



PLANNING COMMISSION AGENDA

**AUGUST 11, 2015
7:00 PM
CITY HALL**

- A. Roll Call**
- B. Approval of June 9, 2015 Minutes**
- C. Old Business: (None)**
- D. New Business: (None)**
- E. City Business Items:**
 - 1. Holcomb Bridge Road Corridor Study Update – Lord, Aeck, Sargent**
 - 2. PH2015-005 Amend Peachtree Corners Zoning Resolution to add 'Fireworks Sales' to the list of permitted uses within the C-2 zoning district.**
- F. Comments by Staff and Planning Commissioners.**
- G. Adjournment.**

CITY OF PEACHTREE CORNERS
PLANNING COMMISSION
June 9, 2015

The City of Peachtree Corners held a Planning Commission meeting. The meeting was held at City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, GA, 30092. The following were in attendance:

Planning Commission: Matt Houser, Chairman, Post D
Alan Kaplan, Post A
Mark Middleton, Post B
Mark Willis, Post C
Italia Metts, Post E

Staff: Diana Wheeler, Community Development Director
Kym Chereck, City Clerk

MINUTES:

MOTION TO APPROVE THE MINUTES FROM THE APRIL 14, 2015 PLANNING COMMISSION MEETING.

By: Mark Willis

Seconded by: Italia Metts

Vote: Passed 5-0 (Willis, Metts, Houser, Kaplan, Middleton)

OLD BUSINESS: (None)

NEW BUSINESS:

1. SUP2015-003

Request Special Use Approval for a building elevations and restaurants associated with the Town Center project; and request amendments to certain Town Center regulations for property located in the 5100 block of Peachtree Parkway; 6th District ; Land Lot 301; Parcel 183.

Mrs. Diana Wheeler, Community Development Director, provided background information regarding subject property and the applicant's request. The applicant is requesting approval of the architecture (including materials and colors) of the commercial and residential buildings, approval of the submitted restaurant list, amending the Town Center Standards, Table 'B' to allow Townhouses to be 4 stories with a maximum height of 50 feet (instead of 3 stories and 40 feet), amending the Town Center Standards, Table 'B', to allow the width of Townhouses to be 22 feet instead of 24 feet, and amending the height standards for retail/office buildings to allow a minimum of 2 stories or 2 stories

in appearance. Mrs. Wheeler informed the Commission that after review of the applicant's proposal and other relevant information, it is recommended that SUP2015-003 be approved with conditions. The conditions are listed in the Staff report located in the Planning Commission packet.

Mr. Mike Lant of Fuqua Development represented the applicant. Mr. Lant explained to the Commission that for better negotiation purposes they would prefer to use the expanded restaurant list.

Chairman Houser opened the floor for public comment. There was no public comment.

A motion was made after discussion concerning the site plan for the development. It is noted that a few of the Commissioners felt that the buildings surrounding the park area did not give an inviting feel to the public.

MOTION TO DENY SUP2015-003.

By: Matt Houser

Seconded: Italia Metts

Vote: (4-1) (Houser, Metts, Kaplan, Willis) (Middleton opposed)

CITY BUSINESS ITEMS:

The Planning Commission meeting concluded at 8:20 PM.

Approved,

Attest:

Matt Houser, Chairman

Kym Chereck, City Clerk

PH2015-005

**Zoning Code Amendment
Fireworks**

CITY OF PEACHTREE CORNERS COMMUNITY DEVELOPMENT DEPARTMENT

ZONING CODE AMENDMENT

PLANNING COMMISSION DATE: AUGUST 11, 2015

CITY COUNCIL DATE: AUGUST 18, 2015

CASE NUMBER :PH 2015-005

PROPOSAL :AMEND ZONING CODE TO ADD THE RETAIL SALE OF
CONSUMER FIREWORKS AS A PERMITTED USE IN C-2

RECOMMENDATION: APPROVE ZONING CODE AMENDMENT

BACKGROUND:

Georgia House Bill 110 legalized the sale of consumer fireworks effective July 1, 2015. Previously these types of fireworks were banned in Georgia. Consumer fireworks are described as the larger type of fireworks that for years have been sold to the general public in neighboring states.

The new law specifically forbids local governments from prohibiting the sale of consumer fireworks in permanent locations (as opposed to temporary tent sales of sparklers and similar devices which have been and are still permitted). HB 110 also limits the extent to which permanent fireworks stores can be regulated by including this provision: *the governing authority of a county or municipal corporation shall not enact additional regulation of the sale or use or explosion of such product or service, unless such additional regulation is expressly authorized by general law.*

At their June 16th meeting, the Peachtree Corners City Council adopted a moratorium resolution on Fireworks sales in order to allow time to determine appropriate locations and regulations for the retail sale of fireworks in permanent facilities.

Staff has researched this issue to see what regulations are in place in other jurisdictions. In addition, staff researched other sources on this topic including a paper prepared by the Georgia Municipal Association that helps explain HB110 (see attached). While some other communities have also enacted moratoriums and have not concluded their work, many other communities in Georgia have chosen to treat fireworks as a retail sales product and allow the sale of fireworks in any commercial zoning district that permits retail stores.

