



City of Fairburn Work Session
Agenda
November 14, 2022
6:00 pm

The Honorable Mayor Mario Avery, Presiding

The Honorable Mayor Pro-Tem Hattie Portis-Jones
The Honorable Alex Heath
The Honorable Ulysses J. Smallwood

The Honorable Linda J. Davis
The Honorable Pat Pallend
The Honorable James Whitmore

Mr. Rory Starkey
Mr. Tony Phillips
Ms. Brenda B. James

City Attorney
City Administrator
City Clerk

- I. Meeting Called to Order: The Honorable Mayor Avery
- II. Roll Call: City Clerk
- III. Agenda Items:
 1. Presentation of Meeting Assistance Tools for Zoning Decisions (**Planning & Zoning**)
- IV. Adjournment



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: Meeting Assistance Tools for Zoning Decisions

☐ AGREEMENT
☐ ORDINANCE

☐ POLICY / DISCUSSION
☐ RESOLUTION

☐ CONTRACT
☒ OTHER

Submitted: 11/8/2022

Work Session: 11/14/2022

Council Meeting: N/A

DEPARTMENT: Planning and Zoning

BUDGET IMPACT: There are no anticipated budget impacts.

PUBLIC HEARING: ☐ Yes ☒ No

PURPOSE:

Presentation of meeting assistance tools for making zoning decisions.

HISTORY:

The policies and procedures required for reviewing planning and zoning applications (i.e., rezonings, use permits, final plats, concurrent variances, etc.) are complex. Staff has developed a set of tools to aid recommending and decision-making bodies in managing meetings and drafting motions.

FACTS AND ISSUES:

There are two guiding documents staff is proposing to implement at the Mayor and City Council level. Staff has developed similar tools in guiding the Planning and Zoning Commission, and the feedback received has been very positive. First, motion sheets enumerate the most frequent or likely decisions as a series of options. The motion sheets articulate specific motions that members of City Council can use to assist in formulating their motions on the floor. These guides include references to staff reports, conditions, and criteria in the code by which City Council has the authority to make decisions.

Second, the meeting scripts assist the presiding officer in managing all the requisite components of the public hearings and subsequent discussion.

As they are used with the Planning and Zoning Commission, the motion sheets and meeting script allow the Commission to focus on the facts of the case while guiding Commission members in

making defensible recommendations/decisions on the applications before them for review. Staff proposes implementation of a similar format (see attached samples) for City Council meetings.

FUNDING SOURCE:

No additional funding source is required. These materials will be produced by staff moving forward.

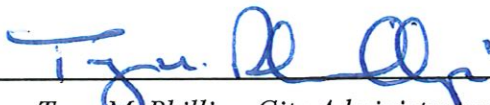
RECOMMENDED ACTION:

Staff recommends the development of these tools for Mayor and Council decisions related to zoning actions beginning in December 2022.

Attachments:

Sample Motion Sheet

Sample Meeting Script



Tony M. Phillips, City Administrator

Draft Motions List for 06.14.2022 Mayor and City Council Meeting

Z21-015 (7245, 7239, 0, and 2234 Bethsaida Drive)

Approve with staff's conditions:

I move to approve, with staff's conditions enumerated in the June 14, 2022 staff report, the request to rezone from AG-1 and C-1 to R-5 for the purpose of constructing 85 single family, fee simple homes.

Approve with staff's conditions and some additional conditions:

I move to approve, with staff's conditions enumerated in the June 14, 2022 staff report, the request to rezone from AG-1 and C-1 to R-5 for the purpose of constructing 85 single family, fee simple homes.

In addition to staff's conditions, I hereby incorporate the following conditions:

[articulate additional conditions]

Deny:

I move to deny the request to rezone from AG-1 and C-1 to R-5 for the purpose of constructing 85 single family, fee simple homes, as I do not find that they meet the following criteria as outlined in Section 803.06 of the Zoning Ordinance (see list of criteria at end of motion list):

[state which numbers from the rezoning criteria (section a) that you find the project does not meet]

Z22-001 (0 Wilkerson and Ono Road)

Defer:

I move to defer the public hearing and consideration of the request to the August 9, 2022 Council meeting.

Approve with staff's conditions:

I move to approve, with staff's conditions enumerated in the June 14, 2022 staff report, the request to rezone from AG-1 to CUP for the purpose of constructing 300 single family homes.

Approve with staff's conditions and some additional conditions:

I move to recommend approval, with staff's conditions enumerated in the June 14, 2022 staff report, the request to rezone from AG-1 to CUP for the purpose of constructing 300 single family homes.

In addition to staff's conditions, I hereby incorporate the following conditions:

[articulate additional conditions]

Deny:

I move to deny the request to rezone from AG-1 to CUP for the purpose of constructing 300 single family homes, as I do not find that they meet the following criteria as outlined in Section 803.06 of the Zoning Ordinance (see list of criteria at end of motion list):

[state which numbers from the rezoning criteria (section a) that you find the project does not meet]

U22-004 (5370 Campbellton Fairburn Road)

Approve with staff's conditions:

I move to approve, with staff's conditions enumerated in the June 14, 2022 staff report, the request for a waxing studio offering body waxing, facials, and hair braiding at 5370 Campbellton Fairburn Road.

Approve with staff's conditions and some additional conditions:

I move to approve, with staff's conditions enumerated in the June 14, 2022 staff report, the request for a waxing studio offering body waxing, facials, and hair braiding at 5370 Campbellton Fairburn Road.

In addition to staff's conditions, I hereby incorporate the following conditions:

[articulate additional conditions]

Deny:

I move to deny the request for a waxing studio offering body waxing, facials, and hair braiding at 5370 Campbellton Fairburn Road, as I do not find that they meet the following criteria as outlined in Section 803.06 of the Zoning Ordinance (see list of criteria at end of motion list):

[state which numbers from the special use criteria (section b) that you find the project does not meet]

U22-005 (5550 Old National Highway)

Deny:

I move to deny the request for a Special Use Permit for a Hookah Lounge at 5550 Old National Highway, as I do not find that they meet the following criteria as outlined in Section 803.06 of the Zoning Ordinance (see list of criteria at end of motion list):

[state which numbers from the special use criteria (section b) that you find the project does not meet]

Withdrawal:

I move to withdraw the application for the Special Use Permit for a Hookah Lounge at 5550 Old National Highway.

Approve:

I move to approve the request for a Special Use Permit for a Hookah Lounge at 5550 Old National Highway.

Approve with some additional conditions:

I move to recommend approval the request for a Special Use Permit for a Hookah Lounge at 5550 Old National Highway.

In addition, I hereby incorporate the following conditions:

[articulate additional conditions]

First Reading of Ordinance for Amending the Regulations for Off-Street Parking of Commercial Vehicles

Approve

I move to approve the text amendment as written.

Approve with changes:

I move to approve the text amendment with the following adjustments:

[articulate adjustments]

Deny

I move to deny the text amendment as proposed.

(a) Standards for review of proposed rezonings.

1. The existing land uses and zoning classification of nearby property;
2. The suitability of the subject property for the zoned purposes;
3. The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
4. The extent to which the destruction of property values of the subject property promotes the health, safety, morals or general welfare of the public;
5. The relative gain to the public as compared to the hardship imposed upon the individual property owner;
6. The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
7. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
8. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
9. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
10. Whether the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools;
11. Whether the zoning proposal is in conformity with the policies and intent of the Comprehensive Plan;
12. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal; and
13. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of South Fulton.

(b) Standards for review of proposed special uses.

1. Is the proposed use consistent or inconsistent with the Comprehensive Plan?
2. Is the proposed use consistent with supplemental plans adopted by the City Council, such as/or revitalization or economic development plans? Is the proposed use compatible with adjacent land uses and zoning districts?
3. Does the proposed use violate local, state and/or federal statutes, ordinances or regulations governing land development?
4. What is the effect of the proposed use on vehicular and pedestrian traffic flow and safety, along adjoining streets?
5. Is the open space adequate to preserve the character of the area and reduce environmental impacts?
6. Is the screening adequate to protect adjacent uses from any negative impacts of the proposed use?
7. Can outdoor lighting be used so as not to interfere with surrounding uses?
8. Are the hours and manner of operation of the proposed use compatible with surrounding uses?
9. Does ingress and egress to the property reduce negative impacts of the proposed use or enhance safety?

10. Will the number, size and type of signs proposed for the site have any negative impact on traffic or surrounding property uses?
11. Are off-street parking spaces adequate? Will they be properly located to reduce any negative impact on surrounding property uses?
12. Does the use have sufficient space to operate its activities?
13. Are there any negative environmental impacts which should be considered, for example, topography, special geological features, soil, water runoff, air pollution, water pollution or contamination, wetlands, etc.?

Sample



Planning and Zoning Commission

AGENDA

Tuesday, October 4, 2022 ♦ 7:00 p.m.

➤ **Call to Order**

The time is now [X:XX] on October 4th. I call this meeting to order.

➤ **Determination of a Quorum**

Staff, will you conduct roll call to establish we have a quorum present?

[Staff will conduct a roll call and then will turn the floor back over to the chair.]

➤ **Pledge of Allegiance**

Please rise for the Pledge of Allegiance. "I pledge allegiance to the flag..."

➤ **Public Comments**

I will now open the period for public comments. Please reserve your comments related to a specific agenda item when I call for comments on that item.

Comments to the Planning and Zoning Commission should be limited to no more than two minutes. Groups wishing to address an issue should select one or two spokesperson(s). The time allowed for all issues shall not exceed a total of fifteen minutes. Issues raised at this time are generally referred to the Director of Planning and Zoning for review. Responses will be provided at a later date.

[Allow time for anyone wishing to speak.]

➤ **Approval of the Meeting Agenda**

Commissioners, I will now entertain a motion to approve the meeting agenda for this evening.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

➤ **Approval of Meeting Minutes**

- September 13, 2022 Meeting Minutes

Commissioners, I trust that you have reviewed the meeting minutes from the September 13, 2022 meeting. If there are no questions or discussions, I will now entertain a motion to approve the minutes.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

➤ **Public Hearing**

We will now move into the public hearing portion of the agenda.

For each public hearing or public comment period, the applicant and those persons wishing to appear in support of the application shall have not less than ten minutes to present positions in support of the application. Likewise, those persons wishing to appear in opposition to the application shall have not less than ten minutes to present positions in opposition of the application.

Our first item is as follows:

- **2022115 Primary Variance Gomes** - A request to reduce the side yard setback from 10' to 5' feet to allow for an addition to an existing structure.

Staff, I will now ask you to present the staff analysis and recommendations.

[Staff presents.]

Thank you. I will now entertain questions for staff regarding the request.

[Commissioners ask questions of staff.]

Thank you. I will now entertain a motion and a second to open the public hearing.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of opening the public hearing, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

I'll now hear from all those in favor of the application.

First, will the applicant please come to the podium for a presentation?

[Applicant makes presentation.]

Thank you. Is there anyone else speaking in favor of the application? If so, please make your way to the podium to speak.

[Allow anyone else to speak, provided the time allows.]

Now I will hear from all those in opposition of the application.

[Allow anyone to speak, provided the time allows.]

Thank you. I will now entertain a motion and a second to close the public hearing.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of closing the public hearing, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

Commissioners, now is your time to ask questions of staff, the applicant, and members of the public.

[Commissioners proceed with their questions.]

If there are no additional questions or discussions, I will now call this item to a vote.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of the motion as stated, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

➤ Old Business

We do not have anything on the agenda under "Old Business."

➤ **New Business**

We will now move into the “New Business” portion of the agenda.

Our first item of new business is as follows:

- **2022088 Rezoning MCRT SFR Investments**
Address: 8515, 8521 Senoia Road and 0, 8521 Landrum Road (Parcel Tax ID # 09F020300080085, 09F020300080077, 09F020300080051 & 09F020300080028)
Request: To rezone 41.895 acres from AG (Agricultural) to PD (Planned Development)

Staff, I will now ask you to present the staff analysis and recommendations.

[Staff presents.]

Thank you. I will now entertain questions for staff regarding the request.

[Commissioners ask questions of staff.]

Thank you. I will now entertain a motion and a second to open the public comment period.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of opening the public comment period, please signify by saying aye.

[Commissioners in favor say, “aye.”]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, “nay.”]

The motion [carries or does not carry].

I'll now hear from all those in favor of the application. First, will the applicant please come to the podium for a presentation?

[Applicant makes presentation.]

Thank you. Is there anyone else speaking in favor of the application? If so, please make your way to the podium to speak.

[Allow anyone else to speak, provided the time allows.]

Now I will hear from all those in opposition of the application.

[Allow anyone to speak, provided the time allows.]

Thank you. I will now entertain a motion and a second to close the public comment period.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of closing the public comment period, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

Commissioners, now is your time to ask questions of staff, the applicant, and members of the public.

[Commissioners proceed with their questions.]

If there are no additional questions or discussions, I will now call this item to a vote.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of the motion as stated, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

Our next item of new business is as follows:

- **2022117U & 2022124CV Use Permit & Concurrent Variances – Fairburn 55**
Address: 7875 Bohannon Road (Parcel Tax ID # 09F080000280864 & 09F080000110871)
Request: To approve a use permit for senior housing in the AG (Agricultural) zoning district with four concurrent variances. The concurrent variances are to reduce the front yard setback along Oakley Industrial Boulevard to 50-feet from 100-feet, allow renter-occupied units, increase the lot coverage from 15% to 28.6%, and allow parking in the front yard setback.

Staff, I will now ask you to present the staff analysis and recommendations.

[Staff presents.]

Thank you. I will now entertain questions for staff regarding the request.

[Commissioners ask questions of staff.]

Thank you. I will now entertain a motion and a second to open the public comment period.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of opening the public comment period, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

I'll now hear from all those in favor of the application. First, will the applicant please come to the podium for a presentation?

[Applicant makes presentation.]

Thank you. Is there anyone else speaking in favor of the application? If so, please make your way to the podium to speak.

[Allow anyone else to speak, provided the time allows.]

Now I will hear from all those in opposition of the application.

[Allow anyone to speak, provided the time allows.]

Thank you. I will now entertain a motion and a second to close the public comment period.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of closing the public comment period, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, "nay."]

The motion [carries or does not carry].

Commissioners, now is your time to ask questions of staff, the applicant, and members of the public.

[Commissioners proceed with their questions.]

If there are no additional questions or discussions, I will now call this item to a vote.

[Commissioners make a motion and a second]

I now have a motion and a second, so I will call the vote. All those in favor of the motion as stated, please signify by saying aye.

[Commissioners in favor say, "aye."]

All those in opposition, signify by saying nay.

[Commissioners in opposition say, “nay.”]

The motion [carries or does not carry].

➤ **Staff Report**

Staff, will you provide any updates to the Commission?

[Staff presents.]

➤ **Commissioner Comments**

Commissioners, do you have any additional questions or comments?

[Commissioners make comments.]

➤ **Adjournment**

Commissioners, I will now entertain a motion to adjourn the meeting.

