

**CITY OF SUWANEE, GEORGIA  
CITY COUNCIL MEETING  
MAY 22, 2007**

Meeting Location:

*Dinner Session – City Hall Conference Room (373 Highway 23)*

*Public Hearing and City Council Meeting - Crossroads Center (323 Highway 23)*

Attendees: Nick Masino, Mayor  
Jimmy Burnette, Mayor Pro Tem  
Jace Brooks, Councilmember  
Dan Foster, Councilmember  
Jeannine Rispin, Councilmember  
Kristi McCarley, Interim City Manager  
Elvira Rogers, Administrative Services Director  
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**

Mayor Masino opened the Public Hearing at 6:30 P.M. Interim City Manger, Kristi McCarley, read the Procedures for Public Hearings for the record.

- 1. AN-2007-001 - Applicant: Evergreen Presbyterian Church. Owner: Byungho Kim. Requests annexation and rezoning from R-100 (Gwinnett County) to R-100 (City of Suwanee) to allow for a church and related facilities. Site is located in Land Lot 212 of the 7th District on Smithtown Road between White Sands Way and Suwanee Creek Court and contains approximately 12.65 acres.**
- 2. RZ-2007-001 - Applicant: Evergreen Presbyterian Church. Owner: Byungho Kim. Requests annexation and rezoning from R-100 (Gwinnett County) to R-100 (City of Suwanee) to allow for a church and related facilities. Site is located in Land Lot 212 of the 7th District on Smithtown Road between White Sands Way and Suwanee Creek Court and contains approximately 12.65 acres.**

Marty Allen presented the staff analysis as follows: The applicant requests annexation and zoning on an approximately 12.65-acre site from R-100 (Residential Single Family District – Unincorporated Gwinnett County) to R-100 (Single Family Residential District – City of Suwanee) to allow for a 50,000 square foot church and related accessory uses. The subject property is located on the northwest side of Smithtown Road west of Westbrook Road. The proposed church would include a 1,500 person sanctuary, a smaller 500 seat sanctuary, a 10,000 square foot multi-purpose room, 30 classrooms and a kitchen.

With conditions to mitigate potential adverse impacts of the proposed church the proposed rezoning as R-100 would be appropriate. Should the City Council choose to annex the property into the City Limits, approval with conditions as R-100 would be suitable. The Planning Commission reviewed the case at the regularly scheduled meeting and voted to recommend approval of the request. A list of the recommended conditions are included in the Council packet.

Councilmember Foster requested a summary of the results of the recent traffic study conducted on the property and submitted to the City. Mr. Allen stated the traffic study was received today from the applicant. The study recommended a left run lane and a decel lane into the project entrance of the site. Other nearby intersections would not be negatively impacted by the proposal. Councilmember Foster asked whether the details of the study needed to be included in the conditions for this case. Mr. Allen stated should the case be approved and the staff conditions be incorporated, a requirement has been proposed that roadway project access improvements will be required by the City engineer and we will be utilizing a traffic study such as this to determine what type of roadway improvements will be needed.

**Support:**

- Gerald Davidson, 1550 N. Brown Road, Suite 125, Lawrenceville, GA 30043. Mr. Davidson represented Evergreen Presbyterian Church. Mr. Davidson stated the following were also in attendance: Pastor Kim, Mike Dominy, Contractor, Rob Ponder, Architect and Jeff Goolsby, Engineer.

Mr. Davidson pointed out that the property was part of a larger unincorporated island that the City contemplated annexing last Spring but due to a pending lawsuit by the owner against Gwinnett County it was not included in the City's annexation of the unincorporated island. If annexed at that time, Mr. Davidson stated that the church would be a permitted use within the City. Mr. Davidson read from a letter dated March 7, 2006 authored by the City to the property owner, Mr. Gilleland, stressing the benefits to being included within the City including cleaning up existing City/County boundaries. Mr. Davidson commented that the annexation request presented the City with an opportunity to eliminate an unincorporated island, which is disfavored under the law. He also pointed out that the Church is presently located in the City and has outgrown its current facility.

Mr. Davidson referenced a federal statute entitled “Religious Land Use and Institutionalized Persons Act of 2000”.

Mr. Davidson commented that City staff had looked at the request on two occasions and have recommended approval both times. This time the approval has been recommended with six conditions. The applicant meets and exceeds those conditions and the traffic study totally “jives” with recommended condition #2 as Councilman Foster had asked.

Mr. Davidson continued to read from the staff analysis and referenced the statement that other churches are located along Smithtown Road. He stated that the Planning Commission, on April 10, 2007, recommended unanimously that the zoning as requested be approved. The Planning Commission recommended approval in May 2006.