Since the fireworks law was recently enacted, there are no available model ordinances in Georgia. Staff research regulations in Washington, Texas, and Kansas where fireworks regulations are fairly strict to see what issues and concerns were addressed in their regulations. Although it's helpful to know this information, much of it can't be applied because of the limitations included in HB 110. For example, several States set distance requirements between

fireworks stores and schools, churches, and residences. HB 110 only allows distance to be measured from facilities with gasoline and from nuclear power plants.

RECOMMENDATION:

Amend Zoning Code Article XIII, Sec. 1308 to add Fireworks sales as a permitted use in C-2, as follows:

Fireworks – retail sales of consumer fireworks within a permanent building shall meet the following requirements:

- 1. Building must meet overlay design standards, be free-standing, and be at least 2500 sq. ft. in size , but no greater than 10,000 sq. ft. in size***
- 2. Must meet Gwinnett County Fire Dept. regulations, be built to ICC H3 building code requirements, and have two functioning fire extinguishers within proximity of where fireworks are stored.***
- 3. Must be located at least 300 feet from a facility that sells, stores, or processes gasoline.***
- 4. No Smoking signs shall be displayed at building entrance***
- 5. All product storage shall be contained within the building***



HB 110 – Fireworks

HB 110 by Rep. Jay Robert (Ocilla) passed during the 2015 Legislative Session. It has been signed by Gov. Nathan Deal. HB 110 allows for the sale of fireworks in Georgia. Below are listed the key points of this legislation.

Permit to Sell Fireworks

- Georgia's Safety Fire Commissioner (which is also the State Insurance Commissioner) will issue a state license to sell fireworks after an applicant meets specific insurance and criminal background requirements and pays the state license fee.

Where Fireworks Can Be Sold

- Fireworks can be sold statewide. Local governments cannot ban or restrict firework sales within their jurisdictions.
- Local governments are allowed to regulate where fireworks can be sold through local zoning regulations.
- Fireworks may be sold from a permanent consumer fireworks retail sales facility, store or temporary structure if it complies with the requirements as described by the National Fire Protection Association.
- Temporary structures for the sale of fireworks must be set-up within 1,000 feet of a fire hydrant or a fire department connection of a building unless the chief administrative officer of a fire department gives permission in writing stating otherwise.

Usage of Fireworks

- Fireworks can be used between the hours of 10:00 a.m. and midnight. On January 1, July 3, July 4 and December 31, fireworks can be used from 10:00 a.m. through 2:00 a.m.
- Fireworks cannot be exploded within 100 yards of a nuclear power facility or a gas station, or a facility that refines, processes, or blends gasoline.

Fees Payable to Local Governments

- Local governments may assess a fee up to \$100 for the issuance of a special use permit.
- The license fee for a distributor selling consumer fireworks from a temporary consumer fireworks retail sales stand is set at \$500 and expires 90 days after it has been issued.
- Local government must dedicate fees collected from the issuance of a special use permit for the sale of fireworks for public safety purposes.

Excise Tax on the Sale of Fireworks

- The sale of fireworks is subject to a 5 percent excise tax. The funds from the excise tax go to the State of Georgia.

Additional Local Government Regulations

- Local governments are not allowed to enact additional regulations related to the sale or use or explosion of fireworks, except as provided by state law.

FAQ

Q: What was the purpose and reasoning behind HB 110?

A: This legislation has been enacted as a competitive, economically driven piece of legislation. The Georgia General Assembly determined that many of our neighboring states allow the sales of larger, consumer fireworks, and that many residents of Georgia would purchase such fireworks out of state, proving a loss of sales tax in the state, as a result.

Q: What is a consumer firework? What is a consumer fireworks retail sales facility? What is a consumer fireworks retail sales stand?

A: The term “consumer fireworks” is a new term to Georgia law and it covers fireworks that comply with certain construction and composition requirements set out by federal regulations. The types of fireworks include the larger fireworks sold in some of our neighboring states to the general public which are currently not sold in the State of Georgia. A “consumer fireworks retail sales facility” uses the same definition for such term issued by the National Fire Protection Association, which means a “permanent or temporary building or structure, CFRS stand, tent, canopy, or membrane structure that is used primarily for the retail display of consumer fireworks to the public.” Similarly, “consumer fireworks retail sales stand” means a “temporary or permanent building or structure that has a floor area not greater than 800 ft. sq., other than tents, canopies, or membrane structure, that is used primarily for the retail display and sale of consumer fireworks to the public.”

Q: Are there any restrictions on where fireworks can be used in Georgia?

A: Yes. It is illegal to use any fireworks indoors and it is illegal to use consumer fireworks between midnight and 10am on any day of the year except January 1, July 3, July 4, and December 31. On those dates it will be illegal to use consumer fireworks between 2am and 10am. It will also be illegal to use consumer fireworks within 100 yards of a nuclear power facility or any facility engaged in the retail sale of gasoline or the production, refining, processing, or blending of gasoline for retail purposes.

Q: Can the city place further restrictions upon the places fireworks or consumer fireworks are used?

