

Mayor and Council Work Session

700 Doug Davis Drive
Hapeville, GA 30354

August 20, 2019 6:00PM

Agenda

1. Call To Order

2. Roll Call

Mayor Alan Hallman
Alderman Mike Rast
Councilman at Large Travis Horsley
Councilman Ward I Mark Adams
Councilman Ward II Chloe Alexander

3. Welcome

4. Presentations

4.I. Outstanding Georgia Citizen Award Presented To Dr. Pizza By Senator Donzella James
Background:

Senator Donazella James will present Dr. Pizza of Pizza Clinic of Chiropractic with the Outstanding Georgia Citizen Award on Tuesday evening.

4.II. Southern Fulton Comprehensive Transportation Plan Presentation By Inga Kennedy
Background:

Ms. Kennedy will give an update on the Southern Fulton Comprehensive Transportation Plan and go over the upcoming engagements, vision, goals and prioritization of the plan.

Documents:

[SFCTP STATUS PRESENTATION.PDF](#)

4.III. Mobile App And Administrative Web-Based Portal Presentation By Ron Freeman
Background:

Ron Freeman of ITsimple will demonstrate a user-friendly, community engaging mobile city app and administrative web-based portal on Tuesday evening.

Documents:

[WORK SESSION PREP HAPEVILLE GA- AUG19.PDF](#)
[IMT-FLYER-DIGITAL.PDF](#)
[COMPANY PROFILE DIGITAL.PDF](#)

4.IV. Recognition Of Carolyn Meier's Retirement
Background:

Carolyn Meier is retiring from the City of Hapeville after 25 years of dedicated service. Her last day of employment will be August 30. Mayor and Council will recognize her during the Council meeting.

5. Public Hearing

5.I. Consideration Of A Special Exception At 876 Virginia Avenue - Drive Through Background:

Philip Jones requests approval of a special exception to authorize the use of an existing drive-through at 876 Virginia Avenue, Parcel Identification number 14 009800010698. The property is zoned U-V, Urban Village and is 0.43 acres.

The Planning Commission considered this item on August 13, 2019 and recommends the Mayor and Council grant the special exception subject to the following conditions:

1. The special exception for the drive-through will remain with Smoothie King and is not transferable.
2. A right turn only sign is placed at the Virginia Avenue exit.
3. The applicant consults with City Staff to determine a long-lasting material to enhance the pedestrian walkway onto Virginia Avenue.

Staff supports their recommendation.

Staff Comment

Applicant Comment

Public Comment

Documents:

[PLANNERS REPORT 876 VIRGINIA AVE SPECIAL EXCEPTION
RESUBMITTAL.PDF](#)
[LEGAL ADV. - 876 VIRGINIA AVENUE, SPECIAL EXCEPTION 8-20-
2019.PDF](#)
[APPLICATION - 876 VIRGINIA AVENUE, SPECIAL
EXCEPTION_REDACTED.PDF](#)
[SUMMARY MINUTES - 8-13-2019.PDF](#)

5.II. Consideration On Text Amendment On Setback Definition - 1st Reading Background:

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to change the definition of setback.

The Planning Commission considered this item on August 13, 2019 and recommended the Mayor and Council approve the text amendment as presented.

Staff Comment

Applicant Comment

Public Comment

Documents:

[ORDINANCE - TEXT AMENDMENT SETBACK DEFINITION
\(02269964XA0B3B\).PDF](#)
[PLANNERS REPORT TEXT AMENDMENT SETBACK DEFINITION.PDF](#)
[LEGAL ADV. - SETBACK ORDINANCE, 8-20-2019.PDF](#)
[SUMMARY MINUTES - 8-13-2019.PDF](#)

5.III. Consideration On Text Amendment On Waiting Period For Rezoning - 1st Reading

Background:

Consideration of a text amendment to Chapter 93 (Zoning), Article 25 (Amendments), Section 93-25-9 (Reconsideration of Defeated Actions) to require a six-month waiting period for reconsideration of defeated rezoning proposals.

The Planning Commission considered this item on August 13, 2019 and recommended the Mayor and Council approve the text amendment as presented.

Staff Comment

Applicant Comment

Public Comment

Documents:

[ORDINANCE - TEXT AMENDMENT WAITING PERIOD FOR REZONING \(02269966XA0B3B\).PDF](#)

[PLANNERS REPORT TEXT AMENDMENT APPLICATION LIMITS.PDF](#)

[LEGAL ADV. - RECONSIDERATION OF DEFEATED ACTIONS, 8-20-2019.PDF](#)

[SUMMARY MINUTES - 8-13-2019.PDF](#)

5.IV. Consideration On Text Amendment On Home Occupation Definition - 1st Reading

Background:

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, Definitions, and application of regulations), Section 93-1-3 to change the definition of home occupation.

The Planning Commission considered this item on August 13, 2019 and recommended the Mayor and Council approve the text amendment as presented.

Staff Comment

Applicant Comment

Public Comment

Documents:

[ORDINANCE - TEXT AMENDMENT HOME OCCUPATION DEFINITION \(02269904XA0B3B\).PDF](#)

[PLANNERS REPORT TEXT AMENDMENT HOME OCCUPATION DEFINITION.PDF](#)

[LEGAL ADV. - HOME OCCUPATION ORDINANCE, 8-20-2019.PDF](#)

[SUMMARY MINUTES - 8-13-2019.PDF](#)

5.V. Consideration On Text Amendment On A-D (Arts District Overlay) For Drive-Through - 1st Reading

Background:

Consideration of a text amendment to Chapter 93 (Zoning), Article 28. A-D Zone (Arts District Overlay), Section 93-28-8 (Prohibited uses) to the change the prohibited uses.

The Planning Commission considered this item on August 13, 2019 and recommended the Mayor and Council approve the text amendment with a recommendation to add credit unions to the language. Staff supported their recommendation.

Staff Comment
Applicant Comment
Public Comment

Documents:

[ORDINANCE - TEXT AMENDMENT DRIVE-THROUGHS.PDF](#)
[PLANNERS REPORT TEXT AMENDMENT BANK DRIVE-THRU A-D.PDF](#)
[REGIONS BANK - REQUEST LETTER.PDF](#)
[LEGAL ADV. - ARTS OVERLAY DISTRICT, 8-20-2019.PDF](#)
[SUMMARY MINUTES - 8-13-2019.PDF](#)

6. Questions On Agenda Items

The public is encouraged to communicate their questions, concerns, and suggestions during Public Comments. The Council does listen to your concerns and will have Staff follow-up on any questions you raise. Any and all comments should be addressed to the Governing Body, not to the general public and delivered in a civil manner in keeping with common courtesy and decorum.

7. Consent Agenda

7.I. Consideration And Action On Proclamation Recognizing National Payroll Week For Hapeville, GA

Background:

Attached for consideration and action is a proclamation recognizing the first week in September as National Payroll Week for Hapeville, GA.

Documents:

[NATIONAL PAYROLL WEEK PROCLAMATION.PDF](#)

7.II. Consideration And Action On Resolution For A 12-Month Moratorium On Shareable Mobility Devices (Scooters)

Background:

The consensus of Mayor and Council at the June 18 Work Session was to place a 12-month moratorium on scooters to allow Council time to create policy to ensure safety and to see what is done at state level. Attached for consideration and action is a resolution.

Documents:

[SCOOTER MORATORIUM RESOLUTION.PDF](#)

7.III. Consideration And Action On Proposal From Artist YoYo Ferro For Mural On Interior Wall Of The Performing Arts Center At 597 N Central Avenue; Not To Exceed \$7500

Background:

The Tourism Product Development Committee was presented with a proposal from artist YoYo Ferro for the painting of a mural on an interior wall in the lobby of the Performing Arts Center currently under construction at 597 North Central Avenue. The cost of the painting is \$20 per square foot with an estimated cost not to exceed \$7,500. As part of a performing arts center, this project is eligible for funding from the Tourism Product Development portion of the Hotel/Motel Tax.

Documents:

7.IV. Consideration And Action On Optottraffic Agreement And To Authorize The Mayor To Sign All Necessary Documents

Background:

On June 4, Mayor and Council approved the attached amendment that creates a section titled "Automated Traffic Enforcement Safety Device" in the "Traffic and Motor Vehicles" ordinance. The consensus of Mayor and Council was to proceed with Optottraffic. Attached for consideration and action is the Optottraffic agreement.

Documents:

[ORD. 2019-12.PDF](#)

[OPTOTRAFFIC AGREEMENT 08-07-2019.PDF](#)

7.V. Consideration And Action On 2020 Legislative Agenda

Background:

During the June 18 Work Session, a discussion on the process of preparing and sending the legislative agenda to the legislative delegation occurred. Legal has drafted the attached documents for Council's consideration and to initiate the process.

Documents:

[PROPOSED LEGISLATIVE AGENDA.PDF](#)

[CITY OF HAPEVILLE PUBLIC FACILITIES AUTHORITY - DRAFT.PDF](#)

7.VI. Consideration And Action On Resolution Separating Clean And Beautiful From The City

Background:

At the June 2 Council Session, legal was instructed to draft a resolution to separate the Clean and Beautiful Commission from the City. Attached for Council's consideration and action is the resolution.

Documents:

[RESOLUTION - HAPEVILLE CLEAN BEAUTIFUL \(02285076XA0B3B\).PDF](#)

8. Old Business

8.I. Consideration On Ordinance To Amend Residential Driveway Requirement - 2nd Reading

Background:

On June 4, Council voted to extend the gravel moratorium until October 31, 2019. Attached for consideration and action is a permanent ordinance clarifying the regulations regarding the surface and maintenance of residential driveways.

Documents:

[ORDINANCE TO AMEND RESIDENTIAL DRIVEWAY REQUIREMENT.PDF](#)

9. New Business

9.I. Consideration On Text Amendment On DRC Board Attendance Requirement - 1st Reading

Background:

Consideration of a text amendment to amend Chapter 81 (Architectural Design Standards), Section 81-1-4 (Design Review Committee) for the purpose of updating the procedures for the Design Review Committee.

Documents:

[ORDINANCE - TEXT AMENDMENT DRC BOARD ATTENDANCE REQUIREMENT .PDF](#)
[PLANNERS REPORT TEXT AMENDMENT BOARD ATTENDANCE.PDF](#)

9.II. Consideration On Text Amendment On Board Procedures - 1st Reading

Background:

Consideration of a text amendment to amend Chapter 87 (Planning), Article 2 (Planning Commission) and Article 3 (Board of Zoning Appeals) for the purpose of updating the procedures for Planning Commission and Board of Zoning Appeals.

Documents:

[ORDINANCE - TEXT AMENDMENT BOARD APPOINTMENTS .PDF](#)
[PLANNERS REPORT TEXT AMENDMENT BOARD ATTENDANCE.PDF](#)

9.III. Discussion Initiated By Councilman Alexander On Sign Ordinance

Background:

Councilman Alexander will initiate a discussion on the current sign ordinance and the enforcing of the ordinance.

9.IV. Discussion Initiated By Councilman Alexander On Next Steps With Food Well Alliance In Hapeville

Background:

In February of 2019, The City of Hapeville hosted a Local Food Forum in cooperation with the Food Well Alliance and the Atlanta Regional Commission. Food Forums were also hosted in the cities of Alpharetta, Clarkston, Lawrenceville, Lovejoy, Pine Lake, and East Point. While Hapeville was a strong contender, the City of East Point was selected as the Food Well Alliance pilot city to develop a City Agriculture Plan. As a valued participant, the City of Hapeville will receive support from Food Well Alliance to catalyze their own urban agriculture initiatives and would like to receive input from local stakeholders to develop local food initiatives.

9.V. Discussion Initiated By Lee Sudduth On Commercial Dumpster Service

Background:

With our current exclusive commercial solid waste contract expiring in October of this year, we are looking at implementing a non exclusive model for commercial dumpster services. Our current model requires businesses to use one exclusive solid waste hauler, rather than having a choice of several different waste haulers. The non exclusive model would allow several different waste haulers to register with the City on an annual basis and sign non-exclusive agreements with terms no longer than one-calendar year. If solid waste haulers fail to register with the City upon notification or fail to abide by operational rules and regulations, their agreement would not be renewed the following year.

Currently, the City has to intervene between the solid waste hauler and the business if a disagreement arises. The new model would allow businesses to choose the hauler that best meets their individual solid waste needs, should afford more tailored service,

and allows market competition. After receiving several requests from businesses to choose their solid waste hauler, staff is seeking direction from council on switching to the non exclusive agreement.

10. City Manager Report

11. Public Comments

Members of the public wishing to speak shall sign in with the City Clerk prior to the start of the meeting. Time limitations for Registered Comments are three (3) minutes per person. The total Registered Comment session shall not last more than fifteen (15) minutes unless extended by Council. Each member of the public, who fails to sign up with the City Clerk prior to the start of the meeting, wishing to address Mayor and Council shall have a total of two (2) minutes. The entire general comment session for Unregistered Comments shall not last more than ten (10) minutes unless extended by Council.

12. Executive Session

When Executive Session is Required one will be called for the following issues: 1) Litigation O.C.G.A. §50-14-2; 2) Real Estate O.C.G.A. §50-14-3(b)(1); or 3) Personnel O.C.G.A. §50-14-3(b)(2).

13. Adjourn

Public involvement and citizen engagement is welcome as Hapeville operates a very open, accessible and transparent government. We do however remind our attendees/residents that there are times allocated for public comments on the agenda. In order for council to conduct their necessary business at each meeting, we respectfully ask that side-bar conversations and comments be reserved for the appropriate time during the meeting. This will allow the City Council to conduct the business at hand and afford our meeting attendees ample time for comments at the appropriate time during the meeting.



Southern Fulton County Comprehensive Transportation Plan

Status Update
June 2019



Your Consultant Team



Keli Kemp, AICP, PTP
Modern Mobility Partners
Project Manager, Tasks 1, 5, 6 Lead



Jennifer Zhan, AICP, PTP
Modern Mobility Partners
Tasks 3 & 4 Lead



Inga Kennedy
PEQ
Task 2 Lead



Julie Price, AICP
Arcadis
Transportation &
Land Use



Jennifer Hibbert
AECOM
Transit/Bike/
Pedestrians

Agenda



Plan Overview & Status

Scope, Schedule, Milestones, Completed Efforts

Upcoming Engagement

Digital and In-Person Activities

Vision, Goals, & Prioritization

Previous SFCTP, Potential Categories, Project Prioritization Methodology

Next Steps

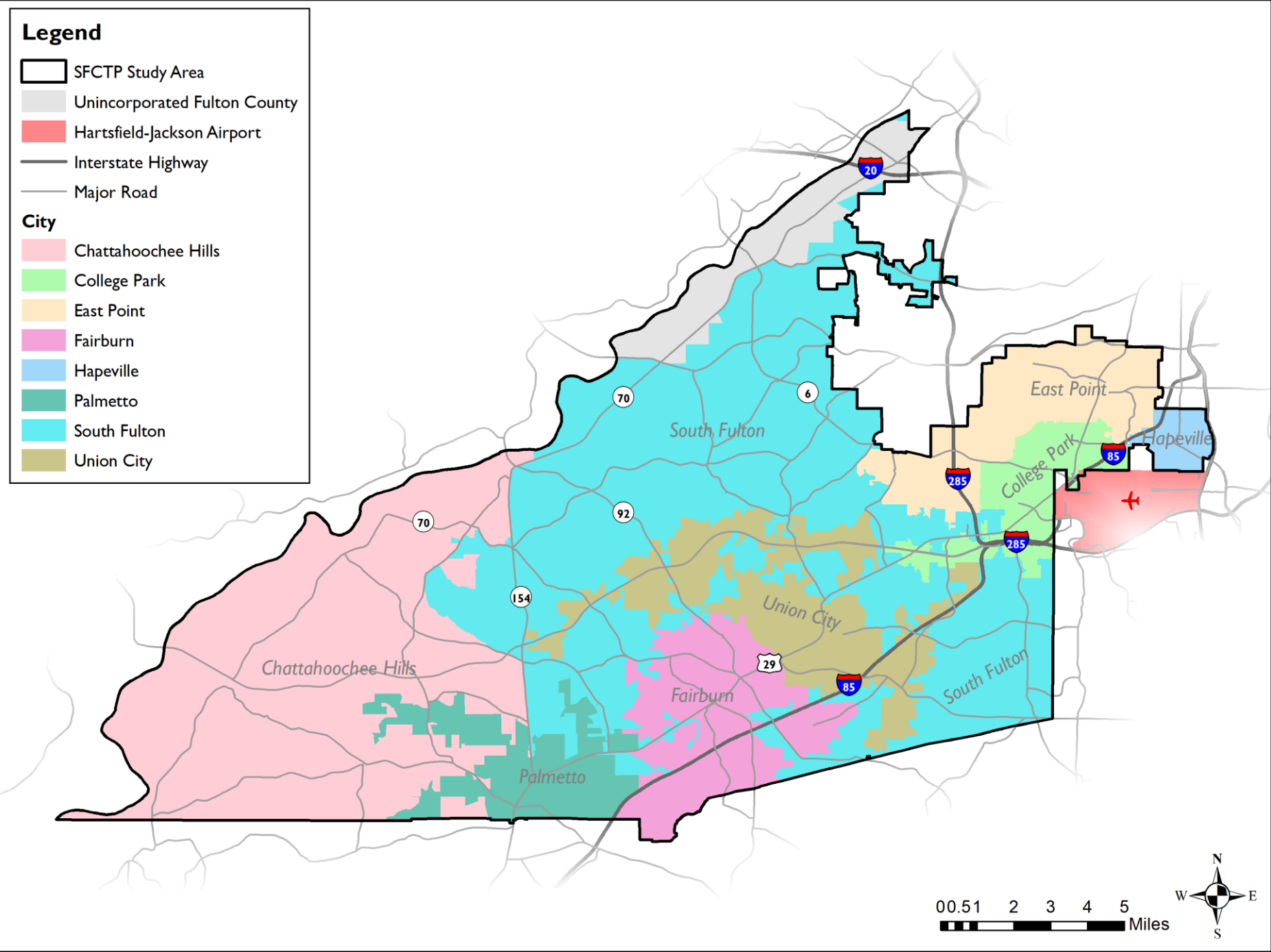
Vision, Goals, Objectives, Project Prioritization Framework

Plan Overview & Status

Study Area, Scope, Schedule, Milestones, Completed Efforts

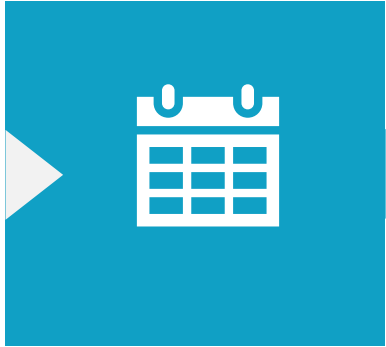
Status Update

Study Area



Project Management

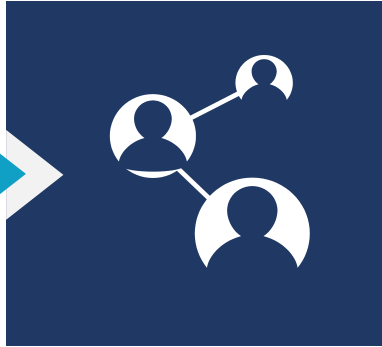
Scope - Tasks



Task 1

Project Management

- Kick-Off
- Project Management Plan (PMP)



Task 2

Engagement

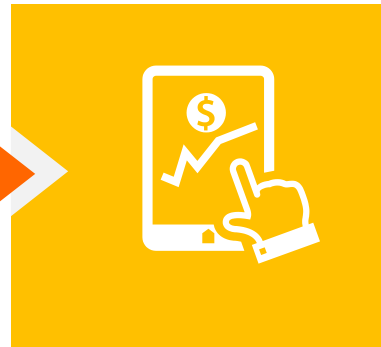
- Stakeholder Engagement & Outreach Strategy Technical Report
- Branding
- In-Person & Digital Engagement
- Vision, Goals & Objectives Technical Report



Task 3

Inventory

- Data collection
- Inventory of Existing Conditions Technical Report



Task 4

Assessment

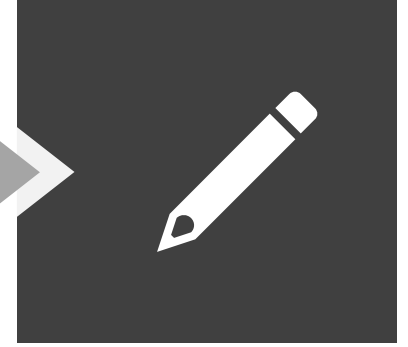
- Project evaluation and prioritization framework
- Short- and Long-Range Needs
- Detailed Corridor Analysis



Task 5

Recommendations

- Project prioritization
- Funding analysis
- 5-10 year fiscally constrained action plan
- Long-term unconstrained projects
- System performance dashboard
- Project/program delivery monitoring plan



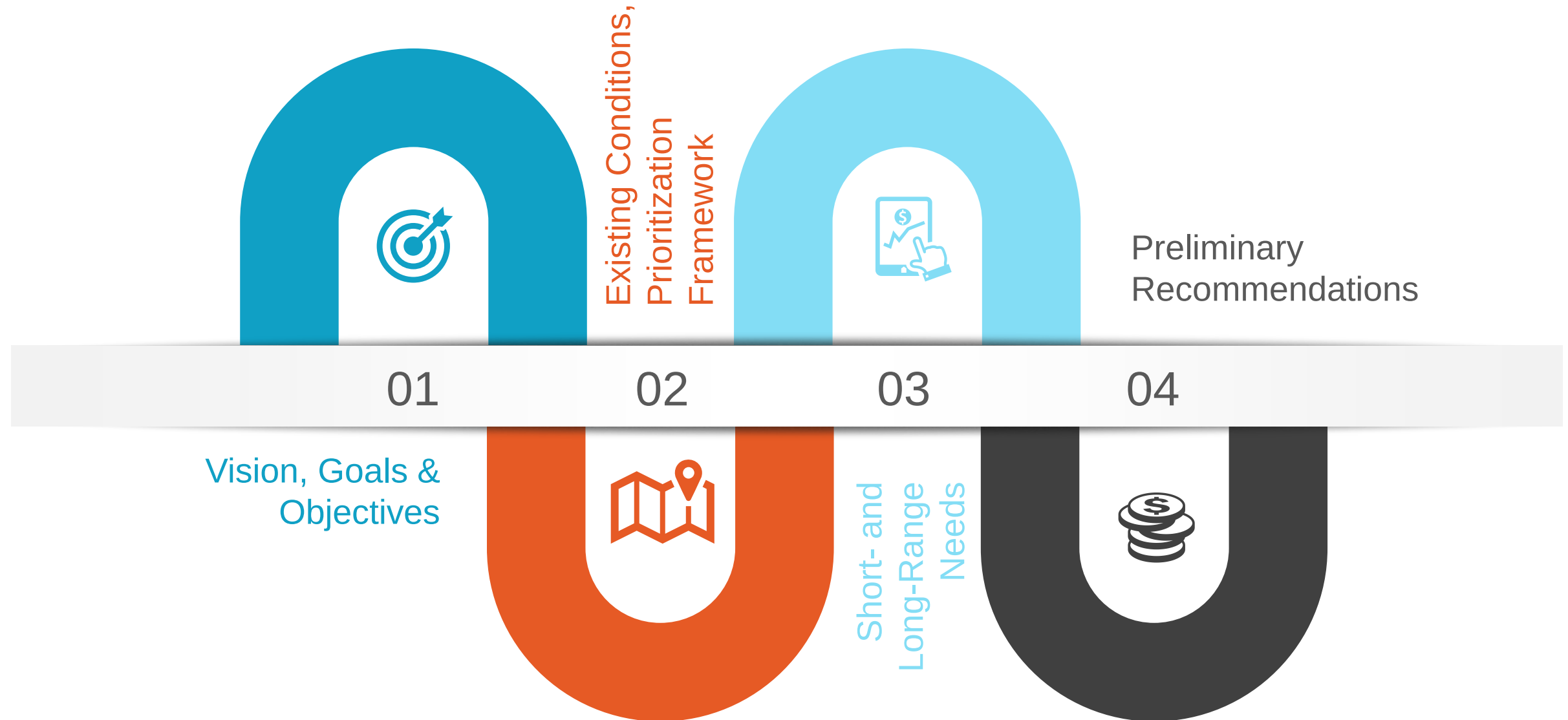
Task 6

Documentation

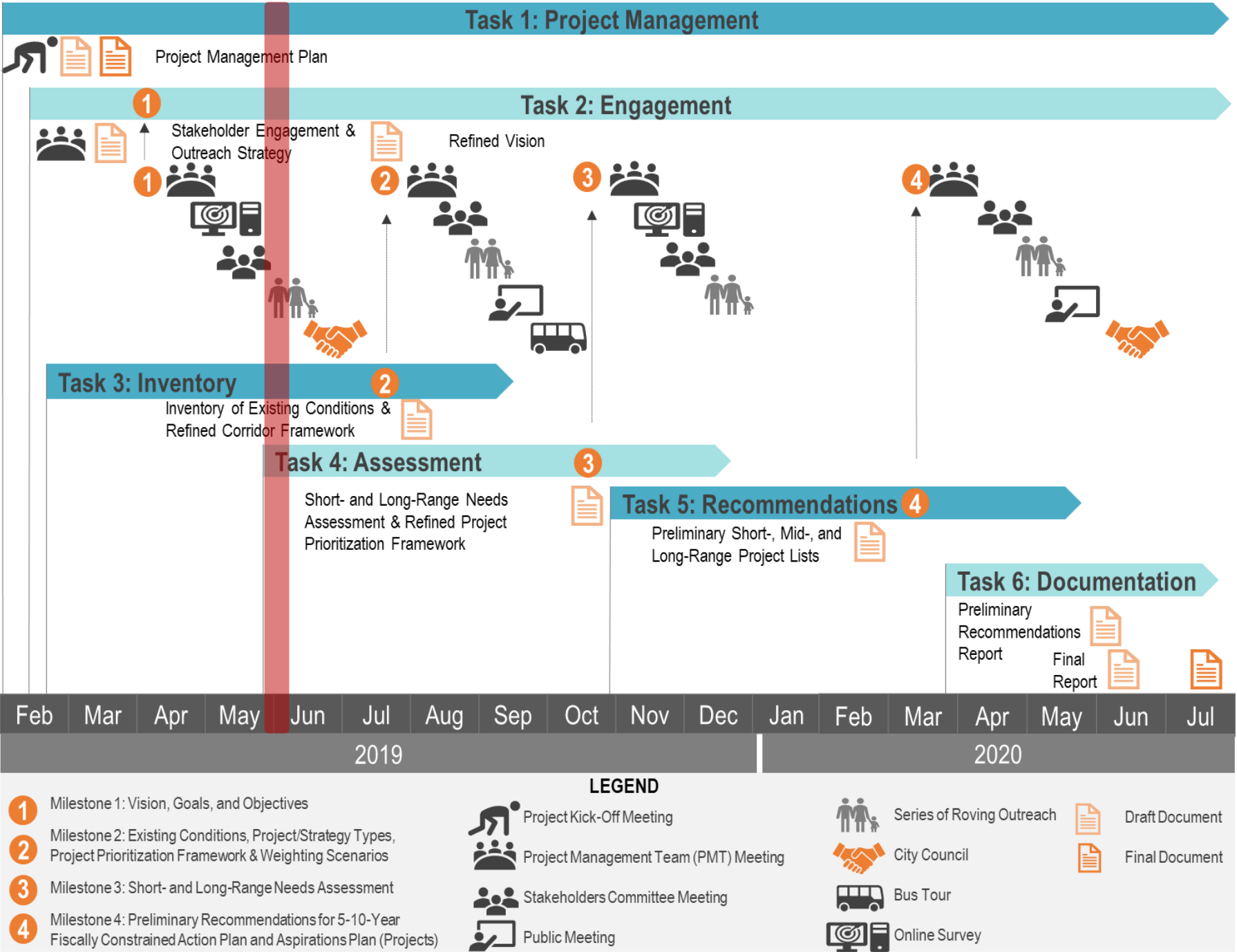
- Final Report

Status Update

Schedule - Milestones



Status Update Schedule



Status Update



Ramp Up

- Project Management Plan (PMP)
- Outreach & Engagement Strategy Tech Report
- Data Needs



