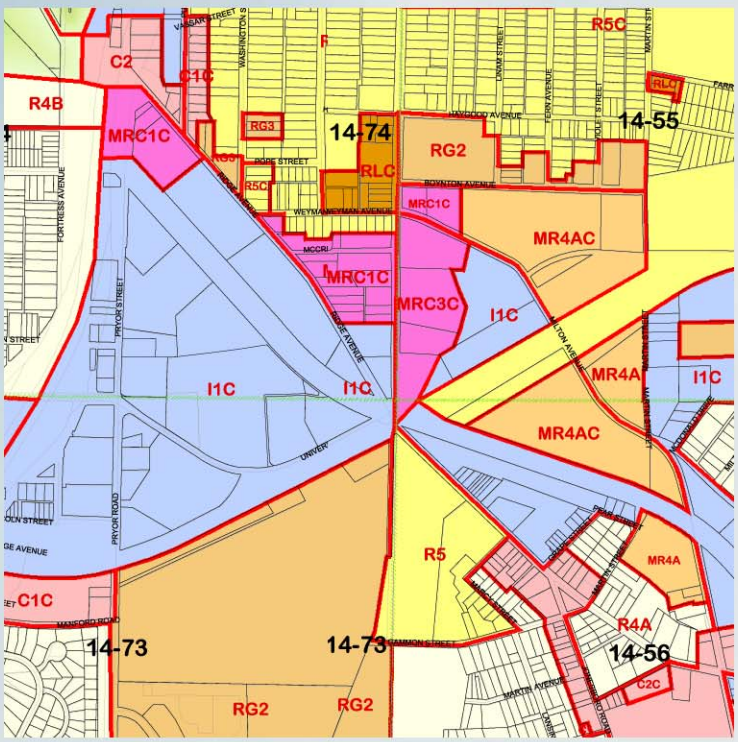
The Steinberg Act

- Zoning Standards in Georgia -



Past, Present, Future

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This Report was compiled and edited by Colleen Kiernan and Meg Robinson.

Introduction

Local governments across Georgia are increasingly adopting comprehensive development and land use plans to help manage growth and development at the local level. While these plans are an integral piece of comprehensive growth management for our state's future, the decisions made regarding zoning proposals at the local level are truly shaping the way Georgia grows. In this sense, the process that is required for zoning changes is meaningful for how Georgia's decision-makers continue to think about growth. An understanding of the laws that currently exist in Georgia to guide the zoning process, as well as an analysis of how effective those laws are, is critical to enhancing management of growth across the state and helping to protect the culture, history and natural resources that continue to draw people to our state.

In this report, our group will first outline the provisions included in the Steinberg Act, one of the two zoning laws passed in Georgia, as well as the legislative history of the Act. We will then provide an analysis of how state constitutional requirements impact the effectiveness of this law, as well as an assessment of Georgia's other relevant zoning laws. Using two case studies, we will then demonstrate the impact the Steinberg Act has on zoning decisions made at the local level. Finally, we will make recommendations for how the Steinberg Act can be made more effective for its continued use, drawing both from locally-enacted zoning ordinances in Georgia and examples of how other states have implemented effective growth management plans.

An Overview of the Steinberg Act (Meg Robinson)

The Steinberg Act was signed into law on April 8, 1985, becoming one of the first comprehensive zoning laws to be passed in Georgia.[1] The Act was eventually named for its original sponsor, State Representative Cathey Steinberg of DeKalb County, because of her prominent role in attempting to resolve zoning and other land use problems in Georgia.[2] Representative Steinberg was prompted to draft this particular bill in response to the Pine Hills Neighborhood Association's protest of a zoning proposal in her legislative district along Lenox Road.[3] The Act was designed to serve as the state legislature's response to increasing urbanization in Georgia.[4] At the time that it was passed, was considered a "stringent" measure that would require all local governments to "consider all potential ramifications of each zoning proposal and, thereby, facilitate administrative and judicial review of whatever action the condemnor government takes."[5]

The Act requires that local government planning departments, or other agencies charged with the review of zoning proposals, investigate and make a recommendation as to the proposal's compliance with each of six enumerated criteria.[6] The local authority investigating the zoning proposal is then required to make the written report of their findings available to the public.[7] The six criteria to be considered include:

> *(1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;*

[1] The Steinberg Act was passed as House Bill 235 and enacted O.C.G.A. § 36-66-1 through § 36-66-6. The code section was later changed to O.C.G.A. § 36-67-1 through § 36-67-6, separating the Steinberg Act from the Zoning Procedures Law.
[2] Northridge Cmty. Ass'n, Inc. v. Fulton County, 363 S.E. 2d 251, 252, 257 Ga. 722, 723, (1988).
[3] Interview with Cathey Steinberg, Former Georgia Legislator (April 4, 2007).
[4] O.C.G.A. § 36-67-2.
[5] Robert L. Foreman, Jr., T. Daniel Brannan, and Kimberly Payne, *Real Property*, 37 MERCER L. REV. 343, 351 (1985).
[6] O.C.G.A. § 36-67-3.
[7] O.C.G.A. § 36-67-4.

(2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

(3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

(4) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

(5) If the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan; and

(6) 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 zoning proposal.[8]

However, because of "Home Rule" under the Georgia Constitution (discussed in further detail below), the state is unable to proscribe specifically how these criteria are to be met or to mandate that a zoning proposal be denied if the criteria are not met. As a result, the Steinberg Act as a whole is often referred to as the "Steinberg Criteria," because the Act itself and the criteria contained therein actually function as suggestive guidelines for local governments to consider when reviewing a zoning proposal, rather than as an enforceable mandate.[9]

Legislative History (Meg Robinson)

In addition to the six criteria, the Steinberg Act contains a restriction on the Act's applicability based upon county and city population. Among the amendments made to the Georgia Constitution in 1983 is a prohibition on the passage of so-called "population" bills, meaning that bills could no longer be written with population used as a means of

[8] O.C.G.A. § 36-67-3(1)-(6).
[9] Interview with Cathey Steinberg, Former State Legislator, Ga. (April 4, 2007).

determining applicability.[10] The Steinberg Act was one of the last such "population" bills to be drafted successfully in Georgia.[11] As originally drafted in 1985, the Act only applied to those Georgia counties with a population of more than 400,000 persons and to municipalities within those qualifying counties with a population of more than 100,000 persons.[12] As a result, the Act would have applied only to the City of Atlanta, DeKalb County, and Fulton County at the time it was first passed.[13] By limiting the applicability of the Act in this manner, the legislature could target those increasingly urbanized areas in need of zoning procedures to manage growth, without also burdening less urbanized or rural areas in which zoning procedures may not be necessary at present.[14]

The Act's population provision was amended in 1992 by a stand-alone bill that changed the population restriction for counties such that the Act was applicable only to counties of 500,000 persons or more.[15] This bill made no other substantive changes to the original Steinberg Act. Based on Representative Steinberg's recollection, Cobb County legislators advocated for this change, as Cobb County was likely to be the next county to come under the purview of the Act at that time.[16] The population restriction of the Act was next amended in 2002. However, this time, the changes made to the Steinberg Act were a part of a "housekeeping" bill that made changes to 11 different and seemingly unrelated sections of the Georgia code, ranging from the regulation of the sale of alcoholic beverages, to law enforcement contracts, to zoning under the Steinberg

[10] GA. CONST. art. III, § 4, para. 4.
[11] Interview with Cathey Steinberg, Former State Legislator, Ga. (April 4, 2007).
[12] H.B. 325, 1985-1986 Leg. Sess. (Ga. 1985).
[13] Interview with Cathey Steinberg, Former State Legislator, Ga. (April 4, 2007).
[14] O.C.G.A. § 36-67-2.
[15] H.B. 2045, 1991-1992 Leg. Sess. (Ga. 1992).
[16] Interview with Cathey Steinberg, Former State Legislator, Ga. (April 4, 2007).

Act.[17] The 2002 amendment changed the population restriction for counties so that the Act was applicable only to counties of 625,000 persons or more and remains the requirement today.[18] The legislature's ability to change the population in the statute and, as a result, confine the applicability of the Act only to certain local governments is a significant loophole in the bill that has been exposed through the two amendments to the bill, as enumerated above.

Legislative Intent (Meg Robinson)

The legislative intent of the Steinberg Act has been documented in its statutory language since its inception. In particular, the Act's language highlights four legislative "findings" of the General Assembly to guide the use and implementation of the Act at the local level to further the policy of the Act:

> *(1)* *… that the procedures required by this article will help to ensure that governing authorities will make zoning decisions consistently and wisely and in keeping with the long-range requirements of the public health, safety, and welfare.*
>
> *(2)* *… that the procedures required by this article will help to ensure that zoning decisions are made on the basis of a record which will contain matters necessary to the consistent and wise decision of zoning matters in highly urban areas.*
>
> *(3)* *… that the procedures required by this article will help citizens of the affected local governments in presenting and articulating their viewpoints on zoning matters.*
>
> (4) *… that the procedures required by this article will help to ensure that court decisions, when courts are required to intervene in zoning matters, will be made on the basis of a record which will contain matters necessary to the consistent and wise judicial decision of such zoning matters.*[19]

[17] H.B. 1489, 2001-2002 Leg. Sess. (Ga. 2002); O.C.G.A. § 36-67-1 (2002).
[18] O.C.G.A. § 36-67-1.
[19] O.C.G.A. § 36-67-2.

