



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

KENNESAW PLANNING COMMISSION

February 3, 2021 – 7:00 P.M.
Chambers

Approved Meeting Minutes

City Hall Council

Upcoming Mayor and Council Meeting: February 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 7:01 p.m. by Cindi Michael
- Roll Call: Cindi Michael, Don Bergwall, Phillip Jackson, SaVaughn Irons
- Absent: Doug Rhodes, Dan Harrison and Lacey Ragus
- Staff Present: Darryl Simmons (Zoning Administrator) and Albert Trevino (Assistant Zoning Administrator & Planner)
- Applicants present: Judi Burrell (DX2021-01), David and Monika Chow (DX2021-02) and Chad Howie (PP2021-02)

II. Approval of Meeting Minutes: January 6, 2021

- Commissioner Michael introduced the next order of business which is the approval of meeting minutes for the January 6th meeting. She asked if everyone had a chance to read them and to make



**The next scheduled meeting of the Kennesaw Planning Commission
March 3, 2021 at 7:00pm**

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any corrections as necessary. She stated that she saw two corrections earlier in the day, so the minutes will be approved with those corrections.

- Motion by Commissioner Bergwall to approve the January 6, 2021 Meeting Minutes as amended.
- Seconded the motion by Commissioner Jackson
- Affirmed by Commissioner Bergwall, Commissioner Jackson and Commissioner Irons
- **Motion carried by vote 3 – 0**

III. Public Hearing:

1. **DX2021-01** – Consideration to approve a de-annexation request submitted by Judi Burrell. The property is located at 4058 Ayers Drive on a parcel totaling 0.856 +/- acres and lying in Land Lot 60, Tax Parcel 27.
 - Commissioner Michael introduced the first item of new business. She asked if the applicant was present or if Mr. Simmons would like to present.
 - Mr. Simmons stated that he will present and that we will have the applicant answer any questions from the Commission. He stated that the property is located along Ayers Drive and the property was annexed in 2003. The property is subject to de-annexation under the House Bill 49 Intergovernmental Agreement which requires the application to be sent to Cobb County Government for their review and their recommendation prior to Mayor and Council's decision on February 15th. He stated that staff has followed all public notification processes and the property, again, if it is de-annexed, it will not cause an issue with contiguity, or creating an island or a hole, between Cobb County and the City of Kennesaw. The Planning and Zoning Department recommends approval of de-annexation subject to Cobb County passing a resolution before February 15th before Mayor and Council.
 - Commissioner Michael asked if any of the Commissioners have any questions. Hearing none, Commissioner Michael asked if the applicant needs to make or wishes to make a statement.
 - Mr. Simmons stated that the applicant did not want to make a statement.
 - Commissioner Michael stated if there is no discussion or questions then she will call for a motion.
 - Mr. Simmons stated that we need to open the floor for public comment.
 - Commissioner Michael stated, thank you. She then opened the floor up for public comment. She asked if Mr. Simmons could see if there is anybody who has a comment.
 - Mr. Simmons stated Madam Chair there is no public comment.
 - Commissioner Michael stated being that there is no public comment from the floor, the floor for public comment is closed. She entertained a motion for recommendation for Mayor and Council.
 - Motion by Commissioner Bergwall to approve the request for de-annexation of DX2021-01.





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- Seconded the motion by Commissioner Irons
 - Commissioner Michael asked the Commission if there is any discussion of the motion. Hearing none, she proceeded to call a vote on the motion.
 - Affirmed by Commissioner Bergwall, Commissioner Jackson and Commissioner Irons
 - **Motion carried by vote 3 – 0**
2. **DX2021-02** – Consideration to approve a de-annexation request of three parcels submitted by David & Monika Chow. The first property is located at 2880 Ellis Road, contains 1.6 +/- acres and lies in Land Lot 164, Tax Parcel 244. The second property is located at 0 Pine Mountain Road (parcel #20017800030), contains 0.2+/- acres and lies in Land Lot 178, Tax Parcel 03. The third property is located at 0 Elmhurst Boulevard (parcel #20016402820), contains 1.4+/- acres and lies in Land Lot 164, Tax Parcel 282.
- Commissioner Michael introduced the next order of new business.
 - Mr. Simmons stated that he will be happy to present the next case item. The way it is listed can be quite confusing to someone reading the agenda item. The way it works is when you have parcels that are unimproved or vacant, they will not assign it an address so we identify it by a tax parcel and land lot number; except for the portion of the property that is improved, which has an address of 2880 Ellis Road. Because it is one ownership, we will present as one application. I just want to make sure that everyone looking either looking at the board or looking at the packet understands that when you have a zero, as a prefix, that does not mean that it does not exist, it means that an address for that parcel was not assigned but it is a part of this application. I wanted to clarify that as well. The other item that I wanted to bring to the Commission's attention is that, during the process of this application, the owner violated a zoning section dealing with helicopter landing and taking-off at this location. They were notified appropriately by our Code Enforcement officer and were issued a citation. After I talked with the applicant, they assured us they won't further that violation of that nature. So again, the zoning ordinance is very clear in the City of Kennesaw, you cannot have a helicopter landing area in a residentially zoned property. I just wanted to add that for the record because it did occur during the process of this application. As I mentioned in the previous agenda item, this application is for de-annexation is subject to the rules of the House Bill 49, Intergovernmental Agreement, Cobb County and City of Kennesaw. There is a process in which public notification was accomplished. Submittal of the application to Cobb County for their review and recommendation and approval prior to final decision by Mayor and Council February 15th. This property is located in an area where it is surrounded by Cobb County's jurisdiction. By de-annexation of these three parcels, it will not create an island, it will not create a contiguity issue between the City and the County. With the analysis done, the Planning and Zoning Department





