

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

CLARA GREIG and)
TARA FILECCIA-FLAGG,)
)
Petitioners,)
)
v.)
)
THE MAYOR AND ALDERMEN OF)
THE CITY OF SAVANNAH,)
SEACREST SEVEN, LLC, 1015)
WHITAKER, LLC, and PORTFOLIO)
HOLDINGS, LLC,)
)
Respondents.)

Case No.: SPCV25-00195-MI

**ORDER ON PETITIONERS' AMENDMENT TO MOTION FOR
EXPEDITED DECLARATORY JUDGMENT AND REQUEST FOR
EMERGENCY MANDATORY INTERLOCUTORY INJUNCTION**

Having read and considered the Petitioners' Amendment to Motion for Expedited Declaratory Judgment and Request for Emergency Mandatory Interlocutory Injunction, the responses thereto, the record, and the applicable law, and having heard argument from counsel at a July 17, 2025 virtual status conference, the Court finds as follows:

This action concerns four properties near Forsyth Park designated for the development of an office building above an underground parking garage, to wit: 1001 Whitaker Street, owned by Defendant Seacrest Seven, LLC; 1015 Whitaker Street, owned by Defendant 1015 Whitaker, LLC; 120 West Park Avenue, owned by Defendant Portfolio Holdings, LLC; and 124 West Park Avenue, owned by Defendant Portfolio Holdings, LLC. Those properties are currently zoned TN-1 ("Traditional Neighborhood"), which permits the use of general office and retail as well as a parking facility.

On January 9, 2025, the City voted to rezone the four properties from TN-1 to TC-2 ("Traditional Commercial"), and voted to amend its Future Land Use Map ("FLUM") to reflect the rezoning of those four properties. The Non-City Defendants sought to have the properties rezoned to construct three large office buildings, including new office space for a law firm and an underground parking garage ("Forsyth Park Development").

On February 7, 2025, the Petitioners¹ timely filed this action seeking review of the City's decisions to amend the Zoning Ordinance and FLUM pursuant to O.C.G.A. § 36-66-5.1. On March 3, 2025, the Petitioners moved for an expedited declaratory judgment and the stay of further proceedings relating to a February 18, 2025 hearing before the Metropolitan Planning Commission ("MPC") where the MPC approved three zoning variances from the Forsyth Park Development's new TC-2 zoning classification, as well as an anticipated hearing before the Savannah Historic Preservation Commission ("HPC").

Prior to the April 8, 2025 hearing on the Petitioners' motion, the Non-City Defendants filed a notice of abandonment of their rezoning and FLUM amendment application approved by the City, the variances previously granted by the MPC, the COA/special exception sought from the HPC, and any further permits or approvals issued by the City that are fully dependent on the rezoning and FLUM amendments and variances. The Non-City Defendants also requested a 90-day stay of the proceedings so the parties could attempt to resolve this litigation. The City of Savannah joined in the request for the stay. The Court memorialized the notice of abandonment in an April 10, 2025 Order and granted the 90-day stay.²

As relevant here, the April 10, 2025 Order bars development actions by the Non-City Defendants that are fully dependent on the Zoning Amendment, the FLUM amendment, the Variances, and the COA/Special Exception. However, the Order expressly contemplates that the Non-City Defendants will be permitted to

(i) undertake work not fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception, including without limitation *demolition of current structures* and work related to the underground parking facility; (ii) obtain, or cause to be obtained, permits, certificates, approvals, variances, and special exceptions not fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception.

(Emphasis added.)

On July 1, 2025, the Petitioners filed the instant motion, seeking to bar the City from granting demolition permits for the demolition of the existing buildings at the site of the Forsyth

¹ The Petitioners are two property owners who reside on West Park Avenue, across the street from the proposed development.

² The Order entered by the Court was prepared by counsel for the Petitioners and the Non-City Defendants.

Park Development, contending that the demolition is for purposes of continuing that development as originally designed and thus is fully dependent on the rezoning. The Petitioners also argue that the issuance of demolition permits would violate the statutory stay provided in O.C.G.A. § 36-66-5.1(d) and goes against the City's normal practice of waiting to approve demolition permits until after a replacement building has received all required approvals.

The Defendants responded³ to the Petitioners' motion on July 17, 2025, asserting that the Petitioners' request for injunctive relief was procedurally defective as it was not verified nor was it supported by affidavit as required by law. The Defendants further argue that demolition of the existing structures is allowed under the status quo pursuant to the 2023 certificates of appropriateness issued by the HPC and moreover is expressly authorized by the April 10, 2025 Order. The Defendants also maintain that the statutory stay provision of O.C.G.A. § 36-66-5.1 does not apply to demolition permits as the Petitioners only appealed from the zoning and FLUM amendments, not the 2023 issuance of demolition permits.

Premitting whether the instant motion for injunctive relief is procedurally defective⁴ under O.C.G.A. § 9-10-110 due to a lack of verification or support by affidavit or other evidence, the factors the Court must balance in determining whether to grant an interlocutory injunction weigh in favor of the Defendants.