➤ **[Commissioners make a motion and a second]**

➤ **I now have a motion and a second, so I will call the vote. All those in favor, please signify by saying aye.**

➤ **[Commissioners in favor say, “aye.”]**

➤ **All those in opposition, signify by saying nay.**

➤ **[Commissioners in opposition say, “nay.”]**

➤ **The motion carries. This meeting is adjourned.**

CITY OF FAIRBURN

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City of Fairburn Council Meeting

Agenda

November 14, 2022

7:00 pm

The Honorable Mayor Mario Avery, Presiding

The Honorable Mayor Pro-Tem Hattie Portis-Jones
The Honorable Alex Heath
The Honorable Ulysses J. Smallwood

The Honorable Linda J. Davis
The Honorable Pat Pallend
The Honorable James Whitmore

Mr. Rory Starkey
Mr. Tony Phillips
Ms. Brenda B. James

City Attorney
City Administrator
City Clerk

- I. Meeting Called to Order: The Honorable Mayor Avery
- II. Roll Call: City Clerk
- III. Invocation: Dr. Maya Taylor, Open Word Christian Ministries
- IV. Pledge of Allegiance:
- V. Presentations and Proclamations:
- VI. Adoption of the City Council Agenda:
- VII. Approval of the Minutes: Regular Council Meeting Minutes of October 24, 2022 & Special Called Meeting Minutes of November 2, 2022
- VIII. Public Comments: Thirty (30) minutes shall be available for public comments. Each speaker shall be limited to three (3) minutes; however, a speaker may transfer his or her three (3) minutes to another speaker, but no speaker shall be permitted to speak for more than (6) minutes; further in the event, if more than ten (10) speakers desire to speak, each speaker shall be limited to two (2) minutes and no speaker may speak more than four (4) minutes. Issues raised at this time are generally referred to City Administration for review. Responses will be provided later.
- IX. AGENDA ITEMS/ PUBLIC HEARINGS:
 1. Rezoning Ordinance (2022088) MCRT SFR Investment LLC c/o Battle Law at Senoia Road and Landrum Road (Public Hearing)

Recommendation: An Ordinance to rezone certain property from AG (Agricultural District) to PD (Planned Development District). Based on the proposed development's inconsistency with the 2040 Comprehensive Plan and Future Land Use Map's Rural Residential designation, staff's recommendation is **DENIAL**.
(Planning & Zoning)

2. Use Permit Ordinance (2022117) Fairburn 55 Senior Housing/Bohannon Road (Public Hearing)

Recommendation: An Ordinance Granting Staffins Properties, LLC a Use Permit with five concurrent variances for an AG (Agricultural District) Use subject to certain conditions to allow for a Senior Housing Development. Based on the criteria outlined in Section 80-172 and the analysis of each provision outlined herein, specifically the failure of the application to meet criteria 1 and 2, staff recommends **DENIAL** of the use permit for a senior housing development at 7875 Bohannon Road.
(Planning & Zoning)

3. Resolution Recognizing the Proliferation of Investor-Owned Housing in the City of Fairburn

Recommendation: Staff request Mayor and Council to approve a Resolution recognizing the proliferation of investor-owned housing in the City of Fairburn and urging the Georgia General Assembly to protect communities by passing legislation to regulate corporate ownership of private homes and for other purposes. **(City Administrator Office)**

4. Memorandum of Understanding with Music Education Group

Recommendation: Staff request Mayor and Council approval to execute the Music Education Group Program Memorandum of Understanding for the provision of multimedia and technology training at the Fairburn Youth Center. **(Parks & Recreation)**

5. Resolution for Local Option Sales Tax(LOST) Proceeds & Certification of Distribution

Recommendation: Staff request Mayor and Council approval of a Resolution to approve a distribution of Local Option Sales Tax (LOST) proceeds; to authorize the Mayor and Council to execute a Certificate of Distribution for submission to the Commissioners of the Department of Revenue. **(City Administrator Office)**

6. Recertification in Georgia Municipal Association's City of Ethics Program

Recommendation: Staff request Mayor and Council approval of a Resolution readopting ethical principles established by the Georgia Municipal Association and requesting recertification as a Certified City of Ethics. **(City Administrator Office)**

X. City Administrator's Report:

XI. Council Comments:

XII. Adjournment:

When an Executive Session is required, one will be called for the following issues:

(1) Personnel (2) Real Estate or (3) Litigation

**City of Fairburn
Council Meeting Minutes
October 24, 2022
7:00 pm**

I. The meeting was called to order by the Honorable Mayor Avery.

II. Roll Call by City Clerk, Brenda B. James found the following members present:

The Honorable Mayor Pro-Tem Hattie Portis-Jones

The Honorable Linda J. Davis

The Honorable Alex Heath

The Honorable Pat Pallend

The Honorable Ulysses J. Smallwood

The Honorable James Whitmore

Also present was City Administrator Tony Phillips, Assistant City Administrator Jamila Criss, City Attorney Mr. Rory Starkey (Zoom), Assistant City Attorney Serena Nowell, Attorney Amber Qualls, and City Clerk Brenda James.

III. The invocation was provided by Dr. LaReese Howell, New Horizons in Faith Church.

IV. Pledge of Allegiance was in Unison.

V. Presentations and Proclamations:

Mr. Phillips discussed the pictures that were displayed in the Council Chambers and said they were artistic renderings by several of our staff members in the Utilities Department. Each department has taken on various projects during Breast Cancer Awareness month, and this is one of the projects. Councilman Whitmore called today to make sure Mr. Phillips was aware of the amazing artwork that these employees had done. Breast Cancer Awareness is such an important month to raise awareness about this fatal disease and to make sure we are all doing what we can to support those who are both survivors and those who are currently going through those situations. Mr. Phillips said we have our Breast Cancer Awareness Walk coming up this Friday and invited everyone to come out and join staff.

VI. Adoption of the City Council Agenda:

Councilman Whitmore made a motion to adopt the agenda with Councilman Heath providing the second. **The motion carried unanimously.**

VII. Approval of the Minutes: Regular Council Meeting Minutes of October 10, 2022

Councilwoman Davis made a motion to approve the minutes with Councilman Heath providing the second. **The motion carried unanimously.**

VIII. Public Comments:

Mrs. Howell said City Council is moving in the right direction. She discussed speed control at Hwy 92 and Rivertown Road and stated people are speeding and asked how they could get speed bumps to slow traffic down. She stated a lot of people walk in Fairburn to and from the bus stops and her concern was someone getting hit. She said Mayor and Council was doing a great job and knows there will be more good news and great things to come.

IX. AGENDA ITEMS:

1. 2023 Annual Subscription Under Supplemental Power Supply Policy with MEAG

Utilities Director, John Martin presented this item and stated the Electric Division is seeking approval of the 2023 Annual Subscription Under Supplemental Power Supply Policy between Municipal Authority of Georgia (MEAG) and the City of Fairburn. This is an annual agreement where the projections provided identify needs for both supplemental power and reserves. The supplemental power product reflects the value of capacity with energy priced at the hourly market, while the reserve capacity product is the capacity price only. Fairburn has used this method for years to ensure that there is adequate power throughout the wintry months. The approval of this policy will designate MEAG as our agent to acquire any combination of resources to optimize our supplementary power supply requirements.

Councilman Pallend made a motion to approve the 2023 Annual Subscription Under Supplemental Power Supply Policy between MEAG and the City of Fairburn and to authorize the mayor to sign the agreement. The second was provided by Councilwoman Davis.

Councilman Heath said we have purchased power in the past from Griffin and wanted to know if we still get their excess power. Mr. Martin stated not now, this item is for MEAG to be our designated agent to find these resources. After the discussion, **the motion carried unanimously.**

2. Resolution Authorizing Execution of the Georgia Water and Wastewater Agency Response Network Mutual Aid Agreement

Utilities Director, John Martin presented this item and stated the Water & Sewer Division is seeking approval of a Resolution and Mutual Aid Agreement between the Georgia Water & Wastewater Agency Response Network (Georgia WARN) and the City of Fairburn. After Hurricane Katrina, it became apparent with the extraordinary efforts of utilities, water associations, and state regulatory agencies, the demand for resources and knowing where those resources were available overwhelmed the ability to effectively coordinate the initial response. The Georgia WARN was formed to share resources and

to assist each other in the event of emergencies that disrupt utility services. This is an agreement with no cost to participate and provides access to all member utilities statewide and is also consistent with the National Incident Management System (NIMS).

Mayor Pro Tem Portis-Jones made the motion to approve the Resolution authorizing execution of the Mutual Aid Agreement between the Georgia Water & Wastewater Agency Response network and the City of Fairburn. The second was provided by Councilman Smallwood.

Councilman Heath said we currently buy our water from the City of Atlanta, but we are in the process of a change and asked if this will affect our ability to do that. Mr. Martin stated no, this is more of a mutual aid between the cities.

After the discussion, **the motion carried unanimously.**

X. Monthly Financial Report:

City Administrator, Tony Phillips stated this item will be discussed at a later date.

XI. City Administrator's Report:

City Administrator, Tony Phillips provided a few updates and stated the Fall Festival was a wonderful, amazing day to see residents and visitors having a wonderful time without incident. He was most overwhelmed with the performance of our staff and the comments he heard most was about the employees of the City of Fairburn. A lot of employees sacrificed and did a great job and he said he was very honored to work with such amazing staff and wanted to highlight all the workers.

The 2022 tax bills are now available, they were loaded on the City's website.

There has been an update to our drive through window policy. Assistant City Administrator, Jamila Criss stated the new policy will be in effect tomorrow and is an effort to provide the best customer service to our residents. We are asking all new accounts for services, deposit payments, notary services and tax payments be conducted inside City Hall. The only payments that will be taken at the drive through window will be utility payments. This is to ensure we are respectful of our resident's time. This message will be posted on our website, our boards, and social media.

Mr. Phillips thanked Mayor and Council for approval of our sidewalk art installation project. The first sidewalk crosswalk installation was completed last week at the intersection of SE Broad Street and SE Malone Street at the Landmark Christian campus. The artist did a wonderful job and there are three others to come. All comments received so far have been very complimentary.

Mr. Phillips reminded everyone of the final Third Friday concert of the season, our Halloween concert is coming up on this Friday and we have a great evening planned featuring Milkshake, the 911 Band, and several other performers.

Mr. Phillips gave an update on our Local Option Sales Tax (LOST) negotiations. LOST provides a way for cities to mitigate millage rates. About 42% of LOST revenue comes from people outside of Fulton County and is key for budgets and cities. The cities and counties negotiate every ten years and we've been negotiating since early summer, with a deadline of December 31st. These negotiations take place in all 159 counties in the State of Georgia which are all different but have similar dynamics. Twenty years ago in Fulton County, they serviced about 229,000 residents which was about 28% of the county that received their municipal services directly from the County. At that time, there were huge areas of North and South Fulton that were unincorporated and because of that, the county was providing those services and getting about a 35% share of LOST. Fast forwarding ten years, that number dropped from 229,000 to 87,000 residents because Sandy Springs, Johns Creek, Milton, and eventually Chattahoochee all incorporated. The city's population they provided services for went from 28% of the county down to 9.5%. Today, the county services 889 residents out of 1.1 million, which has now moved down to less than 1%. There has been some recent hospital closings that have been impactful for us all and that's an element part of this negotiation. LOST cannot be used for everything, state law mandates fourteen specific services in which most are provided by cities.

Mr. Phillips summarized activities through the end of September 2022 which includes:

- Old Campbell Courthouse post fire investigation by Fire Investigators and the Insurance company was completed. The post fire building stabilization and mitigation is ongoing. The Asbestos abatement and debris removal is scheduled for next month
- Begin design of utilities for temporary Fire Station
- The Ribbon Cutting & Grand Re-Opening of Cora Robinson Park & the Dodd Street Community Plaza is scheduled for October 18th, 2022
- Hispanic Heritage Month Concert – Third Friday Event – September 16th
 - Featured 23 vendors and cultural foods, retailers, and artisans
 - Featured performers: DJ Ortiz, Conjunto Double D, and Mixfina
- FY 22-23 Budget Ordinance established
- FY 22-23 Millage rate established
- 4 Administrative Staff Members, 3 Battalion Chiefs, 1 Lieutenant and 1 Firefighter attended the Ronnie Thames Silent Hero Awards Banquet
- The Fire Department attended New Beginnings Senior Center as they fed Fairburn Seniors on Friday, September 30, 2022. Chief Robinson helped prepare meat for the event
- Fairburn Flames Football season kick-off
- Launch of Fall Walking Club – 25 senior participants
- Started Citizen Police Academy class

- 27 Trees have been removed from Duncan Park
- Water Meter Replacement Program “Attentive Week”. Meter contractor team replaced 29 meters, in billing route 5, as test phase
- Worked closely with the Utilities Administrative Staff to send out over 150 emails and phone calls to seriously delinquent customers
- We are continuing to actively recruit, and we are making consistent progress in filling open positions in the city to help elevate departmental service delivery

XII. Council Comments:

Councilman Smallwood said the Parade and Festival were amazing and he sent an email to Mrs. Chapin Payne Scott. He told her he appreciated her and told her to take care of herself.

Councilman Pallend said what’s interesting to him is watching how we go by day by day, and week by week, that strikes him because we are truly headed in the correct direction and this place is going to be a much more interesting place to be five years down the road.

Mayor Pro Tem Portis-Jones echoed what Councilman Smallwood and Pallend said about the Fairburn Fall Festival, it was fantastic. People were having fun and what contributed to that was the attitudes of the entire staff of the City of Fairburn. She elevated the Street Department, they made sure things were clean and double checking to see if they could help in any way. She was very impressed and truly appreciated all their efforts. She asked Mr. Phillips if the tax bills will be mailed. Mr. Phillips stated he will verify that and let her know, they are on the website. Mayor Pro Tem Portis-Jones stated not everyone is technically savvy and wanted to make sure they were being mailed.

Councilwoman Davis said she collaborated with all the other council members that spoke about the staff, not only at the festival but also with the event today honoring former Mayor, Betty Hannah, to dedicate her name on the building at our educational complex. She gave kudos to our Administrator and Assistant Administrator for having a vision along with our mayor to make an investment in our staff for which they acknowledge them, see them, honor them by respecting them, investing in education, and aligning salaries. All of that is an investment and people feel if you care for them and you see them, they will go miles and miles from what they are being paid. She said our staff did a fantastic job, and she is so proud of the City of Fairburn and all staff.

Councilman Heath said it is the simple things of life that seemingly bring us all together. During COVID-19, we were not able to have festivities like we did Saturday, and it seems like everything was like before, and everyone had a good time. He met some interesting people that wanted to bring restaurants and a florist to our city. Our downtown area is starting to come back and the people that live and work here can go out and have a nice

lunch or dinner. He appreciates everything and is truly impressed and loves the city, he has lived here all his life and wanted to say thank you.

Council Member Whitmore echoed his colleagues on the Fall Festival, it was an outstanding event and he enjoyed himself especially with the prayer, singing the song, the citizens giving high fives, it was really special. Last Friday, he went to celebrate Reverend Cook's 10th Pastoral anniversary, who owns Cook's Funeral Home on Broad Street. He thanked Mayor Avery and City Clerk, Brenda James for the last-minute Proclamation for Mr. Cook. He attended the First Inaugural City Councilman's event yesterday and was able to brainstorm and come together with other council members. Congresswoman Nakema Williams and Dr. Rashad Ritchie were there, it was a beautiful event. It was great seeing Mayor Hannah at the dedication and stated it was good seeing a mayor that has put in her time and seeing the things she had accomplished while in public office. Councilman Whitmore stated he walked in the Utilities Department and saw the beautiful artwork they did for Breast Cancer Awareness, it brought back a flood of memories in reference to his wife, and it helped him remember and recognize what Breast Cancer Awareness month meant to him and thanked the Utilities Department. This will be the last Third Friday event and invited all the residents to come out.

Mayor Avery recognized the staff's phenomenal come together and commended Mrs. Scott for a job well done. Leadership matters, our staff and managers played an important role for everything being synchronized properly and well represented. He commended every city department for the level of collaboration in the organization of this event. He was proud to see Breast Cancer Awareness Month was publicly recognized by the city, especially seeing Firefighters wearing pink t-shirts at the festival, this is something very important to him.

Mayor Avery commended Betty Hannah, who was the first female elected official and longest serving mayor of this city, with twenty-eight plus years of service.

Mayor Avery thanked Councilman Smallwood and City Clerk, Brenda James for resolving the voting issue where the referendum item was missing on the ballot. If residents in Fairburn voted early, they will get information in the mail to return to the polls to vote for the referendum item. He thanked Mrs. James for her expertise in getting this issue resolved.

