

**CITY OF SUWANEE, GEORGIA  
CITY COUNCIL MEETING  
AUGUST 16, 2005**

Meeting Location: *Suwanee City Hall*

Present: Nick Masino, Mayor  
Jace Brooks, Mayor Pro Tem  
Carol Hassell, Councilmember  
Jimmy Burnette, Councilmember  
Alan Landers, Councilmember  
Jeannine Rispin, Councilmember  
Hardin Watkins, City Manager  
Elvira Rogers, City Clerk  
Gregory Jay, City Attorney

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**5:30 P.M.  
DINNER SESSION**

City Council Informal Session

Informal discussion among City Councilmembers and staff. Food provided for Elected Officials and staff. No action to be taken during session.

**6:30 P.M.  
PUBLIC HEARING**

The Public Hearing opened at 6:35 P.M. Hardin Watkins, City Manager, read the procedures for Public Hearings for the record.

**1. Public Hearing on the FY 2005-2006 Proposed Millage Rate**

Hardin Watkins presented the following: This is the last of three public hearings required by the Georgia Tax Payers Bill of Rights. The City had tentatively set the 2005 millage rate at 5.777 mills. This is a reduction of .04 mills. Per the Tax Payers Bill of Rights our roll back millage rate will be 5.72; therefore, since millage rate is higher than our roll back rate, we are required to hold three public hearings before setting the millage rate. Our proposed millage rate will increase property taxes by less than 1% (0.87%). The millage rate is scheduled to be set tonight at 7 P.M. Supporting documents were made available for the public at the meeting. There was no audience participation.

**2. RZ-2001-009 (Remanded) – Applicant: Hathaway Development Co. Owner: Carriage Hill Associates, Inc. Requests rezoning from M-1 to RM-8 for an**

**apartment community. Site is located in Land Lots 170 and 171 of the 7<sup>th</sup> District along Old Peachtree Road and contains approximately 37.26 acres.**

- 3. AN-2005-001 – Applicant/Owner: J. Ronald Stephens. Requests annexation and rezoning from M-1 (Gwinnett County) and R-100 (Single-Family Residence) (Gwinnett County) to RM-8 (Multi Family Residence)(City of Suwanee) for an apartment community. Site is located in Land Lot 150 of the 7<sup>th</sup> District, located at 192 Old Peachtree Road and contains approximately 4.55 acres.**
- 4. RZ-2005-006 – Applicant/Owner: J. Ronald Stephens. Requests annexation and rezoning from M-1 (Gwinnett County) and R-100 (Single-Family Residence) (Gwinnett County) to RM-8 (Multi Family Residence)(City of Suwanee) for an apartment community. Site is located in Land Lot 150 of the 7<sup>th</sup> District, located at 192 Old Peachtree Road and contains approximately 4.55 acres.**

Gerald Davidson, 6340 Sugarloaf Parkway, Duluth, GA, represented the applicant as follows: The original application was filed August 2001. It is the intent of the applicant to get a good resolution and move on. A portion of the site is for annexation. The RZ-2001-009 is back before Council due to a recent Superior Court case.

There are two points of order: 1) The property has no reasonable economic use under the M-1 zoning classification; 2) Certain benefits can be derived by the community by the property being developed under the applicants plan. The plan will be done with greater sensitivity to the environment and provide protection to the creek and property.

In 2001 City Planning staff recommended denial. The analysis states that if Council chooses to approve conditions are placed on the property for RM-8 with other conditions. The current conditions are much more restrictive than those recommended in 2001. Mr. Davidson stated his client cannot help but feel he is being punished. He exercised his right by going to court. The conditions and restrictions hurt the marketability of the project. The project has been taken to three different townhome developers who are hungry for townhome projects. Each developer stated with those conditions, they could not develop the project. The major concern was the rear entry. The topography was not conducive for rear entry.

Mr. Davidson stated he has been in communication with the City Attorney, Gregory Jay regarding this project. The owner is interested in getting the best value for his property. The owner is interested in density and a quality project. The applicant's intent is to find a developer, give them the conditions and get the developer to work things out with City staff.