The incorporation of this guiding policy language into the Act was of particular importance to Representative Steinberg, and she considers it one of the most significant achievements of the bill, in large part because of the emphasis this section places on the zoning process itself, as well as increased citizen participation in that process.[20]

Georgia "Home Rule" (Zack Rippeon)

Since 1983, local governments in Georgia have had the ability to enact their own land use regulations. However, the State has reserved the right to establish the procedures by which local governments exercise that authority. Article IX of the Georgia Constitution provides:

> *The governing authority of each county and of each municipality may adopt plans and may exercise the power of zoning. This authorization shall not prohibit the General Assembly from enacting general laws establishing procedures for the exercise of such power.*[21]

In 1951, the state legislature, acting under authority of the 1945 state constitution, passed the Municipal Home Rule Act granting cities the protection from state intrusion in their affairs. However, two years later, the Act was challenged and held unconstitutional by the Georgia Supreme Court.[22] In response, legislators proposed, and ultimately passed, a constitutional amendment for municipal home rule. Because it was a permissive authority for municipalities, the General Assembly was still required to enable the local city government to exercise such power through additional legislation. A similar constitutional amendment was passed in 1966 for counties in the state. But because counties had a self-executing power, they were allowed to take action without enabling legislation from the state. In 1969, the Georgia Supreme Court went a step

[20] Interview with Cathey Steinberg, Former State Legislator, Ga. (April 4, 2007).
[21] GA. CONST. art. IX, § 2, para. 4.
[22] Phillips v. City of Atlanta, 210 Ga. 72, 77 S.E.2d 723 (1953).

further and held that the amendments left the General Assembly with no power to regulate zoning or planning.[23]

A new state constitution was adopted in 1976, which allowed for the General Assembly to enact statutes that regulate, restrict, or limit the exercise of local government power, provided it does not withdraw such power. This provision, however, did not apply to the zoning or planning power of local government.[24] Current law still enables local governments to exercise the power to zone or plan for land use.[25]

The substance of any zoning or land use regulation is determined by the local government, typically a City Council or Board of Commissioners.[26] However, the General Assembly maintains the ability to specify procedures that local governments must apply when rezoning property.[27] The Steinberg Act is one of two specific pieces of legislation, both passed in 1985, governing the substantive and procedural power of local governments to zone. The Zoning Procedures Law[28] governs the procedural power and mandates due process requirements local governments must utilize, while the Steinberg Act "[29] elaborates several standards to account for with respect to land use decisions.

In addition to the procedural and substantive legislation in Georgia, local authorities must also consider protections under federal law, specifically the United States Constitution. Fifth Amendment takings analysis, due process, and equal protection rights must all be accounted for in zoning decisions. An ordinance must not be arbitrary, irrational, or evidence an abuse of discretion. Zoning and land use planning cannot

[23] Johnston v. Hicks, 225 Ga. 576, 170 S.E.2d 410 (1969).
[24] GA. CONST. art. IX, § 4, para. 2 (repealed 1983).
[25] GA. CONST. art. IX, § 4, para. 2
[26] Button Gwinnett Landfill, Inc. v. Gwinnett County, 256 Ga. 818 (1987).
[27] Northridge Cmty. Ass'n, Inc. v. Fulton County, 363 S.E. 2d 251, 257 Ga. 722, (1988).
[28] O.C.G.A. §§ 36-66-1 to -6.
[29] O.C.G.A. §§ 36-67-1 to -6.

discriminate against similarly situated property owners or unduly burden the use of land. Further, local governments, in exercising their authority to zone, must do so in the furtherance of the public health, safety, and welfare (commonly referred to as "police powers"). To protect due process rights, all decisions by a City Council or local board can only be made upon proper notice to the community and an opportunity for all concerned to be heard.

The Zoning Procedures Law and Procedural Due Process (Zack Rippeon)

In response to rampant political turmoil surrounding zoning decisions made in high growth areas during the 1970s and 1980s, the Georgia Legislature adopted a series of laws to ensure appropriate community interaction was made available in the zoning process. The Zoning Procedures Law ("ZPL") outlines procedural steps local governments are required to take when making zoning or land use decisions. Its intent was to "assure that due process is afforded to the general public..." when local government exercises its zoning power.[30] The ZPL includes minimum standards for public notice of, and operation of, zoning hearings to allow adequate opportunity for concerned citizens to be heard. It specifies:

(1) Notice of the zoning hearing must be published in a newspaper 15 to 45 days prior to the date of the hearing.[31] In some instances, signage must be placed on the property to be rezoned not less than 15 days prior to the hearing.[32]

(2) The notice must include the time, place, and purpose of the meeting.[33] Some property requires the identification of the present, and proposed, zoning classification.[34]

[30] O.C.G.A. §36-66-2(a).
[31] O.C.G.A. § 36-66-4(a).
[32] O.C.G.A. § 36-66-4(b).
[33] *Id.*
[34] *Id.*

(3) Local governments must adopt policies and procedures to be followed during the zoning hearings.[35]

(4) Proponents and opponents of the zoning request must be allotted "equal time", at a minimum of ten minutes each.[36]

(5) The general public must be made aware of the adopted policies and procedures for the zoning hearing.[37]

(6) The local government must adopt standards by which their exercise of zoning authority is governed.[38] For counties or municipalities with certain populations these standards must include those from the Steinberg Act.

(7) The public must also be made aware of these standards.[39]

(8) There is a six-month waiting period for any individual parcel upon which a rezoning request was denied.[40]

Georgia courts have been reluctant to allow any deviation from these minimum requirements. If an ordinance or zoning decision is challenged, and the local government has failed to abide by the procedures outlined in the ZPL, the ordinance is likely found to be unconstitutional, or the decision to zone is otherwise overturned. [41]

The Steinberg Act and Substantive Due Process (Zack Rippeon)

Adopted simultaneously with the ZPL, the Steinberg Act proscribes certain standards that must be considered in the decision-making process by local governments, as detailed in the discussion of the Steinberg criteria above. [42] In addition to these substantive requirements, the Act also requires certain administrative tasks to be

[35] O.C.G.A. § 36-66-5.
[36] O.C.G.A. § 36-66-5(a).
[37] *Id.*
[38] O.C.G.A. § 36-66-5(b).
[39] *Id.*
[40] O.C.G.A. §36-66-4(c).
[41] See McClure v. Davidson, 258 Ga. 706 (1988) (rezoning overruled for failure to adhere to advertising requirement of O.C.G.A. § 36-66-4(c)); Tilley Properties, Inc. v. Bartow County, 261 Ga. 153 (1991) (invalidated the county's zoning ordinance in its entirety for failure to hold public hearing, as required by O.C.G.A. § 36-66-5).
[42] O.C.G.A. § 36-67-3.

performed, both by the government and the applicant. The local planning staff is required to investigate and make recommendations on each of the factors listed above.[43] The applicant must prepare a written analysis of how each of those factors will be affected by their request.[44] Copies of both of these items must be made available for public review at the zoning hearing, and given to the governing authority beforehand.[45]

The burden on the applicant to analyze each of the factors has, in many cases, been overcome by short, non-informative responses. Government staff, feeling that the requirement to investigate the application was unduly burdensome and a hindrance to their constitutional power to zone, often overlooked the analysis provided. As development spread, the administrative burden on local planners increased to satisfy the new law. This ultimately led to a constitutional challenge of the Act.

In 1988, a neighborhood association and two of its members, filed suit against the developer, the Board of Commissioners of Fulton County, and three Fulton County officials, challenging their decision to approve a rezoning request that would permit the construction of a new office park.[46] The developer contended that the Steinberg Act unconstitutionally exceeded the authority granted by the Georgia Constitution.[47] The Supreme Court of Georgia held that the "Act's provisions...neither bind the local government in any way nor infringe on its ability to "exercise the power of zoning"" and, therefore "do not exceed the Act's constitutional authorization."[48] To date, there have been effectively no further constitutional challenges made against the Steinberg Act.

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[43] O.C.G.A. § 36-67-3.
[44] O.C.G.A. § 36-67-5.
[45] O.C.G.A. § 36-67-6.
[46] Northridge Cmty. Ass'n, Inc. v. Fulton County, 363 S.E. 2d 251, 257 Ga. 722, (1988).
[47] *Id.*
[48] *Id.*

Case Studies Introduction: Voluntary Implementation (Kevin Bacon)

Although the current population requirements of the Steinberg Act only mandate application to Dekalb and Fulton Counties and the City of Atlanta, many other municipalities in the state of Georgia have opted to implement the act voluntarily. The legislative intent of the original Act specifically states that the mandated zoning standards were created with the needs of more "urbanized" and "urbanizing" areas in mind. For example, the City of Bainbridge in Southwest Georgia had a population of 11,722 as of the 2000 U.S. Census, and their zoning ordinance (see Appendix D) incorporated all six "Steinberg criteria" as well as others that must be considered for all amendments to the city's zoning map.[49] Does Bainbridge really face the same challenges posed by growth as Atlanta to warrant use of the criteria? Is implementation of the criteria in the zoning standards of a much smaller municipality effective or even applicable? When the Act was passed in 1985, few jurisdictions had zoning. In the last 22 years, spurred by the Georgia Department of Community Affairs, more and more cities and counties have adopted both comprehensive and land use plans as well as zoning ordinances. Because of the local analysis the Steinberg Criteria elicit, they can be useful as a "one size fits all" zoning criteria.

To further illustrate how widely the six Steinberg Criteria are used voluntarily, Appendix E is survey of zoning ordinances from a selection of municipalities in Georgia whose Ordinances are kept by MuniCode. Two case studies are presented – one in Atlanta and one in Banks County – which were chosen to illustrate the similarities and differences that exist in the application process to rezone a parcel in Atlanta and in a

[49] City of Bainbridge, Ga., Zoning Oridinance, Community Development Division.

smaller municipality where several of the Steinberg criteria have been implemented into the local zoning ordinance, but not mandated by state law.

