



City of Marietta

Meeting Minutes

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

PLANNING COMMISSION

Bob Kinney - Chairman
Jay Davis, Ward 1
Frasure Hunter, Ward 2
Boozer McClure, Ward 3
Byron "Tee" Anderson, Ward 4
Brenda McCrae, Ward 5
Stephen Diffley, Ward 7

Tuesday, August 6, 2019

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 August 6, 2019 Planning Commission Meeting to order at 6:00PM.

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

MINUTES:

20190667

July 2, 2019 Regular Planning Commission Meeting Minutes

Review and Approval of the July 2, 2019 Regular Planning Commission Meeting Minutes.

Mr. Hunter made a motion, seconded by Mr. Davis, to recommend approval of the Planning Commission Work Session and Planning Commission Meeting Minutes as submitted. The motion carried 5-0-1. Mr. Kinney was absent and Ms. McCrae abstained.

Approved and Finalized

Absent: 1
Vote For: 5
Vote Against: 0
Abstain: 1

REZONINGS:

**20190473 Z2019-20 [SPECIAL LAND USE PERMIT] ATTAWAY RECYCLING, LLC
(1341 OWENBY, LLC)**

**Z2019-20 [SPECIAL LAND USE PERMIT] ATTAWAY RECYCLING, LLC
(1341 OWENBY, LLC) are requesting a Special Land Use Permit for
trash/garbage hauling and storage at property located in Land Lot 926,
District 16, Parcels 0340, 2nd Section, Marietta, Cobb County, Georgia and
being known as 1341 Owenby Drive, currently zoned HI (Heavy Industrial).
Ward 5B.**

File number Z2019-20 was presented by Ms. Little for a request to rezone property known as 1341 Owenby Drive, currently zoned HI (Heavy Industrial).

A public hearing was held.

Mr. Kevin Moore, Esq., for the applicant is requesting to rezone property known as 1341 Owenby Drive, currently zoned HI (Heavy Industrial).

There were two (2) in opposition to this request. Ms. Debra L. Blair and Mr. Jim Talley opposed.

Ms. Blair, on behalf of Osmotica Pharmaceutical and Wellstar spoke in opposition. She stated that Osmotica is a biopharmaceutical company that is federally regulated. It is subject to routine inspection by the FDA and failure to maintain its facility in a proper manner subjects it to penalties and criminal prosecution. Ms. Blair feels that this request is too close to their site and is not conducive to sterile conditions. She also expressed safety concerns, stating that the driveway is not properly sized for the trucks that come in and out and there is no gravel on the site; it is a dirt surface. She also feels that their request to park trucks covered only with a tarp provides no protection to the neighbors. She is asking the Board to recommend denial.

Mr. Talley opposed. His property is adjacent to this property. Several years ago the zoning was approved for a construction dumpster site and then it morphed into a trash facility. From that they got a very strong odor and a very huge rat infestation. Rats kept running over their property and they would even find two or three dead ones on their property. He said the trucks would drip sour smelling fluid onto Owenby Drive beside his property. He feels that even if they are just sitting there overnight, they are going to continue dripping sour smelling water, which attracts rats and rodents. He said a lot of people work outside over there and he feels it would be unjust for them to have to work with such an odor. He was planning on selling his property in a couple of years, but now fears that if a trash facility goes in there his property values will plummet.

Mr. Moore in his rebuttal stated that the Future Land Use is designated for industrial manufacturing, which is intended for companies that may create bi-products; that's what these properties are designated for because you have to have this somewhere. He said Osmotica itself has this very specific use, stating it has to have clean air and all these tests done. However, he does not know how Ready Mix Corporation, which is a gigantic operation that stretches all the way down the other side of Owenby Drive, is sanitary with the dust that is created by that operation. He said it is a great operation and that it has been there for a long time, in an allowable area. He pointed out that the pictures in the presentation of the trucks are not the Applicant's trucks. He said this type of business would be adequately allowed if trucks didn't have refuse stored in them.

Ms. McCrae expresses concerns over not requiring them to keep refuse in an enclosed area when we require The Boys & Girls Club, who are not far from there to do so. She is concerned about leaving trash overnight in a neighborhood that has homes and schools nearby.

Mr. Davis asked if it would be feasible to have a paved lot, a place where they can clean trucks and has there been consideration by delineating between the rear and front tenants. He also asked if there is recycling in the premises. Mr. Moore said they can certainly delineate, but they differ from Custom Disposal in that they can't clean out trucks because they are not empty. He said there is no recycling on the premises.