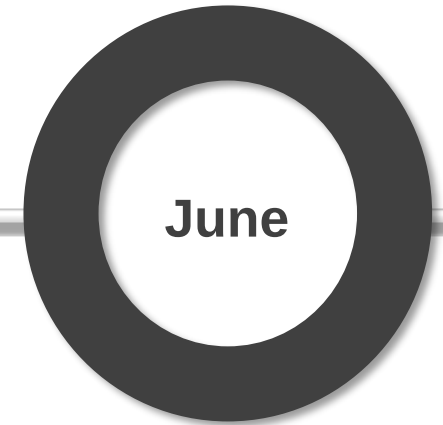
Draft Vision, Inventory

- PMT Meeting
- Data Collection
- Begin Inventory



Refine Vision, Inventory

- Roving Outreach
- Data Collection
- Stakeholder Committee
- Mayors Charrette
- Continue Inventory



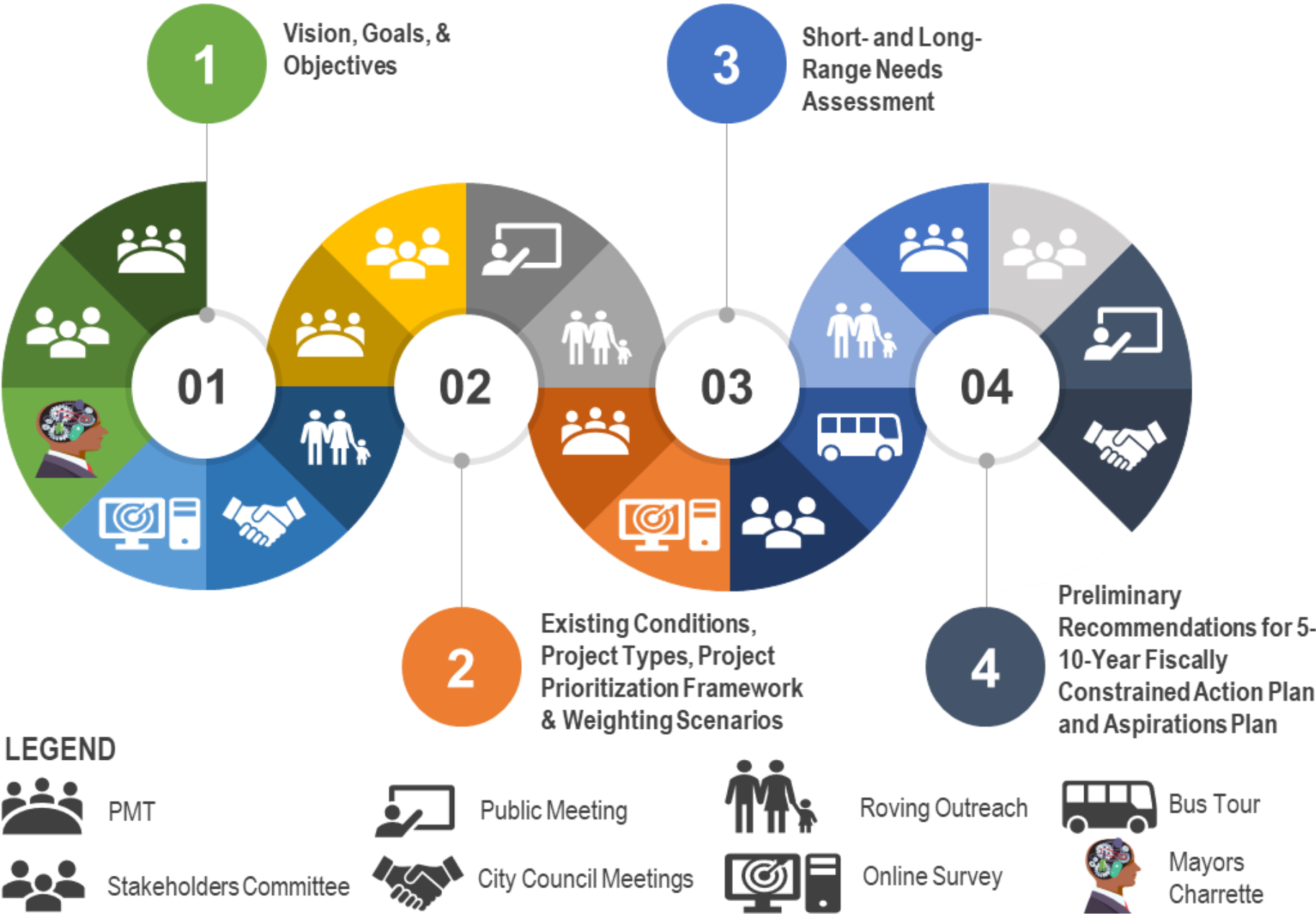
Refine Vision, Inventory, Needs

- Roving Outreach
- Online Survey
- City Council Meetings
- Complete Inventory
- Start Needs Assessment

Upcoming Engagement

Digital and In-Person Activities

Outreach Strategy



Outreach

Stakeholder Committee Composition

- MPO
- Cities
- Counties
- CIDs
- DOT
- Transit
- Airport
- Ridesharing/
Personal Mobility
- Railroad
- Education
- Economic
Development/Business
- Workforce
Development
- Affordable Housing
- Beautification

Upcoming Engagement

In-Person Activities

- ☐ City Council Meetings: June
- ☐ Public Meetings: September
- ☐ Bus Tour: October
- ☐ Roving Outreach: Ongoing



Upcoming Engagement

Digital Activities Under Way

- ❑ Website: www.southernfultonctp.org
- ❑ Project Email: southernfultonctp@pegatl.com
- ❑ Social Media
 - ❑ Facebook: [southernfultonctp](#)
 - ❑ Twitter: [southernfultonctp](#)
 - ❑ Instagram: [southernfultonctp](#)
- ❑ Online Survey: June/July



Vision, Goals, and Prioritization

Previous SFCTP, Potential Categories, Corridor Framework, Prioritization Methodology

Vision, Goals, & Prioritization

Previous SFCTP Vision

*“The vision of the South Fulton Comprehensive Transportation Plan of Fulton County is to **offer travelers, businesses, and residents a comprehensive and integrated transportation system for the purpose of balancing preservation of community character with economic growth through multi-modal connectivity, mobility, and accessibility.**”*

Vision, Goals, & Prioritization

Previous SFCTP Goals

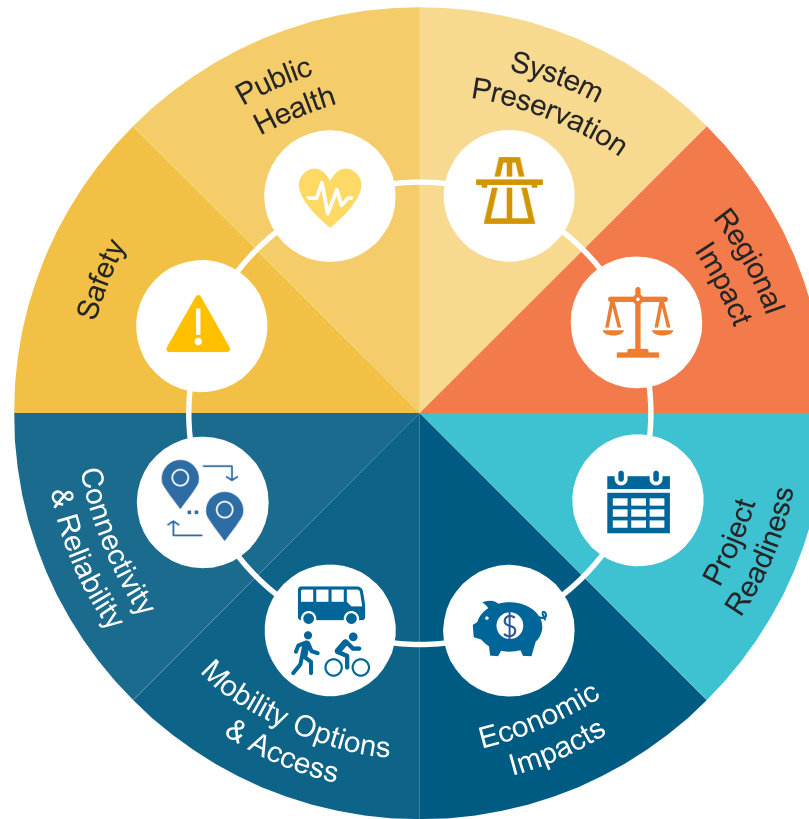
Table 3: Goals and Objectives

Goals	Objectives
Provide for safe and adequate transportation access and increase connectivity for all users	Provide safe transportation facilities for all modes (vehicle, bi-cycle, pedestrian, transit)
	Design improvements to achieve connectivity for all users
	Improve access to transit, retail, schools, and recreation in appropriate areas as determined by the local municipalities and stakeholders
Improve mobility throughout the county while managing congestion through innovative, yet realistic options	Balance mobility and accessibility through access management principles
	Address existing and future mobility needs on major corridors by improving flow and capacity
	Design transportation improvements in a context-sensitive manner that considers the natural and cultural environments
Provide transportation systems that promote freight movement and economic vitality while supporting growth along key corridors and at transit stations	Link transportation improvements with land use and economic development to realize visions set forth in comprehensive plans and PLAN 2040
	Improve transportation facilities that support economic development and capitalize on access to SR 6, SR 70, US 39, I-285, I-20, and Hartsfield-Jackson Atlanta International Airport, and transit
Invest in sustainable transportation improvements that will promote quality growth and enhance the south Fulton community as well as the Atlanta metropolitan region	Provide transportation improvements that clearly enhance south Fulton
	Aesthetic improvements that are unique to the study area should be incorporated into transportation projects.

- Safe, connected, and accessible
- Improve mobility and congestion
- Promote freight movement and economic vitality
- Support growth along key corridors and at transit stations
- Sustainable improvements

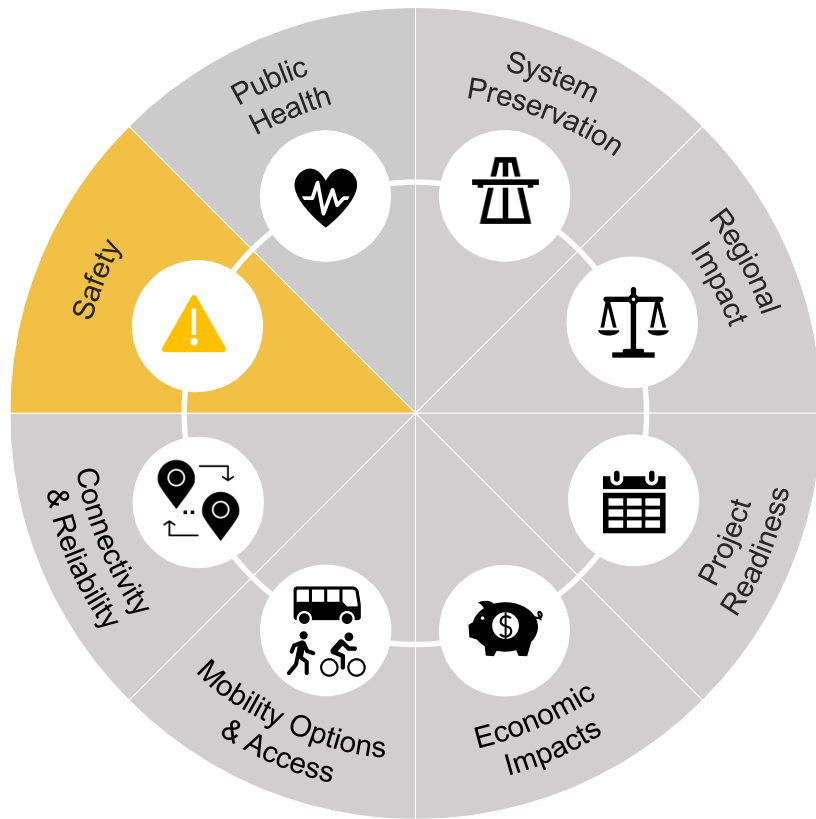
Vision, Goals, & Prioritization

Project Prioritization Framework PMT Categories



Vision, Goals, & Prioritization

Potential Metrics



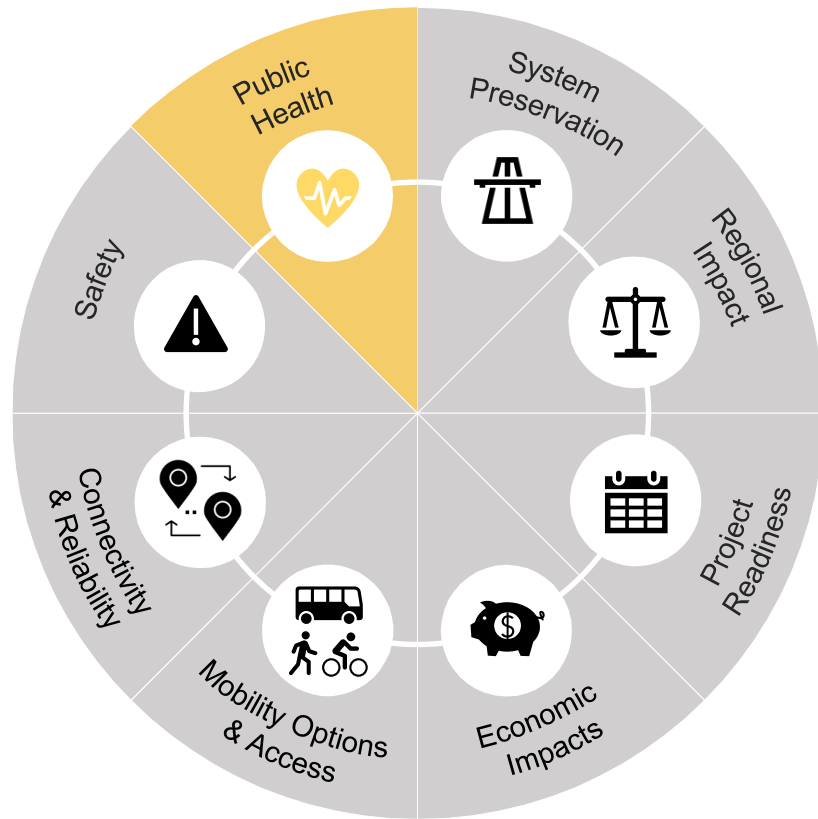
SAFETY



- High crash location
- High risk bike/ped location
- Proximity to schools and/or EMS facilities

Vision, Goals, & Prioritization

Potential Metrics



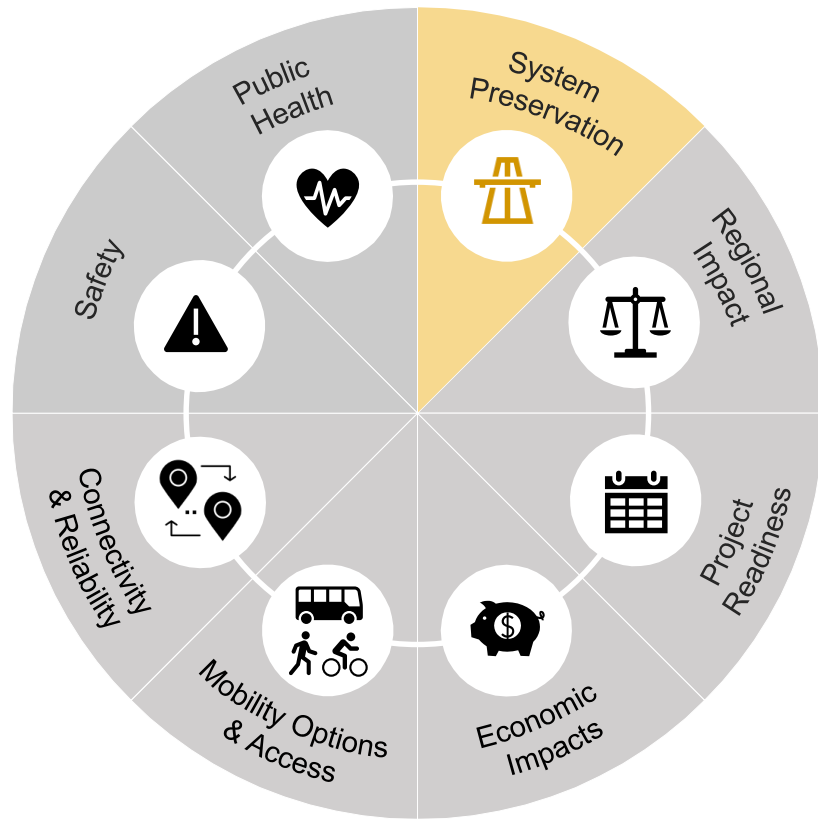
PUBLIC HEALTH



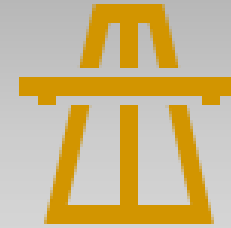
- Anticipated emissions reduction
- Active transportation
- Proximity to medical facilities

Vision, Goals, & Prioritization

Potential Metrics



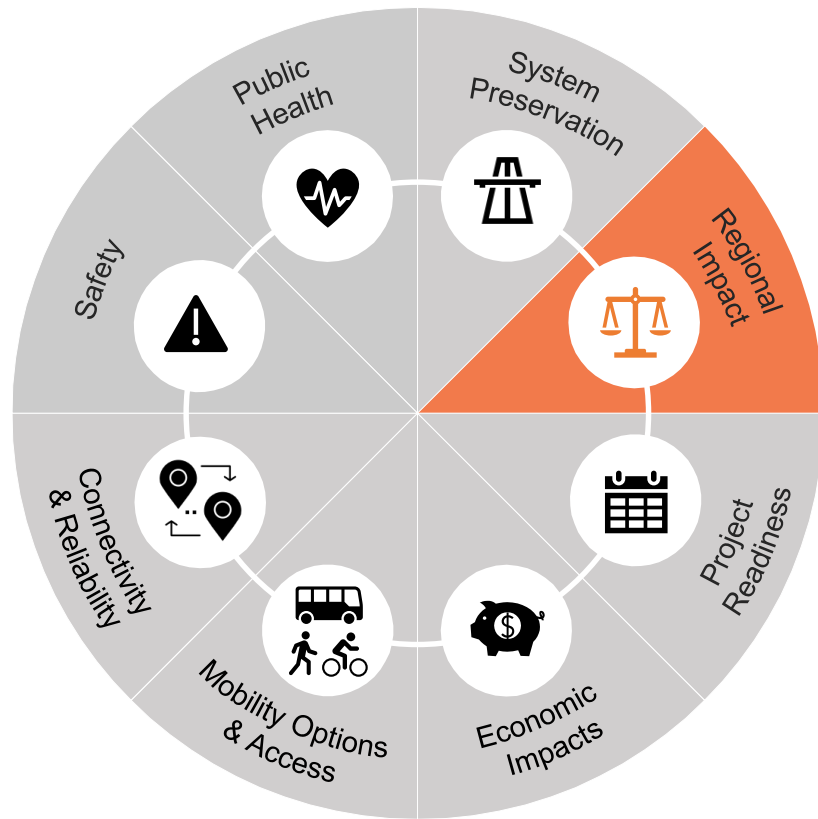
SYSTEM PRESERVATION



- Critical/vulnerable transportation asset
- Poor pavement conditions
- Poor bridge conditions

Vision, Goals, & Prioritization

Potential Metrics



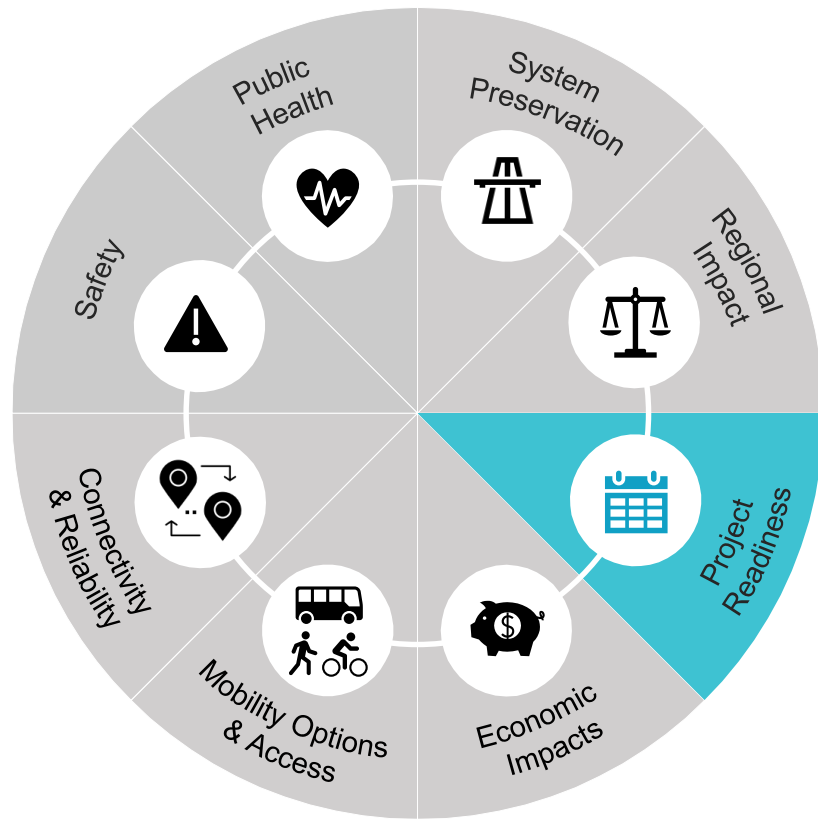
REGIONAL IMPACT



- Benefits multiple jurisdictions
- Improves access to Environmental Justice (EJ) communities (Equitable Target Areas (ETA) index)

Vision, Goals, & Prioritization

Potential Metrics



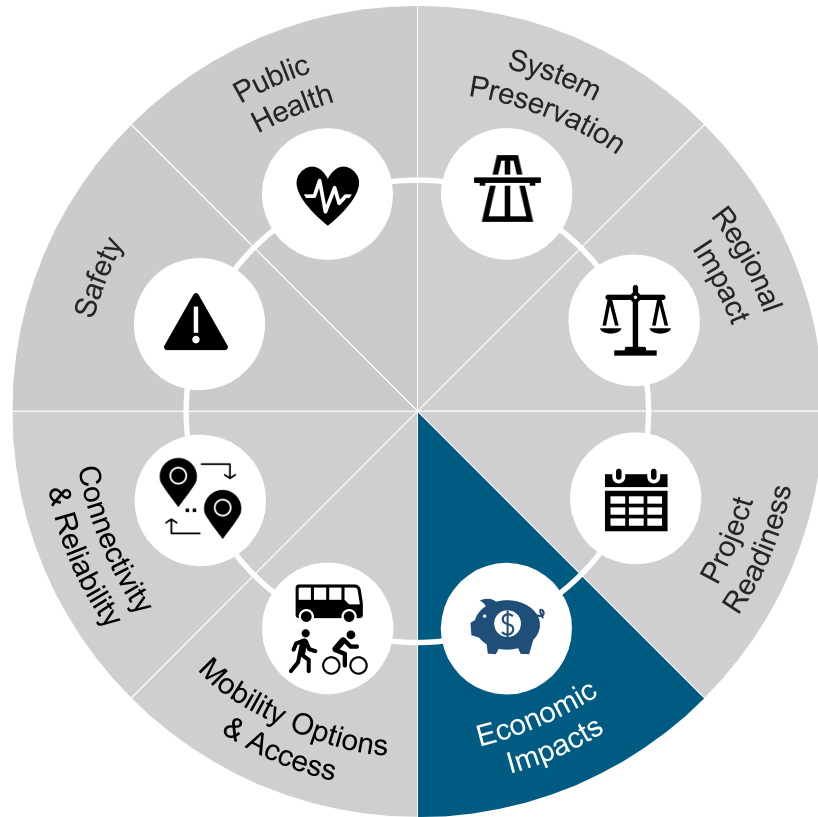
PROJECT READINESS



- Ease of implementation
- PE status (done, started, not started)
- ROW status (not required, done, started, not started)

Vision, Goals, & Prioritization

Potential Metrics



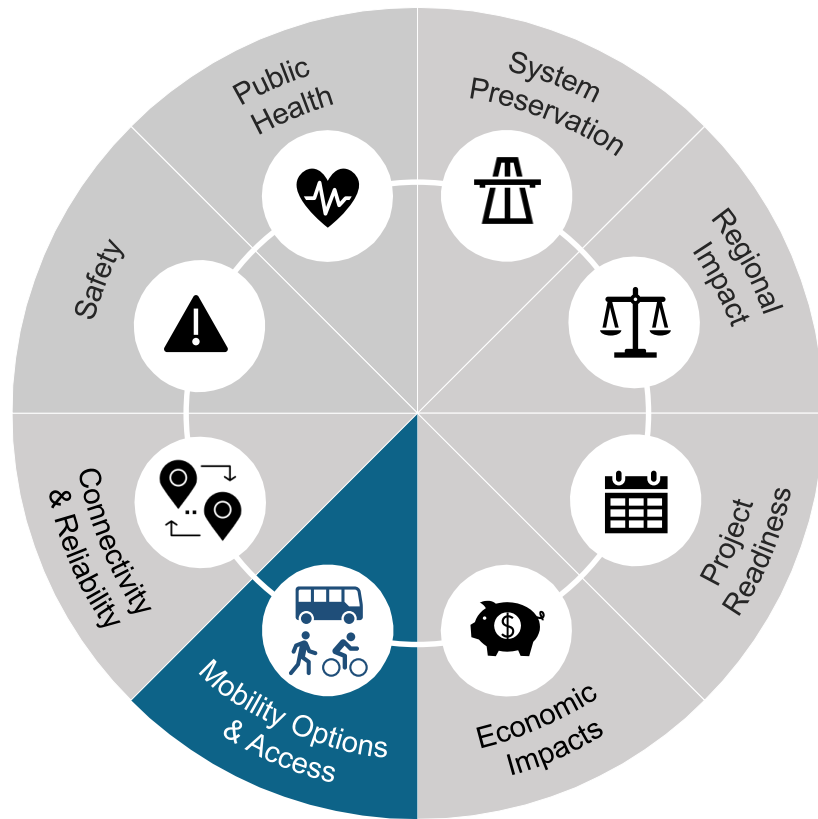
ECONOMIC IMPACTS



- Return on Investment (ROI)
- High freight volumes
- Proximity to major employment centers

Vision, Goals, & Prioritization

Potential Metrics



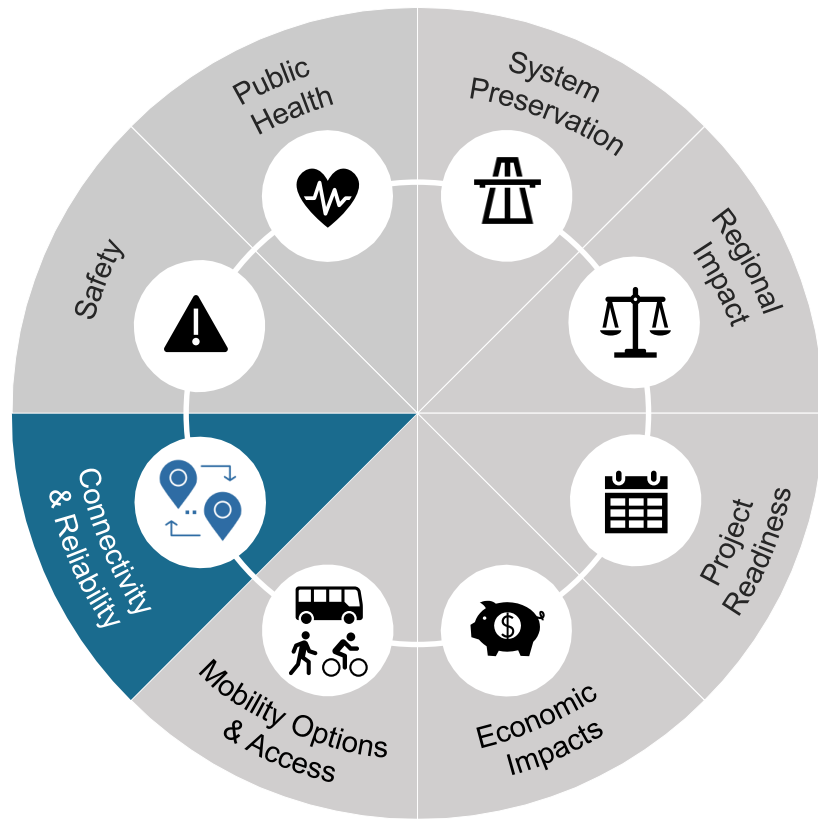
MOBILITY OPTIONS & ACCESS



- Provides for new modes of transportation
- Improves existing transit, bicycle, and/or pedestrian facilities

Vision, Goals, & Prioritization

Potential Metrics



CONNECTIVITY & RELIABILITY



- Congestion relief
- New or improved connection (regardless of mode)

Vision, Goals, & Prioritization

Proposed Project Prioritization Framework



☐ Weighting Scenarios:

☐ PMT

☐ Stakeholder Committee (SC)

☐ Mayors Charrette (South Fulton Municipal Association meeting)

☐ General Public (online survey & public meeting)

☐ Hybrid

Vision, Goals, & Prioritization

Proposed Project Prioritization Methodology

- ❑ Populate metrics for each project
- ❑ Apply weighting scenarios to get composite score(s)
- ❑ Rank and prioritize into tiers for all of southern Fulton and disaggregate prioritized list by City



Next Steps



**Refine
Vision**



**Refine Goals
& Objectives**



**Develop
Weighting
Scenarios**

August 14th, 2019

Crystal Griggs-Epps, City Clerk
Honorable Mayor and Council Members
THE CITY OF Hapeville
3468 N Fulton Ave,
Hapeville, GA, 30354



It'sMyTown City App and Content Platform

Dear All,

Meeting today's needs

By 2022, more than 81.5% of Americans will be using mobile internet as their main online device. Browsing the world wide web for shopping, banking, gaming, socializing, learning, and much more are already common behaviors. MOBILE IS HERE.