Case Study #1: GM Lakewood Property, Atlanta

(Kevin Bacon)

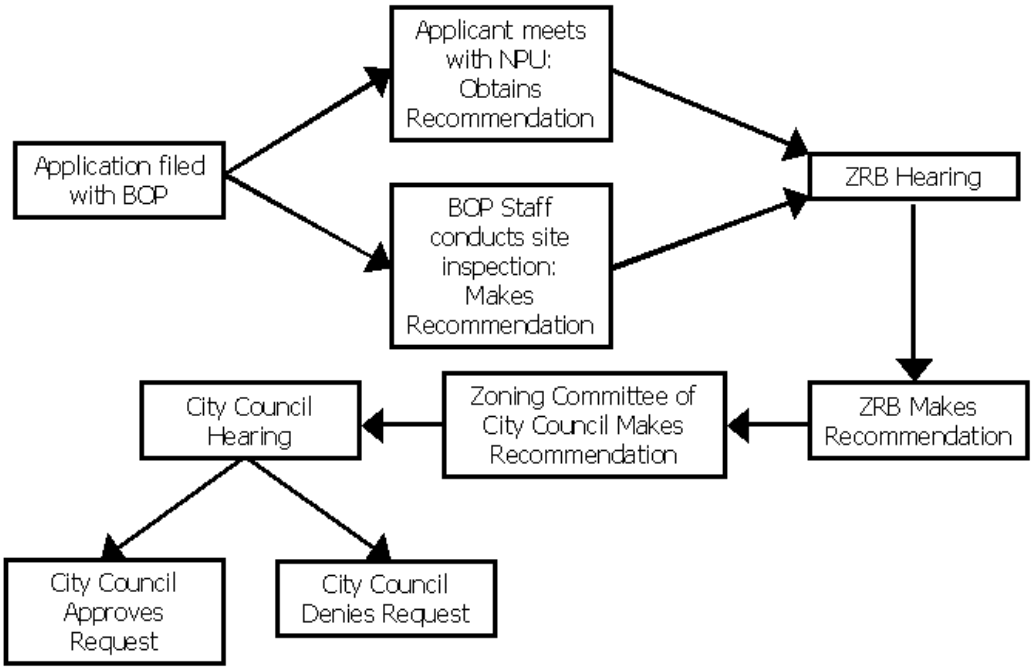
Map by Dale Dodson, AJC Staff

The first case study deals with the rezoning of a 39.7-acre parcel in the City of Atlanta that was once occupied by the old General Motors Lakewood Assembly Plant This parcel is presently zoned for I-2 Heavy Industrial use, per the city's current zoning map. A brief history of the site since the plant's closing in August of 1990 reveals a series of attempts aimed at continued use of this site in an industrial capacity. After the 1990 closing, General Motors placed the site on the real estate market. It was purchased in 1991 for $5 million by Mindis Industrial Corporation for use as its headquarters and integrated recycling facility over the next decade. Neighboring communities of Chosewood Park and Lakewood Heights voiced protest when Vehicle Recycling Solutions applied for a special-use permit allowing them to locate a salvage yard on the property in 1997,[50] calling into question the city's plan for continued industrial use of the site.

The diagram below illustrates the review process a rezoning application is required to undergo in Atlanta before final approval can be given. Vehicle Recycling Solutions obtained recommendations from both the Neighborhood Planning Unit (NPU-Y) and the Bureau of Planning (BOP), but the Zoning Review Board (ZRB) denied the

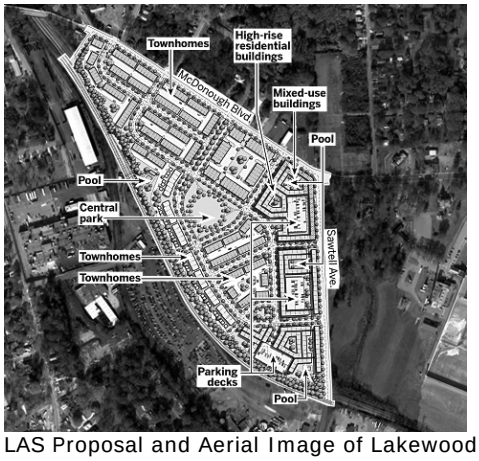
[50] Mara Rose Williams and S.A. Reid, *Community Wins Round Against Auto Salvage Lot*, ATLANTA JOURNAL-CONSTITUTION, August 21, 1997.

request, finding that the salvage yard permitted a use which presented unacceptable health and environmental hazards in addition to being incompatible with the vision for the area.



City of Atlanta Rezoning Process, From ZRB Website at http://www.atlantaga.gov/

In April of 2007, The *Atlanta Journal-Constitution* reported on a plan by local architectural firm Lord, Aeck, and Sargent to redevelop the site as a mixed-use project.[51] The new vision for the site represents the culmination of years of design work with input from the surrounding community. More than 49 new buildings were proposed for the redevelopment,



LAS Proposal and Aerial Image of Lakewood

[51] Mary MacDonald, *Neighbors See Promise in GM Site Plan*, ATLANTA 2007.

consisting of more than 1,000 new housing units including rental apartments, townhouses, and condominiums integrated with more than 25,000 square feet of ground floor retail space. Other amenities included in the plan are a 2.3-acre central park, several pools, a clubhouse, and parking decks. Paul McMurray, chairman of the neighborhood planning group, emphasized the neighborhood's embrace of the project saying, "It brings new residents to the area. It gives the prospect of changing the look of McDonough [Boulevard] from low-grade industrial to middle-income residential. It frees the neighborhood from the fear that we will be a site for low-wage, low-expectation junk business." [52]

Although the project was met with enthusiasm, the site still needed to be rezoned from its current I-2 Heavy Industrial status to the more appropriate MRC-3 Mixed Residential-Commercial classification. Having the approval of the neighborhood planning unit in-hand, the next step in the rezoning process was to submit the development proposal to the Bureau of Planning for review and recommendation based on it's completion of a *Documented Impact Analysis* as required in Atlanta to meet the requirements of the Steinberg Act. Appendix F includes a copy of the five-page *Documented Impact Analysis* by the Bureau of Planning recommending approval of the application to the Zoning Review Board on April 5, 2007. The first part of the analysis involves a concrete finding of facts primarily regarding the property's physical context and generally includes the following:

1) Property Location

2) Property Size and Physical Features

[52] Mary MacDonald, *Neighbors See Promise in GM Site Plan*, ATLANTA JOURNAL-CONSTITUTION, April 5, 2007.

3) Comprehensive Development Plan (CDP) Land Use Map Designation
4) Current/Past Use of Property
5) Surrounding Zoning / Land Uses
6) Transportation System

Once this has been completed, the documented facts along with the developer proposal serve as the basis for the conclusion of the analysis in respect to eight zoning standards adopted by the city:

1) Compatibility with the Comprehensive Development Plan (CDP); timing of development
2) Availability of and effect of public facilities and services; referral to other agencies
3) Availability of other land suitable for proposed use; environmental effect on land use balance
4) Effect on character of the neighborhood
5) Suitability of proposed land use
6) Effect on adjacent property
7) Economic use of current zoning
8) Tree Preservation (compliance with City of Atlanta Tree Ordinance)

While the above list presents only the titles of each criterion, the implementation of the criteria for zoning standards, as specified in the Steinberg Act, is clear. Part 16, Chapter 27 of the Code of Ordinances for the City of Atlanta (see Appendix G) provides a more exhaustive description as to the level of analysis expected for each corresponding criterion.[53] As exemplified by Atlanta's code, the level of analysis expected for a rezoning application is above and beyond a mere checklist.

Returning to the case at hand, the conclusions drawn by the Bureau of Planning in the analysis conducted for the Lakewood property proposal serve as an excellent example of how the checklist-approach is avoided. The first criteria – compatibility with CDP and

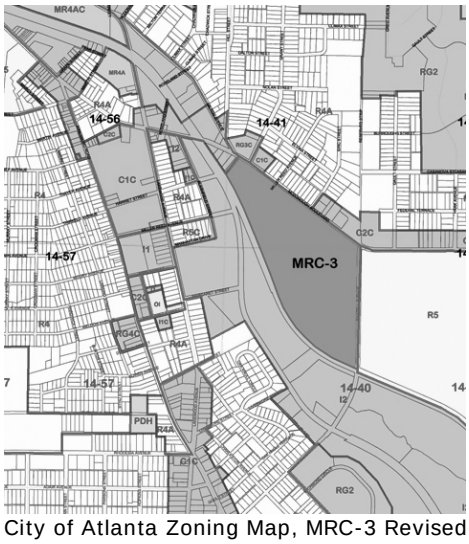
[53] City of Atlanta, Ga., Zoning Ordinance, Municipal Code Corporation.

timing of development – is a hybridization of Steinberg Criteria number five (conformity) and six (conditions). The BOP found that the proposed rezoning for the property was not in conformity with the 2004-2019 Comprehensive Development Plan for the neighborhood, which called for continued use of the property under its current industrial classification. However, this issue was resolved by submittal of an application for an amendment to the 15-Year Land Use Map in the CDP to ensure conformity. Additionally, the staff found no other public projects, programs, or conditions which would be in conflict with the timing of the project's development. Analysis of the second criterion – availability of public facilities and services (Steinberg criteria four, infrastructure) – concluded upon review that there was no indication that adequate public facilities and services were not available to support the proposal. A stipulation was also included that capacity and improvements of the sewage system would require further review by the Department of Watershed Management during the application process for a building permit.

The next two criteria used by the City of Atlanta go above and beyond those specified in the Steinberg Act and also warrant a review of the conclusions by the BOP. The first considers the availability of other land suitable for the proposed use. This portion of the report does not indicate the extent of area considered in finding an suitable, alternative site, yet concludes that under the current zoning map, no parcel was available that offered the MRC-3 zoning classification. The conclusion supports the rezoning of the parcel citing the "positive effect" the rezoning would have on the surrounding neighborhood and realization of the city's goal to promote mixed-use development.

The next criteria addresses the effect of the rezoning on the character of the neighborhood, and the conclusion essentially makes the same statement that replacing the "underutilized, depressed industrial site" with the mixed-use proposal would have a "positive effect" on the character of the neighborhood. Though they precipitated similar conclusions in this case, these extra criteria used by Atlanta as zoning standards allow for the positive nature of the zoning proposal to be more clearly stated.

The remaining criteria (Steinberg 1-3: suitability, adjacency, economic) do little to further the conclusions of the analysis beyond stating that the proposed rezoning to mixed-use was suitable, should have a positive impact on adjacent properties, and would "most likely" increase its economic value. Even the final criteria regarding tree preservation offers little more than the vague mention that the applicant intended to comply with the City of Atlanta Tree Ordinance. Based on the treatment of the final criteria, the effectiveness of the analysis could be questioned. However, in actuality, while the responses to the criteria themselves may seem overwhelmingly simple, they fail to capture the amount of true analysis that was conducted. In reality, Atlanta's supplemental criteria take the City beyond the Steinberg Act's mandate and give the BOP room to comment on the proposal in a more positive and conditional light. In this sense, the Steinberg Act provides a robust set of zoning standards that, when calibrated appropriately for the jurisdiction, can be very effective, as illustrated by the consideration given to the



City of Atlanta Zoning Map, MRC-3 Revised

rezoning of Lakewood by the City of Atlanta. While the Steinberg Criteria are good and useful in Atlanta, the additional criteria Atlanta uses do an even better job of getting to the heart of the issue – does this rezoning make the area better? This helps to inform us of how the Steinberg Criteria should be reworked when more broadly applied and explained in the "Recommendations" section.

