

MEMORANDUM

To: Mayor and Council
From: Richard McLeod, Director of Community Development
Date: May 24, 2021
Subject: Resolution to Extend the Temporary Moratorium for Two Parcels in the Dunwoody Village

ITEM DESCRIPTION

Resolution to extend an existing moratorium on the acceptance of construction and development permit and associated applications.

DISCUSSION

At the November 30, 2020 the City Council has adopted the new zoning regulations for the Dunwoody Village with the exception of the two properties at 5500 Chamblee Dunwoody Road and 1244 Dunwoody Village Parkway. At the same meeting, the City Council issued a moratorium on accepting new applications for special use approval, permitted use approval, and for building, land disturbance, and other permits for these two parcels. The moratorium was issued for 180 days and will expire on May 28, 2021.

Since then, the staff has negotiated a mutually agreeable solution for the zoning of the two parcels. Any solution will require the City to initiate a map amendment process, which includes properly advertised hearings in front of the Planning Commission and the City Council. The extension of the moratorium will allow for this process to be completed.

STAFF RECOMMENDATION

Staff recommends **APPROVAL**.

**RA RESOLUTION AMENDING THE TEMPORARY MORATORIUM ON THE
ACCEPTANCE OF NEW APPLICATIONS FOR SPECIAL USE APPROVAL,
PERMITTED USE APPROVAL, OR BUILDING, LAND DISTURBANCE SITE
PLAN AND DESIGN REVIEW OR OTHER PERMITS FOR ANY CONSTRUCTION
IN THE VILLAGE OVERLAY DISTRICT**

WHEREAS, the Mayor and City Council of the City of Dunwoody (“City Council”) are charged with the protection of the public health, safety and welfare of citizens of the City of Dunwoody (“City”); and

WHEREAS, the City currently has a Dunwoody Village Overlay District (“Village Overlay”) which has been adopted over the Dunwoody Village area of the City as defined in the Village Overlay (“Village Overlay Area”); and

WHEREAS, a copy of the current Village Overlay is attached hereto as Exhibit “A”; and

WHEREAS, after a period of analysis and input from the City Council, City Staff and the public, a proposed amendment to the Village Overlay has been completed and is prepared to move through the zoning process for anticipated adoption by the City (“Village Overlay Amendment”); and

WHEREAS, on December 9, 2019, the Mayor and Council enacted a Temporary Moratorium regarding Village Overlay Area to prohibit the filing of any new Applications for Special Use Approval, Permitted Use Approval, or Building, Land Disturbance, Site Plan and Design Review or other Permits such moratorium will allow the City the opportunity to move the Village Overlay Amendment through the zoning process to receive public input and for the City council to consider the Village Overlay Amendment for adoption; and

WHEREAS, the COVID-19 Pandemic has created a State of Emergency that has delayed public engagement; and

WHEREAS, on January 13, 2020, the Mayor and Council voted to amend the Temporary Moratorium regarding the Village Overlay to exempt other eating and drinking establishments, health clubs, and medical offices/clinics from the moratorium; and

WHEREAS, on November 27, 2020, the owners of the properties located at 5500 Chamblee Dunwoody Road and 1244 Dunwoody Village Parkway according to the present system of numbering parcels in the City of Dunwoody (the “Owners”), filed a Declaratory Judgment action claiming that the 150 foot buffer in the rear of their property was only required at the time of the initial zoning by a system of private covenants which has since expired. and served the Mayor and Council with such suit on November 28, 2020; and

WHEREAS, the Mayor and Council determined that Council and staff needed time to evaluate the arguments presented by the Owners in their Declaratory Judgment; and

WHEREAS, after review, the Mayor and Council have determined that it is in the best interest of the City to amend the Temporary Moratorium as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA:

- Section 1.** The Amendment to the Temporary Moratorium imposed herein incorporates the findings and statements set forth in the preceding “whereas” clauses and such clauses are made a part of this moratorium, and the aforesaid recitals are not mere recitals, but are material portions of this Resolution.
- Section 2.** This Amendment becomes effective immediately upon adoption of this resolution.
- Section 3.** Notwithstanding any provisions of the Code of Ordinances of the City of Dunwoody to the contrary, the moratorium on the filing, consideration, or approval of any new Applications for Special Use Approval, Permitted Use Approval, or Building, Land Disturbance, Site Plan and Design Review or other Permits in the Village Overlay Area, the Temporary Moratorium shall remain in force and effect in relation to the properties located at 5500 Chamblee Dunwoody Road and 1244 Dunwoody Village Parkway according to the present system of numbering parcels in the City of Dunwoody so that the Mayor and Council and staff can evaluate the arguments made by the Owners in their Declaratory Judgment action. As to all other parcels within the Village Overlay Area, the Temporary Moratorium shall be terminated.
- Section 4.** During the moratorium neither the City nor any of its departments or staff shall accept, process or review new applications for Special Use Approval, Permitted Use Approval, or Building, Land Disturbance, Site Plan and Design Review or other Permits for the properties located at 5500 Chamblee Dunwoody Road and 1244 Dunwoody Village Parkway regarding the uses set out in the moratorium.
- Section 5.** This moratorium shall expire at **11:59 p.m. on December 31, 2021**, and be of no further force and effect, unless shortened or extended by an official action of the Mayor and City Council of the City of Dunwoody.
- Section 6.** The moratorium period adopted in the Temporary Moratorium is deemed to be the appropriate minimum time for the development of such regulations without unduly diminishing the rights of individuals.
- Section 7.** This Resolution shall not apply to or otherwise effect completed applications duly filed prior to the effective date of this Resolution, however, this moratorium shall apply to all applications which have not been completed.
- Section 8.** The provisions of this Resolution are severable, and should any section, subsection, sentence, clause, phrase or other portion of this Resolution, or its application to any person, entity or circumstance, be held by a court of competent jurisdiction to be unconstitutional or invalid, the remainder of the Resolution, or application of the provision to other persons, entities or circumstances, shall not be affected.

**SO RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
DUNWOODY, GEORGIA** this the 24th day of May, 2021.

Approved:

Lynn P. Deutsch, Mayor

Attest:

Sharon Lowery, City Clerk
(SEAL)

Approved As To Form:

City Attorney

27-107B Districts.

Districts and regulating map.

Figure 27-107B-1 Regulating Map

