



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes

### PLANNING COMMISSION

*Bob Kinney - Chairman*  
*Stephen Diffley - Vice Chairman*  
*Jay Davis, Ward 1*  
*Frasure Hunter, Ward 2*  
*Boozer McClure, Ward 3*  
*Byron "Tee" Anderson, Ward 4*  
*Brenda McCrae, Ward 5*

Wednesday, January 6, 2021

6:00 PM

City Hall Council Chambers

*Present: Stephen Diffley, Jay Davis, Frasure Hunter, Boozer McClure,  
Byron "Tee" Anderson, and Brenda McCrae*

*Absent: Bob Kinney*

*Staff:*

*Rusty Roth, Director, Development Services*

*Shelby Little, Planning & Zoning Manager*

*Robin Osindele, Urban Planner*

*Daniel White, City Attorney*

*Ines Embler, Secretary to the Board*

### CALL TO ORDER & ROLL CALL:

*Vice Chairman Diffley called the January 6, 2021 Planning Commission Meeting to order at 6:00PM.*

*Daniel White, City Attorney, explained the rules and procedures used in conducting the public hearings.*

### MINUTES:

**20210018**

**December 1, 2020 Regular Planning Commission Meeting Minutes**

**Review and Approval of the December 1, 2020 Regular Planning Commission Meeting Minutes.**

*Mr. Davis made a motion, seconded by Mr. Hunter, to recommend approval of the Planning Commission Work Session and Planning Commission Meeting Minutes as submitted. The motion carried 6-0-0. Chairman Kinney was absent.*

**A motion was made by Davis, seconded by Hunter, that this matter be Approved and Finalized. The motion carried by the following vote:**

**Absent: 1**  
**Vote For: 6**  
**Vote Against: 0**

## REZONINGS:

**20200888**                    Z2020-32 [REZONING] CAPITAL CITY BANK

**Z2020-32 [REZONING] CAPITAL CITY BANK is requesting the rezoning of 1.19 acres located in Land Lots 1217 & 1232, District 16, Parcels 1450, 1470, 0740, 0750, 0670 of the 2nd Section, Cobb County, Georgia, and being known as 225, 237 & 251 Roswell Street and 311 & 313 Anderson Street from CRC (Community Retail Commercial) and OI (Office Institutional) to CRC (Community Retail Commercial). Ward 5A.**

*File number Z2020-32 was presented by Ms. Little for a request to rezone property as 225, 237 & 251 Roswell Street and 311 & 313 Anderson Street from CRC (Community Retail Commercial) and OI (Office Institutional) to CRC (Community Retail Commercial).*

*A public hearing was held.*

*Mr. Kevin Moore, Esq., for the Applicant, is requesting to rezone property known as 225, 237 & 251 Roswell Street and 311 & 313 Anderson Street from CRC (Community Retail Commercial) and OI (Office Institutional) to CRC (Community Retail Commercial).*

*Mr. White, City Counsel disclosed that the firm adjoins this property and stated that neither the firm nor the partners have any interest in the property other than they share the same alleyway that belongs to the City.*

*There were two (2) in opposition to this request. One spoke. Mr. Bobby Johnson spoke in opposition.*

*Mr. Johnson said he is not necessarily opposed and is only expressing concern over the edge that abuts their law office. He said that is a driveway or alleyway that is public and believes is owned by the City. He said the utilities run under that driveway, so any project that takes place next door to them needs to move over to the right a little and leave that driveway alone. He said that driveway controls his front and rear parking lot and if the driveway goes away, it is effectively a constructive eviction of their law firm from that building.*

*In his rebuttal, Mr. Moore said they are not impacting that alleyway. The site plan shows that they are tying into it, but it is being left open.*

*Vice Chairman Diffley asked if the arrow pointing to the left in the drawing is an exit to the alleyway? Mr. Moore affirmed stating that it will keep with traffic circulation of all the adjoining properties.*

*Ms. McCrae asked if you can get from Washington to Roswell through the alleyway. Mr. Moore said yes.*

*The public hearing was closed.*

*Mr. McClure made a motion, seconded by Mr. Anderson to recommend approval as stipulated. The motion carried 6-0-0.*

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

- 1. Letter of stipulations from Moore, Ingram, Johnson & Steele, to Shelby Little, Planning & Zoning Manager, for the City of Marietta, dated January 5, 2021.*

#### **Recommended for Approval as Stipulated**

**Absent: 1**  
**Vote For: 6**  
**Vote Against: 0**

**20200889**

#### **Z2020-33 [SPECIAL LAND USE PERMIT] JONATHAN CLAY**

**Z2020-33 [SPECIAL LAND USE PERMIT] JONATHAN CLAY is requesting a Special Land Use Permit for 0.568 acres zoned CRC (Community Retail Commercial) and located in Land Lot 1234, District 16, Parcels 0250 & 0300, 2nd Section, Marietta, Cobb County, Georgia, and being known as 41 & 45 South Avenue. Special land use permit for a drug abuse treatment center (inpatient). Ward 1A.**

*File number Z2020-33 was presented by Ms. Little for a Special Land Use Permit for 0.568 acres zoned CRC (Community Retail Commercial) and located in Land Lot 1234, District 16, Parcels 0250 & 0300, 2nd Section, Marietta, Cobb County, Georgia, and being known as 41 & 45 South Avenue. Special land use permit for a halfway house/drug abuse treatment center (inpatient).*