A: No. Cities cannot establish more stringent use restrictions than those specified in the state law. This means the city cannot prohibit the use of fireworks or consumer fireworks in many locations including, but not limited to, around city buildings, in city parks, on school property, on nursing home property, around hospitals and other medical facilities, around establishments holding large quantities of flammable liquids other than gasoline, and many other locations. The city, however, may grant special use permits to persons and parties which wish to use consumer fireworks at times outside of the scope of the time permitted by state law and may charge a permit fee of up to \$100 for such special use permit.

Q: Where can consumer fireworks be sold?

A: Consumer fireworks can be sold from permanent consumer fireworks retail sales facilities so long as such facilities meet the state licensing, safety, and insurance requirements set out by law. Cities have no regulatory authority over such permanent consumer fireworks retail sales facilities other than the ability to zone locations within the city which they may and may not be located. A city cannot ban the sales of consumer fireworks within its jurisdiction. In regards to temporary consumer fireworks retail sales stands, such facilities must be in compliance with the NFPA 1124 and must be within 1000 feet of a fire hydrant or fire department connection in a building affiliated with such stand, unless specifically granted a waiver in writing by the chief administrative officer of the city fire department.

Q: Does the city get any licensing fee from establishments selling fireworks? On what things can the city spend such funds?

A: The licenses granted to permanent consumer fireworks retail facilities initially cost \$5000 per location and then \$1000 per year for renewals. These funds, however, go directly to the state. The licenses granted to temporary consumer fireworks retail stands are \$500 per location and these funds are payable to the local government in which the stand will be located. Licenses for these temporary stands cannot be issued before January 1, 2016, and the sales from such stands must accrue to the benefit of a nonprofit group. The local government cannot set fees or regulations above those required by the state law, except as specifically authorized, as described in a question below. The fire department must make a determination of whether such temporary stand meets the requirements of the law within 15 days. If it has not been reviewed then the judge of the probate court will be able to determine whether the temporary stand can be located within the city. Any funds the city receives from this license fee has to be spent for public safety purposes.

Q: Does this mean that the city has no regulatory authority over the permanent structures? Can we not pass an ordinance?

A: The city may regulate the permanent structures via zoning, as it might any other type of business located within the city, but the regulatory authority over the permanent structures selling consumer fireworks rests with the state and the Safety Fire Commissioner. This means the city cannot pass an ordinance more stringent than the state rules and regulations as the state has occupied the field of fireworks regulation.

HB 110 – Fireworks

Q: Can we prohibit the sale or use of fireworks in our city?

A: No, the legislation specifically prohibits local governments from prohibiting “the sale or use or explosion of consumer fireworks or products or services which are lawful” under the remainder of the legislation. This means the city cannot prohibit the sales or use of consumer fireworks.

Q: Can the city regulate temporary consumer fireworks retail stands beyond the scope of the state law?

A: Yes, the legislation specifically states that local governments “may further regulate the sale of consumer fireworks from temporary consumer fireworks retail stands.” This does not mean the city can directly contradict the regulations set out in law on such temporary stands, but it does mean that the city can enact further regulations above those set out in the law on such stands.

Q: When does this law go into effect?

A: The majority of the law goes into effect on July 1, 2015. However, sales from temporary consumer fireworks retail stands cannot begin until January 1, 2016. These stands are the only part of this law which local governments have control over.

House Bill 110 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 155th, Turner of the 21st, McCall of the 33rd, Fleming of the 121st, and LaRiccia of the 169th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to carrying and possession of firearms, so as to provide for the possession
3 of consumer fireworks within a school safety zone; to amend Chapter 10 of Title 25 of the
4 Official Code of Georgia Annotated, relating to regulation of fireworks, so as to provide for
5 the sale of consumer fireworks; to provide for definitions; to provide for the use or explosion
6 of consumer fireworks during certain times and dates and for exceptions; to provide for
7 licensing; to revise penalties; to provide for enforcement of said chapter; to render certain
8 devices unlawful that require a flame for propulsion or lighting; to amend Chapter 60 of Title
9 36 of the Official Code of Georgia Annotated, relating to provisions applicable to counties
10 and municipal corporations, so as to clarify local governments' role in regulating or
11 prohibiting the sale and use of consumer fireworks; to amend Chapter 13 of Title 48 of the
12 Official Code of Georgia Annotated, relating to specific, business, and occupation taxes, so
13 as to provide for an excise tax on the sale of consumer fireworks; to provide for criminal
14 penalties; to provide for related matters; to provide for an effective date; to repeal conflicting
15 laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 style="text-align:center">SECTION 1.

18 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
19 relating to carrying and possession of firearms, is amended in Code Section 16-11-127.1,
20 relating to carrying weapons within school safety zones, at school functions, or on a bus or
21 other transportation furnished by a school, by revising paragraph (1) of subsection (b) as
22 follows:

23 *(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be
24 unlawful for any person to carry to or to possess or have under such person's control
25 while within a school safety zone, or at a school function, or on a bus or other
26 transportation furnished by a school any weapon or explosive compound, other than

27 fireworks or consumer fireworks the possession of which is regulated by Chapter 10 of
 28 Title 25."

29 **SECTION 2.**

30 Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of
 31 fireworks, is amended by revising Code Section 25-10-1, relating to definitions, as follows:
 32 "25-10-1.

