

**Mayor**  
Derek Easterling  
**City Manager**  
Jeff Drobney, ICMA-CM  
**City Clerk**  
Lea Alvarez, CMC



**Council**  
Mayor Pro-Tem, Tracey Viars  
James Eaton  
Pat Ferris  
Chris Henderson  
Nimesh Patel

**City Council  
Meeting Agenda  
December 20, 2021 6:30 PM  
Council Chambers**

**I. INVOCATION**

**II. PLEDGE OF ALLEGIANCE**

**III. CALL TO ORDER**

**IV. ANNOUNCEMENTS**

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed.

Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>

- B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email [kennesawcouncil@kennesaw-ga.gov](mailto:kennesawcouncil@kennesaw-ga.gov) no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

**V. PRESENTATIONS**

**VI. PUBLIC COMMENT/BUSINESS FROM THE FLOOR**

**VII. OLD BUSINESS**

**VIII. NEW BUSINESS**

**IX. COMMITTEE AND BOARD REPORTS**

## X. PUBLIC HEARING(S)

Swearing-in of any witnesses or individuals offering comments on any of the following items.

- A. Approval of ORDINANCE granting a rezoning request submitted by Bulldog Acquisitions, LLC for the property located at 2652 South Main Street. Case #RZ2021-06.

The applicant is seeking to rezone property from Light Industrial (LI) to Central Business District (CBD). The property consists of 19.125 +/- acres and lies in Land Lots 167 & 168 and Tax Parcel 02 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County Georgia. The intent of the project is to construct a mixed-use development with a minimum of 44 for-sale townhomes, 318 multi-family apartment units, 5,000 to 10,000 square feet of commercial that wraps around a multi-level parking deck, an additional detached retail building with 10,000 to 25,000 square feet of commercial space, a multi-level parking deck, southern extension of the City's existing Gateway Park along Main Street, interconnected trails and pedestrian connectivity. The rezoning request was advertised in the Marietta Daily Journal on September 17 & 24, 2021, October 15 & 22, 2021 and November 12 & 19, 2021 and a public notice sign has been posted on site. At their October 6, 2021 meeting, the Planning Commission recommended to postpone the rezoning application to their regularly scheduled November 3, 2021 meeting. On November 3, 2021, the Planning Commission did not have enough commission members present at City Hall to make quorum. At their December 1, 2021 meeting, the Planning Commission recommended approval with the conditions as outlined in staff analysis report as well as the following additional conditions: 1) The maximum allowable number of townhomes is 65 units and 2) There shall be no business in the combined vertical commercial/residential building that utilizes fryers or grills. Vote 3-0 STAFF RECOMMENDATION: Zoning Administrator recommends approval with conditions.

Amended motion by Mayor Pro Tem Viars to approve an ordinance granting a rezoning request submitted by Bulldog Acquisitions, LLC for property located at 2652 South Main Street from Light Industrial to Central Business District using the city's staff analysis as the guiding document and excluding the applicant's attorney's stipulation letter. Also, removing two stipulations by the Planning Commission to 1). allow restaurants with fryers and grills in the commercial space under the multifamily residences and 2). revert back to the original guideline to allow a minimum of 44 for-sale townhomes rather than have a cap of 65 townhomes. Further, at 80% of occupancy, applicant will fund a traffic signal warrant study, as read into the record. Seconded by Councilmember Henderson. Vote taken, approved 3-1-1 (*Councilmember Ferris opposed and Councilmember Patel absent*). Motion carried.

- B. Consideration of a variance request for property submitted by Bulldog Acquisitions, LLC for property located at 2652 South Main Street. Case No.

ZV2021-05.

This application involves two variance requests for the following:

- 1.) reduce the average floor area of residential units from 1,000 square feet to 935 square feet per sections 4.02.03(G)(2)(c) & 4.02.03(G)(5)(c).
- 2.) reduce the minimum square footage from 850 square feet to 705 square feet per section 4.02.03(G)(5)(d).

Parking ratio variance requested on the original application submittal was withdrawn.