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recommends the approval of de-annexation for all three parcels that is presented this evening which is 3.2 acres to the Planning Commission.

- Commission Michael asked if there are any questions for Mr. Simmons.
- Commissioner Bergwall stated, with regard to take-off and landing of a helicopter, is that allowed on county property. Will that be able to be allowed on this site?
- Mr. Simmons stated, I cannot speak for the county. I did call McCollum Airport in research of this process. The manager stated to me that there was another issue similar to this in the county and the county did not allow it under their zoning ordinance, but again, I cannot speak for the county.
- Commissioner Michael asked Commissioner Jackson and Commissioner Irons if they understood the question that was asked. She stated that it [the audio] was not coming through clear.
- Commissioner Jackson stated that he understood the gist of the question but not all of the words.
- Mr. Simmons stated that he can repeat it if needed.
- Commissioner Michael stated, please.
- Mr. Simmons stated when we received the complaint, city staff immediately called McCollum Airport and wanted to understand what laws apply for take-offs and landings as it pertains to McCollum Airport and the Federal Aviation Administration (FAA) standards. I was told that the county had a similar case and that was addressed through their zoning ordinance as it pertains to this process. McCollum Airport would not prohibit helicopters landing and taking-off if they are registered and they meet all of their standards, so it falls back on the jurisdiction under zoning.
- Commissioner Michael said, so if the applicant were to continue to do that, then those people surrounding them will have to file the complaint with whatever jurisdiction the property is in; whether it is in the City of Kennesaw or Cobb County.
- Mr. Simmons stated, that is correct.
- Commissioner Michael asked if there were any other questions. She asked if the applicant is present and if they wish to say anything.
- Mr. Simmons stated that the applicant does not wish to say anything at this time. He stated that the floor can be opened for public comment.
- Commissioner Michael stated that she will open the floor for public comment. She asked Mr. Simmons to check to see if there are people there [in the Council Chambers] for public comment.
- Mr. Simmons stated yes there is. He said that he wanted to remind everyone to please sign-in on the sign-in sheet.
- Good evening Madam Chair and Council, my name is David Burns and I am a twenty-year citizen of Kennesaw and I live essentially next door to the address in question. My issue with this, which Mr. Simmons stated, is that if this is approved for de-annexation for this property to go to Cobb County, we are not sure if a helicopter pad and take-off is going to be allowed. The citizens of Kings Row and Out Post Hill, we should not have to go to Cobb County to fight for a city issue because he is no





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longer a citizen of Kennesaw. I ask for your consideration as neighbors and as citizens that the annexation is not approved and that we do not have to fight the fight with the county. Because we know it is easier to talk to our neighbors, [which is] you guys, to make sure that our quality of life is upheld. Which you know, if we have to go to Cobb County, that is going to be a huge issue. The only reason for this de-annexation is to have a helicopter, which, in my opinion is a little bit ridiculous. That is all I have to say on the matter. I appreciate your consideration and your thought on this.

