

**MINUTES OF MAYOR & CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
Monday, November 21, 2022
6:30 p.m.**

Present: Mayor Derek Easterling
Mayor Pro Tem Pat Ferris
Councilmember Tracey Viars
Councilmember Antonio Jones
Councilmember Trey Sinclair
City Clerk Lea Alvarez
City Manager Jeff Drobney
City Attorney Randall Bentley, Sr.

I. INVOCATION

Mayor Easterling led the invocation.

II. PLEDGE OF ALLEGIANCE

City Resident Andrew Bramlett led the Pledge of Allegiance.

III. CALL TO ORDER

IV. ANNOUNCEMENTS

- A. This public meeting is being conducted via the use of real-time telephonic technologies allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed.
Mayor and Council will be conducting their meeting through Zoom Meeting and Facebook Live and you can access the meeting via the following link:
<https://www.facebook.com/CityofKennesaw/>
- B. If you would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 P.M. the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

[The City Attorney swore-in any witnesses or individuals offering comments on the agenda].

V. PRESENTATIONS

No items.

VI. PUBLIC COMMENT/BUSINESS FROM THE FLOOR

6:32 P.M. Floor Open for Public Comments

No comments.

6:32 P.M. Floor Closed for Public Comments

VII. OLD BUSINESS

No items.

VIII. NEW BUSINESS

- A. Election Update provided by Cobb County Board of Elections and Registration Director Janine Eveler.

Cobb County Board of Elections and Registration Director Janine Eveler provided the City of Kennesaw with an update regarding the Special Election held on November 8, 2022. The Board of Elections and Registration certified the election results on Tuesday, November 15, 2022; however, during preparations for their statewide audit, it was discovered that a memory card from the Kennesaw 3A Precinct was not uploaded correctly. Once the memory card was properly uploaded, the outcome of the election changed with Lynette Burnette as the winner. Those results were recertified. Madelyn Orochena requested a recount, which at the time of this presentation, was still in progress. Ms. Eveler explained if the recount produces a different number of votes, those results would need to be recertified by the Board of Elections and Registration.

Mayor Pro Tem Ferris asked about the recount process and how many ballots they are having to count. Ms. Eveler responded they are recounting approximately 185,000 ballots. The recount is a huge undertaking. She shared they are using a high-speed scanner, which scans about 90 ballots a minute; however, there is a lot of preparation and activity to get the ballots to the scanner. Ms. Eveler stated it takes about 45 minutes per box, and to date, this is the largest recount effort.

Mayor Pro Tem Ferris asked if there were any time estimates of when the recount would be completed. Ms. Eveler hoped it would be completed by this evening.

Mayor Pro Tem Ferris asked how the Cobb County Board of Elections and Registration would notify the City of Kennesaw. Ms. Eveler stated the results would be posted on the website, and she would let the City Clerk know.

Councilmember Jones thanked Ms. Eveler for all she does and recognized the hard work her team does. He asked why there was a difference between the closing receipt for the voting machine and the memory card.

Ms. Eveler stated it was not an issue at the polling place, it was after the memory cards were returned to the office. Ms. Eveler explained as the Poll Managers return their memory cards, they are sealed in a canvas pouch. There is a checklist in the Receiving Group that involves them opening the pouch and making sure all memory cards are

returned. In this case, they have a checklist that says there was one scanner or two scanners at that polling location. The Receiver checked the checklist, saw there were two memory cards, marked two on their checklist, and handed it to the person that was uploading the cards into the tabulation machine. The worker did not check her checklist that said there were two memory cards, reached into the bag, pulled one memory card out, uploaded it, put the card back into the pouch and handed it to another worker for storing for the required storage period. Ultimately, it was a failure to follow procedures in place.

IX. COMMITTEE AND BOARD REPORTS

No items.

X. PUBLIC HEARING(S)

- A. Approval of **ORDINANCE NO. 2022-09, 2022** granting a rezoning amendment request submitted by Varner Developers for 2112 & 2114 Old 41 Highway and lies in Land Lot 175, Tax Parcels 21, 119 & 121 of the 20th District, 2nd Section, Cobb County Georgia. Case #RZ2022-07.

Applicant is seeking to amend the zoning conditions under Ordinance #2018-10, 2018 to eliminate the requirement of building a hotel and replace it with constructing a Mixed-Use Development that consists of 4.316 +/- acres. The rezoning ordinance #2018-10, 2018 as well as variances regarding reducing the parking ratio from 2 to 1.59, reducing the overall parking from 867 to 710 spaces and reducing the major side setback from 25-feet to 20-feet were approved by Mayor and Council on June 18, 2018. This current mixed-use development (4.316 +/- acres) proposal will consist of a maximum of 208 luxury apartment units, a minimum of 6,000 square-feet of leasing and amenity space, a minimum of 12,000 square-feet of ground-floor commercial, a multi-level parking deck, pedestrian connectivity access points along the adjacent property as well as an eight-foot (8-foot) multi-use trail. This public hearing was advertised in the Marietta Daily Journal on October 14th and 21st, 2022, and a public notice sign was posted on-site. At their regularly scheduled meeting on November 2, 2022, the Planning Commission recommended to approve the request with the conditions as outlined by staff within the staff report with an additional condition of: Varner Developers and FedEx shall come to an agreement on how to reduce or eliminate any chance of noise and light pollution from the FedEx facility spilling over onto the proposed Mixed-Use Development to ensure protection of all parties involved. STAFF RECOMMENDATION: The Zoning Administrator, Darryl Simmons, recommends to approve the rezoning amendment request to eliminate the hotel component and replacing it with a Mixed-Use Development (4.316 +/- acres) with the conditions as outlined within the staff report as well as the additional condition recommended by the Planning Commission.

