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Ordinance No. 06-1002

ZONING ORDINANCE AMENDMENT

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF DAWSONVILLE, GEORGIA, TO PROVIDE FOR AN ADDITIONAL LAND USE CLASSIFICATION KNOWN AS “AP,” TO PROVIDE FOR A MECHANISM TO ALTER LAND USE CLASSIFICATIONS, TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

WHEREAS the Constitution of the State of Georgia provides in Article IX, Section II, Paragraph IV thereof, that the governing body may adopt plans and exercise the power of zoning; and

WHEREAS, the Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989 pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use; and

WHEREAS, The City finds that the regulations contained in this Ordinance are necessary for the purposes of implementing its comprehensive plan adopted pursuant to the requirements of the Georgia Planning Act of 1989; and

WHEREAS, this Ordinance has been prepared and considered in accordance with the Zoning Procedures Act, O.C.G.A. § 36-66-1 et. seq., and

WHEREAS, this Ordinance is necessary for the purposes of promoting the health, safety, morals, convenience, order, prosperity and the general welfare of the City of Dawsonville; lessening overcrowding in residential areas; providing adequate light and air; avoiding inadequate light and air; avoiding undue concentration of population;

facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; improving the aesthetic appearance of the City of Dawsonville; conserving the value of buildings; providing for continuity in land use performance standards upon annexation, and encouraging the most appropriate use of land and buildings throughout the City of Dawsonville in accordance with its duly adopted comprehensive plan;

NOW THEREFORE, the governing body of the City of Dawsonville, Georgia, does hereby ordain, enact and thereby incorporate into the City Code of Dawsonville, Georgia, this ordinance and all of its sections as set forth below:

SECTION ONE: Adoption of a New Article XXII.1

A new Article XXII.1 of the City of Dawsonville Land Use and Zoning Ordinance is hereby adopted, and shall provide as follows:

Section 2200.1.1 Purpose And Intent.

The Annexed Property ("AP") district is intended to permit those landowners who petition to annex land into the corporate limits of the City of Dawsonville without changing the use of their land or the intensity of the use of their land upon annexation the option of maintaining the same land use performance standards upon the annexed property after annexation as were upon the land prior to annexation by virtue of the land performance standards of the County.

Section 2200.1.2 Permitted Uses in AP.

The land use performance standards, both in permissible uses and the intensity of permissible uses, shall be the same as were allowed under the County zoning ordinance governing the land immediately prior to its annexation into the City of Dawsonville. No change in the County zoning ordinance after an annexation shall affect or change the land use performance standards for the property annexed.

Section 2200.1.3 Conditional Uses.

The land use performance standards, both in conditional uses and the intensity of conditional uses, shall be the same as were conditionally allowed under the County zoning ordinance governing the land immediately prior to its annexation into the City of Dawsonville. No change in the County zoning ordinance after an annexation shall affect or change the land use performance standards for the property annexed.

Section 2200.1.4 Assignment of AP

1. Upon the effective date of this ordinance, the AP zoning designation shall be an option for the initial zoning of property annexed into the corporate limits of the City of Dawsonville.
 - a. All persons wishing to maintain the same use of their land as well as the same intensity of the use of their land after annexation shall secure such desire by indicating on their petition for annexation that they wish their property be zoned AP upon annexation.
 - b. Only upon annexation is a landowner eligible to have his land classified within the AP zoning district. Once the land is assigned to a different land use district under the City's Zoning Ordinance as provided in § 2200.1.5 below, the AP district is no longer available.
2. Nothing contained herein shall be construed to require property upon annexation or any time after annexation to be assigned the AP zoning designation. Rather, the use of the AP zoning category is at the request of the zoning applicant and is conditioned upon the granting of the same by the Mayor and Council.
3. Once designated as AP by the Mayor and Council, no rezoning petition may be filed on an AP property for twelve (12) months from the effective date of the annexation as determined by Chapter 36 of Title 36 of the Official Code of Georgia Annotated. The foregoing notwithstanding, property shall not remain within the AP zoning district for any longer than is described in § 2200.1.5 below.

Section 2200.1.5 Conversion to City Created Performance Standards

1. The AP zoning designation is intended to be a temporary land use district for those persons who desire to have their land annexed into the corporate limits of the City, without changing the use of their land or the intensity of the use of their land. It is not intended to permanently supplant the specific zoning designations of the City of Dawsonville Zoning Ordinance, but instead, to provide for continuity in land use performance standards upon annexation.
2. The AP zoning designation may be applied to land annexed into the corporate limits of the City for a period of up to sixteen (16) months after the effective date of the annexation as determined by Chapter 36 of Title 36 of the Official Code of Georgia Annotated.
 - a. At any time at least twelve (12) months after the effective date of annexation of the property into the corporate limits of the City, the property may be rezoned pursuant to the application of the landowner or on the initiation of a rezoning by the governing authority.

- b. If no rezoning is accomplished by the end of the sixteen (16) month period referred to above, the land shall automatically be converted from AP zoning designation to the R1 zoning designation under the City of Dawsonville Zoning Ordinance.
- c. For good cause shown, the Mayor and Council of the City of Dawsonville may extend the use of the AP zoning designation on a piece of property for longer than the sixteen (16) month period, but in no event shall the AP zoning designation be applied to a parcel in the corporate limits of the City for longer than eighteen (18) months.

SECTION TWO: Repeal of Article XV, Section 2511, Paragraphs 3 & 4, and Adoption of a New Article XV, Section 2511, Paragraphs 3 & 4

Paragraphs 3 and 4 of Section 2511 of Article XV of the City of Dawsonville Zoning Ordinance is hereby deleted in its entirety, and in its place the City of Dawsonville adopts the following as the new Paragraphs 3 and 4 of Section 2511 in Article XV:

- 3. Persons who support the application will be asked to comment first. The petitioner may, upon recognition and upon statement of name and address, present and explain his application. The petitioner or his designated agent shall be required to attend the public hearing unless written notice of hardship is received prior to such meeting. Failure of the petitioner or agent to attend the public hearing or meeting, except in cases of hardship, may be due cause for dismissal of such application. A time limitation may be imposed at the discretion of the Chairman/Mayor, but in no event shall such time limitation provide for less than ten minutes, nor shall it be any less than the time allowed for those persons speaking in opposition to the application.
- 4. Persons who oppose the application will be asked to comment next. All interested parties after being recognized shall be afforded an opportunity to address the proposed application by standing before the appropriate body and identifying their name, address and interest along with any comments on the proposed application. A time limitation may be imposed at the discretion of the Chairman/Mayor, but in no event shall such time limitation provide for less than ten minutes, nor shall it be any less than the time allowed for those persons speaking in favor of the application.

SECTION THREE: Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION FOUR: Severability

If any section, provision or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

SECTION FIVE: Effective Date

The effective date of this Ordinance shall be the day this Ordinance is adopted by the Mayor and City Council of the City of Dawsonville, Georgia.

Adopted and Ordained this _____ day of _____, 2006.

CITY OF DAWSONVILLE, GEORGIA

Joe Lane Cox, Mayor

Mike Sosebee, Councilman

Jonathan Cox, Councilman

Mike Wilson, Councilman

Linda Grant, Councilman

Attest:

Kim Cornelison, City Clerk