33 (a) As used in this chapter, the term:

34 (1) 'Consumer fireworks' means any small fireworks devices containing restricted
 35 amounts of pyrotechnic composition, designed primarily to produce visible or audible
 36 effects by combustion, that comply with the construction, chemical composition, and
 37 labeling regulations of the United States Consumer Product Safety Commission as
 38 provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the
 39 United States Department of Transportation as provided for in Part 172 of Title 49 of the
 40 Code of Federal Regulations, and the American Pyrotechnics Association as provided for
 41 in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall
 42 mean Roman candles.

43 (2) 'Consumer fireworks retail sales facility' shall have the same meaning as provided for
 44 by NFPA 1124.

45 (3) 'Consumer fireworks retail sales stand' shall have the same meaning as provided for
 46 by NFPA 1124.

47 (4) 'Distributor' means any person, firm, corporation, association, or partnership which
 48 sells consumer fireworks.

49 ~~(1)~~(5) 'Fireworks' means any combustible or explosive composition or any substance or
 50 combination of substances or article prepared for the purpose of producing a visible or
 51 audible effect by combustion, explosion, deflagration, or detonation, including blank
 52 cartridges, balloons requiring fire underneath to propel them; firecrackers, torpedos,
 53 skyrockets, Roman candles; bombs, sparklers, and other combustibles and explosives of
 54 like construction, as well as articles containing any explosive or flammable compound
 55 and tablets and other devices containing an explosive substance.

56 (6) 'NFPA 1124' means the National Fire Protection Association Standard 1124, Code
 57 for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and
 58 Pyrotechnic Articles, 2006 Edition.

59 (7) 'Nonprofit group' means any entity exempt from taxation under Section 501(c)(3) of
 60 the Internal Revenue Code of 1986.

61 ~~(2)~~(8) 'Proximate audience' means an audience closer to pyrotechnic devices than
 62 permitted by the National Fire Protection Association Standard 1123, Code for Fireworks
 63 Display, as adopted by the Safety Fire Commissioner.

64 ~~(9)~~(9) 'Pyrotechnics' means fireworks.

65 (11) 'Retail chain' means a person, firm, corporation, association, or partnership with
 66 more than one store, where all such stores are collectively known to the public by the
 67 same name or share central management.

68 (12) 'Store' shall have the same meaning as provided for by NFPA 1124.

69 (b) As used in this chapter, the term 'consumer fireworks' or 'fireworks' shall not include:

70 (1) Model rockets and model rocket engines designed, sold, and used for the purpose of
 71 propelling recoverable aero models, toy pistol paper caps in which the explosive content
 72 averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy
 73 cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term
 74 'consumer fireworks' or 'fireworks' include ammunition consumed by weapons used for
 75 sporting and hunting purposes; and

76 (2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling
 77 items which are nonexplosive and nonaerial and contain 75 grams or less of chemical
 78 compound per tube or a total of ~~200~~ 500 grams or less for multiple tubes; snake and glow
 79 worms; smoke devices; or trick noise makers which include paper streamers, party
 80 peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of
 81 explosive mixture."

82 SECTION 3.

83 Said chapter is further amended by revising Code Section 25-10-2, relating to prohibited
 84 fireworks activities, as follows:

85 "25-10-2.

86 (a) It shall be unlawful for any person, firm, corporation, association, or partnership to
 87 offer for sale at retail or wholesale, to use or explode or cause to be exploded, or to possess,
 88 manufacture, transport, or store any consumer fireworks or fireworks, except as otherwise
 89 provided in this chapter.

90 (b)(1) Notwithstanding any provision of this chapter to the contrary, it shall be unlawful
 91 for any person, firm, corporation, association, or partnership to sell ~~to any person under~~
 92 ~~18 years of age~~ consumer fireworks or any items defined in paragraph (2) of
 93 subsection (b) of Code Section 25-10-1 to any person under 18 years of age.

94 (2) It shall be unlawful to sell consumer fireworks or any items defined in paragraph (2)
 95 of subsection (b) of Code Section 25-10-1 to any person by any means other than an
 96 in-person, face-to-face sale. Such person shall provide proper identification to the seller
 97 at the time of such purchase. For purposes of this paragraph, the term 'proper
 98 identification' means any document issued by a governmental agency containing a
 99 description of the person; or such person's photograph, or both, and giving such person's

100 date of birth and includes without being limited to; a passport, military identification card,
101 driver's license, or an identification card authorized under Code Sections 40-5-100
102 through 40-5-104.

103 (3)(A) It shall be unlawful to use fireworks, consumer fireworks, or any items defined
104 in paragraph (2) of subsection (b) of Code Section 25-10-1 indoors.

105 (B) Except as provided for in subparagraph (D) of this paragraph and subject to
106 paragraph (4) of this subsection, it shall be lawful for any person, firm, corporation,
107 association, or partnership to use or explode or cause to be exploded any consumer
108 fireworks on any day between the hours of 10:00 A.M. and 12:00 Midnight only;
109 provided, however, that it shall be lawful for any person, firm, corporation, association,
110 or partnership to use or explode or cause to be exploded any consumer fireworks on
111 January 1, July 3, July 4, and December 31 of each year between the hours of 12:00
112 Midnight and 2:00 A.M.

