

**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' MOTION FOR CONTEMPT

Having read and considered the Petitioners' Motion for Contempt, the responses thereto, the record, and the applicable law, along with evidence and argument at the October 17, 2025 hearing, 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

On July 1 2025, the Petitioners moved to bar the City from granting demolition permits for the demolition of the existing buildings at the site of the Forsyth Park Development. However, the Court denied that motion, finding that the April 10, 2025 Order expressly allowed for the demolition of the then-existing structures on the site and that such demolition was not in violation of the statutory stay provision of O.C.G.A. § 36-66-5.1.

The Petitioners have now filed a motion for contempt, alleging that the Defendants have violated the April 10, 2025 Order by continuing to pursue their pre-abandonment plans relating to the underground parking facility.³ The Petitioners contend that the City, although not a party to

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; the City was not a party to that Order.

³ Specifically, Petitioners seek relief as to The Post-Abandonment Plans Dated July 1 and 16, 2025; The Garage Permit Set/Issue dated July 16, 2025; The Building Permit Application, 25-08481-BC, dated August 15, 2025; The Forsyth Park Garage Permit Set, dated July 16, 2025; The Site Development Application, 24-11402-SITE, dated October 2, 2024; The Plan Application, 25-004171-PLAN, dated August 19, 2025; The First Plan Application, 24-005318-PLAN, dated October 2, 2024; and The Notice of Undertaking, dated October 2, 2025 (collectively "the Subject Matters").

the April 10, 2025 Order, is nevertheless in contempt thereof by acting “in concert” with the Non-City Defendants.

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 provides that the Non-City Defendants

are, and continue to 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 . . . 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.)

This language expressly contemplates that work related to the underground parking facility may proceed regardless of the status of this litigation, as that work is not fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception that were the initial subjects of the Petition. Reading subsections (i) and (ii) together and within the overall context of the April 10, 2025 Order, permits and other applications relating to the underground parking facility such as the Subject Matters objected to in the Petitioners’ motion are likewise authorized under subsection (ii) as the underground parking facility itself is not fully dependent upon the abandoned items.

Even if the Court were to accept the Petitioners’ reading of subsection (ii), i.e., that permits sought under that subsection must not be fully dependent upon the abandoned items regardless of the provision in subsection (i) that the underground parking facility is not fully dependent upon the abandoned items, the Court finds that the 60% building coverage standard for TN-1 zoning does not apply to the underground parking facility.

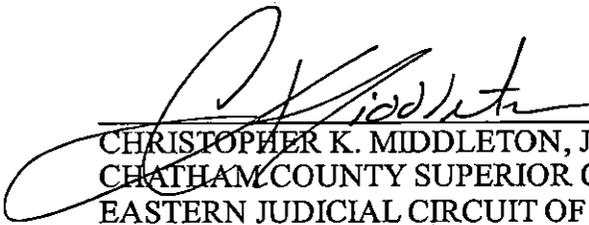
Zoning ordinances must be strictly construed in favor of the property owner. Noble Parking, Inc. v. Centergy One Assocs., LLC, 326 Ga. App. 455, 458, 756 S.E.2d 691, 694 (2014). In that regard, the City of Savannah Code of Ordinances lacks any express regulation of the parameters of an underground parking facility. However, § 13.2 defines many terms relevant here. “Building” is defined as “any structure used or intended for supporting or sheltering any use or occupancy;” “Structure” is defined as “anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on or in the ground;” “Parking Structure” is defined as “a structure of at least one (1) story that is used for the

temporary storage of vehicles whether located above or below grade;” and “Building Coverage” is defined as “the maximum percentage of the lot that is permitted to be *covered* by principal and accessory buildings.” The plain meaning of “cover” is “to lie over” or “to lay or spread something over;”⁴ as in, to be on top of something, not underneath. Construing this language in favor of the Non-City Defendants, an underground parking facility does not cover the lot, as it is built into the ground, and as such is not subject to the building coverage restrictions in TN-1 zoning. To the extent there exists any ambiguity in the language of the ordinance, it must be resolved in favor of the free use of property, and thus in favor of the Non-City Defendants’ proposed use. Noble Parking, Inc., 326 Ga. App. at 458, 756 S.E.2d at 694.

Based on the foregoing, the Court finds that the Non-City Defendants are not in violation of the terms of its April 10, 2025 Order. As the Non-City Defendants have not violated that Order, any actions of the City that the Petitioners alleged were done “in concert with” the Non-City Defendants are likewise not in violation of the Order. With respect to the City’s Notice of Undertaking, dated October 2, 2025, the Court finds that said notice is not dependent on the abandoned items, or any zoning designation for that matter, because the City is exempt from obtaining a COA (i.e., the subject matter of the Notice of Undertaking) pursuant to O.C.G.A. § 44-10-27.

Accordingly, the Petitioners’ Motion for Contempt is hereby DENIED.

SO ORDERED, this 7 day of November, 2025.


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

cc: All counsel and parties of record

⁴ *Cover Definition*, MERRIAM-WEBSTER.COM (“to lie over;” “to lay or spread something over”) <https://www.merriam-webster.com/dictionary/cover> (last visited Nov. 3, 2025).