Mayor Avery commended Mr. Phillips, all department heads, and city staff for promptly answering all customer service calls

XIII. Executive Session:

Councilman Smallwood made a motion to go into executive session to discuss a personnel and litigation matter, with the second provided by Councilman Heath. **The motion carried unanimously.**

XIV. Adjournment:

Councilwoman Davis made a motion to adjourn the meeting with Councilman Heath providing the second. The meeting adjourned at 8:05 pm. **The motion carried unanimously.**

Brenda B. James, City Clerk

Mario Avery, Mayor

DRAFT



City of Fairburn
Mayor and Council Special Called Meeting
Minutes
November 02, 2022
6:00 pm

- I. The meeting was called to order at 6:00 pm by Honorable Mayor Mario Avery.
- II. Invocation: The Invocation was led by City Administrator, Tony Phillips.
- III. The Pledge of Allegiance was said in unison.
- IV. Roll call by Brenda James, City Clerk, found the following members present:

The Honorable Mayor Mario Avery

The Honorable Mayor Pro Tem Hattie Portis-Jones
The Honorable Alex Heath
The Honorable Ulysses Smallwood
Members Absent: The Honorable James Whitmore

The Honorable Linda J. Davis
The Honorable Pat Pallend

Also present was Assistant City Administrator Jamila Criss, City Administrator Tony Phillips, City Clerk Brenda James, and Attorney Rory Starkey.

- V. Adoption of the Agenda:

Councilman Heath made a motion to approve the agenda, with the second provided by Councilwoman Davis. **The motion carried unanimously.**

- VI. Agenda Items:

- 1. Change in Location of the Mural in the City of Fairburn**

Assistant City Administrator, Jamila Criss presented this item and stated they are seeking approval to relocate the site location for the installation of the mural. Council approved installation on September 12th for the mural at 41 Smith Street. Since that meeting, they met with the property owner and Artist, John Christian to learn that the artist had never visited this location and expressed his concerns regarding the stucco finish on the exterior wall.

The artist proposed two options: 1) to contract with a vendor to smooth the installation area with a commercial-grade plaster and 2) top paint the mural on four (4) panels that would require forty-eight bolts to affix it to the exterior wall. Both options pose an immediate and long-term financial impact to the City. In an effort to install this mural at a location that does not require the exterior wall to be altered, it is staff's recommendation to install the mural on the exterior wall of the Youth Center that faces Highway 29. Ms. Criss said to put the mural on the Youth Center it will require rental of a lift.

Councilwoman Davis made a motion to approve the relocation of the installation of a painted mural by John Christian of Go Georgia Arts, Inc., to the exterior wall of the Youth Center located at 149 SW Broad Street, Fairburn, with the second provided by Councilman Smallwood.

Mayor Pro Tem Portis-Jones asked if the lift rental was over the amount of the project and if the artist would bear some responsibility for this problem and if his contract stated anything about this. Ms. Criss stated this project has been in the works for about three years and there is no language in the contract that speaks to this. It was an oversight not having the artist do a physical site visit for the mural installation and not knowing the final finish on the wall.

Mr. Tony Phillips said the new location is a better fit, you now will see the mural traveling from both directions. He stated we got here from an oversight, but we will have a better outcome and the most cost efficient. Mayor Pro Tem Portis-Jones questioned the reputation of the artist, and said the process should have been a part of the protocol. She did agree that this is a good compromise but showed concern for future processes. Mr. Phillips stated this happened three years ago, and assured her this would not be an issue moving forward.

Councilwoman Davis commended Ms. Criss and Mr. Phillips for going through the steps to overlook the mural installation. She stated she was not sure what transpired in the last administration and didn't know if the artist wanted to come or was not permitted but wants to move forward with the installation.

Councilman Heath said he thought Landmark and/or Creekside's art department would come in and do the mural for us. Ms. Criss stated this mural was part of a grant that the city applied for in 2019 through Go Georgia Arts and working with the Arts Advisory Council they incorporated mural and art ideas to include our local schools and wanted the youth paint inside the Youth Center. After discussion, **the motion carried unanimously.**

2. Resolution to Amend the Personnel Sick Leave Donation Policy

Human Resources Director, TaLisha Champagne presented this item and stated the City recognizes that we have employees that may undergo some type of catastrophic illness either for themselves and/or for an immediate family member and we wanted to seek a way to have a policy that provided a little bit more structure and guidance in a way for employees to voluntarily be able to utilize their leave and donate to those employees who have exhausted their time. She requested Mayor and Council approval to adopt the current sick leave and donation policy

Councilman Heath made a motion to approve the Sick Leave Donation Policy, with the second provided by Councilman Smallwood.

Councilman Smallwood said he was amazed that the City doesn't have this policy already and benefited from this type of policy. There has been no organization that he has been with that has not had this policy available and he commended administration for bringing this to Council.

Mayor Pro Tem Portis-Jones agreed with her colleague and stated she was surprised we didn't have this. Since she has been on Council, there have been a couple of times where sick leave was donated to employees and she thought we had discussed and put a policy in place to allow this to happen. She said she didn't know what happened then and it's unfortunate that it's coming up

when it is most needed and glad it is now here and that it will not be an issue for future employees. She said she heard that vacation time could also be donated and wasn't sure that was a viable option or allowable and she asked Ms. Champagne to speak to that.

Ms. Champagne stated what's trending when you look at a sick leave donation policy is typically when you have employees that are more willing to utilize their sick time because there's no payout provisions on sick leave versus their vacation time. If an employee were to resign, they can take their vacation they have accrued and be paid for that. Most employees are less likely to donate time that is more of a benefit to them. We have a couple of employees in the city who have an alarming amount of sick leave balances and are willing to donate their time for employees who do not have any sick time. We rewrote this policy to make sure that it was congruent with other localities and what's trending versus having employees to be able to take away from their vacation. There is no sick leave payout provisions currently in our policy.

Mayor Pro Tem Portis-Jones said, so the statement is that it is allowable but is not standard or not trending. Ms. Champagne stated yes.

Mayor Avery stated the motion has been made and properly seconded. **The motion carried unanimously.**

3. **Update on Local Options Sales Tax**

City Administrator, Tony Phillips stated there are two significant updates and one contains good news. The first update is effective this afternoon where we have an agreement between Fulton County and the fifteen cities that was approved by the Board of Commissioners earlier today. The parameters of that agreement are the cities have agreed with the county they will allow 5% of LOST in the first year and it will escalate over the next ten years up to 12.5 % in the final year of the agreement but the average over that the ten-year period comes in at 9.985%. The parameters and framework for the LOST negotiations for the next ten years have now been put in place. The second update is that the cities must work together with allocation to each city in the county. That is a pending process and has not concluded yet so the cities will continue to meet to talk about the apportionment of about \$3.8 billion dollars over the next ten years. There will be a complete update to Mayor and Council with Fairburn's exact dollar amount.

Mayor Avery stated they had this same process ten years ago and Fairburn substantially benefited from that and is happy that this looks like it is finally coming to an end. Mr. Phillips stated this was his first time to be involved at this level of detail and what was clear throughout this process by all the mayors is the unity among the fifteen cities which is a significant accomplishment and has set the groundwork for more cooperative relations between cities going forward.

Mayor Avery commended the three committee members that attended all the meetings on all the mayor's behalf which was Mayor Rusty Paul from Sandy Springs, Mayor Deana Holiday from East Point, and Mayor J. Clark Boddie from Palmetto.

Mr. Phillips stated that Mayor and Council approved our legal representation, Mr. Andy Welch, who was also instrumental in helping build that unity and kept all the cities informed. He thanked Council for approving that agreement.

Councilwoman Davis stated it was a miraculous miracle that all fifteen cities stayed together in unity with a focus to get it done especially for our citizens. She gave everyone involved kudos for getting this job done and it deserves an applause.

Mr. Phillips stated he wanted to single out and thank Mayor Avery for having to take leave time from his full-time job with Fulton County. He has sacrificed many Fridays to meet at Georgia Municipal Association for these LOST negotiations.

Mayor Avery stated they are too humble to tell you, but Ms. Criss and Mr. Phillips worked with Mr. Andy Welch in the first four weeks and set the tone for many of the distributions that Council received.

There was no action taken.

VII. **Adjournment:**

Councilman Pallend made a motion to adjourn the meeting with Councilwoman Davis providing the second. The meeting adjourned at 6:35 p.m. **The motion carried unanimously.**

Brenda B. James, City Clerk

Mario Avery, Mayor



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: REZONING [2022088] – MCRT SFR Investments, LLC c/o Battle Law, P.C.

<input type="checkbox"/> AGREEMENT	<input type="checkbox"/> POLICY / DISCUSSION	<input type="checkbox"/> CONTRACT
<input type="checkbox"/> ORDINANCE	<input type="checkbox"/> RESOLUTION	<input checked="" type="checkbox"/> OTHER

Submitted: 06/15/22

Planning Commission: 10/04/22

City Council: 11/14/22

DEPARTMENT: Community Development/Planning and Zoning

BUDGET IMPACT: None

PUBLIC HEARING: ☒ Yes ☐ No

PURPOSE: For the Mayor and Council to vote on the proposed rezoning of 41.895 acres from AG (Agricultural) to PD (Planned Development).

HISTORY: N/A

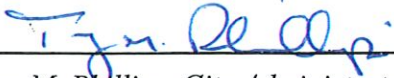
FACTS AND ISSUES: MCRT SFR Investments, LLC seeks to rezone 41.895 acres from AG (Agricultural) to PD (Planned Development) to develop a planned community with 187 townhome units, 2.20 acres of commercial space, and 17.60 acres of conservation open space. Much of the property is encumbered by environmental constraints with a series of applied buffers and wetland protection measures. The gross proposed density of the site (inclusive of all subject property in the calculation) is around 4.46 units per acre. There are two access points to the proposed development, accessed from Senoia Road and Landrum Road.

The applicant is proposing two types of townhome products. One would be a 25-foot wide, two-story townhouse, and the other would be a 30-foot wide single-story townhouse. The proposed development will consist of the following amenities: cabana, fitness center, pool, club room, and a dog park.

The Future Land Use Map has the subject property designated as Highway Mixed-Use on the eastern side of the property along Senoia Road (one of the four parcels), and the rest of the property (the remaining three parcels) falls within the Rural Residential Designation.

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Based on the proposed development's inconsistency with the 2040 Comprehensive Plan and Future Land Use Map's Rural Residential designation, staff's recommendation is: **DENIAL.**



Tony M. Phillips, City Administrator

APPLICATION INFORMATION

Rezoning [2020088] - MCRT SFR Investments, LLC c/o Battle Law, P.C.

APPLICANT/PETITIONER INFORMATION

Property Owners

Robert E Carroll, Jr. & Betty Carroll

Petitioner

MCRT SFR Investments,
LLC c/o Battle Law, P.C.

PROPERTY INFORMATION

Address:

8515, 8521 Senoia Road and 0, 8521 Landrum Road
(Parcel Tax ID # 09F020300080085, 09F020300080077,
09F020300080051 & 09F020300080028)

Land Lot and District:

Land Lot 08 District 9F

Frontage:

Senoia Road

Area of Property:

41.895 acres

Existing Zoning and Use:

AG (Agricultural) and Undeveloped

Overlay District:

Highway 74 Overlay District

Prior Zoning Cases/History:

It appears that these parcels were annexed into the City with
their current zoning.

**2040 Comprehensive Plan and Future Land
Use Map Designation:**

Highway Mixed-Use/Rural Residential

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting

Tuesday, October 4, 2022

City Council Public Hearing

Monday, November 14, 2022

INTENT

A request to rezone 41.895 acres from AG (Agricultural) to PD (Planned Development) to develop a planned community with 187 townhome units, 2.20 acres of commercial space, and 17.60 acres of conservation open space.

SURROUNDING ZONING

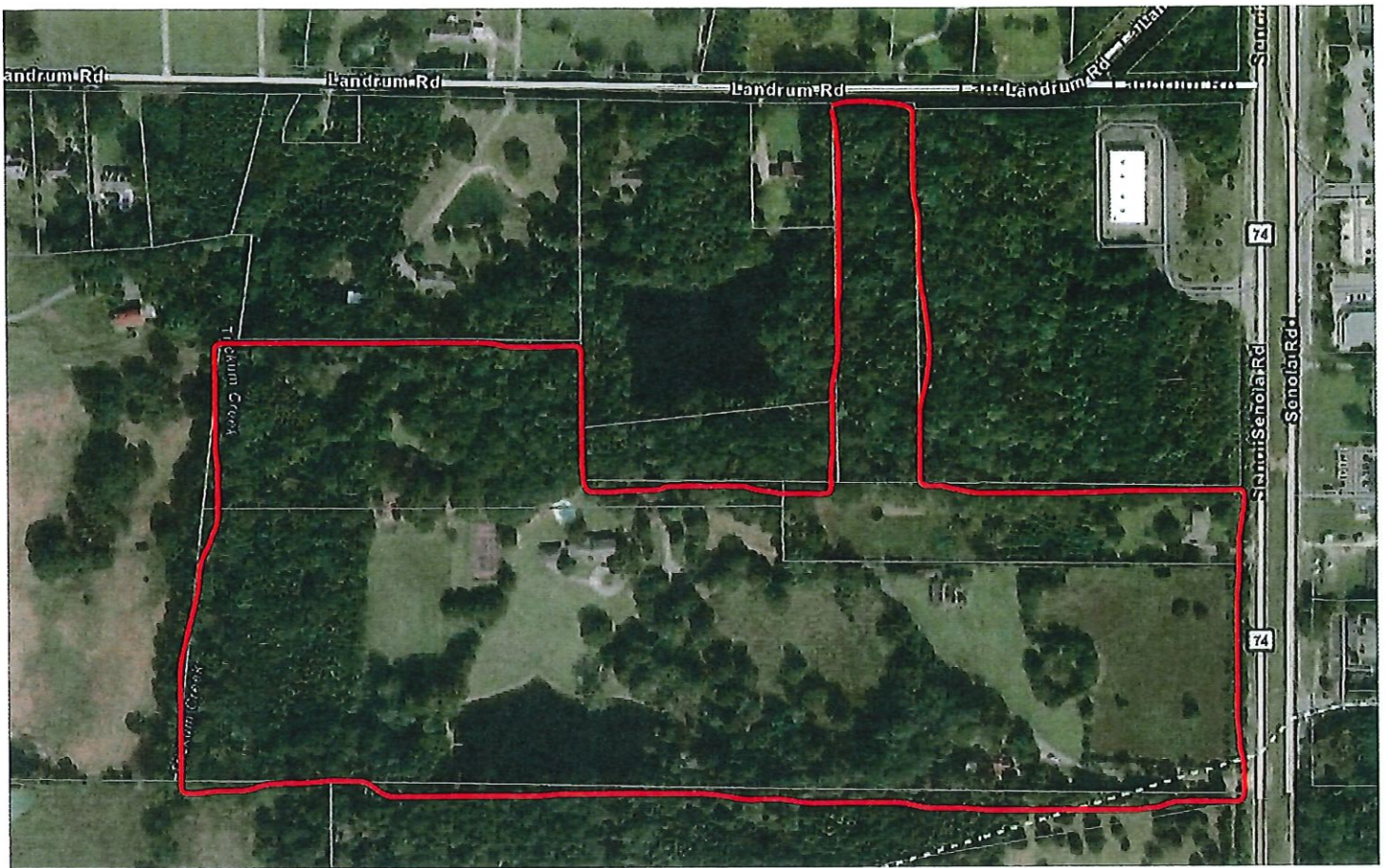
North: C-2 (General Commercial), AG (Agricultural), and O&I (Office & Institutional)

South: AG (Agricultural)