Mr. Davidson proposed conditions for RM-8 and submitted the document to the City. He stated approving the site as RM-8 would be beneficial and would provide the City

say so as to what goes on the project. One of the conditions deals with the City reviewing and approving the architecture.

In comparison, townhomes would mandate a homeowners association. Apartments upkeep would be by apartment management.

Mr. Davidson stated that much of the project would not be visible from Old Peachtree Road. He requested Council approve the rezoning and annexation with conditions.

Josh Campbell presented the staff analysis as follows: In August of 2001, the applicant requested rezoning of the approximately 37 acre subject parcel, plus annexation and rezoning of an additional 4.5 acres, from M-1 (Light Industry District) to RM-8 (Multi-Family Residential District) to allow for the development of a 334 unit apartment complex. In October of 2001, the City Council denied the request. The applicant subsequently sued the City contending the M-1 zoning of the property was not a "constitutional" zoning district. Gwinnett County Superior Court subsequently agreed and remanded the request back to the City for reconsideration. The Court determined that the site's existing M-1 zoning was not appropriate for the property.

The Court's decision only applies to the approximately 37 acres currently within the City limits associated with RZ-2001-009. The applicant subsequently applied for annexation and rezoning for the additional 4.5 acres (AN-2005-001 and RZ-2005-006).

The surrounding area consists primarily of light-industrial uses. The nearest residential uses in the area include single-family detached units in several existing neighborhoods in unincorporated Gwinnett County. The nearest attached housing is also located in unincorporated Gwinnett County near the intersection of Old Peachtree Road and Collins Hill Road and contains developing fee-simple townhouses. At that location, in 2002 Gwinnett County approved RZC-02-038 that allowed for commercial/retail uses, single-family detached residences and single-family attached townhouses (see attached). In light of existing and developing uses in the nearby area, the proposed multi-family apartments would be inconsistent and incompatible. Single-family attached units would be more compatible with the area and consistent with Gwinnett County trends in the vicinity.

Given the subject property's close proximity to existing potentially negative external influences including I-85, the I-85 Rest Area, and several office-warehouse developments, conditions must be included on the subject property to sufficiently manage the potential negative external impacts on the property and insure the long-term viability of the development.

Most of the higher density residential projects approved in Suwanee in recent years have been a part of a Planned Mixed Use Development. These projects typically require a higher level of advance planning and attention to design on the part of the

developer. The City of Suwanee has accepted higher density development in certain situations provided they are designed in a manner that follows the city's basic planning principles.

In response to the court's order, staff recommends **APPROVAL AS RM-6 WITH CONDITIONS** for RZ-2001-009 and RZ-2005-006.

There was no audience participation regarding this case.

- 5. RZ-2005-007 – Applicant/Owner: Suwanee Depot Partners, LLC. Requests rezoning from C-2 (General Commercial District) and C-3 (Special Commercial District) to C-2A (Special Commercial District-Alcohol Beverage Sales) for a shopping center and outparcels including restaurants with alcohol sales. Site is located in Land Lot 169 of the 7<sup>th</sup> District along Lawrenceville-Suwanee Road south of Satellite Boulevard and contains approximately 12.80 acres.**

Josh Campbell presented the staff analysis as follows: The applicant requests rezoning on a 12.80-acre site from C-2 (General Commercial District) and C-3 (Special Commercial District) to C-2A (Special Commercial District-Alcohol Beverage Sales) to allow restaurants with alcohol sales. The subject property is located on Lawrenceville-Suwanee Road southeast of the intersection with Satellite Boulevard. The applicant proposes to develop a shopping center comprised of two buildings totaling 68,400 square feet and 3 outparcels. The shopping center would be anchored by an office supply store, but the property owner anticipates some restaurants with alcohol sales.