113 (C) Subject to paragraph (4) of this subsection, it shall be lawful for any person, firm,
114 corporation, association, or partnership to use or explode or cause to be exploded any
115 consumer fireworks anywhere in this state except:

116 (i) As provided for under subparagraph (A) of this paragraph;

117 (ii) In any location where such person, firm, corporation, association, or partnership
118 is not lawfully present or is not otherwise lawfully permitted to use or explode or
119 cause to be exploded any consumer fireworks; or

120 (iii) Within 100 yards of a nuclear power facility or a facility engaged in the retail
121 sale of gasoline or the production, refining, processing, or blending of gasoline for
122 such retail purposes.

123 (D) Any person, firm, corporation, association, or partnership may use or explode or
124 cause to be exploded any consumer fireworks on any day at a time not provided for
125 under subparagraph (B) of this paragraph if such person, firm, corporation, association,
126 or partnership is issued a special use permit pursuant to the law of a governing authority
127 of a county or municipal corporation for the use or explosion of consumer fireworks in
128 a location within such county or municipality at a time not provided for under
129 subparagraph (B) of this paragraph. Such special use permit shall designate the time
130 or times and location that such person, firm, corporation, association, or partnership
131 may use or explode or cause to be exploded such consumer fireworks. A fee assessed
132 by a county or municipal corporation for the issuance of a special use permit pursuant
133 to this subparagraph shall not exceed \$100.00. No governing authority or official of a
134 county, municipality, or other political subdivision shall bear liability for any decisions
135 made pursuant to this Code section.

136 (4)(A) It shall be lawful for any person 18 years of age or older to use or explode or
137 cause to be exploded or to possess, manufacture, transport, or store consumer fireworks.
138 (B) To the extent otherwise permitted by law, it shall be lawful for any person who is
139 16 or 17 years of age to possess or transport consumer fireworks, provided that such
140 person is serving as an assistant to a distributor licensed under subsection (c) of Code
141 Section 25-10-5.1 or the nonprofit group benefiting from such distributor's application
142 pursuant to subsection (c) of Code Section 25-10-5.1 and is not transporting such
143 consumer fireworks on a highway which constitutes a part of The Dwight D.
144 Eisenhower System of Interstate and Defense Highways.
145 (5)(A) It shall be lawful for any person 18 years of age or older to sell or to offer for
146 sale at retail or wholesale any consumer fireworks pursuant to the requirements of this
147 chapter.
148 (B) It shall be lawful for any person who is 16 or 17 years of age to sell or to offer for
149 sale at retail or wholesale any consumer fireworks, provided that such person is serving
150 as an assistant to a distributor licensed under subsection (c) of Code Section 25-10-5.1
151 or the nonprofit group benefiting from such distributor's application pursuant to
152 subsection (c) of Code Section 25-10-5.1.
153 (6)(A) It shall be lawful to sell consumer fireworks from a permanent consumer
154 fireworks retail sales facility or store only if such permanent consumer fireworks retail
155 sales facility or store is:
156 (i) In compliance with the requirements for such a permanent consumer fireworks
157 retail sales facility or store in the selling of consumer fireworks as provided for in
158 NFPA 1124; and
159 (ii) Selling consumer fireworks of a distributor licensed pursuant to subsection (b)
160 or (d) of Code Section 25-10-5.1.
161 (B) It shall be lawful to sell consumer fireworks from a temporary consumer fireworks
162 retail sales stand only if such temporary consumer fireworks retail sales stand is:
163 (i) In compliance with the requirements for such a temporary consumer fireworks
164 retail sales stand in the selling of consumer fireworks as provided for in NFPA 1124;
165 (ii) Within 1,000 feet of a fire hydrant of a county, municipality, or other political
166 subdivision or a fire department connection of a building affiliated with such
167 consumer fireworks retail sales stand, unless the chief administrative officer of the
168 fire department of a county, municipality, or other political subdivision or chartered
169 fire department legally organized to operate in this state pursuant to Chapter 3 of this
170 title and having operational authority over such location of the temporary consumer
171 fireworks retail sales stand provides in writing that such temporary consumer

172 fireworks retail sales stand may operate in excess of 1,000 feet from such fire hydrant
 173 or fire department connection; and
 174 (iii) Selling consumer fireworks of a distributor licensed pursuant to subsection (c)
 175 of Code Section 25-10-5.1.
 176 No distributor licensed pursuant to subsection (c) of Code Section 25-10-5.1 shall at
 177 any one time operate more than two temporary consumer fireworks retail sales stands
 178 for each license issued to such distributor under subsection (b) or (d) of Code Section
 179 25-10-5.1, except that a distributor which is a retail chain and which is licensed
 180 pursuant to subsection (d) of Code Section 25-10-5.1 shall not at any one time operate
 181 more than two temporary consumer fireworks retail sales stands for each store of such
 182 retail chain. Such temporary consumer fireworks retail sales stands shall be located
 183 within the same county as the location of such permanent consumer fireworks retail
 184 sales facility or store provided for under subsection (b) or (d) of Code Section
 185 25-10-5.1; provided, however, that if a county does not have a distributor licensed
 186 pursuant to subsection (b) or (d) of Code Section 25-10-5.1 offering consumer
 187 fireworks for sale from a permanent consumer fireworks retail sales facility or store
 188 within its boundaries, then a distributor licensed pursuant to subsection (b) or (d) of
 189 Code Section 25-10-5.1 offering consumer fireworks for sale from a permanent
 190 consumer fireworks retail sales facility or store within 75 miles of the perimeter of the
 191 boundaries of such county may locate one of the two temporary consumer fireworks
 192 retail sales stands in the unserved county.
 193 (C) It shall be unlawful to sell consumer fireworks from any motor vehicle or from a
 194 trailer towed by a motor vehicle."