Offering a way for municipalities to engage with constituents and visitors where they are - on mobile. With today's technology, we've made it possible. Now, with no technical personnel or IT investments local governments big or small can easily leverage our platform and engage with its communities using a city app. Complementing the website and avoiding being depended on social media which suffers from privacy concerns and doesn't serve all generations. Now it's easy to benefit from the popularity of smartphones and its valuable functionality: camera, real-time notifications, navigation, etc. Driven by a mission of Connecting City and Community - we've created 'It'sMyTown'. A user-friendly mobile city app, connected to a secure and easy to use web-based city staff portal. An app for residents and visitors to submit and receive information from a LOCAL and RELIABLE source -- their city-hall.

ITsimple

We are a GA based software company, we do Civic Tech Solutions and proud being focused on GA. Also In our portfolio: public safety and tourism solutions. Our solutions are cloud-based and delivered as a service. We are continuously enhancing our solutions, maintaining the platform and provide support for our customers. That leaves our customers with only publishing their content. SIMPLE.

THANK YOU for the opportunity to showcase our tech for your consideration.

Sincerely,
Ron Freeman, MBA
Founder

Smart cities run on mobile

**Inform your residents when they need it most
in the device they use the most - THIS IS THE SOLUTION**

Backed by ITsimple's secure content management platform, It'sMyTown is the complete solution for your residents, visitors, and businesses to know and do more. Packaged in a single powerful mobile app.



Push Alerts

Send alerts to smartphones and social media with a tap.



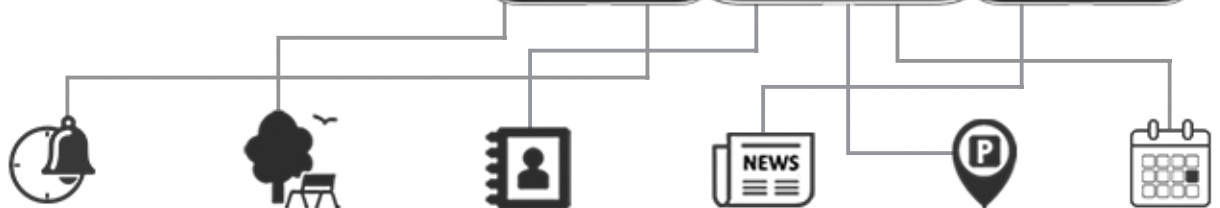
Just Bring Content

No upgrades. No coding. Just a simple, secure online dashboard.



Content Management

Create. Review. Publish. Inform. Engage. Track.



Information for Action

Plan a visit. Find a hotel. Find a restaurant. Get directions. Drive or book a car service. Find parking. Take a walking tour. Discover a park. Report a pothole. Read the news. Find an event. Add it to your calendar. Invite a friend. Email the city. Get real-time alerts. Meet the Mayor.

[Learn More](#)

LET'S MAKE YOUR CITY SMART. GIVE US A SHOUT!



ITsimple

Connecting City and Community

CIVIC TECH SOLUTIONS



ITsimple.io

ITsimple is the developer of civic mobile apps as It'sMyTown city app.

Our vision is to simplify everyday life for people by leveraging today's technology. Our mission is, simply stated, "Connecting City and Community". Our mindset and approach are also very simple; "user-first".

Serving local governments, we've learned that our customers and prospects strive to focus on their operations for the benefit of their constituents. We can't agree more! Our answer; We make IT SIMPLE.

Our smartphone apps are powered by a content management platform where municipalities, public safety agencies and convention visitor bureaus share information and real-time updates with residents, visitors and commuters. Available to iOS and Android users, the apps are backed by a cloud-based SaaS (software as a service) content management system (CMS) and a secure user-friendly administrative portal.

Contact us today to "Connect your Community!"



Smart cities run on mobile



technical
free



real time



one app



content
management



smart city



community
engagement



**DEPARTMENT OF PLANNING AND ZONING
PLANNER'S REPORT**

DATE: August 8, 2019
TO: Adrienne Senter
FROM: Lynn M. Patterson
RE: **Special Exception Request – 876 Virginia Avenue**

BACKGROUND

The City of Hapeville has received a special exception application from Mr. Philip Jones to permit a drive-through window accessory to a Smoothie King restaurant at 876 Virginia Avenue. The window would be on the east side of the building, adjoining 860 Virginia Avenue. The Applicant has indicated there was a drive-through window with the same configuration previously utilized on the property by its prior occupants.

The drive-through configuration was established prior to the extension renovation of the site. The drive-through is located on the east side of the structure, facing the adjacent property (Wendy's) and away from the right-of-way along Oakridge Avenue.

An application for the same special exception, a drive-through at 876 Virginia Avenue, was denied by Mayor & City Council on July 17, 2018.

REVIEW

The following code sections are applicable to this application:

ARTICLE 11.2. - U-V ZONE (URBAN VILLAGE)

Sec. 93-11.2-1. - Intent.

The U-V district is established in order to:

- (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale;
- (2) Accommodate residents in the district with pedestrian access to services and employment typical of a live/work community;
- (3) Promote neighborhoods established near shopping and employment centers;
- (4) Encourage pedestrian and neighborhood uses in the commercial area;
- (5) Discourage land uses that are automobile or transportation related;
- (6) Exclude industrial uses such as manufacturing, processing and warehousing;
- (7) Promote retail and related commercial uses such as business offices, florists, card shops, antique

- shops, new apparel shops and banks; and
- (8) Encourage intensified mixed-use with commercial uses on the ground floor and dwellings above.

Sec. 93-11.2-3. - Permitted uses.

- (9) Restaurants or carry-out restaurants but not including drive-through/drive-in restaurants with a maximum size of 6,000 square feet. Such restaurants shall be allowed to operate no more than six billiard tables upon the premises. Drive-through or drive-in restaurants may be allowed through special permit. The desired configuration for a drive-through or drive-in restaurant in this district is not a stand-alone building but rather part of a larger development and the site plan specifically addresses pedestrian orientation and safety.

Sec. 93-24-10. - Special exceptions.

- (a) Special exceptions and special property use permits shall be decided by the mayor and council.
- (b) The planning commission shall review and make nonbinding recommendations to the mayor and council on special exceptions and special property use permits.
- (c) Special exceptions may be sought for:
- (1) Reduction of the number and size of parking spaces and off-street loading space requirements;
 - (2) Location of off-street parking space and off-street loading spaces; and
 - (3) Location and number of drive-throughs.
- (d) When acting upon an application for a special exception, in addition to the requirements listed under the above references, the planning commission and the mayor and council shall give consideration to the following factors where applicable:
- (1) The proposed design and location of the particular development;
 - (2) The possible traffic generating characteristics of the proposed development;
 - (3) The effects the proposed development will have on the present or intended character of the area in which it proposes to locate;
 - (4) The availability of public utilities, facilities and services; and
 - (5) The character, and effect of the parking demands of the proposed development.
- (e) After considering the above-listed factors and after reviewing the planning commission recommendation, the mayor and council shall take any actions or establish any reasonable conditions of approval, such as planted buffers, as will accomplish the intent and purpose of this chapter.

FINDINGS

The intent of the U-V zoning district is to encourage pedestrian and neighborhood uses in the commercial area of Hapeville while discouraging land uses that are automobile or transportation related. While the U-V district does

permit drive-through restaurants with special exception, it does so with the intention of permitting a drive-through when included as part of a larger mixed-use/retail development footprint. Such developments must address pedestrian orientation and safety in their design. It is not the intent of the U-V district to sustain the existing land use pattern of single-use, low-density drive-through restaurants.

The location of the property and the curb is in the Virginia Avenue Gateway. This Gateway is identified in the adopted LCI as a main entry corridor to Hapeville. The purpose of this node is to create a welcoming gateway into Hapeville that showcases the office, hotel and mixed-use potential along Virginia Avenue and provides a smooth transition and wayfinding into downtown Hapeville.

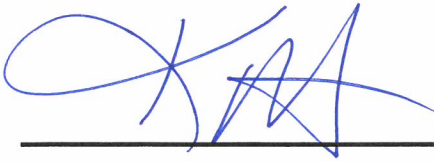
Concerns presented by the Planning Commission and the Mayor & Council during the last consideration the ingress and egress onto Virginia Ave, potential pedestrian conflicts, and the desire to avoid a series of adjacent drive-throughs along Virginia Ave.

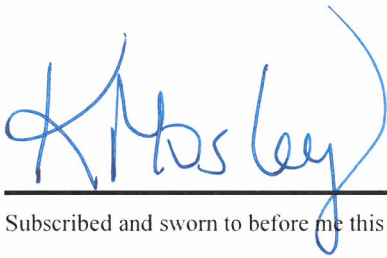
The definition provided in the code for “restaurants” in U-V has changed since this special exception was last considered. At that time, the addition of a drive-through to any restaurant would have made it a non-permitted use. The code has been updated to potentially accommodate restaurants with drive-throughs, explicitly allowing them with special exception. Furthermore, the code adds a qualifier, stating that “the desired configuration for a drive-through or drive-in restaurant in this district is not a stand-alone building but rather part of a larger development and the site plan specifically addresses pedestrian orientation and safety.” Should the Planning Commission recommend approval of the special exception to the City Council, staff recommends that the property owner be willing to mitigate traffic interruptions on Virginia Avenue as well as install pedestrian-oriented design elements (such as the concrete sidewalk be continued across the driveway along Virginia Avenue) that convey the area as a priority for pedestrians rather than automobiles.

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Before me, the undersigned, a Notary Public, this day personally came the undersigned who, being duly sworn, according to law, says she is an agent of ALM Media, LLC., publishers of the **Daily Report**, the official newspaper published in Atlanta, GA, in said county and state, and that the publication, of which the annexed is a true copy, was published in said newspaper as provided by law on the following dates: 08/02/2019.





Subscribed and sworn to before me this August 2, 2019



NOTICE
City of Hapeville

The Mayor and Council of the City of Hapeville will hold a Public Hearing at **6:00 p.m. on Tuesday, August 20, 2019** at the City of Hapeville Municipal Court Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354, to consider the following application:

Philip Jones is requesting approval of a special exception to authorize the use of an existing drive through at 876 Virginia Avenue, Parcel Identification number 14 009800010698. The property is zoned U-V, Urban Village.

#0000417029:8/02-1AS

A PUBLIC HEARING WILL BE
HELD BY THE HAPEVILLE

Mayor and Council

ON

August 20, 2019

AT

6:00 PM

AT HAPEVILLE MUNICIPAL ANNEX

700 DOUG DAVIS DRIVE TO

Consider a Special Exception for the Use of
an Existing drive through at Killebuck Avenue

ECON. DEV. 404-6669-8269

19-PC-08-17

**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION**

Name of Applicant Philip Jones

Mailing Address: 2840 Peachtree Rd unit 104, Atlanta, GA

Telephone [REDACTED] Mobile # [REDACTED] Email [REDACTED]

Property Owner (s) Vancole Investments Inc

Mailing Address 2840 Peachtree Rd unit 104, Atlanta, GA

Telephone [REDACTED] Mobile # [REDACTED]

Address/Location of Property: 876 Virginia Ave

Parcel I.D. # (INFORMATION MUST BE PROVIDED): 14-0098-0001-069-8

Present Zoning Classification: UV Size of Tract: .434 acre(s)

Present Land Use: Smoothie King & Grub fresh bowls & wraps

Please check the following as it applies to this application

☐ Site Plan Review
☐ Conditional Use Permit
☐ Temporary Use Permit

☒ Other (Please State)

Special Exception

Special Exception and restaurants in U-V are allowed up to

to a max of 6,000 SF
(with or without drive-thru)

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered too. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

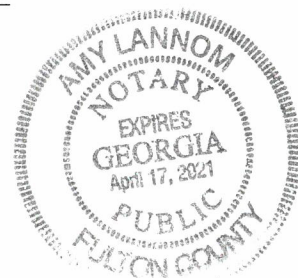
[Signature]
Applicant's signature

Date: 7/11/2019

Sworn to and subscribed before me

This 11 day of July, 2019

[Signature]
Notary Public



CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION

WRITTEN SUMMARY

In detail, provide a summary of the proposed project in the space provided below. (Please type or print legibly.)

The previous use of this site was a Pizza Hut location that had a drive thru as well. The building has now been remodeled to include two tenants. One tenant is Smoothie King and the other tenant will be Grub fresh bowl and wraps. The Smoothie King side is the side that includes the drive thru that existed with the former Pizza Hut concept. The proposed drive thru on the Smoothie King side of the building will alleviate parking lot congestion during peak hours and provide a more convenient option for residents and employees of the City of Hapeville to patronize this local business. Smoothie King corporate has also provided a study of it's busiest drive thru locations, which states that the average number of cars per hour is only 10. We are also providing three possible solutions to ensure that the drive thru is utilized in a way to alleviate any traffic concerns on Virginia Ave to provide adequate stacking along with entrance and exiting signage. The City of Hapeville residents and employees in surrounding businesses have also shown overwhelming support for the utilization of a drive thru at Smoothie King with over 2000 signatures showing personal desire to have this option when patronizing this local business.

CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION

AUTHORIZATION OF PROPERTY OWNER

I CERTIFY THAT I AM THE OWNER OF THE PROPERTY LOCATED AT:
876 Virginia Ave, Hapeville, GA 30354

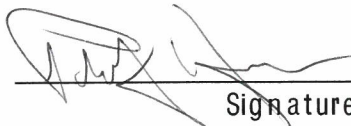
City of Hapeville, County of Fulton, State of Georgia

WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF THIS APPLICATION FOR PLANNING COMMISSION REVIEW.

Name of Applicant Vancole Investments/Philip Jones

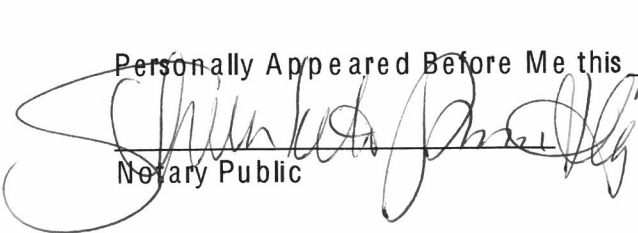
Address of Applicant
2840 Peachtree Rd, Unit 104, Atlanta, GA 30305

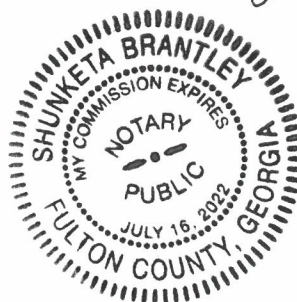
Telephone of Applicant
[REDACTED]


Signature of Owner

Philip Jones
Print Name of Owner

Personally Appeared Before Me this 11 day of July, 2019.


Notary Public



**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION**

Date

July 8th, 2019

AUTHORIZATION OF ATTORNEY

**THIS SERVES TO CERTIFY THAT AS AN ATTORNEY-AT-LAW, I HAVE BEEN AUTHORIZED
BY THE OWNER(S) TO FILE THE ATTACHED APPLICATION FOR THE PROPERTY
LOCATED AT:**

876 Virginia Ave

City of Hapeville, County of Fulton, State of Georgia

Name or Attorney

Jon W. Jordan

Bar No.: 690096

Address

3340 Peachtree Road Suite 1530

Atlanta, GA 30326

Telephone

404-348-4881

Site Plan Checklist – Please include with your application.

A site plan is used to determine the practical ability to develop a particular property within the City of Hapeville. Information relating to environmental condition, zoning, development impact, consistency with the Hapeville Comprehensive Plan and relevant town master plans will be considered in the decision process. To be considered, a site plan **must** contain the following information:

(Please **initial** each item on the list above certifying the all required information has been included on the site plan)

PJ

A brief project report shall be provided to include an explanation of the character of the proposed development, verification of the applicant's ownership and/or contractual interest in the subject site, and the anticipated development schedule. Please complete and submit all forms contained within the application for site plan review.

PJ

Site plans shall be submitted indicating project name, applicant's name, adjoining streets, scale, north arrow and date drawn.

PJ

The locations, size (sf) and height (ft) of all existing and proposed structures on the site. Height should be assessed from the base of the foundation at grade to the peak of the tallest roofline.

PJ

Site plans shall include the footprint/outline of existing structures on adjoining properties. For detached single-family residential infill development, the front yard setback shall be assessed based on the average setback of existing structures on adjoining lots. Where practical, new construction shall not deviate more than ten (10) feet from the average front yard setback of the primary residential structure on an adjoining lot. Exemption from this requirement due to unnecessary hardship or great practical difficulty can be approved at the discretion of the Planning Commission. To be considered for an exemption, the applicant must submit a "Request for Relief" in writing with their site plan application, including the conditions that necessitate relief (i.e. floodplain, wetland encroachment, excessive slope, unusual lot configuration, legally nonconforming lot size, unconventional sitting of adjoining structures, etc).

PJ

The location and general design cross-section characteristics of all driveways, curb cuts and sidewalks including connections to building entrances. A walkway from the primary entrance directly to the public sidewalk is required for all single-family residential development.

PJ

The locations, area and number of proposed parking spaces. Please refer to Article 22.1 Chart of Dimensional Requirements to determine the correct number of parking spaces for your particular type of development.

PJ

Existing and proposed grades at an interval of five (5) feet or less.

PJ

The location and general type of all existing trees over six (6) inch caliper and, in addition, an identification of those to be retained. Requirements for the tree protection plan are available in Code Section 93-2-14(f). Please refer to Sec. 93-2-14(y) to determine the required tree density for your lot(s).

PJ

A Landscape Plan: The location and approximate size of all proposed plant material to be used in landscaping, by type such as hardwood deciduous trees, evergreen trees, flowering trees and shrub masses, and types of ground cover (grass, ivies, etc.). Planting in parking areas should be included, as required in Section 93-23-18.

PJ

The proposed general use and development of the site, including all recreational and open space areas, plazas and major landscape areas by function, and the general location and description of all proposed, outdoor furniture (seating, lighting, telephones, etc.). Detached single-family residential development may be exempt from this requirement.

PJ

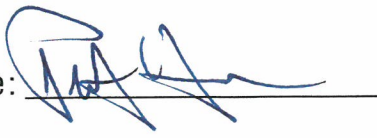
The location of all retaining walls, fences (including privacy fences around patios, etc.) and earth berms. Detached single-family residential development may be exempt from this requirement.

PJ

The identification and location of all refuse collection facilities, including screening to be provided. Detached single-family residential development may be exempt from this requirement.

- PJ Provisions for both on-site and offsite storm-water drainage and detention related to the proposed development.
- PJ Location and size of all signs. Detached single-family residential development may be exempt from this requirement.
- PJ Typical elevations of proposed building provided at a reasonable scale (1/8" = 1'0") and include the identification of proposed exterior building materials. Exterior elevations should show all sides of a proposed building.
- PJ Site area (square feet and acres).
- PJ Allocation of site area by building coverage, parking, loading and driveways, and open space areas, including total open space, recreation areas, landscaped areas and others. Total dwelling units and floor area distributed generally by dwelling unit type (one-bedroom, two-bedroom, etc.) where applicable.
- PJ Floor area in nonresidential use by category. Detached single-family residential development may be exempt from this requirement.
- PJ Total floor area ratio and/or residential density distribution.
- PJ Number of parking spaces and area of paved surface for parking and circulation
- PJ At the discretion of the planning commission, analyses by qualified technical personnel or consultants may be required as to the market and financial feasibility, traffic impact, environmental impact, storm water and erosion control, etc. of the proposed development.

Please initial each item on the list above certifying the all required information has been included on the site plan, sign and submit this form with your site plan application. Failure to include this form and information required herein may result in additional delays for the consideration of your application.

Applicant Signature: 
Date 7/11/2019

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 98 of the 14th Land District of Fulton County, Georgia, and being more particularly described as follows:

Beginning at the corner formed by the intersection of the easterly Right of Way line of Oak Ridge Avenue with the southerly Right of Way line of Virginia Avenue, Thence run easterly along the southern Right of Way of Virginia Avenue South 88 Degrees 58 Minutes 18 Seconds East a distance of 25.09 feet to a point,

Thence North 00 Degrees 59 Minutes 49 Seconds East a distance of 4.00 feet to a 0.5" RBF,

Thence run South 89 Degrees 00 Minutes 11 Seconds East a distance of 54.98 feet to a 0.5" RBS, located on the southern R/W of Virginia Avenue,

Thence leaving said Right of Way run South 00 Degrees 22 Minutes 02 Seconds West a distance of 189.51 feet to a point,

Thence run North 88 Degrees 14 Minutes 23 Seconds West a distance of 2.08 feet to a 0.5" RBF,

Thence run North 89 Degrees 22 Minutes 37 Seconds West a distance of 103.25 feet to a Disk, Right of Way Monument, located on the eastern Right of Way line of Oak Ridge Avenue,

Thence run North 02 Degrees 11 Minutes 45 Seconds East a distance of 10.03 feet to a point,

Thence run North 00 Degrees 33 Minutes 26 Seconds East a distance of 32.17 feet to a point,

Thence run South 86 Degrees 20 Minutes 39 Seconds East a distance of 0.93 feet to a point,

Thence run North 00 Degrees 46 Minutes 05 Seconds East a distance of 53.89 feet to a 0.5" RBF,

Thence run North 89 Degrees 36 Minutes 02 Seconds East a distance of 4.08 feet to a point,

Thence run North 00 Degrees 49 Minutes 14 Seconds East a distance of 57.32 feet to a 0.5" RBF,

Thence run North 18 Degrees 38 Minutes 20 Seconds East a distance of 17.96 feet to a point,

Thence run North 41 Degrees 10 Minutes 35 Seconds East a distance of 20.38 feet to a point, said point being the True Point of Beginning.

Land Area = 0.434 AC

The End

Investment No. 2-309172

1. *Journal of Cell Biology*, 1984, 94: 103-112. © 1984 by John Wiley & Sons, Inc.

All that tract or parcel of land lying and being in and on the 14th Land District of Polk County, Florida, and being

[illegible]

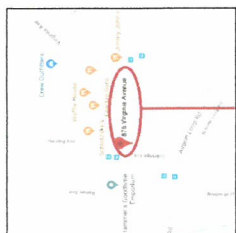
SITE PICTURES



Course	Bearing	Distance
L1	N 00°59'49" E	4.00'
L2	N 86°14'23" W	2.08'
L3	N 02°11'45" E	10.03'
L4	S 86°20'39" E	0.93'
L5	N 80°36'03" E	4.08'



IN MY OPINION, THIS PLAY IS A COMEDY OF MISTAKES
OF THE LADY, BUT THE TWO MEN WHO ARE INVOLVED IN THE
MISTAKE ARE BOTH GOOD MEN.

[illegible]

LOCATION MAP
(NOT TO SCALE)

FLOOD NOTE

ON THIS DATE, EXAMINED THE "HA FLOOR HAZARD MAP" AND FOUND IT CORRECT WITH THE OLD MAP. (NO INFO IN AREA SAIDED BY FLOOD HAZARD, WITHOUT AN EVALUATION OF CORRELATION SURVEY IS RESPONSIBLE FOR ANY DAMAGE DUE TO THE CRACKS FOR BAD PAVEMENT.)

IS 131210030067 EFFECTIVE DATE 08/18/2013

THE DEVELOPMENT OF THIS PROPERTY,
PLANS AND ARCHITECT TO CONFORM EXISTING DISTRICT,

PROPERTY ADDRESS: 875 VIRGINIA AVENUE
APPROPRIATE, GA 30304
FOR PRICES, I.S. NO.1
1-800-807-088-8
PROPERTY ZONING
CROSS ON
CROSS FOR ZONING AND

NOTE A
UNABLE TO FIELD VERIFY AT THE
END OF SURVEY EXACT PIPE
LOCATION WITHOUT EXCAVATION

FLURIFY CERTIFICATION

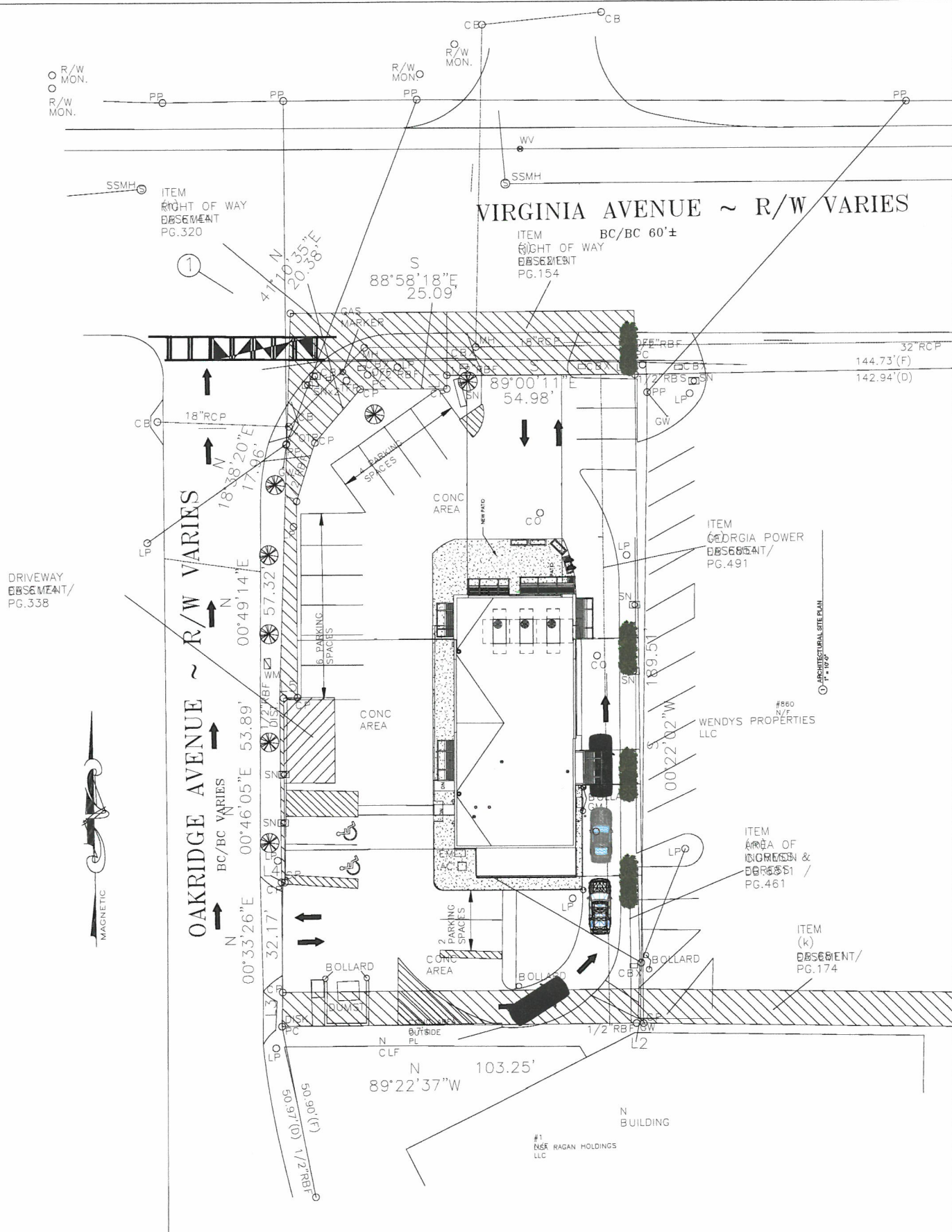
PHILIP JONES
CHICAGO TITLE INSURANCE
THOMAS A. SPILLMAN, ESQUIRE
SMITH, GAMBRELL & RUSSELL,

[illegible]

1. No evidence of a dump, range or landfill.
2. No evidence of a sanctuary or grass yard.
3. No evidence of reduced fuel deliveries.
4. Property is located in the Placid Zone A.
Zone A is subdivided Placid Zone A per FWS.