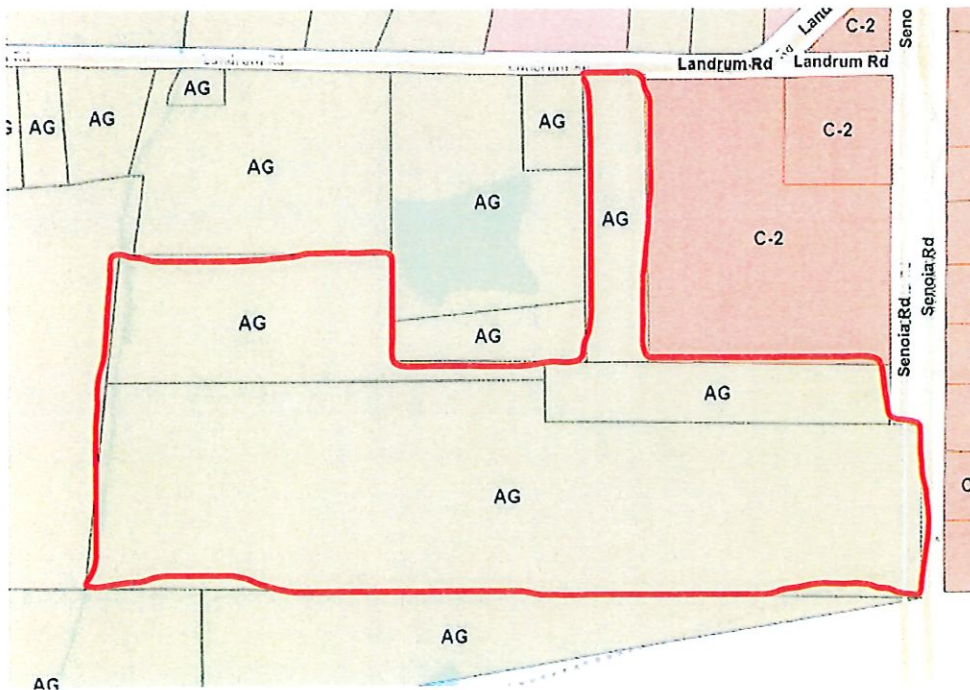
East: C-2 (General Commercial)

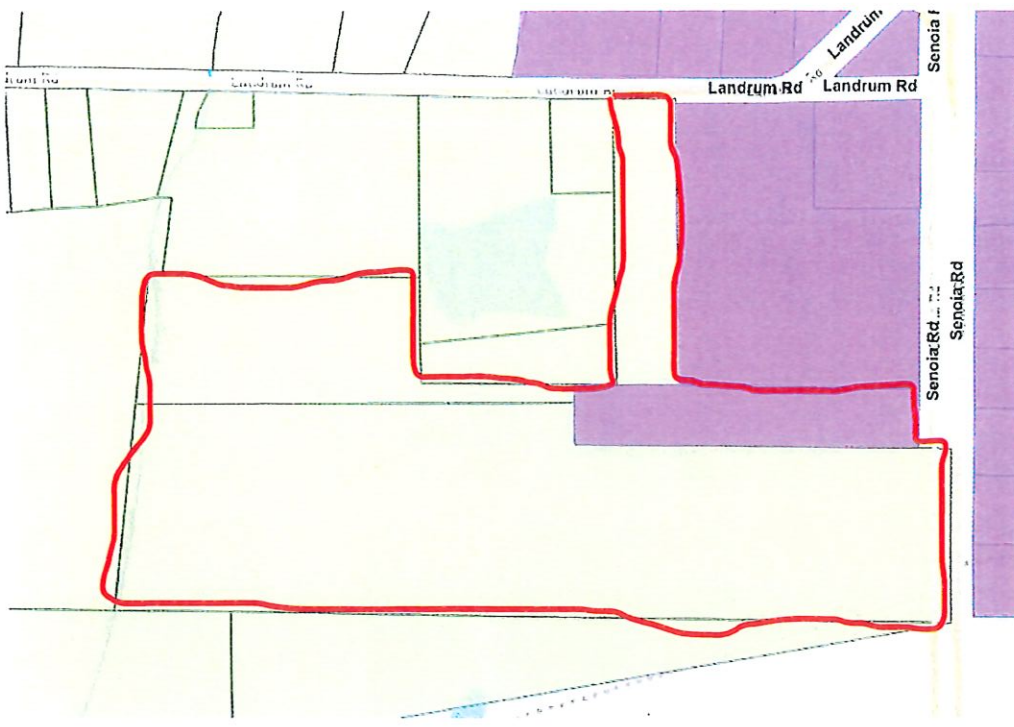
West: AG (Agricultural)

AERIAL MAP



ZONING AND FUTURE LAND USE MAPS





Green = Rural Residential

Purple = Highway Mixed-Use

PUBLIC PARTICIPATION

The applicant held their required public participation meeting on January 18, 2022, via Zoom. The attendance sheets shows that 6 people showed up to the meeting. The meeting notes and attendance sheet are attached at the end of the packet.

STAFF COMMENTS

Water & Sewer

Water: City of Atlanta water is located along Landrum Rd to the north and Senoia Rd to the east. Capacity is available.

Sewer: According to Fulton County's GIS the property is located in the Fulton County sewer service area. At no point would flow from this property enter Fairburn's sewer system. Contact Fulton County for sewer capacity.

Engineering

1. All new streets or street widening sections shall be provided with curb and gutter. [Sec. 71-45]

ZONING IMPACT ANALYSIS

1. Does the proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?

The applicant seeks to rezone 41.895 acres from AG (Agricultural) to PD (Planned Development) to develop a planned community with 187 townhome units, 2.20 acres of commercial space, and 17.60 acres of

conservation open space. There is commercial development at the intersection of Senoia Road and Landrum Road. There is also single-family residential abutting these properties to the west.

Staff finds that the proposed use is not suitable in view of the use and development of adjacent and nearby properties. The surrounding area consists of C-2 (General Commercial) and AG (Agricultural) zoned lots. The AG (Agricultural) lots contain single-family residential uses that range in acreage from one acre to 17 acres. The adjacent commercial lot is vacant and wooded, and there is a liquor store at the corner of Landrum Road and Senoia Road.

2. Does the proposal adversely affect the existing use or usability of adjacent or nearby property?

Staff does not find that this proposal, if approved, would have any adverse impact on the use or usability of adjacent or nearby properties.

3. Does the property have a reasonable economic use as currently zoned?

Staff finds that the subject property has a reasonable economic use as currently zoned. Furthermore, the property is able to be developed with single-family detached residential uses by-right in the AG district.

4. Will the proposal result in a use that could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

Traffic Impact and Improvements

The installation of sidewalks along the street frontages (Senoia Road and Landrum Road) will be required.

Impact on Schools

Staff has not received a response from Fulton County Schools. Staff will provide an update if this information is received prior to the meeting.

5. Is the proposal in conformity with the policies and intent of the land use plan?

The subject property is designated as Highway Mixed-Use and Rural Residential on the Future Land Use Map. The Highway Mixed-Use designation calls for a vibrant commercial corridor that provides an array of goods and services at a smaller scale with walkable retail centers. The Rural Residential designation calls for development that preserves a rural feel with one acre or larger lots.

The appropriate zoning districts in the Highway Mixed-Use area include C-1 (Neighborhood Commercial), C-2 (General Commercial), O&I (Office Institutional), RM-12 (Multi-family Residential), RM-36 (Multi-family Residential), and PD (Planned Development). The appropriate zoning designations for the Rural Residential area is R-1, R-2, R-3, and R-4, which are all single-family residential districts.

While the application proposes an undefined commercial component adjacent to the Senoia Road frontage that supports the policies of the Highway Mixed-Use character area in the general vicinity, the majority of the site is designated in the Rural Residential character area. Based on the articulated policies in the 2040 Comprehensive Plan, staff finds the proposed planned development does not conform with the 2040 Comprehensive Plan and Future Land Use Map. The density within the Rural Residential areas would be much higher than the Comprehensive Plan intends. The proposed attached residential development is a substantial departure from the envisioned preservation of “a rural feel with one acre or larger lots.”

6. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the proposal?

Staff has not identified any existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or denial of the applicant's proposal.

7. Does the proposal permit a use that can be considered environmentally adverse to the natural resources, environment, and citizens of Fairburn?

Staff is of the opinion that the proposal would not permit a use which could be considered environmentally adverse to the natural resource, environment, or citizens of Fairburn.

STAFF RECOMMENDATION

Staff finds the proposed rezoning of the property from AG (Agricultural) to PD (Planned Development) for a planned development with 187 townhomes, 2.20 acres of commercial space along Senoia Road, and 17.60 acres of conservation does not conform with the 2040 Comprehensive Plan and Future Land Use Map, as proposed. There are large lot single-family residential uses in the vicinity of the subject property that would be impacted by the density, intensity, and character of the proposed development in a manner not supported by the vision for the property in the 2040 Comprehensive Plan. The proposal to develop a planned development within the Highway 74/Senoia Road corridor is consistent with the Comprehensive Plan and Future Land Use Map for that portion of the project only. Increased residential development in the Highway Mixed-Use Character Area and adjacent to Senoia Road will help to attract higher quality commercial and retail businesses. However, the density of the western side of the property is greater than what the Rural Residential Character Area intends. The townhomes adjacent to the commercial space along Senoia Road would be a good transition into lower density residential on the western side of the property that abuts large lot, single-family homes, but the proposal does not transition significantly enough to meet the spirit of the character envisioned.

Therefore, based on these reasons outlined in **Section 80-300**, staff recommends **DENIAL** of this petition, as proposed.

On October 4, 2022, the Planning and Zoning Commission recommended **DENIAL** of this petition.

Should the Mayor and City Council decide to approve the rezoning request, the staff recommends the conditions listed below. The applicant's agreement to these conditions would not change staff's recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council:

A. To the owner's agreement to restrict the use of the subject property as follows:

1. Residential units at a density no greater **than 4.8** units per acre net for the whole site or 187 units, whichever is less.
2. The following uses under the C-2 (General Commercial) District: liquor stores, car/truck rental or sale/leasing, auto repair/tire/body shop, auto supply store, parking lot/garage, recycling center, gasoline service station, and funeral services are specifically prohibited along with those prohibited uses in the Highway 74 Overlay Zoning District.

B. To the owner's agreement to abide by the following:

The property shall be developed in substantial conformity with the Site Plan [Development Plan] prepared by Elite Engineering and attached as Exhibit C. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.

C. To the owner's agreement to provide the following site development standards:

1. Development standards for the residential lot(s) in the planned development shall be as follows:
 - a. Building setbacks:
 - i. Front: 20-feet and 25-feet along collector roads
 - ii. Side: 15-feet
 - iii. Rear: 20-feet
2. Development standards for the commercial lot(s) shall be consistent with the C-2 zoning district requirements.

Single-family attached residential use

1. Full amenity package including recreation area, swimming pool, fitness center, dog park, walking trail, playground, and clubhouse.
2. Exterior materials shall be brick, stone, or cementitious material. Vinyl shall be prohibited except for fascia and soffits.
3. All roof-mounted equipment shall be screened from the public right-of-way.
4. Garages shall be provided for at all units.
5. A multi-use wood chip/mulch trail (approx. 1,300 linear feet) shall be included in the development.
6. A minimum of three (3) alternative fuel vehicle charging stations shall be included in the development.
7. Two (2%) percent of the residential units shall be allocated to public safety personnel (Police, Fire, EMT). Fairburn personnel shall have the first right of refusal.

Commercial Use

1. Refuse areas (trash containers) shall be placed in the least visible location from the public streets and shall be enclosed on three sides with brick, stone, or other cementitious materials used on the façade of the buildings.
2. The front façade of the commercial uses shall be a combination of brick, stone, glass, and/or other cementitious sidings.
3. Burglar bars, steel gates, and steel roll-down curtains are prohibited on the exterior and interior of all structures.

General

1. Lighting fixture height, style, design, and illumination levels shall be compatible with the building design and height and shall consider safety, function, and aesthetics. Lighting fixtures installed along sidewalks shall be of a pedestrian scale and shall not exceed 20 feet in height.
2. All utilities shall be installed underground throughout the development area.
3. Pedestrian walkways (sidewalks) shall be designed and constructed to allow for connectivity between the residential, commercial, amenities, and open spaces throughout the development.
4. The following building façade materials are prohibited for the entire development:
 - a. Exterior Insulation Finishing Systems (EIFS)/Synthetic Stucco

- b. Metal panel systems
- c. Corrugated steel
- d. Smooth concrete; masonry or plain
- e. Cinderblock
- f. Reinforced concrete slabs
- g. Aluminum or vinyl siding
- h. Plywood
- i. Presswood
- j. Mirrored (or use highly reflective) glass

ATTACHMENTS

Application

Noise Report

Statement of Intent

Exhibit A: Site Plan

Battle Law Rezoning Presentation

Re: REZONING ORDINANCE 2022088
Property of Robert E. Carroll, Jr. & Betty Carroll
8515, 8521 Senoia Road and 0, 8521 Landrum Road (Parcel
ID Nos.: 09F020300080085, 09F020300080077 &
09F020300080051 & 09F020300080028
41.895 acres; Land Lot 08
District 9F

**STATE OF GEORGIA
COUNTY OF FULTON**

**AN ORDINANCE TO REZONE CERTAIN PROPERTY WITHIN THE CITY
LIMITS OF THE CITY OF FAIRBURN FROM AG (AGRICULTURAL) ZONING
DISTRICT TO PD (PLANNED DEVELOPMENT) ZONING DISTRICT; TO
PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO
REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES**

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE
CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY
OF THE SAME:

Section 1. That the City of Fairburn Zoning Ordinance be amended, and the official maps established in connection therewith be changed so that the property located in the City of Fairburn as indicated on Exhibit "A" to this Ordinance be changed from AG (Agricultural) Zoning District to PD (Planned Development) Zoning District, subject to the following conditions:

A. To the owner's agreement to restrict the use of the subject property as follows:

1. Residential units at a density no greater than 4.8 units per acre net for the whole site or 187 units, whichever is less.
2. The following uses under the C-2 (General Commercial) District: liquor stores, car/truck rental or sale/leasing, auto repair/tire/body shop, auto supply store, parking lot/garage, recycling center, gasoline service station, and funeral services are specifically prohibited along with those prohibited uses in the Highway 74 Overlay Zoning District.

B. To the owner's agreement to abide by the following:

The property shall be developed in substantial conformity with the Site Plan [Development Plan] prepared by Elite Engineering and attached as Exhibit B. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.

C. To the owner's agreement to provide the following site development standards:

1. Development standards for the residential lot(s) in the planned development shall be as follows:
 - a. Building setbacks:
 - i. Front: 20-feet and 25- feet along collector roads
 - ii. Side: 15-feet
 - iii. Rear: 20 feet
2. Development standards for the commercial lot(s) shall be consistent with the C-2 zoning district requirements.

Single-family attached residential use

1. Full amenity package including recreation area, swimming pool, fitness center, dog park, walking trail, playground and clubhouse.
2. Exterior materials shall be brick, stone, or cementitious material. Vinyl shall be prohibited except for fascia and soffits.
3. All roof-mounted equipment shall be screened from the public right-of-way.
4. Garages shall be provided for all units.
5. A multi-use wood chip/mulch trail (approx. 1,300 linear feet) shall be included in the development.
6. A minimum of three (3) alternative fuel vehicle charging stations shall be included in the development.
7. Two (2%) percent of the residential units shall be allocated to public safety personnel (Police, Fire, EMT). Fairburn personnel shall have the first right of refusal.

Commercial Use

1. Refuse areas (trash containers) shall be placed in the least visible location from the public streets and shall be enclosed on three sides with brick, stone, or other cementitious materials used on the façade of the buildings.
2. The front façade of the commercial uses shall be a combination of brick, stone, glass, and/or other cementitious sidings.
3. Burglar bars, steel gates, and steel roll-down curtains are prohibited on the exterior and interior of all structures.

