

STATE OF GEORGIA

CITY OF SNELLVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP, CITY OF SNELLVILLE, GEORGIA, AS AMENDED, FOR A 23,000± SQ. FT. AREA OF THE 29.37± ACRE TRACT OF LAND LOCATED IN LAND LOT 56 OF THE 5TH DISTRICT, GWINNETT COUNTY, SNELLVILLE, GEORGIA 30078; TO GRANT A CONDITIONAL USE PERMIT; TO GRANT VARIANCES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

CASE NUMBER:	#CUP 18-04
LOCATION:	Presidential Commons Shopping Center 1630 Scenic Highway, Snellville, Georgia
PARCEL:	5056 008
CURRENT ZONING:	BG (General Business) District
CURRENT FUTURE LAND USE MAP DESIGNATION:	Commercial-Retail
DEVELOPMENT/PROJECT:	14-Station Kroger Fuel Center
PROPERTY OWNER:	DDR Southeast Snellville, LLC Beachwood, Ohio 44122
APPLICANT:	The Kroger Company Atlanta, Georgia 30345

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, Georgia desires to amend its official zoning map as it applies to the 29.37± acre tract of land located at 1630 Scenic Highway, Snellville, Georgia (Tax Parcel R5056 008) and grant the requested conditional use permit for a 14-Station Kroger Fuel Center;

WHEREAS, the governing authority of the City of Snellville, Georgia desires to grant variances from the City of Snellville Sign Ordinance as it applies to subject property; and

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

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

Section 1. A conditional use permit is hereby granted for the property described in Exhibit “A,” a copy of which is attached hereto and incorporated herein by reference, to allow for a 14-Station Kroger Fuel Center on a 23,000 sq. ft. area of the 29.37± acre property. This action is subject to the attachment of the following approved conditions (1-8):

1. The property shall be developed in general accordance with the submitted: Site Plan, entitled “Fuel Center @ Store GA483”, signed, sealed and dated 10-15-2018 as shown on Exhibit “A”; Overall Site Plan, entitled “Fuel Center @ Store GA483”, signed, sealed and dated 10-15-2018 as shown on Exhibit “B”; Concept Landscape Plan A, entitled “Fuel Center @ Store GA483”, signed, sealed and dated 10-15-2018 as shown on Exhibit “C”; Concept Landscape Plan B, entitled “Fuel Center @ Store GA483”, signed, sealed and dated 10-15-2018 as shown on Exhibit “D”; colored elevations, entitled Kroger Fuel Center GA 483 and dated 10-5-2018 as shown on Exhibit “E”, with modifications to meet conditions of zoning or State, County, and City regulations. Substantial variation from the site or landscape plan, as determined by the Director of Planning and Development, will require Mayor and Council approval;

2. The sign area of each of the two EMB canopy signs shall not exceed 45.5 sq. ft. All signage shall comply with all other requirements of the Sign Ordinance and require sign permit(s) approved by the Director of Planning and Development;
3. The applicant shall be responsible for planting all trees and landscaping as shown on Concept Landscape Plan A, entitled "Fuel Center @ Store GA483", signed, sealed and dated 10-15-2018 as shown on Exhibit "C" and Concept Landscape Plan B, entitled "Fuel Center @ Store GA483", signed, sealed and dated 10-15-2018 as shown on Exhibit "D". Furthermore, as determined by the Director of Planning and Development, all dead, dying or diseased trees that were installed per Ordinance No. 2017-01 (case #RZ 17-01) shall be replanted prior to the issuance of the Certificate of Occupancy;
4. Fuel tanker trucks shall only use the Ridgedale Drive or Scenic Highway access points serving the Presidential Commons Shopping Center and shall be prohibited from using the access drive to the adjacent Park Place development;
5. Any additional non-substantial variance(s) as determined by the Director of Planning and Development for the design requirements, zoning requirements, development regulations and construction requirements must be submitted in writing for administrative approval with the Director of Planning and Development for this project;
6. New signs higher than 15 feet or larger than 225 square feet are prohibited;
7. Uses involving adult entertainment, including any sale or display of adult magazines, books, or videos and as further defined by the Adult Entertainment Ordinance in effect on the date this condition is imposed, are prohibited; and
8. The four (4) proposed parking lot landscape islands located in the front parking area of the Kroger Food Center shall be allowed to be located approximately eight (8) parking spaces to the South as shown on the Site Plan revised 1-21-2019 and submitted and received at the 1-22-2019 Planning Commission meeting as shown on Exhibit "F".

Section 2. In conjunction with the Conditional Use Permit and subject to compliance with the requirements and conditions of Section 1, the Applicant is being granted by the Mayor and Council the following two variances:

1. Variance from Sec. 12.8(B) to allow two Electronic Message Board (EMB) signs on the fuel canopy as shown on the submitted elevations entitled Kroger Fuel Center GA 483, dated 10-5-2018, subject to Condition #2.

2. Variance from Sec. 12.8(B)(9) to allow the display area of each of the two EMB signs to exceed the 50% maximum allowable sign area, subject to Condition #2.

Section 3. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set forth herein.

Section 4. (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 5. 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 6. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed

Section 7. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

ORDAINED this 25th day of February, 2019.

Barbara Bender, Mayor

ATTEST:

Dave Emanuel, Mayor Pro Tem

Melisa Arnold, City Clerk

Cristy Lenski, Council Member

APPROVED AS TO FORM:

Roger Marmol, Council Member

Anthony O. L. Powell, City Attorney
Powell & Edwards, Attorneys at Law, P.C.

Gretchen Schulz, Council Member

EXHIBIT "A"

EXHIBIT "B"

EXHIBIT "C"

EXHIBIT "D"

EXHIBIT "E"

EXHIBIT "F"