

**City of Fairburn
Council Meeting Minutes
November 14, 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 Linda J. Davis
The Honorable Pat Pallend
The Honorable James Whitmore

The Honorable Alex Heath
The Honorable Ulysses J. Smallwood

Members Absent: Mayor Pro Tem Hattie Portis-Jones

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

III. The invocation was provided by Dr. Maya Taylor, Open Word Christian Ministries.

IV. Pledge of Allegiance was in Unison.

V. Presentations and Proclamations: N/A

VI. Adoption of the City Council Agenda:

Councilman Smallwood made a motion to adopt the agenda as presented and Councilwoman Davis provided the second. **The motion carried unanimously.**

VII. Approval of the Minutes: Regular Council Meeting Minutes of October 24, 2022

Councilman Heath made a motion to approve the minutes as presented with Councilman Smallwood providing the second. **The motion carried unanimously.**

Special Called Meeting Minutes of November 2, 2022

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

VIII. Public Comments:

Lydia Glaize said it was an honor to stand before Mayor and Council and thanked those who supported and voted for her to get elected as State Representative. She will continue to serve in a capacity that helps Fairburn become the best city, because we are situated to succeed. She emphasized to the Mayor and Council, that she will give 110% support and anything the city needs, she will work with them and never against them. As a member of this city for over 33 years, she sees no better time for her to join hands with Mayor and Council with this specific honor as your representative to make sure Fairburn continues to succeed and our residents thrive.

Tish Naghise introduced herself and stated she lived in Fayetteville but has no doubt that she will be here for the people of Fairburn. Fulton County is very dear to her as she had one son to graduate from public schools and another son graduate from Fayetteville. She stated she was here to support this body and will be working with Ms. Lydia Glaize as a team and looks forward to working with everyone.

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)

Planning and Zoning Interim Director, Rebecca Keefer presented this item and stated this request is to rezone 8515, 8521 Senoia Road and 0, 8521 Landrum Road from AG (Agricultural) to a PD (Planned Development) district. The purpose to rezone is to accommodate 187 townhome units, 2.20 acres of commercial use that has not been specifically identified and 17.60 acres that will be retained for conservation, which there is a lot of property that has some environmental areas in it like wetlands or stream buffers. The residential density is calculated at 4.46 density units an acre. 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 character area is envisioned to preserve the rural feel and transition from rural residential down to rural districts and envisions a minimum of one acre lot sizes. The zoning districts for rural residential future land use map character area are R1, R2, R3, and R4.

Ms. Keefer discussed the site plan, and the proposed 187 units, and the two-acre commercial parcel that will be located along Senoia Road. There will be access onto the site from Senoia Road and Landrum Road. Staff reviewed the analysis in Section 80-300 and stated the proposal does not permit a use that is suitable in view of the use and development of adjacent and nearby properties and is not in conformity with the policies and intent of the land use plan. The request is not in conformance with the comprehensive plan given the vision for the largest portion of the property. Staff did recommend denial at the October 4th Planning & Zoning Commission meeting and the Commission recommended denial. We have proposed conditions that City Council could incorporate into the motion if approved.

Councilman Whitmore made a motion to open the public hearing and the second

was provided by Councilman Smallwood. **The motion carried unanimously.**

In Favor:

Tyler McSwain spoke in favor of this project on behalf of Battle Law Firm, and he represented Mill Creek Residential. He highlighted some development factors that is impacting this project and discussed the site plan. He said half of the site in question cannot be developed and staff pointed out some of the challenges with the flood zones that are on this site. The density that was requested is part of those factors of the layout. There are areas that cannot be developed because of the water. Moving to the Comprehensive Plan, the Highway Mixed-Use design specifically quotes, it provides an opportunity for commercial and residential land uses to coexist. That comprehensive design is for the two-acre tract that is supported by the Highway Mixed-Use overlay which is the proposed zoning district planned unit development. The property on the left-hand side of this area is rural residential, which is not compliant per US Code, and with that in mind we understand that the corridor is going to be changing or has specific character in a certain look and we believe that the layout that our clients are proposing will fit in line with the Comprehensive Plan.

Mr. McSwain stated they received comments from the public regarding traffic and they provided a traffic feasibility study which was completed in August 2022, that stated there wasn't any major improvements that were needed but we would be happy to apply contributions or changes to the roads as required by the City's ordinance and review authorities. We want to keep the residential feel and believe that with some smart design with landscaping and buffers, we can preserve the look of the corridor.