Zoning Administrator Darryl Simmons presented an ordinance granting a rezoning amendment request submitted by Varner Developers for 2112 & 2114 Old 41 Highway. The amendment request is specifically for one component and that is the 4.316 acre tract, which is the northern portion of the master development. The applicant wishes to substitute the previously approved hotel with a highly amenitized, mixed-use development

of 208 apartments and ground-floor retail. The staff analysis spells out all conditions of which a majority are from the 2018 rezoning. Staff has added language specific to this tract. One of the discussion points raised at the work session and Planning Commission dealt with an additional condition where the applicant and the legal representatives of FedEx would need to come to an agreement on how to reduce or eliminate any chance of noise and light pollution from the FedEx facility spilling over onto the proposed Mixed-Use Development. In addition, staff requested an update from Mr. Garvis Sams, legal representative of the applicant, regarding the completion of the other components on the property and that no incentives will be pursued as it pertains to this proposal.

Motion by Councilmember Viars to approve an ordinance granting a rezoning amendment request submitted by Varner Developers for 2112 & 2114 Old 41 Highway including the Attorney Letter dated November 18, 2022, as well as the revision, as presented. Seconded by Councilmember Sinclair.

6:46 P.M. Floor Open for Public Comments

GARVIS SAMS [Applicant Attorney with Sams, Larkin, and Huff]: Mr. Sams recognized several people including Mr. Zack Gober of LaVista Associates, who knows more about this deal from 2018 than anyone else, and Mr. Sam Olens, legal representative for FedEx, which has a huge distribution center to our north. Mr. Olens came to Mr. Sams due to litigation against FedEx across the country claiming the centers are nuisances. Mr. Sams said legal counsel had concluded with two documents, one is the original agreement and the other is an additional paragraph agreed upon earlier in the afternoon (See **Exhibit A**). This application involves a 4.316 acre tract that was originally slated for a hotel. Unfortunately, there is a significant change that Old Highway 41 will be rerouted and there is not a market for hotels in this location right now. This mixed-use development was originally approved in June 2018 for retail buildings, multi-family, office condominiums, and pedestrian connectivity.

Mr. Sams mentioned Mayor Pro Tem Ferris had an inquiry at the work session about the status of the office buildings. The building has been listed since 2018. COVID hit the market very badly. There are more people telecommuting now. Mr. Sams said the developer would build it as they are obligated to build it. The applicant has been asked for assurances they will not ask for any incentives and abatements. Mr. Sams stated for the record they will not.

He emphasized this proposal will be of high-end nature and not student housing. There is a provision in the leases that will not include a place for guarantors to sign. Mr. Sams said students will not be able to afford these apartments and reiterated it will not be student housing.

Mr. Sams reassured Council they have not heard any objection on this proposal from the neighboring Town Center Community Improvement District. Additionally, there have not been any individuals or businesses in opposition. Mr. Sams asked for approval of this application.

SAM OLENS [Legal Representative for FedEx]: Mr. Olens stated this FedEx site takes in over 4,000 truck trips a month. Around the country, FedEx keeps being sued for

nuisances even though the warehouses were present first. His client wants further protection, so Mr. Olens worked with Mr. Sams to ensure an adequate buffer to the proposed development. Most importantly, he shared if you look through Mr. Sams' letter dated November 18, 2022, point three states all owners, lessees, and assigns will be on notice the facility is located in close proximity and is noisy.

Mayor Pro Tem Ferris expressed his concern with this application is the same he has had in this City for a while. He stated we have had multiple developers come in with mixed-use applications. The developer will build the residential, but the commercial never happens.

Mayor Pro Tem Ferris continued by saying Mr. Sams mentioned incentives. In 2018, the City of Kennesaw threw out hundreds of thousands of dollars in incentives and he was in favor for that. In fact, he saw that as something very fair, and ultimately, saw this Council and Varner as partners. Varner came in with a sterling representation for doing these types of projects; however, Mayor Pro Tem Ferris feels much of this partnership is broken. The developer showed up earlier this year with a proposal for self-storage, and then came back with residential. We had Georgia Tech do a study and there was absolutely no way those warehouses would have benefited the City of Kennesaw. Ultimately, he sees the hotel project as being the best use for us.

Councilmember Jones is more concerned about the traffic the development will generate as that area is already gridlocked in the evening. He thinks adding additional residential is going to be too much for this location. Mr. Jones was excited for the proposed hotel component. Further, Mr. Sams lost him when he said students would not be able to afford to live in the proposed apartments. Councilmember Jones stated there is already a lack of affordable housing in the city.