*A public hearing was held.*

*Mr. Garvis Sams, Jr., Esq., for the Applicant is requesting a Special Land Use Permit for 0.568 acres zoned CRC (Community Retail Commercial) and located in Land Lot 1234, District 16, Parcels 0250 & 0300, 2nd Section, Marietta, Cobb County, Georgia, and being known as 41 & 45 South Avenue. Special land use permit for a halfway house/drug abuse treatment center (inpatient).*

*There were three (3) in opposition to this request. Mr. Charles Gress, Mr. Robert Lewis and Ms. Kathie Spell spoke in opposition.*

*The opposition expressed concern for the safety of the community, stating that the area is already burdened with petty theft type crimes. They said the residential community is thriving and filled with children who play outside. They feel this would bring property values down. Mr. Gress also asked if the surveillance was for the benefit of the property and residents or the people in the community. They feel this type of facility should not be in a residential area.*

*Mr. Sams, in his rebuttal stated that this is a total lockdown facility. No one other than staff will be going in or out so they will not be outside committing any crimes. He said security is to satisfy the requirements of the State of Georgia and it will benefit the community as well as there will be cameras inside and out. He stated that the people in this facility are covered by insurance; it is not subsidized, so they have to meet certain financial requirements.*

Ms. McCrae asked if individuals will be allowed to smoke and if the facility will be gated. Mr. Sams said no smoking will be allowed inside the building and the facility is not gated, but that doors are locked at all times.

Ms. McCrae asked if people will be stuck in a room all day and who will manage any confrontations that will likely arise? Mr. Sams said they are not confined to one room, there is a recreation facility and a dining area and that the facility director and other staff would intervene immediately should there be a confrontation.

Ms. McCrae asked if there is a place for them to go after the 10 days. Mr. Sams said yes and stated that completion of the program involves going to another facility if they are not ready.

Mr. Anderson stated for the record that he does have an ownership interest in the property to the east of tract 1; the piece of property that runs between the alley and Roswell Street.

Vice Chairman Diffley asked if they will be allowed familial visitors or any types of visitors by anyone at any time. Mr. Sams they also have phones and internet access, but as for familial visitors, he does not know the answer to that question, but will be sure to know by Council Meeting.

Vice Chairman Diffley asked if medical personnel will be on site 24/7 and if there will be uniformed security personnel on site as well. Mr. Sams said medical personnel will be on site 24/7. He said there is security personnel who monitor the security systems.

Vice Chairman Diffley asked if they have a busy schedule where they have a program of activities to do all day and Mr. Sams affirmed.

Ms. McCrae said Mr. Sams stated earlier that it was going to be mostly men, so that means there will be women housed in the facility as well? Mr. Sams affirmed and said the women would be in a separate area.

Ms. McClure asked what the expense of a 4-10 day stay is and Mr. Sams said he did not know.

The public hearing was closed.

Mr. Davis made a motion, seconded by Ms. McCrae, to recommend denial. The motion carried 4-0-2. Mr. Anderson and Mr. McClure abstained.

If Council approves the Special Land Use Permit, the following stipulations and variances would be incorporated as conditions of zoning:

1. Letter from Garvis L. Sams, Jr. of Sams, Larkin & Huff, LLP to Russell J. Roth, Director of Development Services for the City of Marietta, dated October 26, 2020.
2. Variance to increase the density 20 beds per acre to 28.2 beds per acre to allow 16 beds on 0.568 acres. [§708.16 (E.3.b)]
3. Variance to allow a drug treatment abuse treatment center within 750 feet of residentially zoned property. [§708.16 (E.3.c)]

#### **Recommended for Denial**

**Absent: 1**  
**Vote For: 4**  
**Abstain: 2**

20201000

**Z2021-01 [REZONING] JERRY & ANGELA PFEUFFER**

**Z2021-01 [REZONING] JERRY & ANGELA PFEUFFER are requesting the rezoning of 0.59 acres located in Land Lot 1289, District 16, Parcel 0310 of the 2nd Section, Cobb County, Georgia, and being known as 391 Atlanta Street from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre). Ward 1A.**

*File number Z2020-35 was presented by Ms. Little for a request to rezone property as 391 Atlanta Street from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre).*

*A public hearing was held.*

*Mrs. Angela Pfeuffer and Mr. Jerry Pfeuffer are requesting to rezone property known as 391 Atlanta Street from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre).*

*There was no opposition to this request.*

*Chairman Diffley asked if this will be a complete gut inside. Mrs. Pfeuffer said no. They are saving the floors and beadboard ceiling. They are leaving the structure like it used to be, but will replace the plaster walls, the kitchen and bathrooms.*

*Chairman Diffley asked where they will park. Mrs. Pfeuffer said they will need a variance for a gravel driveway. They need the gravel driveway because the property next door has so much asphalt there that all the water drains onto their property.*

*The public hearing was closed.*

*Mr. Davis made a motion, seconded by Ms. McCrae to recommend approval as stipulated. The motion carried 6-0-0.*

*If Council approves the rezoning, the following variance would be incorporated as conditions of zoning:*

- 1. Variance to allow the use of gravel as an acceptable driving and parking surface.*

**Recommended for Approval as Stipulated**

**Absent: 1**  
**Vote For: 6**  
**Vote Against: 0**

**ADJOURNMENT:**

*The January 6, 2021 Planning Commission Meeting adjourned at 6:57 PM.*

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*STEPHEN DIFFLEY, VICE CHAIRMAN*

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*INES EMBLER, SECRETARY*