- Commissioner Michael thanked Mr. Burns. She asked Mr. Simmons if there is anybody else.
- Mr. Simmons stated, yes.
- Michael Esposito stated, thank you for letting me be here. I live on Elmhurst Boulevard and behind this property, about two houses down, I have a couple of problems with this. This noise from this helicopter is extremely loud. You cannot even hear yourself on your back patio when that thing is going on. I am in the flight path of McCollum and there are Learjets coming in there regularly, morning and night. To have a helicopter taking off from a neighborhood where there are kids and residents is a very unsafe thing. I work for an insurance company, one of the largest in the world, and that would be an extreme risk. I under-write insurance for a living and I have written insurance for forty-two years and to have a helicopter take off of a main street of a neighborhood is not fair. The other problem I have is, I have lived in this house for thirty-years and when Mr. Wes Moreland owned that property, the City of Kennesaw allowed him to build an extremely large building for his motor bus. The water that I am receiving from that lot has extremely upset me to the point that I am considering, after the conversations with the City of Kennesaw engineers, who don't listen to my problem, to sue. [Mr. Esposito held up a photograph] This is the water in my yard coming from that property. I get three-feet. I've had my house flood, because of the water and the neglect of the City of Kennesaw's sewer system, and the water coming from that property. The other thing is, I am on the Homeowner's Association, at one time, and we made a deal with Mr. Moreland on the sale of that home. Those properties were only allowed access to Elmhurst Boulevard, under the consent that if it was ever developed, that it would meet the standards of the Princeton Ridge Subdivision Homeowner's Association. That they would pay dues to us and that if the house was built on that one lot that they must meet the criteria of our subdivision. I did not know this was about a helicopter, but I am with the people here. It is a very unsafe thing. You should see the Learjets coming in and out of that thing. I have also seen drones flying from Mr. Chow's property and that is a violation of FAA [Part] 107. I don't know if he is a licensed drone operator, but if he is operating in the flight path of the McCollum Airport, he is putting jets and lives at risk. I really wish Kennesaw would fix this water problem. We don't need a helipad. I don't need more water on my property. Thank you.
- Commissioner Michael thanked the citizen. She asked Mr. Simmons if there is anyone else.
- Mr. Simmons stated yes ma'am.





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- Good evening, thank you for giving me an opportunity for those of us to speak. If the reason for de-annexation is to cut back on costs. As an individual, I can understand it. However, when they property was purchased, that tax money was there for both city and county. Just because someone does not want to pay a tax does not mean that they should be de-annexed. We have had issues in the area with parking during church services that are held on that property. We have had the drone. We have had the helicopter. I had to ... Well no, I'll just say it. He has not been a nice neighbor. He has not taken into concern, the houses that are within hearing distance. When he works on his helicopter, I live three houses away and my windows shake. You cannot talk on the phone. You cannot listen to the television because of the amount of noise. It starts every dog in the neighborhood barking. But yet, if my dogs bark, I am subject to a fine, if they bark for more than 15-minutes. I contacted Cobb County's Zoning and what I was told is if de-annexation is granted, then when he fires up his helicopter, we must call Cobb County, not City of Kennesaw. Given the current situation with COVID-19, it would be highly unlikely that they would even send someone out for the call. So, those are my objections. Thank you for the opportunity.
- Commissioner Michael stated thank you and asked Mr. Simmons if there is anyone else.
- Mr. Simmons stated, no Madam Chair, what I would recommend is, because of the questions raised, specific to this property, we should allow the applicant to come up and make a statement and address some of these issues for the record.
- Commissioner Michael stated I will close the floor to public comment before I do that and then I will let the applicant come up and explain
- Mr. Simmons stated, correct, thank you.
- Commissioner Michael stated that the floor is closed for public comment at this time.
- My name is David Chow and my wife and I are here. We are the owners of the property. I did not get everything what everyone said because of the echo [in the room]. It is really difficult. I probably got about half. But I will try to respond to whatever. First of all, the application that was sent to everybody, gave clear reason, the stated reason is that, although we are in the City of Kennesaw, we are not benefitting from sewage from various utilities and what-not. That is the reason why we wanted to be de-annexed. We have been here about six-years and we have been paying city taxes but not getting the benefits: city lights and public utilities. The reason is not so that a helicopter can take off from our property. The zoning in Cobb County is the same as Kennesaw, I have done a study. For any inconvenience, I apologies to my neighbors. It is not our intentions to be bad neighbors. In fact, we have talked to all of the adjacent neighbors and others around, you know, and made sure that it is okay for the testing, and what not. We would be happy to talk to you about it and fix whatever problem that is bothering [you]. Aside from the flooding issue, which we had no idea about, we would be happy to look at it and talk about it as good neighbors should. As far as the drones, they are operated within FAA requirements part 107. It does not violate the McCollum airspace. The helicopter that did take off did have permission from McCollum Tower. I was not the





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pilot. I was not ... uh ... but anyway, the tower was contacted. Everything complied with FAA. And as I have assured Mr. Simmons that it will not happen again. The helicopter was not flown in, it was trailered in and then it had departed from my property. We just want to be good neighbors. We are happy to talk about it. It is kind of sad that we have to come to this to bring up all of the grievances, but we are happy to talk. I just wanted to say the purpose and the reason that we want to be de-annexed and the whole helicopter thing was not the reason. The helicopter is at Paulding Airport and I am not taking off at my house anymore just to make you happy. I think that is... [Mr. Chow looked at his wife and said] Do you have anything?