[Signature]

TOTAL LAND AREA
18903.93 SF
0.434 AC



SMOOTHIE KING
SPECIAL EXCEPTION REQUEST
FOR DRIVE-THRU

876 VIRGINIA AVE.
HAPEVILLE, GA



APPLICANT – Philip Jones
OWNER – Van Cole Investments, Inc.



TREY LUCAS
ARCHITECTURE
324 Eastland Drive
Decatur, GA 30030
c: 403.307.0771
treylucas@treylucas.com



CornerStone Design Services, LLC
504 Indian Trail Rd
Suite 201C
Lilburn, GA 30047
o: 770.717.0040

Philip Jones
Jones.philip29@hotmail.com
c: 404.915.7458

SMOOTHIE KING #913
876 Virginia Avenue,
Hapeville, GA 30354



No.	Description	Date
1	FOR CONSTRUCTION	8/7/19

CONSTRUCTION DOCUMENTS



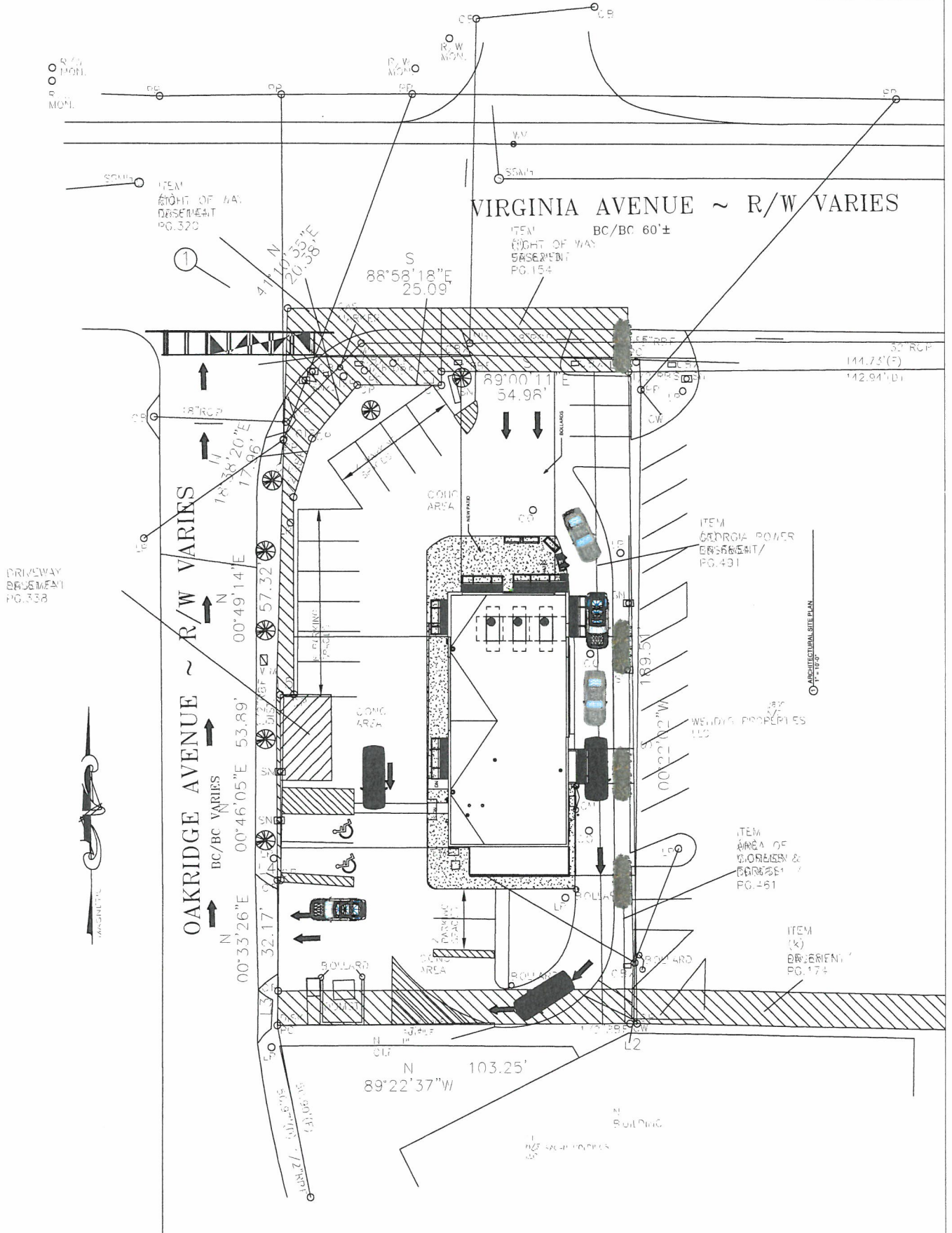
8/7/19

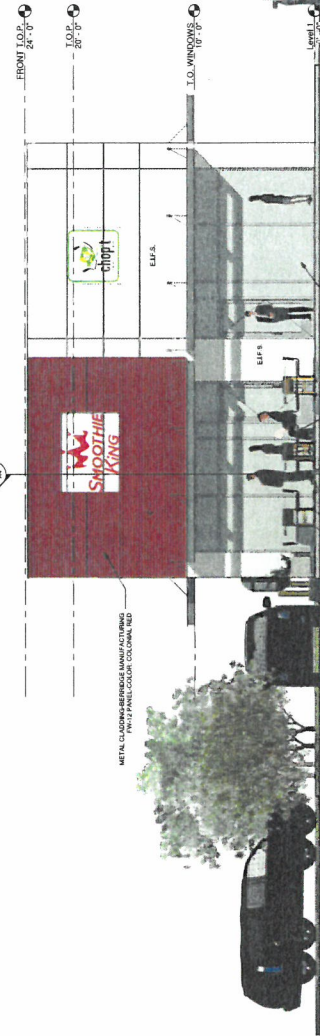
ARCHITECTURAL
SITE PLAN

Project Number	67719
Date	8/7/19
Drawn By	III
Checked By	Checker

ASP

Scale: 1" = 10'-0"





TREY LUCAS
ARCHITECTURE
324 Eastland Drive
Decatur, GA 30030
c: 403.307.0771
trey@treylucas.com

Philip Jones
jones.philip29@hotmail.com
c: 404.915.7458

① FRONT
1/4" = 1'-0"



② CAMBRIDGE AVE SIDE
1/4" = 1'-0"



③ BACK
1/4" = 1'-0"



④ REAR SIDE
1/4" = 1'-0"

DESIGN DEVELOPMENT

No.	Description	Date

EXTERIOR
ELEVATIONS

Project Name	Number
Client	18
Drawn By	11
Checked By	11

Scale: 1/4" = 1'-0"



SMOOTHIE
King

GRUB
FRESH BOWLS & WRAPS

WE ARE
OPEN

SMOOTHIE KING









 **SMOOTHIE**
King

 **GRUB**
FRESH BOWLS & WRAPS

**WE ARE
OPEN**

Wendy's

Schlitz's

LAUREL









TRAFFIC STUDY

Prepared By

Maldino & Wilburn

For

Vancole Investments, Inc.

SMOOTHIE KING TRIP GENERATION

HAPEVILLE, GA

August 9, 2019

Report Submitted:

August 9, 2019

Prepared For:

Mr. Philip Jones
Vancole Investments, Inc.
dba Smoothie King
876 Virginia Avenue, Suite A
Hapeville, GA 30354

Prepared By:

Vern Wilburn, PE, PTOE
Maldino & Wilburn
75 Jackson Street, Suite 402
Newnan, GA 30263
770.683.2124
vern@mwtraffic.com

Additional investigation by:
Mallory Maldino, EIT

Maldino & Wilburn Project No.:

19-29

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Chapter 1. INTRODUCTION

The purpose of this study is to determine the amount of traffic expected to be generated if a drive-thru were to be added at the existing Smoothie King on Virginia Avenue in Hapeville, Georgia. The location of this Smoothie King is shown below in Figure 1.

Figure 1: PROJECT LOCATION MAP



Chapter 2. TRAFFIC DATA

Traffic data for Smoothie King trips was provided by Smoothie King and also collected by Maldino and Wilburn at local Smoothie King locations.

DATA PROVIDED BY SMOOTHIE KING

Data for drive-thru and in-store orders was provided for four Smoothie King locations with drive-thrus. The total daily orders at all four locations is summarized below in Table 1. All data provided by Smoothie King is provided in Appendix A.

Table 1: DAILY ORDERS, SMOOTHIE KING DATA

	DRIVE-THRU	IN-STORE	TOTAL
MONDAY	327	361	688
TUESDAY	239	371	610
WEDNESDAY	326	278	604

To estimate the daily trips for one Smoothie King location, the average of the data shown above in Table 1 was determined, then multiplied by two, as one order equals two trips (entering trip and exiting trip). The average daily trips experienced at one Smoothie King location, based on the order data provided by Smoothie King, are summarized below in Table 2.

Table 2: AVERAGE DAILY TRIPS, SMOOTHIE KING DATA

	DRIVE-THRU	IN-STORE	TOTAL
AVERAGE DAILY	150	168	318

To estimate average peak hour trips of the four locations included in the data provided by Smoothie King, trip rate data from the Institute of Transportation Engineers (ITE) publication *Trip Generation, 10th Edition* was used. There is no trip rate data for a smoothie shop provided in this publication, therefore the rates for a coffee/donut shop with a drive-thru were used, as these land uses likely experience a similar distribution of trips throughout the day.

The percentage of trips, based on ITE trip rates, occurring in the peak hour for a coffee/donut shop with a drive-thru, compared to the whole day, was found to be 10.8%. This rate was applied to the total average daily trips shown above in Table 2 to estimate the total trips occurring in the peak hour for a Smoothie King. The ratio of drive-thru to in-store trips from the data shown above in Table 2 was applied to the Smoothie King total peak hour trips to estimate the number of drive-thru and in-store trips. The estimated Smoothie King peak hour trips are shown below in Table 3.

Table 3: ESTIMATED PEAK HOUR TRIPS, SMOOTHIE KING DATA

	DRIVE-THRU	IN-STORE	TOTAL
PEAK HOUR TRIPS	17	18	35

DATA COLLECTED BY MALDINO AND WILBURN

Maldino and Wilburn conducted traffic counts during the typical AM and PM peak periods at two Smoothie King locations:

- Hapeville, GA – the subject store, currently without a drive-thru
- Sharpsburg, GA – with a drive-thru

The trip data for the peak hour at each location is shown below in Table 4. All data collected by Maldino and Wilburn is provided in Appendix B.

Table 4: PEAK HOUR TRIPS, M&W DATA

LOCATION	AM PEAK HOUR		PM PEAK HOUR	
	DRIVE-THRU	IN-STORE	DRIVE-THRU	IN-STORE
SHARPSBURG (W/ DRIVE-THRU)	18	2	13	7
HAPEVILLE (W/O DRIVE-THRU)	N/A	41	N/A	34

DATA SUMMARY

A summary of the peak hour trips based on the data provided by Smoothie King and the data collected by Maldino and Wilburn is provided below in Table 5.

Table 5: PEAK HOUR TRIP DATA SUMMARY

SOURCE	DRIVE-THRU		IN-STORE		TOTAL
	# TRIPS	% OF TOTAL	# TRIPS	% OF TOTAL	
FROM DRIVE-THRU LOCATION DATA PROVIDED BY SMOOTHIE KING	17	49%	18	51%	35
FROM DATA COLLECTED BY M&W AT SHARPSBURG (W/ DRIVE-THRU)*	13	65%	7	35%	20
FROM DATA COLLECTED BY M&W AT HAPEVILLE (W/O DRIVE-THRU)	N/A	0%	41	100%	41

*Data from PM Peak Hour was used, as the PM Peak Period experienced more trips than the AM Peak Period.

The data provided by Smoothie King and the data collected by Maldino and Wilburn show a comparable number of total trips during the peak hour, with the most occurring at the Hapeville location. The percentage of drive-thru trips versus in-store trips is also similar between the two sets of data, drive-thru trips accounting for 49% of total trips based on the data provided by Smoothie King and 65% of total trips based on the data collected at the Sharpsburg Smoothie King location.

Chapter 3. CONCLUSION

Based on both the data provided by Smoothie King and the data collected by Maldino and Wilburn, it is clear that the drive-thru is highly utilized at drive-thru Smoothie King locations. However, the data collected at the Hapeville Smoothie King location, which does not currently have a drive-thru, indicates that there is not a significant difference in the total number of trips occurring at a non-drive-thru location versus a drive-thru location. In fact, the non-drive-thru Hapeville location experience more trips than both the drive-thru Sharpsburg location and the estimated average from the data for the four locations provided by Smoothie King.

With that said, it is expected that the effect of adding a drive-thru to the Hapeville location will be that a significant percentage of the trips already occurring at this location will merely begin using the drive-thru instead of parking and going in the store. While it is possible that conversion of this location to a drive-thru location may generate additional trips, the number of additional trips will likely be negligible, as the trip data presented previously does not indicate a significantly greater number of trips occurring at drive-thru locations as opposed to non-drive-thru locations.

APPENDICES

DATA PROVIDED BY SMOOTHIE KING	A
DATA COLLECTED BY MALDINO AND WILBURN	B

APPENDIX A

DATA PROVIDED BY SMOOTHIE KING



Sales by Destination

SK-0702, SK-0970, SK-1479, SK-1506

1/30/2019 5:37:11 PM (UTC-05:00) Eastern Time (US & Canada)

Monday, January 28, 2019

Destination	Order Count	Net Sales	Gross Sales
Drive Thru 1	327	\$2,392.54	\$2,559.99
To Go	361	\$2,666.94	\$2,832.32
Summary	688	\$5,059.48	\$5,392.31

Sales by Destination

SK-0702, SK-0970, SK-1479, SK-1506

1/30/2019 5:36:57 PM (UTC-05:00) Eastern Time (US & Canada)

Tuesday, January 29, 2019

Destination	Order Count	Net Sales	Gross Sales
Drive Thru 1	239	\$1,618.12	\$1,832.50
To Go	371	\$2,386.86	\$2,870.99
Summary	610	\$4,004.98	\$4,703.49

Sales by Destination

SK-0702, SK-0970, SK-1479, SK-1506

1/30/2019 5:36:03 PM (UTC-05:00) Eastern Time (US & Canada)

Wednesday, January 30, 2019

Destination	Order Count	Net Sales	Gross Sales
Drive Thru 1	326	\$2,292.49	\$2,487.58
To Go	278	\$2,003.86	\$2,258.98
Summary	604	\$4,296.35	\$4,746.56

APPENDIX B

DATA COLLECTED BY MALDINO AND WILBURN



SMOOTHIE KING - HAPEVILLE LOCATION						
	BEGIN	END	IN-STORE			ROLLING HOUR TOTAL
			ENTER	EXIT	TOTAL	
AM	7:00	7:15	2	1	3	39
	7:15	7:30	6	4	10	41
	7:30	7:45	6	4	10	35
	7:45	8:00	8	8	16	36
	8:00	8:15	1	4	5	29
	8:15	8:30	2	2	4	
	8:30	8:45	7	4	11	
	8:45	9:00	2	7	9	
PM	4:30	4:45	6	4	10	34
	4:45	5:00	3	6	9	25
	5:00	5:15	4	3	7	21
	5:15	5:30	3	5	8	19
	5:30	5:45	0	1	1	18
	5:45	6:00	4	1	5	
	6:00	6:15	2	3	5	
	6:15	6:30	4	3	7	

SMOOTHIE KING - SHARPSBURG LOCATION										
	BEGIN	END	IN-STORE			DRIVE-THRU			TOTAL	ROLLING HOUR TOTAL
			ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL		
AM	7:00	7:15	0	0	0	3	3	6	6	20
	7:15	7:30	0	0	0	3	2	5	5	14
	7:30	7:45	1	0	1	3	3	6	7	9
	7:45	8:00	0	1	1	0	1	1	2	4
	8:00	8:15	0	0	0	0	0	0	0	4
	8:15	8:30	0	0	0	0	0	0	0	
	8:30	8:45	0	0	0	1	1	2	2	
	8:45	9:00	0	0	0	1	1	2	2	
PM	4:30	4:45	1	1	2	3	1	4	6	20
	4:45	5:00	1	0	1	1	2	3	4	16
	5:00	5:15	1	1	2	1	2	3	5	16
	5:15	5:30	1	1	2	2	1	3	5	17
	5:30	5:45	0	0	0	1	1	2	2	14
	5:45	6:00	0	0	0	2	2	4	4	
	6:00	6:15	1	0	1	2	3	5	6	
	6:15	6:30	0	0	0	1	1	2	2	



Planning Commission Meeting

700 Doug Davis Drive
Hapeville, Georgia 30354

August 13, 2019 6:00PM

Summary Minutes

1. Welcome and Introduction

Chairman Brian Wismer called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jeanne Rast, Leah Davis, Lucy Dolan, Larry Martin, Charlotte Rentz and Cliff Thomas. City Planners Dr. Lynn Patterson and Michael Smith were present along with City Attorney Priya Patel and Secretary Adrienne Senter.

2. Minutes of July 9, 2019

Motion Item: Lucy Dolan made a motion, Cliff Thomas seconded to approve the minutes of July 9, 2019 subject to correction. Motion Carried: 5-0.

3. Presentation

Virginia Ave. Roundabout Study & Wayfinding Project Update by Mitchell Greenway

The City of Hapeville is undertaking a study that will examine the option for development of a roundabout at the Virginia Avenue/Doug Davis/Clay Place/Hamilton Avenue intersection. This project – *the Hapeville Wayfinding & Virginia Avenue Roundabout Study and Demonstration Project* – will build from the previous LCI Studies.

Mitchell Greenway of Stantec Consulting Services presented a project update and next steps. The next community meeting will be held on Thursday, August 15, 2019 at 6 p.m. and will be held at the Municipal Annex, 700 Doug Davis Drive in Hapeville.

- Public Comment – None.

4. New Business

a. 3429 Rainey Avenue

Site Plan Request

Andy Steele requested site plan approval to construct a second story addition and porch to an existing home at 3429 Rainey Avenue, Parcel Identification Number 14 012700030592. The property is zoned R-SF, Residential Single Family and is .1722 acres.

The current dwelling has an integrated carport extending into the northern side setback by two feet, making it a nonconforming use. The Applicant will need a variance from the Board of Appeals to alter or enlarge the dwelling in any way unless it is to bring the dwelling into conformance. Furthermore, an additional variance to allow additional construction within the north side setback.



Jeanne Rast had a question regarding the parking variance. Dr. Patterson explained that this issue will be reviewed at the Design Review Committee for consideration of a design exception.

The following deficiencies must be addressed:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Public Comment - none

MOTION ITEM: Larry Martin made a motion, Lucy Dolan seconded to approve the site plan request at 3429 Rainey Avenue subject to the following conditions:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Motion Carried: 5-0.

b. 876 Virginia Avenue

Special Exception Request

Mr. John Jordan of Walker and Walker, LLC and authorized representation of Philip Jones of Van Cole Investments, Inc. requested approval of a special exception to authorize the use of an existing drive-through at 876 Virginia Avenue, Parcel Identification number 14 009800010698. The property is zoned U-V, Urban Village and is 0.43 acres.

The applicant presented a traffic study conducted by Vern Wilburn of Maldino & Wilburn who addressed the Commission to discuss the findings of the traffic study. According to the report, there is not a significant difference between the total number of trips occurring at a non drive-through location versus a drive-through location. The applicant also presented a petition with 2000 signatures in support of the drive-through request.

Background and Summary– Planner’s Report:

The drive-through configuration was established prior to the extension renovation of the site. The drive-through is located on the east side of the structure, facing the adjacent property (Wendy’s) and away from the right-of-way along Oakridge Avenue. The Applicant has indicated there was a drive-through window with the same configuration previously utilized on the property by its prior occupants.

An application for the same special exception, a drive-through at 876 Virginia Avenue, was denied by Mayor and City Council on July 17, 2018. The definition provided in the



code for “restaurants” in U-V has changed since this special exception was last considered.

- **Public Comment**

Daniel Ray, 3468 Rainey Avenue, inquired regarding a provision to allow the request, but give it a timeline if there is an issue.

Melvin Traynum, 3550 Atlanta Avenue, suggested a right turn only exiting onto Virginia Avenue.

MOTION ITEM: Lucy Dolan made a motion, Leah Davis seconded to recommend the Mayor and Council grant the special exception at 876 Virginia Avenue subject to the following conditions:

1. The special exception for the drive-through will remain with Smoothie King and is not transferable.
2. A right turn only sign is placed at the Virginia Avenue exit.
3. The applicant must consult with City Staff to determine a long-lasting material to enhance the pedestrian walkway onto Virginia Avenue.

Motion Carried: 5-0.

c. 644 Coleman Street

Site Plan Request

Janice M. White requested site plan approval to construct a 4-bedroom, 3-bath single-family home at 644 Coleman Street, Parcel Identification Number 14 009900031503. The dwelling will have 1,944-sf of heated floor area and will provide off-street parking via a 15’ wide driveway along the west side of the house. The property is zoned R-SF, Residential Single Family and is .114 acres.

A revised site plan was submitted to address the deficiencies listed in the planner’s report. The Applicant must provide design cross sections for all new driveways and walkways.

- **Public Comment – None.**

MOTION ITEM: Jeanne Rast made a motion, Larry Martin seconded to approve the site plan request at 644 Coleman Street subject to the applicant providing design cross sections for all new driveways and walkways. **Motion Carried: 5-0**

d. 3384 North Fulton Avenue

Site Plan Request

Janice M. White requested site plan approval to construct a 3-bedroom, 2-bath single-family home at 3384 North Fulton Avenue, Parcel Identification Number 14 009500090115. The dwelling will have 1,528-sf of heated floor area and will provide off-



street parking via a 10' wide driveway along the south side of the house. The property is zoned R-SF, Residential Single Family and is .278 acres.

- Public Comment – None.

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to approve the site plan request at 3384 North Fulton Avenue subject to the applicant providing design cross sections for all new driveways and walkways. Motion Carried: 5-0.

e. Arts District Overlay Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 28. A-D Zone (Arts District Overlay), Section 93-28-8 (Prohibited uses) to change the prohibited uses.

Background – Planner's Report:

Regions Bank recently requested the City of Hapeville consider allowing a drive-up ATM facility in downtown Hapeville. The request was declined as currently the City of Hapeville Zoning Code prohibits any drive-through facilities in the A-D (Arts District Overlay), within which the bank is located (Sec. 93-28-8 – Prohibited Uses). While drive-up teller windows are present at the banks located in the Arts District, the application of this restriction prohibits conversion or additional drive-up Automated Teller Machines (ATM). This text amendment, presented at the request of Regions Bank, would allow for drive-up ATMs as a permitted use requiring special exception exclusively for banks in the A-D Overlay. Special exceptions require approval from the City Council.

Michael Foster of BDG Architects provided details regarding the construction of the drive-through ATM and Regions Bank's support of the proposed text amendment.

- Public Comment – None.

MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the A-D text amendment with a recommendation to add credit unions to the language. Motion Carried: 5-0.

f. Setback Definition

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to change the definition of setback.

Background – Planner's Report:

The definition of "Setback" given in Sec. 93-1-2. – Definitions of the Hapeville Zoning Code is inconsistent with the standard accepted definition of a "setback" and with other portions of the City Code. The following text amendment would alter the definition

- Public Comment – None.



MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

g. Home Occupation Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, Definitions, and application of regulations), Section 93-1-3 to change the definition of home occupation.

- Public Comment

Daniel Ray, 3468 Rainey Avenue, asked staff to clarify the proposed amendment.

MOTION ITEM: Lucy Dolan made a motion, Larry Martin seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

h. Reconsideration of Defeated Rezoning Proposals

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 25 (Amendments), Section 93-25-9 (Reconsideration of Defeated Actions) to require a six-month waiting period for reconsideration of defeated rezoning proposals.

- Public Comment – None.

MOTION ITEM: Larry Martin made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

5. Old Business

a. Residential Building Height Requirements

Chairman Wismer provided a summary regarding the ongoing discussion pertaining to residential building height requirements

Commissioner Martin discussed concerns regarding solar access and the reports that were provided at the last Commission meeting.

- Public Comment
Melvin Traynum, 3550 Atlanta Avenue, commented regarding solar panels and the city's heavy tree canopy.
Daniel Ray, 3468 Rainey Avenue, commented regarding the current building height requirements and he does not see a need to change the code.

After further discussion, the Commission did not support taking action to recommend the Mayor and Council amend the residential building height requirement.



6. Next Meeting Date – September 10, 2019 at 6:00PM

7. Adjourn

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to adjourn the meeting at 8:21 p.m.

Respectfully submitted by,

Chairman, Brian Wismer

Secretary, Adrienne Senter

DRAFT

STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 1 (“TITLE, DEFINITIONS AND APPLICATION OF REGULATIONS”), SECTION 93-1-2 (“DEFINITIONS”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the procedures required for amending the City’s zoning ordinance have been satisfied, including, but not limited to, notice and public hearings; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the definition of “setback”.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 93 (Zoning), Article 1 (Title, Definitions and Application of Regulations), Section 93-1-2 (Definitions) of the City Code of Ordinances is hereby amended by striking the definition of “Setback” in its entirety and inserting in lieu thereof the following language:

Setback. The distance from the property boundary of a parcel to the nearest point of a building.

DRAFT

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

DRAFT

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney



**Department of Planning and Zoning
Planner's Report**

DATE: July 18, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Setback Definition**

BACKGROUND

The definition of "Setback" given in Sec. 93-1-2. – *Definitions* of the Hapeville Zoning Code is inconsistent with the standard accepted definition of a "setback" and with other portions of the City Code. The following text amendment would alter the definition of "setback" to reflect the customary meaning of setback and is presented for recommendation to Mayor & City Council.

CODE

ARTICLE 1. – TITLE, DEFINITIONS AND APPLICATION OF REGULATIONS

Sec. 93-1-3. – Definitions

(c) Definitions

Change:

Setback. The distance from the centerline of a street to the nearest point of a building.

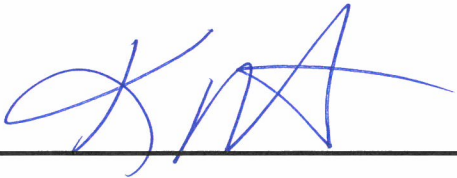
To:

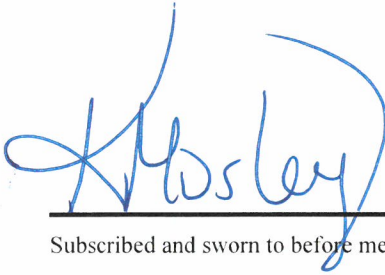
Setback. The distance from the property boundary of a parcel to the nearest point of a building.

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Before me, the undersigned, a Notary Public, this day personally came the undersigned who, being duly sworn, according to law, says she is an agent of ALM Media, LLC., publishers of the **Daily Report**, the official newspaper published in Atlanta, GA, in said county and state, and that the publication, of which the annexed is a true copy, was published in said newspaper as provided by law on the following dates: 08/02/2019.





Subscribed and sworn to before me this August 2, 2019



NOTICE

The City of Hapeville, Georgia will be considering an amendment to the Code of Ordinances, Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to amend the City of Hapeville definition of "Setback" on **August 20, 2019 at 6:00 p.m.** in the Municipal Court Complex located at 700 Doug Davis Drive, Hapeville, Georgia 30354.
#0000417004:8/02-1AS



Planning Commission Meeting

700 Doug Davis Drive
Hapeville, Georgia 30354

August 13, 2019 6:00PM

Summary Minutes

1. Welcome and Introduction

Chairman Brian Wismer called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jeanne Rast, Leah Davis, Lucy Dolan, Larry Martin, Charlotte Rentz and Cliff Thomas. City Planners Dr. Lynn Patterson and Michael Smith were present along with City Attorney Priya Patel and Secretary Adrienne Senter.

2. Minutes of July 9, 2019

Motion Item: Lucy Dolan made a motion, Cliff Thomas seconded to approve the minutes of July 9, 2019 subject to correction. Motion Carried: 5-0.

