

1 **STATE OF GEORGIA**

2 **CITY OF COLLEGE PARK**

3 **ORDINANCE NO. 2016-23**

4 AN ORDINANCE TO AMEND SECTION 6, CONDITIONAL DEVELOPMENT, OF
5 ARTICLE XXVII, CHANGES AND AMENDMENTS, OF THE ZONING CODE OF THE
6 CITY OF COLLEGE PARK, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL
7 CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER
8 PURPOSES.

9 **WHEREAS**, the duly elected governing authority of the City of College Park, Georgia
10 (the “City”) is the Mayor and Council thereof; and

11 **WHEREAS**, the Mayor and Council have, as a part of planning, zoning and growth
12 management, been in review of the City's zoning ordinances and have been studying the City's
13 best estimates and projections of the type of development which could be anticipated within the
14 City; and

15 **WHEREAS**, the Mayor and Council therefore consider it paramount that land use
16 regulation continue in the most orderly and predictable fashion with the least amount of
17 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
18 had a strong interest in growth management so as to promote the traditional police power goals
19 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
20 the lessening of congestion on City streets, security of the public from crime and other dangers,
21 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the

22 City including access to air and light, and facilitation of the adequate provision of transportation
23 and other public requirements; and

24 **WHEREAS**, it is the belief of the Mayor and Council that the concept of “public
25 welfare” is broad and inclusive; that the values it represents are spiritual as well as physical,
26 aesthetic as well as monetary; and that it is within the power of the City “to determine that a
27 community should be beautiful as well as healthy, spacious as well as clean, well balanced as
28 well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.
29 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the
30 valid public objectives of aesthetics, conservation of the value of existing lands and buildings
31 within the City, making the most appropriate use of resources, preserving neighborhood
32 characteristics, enhancing and protecting the economic well-being of the community, facilitating
33 adequate provision of public services, and the preservation of the resources of the City; and

34 **WHEREAS**, the Mayor and Council are, and have been interested in, developing a
35 cohesive and coherent policy regarding certain uses in the City, and have intended to promote
36 community development through stability, predictability and balanced growth which will further
37 the prosperity of the City as a whole; and

38 **WHEREAS**, the Zoning Regulations contained in the City’s Code of Ordinances provide
39 for automatic reversion (to its original zoning designation) of a conditional rezoning if a permit
40 is not issued within a year of such rezoning; and

41 **WHEREAS**, the Mayor and Council desire to consider the facts and circumstances
42 surrounding the development of the property subject to a conditional rezoning and obtain the

43 input of the city planner and building inspector prior to an automatic reversion to the property's
44 original zoning designation; and

45 WHEREAS, the Mayor and Council desire to accordingly amend the City's Code of
46 Ordinances to provide for the same; and

47 WHEREAS, the Mayor and Council have determined that the health, safety, and welfare
48 of the citizens of the City will be positively impacted by the adoption of this Ordinance.

49 BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF
50 THE CITY OF COLLEGE PARK, GEORGIA, and by the authority thereof:

51 Section 1. That subsection (b) of Section 6, Conditional Development, of Article
52 XXVII, Changes and Amendments, of Appendix A, Zoning, is hereby amended by striking
53 through its existing text and inserting the following text in lieu thereof, which consists of new
54 subsections (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6) to read and to be codified as follows:

55 "(b) Whenever any application for a change in the district maps is accompanied or supported by
56 specific plans and design for a particular development and use, and the mayor and council,
57 after action by the planning commission in accordance with section 3 of this article, and
58 after public hearing as provided in section 4 of this article, and upon submission of all
59 specifications, plans, designs and conditions in a final ordinance form, have approved such
60 specific plans and design, and such particular development and use and also have approved
61 such change in the district maps, then the property may be rezoned for the proper district as
62 set forth in this zoning ordinance for the City of College Park as "conditional" under that
63 district. After such rezoning, city staff shall provide to the applicant a copy of this
64 ordinance, such applicant shall indicate his or her receipt by initialing the same, and city
65 staff will accordingly retain a copy of the initialed document. The following conditions
66 apply to development of the conditionally-rezoned property:

- 67 (1) The building inspector shall issue a building permit for the development of the
68 rezoned property only in strict compliance with the plans submitted.
- 69 (2) Unless the conditional zoning designation has been extended as provided in
70 subsection (4) and subsection (5) hereinbelow, the conditional zoning designation
71 shall expire twelve (12) months from the date of the conditional rezoning and shall
72 immediately revert to the previous zoning designation.