- [Mrs. Chow was standing far away from the podium and said] I want to apologize.
- Mr. Simmons stated, I am sorry, please come to the microphone.
- Commissioner Michael asked Mr. Simmons to clarify that the comments need to come to the Chair and not the audience please.
- Mr. Simmons stated, yes, for policy, please address the Chair and sign-in
- Mrs. Chow stated, that is okay.
- Mr. Chow stated, she [my wife] just wanted to apologize.
- Mr. Simmons asked Mrs. Chow, do you want to come here? You can make a statement. He stated, please. Your name?
- My name is Monika Chow. It is just for the sake for our neighbors. We were not aware of the flooding situation. We had no idea that there was any kind of water problem. We would be happy to talk about it. As far as my husband's helicopter, it came to our attention recently that it was not in favor to our neighbors. And I think we [inaudible] not to use our property to take off and land there. That is all I wanted to say, just my apologies to you all. I am sorry.
- Mr. Simmons stated, Madam Chair and everyone here, we deeply apologize for the mechanical problems because it is making it very difficult to hear everything. We will do our very best to do a recap. The property is currently in the city limits. Our zoning ordinance prohibits the helicopter landing areas and take-offs. I do not know for certain what the county's zoning ordinance specifically says about this residential area. We will find out and make sure that the Mayor and Council has that information. As it pertains to the individual grievances, we encourage the applicant to work these grievances with the neighbors regardless of the outcome of these proceedings as far as being a good neighbor and addressing those issues. What we are talking about tonight is de-annexation. The applicant, the property owner, wishes to be placed back into the county. By the Official Code of Georgia Annotated (O.C.G.A.) standards, the City has to have a compelling reason to deny this, which has to be based on land use or intergovernmental agreements that would be detrimental to both the county and the city. That has not been shown this evening given the testimony. The property where it is located does not create a hole or an island by our standards in our agreement with the county. The county can object or say that they will not allow the de-annexation, but we





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would have to get that in writing or their approval through a resolution, which I was informed that they are currently processing. I will immediately speak with our Cobb County staff counter-parts in the morning to get that update. To my knowledge there has not been an objection raised from the county to date.

- Commissioner Bergwall raised a question about the adjacent properties to the 2880 Ellis Road address. He stated the property of the residence to primary access from that property is on Ellis Road. Similar or near addresses are on Ellis Road. He asked, are they in the city or the county?
- Mr. Simmons asked if the aerial map could be brought up on the projection screen.
- While the aerial map was being pulled up, Commissioner Bergwall stated that he just wanted for the record, to understand how this property is contiguous with the city and how it adjoins to the county.
- Mr. Simmons stated that the aerial that you are seeing shows the areas that are stripped or hatched are Cobb County and areas within the colored/beige lines are city. Everything along where it says Nottingham Drive, Hilton Circle, Confederate Trail is in the City. But north of that or going westbound along Ellis, those properties directly to the west is in the county.
- The crowded stated, no, that is the city.
- Mr. Simmons asked for the map to be zoomed in. He stated, where you see on the map where it says Elmhurst Court on the north of the property, if this is de-annexed, the new city limits would come across and down to Ellis Road and continue westerly. This property will be back in the county along with the properties north of it.
- Commissioner Michael stated that she is understanding that Elmhurst Circle or Elmhurst Court is in the county not the city.
- Mr. Simmons stated, correct.
- Commissioner Michael stated that the two areas designated R-15 are in the city?
- Mr. Simmons says, correct. Everything that has R-15 and is not hatched is city limits. Mr. Simmons stated if that answered the question.
- Commissioner Bergwall stated, yes, I think so knowing that if there were a call to the police, that address would be surrounded by roads in the city. The county is kind of behind it.
- Mr. Simmons stated, that is correct.
- Commissioner Bergwall stated, a point of consideration, and I have a little trouble understanding some of the dialogue in here with all of the echoing and my hearing is not that [inaudible], the applicant made it known that this issue of the helicopter landing or taking-off is not the reason that they want to de-annex, it is because of the services or tax that they are paying that they feel that they are not getting adequate service in response. But if that issue is going to continue, I would think that this should be tabled until we can have a clearer understanding of the actual requirements or standards for the county in that area versus the code standards for the city. You made it clear that the City's code is that you cannot have a helicopter land or take off from a residential property. But





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it was not clear that the same standard is true for the county or that it would be governed by the size of the piece of the property.

- Mr. Simmons stated, I could not verify that this evening. We would have to refer to the county how their ordinance will be applied here, if they were in the county's jurisdiction.
- Commissioner Bergwall stated, because our concern is for quality of life and what is the proper allocation of this property relative to that piece of property and that owner, but also as relevant to those properties that surround and how that property can impact neighbors that are residents of the City of Kennesaw.
- Mr. Simmons stated, understood and that is the reason why we issued a citation and he is going to be coming before the Municipal Court because they are in the city limits at the time of the violation. Based on the statements that were made to me, to staff, that this would not occur going forward. He [the applicant] made that statement this evening in front of his neighbors, the commission and staff, that the use of the property for helicopter for landing and taking-off is, according to him, a non-issue because he is not going to do that going forward.
- Commissioner Michael stated that she wanted to ask a question since one of the people brought up drone use. What is the City of Kennesaw's rules, and he is surrounded by Kennesaw, [inaudible] in his neighborhood, even if he is de-annexed and he is in Cobb County, what is City of Kennesaw's rules on drones flying over Kennesaw properties?
- Mr. Simmons, I cannot answer that, I did not receive any inquiries about that prior to this meeting. I am at a disadvantage so I cannot answer that. I will be happy to find out.
- Commissioner Michael stated, I would be curious just from my own standpoint because drones have become so popular, I would like to know where I stand if one is flying over my property.
- Mr. Simmons stated, that would be a question that we would have to address with the appropriate agencies, but I am at a loss at who can get me that answer this evening.
- Commissioner Irons stated that she has a question. She asked if the usage of drones violate any privacy rights for residents.
- Mr. Simmons stated, I cannot answer that. I can't answer drone, air rights or privacy issues on this agenda. It is something that I cannot answer.
- Commissioner Bergwall stated, one other question with regard to the issue that was brought up on water. If this property is doing something to push water onto another property, how is that addressed being in the city or the county?
- Mr. Simmons replied that both the city and the county will enforce the same storm water and storm drainage standard, whether it is county or city. That still applies. Whether they are in the city or the county, both jurisdictions enforce the same ordinance.
- Michael Esposito stated, I had Cobb County check the thirty-six-inch pipe on Confederate Trail.
- Commissioner Michael asked who is speaking?





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- Mr. Simmons stated, Michael Esposito, he was up here earlier.
- Mr. Esposito further stated that there are two paths that the water is coming from. There is the City of Kennesaw's street system that goes into a drainage creek between some of our properties onto my land. It goes under my fence to an eighteen-inch pipe the county owns. I had Cobb County come out, they were gracious enough to out and put a camera in and make sure that the pipe was not [inaudible]. The problem is that water is actually coming in from the right side of me from that lot. There is a drain pipe there and a culvert and I've never addressed it with him [the applicant] and I apologize, but I've been trying to get to the bottom of this problem. It has flooded my house for thirty-years. It is just that the land is not properly draining. There is water coming underneath the fences in the [inaudible] property, the property where the pool is. So that one sliver of land you have on the curve, there is a square box there and you have your culverts there. All the water is hitting that, coming down and affecting three residential properties on Elmhurst, flooding every time we get heavy rain. I get the bulk of it because I sit at the lowest [elevation]. I have emailed and the city has come out and looked at it but they have told me that there is nothing that they can do.
- Mr. Simmons, again, this is new information. I want to remind the Commission and everyone in the audience that the agenda item deals with de-annexation. The other items must be addressed between private parties. Of course, the city will give any guidance we have to anything that comes from our system that affects private property. I do not want us to go off direction from what we are discussing tonight. We are not trying to solve all of the surrounding property issues dealing with this property at this meeting. We are simply asking for your recommendation if the property can be de-annexed from the City to Cobb County. I do not have the answers regarding privacy issues. We do not have the answers regarding the final resolution for drainage, which is important, but these issues are not the basis for denying the de-annexation.
- Commissioner Bergwall, the question in my mind is, will it be more difficult to get those issues resolved if the property is in or out of the City of Kennesaw.
- Mr. Simmons stated, no it will not be. The City has an obligation, and we have a duty, to help everyone in that area that is within the city limits that are being affected by this property. That commitment will never change.
- Commissioner Michael stated, what I am hearing is that, we are here to address the legal issue. The legal issue being, can this property be de-annexed from the City. What I am hearing you say, is that this application meets the requirements to be de-annexed, provided that the county accepts the de-annexation. If the county does not accept it, of course it cannot go through. But otherwise, we do not have a grounds on which to deny it.
- Mr. Simmons, correct. We have noted all of the grievances, complaints and concerns. The city will look into each and every one of those. It is not we are discounting all of those other items. This issue deals with de-annexation. The other items that affect adjoining properties will be looked at, both in





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cooperation with the county and the city. We have a great relationship with the county. If the citizens cannot get a clear answer, we will help them in that regard, in getting an answer.

