

**A RESOLUTION OF THE FORSYTH COUNTY BOARD OF
COMMISSIONERS EXTENDING UNTIL DECEMBER 7,
2016, AN EXISTING MORATORIUM ON ACCEPTANCE
OF APPLICATIONS FOR LAND DISTURBANCE PERMITS
ON CERTAIN RES3 ZONED PARCELS**

WHEREAS, Table 11.2(b) of the Forsyth County Unified Development Code (“UDC”) establishes performance standards for residentially zoned properties; and

WHEREAS, Table 11.2(b) establishes the “Minimum lot size in sq. ft. when connected to approved public or private sewer system” for property located in the RES3 zoning district as 14,750 sq. ft., but provides a footnote setting several exceptions to this requirement, to wit:

(1) Res3 rezoning applications applied for and/or approved by the Board of Commissioners between the following dates may comply with the minimum lot size requirement as follows:

- | | |
|---|-----------------|
| (a) Prior to November 1, 2007: | 9,000 sq. ft. |
| (b) Between November 1, 2007 and July 18, 2013: | 14,500 sq. ft. |
| (c) Between July 18, 2013 and October 2, 2014: | 10,000 sq. ft.; |

And

WHEREAS, on August 9, 2016, the Forsyth County Board of Commissioners (“Board”) directed the Planning and Community Development department and the County Attorney to draft and present to the Board an amendment to the UDC to delete Note 1 of Table 11.2(b) of the UDC; and

WHEREAS, the Board finds that there exist in the County various parcels that were, years ago, zoned RES3 where there is no current public policy or legal justification for those parcels to build out with a 9,000 sq. ft. minimum lot size or for that minimum lot size to be further recognized by the County;

WHEREAS, the Board further finds that the extraordinary growth in the County – accompanied by the current efforts at modifying the County’s comprehensive plan – justify affirmatively addressing older RES3 zonings that may yield a much greater residential density than presently allowed and which are simultaneously inconsistent with the Board’s current land use vision;

WHEREAS, the present minimum lot size for the RES3 zoning category is 14,750 sq. ft., and that minimum lot size represents the current legislative policy of the Board of Commissioners for RES3 zonings, and it is desired that future RES3 build out in the County, at least for those properties zoned prior to July 18, 2013, be in accord with the present RES3 minimum lot size requirements;

WHEREAS, the Planning and Community Development department and the County Attorney are in the process of drafting and scheduling public hearings related to an amendment to the UDC to delete Note 1 of Table 11.2(b) of the UDC; and

WHEREAS, on August 9, 2016, the Board adopted on a time-sensitive basis an emergency, temporary moratorium barring until September 8, 2016, acceptance of any applications for “land development permits for RES3 to the extent that they want to develop the RES3 at any lot square footage less than our existing table of 14,750 square feet;” and

WHEREAS, on August 23, 2016, the Board approved on a time-sensitive basis the following motion which related and clarified the August 9, 2016 moratorium:

“(1) That the 30-day moratorium on the acceptance of land disturbance permit applications for RES3-zoned property remain in effect for the same period as when originally enacted on August 9, except it shall not apply to land disturbance permit applications for RES3-zoned properties where the RES3 zonings were approved on or after July 18, 2013;

(2) And it shall also not apply to any RES3 zoned properties that, as of today’s date, have fully paid-for sewer reservation agreements, to include fully-paid for agreements that have been lawfully assigned to a developer or development;

(3) That Water & Sewer shall deliver to the Board of Commissioners, for consideration on a case by case basis, any additional request for new sewer reservation agreements on RES3-zoned properties; and,

(4) That a Public Hearing on the continued RES3 moratorium will occur on September 1, 2016.”;

And

WHEREAS, the law is well established under the zoning procedures law that a “zoning decision” as a “final legislative action by a local government” that results in the adoption of a zoning ordinance, grant of a special use permit, or amendment to a zoning ordinance that changes the ordinance's text, rezones property, or zones annexed property. Construing the statutory definition in this case, we hold that the city's temporary moratorium on billboard sign applications is not a “final legislative action.” City of Roswell v. Outdoor Systems, Inc., 274 Ga. 130 (2001);

WHEREAS, the Board conducted a properly noticed public hearing on September 1, 2016, to consider the possible extension of the existing temporary moratorium; and

WHEREAS, the Board finds extension until December 7, 2016, of the existing temporary moratorium to be appropriate, reasonably necessary, the least restrictive means available, a reasonable exercise of the County’s police power, and in the best interests of the public health, safety, and welfare;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF FORSYTH COUNTY, GEORGIA, AS FOLLOWS:

1. The above findings in the preamble are adopted and made a part of this Resolution as if fully set forth verbatim;

2. The Forsyth County Board of Commissioners does hereby extend until December 7, 2016, the existing temporary moratorium on acceptance of applications for land disturbance permits for RES3-zoned properties that wish to build out with a minimum lot size less than 14,750 sq. ft, except this moratorium shall not apply to the following categories of RES3-zoned properties:

(a) where the RES3 zoning for the property was approved after July 18, 2013, and,

(b) any RES3-zoned property with an existing sewer reservation agreement that was fully paid for as of August 23, 2016.

(c) it is the intention of the Board that exceptions (a) and (b), above, function independently of one another.

3. This moratorium is necessary in order to maintain the status quo and allow the County to modify its UDC such as to remove, at a minimum, footnote 1 from Table 11.2(b) without the County becoming inundated with land disturbance permit applications for RES3 zoned properties that otherwise will be impacted by the proposed UDC change.

4. The moratorium imposed by this Resolution shall terminate on the earliest date of (1) December 7, 2016; (2) approval by the Forsyth County Board of Commissioners of an additional moratorium after a public hearing; (3) an affirmative act by a majority of a quorum of the Board of Commissioners terminating the moratorium; or (4) the adoption of an amendment to the current language of Table 11.2(b) of the UDC related to minimum lot sizes in the RES3 zoning district.

5. This moratorium shall have no effect on the development of properties where the rights under a prior RES3 zoning have become vested nor shall this moratorium serve to disturb or hinder land disturbance permit applications that were tendered to the County prior to August 9, 2016.

6. For purposes of this moratorium, fully paid for sewer reservation agreements shall include fully paid for sewer reservation agreements that have been lawfully assigned to a developer or development.

7. This Resolution shall be effective upon a majority vote by the Board of Commissioners.

SO RESOLVED this 1st day of September, 2016, the public's health, safety, and welfare demanding it.

FORSYTH COUNTY BOARD OF COMMISSIONERS

Ralph J. Amos, Chairman

Cindy J. Mills, Vice Chairman

Brian R. Tam, Secretary

Jim Boff, Member

Todd Levent, Member

Attest:

Clerk to the Board