



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda CITY COUNCIL

R. Steve Tumlin, Mayor
Cheryl Richardson, Ward 1
Grif Chalfant, Ward 2
Johnny Walker, Ward 3
G. A. (Andy) Morris, Ward 4
Reggie Copeland, Ward 5
Michelle Cooper Kelly, Ward 6
Joseph R. Goldstein, Ward 7

Wednesday, August 12, 2020

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Joseph Goldstein, Ward 7

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

PROCLAMATIONS:

20200614 Recognition of Kim Gresh

Presentation of a Proclamation by Mayor Tumlin and Council Member Michelle Cooper Kelly to Kim Gresh in recognition as 2020 Woman of Distinction and her contributions to the community.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

SCHEDULED APPEARANCES:

Each speaker is allotted five (5) minutes.

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:

- * **20200651** **Special Meeting - July 8, 2020**
Review and approval of the July 8, 2020 Special Meeting minutes.

- * **20200652** **Regular Meeting - July 8, 2020**
Review and approval of the July 8, 2020 regular meeting minutes.

- * **20200653** **Special Meeting - July 28, 2020**
Review and approval of the July 28, 2020 special meeting minutes.

- * **20200654** **Special Meeting - July 28, 2020**
Review and approval of the July 28, 2020 special meeting minutes.

MAYOR'S APPOINTMENTS: (for informational purposes only)**CITY COUNCIL APPOINTMENTS:****ORDINANCES:**

20200038 Z2020-07 [REZONING] VENTURE COMMUNITIES, LLC

Z2020-07 [REZONING] VENTURE COMMUNITIES, LLC is requesting the rezoning of 8.782 acres located in Land Lot 9, District 17, Parcels 0040 & 0160 of the 2nd Section, Cobb County, Georgia, and being known as 1520, 1540, & 1560 Cunningham Road from R-20 (Single Family Residential - County) and R-2 (Single Family Residential - 2 units/acre - City) to PRD-SF (Planned Residential Development - Single Family). Ward 2B.

Planning Commission recommends Approval with Stipulations

Mr. Diffley made a motion, seconded by Mr. Anderson to recommend approval including the letter of stipulations and variances from Sean G. Randall of Venture Communities, LLC to Russell J. Roth, Director of Development Services, and Shelby Little, Planning & Zoning Manager for the City of Marietta, dated August 4, 2020 and excluding variance #3 (Variance to reduce the minimum lot size requirement from 4,000 sq. ft. to the footprint of the smallest unit for fee simple townhomes). The motion carried 4-3-0. Mr. Hunter, Ms. McCrae and Mr. McClure opposed.

If Council approves the rezoning, the following stipulations and variances would be incorporated as conditions of zoning:

Letter of stipulations and variances from Sean G. Randall of Venture Communities, LLC to Russell J. Roth, Director of Development Services, and Shelby Little, Planning & Zoning Manager for the City of Marietta, dated August 4, 2020.

Public Hearing (all parties are sworn in)

20200547 A2020-04 [ANNEXATION] VENTURE COMMUNITIES, LLC

A2020-04 [ANNEXATION] VENTURE COMMUNITIES, LLC is requesting the annexation of property located in Land Lot 9, District 17, a portion of Parcel 0040 of the 2nd Section, Cobb County, Georgia and being known as 1520 Cunningham Road, and any associated right of way, consisting of approximately 0.503 acres. Ward 2B.

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. Anderson to recommend approval as submitted. The motion carried 7- 0- 0.

Public Hearing (all parties are sworn in)

20200548 CA2020-05 [CODE AMENDMENT]

CA2020-05 [CODE AMENDMENT] In conjunction with the requested annexation of property located in located in Land Lot 9, District 17, a portion of Parcel 0040 of the 2nd Section, Cobb County, Georgia and being known as 1520 Cunningham Road, the City of Marietta proposes to designate the Future Land Use of said property as MDR (Medium Density Residential). Ward 2B.

Planning Commission recommends Approval

Mr. Diffeley made a motion, seconded by Mr. McClure to recommend approval as submitted. The motion carried 6-1-0. Mr. Hunter opposed.

