

City of Jenkinsburg
Regular Council Meeting
Monday, April 9, 2018

With a quorum present, Mayor Eddie Ford called the City of Jenkinsburg's Council meeting to order at 7:00 pm. Attending were Mayor Pro-Tem Kenneth Rooks, Council Members: Jason Watts, Joye England, Susan Barabas and Deputy City Clerk William Mullis.

Jason Watts gave the invocation and Mayor Eddie Ford led the Pledge to the Flag.

Adopt Agenda - A motion was made by Kenneth Rooks to adopt the agenda as amended with item "11.(a) – Public Comments" added for the April 9, 2018 meeting. The motion was seconded by Jason Watts. Council voted: Jason Watts - yes, Joye England – yes, Kenneth Rooks – yes, and Susan Barabas - yes. The motion passed.

Approve Minutes from the March 26, 2018 Meeting - A motion was made by Jason Watts to approve the minutes from the March 26, 2018 meeting as presented. The motion was seconded by Kenneth Rooks. Council voted: Jason Watts - yes, Joye England – yes, Kenneth Rooks – yes, and Susan Barabas - yes. The motion passed.

Financial Report – Financial Report was given by the Deputy City Clerk, William Mullis

Staff Report - Mr. Mullis reported that the recently approved landscaping project for the Jenkinsburg Clubhouse property had been initiated with the planting of the two (2) "Arborvitae, Green Giant" specimens. Additional features of the approved plan will continue to be added in keeping with applicable seasonal planting periods for each specimen.

Proclamation to Honor Louise E. Scott Smith's 75th Birthday Celebration Mayor Ford introduced and read the proclamation. Council then took a group photo with the Smith family and friends.

Second Reading of Ordinance JBGO #18-02 – Amendments to the City of Jenkinsburg Zoning Ordinance Table 8.1 and Table 8.2 - The Mayor presented the second reading of JBGO #18-02 – Amendments to the City of Jenkinsburg Zoning Ordinance Table 8.1 and Table 8.2. A motion was made to adopt JBGO #18-02 – Amendments to the City of Jenkinsburg Zoning Ordinance Table 8.1 and Table 8.2 by Kenneth Rooks. The motion was seconded by Susan Barabas. Council voted: Jason Watts - yes, Joye England – yes, Kenneth Rooks – yes, and Susan Barabas - yes. The motion passed.

Public Hearing – Case #12(01) Joel Kuhn of Jenkinsburg, GA is requesting a rezoning from O-I Institutional District to HB – Highway Business District for property located at 2141 Highway 42 North (E0020-036-000), Jenkinsburg, GA 30234 in the First Land District, Land Lot 143. Mayor Ford called the Public Hearing to order and then turned the meeting over to City of Jenkinsburg Zoning Administrator, Christy Lawson. Lawson noted that the petition for rezoning had been submitted (November 2017) and reviewed under a prior comprehensive plan. The former comprehensive plan has been updated and was replaced in January of 2018. Under the most recent updated comprehensive plan (January 2018), this rezoning request is fully compatible with future land use planning. Lawson recommended approval of the rezoning request. Ford then opened the meeting for public comment.

Public Comments:

- In Favor: No comments were received in favor or in support of the request.
- In Opposition: (NOTE: Public comments received in black font; **response in red font**; **regulatory citations in blue font**)
David Massey, commenter: Per the following analysis requirement for rezoning requests:

Sec. 20-16.7. Analysis Requirements.

Applications to amend the official zoning map and applications for special exception uses shall provide a written analysis comparing the proposed action with the criteria in this Section.

(f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal

... there is grounds for disapproval based on the following.

Kuhn operates three businesses: a body shop, a health club and an auto sales location on two adjacent lots measuring .33 & .54 acres, respectively, for a combined total of .87 acres on which Kuhn operates a total of 3 businesses. The old

rules required a minimum .75 acres per lot and limits the use of the property to one use per tract, or in other words one business only.

Not relevant.

CHAPTER 20 ZONING ORDINANCE Adopted July 14, 2008

ARTICLE 3 DEFINITIONS

Lot: A portion or parcel of land intended as a unit for transfer of ownership or for development or both, intended to be devoted to a common use or occupied by a building or group of buildings devoted to a common use, and having principal frontage on a public road or an approved private road. In determining the area and dimension of a lot, no part of the right-of-way may be included.

Use, permitted: A use by right which is specifically authorized in a particular zoning district, or permitted by right in a particular overlay district if established.

Sec. 20-5.2. One Dwelling on a Lot.

Only one single-family dwelling and its accessory buildings may hereafter be erected on any one lot intended for such use, unless otherwise specifically provided in this Section.