General

1. Lighting fixture height, style, design, and illumination levels shall be compatible with the building design and height and shall consider safety, function, and aesthetics. Lighting fixtures installed along sidewalks shall be of a pedestrian scale and shall not exceed 20 feet in height.
2. All utilities shall be installed underground throughout the development area.
3. Pedestrian walkways (sidewalks) shall be designed and constructed to allow for connectivity between the residential, commercial, amenities, and open spaces throughout the development.
4. The following building façade materials are prohibited for the entire development:

- a. Exterior Insulation Finishing Systems (EIFS)/Synthetic Stucco
- b. Metal panel systems
- c. Corrugated steel
- d. Smooth concrete; masonry or plain
- e. Cinderblock
- f. Reinforced concrete slabs
- g. Aluminum or vinyl siding
- h. Plywood
- i. Presswood
- j. Mirrored (or use highly reflective) glass

Section 2. That the property shall be developed in compliance with the conditions of approval as stated in this Ordinance. Any conditions hereby approved do not authorize the violation of any district regulations; and

Section 3. That the official maps referred to on file in the Office of the City Clerk, be changed to conform with the terms of this Ordinance; and

Section 4. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 5. Pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 14th day of November, 2022; and

Section 6. This Ordinance shall become effective on the 14th day of November, 2022.

Section 7. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.

APPROVED this 14th day of November, 2022, by the Mayor and Council of the City of Fairburn, Georgia.

Mario Avery, Mayor

ATTEST:

Brenda James, City Clerk

APPROVED AS TO FORM:

Rory K. Starkey, City Attorney



**CITY OF FAIRBURN
MAYOR & CITY COUNCIL
AGENDA ITEM**

SUBJECT: USE PERMIT 2022117 FAIRBURN 55 SENIOR HOUSING

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Submitted: 08/22/22

Planning Commission: 10/04/22

City Council: 11/14/22

DEPARTMENT: Community Development, Planning and Zoning Office

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

PURPOSE: For the Mayor and Council to review a use permit for a senior housing development in the AG (Agricultural) zoning district with five concurrent variances.

1. Concurrent variance to reduce the front yard setback from 100' to 50' along Oakley Industrial Boulevard. Chapter 80 Article II Section 80-71 Agricultural Zoning District.
2. Concurrent variance to allow renter-occupied units. Chapter 80 Zoning Article IV Section 80-233 Senior Housing.
3. Concurrent variance to increase the lot coverage from 15% to 28.6%. Chapter 80 Article II Section 80-71 Agricultural Zoning District.
4. Concurrent variance to allow parking in the minimum front yard setback. Chapter 80 Zoning Article IV Section 80-233 Senior Housing.
5. Concurrent variance to allow an accessory structure in the front yard/ Chapter 80 Article II Section 80-71(c)(1)(a) AG – Accessory uses and structures.

HISTORY: On August 28, 2017, the Mayor and City Council conditionally approved a Use Permit and Concurrent Variance for this property to allow for a 7,655 square foot church and to allow parking within the minimum front yard setback adjacent to Oakley Industrial Boulevard. The Use Permit expired three (3) years from the date of approval, which would have been August 27, 2020.

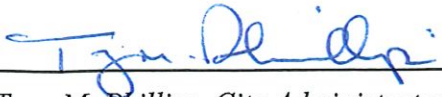
FACTS AND ISSUES: The applicant is requesting the approval of a use permit to allow a senior housing development at 7875 Bohannon Road. The property is zoned AG (Agricultural) and consists of 5.67 acres of land. The AG (Agricultural) zoning district does not allow senior housing by right, rather it allows an applicant to make a request for consideration of a use permit.

There are a series of five variance requests made concurrent with the use permit request. The setback variance is requested because the property fronts Bohannon Road and Oakley Industrial Boulevard, which would require a 100-foot setback from both frontages. The proposed site plan encroaches the setback along the Oakley Industrial Boulevard frontage. The supplemental regulations in Section 80-233 for Senior Housing uses require units to be owner-occupied. The applicant is requesting units to be renter-occupied, so they must seek a variance to proceed accordingly. The AG (Agricultural) zoning district has a maximum lot coverage of 15% for all developments, and the site plan for the proposed development illustrates a lot coverage of 28.6%. The Senior Housing supplemental

regulations in Section 80-233 prohibits parking in the front yard setback, and the applicant has submitted a site plan with a portion of the parking lot encroaching the setback. Lastly, the Senior Housing supplemental regulations do not allow accessory structures in the front yard nor within a required setback; the proposed location of the dumpster pad violates this regulation.

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Based on the criteria outlined in Section 80-172 and the analysis of each provision outlined herein, specifically the failure of the application to meet criteria 1 and 2, staff recommends **DENIAL** of the use permit for a senior housing development at 7875 Bohannon Road.



Tony M. Phillips, City Administrator

APPLICATION INFORMATION

Use Permit Petition 2022117
Concurrent Variances 2022124CV

APPLICANT/PETITIONER INFORMATION

Property Owner
Clayton Ministries, Inc

Petitioner
Staffins Properties, LLC

PROPERTY INFORMATION

Address:	7875 Bohannon Road [parcel # 09F080000280864 & 09F080000110871]
Land Lot and District:	Land Lots 11 & 28 District 9th
Frontage:	Bohannon Road and Oakley Industrial Boulevard
Area of Property:	+/- 5.67 acres
Existing Zoning and Uses:	AG (Agricultural)
Prior Zoning Cases/History:	N/A
Overlay District:	N/A
2035 Comprehensive Future Land Use Map Designation:	Rural Residential

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
Tuesday, October 4, 2022

City Council Public Hearing
Monday, November 14, 2022

INTENT

A request for a use permit to allow for senior housing in the AG (Agricultural) zoning district with five concurrent variances.

1. Concurrent variance to reduce the front yard setback from 100' to 50' along Oakley Industrial Boulevard. Chapter 80 Article II Section 80-71 Agricultural Zoning District.
2. Concurrent variance to allow renter-occupied units. Chapter 80 Zoning Article IV Section 80-233 Senior Housing
3. Concurrent variance to increase the lot coverage from 15% to 28.6%. Chapter 80 Article II Section 80-71 Agricultural Zoning District.
4. Concurrent variance to allow parking in the minimum front yard setback. Chapter 80 Zoning Article IV Section 80-233 Senior Housing
5. Concurrent variance to allow an accessory structure in the front yard/ Chapter 80 Article II Section 80-71(c)(1)(a) AG – Accessory uses and structures.

EXISTING ZONING AND LAND USE OF ABUTTING PROPERTIES

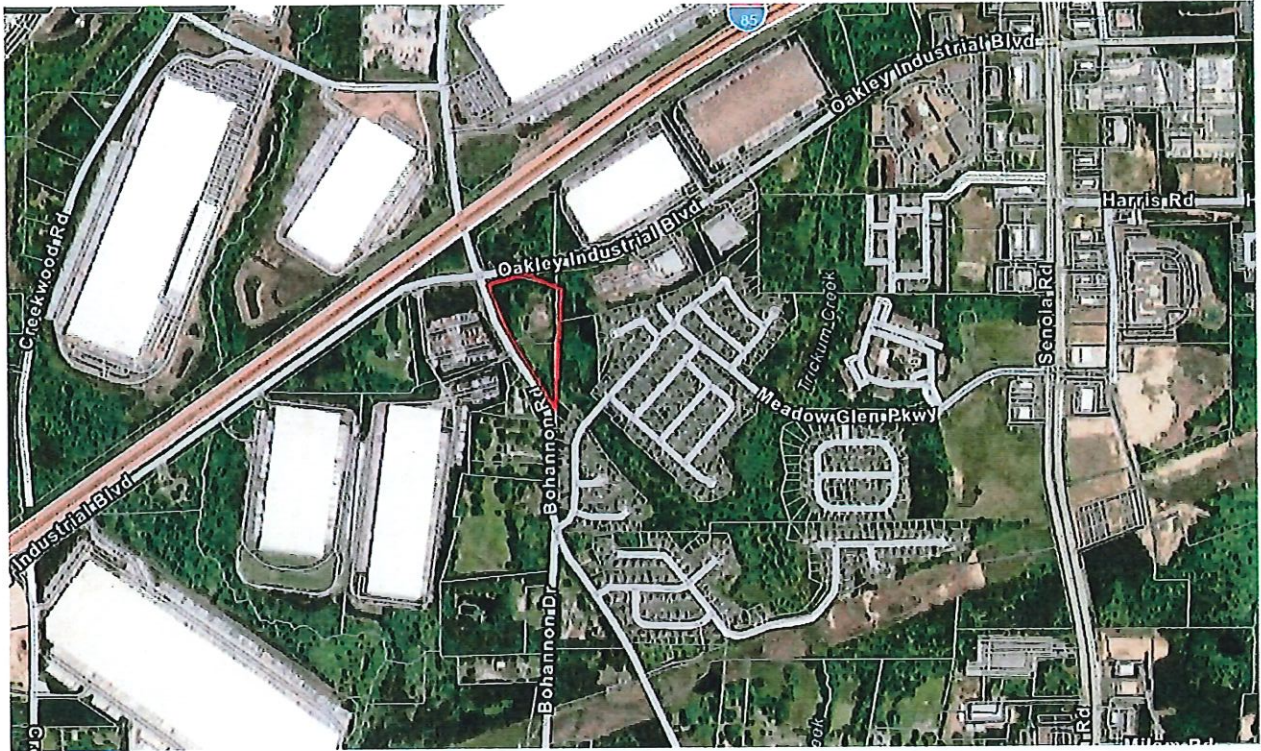
North: M-1 (Light Industrial)

South: M-1 (Light Industrial), PD (Planned Development), and AG (Agricultural)

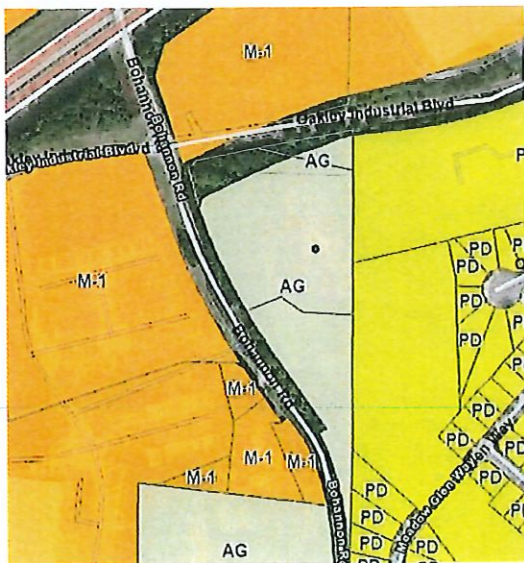
East: PD (Planned Development)

West: M-1 (Light Industrial)

PARCEL MAP



ZONING MAP & FUTURE LAND USE MAP



STAFF COMMENTS

Fire

Apartments only have one side access for fire vehicles.

I have attached the IFC Code and how GA State code changed the code.

2018 International Fire Code (IFC) – Chapter 5 Fire Service Features

Section 503

503.1.1 Buildings and facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

Green – Rural Residential
Blue = Office/Industrial
Orange = Medium Density Residential

Subject 120-3-3 RULES AND REGULATIONS FOR THE STATE MINIMUM FIRE SAFETY STANDARDS
Delete section 503.1.1 in its entirety and substitute in its place the following:

503.1.1 "Buildings and facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction as determined by the local Fire Chief and/or Fire Code Official of the responding fire department or agency. The fire apparatus access road shall comply with the requirements of this section and **Appendix D of this Code**. The fire apparatus access road shall extend to within 150 feet (45.7 m) of all portions of the facility or any portion of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility.

Water and Sewer

Water: City of Fairburn water by an existing 12" watermain located along the south side of Oakley Industrial Blvd

Sewer: City of Fairburn sewer service area

Engineering

1. Every developer of lands within the City of Fairburn shall provide the public improvements included in this chapter 71 of the City of Fairburn Code of Ordinance and other pertinent ordinances, codes, and regulations of the city. These public improvements, together with associated rights-of-way, easements, and other lands, shall be provided at no cost to the city and shall be dedicated or otherwise transferred, as required, to the public in perpetuity and without covenant or reservation. [Sec. 71-4]
2. When property fronting on a city street is to be developed or when the property is to be accessed from a city street, the developer shall cause to be constructed roadway improvements (pavement, signing, striping, curb and gutter and drainage) which are required along the existing road across the entire property frontage at no cost to the city. [Sec. 71-37 (a)]

3. Additional street right-of-way width may be required to be dedicated at intersections or other locations fronting the property where turning lanes, storage lanes, medians, islands, or realignments are required for traffic safety and minimum right-of-way standards would be inadequate to accommodate the improvements. [Sec. 71-36 (c)]
4. The developer shall be responsible for the cost of relocation and/or modifications of public and/or private utilities as necessitated by the required street improvements. [Sec. 71-37 (c)]
5. Turning lanes may be required by the city to meet projected traffic demand and/or safe operations, as determined by the city engineer. When provided, turning lanes shall meet the following criteria:
 - o Provide not less than 150 feet of storage length for arterial roadways. Provide not less than 100 feet of storage length for collector roadways.
 - o Provide taper lengths of not less than 100 feet.
 - o Longer storage and taper lengths may be required when traffic projections indicate they are justified.[Sec. 71-38(4)]
6. Acceleration and deceleration lanes shall be provided at proposed driveway connection unless a traffic study demonstrates that the total traffic on the existing roadway is less than 2,000 vehicles per day including traffic projected as a result of the proposed development (count of existing traffic must have been made within one year of the development plan submittal date). [Sec. 71-40]
7. In the event that a development has access to a substandard street and if that substandard street provides the primary means of access to the development, the substandard street shall be fully upgraded, and the full width of the roadway overlaid with asphaltic concrete surface course along the entire property frontage and continuing to the nearest standard paved road along the route of primary access. [Sec. 71-39]
8. All of the materials, methods of construction, and workmanship for street construction shall conform to the latest edition of the state department of transportation Standard Specifications for Road and Bridge Construction, including all amendments. [Sec. 71-42]
9. All future driveway connections on Bohannon Road are subject to the GDOT Regulations for Driveway and Encroachment Control.
10. All new streets or street widening sections shall be provided with curb and gutter. [Sec. 71-45]
11. Sidewalks are required along the entire project frontage from property line to property line and on both side of all internal streets. All sidewalks shall have a minimum width of five feet and shall be constructed to comply with the requirements of the Americans with Disabilities Act (ADA) standards, city's development standards. [Sec. 71-46]
12. Commercial Driveway are required at all commercial entrances to delineate public from private. Commercial drives need to extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
13. All pavement markings installed on asphalt within the public right-of-way shall be thermoplastic material; 1.5-inch black contract tape shall be installed for crosswalks on concrete.
14. Traffic control devices consisting of street name signs, traffic control signs, traffic markings and traffic signals shall be provided by the developer as appropriate to serve each development. All traffic control devices and installation thereof shall conform to the specifications of the Federal Highway Administration publication, Manual on Uniform Traffic Control Devices, current edition and ANSI D6.1e. [Sec. 71-47]
15. Site utilities serving the site shall be placed underground.[Sec. 71-72]
16. If existing water mains and/or sanitary sewers must be extended to serve a development, the developer shall install or have installed the necessary extensions at no cost to the city under the existing city policy and procedures at plan approval time. [Sec. 71-74]

17. All stormwater runoff generated from a site shall be adequately treated before discharge. [Sec. 71-1003]
18. Dry detention ponds shall be designed to provide for positive drainage on the pond floor to the outlet of the pond. Side slopes shall be designed to have a maximum of three feet horizontal to one-foot vertical (3:1) slopes. If the 100-year maximum water surface depth is equal to or greater than four feet, then a black, vinyl-coated, four-foot chainlink fence with top and bottom rails shall be constructed around the detention pond with a 20-foot gate provided to allow access. [Sec. 71-1021]

USE PERMIT CRITERIA

Section 80-172 Use Permit Considerations: Staff has reviewed said items pertaining to the subject use and offers the following comments:

1. **Whether the proposal use is consistent with the comprehensive land use plan adopted by the city council;**
Staff does not find this proposal is consistent with the 2040 comprehensive land use plan. The subject property is in the Rural Residential Character Area and the 2040 Comprehensive Plan states the appropriate uses are:

- Single-Family Residential
- Parks/Playgrounds
- Golf Courses
- Schools
- Churches

The Rural Residential Character Area is characterized by “a rural feel and transition to the very low-density uses in the rural areas surrounding the city in the City of South Fulton, Fayette, and Coweta counties. One acre or larger lots are appropriate in these areas.” The proposed development is seeking a density of 14.1 units per acre that does not comply with the stated density in the comprehensive plan.