Ms. McClure asked why the trucks couldn't possibly stop collecting two hours earlier in order to allow time for them to get to the landfill before it closes. He asked why they were operating without a business license and asked for confirmation that the trailer on the premises is not connected to sanitary sewer. Mr. Moore said the nature of the business is that these are the trucks coming from the transfer station and when one of those is full, that's what goes to the landfill. He said this is industry standard. Mr. Moore said they went in for their business license, they found out they also needed a Special Land Use Permit and he affirmed that there is no sanitary sewer connected to the trailer.

Vice Chairman Diffley asked if the building to be constructed will be behind the metal shed that is there and if it will have plumbing inside. Mr. Moore said they will work with them to design and figure out how and where it will be located and affirmed that it will have indoor plumbing.

Vice Chairman Diffley asked for confirmation that the trucks are covered with tarps and that they contain food waste and not anything recyclable. Mr. Moore affirmed, saying they are extremely tied.

Ms. McCrae asked how long it would take to get this up to speed and if they would be shutting down during the process. Mr. Moore said within 90 days upon approval and that they would not be shutting down.

The public hearing was closed.

Ms. McCrae made a motion to deny this application. It failed for lack of a second.

Mr. Anderson made a motion, seconded by Mr. McClure, to recommend approval as submitted including the letter of stipulation from Mr. Kevin Moore, Esq., to Ms. Little dated August 2, 2019 and with the additional stipulation that the parking surface will be sufficient and up to code and strictly used for parking for the entire property. The motion did not pass/No Recommendation 3-3-0. Mr. Davis, Ms. McCrae and Vice Chairman Diffley opposed.

No Action Taken

Absent: 1
Vote For: 3
Vote Against: 3

20190596

Z2019-22 [REZONING] F9 PROPERTIES LLC

Z2019-22 [REZONING] F9 PROPERTIES LLC is requesting the rezoning of 1.5 acres located in Land Lots 868, 932 & 933, District 16, Parcel 0080 of the 2nd Section, Cobb County, Georgia, and being known as 1285 Field Parkway from CRC (Community Retail Commercial) to LI (Light Industrial). Ward 4B.

File number Z2019-22 was presented by Ms. Little for a request to rezone property known as 1285 Field Parkway from CRC (Community Retail Commercial) to LI (Light Industrial).

A public hearing was held.

Mr. Ryan Arcuri is requesting to rezone property known as 1285 Field Parkway from CRC (Community Retail Commercial) to LI (Light Industrial).

There was no opposition to this request.

Mr. Anderson asked if there would be any modifications to the site and if the training sessions would all be inside. Mr. Acuri said there would be no modifications and that the training is inside like a classroom setting.

The public hearing was closed.

Ms. McCrae made a motion, seconded by Mr. Hunter, to recommend approval as submitted. The motion carried 6-0-0.

Recommended for Approval

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

20190597

Z2019-23 [SPECIAL LAND USE PERMIT] TURNER CHAPEL AME CHURCH

Z2019-23 [SPECIAL LAND USE PERMIT] TURNER CHAPEL AME CHURCH is requesting a Special Land Use Permit for a food and clothing pantry (storage and distribution) associated with a place of assembly at property located in Land Lot 1215, District 16, Parcels 0860 & 0850, 2nd Section, Marietta, Cobb County, Georgia and being known as 527 & 533 Lawrence Street, currently zoned R-4 (Single Family Residential - 4 units/acre). Ward 5A.

File number Z2019-23 was presented by Ms. Little for a request for a Special Land Use Permit for a food and clothing pantry (storage and distribution) associated with a place of assembly being known as 527 & 533 Lawrence Street.

A public hearing was held.

Mr. Clintonia F. Sanders is requesting a Special Land Use Permit for a food and clothing pantry (storage and distribution) associated with a place of assembly being known as 527 & 533 Lawrence Street.

There five (5) in support; one (1) spoke and no opposition to this request. Mr. Taruwau Bright spoke in support.

Mr. Bright, Senior Pastor of Turner Chapel spoke in support stating that they continue to make a difference in the community and they believe that over the years they've blessed so many families. He said the women who stood up in support continue to work and serve the community and they want to increase their love and giving for the community.

