. Businesses that primarily function as Billiard and Pool Halls; although Billiard and Pool Halls may be used as an accessory use.
 9. Truck and Trailer Lease & Rental Facilities

He believes that those permitted uses are not compatible for the situation with this parcel and its neighboring conditions.

- Mr. Trevino asks the applicant if the omission of those uses is agreeable.
- Mr. Sams states they are amenable, but they request that a sports bar and grill or a restaurant be able to have a pool/billiard accessory.
- Chairman Bergwall agrees that it is acceptable if the establishment is primarily a restaurant or bar location that happens to have a pool/billiard accessory.
- Chairman Bergwall asks if package stores are permitted in the district.
- Mr. Trevino confirms they are.
- Mr. Sams does state that they would need to have a separate process and permit for that.
- Chairman Bergwall reiterates that he believes these restrictions are appropriate and should be well documented to avoid confusion as the City has encountered this problem before.
- Mr. Sams agrees, and states he will revise the stipulations.
- Mr. Trevino states that a package store and the convenience store will have to go through Mayor and Council approval to obtain an alcohol permit.
- Chairman Bergwall states there is a lot of foot traffic in that area. So, this development will contribute to the safety and convenience to the residents of that

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area. He asks if there are any more comments or questions. Seeing as there are none, he calls for a motion.

- Motion to approve the rezoning of parcel number 20014001360 from Mobile Home Park (MHP) to Highway General Business (HGB) as submitted by Mehta Enterprises by Commissioner Bodenhamer with the following:
 - All Staff conditions as outlined within the staff report.
 - Within the Safety Plan on page 9 of the Attorney Stipulation Letter dated March 18, 2022, reconsider the rule under Section VI, Prohibited Items, regarding fire arms, be amended, if needed, to be in compliance with State and Local ordinances and laws.
 - The following uses, being allowed under the HGB zoning district, should be prohibited due to not being adequate or appropriate for this particular location:
 1. Automotive Paint and Body Repair
 2. Recycling Collection Locations
 3. Fraternity and Sorority Houses/Residence Halls
 4. Helicopter Landing Areas
 5. Outdoor Golf Driving Ranges
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 7. Flea Markets
 8. Businesses that primarily function as Billiard and Pool Halls; although Billiard and Pool Halls may be used as an accessory use.
 9. Truck and Trailer Lease & Rental Facilities
- Second the motion by Commissioner Jackson.
- **All in Favor. Approval forwarded with the vote totaling 5 – 0.**

V. Zoning Administrator & Staff Comments

- Mr. Trevino updates the Commission on the 2022 Comprehensive Plan.

VI. Adjourn

- Chairman Bergwall calls for a motion to adjourn.
- Commissioner Bodenhamer makes a motion to adjourn.
- Commissioner Ragus seconds.
- **All in favor. 5-0.**
- Adjourned at 7:31 p.m.

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