The appropriate zoning district in the Residential Character Area are R-1, R-2, R-3, and R-4.

2. **Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;**

Staff does not find that this proposal is compatible with surrounding land uses nor zoning. The area consists of industrial uses along the Bohannon Road frontage and medium density single-family residential homes to the rear.

3. **Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;**

The proposed use does not violate any known statutes, ordinances, or regulations governing land development, aside from the concurrent variances requested herein. The applicant will be required to submit copies of applicable local, state, and federal permits and/or licenses required for a senior housing prior to the issuance of a certificate of occupancy and business license.

4. **The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;**

The proposed use of the land for senior housing does not appear to create a nuisance on traffic flow, vehicular nor pedestrian. Bohannon Road is a truck route so there would be higher than average interactions between pedestrians and pedestrian vehicles with industrial vehicles; however, the applicant would be required to install sidewalks along the frontages of Oakley Industrial Boulevard and Bohannon Road where sidewalks do not currently exist.

5. The location and number of off-street parking spaces;

The application proposes 80 units and 115 off-street parking spaces. The zoning code specific to senior housing in Section 80-233 requires 1.4 spaces per dwelling unit. The ordinance calculated minimum is 112 spaces; therefore, the application meets the off-street parking minimums.

6. The amount and location of open space;

The property is 246,985.2 SF (5.67 acres) with 70,767 SF of lot coverage. This leaves 176,218 SF of open space, which is equivalent to approximately 4.05 acres and 71.4% of the entire property.

7. Protective screening;

The adjacent residential properties zoned PD do not require any type of buffers based on application of the zoning regulations. This proposal does have a tree lined pedestrian path within the 50-foot setback. The PD development abutting this property is heavily wooded for approximately 300-feet to the nearest developed, single-family lot.

8. Hours and manner of operation;

The proposal is for senior housing 55+, which means this development would operate similarly to an apartment complex.

9. Outdoor lighting; and

The outdoor lighting will consist of exterior wall-mounted lights and pole lights.

10. Ingress and egress to the property

The one ingress/egress point for the property is located on Bohannon Road.

VARIANCE CONSIDERATIONS

Section 80-251 Variances Considerations:

- (1) Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this chapter; or
- (2) The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public.

The applicant is requesting five concurrent variance as outlined below.

6. Concurrent variance to reduce the front yard setback from 100' to 50' along Oakley Industrial Boulevard. Chapter 80 Article II Section 80-71 Agricultural Zoning District.
7. Concurrent variance to allow renter-occupied units. Chapter 80 Zoning Article IV Section 80-233 Senior Housing
8. Concurrent variance to increase the lot coverage from 15% to 28.6%. Chapter 80 Article II Section 80-71 Agricultural Zoning District.
9. Concurrent variance to allow parking in the minimum front yard setback. Chapter 80 Zoning Article IV Section 80-233 Senior Housing
10. Concurrent variance to allow an accessory structure in the front yard. Chapter 80 Article II Section 80-71(c)(1)(a) AG – Accessory uses and structures.

Findings:

Staff finds that the concurrent variance to reduce the front yard setback from 100' to 50' is in line with the intent of the zoning code. The property fronts on two roads, and the AG (Agricultural) zoning district

has the largest front yard setback and the code identifies the front yard, as the frontage with the shortest length. It does not appear that this request would cause detriment to the adjacent nor neighboring properties.

Staff finds the concurrent variance to allow renter-occupied units to be inconsistent with the intent of the zoning ordinance. The AG (Agricultural) zoning district is primarily intended for single-family residential with one acre or larger lots, farming, and raising of livestock. However, it does not appear that this would cause detriment to the adjacent nor neighboring properties, as there are industrial and single-family properties neighboring.

Staff finds the concurrent variance to increase the lot coverage from 15% to 28.6% is inconsistent with the intent of the zoning ordinance. The AG (Agricultural) zoning district is primarily intended for single-family residential with one acre or larger lots, farming, and raising of livestock. That said, it does not appear that this request would cause detriment to adjacent nor neighboring properties, as this project still maintains 176,218 SF of open space or 71.4% of the site.

Staff finds the concurrent variance to allow parking in the minimum front yard is inconsistent with the intent of the zoning ordinance. It appears that the residential structures could be placed closer to Bohannon Road with the parking behind the structure, but it does not appear that this request would cause detriment to adjacent nor neighboring properties, as the property across Bohannon Road is used for truck and trailer parking.

Staff finds the concurrent variance to allow an accessory structure, refuse area for trash, in the front yard is inconsistent with the intent of the zoning ordinance. It appears that the residential structures could be placed closer to Bohannon Road with the accessory structure, refuse area for trash, placed behind the structure. It does not appear that this request would cause detriment to adjacent nor neighboring properties if proper screening is implemented.

STAFF RECOMMENDATIONS

Staff finds that the use permit request to allow a senior housing development at 7875 Bohannon Road does not conform with the 2040 Comprehensive Plan and Future Land Use Map. The Future Land Use Map designates the subject property as Rural Residential, which identifies single-family uses as the intended development. It does not appear that the proposed use of the property for a senior housing development would cause a detriment to the adjacent or near nearby properties and should not have a significant impact on traffic flow.

Based on the criteria outlined in Section 80-172 and the analysis of each provision outlined herein, specifically the failure of the application to meet criteria 1 and 2, staff recommends **DENIAL** of the use permit for a senior housing development at 7875 Bohannon Road.

On October 4, 2022, the Planning and Zoning Commission recommended **DENIAL** of the use permit for a senior housing development at 7875 Bohannon Road.

Staff is recommending denial of the use permit request for a senior housing development at 7875 Bohannon Road and does not find that approving any concurrent variances would be appropriate. If the use permit is denied, these variances would still run with the property and would allow other development proposals to utilize the granted variances without Planning and Zoning Commission nor City Council's review. However, it does not appear that any of the variance request would cause detriment to the adjacent nor neighboring properties...

Staff recommends **DENIAL** of all five concurrent variances.

On October 4, 2022, the Planning and Zoning Commission recommended **DENIAL** of all five concurrent variance request.

Should the Mayor and City Council make the findings to approve the use permit to allow a senior housing development at 7875 Bohannon Road, staff recommends the conditions listed below. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

1. To the owner's agreement to abide by the following:

The property shall be developed in substantial conformity with the Site Plan [Development Plan] prepared by Gary B. Coursey & Associates and attached as Exhibit B. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.

2. To the owner's agreement to the following:

- a. The amenities package shall include a pool, courtyard, pickle ball or tennis court, walking trails, and a dog park.
- b. Exterior materials shall be brick, stone, or cementitious material. Vinyl shall be prohibited.
- c. Refuse areas shall be placed in the least visible location from the public streets and shall be enclosed on three sides with brick, stone, or other cementitious materials used on the façade of the buildings.
- d. A minimum of two (2) alternative fuel vehicle charging stations shall be included in the development.
- e. All utilities shall be placed underground.
- f. Lighting fixture height, style, design, and illumination levels shall be compatible with the building design and height and shall consider safety, function, and aesthetics. Lighting fixtures installed shall be of a pedestrian scale and shall not exceed 20 feet in height.
- g. All mechanical equipment shall be screened from public view.

ATTACHMENTS

Exhibit A: Legal Description

Exhibit B: Site Plan/Elevations

Re: USE PERMIT 2022117
Concurrent Variances 2022124CV
Property of Clayton Ministries, Inc.
7875 Bohannon Road
09F080000280864 & 09F080000110871
5.67 acres; Land Lots 11 & 28
District 9th
Fairburn, Fulton County, Georgia

AN ORDINANCE GRANTING THE APPLICANT, STAFFINS PROPERTIES, LLC, A USE PERMIT WITH FIVE CONCURRENT VARIANCES FOR AN AG (AGRICULTURAL) ZONING DISTRICT USE, SUBJECT TO CERTAIN CONDITIONS, TO ALLOW FOR A SENIOR HOUSING DEVELOPMENT; TO IDENTIFY THE CONDITIONS ATTACHED TO THE GRANT OF THE USE PERMIT; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME THAT:

Whereas, Chapter 80. Article II, Zoning Districts, Section 80-71 – AG (Agricultural) Zoning District requires that, pursuant to Section 80-233- Senior Housing, a Use Permit be obtained for senior housing located within the City of Fairburn as an AG (Agricultural) use; and

Whereas, Chapter 80, Article IV, Section 80-171 of the City of Fairburn Zoning Ordinance requires approval of the Use Permit by the City of Fairburn City Council; and

Whereas, Chapter 80, Article IV, Section 80-196 through Section 80-239 of the City of Fairburn Zoning Ordinance allows for the operation of certain uses, including senior housing, within the AG (Agricultural) District, within the City of Fairburn only by way of a use permit, describes the objective criteria to be evaluated in deciding whether to grant a requested use permit, and permits City Council to attach other conditions that it deems necessary to protect the environment as well as the public health, safety and welfare; and

Whereas, the Applicant, Staffins Properties, LLC seeks a use permit (2022117) with five (5) concurrent variances, (2022124CV), for an AG (Agricultural) Zoning District use, in accordance with its petition, in order to allow a senior housing development onto 5.67 acres located at 7875 Bohannon Road with parcel identification numbers 09F080000280864 and 09F080000110871 in the AG (Agricultural) Zoning District as described in Exhibit A; and

Whereas, pursuant to the requirements of the Zoning Procedures Act and the City of Fairburn Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 14th day of November, 2022; and

Whereas, pursuant to Chapter 80. Article IV, Section 80-171(5)(b) of the City of Fairburn Zoning Ordinance, the Use Permit, if granted, shall expire within three years from the date of approval of

this resolution, unless a land disturbance permit, building permit, business license or certificate of occupancy has been issued.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Fairburn, Georgia:

Section 1. That a use permit is granted to the Applicant, Staffins Properties, LLC, in accordance with Chapter 80, Article IV.- Administrative Permits and Use Permits of the City of Fairburn Zoning Ordinance in order to allow a senior housing development at the location 7875 Bohannon Road with parcel identification numbers 09F080000280864 and 09F080000110871, in the AG (Agricultural) District, the City of Fairburn City Council concluding that the use permit should be granted, subject to certain conditions.

Section 2. That the granted use permit is limited by the following conditions:

1. To the owner's agreement to abide by the following:

The property shall be developed in substantial conformity with the Site Plan [Development Plan] prepared by Gary B. Coursey & Associates and attached as Exhibit B. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of the Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.

2. To the owner's agreement to the following:

- a. The amenities package shall include a pool, courtyard, pickle ball or tennis court, walking trails and a dog park.
- b. Exterior materials shall be brick, stone, or cementitious material. Vinyl shall be prohibited.
- c. Refuse areas shall be placed in the least visible location from the public streets and shall be enclosed on three sides with brick, stone, or other cementitious materials used on the façade of the buildings.
- d. A minimum of two (2) alternative fuel vehicle charging stations shall be included in the development.
- e. All utilities shall be placed underground.
- f. Lighting fixture height, style, design and illumination levels shall be compatible with the building design and height and shall consider safety, function and aesthetics. Lighting fixtures installed shall be of a pedestrian scale and shall not exceed 20 feet in height.
- g. All mechanical equipment shall be screened from public view.

Section 3. 2022124CV- That the five (5) concurrent variances to the use permit be granted as follows:

- a. To reduce the front yard setback from 100' to 50' along Oakley Industrial Boulevard. Chapter 80. Zoning, Article II. Section 80-71. Agricultural Zoning District.
- b. To allow renter-occupied units. Chapter 80. Zoning, Article IV. Section 80-233. Senior Housing.
- c. To increase the lot coverage from 15% to 28.6%. Chapter 80. Zoning, Article II. Section 80-71. Agricultural Zoning District.
- d. To allow parking in the minimum front yard setback. Chapter 80. Zoning, Article IV. Section 80-233 Senior Housing.
- e. To allow an accessory structure in the front yard. Chapter 80. Zoning, Article II. Section 80-71(c)(1)(a) AG – Accessory uses and structures.

Section 4. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 5. This Ordinance shall become effective on the 14th day of November, 2022.

Section 6. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed to the extent of the conflict.

APPROVED this 14th day of November, 2022, by the Mayor and Council of the City of Fairburn, Georgia.

Mario Avery, Mayor

ATTEST:

Brenda James, City Clerk

APPROVED AS TO FORM:

Rory K. Starkey, City Attorney



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: Resolution recognizing the proliferation of investor-owned housing in the City of Fairburn

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE (X) RESOLUTION () OTHER

Submitted: 11/3/2022

Work Session: N/A

Council Meeting: 11/14/2022

DEPARTMENT: City Administrator's Office

BUDGET IMPACT: \$0

PUBLIC HEARING? () Yes (x) No

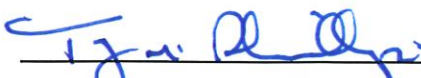
PURPOSE: For Mayor and Council to approve a Resolution urging the Georgia General Assembly to protect communities by passing legislation to regulate corporate ownership of private homes and for other purposes.

HISTORY: The rise of institutional investor interests in single-family homes has exacerbated national, regional, and local housing affordability challenges for private citizens and triggered rising rental rates and eviction rates. Home prices in the City of Fairburn have risen at least 21.9% from last year, compared to a 7.4% national rise in home prices from September 2021 to 2022, according to a study by real estate firm Redfin. The Redfin Study found that in Fairburn's 30213 ZIP code, purchase by institutional investors comprised nearly 50% of home purchases in 2021.

FACTS AND ISSUES: In 2022, the Georgia State Legislature passed H.R. 1149, creating the House Study Committee on Regulation, Affordability, and Access to Housing. The Committee is specifically charged with studying the regulation and affordability of, and access to, housing options within the state; the need for housing for new companies relocating to Georgia; regulation of rental homes by local jurisdiction; and the private property rights of owning, selling, or renting a home.

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Request Mayor and Council approval of a Resolution recognizing the proliferation of investor-owned housing in the City of Fairburn and urging the Georgia General Assembly to protect communities by passing legislation to regulate corporate ownership of private homes; and for other purposes.