3. Presentation

Virginia Ave. Roundabout Study & Wayfinding Project Update by Mitchell Greenway

The City of Hapeville is undertaking a study that will examine the option for development of a roundabout at the Virginia Avenue/Doug Davis/Clay Place/Hamilton Avenue intersection. This project – *the Hapeville Wayfinding & Virginia Avenue Roundabout Study and Demonstration Project* – will build from the previous LCI Studies.

Mitchell Greenway of Stantec Consulting Services presented a project update and next steps. The next community meeting will be held on Thursday, August 15, 2019 at 6 p.m. and will be held at the Municipal Annex, 700 Doug Davis Drive in Hapeville.

- Public Comment – None.

4. New Business

a. 3429 Rainey Avenue

Site Plan Request

Andy Steele requested site plan approval to construct a second story addition and porch to an existing home at 3429 Rainey Avenue, Parcel Identification Number 14 012700030592. The property is zoned R-SF, Residential Single Family and is .1722 acres.

The current dwelling has an integrated carport extending into the northern side setback by two feet, making it a nonconforming use. The Applicant will need a variance from the Board of Appeals to alter or enlarge the dwelling in any way unless it is to bring the dwelling into conformance. Furthermore, an additional variance to allow additional construction within the north side setback.



Jeanne Rast had a question regarding the parking variance. Dr. Patterson explained that this issue will be reviewed at the Design Review Committee for consideration of a design exception.

The following deficiencies must be addressed:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Public Comment - none

MOTION ITEM: Larry Martin made a motion, Lucy Dolan seconded to approve the site plan request at 3429 Rainey Avenue subject to the following conditions:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Motion Carried: 5-0.

b. 876 Virginia Avenue

Special Exception Request

Mr. John Jordan of Walker and Walker, LLC and authorized representation of Philip Jones of Van Cole Investments, Inc. requested approval of a special exception to authorize the use of an existing drive-through at 876 Virginia Avenue, Parcel Identification number 14 009800010698. The property is zoned U-V, Urban Village and is 0.43 acres.

The applicant presented a traffic study conducted by Vern Wilburn of Maldino & Wilburn who addressed the Commission to discuss the findings of the traffic study. According to the report, there is not a significant difference between the total number of trips occurring at a non drive-through location versus a drive-through location. The applicant also presented a petition with 2000 signatures in support of the drive-through request.

Background and Summary– Planner’s Report:

The drive-through configuration was established prior to the extension renovation of the site. The drive-through is located on the east side of the structure, facing the adjacent property (Wendy’s) and away from the right-of-way along Oakridge Avenue. The Applicant has indicated there was a drive-through window with the same configuration previously utilized on the property by its prior occupants.

An application for the same special exception, a drive-through at 876 Virginia Avenue, was denied by Mayor and City Council on July 17, 2018. The definition provided in the



code for “restaurants” in U-V has changed since this special exception was last considered.

- **Public Comment**

Daniel Ray, 3468 Rainey Avenue, inquired regarding a provision to allow the request, but give it a timeline if there is an issue.

Melvin Traynum, 3550 Atlanta Avenue, suggested a right turn only exiting onto Virginia Avenue.

MOTION ITEM: Lucy Dolan made a motion, Leah Davis seconded to recommend the Mayor and Council grant the special exception at 876 Virginia Avenue subject to the following conditions:

1. The special exception for the drive-through will remain with Smoothie King and is not transferable.
2. A right turn only sign is placed at the Virginia Avenue exit.
3. The applicant must consult with City Staff to determine a long-lasting material to enhance the pedestrian walkway onto Virginia Avenue.

Motion Carried: 5-0.

c. 644 Coleman Street

Site Plan Request

Janice M. White requested site plan approval to construct a 4-bedroom, 3-bath single-family home at 644 Coleman Street, Parcel Identification Number 14 009900031503. The dwelling will have 1,944-sf of heated floor area and will provide off-street parking via a 15’ wide driveway along the west side of the house. The property is zoned R-SF, Residential Single Family and is .114 acres.

A revised site plan was submitted to address the deficiencies listed in the planner’s report. The Applicant must provide design cross sections for all new driveways and walkways.

- **Public Comment – None.**

MOTION ITEM: Jeanne Rast made a motion, Larry Martin seconded to approve the site plan request at 644 Coleman Street subject to the applicant providing design cross sections for all new driveways and walkways. **Motion Carried: 5-0**

d. 3384 North Fulton Avenue

Site Plan Request

Janice M. White requested site plan approval to construct a 3-bedroom, 2-bath single-family home at 3384 North Fulton Avenue, Parcel Identification Number 14 009500090115. The dwelling will have 1,528-sf of heated floor area and will provide off-



street parking via a 10' wide driveway along the south side of the house. The property is zoned R-SF, Residential Single Family and is .278 acres.

- Public Comment – None.

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to approve the site plan request at 3384 North Fulton Avenue subject to the applicant providing design cross sections for all new driveways and walkways. Motion Carried: 5-0.

e. Arts District Overlay Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 28. A-D Zone (Arts District Overlay), Section 93-28-8 (Prohibited uses) to change the prohibited uses.

Background – Planner's Report:

Regions Bank recently requested the City of Hapeville consider allowing a drive-up ATM facility in downtown Hapeville. The request was declined as currently the City of Hapeville Zoning Code prohibits any drive-through facilities in the A-D (Arts District Overlay), within which the bank is located (Sec. 93-28-8 – Prohibited Uses). While drive-up teller windows are present at the banks located in the Arts District, the application of this restriction prohibits conversion or additional drive-up Automated Teller Machines (ATM). This text amendment, presented at the request of Regions Bank, would allow for drive-up ATMs as a permitted use requiring special exception exclusively for banks in the A-D Overlay. Special exceptions require approval from the City Council.

Michael Foster of BDG Architects provided details regarding the construction of the drive-through ATM and Regions Bank's support of the proposed text amendment.

- Public Comment – None.

MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the A-D text amendment with a recommendation to add credit unions to the language. Motion Carried: 5-0.

f. Setback Definition

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to change the definition of setback.

Background – Planner's Report:

The definition of "Setback" given in Sec. 93-1-2. – Definitions of the Hapeville Zoning Code is inconsistent with the standard accepted definition of a "setback" and with other portions of the City Code. The following text amendment would alter the definition

- Public Comment – None.



MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

g. Home Occupation Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, Definitions, and application of regulations), Section 93-1-3 to change the definition of home occupation.

- Public Comment

Daniel Ray, 3468 Rainey Avenue, asked staff to clarify the proposed amendment.

MOTION ITEM: Lucy Dolan made a motion, Larry Martin seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

h. Reconsideration of Defeated Rezoning Proposals

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 25 (Amendments), Section 93-25-9 (Reconsideration of Defeated Actions) to require a six-month waiting period for reconsideration of defeated rezoning proposals.

- Public Comment – None.

MOTION ITEM: Larry Martin made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

5. Old Business

a. Residential Building Height Requirements

Chairman Wismer provided a summary regarding the ongoing discussion pertaining to residential building height requirements

Commissioner Martin discussed concerns regarding solar access and the reports that were provided at the last Commission meeting.

- Public Comment
Melvin Traynum, 3550 Atlanta Avenue, commented regarding solar panels and the city's heavy tree canopy.
Daniel Ray, 3468 Rainey Avenue, commented regarding the current building height requirements and he does not see a need to change the code.

After further discussion, the Commission did not support taking action to recommend the Mayor and Council amend the residential building height requirement.



6. Next Meeting Date – September 10, 2019 at 6:00PM

7. Adjourn

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to adjourn the meeting at 8:21 p.m.

Respectfully submitted by,

Chairman, Brian Wismer

Secretary, Adrienne Senter

DRAFT

STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 25 (“AMENDMENTS”) TO CREATE SECTION 93-25-9 (“RECONSIDERATION FOR DEFEATED ACTIONS”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the procedures required for amending the City’s zoning ordinance have been satisfied, including, but not limited to, notice and public hearings; and,

WHEREAS, the governing authority of the City finds it desirable to amend and create a new section regarding the waiting period for rezoning applications pursuant to O.C.G.A. Section 36-66-4.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 93 (Zoning), Article 25 (Amendment), Section 93-25-9 (Reconsideration of Defeated Actions) of the City Code of Ordinances is hereby created, and shall state as follows:

If the zoning decision of the mayor and council is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated, then the

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same property may not again be considered for rezoning until the expiration of at least six months immediately following the defeat of the rezoning.

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

DRAFT

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney



**Department of Planning and Zoning
Planner's Report**

DATE: July 17, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Waiting Period for Repeat Applications**

BACKGROUND

The State of Georgia limits the reconsideration of defeated rezoning proposals by requiring a six-month waiting period before such a proposal may be reconsidered by a city. The proposed text amendment would add similar language to the City of Hapeville's zoning code and is presented for recommendation to the Mayor & City Council.

CODE

Add the following:

CHAPTER 93 – ZONING

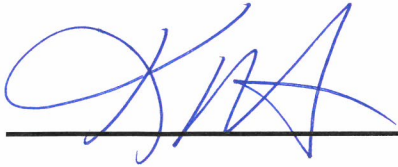
Sec. 93-25-9. – Reconsideration of Defeated Actions.

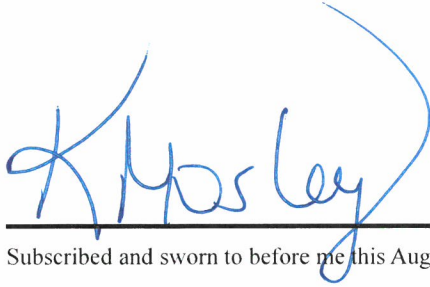
- (a) If the zoning decision of the mayor and council is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated, then the same property may not again be considered for rezoning until the expiration of at least six months immediately following the defeat of the rezoning.

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Before me, the undersigned, a Notary Public, this day personally came the undersigned who, being duly sworn, according to law, says she is an agent of ALM Media, LLC., publishers of the **Daily Report**, the official newspaper published in Atlanta, GA, in said county and state, and that the publication, of which the annexed is a true copy, was published in said newspaper as provided by law on the following dates: 08/02/2019.





Subscribed and sworn to before me this August 2, 2019



NOTICE

The City of Hapeville, Georgia will be considering an amendment to the Code of Ordinances, Chapter 93 (Zoning), Article 25 (Amendments), to create Section 93-25-9 (Reconsideration for defeated actions) on **August 20, 2019 at 6:00 p.m.** in the Municipal Court Complex located at 700 Doug Davis Drive, Hapeville, Georgia 30354.
#0000417009:8/02-1AS



Planning Commission Meeting

700 Doug Davis Drive
Hapeville, Georgia 30354

August 13, 2019 6:00PM

Summary Minutes

1. Welcome and Introduction

Chairman Brian Wismer called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jeanne Rast, Leah Davis, Lucy Dolan, Larry Martin, Charlotte Rentz and Cliff Thomas. City Planners Dr. Lynn Patterson and Michael Smith were present along with City Attorney Priya Patel and Secretary Adrienne Senter.

2. Minutes of July 9, 2019

Motion Item: Lucy Dolan made a motion, Cliff Thomas seconded to approve the minutes of July 9, 2019 subject to correction. Motion Carried: 5-0.

3. Presentation

Virginia Ave. Roundabout Study & Wayfinding Project Update by Mitchell Greenway

The City of Hapeville is undertaking a study that will examine the option for development of a roundabout at the Virginia Avenue/Doug Davis/Clay Place/Hamilton Avenue intersection. This project – *the Hapeville Wayfinding & Virginia Avenue Roundabout Study and Demonstration Project* – will build from the previous LCI Studies.

Mitchell Greenway of Stantec Consulting Services presented a project update and next steps. The next community meeting will be held on Thursday, August 15, 2019 at 6 p.m. and will be held at the Municipal Annex, 700 Doug Davis Drive in Hapeville.

- Public Comment – None.

4. New Business

a. 3429 Rainey Avenue

Site Plan Request

Andy Steele requested site plan approval to construct a second story addition and porch to an existing home at 3429 Rainey Avenue, Parcel Identification Number 14 012700030592. The property is zoned R-SF, Residential Single Family and is .1722 acres.

The current dwelling has an integrated carport extending into the northern side setback by two feet, making it a nonconforming use. The Applicant will need a variance from the Board of Appeals to alter or enlarge the dwelling in any way unless it is to bring the dwelling into conformance. Furthermore, an additional variance to allow additional construction within the north side setback.



Jeanne Rast had a question regarding the parking variance. Dr. Patterson explained that this issue will be reviewed at the Design Review Committee for consideration of a design exception.

The following deficiencies must be addressed:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Public Comment - none

MOTION ITEM: Larry Martin made a motion, Lucy Dolan seconded to approve the site plan request at 3429 Rainey Avenue subject to the following conditions:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Motion Carried: 5-0.

b. 876 Virginia Avenue

Special Exception Request

Mr. John Jordan of Walker and Walker, LLC and authorized representation of Philip Jones of Van Cole Investments, Inc. requested approval of a special exception to authorize the use of an existing drive-through at 876 Virginia Avenue, Parcel Identification number 14 009800010698. The property is zoned U-V, Urban Village and is 0.43 acres.

The applicant presented a traffic study conducted by Vern Wilburn of Maldino & Wilburn who addressed the Commission to discuss the findings of the traffic study. According to the report, there is not a significant difference between the total number of trips occurring at a non drive-through location versus a drive-through location. The applicant also presented a petition with 2000 signatures in support of the drive-through request.

Background and Summary– Planner’s Report:

The drive-through configuration was established prior to the extension renovation of the site. The drive-through is located on the east side of the structure, facing the adjacent property (Wendy’s) and away from the right-of-way along Oakridge Avenue. The Applicant has indicated there was a drive-through window with the same configuration previously utilized on the property by its prior occupants.

An application for the same special exception, a drive-through at 876 Virginia Avenue, was denied by Mayor and City Council on July 17, 2018. The definition provided in the



code for “restaurants” in U-V has changed since this special exception was last considered.

- **Public Comment**

Daniel Ray, 3468 Rainey Avenue, inquired regarding a provision to allow the request, but give it a timeline if there is an issue.

Melvin Traynum, 3550 Atlanta Avenue, suggested a right turn only exiting onto Virginia Avenue.

MOTION ITEM: Lucy Dolan made a motion, Leah Davis seconded to recommend the Mayor and Council grant the special exception at 876 Virginia Avenue subject to the following conditions:

1. The special exception for the drive-through will remain with Smoothie King and is not transferable.
2. A right turn only sign is placed at the Virginia Avenue exit.
3. The applicant must consult with City Staff to determine a long-lasting material to enhance the pedestrian walkway onto Virginia Avenue.

Motion Carried: 5-0.

c. 644 Coleman Street

Site Plan Request

Janice M. White requested site plan approval to construct a 4-bedroom, 3-bath single-family home at 644 Coleman Street, Parcel Identification Number 14 009900031503. The dwelling will have 1,944-sf of heated floor area and will provide off-street parking via a 15’ wide driveway along the west side of the house. The property is zoned R-SF, Residential Single Family and is .114 acres.

A revised site plan was submitted to address the deficiencies listed in the planner’s report. The Applicant must provide design cross sections for all new driveways and walkways.

- **Public Comment – None.**

MOTION ITEM: Jeanne Rast made a motion, Larry Martin seconded to approve the site plan request at 644 Coleman Street subject to the applicant providing design cross sections for all new driveways and walkways. **Motion Carried: 5-0**

d. 3384 North Fulton Avenue

Site Plan Request

Janice M. White requested site plan approval to construct a 3-bedroom, 2-bath single-family home at 3384 North Fulton Avenue, Parcel Identification Number 14 009500090115. The dwelling will have 1,528-sf of heated floor area and will provide off-



street parking via a 10' wide driveway along the south side of the house. The property is zoned R-SF, Residential Single Family and is .278 acres.

- Public Comment – None.

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to approve the site plan request at 3384 North Fulton Avenue subject to the applicant providing design cross sections for all new driveways and walkways. Motion Carried: 5-0.

e. Arts District Overlay Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 28. A-D Zone (Arts District Overlay), Section 93-28-8 (Prohibited uses) to change the prohibited uses.

Background – Planner's Report:

Regions Bank recently requested the City of Hapeville consider allowing a drive-up ATM facility in downtown Hapeville. The request was declined as currently the City of Hapeville Zoning Code prohibits any drive-through facilities in the A-D (Arts District Overlay), within which the bank is located (Sec. 93-28-8 – Prohibited Uses). While drive-up teller windows are present at the banks located in the Arts District, the application of this restriction prohibits conversion or additional drive-up Automated Teller Machines (ATM). This text amendment, presented at the request of Regions Bank, would allow for drive-up ATMs as a permitted use requiring special exception exclusively for banks in the A-D Overlay. Special exceptions require approval from the City Council.

Michael Foster of BDG Architects provided details regarding the construction of the drive-through ATM and Regions Bank's support of the proposed text amendment.

- Public Comment – None.

MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the A-D text amendment with a recommendation to add credit unions to the language. Motion Carried: 5-0.

f. Setback Definition

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to change the definition of setback.

Background – Planner's Report:

The definition of "Setback" given in Sec. 93-1-2. – Definitions of the Hapeville Zoning Code is inconsistent with the standard accepted definition of a "setback" and with other portions of the City Code. The following text amendment would alter the definition

- Public Comment – None.



MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

g. Home Occupation Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, Definitions, and application of regulations), Section 93-1-3 to change the definition of home occupation.

- Public Comment

Daniel Ray, 3468 Rainey Avenue, asked staff to clarify the proposed amendment.

MOTION ITEM: Lucy Dolan made a motion, Larry Martin seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

h. Reconsideration of Defeated Rezoning Proposals

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 25 (Amendments), Section 93-25-9 (Reconsideration of Defeated Actions) to require a six-month waiting period for reconsideration of defeated rezoning proposals.

- Public Comment – None.

MOTION ITEM: Larry Martin made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

5. Old Business

a. Residential Building Height Requirements

Chairman Wismer provided a summary regarding the ongoing discussion pertaining to residential building height requirements

Commissioner Martin discussed concerns regarding solar access and the reports that were provided at the last Commission meeting.

- Public Comment
Melvin Traynum, 3550 Atlanta Avenue, commented regarding solar panels and the city's heavy tree canopy.
Daniel Ray, 3468 Rainey Avenue, commented regarding the current building height requirements and he does not see a need to change the code.

After further discussion, the Commission did not support taking action to recommend the Mayor and Council amend the residential building height requirement.



6. Next Meeting Date – September 10, 2019 at 6:00PM

7. Adjourn

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to adjourn the meeting at 8:21 p.m.

Respectfully submitted by,

Chairman, Brian Wismer

Secretary, Adrienne Senter

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STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 1 (“TITLE, DEFINITIONS AND APPLICATION OF REGULATIONS”), SECTION 93-1-2 (“DEFINITIONS”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the procedures required for amending the City’s zoning ordinance have been satisfied, including, but not limited to, notice and public hearings; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the definition of “home occupation”.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 93 (Zoning), Article 1 (Title, Definitions and Application of Regulations), Section 93-1-2 (Definitions) of the City Code of Ordinances is hereby amended by striking the definition of “Home occupation” in its entirety and inserting in lieu thereof the following language:

Home occupation. Any accessory use of a commercial service character customarily conducted within a dwelling by a resident thereof, which use is secondary to the use of the

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dwelling for living purposes and does not change the character thereof. Operation of any such use is subject to the provisions set forth in section 93-2-25.

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

DRAFT

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney



**Department of Planning and Zoning
Planner's Report**

DATE: July 18, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Home Occupation Definition**

BACKGROUND

The definition of "Home Occupation" given in Sec. 93-1-2. – *Definitions* of the Hapeville Zoning Code is restrictive and does not reflect the current trend of dwellings being used as home offices in businesses that operate remotely via telephone and the internet. Sec. 93-2-25 – *Home occupations; special provisions* provides specific guidelines for the operation of a home occupation that make the restrictive language in the definition unnecessary. The following text amendment would alter the definition of "Home Occupation" to be more general and is presented for recommendation to Mayor & City Council.

CODE

ARTICLE 1. – TITLE, DEFINITIONS AND APPLICATION OF REGULATIONS

Sec. 93-1-3. – Definitions

(c) *Definitions*

Change:

Home occupation. Any accessory use of a commercial service character customarily conducted within a dwelling by a resident thereof, which use is secondary to the use of the dwelling for living purposes and does not change the character thereof. The types of businesses meeting the definition of a home occupation include, but are not limited to, the office of a physician, surgeon, dentist, chiropractor, lawyer, engineer, architect, accountant or other professional person, within a dwelling occupied by the same for consultation or emergency treatment, but not for the general practice of his profession and where no assistants are employed.

To:

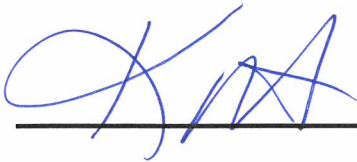
Home occupation. Any accessory use of a commercial service character customarily conducted within a dwelling by a resident thereof, which use is secondary to the use of the dwelling for living

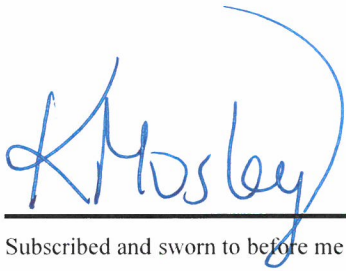
purposes and does not change the character thereof. Operation of any such use is subject to the provisions set forth in section 93-2-25.

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Before me, the undersigned, a Notary Public, this day personally came the undersigned who, being duly sworn, according to law, says she is an agent of ALM Media, LLC., publishers of the **Daily Report**, the official newspaper published in Atlanta, GA, in said county and state, and that the publication, of which the annexed is a true copy, was published in said newspaper as provided by law on the following dates: 08/02/2019.





Subscribed and sworn to before me this August 2, 2019



NOTICE

The City of Hapeville, Georgia will be considering an amendment to the Code of Ordinances, Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to amend the definition of "Home occupation" on **August 20, 2019 at 6:00 p.m.** in the Municipal Court Complex located at 700 Doug Davis Drive, Hapeville, Georgia 30354.
#0000417007:8/02-1AS



Planning Commission Meeting

700 Doug Davis Drive
Hapeville, Georgia 30354

August 13, 2019 6:00PM

Summary Minutes

1. Welcome and Introduction

Chairman Brian Wismer called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jeanne Rast, Leah Davis, Lucy Dolan, Larry Martin, Charlotte Rentz and Cliff Thomas. City Planners Dr. Lynn Patterson and Michael Smith were present along with City Attorney Priya Patel and Secretary Adrienne Senter.

2. Minutes of July 9, 2019

Motion Item: Lucy Dolan made a motion, Cliff Thomas seconded to approve the minutes of July 9, 2019 subject to correction. Motion Carried: 5-0.

3. Presentation

Virginia Ave. Roundabout Study & Wayfinding Project Update by Mitchell Greenway

The City of Hapeville is undertaking a study that will examine the option for development of a roundabout at the Virginia Avenue/Doug Davis/Clay Place/Hamilton Avenue intersection. This project – *the Hapeville Wayfinding & Virginia Avenue Roundabout Study and Demonstration Project* – will build from the previous LCI Studies.

Mitchell Greenway of Stantec Consulting Services presented a project update and next steps. The next community meeting will be held on Thursday, August 15, 2019 at 6 p.m. and will be held at the Municipal Annex, 700 Doug Davis Drive in Hapeville.

- Public Comment – None.

4. New Business

a. 3429 Rainey Avenue

Site Plan Request

Andy Steele requested site plan approval to construct a second story addition and porch to an existing home at 3429 Rainey Avenue, Parcel Identification Number 14 012700030592. The property is zoned R-SF, Residential Single Family and is .1722 acres.

The current dwelling has an integrated carport extending into the northern side setback by two feet, making it a nonconforming use. The Applicant will need a variance from the Board of Appeals to alter or enlarge the dwelling in any way unless it is to bring the dwelling into conformance. Furthermore, an additional variance to allow additional construction within the north side setback.



Jeanne Rast had a question regarding the parking variance. Dr. Patterson explained that this issue will be reviewed at the Design Review Committee for consideration of a design exception.

The following deficiencies must be addressed:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Public Comment - none

MOTION ITEM: Larry Martin made a motion, Lucy Dolan seconded to approve the site plan request at 3429 Rainey Avenue subject to the following conditions:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Motion Carried: 5-0.

b. 876 Virginia Avenue

Special Exception Request

Mr. John Jordan of Walker and Walker, LLC and authorized representation of Philip Jones of Van Cole Investments, Inc. requested approval of a special exception to authorize the use of an existing drive-through at 876 Virginia Avenue, Parcel Identification number 14 009800010698. The property is zoned U-V, Urban Village and is 0.43 acres.

The applicant presented a traffic study conducted by Vern Wilburn of Maldino & Wilburn who addressed the Commission to discuss the findings of the traffic study. According to the report, there is not a significant difference between the total number of trips occurring at a non drive-through location versus a drive-through location. The applicant also presented a petition with 2000 signatures in support of the drive-through request.

Background and Summary– Planner’s Report:

The drive-through configuration was established prior to the extension renovation of the site. The drive-through is located on the east side of the structure, facing the adjacent property (Wendy’s) and away from the right-of-way along Oakridge Avenue. The Applicant has indicated there was a drive-through window with the same configuration previously utilized on the property by its prior occupants.

An application for the same special exception, a drive-through at 876 Virginia Avenue, was denied by Mayor and City Council on July 17, 2018. The definition provided in the



code for “restaurants” in U-V has changed since this special exception was last considered.

- **Public Comment**

Daniel Ray, 3468 Rainey Avenue, inquired regarding a provision to allow the request, but give it a timeline if there is an issue.

Melvin Traynum, 3550 Atlanta Avenue, suggested a right turn only exiting onto Virginia Avenue.

MOTION ITEM: Lucy Dolan made a motion, Leah Davis seconded to recommend the Mayor and Council grant the special exception at 876 Virginia Avenue subject to the following conditions:

1. The special exception for the drive-through will remain with Smoothie King and is not transferable.
2. A right turn only sign is placed at the Virginia Avenue exit.
3. The applicant must consult with City Staff to determine a long-lasting material to enhance the pedestrian walkway onto Virginia Avenue.

Motion Carried: 5-0.

c. 644 Coleman Street

Site Plan Request

Janice M. White requested site plan approval to construct a 4-bedroom, 3-bath single-family home at 644 Coleman Street, Parcel Identification Number 14 009900031503. The dwelling will have 1,944-sf of heated floor area and will provide off-street parking via a 15’ wide driveway along the west side of the house. The property is zoned R-SF, Residential Single Family and is .114 acres.

A revised site plan was submitted to address the deficiencies listed in the planner’s report. The Applicant must provide design cross sections for all new driveways and walkways.

- **Public Comment – None.**

MOTION ITEM: Jeanne Rast made a motion, Larry Martin seconded to approve the site plan request at 644 Coleman Street subject to the applicant providing design cross sections for all new driveways and walkways. **Motion Carried: 5-0**

d. 3384 North Fulton Avenue

Site Plan Request

Janice M. White requested site plan approval to construct a 3-bedroom, 2-bath single-family home at 3384 North Fulton Avenue, Parcel Identification Number 14 009500090115. The dwelling will have 1,528-sf of heated floor area and will provide off-



street parking via a 10' wide driveway along the south side of the house. The property is zoned R-SF, Residential Single Family and is .278 acres.

- Public Comment – None.

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to approve the site plan request at 3384 North Fulton Avenue subject to the applicant providing design cross sections for all new driveways and walkways. Motion Carried: 5-0.

e. Arts District Overlay Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 28. A-D Zone (Arts District Overlay), Section 93-28-8 (Prohibited uses) to change the prohibited uses.

Background – Planner's Report:

Regions Bank recently requested the City of Hapeville consider allowing a drive-up ATM facility in downtown Hapeville. The request was declined as currently the City of Hapeville Zoning Code prohibits any drive-through facilities in the A-D (Arts District Overlay), within which the bank is located (Sec. 93-28-8 – Prohibited Uses). While drive-up teller windows are present at the banks located in the Arts District, the application of this restriction prohibits conversion or additional drive-up Automated Teller Machines (ATM). This text amendment, presented at the request of Regions Bank, would allow for drive-up ATMs as a permitted use requiring special exception exclusively for banks in the A-D Overlay. Special exceptions require approval from the City Council.

Michael Foster of BDG Architects provided details regarding the construction of the drive-through ATM and Regions Bank's support of the proposed text amendment.

- Public Comment – None.

MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the A-D text amendment with a recommendation to add credit unions to the language. Motion Carried: 5-0.

f. Setback Definition

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to change the definition of setback.