Ms. McCrae asked City Attorney if she should recuse herself since she is an active member of Turner Chapel and her father was an active member of the church and his name is on the church, etc. Mr. White explained that the only time someone is required to recuse themselves is if they have a financial interest or are related directly to someone who has a financial interest, but that if she feels she'd like to abstain, it is always appropriate. As long as she discloses, which she has, she has the option.

Ms. McCrae asked if the gravel parking lot would be a problem because we have always required something other than gravel; even the church down the street was required to put down concrete. Ms. Little said it is a City requirement, but that they could add it as a stipulation or a variance to the recommendation.

The public hearing was closed.

Mr. McClure made a motion, seconded by Mr. Hunter, to recommend approval as submitted with the following variances. The motion carried 6-0-0.

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

Variances:

1. Variance to reduce the front setback from 75 ft. to 29 ft. [§708.04 (E.1.b)]
2. Variance to reduce the western side setback from 75 ft. to 11 ft. [§708.04 (E.1.b)]
3. Variance to reduce the eastern side setback from 75 ft. to 71 ft. [§708.04 (E.1.b)]
4. Variance to allow gravel as an acceptable parking surface. [§716.08 (B)]

Recommended for Approval as Stipulated

Absent: 1
Vote For: 6
Vote Against: 0

20190618

Z2019-24 [REZONING] SHEA KONIGSMARK

Z2019-24 [REZONING] SHEA KONIGSMARK is requesting the rezoning of 0.36 acres located in Land Lot 287, District 17, Parcel 0080 of the 2nd Section, Cobb County, Georgia, and being known as 214 West Dixie Avenue from OIT (Office Institution Transitional) to R-4 (Single Family Residential - 4 units/acre). Ward 1A.

File number Z2019-24 was presented by Ms. Little for a request to rezone property known as 214 West Dixie Avenue from OIT (Office Institution Transitional) to R-4 (Single Family Residential - 4 units/acre).

A public hearing was held.

Ms. Shea Konigsmark is requesting to rezone property known as 214 West Dixie Avenue from OIT (Office Institution Transitional) to R-4 (Single Family Residential - 4 units/acre).

There were four (4) in support; one (1) spoke and no opposition to this request. Ms. Tricia Raybon spoke.

Ms. Raybon said they own the house next door and she is ecstatic that they have new neighbors. She said that property has been a duplex rental for a long time and it was left in total disrepair. She feels Ms. Konigsmark will be an improvement to the neighborhood.

Vice Chairman Diffley asked if they will be keeping the two doors that are facing the building and if the interior would be renovated to a single-family plan. Ms. Konigsmark said they will convert it to one door and that they have submitted plans for the interior renovation. She said they have not done anything to the exterior at this time except for some color samples.

Ms. McCrae said the plans show a living room in the front and back with no access to each. Ms. Konigsmark explained that some of the rooms were incorrectly marked and proceeded satisfactorily to explain the layout of the rooms.

The public hearing was closed.

Mr. Davis made a motion, seconded by Mr. Hunter; to recommend approval as submitted with the following variances. The motion carried 6-0-0.

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

Variance:

- 1. Variance to allow gravel as a parking surface. [§716.08 (A)]*

Recommended for Approval as Stipulated

Absent: 1
Vote For: 6
Vote Against: 0

20190620

Z2019-25 [REZONING] WORLD CHANGERS CHURCH INTL

Z2019-25 [REZONING] WORLD CHANGERS CHURCH INTL is requesting the rezoning of approximately 7.0 acres located in Land Lot 1076, District 16, Parcels 0720 & 1230 of the 2nd Section, Cobb County, Georgia, and being known as 601 & 611 Tower Road from R-3 (Single Family Residential - 3 units/acre) and OI (Office Institutional) to OI (Office Institutional). Ward 4A.

File number Z2019-25 was presented by Ms. Little for a request to rezone property known as 601 & 611 Tower Road from R-3 (Single Family Residential - 3 units/acre) and OI (Office Institutional) to OI (Office Institutional).

A public hearing was held.

Mr. Mike Roussel is requesting to rezone property known as 601 & 611 Tower Road from R-3 (Single Family Residential - 3 units/acre) and OI (Office Institutional) to OI (Office Institutional).

There were two (2) in support and two (2), in opposition to this request. Mr. Kurt Newton and Ms. Carol Jones spoke in support. Mr. Floyd Northcutt and Ms. Judy Perkins spoke in opposition.