195 **SECTION 4.**

196 Said chapter is further amended by adding a new Code section to read as follows:

197 "25-10-5.1.

198 (a)(1) A license pursuant to this Code section shall only be issued to a distributor that:
 199 (A) Complies with all the requirements of this chapter; and
 200 (B) Maintains at all times public liability and product liability insurance with minimum
 201 coverage limits of \$2 million to cover the losses, damages, or injuries that might ensue
 202 to persons or property as a result of selling consumer fireworks.
 203 (2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
 204 statement of representation in an application executed pursuant to this Code section shall
 205 be guilty of a violation of Code Section 16-10-20.
 206 (b)(1) The initial license fee for a distributor selling consumer fireworks from a
 207 permanent consumer fireworks retail sales facility shall be \$5,000.00 per location,

208 payable to the Safety Fire Commissioner. Upon a finding that a distributor has met the
209 requirements of paragraph (1) of subsection (a) of this Code section and upon payment
210 of such license fee, such initial license shall be issued by the Safety Fire Commissioner
211 and shall identify the permanent consumer fireworks retail sales facility applicable to
212 such license. Such initial license shall expire on January 31 of the year after such initial
213 license was issued. After such initial license, such distributor may annually renew such
214 initial license for \$1,000.00 per year, payable to the Safety Fire Commissioner. Upon
215 finding that a distributor has met the requirements of paragraph (1) of subsection (a) of
216 this Code section and upon payment of such license fee, such annual license shall be
217 issued by the Safety Fire Commissioner and shall identify the permanent consumer
218 fireworks retail sales facility applicable to such license. Such annual license shall expire
219 on January 31 of each year; provided, however, that a distributor shall not apply for an
220 annual license earlier than 30 days prior to the expiration of an initial license or annual
221 license.

222 (2) The determination by the Safety Fire Commissioner of whether a distributor has met
223 requirements for the issuance of a license required by this subsection shall be made
224 within 15 days of the submission of an application for any such license. Such application
225 shall be in writing and, if the Safety Fire Commissioner provides for a written form for
226 the application for a license pursuant to this Code section, upon such form as may be
227 provided by the Safety Fire Commissioner. If a determination has not been made within
228 the time provided for by this paragraph, or for an appeal of a determination by the Safety
229 Fire Commissioner, a distributor may seek review from the judge of the probate court of
230 the county of the location or proposed location of the permanent consumer fireworks
231 retail sales facility. Such judge may provide for the issuance or nonissuance of a license
232 and for the payment of license fees in such manner as is consistent with the provisions
233 of this subsection.

234 (c)(1) The license fee for a distributor selling consumer fireworks from a temporary
235 consumer fireworks retail sales stand shall be \$500.00 per location, payable to the
236 governing authority of the county, municipality, or other political subdivision of this state
237 in whose boundaries such temporary consumer fireworks retail sales stand shall be
238 located or is proposed to be located. Upon finding that a distributor has met the
239 requirements of paragraph (1) of subsection (a) of this Code section, has a license
240 pursuant to subsection (b) or (d) of this Code section for a location applicable to the
241 location of such temporary consumer fireworks retail sales stand as provided for in
242 subparagraph (b)(6)(B) of Code Section 25-10-2, has no more than the allowable
243 temporary consumer fireworks retail sales stands pursuant to subparagraph (b)(6)(B) of
244 Code Section 25-10-2, that the sales of consumer fireworks from such temporary

245 consumer fireworks retail sales stand shall accrue to the benefit of a nonprofit group, and
246 upon payment of such license fee, such license shall be issued by the fire department of
247 the county, municipality, or other political subdivision or the chartered fire department
248 legally organized to operate in this state pursuant to Chapter 3 of this title and having
249 operational authority of the area in which such temporary consumer fireworks retail sales
250 stand shall be located or is proposed to be located; provided, however, that no such
251 license shall be issued prior to January 1, 2016. Such license shall identify the temporary
252 consumer fireworks retail sales stand applicable to such license and shall expire 90 days
253 after the issuance of such license.

254 (2) A determination by a fire department as provided for under paragraph (1) of this
255 subsection of whether a distributor has met requirements for the issuance of a license
256 pursuant to this subsection shall be made within 15 days of the submission of an
257 application for any such license. Such application shall be in writing and, if such fire
258 department provides for a written form for the application for a license pursuant to this
259 Code section, upon such form as may be provided by such fire department. If a
260 determination has not been made within the time provided for by this paragraph, or for
261 an appeal of a determination by such fire department, a distributor may seek review from
262 the judge of the probate court of the county of the location or proposed location of the
263 temporary consumer fireworks retail sales stand. Such judge may provide for the
264 issuance or nonissuance of a license and for the payment of license fees in such manner
265 as is consistent with the provisions of this subsection.