Background – Planner's Report:

The definition of "Setback" given in Sec. 93-1-2. – Definitions of the Hapeville Zoning Code is inconsistent with the standard accepted definition of a "setback" and with other portions of the City Code. The following text amendment would alter the definition

- Public Comment – None.



MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

g. Home Occupation Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, Definitions, and application of regulations), Section 93-1-3 to change the definition of home occupation.

- Public Comment

Daniel Ray, 3468 Rainey Avenue, asked staff to clarify the proposed amendment.

MOTION ITEM: Lucy Dolan made a motion, Larry Martin seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

h. Reconsideration of Defeated Rezoning Proposals

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 25 (Amendments), Section 93-25-9 (Reconsideration of Defeated Actions) to require a six-month waiting period for reconsideration of defeated rezoning proposals.

- Public Comment – None.

MOTION ITEM: Larry Martin made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

5. Old Business

a. Residential Building Height Requirements

Chairman Wismer provided a summary regarding the ongoing discussion pertaining to residential building height requirements

Commissioner Martin discussed concerns regarding solar access and the reports that were provided at the last Commission meeting.

- Public Comment
Melvin Traynum, 3550 Atlanta Avenue, commented regarding solar panels and the city's heavy tree canopy.
Daniel Ray, 3468 Rainey Avenue, commented regarding the current building height requirements and he does not see a need to change the code.

After further discussion, the Commission did not support taking action to recommend the Mayor and Council amend the residential building height requirement.



6. Next Meeting Date – September 10, 2019 at 6:00PM

7. Adjourn

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to adjourn the meeting at 8:21 p.m.

Respectfully submitted by,

Chairman, Brian Wismer

Secretary, Adrienne Senter

DRAFT

STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”), ARTICLE 28 (“A-D ZONE (ARTS DISTRICT OVERLAY)”), SECTION 93-28-8 (“PROHIBITED USES”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the procedures required for amending the City’s zoning ordinance have been satisfied, including, but not limited to, notice and public hearings; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the prohibited uses in the Arts Overlay District.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 93 (Zoning), Article 28 (A-D Zone (Arts District Overlay)), Section 93-28-8 (Prohibited uses) of the City Code of Ordinances is hereby amended by striking the subsection (1) in its entirety and inserting in lieu thereof the following language:

- (1) All drive-through facilities other than those permitted by special exception for accessory use by banks or credit unions.

DRAFT

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

DRAFT

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney



**Department of Planning and Zoning
Planner's Report**

DATE: August 8, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Drive-Up ATMs for Banks in the A-D, Arts District Zoning District**

BACKGROUND

Regions Bank recently requested the City of Hapeville consider allowing a drive-up ATM at its facility in downtown Hapeville (see attached). The request was declined as currently the City of Hapeville Zoning Code prohibits any drive-through facilities in the A-D – Arts District overlay, within which the bank is located (Sec. 93-28-8 – *Prohibited Uses*). While drive-up teller windows are present at the banks located in the Arts District, the application of this restriction prohibits conversion or additional drive-up Automated Teller Machines. This text amendment, presented at the request of Regions Bank, would allow for drive-up ATMs as a permitted use requiring special exception exclusively for banks in the A-D overlay. Special exceptions require approval from the City Council.

CODE

ARTICLE 28. - A-D ZONE (ARTS DISTRICT OVERLAY)

Change:

Sec. 93-28-8. - Prohibited uses.

The following uses shall be prohibited in the Arts District Overlay:

- (1) Any drive-through facility.

To:

Sec. 93-28-8. - Prohibited uses.

The following uses shall be prohibited in the Arts District Overlay:

- (1) All drive-through facilities except those permitted by special exception for accessory use by banks.

FINDINGS

The intent of the Arts District is to generate interest in downtown Hapeville and attract arts and cultural events in part by promoting a pedestrian character. It was specifically designed to provide for walkable distances between nearby neighborhoods and small-scale establishments compatible with the neighborhood character. Allowing for a proliferation of typical drive-through establishments may compromise this goal of the district.

In the past, Hapeville has required new outdoor ATMs to be walk-up models, accessible via the sidewalk but not by car. Staff consulted with the Hapeville Chief of Police to determine if there are any safety concerns regarding vehicle or drive-up ATMs. Chief Glavosek suggested that walk-up ATMs may leave people more vulnerable to being targets of thieves, whereas drive-up ATMs could be a safer alternative. Regions Bank has indicated in conversations that the market and industry standards are changing to address convenience and thus teller windows are being replaced with more ATMs and similar automated machines.

In considering the text amendment, staff recommends the Planning Commission and City Council carefully consider the intent of the Arts-District, safety, and changing industry and market conditions. If the text amendment is approved, staff recommends special exception approvals to include pedestrian safety measures and compatibility with the Arts -District overall intent.



August 9, 2019

To Whom it May Concern:

We are writing in support of the proposed text amendment to the code to allow construction of drive thru lanes on a limited basis. Drive thru ATM usage is central to the modern banking experience, and the level of service and convenience these stations afford our customers is widely used and universally expected.

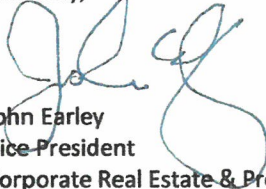
We understand the intent of the drive thru restriction is to protect the character of the City of Hapeville, but suggest that this should not apply to financial institutions because they do not produce the negative results associated with other uses. The modern fast food chain drive thru, for example, is often associated with wide swathes of impervious surfaces; dramatically increased vehicular traffic; long lines of queuing cars that can stack out and obstruct adjacent roadways; large, garish lighting and signage infrastructure for wayfinding and branding. In contrast, bank drive thru ATMs are small, limited in number, and rarely stack up beyond one or two cars.

The most important distinction, however, is related to customer service. Bank drive thru ATMs allow us to deliver a high level of financial service to our customers during nights and weekends when such services would otherwise be unavailable. Bank drive thru ATMs are useful and convenient during normal branch operations, but absolutely essential when bank branches are closed. Our goal is to make this level of service available to our Hapeville branch patrons.

In our view, bank drive thrus deliver a high level of service to the community without the drawbacks often associated with other drive thru lane usage. They provide valuable services to the community when no other such service can be delivered. Further, with any new drive thru construction, we are committed to doing all that is required to meet the City of Hapeville's high standards and further enhance this community. With these considerations in mind, we encourage the Commission to approve the zoning amendment at issue.

Thank you for your consideration.

Sincerely,



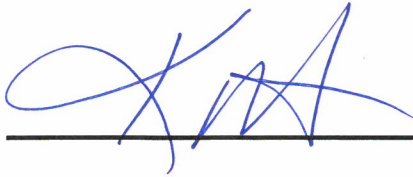
John Earley
Vice President
Corporate Real Estate & Properties Department

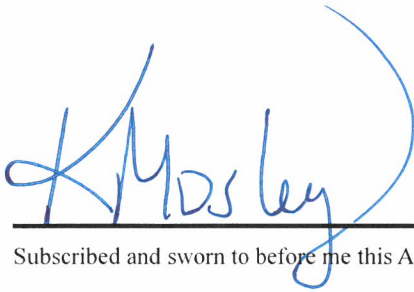
Post Office Box 11007
Birmingham, Alabama 35288

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Before me, the undersigned, a Notary Public, this day personally came the undersigned who, being duly sworn, according to law, says she is an agent of ALM Media, LLC., publishers of the **Daily Report**, the official newspaper published in Atlanta, GA, in said county and state, and that the publication, of which the annexed is a true copy, was published in said newspaper as provided by law on the following dates: 08/02/2019.





Subscribed and sworn to before me this August 2, 2019



NOTICE

The City of Hapeville, Georgia will be considering an amendment to the Code of Ordinances, Chapter 93 (Zoning), Article 28 (A-D Zone, Arts District Overlay) to amend Section 93-28-8 (Prohibited uses) on **August 20, 2019 at 6:00 p.m.** in the Municipal Court Complex located at 700 Doug Davis Drive, Hapeville, Georgia 30354.

#0000417054:8/02-1AS



Planning Commission Meeting

700 Doug Davis Drive
Hapeville, Georgia 30354

August 13, 2019 6:00PM

Summary Minutes

1. Welcome and Introduction

Chairman Brian Wismer called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jeanne Rast, Leah Davis, Lucy Dolan, Larry Martin, Charlotte Rentz and Cliff Thomas. City Planners Dr. Lynn Patterson and Michael Smith were present along with City Attorney Priya Patel and Secretary Adrienne Senter.

2. Minutes of July 9, 2019

Motion Item: Lucy Dolan made a motion, Cliff Thomas seconded to approve the minutes of July 9, 2019 subject to correction. Motion Carried: 5-0.

3. Presentation

Virginia Ave. Roundabout Study & Wayfinding Project Update by Mitchell Greenway

The City of Hapeville is undertaking a study that will examine the option for development of a roundabout at the Virginia Avenue/Doug Davis/Clay Place/Hamilton Avenue intersection. This project – *the Hapeville Wayfinding & Virginia Avenue Roundabout Study and Demonstration Project* – will build from the previous LCI Studies.

Mitchell Greenway of Stantec Consulting Services presented a project update and next steps. The next community meeting will be held on Thursday, August 15, 2019 at 6 p.m. and will be held at the Municipal Annex, 700 Doug Davis Drive in Hapeville.

- Public Comment – None.

4. New Business

a. 3429 Rainey Avenue

Site Plan Request

Andy Steele requested site plan approval to construct a second story addition and porch to an existing home at 3429 Rainey Avenue, Parcel Identification Number 14 012700030592. The property is zoned R-SF, Residential Single Family and is .1722 acres.

The current dwelling has an integrated carport extending into the northern side setback by two feet, making it a nonconforming use. The Applicant will need a variance from the Board of Appeals to alter or enlarge the dwelling in any way unless it is to bring the dwelling into conformance. Furthermore, an additional variance to allow additional construction within the north side setback.



Jeanne Rast had a question regarding the parking variance. Dr. Patterson explained that this issue will be reviewed at the Design Review Committee for consideration of a design exception.

The following deficiencies must be addressed:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Public Comment - none

MOTION ITEM: Larry Martin made a motion, Lucy Dolan seconded to approve the site plan request at 3429 Rainey Avenue subject to the following conditions:

1. The floor areas of the existing and proposed structures must be provided.
 2. The Applicant must provide the widths of the driveway, curb cuts, and the sidewalk.
 3. The Applicant must receive Board of Appeals approval for requested variances.
- Motion Carried: 5-0.

b. 876 Virginia Avenue

Special Exception Request

Mr. John Jordan of Walker and Walker, LLC and authorized representation of Philip Jones of Van Cole Investments, Inc. requested approval of a special exception to authorize the use of an existing drive-through at 876 Virginia Avenue, Parcel Identification number 14 009800010698. The property is zoned U-V, Urban Village and is 0.43 acres.

The applicant presented a traffic study conducted by Vern Wilburn of Maldino & Wilburn who addressed the Commission to discuss the findings of the traffic study. According to the report, there is not a significant difference between the total number of trips occurring at a non drive-through location versus a drive-through location. The applicant also presented a petition with 2000 signatures in support of the drive-through request.

Background and Summary– Planner’s Report:

The drive-through configuration was established prior to the extension renovation of the site. The drive-through is located on the east side of the structure, facing the adjacent property (Wendy’s) and away from the right-of-way along Oakridge Avenue. The Applicant has indicated there was a drive-through window with the same configuration previously utilized on the property by its prior occupants.

An application for the same special exception, a drive-through at 876 Virginia Avenue, was denied by Mayor and City Council on July 17, 2018. The definition provided in the



code for “restaurants” in U-V has changed since this special exception was last considered.

- **Public Comment**

Daniel Ray, 3468 Rainey Avenue, inquired regarding a provision to allow the request, but give it a timeline if there is an issue.

Melvin Traynum, 3550 Atlanta Avenue, suggested a right turn only exiting onto Virginia Avenue.

MOTION ITEM: Lucy Dolan made a motion, Leah Davis seconded to recommend the Mayor and Council grant the special exception at 876 Virginia Avenue subject to the following conditions:

1. The special exception for the drive-through will remain with Smoothie King and is not transferable.
2. A right turn only sign is placed at the Virginia Avenue exit.
3. The applicant must consult with City Staff to determine a long-lasting material to enhance the pedestrian walkway onto Virginia Avenue.

Motion Carried: 5-0.

c. 644 Coleman Street

Site Plan Request

Janice M. White requested site plan approval to construct a 4-bedroom, 3-bath single-family home at 644 Coleman Street, Parcel Identification Number 14 009900031503. The dwelling will have 1,944-sf of heated floor area and will provide off-street parking via a 15’ wide driveway along the west side of the house. The property is zoned R-SF, Residential Single Family and is .114 acres.

A revised site plan was submitted to address the deficiencies listed in the planner’s report. The Applicant must provide design cross sections for all new driveways and walkways.

- **Public Comment – None.**

MOTION ITEM: Jeanne Rast made a motion, Larry Martin seconded to approve the site plan request at 644 Coleman Street subject to the applicant providing design cross sections for all new driveways and walkways. **Motion Carried: 5-0**

d. 3384 North Fulton Avenue

Site Plan Request

Janice M. White requested site plan approval to construct a 3-bedroom, 2-bath single-family home at 3384 North Fulton Avenue, Parcel Identification Number 14 009500090115. The dwelling will have 1,528-sf of heated floor area and will provide off-



street parking via a 10' wide driveway along the south side of the house. The property is zoned R-SF, Residential Single Family and is .278 acres.

- Public Comment – None.

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to approve the site plan request at 3384 North Fulton Avenue subject to the applicant providing design cross sections for all new driveways and walkways. Motion Carried: 5-0.

e. Arts District Overlay Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 28. A-D Zone (Arts District Overlay), Section 93-28-8 (Prohibited uses) to change the prohibited uses.

Background – Planner's Report:

Regions Bank recently requested the City of Hapeville consider allowing a drive-up ATM facility in downtown Hapeville. The request was declined as currently the City of Hapeville Zoning Code prohibits any drive-through facilities in the A-D (Arts District Overlay), within which the bank is located (Sec. 93-28-8 – Prohibited Uses). While drive-up teller windows are present at the banks located in the Arts District, the application of this restriction prohibits conversion or additional drive-up Automated Teller Machines (ATM). This text amendment, presented at the request of Regions Bank, would allow for drive-up ATMs as a permitted use requiring special exception exclusively for banks in the A-D Overlay. Special exceptions require approval from the City Council.

Michael Foster of BDG Architects provided details regarding the construction of the drive-through ATM and Regions Bank's support of the proposed text amendment.

- Public Comment – None.

MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the A-D text amendment with a recommendation to add credit unions to the language. Motion Carried: 5-0.

f. Setback Definition

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, definitions, and application of regulations), Section 93-1-2 (Definitions) to change the definition of setback.

Background – Planner's Report:

The definition of "Setback" given in Sec. 93-1-2. – Definitions of the Hapeville Zoning Code is inconsistent with the standard accepted definition of a "setback" and with other portions of the City Code. The following text amendment would alter the definition

- Public Comment – None.



MOTION ITEM: Lucy Dolan made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

g. Home Occupation Ordinance

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 1 (Title, Definitions, and application of regulations), Section 93-1-3 to change the definition of home occupation.

- Public Comment

Daniel Ray, 3468 Rainey Avenue, asked staff to clarify the proposed amendment.

MOTION ITEM: Lucy Dolan made a motion, Larry Martin seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

h. Reconsideration of Defeated Rezoning Proposals

Text Amendment

Consideration of a text amendment to Chapter 93 (Zoning), Article 25 (Amendments), Section 93-25-9 (Reconsideration of Defeated Actions) to require a six-month waiting period for reconsideration of defeated rezoning proposals.

- Public Comment – None.

MOTION ITEM: Larry Martin made a motion, Jeanne Rast seconded to recommend the Mayor and Council approve the text amendment as proposed. Motion Carried: 5-0.

5. Old Business

a. Residential Building Height Requirements

Chairman Wismer provided a summary regarding the ongoing discussion pertaining to residential building height requirements

Commissioner Martin discussed concerns regarding solar access and the reports that were provided at the last Commission meeting.

- Public Comment
Melvin Traynum, 3550 Atlanta Avenue, commented regarding solar panels and the city's heavy tree canopy.
Daniel Ray, 3468 Rainey Avenue, commented regarding the current building height requirements and he does not see a need to change the code.

After further discussion, the Commission did not support taking action to recommend the Mayor and Council amend the residential building height requirement.



6. Next Meeting Date – September 10, 2019 at 6:00PM

7. Adjourn

MOTION ITEM: Jeanne Rast made a motion, Lucy Dolan seconded to adjourn the meeting at 8:21 p.m.

Respectfully submitted by,

Chairman, Brian Wismer

Secretary, Adrienne Senter



Proclamation Recognizing National Payroll Week

Whereas, the American Payroll Association and its more than 21,000 members have launched a nationwide public awareness campaign that pays tribute to the more than 150 million people who work in the United States and the payroll professionals who support the American system by paying wages, reporting worker earnings and withholding federal employment taxes; and

Whereas, payroll professionals in Hapeville, GA play a key role in maintaining the economic health of Hapeville, carrying out such diverse tasks as paying into the unemployment insurance system, providing information for child support enforcement, and carrying out tax withholding, reporting and depositing; and

Whereas, payroll departments collectively spend more than \$2.2 trillion annually complying with myriad federal and state wage and tax laws; and Whereas payroll professionals play an increasingly important role ensuring the economic security of American families by helping to identify noncustodial parents and making sure they comply with their child support mandates; and

Whereas, payroll professionals have become increasingly proactive in educating both the business community and the public at large about the payroll tax withholding systems; and

Whereas, payroll professionals meet regularly with federal and state tax officials to discuss both improving compliance with government procedures and how compliance can be achieved at less cost to both government and businesses; and

Whereas, the week in which Labor Day falls has been proclaimed National Payroll Week, I hereby give additional support to the efforts of the people who work in Hapeville, GA and of the payroll profession by proclaiming the first full week of September Payroll Week for Hapeville, GA.

By:

Attest:

Alan Hallman, Mayor

Crystal Griggs-Epp, City Clerk

Approved as to form:

City Attorney

1 **CITY OF HAPEVILLE**

2 **STATE OF GEORGIA**

3 **RESOLUTION NO. _____**

4 **A RESOLUTION PROVIDING FOR A MORATORIUM ON SHAREABLE MOBILITY**
5 **DEVICES WITHIN THE CITY LIMITS OF THE CITY OF HAPEVILLE; TO**
6 **AUTHORIZE THE MAYOR TO SIGN ANY AND ALL DOCUMENTS NECESSARY TO**
7 **EFFECTUATE THIS RESOLUTION; TO AUTHORIZE THE CITY CLERK TO ATTEST**
8 **SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY; TO**
9 **REPEAL INCONSISTENT RESOLUTIONS; TO PROVIDE FOR AN EFFECTIVE**
10 **DATE; AND FOR OTHER PURPOSES.**

11 **W I T N E S S E T H:**

12 **WHEREAS**, the City of Hapeville (“City”) is a municipal corporation duly organized and
13 existing under the laws of the State of Georgia; and

14 **WHEREAS**, the Mayor and Council of the City of Hapeville find that the unregulated use
15 of commercial scooters has a significant potential detrimental impact on the safety and general
16 welfare of residents by the congestion of busy roads and sidewalks and potential injuries by such
17 devices; and

18 **WHEREAS**, the Mayor and Council of the City of Hapeville desire a ban on the
19 commercial use and operation of electronic mobility devices in the City of Hapeville for a
20 sufficient period to study the issues, impose reasonable regulations, and determine if statewide
21 regulations will occur in the next legislative session; and

22 **WHEREAS**, the intent of this resolution is to prohibit the operation of Shareable Mobility
23 Devices within the corporate limits of the City of Hapeville for a period of twelve (12) months;
24 and

25 **WHEREAS**, the Mayor and Council of the City of Hapeville, in the exercise of their sound
26 judgment and discretion, after giving thorough consideration to all the implications involved, and
27 keeping in mind the public interest and welfare of the citizens of the City, have determined that
28 they would like to establish a moratorium on shareable mobility devices for a period of twelve (12)
29 months.

30 **THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY**
31 **OF HAPEVILLE, GEORGIA, AS FOLLOWS:**

32 1. **Incorporation of Pre-Amble.** The pre-amble is incorporated herein as fully set
33 forth above.

34
35 2. **Definitions.** The following words and phrases, when used in this resolution, shall
36 have the meanings as set out herein:

Shareable Mobility Device means a motorized or human-powered device that is available for rent at a docking station and shall include but not be limited to a bicycle, motorized bicycle, scooter, motorized scooter, or other similarly operated vehicle.

Shareable Dockless Mobility Device means a motorized or human-powered device that permits an individual user to move or be moved freely, is available for rent to the general public via an on-demand portal without the installation of a docking station and shall include but not be limited to a bicycle, motorized bicycle, scooter, motorized scooter, or other similarly operated vehicle.

3. General Restrictions.

- a. It shall be unlawful to provide any Shareable Mobility Device or Shareable Dockless Mobility Device to the general public anywhere within the city limits of the City of Hapeville.
- b. It shall be unlawful to operate a Shareable Mobility Device or Shareable Dockless Mobility Device anywhere within the city limits of the City of Hapeville.
- c. It shall be unlawful to park or abandon any Shareable Mobility Device or Shareable Dockless Mobility Device anywhere within the city limits of the City of Hapeville.

4. **Authorization for Mayor.** That the Hapeville City Council hereby authorizes the Mayor to execute any and all documents necessary to effectuate this Resolution. A copy of said documents shall be filed with the City Clerk.

5. **Attestation.** That the Hapeville City Council hereby authorizes the City Clerk or Assistant City Clerk to attest the signature of the Mayor appearing on the documents, to affix the official seal of the City thereto as necessary to effectuate this Resolution, and to place this Resolution and an executed copy of all documents among the minutes or official records of the City for future reference.

6. **Authorization for Attorney.** That the Hapeville City Council hereby authorizes the City Attorney to approve this Resolution as to its form and review or draft any and all documents necessary for the City of Hapeville and to ensure all documents conform to state law.

7. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.

8. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

9. **Effective Date.** This Resolution shall take effect immediately.

RESOLVED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

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ALAN HALLMAN, MAYOR

ATTEST:

CRYSTAL GRIGGS-EPPS, CITY CLERK
(seal)

APPROVED BY:

CITY ATTORNEY

Title: *"Break A Leg"*, 2019



The mural depicts an abstract representation of theater curtains with the spotlight on the characters in the center.

The center characters are presented in opposite dynamic to each other (left character flying up and right character falling down), which is my take on the classic "comedy and tragedy masks" of theater.

The idea behind "Break A Leg" is something that I very much value and constantly portray on my works as motivation to reinforce that regardless of what happens and whatever difficulties life throws at you, the show must go on!

1 **STATE OF GEORGIA**
2 **CITY OF HAPEVILLE**

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4 **ORDINANCE NO. 2019-12**

5
6 **AN ORDINANCE TO AMEND CHAPTER 41 (“TRAFFIC AND MOTOR VEHICLES”),**
7 **ARTICLE 3 (“TRAFFIC CONTROL DEVICES”) TO CREATE DIVISION 3**
8 **(“AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICE ”), SECTION 41-3-25**
9 **(“AUTOMATED TRAFFIC SAFETY ENFORCEMENT”), SECTION 41-3-26**
10 **(“PURPOSE”), SECTION 41-3-27 (“DEFINITIONS”), SECTION 41-3-28**
11 **(“AUTOMATED TRAFFIC SAFETY DEVICES IN SCHOOL ZONES”), SECTION 41-3-**
12 **29 (“MONETARY PENALTY”), SECTION 41-3-30 (“NOTICE, CITATION AND**
13 **SUMMONS”), AND SECTION 41-3-31 (“INCORPORATION OF O.C.G.A. SECTION 40-**
14 **14-18”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO**
15 **PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO**
16 **PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL**
17 **PURPOSES.**

18
19 **WHEREAS**, the mayor and council shall have full power and authority to provide for the
20 execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers,
21 agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,
22

23 **WHEREAS**, the municipal government of the City of Hapeville (hereinafter “City”) and
24 all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be
25 the legislative body of the City; and,
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27 **WHEREAS**, amendments to any of the provisions of the City’s Code may be made by
28 amending such provisions by specific reference to the section number of the City’s Code; and,
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30 **WHEREAS**, every official act of the Mayor and Council which is to become law shall be
31 by ordinance; and,
32

33 **WHEREAS**, the governing authority of the City finds it desirable and necessary to amend
34 Chapter 41 of the City Code of Ordinances to allow for use of automated traffic enforcement safety
35 devices.
36

37 **BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
38 **THE CITY OF HAPEVILLE, GEORGIA THAT:**
39

40 **Section One.** Division 3 (Automated Traffic Enforcement Safety Device) in Chapter 41
41 (Traffic and Motor Vehicles), Article 3 (Traffic Control Devices) of the City Code of Ordinances
42 is hereby created with the following language:
43

44 **DIVISION 3. – AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICE**

45
46 **Sec. 41-3-25 – Automated Traffic Safety Enforcement.**

For convenience in reference, this division shall be entitled the automated traffic safety enforcement ordinance.

Sec. 41-3-26 – Purpose.

The purpose of this division is to enhance public safety through the use of technologies which reduce the violation of speed limits.

Sec. 41-3-27 – Definitions.

As used in this division, the following definitions shall apply:

Automated traffic enforcement safety device means a speed detection device that:

- a. Is capable of producing photographically recorded still or video images, or both, of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another vehicle, including an image of such vehicle's rear license plate;
- b. Is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (a) of this paragraph; and
- c. Indicates on each photographically recorded still or video image produced the date, time, location, and speed of a photographically recorded vehicle traveling at a speed above the posted speed limit within a marked school zone.

Owner means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company.

Recorded images means still or video images recorded by an automated traffic enforcement safety device.

School zone means the area within 1,000 feet of the boundary of any public or private elementary or secondary school.

Sec. 41-3-28 – Automated Traffic Safety Devices in School Zones.

The speed limit within any school zone as provided for in O.C.G.A. Section 40-14-8 and marked pursuant to O.C.G.A. Section 40-14-6 may be enforced by using photographically recorded images for violations which occurred only on a school day during the time in which instructional classes are taking place and one hour before such classes are scheduled to begin and for one hour after such classes have concluded when such violations are in excess of ten miles per hour over the speed limit.

Sec. 41-3-29 – Monetary penalty.

The owner of a motor vehicle shall be liable for a civil monetary penalty to the governing body if such vehicle is found, as evidenced by photographically recorded images, to have been operated in disregard or disobedience of the speed limit within any school zone and such disregard or

disobedience was not otherwise authorized by law. The amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00 for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed \$25.00; provided, however, that for a period of 30 days after the first automated traffic enforcement safety device is introduced by a law enforcement agency within a school zone, the driver of a motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil warning for disregard or disobedience of the speed limit within the school zone.

Section 41-3-30 – Notice, Citation and Summons.

A law enforcement agency authorized to enforce the speed limit of a school zone, or an agent working on behalf of a law enforcement agency or governing body, shall send by first class mail addressed to the owner of the motor vehicle within 30 days after obtaining the name and address of the owner of the motor vehicle but no later than 60 days after the date of the alleged violation:

- a. A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the maximum speed at which such motor vehicle was traveling in photographically recorded images, the maximum speed applicable within such school zone, the civil warning or the amount of the civil monetary penalty imposed, and the date by which a civil monetary penalty shall be paid;
- b. An image taken from the photographically recorded images showing the vehicle involved in the infraction;
- c. A website address where photographically recorded images showing the vehicle involved in the infraction and a duplicate of the information provided for in this paragraph may be viewed;
- d. A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency authorized to enforce the speed limit of the school zone and stating that, based upon inspection of photographically recorded images, the owner's motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law;
- e. A statement of the inference provided by paragraph (b)(4) of O.C.G.A. Section 40-14-18 and of the means specified therein by which such inference may be rebutted;
- f. Information advising the owner of the motor vehicle of the manner in which liability as alleged in the citation may be contested through an administrative hearing; and
- g. A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in subsection (d) of O.C.G.A. Section 40-14-18 shall waive any right to contest liability.

Section 41-3-31 – Incorporation of O.C.G.A. Section 40-14-18.

The Mayor and Council of the City of Hapeville hereby full incorporate O.C.G.A. Section 40-14-18 into this Ordinance.