Mr. Northcutt said his property backs up to the woods behind on the south side of Noses Creek. He is not in opposition toward what the church wants to do; he has a couple concerns. First, the property behind on the south side of Noses Creek is zoned R3, so he does not see the need to zone it OI because it doesn't affect the church's project and it would protect them from some future use that would be unacceptable. Second, the modular trailers; he heard the gentleman said they weren't going to do that, so the variance for that should go away.

Mr. Newton spoke in support stating that this is a great opportunity to benefit our children. He said it's exciting to see teenagers interested.

Ms. Jones said she is the senior pastor for this location and that the youth expressed concern about not having enough space to be excited about Christ. There is not enough space for them to come up with activities. They are not going to be teenagers for long, so they are trying to do everything they can that's allowed to expand for their youth.

Ms. Perkin's house abuts the southern part of the property. She is not opposed and has not had any problems with them. Her only issue is that when the zoning was originally done around eight years ago there was a stipulation for the south part of the property that it would not be developed. She would like to see that stipulation remain.

Ms. Davis asked Mr. Roussel if he would have any objection to keeping the stipulation in place that would not allow the south side to be developed. Mr. Roussel said they do not have any objection at this time. He said it would be a tremendous task to cross the stream and they do not have any plans to develop that piece of property at this time.

Mr. Davis asked if they have done any sort of traffic study because the new parking lot will have room for 175 cars and that is in addition to what they have now. He asked if they currently use off duty police like some other churches use. Mr. Roussel said that with the capacity that they currently have and the traffic on Sunday being very light their members are able to exit the lot within 15 minutes, so there is no issue where they are impeding traffic.

The public hearing was closed.

Mr. Anderson made a motion, seconded by Mr. Davis, to recommend approval as submitted with the following stipulation and variances. The motion carried 6-0-0.

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

Stipulation:

- 1. The portion of the property south of Noses Creek shall remain undeveloped.*

Variances:

- 1. Variance to reduce the required parking to 175 parking spaces. [§716.07 (E)]*
- 2. Variance to allow existing steeple to remain at present height (87 ft.). [§ 708.23 (H)]*

Recommended for Approval as Stipulated

Absent: 1
Vote For: 6
Vote Against: 0

20190621 Z2019-26 [REZONING] ATLANTA’S BEST INVEST LLC

Z2019-26 [REZONING] ATLANTA’S BEST INVEST LLC is requesting the rezoning of approximately 2.4 acres located in Land Lot 879, District 16, Parcel 0040 of the 2nd Section, Cobb County, Georgia, and being known as 1380 Allgood Road from R-2 (Single Family Residential - 2 units/acre) to PRD-SF (Planned Residential Development Single Family). Ward 6B.

File number Z2019-26 was presented by Ms. Little for a request to rezone property known as 1380 Allgood Road from R-2 (Single Family Residential - 2 units/acre) to PRD-SF (Planned Residential Development Single Family).

A public hearing was held.

Mr. Mel Whatley is requesting to rezone property known as 1380 Allgood Road from R-2 (Single Family Residential - 2 units/acre) to PRD-SF (Planned Residential Development Single Family).

There were many in opposition to this request; five (5) spoke. Mr. Dave Silver, Mr. Randy Bateman, Mr. Tanner Flowers, Ms. Laura Weiss and Mr. William Watts spoke.

The opposition felt the surrounding neighborhoods are low density single family residential and do not feel that there should be a step down to townhomes in the vicinity. They expressed concern over flooding possibility from the streams and said the cul-de-sac is too small for Fire truck requirements. They also expressed concern over additional traffic onto Allgood Road. Mr. Flowers said the entire south border of the property is his backyard. He said he would lose the ability to use and enjoy his backyard because there would be three story townhomes overshadowing his property.

Mr. Whatley said this is a learning experience for him and that he relied on other professionals to determine what to build in this property. He said he is to speak with the homeowners of Cameron Creek and reach a solution that is amicable to them and the sellers.

Ms. McCrae asked if he would like to table this request until he can return with a new redesign and Mr. Whatley agreed.

The public hearing was closed.

Ms. McCrae made a motion, seconded by Mr. Hunter, to table this request. The motion carried 6-0-0.

Tabled

Absent: 1
Vote For: 6
Vote Against: 0

ADJOURNMENT:

The August 6, 2019 Planning Commission Meeting adjourned at 7:58PM.

STEPHEN DIFFLEY, VICE CHAIRMAN

INES EMBLER, SECRETARY