In Opposition: N/A

Councilman Smallwood made a motion to close the public hearing, with the second provided by Councilman Pallend. **The motion carried unanimously.**

Councilwoman Davis made a motion to deny rezoning request 2022088 with the second provided by Councilman Heath. **The motion carried unanimously.**

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

Planning and Zoning Interim Director, Rebecca Keefer presented this item and stated this request is for a use permit that has five (5) accompanying concurrent variances. The use permit will provide for an 80-unit senior housing project in AG zoning district. Senior housing is permitted by use permits as opposed to by rights and are required to come before this body and make a request to institute a senior housing use. Within the zoning ordinance, there's a set of supplemental regulations that all senior housing uses have to comply with. The first request is to reduce the front yard setback from 100' to 50' along Oakley Industrial Boulevard. The next request is

to increase the lot coverage from 15% to 28.6% and the remaining three come from supplemental use regulations required from instituting the senior housing use. The applicant would like to do renter occupied units and parking in the front yard and to allow an accessory structure in the front yard for a refuse dumpster.

The property is currently zoned AG and will continue as a result of this request and the Future Land Use Map is designated Rural Residential which identifies land uses at a maximum density of one unit per acre and identifies the acceptable uses which are single family residential, parks, and churches. She discussed the site plan which the parcel is on the corner of Oakley Industrial Boulevard and Bohannon Road. The parking lot is out front with the senior housing units in the rear.

Staff reviewed the analysis in Section 80-172 and stated the proposal does not permit a use that is suitable in view of the use and development of adjacent and nearby properties and is not in conformity with the policies and intent of the land use plan. We have identified the front set back variances does comply, but the remaining do not comply with the criteria as outlined in the staff report and staff recommends denial as well as the Planning Commission on the October 4th Planning & Zoning Commission Meeting. We did provide a series of conditions should you make the findings in favor of the application.

Councilwoman Davis made a motion to open the public hearing with the second provided by Councilman Heath. **The motion carried unanimously.**

In Favor:

Melanie Winfield spoke in favor of this project and spoke on behalf of Urban Poor Strategies and represented Staffins Properties, LLC. The property owner Charles Devin was in attendance. This property is located at 7875 Bohannon Road and Oakley Industrial Boulevard. There is a lot of wooded area that we do not plan to disturb, but plan to build senior housing with two buildings that will be four stories each to include forty units for senior occupancy. The buildings will be secluded and asking that the entry and exit points be on Bohannon Road because Oakley Industrial Boulevard is consumed with a number of truck traffic. We are asking for variances to reduce the setback from 100 feet to 50 feet on Oakley Industrial. We are also looking to have the front yard accommodate parking for the residents as well as a dumpster and to increase the lot occupancy from 15% to 28.6%.

Some of the features and amenities of the property will include a balcony for the residents to enjoy outside weather. All the units will be accessible from an interior hallway, an ADA accessible walking trail, a pickleball court, a swimming pool, a fitness center with community rooms, a courtyard, two dog parks, a picnic area, and a car wash area. There will be elevators at each building as we target the older age community. When we presented our community engagement sessions, there was concerns of traffic which we have proposed the access points be on Bohannon Road. They also had a market and feasibility study completed and stated this location is

suitable for senior housing. They held community engagement sessions as required by the ordinance who reside within 500 feet of the property and they included residents within 2,000 feet and mailed out 309 notifications and advertised on social media, trying to recruit individuals to come in and hear about this project. We held four sessions, two in person and two virtual sessions. The only item that was concerning was the traffic.

Pastor Hayes Clayton spoke in favor of the use permit. He said he feels this would be a very wonderful project; he has a few seniors in his church that could benefit from this, and it could also support Fairburn.

Abril Robinson spoke in favor of this project; she is a licensed relator in the area. This land is zoned AG-1 and has a very limited use because of the wetlands and impervious setbacks and the likelihood of someone purchasing this property for one to two single families is very low. This project is very strong, and she said she feels it would do well there.

In Opposition:

Lydia Glaze spoke in opposition of the project. She said that when Fairburn started building senior homes, Mayor and Council made sure there was transportation available and the needs of the seniors would be in a space where they can walk to and from the grocery store, and to get on the bus and go to a doctor's appointment. This location does not provide all of the seniors needs and asked that this request be denied.