Mr. Sams responded by addressing Mayor Pro Tem Ferris. He stated his client did everything they were obligated to do under the original incentives agreement, which includes the vertical construction of the commercial component prior to the issuances of certificate of occupancies for the apartments. That was the only timing requirement and it was completed. When Old 41 Highway closes, and there is a circuitous way to get to the city, it will not support a hotel. The market is not there. Mr. Sams said the City of Kennesaw's Economic Development Director suggested the composition you see today.

Councilmember Viars wants to recognize the difficulty as a real estate professional in what can go on this tract. We were very clear we did not want self-storage; however, she is glad they came back with a plan.

DAVID BLINKHORN [City Resident]: Mr. Blinkhorn said it was mentioned earlier he was previously on the Council when this mixed-use development was voted on. He was against it then and is still against it. Mr. Blinkhorn presented an option. By the developer coming back to you and asking for the variance, they want to renegotiate. He asked Council to not assume everything presented to you is cast in stone. Council has the opportunity to make changes. The whole property was a mixed-use development. There was a retail part, a business part, apartments, and now they have carved out a section that was supposed to be a hotel and want to make that mixed-use. Mr. Blinkhorn said the developer stated they cannot find any hotels willing to come there, and yet they said they

have had multiple extended stay hotels that wanted build there. Recently, we have had many conversations about affordable hotels. He said extended stays are a thing of our times as people need places to stay that are affordable. Mr. Blinkhorn also mentioned the need for medical facilities. The City of Kennesaw's own studies showed there is 1% available in Kennesaw. The client said they have not been able to fill the retail part, but managed to fill 30% with a dental office.

Mr. Blinkhorn went to say the applicant has not been able to show any studies that illustrate Kennesaw's need for more high-end apartments; however, they did show there is affordable housing available that reached out to them and there are medical groups who want to build in that area. He emphasized Council can renegotiate. Finally, Mr. Blinkhorn mentioned the Cobb County Airport and the McCollum Parkway realignment. He said that project has been on Cobb County's desk for over 10 years. The developer was aware of the potential changes when they started this project. It is not new. Mr. Blinkhorn hopes Council will reconsider what should go there and what the City needs.

JON BOTHERS [City Resident]: Mr. Bothers wanted to give recognition to David Blinkhorn as he hit all the points he was going to try to touch on during his public comment. The one statement that disturbed Mr. Bothers the most when Mr. Sams gave his presentation was the inference that the City of Kennesaw does not want college students in our apartments. There is not enough housing for students here. Mr. Bothers stated we cannot run away from Kennesaw State University. The students have to have somewhere to stay and to say we do not want them here is not ok with him. He shared students cannot afford to live here, so they end up having to leave the City of Kennesaw. He wonders why we are we chasing away the tax dollars that could be had here. It is ridiculous to raise rates so high that students and families cannot afford them. We want to build an environment where those kids can live and play here.

7:19 P.M. Floor Closed for Public Comments

DARRYL SIMMONS [City of Kennesaw Zoning Administrator]: Mr. Simmons spoke on behalf of staff. He stated all the analysis and work that has been done has been collaborative. He reassured Council and the public that staff is not taking the word of any applicant coming into their office. Our Community Development team does their homework as well. Mr. Simmons said a lot of progress has been made over the last six years and is opposite of what was just stated. The City of Kennesaw is promoting students to come live here. Recently, we passed a student housing ordinance, so they have a safe environment to live in and so they are not encroaching into subdivisions. Mr. Simmons recounted a great project that was presented a few years ago. The proposed student housing project on Lockhart Drive met all the requirements except for one, which was a variance for a road. Council turned it down based on overwhelming concerns from a subdivision outside of city limits. That proposal represented hundreds of hours of work. To say we are not promoting students to live and work here is false. Mr. Simmons is the author of that ordinance, and he pushed it in the first place.

Mr. Simmons also addressed transportation planning. He said this type of planning is not as easy as counting cars and parking spaces. Apartment owners are operating on different schedules. They are all not coming and leaving at the same times. The City of Kennesaw has to be progressive with what we do as far as land use. There are different

consumer needs than what existed 10 years ago. Mr. Simmons said we have to be prepared for that because those consumers are here. Properties and developments are not the only things causing traffic problems. The City of Kennesaw is a cut through city to get to I-75 and Cobb Parkway. The cut-through traffic is putting additional stress on our roads. Adding 208 apartments on three roads is not going to cause a traffic problem. Mr. Simmons thinks overall, staff looked at many different proposals for this property. Staff's job is to filter through these proposals and find the best fit. We have people who want to live here. We have to be strategic.

Councilmember Viars does not know if anyone has priced out student housing recently. There is no such thing as affordable student housing. Students live in three to four bedroom pods and each pay \$1,000 a month in rent. She is not sure it is any different than splitting a \$2,100 room in Revival between two students. She sees that happen frequently.

Vote taken, motion tied 2-2 (*Mayor Pro Tem Ferris and Councilmember Jones opposed*). Breaking the tie, Mayor Easterling voted in the affirmative, 3-2 (*Mayor Pro Tem Ferris and Councilmember Jones opposed*). Motion carried.

- B. Approval of ORDINANCE granting a rezoning request submitted by Stratus Property Group for the properties located at 3707 & 3715 Cherokee Street and lie in Land Lot 92, Tax Parcels 38 & 39 of the 20th District, 2nd Section, Cobb County Georgia.

