



ZONING 101

August 29, 2007

Zoning Background – What is Zoning?

- Exercise of Police Power
- Defines usage of a property
- Georgia Law favors property rights more broadly than other states
- Zoning Procedures Law establishes the minimum requirement regarding the zoning process for Georgia
- Tool for Comprehensive Plan implementation



Zoning Procedures Law

- Establishes minimum requirements
- Requires a zoning ordinance that meets due process, equal protection and takings consideration
- Requires adoption of procedures governing hearings and adoption of standards governing exercise of zoning power



Standards of Review (Steinberg)

- Suitability of use in view of nearby property
- Adverse impacts on nearby properties
- Reasonable economic use as currently zoned
- Excessive burden on streets, transportation facilities, utilities or schools
- Conformity with policies of land use plan
- Existing or changing conditions affecting use and development of the property



Standards of Review

Additional Criteria Per Zoning Ordinance

- Adverse environmental impacts (Refer to Comp Plan)



Types of Applications

- Text Amendment
 - Application to an area
- Map Amendment
 - Site Specific
- Use Permit (Not permitted by right)



Applications

- Change Zoning classification
- Adjust/alter existing conditions, which may include significant changes to site plan
- Modifications
- Concurrent Variances



Who May Apply for Rezoning?

- Applicant/Owner
- Mayor & Council

Is there a limit on how often an applicant is entitled to file a rezoning application?



Rezoning Process

- Application filed (Processed if complete and accurate)
- Legal Ad
- Sign posted on property
- Letters sent to nearby property owners
- Neighborhood notification/meeting(s) (PPP)
- Staff recommendation prepared
- Planning Commission Hearing
- Staff report revised to include PC recommendation
- Public Participation report submitted
- Mayor and City Council Hearing



Public Hearing Process

- Johns Creek requires two public hearings – Planning Commission and City Council
- Rezoning Application must be legally advertised...
 - Sign posted on property 20 days prior to first public hearing, per Johns Creek Ordinance
 - Legal Ad sent to legal organ (15-45 days prior to first public hearing)
 - Letters mailed to nearby property owners 15 days prior to first public hearing



Public Hearing Process

- *Additionally...*public participation program (Plan & Report)
 - Notification to nearby property owners (1/4 mile)
 - Applicant/neighborhood meeting



Conditions of Zoning

What are conditions of zoning? (Should mitigate negative effects of proposal on adjacent or nearby properties).

Conditions of zoning should address “who, what, when, where, how, and why” they have been proposed.



Conditions of Zoning

- Acceptable condition:

The owner/developer shall dedicate ten (10) additional feet of right-of-way along the total property frontage along Smith Road to provide for a right-of-way width of forty (40) feet from the existing centerline of Smith Road. Such dedication of right-of-way shall be submitted to the Community Development Director prior to the issuance of the land development permit.

- The subject property shall be limited to a maximum of three (3) dwelling units per acre.



Conditions of Zoning

- Unacceptable condition:
 - *Limit the use of the property to service commercial, retail and accessory uses. McDonalds and non-locally owned coin laundry businesses are prohibited.*
 - *The owner/developer shall grade the property to the minimal extent possible.*
 - *The owner/developer shall come to agreement with adjoining properties regarding buffering.*
- Additional Condition phrases to avoid:
 - "may," "endeavor to," "should," etc.



Additional Zoning Considerations/Terms

- Variances/Board of Zoning Appeals
- Setbacks
- Buffers
- Improvement Setbacks
- Sign Ordinance
- Subdivision Regulations/Land Development



QUESTIONS???