(b) This provision shall not be construed to prevent the construction of more than one office, institutional, commercial or industrial building upon a single lot, in zoning districts where permitted, subject to setbacks and separation as provided in this ordinance.

One of the problems Kuhn has now is that the City has increased the minimum lot size to 1 acre, so I don't know how he is going to make up for that requirement on his existing lots.

Not relevant and not applicable. Recent zoning changes, approved by Council on March 26, 2018 with an effective date of April 1, 2018, cannot be applied retroactively and are not applicable.

But the issue I have is this, if you will look at the site plan he has submitted, the whole 6.509 acres is to be used for auto sales.

This is not a correct statement. Technically, Table 8.1 "Permitted and Special Exception Uses by Zoning District", in both the prior zoning regulations and as recently amended, the current zoning of O-I (under the former Table 8.1) and the proposed rezoning to HB (under both the former and amended Table 8.1) allow numerous permitted uses for this property.

And that's good, it eliminates one of the businesses he has over there, but he still has two businesses on only .87 acres of land.

Not relevant.

See above note: Sec. 20-5.2. One Dwelling on a Lot., subparagraph (b)

He is locking himself in by saying he is going to have auto sales on this 6.509 acres when he can in reality extend one of his lots to meet the new requirements. I don't know whether it would be an acre or .75 acre to make up what he is showing on yellow. That's one of his issues. He either has to close one of his businesses or he has to extend it over into this lot which he hasn't done on his site plan.

While Kuhn can certainly re-plat and subdivide the properties owned, in compliance with existing city ordinances, he is under no obligation to do so. We can find no city ordinance that requires or references the closing of an existing and properly licensed business due the rezoning of an adjacent property.

And all of you live around here like I do. You go to the Post Office and you can see that he has already extended his auto body shop business over into this lot and he doesn't have it on his site plan. He has nothing cut out for it and he has a 5 or 6 foot fence, privacy fence, where he is enclosing it in and he has to show that on his site plan.

Not relevant.

Table 8.1 "Permitted and Special Exception Uses by Zoning District", in both the prior zoning regulations and as recently amended, the current zoning of O-I (under the former Table 8.1) and the proposed rezoning to HB (under both the former and amended Table 8.1) allow this property to be used for off-site parking, in this case customer vehicles awaiting and/or in various stages of repair.

Parking lot, off-site: A parcel of land or portion thereof principally used for the parking or storage of motor vehicles whether or not a fee is paid for parking, not located on the same site as the destination of the motor vehicle operator.

Ford: [Attempt to re-direct the discussion to the subject matter] This hearing is for rezoning or not rezoning this particular piece of property, not related to his existing businesses.

Massey: It's part of it. What I'm telling you is that if you rezone this property here tonight, where he can't extend the lots anywhere he don't meet the minimum requirements then he is locked in.

Not relevant.

See above note: [Sec. 20-5.2. One Dwelling on a Lot., subparagraph \(b\)](#) with regard to the adjacent, existing businesses. Furthermore, changes in required acreage under new or amended zoning regulations cannot be applied retroactively to an existing lot of record and/or existing businesses.

You have to enforce the zoning ordinance whether you want to or not. Let me put this out there, the City Charter says the Mayor is responsible for enforcing the ordinances in this town. And having said that, if he doesn't have the minimum lot size for the businesses he already operates and you rezone this whole property for auto sales, he cannot extend his businesses to meet the requirements of the zoning ordinance.

Not relevant.

See above notes regarding: [Sec. 20-5.2. One Dwelling on a Lot., subparagraph \(b\)](#) and others.

Where he's over there, which all the years you would know and I am saying that he is already, in rezoning the property, he is already extending one of his businesses, his body shop, over into this lot and he doesn't show it on the site plan.

See above comments regarding: [Parking lot, off-site](#)

Ford: [Attempted to re-direct the discussion to the subject matter]

Massey: (interrupted) And it is directly related to this site plan and the rezoning of this property.

Ford: So, when he rezones this property, is the only thing he can do with it is put an auto sales business there? There's nothing else?

Massey: That is it exactly ... unless he comes back for a rezoning.

Ford: What if we rezoned this property and stated that he is limited to permitted uses on that property.

Massey: What is permit, what do you mean permitted use?

Ford: [recognized Zoning Administrator Christy Lawson to respond]

Lawson: When you rezone a parcel you are not rezoning it for a specific use. This is a proposed use that he would like to maybe do – circumstances could change. When you rezone, you are rezoning for every permitted use that's in that Zoning District, unless you put a condition on there, when you rezone, that it can only be used for a used car lot or whatever or a repair shop. But when you rezone you take into consideration that you are rezoning for every permitted use in that Zoning District. He is currently proposing to use it for an auto sales lot. He may change his mind before he gets ready to actually develop and do it.