Applicant is seeking to rezone subject property from Single-Family Residential (R-20) to Multi-Family Residential (RM-12). Said request is to construct thirty-five (35) for-rent townhome units. This public hearing has been advertised in the Marietta Daily Journal on October 14th and 21st, 2022, and two (2) public notice signs have been posted on-site. On October 20, 2022, city staff received a letter from Mr. Garvis L. Sams, Jr. with Sams, Larkin & Huff, LLP, formally requesting staff to consider recommending postponement of the case to the December 2022 public hearing dates. Then, on November 2, 2022, city staff received a letter from Mr. Sams requesting to withdraw the application without prejudice. At their regularly scheduled meeting, the Planning Commission voted to recommend to withdraw the application without prejudice. Vote 5-0. STAFF RECOMMENDATION: The Zoning Administrator, Darryl Simmons, recommends acceptance of the letter submitted by Garvis L. Sams, Jr. dated November 2, 2022 to withdraw the rezoning application without prejudice.

Assistant Zoning Administrator and Planner Albert Treviño presented an ordinance granting a rezoning request submitted by Stratus Property Group for the properties located at 3707 and 3715 Cherokee Street. The applicant seeks to rezone the property from Single-Family Residential (R-20) to Multi-Family Residential (RM-12), and to construct 35 for-rent townhome units. Per our adopted Comprehensive Plan, staff was not in support of this request due to the fact the Future Land Use Plan designates this area as Neighborhood Activity Center, which is designed to serve the surrounding neighborhood with services. Shiloh Plantation submitted several letters of opposition from residents regarding storm water runoff, traffic and indicating it as not conforming to our Comprehensive Plan. Staff notified the applicant of the lack of support for the

proposal, and ultimately, a letter of withdrawal was submitted by the applicant without prejudice.

Motion by Councilmember Viars to accept the letter submitted by Garvis L. Sams, Jr. dated November 2, 2022 to withdraw the rezoning application submitted by Stratus Property Group for the properties located at 3707 & 3715 Cherokee Street without prejudice, as presented. Seconded by Councilmember Sinclair.

7:31 P.M. Floor Open for Public Comments

No comments.

7:31 P.M. Floor Closed for Public Comments

Vote taken, motion unanimously approved 4-0. Motion carried.

XI. CONSENT AGENDA

- A. Approval of the October 10, 2022 Mayor and Council Executive Session Minutes.
- B. Approval of the November 7, 2022 Mayor and Council regular meeting minutes.
- C. Ratify action of the License Review Board regarding a server permit appeal hearing held on October 26, 2022 to uphold the denial of an alcohol server permit for Jacob Carswell and receive the hearing minutes.

On October 7, 2022, the Kennesaw Police Department provided official notification to Mr. Carswell regarding the denial of his alcohol server permit due to omission of information on his application pursuant to the City of Kennesaw Code of Ordinances Section 6-70 (c). Mr. Carswell appealed the denial on the October 10, 2022 and a License Review Board appeal hearing was held on October 26, 2022. After receiving evidence and testimony, the License Review Board voted to uphold the denial. Mr. Carswell did not appeal the decision of the License Review Board. The City Clerk recommends ratifying the decision of the License Review Board to uphold the administrative denial of Jacob Carswell's alcohol server permit and to receive the minutes from the appeal hearing.

- D. Approval of **RESOLUTION NO. 2022-46, 2022** authorizing the Mayor and City Manager to sign Memorandum of Understanding (MOU) with the City of Acworth.

The purpose of this MOU recognizes the need for Kennesaw to house its Disaster Recovery Site outside the proximity of its facilities and to designate the Acworth Police Department Facility as the Disaster Recovery Site host. The City's Information Technology (IT) Department shall provide, and exclusively use and maintain, the affiliated equipment. All installation of equipment will be performed or supervised by the department in coordination with Acworth's IT Department unless an emergency, natural or man-made, occurs and the resulting mitigation measures are implemented in good faith by Acworth. I.T. Department recommends approval.

E. Authorize purchase of Kubota Tractor.

Council approved the purchase of one Kubota tractor for the Parks and Recreation Department in the FY23 Budget. Using the State contracts available through the Georgia Department of Administration, the City is able to purchase one new Kubota L47 from Atlanta Kubota for the cost of \$51,567.46 under the state contract number 99999-001-SPD0000177-0006. The Parks and Recreation Director recommends approval.

Machinery and Equipment: 230.1055.54.200000.00000

F. Final plat application submitted by RD Town Kennesaw, LLC for 1650 N Cobb Parkway and 1810 Old 41 Highway. Case #FP2022-09.

This final plat shows the combination of three parcels (20020702220 - 1650 N Cobb Pkwy, 20020700050 - 1810 Old 41 Hwy & 20020702270 - 1810 Old 41 Hwy) into one contiguous parcel as well as shows the placement of buildings and roads. The new address for said parcel is 1545 Whitemarsh Road. This plat is the product of the rezoning and annexation of the Castle Lake mobile home community which was approved by Mayor and Council on September 20, 2021 under ordinance #2021-10 (rezoning) and #2021-11 (annexation). The approval is considered Phase II of Kennesaw Marketplace, which will consist of approximately 332 multi-family luxury apartments and 62 townhomes all zoned as Planned Village Community with an access easement to the Noonday Creek Trail network. The Plan Review Committee has reviewed the final plat and has deemed plat is in compliance. STAFF RECOMMENDATION: The Zoning Administrator, Darryl Simmons, recommends approval of the final plat.