Mayor Masino requested clarification on the federal statute. Mr. Davidson responded the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 protects people and groups who want to assemble and practice their religion.

Mayor Masino instructed the audience that there would be 10 minutes to be shared among anyone wishing to speak in opposition to this matter. He requested that the participants come to the microphone if they wanted to speak.

**Opposition:**

- Tom McConnell, 3795 Smithtown Road, Suwanee, GA 30024. Mr. McConnell stated he had requested a land appraiser to address concerns regarding the impact on the value of the neighboring properties as a result of the rezoning along with traffic issues. Mr. McConnell stated this is a “mega-church” and much larger than anything in the City of Suwanee or anywhere around here – “it’s larger than a football field” – on a two-lane secondary road. He stated that the proposed church clearly does not fit and will generate thousands of vehicle trips per weekly. He commented that the City did not have enough time to analyze the traffic study received today. He stated that he did not have any problem with a church but requested that City Council table the matter to further review the traffic study and stressed that this “mega church” was not appropriate for a two-lane road and it encroaches on existing residential areas.

Mayor Masino asked Mr. McConnell to clarify if he had a problem with the use of the church or the size of the church. Mr. McConnell stated he has a problem with the size of the church. He stated he has no problem with a small church.

- Brad Alexander, Smithtown Road. Mr. Alexander stated he wanted to reiterate that there is no problem with the religious organization of the church.

There are already two churches on the street. He stated his problem is with the size of the building. He further commented that the property was considered by Gwinnett County for 24 homes and was denied. If you compare 24 homes to a 50,000 sq. ft. building 350 parking spaces, the impact on the community is significantly different.

He stated that some neighbors were willing to place a firm offer to purchase the property but received no response from the Church.

Mayor Masino asked Mr. Alexander to clarify if he had a problem with the use of the church or the size of the church. Mr. Alexander stated he has a problem with the size.

- Larry S. Thomas, Sr., certified real estate appraiser, 1855 Brickton Station, Buford, GA. Mr. Thomas stated the residents of Smithtown Road employed him. Mayor Masino asked if there was a list of the group and Mr. Thomas stated he spoke with Tom McConnell. Mr. Thomas commented that the project would bring a lot of traffic to the area and that a turn lane in and a turn lane out will not alleviate the traffic at either end of Smithtown Road. He stated his opinion is traffic will bottleneck between Suwanee Dam Road and the intersection at Westbrook Road. He stated that traffic problems would impact the marketability of the homes in the area, which may lead to diminished values. He said the two concerns that have to be handled are the amount of traffic and the size and construction of the building.
- Andy Duncan, 3710 Davis Street, Suwanee, GA. Mr. Duncan said the City Charter lacks a mandate to “go forth and expand your area, expand your land” and increase your tax base. Mayor Masino clarified churches are not taxed.

Mr. Duncan stated there is no discrimination from anyone he has talked to regarding the Church but only in the size of the church to other churches. He said that the proposed church did not seem compatible to R-100 in that area.

Mayor Masino clarified with Mr. Duncan whether he had a problem with the church and/or size. Mr. Duncan stated he does not have a problem with church. Mr. Duncan stated that Evergreen has done great things with the community, they’ve been active with Suwanee Day and they helped out with the park.

Mayor Masino asked if staff in their professional opinion needed more time to review the traffic study. Marty Allen stated no additional time would be needed. This study is the first step to a multi-step review.

Gerald Davidson provided rebuttal to the opposition. He stated he has a copy of Mr. Thomas’ report and cited an admission in the report that the study is not complete. The report focuses on traffic. He commented that Mr. Thomas is an

appraiser and there is nothing that verifies his expertise in traffic studies or traffic counts. The traffic study submitted by the applicant rebuts Mr. Thomas' theories and the basis for his opinion and suggests that his report is meaningless.

Mr. Davidson further commented that Mr. McConnell had fought and opposed Mr. Gilleland's rezoning, however Mr. McConnell had approached Mr. Gilleland about joining their two properties and putting higher density homes on it before. He cited a transcript of a Gwinnett County Planning Commission hearing in which Mr. McConnell stated the land should remain R-100. He stated that the traffic study is clear and that Staff could make recommendations from the Study. He stated that the church services will be staggered on Sunday with limited use throughout the week and that the traffic study is in conformity with Staff's condition #2. He requested Council to annex and rezone the property.