Tony M. Phillips, City Administrator

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3

RESOLUTION NO: _____

4 **A RESOLUTION BY THE CITY OF FAIRBURN CITY COUNCIL RECOGNIZING THE**
5 **PROLIFERATION OF INVESTOR-OWNED HOUSING IN THE CITY OF FAIRBURN**
6 **AND URGING THE GEORGIA GENERAL ASSEMBLY TO PROTECT COMMUNITIES**
7 **BY PASSING LEGISLATION TO REGULATE CORPORATE OWNERSHIP OF**
8 **PRIVATE HOMES; AND FOR OTHER PURPOSES.**
9

10 **W I T N E S S E T H:**
11

12 **WHEREAS**, the City of Fairburn ("City") is a municipal corporation duly organized and
13 existing under the laws of the State of Georgia; and

14 **WHEREAS**, the duly elected governing authority of the City is the Mayor and Council
15 thereof ("City Council"); and

16 **WHEREAS**, the rise of institutional investor interests in single-family homes has
17 exacerbated national, regional, and local housing affordability challenges for private citizens and
18 triggered rising rental rates and eviction rates; and

19 **WHEREAS**, home prices in the City of Fairburn have risen at least 21.9% from last year,
20 compared to a 7.4% national rise in home prices from September 2021 to 2022, according to a
21 study by real estate firm Redfin (the "Redfin Study"); and

22 **WHEREAS**, the Redfin Study found that 33% of homes sales in the fourth quarter of 2021
23 were bought by investment groups, making the metropolitan Atlanta area the number one
24 metropolitan area in the country for investor purchases; and

25 **WHEREAS**, the Redfin Study found that in Fairburn's 30213 ZIP code, purchase by
26 institutional investors comprised nearly 50% of home purchases in 2021; and

27 **WHEREAS**, according to a U.S. House of Representatives Housing Committee on
28 Financial Services memorandum dated June 23, 2022, large institutional investors are specifically
29 targeting neighborhoods with higher populations of African Americans and Latinos, including the
30 metropolitan Atlanta area, where in the third quarter of 2021 alone, institutional investors
31 bought 42.8% of homes for sale in the Atlanta metropolitan area; and

32 **WHEREAS**, studies suggest that investor-owned homes are more likely to experience
33 higher rent increases, higher fees, higher eviction rates and diminished quality of housing over
34 time, which can have depressing effects on the value of the surrounding community; and

35 **WHEREAS**, in 2022, the Georgia State Legislature passed H.R. 1149, creating the House
36 Study Committee on Regulation, Affordability, and Access to Housing; and

37 **WHEREAS**, the Committee has the duty to undertake a study of the conditions, needs,
38 issues, and problems related to housing and recommend any action or legislation, including, but
39 not limited to, statutory changes, amendments to the Georgia Constitution, or modifications of
40 local regulatory ordinances, which the committee deems necessary or appropriate; and

41 **WHEREAS**, the Committee is specifically charged with studying the regulation and
42 affordability of, and access to, housing options within this state; the need for housing for new
43 companies relocating to Georgia; regulation of rental homes by local jurisdictions; and the private
44 property rights of owning, selling, or renting a home.

45 **NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
46 **OF FAIRBURN** that it is the official position of the City of Fairburn, Georgia, that the Georgia
47 General Assembly should take action to regulate investor-owned housing and encourage owner-
48 occupied housing within the State of Georgia in order to protect single-family neighborhoods and
49 increase access to affordable home-ownership options and affordable rental options for citizens
50 of the State of Georgia and the City of Fairburn.

51 **BE IT FURTHER RESOLVED**, that the House Study Committee on Regulation,
52 Affordability, and Access to Housing should encourage the State Legislature to create coordinated
53 state and local policies to address the effects of wide-scale institutional investor ownership of
54 private homes.
55

56 **BE IT FURTHER RESOLVED**, that the Municipal Clerk is directed to forward a copy
57 of this Resolution, upon adoption, to Governor Brian Kemp and all members of the City of
58 Fairburn Legislative Delegation, and the individual members of the House Study Committee on
59 Regulation, Affordability, and Access to Housing.
60

61 **BE IT FURTHER RESOLVED**, that in the event any section, subsection, sentence,
62 clause, or phrase of this Resolution shall be declared or adjudged invalid or unconstitutional, such
63 adjudication shall in no manner affect the previously existing provisions of the other sections,
64 subsections, sentences, clauses or phrases of this Resolution, which shall remain in full force and
65 effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or
66 unconstitutional were not originally a part thereof. The City Council declares that it would have
67 passed the remaining parts of this Resolution if it had known that such part or parts hereof would
68 be declared or adjudicated invalid or unconstitutional.
69

70 **BE IT FURTHER RESOLVED**, this Resolution shall become effective immediately
71 upon signature by the Mayor.
72

73 **BE IT FINALLY RESOLVED**, that any and all resolutions in conflict with this resolution
74 be and the same are hereby repealed, only to the extent of such conflict.
75

76 **[SIGNATURES APPEAR ON FOLLOWING PAGE]**
77 **[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

78 This ____ day of _____, 2022.

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85 ATTEST:

86

87

88

89 _____
Brenda B. James, City Clerk

Mario B. Avery, Mayor

APPROVED AS TO FORM:

Rory K. Starkey, City Attorney



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: Music Education Group MOU

☐ AGREEMENT ☐ POLICY / DISCUSSION ☒ CONTRACT
☐ ORDINANCE ☐ RESOLUTION ☐ OTHER

Submitted: 11/3/2022

Work Session: N/A

Council Meeting: 11/14/2022

DEPARTMENT: Parks & Recreation

BUDGET IMPACT: \$0

PUBLIC HEARING? ☐ Yes ☒ No

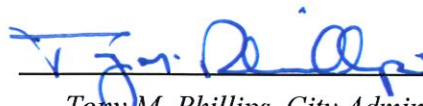
PURPOSE: For Mayor and Council to review and approve the Music Education Group MOU.

HISTORY: The Fairburn Parks & Recreation Department is continuing to bring new and innovative programming to our City of Fairburn residents. Music Education Group brings music, film and digital media-based education to underserved youth and provide every child in Metro Atlanta with an equal opportunity for music education. Together with over 48 dedicated community and corporate partners, sponsors and volunteers, they provide young people with hands-on, technology-based programs inspired by music related careers.

FACTS AND ISSUES: The Music Education Group program will allow us to continue to reengage youth by connecting them to opportunities that are critical needs. The program will run for six (6) weeks Monday through Thursday from 4pm to 7pm.

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Request Mayor and Council approval to execute the Music Education Group Program Memorandum of Understanding for the provision of multimedia and technology training at the Fairburn Youth Center.



Tony M. Phillips, City Administrator



MEMORANDUM OF AGREEMENT

AN AGREEMENT BETWEEN THE CITY OF FAIRBURN, FOR THE BENEFIT OF ITS DEPARTMENT OF PARKS AND RECREATION, A MUNICIPAL CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF GEORGIA (HEREINAFTER THE “CITY”) AND MUSIC EDUCATION GROUP, INC., A GEORGIA NONPROFIT CORPORATION (HEREINAFTER THE “CONTRACTOR”), FOR THE PROVISION OF MULTIMEDIA AND TECHNOLOGY TRAINING AT THE FAIRBURN YOUTH CENTER, LOCATED AT 149 SW BROAD STREET, FAIRBURN, GA 30213.

In consideration of the mutual promises and conditions stated below and in recognition of the Contractor’s role as an independent Contractor and not as an employee of City, the parties agree as follows:

I. DUTIES OF THE CONTRACTOR

- A. Contractor shall conduct music, film and digital media training at **Fairburn Youth Center, 149 SW Broad Street Fairburn, GA, 30213.**
- B. Contractor shall be entitled to use the listed facilities on the following day(s), date(s) and times(s):

FAIRBURN YOUTH CENTER (multipurpose room)

- Program schedule for Fall 2022 (**PROVIDED BY CONTRACTOR**)
 - **Fall Session:** November – December (6 weeks)
 - **Days of the Week:** Monday through Thursday
 - **Time:** 4:00pm – 7pm
 - Contractor’s service delivery calendar runs concurrent with the Fulton County School System calendar.
- C. Contractor shall use said facility for the specified programming offered and no other purpose without the prior written consent of City. An event schedule for the services conducted by Contractor shall be provided to City for Term of this Agreement.

- D. Contractor shall coordinate publicity, flyers, etc., ensuring the recognition of the City of Fairburn Department of Parks and Recreation as a sponsoring agency. All promotional materials must be approved by the City of Fairburn prior to distribution.
- E. Contractor shall include the department seal and logo of the Parks and Recreation Department on any and all promotional materials released on or after the execution of this Agreement.
- F. Advanced Arrangements – Contractor shall coordinate necessary arrangements for program needs with:

a.) Chapin Scott

Telephone: 770-964-2244. Ext. 450

- G. Equipment – Contractor has had the opportunity to tour the facility and is aware of its condition and the equipment/amenities available. Any equipment furnished by Contractor shall be brought in, installed and removed at Contractor's sole expense. No outside equipment shall be left or stored in the listed facilities any longer than five (5) calendar days after conclusion of the scheduled event/program.
- H. Contractor shall replace any of City's equipment which is destroyed, stolen or damaged during the course of Contractor's use. City shall not be liable for theft of or damage to Contractor's equipment or other personal property.
- I. Alteration – Contractor shall make no repairs, alterations or additions to the listed facilities and/or grounds without written permission of City. No signs or other material may be affixed to any portions of the facility by nails, tacks, tape, or other materials which penetrate, cause paint to be removed from, or otherwise damage the structure or its surfaces. Structures including tents, are not to be erected nor are vehicles to be parked in areas other than those designated and agreed to by City.
- J. Contractor agrees to deliver the premises at the expiration or termination of the Agreement in as good order and condition as at the beginning of the term of the Agreement.
- K. Except for regular staff supplied and directed by City and any sub-contracted worker on behalf of City, Contractor is responsible for obtaining volunteers and paying for all help needed in connection with this program.
- L. All facility/park exits must remain open at all times during Contractor's use.
- M. Contractor agrees to abide by all ordinances and regulations of the City of Fairburn, and any other laws and governmental regulations applicable to use of said premises.
- N. In the event of inclement weather, pending adverse weather conditions, or any other conditions which may arise that would put the program in jeopardy, City agrees to make the decisions whether to postpone or cancel an event. If City shall exercise its power as stated in this paragraph, City will provide prior notification of such postponement or cancellation of the subject event to Contractor as soon as is practicable in person, or by telephone or email communication.

O. Contractor shall provide the following:

1. On-site staff and volunteers with adequate training and experience to conduct the program; and
2. All materials needed to operate the program.

P. Contractor shall ensure all staff and volunteers successfully complete a criminal background check through National Center for Safety Initiatives (“NCSI”) and the City of Fairburn. All Contractor staff and volunteers must have a background check and certifications on file with Music Education Group and the City of Fairburn, and the cost of such background checks will be the sole responsibility of Music Education Group.

Q. All Music Education Group personnel shall be required to maintain a clean and neat appearance on City premises while conducting the program.

R. Contractor will continue to provide statistical data regarding youth participants.

S. Contractor shall provide all hardware and software required for operating the program.

T. Contractor shall secure the entry system and video surveillance for the facility upon conclusion of each session.

II. LIMITATIONS:

A. Contractor shall not transfer or assign this Agreement without the prior written consent of City.

B. Opportunities to participate in all activities conducted by Contractor will be available to students without regard to race, color, religion, national origin, sex or disability.

III. PROGRAM OVERVIEW:

During the 6 weeks of the program, each student will receive both instruction and studio time. Each session will cover the described topic while students work in teams on a final song and video as set forth below.

Tentative Schedule: (6 Weeks)

DATE	CURRICULUM	FACILITATOR	ANTICIPATED OUTCOMES
TBD	Music Life Survey - Introduces students to the program and helps them discover their specific interest and strengths in music, film and digital media.	MEG Contractor and Engineer	Students will be given an overview of the program and why it is important to learn the business side of the entertainment industry. Students will take a Pre-Program Evaluation to determine their basic knowledge of the music industry.
TBD	Impact of African American Music	MEG Contractor and Engineer	Students will learn about the impact that African American music has had on all genres of music from slavery to modern times.
TBD	Working in Georgia's Entertainment Industry	MEG Contractor and Engineer	Students will be introduced to various career options in music, filming and digital media. Emphasis will be placed on the relationship between careers and the skills they are presently learning in school.

DATE	CURRICULUM	FACILITATOR	ANTICIPATED OUTCOMES
TBD	Artists Development	MEG Contractor and Engineer	Students will learn the essential of what it means to be an artist. 1. Stage Presentation 2. How to Pick Your Team 3. Producer Deals 4. Manager Deals 5. Key Points of Recording Contract
TBD	Music Production I	MEG Contractor and Engineer	Instructor(s) will help students transition from Windows based computers to Apple MacIntosh. Students will describe the basics of computer recording and standard equipment involved in the recording process. 1. Introduction to Apple MacIntosh Computers & Studio Equipment 2. Equipment Required to have and Effective Project Studio. 3. Studio Basics and Protocol 4. Software, Instruments, Plug-Ins and Microphones 5. Producing a Record
TBD	Music Production II	MEG Contractor and Engineer	Instructor(s) will help students transition from Windows based computers to Apple MacIntosh. Students will describe the basics of computer recording and standard equipment involved in the recording process. 1. Introduction to Apple MacIntosh Computers & Studio Equipment 2. Equipment Required to have and Effective Project Studio. 3. Studio Basics and Protocol 4. Software, Instruments, Plug-Ins and Microphones 5. Producing a Record
TBD	The Elements of Songwriting	MEG Contractor and Engineer	Students will learn about publishing and how writers get paid. Emphasis will be placed on the importance of writing as a skill which they can monetize. 1. The Elements of Songwriting 2. PRO, Performing Right Organizations. 3. How PROs make money and what protection they provide. 4. Music Publishing and Copyright 5. Artist Royalties
TBD	Music Business Academy I	MEG Contractor and Engineer	Students will learn the fundamentals of the music business as well as how to start their own record label and or business. Students will be able to describe various positions and structure at a record label. Emphasis will be placed on the importance of team between departments. 1. Writing A Music Biz Plan 2. Making Your Business Legal 3. Business Start Up Checklist 4. The Structure of a Record Label 5. Indie Record Labels Do's And Don'ts
TBD	Music and Technology I	MEG Contractor and Engineer	Students gain insight into the fast-paced, dynamic and continually changing world music and technology. Focus is placed on how Digital Technology is quickly changing the entertainment industry.

DATE	CURRICULUM	FACILITATOR	ANTICIPATED OUTCOMES
TBD	Music and Technology II	MEG Contractor and Engineer	Students gain insight into the fast-paced, dynamic and continually changing world music and technology. Focus is placed on how Digital Technology is quickly changing the entertainment industry.

IV. DUTIES OF THE CITY

City, in consideration of the above, agrees:

- A. To provide one room [multipurpose room] at the **Fairburn Youth Center, 149 SW Broad Street Fairburn, GA, 30213**, designated for the creation of the Multimedia and Technology Center (the “Technology Center”).
- B. To grant Contractor exclusive rights to operate the program space for term of the agreement.
- C. Ownership rights of all equipment provided by Music Education Group, Inc., is the sole property of Contractor.
- D. City shall be responsible for all permitting and code compliance for any proposed physical improvements associated with the Technology Center.
- E. City shall be responsible for any physical upgrades to the designated room prior to Contractor installing new hardware and software.
 1. Repair and paint walls in the room
 2. Provide a means to cover the large window in the room
 3. Provide adequate Wi-Fi
 4. Program space access control
- F. City agrees to jointly solicit participation from students currently participating in afterschool or teen programming at the Fairburn Youth Center.

V. TERM OF CONTRACT

This Agreement shall be effective as of November 14, 2022, until December 31, 2022; provided, however, that this Agreement may be terminated by either Contractor or City, with or without cause, upon giving thirty (30) days prior written notice to the other.

VI. GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to conflict of laws principles. Any dispute arising with regard to the interpretation or meaning of the Agreement which cannot be resolved amicably may be settled by litigation. The parties agree to exclusive venue in the Superior Court of Fulton County, Georgia.

VII. SEVERABILITY

Should any portion of this Agreement be deemed unconstitutional or otherwise unenforceable by a Court or body of competent jurisdiction, then the remaining portions of the Agreement shall remain in full force and effect.

VIII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties. Any amendment or modification of this agreement shall not be effective unless in writing and executed by the Parties. If any part of this Agreement is determined to be invalid or unenforceable, the remaining parts of the Agreement shall remain in full force and effect. This Agreement shall not be binding until signed by all parties, as appropriate, and shall be effective as of the date first written above.

IX. AUTHORITY TO SIGN

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations have been duly authorized and that the Agreement is a valid and legal agreement binding on the party and enforceable according to its terms.

X. ATTACHMENTS

The documents listed below have been attached hereto and are incorporated herein as a part of this Agreement:

Addendum A – Insurance Requirements

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[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year indicated next to their signatures.

Music Education Group, Inc.