G. Final plat application submitted by Beazer Gain, LLC for 2465 Hidden Creek Road. This plat is an amendment to a previously approved final plat for Phase 1A of Pine Mountain Park. Case #FP2022-08.

The purpose of this final plat amendment is to change the address of lot 3 due to the orientation of the home. The old address was 2407 Hidden Creek Road and the new address is 3999 Fallen Leaf Court. No other changes to the plat were made. Phase 1A was approved by Mayor and Council on April 5, 2021 and recorded as Plat Book #280 and Page #146. Pine Mountain Park is a residential neighborhood with single-family detached homes zoned Planned Unit Development - Residential with a Conservation Subdivision overlay. The Plan Review Committee has reviewed said plat amendment for compliance and recommends approval. STAFF RECOMMENDATION: The Zoning Administrator, Darryl Simmons, recommends approval of the final plat amendment.

Motion by Councilmember Jones to approve the Consent Agenda engross. Seconded by Mayor Pro Tem Ferris.

Vote taken, motion unanimously approved 4-0. Motion carried.

DEPARTMENT REPORTS

XII. FINANCE AND ADMINISTRATION

GINA AULD, Finance Director

No items.

XIII. PUBLIC SAFETY

BILL WESTENBERGER, Police Chief

NIKKI MCGRAW, 911 Communications Director

No items.

XIV. INFORMATION TECHNOLOGY

RICK ARNOLD, Co-Director

JOSHUA GUERRERO, Co-Director

No items.

XV. PUBLIC WORKS

RICKY STEWART, Director

ROBBIE BALENGER, Building & Facilities Manager

No items.

XVI. RECREATION AND CULTURE

RICHARD BANZ, Museum and Agency Director

STEVE ROBERTS, Parks and Recreation Director

BRITTANY JONES, Smith-Gilbert Gardens Director

No items.

XVII. COMMUNITY DEVELOPMENT

LUKE HOWE, Economic Development Director

DARRYL SIMMONS, Zoning Administrator

SCOTT BANKS, Building Official

- A. Parcel split plat application submitted by Davis Engineering and Surveying for 2934 Cherokee Street. This plat splits one lot into three parcels. Case #PS2022-06.

This is a parcel split plat request to split one lot into three lots. Total acreage of the lot is 0.46 acres. Tract A is 0.38 acres and is addressed as 2934 Cherokee Street. Tract B is 0.03 acres and will have a new address of 2938 Cherokee Street. Tract C is directly adjacent to Cherokee Street, it contains 0.05 acres and it will be dedicated as future right-of-way. The subject property is zoned Central Business District and it is located within the Cherokee Street Historic District. All members of the Plan Review Committee have reviewed said plat and all comments have been addressed. STAFF RECOMMENDATION: The Zoning Administrator, Darryl Simmons, recommends approval of the parcel split plat application.

Assistant Zoning Administrator and Planner Albert Treviño presented a parcel split plat application submitted by Davis Engineering and Surveying for 2934 Cherokee Street. Mr. Treviño stated this was a City-initiated plat request. The intent is to split the parcel into

three tracts. Tract A will hold the Bobby Grant Center and parking lot, maintaining the current address of 2934 Cherokee Street; Tract B will only house the water tower turned cell tower with a new address of 2938 Cherokee Street; and Tract C will be dedicated as future right-of-way for the Cherokee Street Improvement Project.

Motion by Councilmember Sinclair to approve the parcel split plat application submitted by Davis Engineering and Surveying for 2934 Cherokee Street, as presented. Seconded by Councilmember Viars.

Mayor Pro Tem Ferris stated he does not see this right now. He would support the right of way; however, he sees the rest as premature. Mayor Pro Tem Ferris stated carving the parcel up like that does not make sense to him.

City Manager Jeff Drobney stated this item is before Council to look ahead. He stated we do have the water tower, and we plan to spend many dollars to repaint it as a landmark downtown. Sprint also has equipment on that tower from which the City receives income, and we want to continue to have that lease in place. Dr. Drobney stated if no one is familiar with the history of the Bobby Grant Center, it started out as the fire department in the 1950s. Later, the building housed Parks and Recreation for many years. Finally, the Criminal Investigations Division moved in there. The building is old and worn out. Dr. Drobney says the City does not want to continue putting money into that building. Although we do not intend to sell that building at this point, we still want to look ahead. Dr. Drobney says the City hopes to build a new public safety facility, sooner rather than later. When the building is completed, we are going to move officers out of the Bobby Grant Center and into the new facility as quickly as possible. With that being said, the Bobby Grant Center then becomes extra space that could be sold as part of the Central Business District, if Council so chooses. Dr. Drobney would suggest that strongly.

Vote taken, motion tied 2-2 (*Mayor Pro Tem Ferris and Councilmember Jones opposed*). Breaking the tie, Mayor Easterling voted in the affirmative, 3-2 (*Mayor Pro Tem Ferris and Councilmember Jones opposed*). Motion carried.