The subject property is an undeveloped tract of which a portion was formerly occupied by a mobile home sales facility. The subject property is located along the northern edge of the intensively commercial I-85 business district and on the southern edge of the rapidly developing commercial corridor along Lawrenceville-Suwanee Road. To the north of the subject property is a gas station, a big box retailer, restaurants, and a shopping center (all zoned C-2A). To the south of the subject property, along Lawrenceville-Suwanee Road are a number of commercial uses including hotels, restaurants, a liquor store and gas stations (zoned either C-2, C-2A or C-3).

It should be noted that the City's Alcohol Beverage Regulations require distance separation from places that sell alcohol and certain other land uses. The regulations prohibit alcohol sales within 300 feet of a church or 600 feet of a school. It appears that no uses currently exist near the subject property that would prohibit such sales.

The City of Suwanee Future Land Use Plan recommends commercial uses for the subject property. The proposed C-2A zoning is consistent with this recommendation and is more limited than the current C-3 zoning on a portion of the site.

In conclusion, the requested C-2A zoning would be appropriate at this location. The majority of the commercial uses in the area are zoned to allow for alcohol sales. The proposed district is consistent with the future land use plan. Additionally, the proposed down zoning would reduce the likelihood of some of the more intensive uses allowed in the City. There are no extraordinary conditions present that should prohibit such a use. Therefore, the Planning Department recommends **APPROVAL** of the request.

Derrick Jacoby, 308 Shire Way, Lawrenceville, Georgia, 30045, represented the applicant. He stated that the staff analysis was an accurate representation of the request.

There was no audience participation.

6. **AN-2005-002 – Applicant: Taylor & Mathis Inc. Owner: Suwanee Peachtree Industrial Boulevard, I, LP. Requests annexation of 14.65 acres into the City Limits. Site is located in Land Lots 235 and 253 of the 7<sup>th</sup> District along Brogdon Road across from Capital View Drive.**
7. **RZ-2005-008 – Applicant: Taylor & Mathis Inc. Owner: Suwanee Peachtree Industrial Boulevard, I, LP. Requests annexation and rezoning from M-1 (Light Industry – Unincorporated Gwinnett County) to M-1 (Light Industry District – City of Suwanee) for a business park. Site is located in Land Lots 235 and 253 of the 7<sup>th</sup> District along Brogdon Road across from Capital View Drive and contains approximately 14.65 acres.**

Josh Campbell stated there were problems with advertising this case and requests the cases be postponed. There was no audience participation.

There be no further business, the Public Hearing closed at 7:00 P.M.

**7:00 P.M.**  
**CITY COUNCIL MEETING**

**1. Call To Order**

The meeting was called to order by Mayor Masino at 7:18 P.M.

**2. Announcements**

- The City of Suwanee will close out the summer with a free concert at Town Center Park on Saturday, August 27<sup>th</sup>. Cowboy Mouth will be the headliner with the group Nillah and Aric Michael Berquist also performing. The music begins at 6:00pm and free shuttle transportation will be provided. Food and beverage, including beer and wine, will be available for purchase. Bring blankets, chairs,

and picnic dinners if you wish, however, please be aware that no coolers or alcohol will be allowed to be brought into Town Center Park.

- The BodyPlex Suwanee Day 5K Classic and Carnival will be held on Friday, September 9<sup>th</sup>. It will be at Town Center Park from 5:00pm to 9:00pm, with the race starting at 7:00pm.
- Suwanee Day is Saturday, September 17<sup>th</sup> from 10:00am to 10:00pm at Town Center Park. The day will start with the Parade featuring this year's grand marshal, Debi West, Gwinnett County's Teacher of the Year. Arts and Craft vendors will be set up all day with food vendors and a children's play area. The day will culminate with a concert featuring the Classic Rock All Stars at 8:00pm and a fireworks display around 10:00pm. Free shuttle transportation will be available all day.

For additional information on these and other events in Suwanee, visit [www.suwanee.com](http://www.suwanee.com).

### **3. Pledge of Allegiance**

Mayor Masino was joined by members of Scout Troop 827, St. Monica's Catholic Church.