City of Fairburn, Georgia

Ric Ross/ Board Chairman– Signature

Mario B. Avery, Mayor

Ric Ross/ Board Chairman – Printed

Date: _____

Date: _____

Attest:

Brenda B. James, City Clerk

Approved as to Form:

Rory K. Starkey, City Attorney

ADDENDUM A

INSURANCE REQUIREMENTS

Music Education Group shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with performance of the work hereunder by Music Education Group, their agents, representatives, employees or subcontractors.

A. MINIMUM LIMITS OF INSURANCE

Music Education Group shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for comprehensive coverage including bodily injury, personal injury and property damage for premises/operations, products/completed operations, contractual liability, independent contractors, broad-from property damage, and underground, explosion and collapse hazard.
2. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor code of the State of Georgia and Employers Liability of \$100,000 per accident.
3. Umbrella Liability: \$5,000,000 combined single limits per occurrence.

B. DEDUCTIBLES AND SELF-INSURED RETENTION

Any deductibles or self-insurance retentions must be declared to and approved by the City. At the option of the City, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officer's officials, and employees; or Music Education Group shall procure a bond guaranteeing payment of losses related to investigations claim administration and defense expenses.

C. OTHER INSURANCE PROVISIONS

1. General Liability, Automobile Liability, and Umbrella Liability Coverages

The City and its officers, officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of Music Education Group.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Owner and its officers, officials employees or volunteers.

Music Education Group is responsible for insuring its own property and equipment.

2. Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City and its officers, officials, employees and volunteers for losses arising from the work performed by Music Education Group for the Owner.

3. All Coverages: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be changed, cancelled, suspended, terminated or non-renewed except after sixty (60) days prior written notice by certified mail, return receipt requested, has been given to the City of said change of coverage, cancellation, suspension, termination / or non-renewal.

D. ACCEPTABILITY.

Insurance is to be placed with insurers with a Best's rating of no less than A: VII, or otherwise acceptable to the Owner.

E. VERIFICATION OF COVERAGE.

Music Education Group shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. These certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the City before any work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

F. SUBCONTRACTOR

Subcontractor means one not in the employment of Music Education Group who is performing all or part of the services under this Agreement under a separate contract with Music Education Group

Music Education Group shall include all subcontractors as insured under its insurance or shall ensure that subcontractors have met the insurance requirements of this Agreement. The City may request evidence of subcontractor's insurance.

G. WAIVER OF SUBROGATION

Music Education Group shall require all insurance policies in any way related to the work and secured and maintained by Music Education Group to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against the City. Music Education Group shall require of subcontractors, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section.

INDEMNIFICATION/HOLD HARMLESS AGREEMENT

Music Education Group shall, in addition to any other obligation hereunder agree to indemnify the City of Fairburn and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the City of Fairburn, their agents, elected Officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged a) bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of or resulting from claims to have resulted in whole or in part from any actual or alleged act or omission of Music Education Group, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in the performance of the work; or b) violation of law, statute, ordinance, governmental administrative order, rule regulation, or infringement of patent rights or other intellectual property rights by Music Education Group in the performance of the work; or c) liens, claims or actions made by Music Education Group or other party performing the work, as approved by the City.

The indemnification obligations hereunder shall not be limited by any limitation on the amount, type of damages, compensation or benefits payable by or for Music Education Group or his/her subcontractor, as approved by the City of Fairburn, under worker's compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any costs or expenses, including attorney's fees, incurred by the City of Fairburn to enforce this agreement shall be borne by Music Education Group.



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: Local Option Sales Tax (LOST) Proceeds & Certificate of Distribution

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE (X) RESOLUTION () OTHER

Submitted: 11/8/2022

Work Session: N/A

Council Meeting: 11/14/2022

DEPARTMENT: City Administrator's Office

BUDGET IMPACT: \$0

PUBLIC HEARING? () Yes (x) No

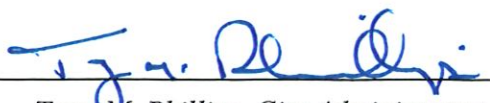
PURPOSE: For Mayor and Council to approve a Resolution regarding the distribution of Local Option Sales Tax (LOST) proceeds and to authorize the Mayor and Council to execute a Certificate of Distribution for submission to the Commissioner of the Department of Revenue.

HISTORY: On November 2, 2022, the Fulton County Board of Commissioners approved percentages of LOST proceeds to be received by the County. The City of Fairburn has been informed that representatives from all of its sister Cities in Fulton County have reached a tentative agreement to approve or recommend approval of the proposed distribution of LOST proceeds to Fulton County and among the Cities of Fulton County based on percentage amounts specified in Exhibit "A" attached to the Resolution.

FACTS AND ISSUES: LOST Revenue currently accounts for 22% of the City's revenue. Under the new distribution, the County's percentages will increase annually beginning in 2023 at 5% followed by 6%, 7.15%, 8.75%, 10.25%, 11%, 12%, 12.5%, 12.5% and 12.5% over the next 10 years. This equates to an average percentage of 9.98%, just under \$384 million. Without the County's signature, LOST would terminate at the end of the year losing over \$3.8 billion used to roll back property taxes for all property owners in Fulton County. The Cities agreed to divide the remaining \$3.45 billion equitably while ensuring no City lost revenue from their 2021 LOST revenue amount.

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Request Mayor and Council approval of a Resolution to approve a distribution of Local Option Sales Tax (LOST) proceeds; to authorize the Mayor and Council to execute a Certificate of Distribution for submission to the Commissioner of the Department of Revenue; to preserve rights; and for other related purposes.


Tony M. Phillips, City Administrator

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3

RESOLUTION NO: _____

4 **A RESOLUTION OF THE CITY OF FAIRBURN TO APPROVE A DISTRIBUTION OF**
5 **LOCAL OPTION SALES TAX (LOST) PROCEEDS; TO AUTHORIZE THE MAYOR**
6 **AND COUNCIL TO EXECUTE A CERTIFICATE OF DISTRIBUTION FOR**
7 **SUBMISSION TO THE COMMISSIONER OF THE DEPARTMENT OF REVENUE; TO**
8 **PRESERVE RIGHTS; AND FOR OTHER RELATED PURPOSES.**

9 **WHEREAS**, representatives from the City of Fairburn have been in negotiations with
10 Fulton County regarding the distribution of LOST proceeds as between Fulton County and
11 collectively the Cities of Fulton County; and

12 **WHEREAS**, on November 2, 2022, the Fulton County Board of Commissioners approved
13 percentages of LOST proceeds to be received by the County and said percentages are reflected in
14 the attachment described below; and

15 **WHEREAS**, section 48-8-89(b) of the Official Code of Georgia requires submission of a
16 certificate that divides the total sum of proceeds to be received by Fulton County and each City
17 within the LOST special tax district coterminous with the boundaries of Fulton County, Georgia
18 (the "Certificate") based either (i) on each city's 2020 decennial census population relative to that
19 of all the other cities or (ii) reach an agreement among all the Cities on some other distribution
20 method to be used and execute the Certificate reflecting such agreement; and

21 **WHEREAS**, the City of Fairburn has been informed that the representatives from all of its
22 sister Cities in Fulton County have reached a tentative agreement to approve or recommend
23 approval of the proposed distribution of the LOST proceeds to Fulton County and among the Cities
24 of Fulton County based on the percentage amounts specified in the table attached hereto as Exhibit
25 "A" to this Resolution and incorporated herein by reference as the "LOST Distribution
26 Percentages;" and

27 **WHEREAS**, subject to all Cities approving the LOST Distribution Percentages and
28 signing the certificate consistent with the LOST Distribution Percentages, and not to waive each
29 City's right to declare itself an absent municipality pursuant to section 48-8-89(b) of the Official
30 Code of Georgia, the Mayor and Council of the City of Fairburn desire to approve the LOST
31 Distribution Percentages and authorize signature of a Certificate contingent on all Cities approving
32 the LOST Distribution Percentages and duly authorized representatives from all Cities and Fulton
33 signing a Certificate reflecting the LOST Distribution Percentages; and

34 **WHEREAS**, the Mayor and Council believe adoption of this Resolution to be in the best
35 interest of its citizens and taxpayers of the City of Fairburn.

36 **NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL**
37 **OF THE CITY OF FAIRBURN**, that the preamble is adopted and incorporated herein as if fully
38 restated here, and the Mayor and Council hereby approve the LOST Distribution Percentages
39 attached hereto as Exhibit "A" as the percentage of LOST distributions to be remitted to the City
40 of Fairburn over the next decade provided and reflected on the Certificate, provided that all other
41 Cities likewise approve their respective percentages as reflected in the LOST Distribution
42 Percentages.

43 **BE IT FURTHER RESOLVED**, that the Mayor and Council authorize the Mayor, with
44 the approval of Special Counsel to the City, the City Attorney and the City Administrator to make
45 minor adjustments to the LOST Distribution Percentages and correspondingly to the Certificate
46 provided such minor adjustments are likewise approved by all other Cities to the Certificate
47 contemplated by this Resolution.

48 **BE IT FURTHER RESOLVED**, that the Mayor is authorized to sign the Certificate,
49 provided that all other Cities also approve their respective percentage of LOST distributions
50 consistent with the LOST Distribution Percentages and such percentages are correctly reflected on
51 the Certificate and the person signing on behalf of the other Cities is duly authorized to sign such
52 Certificate on behalf of that person's respective City.

53 **BE IT FURTHER RESOLVED**, that the Mayor and Council do not approve or authorize
54 the signature of any Certificate which is inconsistent with this Resolution, and the City of Fairburn
55 retains the right to become an absent municipality and thereby take its 2022 decennial census
56 population share of the LOST proceeds allocated to all cities collectively in accordance with
57 section 48-8-89(b) of the Official Code of Georgia.

58 **BE IT FURTHER RESOLVED**, that if the Certificate contemplated by this Resolution
59 has not been executed and submitted to the Commissioner of the Department of Revenue on or
60 before December 30, 2022, this Resolution shall be null and void on December 31, 2022.

61 **BE IT FURTHER RESOLVED**, that the City Clerk is directed to certify this Resolution
62 and that it be entered and maintained in the City records.

63 **BE IT FURTHER RESOLVED**, that in the event any section, subsection, sentence,
64 clause, or phrase of this Resolution shall be declared or adjudged invalid or unconstitutional, such
65 adjudication shall in no manner affect the previously existing provisions of the other sections,
66 subsections, sentences, clauses or phrases of this Resolution, which shall remain in full force and
67 effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or
68 unconstitutional were not originally a part thereof. The City Council declares that it would have
69 passed the remaining parts of this Resolution if it had known that such part or parts hereof would
70 be declared or adjudicated invalid or unconstitutional.

71
72 **BE IT FURTHER RESOLVED**, this Resolution shall become effective immediately
73 upon signature by the Mayor.

74
75 **BE IT FINALLY RESOLVED**, that any and all resolutions in conflict with this resolution
76 be and the same are hereby repealed, only to the extent of such conflict.
77

78 This ____ day of _____, 2022.

79
80
81 _____
82 Mario B. Avery, Mayor
83

84 _____
85 Hattie Portis- Jones, Mayor Pro Tem
86

87 _____
88 Linda J. Davis, Council Member
89

90 _____
91 Hiram Alex Heath, Council Member
92

93 _____
94 Pat Pallend, Council Member
95

96 _____
97 Ulysses Smallwood, Council Member
98

99 _____
James Whitmore, Council Member

100 ATTEST:

101
102 _____
103 Brenda B. James, City Clerk

APPROVED AS TO FORM:

Rory K. Starkey, City Attorney

MUNICIPAL LOST SHARES BASED ON HOLD-HARMLESS TO 2021 BASE YEAR AND POPULATION DISTRIBUTION

[illegible]



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: Recertification in Georgia Municipal Association's City of Ethics Program

☐ AGREEMENT
☐ ORDINANCE

☐ POLICY / DISCUSSION
☒ RESOLUTION

☐ CONTRACT
☐ OTHER

Submitted: 11/8/2022

Work Session: N/A

Council Meeting: 11/14/2022

DEPARTMENT: City Administrator's Office

BUDGET IMPACT: \$0

PUBLIC HEARING? ☐ Yes ☒ No

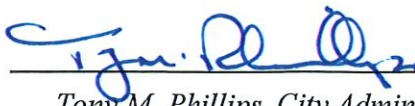
PURPOSE: For Mayor and Council to approve a Resolution readopting ethical principles established by the Georgia Municipal Association (GMA) and requesting recertification in GMA's Certified City of Ethics Program and for other related purposes.

HISTORY: The Georgia Municipal Association City of Ethics program is an attempt to raise awareness about ethics issues at the local level and provide a local forum for the airing and resolution of legitimate concerns. The Five Ethics Principles are designed to guide the elected officials as individuals and as a governing body.

FACTS AND ISSUES: The City of Fairburn is a Certified City of Ethics and is requesting recertification under the GMA Program. In order to be recertified as a City of Ethics, the governing authority of the City must pledge to serve others and not themselves; to use City resources with efficiency and economy; to treat all people fairly; to use the power of their position for the well-being of the City's constituents; and to create an environment of honesty, openness, and integrity.

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Request Mayor and Council approval of a Resolution of the Mayor and City Council of the City of Fairburn readopting ethical principles established by the Georgia Municipal Association (GMA) and requesting recertification in GMA's Certified City of Ethics Program and for other related purposes.



Tony M. Phillips, City Administrator

STATE OF GEORGIA
COUNTY OF FULTON

RESOLUTION NO: _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN READOPTING ETHICAL PRINCIPLES ESTABLISHED BY THE GEORGIA MUNICIPAL ASSOCIATION (“GMA”); REQUESTING RECERTIFICATION IN GMA’S CERTIFIED CITY OF ETHICS PROGRAM; AND FOR OTHER RELATED PURPOSES.

W I T N E S S E T H:

WHEREAS, it is essential to the proper administration of the City of Fairburn (“City”) to enact and maintain a code of ethics that ensures to the greatest extent possible, that members of the elected governing authority of the City as well as members of all appointed City boards, committees, and authorities are subject to the highest ethical and professional standards while conducting City business; and

WHEREAS, the Board of Directors of the Georgia Municipal Association (“GMA”) has established a Certified City of Ethics program (the “GMA Program”); and

WHEREAS, the City is a Certified City of Ethics in and is requesting recertification under the GMA Program; and

WHEREAS, in order to be recertified as a City of Ethics, the governing authority of City must pledge to uphold certain ethical principles in carrying out the duties of their respective offices.

NOW THEREFORE BE IT RESOLVED by the governing authority of the City, that the Mayor and City Council, as the governing authority of the City, pledges to serve others and not themselves.

BE IT FURTHER RESOLVED, that the Mayor and City Council pledge to use City resources with efficiency and economy.

BE IT FURTHER RESOLVED, that the Mayor and City Council pledges to treat all people fairly.

BE IT FURTHER RESOLVED, that the Mayor and City Council pledge to use the power of their positions for the well-being of the City’s constituents.

BE IT FURTHER RESOLVED, that the Mayor and City Council pledge to create an environment of honesty, openness, and integrity.

BE IT FURTHER RESOLVED, in the event any section, subsection, sentence, clause, or phrase of this Resolution shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Resolution, which shall remain in full force and

effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Resolution if it had known that such part or parts hereof would be declared or adjudicated invalid or unconstitutional.

BE IT FURTHER RESOLVED, this Resolution shall become effective immediately upon signature by the Mayor and City Council members.

BE IT FINALLY RESOLVED, that any and all resolutions in conflict with this Resolution be and the same are hereby repealed, only to the extent of such conflict.

This ____ day of _____, 2022.

Mario B. Avery, Mayor

Hattie Portis-Jones, Mayor Pro Tem

Linda J. Davis, Council Member

Hiram Alex Heath, Council Member

Pat Pallend, Council Member

Ulysses Smallwood, Council Member

James Whitmore, Council Member

ATTEST:

APPROVED AS TO FORM:

Brenda B. James, City Clerk

Rory K. Starkey, City Attorney