XVIII. PUBLIC COMMENT/BUSINESS FROM THE FLOOR

7:38 P.M. Floor Open for Public Comments

ANDREW BRAMLETT (City Resident): Mr. Bramlett presented a brief history on G.T. Carrie's hotel (See **Exhibit B**).

MARY MILLER (City Resident): Ms. Miller stated the City of Kennesaw was recently blanketed with anti-Semitic flyers on the lawns of hundreds of homes. She asked Council and its officials to take a public stance against these messages of hate and to make a formal statement in support of our Jewish citizens. A complete transcript of Ms. Miller's comments has been entered into the record as **Exhibit C**.

CARLENE FREGELLE (City Resident): Ms. Freogelle was not sure how to approach this issue. In the past, when we have had a City election, there has always been a Voter Review Panel consisting of two residents to represent the City. Those representatives were not included this election. Ms. Freogelle recommended making sure that when we

have an election, the City always has someone in the Voter Review Panel to represent us.

MARTY HUGHES (Assistant City Manager): Mr. Hughes read three emails submitted to kennesawcouncil@kennesaw-ga.gov regarding sanitation and the election (See **Exhibit D**).

7:45 P.M. Floor Closed for Public Comments

XIX. CITY MANAGERS REPORT – Jeff Drobney

- A. City Manager reports, discussions and updates.

XX. MAYOR’S REPORT

- A. Mayor and Council (re)appointments to Boards and Commissions. This item is for (re)appointments made by the Mayor to any Board, Committees, Authority or Commission requiring an appointment to fill any vacancies, resignations, and to create or dissolve committees, as deemed necessary.

XXI. COUNCIL COMMENTS

Councilmember Viars wished everyone a Happy Thanksgiving!

Mayor Pro Tem Ferris hoped everyone has a Happy Thanksgiving! He is interested in seeing the results from the election. He has been tracking City elections for over 50 years and has never seen anything like this before

Councilmember Jones asked all the residents to look up their city cellphone numbers and invite them over to have a plate for Thanksgiving!

Councilmember Sinclair wished residents a Happy Thanksgiving.

XXII. EXECUTIVE SESSION –Land, Legal, Personnel

- A. Pursuant to the provisions of O.C.G.A. §50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

Motion by Councilmember Sinclair to enter into Executive Session as allowed by O.C.G.A. Sec. 50-14-3 for the purpose of discussing personnel and legal, motion seconded by Councilmember Viars.

After receiving visual and verbal confirmation from Council, motion approved unanimously, 4-0. Motion carried.

7:48 PM Recess to Executive Session

Mayor, City Council, City Manager, Assistant City Manager, City Clerk, Deputy City Clerk, and City Attorney attended Executive Session.


8:13 PM Reconvene into Open Session

Councilmember Sinclair read the Board back into Open Session and directed the Mayor and City Council to execute an affidavit in compliance with O.C.G.A. Sec. 50-14-4, motion seconded by Councilmember Jones.

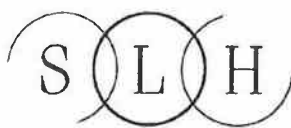
After receiving visual and verbal confirmation from Council, motion approved unanimously, 4-0. Motion carried.

XXIII. ADJOURN

Mayor Easterling adjourned the meeting at 8:15 P.M. The next regularly scheduled meeting will be held Monday, December 5, 2022 at 6:30 P.M. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.



Lea Alvarez, City Clerk



GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770•422•7016
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770•426•6583
FACSIMILE

November 18, 2022

VIA EMAIL:

Samuel S. Olens, Esq.
The Dentons Firm
303 Peachtree Street, NE
Suite 5300
Atlanta, GA 30308

COPY

Re: Application of Varner Developers to Rezone a 4.316 -Acre Tract from PVC to PVC
(RZ2022-07)

Dear Sam:

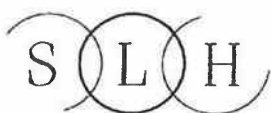
Thank you for circling back to your client and reviewing the revised draft which I sent to you late yesterday afternoon. I truly appreciate the dispatch with which your connected with your client and then back to me in a timely fashion. In that regard, the following will substitute/revise certain components but will also include the verbatim parts of the stipulations concerning which we had no disputes between our respective clients.

My client ("Varner") is agreeable to the following revised language as stipulations/conditions of the rezoning:

1. The existing twenty-five foot (25') buffer will, of course, be disturbed in the future with the City's construction of a multi-use trail for which the City has been granted both construction and permanent easements.

That ultimate positioning of the multi-use trail will be determined by the City and as a condition precedent to my client's agreement to the following: The installation of a planted, maintained and landscaped buffer. The buffer shall include a double row, in a staggered fashion, two (2) rows of Cryptomeria or Leland Cypress trees, with the appropriate amount of space on center.

Varner will agree to effectuate the planting of the buffer as described below and additionally will intersperse therein a few species of hardwood trees such as Maples and others which will be deciduous but will ultimately obtain a height which will accentuate and enhance the balance of the landscaping as described above and provide screening and will attenuate sounds. Lastly, Varner, his successors or assigns, will agree to ensure that the buffer remains healthy and vibrant for one (1) year from the date of planting. Thereafter, the plantings will be firmly established and stabilized.