In that regard,

an interlocutory injunction should not be granted unless the moving party shows that: (1) there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted; (2) the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined; (3) there is a substantial likelihood that the moving party will prevail on the merits of [their] claims at trial; and (4) granting the interlocutory injunction will not disserve the public interest.

Lightfoot v. Wellstar Health Sys., Inc., 374 Ga. App. 216, 224, 912 S.E.2d 107, 114 (2025). The first factor "is the most important one, given that the main purpose of an interlocutory injunction is to preserve the status quo temporarily to allow the parties and the court time to try the case in

³ Given the anticipated issuance of the demolition permits on July 24, 2025, the Court shortened the time for the Defendants to respond to the Petitioners' motion.

⁴ The Court notes that failure to verify petitions for injunctive relief is an amendable defect. Agri-Cycle LLC v. Couch, 284 Ga. 90, 92, 663 S.E.2d 175, 178 (2008).

Greig and Fileccia-Flagg – SPCV25-00195-MI – Order on Petitioners' Amendment to Motion for Expedited Declaratory Judgment and Request for Emergency Mandatory Interlocutory Injunction

an orderly manner.” City of Waycross v. Pierce Cnty. Bd. of Commissioners, 300 Ga. 109, 111, 793 S.E.2d 389, 392 (2016).

Turning to that first factor, although the Petitioners contend that the status quo requires the existing structures to remain in place until the conclusion of this litigation, the Court finds that demolition of those buildings is allowed under the status quo given the procedural posture of this case, as demolition violates neither the terms of the April 10, 2025 Order nor the stay provisions of O.C.G.A. § 36-66-5.1.

The April 10, 2025 Order bars the Non-City Defendants from performing any development actions that are fully dependent on the zoning amendment, the FLUM amendment, the variances, or the COA/special exception. However, demolition of the existing structures is specifically carved out as an example of work that may be performed because it is not fully dependent on the aforementioned amendments and variances,⁵ and obtaining permits, certificates, approvals, variances, and special exceptions for such work is also expressly authorized.⁶

Moreover, demolition of the current structures does not fall within the stay provisions of O.C.G.A. § 36-66-5.1 because the appeal in this case concerns only the zoning and FLUM amendments and proceedings that followed, not the issuance of the certificates of appropriateness by the HPC in 2023. As the Defendants note, the time to appeal those certificates of appropriateness has long-since passed.

Turning to the second factor, the Court finds the threatened injury to the Petitioners does not outweigh the threatened injury to the Non-City Defendants if the injunction was granted, particularly given that the Petitioners agreed that the Non-City Defendants could proceed with

⁵ Even if the Non-City Defendants chose to forego any rezoning or other amendments, development under the current TN-1 zoning classification would still likely require demolition of the existing structures.

⁶ To the extent the Petitioners contend that the Non-City Defendants intend to demolish the existing structures in furtherance of their original proposal based on certain public comments from representatives of the those parties, the Court notes that the rezoning and FLUM amendment application, the February 18, 2025 variances, and any COA/special exception and further permits or approvals have been abandoned by the Non-City Defendants and that abandonment has been memorialized in the April 10, 2025 Order. Should the Non-City Defendants proceed with the abandoned plans in violation of that Order, they may be subject to contempt sanctions.

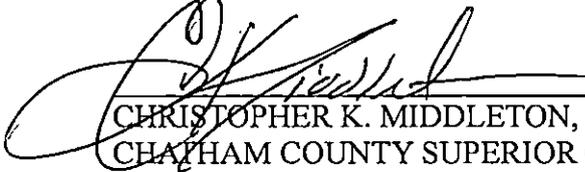
demolition under the April 11, 2025 Order, which was issued based on the agreement of all parties to this litigation.

As to the third factor, the Court finds that the Petitioners are unlikely to succeed on the merits regarding the demolition issue for the reasons set forth previously.

Turning to the fourth and final factor, the Court finds that granting the injunction would disserve the public interest in that it would contravene the terms of an agreement of the parties that has been memorialized by the Court in its April 10, 2025 Order. While the Petitioners point to a petition signed by members of the community opposed to an underground parking facility at the Forsyth Park Development, work toward that facility is specifically contemplated and authorized by the April 10, 2025 Order. Lastly, although the Petitioners argue that the issuance of demolition permits by the City prior to the approval of a replacement structure goes against the City's normal practice, they have not cited an ordinance or official policy requiring the City to abide by that practice in all cases. As such, the City may exercise its discretion in whether to follow the normal practice for issuing demolition permits.

Based on the foregoing, the Court hereby DENIES the Petitioners' Amendment to Motion for Expedited Declaratory Judgment and Request for Emergency Mandatory Interlocutory Injunction.

SO ORDERED, this 24 day of July, 2025.


CHRISTOPHER K. MIDDLETON, JUDGE,
CHATHAM COUNTY SUPERIOR COURT
EASTERN JUDICIAL CIRCUIT OF GEORGIA

cc: All counsel and parties of record