Councilman Smallwood made a motion to close the public hearing, with the second provided by Councilwoman Davis. **The motion carried unanimously.**

Councilman Smallwood made a motion to deny the use permit for a senior housing development at 7875 Bohannon Road, with the second provided by Councilwoman Davis. **The motion carried unanimously.**

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

City Administrator, Tony Phillips presented this item and stated there has been a proliferation over several years of investor-owned properties in the City of Fairburn. He stated the Redfin Study found that in Fairburn's 30213 zip code, institutional investors comprise nearly 50% of home purchases in 2021. Those investor properties depress home values and cause other quality of life issues within communities. At a recent Georgia Municipal Association District 3 meeting, there were an upward of twenty area-wide cities, that are experiencing this same challenge. We are requesting the approval of this 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.

Councilman Pallend made a motion to approve the Resolution to urge the Georgia General Assembly to protect communities by passing legislation to regulate corporate ownership of private homes. The second was provided by Councilwoman Davis.

Councilwoman Davis said she was excited about the Resolution; she and her colleagues have researched this and have tried to fight the institutionalized investor's coming into our community and making havoc for our communities. She said part of her research has determined that this is a human rights issue and is happy Fairburn is taking a stand, she thanked Mr. Phillips for taking a lead on something that needs to be done for the City of Fairburn.

Councilman Whitmore said this is something that our city was hit with back in the downfall of the market. We had investors come in one community that has suffered greatly and is still suffering. This is very much needed for us to stand together and support this type of legislation. Asking our state legislators to do their part so that we can curve some of this in the city.

Councilman Heath said with him being a mortgage banker in 2007 until 2017, he saw where people were losing their homes. A lot of these investors were going out and getting loans to purchase these homes for it to go back to the banks. They had a backlog of homes that have been repossessed until it caused the rest of them to crash. With the interest rates going back up, it is the same thing that took place in 2007, people will be losing their homes. He wants to protect the citizens of Fairburn and all other neighboring communities and wants to see the legislators do whatever it takes to eliminate the possibility of us going through another downturn in our economy.

Mayor Avery said the lack of care in some of the neighborhoods are an issue and is glad this was brought forward. After discussion, **the motion carried unanimously.**

4. Memorandum of Understanding with Music Education Group

Parks & Recreation Director, Chapin Scott presented this item and said Parks & Recreation was always looking at ways to connect our youth to opportunities and this one with Music Education Group is a Memorandum of Understanding to provide free music education training. Within the Youth Center, they will install a studio and podcast area to engage our youth for six weeks. They are offering courses like music engineering, podcasting, artist development, elements of songwriting, music business, and industry laws. This will be a six-week course, and this will be a mobile studio that will train all of our teens that are in the program, and we will have a limited number that can attend and is a completely free program to us and our youth.

Councilman Heath made a motion to approve the Music Education Group Memorandum of Understand (MOU) for the provision of multimedia and technology training at the Fairburn Youth Center, with the second provided by Councilman Whitmore.

Councilman Whitmore commended Mrs. Scott for thinking outside the box and finding innovative ways to bring programs like this to the City of Fairburn. It is an opportunity for our youth to engage in levels that they would not be able to engage and thinks it is a great program and is looking to hear positive results from the children that will be participating and want to invite them to share with Mayor and Council their level of excitement and the things they've learned.

Councilwoman Davis said this was awesome, it gives another outlet for our youth. We have some very creative and talented youth. The most important thing is that they will teach music business, we have artists right now that do not know the music business and she thinks this will make a difference and thanked Ms. Scott for doing an outstanding job.

Mayor Avery commended Mrs. Scott for the digital media portions of the program which is very important in today's society. After discussion, **the motion carried unanimously.**

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

City Administrator, Tony Phillips presented this item and stated the summary for this item after six months of negotiations between fifteen cities and Fulton County, they were able to strike an agreement with Fulton County Commissioners for the distribution of LOST for the next ten years, which is about \$3.8 billion. The previous agreement for the last ten years, the county was getting about 4.9% of LOST revenue in which they started out requesting 35% which was brought down to an average over the next ten years to 9.9%, which is a graduated increase that starts at 5% in the first year and graduates up to 12.5 % in the final years. No city will receive less in the next ten years than they did in the previous ten years. This item seeks approval from Council for the Mayor to enter into an agreement, a certification that goes to the State to memorialize this agreement between the other cities and county. The amount for Fairburn for the next ten years is roughly \$53 million, which is about \$5.3 million a year, that is a slight increase of what we've received in the last ten years.