Case Study #2: Banks County Agricultural to Residential Rezoning (Colleen Kiernan)

As Appendix G illustrates, the Steinberg Criteria have been incorporated in some way into most Georgia County and City zoning ordinances. To see an example of how the criteria for review are playing out in fast-growing counties on the fringe of Metro Atlanta, we now look at an example from Banks County.

Banks County is in northeast Georgia, at the intersection of I-85 and US-441. In 1997, Banks County adopted a zoning ordinance, which includes10 criteria for zoning decisions.[54]

(a) that the benefits of and need for the rezoning are greater than any possible depreciating effects and damages to neighboring properties or other parts of the county. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
(b) The extent to which property values are diminished by the particular zoning restrictions.
(c) The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.
(d) The relative gain to the public, as compared to the hardship imposed upon the individual property owner.
(e) The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
(f) The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.
(g) The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.

[54] Banks County, Ga., Code of Ordinances – Appendix A, Zoning.

(h) Whether the proposed zoning will create risk of adverse environmental effects to the community, including, without limitation, air pollution, surface water contamination or groundwater contamination.
(i) Whether the proposal will create risks that uses with nuisance characteristics will occur.
(j) Whether the proposed zoning will adversely affect property values of others.
(k) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans. The zoning administrative officer, planning commission, and governing body are authorized to require such special studies relating to the above factors as they reasonably deem relevant, including without limitation, for such matters as noise, air particulate matter, odor, surface or groundwater contamination, radiation, or other environmental or nuisance considerations. The governing body may the criteria set out above the rezoning is appropriate and has determined.

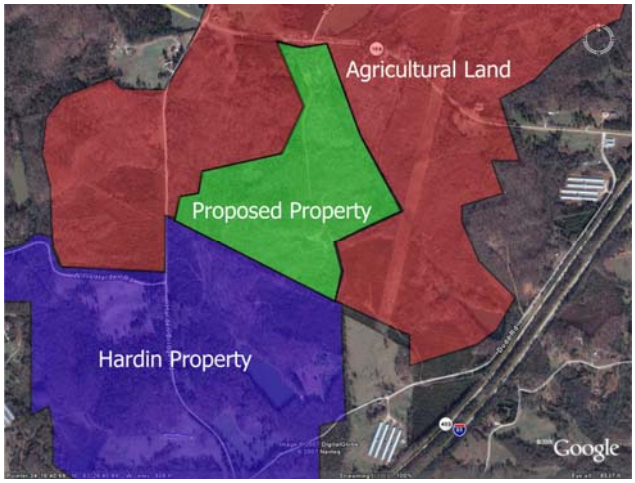
Banks County places the burden on the applicant to demonstrate how their proposal is consistent with the criteria.

The Proposal and Application

In Spring 2006, Bobby Caudell purchased 127 acres of land on Highway 164 that was zoned ARR (Agricultural) and used for timber harvesting at the time he purchased it. He proposed to build a subdivision of 98 "starter homes" to be served by septic systems and County water, and thus, needed to get the property rezoned to R-1 (Residential). The surrounding property is also ARR (see red areas below) and CAD (Consolidated Agriculture District, see purple below).

The property has some steep slopes as well as a stream that runs through it and drains about 50% of the property on to the Hardin property. The Hardins own a commercial nursery, where they grow rhododendrons that they sell to about 300 stores in a five-state area.[55] Their property contains an eight-acre irrigation lake, which they use to water their plants. The Hardins are concerned that the grading that will be done to make the site suitable to build houses, combined with the resultant increase in impervious surface, will increase the sedimentation flowing in the stream and into their lake.

[55] Interview with Kasey Sturm, Attorney, Stack & Associates. (March 27, 2007).



On June 13, 2006, Caudell submitted an application to rezone the property. Banks County requires that an application include:[56]

1. A metes and bounds description of the property.
2. Boundary surveys of the property.
3. A letter of intent which describes general characteristics of the proposed development such as type and time frame of development and background information in support of the application.
4. A site plan containing, at a minimum the following information:
    a. Title of the proposed development and the name, address and telephone number of the property owner.
    b. The name, address and telephone number of the architect, engineer or other designer of the proposed development.
    c. Scale, date, north arrow and general location map showing the relationship of the site to street or natural landmarks.
    d. Boundaries of the subject property, all existing and proposed streets, including right-of-way and street pavement widths, buildings, water courses, parking and loading areas and other physical characteristics of the property and the proposed development.
5. Application fee.

The Application contains a list of the 10 criteria, which are to be used in compiling a response to 3. Although Caudell fell short on submitting many of the details required in the application, his response to the zoning criteria is illustrative of the shortcomings of the application, namely the incomplete and insufficient response it garners:

A. Clara McGuire Went – Zoned ARR, use – home & vacant land
Emily W. Betts – Zoned ARR, use – vacant land
WN Harden, Jr. – Zoned CAD, use farm & nursery business
Nora Gordon Clarke – Zoned ARR, use – vacant land

[56] Application to Rezone Z-06-06, Banks County (proposed Jun. 13, 2006) (approved Aug. 8, 2006).

Vivian A. Davenport – Zoned ARR, use – home & vacant land

B. Property values should be enhanced
C. There should be no destruction of property values
D. No hardship should be imposed
E. Present zoning of ARR doesn't allow for the highest and best use of the property
F. The property is cut over wooded land presently and doesn't have any homes on it. The development of new homes on the property should allow for the need of new homes in this area. There are 5 new homes being built on Hwy 164 currently
G. No excessive burden will result. The property is served by a state highway (Hwy 164) and a county road (Harden Bridge Road)
H. There should not be any adverse environmental effects by this change
I. No risk with nuisance characteristics should occur
J. The property values of others should be enhanced
K. This zoning proposal is in conformity with existing uses

The five-member Banks County Planning Commission voted to approve the rezoning application on July 10, 2006. This vote was based on the Zoning Administrator's recommendation, which minutes indicate were based on the criteria to rezone. Several neighboring property owners spoke out, opposing the change. The Board of Commissioners took the matter up the following day, July 11, 2006. The matter was tabled after several neighboring property owners as well as commissioners expressed concern about the impact on the county's resources, especially schools and the environment. The matter was discussed again at a July 21, 2006 Board "Work Session." Commissioners again expressed concern about the lack of detail Caudell provided and as a result, gravitated toward establishing conditions to for Caudell to meet in order to approve the rezoning. On August 8, 2006, the Board of Commissioners approved the rezoning with the following conditions:[57]

- Homes must have a minimum heated area of 1,400 square feet (w/attached garage)
- Driveways must be paved concrete driveways to the garage
- Brick or Rock façade on front of house
- Must establish a Homeowner's Association at the completion of the development
- The number of homes must be limited to 98 homes, as proposed
- Sidewalks – Must have a minimum of 36" Sidewalks
- Greenspace – 35 foot undisturbed buffer surrounding the creek on property

[57]Meeting of the Banks County Commission (Aug. 8, 2006).

Given this enumerated list of conditions to be met prior to rezoning, Caudell's initial response to the conformity criteria is of particular interest. In his initial response, Caudell simply stated that the proposal was in conformity with existing uses. However, the Banks County Comprehensive Plan states as one of its fundamental goals the need to protect the County's rural nature and agricultural land.

This case study illustrates how the incorporation of Criteria for Review for Zoning Applications can provide some context in which a jurisdiction can add conditions to their approval of a rezoning. However, in this case, the Criteria were not a great deal more than a checklist. Little, if any, of the additional information the County expressed interest in having, was generated. It also provides a good basis for ideas about what would make the process of reviewing a proposal more meaningful with regard to such criteria.

Recommendations

Given that the Steinberg Act was written 22 years ago and that the state has experienced explosive growth during that period, the time is ripe to re-examine the Act. While the Steinberg Criteria remain relevant and are actually broadly applied throughout the state, changes based on the original legislative framework may prove unworkable. We first examine two seemingly obvious alternatives, that in actuality, are not feasible in Georgia.

Legislatively Mandating Steinberg Statewide (Zack Rippeon)

Unlike the ZPL, under which a violation of statutory procedures likely results in an ordinance being found unconstitutional or a particular zoning decision being overturned, violations of the Steinberg Act are not enforceable. This is due, in large part,

to the Home Rule doctrine, preventing the state from interfering with local governments' ability to determine the substantive content of their land use ordinances. Home Rule precludes the General Assembly from legislatively mandating the implementation of the Steinberg Act for all counties and municipalities. Instead, as a result, giving the Steinberg Act the same force of law as the ZPL would likely be found unconstitutional.

Changing Applicability Based on Size and Population (Alex Fite-Wassilak, Colleen Kiernan & Meg Robinson)

Because the Steinberg Act recognized a need to not place undue burden on rezoning applicants in rural areas, we explored different ways to change the applicability based on the size of the rezoning and the population of the jurisdiction. First, we considered a policy target at rezoning applications of greater than four or five acres to get at the impacts created by larger developments and avoid making smaller changes subject to such thorough review. However, savvy developers could subdivide their larger parcels to avoid this requirement.

Another approach to updating the Steinberg Act with regard to size applicability was to revisit the population requirement of the bill. Because the population requirement has been "bumped up" twice, we thought about the possibility of bumping it back down. Problems with this overall approach became evident. Though population figures are relatively easy to track because of the national census, they are only measured every ten years. However, during those 10 years, it is possible that a county or municipality could grow to such an extent that the opportunity to manage growth may be missed. Given local governments reluctance to be forced into compliance, as seen in the two "bump ups" of the Steinberg Act's population requirement, a "carrot" approach is preferable to a

"stick" approach. Neither population size requirements nor legislative action are an effective way to implement growth management tools in Georgia.

Give Georgia Department of Community Affairs Responsibility (Alex Fite-Wassilak, Colleen Kiernan & Meg Robinson)

Due to the Constitutional constraints imposed by Home Rule in Georgia, the Legislature is unable to develop a meaningful legislative tool for evaluating and enforcing changes to zoning. Instead, an executive agency already involved in planning, such as the Department of Community Affairs (DCA), may be better suited to provide and help implement such a meaningful tool.