VIA EMAIL:

Samuel S. Olens, Esq.
The Dentons Firm
November 18, 2022
Page 2

2. Either surface parking or the structured parking deck as currently shown on the site plan shall be located in a position parallel to the northern common property line between the FedEx property and the Subject Property. There shall be no additional residential units located between the parking deck and the common property line.
3. The following recital shall be contained within all contractual documents; concerning all deeds of conveyance; including but not necessarily limited to warranty deeds, quitclaim deeds, leases, Covenants, Conditions and Restrictions ("CCRs"):

"The property contained and referenced in this document is located in close proximity to a Federal Express distribution and sorting facility ("Current Use") which may, at times, produce loud noises, bright lights, noxious odors and sounds ("Ancillary Activities"). The undersigned Owner/Lessee/Transferee waives any claims that it may have, or may in the future have, with respect to the Current Use and/or Ancillary Activities constituting a nuisance. Federal Express is an express third party beneficiary entitled to enforce the Acknowledgment and Waivers set forth above."
4. The original agreement required Varner, his successors and assigns, to notify all landowners regarding any change in zoning stipulations/conditions, site plan configuration or other developmental issues which take the form of a rezoning, an amendment to the existing zoning or any type of entitlement request and the City, under its present requirements, will ensure that such notices, as required by state and local laws, are effectuated in accordance with existing zoning protocols.

Again, I very much appreciate the work that you, Anamaria Hazard and your client representatives have done but I think that we all know that FedEx understandably does not want new neighbors complaining about the FedEx facility which came first. Varner and his mixed-use development are very interested in constituting an excellent neighbor to FedEx which is a vital transportation and distribution facility which has operated successfully for years.

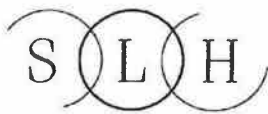
With kind personal regards and best wishes for the upcoming holiday season, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

A handwritten signature in dark ink, appearing to be "G. Sams", enclosed within a large, loopy oval.

Garvis L. Sams, Jr.
gsams@samslarkinhuff.com



VIA EMAIL:

Samuel S. Olens, Esq.
The Dentons Firm
November 18, 2022
Page 3

cc: Mr. John Varner (via email)
Mr. Zack Gober (via email)
Mr. Don Perry (via email)
Mr. Darryl Simmons, Planning & Zoning Manager (via email)
Anamaria Hazard, Esq. (via email)

The third paragraph under #1 of Garvis L. Sams, Jr.'s letter dated November 18, 2022 shall be revised as follows:

“Varner will agree to effectuate the planting of the buffer as described above and additionally will intersperse therein a few species of hardwood trees such as Maples and others **a maximum of twenty feet (20') apart on center as site conditions allow**, which will be deciduous and will ultimately obtain height which will accentuate and enhance the balance of the landscaping as described above and provide screening and will attenuate sounds. Lastly, Varner, his successors or assigns, will agree to ensure that the buffer remains healthy and vibrant for one (1) year from the date of planting. Thereafter, the plantings will be firmly established and stabilized.”

KENNESAW HISTORY

G. T. Carrie's Hotel

G. T. Carrie's Hotel

Carrie is wearing a black suit and holding a cane.

Image from Gayle Croft



After the Civil War, the Western & Atlantic Railroad built an eating house and hotel in what is now Depot Park. It replaced a similar structure that had been burned during the war. The new building was built in 1870, and the establishment was originally managed by Gaspard T. Carrie. The hotel was two stories tall, had ten rooms with plastered walls, and was completely painted. The entire building cost around \$3000 to build.

The hotel was open by the next year, and the *Atlanta Constitution* called it a “No. 1 eating house.” In the mid-1870s, the hotel was managed by George Lacy, who had managed the earlier hotel during the war. He was described by the *Marietta Journal* as the “best Epicurean caterer in the state.” Lacy backed a political candidate the railroad’s president did not like, and was forced to give up the hotel. He was replaced by Gaspard Carrie, whose family managed the hotel until its closing in 1893. The citizens of Kennesaw were disappointed when it was torn down that year.

Presented by Andrew J. Bramlett
at the November 21, 2022,
City of Kennesaw Mayor &
Council Meeting

KENNESAW
HISTORICAL
SOCIETY

Mary Miller

3905 Collier Trace, Kennesaw 30144

Kennesaw was recently blanketed with Anti-Semitic flyers thrown onto the front lawns of hundreds of homes. Those responsible had the obvious intent to intimidate Jewish families and spread radical white nationalist propaganda.

One cannot help but to see the direct correlation between these recent acts and Kennesaw's current main street which further advocates this messaging by endorsing hate for profit in the form of sales of Nazi flags, uniforms and other radical white nationalist memorabilia. We can agree that the 1st Amendment protects the freedom of speech but we can also agree that silence is acceptance.

When NextDoor social media posts started to appear that showed how these Kennesaw communities felt about these flyers, Madelyn Orochena thought it important to reach out to the Jewish family who reported the initial batch of flyers. The Make Kennesaw Welcoming Team brought flowers and a card and a message of love and support to this family.

