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RESOLUTION NO. 024-024

A RESOLUTION IMPOSING A MORATORIUM ON THE RE-ZONING OF ANY PROPERTY TO ANY R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, L-1, H-1 AND ALL PD ZONING DISTRICTS OR CLASSIFICATIONS; LIMITED FOR A PERIOD NOT TO EXCEED SIX (6) MONTHS WHILE THE COUNTY CONSIDERS UPDATES TO ITS ZONING ORDINANCE, COMPREHENSIVE PLAN, ZONING MAP, AND FUTURE LAND USE MAP; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE AND EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS recent development trends in the County of Effingham suggest that current trends for all zoning districts, may not be adequately addressed by the current County zoning ordinances, comprehensive plan, zoning map, and future land use map; and

WHEREAS the Board of Commissioners of Effingham County, Georgia (hereinafter referred to as "Board") is vested with substantial powers, rights and functions to generally regulate the practice, conduct or use of property for the purposes of maintaining health, morals, safety, security, peace, and the general welfare of Effingham County (hereinafter referred to as "County"); and

WHEREAS Georgia law recognizes that local governments may impose moratoria on zoning decisions, building permits, and other development approvals where exigent circumstances warrant the same, pursuant to the case law found at Taylor v. Shetzen, 212 Ga. 101, 90 S.E.2d 572 (1955); Lawson v. Macon, 214 Ga. 278, 104 S.E.2d 425 (1958); and City of Roswell et al v. Outdoor Systems, Inc., 274 Ga. 130, 549 S.E.2d 90 (2001); and

WHEREAS Georgia courts take judicial notice of a local government's inherent ability to impose moratoria on an emergency basis; and

WHEREAS the Georgia Supreme Court, in the case of DeKalb County v. Townsend, 243 Ga. 80 (1979), held that, "To justify a moratorium, it must appear first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and second, that the means are reasonably necessary for the accomplishment



of the purpose, and not unduly oppressive upon individuals.” The Board has found that the interests of the public necessitate the enactment of a moratorium for health, safety, morals and general welfare purposes by means which are reasonable and not unduly oppressive; and

WHEREAS the Board therefore considers it paramount that land use regulation continues in the most orderly and predictable fashion with the least amount of disturbance to landowners and to the citizens of the County. The Board has always had a strong interest in growth management so as to promote the traditional police power goals of health, safety, morals, aesthetics and the general welfare of the community; and in particular the lessening of congestion on County roads, security of the public from crime and other dangers, promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the County including access to air and light, and facilitation of the adequate provision of transportation and other public requirements; and

WHEREAS it is the belief of the Board that the concept of “public welfare” is broad and inclusive; that the values it represents are spiritual as well as physical, aesthetic as well as monetary; and that it is within the power of the Board “to determine that a community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled,” Berman v. Parker, 348 U.S. 26, 75 S. Ct. 98 (1954), it is also the opinion of the Board that “general welfare” includes the valid public objectives of aesthetics, conservation of the value of existing lands and buildings within the County, making the most appropriate use of resources, preserving neighborhood characteristics, enhancing and protecting the economic well-being of the community, facilitating adequate provision of public services, and the preservation of the resources of the County; and

WHEREAS the Board is, and has been interested in developing a cohesive and coherent policy regarding residential and commercial growth and zoning in the County, and have intended to promote community development through stability, predictability and balanced growth which will further the prosperity of the County as a whole; and

WHEREAS the Board has found that the interests of the public necessitate the enactment of a moratorium for the re-zoning of R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, L-1, H-1 and all PD zoning districts or classifications for health, safety, morals, and general welfare purposes by means which are reasonable and not unduly oppressive; and

WHEREAS the Board has, as a part of planning, zoning, and growth management, been in review of its zoning ordinances, comprehensive plan, zoning map, and future land use map, and has been studying the County's best estimates and projections of the anticipated developments within Effingham County; and

WHEREAS the Board deems it important to prudently and deliberately develop its zoning ordinances, comprehensive plan, zoning map, and future land use map in a manner which integrates the above-mentioned concerns and therefore considers a moratorium a proper exercise of its police powers; and

WHEREAS the Board is evaluating possible revisions to the County's zoning ordinances, comprehensive plan, zoning map, and future land use map with respect to the re-zoning of any property to any R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, L-1, H-1 and all PD zoning districts or classifications to address current development trends; and

WHEREAS it is in the best interest of the citizens of the County to place a moratorium on the re-zoning of any property to any R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, L-1, H-1 and all PD zoning districts or classifications until the review is completed.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF EFFINGHAM COUNTY, GEORGIA, in regular meeting assembled and pursuant to lawful authority thereof, as follows:

1. It is hereby determined that the County's zoning ordinances, comprehensive plan, and future land use map require review as they relate to re-zoning of any property to any R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, L-1, H-1 and all PD zoning districts or classifications; that substantial detriment and irreparable harm may result if further regulation of re-zoning of any property to any of the aforementioned zoning districts or classifications is needed and not implemented; that such review requires that there be a cessation of limited duration of all re-zoning of any property to any aforementioned zoning districts or classifications; and that it is necessary and in the public's interest to delay, for a reasonable and finite period of time, the re-zoning of any property to any of the aforementioned zoning districts or classifications to ensure that the design, development, and location of such are consistent with the long-term planning objectives of the County.

2. There is hereby imposed a moratorium on the application and processing by County staff of re-zoning of any property to R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, L-1, H-1 and all PD zoning districts or classifications.

3. The duration of this moratorium shall be until the County adopts amendments to its zoning ordinances, comprehensive plan, zoning map, and future land use map to address the above-mentioned concerns, abandons this effort by vote of the Board, or until 5:00 pm on February 6, 2025, whichever date is earliest.

4. This moratorium shall have no effect upon completed applications for re-zoning of any property to any R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, L-1, H-1 and all PD zoning districts or classifications which have been accepted for processing by the County's staff prior to the effective date of this Resolution, or the initial moratorium resolution; nor shall the moratorium have an effect on applications occurring before such effective date.

5. This moratorium shall have no effect upon application approvals occurring before the effective date of this Resolution.

6. It is hereby declared to be the intention of the Board that all sections, paragraphs, sentences, clauses and phrases of this Resolution are and were, upon their enactment, believed by the Board to be fully valid, enforceable and constitutional. It is hereby declared to be the intention of the Board that, to the greatest extent allowed by law, every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase therein. It is hereby further declared to be the intention of the Board that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution. In the event that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgement or decree of any court of competent jurisdiction, it is the express intent of the Board that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Resolution and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Resolution shall remain valid, constitutional, enforceable, and of full force and effect.

7. All Resolutions or parts of Resolutions in conflict with this Resolution are, to the extent of such conflict, hereby repealed.

8. The preamble of this Resolution shall be and is hereby incorporated by reference as if fully set out herein.

9. The proper officers and agents of the County are hereby authorized to take all further actions as may be required in connection with this Resolution.

10. This Resolution shall take effect immediately upon its adoption.

SO ADOPTED THIS ____ DAY OF AUGUST 2024.

BOARD OF COMMISSIONERS OF EFFINGHAM COUNTY, GEORGIA

WESLEY M. CORBITT, CHAIRMAN

ATTEST:

STEPHANIE JOHNSON, COUNTY CLERK

[COUNTY SEAL]