- Commissioner Michael stated, at this time, do any of the Commissioners have any other questions.
- [David Burns stood up and approached the podium]
- Mr. Simmons stated, we have closed the floor for public comment, but I will be available at the end of the meeting. I have my card here and I will take all of the additional comments from the public after the session.
- Mr. Burns said, I would just like to make a point of decorum. You guys did close but you allowed another gentleman [Mr. Esposito] to break that decorum so you have opened it back up for discussion if somebody else wants to enter something.
- Mr. Simmons stated, would you like to add something new to the discussion?
- Mr. Burns stated, yes.
- Mr. Simmons stated, Madam Chair, you can [open the floor for public comment].
- Commissioner Michael stated that the floor is back open for public comment.
- Mr. Burns stated, guys I would just like to do a point of information because the math is somewhat confusing. [Mr. Burns held up a sheet of paper to the camera] Mr. Burns asked, can you guys see this at all?
- Commissioner Michael stated, no. [Hold it] A little higher. No it is not coming through.
- Mr. Burns stated, what I wanted to point out, and I am sorry that the map is not coming through, is that Out Post Hill and Kings Row is an out banker of the city itself. If you open the door to the de-annexation, then you have opened it wide open for Out Post Hill and Kings Row because we are surrounded by Cobb County, just as the address is in question. Just a point of contention to let you know, if you do this for this one address, there is no reason that the citizens of Out Post Hill and Kings Row cannot ask for the same thing. Just for arbitrary [inaudible]. We are surrounded by Cobb County. Just as this individual is. We can make the point of trying to get out too. I am sorry, I really wanted you to see this map and unfortunately with the background [on Zoom] it is not going to happen because what was displayed was really confusing. That was my point. Thank you.
- Commissioner Michael stated that the floor is closed for public comment.
- Mr. Simmons stated, are there any questions to staff from the Commissioners?
- Commissioner Bergwall asked Mr. Simmons, your recommendation remains as stated originally?
- Mr. Simmons stated, yes sir.
- Commissioner Michael asked if the question could be repeated because she could not hear it.
- Commissioner Bergwall stated the question I had was after the discussion we've had, I wanted to ask if Mr. Simmons' is still saying that staff recommendation remains as it was stated.
- Mr. Simmons stated, yes Commissioner Bergwall. Given the analysis, given the legal proceeding, my recommendation remains the same. I will add that this is all dependent on the county passing a





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resolution, approving the de-annexation. That must be done so that Mayor and Council can even consider this action.

- Commissioner Michael asked if there are any other questions for Mr. Simmons? So what I understood what you just said, until there is a statement from the county, Mayor and Council cannot consider the question regardless of what motion be made.
- Mr. Simmons stated they must have a decision from Cobb County, according to our Intergovernmental Agreement, that is correct. Following the process, we must have a resolution signed by the [Cobb County Board of] Commissioners before the February 15th Mayor and Council Meeting. If we do not have that, then either we'll have to withdrawal the agenda item or they will have to make a statement that they cannot act on February 15th.
- Commissioner Michael stated, so at this point, you need a motion from us to either recommend approve or recommend denial.
- Mr. Simmons stated correct.
- Commissioner Michael asked, at this point, I would like a motion from the Commission. I will say, I do not make the motion in this situation, but I will say that I have sympathy who are surrounding this property. I have great concerns if I were in their shoes, but I do not see a justification for not approving this from what I have heard presented tonight. That is just my opinion and somebody else has to make a motion.
- Mr. Simmons stated, before you do that, I want to be sure that you understand that when we receive a de-annexation and a property owner is making a business decision, that is something that we take very seriously. Of course we do not want to see folks leave the City of Kennesaw's jurisdiction, but this is a property rights issue as well. That is one thing that we have to be aware that the property rights of individuals are paramount both the city and the county. Like I mentioned earlier, unless there is a compelling reason why the city would deny the property owner to be in the county when they are surrounded by the county and they don't want to receive our services, we have to justify that in our decision. How do we defend that?
- Commissioner Michael stated, I want to make clear, I'm not sure I said that right when I said it before, I am not opposed to this applicant. Whatever the commission wants to do, someone needs to make a motion.
- Mr. Simmons stated, again, I want to reemphasize, we are going to provide any assistance to our city residents who are affected by this property, regardless of the outcome or recommendation from the Planning Commission and whatever happens at the Mayor and Council meeting. Our commitment to our residents remains the same.
- Motion by Commissioner Bergwall for approval of the de-annexation request and stated: understanding that the impact to the adjacent neighbors is not going to be different, whether this





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property is in the city or in the county, I will move to approve the request for de-annexation as outlined.

- Seconded the motion by Commissioner Jackson
 - Affirmed by Commissioner Bergwall, Commissioner Jackson and Commissioner Irons
 - **Motion carried by vote 3 – 0**
3. **MISC2021-01** – Consideration to adopt the official “2021 Zoning Map” for the City of Kennesaw, Georgia.
- Commissioner Michael introduced the next agenda item.
 - Mr. Simmons thanked Madam Chair, this is the annual adoption of our zoning map which reflects all of our zoning approvals for 2020. We submitted with our staff analysis the list of approved rezonings and annexations in 2020. There were four: 1465 Shiloh Road, 1630 Stanley Road, 3501 Cherokee Street and 3461 Cherokee Street. All our listed from the excerpts from our annual end of the year report, which our staff presented as part of your back up material. The map that is being shown, reflects all of those changes for approval for the official zoning map for 2021.
 - Commissioner Michael asked if there are any questions from the Commissioners. Hearing none, she opened the floor for public comment. She asked if there is any public comment. Hearing none, she closed the floor for public comment. She then opened the floor for a motion.
 - Motion by Commissioner Bergwall for approval to adopt the official “2021 Zoning Map” as submitted.
 - Seconded the motion by Commissioner Irons
 - Affirmed by Commissioner Bergwall, Commissioner Jackson and Commissioner Irons
 - **Motion carried by vote 3 – 0**
4. **MISC2021-02** – Consideration to amend the Unified Development Code. The proposed amendment is to amend APPENDIX A “UNIFIED DEVELOPMENT CODE,” CHAPTER 1 “GENERAL PROVISIONS,” SECTION 1.09.02 “DEFINITIONS.”
- Commissioner Michael read the next order of business and yielded the floor to Mr. Simmons.
 - Mr. Simmons stated, thank you Madam Chair, members of the Planning Commission, as you know, we are constantly submitting amendments to our ever changing zoning ordinance. It is always evolving through case law and new state requirements. We have to appropriately go back and address gaps in our codes. In this case, we are dealing with some verbiage that is required to be in our definitions which addresses certain gaps based on case law that was added to the State of Georgia. Exhibit A and the ordinance that was in your packet reflects the draft that Mayor and