Massey: What she is saying is not entirely true now. I have been with Miss Lawson for a long time and what she is saying is not entirely true.

We can find no erroneous information in Lawson's statement.

[Sec. 20-2.1. Responsibility for Interpretation.](#)

The Zoning Administrator shall be responsible for the interpretation of the requirements, standards, definitions, or any other provision of this zoning ordinance, unless that authority is provided to another administrative official within a specific Article.

Your ordinance requires him to turn in a site plan for what he is going to have on that property. He turned in a site plan right here, and in your book, saying that he is going to have an auto body shop with a 1000 sq ft building and that's good. That's great.

[Rezoning: An amendment to the Official Zoning Map, or an amendment to an overlay district boundary, that changes the zoning district or overlay district of one or more properties specified in an application.](#)

[Sec. 20-16.4. Application Requirements.](#)

Applications to amend the official zoning map of this Ordinance ... shall require submittal of an application meeting the requirements specified in this Section ...

- (a) Application fee as specified by this ordinance or established by resolution of the Council of the City of Jenkinsburg;
- (b) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
- (c) Legal description of the property;
- (d) Survey plat of the property;
- (e) Letter of intent describing the proposed use of the property or other action requested;
- (f) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements;
- (g) Statistics regarding the proposed development;
- (h) Written analysis of how the proposed action compares to decision criteria specified for deciding on the subject type of application;
- (i) Description of any special conditions voluntarily made a part of the request; and
- (j) Other information as may be required by the Zoning Administrator.

Sec. 20-16.5. Site Plan Requirements.

Applications described in this Article shall include a site plan, which shall at minimum include on the site plan information specified in this Section. The Zoning Administrator may waive one or more of the requirements of this Section in individual cases when he/she determines that one or more elements of the required information specified in this Section are not essential to the review process.

- (a) Existing and proposed buildings and structures;
- (b) Parking and internal circulation;
- (c) Buffers, where required; and
- (d) Other information as may be required by the Zoning Administrator.

But the problem he has is that the businesses that he has operated and don't ... (unknown) and she keeps giving him business licenses for and he shouldn't be able to get a business license if he is not in compliance with the zoning ordinance. But the real issue that I have and she can see it and you can see it, he has extended his body shop with a fence over into this site plan.

The fencing added to screen the off-site parking area and to provide additional security is in full compliance with all zoning requirements. See additional information below.

Structure: Anything built, constructed or erected, or established or composed of parts joined together in some definite manner, the use of which requires location on the ground or which is attached to something having permanent location on the ground. For purposes of this ordinance, swimming pools, tennis courts, signs, dog houses, and outdoor fenced animal runs are considered structures. Tents, vehicles, trailers, and play equipment attached to the ground in some permanent or temporary way shall be considered structures. A structure may or may not be easily moved from a given location on the ground. Walls and fences are considered structures but are subject to setback regulations for walls and fences rather than principal or accessory building setback regulations. Driveways and parking lots are not considered structures.

Sec. 20-10.6. Fences and Walls.

(a) Setback and Location. Fences and walls are not required to be setback from a rear or side property line; provided, however, that in cases where a fence is proposed to be established along a side or rear property line, the Zoning Administrator may require a letter, plat or deed as evidence of a written and signed agreement between the property owners to permit the fence at or along a common property line. In no instance shall a fence or freestanding wall be erected in a manner that obstructs visibility at road intersections (i.e., within a site visibility triangle established by this Ordinance). Retaining walls and subdivision entrance monuments shall not be placed within the right-of-way of a local road or state highway.

He doesn't show it on the site plan. He has to cut out, if he is going to use part of this with his body shop, he has to cut the tract out, survey it out and show how much of this he is using for his body shop. I mean, I don't know why anybody uh, uh, don't know why she can't understand this. The ordinance says and here's where hopefully you can, uh, the ordinance says one use per tract of land.

Lawson: No it does not.

Not relevant.

See above note: [Sec. 20-5.2. One Dwelling on a Lot., subparagraph \(b\)](#)

Massey: It does.

Ford: [again attempted to return the topic to the subject at hand] We are not here to discuss what it says or not, or whether we have done something right or wrong. I am here tonight to discuss that particular piece of property. Are we going to rezone it from Office-Institutional to Highway Business? The rest of this will have to be taken up outside of this Public Hearing. This is not the subject matter that we are talking about – his existing businesses.

Massey: Actually it is the subject.

Ford: Actually it is not the subject.

Massey: [continued] You can see it as well as I can see it, that, and it all goes back to your Comprehensive Plan which you have agreed to fix some of these things. But you haven't done anything. And I don't thank you for that. As the only person that sits on this Board (unknown) his watch right there (unknown)

[At this point, Mullis pointed out that the allotted 10 minutes for individual comment is about to be over.]