On behalf of Kennesaw citizens, we ask that our city council and its officials take a public stance against these kinds of messages of hate and make a formal statement in support of its Jewish citizens. Please take a leadership role in our efforts to Make Kennesaw Welcoming.

Lea Alvarez

From: Rachel Petty [REDACTED]
Sent: Monday, November 21, 2022 2:12 PM
To: kennesawcouncil
Subject: CITY COUNCIL MEETING 11/21/22

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

My name is Rachel Petty & I have been a homeowner in Kennesaw for 18 years. My husband has owned a business in Kennesaw for 12 years. Due to work obligations, I am unable to make the City Council meeting in person. I appreciate you taking my concern via message.

While I understand the need for an increase in garbage service due to inflation, I don't understand the increase for an extra trash can from \$4 to \$18.56.

As a city resident, it is my understanding that I am not allowed to use another vendor. I did however check pricing & most companies are around \$25 per month & \$10 per month for an extra can. To charge \$18.56 per month for an extra can is exorbitant. While gas prices & labor may have gone up, the cost of the can sitting in my yard has not. To charge this much & not allow your residents to use another vendor is outrageous.

As a long time resident, I ask that you please reduce the charge to a reasonable rate. My contact info is below & a response is appreciated. Thank you for your time.

Rachel Petty
2584 Kennesaw Springs Ct
[REDACTED]

Lea Alvarez

From: Kristin Thomas [REDACTED]
Sent: Monday, November 21, 2022 4:48 PM
To: kennesawcouncil
Subject: Public comment - Kristin Thomas

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see my public comment below on the agenda item "election update":

Good evening. My name is Kristin Thomas and my husband and I have lived in the historic district of Kennesaw since 2015. We moved here with excitement over the growth of the city and the future plans Kennesaw had in their sights. While there has been new construction, the amount of vacant and run down buildings has been steadily growing over the last few years.

2760 S Main St, 2831 S Main St, 2839 S Main St, 2934 Moon Station Rd, 2871 N Main St, 2881 N Main St, and 2759 S Main St are all depressingly empty, with some sitting this way for years now. A few of these are even owned by the same person. What is our city council doing to promote revitalization of some of our original buildings of our town? One major drawback for businesses exploring our town as their home is the Wildman's storefront. The unquestionable approval our city gave to Wildman's new business license is disappointing. Do our city's representatives not have the growth of our town in mind? Why would the structural integrity of one of our town's original buildings not be reviewed? Why would the economical impact of this business on the city not be reviewed?

Our confidence in our city has shrunken drastically over the last year. We had hope with this latest election, as we saw multiple candidates running for city council that were obviously devoted to this community and it's success. However, Lynette Burnette has somehow beaten these candidates without offering a second of her time to actually campaign and share her platform for the citizens of this city. I have seen zero evidence that our new city council member has any appetite to explore issues and ideas with the people of this community in mind. This, along with the history of our current council's lack of support to revitalizing our town is troubling. My ask for this city council is to put the greater good of the community first when making decisions.

Thank you,
Kristin

Sent from my iPhone

Lea Alvarez

From: Dane Thomas [REDACTED]
Sent: Monday, November 21, 2022 4:12 PM
To: kennesawcouncil
Subject: Public Comment for 11/21 City Council Meeting

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

My name is Dane Thomas and I live at 2976 North Main Street. Unfortunately I'm unable to attend in person tonight but would like the below public comment read in regards to the "Election Update provided by Cobb County Board of Elections and Registration Director Janine Eveler." agenda item:

"In the only statement I have seen from Lynette Burnette she noted that this election was "unconventional" which I agree. It is unconventional for a candidate to win who did not attend any of the public town halls, did not respond to a single interview request from local papers, did not provide any contact info on their application, did not attend any city events as a candidate, and did not share any information on her platform let alone have any semblance of a campaign. The other 6 candidates did all of the above and more. They and their families dedicated countless hours to prove they were serious about serving the city and here we are with Ms. Burnette. Lynette isn't even here tonight. She sent a representative. What kind of local city councilor has their own representatives?

Lynette is clearly not her to serve the community as she has not given a moment of her time during this election cycle. With Lynette sharing so little about herself and platform many have been left to do their own research, curious about who their new City Councilor is. Research which reveals Lynette's family is quite well off with deep ties to McCollum Airport. How well off exactly? Well enough that her brother was able to purchase a fleet of private jets from a Mr. Jeffrey Epstein in 2019. So who is Lynette here to serve? With the amount of effort she put into this election I can only imagine it's the interest of those in her circle and most certainly not the citizens of Kennesaw."

Thank you.

Names and Addresses will be disclosed in the Permanent Minutes of the
City of Kennesaw

PLEASE MAKE SURE YOUR NAME IS LEGIBLE AND CLEAR

**Mayor & Council Regular Meeting
11/21/2022
Public Comment Sign-in**

	Name	Address	Topic
1	Andrew J. Brantley	2990 Monmouth Ct., Kennesaw	Local History
2	Carlene Fregolite	2549 Parker Kennesaw	Historical
3	Mary Miller	3905 Collier Trace	Anti-Semetic Flyers
4	David Binkhorn	2641 Butler Bridge Way	-
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