**3. RZ-2007-003 - Applicant and Owner: Global Brokers. Requests rezoning from M-1 (Light Industry District) to C-2A (Special Commercial District - Alcoholic Beverage Sales) to allow for a retail/restaurant facility. Site is located in Land Lot 194 of the 7th District at the intersection of Satellite Boulevard and Martin Farm Road and contains approximately 3.56 acres.**

Marty Allen presented the staff analysis as follows: The applicant requests rezoning on a 3.56 acre site from M-1 (Light Industry District) to C-2A (Special Commercial District-Alcohol Sales) to allow for retail and restaurant uses which may include alcohol sales. The subject site contains an approximately 16,000 square foot building located at the intersection of Satellite Boulevard and Martin Farm Road.

The applicant proposes to convert the existing vacant building for restaurant retail use. Parking is provided on the site, but the applicant proposes to modify the existing parking lot and provide a total of 116 parking spaces.

The subject property is located along Satellite Boulevard near its intersection with Lawrenceville-Suwanee Road. The subject property is surrounded by a mixture of office/warehouse and commercial uses. To the north of the subject parcel, along Martin Farm Road, is a large office/warehouse facility (zoned M-1). To the east of the subject property, along Satellite Boulevard, is a small shopping center zoned C-2A. Across Satellite Boulevard, to the south, are a data center and an office warehouse building both zoned M-1. To the west of the subject property, across Martin Farm Road, is an office/warehouse building zoned M-1.

The City of Suwanee Future Land Use Plan recommends light industrial uses for the subject property. The proposed commercial classification and planned retail and restaurant uses on the property are not consistent with this designation. The City's Comprehensive Plan attempts to reserve such light industrial areas for office uses to serve as valuable employment centers. The subject property is located on the Satellite Boulevard corridor, which is an existing industrial corridor that should be protected and reserved.

In conclusion, the requested C-2A zoning would not be suitable at this location. The proposed use directly conflicts with the industrial designation on the City's Future Land Use Plan. The property is located along the industrially dominated Satellite Boulevard corridor. Therefore, the Planning Department recommends denial of the request. The Planning Commission voted to recommend approval.

**Support:**

- Mike Sullivan, 1505 Lakes Parkway, Lawrenceville, GA, represented the applicant. Mr. Sullivan stated that the applicant's intent is to leave the building in tact with interior modifications to convert the interior for retail or restaurant type use and bring the M-1 property up to code for C-2A. He mentioned that the requested use is consistent with the adjacent property and the surrounding property and that if the client could market and sell the property as M-1 it would be a more profitable enterprise for him. He stated there has been no viability in marketing the property as M-1. Mr. Sullivan commented that the Future Land Use Plan should be used as a guide.

Councilmember Foster asked what would happen to the 2-car garage on the property. Mr. Sullivan stated the garage would go away. The main building would remain in tact. There was additional discussion regarding parking.

Mayor Masino asked how recently did William Brothers abandon the building. Mr. Sullivan stated 2-3 years.

Mayor Masino asked how long Global has owned the property. The owner stated since December 2006.

**Opposition** – None.

The Public Hearing was adjourned at 7:12 P.M. and Mayor Masino commented the Council Meeting would start in a couple minutes.

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

**1. Call To Order**

Mayor Masino called the meeting to order at 7:19 P.M.

**2. Announcements**

- This Friday, May 25<sup>th</sup>, the City of Suwanee is hosting the annual Gwinnett Daily Post Memorial Weekend Concert at Town Center Park. The concert will feature jazzy New Orleans Dixieland music and the high-flying thrills of a distinguished parachute demonstration team. Stationed at Fort Benning, the Silver Wings Parachute Team will enthrall spectators with their drop-from-the-sky arrival to

Town Center Park at approximately 8:00 p.m. Stationed at Fort McPherson, the Old Flint River Dixieland Band will take the stage at 8:30 p.m. to begin their performance of traditional New Orleans Dixieland music.

- The Farmer's Market is back in Suwanee. The Suwanee Farmers Market opened last Saturday, May 19 and the Suwanee Farmers Market will be at Town Center Park from 8 a.m.-noon every Saturday morning through the summer.
- Next Saturday, June 2<sup>nd</sup>, the City of Suwanee is hosting Arts in the Park at Town Center Park from 1:00 p.m. – 8:00 p.m. Arts in the Park is the culmination for the month-long Art on a Limb program which offered citizens the chance to find a one-of-a-kind art treasure along the Suwanee Creek Greenway during the month of May. Arts in the Park offers artists a unique opportunity to educate the public about various art forms and celebrate the arts in all its various forms, from artwork to performance art.
- Friday, June 15<sup>th</sup>, the City of Suwanee is hosting Music Main Street at the Burnette-Rogers Pavilion on Main Street beginning at 7:00 p.m. This year Music Main Street features the blue grass sounds of Honi Deaton and Dream. Bring your chairs and blankets and enjoy a night of music on historic Main Street. Food vendors will be present to sell hot food items and cold non-alcoholic beverages.