266 (3) A nonprofit group benefiting from the sale of consumer fireworks pursuant to this
267 Code section shall directly participate in operating the temporary consumer fireworks
268 retail sales stand. It shall be unlawful for a nonprofit group or any agent or bona fide
269 representative of a nonprofit group to knowingly lend the name of the nonprofit group or
270 allow the identity of the nonprofit group to be used for the license under this subsection
271 if such nonprofit group is not directly participating in operating such temporary consumer
272 fireworks retail sales stand.

273 (4) The governing authority of a county, municipality, or other political subdivision
274 receiving fees pursuant to this Code section shall expend such fees for public safety
275 purposes.

276 (5) A distributor licensed pursuant to this subsection shall submit a list of the names and
277 addresses, including the counties, of each temporary consumer fireworks retail sales stand
278 at which such distributor has consumer fireworks offered for sale pursuant to this Code
279 section to the Safety Fire Commissioner. Such list shall be submitted by January 31 of
280 each year and such distributor shall amend such list, or file an initial list if such
281 distributor first becomes licensed after January 31 of a particular year, within 45 days of

282 having such distributor's consumer fireworks offered for sale at a location not previously
283 included on such list. The Safety Fire Commissioner shall make such list publicly
284 available for inspection. In making determinations as provided for under this subsection,
285 fire departments shall reference the list provided for by this paragraph.
286 (d)(1) The initial license fee for a distributor selling consumer fireworks from a store
287 shall be \$5,000.00, payable to the Safety Fire Commissioner, provided that, if a store is
288 a retail chain, one payment of \$5,000.00 shall satisfy such license fee for each store of
289 the retail chain. Upon finding that a distributor has met the requirements of paragraph
290 (1) of subsection (a) of this Code section, such initial license shall be issued by the Safety
291 Fire Commissioner and, if issued to a store which is a retail chain, shall be a license for
292 each current or future store of the retail chain. Such initial license shall expire on January
293 31 of the year after such initial license was issued. After such initial license, such
294 distributor may annually renew such initial license for \$1,000.00 per year, payable to the
295 Safety Fire Commissioner, provided that, if a store is a retail chain, one payment of
296 \$1,000.00 shall satisfy such license fee for each store of the retail chain. Upon finding
297 that a distributor has met the requirements of paragraph (1) of subsection (a) of this Code
298 section, such annual license shall be issued by the Safety Fire Commissioner and, if
299 issued to a store which is a retail chain, shall be a license for each current or future store
300 of the retail chain. Such annual license shall expire on January 31 of each year; provided,
301 however, that a distributor shall not apply for an annual license earlier than 30 days prior
302 to the expiration of an initial license or annual license.
303 (2) The determination by the Safety Fire Commissioner of whether a distributor has met
304 requirements for the issuance of a license required by this subsection shall be made
305 within 15 days of the submission of an application for any such license. Such application
306 shall be in writing and, if the Safety Fire Commissioner provides for a written form for
307 the application for a license pursuant to this Code section, upon such form as may be
308 provided by the Safety Fire Commissioner. If a determination has not been made within
309 the time provided for by this paragraph, or for an appeal of a determination by the Safety
310 Fire Commissioner, a distributor may seek review from the judge of the probate court of
311 the county of the location or proposed location of the store from which consumer
312 fireworks will be sold. Such judge may provide for the issuance or nonissuance of a
313 license and for the payment of license fees in such manner as is consistent with the
314 provisions of this subsection."

315 **SECTION 5.**

316 Said chapter is further amended by revising Code Section 25-10-6, relating to fireworks
317 manufactured, sold, or stored in violation of this chapter declared contraband and seizure and
318 disposition, as follows:

319 "25-10-6.

320 The state fire marshal shall enforce the provisions of this chapter. Applicable fire
321 departments of a county, municipality, or other political subdivision or a chartered fire
322 department shall refer cases for enforcement under subsection (c) of Code Section
323 25-10-5.1 to the state fire marshal. All fireworks manufactured, offered for sale, exposed
324 for sale, or stored in violation of this chapter are declared to be contraband and may be
325 seized, taken, and removed, or caused to be removed and destroyed at the expense of the
326 owner thereof by the state fire marshal, the Georgia State Patrol, or any sheriff or local
327 police official."

328 **SECTION 6.**

329 Said chapter is further amended by revising Code Section 25-10-9, relating to penalty for
330 illegal sale of sparklers or other devices, as follows:

331 "25-10-9.

332 Notwithstanding any provision of this chapter to the contrary, any person, firm,
333 corporation, association, or partnership ~~who or which~~ that knowingly violates subsection
334 ~~(b) of Code Section 25-10-2~~ this chapter may be punished by a fine not to exceed \$100.00
335 \$2,500.00. Each sales transaction in violation of subsection (b) of Code Section 25-10-2
336 this chapter shall be a separate offense."

337 **SECTION 7.**

338 Said chapter is further amended by adding a new Code section to read as follows:

339 "25-10-10.