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Council will have to act on. One item that I would like to put in the record, is, Commissioner Michael did catch a typo on page 4 under the ordinance, where section 1 and 2 are duplicates in verbiage. We will eliminate one of those sections because they say the same thing. It was a duplicate of section 1 and 2. That was the only change that we recommend and it was basically a typo.

- Commissioner Michael stated within the bullet list, instead of being four items there will be three items, with the second one or the first one, whichever one [inaudible].
 - Mr. Simmons stated, correct, and I have already talked with our City Attorney and they apologize with that; they did not catch that and neither did we. We will make that amendment before it goes to Mayor and Council.
 - Commissioner Michael asked if there any questions from the Commissioners. Hearing none, she opened the floor for public comment. Hearing none, she closed the floor for public comment and stated that if there are no questions that she will take a motion to approve with the corrections that Mr. Simmons had stated.
 - Motion by Commissioner Bergwall that the proposal to amend the Unified Development Code as stated be approved.
 - Commissioner Michael asked Mr. Simmons if he could clarify what Commissioner Bergwall stated.
 - Mr. Simmons stated, the motion should include the amended language that staff identified this evening.
 - Commissioner Bergwall stated yes, as proposed.
 - Commissioner Michael stated, so the amendment is to approve with the corrections that we discussed?
 - Commissioner Bergwall and Mr. Simmons both stated, correct.
 - Seconded the motion by Commissioner Irons
 - Affirmed by Commissioner Bergwall, Commissioner Jackson and Commissioner Irons
 - **Motion carried by vote 3 – 0**
5. **PP2021-02** – Consideration to approve a preliminary plat submitted by Sanctuary Development, LLC. Said request is to combine three existing parcels for a mixed-use (commercial and single-family residential) development known as Galt Commons. These properties are currently addressed as 0, 2985 and 3007 Cherokee Street and are identified as Land Lots 138 & 129, Tax Parcels 125, 124 & 97 of the 20th District, 2nd Section Cobb County, Georgia.
- Commissioner Michael read the last item of new business for public hearing and yielded the floor to Mr. Simmons.
 - Mr. Simmons stated, thank you Madam Chair, we do not get a lot of these. I am hoping to get more preliminary plats for your review. The function of the plat, is to identify, as identified in the name,





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the preliminary layout of the site and the value of this plat is for the purpose that is going to go underground and identifying how the utilities and how the placement of all of the site development areas will come about. This plat is not going to be recorded. It is, by ordinance, to be looked at and approved by the Planning Commission only. The property is located in the historic district on Cherokee Street. It is also located within the Central Business District (CBD). The applicant has gone through and secured all of the required approvals from the Historic Preservation Commission (HPC), from the CBD project approval process with Mayor and Council as well as the Kennesaw Downtown Development Authority (KDDA). The purpose of this agenda item for your review is to show the preliminary plat review, the combination of the lots and I also added to your packet, the background information of Galt Commons, which we think will be a very exciting and very beneficial project along Cherokee Street. Again, this preliminary plat shows all of the basic information of how the site is going to be laid out. There will be a final plat, which will come much later and it will be submitted to Mayor and Council for their approval. Again, this layout shows all of the residential units, how they are going to be laid out; the road, the access easements and the utility easements. This plat has been reviewed by our Plan Review Committee for all of the technical data and ready for your consideration tonight. The applicant is here if you have any questions regarding the project.