Councilwoman Davis made a motion to approve 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. The second was provided by Councilman Whitmore.

Councilman Whitmore said we had our City Administrator and Assistant City Administrator sit through these negotiations along with the Mayor to represent our city and knew of other elected officials that participated, and he wanted to commend Mr. Phillips and Mrs. Criss for volunteering to stay and work with the attorney to get to the outcome that we have. He publicly thanked them for their professionalism and representing a city that is situated to succeed.

Councilwoman Davis said ditto on what Councilman Whitmore said, it was amazing.

Mayor Avery stated this was a painful process for all fifteen cities and thanked Mr. Phillips and Mrs. Criss for setting the stage as it related to a lot of written documentation that would have cost us a lot of money. After discussion, **the motion carried unanimously.**

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

City Administrator, Tony Phillips presented this item and said this was a recertification of the GMA's City of Ethics program. There are a few adjustments to the recertification but not a lot of change. We are requesting that Mayor and Council approve the Resolution readopting ethical principles established by the Georgia Municipal Association (GMA) and requesting recertification in GMA's Certified City of Ethics Program.

Councilwoman Davis made a motion to approve the Resolution to readopt ethical principles established by GMA and requesting recertification in GMA's Certified City of Ethics Program, with the second provided by Councilman Smallwood.

Councilwoman Davis said she was excited we are doing this, and every city should be a City of Ethics. After discussion, **the motion carried unanimously.**

X. City Administrator's Report will be discussed on December 12, 2022.

XI. Council Comments

Councilman Pallend – N/A

Councilman Smallwood – N/A

Councilwoman Davis – N/A

Councilman Heath – N/A

Councilman Whitmore made a comment on the referendum issue that we encountered that was not on the ballot. He personally recognized City Clerk, Brenda James for having this issue corrected within 24 hours and had another machine onsite to correct the ballot. She jumped on it quickly and stood her ground to get this resolved. He stated for the record, he has received phone calls from some Christians, and they told him he was wrong for voting for it and for even wanting this on the ballot, but he stands firm on separating government and religion and stands firm on doing what is necessary to assist

our businesses to thrive in a positive way. He applauded Mrs. James, Mayor, and Council for taking the stance on making it happen.

Mayor Avery asked Mrs. James to make a comment about the certification.

Mrs. Brenda James stated that the referendum passed, and once Fulton County certifies the votes, a letter will be going out to the businesses advising them when they can start selling alcohol.

Mr. Phillips stated that the Clerk has explained the process and Mrs. James and Mrs. Criss are coordinating the next steps and reiterated words in reference to Mrs. James, experience is a value and thanked Councilman Smallwood for picking up on the ballot issue the first day.

Mayor Avery stated this will be the only Council meeting in the month of November, we have one meeting in December, which will be December 12th. We have a Christmas Tree Fireworks show in the Courtyard on December 3rd from 6 pm to 8 pm. There's a runoff election scheduled for December 6th.

Ms. James stated that early voting will begin on November 28th and if you are voting absentee, you can ask for your absentee ballot now.

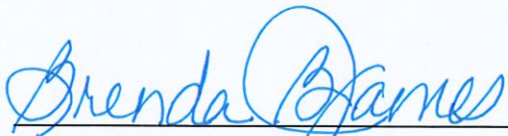
Mr. Phillips stated they are actively filling the Director of Planning & Zoning and the Finance Director positions and will have more news at the next meeting.

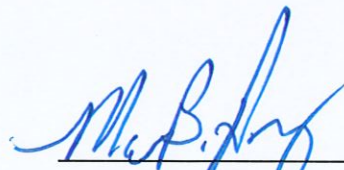
A motion was made by Councilman Whitmore to go into Executive Session for litigation with the second provided by Councilman Heath. **The motion carried unanimously.**

A motion was made by Councilman Whitmore to close Executive Session, with the second provided by Councilman Heath. **The motion carried unanimously.**

XII. Adjournment:

Councilwoman Davis made a motion to adjourn the meeting with Councilman Heath providing the second. The meeting adjourned at 8:15 pm. **The motion carried unanimously.**


Brenda B. James, City Clerk


Mario Avery, Mayor