340 It shall be unlawful for any person, firm, corporation, association, or partnership to release
341 or cause to be released any balloon, bag, parachute, or other similar device which requires
342 fire underneath for propulsion or to release or cause to be released any floating water
343 lantern or wish lantern which uses a flame to create a lighting effect in any public
344 waterway, lake, pond, stream, or river."

345 **SECTION 8.**

346 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to provisions
347 applicable to counties and municipal corporations, is amended by revising Code Section
348 36-60-24, relating to the sale of products or services, as follows:

349 *36-60-24.

350 (a) The governing authority of a county or municipal corporation shall not prohibit the sale
 351 or use or explosion of consumer fireworks or products or services which ~~products or~~
 352 ~~services~~ are lawful under subsection (b) of Code Section 25-10-1, unless such prohibition
 353 is expressly authorized by the general law of the state.

354 (b) If the sale of a product or service is regulated by ~~subsection (b) of Code Section~~
 355 ~~25-10-1~~ Chapter 10 of Title 25, the governing authority of a county or municipal
 356 corporation shall not enact additional regulation of the sale or use or explosion of such
 357 product or service, unless such additional regulation is expressly authorized by general law.

358 (c) Notwithstanding subsections (a) and (b) of this Code section, the governing authority
 359 of a county or municipal corporation may provide for permits or licenses for the sale or use
 360 of consumer fireworks as provided for under subsection (c) of Code Section 25-10-5.1.

361 (d) Notwithstanding subsections (a) and (b) of this Code section, the governing authority
 362 of a county may further regulate the sale of consumer fireworks from temporary consumer
 363 fireworks retail sales stands.

364 (e) The governing authority of a county shall not unreasonably delay or deny an
 365 application for a temporary consumer fireworks retail sales stand.

366 (f) For purposes of this subsection, the terms 'consumer fireworks' and 'consumer
 367 fireworks retail sales stand' shall have the same meanings as provided in Code Section
 368 25-10-1.

369 (c)(g) Any ordinance enacted before, on, or after July 1, 2006, by a county or municipal
 370 corporation in violation of this Code section is void."

371 **SECTION 9.**

372 Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to specific,
 373 business, and occupation taxes, is amended by adding a new article to read as follows:

374 ***ARTICLE 7**

375 48-13-130.

376 As used in this article, the term:

377 (1) 'Consumer fireworks' shall have the same meaning as provided for in Code Section
 378 25-10-1.

379 (2) 'Seller' means the person who is issued a license pursuant to Code Section 25-10-5.1.

380 48-13-131.

381 (a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed
382 upon the sale of consumer fireworks and any items provided for in paragraph (2) of
383 subsection (b) of Code Section 25-10-1 in this state at a rate of 5 percent per item sold.

384 (b) The excise tax imposed by this article shall be paid by the seller and due and payable
385 in the same manner as would be otherwise required under Article 1 of Chapter 8 of this
386 title.

387 48-13-132.

388 A seller who knowingly and willfully violates the requirements of this article shall be
389 assessed a civil penalty of not more than \$10,000.00 in addition to the amount of tax due.

390 48-13-133.

391 The department is authorized to adopt rules and regulations necessary for the enforcement
392 and implementation of the provisions of this Code section."

393 **SECTION 10.**

394 This Act shall become effective on July 1, 2015.

395 **SECTION 11.**

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

Diana Wheeler

Subject: FW: fireworks regulations

From: Donna Geisinger [<mailto:dgeisinger@rileymclendon.com>]
Sent: Thursday, June 25, 2015 1:30 PM
To: Diana Wheeler
Subject: RE: fireworks regulations

Diana,

Lenny was the attorney who poured over the HB and here is his response after reviewing your language for addition:

The law does not authorize us to regulate permanent locations – just temporary locations, so adding them as permitted uses doesn't really do anything, so I don't mind that. The other stuff is fine, though I would think it would be better placed in building regulations rather than in the zoning ordinance.

Please let me know if you have any other questions. D

Donna Geisinger
Assistant to William Riley
RILEY McLENDON, LLC

From: Diana Wheeler [<mailto:dwheeler@peachtreecornersga.gov>]
Sent: Thursday, June 25, 2015 10:44 AM
To: Donna Geisinger (dgeisinger@rileymclendon.com)
Subject: fireworks regulations

Donna,
I'm working on a fireworks ordinance resulting from HB 110 and I know several other communities are too. Please ask the attorney in your office working on this issue to review the language I have developed, below, and let me know if any changes need to be made.

Thanks,
Diana Wheeler
Community Development Director
City of Peachtree Corners

Amend Zoning Code Art. XIII, Sec. 1308 by adding 'Fireworks – retail sales' to the list of permitted uses within the C-2 district regulations, as follows:

27. Fireworks – retail sales of consumer fireworks within a permanent building shall meet the following requirements:

- 1. Building must meet overlay design standards, be free-standing, and be at least 2500 sq. ft. in size but no greater than 10,000 sq. ft. in size.**
- 2. Must meet Gwinnett County Fire Dept. regulations, built to ICC H3 building code requirements, and have two functioning fire extinguishers within proximity of where fireworks are stored.**
- 3. Must be located at least 300 feet from a facility that sells, stores, or processes gasoline.**
- 4. No Smoking signs shall be displayed at building entrance.**
- 5. All product storage shall be contained within the building.**