[Sec. 20-14.6. Public.](#)

....

[\(c\) There shall be a time period of ten \(10\) minutes per application at the public hearing for the opponents to present data, evidence, and opinions and ask questions; however, the hearing body shall not be obligated to provide the full ten-minutes per application to the opponents if they elect not to use that much time.](#)

Massey: And the only thing that you, that he cannot do without showing it on the plat, on his site plan, is extending his body shop over into it without cutting it out, without cutting it out and making it a part of the lot which he has there. And you don't see him doing it. That's one reason it shouldn't be rezoned until he turns in a site plan showing what he is actually doing. The ordinance requires a site plan. That's the reason he had to go back and do it over. And here's his site plan. He can't use some more of this acreages for another business or part of a business. But when he does he has to come back with a site plan even if you rezone it. And what I am saying, does that make sense?

Ford: Even if we rezone it, when he does something for example, comes back to actually develop the property, he will have to have a site plan. But he does not have to have a site plan until he does something.

Massey: He has already done something. He has extended the body shop over there.

Ford: I don't think he has extended his body shop. He is using the property for offsite parking or something like that. I'm not really positive.

Massey: And you're not interested enough to even ask him. He's not here tonight, so you can't ask him what he's doing down there or what the fence is about. If he's expanded his body shop over in there.

Ford: If you would just instruct us on what we should do, I'll be glad to have someone try to follow up on this. I am not here to debate this nor do I feel capable of that.

Massey: There is nothing here to debate. You were capable enough to come before the Planning Commission and try to interfere and tell them how to do their business on the changing of the tables, but when it comes to enforcing the ordinances, you don't seem to know a whole lot about it.

Barabas: What have you got against this man?

Massey: I don't have anything against him. What I'm trying to do ...

Ford: (gave the meeting to order) Let's stop - right now. We are discussing rezoning this piece of property.

Massey: And that's what I am discussing.

Ford: All right. There is no question as to what he is doing right now on this piece of property. And I don't know if I am stuttering or you can't hear. That's the only reason I am raising my voice is for you to understand that we are talking about rezoning this piece of property, not these other businesses.

Massey: You want to make stuff argumentative. You don't want to understand what your ordinance says and what's actually happened and what is supposed to happen.

Mullis: Time is up.

See above comment. **Sec. 20-14.6. Public.**

Ford: Thank you for your comments.

Massey: [continues] And another problem is with Spieks, Kuhns and with Upchurch up there, which you are not in the very least enforcing your ordinance Mr. Ford. And you by Charter are supposed to be doing that. And you know if you don't want to do what the Mayor is supposed to do, vacate the seat.

Ford: I can do that at a moment's notice and if you can get the citizens ...

Massey: (interrupting) Because you are doing more harm to this city than anybody I know by not enforcing the zoning ordinances, you and her right there (Lawson). Hands out business licenses on lots that don't even meet the minimum requirements. I know what you are going to do, but you can go ahead and do it. The man don't even have to be here. It's always been pre-approved. Have a great day Eddie Ford. You are a great bunch. You ought to be ashamed of what you do. [as Massey exits the building] You let the Clerk use the zoning map like a coloring book, ... (unknown) colored zone map ... (unknown) and then you sit up there and say you know ... (unknown).

Door closes.

The Public Hearing was then closed by Ford.

Sec. 20-14.9. Decision.

- (a) After the public hearing is closed, the hearing body may either vote upon the application or may delay its vote to a subsequent meeting, subject to the limitations of this Ordinance, provided that notice of the time, date and location when such application will be further considered shall be announced at the meeting during which the public hearing is held.
- (b) After hearing evidence, in making a decision, the hearing body shall apply the evidence to the criteria specified in this Ordinance for the application in question and other considerations and recommendations as may be considered appropriate. It shall be the duty of the applicant to carry the burden of proof that approval of the proposed application will promote the public health, safety, morality or general welfare.

Mayor Ford asked if the council had any question or comment. Following a brief discussion of relevant points noted in the public comments above, Barabas asked if there was any reason a vote could not be taken tonight. Lawson indicated that there was nothing that prohibited a vote being taken as the 90-day moratorium adopted on January 9, 2018 had expired at close of business this date. Jason Watts made a motion to approve the rezoning to Highway Business consistent with all permitted uses available under the City of Jenkinsburg, Georgia Zoning Ordinance, amended April, 9, 2018. The motion was seconded by Susan Barabas. Council voted: Jason Watts - yes, Joye England – yes, Kenneth Rooks – yes, and Susan Barabas - yes. The motion passed.

Mayor's Report - None

Public Comments – None

Adjourn - Mayor adjourned the council meeting at 8:01 pm.

Recorded by: William Mullis – Deputy City Clerk