DCA develops standards and procedures for comprehensive planning, as well as assists counties and municipalities with plan implementation. As part of their process, DCA certifies local governments, and those "Qualified Local Governments" (QLGs) are entitled to a host of statewide funding incentives, provided they meet and continue to maintain their QLG status. The funding areas range from Business Development and Local Development to Water and Sewer Infrastructure and Historic Preservation. The funds available in these and other areas would provide sufficient incentive to implement zoning standards. In the history of the QLG practice, only a few cities and counties have not met their requirements, and even then, they have only been unqualified for brief periods.

We propose that DCA modify the Steinberg Criteria (detailed below) and issue it as a "Zoning Guidance Document." Within two years, jurisdictions will have to incorporate those standards to keep their QLG status. Jurisdictions would be able to go beyond the minimum to add locally pertinent requirements – environmental or historic,

for example. This way of implementing the Steinberg Criteria respects Georgia's Home Rule by using an already effective incentive system. Since its inception in 1989, DCA has not dealt with zoning directly very often. However, in April 2002 the agency completed and released a model rural code, which prominently featured the Steinberg Criteria. A scheme for implementing zoning standards as part of QLG status would be a natural next step, when considering their current programming as well as the 2002 Model Code.

The Steinberg Criteria are rigorous and examine a broad range of concerns. However, without sufficient enforcement, they have little power. As illustrated by the Banks County case study, the criteria can be reduced to merely a checklist. Applicants in some jurisdictions simply check a box for "yes" or "no" or can give cursory responses that in no way do justice to the serious questions that are posed. Brunswick, on the other hand, requires each applicant to answer a series of sub-questions, which results in a more thorough analysis of the impacts of the rezoning.

It is appropriate for both the applicant and the planning officials to be involved in the fact-finding during the process. However, the applicant should retain the primary burden of demonstrating that the proposal complies with the locally adopted standards. The application should contain responses to the criteria based on results from analysis, pictures, diagrams, and factual information instead of purely subjective statements. The planning official should be responsible for fact-checking and following up if information is incomplete.

Finally, some view the Steinberg Criteria serve as a basis for a jurisdiction to deny a rezoning application. Instead, the Steinberg Criteria should serve as a basis for

answering the question, “does this proposal make the area better?” To accomplish this, the Criteria should be reframed in a more positive light to create quality growth. For example, in the Atlanta case study, the mixed-use development was not in conformity with the existing land-use, but it offered some positive aspects for the surrounding neighborhoods.

	Current Steinberg Criteria	Proposed Steinberg Criteria
1	Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.	Would the proposed rezoning precipitate similar rezoning requests which would generate or accelerate land use changes in the neighborhood.
2	Whether the zoning propsal will adversely affect the existing use or usability of adjacent or nearby property.	Is the proposed zoning classification one which would promote integrity of the neighborhood and preserve its general character?
3	Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned	How would the proposal enhance the economic use of the property and the surrounding area
4	Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools	To what exent does the zoning proposal enhance or provide streets, transportation facilities, utilities, schools or other public facilities or amenities?
5	If the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan	If the local government has an adopted comprehensive plan or community vision is the zoning proposal in conformity or realize the plan/vision in a way not currently specified
6	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 zoning proposal	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 zoning proposal

Rather than focusing on the negative impacts of a development or zoning change, questions rewritten could encourage thinking by planning staff and applicants of some of the larger impacts.

Feasibility (Meg Robinson)

To consider the feasibility of our recommendation, it is important to also consider how incentive-based growth management policies have worked in other states. A number of states have developed incentive-based approaches for encouraging smart growth that meets relevant state-defined criteria. It is important to note that when considering the examples in other states, not all states are Home Rule states. As a result, the constitutionality of incentives to be used must be considered before any program modeled after another state's program can be implemented. While none of the examples enumerated below necessarily combine state-offered incentives and criteria for zoning specifically, they are each tied to certain criteria that a local government must meet before they are eligible for state funding. In this sense, they serve as illusory evidence that tying the Steinberg Criteria to state dollars, as we propose to be administered through DCA, is a plan that could work in Georgia.

At the forefront of growth incentive programs is Maryland's Smart Growth program, lauded nationally for its unique approach to encouraging smart growth at the local level.[58] Based on the idea that states can in fact alter development behavior through the use of state financial resources, Maryland's program relies on incentives, rather than regulations, providing state dollars for those local development projects that comply with

[58] John W. Frece, *Symposium 2005: Twenty Lessons from Maryland's Smart Growth Initiative*, 6 VT. J. ENVTL. L. 13 (2005).

state-identified smart growth principles. By making money available for smart growth-based projects, Maryland lawmakers hope to impact growth decisions made in the state.

Another example is the Illinois Tomorrow program, administered through the Illinois Department of Transportation.[59] This voluntary, incentive-based program is designed to provide municipalities with the tools that they need to encourage the creation, expansion, and restoration of livable communities through the issuance of state grant money to support planning activities that promote integration of land use, transportation, and infrastructure facility planning.

Yet another example is Maine's Smart Growth Action Plan, which limits growth-related capital investments at the state level to areas designated for growth by local governments.[60] In addition the state has also doubled the state funding of local comprehensive plans and implementation programs for smart growth.

[59] Patricia E. Salkin, *The Smart Growth Agenda: A Snapshot of State Activity at the Turn of the Century*, 21 ST. LOUIS U. PUB. L. REV. 271 (2002).
[57] *Id.*

APPENDIX A

ZONING AND PLANNING IN COUNTIES AND CITIES IN COUNTIES OF 400,000 OR MORE.

Code Sections 36-66-1 through 36-66-6 Enacted

No. 666 (House Bill No. 325).

AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to specify certain zoning procedures to be followed in counties having a population of 400,000 or more and in certain municipalities wholly or partially located within such counties; to state legislative intent; to provide that in each such county or municipality which has established a planning department or similar agency the planning department or similar agency shall make an investigation and recommendation with respect to certain matters; to provide that in each such county or municipality which has established a planning commission or similar body the planning commission or similar body shall make an investigation and recommendation with respect to such matters; to provide that there shall be a written public record of such investigations and recommendations; to require persons initiating zoning proposals to make certain analyses of impact of proposed zonings; to provide that such investigations and recommendations shall be reviewed at hearings and meetings on zoning proposals; to provide for other related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new Chapter 66 to read as follows:

"CHAPTER 66
ARTICLE 1

36-66-1. This article shall apply only to those countries which have a population of 400,000 or more according to the United States decennial census of 1980 or any future such census and to those municipalities wholly or partially located within such counties which have a population of 100,000 or more according to the United States decennial census of 1980 or any future such census. As used in this article, the term 'local government' means those counties and municipalities subject to this article; and the term 'governing authority' means the governing authority of each such county and municipality.

36-66-2. The General Assembly finds that the increasing urbanization of those local governments subject to this article requires that such local governments should use zoning procedures which may not be necessary in other less urbanized areas. The General Assembly finds that the procedures required by this article will help to ensure that governing authorities will make zoning decisions consistently and wisely and in keeping with the long-range requirements of the public health, safety, and welfare. The General Assembly further finds that the procedures required by this article will help to ensure that zoning decisions are made on the basis of a record which will contain matters necessary to the consistent and wise decision of zoning matters in highly urban areas. The General Assembly further finds that the procedures required by this article will help citizens of the affected local governments in presenting and articulating their viewpoints on zoning matters. The General Assembly further finds that the procedures required by this article will help to ensure that court decisions, when courts are required to intervene in zoning matters, will be made on the basis of a record which will contain matters necessary to the consistent and wise judicial decision of such zoning matters.

36-66-3. In any local government which has established a planning department or other similar agency charged with the duty of reviewing zoning proposals, such planning department or other agency shall with respect to each zoning proposal investigate and make a recommendation with respect to each of the matters enumerated in this Code section, as well as carrying out any other duties with which the planning department or agency is charged by the local government. The planning department or other agency shall make a written record of its investigation and recommendations, and this record shall be a public record. The matters with which the planning department or agency shall be required to make such investigation and recommendation shall be:

(1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

(2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

(3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

(4) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

(5) If the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan; and

(6) 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 zoning proposal.

36-66-4. In any local government which has established a planning commission or other similar body charged with the duty of making recommendations with respect to zoning proposals, such planning commission or other body shall with respect to each zoning proposal investigate and make a recommendation with respect to each of the matters enumerated in code Section 36-66-3, as well as carrying out any other duties with which such planning commission or other body is charged by the local government. The planning commission or other body shall make a written record of its investigation and recommendations, and this record shall be a public record.

36-66-5. If a zoning proposal is initiated by a party other than the local government, the initiating party shall be required to file a written, documented analysis of the impact of the proposed zoning with respect to each of the matters enumerated in Code Section 36-66-3, as well as any other supporting materials required by the local governing authority. The time at which such analysis is required to be filed shall be specified by each local governing authority, but the required time for filing shall not be less than seven days before any hearing or meeting of the governing authority at which the zoning proposal will be under consideration by the governing authority. Such a zoning proposal and analysis shall be a public record.

36-66-6. At any hearing or meeting at which a governing authority has under consideration a zoning proposal, the analysis submitted by the initiating party, if any, shall be reviewed. At any hearing or meeting at which a governing authority has under consideration a zoning proposal, the record prepared by the planning department or other agency, if any, shall be reviewed. At any hearing or meeting at which a governing authority has under consideration a zoning proposal, the record prepared by the planning commission or other group, if any, shall be reviewed. The review of such analysis and records at such hearing or meeting shall consist, as a minimum, of an oral statement of the findings with respect to each matter enumerated in Code Section 36-66-3 or the written presentation of such findings to the members of the governing authority together with a limited supply of copies of such findings to be available at the hearing or meeting and available on request to interested members of the public."

Section 2. All laws and parts of laws in conflict with this Act are repealed.

Approved April 8, 1985.

APPENDIX B

the establishment of such program and the purposes thereof; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Article 3 of Chapter 4 of Title 20 of the Official Code of Georgia Annotated, relating to the special quick start training program, is amended by striking Code Section 20-4-40, relating to establishment of a program for quick start training, and inserting in lieu thereof a new Code Section 20-4-40 to read as follows:

"20-4-40. There is established a supplemental program to provide special quick start training to meet the employment training needs of new and expanding industry as well as certain existing industries which may qualify under rules established by the State Board of Technical and Adult Education. The program shall be governed by the State Board of Technical and Adult Education."

Section 2. All laws and parts of laws in conflict with this Act are repealed.

Approved April 17, 1992.

ZONING PROPOSAL REVIEW PROCEDURES — APPLICABILITY TO COUNTIES OF 500,000 OR MORE (FORMERLY 400,000 OR MORE).

Code Section 36-67-1 Amended.

No. 1234 (House Bill No. 2045).

AN ACT

To amend Article 1 of Chapter 67 of Title 36 of the Official Code of Georgia Annotated, relating to zoning proposal review procedures, so as to change the population figure describing

those counties in which certain municipalities shall be subject to said article; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Article 1 of Chapter 67 of Title 36 of the Official Code of Georgia Annotated, relating to zoning proposal review procedures, is amended by striking in its entirety Code Section 36-67-1, relating to applicability of the article, and inserting a new Code section to read as follows:

"36-67-1. This article shall apply only to those counties which have a population of 500,000 or more according to the United States decennial census of 1990 or any future such census and to those municipalities wholly or partially located within such counties which have a population of 100,000 or more according to the United States decennial census of 1980 or any future such census. As used in this article, the term 'local government' means those counties and municipalities subject to this article; and the term 'governing authority' means the governing authority of each such county and municipality."

Section 2. All laws and parts of laws in conflict with this Act are repealed.

Approved April 17, 1992.

ROBERT B. NETT MEDAL OF HONOR HIGHWAY — DESIGNATED.

No. 71 (Senate Resolution No. 485).

A RESOLUTION

Designating the Robert B. Nett Medal of Honor Highway; and for other purposes.

APPENDIX C

, RIDLEY COMMUNITY – DESIGNATION AS COMMUNITY.

No. 74 (House Resolution No. 981).

A RESOLUTION

Designating the Ridley Community in Murray County as a community; and for other purposes.

WHEREAS, the Ridley Community is located in Murray County on Georgia Highway 52 and U.S. Highway 76 between the William A. Ridley bridge and the intersection of Greeson Bend Road; and

WHEREAS, by the 1930's and thereafter, this area of Murray County had become known as Ridleyville; and

WHEREAS, with the passing decades the Ridley Community developed into a site for many Ridley families and their friends to live together, worship, learn, and work for the benefit of their families, friends, and Georgia; and

WHEREAS, the Ridley Community is honored to be recognized as the home of Georgia racing legend Jody Ridley, winner of over 500 career victories, the 1980 NASCAR Rookie of the Year, three time Super All Pro Series Champion and three time NASCAR All Pro Series Champion; and

WHEREAS, the residents of the Ridley Community having developed strong relationships and community pride wish to be recognized by the State of Georgia as a community and home to their favorite son, Jody Ridley.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the Ridley Community area in Murray County be designated a community in honor of its place in Georgia history.

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to erect and maintain appropriate signs so designating Ridleyville as a community and home to a great competitor and sportsman, Jody Ridley.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to Tyson Haynes, Commissioner of Murray County, and to the Department of Transportation.

Approved May 16, 2002.

OFFICIAL CODE OF GEORGIA ANNOTATED – CERTAIN LAWS BASED UPON CLASSIFICATION BY POPULATION AMENDED TO REVISE AND CHANGE THE POPULATION AND CENSUS APPLICATION.

Code Sections 3-3-7, 8-3-50, 15-16-10, 15-16-13, 31-3-2.1, 36-10-2.1, 36-67-1, 36-36-70, 36-82-1, 45-18-7, and 48-5-24 Amended.

No. 990 (House Bill No. 1489).

AN ACT

To amend certain laws and provisions of the Official Code of Georgia Annotated and certain codified and uncodified laws based upon classification by population so as to revise and change the population and census application; to provide for related matters; to provide for an effective date; to repeal conflicting laws and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The following portions of the Official Code of Georgia Annotated, as amended, are amended:

(1) Code Section 3-3-7, relating to local authorization and regulation sales of alcoholic beverages on Sunday, is amended by striking the introductory language of subsection (b) and inserting in lieu thereof the following:

"(b) In each county having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census in which the sale of alcoholic beverages is lawful:".

(2) Code Section 8-3-50, relating to housing authority commissioners, is amended by striking the introductory language of paragraph (3) of subsection (b) and inserting in lieu thereof the following:

"(3) In any county with a population of 800,000 or more according to the United States decennial census of 2000 or any future such census in which the governing body has adopted a resolution as provided in Code Section 8-3-5, the governing body shall, in addition to the other commissioners authorized under paragraph (1) of this subsection:".

(3) Code Section 15-16-10, relating to duties of sheriffs, is amended by striking subsection (c) in its entirety and inserting in lieu thereof the following:

"(c) In all counties of this state having a population of not less than 625,000 nor more than 725,000 according to the United States decennial census of 2000 or any future such census, it shall be the duty of the sheriffs of such counties to receive, confine, feed, and care for all persons charged with the violation of any

ordinances of such counties in the same manner as persons charged with an indictable offense, whether such person charged with the violation of an ordinance is being held pending a hearing before the recorder's courts of such counties or has been sentenced by the recorder's courts to imprisonment in the county jail."

(4) Code Section 15-16-13, relating to law enforcement contracts with municipalities, is amended by striking subsection (f) in its entirety and inserting in lieu thereof the following:

"(f) This Code section shall not apply to any county of 800,000 population or more according to the United States decennial census of 2000 or any future such census."

(5) Code Section 31-3-2.1, relating to the creation of county boards of health and wellness, is amended by striking subsection (a) in its entirety and inserting in lieu thereof the following:

"(a) This Code section shall apply only to those counties of this state having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census. To the extent that this Code section conflicts with or is inconsistent with other provisions of this chapter, the provisions of this Code section shall control within the counties in which this Code section is applicable. As used in this Code section, the word 'county' means a county to which this Code section is applicable."

(6) Code Section 36-10-2.1, relating to the letting of county contracts in counties with population of 550,000 or more, is amended by striking said Code section in its entirety and inserting in lieu thereof the following:

"36-10-2.1.

In any county of this state having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census, contracts for building or repairing any courthouse or other public building, jail, bridge, causeway, or other public works or public property shall be let to the lowest responsible bidder, but the governing authority of any such county shall have the right to reject any or all bids for any such contract. The governing authority of any such county, in considering whether a bidder is responsible, may consider the bidder's quality of work, general reputation in the community, financial responsibility, previous employment on public works, and compliance with a minority business enterprise participation plan or making a good faith effort to comply with the goals of such a plan."

(7) Code Section 36-67-1, relating to the applicability of zoning review procedures, is amended by striking said Code section in its entirety and inserting in lieu thereof the following:

"36-67-1.

This article shall apply only to those counties which have a population of 625,000 or more according to the United States decennial census of 2000 or any future such census and to those municipalities wholly or partially located within such counties which have a population of 100,000 or more according to the United States decennial census of 1980 or any future such census. As used in

this article, the term 'local government' means those counties and municipalities subject to this article; and the term 'governing authority' means the governing authority of each such county and municipality."

(8) Code Section 36-36-70, relating to approval of proposed annexations in certain counties, is amended by striking subsection (b) and inserting in lieu thereof the following:

"(b) The provisions of this Code section shall apply only to those counties of this state having a population of not less than 625,000 nor more than 725,000 according to the United States decennial census of 2000 or any future such census."

(9) Code Section 36-82-1, relating to election for bonded debt, is amended by striking subsection (b.1) in its entirety and inserting in lieu thereof the following:

"(b.1) In all counties of this state having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census, no county-wide bond election or school bond election in the unincorporated area of any such county shall be held on any date other than the date of the November general election; provided, however, that upon a determination by any superior court of competent jurisdiction that the holding of such election on the date of the November general election would cause irreparable harm to the electors of any such county, such election shall be held in the manner provided for in subsection (b) of this Code section."

(10) Code Section 45-18-7, relating to retiring employees continuing insurance coverage, is amended by striking subsection (b) in its entirety and inserting in lieu thereof the following:

"(b) Employees of the state-wide probation system administered by the Department of Corrections who were employees of a county probation system of a county having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census and who were members of a local retirement system and had ten or more years of creditable service under the local retirement system at the time the county probation system became a part of the state-wide probation system shall be eligible to continue coverage under the health insurance plan for the state employees upon retirement from a local retirement system by paying a premium set by the board. Such retired persons shall be eligible to enroll their spouses and eligible dependents in accordance with the regulations of the board. Such retirees shall be treated in the same manner as other retirees eligible to continue coverage under the Employees' Retirement System of Georgia. The board may promulgate and adopt rules and regulations governing continuance and discontinuance of coverage for such retired persons and their spouses and eligible dependents."

(11) Code Section 48-5-24, relating to payment of taxes in county in which returns are made, is amended by striking subsections (b) and (c) and paragraph (1) of subsection (e) in their entirety and inserting in lieu thereof the following:

"(b) In all counties having a population of not less than 625,000 nor more than 700,000 according to the United States decennial census of 2000 or any f such census, the taxes shall become due in two equal installments

the taxes shall be due and payable on July 1 of each year and shall become delinquent if not paid by August 15 in each year. The remaining one-half of the taxes shall be due and payable on October 1 of each year and shall become delinquent if not paid by November 15 of each year. A penalty not to exceed 5 percent of the amount of each installment shall be added to each installment that is not paid before the installment becomes delinquent. Intangible taxes in one installment shall become due on October 1 of each year and shall become delinquent if not paid by December 31. A penalty not to exceed 5 percent of the amount of intangible taxes due shall be added to any installment that is not paid before it becomes delinquent. All taxes remaining unpaid as of the close of business on December 31 of each year shall bear interest at the rate specified in Code Section 48-2-40, but in no event shall an interest payment for delinquent taxes be less than $1.00. The tax collectors shall issue executions for delinquent taxes, penalties, and interest against each delinquent taxpayer in their respective counties. Notwithstanding the foregoing, the governing authority of any county subject to this subsection may change the tax due dates provided in this subsection if the county's tax digest is not approved pursuant to Code Section 48-5-271 before July 1 of any year.

(c)(1) All ad valorem taxes, fees, service charges, and assessments owed by any taxpayer to any county in this state having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census or to any municipality lying wholly or partially within such county and having a population of 350,000 or more according to the United States decennial census of 1970 or any future such census, which are not paid when due shall bear interest at the following rates until paid:

(A) The rate specified in Code Section 48-2-40 on the total amount of any such taxes, fees, service charges, or assessments which are not paid when due; and

(B) An additional rate of interest on the amount of such taxes, fees, service charges, and assessments which exceeds $1,000.00 equal to 1 percent per annum for each full calendar month which elapses between the date that the taxes, fees, service charges, and assessments first become due and the date on which they are paid in full. The total rate of interest determined under this paragraph shall not exceed 12 percent per annum or the rate specified in Code Section 48-2-40, whichever is more. The additional rate of interest shall not apply to amounts determined to be owed by a taxpayer pursuant to any arbitration, equalization, or similar proceeding, if brought in good faith by the taxpayer, provided that the taxpayer shall have previously paid to the county or municipality the amount of such liability which was not in dispute;"

"(e) In all counties having a population of not less than 595,000 nor more than 660,000 according to the United States decennial census of 2000 or any future such census, the taxes shall become due and payable on August 15 in each year and shall become delinquent if not paid by October 15 of each year. A penalty of 5 percent of the tax due shall accrue on taxes not paid on or before October 15 of each year, and interest shall accrue at the rate specified in Code Section 48-2-40 on the total amount of unpaid taxes and penalty until both the taxes and the penalty are paid. The tax collectors shall issue executions for delinquent taxes, penalties, and interest against each delinquent taxpayer in their respective counties. Nothing contained in this subsection shall be construed to impose any liability for the payment of any ad valorem taxes upon any person for property which was not owned on January 1 of the applicable tax year."

SECTION 2.

The following uncodified Acts, as amended, are amended:

(1) An Act fixing the compensation of the board of commissioners of counties having a population of 550,000 or more according to the United States decennial census of 1970 or any such future census, approved March 30, 1971 (Ga. L. 1971, p. 2369), as amended, particularly by an Act approved April 3, 1996 (Ga. L. 1996, p. 895), is amended by striking Section 1 in its entirety and substituting in lieu thereof a new Section 1 to read as follows:

"SECTION 1.

The chairperson of the board of commissioners of counties of this state having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census shall be compensated in an amount not exceeding $27,000.60 per annum. Each of the other members of any such board of commissioners shall be compensated in an amount not exceeding $25,000.00 per annum. Said compensation shall be set within the limits of this section after a public hearing in a separate resolution adopted by a recorded vote and shall be included in the county's budget after such adoption. The compensation provided for in this section shall be paid in equal monthly installments on the first day of each month out of the county treasury. This section shall not apply to any county which has an elected chief executive officer having any powers which may only be changed if approved in a special election."

(2) An Act providing for minimum compensation of judges of the probate court in certain counties having a population of 550,000 or more according to the United Stated decennial census of 1980 or any such future census, approved March 26, 1982 (Ga. L. 1982, p. 3626), is amended by striking Section 1 in its entirety and substituting in lieu thereof a new Section 1 to read as follows:

"SECTION 1.

In all counties of this state having a population of 800,000 or more according to the United States decennial census of 2000 or any future such census, the judge of the probate court of such county shall be compensated in an amount which shall be at least equal to the amount paid to the highest paid judge of the state court of such county. Such compensation shall be payable from the county treasury in equal monthly installments."

(3) An Act providing for a budget commission in certain counties, approved March 2, 1953 (Ga. L. 1953, Jan.-Feb. Sess. p. 2815), as amended, particularly by an Act

approved April 6, 1981 (Ga. L. 1981, p. 3284), is amended by striking therefrom wherever the same shall appear the figure "600,000" and inserting in lieu thereof the figure "800,000", so that said Act, as amended, when amended by this Act shall be applicable only to counties having a population of 800,000 or more according the United States decennial census of 2000.

(4) An Act providing for the lease of park property in certain counties having a population of 300,000 or more according to the United States census of 1950 or any future United States census, approved February 21, 1951 (Ga. L. 1951, p. 528), as amended, particularly by an Act approved April 10, 1971 (Ga. L. 1971, p. 3386), is amended by striking the figure "600,000" and inserting in lieu thereof the figure "800,000", so that said Act, as amended, when amended by this Act shall be applicable only to counties having a population of 800,000 or more according the United States decennial census of 2000.

(5) An Act providing for the protection of pension rights in certain counties and cities, approved March 31, 1972 (Ga. L. 1972, p. 3277), as amended, particularly by an Act approved April 6, 1981 (Ga. L. 1981, p. 3258), is amended by striking in subsection (a) of Section 1 thereof the figure "550,000" and inserting in lieu thereof the figure "800,000".

SECTION 3.

This Act shall become effective upon July 1, 2002.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.

Approved May 17, 2002.

REVENUE AND TAXATION – INCOME TAX CREDITS FOR RURAL PHYSICIANS; DEFINITION OF "RURAL HOSPITAL" AND "RURAL PHYSICIAN" AMENDED.

Code Section 48-7-29 Amended.

No. 991 (House Bill No. 1565).

AN ACT

To amend Code Section 48-7-29 of the Official Code of Georgia Annotated, relating to income tax credits for rural physicians, so as to change the definition of rural physician and rural hospital for purposes of qualifying for such credit; to provide for an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-7-29 of the Official Code of Georgia Annotated, relating to income tax credits for rural physicians, is amended by striking paragraphs (2) and (3) of subsection (a), and inserting in their places new paragraphs (2) and (3) to read as follows:

"(2) 'Rural hospital' means an acute-care hospital located in a rural county that contains fewer than 100 beds.

(3) 'Rural physician' means a physician licensed to practice medicine in this state, who practices in a rural county and resides in a rural county or a county contiguous to the rural county in which such physician practices and primarily admits patients to a rural hospital and practices in the fields of family practice, obstetrics and gynecology, pediatrics, internal medicine, or general surgery."

SECTION 2.

This Act shall become effective January 1, 2003, and is applicable to all taxable years beginning on or after January 1, 2003.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.

Approved May 17, 2002.

PROFESSIONS AND BUSINESSES – DEFINITION OF "MARRIAGE AND FAMILY THERAPY" AND "PROFESSIONAL COUNSELING" AMENDED; LICENSURE OF PERSONS HAVING MASTER'S DEGREES IN APPLIED PSYCHOLOGY AS PROFESSIONAL COUNSELORS AUTHORIZED.

Code Sections 43-10A-3 and 43-10A-11 Amended.

No. 992 (Senate Bill No. 119).

AN ACT

To amend Chapter 10A of Title 43 of the Official Code of Georgia Annotated, the "Professional Counselors, Social Workers, and Marriage and Family Therapists Licensing Law," so as to provide for changes in the definitions of professional counseling and marriage and family therapy; to provide for licensure of master's in psychology graduates as professional counselors; to provide for related matters; to repeal conflicting laws; and for other purposes.

APPENDIX D

ARTICLE 14. ZONING AMENDMENTS, APPLICATIONS, AND PROCEDURES

Table 14.2.3. Analysis Requirements

Criteria Required to be Analyzed by Applicant and Review Bodies	Application to Amend the Official Zoning Map	Application for Conditional Use
1. Existing use(s) and zoning of subject property	Required	Required
2. Existing zoning of nearby property	Required	Required
3. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property (existing land use)	Required	Required
4. Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools	Required	Required
5. Whether the proposal is in conformity with the policy and intent of the comprehensive plan including land use element	Required	Required
6. 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	Required	Required
7. Length of time the property has been vacant or unused as currently zoned	Required	No
8. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned	Required	Required
9. Description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district classification	Required	No
10. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts	Required	No

APPENDIX E

	Steinberg Act, Investigations & Recommendations*							
Municipality	1. Suitability	2. Adjacency	3. Economic	4. Infrastructure	5. Conformity	6. Conditions	Year	Ordinance Reference
Albany	O	O	O	O	O	O	2005	Title III, Article 4, Section 4.03-C6
Alpharetta	O	O	O	O	O	O	2005	Article IV, Section 4.2.3
Ashburn	-	-	-	-	-	-	-	*Not Found*
Athens-Clarke County	-	O	O	O	-	-	2000	Chapter 9-4, Section 9-4-3B
Atlanta	O	O	O	O	O	O	1999	Part 16, Chapter 27, Section 16-27.004
Avondale Estates	O	O	O	O	O	O	2005	Appendix A, Article 17, Section 1704
Bainbridge	O	O	O	O	O	O	2006	Chapter 14.2, Table 14.2.3
Banks County	O	O	-	O	O	O	1997	Appendix A, Article XI, Section 1104
Barrow County	O	O	O	O	O	O	2005	Chapter 89, Article XII, Section 89-1316-5
Bibb County	+	O	O	O	O	O	1981	Chapter 28, Section 28.08
Blackshear	+	-	+	-	-	-	-	*Not Found*
Blakely	O	-	+	O	O	-	2002	Appendix B, Article XXI, Section 21.08-B6
Bloomingdale	+	-	+	O	O	-	1988	Appendix A, Article XIV, Section 1402, App A.1
Brunswick	O	O	O	O	-	+	2002	Chapter 23, Addendum, Part I
Bulloch County	O	O	O	O	O	-	2001	Appendix C, Article 4, Section 414f
Burke County	-	-	-	-	-	-	-	*Not Found*
Byron	O	O	O	O	O	O	1994	App. A, Part III, Article VIII-B3
Camden County	-	-	-	O	O	-	1977	Appendix B, Article 10, Section 1004
Camilla	O	-	-	-	O	-	1988	Title 8, Chapter 6, Article G, Section 8-6-157c
Canton	O	O	O	O	O	O	1997	Appendix A, Article I, Section 8-8-I-124B
Carrollton	O	O	O	O	O	O	1998	Appendix B, Article XVI, Section 1601-B
Cartersville	O	O	O	O	O	O	1998	Chapter 28, Article XXI, Section 21-7
Catoosa County	O	O	O	O	O	O	1994	Appendix B, Article XIV, Section 14.1.1
Cedartown	O	O	-	O	-	-	2000	Ch 94, Article VII, Division 3, Section 94-264
Centerville	O	O	O	O	O	O	1996	Appendix A, Article XI, Section 120.2
Chamblee	O	O	O	O	O	O	2006	Appendix A, Article II, Section 206
Cherokee County	O	O	O	O	O	O	1994	Article 18.8-1
Clarkston	O	O	O	O	O	O	1995	Appendix A, Article XVII, Section 1704
Clayton County	-	O	O	O	O	-	2002	Appendix A, Article XV, Section 1505-1
Cobb County	O	O	O	O	O	O	2005	Ch 134, Article II, Division 4, Section 134-121.a7
College Park	O	-	-	-	-	-	1986	Appendix A, Article XVII, Section 4.c1
Colquitt	O	-	-	-	O	-	1998	Appendix A, Article XX, Section 20.07d
Colquitt County	O	-	-	-	O	-	2006	Appendix A, Article XXII, Section 22.05
Columbia County	O	O	O	O	O	O	1984	Chapter 90, Article V, Section 90-180.5
Columbus	O	O	O	O	O	O	2004	Appendix A, Chapter 10, Article 2, Section 10.2.7
Conyers	O	-	+	-	-	-	1999	Appendix A, Article 10, Section 1030.8
Coweta County	+	O	O	O	O	-	1990	Appendix A, Article 29, Section 29f
Crisp County	O	O	O	O	O	O	1999	Appendix A, Article 2, Section 2.02.04a
Dalton	O	O	O	O	O	O	2006	Appendix A, Part II, Section 1-8.1
Decatur	O	O	O	O	O	O	1986	Appendix A, Article XIII, Section 13.2.3e
DeKalb County	O	O	O	O	O	O	1989	Chapter 27, Article 5, Division 1, Section 27-832
Dooly County	O	O	-	-	O	-	1998	Appendix B, Article XVII, Section 7
Doraville	O	O	O	O	O	O	2007	Article IV, Section 4.05
Dougherty County	O	O	O	O	O	-	1996	Chapter 2.18-4, Secton 2-18-4e
Douglas County	-	O	O	O	O	O	2000	Appendix A, Article X, Section 100.030.2
Dublin	+	-	-	-	-	-	1980	Appendix A
Duluth	O	O	O	O	O	O	1998	Article 19, Section 1908
East Point	O	O	O	O	O	O	1994	Part 10, Chapter 2, Article H, Section 10-2160
Eatonton	+	-	+	-	-	-	-	*Not Found*
Effingham County	+	O	O	O	O	O	1999	Appendix C, Article IX, Section 9.5, Checklist
Elberton	+	O	O	O	O	O	1999	Chapter 22, Article 2, Division 12, Section 22-222
Fayette County	+	O	+	O	O	O	2007	Article XI, Section 11-10
Fayetteville	O	O	-	O	O	-	1996	Part II, Chapter 94, Article III, Section 94-92
Fitzgerald	+	O	-	O	O	O	1989	Appendix B, Section 13-5.4
Floyd County	O	O	-	O	O	O	1986	Part II, Chapter 19, Section 2-19-16
Forest Park	-	O	-	O	O	-	1992	Title 8, Chapter 8, Article H, Section 8-8-106
Forsyth County	O	O	-	O	O	O	2003	Appendix A, Chapter 8, Article III, Section 8-3.2
Fort Oglethorpe	O	O	O	O	O	O	2001	Appendix A, Article VII, Section 7.6
Fulton County	O	O	O	O	O	O	1997	Appendix B, Article XXVIII, Section 28.4.1
Gainesville	O	O	-	O	O	O	2005	Title IX, Article 22, Section 9-22-2-12
Garden City	+	-	+	O	-	-	1988	Part II, Chapter 90, Article VII, Section 90-201
Gilmer County	+	-	+	+	-	-	-	*Not Found*
Gordon County	O	O	O	O	O	O	1992	Chapter 18, Article IX, Section 18-268
Grayson	O	O	+	O	-	O	2005	Article XVIII, Section 1801-B.7
Griffin	O	O	O	O	-	O	2004	Appendix A, Article 3, Section 307
Gwinnett County	O	O	O	O	O	O	1986	Appendix D, Article XVII, Section 1702
Hahira	-	O	-	O	O	O	1989	Section 13-5.3
Hall County	O	O	O	O	O	O	1988	Title 17, Chapter 17.380.000
Hampton	-	-	-	-	-	-	-	*Not Found*
Hapeville	-	-	O	O	O	-	1997	Part II, Chapter 93, Article 25, Section 93-25-8
Harris County	O	O	O	O	O	O	1996	Appendix A, Article X, Section 1(g)
Hart County	+	-	+	-	-	-	-	*Not Found*
Helen	O	-	+	O	O	-	1996	Chapter 34, Article III, Division 2, Section 34-131.2
Henry County	+	O	+	O	O	O	1989	Part III, Chapter 7, Article XVI, Section 3-7-315
Hinesville	O	O	O	O	O	O	2004	Appendix A, Article XI, Section 1106
Holly Springs	+	-	O	O	O	-	1994	Chapter 82, Article 14, Section 14.5-6
Houston County	O	O	O	O	O	O	2004	Article XI, Section 117
Jesup	-	-	-	-	-	-	1975	Appendix A, Article XII, Section 123
Jonesboro	O	O	O	O	O	O	2005	Part II, Chapter 86, Article XII, Section 86-374
Kennesaw	O	O	O	O	O	-	1997	Appendix A, Article XIX, Section 1908
Kingsland	O	O	O	O	O	O	2002	Appendix A, Article XXI, Section 211.5
Lee County	O	O	O	O	O	O	2002	Chapter 70, Article XX, Section 70-690
Liberty County	O	O	O	O	O	O	1985	Appendix A, Article IX, Section 9.3.6.10
Lilburn	O	O	O	O	O	O	1985	Appendix A, Article XVII, Section 1702
Lincoln County	O	O	O	O	O	O	2003	Chapter 34, Article XXII, Section 34-733
Macon	-	O	O	O	O	O	1981	Chapter 28, Section 28.08
Macon-Bibb County	-	O	O	O	O	O	1981	Chapter 28, Section 28.08
Madison	O	O	O	O	O	O	2000	Chapter 90, Article XI, Section 1120.8
Marietta	O	O	O	O	O	O	1998	Part 7, Division 722, Section 722.03
McDonough	-	O	O	O	O	-	2006	Title 17, Chapter 104, Section 17.104.048
McDuffie County	-	-	-	-	O	-	1999	Chapter 44, Article IX, Section 44-184
Metter	O	O	O	O	-	-	1996	Appendix A, Article 16
Milledgeville	-	-	-	-	-	-	-	*Not Found*
Monroe	O	O	O	O	O	O	2006	Article XV, Section 15.7
Morrow	-	O	-	O	O	-	1996	Appendix A, Article XVII, Section 1704
Moultrie	O	-	-	-	O	-	2003	Chapter 122, Article III, Section 3.02d
Mountain Park	O	O	O	O	O	O	2005	Chapter 117, Article D, Section 117-33
Nelson	+	-	+	-	-	+	-	*Not Found*
Newnan	O	O	O	O	O	O	2003	Article 4, Chapter 40, Section 40-150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APPENDIX F

CITY OF ATLANTA

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
55 Trinity Avenue, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308
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SHIRLEY FRANKLIN
MAYOR

STEVE COVER
Commissioner

ALICE WAKEFIELD
Director, Bureau of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson-Jacks, Zoning Administrator

SUBJECT: **Z-06-124 for 510 Sawtell Avenue, S.E.**

DATE: **April 5, 2007**

The applicant seeks to rezone property from the **I-2 (Heavy Industrial)** district to the **MRC-3 (Mixed Residential-Commercial)** district for the development of a mixed use project.

This application was deferred by the Zoning Review Board on March 1, 2007 to allow time for NPU-Y to make a recommendation on the project. On March 19, 2007, NPU-Y voted to approve the project. A copy of staff's recommendation for approval is attached.

STAFF RECOMMENDATION: APPROVAL with conditions

cc: Steve Cover, Commissioner, DPCD
Alice Wakefield, Director, Bureau of Planning

APPENDIX G

CHAPTER 27. AMENDMENTS*

Sec. 16-27.004. Matters to be considered by bureau of planning.

The bureau of planning shall consider each proposal for amendment and as a basis for its recommendations shall report on the following matters, among others, as appropriate to the circumstances of the case:

(1) *Compatibility with comprehensive development plans; timing of development:* The bureau shall examine the proposal to determine whether it is in accord with comprehensive development plans in their 15-year, 5-year, and 1-year forms. In its findings in this regard, it may report that the proposal is compatible or incompatible with all such plans, or that while the change is in accord with those of longer range it would be premature in the light of the 1-year or 5-year comprehensive development plans. The bureau shall not recommend any change not in accord with adopted comprehensive development plans but may, where it sees fit, recommend changes in such plans, following which, if such changes in plans are officially adopted, the zoning change may be reconsidered without prejudice and without a new application if an application is involved.

(2) *Availability of and effect on public facilities and services; referrals to other agencies:* The bureau shall consider and report on the availability of public facilities and services and the effect the proposed change would have on demands for public facilities and services in the area in which the change is proposed or generally. Such facilities and services include but are not limited to water supply, sewerage, drainage, transportation, schools, fire and police protection, and solid waste collection and disposal.

(3) *Availability of other land suitable for proposed use; effect on balance of land uses:* The bureau may consider the availability of other appropriate land already zoned for the proposed use, generally and in the area of the proposed change. The bureau may also consider whether generally, or in the area of the proposed change, the change would have adverse environmental effects on the balance of land uses by removing land from a category for which it is suited and for which there is a greater public need to a category for which the public need is lesser.

(4) *Effect on character of the neighborhood:* The bureau shall consider the effect of uses permitted under the proposed change on the surrounding neighborhood and shall report any substantial probably adverse influences on desirable living conditions or sustained stability, or any tendencies toward blight and depreciation likely to result from the change.

(5) *Suitability of proposed use:* The bureau shall consider whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

(6) *Effect on adjacent property:* The bureau shall consider whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
(7) *Economic use of current zoning:* The bureau shall consider whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
(8) The bureau shall consider and report on whether the proposal is in accord with the City of Atlanta's policies related to tree preservation as adopted in section 10-2033, Policy, purpose and intent of the City of Atlanta Tree Ordinance.

    A copy of each application for amendment shall be forwarded to the city arborist for review and comment and said comments shall be made available to the bureau of planning and the zoning review board for their consideration.

(9) *Other conditions:* The bureau shall consider 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 zoning proposal.

(Code 1977, § 16-27.004; Ord. No. 1999-79, § 1, 11-9-99)