Public Hearing (all parties are sworn in)

20200577 Z2020-25 [SPECIAL LAND USE PERMIT] RED HARE BREWING CO. LLC

Z2020-25 [SPECIAL LAND USE PERMIT] RED HARE BREWING CO. LLC is requesting a Special Land Use Permit for 1.2 acres located in Land Lot 715, District 17, Parcel 0150, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1998 Delk Industrial Boulevard from LI (Light Industrial) to LI (Light Industrial) with a special land use permit for a mobile retail food establishment. Ward 1A.

Planning Commission recommends Approval

Mr. Diffeley made a motion, seconded by Mr. Hunter, to recommend approval as submitted. The motion carried 7-0-0.

Public Hearing (all parties are sworn in)

20200578 Z2020-26 [REZONING] ZMW LLLP

Z2020-26 [REZONING] ZMW LLLP is requesting the rezoning of approximately 3.3 acres located in Land Lot 362, District 17, Parcel 0110 of the 2nd Section, Cobb County, Georgia, and being known as 590 Commerce Park Drive from LI (Light Industrial) to LI (Light Industrial) with an additional use for a bank and/or financial institution. Ward 1A.

Planning Commission recommends Approval

Mr. Diffley made a motion, seconded by Mr. Anderson to recommend approval as submitted. The motion carried 7- 0- 0.

Public Hearing (all parties are sworn in)

Council Member Goldstein discloses that he, Elise Goldstein and David Goldstein have accounts with LGE Community Credit Union. Elise Goldstein is the mother of Council Member Goldstein. David Goldstein is the brother of Council Member Goldstein.

* **20200143** **Z2020-11 [REZONING] ALI GHARDAN (STEPHEN THOMPSON)**

Z2020-11 [REZONING] ALI GHARDAN (STEPHEN THOMPSON) are requesting the rezoning of 3.15 acres located in Land Lots 140 & 141, District 17, Parcel 0200 of the 2nd Section, Cobb County, Georgia, and being known as 888 (& 898) Powder Springs Street from R-2 (Single Family Residential - 2 units/acre) to PRD-SF (Planned Residential Development - Single Family). Ward 2B.

*The Planning Commission recommends Approval as Stipulated.
TABLED from the City Council Meeting on June 10, 2020.*

Mr. Diffley made a motion, seconded by Mr. McClure to recommend approval as submitted including the stipulation letters dated May 22, 2020 and May 29, 2020. Chairman Kinney, Mr. Diffley and Mr. McClure were for. Mr. Anderson, Mr. Davis, Mr. Hunter and Ms. McClure opposed. The motion failed.

Ms. McCrae made a 2nd motion, seconded by Mr. Hunter to deny the application. Mr. Anderson, Mr. Hunter and Ms. McCrae were for. Chairman Kinney, Mr. Diffley, Mr. Davis and Mr. McClure were against. The 2nd motion failed.

Chairman Kinney made a 3rd motion, seconded by Mr. McClure to recommend approval as submitted including the stipulation letters dated May 22, 2020 and May 29, 2020. Mr. Hunter and Ms. McCrae opposed. The motion carried 5-2-0.

If Council approves the rezoning, the following stipulations and variances would be incorporated as conditions of zoning:

*Letter of stipulations from Ali Ghadrhan and Peter "Beau" Durham, Hickory Custom Homes, LLC to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated May 22, 2020, and;
Letter containing additional stipulations from Ali Ghadrhan and Peter "Beau" Durham, Hickory Custom Homes, LLC to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated May 29, 2020.*

MOTION TO TABLE BY THE REQUEST OF THE APPLICANT

20200167 Z2020-13 [REZONING] CAMPUS REALTY ADVISORS, LLC (HARTWOOD INVESTMENTS, LLC)

Z2020-13 [REZONING] CAMPUS REALTY ADVISORS, LLC (HARTWOOD INVESTMENTS, LLC) are requesting the rezoning of 9.57 acres located in Land Lots 505 & 576, District 17, Parcels 0170, 0720, 0710, 0700, & 0690 of the 2nd Section, Cobb County, Georgia, and being known as 315 Frey's Gin Road and 1222, 1230, 1238, & 1246 Banberry Road from PRD-SF (Planned Residential Development - Single Family) to PRD-MF (Planned Residential Development - Multi Family). Ward 7A.