For information on all upcoming events, please visit [www.suwanee.com](http://www.suwanee.com)

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

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

#### **A. April 12, 2007 Called Meeting**

*Motion by Councilmember Rispin to approve the April 12, 2007 Called Meeting Minutes, second by Mayor Pro Tem Burnette and so carried 5-0.*

#### **B. April 24, 2007 Council Meeting**

*Motion by Councilmember Brooks to approve the April 24, 2007 Council Meeting Minutes, second by Mayor Pro Tem Burnette and so carried 5-0.*

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

*Motion by Councilmember Foster to adopt the agenda as presented, second by Councilmember Brooks and so carried 5-0.*

### **6. Special Recognition**

#### **A. Sonny Franks, Mural Artist**

Mayor Masino and Economic Development Manager, Denise Brinson, recognized Sonny Franks and his wife for their contributions to the mural at Town Center Park. Mayor Masino read a proclamation and declared May 23, 2007 as Sonny Franks Day.

B. Presentation of New Police Badges

Police Chief Mike Jones presented each Councilmember the newly designed Police Department badge enclosed in a shadow box.

**7. Audience Participation - None**

**8. OLD BUSINESS**

- A. AN-2007-001 - Applicant: Evergreen Presbyterian Church. Owner: Byungho Kim. Requests annexation and rezoning from R-100 (Gwinnett County) to R-100 (City of Suwanee) to allow for a church and related facilities. Site is located in Land Lot 212 of the 7th District on Smithtown Road between White Sands Way and Suwanee Creek Court and contains approximately 12.65 acres. ACTION: Consider the annexation request.

*Motion by Mayor Pro Burnette to approve AN-2007-001, second by Councilmember Brooks and so carried 4-1 (Rispin).*

- B. RZ-2007-001 - Applicant: Evergreen Presbyterian Church. Owner: Byungho Kim. Requests annexation and rezoning from R-100 (Gwinnett County) to R-100 (City of Suwanee) to allow for a church and related facilities. Site is located in Land Lot 212 of the 7th District on Smithtown Road between White Sands Way and Suwanee Creek Court and contains approximately 12.65 acres. Staff Recommendation: If annexed, approval with conditions. Planning Commission Recommendation: Approval with conditions. ACTION: Consider the rezoning.

*Motion by Councilmember Foster to approve RZ-2007-001 with conditions and adding the following condition: "Vehicle parking areas shall be limited to no more than 350 standard sized impervious spaces. Additional parking areas may be constructed provided they are developed as an approved pervious alternative paving surface. Impervious wheel tops and parking line demarcations may be provided within these areas. The design of said parking areas shall be subject to the review and approval of the City of Suwanee", second by Mayor Pro Tem Burnette and so carried 4-1 (Rispin).*

**9. NEW BUSINESS**

- A. RZ-2007-003 - Applicant and Owner: Global Brokers. Requests rezoning from M-1 (Light Industry District) to C-2A (Special Commercial District - Alcoholic Beverage Sales) to allow for a retail/restaurant facility. Site is located in Land Lot 194 of the 7th District at the intersection of Satellite Boulevard and Martin Farm Road and contains approximately 3.56 acres. Staff Recommendation: Denial. Planning Commission Recommendation: Approval with conditions. ACTION: Consider the rezoning.



***Motion by Mayor Pro Tem Burnette to deny RZ-2007-003, second by Councilmember Brooks and so carried 5-0.***

B. Consideration of Budget Adjustments

There are two budget adjustments for consideration. The first is a revenue offset adjustment for the Atlanta Symphony Orchestra Concert. The estimated cost of the event is \$45,000, but given that it is on the last day of the fiscal year, staff would prefer to set the budget at \$50,000 to make sure expenses are covered. To date, \$40,000 in donations has been verbally committed to sponsor the event. The additional \$10,000 will be transferred from interest revenue already received. The second adjustment is a reclassification among line items. \$14,000 had been approved in the budget for the purchase of new banners. Staff recommended the purchase of barricades instead given the start of event season. In one event season, we will spend just as much in rental as purchasing the barricades outright. The funding for banners is included in next year's budget. ACTION: Consider the budget adjustments.