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

139 **Section Three. Severability.**
140

141 (a) It is hereby declared to be the intention of the Mayor and Council that all sections,
142 paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment,
143 believed by the Mayor and Council to be fully valid, enforceable and constitutional.
144

145 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
146 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
147 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
148 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
149 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance
150 is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this
151 Ordinance.
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153 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
154 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable
155 by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of
156 the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the
157 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any
158 of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to
159 the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and
160 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and
161 effect.
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163 **Section Four. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances
164 in conflict herewith are hereby expressly repealed.
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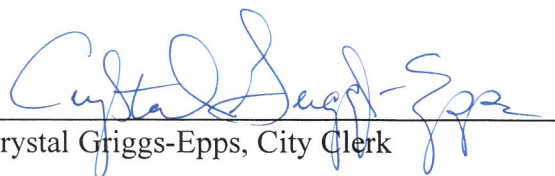
166 **Section Five. Effective Date.** The effective date of this Ordinance shall be the date of
167 adoption unless otherwise stated herein.
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169 **ORDAINED** this 4th day of June, 2019.
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171 **CITY OF HAPEVILLE, GEORGIA**

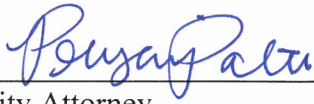
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176 **Alan Hallman, Mayor**

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179 **ATTEST:**

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184 **Crystal Griggs-Epps, City Clerk**

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APPROVED BY:

A handwritten signature in blue ink, appearing to read "Pradyumn Patel", is written over a horizontal line.

City Attorney

SERVICE AGREEMENT BY AND BETWEEN

THE CITY OF HAPEVILLE, GEORGIA

AND

OPTOTRAFFIC, LLC

This Service Agreement (the "Agreement") is made and entered this ____ day of _____, 2019 (the "Effective Date"), by and between Optottraffic, LLC, a Foreign Limited Liability Company with offices at 4600 Forbes Boulevard, Lanham, MD 20706 ("OPTOTRAFFIC"), and the City of Hapeville, a municipal and political subdivision of the State of Georgia, with offices at 3468 N. Fulton Avenue, Hapeville, Georgia 30354 ("CLIENT").

Background

Whereas, OPTOTRAFFIC is in the business of providing automated traffic violation detection, imaging and administrative services to authorized municipalities and government agencies using OPTOTRAFFIC'S proprietary system (as more specifically described herein below, the "Services"); and

Whereas, CLIENT is an authorized municipality or government agency with a need for such Services; and

Whereas, CLIENT now desires to contract with OPTOTRAFFIC for the provision of such Services;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, CLIENT and OPTOTRAFFIC agree as follows:

1. **Services.** During the Term of this Agreement, and in consideration of the Fees specified in Schedule A, OPTOTRAFFIC shall use reasonable commercial efforts to provide the Services to CLIENT in accordance with the terms and conditions of this Agreement. Services shall include the following:
 - a) Detection and Recording of Potential Traffic Violations. OPTOTRAFFIC will make available to CLIENT certain traffic violation detection systems, which work in conjunction with a photographic, video, or electronic camera and may also include certain equipment provided by third parties, that detect other traffic violations and produce photographs, video or digital images of vehicles potentially violating traffic laws, and which may include, but are not limited to, portable, mobile, handheld and or fixed site camera systems ("Monitoring System") to detect and record potential traffic violations at the service locations(s) selected by CLIENT ("Recorded Events"). CLIENT agrees to operate the Monitoring System in a manner consistent with the terms and conditions of this Agreement. The Client also agrees to operate all systems in compliance with applicable and prevailing laws of the State, and/or local jurisdiction.
 - b) Initial Validation of Recorded Events. OPTOTRAFFIC will promptly perform a preliminary review of Recorded Events data for the sole purpose of attempting to filter Recorded

Event data that is of insufficient quality for further use. For example, and without limitation, OPTOTRAFFIC may filter Recorded Events data in which no motor vehicle registration plate information or only partial information is reasonably discernible from the Recorded Event. CLIENT will have the sole and exclusive responsibility for the final review of Recorded Events data not filtered by OPTOTRAFFIC and the authorization and issuance of a citation thereafter.

- c) Motor Vehicle Records. OPTOTRAFFIC will promptly retrieve applicable Department of Revenue (DOR) records from Georgia and other states' databases for motor vehicles photographed in Recorded Events using registration plate information from such vehicles, where such information is reasonably discernible from the Recorded Event. CLIENT agrees to provide OPTOTRAFFIC with the required authorizations for OPTOTRAFFIC to effectuate such retrieval of DOR records. The retrieval of DOR records by OPTOTRAFFIC is solely for the purpose of presenting such information to CLIENT and CLIENT shall be responsible for the final review confirming the accuracy of and matching the information to the subject motor vehicle in each instance. OPTOTRAFFIC agrees that it will use all DOR databases in accordance with any use limitations and restrictions imposed by the owner of the database, any government or CLIENT.
- d) Access to Website. After OPTOTRAFFIC has completed its preliminary review of Recorded Events data, OPTOTRAFFIC shall post Recorded Events data not filtered by OPTOTRAFFIC to OPTOTRAFFIC'S proprietary VioView™ software via the Internet to allow for CLIENT'S review of Recorded Events on OPTOTRAFFIC'S website and authorization and issuance of citations. Availability of the website and VioView™ software will be generally twenty-four (24) hours per day, seven (7) days per week; provided, however, that such availability is subject to change without advance notice as a result of system maintenance, unplanned downtime, and other factors and circumstances beyond OPTOTRAFFIC'S control. OPTOTRAFFIC will not be responsible for any such reasonable unavailability or downtime. CLIENT'S use of the website and the VioView™ software is governed by the terms of this Agreement and the Terms of Service posted on the website.
- e) Payments by Mail and Online. Citation payments may be made by check, money order, or credit card. OPTOTRAFFIC, directly and or through OPTOTRAFFIC'S third party processor, will process payments made by mail and, at no additional cost to CLIENT, provide the capability for individuals receiving citations to view and pay citations online by credit card. All citations and delinquent notices will expressly state that all payments of fines are to be made payable to CLIENT at the designated physical or website address. All payments of citations will be deposited into the Lockbox Account described in Section 7 below. Payments of citations will be tracked using the system of record, VioView™ Financial Tracking System ("VioView FTS").
- f) Citations and Delinquent/Final Notices, Printing and Mailing. OPTOTRAFFIC, directly or through OPTOTRAFFIC'S printing services provider, at no additional cost to CLIENT, will print and mail a citation issued by CLIENT or CLIENT'S Approving Authorities (as defined in Section 2(f) below), and as required, one delinquent notice and one final notice for each outstanding citation (collectively, "Notices") to the registered owner/lessee/other

of motor vehicles bearing State of Georgia plates and out-of-state plates to whom a citation has been approved by CLIENT. Such Notices will be in a fixed, standardized format pre-approved by CLIENT. CLIENT will be responsible for ensuring that the format and content of Notices comply with all applicable laws, rules and regulations. Citations will be mailed to the individual and address specified on the issued citations, which shall be the name, and address of the registered owner/lessee/other of the vehicle as shown on the vehicle registration records. Delinquent or Final notice(s) will be mailed to the address on the issued citation, unless an updated address becomes available to OPTOTRAFFIC.

- g) Hearings. OPTOTRAFFIC will make available, at OPTOTRAFFIC's expense, a qualified expert representative to attend and provide testimony for the initial court hearing for citations, provided that OPTOTRAFFIC received at least thirty (30) days prior written notice of each such hearing. OPTOTRAFFIC is not responsible for the outcome of any such hearing. In the event of additional expert testimony requests, CLIENT will reimburse OPTOTRAFFIC for costs incurred in making such expert available to testify, including reasonable travel, lodging and related expenses and time at the expert's then-current hourly rate.
- h) Maintenance and Support. OPTOTRAFFIC will, in a timely and prompt manner, maintain and service the Monitoring System and assist CLIENT personnel who use the Monitoring System. OPTOTRAFFIC will be on call to correct any malfunction that renders the Monitoring System inoperable during enforcement hours. Any and all maintenance records shall be considered Confidential Information (defined hereafter) and shall not be disclosed to CLIENT or anyone else, except as provided in Section 8 of this Agreement.
- i) Training. OPTOTRAFFIC, at no additional charge to CLIENT, will be responsible to train CLIENT to use the Monitoring System. This includes training new users as staffing assignments may change at the sole discretion of the CLIENT.
- j) Service Locations. OPTOTRAFFIC shall provide to CLIENT, without charge, technical advice as to the feasibility of proposed Service Locations.
- k) Citizen Inquiries. OPTOTRAFFIC shall provide, and include on citations, a telephone number to which recipients of citations may call Monday-Friday, 8:00 a.m. to 5:00 p.m. (EST), excluding legal holidays, to speak with a knowledgeable attendant to make inquiries and receive prompt informed answers to questions regarding topics such as citations, billing and payment procedures and status of payments and hearing dates.
- l) Hearing Dockets. Unless agreed otherwise by the parties, on not less than a monthly basis, OPTOTRAFFIC, in consultation with CLIENT, shall prepare and submit to the applicable hearing officer or Court all paperwork and other documentation necessary for scheduling of hearings on all citations then ripe for review or adjudication. OPTOTRAFFIC shall only send a notice to appear at a hearing for recipients of citations who have made a timely hearing request.
- m) Collections Support. OPTOTRAFFIC acknowledges that CLIENT may place the collection of unpaid citations issued pursuant to the terms and conditions of this Agreement and past due debt owed to CLIENT resulting from past due citations with a third party, for purposes of filing collection actions against any motorist and/or debtor who fails to pay amounts

due and owing under any citations. CLIENT shall be solely responsible for any and all court costs, filing fees, collection fees, attorney fees and other expenses incurred. In association with contractual agreements referenced hereunder, OPTOTRAFFIC is hereby authorized to provide a third party with whom the CLIENT contracts to provide debt collections services, with any and all information relevant and/or necessary for the collection of unpaid citations, including personal information of the recipients of the citations, but CLIENT is not obligated to use the third party provided by OPTOTRAFFIC. OPTOTRAFFIC'S obligations to cooperate and provide information to any third party whom the CLIENT contracts to provide debt collections services shall continue throughout the term of the Agreement and for a period of twenty-four months following the termination of this Agreement. CLIENT agrees to pay OPTOTRAFFIC an additional Processing and Administration Fee set forth in Schedule A for providing information and administrative services for the collection effort performed by a third party.

- 2. CLIENT'S Responsibilities.** CLIENT acknowledges that certain aspects of the Service require the participation and cooperation of CLIENT, without which OPTOTRAFFIC'S performance of the Services may be significantly impaired or delayed. CLIENT is responsible for the following:
- a) Service Location. CLIENT will select the location(s) at which the Monitoring System will detect and record potential violations ("Service Location(s)"). After the commencement of service at a Service Location, CLIENT may elect to change the Service Location by notifying OPTOTRAFFIC, but OPTOTRAFFIC reserves the right to decline a request to change a Service Location that in OPTOTRAFFIC'S opinion is technically infeasible. CLIENT may not use the Services for any purpose not allowed by law.
 - b) Preserve the Monitoring System. CLIENT acknowledges that the Monitoring System used to detect and record Recorded Events consists of valuable personal and intellectual property of OPTOTRAFFIC. CLIENT agrees to use its best efforts to safely use, protect and preserve the Monitoring System during the term of this Agreement, including, but not limited to, restricting movement of and access to the Monitoring System by anyone other than CLIENT and OPTOTRAFFIC personnel.
 - c) Use of the Traffic Monitoring System. After installation, the CLIENT has the sole responsibility to use the traffic Monitoring System subject to equipment maintenance, the functions outlined in this Agreement as the responsibility of OPTOTRAFFIC and authorizes OPTOTRAFFIC to be its "Agent" as defined under Article 2 of Chapter 14 of Title 40 Section 1.1 of the Official Code of Georgia Annotated.
 - d) Maintain Daily Self-Test Log. CLIENT will maintain through VioView™ a daily self-test log when applicable to record the Monitoring System's self-test results.
 - e) Designate Citation Approving Authorities. CLIENT shall select and designate certain sworn officers or other duly authorized approving authorities ("Approving Authorities") who shall review Recorded Events, identify traffic violations, and lawfully authorize and issue citations for such identified violations using the VioView™ software and website. CLIENT has sole responsibility for ensuring that the designated approving authorities are duly and lawfully authorized to receive and view DOR records and issue citations for the pertinent traffic violations. OPTOTRAFFIC will assign those authorities a login-ID for accessing

VioView™ software and website. The parties agree that OPTOTRAFFIC shall not be the Approving Authority.

- f) Safeguard Login Information. CLIENT will receive one (1) login-ID to VioView™ per Approving Authority. CLIENT acknowledges that VioView™ login-IDs allow full access to Recorded Event data, including but not limited to, information derived from DMV records, and allows the ability to authorize and issue citations. CLIENT shall be solely and exclusively responsible for safeguarding VioView™ login-IDs and ensuring that unauthorized individuals do not gain access to VioView™. OPTOTRAFFIC will also provide CLIENT one (1) VioView™ FTS login-ID for the exclusive use by individuals authorized by CLIENT to view citations and financial information. It shall be the CLIENT'S responsibility to safeguard the VioView™ FTS login-ID as issued. CLIENT will immediately notify OPTOTRAFFIC of any compromise or suspected compromise of any login-ID within its knowledge. Use of VioView™ FTS is governed by the terms of service posted on the VioView™ Website.
 - g) Collection of Citation Payments by Client. CLIENT shall not collect citation payments in any manner that is inconsistent with the provisions of this Agreement. CLIENT shall instruct individuals to either pay online or mail all such payments to the Lockbox Account described in Section 7.
- 3. Credit Card Payment Processing.** OPTOTRAFFIC will provide the capability for individuals receiving citations to pay their citations by credit card at no additional charge to CLIENT. OPTOTRAFFIC will provide individuals receiving citations access to its website via the Internet to view and pay citations online. OPTOTRAFFIC is solely responsible for the functionality, security and maintenance of the payment system and will ensure that it conforms to all federal, local and state laws, rules and regulations, as well as any and all banking rules and regulations that pertain to all forms of credit card payment. Credit card processing costs will be paid by OPTOTRAFFIC; OPTOTRAFFIC is authorized to charge a reasonable credit card convenience fee to individuals who pay by credit card and such credit card convenience fees are not considered revenue under this Agreement and will be retained in full by OPTOTRAFFIC.
- 4. System Ownership, Operation, Maintenance and Modifications.**
- a) OPTOTRAFFIC does not convey any equipment or system to CLIENT. Equipment or system or any part of the equipment or system provided or used by OPTOTRAFFIC in connection with the provision of Services under this Agreement is and shall remain the exclusive property of OPTOTRAFFIC.
 - b) In the event OPTOTRAFFIC determines, in its sole discretion, that CLIENT is not utilizing all or any part of the Monitoring System in a sufficient manner, OPTOTRAFFIC may recall all or any of its Monitoring System and CLIENT agrees to make such recalled portion of the Monitoring System immediately available for retrieval by OPTOTRAFFIC.
 - c) Monitoring System or equipment replacement, repairs, upgrades or modifications which, in the reasonable opinion of OPTOTRAFFIC, are required as a result of neglect, misuse, theft or loss while in the CLIENT'S Possession, including without limitation a repair arising from or in connection with the use of software other than software provided by

OPTOTRAFFIC, shall be made at the sole expense of CLIENT. These costs will be limited to the actual cost of the repair or replacement of said system, along with labor costs at OPTOTRAFFIC'S then-current hourly rate, shipping, and travel expenses, as applicable. An estimate of these expenses shall be provided to the CLIENT within thirty (30) days from the execution of this agreement. CLIENT acknowledges that this is just an estimate of costs associated, and OPTOTRAFFIC may change costs at any time, without providing notice to CLIENT. Otherwise, all such Monitoring System or equipment replacement, repairs, upgrades or modifications shall be made at the sole expense of OPTOTRAFFIC.

- d) Upgrades to OPTOTRAFFIC'S Systems and/or reinstallations and/or modifications of hardware or software which are requested in writing by the CLIENT but reasonably not deemed necessary or required for proper system operation by OPTOTRAFFIC, shall be made at the sole expense of CLIENT. This includes, but is not limited to, the actual cost of the upgrades, modification, or replacements of said system, hardware or software, along with shipping expenses, travel expenses if required, and labor costs at OPTOTRAFFIC'S then-current hourly rate. OPTOTRAFFIC must provide to the CLIENT a detailed accounting of these costs and expenses and the cost and expenses must be pre-approved by CLIENT in writing prior to OPTOTRAFFIC undertaking the upgrade(s).

- 5. **Training and Support.** Throughout the Term of this Agreement, OPTOTRAFFIC at no additional cost to CLIENT, agrees to provide training for using the Monitoring System and or VioView™ and or VioView™ FTS software and website. OPTOTRAFFIC will provide a reasonable number of reference manuals describing the features and operations for the Monitoring System, VioView™ and VioView™ FTS. OPTOTRAFFIC, at no additional cost to CLIENT, will issue upon request a signed certificate to CLIENT on completion of all training. OPTOTRAFFIC will endeavor to provide updates to VioView™ and VioView™ FTS software within a reasonable time after they become generally available; provided, however, that OPTOTRAFFIC has no obligation under this Agreement to update or modify its software in any way. Throughout the Term of this Agreement, reasonable technical assistance will be available by telephone at no charge to CLIENT during the hours of 8:00 a.m. to 5:00 p.m. (EST), Monday through Friday (with the exception of all state and nationally recognized holidays).
- 6. **OPTOTRAFFIC Fees.** In exchange for the Services described in this Agreement, CLIENT agrees to pay OPTOTRAFFIC the fees set forth on Schedule A. Fees will be calculated based on documentation and reports extracted from VioView™ FTS. CLIENT agrees that such documentation from VioView™ FTS is a fair and accurate basis for the calculation of the fees due under this Agreement and such documentation shall be relevant and material in any dispute between the parties with respect to fees due hereunder. OPTOTRAFFIC and CLIENT will have access to VioView™ FTS reports. OPTOTRAFFIC will use these reports to calculate fees due to OPTOTRAFFIC.
- 7. **Distribution of Funds.** As an administrative convenience to the CLIENT and to ensure accurate and complete tracking of program funds, OPTOTRAFFIC will establish, at no additional cost to the CLIENT, a bank account with lockbox service ("Lockbox Account") for the purpose of accepting deposits of violation payments, including credit card payments and returned check processing costs. CLIENT approved violations are uniquely identified and within the Lockbox Account, CLIENT

violation payments are also uniquely identified and reconciled on a weekly basis. Furthermore, on a monthly basis, on Friday, or the following business day in the event that Friday falls on a bank holiday, commencing the week following the first payment receipt, CLIENT expressly authorizes OPTOTRAFFIC to distribute to CLIENT funds deposited net of the Fees set forth in Schedule A, and distribute the remainder of the funds to OPTOTRAFFIC for services provided. OPTOTRAFFIC, at no additional cost to CLIENT, agrees to maintain such bank account for a minimum of 12 months after the date of termination of this Agreement.

8. Confidentiality. CLIENT and OPTOTRAFFIC agree not to disclose information related to performance of the Services under this Agreement to anyone except as required by law or by mutual agreement.

9. Term, Commencement of Service, and Termination.

- a) Term. This agreement shall start on the Effective Date and remain in effect for a period of three (3) years ("Initial Term"). On each anniversary date thereafter, this Agreement will automatically renew for a one-year period upon the same terms and conditions ("Renewal Term"). If either CLIENT or OPTOTRAFFIC elects not to renew, it must notify the other party in writing of its intention not to renew this Agreement at least ninety (90) days prior to any such anniversary date, in which case this Agreement shall terminate on such anniversary date.
- b) Commencement of Service. OPTOTRAFFIC and CLIENT shall make reasonable efforts to enable commencement of services as soon as practicable upon the Effective Date of this Agreement.
- c) Termination for Default. Either party shall be entitled to terminate this Agreement in the event of a failure by the other party to perform any of its material obligations under this Agreement if such breach is not cured within thirty (30) days after receipt of notice thereof from the non-defaulting party or within ten (10) days after receipt of such notice if such breach relates to the non-payment of Fees or other amounts owed hereunder or a breach by CLIENT which materially compromises the security of the Services or Confidential Information.
- d) Termination by CLIENT for Convenience. Notwithstanding subsection (a) above, CLIENT may terminate this Agreement for Convenience upon sixty (60) days prior written notice to OPTOTRAFFIC and declare the effective date of such termination. If the CLIENT terminates this Agreement for convenience at any time within the Initial Term, then CLIENT must pay OPTOTRAFFIC a fee in the amount of \$1,500 per month per Monitoring System for each month that remains in the Initial Term. The parties shall reconcile amounts owed and/or to which each is entitled under this Agreement up to the date of termination of this Agreement and any subsequent Initial or Renewal Term runout, if applicable.
- e) Effect of Termination. In the event of any termination of this Agreement, CLIENT will suspend operations of the Monitoring System and return to OPTOTRAFFIC such Monitoring System upon providing or receiving a notice of termination. CLIENT will return to OPTOTRAFFIC within thirty (30) working days of the termination date all manuals, documentation and all other property and materials of OPTOTRAFFIC provided to CLIENT

hereunder. Upon the return of all such property and materials to OPTOTRAFFIC, and providing that there are no outstanding invoices, OPTOTRAFFIC will provide CLIENT with all of the Event Records, defined in Section 18 below, pertaining to CLIENT in OPTOTRAFFIC'S possession, such Event Records to be provided to CLIENT in Portable Document Format, at no cost to CLIENT. OPTOTRAFFIC and CLIENT for a minimum of 12 months after the termination date will continue the collection and distribution of revenue in accordance to this Agreement. Furthermore, for a minimum of 12 months OPTOTRAFFIC may continue to operate with any third party with whom the CLIENT contracts to provide debt collections services in connection with their collection efforts relating to any citations.

- f) Suspension of Monitoring Operations. The CLIENT and OPTOTRAFFIC reserve the right to suspend immediately any and all traffic monitoring operations if continuation of such operations creates an unsafe condition. Upon notification from OPTOTRAFFIC or the CLIENT, in writing, OPTOTRAFFIC and CLIENT will suspend such operations until the parties agree to and resolve the condition(s) that led to the suspension. OPTOTRAFFIC shall be obligated to continue the processing of Recorded Events prior to the notice of suspension or termination of monitoring operations, and receive payment for, all citations issued based upon such Recorded Events.
- g) Survival of Certain Terms. The provisions of Sections 6, 8, 12, and 16 shall survive any suspension or revocation or termination of this Agreement. No termination of this Agreement by either party for any reason shall serve to cancel, waive or otherwise affect any fees due to OPTOTRAFFIC or CLIENT hereunder resulting from Recorded Events having accrued on or before the effective date of any such termination.

10. Representations and Warranties.

- a) CLIENT represents and warrants that:
 - i. CLIENT is a tax-exempt entity under the rules of the Internal Revenue Service and will provide OPTOTRAFFIC with a copy of its tax exempt status upon request;
 - ii. CLIENT will comply with all applicable laws, rules and regulations in the use of the Services and in the performance of its obligations under and in connection with this Agreement, including, but not limited to, the receipt and use of DOR information and the authorization and issuance of citations.
- b) OPTOTRAFFIC represents and warrants that it will perform the Services with care, skill, and diligence, in a commercially reasonable and professional manner, and shall be responsible for the professional quality and technical accuracy of the Services furnished under this Agreement. OPTOTRAFFIC shall comply with all applicable laws, rules and regulations fulfilling OPTOTRAFFIC'S obligations under this Agreement.
- c) OPTOTRAFFIC owns and has the right to use, and make available for use by CLIENT, **VioView™**, **VioView™ FTS** and any similar software for the purposes of providing Services under this Agreement, and that such use will not violate or infringe upon the title or rights of use of such software by others.
- d) **No other Warranties. EXCEPT AS EXPRESSLY PROVIDED ABOVE, OPTOTRAFFIC MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY**

WARRANTY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY WARRANTY REGARDING THE PRODUCTIVITY OF THE SYSTEM OF OPTOTRAFFIC.

11. Insurance and Limitation of Liability. OPTOTRAFFIC shall purchase and maintain during the entire term of this Agreement, comprehensive general liability insurance and workers' compensation insurance with limits of not less than those set forth below.

- a) Comprehensive General Liability Insurance. Personal injury liability insurance with a limit of \$1,000,000 each occurrence/\$2,000,000 aggregate; Property damage liability insurance with limits of \$500,000 each occurrence/\$1,000,000 aggregate. All insurance shall include completed operations and contractual liability coverage.
- b) Automobile Liability Coverage. Automobile fleet insurance \$1,000,000 for each occurrence/aggregate; property damage \$500,000 for each occurrence/aggregate.
- c) Workers' Compensation Insurance. OPTOTRAFFIC shall comply with the requirements and benefits established by the State of Georgia for the provision of Workers' Compensation Insurance. OPTOTRAFFIC shall provide workers' compensation insurance meeting the statutory limits for Georgia and Employers' Liability limits of \$500,000. All corporations are required to provide Workers' Compensation Certificates of Insurance.

OPTOTRAFFIC covenants to maintain insurance, in these amounts, which will insure all activities undertaken by OPTOTRAFFIC on behalf of the CLIENT under this Agreement. OPTOTRAFFIC shall provide to the CLIENT not less than 30 days prior written notice of any cancellation, reduction or other material change in the insurance provided under this Paragraph 11. CLIENT shall be named as a certificate holder and additional insured on the insurance maintained pursuant to Paragraphs 11.a) and 11.b). Upon commencement of this Agreement, and thereafter as requested by CLIENT, OPTOTRAFFIC shall provide CLIENT with a certificate or certificates evidencing the coverages required by this Paragraph 11.

OPTOTRAFFIC'S MAXIMUM CUMULATIVE LIABILITY TO CLIENT, IN EXCESS OF INSURANCE COVERAGE PROVIDED UNDER THIS PARAGRAPH 11, ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF THE TOTAL FEES PAID TO OPTOTRAFFIC BY CLIENT HEREUNDER.

12. Indemnification. OPTOTRAFFIC shall hold CLIENT harmless from any liability arising from OPTOTRAFFIC'S performance of this Agreement and CLIENT shall hold OPTOTRAFFIC harmless from any liability arising from CLIENT'S performance of this Agreement. This paragraph does not affect the obligations of CLIENT under Distribution of Funds in Paragraph 7.

13. Compliance with Laws. OPTOTRAFFIC and CLIENT each agree to comply with all applicable laws governing this Agreement and the performance of its terms, including laws governing the confidentiality of information. OPTOTRAFFIC and CLIENT further agree that, unless authorized by CLIENT, the information provided by CLIENT and/or the DOR, including the names and addresses and associated information of persons and entities that have received a citations, shall remain confidential except as required by law, and shall not be sold or shared with any other non-party, company or entity for any purpose, including but not limited to marketing, sales, and/or solicitations.

- 14. Force Majeure.** OPTOTRAFFIC shall not be liable for any delays or failures in the system of OPTOTRAFFIC or otherwise in the performance of the Services, which delays, or failures are directly or indirectly caused by vandalism, flood, storm, lightning, earthquake, tornado, other Acts of God, or war, riot, sabotage, strike, utility outage or other factors or circumstances beyond OPTOTRAFFIC'S reasonable control.
- 15. Independent Contractors.** With respect to each other, OPTOTRAFFIC and CLIENT are independent contractors, and neither party, nor their respective officers, agents, employees, shall be deemed to be employees by the other party for any purpose. Further, OPTOTRAFFIC and CLIENT shall not be deemed to be partners, agents, joint ventures, or anything other than independent contractors.
- 16. Governing Law.** This Agreement and the rights and obligations of the parties and their successors and assigns hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Georgia without regard to its choice and/or conflict of laws provisions. Any legal action resulting from, arising under, out of or in connection with, directly or indirectly, this Agreement shall be commenced exclusively in the state or federal courts in the State of Georgia. All parties to this Agreement hereby submit themselves to the jurisdiction of any such court and agree that service of process on them in any such action, suit or proceeding may be affected by the means by which notices are to be given under this Agreement. In the event of litigation by a party hereto to enforce its rights hereunder, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and disbursements.
- 17. Notices.** All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed, express, certified or registered mail, return receipt requested, with postage prepaid, or sent priority next day delivery by a nationally recognized overnight courier service that regularly maintains records of items picked up and delivered to the parties at the addresses first set forth above or to such other person or address as a party shall notify the other in writing. Notices delivered personal shall be deemed communicated as of the date of actual receipt, mailed notices shall be deemed communicated as of the date three (3) business days after mailing, and notices sent by courier shall be deemed communicated as of the date two (2) business days after pick-up.
- 18. Retention of Records by OPTOTRAFFIC.** OPTOTRAFFIC will store recorded images associated with issued citations and related citation information ("Event Records") developed for CLIENT in the course of providing Services under this Agreement in accordance with the following rules:
- a) OPTOTRAFFIC will store Event Records for a minimum of 24 months from the Event date.
 - b) OPTOTRAFFIC will store Event Records for paid citations in Portable Document Format (PDF).
 - c) After 24 months from the Recorded Event date, OPTOTRAFFIC will delete Event Records.

