

RESOLUTION 2022 - 177

A RESOLUTION ESTABLISHING A MORATORIUM ON THE ACCEPTANCE OF ANY NEW CITY REZONING APPLICATIONS FOR RESIDENTIAL DEVELOPMENT; TO REPEAL CONFLICTING RESOLUTIONS; TO PROVIDE SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS the City of Powder Springs (“the City”) is vested with substantial powers, rights and functions to generally regulate the practice, conduct or use of property for the purpose of preserving the health, safety, security, peace and the general welfare of the City; and

WHEREAS Georgia law recognizes that local governments may impose moratoria on zoning decisions, building permits and other development approvals where exigent circumstances exist; and

WHEREAS the Georgia Supreme Court in *DeKalb County v. Townsend*, 243 Ga. 80 (1979), held that “To justify a moratorium, it must appear first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and second that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals.”; and

WHEREAS the City has found that the interest of the public necessitates the enact of a moratorium for health, safety, security, peace and the general welfare of the City, as a reasonable and not unduly oppressive means to allow for the planning, zoning and growth management review of the Code of Ordinances of the City of Powder Springs, Georgia (“Code”), the Unified Development Code of Powder Springs, Georgia (“UDC”), the 2021 Update City of Powder Springs Comprehensive Plan (“Comprehensive Plan”), the 2019 Livable Centers Initiative (“LCI”) plan, and the City’s Annexation Plan, and to allow for review and updating of development projections and other related community planning tools that could be anticipated within the City;

WHEREAS, the City deems it important to develop a comprehensive development plan that integrates all issues associated with the projected residential development including the need for amendments to the Code, the UDC, the Comprehensive Plan and other land use plans, impact fees and development standards in order to continue land use regulations in the most predictable fashion with the least amount of disturbance to landowners and citizens, and therefore, considers a moratorium to be a proper exercise of its police powers; and

WHEREAS the City has a strong interest in facilitating growth and development for long-term sustainability and diversification of the tax base to promote managed growth and its goals of health, safety, morals, aesthetics and the general welfare of the community; and

WHEREAS the City is considering potential changes to the Comprehensive Plan in addition to the aforementioned codes and plans, and a reasonable amount of time is necessary to explore and review such potential changes; and

WHEREAS the Mayor and Council of the City find that one hundred eight (180) days is a reasonable and necessary period of time to conduct such an endeavor.

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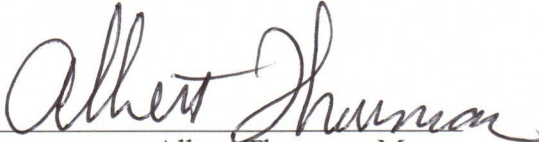
NOW THEREFORE, BE IT HEREBY RESOLVED by the Mayor and Council of the City of Powder Springs that it makes the following findings of fact:

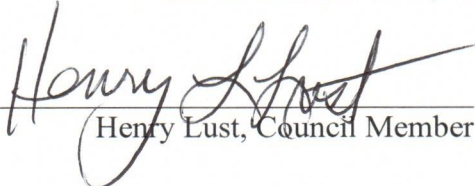
- a. It appears that the Code, UDC and Comprehensive Plan is in the process of being reviewed and revised by the City;
- b. The City's ongoing revisions require a limited cessation of residential rezoning applications; and
- c. It is necessary and in the public interest to delay for a reasonable period of time the processing of any applications for new residential zoning or applications to modify conditions to existing residential zoning or residential portions of any mixed-use zoning to ensure that the same are consistent with the long-term planning objectives of the City; and

BE IT FURTHER RESOLVED that there is hereby imposed a moratorium on the acceptance of applications for new residential rezonings and the duration of the moratorium shall be established until the City completes its review and updates to its Code, UDC and Comprehensive plan or for one hundred eighty (180) days, whichever occurs first, unless extended by resolution of the Mayor and Council. No applications for residential rezoning that were not already filed or before the Mayor and Council at the time of this Resolution's adoption shall be reviewed or adopted by the Mayor and Council, but the moratorium shall have no effect upon approved permits, applications, rezonings, etc. occurring before the effective date of this Resolution. This Resolution shall become effective immediately upon adoption.

BE IT FURTHER RESOLVED AND KNOWN THAT it is the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of the Resolution are and were fully valid, enforceable and constitutional and each is severable from every other sections, paragraphs, sentences, clauses or phrases and that no sections, paragraphs, sentences, clauses or phrases are mutually dependent upon another. In the event any sections, paragraphs, sentences, clauses or phrases of this Resolution shall be declared for any reason invalid, unconstitutional or otherwise unenforceable by valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses or phrases of this Resolution remain valid, constitutional and enforceable to full force and effect.

SO RESOLVED this 7th day of November 2022.


Albert Thurman, Mayor

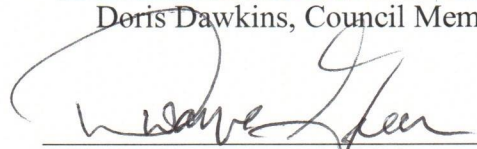

Henry Lust, Council Member

[additional signatures follow]

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Absent

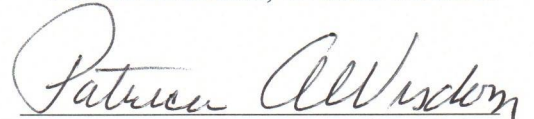
Doris Dawkins, Council Member



Dwayne Green, Council Member

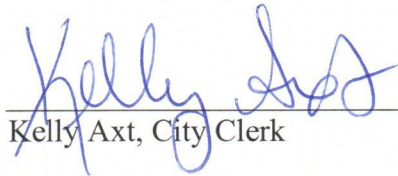
Pat. Bordelon

Patrick Bordelon, Council Member



Patricia Wisdom, Council Member

Attest:



Kelly Axt, City Clerk