73 (3) If such building permit is issued within twelve (12) months of the date of the
 74 conditional rezoning, the conditionally-rezoned property shall retain its conditional
 75 zoning designation.

76 (4) However, if such building permit has not been issued within ten (10) months of
 77 the date of the conditional rezoning, the applicant may request an extension of the
 78 conditional zoning. Additionally, city staff, including but not limited to the city
 79 planner and the building inspector shall, between ten (10) months and one (1) year of
 80 the date of the conditional rezoning, prepare a report for mayor and council's
 81 consideration as to whether the conditionally-rezoned property shall retain its
 82 conditional zoning designation. Such report shall include the original rezoning
 83 application and details regarding development on the conditionally- rezoned property,
 84 if any.

85 (5) Upon consideration of the report of city staff, mayor and council shall determine
 86 whether the property shall revert to its previous zoning designation or retain its
 87 conditional zoning designation for one (1) additional year. Failure of the applicant to
 88 timely request an extension of the conditional zoning shall, in no event, result in an
 89 extension of more than one (1) year, of the conditional zoning designation. If mayor
 90 and council determine that the property shall retain its conditional zoning designation
 91 for an additional year and no building permit is obtained within ten (10) months of
 92 the date of the extension of the conditional zoning, the applicant may again request an
 93 extension of the conditional zoning, and city staff and mayor and council shall again
 94 take the actions specified herein and in subsection (4) hereinabove. Until a building
 95 permit is obtained, the processes specified herein and in subsection (4) hereinabove
 96 will continue.

97 (6) The failure of city staff and mayor and council to take any actions herein shall, in
 98 no event, result in an extension of the conditional zoning.”

99 **Section 2.** (a) It is hereby declared to be the intention of the Mayor and Council that all

100 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
 101 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

102 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
 103 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
 104 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
 105 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
 106 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this

107 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
108 of this Ordinance.

109 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
110 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
111 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
112 express intent of the Mayor and Council that such invalidity, unconstitutionality or
113 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
114 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
115 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
116 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
117 enforceable, and of full force and effect.

118 **Section 3.** All ordinances and parts of ordinances in conflict herewith are hereby
119 expressly repealed.

120 **Section 4.** The preamble of this Ordinance shall be considered to be and is hereby
121 incorporated by reference as if fully set out herein.

122 **Section 5.** This Ordinance shall be codified in a manner consistent with the laws of the
123 State of Georgia and the City.

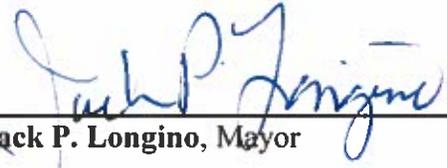
124 **Section 6.** Penalties in effect for violations of the Zoning Ordinance of the City of
125 College Park at the time of the effective date of this Ordinance shall be and are hereby made
126 applicable to this Ordinance and shall remain in full force and effect.

127 **Section 7.** The effective date of this Ordinance shall be the date of adoption unless
128 otherwise specified herein.

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CITY OF COLLEGE PARK, GEORGIA

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Jack P. Longino, Mayor

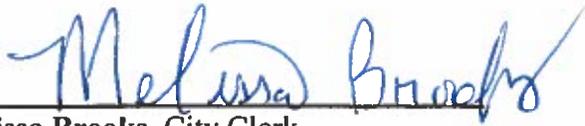
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139 **ATTEST:**

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Melissa Brooks, City Clerk

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144 **APPROVED AS TO FORM:**

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Steven M. Fincher, City Attorney