In the event that CLIENT desires to retain any such Event Records beyond 24 months, OPTOTRAFFIC will provide CLIENT with such Event Records in OPTOTRAFFIC'S possession, provided that OPTOTRAFFIC receives at least thirty (30) days prior written notice. OPTOTRAFFIC will provide such Event Records to CLIENT and CLIENT will compensate OPTOTRAFFIC for,

materials, shipping expenses, travel expenses if required, and labor costs at OPTOTRAFFIC'S then-current hourly rate.

OPTOTRAFFIC is neither a government agency nor a private entity to which an agency has transferred public records for storage, nor a custodian of a 'public record' as defined in OCGA Section 50-18-70, *et seq.* and 50-18-91; and is not an authorized entity that has physical custody or control of a public record. CLIENT has not hired OPTOTRAFFIC, nor does OPTOTRAFFIC serve, in any capacity as a custodian of CLIENTS' records, including but not limited to any records identified herein including those in Section 18.

- 19. Entire Agreement.** This Agreement contains the entire agreement between the parties as to the subject matter herein and supersedes and replaces all prior contemporaneous agreements, oral and written, between the parties hereto. This Agreement may be modified only by a written instrument signed by both parties.
- 20. Counterparts.** This Agreement may be executed in counterparts of each which shall be deemed an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile shall be equally as effective as delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have affixed their signatures below:

OPTOTRAFFIC, LLC

THE CITY OF HAPEVILLE, GA

BY: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE A
TO THE SERVICE AGREEMENT BY AND BETWEEN
THE CITY OF HAPEVILLE, GEORGIA
AND
OPTOTRAFFIC, LLC

1. **Service Location:** School zone enforcement locations as directed by CLIENT.
2. **Fee due to OPTOTRAFFIC:** For the provisioning, deployment, maintenance & service of each Monitoring System, along with our full suite of back office processing services such as printing, mailing, web and lockbox payment processing, court docket preparation and adjudication, registration holds, call center etc. CLIENT shall pay OPTOTRAFFIC:

\$25.00 Fixed Fee per Paid Citation

3. **Fee due to Optottraffic:** For processing and administrative support, data transfer etc. involved with a 3rd party Collection Agency program for unpaid citations, CLIENT shall pay OPTOTRAFFIC:

\$10.00 Fixed Fee per Citation Paid through a Collection Agency

**CITY OF HAPEVILLE
LEGISLATIVE AGENDA 2020 SESSION**

Charter Amendments

- **Section 3-202. – Filling of vacancies.**

- o **Current language:**

- In the event the office of the mayor or any council member shall become vacant by death, removal, disqualification, resignation or other cause, the remaining members of the mayor and council shall within 30 days order a special election to fill the vacancy or vacancies for the unexpired term or terms. Every special election for such purpose shall be held and conducted in all respects in accordance with the provisions of the code relating to general elections.

- o **Proposed language:**

- In the event the office of the mayor or any council member shall become vacant by death, removal, disqualification, resignation or other cause, the remaining members of the mayor and council shall:

- within thirty (30) days, order a special election to fill the vacancy for the unexpired term, if the vacancy occurred while the elected official was within the first two years of his or her term. Every special election for such purpose shall be held and conducted in all respects in accordance with the provisions of the code relating to general elections; or
 - within sixty (60) days, appoint a qualified city resident to fill the vacancy for the unexpired term, if the vacancy occurred while the elected official was within the last two years of his or her term. Appointments may only occur if there is a unanimous vote by all members of the City Council.

- **Section 2-402. – Rules, quorum; voting; journal of minutes.**

- o **Current language:**

- (a) The mayor and council, by a motion approved by a majority vote of all members, may adopt any rules of procedure and order of business or amendments thereto that are consistent with this charter and ordinances of the city.

- (b) A majority of the members of the mayor and council, including the mayor, shall constitute a quorum for the transaction of business, but a number less than a majority may adjourn from time to time. All actions of the mayor and council shall require the affirmative vote of a majority of the council members present unless otherwise required by this charter.

- (c) A journal of minutes shall be maintained, and every official action of the mayor and council shall be recorded therein. The journal shall be a public record. Any council member may require the recording of yeas and nays of each member in the journal for any votes taken by the mayor and council.

- o **Proposed language:**

- (a) *Rules.* The mayor and council, by a motion approved by a majority vote of all members, may adopt any rules of procedure and order of business or amendments thereto that are consistent with this charter and ordinances of the city.

(b) *Quorum*. A majority of the members of the mayor and council, with at least one city-wide elected official, shall constitute a quorum for the transaction of business. If the mayor is not present, then the alderman-at-large shall preside over the mayor and council meeting. If the mayor and the alderman-at-large are not present, then the councilman at large shall preside over the mayor and council meeting.

(c) *Voting*. All actions of the mayor and council shall require the affirmative vote of a majority of the council members present unless otherwise required by this charter.

(c) *Minutes*. A journal of minutes shall be maintained, and every official action of the mayor and council shall be recorded therein. The journal shall be a public record. Any council member may require the recording of yeas and nays of each member in the journal for any votes taken by the mayor and council.

**** Note from PMP – Under the proposed language, a quorum can be established with the Mayor and two council members. With the Mayor not being able to vote, there may be circumstances where two people can make decisions for a five-member body. It is my recommendation that we modify the Mayor’s voting authority, so that we can ensure that any action needs at least three affirmative votes.**

- Section 4-202. – City attorney; appointment; qualifications; duties; compensation.

- o **Current language:**

- (a) The mayor and council shall annually appoint a city attorney who shall hold office for one (1) year, or until his successor is appointed and qualified.

- (b) The city attorney shall be an active member of the State Bar of Georgia in good standing.

- (c) The city attorney shall be legal counsel to the city and shall perform any other duties as may be provided by ordinance.

- (d) The compensation of the city attorney shall be fixed by the mayor and council.

- o **Proposed language:**

- (a) The mayor and council shall annually appoint individual attorney(s) or a law firm to hold the office designated as City Attorney.

- (b) The appointed individual attorney(s) or the attorneys of the law firm shall be active members of the State Bar of Georgia in good standing.

- (c) The City Attorney shall be legal counsel to the city and shall perform any and all duties necessary and requested by the city and its officers.

- (d) The compensation of the City Attorney shall be fixed by the mayor and council.

Creation of Facilities Authority

See attached.

A BILL TO BE ENTITLED
AN ACT

To create the City of Hapeville Public Facilities Authority and to provide for the appointment of members of the authority; to confer powers upon the authority; to authorize the issuance of revenue bonds of the authority; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to exempt the property and revenue bonds of the authority from taxation; to provide for the separate enactment of a certain provision of this Act; to provide for a short title; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Short title.

This Act shall be known and may be cited as the "City of Hapeville Public Facilities Authority Act."

SECTION 2.

City of Hapeville Public Facilities Authority; creation.

(a) There is hereby created a public body corporate and politic to be known as the "City of Hapeville Public Facilities Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style, and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity. The authority shall have perpetual existence.

(b) The authority shall consist of five members who shall be appointed by the City Council of the City of Hapeville. With respect to the initial appointment, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all appointments shall be made for terms of three years and until successors are appointed and qualified. Immediately after such appointments the members of the authority shall enter upon their duties. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age, shall be a resident of the city for at least two years prior to the date of his or her appointment, and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself.

(c) The members shall not be compensated for their services; provided, however, that such members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

(d) The members of the authority shall elect one of their number as chairperson and another as a vice-chairperson. The members of the authority shall also elect a secretary, who need not be a member of the authority, and may also elect a treasurer, who need not be a member of the authority. The secretary may also serve as treasurer. If the secretary or the treasurer is not a member of the authority, such officer shall have no voting rights. Each of such officers shall serve for a period of one year and until their successors are duly elected and qualified.

(e) Three members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all of the rights and perform all of the duties of the authority.

SECTION 3.

Purpose of the authority; scope of operations.

Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of providing buildings, facilities, equipment, and services for the citizens of the city.

SECTION 4.

Definitions.

As used in this Act, the term:

(1) "Authority" means the City of Hapeville Public Facilities Authority created by this Act.

(2) "City" means the City of Hapeville, Georgia.

(3) "Costs of the project" means and embraces the cost of construction; the cost of all lands, properties, rights, easements, and franchises acquired; the cost of all machinery and equipment; financing charges; interest prior to and during construction and for six months after completion of construction; the cost of engineering, architectural, fiscal agent, accounting, and legal services, and of plans and specifications and expenses necessary or incidental to determining the feasibility or practicability of the project; administrative expenses; working capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip, operate, maintain, or finance the project.

(4) "Project" means (i) all buildings, facilities, services and equipment necessary or convenient for the efficient operation of the city or any department, agency, division, or commission thereof, and (ii) any "undertaking" permitted by the Revenue Bond Law.

(5) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia (codified in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended, or any other similar law hereinafter enacted.

(6) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

(7) "Self-liquidating" means any project which the revenues and earnings to be derived by the authority therefrom, including, but not limited to, any contractual payments with governmental or private entities, and all properties used, leased, and sold in connection therewith, together with any grants and any other available funds, will be sufficient to pay the costs of operating, maintaining, and repairing the project and to pay the principal and interest on the revenue bonds or other obligations which may be issued for the purpose of paying the costs of the project.

(8) "State" means the State of Georgia.

SECTION 5.

Powers.

The authority shall have the power:

(1) To have a seal and alter the same at its pleasure;

(2) To acquire by purchase, lease, gift, condemnation, or otherwise, and with or without consideration, to hold, operate, maintain, lease, and dispose of real and personal property of every kind and character for its corporate purposes;

(3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper, or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property or rights or easements therein, or franchises necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue, and to lease or make contracts with respect to the use of or disposition of the same in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned under this Act, except from the funds provided under the authority of this Act, and in any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action, or proceedings as may be just to the authority and to the owners of the property to be condemned, and no property shall be acquired under the provisions of this Act upon which any lien or encumbrance exists, unless at the time such property is so acquired a sufficient sum of money is to be deposited in trust to pay and redeem the fair value of such lien or encumbrance;

(4) To acquire, construct, add to, extend, improve, equip, operate, maintain, lease, and dispose of projects;

(5) To execute contracts, leases, installment sale agreements, and other agreements and instruments necessary or convenient in connection with the acquisition, construction,

addition, extension, improvement, equipping, operation, maintenance, disposition, or financing of a project;

(6) To appoint, select, and employ officers, agents, and employees, including, but not limited to, engineering architectural and construction experts, fiscal agents, and attorneys, and fix their respective compensations;

(7) To pay the costs of the project with the proceeds of revenue bonds, certificates of participation, notes, or other forms of obligations issued by the authority or from any grant or contribution from the United States of America or any agency or instrumentality thereof or from the state or any agency, instrumentality, municipality, or political subdivision thereof, from any private foundation or other private source or from any other source whatsoever;

(8) To pledge to the payment of revenue bonds, certificates of participation, notes, and other forms of obligations issued by the authority any and all revenues and properties of the authority, both real and personal;

(9) To accept loans and/or grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality may require;

(10) To accept loans or grants of money or materials or property of any kind from the state or any agency, instrumentality, municipality, or political subdivision thereof, upon such terms and conditions as the state or such agency, instrumentality, municipality, or political subdivision may require;

(11) To accept loans or grants of money or materials or property of any kind from any public or private foundation or any other private source upon such terms and conditions as such public or private foundation or other private source may require;

(12) To borrow money for any of its corporate purposes and to issue or execute revenue bonds, certificates of participation, notes, and other forms of obligations, deeds to secure debt, security agreements, and such other instruments as may be necessary or convenient to evidence and secure such borrowing;

(13) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business is transacted;

(14) To prescribe rules, regulations, service policies, and procedures for the operation of any project;

(15) To exercise any power usually possessed by private corporations performing similar functions; and

(16) To do all things necessary or convenient to carry out the powers expressly given in this Act.

SECTION 6.

Revenue bonds.

The authority shall have power and is hereby authorized to provide by resolution for the issuance of revenue bonds for the purpose of paying all or any part of the costs of the project and for the purpose of refunding revenue bonds or other obligations previously issued. The principal of and interest on such revenue bonds shall be payable solely from the revenues and properties pledged to the payment of such revenue bonds. The revenue bonds issued by the authority shall contain such terms as the authority shall determine are in the best interest of the authority; provided, however, no revenue bonds shall have a maturity exceeding 40 years.

SECTION 7.

Same; signatures; seal.

All such revenue bonds shall bear the manual or facsimile signature of the chairperson or vice-chairperson of the authority and the attesting manual or facsimile signature of the secretary or secretary-treasurer of the authority, and the official seal of the authority shall be impressed or imprinted thereon. Any revenue bonds may bear the manual or facsimile signature of such persons as at the actual time of the execution of such revenue bonds shall be duly authorized or hold the proper office, although at the date of issuance of such revenue bonds such person may not have been so authorized or shall not have held such office. In case any officer whose signature shall appear on any revenue bond shall cease to be such officer before the delivery of such revenue bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if that person had remained in office until such delivery.

SECTION 8.

Same; negotiability; exemption from taxation.

All revenue bonds shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the laws of the State. All revenue bonds, their transfer, and the income therefrom shall be exempt from all taxation within the state as provided by the Revenue Bond Law.

SECTION 9.

Same; conditions precedent to issuance.

The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the resolution, the authority shall determine that the project financed or refinanced with the proceeds of the revenue bonds is self-liquidating. Revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and things which are specified or required by this Act. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall

become effective immediately upon its adoption and need not be published or posted, and any such resolution may be adopted at any regular or special meeting of the authority.

SECTION 10.

Same; credit not pledged.

Revenue bonds shall not be deemed to constitute a debt of the state or the city nor a pledge of the faith and credit of the state or the city. Revenue bonds shall be payable solely from the revenues and properties pledged to the payment of such revenue bonds. The issuance of revenue bonds shall not directly, indirectly, or contingently obligate the state or the city to levy or to pledge any form of taxation whatsoever for the payment of such revenue bonds or to make any appropriation for their payment. All revenue bonds shall contain recitals on their face covering substantially the foregoing provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect the ability of the authority and the city to enter into an intergovernmental contract pursuant to which the city agrees to pay amounts sufficient to pay operating charges and other costs of the authority or any project including, without limitation, the principal of and interest on revenue bonds, in consideration for services, facilities, or equipment of the authority.

SECTION 11.

Same; trust indenture as security.

In the discretion of the authority, any issuance of revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition and construction of the project, the maintenance, operation, repair, and insuring of the project, and the custody, safeguarding, and application of all monies.

SECTION 12.

Same; remedies of bondholders.

Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights it may have under the laws of the state, including specifically, but without limitation, the Revenue Bond Law, or granted hereunder or under such resolution or trust indenture, and may enforce and compel

performance of all duties required by this Act or by such resolution or trust indenture to be performed by the authority or any officer thereof, including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and services furnished.

SECTION 13.

Same; validation.

Revenue bonds and the security therefor shall be issued, confirmed, and validated in accordance with the provisions of the Revenue Bond Law. The petition for validation shall also make the city party defendant to such action if the city has contracted with the authority for services or facilities relating to the project for which revenue bonds are to be issued and sought to be validated, and such defendant shall be required to show cause, if any exists, why such contract or contracts shall not be adjudicated as a part of the basis for the security for the payment of any such revenue bonds. The revenue bonds when validated, and the judgment of validation, shall be final and conclusive with respect to such revenue bonds and the security for the payment thereof and interest thereon and against the authority and all other defendants.

SECTION 14.

Same; interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of the authority or its officers, employees, or agents, shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such revenue bonds, and no other entity, department, agency, or authority will be created which will compete with the authority to such an extent as to affect adversely the interest and rights of the holders of such revenue bonds. The provisions of this Act shall be for the benefit of the authority and the holders of any such revenue bonds under the provisions hereof shall constitute a contract with the holders of such revenue bonds.

SECTION 15.

Venue and jurisdiction.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against such authority shall be brought in the Superior Court of Fulton County, Georgia, and any action pertaining to validation of any revenue bonds issued under the provisions of this Act shall likewise be brought in such court, which shall have exclusive, original jurisdiction of such actions.

SECTION 16.

Monies received considered trust funds.

All monies received pursuant to the authority of this Act, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

SECTION 17.

Tort immunity.

To the extent permitted by law, the authority shall have the same immunity and exemption from liability for torts and negligence as the city. The officers, agents, and employees of the authority when in the performance of the work of the authority shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of the city when in the performance of their public duties or work of the city.

SECTION 18.

Tax exemption.

The income of the authority, the properties of the authority, both real and personal, and all revenue bonds, certificates of participation, notes, and other forms of obligations issued by the authority shall be exempt from all state and local taxes and special assessments of any kind in accordance with the laws of the state.

SECTION 19.

Rates, charges, and revenues; use.

The authority is hereby authorized to prescribe and fix rates and to revise same from time to time and to collect revenues, tolls, fees, and charges for the services, facilities, and commodities furnished, and in anticipation of the collection of the revenues, to issue revenue bonds, certificates of participation, notes, or other types of obligations as herein provided to finance, in whole or in part, the costs of the project, and to pledge to the punctual payment of such revenue bonds or other obligations, all or any part of the revenues.

SECTION 20.

Effect on other governments.

This Act shall not and does not in any way take from the city or any political subdivision the right to own, operate, and maintain public facilities or to issue revenue bonds as provided by the Revenue Bond Law.

SECTION 21.

Liberal construction of act.

This Act being for the welfare of the city and various political subdivisions of the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 22.

Severability; effect of partial invalidity of act.

The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 23.

Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 24.

Repealer.

All laws and parts of laws in conflict with this Act are repealed.

CITY OF HAPEVILLE

STATE OF GEORGIA

RESOLUTION NO. _____

A RESOLUTION DISSOLVING THE STATUS OF HAPEVILLE CLEAN AND BEAUTIFUL COMMISSION AS A CITY OF HAPEVILLE ENTITY; TO AUTHORIZE THE MAYOR TO SIGN ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THIS RESOLUTION; TO AUTHORIZE THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY; TO REPEAL INCONSISTENT RESOLUTIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

W I T N E S S E T H:

WHEREAS, the City of Hapeville (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia; and

WHEREAS, Hapeville Clean and Beautiful (hereinafter “Commission”) was duly organized and appointed by the Mayor and Council on March 24, 1980;

WHEREAS, the Commission has a desire to disconnect the Commission from the governing authority and body of the City of Hapeville;

WHEREAS, the Commission will continue to promote public interest in the general improvement of the environment of the City of Hapeville;

WHEREAS, the Commission will no longer be a City entity, but will remain a non-profit organization;

WHEREAS, the Mayor and Council of the City of Hapeville, in the exercise of their sound judgment and discretion, after giving thorough consideration to all the implications involved, and keeping in mind the public interest and welfare of the citizens of the City, have determined that the disconnecting of Commission from the City of Hapeville will better serve the needs of its citizens.

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA, AS FOLLOWS:

1. **Incorporation of Pre-Amble.** The pre-amble is incorporated herein as fully set forth above.

2. **Dissolving the Commission as a City Entity.** The Hapeville City Council has made the determination that the Hapeville Clean and Beautiful Commission will no longer be a City entity, and that any relationship between the Commission and City shall be severed. Additionally, any reference to the City of Hapeville, the governing body, employees or agents in Commission documents, by-laws, or minutes from this point forward shall be void and not applicable to the City.

3. **Authorization for Mayor.** That the Hapeville City Council hereby authorizes the Mayor to execute any and all documents necessary to effectuate this Resolution. A copy of said documents shall be filed with the City Clerk.

4. **Attestation.** That the Hapeville City Council hereby authorizes the City Clerk or Assistant City Clerk to attest the signature of the Mayor appearing on the documents, to affix the official seal of the City thereto as necessary to effectuate this Resolution, and to place this Resolution and an executed copy of all documents among the minutes or official records of the City for future reference.

5. **Authorization for Attorney.** That the Hapeville City Council hereby authorizes the City Attorney to approve this Resolution as to its form and review any and all documents necessary for the City of Hapeville and to ensure all documents conform to state law.

6. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.

7. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

8. **Effective Date.** This Resolution shall take effect immediately.

RESOLVED this ____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

ALAN HALLMAN, MAYOR

ATTEST:

CRYSTAL GRIGGS-EPPS, CITY CLERK
(seal)

APPROVED BY:

CITY ATTORNEY

DRAFT

STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 58 (“SURFACING AND MAINTENANCE OF DRIVEWAYS AND OFF-STREET PARKING AND LOADING FACILITIES”), SECTION 58-1-1 (“PURPOSE, INTENT, AND NONCONFORMING USE, AND GRACE PERIOD FOR COMPLIANCE WITH REGULATIONS”) AND SECTION 58-1-3 (“SURFACING REQUIREMENTS FOR SINGLE-FAMILY RESIDENTIAL DRIVEWAYS AND HARDSHIP EXEMPTIONS”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO UPDATE THE CITY OF HAPEVILLE U-V ZONE (URBAN VILLAGE) PERMITTED USES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the regulations regarding the surfacing and maintenance of driveways.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Section 58-1-1 (Purpose, intent, and nonconforming use, and grace period for compliance with regulations) in Chapter 58 (Surfacing and maintenance of driveways and off-street parking and loading facilities) of the City Code of Ordinances is hereby amended by striking the section in its entirety and inserting in lieu thereof the following language:

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- (a) In adopting this chapter, it is the intent of mayor and council to clarify the regulations regarding the surfacing and maintenance of residential driveways and commercial off-street parking and loading facilities.

Section Two. Section 58-1-3 (Surfacing requirements for single-family residential driveways and hardship exemptions) in Chapter 58 (Surfacing and maintenance of driveways and off-street parking and loading facilities) of the City Code of Ordinances is hereby amended by striking the section in its entirety and inserting in lieu thereof the following language:

- (a) The construction materials of single-family residential driveways shall consist of porous concrete, asphalt, plain concrete, brick and concrete pavers, or other permeable pavements. Loose gravel shall, in no event, be allowed as a finished surface for such driveways.
- (b) Residential driveways that were constructed of a material other than hard-surfaced pavement, such as gravel, prior to August 20, 2019 shall be considered nonconforming properties and will not have to come into compliance with the regulations set for within section 58-1-3(a) of this chapter, unless one of the conditions below applies:
- i. If a nonconforming property comes before site plan review for any reason, that property must be brought into full compliance with the regulations set forth within section 58-1-3(a) of this chapter within ninety (90) days.

Section Three. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Four. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to

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the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Five. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Six. Effective Date. The effective date of this Ordinance shall be February 1, 2020.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

City Clerk

APPROVED BY:

City Attorney

DRAFT

STATE OF GEORGIA CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 81 (“ARCHITECTURAL DESIGN STANDARDS”), SECTION 81-1-4 (“DESIGN REVIEW COMMITTEE”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the attendance requirement for the Design Review Committee.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 81 (Architectural Design Standards), Section 81-1-4 (Design review committee) of the City Code of Ordinances is hereby amended by adding subsection (h), which shall state the following language:

(h) *Attendance.* Should a member of the design review committee fail to attend four or more meetings in one term, he or she shall immediately forfeit his or her membership on the committee. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in this section.

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

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Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

DRAFT

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney



**Department of Planning and Zoning
Planner's Report**

DATE: July 18, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Board Attendance Requirement**

BACKGROUND

The City's Code of Ordinances does not currently have any attendance policy in place requiring appointed officials to regularly attend public meetings. The following text amendment modifies the rules and regulations of the Board of Zoning Appeals, the Planning Commission, and the Design Review Committee to add an attendance requirement limiting the number of absences allowed per term for each member and is presented for recommendation to Mayor & City Council.

CODE

CHAPTER 81 – ARCHITECTURAL DESIGN STANDARDS

Sec. 81-1-4. – Design review committee.

Add:

(h) *Attendance.* Should a member of the design review committee fail to attend four or more meetings in one term, they shall immediately forfeit their membership on the committee. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in this section.

CHAPTER 87 - PLANNING

ARTICLE 2. – PLANNING COMMISSION

Sec. 87-2-3. – Organization; rules; staff; finances

Add:

(d) Should a member of the planning commission fail to attend five or more meetings in one four-year term, they shall immediately forfeit their membership on the commission. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in section 87-2-2.

ARTICLE 3. - BOARD OF ZONING APPEALS

Sec. 87-3-2. – Procedure

Add:

(e) Should a member of the board of appeals fail to attend four or more meetings in one three-year term, they shall immediately forfeit their membership on the board. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in section 87-3-1.

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STATE OF GEORGIA CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 87 (“PLANNING”), ARTICLE 2 (“PLANNING COMMISSION”), SECTION 87-2-3 (“ORGANIZATION; RULES, STAFF, FINANCES”); CHAPTER 87 (“PLANNING”), ARTICLE 3 (“BOARD OF ZONING APPEALS”), SECTION 87-3-1 (“APPOINTMENT”); CHAPTER 87 (“PLANNING”), ARTICLE 3 (“BOARD OF ZONING APPEALS”), SECTION 87-3-2 (“PROCEDURE”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the appointments allotted for the Board of Appeals and attendance requirements for the Board of Appeals and the Planning Commission.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 87 (Planning), Article 2 (Planning Commission), Section 87-2-3 (Organization; rules; staff; finances) of the City Code of Ordinances is hereby amended by adding subsection (d), which shall state the following language:

(d) Should a member of the planning commission fail to attend five or more meetings in one four-year term, they shall immediately forfeit their membership on the commission. A new

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replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in section 87-2-2.

Section Two. Chapter 87 (Planning), Article 3 (Board of Zoning Appeals), Section 87-3-1 (Appointments) of the City Code of Ordinances is hereby amended by striking the section in its entirety and inserting in lieu thereof the following language:

The board of appeals of the city is hereby established in accordance with the provisions of this chapter. This board shall consist of seven members appointed by the mayor and council. The board members shall be reimbursed for expenses as directed by the mayor and council. Each member of the board shall be a resident of the city at the time of appointment and for at least six months immediately preceding the date of taking office and shall remain a resident of the city while serving as a member of the board. The members shall serve for overlapping terms of three years. No members shall hold any other public office or position. The board of appeals shall adopt rules in accordance with the provisions of this chapter for the conduct of its affairs.

Section Three. Chapter 87 (Planning), Article 3 (Board of Zoning Appeals), Section 87-3-2 (Procedures) of the City Code of Ordinances is hereby amended by adding subsection (e), which shall state the following language:

(e) Should a member of the board of appeals fail to attend four or more meetings in one three-year term, they shall immediately forfeit their membership on the board. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in section 87-3-1.

Section Four. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Five. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the

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express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Six. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Seven. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney



**Department of Planning and Zoning
Planner's Report**

DATE: July 18, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Board Attendance Requirement**

BACKGROUND

The City's Code of Ordinances does not currently have any attendance policy in place requiring appointed officials to regularly attend public meetings. The following text amendment modifies the rules and regulations of the Board of Zoning Appeals, the Planning Commission, and the Design Review Committee to add an attendance requirement limiting the number of absences allowed per term for each member and is presented for recommendation to Mayor & City Council.

CODE

CHAPTER 81 – ARCHITECTURAL DESIGN STANDARDS

Sec. 81-1-4. – Design review committee.

Add:

(h) *Attendance.* Should a member of the design review committee fail to attend four or more meetings in one term, they shall immediately forfeit their membership on the committee. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in this section.

CHAPTER 87 - PLANNING

ARTICLE 2. – PLANNING COMMISSION

Sec. 87-2-3. – Organization; rules; staff; finances

Add:

(d) Should a member of the planning commission fail to attend five or more meetings in one four-year term, they shall immediately forfeit their membership on the commission. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in section 87-2-2.

ARTICLE 3. - BOARD OF ZONING APPEALS

Sec. 87-3-2. – Procedure

Add:

(e) Should a member of the board of appeals fail to attend four or more meetings in one three-year term, they shall immediately forfeit their membership on the board. A new replacement member is to then be selected and appointed to fill the remainder of the term per the regulations set forth in section 87-3-1.