

STATE OF GEORGIA

CITY OF SNELLVILLE

ORDINANCE NO. _____

AN ORDINANCE TO GRANT ZONING MODIFICATION; TO AMEND CONDITIONS OF ZONING; TO GRANT A WAIVER; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

CASE NO.: #RZ 17-01

APPLICANT: Chris May, Director of Property Management
DDR Southeast Snellville, LLC

PROPERTY OWNER: DDR Southeast Snellville, LLC
Beechwood, Ohio 44122

PRESENT ZONING: BG (General Business) District

LOCATION: Presidential Commons Shopping Center
1630 Scenic Hwy., Snellville, Georgia

TAX PARCEL(S): 5056 008 and 012

REQUEST: Zoning Modification with Request for Waiver from
Approved Plan

WHEREAS, the governing authority of the City of Snellville, Georgia is the Mayor and Council thereof; and

WHEREAS, the governing authority of the City of Snellville previously approved the rezoning of the above subject property on August 21, 1995, which required the submission of a landscaping plan which was approved by the City of Snellville on August 26, 1997; and

WHEREAS, in April 2015, a vendor of the property owner, removed trees from the above property without first obtaining a permit to do so or having an approved plan for replanting; and

WHEREAS, the above action was in violation of the, "Buffer, Landscape and Tree Ordinance," of the City of Snellville, Georgia; and

WHEREAS, due to the age and size of the trees removed, it not practicable or prudent to replace the removed trees with trees consistent in size and age with the previously approved landscape plan; and

WHEREAS, the Property Owner desiring to be compliant with the City of Snellville Code of Ordinances entered into a settlement agreement with the City of Snellville described in Exhibit "A," a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, Applicant is asking for a change of conditions from the prior conditions of zoning approved by the Mayor and Council on 8-21-1995 for rezoning case #RZ 95-08 and the 8-26-1997 approved landscape plan, and a waiver from the City of Snellville Tree Ordinance; and

WHEREAS, the Settlement Agreement included the payment of a fifteen thousand dollar (\$15,000.00) fine, a payment into the City of Snellville Tree Bank in the sum of fourteen thousand, four hundred dollars (\$14,400.00), unless reduced by the Mayor and City Council, repayment for the cost to the City of Snellville to hire an arborist in the amount of two thousand, four hundred dollars (\$2,400) and submission of an approved re-planting plan; and

WHEREAS, the governing authority of the City of Snellville, Georgia desires to grant the zoning modification and waiver from the previously approved landscape plan; and;

WHEREAS, the health, safety, and welfare of the citizens of Snellville, Georgia, will be positively impacted by the adoption of this Ordinance.

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF SNELLVILLE, GEORGIA, and by the authority thereof:

Section 1. The “Planting Plan” described in Exhibit “B,” a copy of which is attached hereto and incorporated herein by reference, hereby amends the conditions of zoning approved by the Mayor and Council on 8-21-1995 for rezoning case #RZ 95-08 and the 8-26-1997 approved landscape plan, to allow Applicant to re-plant trees pursuant to the “Planting Plan,” subject to the attachment of the following requested waiver and conditions:

WAIVER:

1. To waive the provisions of Code of Ordinances of the City of Snellville, pursuant to Section 19.123(b) only as it pertains to the previously approved landscape plan dated 8-26-1997 as a condition of rezoning case RZ 95-08 and allow the installation of new trees pursuant to the approved “Planting Plan” dated November 8, 2016.

CONDITIONS:

1. Within thirty (30) days of Mayor and Council approval of the zoning modification and waiver request, the applicant shall obtain from the City of Snellville Department of Planning and Development a Clearing and Grubbing Permit. Applicant is to complete all plantings as per the November 8, 2016 replanting plan

entitled “PLANTING PLAN,” within sixty (60) days of Mayor and Council approval of the zoning modification and waiver request;

2. Within fourteen (14) days following installation and completion of the “Planting Plan,” applicant shall post a twenty-four (24) month landscape maintenance bond for 125% of the total material cost. All new plantings shall be staked and guyed in accordance with Article III, Section 19-79(b) of the Landscape Ordinance and maintained in accordance with Article IV, Section 19-117, of the Tree Ordinance and;
3. Within thirty (30) days of Mayor and Council approval of the zoning modification and waiver request, the applicant shall make a \$_____ payment into the City of Snellville Tree Bank Fund.
4. Within thirty (30) days of Mayor and Council approval of the zoning modification and waiver request, the applicant shall reimburse the City of Snellville, two thousand, four hundred dollars (\$2,400.00) for the cost of hiring an arborist to review the planting plans and oversee the installation of the new trees.
5. An easement allowing for the construction and connection to the inter-parcel access stub which connects to the adjoining Park Place Shopping Center shall be provided in the location shown on the attached site plan described in Exhibit “C,” a copy of which is attached hereto and incorporated herein by reference. DDR will not be responsible for the cost of said construction and connection, but shall be made at the expense of the developer, Master Association, property manager, property owner and/or the City of Snellville. This easement shall also provide for use of the inter-

parcel access by the public to enter or exit either of the adjoining properties and shall not be obstructed in any manner.

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

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

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent

allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. Penalties in effect for violations of the Zoning Ordinance of the City of Snellville at the time of the effective date of this Ordinance shall be and are hereby made applicable to this Ordinance and shall remain in full force and effect.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed

Section 6. This Ordinance was adopted on January 23, 2017. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

ORDAINED this _____ day of January, 2017.

Tom Witts, Mayor

Barbara Bender, Mayor Pro Tem

ATTEST:

Dave Emanuel, Council Member

Melisa Arnold, City Clerk

Bobby Howard, Council Member

APPROVED AS TO FORM:

Cristy Lenski, Council Member

Anthony O. L. Powell, City Attorney

Roger Marmol, Council Member

EXHIBIT "A"

EXHIBIT "B"

EXHIBIT "C"