*The Planning Commission recommends Approval as Stipulated
TABLED from the City Council Meeting on July 8, 2020.*

Mr. Diffeley made a motion, seconded by Mr. Anderson to recommend approval as stipulated. The motion carried 5-0-0.

Letter of stipulations and variances from J. Kevin Moore of Moore Ingram Johnson & Steele to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated June 30, 2020.

The access on Banberry Road will be restricted to emergency vehicles only and an additional access point will be opened onto Kathleen Drive.

Applicant submitted a new stipulation letter on August 11, 2020.

If Council approves the rezoning, the following stipulations and variances would be incorporated as conditions of zoning:

Letter of stipulations and variances from J. Kevin Moore of Moore Ingram Johnson & Steele to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated August 11, 2020.

Public Hearing (all parties are sworn in)

20200345 Z2020-19 [REZONING] PULTE HOME COMPANY, LLC

Z2020-19 [REZONING] PULTE HOME COMPANY, LLC is requesting the rezoning of 3.8 acres located in located in Land Lots 290, District 17, Parcel 0640 of the 2nd Section, Cobb County, Georgia, and being known as 521 Atlanta Street from OI (Office Institutional) to PRD-SF (Planned Residential Development - Single Family). Ward 1A.

*The Planning Commission recommends Approval as Stipulated.
TABLED from the City Council Meeting on July 8, 2020.*

Mr. Diffley made a motion, seconded by Mr. Anderson to recommend approval as submitted including the letter of stipulations dated May 22, 2020, except that item #4 be amended to restrict the number of leasable units at any one time to no more than five percent. The motion carried 7-0-0.

If Council approves the rezoning, the following stipulations and variances would be incorporated as conditions of zoning:

1. Letter of stipulations and variances from Rob Hosack and James A. Balli, Taylor English Decisions, LLC to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated July 24, 2020.

Public Hearing (all parties are sworn in)

RESOLUTIONS:**CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:**

- 1. Economic/Community Development: Johnny Walker, Chairperson**
- 2. Finance/Investment: Joseph R. Goldstein, Chairperson**

* **20200625** **Fifth Modification of Lease Agreement for the Marietta Hilton Conference Center & Hotel**

Motion to approve the Fifth Modification of the Lease Agreement with Marietta Leasehold L.P./Remington Hotel Management due to an accounting error by Marietta Leasehold L.P./Remington Hotel Management. Remington mistakenly paid rent payments for April, May & June for 2020.

Council Members Walker and Goldstein opposed

3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson

* **20200593** **Precinct Polling Place Change**

Motion to approve an Ordinance making a boundary change to divide Marietta 3A precinct to form the Marietta 3B precinct. The polling place location for Marietta 3B will be located at Iglesia Misionera Asambleas De Dios, 1021 Oregon Trail, Marietta, GA 30008. The remaining portion of Marietta 3A will continue to vote at Pleasant Grove Missionary Baptist Church, 566 Whitlock Ave NW, Marietta, GA 30064.

Second Reading

4. Parks, Recreation and Tourism: Michelle Cooper Kelly, Chairperson

5. Personnel/Insurance: Cheryl Richardson, Chairperson

* **20200634** **Property & Casualty/Miscellaneous Coverage**

Motion to approve the City of Marietta/BLW property & casualty and other miscellaneous coverage, premiums, and companies utilized for the policy period of August 17, 2020, to August 17, 2021.

6. Public Safety Committee: Reggie Copeland, Chairperson

7. Public Works Committee: Grif Chalfant, Chairperson

* **20200612** **Booth Road**

Motion designating Booth Road from Powder Springs Street to Sandtown Road as a No Through Truck street for the City portion of Booth Road.