### **4. Approval of Minutes**

#### **A. 7/7/05 Called Meeting**

*Motion by Mayor Pro Tem Brooks to approve the July 7, 2005 Called Council Meeting Minutes, second by Councilmember Landers and so carried 4-0-2 (Councilmember Hassell and Councilmember Rispin).*

#### **B. 7/25/05 Council Meeting**

*Motion by Councilmember Hassell to approve the July 25, 2005 Council Meeting Minutes with an amendment to Item 4.B "second by Councilmember Burnette", second by Mayor Pro Tem Brooks and so carried 6-0.*

### **5. Adoption of Agenda as Presented**

*Motion by Mayor Pro Tem Brooks to Adopt the Agenda as presented, second by Councilmember Burnette and so carried 6-0.*

### **6. Special Recognition**

#### **A. Bill Williams, Small Business Person of the Year**

Mayor Masion presented Dr. Bill Willimas. Suwanee Dental Care with a certificate in recognition of being named Small Business Person of the Year

## 7. Appointments to Boards

### A. Jackson Street Cemetery Committee

There are two vacancies on the Jackson Street Cemetery Committee left open by Rich Edinger and Rev. Fert Richardson. Councilmember Jimmy Burnette proposes appointing James Miller to Rich Edinger's position and Rev. Araminta Lett to Rev. Richardson's position. Mayor Masino acknowledged these appointments.

## 8. Audience Participation – None.

## 9. OLD BUSINESS

### A. RZ-2001-009 (Remanded) – Applicant: Hathaway Development Co. Owner: Carriage Hill Associates, Inc. Requests rezoning from M-1 to RM-8 for an apartment community. Site is located in Land Lots 170 and 171 of the 7<sup>th</sup> District along Old Peachtree Road and contains approximately 37.26 acres.

Staff Recommendation: Approval as RM-6 with conditions. Planning

Commission Recommendation: Approval as RM-6 with conditions. ACTION: Consider the rezoning.

*Motion by Councilmember Hassell to approve RZ-2001-009 as RM-8 with staff and Planning Commission conditions with the following amendments: Condition #1: Development shall be limited to fee-simple, attached unit (townhomes) with a maximum net density of 8 units per acres; Condition #2.e.: have a minimum gross heated area of 1500 square feet; Condition #3: 50% of garages have access from the rear of the unit via private rear alleyways to be approved by the Gwinnett County Fire Marshal; eliminate Condition #13; add a condition to read: "Architectural elevations shall be submitted for review and approval by the Director of Planning and Development, second by Councilmember Landers and so carried 6-0.*

### B. AN-2005-001 – Applicant/Owner: J. Ronald Stephens. Requests annexation and rezoning from M-1 (Gwinnett County) and R-100 (Single-Family Residence) (Gwinnett County) to RM-8 (Multi Family Residence)(City of Suwanee) for an apartment community. Site is located in Land Lot 150 of the 7<sup>th</sup> District, located at 192 Old Peachtree Road and contains approximately 4.55 acres.

This annexation request corresponds with RZ-2005-006. Action: Consider the annexation.

*Motion by Councilmember Hassell to approve AN-2005-001 as RM-8 with staff conditions, second by Councilmember Landers for discussion to clarify the conditions. Councilmember Hassell amended the motion to approve AN-2005-001, Councilmember Landers amended the second and so carried 6-0.*

- C. RZ-2005-006 – Applicant/Owner: J. Ronald Stephens. Requests annexation and rezoning from M-1 (Gwinnett County) and R-100 (Single-Family Residence) (Gwinnett Count) to RM-8 (Multi-Family Residence) (City of Suwanee) for an apartment community. Site is located in Land Lot 150 of the 7<sup>th</sup> District, located at 192 Old Peachtree Road and contains approximately 4.55 acres.**

Staff Recommendation: Approval as RM-6 with conditions. Planning Commission Recommendation: Approval as RM-6 with conditions. ACTION: Consider the rezoning.

*Motion by Councilmember Hassell to approve RZ-2005-1-006 as RM-8 with staff and Planning Commission Conditions amended as follows: Condition #1: Development shall be limited to fee simple, attached units (townhouses with a maximum net density of 8 units per acre; Condition 2.e.: have a minimum gross heated floor area of 1500 square feet; Condition #3: 50% of all garages shall be accessed from the rear of the unit via private rear alleyways to be approved by the Gwinnett County Fire Marshal, eliminate Condition #11; add a condition to read: “Architectural elevations shall be submitted for review and approval of the Director of Planning & Development. Mayor Masino requested clarification of the number of conditions. Councilmember Landers seconded the motion and so carried 6-0.*

## 10. NEW BUSINESS

- A. RZ-2005-007 – Applicant/Owner: Suwanee Depot Partners, LLC. Requests rezoning from C-2 (General Commercial District) and C-3 (Special Commercial District) to C-2A (Special Commercial District-Alcohol Beverage Sales) for a shopping center and outparcels including restaurants with alcohol sales. Site is located in Land Lot 169 of the 7<sup>th</sup> District along Lawrenceville-Suwanee Road south of Satellite Boulevard and contains approximately 12.80 acres.**

Planning Commission Recommendation: Approval. ACTION: Consider the rezoning.

*Motion by Councilmember Landers to approve RZ-2005-007, second by Mayor Pro Tem Brooks and so carried 6-0.*

- B. AN-2005-002 – Applicant: Taylor & Mathis Inc. Owner: Suwanee Peachtree Industrial Boulevard, I, LP. Requests annexation of 14.65 acres into the City Limits. Site is located in Land Lots 235 and 253 of the 7<sup>th</sup> District along Brogdon Road across from Capital View Drive.**



This annexation request corresponds with RZ-2005-008. ACTION: Consider the annexation.

- C. RZ-2005-008 – Applicant: Taylor & Mathis Inc. Owner: Suwanee Peachtree Industrial Boulevard, I, LP. Requests annexation and rezoning from M-1 (Light Industry – Unincorporated Gwinnett County) to M-1 (Light Industry District – City of Suwanee) for a business park. Site is located in Land Lots 235 and 253 of the 7<sup>th</sup> District along Brogdon Road across from Capital View Drive and contains approximately 14.65 acres.**

Staff Recommendation: Approval. Planning Commission Recommendation: Approval. ACTION: Consider the rezoning.

*Motion by Councilmember Rispin to postpone AN-2005-002 and RZ-2005-008 to the regular scheduled Council Meeting in September, second by Councilmember Burnette and so carried 6-0.*

- D. Consideration of Ad Valorem Tax Ordinance for Fiscal Year 2005-2006**

The required public hearings were held on August 3rd, 4th and 16th. The millage rate is proposed at 5.77 mills to be levied and assessed on property. This is a .04 decrease from the current millage rate. ACTION: Consider the ordinance.

*Motion by Councilmember Hassell to approve the Ad Valorem Tax Ordinance for Fiscal Year 2005-2006, second by Mayor Pro Tem Brooks and so carried 6-0.*

- E. Consideration of an Ordinance Regulating and Providing for the Calling of the General Municipal Election on Tuesday, November 8, 2005 to Fill the Expired Terms of City Council**

An ordinance has to be adopted to hold a municipal election in November. The ordinance outlines the details surrounding the election including the time the polls open and close on Election Day, the dates for qualifying to run for office, compensation given to poll workers, and the type of voting system that will be used. ACTION: Consider the ordinance.

*Motion by Councilmember Burnette to approve an Ordinance Regulating the Providing for the Calling of the General Municipal Election on Tuesday, November 8, 2005 to fill the Expired Terms of City Council, second by Councilmember Rispin and so carried 6-0.*

- F. Consideration of Adoption of the Speed Zone Ordinance from Gwinnett County Department of Transportation**

Gwinnett County DOT has sent an ordinance for the City to adopt regarding speed zones in order to maintain its radar permit. The City's existing radar permit only includes city roads as of December 31, 2001. The enclosed ordinance updates the road list to include all city roads as of June 1, 2005. There are no changes to the speed limits on city roads. The memo was received on July 26 and asks for formal approval by August 12. Elvira Rogers, Administrative Services Director, contacted Gwinnett County and received approval to submit our ordinance, if approved, on August 17<sup>th</sup>, the day after our regular Council Meeting. ACTION: Consider the ordinance.