- Commissioner Michael asked of the Commissioners had any questions.
- Mr. Simmons stated, before we get started, I will have to require Commissioner Jackson to recuse himself from these proceedings and be placed in the [Zoom] waiting room.
- Commissioner Michael stated, okay I see that he is gone, I just noticed that. She stated that Commissioner Jackson will not be participating in the conversation.
- Mr. Simmons stated correct, that he has a direct conflict with this agenda item and we want to make sure that he is recused before any discussion begins and any votes taken.
- Commissioner Bergwall asked, do we still have a quorum?
- Mr. Simmons stated, you have a quorum to have the meeting, even if you have one less person participating with this item, you can vote and carry it.
- Commissioner Michael asked if there are any questions on this?
- Commissioner Bergwall asked, is there anything significantly different about this then there was in the initial concept?
- Mr. Simmons stated there were changes, yes. The applicant went back and went through all of the approvals showing the changes. There were apartments in the original concept. Those were removed. The original concept proposed the relocation of the historic structures. That was changed. They [the historic homes] will stay in place in their original location, so that is a plus. All of the changes made the project more in line with the vision of Cherokee Street, including adding more single-family cottages on the property and reusing the two historic structures as a part of the development.





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- Commissioner Bergwall stated, so we will preserve the historic aspect that is there and we will end up with more owned pieces of property than rentals.
- Mr. Simmons stated, correct.
- Commissioner Michael said, if I understand right, Commissioner Bergwall stated that there is going to be more ownership of the property rather than rental properties and we are preserving the historic aspects of it.
- Mr. Simmons stated, that is correct.
- Commissioner Michael then stated that she would like to point out for those who are not familiar with it, the house on the left of the diagram is the Galt House and it has a historic marker in front of it and the HPC has some history to go with that house. It should have to be preserved and protected the way the structure in the ... what is the project across the street from City Hall? I am drawing a blank.
- Mr. Simmons stated, the Lewis House.
- Commissioner Michael said, yes, the Lewis House, is a historic structure and that was protected and preserved as a requirement and the Galt House will be. The second house in there, I do not remember the name of that house, but someone said it was historic.
- Mr. Simmons stated the name of the historic house which is Grambling. He then stated, yes, they are both historic. Again, the applicant went through a thorough review by the HPC, which included providing a preservation plan which was approved by the HPC. That spells out all of the preservation methods to preserve both properties from the material, to what they are going to repair, fencing, all of that was reviewed and approved.
- Commissioner Michael stated, theoretically in conjunction with that, they reviewed the design and construction that are going in the new community to make them compatible to the existing structures; to not make them look historic, but to make them look compatible.
- Mr. Simmons stated, that is correct. In your packet, I also included the Galt Commons plans and elevations that were reviewed by the HPC, so you see exactly what they reviewed and approved.
- Commissioner Michael asked the Commission if there are any other questions. Hearing none, she asked Mr. Simmons if the applicant is present and if he would like to make a statement.
- Mr. Simmons stated, yes, he is here.
- Chad Howie stated, good evening, they say a picture is worth a thousand words, I know that the technical difficulties we are having tonight. It would be difficult to show a video of the completed video of the completed neighborhood. But, as a follow up, if you go to the website that we have set up, www.galtcommons.com, there are three videos that will take you on a tour of the finished neighborhood with all of the houses in place. To your point about the history, we are going to preserve the 1890 Galt House, the 1910 Grambling house, just like we preserved the 1864 Galt House across the street. We were excited to be able to re-assemble the Galt Farm and then turn this





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into this really fantastic community. If you have been down Cherokee Street, you can see that we have started and trying to do some things simultaneously so we appreciate your consideration for approval.

- Commissioner Michael asked the Commission if there are any questions for the applicant. Hearing none, she opened the floor for public comment. She asked if there were any citizens in attendance for public comment, hearing none she closed the floor for public comment. She asked if there are no questions for the applicant or Mr. Simmons, then she stated she will entertain a motion regarding the approval of the preliminary plat for the Sanctuary Development LLC, to be known as Galt Commons.
- Motion by Commissioner Irons for approval of the preliminary plat.
- Seconded the motion by Commissioner Bergwall
- Abstained by Commissioner Jackson
- Affirmed by Commissioner Bergwall and Commissioner Irons
- **Motion carried by vote 2 – 1 – 0**
- Commissioner Michael stated that she wanted to clarify. She said she knows of two parcels and the third one has a zero [address]. She asked, so is it a chunk in the back Mr. Simmons?
- Mr. Simmons stated, yes.
- Commissioner Michael stated that she wanted to make sure.
- Mr. Simmons asked to let Commissioner Jackson back into the Zoom Meeting.

IV. Staff Comments

- Commissioner Michael asked Mr. Simmons if he has any final comments.
- Mr. Simmons stated, no ma'am and thanked the Commissioners for all that they do. He looks forward to working with everyone in 2021.

V. Adjourn

- Commissioner Michael asked the Commission if there are any questions or comments before the meeting is adjourned. Hearing none, she entertained a motion to adjourn.
- Commissioner Bergwall stated, so moved. Motion to adjourn.
- Commissioner Michael thanked everyone for being here and carrying out the business of the City. She asked, do we have a second?
- Seconded the motion by Commissioner Irons.
- Adjournment of meeting by Commissioner Michael at 8:30 p.m.