* **20200613 Atlanta Street Utilities**

Motion authorizing a variance from the Underground Utilities ordinance to allow the installation of fiber to be over lashed on existing fiber along Atlanta Street from a utility pole at 55 Atlanta Street to the building at 55 Atlanta Street. The property is currently owned by 55 Atlanta Street Office Building LLC - Keith Cristal. This motion does not grant a perpetual variance. AT&T must relocate underground at their expense if other utilities at the location are moved underground.

Council Member Goldstein discloses that he and Philip M. Goldstein combined own more than \$10,000 of stock in AT&T. Philip M. Goldstein is the father of Council Member Goldstein.

Council Member Goldstein Abstaining

OTHER BUSINESS:

20200655 BLW Actions of August 10, 2020

Review and approval of the August 10, 2020, actions and minutes of Marietta Board of Lights and Water.

* **20200681 Powder Springs Streetscape - Sandtown Rd to S Marietta Parkway
Project Parcel 5 - Eagle Lube Land, LLC - 686 Powder Springs Street:**

Motion authorizing acquisition of a portion of property and easements at 686 Powder Springs Street for the Powder Springs Streetscape - Sandtown Rd to S Marietta Parkway Project in exchange for \$18,500.00 and the stipulations listed:

1. Project activity shall not disturb the slope or grade of the lot or alter the subsurface in such a way that the structural integrity of the lot is harmed.
2. Parking Area:
 - a. The owner and any successors in title shall have access over and across the existing parking or access areas which become situated within the future right of way. The owner/successor in title shall have access and use rights of ingress and egress to utilize such area for parking and restriping as deemed necessary by the Owner but only after review and approval by the City of any areas contained within the right-of-way. The City shall maintain all areas within the future right of way.
 - b. Construction activity shall not eliminate any existing parking spaces on site. The temporary easement area and future right of way overlapping any existing parking lot area, shall be returned to its original or better condition including being paved and providing for parking of vehicles.
3. All existing stormwater drainage piping along the Parcel's boundary and frontage shall be maintained, re-constructed or replaced with adequate facilities to manage runoff in an adequate or better condition as exists today.
4. Project activity shall not include staging or storage of porta potties, vehicles, or equipment on the property at any time.
5. All grassy areas affected shall be reseeded with true fescue seed and covered with straw to assist in the sewing of the seed. In any event, the grassy areas shall be returned to as good as or better condition as existing prior to the Project activity. More specifically,
 - a. All disturbed areas must be seeded, fertilized, and mulched as soon as the final grade is achieved. Also, these disturbed areas must be protected until permanent vegetation is established.
 - b. A double row of Georgia DOT type "c" silt fence or an approved high- performance silt fence must be installed between the land disturbing activities and the structure, right of way or private access points in an appropriate location.
6. All Temporary Easements and Driveway Easements will terminate upon completion and acceptance of the same by the City of Marietta.

* **20200682 Bouldercrest Drive Sidewalk Enhancements
Project Parcel 10 - Sterling M. Smith - 571 Bouldercrest Drive**

Motion authorizing acquisition of the easements at 571 Bouldercrest Drive from Sterling M. Smith for the purpose of constructing the Bouldercrest Drive Sidewalk Enhancements project in exchange for \$660.00 and the stipulation as listed below.

1. Take out pine tree.

* **20200683** **Bouldercrest Drive Sidewalk Enhancements**
Project Parcel 3 - Ricky T. Payne and Dianne Payne - 495 Bouldercrest Drive

Motion authorizing acquisition of the easements at 495 Bouldercrest Drive from Ricky T. Payne and Dianne Payne for the purpose of constructing the Bouldercrest Drive Sidewalk Enhancements project in exchange for \$1,967.00.

* **20200684** **540 Powder Springs Street**

Motion to authorize the acquisition of property owned by Club Office Park Condominium Association on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference. In addition, the City Attorney is given authority to negotiate and close on the property at a price not to exceed \$30,000.00.

UNSCHEDULED APPEARANCES:

Each speaker is allotted five (5) minutes.

ADJOURNMENT: