

Ordinance 2024-07

Bianca Motley Broom <bmotleybroom@collegeparkga.com>

Wed 4/17/2024 11:33 PM

To: Shonta Briggs <Shonta.Briggs@collegeparkga.com>

Cc: Mayor and Council <MayorandCouncil@collegeparkga.com>; Department Heads <DepartmentHeads@collegeparkga.com>;

Winston Denmark <wdenmark@denmarkashby.com>; Emmanuel Adediran <emmanuel.adediran@collegeparkga.com>;

ksettlemire@law.ga.gov <ksettlemire@law.ga.gov>; Wall, Ed <Edmund.Wall@psc.com>

 1 attachments (717 KB)

Ordinance no. 2024-7.pdf;

Ms. Briggs,

I do not have the authority to sign the attached proposed ordinance. It has not been placed on an agenda in 2024. As such, the Council has not had an opportunity to review it or vote upon it.

I recognize Mr. Denmark's position that the ordinance is "simply memorializing the vote that the Council took," and that "when the motion was renewed, it was renewed from the previous motion that included the fourteen conditions." (See the link to the April 15, 2024 City Council Meeting below.) However, the Council that addressed the "previous motion" had two different members than the current Council - we have had an election that changed of 40% of the governing body. It is unreasonable to assume these new members have detailed knowledge of the issues considered by the previous Council, especially when none of the supporting documentation for this rezoning was available for review at the time of the vote on March 18th - including this proposed ordinance.

Councilmember Arnold stated at the April 1, 2024 meeting that "the actual circumstances surrounding this rezoning [were] not what [she] understood them to be when [she] voted" on March 18, 2024 and subsequently voiced her opposition to the rezoning. Given her position, it is even more important this ordinance go through our normal channels.

Furthermore, I understand Dr. Adediran and Mr. Denmark cited *City of Cumming v. Realty Dev. Corp.*, 491 S.E.2d 60, 268 Ga. 461 (1997) during our meeting on Monday to support the principle that only one hearing on a zoning matter is required. I respectfully disagree. The logical conclusion from Mr. Denmark's argument would have to be that we have been in the "continuous course of a zoning matter" since 2021. *Cumming* at 63, 463. The facts do not support this argument. In reality, this rezoning was defeated in both 2021 and 2023. In *Cumming*, there was an appeal from a rezoning decision and "the trial court found the existing zoning unconstitutional and directed appellants to reconsider appellees' rezoning application...and to rezone the property within 60 days." *Cumming* at 62, 461. That action alone, the Court found, required another public hearing, finding:

"...[J]ust as important as an opportunity to press for the desired zoning classification would be an opportunity for the applicant to comment on or oppose a different proposed classification and...*an opportunity for the public to be heard*. We agree, therefore, with the trial court's ruling that a zoning authority to which a zoning matter is remanded with direction to rezone is required by the Zoning Procedures Law to conduct a public hearing with appropriate notice and an opportunity for interested parties to take part in the hearing." *Cumming* at 64, 464. (Emphasis added.)

In the instant matter, unlike *Cumming*, there were no appeals from the decisions of the Council in either 2021 or 2023. But even with an appeal, the Court found in *Cumming* that the circumstances warranted

another public hearing because "the trial court's order remanding the matter to the City of Cumming had the effect of starting the process again." *Cumming* at 64, 464. When discussing what the "continuous course of a zoning matter" might look like, the court noted, "a local government might conduct a hearing as the first step in the process, then table the matter until a transcript is prepared, then have a meeting, but not a hearing, at which a vote would be taken." *Cumming* at 63, 463. That is far from the fact pattern here. In the instant matter both rezoning applications were defeated; in 2021 by a vote of 3-2, and in 2023 by a vote of 2-1. Two distinct zoning matters were brought before the Council, and two distinct zoning matters were defeated. In order to legally consider another application for rezoning pursuant to the Zoning Procedures Law and our own ordinances, another rezoning application needs to be filed by the applicant, neighbors need to be informed and another public hearing must be held, amongst other conditions.

For the reasons stated above, I cannot sign Ordinance 2024-07 at this time.

If you have any questions, please don't hesitate to reach out.

https://www.youtube.com/live/svCx-Blx_8Y?si=ZSOmKAsW9sGIh97L&t=6038



City of College Park - City Council Meeting - April 15, 2024

AGENDA 1. Opening Ceremonies. A. Pledge of allegiance to the flag. B. Invocation. 2. Additions, Deletions, Amendments, Or Changes To The Agenda 3. Approval...

www.youtube.com

Thanks,
Bianca



Bianca Motley Broom

Mayor

City of College Park

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From: Shonta Briggs <Shonta.Briggs@collegetparkga.com>
Sent: Wednesday, April 17, 2024 5:03 PM
To: Bianca Motley Broom <bmotleybroom@collegetparkga.com>
Subject: RE: Signature needed

Hello Madam Mayor

Along with this email is the scanned ordinance as requested. Thank you for your support and attention.

Best regards,
Shonta Briggs

From: Bianca Motley Broom <bmotleybroom@collegeparkga.com>
Sent: Wednesday, April 17, 2024 4:56 PM
To: Shonta Briggs <Shonta.Briggs@collegeparkga.com>
Subject: Re: Signature needed

Can you please scan the ordinance and email it for my review?

Thanks,
Bianca



Bianca Motley Broom

Mayor

City of College Park

3667 Main Street, College Park, Georgia 30337

404.669.3755 • bmotleybroom@collegeparkga.com

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From: Shonta Briggs <Shonta.Briggs@collegeparkga.com>
Sent: Wednesday, April 17, 2024 2:52 PM
To: Bianca Motley Broom <bmotleybroom@collegeparkga.com>
Subject: Signature needed

Hello Madam Mayor

I hope all is well. I'm reaching out to follow up on Ordinance No. 2024-07 that we discussed yesterday during your One on One, it is available for your signature. Thank you for your support and attention.

Best regards,

Shonta Briggs

Legislative Assistant

City of College Park ·

Office of Mayor and Council

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ENSURES THE LONGEVITY OF OUR COMMUNITY.**

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