*Motion by Councilmember Rispin to Adopt the Speed Zone Ordinance from Gwinnett County Department of Transportation, second by Councilmember Hassell and so carried 5-1 (Councilmember Burnette).*

**G. Consideration of Rescheduling the October 18, 2005 City Council Meeting to October 19, 2005**

Due to scheduling conflicts, the October 18<sup>th</sup> Council Meeting needs to be rescheduled to Wednesday, October 19<sup>th</sup>. ACTION: Consider rescheduling the October Council Meeting to October 19<sup>th</sup>.

*Motion by Councilmember Rispin to approve rescheduling the October 18, 2005 City Council Meeting to October 19, 2005, second by Mayor Pro Tem Brooks and so carried 6-0.*

**11. CONSENT AGENDA**

**A. Authorization for the Mayor to Enter into an Intergovernmental Agreement with Gwinnett County for Use of the Accu-Vote TS Equipment for the November 8, 2005 Election**

Gwinnett County has requested that Suwanee be the test site for their upgraded voting equipment, Accu-Vote TS. Gwinnett County will program the equipment and provide a staff person on election day to serve as technical support. ACTION: Consider authorizing the Mayor to enter into an intergovernmental agreement with Gwinnett County for use of the Accu-Vote TS Equipment.

**B. Authorization for the Mayor to Enter into Agreement with the Georgia Municipal Employees Benefit System for the Defined Benefit Plan Adoption**

The final draft of the defined benefit adoption agreement with GMA is complete. ACTION: Consider authorizing the Mayor to enter into agreement with the Georgia Municipal Employees Benefit System for the Defined Benefit Plan Adoption.

**C. Authorization for the Mayor to Enter into Agreement with Gwinnett County and Norfolk-Southern Railroad for Suwanee Dam Railroad Crossing Improvement Project**

Norfolk-Southern Railroad and Gwinnett County have agreed to make improvements to the railroad crossing on Suwanee Dam Road. Concrete panels would be installed on both sides of the tracks. The total cost of the project is approximately \$58,880. Norfolk-Southern would pay \$34,143. Gwinnett County would pay \$15,200. The City would pay \$9,537 and funding is currently available for this project. The City needs to enter into agreement with both the County and the Railroad to complete this project. ACTION: Consider authorizing the Mayor to enter into agreement with Gwinnett County and Norfolk-Southern Railroad for the Suwanee Dam Railroad Crossing improvement project.

**D. Authorization for the Mayor to Execute Utility Easement Documents for the Installation of a Transformer at Town Center Park**

Georgia Power is installing a transformer on the future City Hall site at Town Center. The transformer will be needed for operation of the interactive fountain and for additional electrical services during special events at the Park. Georgia Power needs an easement to locate the transformer on City property. ACTION: Consider authorizing the Mayor to execute utility easement documents for installation of a transformer at Town Center Park.

**E. Authorization for the Mayor to Execute Access Easement Documents for Installation of a Joint Access Driveway to Commercial Parcels at Shadowbrook and Town Center**

The owner of the commercial outparcel adjacent to Shadowbrook Subdivision is requesting joint access, from Lawrenceville-Suwanee Road, with the City's last Town Center development tract. They are seeking an access easement to build a joint driveway. ACTION: Consider authorizing the Mayor to execute access easement documents for installation of a joint access driveway to commercial parcels at Shadowbrook and Town Center.

*Motion by Councilmember Burnette to approve the Consent Agenda, second by Mayor Pro Tem Brooks and so carried 6-0.*

**12. City Manager's Report - None**

**13. Adjournment – Time: 7:40 PM**

*Motion by Councilmember Rispin to Adjourn, second by Councilmember Burnette and so carried 6-0.*

Approved 09/20/2005