***Motion by Councilmember Brooks to approve consideration of Budget Adjustments, second by Councilmember Foster and so carried 5-0.***

C. Consideration of Authorizing Staff to Secure Quotes for Soft Surface Trail Project per Deviation in Purchasing Policy

Staff has found that a limited number of companies specialize in design and construction of soft surface trails. This project will cost about \$40,000, which is over the \$25,000 limit that typically requires a formal bidding process. However, staff feels that this is a specialized service and that the time and money used to formally bid this small-scale project could best be used elsewhere. Staff is recommending moving forward with soliciting three quotes by phone and moving forward with the best quote received. ACTION: Consider authorizing staff to secure quotes for soft surface trail project per deviation in purchasing policy *as discussed*.

***Motion by Councilmember Foster to authorize staff to secure quotes for a Soft Surface Trail Project, second by Mayor Pro Tem Burnette and so carried 5-0.***

D. Consideration of the Revised Opus Concept and Sign Plan

As part of the conditions of rezoning, Opus has submitted a revised concept plan and a sign plan. It requires Council approval. A copy of the concept plan is included in your materials under separate cover. ACTION: Consider the plan.

***Motion by Councilmember Foster to approve consideration of the Revised Opus Concept and Sign Plan, second by Councilmember Brooks and so carried 5-0.***

E. Consideration of Authorizing the Mayor to Execute Documents for Application of Transportation Enhancement Project Funding

The Georgia DOT is accepting applications for Transportation Enhancement (TE) projects for Fiscal Years 2008 and 2009. Applications can be submitted through June 15, 2007. Federal funds available under the TE Program will pay up to 80 percent of the total project cost. The City's local match must be at least 20 percent of the total project cost. The local match may be cash, in-kind services, or donated services, materials, or real property. The federal TE funding award may be used in any or all of the three project phases of preliminary engineering, right-of-way, and construction. Staff proposes applying for TE funding for the Main Street Streetscape project, identified in the Old Town Master Plan. ACTION: Consider authorizing the Mayor to execute documents for application of Transportation Enhancement project funding.

***Motion by Mayor Pro Tem Burnette to authorize the Mayor to execute documents for Application of Transportation Enhancement Project Funding, second by Councilmember Rispin and so carried 5-0.***

**10. CONSENT AGENDA**

A. Authorize the Mayor to Enter into State Assistance Agreement with Georgia Department of Transportation for Road Resurfacing Projects

Through the Local Assistance Resurfacing Program, Georgia DOT will provide funding up to \$46,700 to assist the City in resurfacing approximately 1.18 miles along Cherry Ridge Walk and a section of Ruby Forest Parkway from Buford Highway to Magnolia Leaf Lane. A map of these streets is included in your packet. The City will need to enter into agreement with Georgia DOT to receive the funding. ACTION: Authorize the Mayor to enter into the agreement.

B. Authorize the Mayor to Execute Documents for a Renewal Permit to Georgia Environmental Protection Division for Operation of the Water System

The City holds a state permit to operate the water system. This permit expires on July 25, 2007. The City needs to submit an application to receive a new permit. A copy of the application is included in your packet. ACTION: Authorize the Mayor to execute documents.

C. Approve the Request by Georgia Power Company for a Utility Easement

Georgia Power is requesting a 15-foot utility easement along the southeast side of Jackson Street between Calaboose Street and Scales Street in order to locate power lines and cut or trim trees within 15 feet. The power lines are currently located on the northwest side of Jackson Street and Southern Bell phone lines are currently located on the southeastern side. The Southern Bell phone lines are contained

within a 25-foot easement that already allows them to cut or trim vegetation. Relocating the power lines onto the same side of the street with the phone lines would result in the elimination of 3 power poles (on the north side). There are currently two rows of trees that would be affected. One row would be removed as part of the road construction. The second row would need to be removed or trimmed to allow for the power lines. ACTION: Approve the request.

*Motion by Councilmember Rispin to approve the Consent Agenda, second by Mayor Pro Tem Burnette and so carried 5-0.*

#### **11. City Manager's Report**

- A. Fiscal Year 2007-2008 Proposed Budget Available to the Public on May 23, 2007
- B. Comprehensive Plan working task force will be on July 19, 2007, 5:30 PM at the George Pierce Community Center

#### **12. Executive Session: Personnel Issues**

*Motion by Mayor Pro Tem Burnette to ENTER Executive Session, second by Councilmember Foster and so carried 5-0. Time: 7:48 p.m.*

*Motion by Mayor Pro Tem Burnette to EXIT Executive Session, second by Councilmember Brooks and so carried 5-0. 9:15 p.m.*

**No action taken.**

#### **13. Adjournment – Time: 9:15 p.m.**

*Motion by Mayor Pro Tem Burnette to Adjourn, second by Councilmember Foster and so carried 5-0.*

*Approved June 28, 2007*