Said variance requests have been filed concurrently with a rezoning application. Request to change the zoning designation of the subject property from Light Industrial (LI) to Central Business District (CBD). The variance request was advertised in the Marietta Daily Journal on September 17 & 24, 2021, October 15 & 22, 2021, and November 12 & 19, 2021 and a public notice sign has been posted on site. At their October 6, 2021 meeting, the Planning Commission recommended to postpone the variance application to their regularly scheduled November 3, 2021. On November 3, 2021, the Planning Commission did not have enough commission members present at City Hall to make quorum. At their December 1, 2021 meeting, the Planning Commission recommended approval of both variances. Vote for variance #1 was 2-1 and vote for variance #2 totaled 3-0. STAFF RECOMMENDATION: Zoning Administrator recommends denial of the two variance requests.

Motion by Councilmember Eaton to approve a variance request submitted by Bulldog Acquisitions, LLC for the property located at 2652 South Main Street, as presented, seconded by Mayor Pro Tem Viars. Vote taken, approved 3-1-1 (*Councilmember Ferris opposed and Councilmember Patel absent*). Motion carried.

- C. Consideration of a variance request for property submitted by Mark Allen for the property located at 2950 Moon Station Road. Case No. ZV2021-06.

Consideration to review and approve an 8-foot tall side-yard wooden privacy fence located at 2950 Moon Station Road. This is a variance request to go above the maximum height of 6-feet as specified within Chapter 4, Section 4.1.10 of the Kennesaw Historic Preservation Commission Design Standards. The variance request was advertised in the Marietta Daily Journal on November 12 & 19, 2021 and a public notice sign has been posted on site. On a special call meeting held by the Historic Preservation Commission on November 12, 2021, they recommended approval with the following condition: any additional fencing or fencing extension plans other than what is shown in the site plan submitted by the applicant must be presented to the HPC for approval. Vote 4-0. At their December 1, 2021 meeting, the Planning Commission recommended approval of the variance. Vote 3-0. The Zoning Administrator recommends approval of the variance request.

*[Councilmember Viars recused herself from item X-C].*

Motion by Councilmember Henderson to approve a variance

request for property submitted by Mark Allen for the property located at 2950 Moon Station Road at 125 linear feet, as presented, seconded by Councilmember Eaton. Vote taken, approved 3-0-1 (*Mayor Pro Tem Viars recused and Councilmember Patel absent*). Motion carried.

- D. Approval of ORDINANCE to amend the Kennesaw Code of Ordinances, Article I of Chapter 46 and Article II of Chapter 46. Case #MISC2021-08.

The proposed amendment pertains to the Kennesaw Code of Ordinances to amend definitions contained in Article I of Chapter 46 (Section 46-5) of the Kennesaw Code of Ordinances relating to Stormwater Management and amend Article II of Chapter 46 of the Kennesaw Code of Ordinances relating to Stormwater Utility and Environment (Sections 46-31 through 46-149). Legal ads were run in the Marietta Daily Journal on October 15 & 22, 2021 and November 12 & 19, 2021. On November 3, 2021, the Planning Commission did not have enough commission members present at City Hall to make quorum. At their December 1, 2021 meeting, the Planning Commission recommended approval with noted edits to narrative descriptions. Edits will be incorporated into the final draft. Vote 3-0. The Zoning Administrator and Public Works Director recommend approval of the Code of Ordinances text amendments.

Motion by Councilmember Eaton to approve an ordinance to amend the Kennesaw Code of Ordinances, Article I of Chapter 46 and Article II of Chapter 46, as presented, seconded by Councilmember Henderson. Vote taken, approved 4-0-1 (*Councilmember Patel absent*). Motion carried.

## **XI. CONSENT AGENDA**

- A. Approval of the November 29, 2021 Mayor and Council work session minutes.
- B. Approval of the November 29, 2021 Mayor and Council executive session minutes.
- C. Approval of the December 6, 2021 Mayor and Council meeting minutes.
- D. Approval of the December 6, 2021 Mayor and Council executive session minutes.

- E. Approval of RESOLUTION to acquire and ratify the acquisition of right of way and property interests from 3393 Cherokee Street needed for the Cherokee Street Improvement Project in exchange for part of the property at 3403 Cherokee Street.

In accordance with Georgia law, O.C.G.A. § 32-3-3, the City is authorized to exchange property for privately owned property needed for transportation improvement projects if the City receives equal or greater value in the exchange. The City proposes to exchange 2,580 square feet of fee simple property from the larger tract at 3403 Cherokee Street (City owned property) for the right of way (1,643 sq. ft.), temporary construction easement (663 sq. ft.) and temporary driveway easement (2140 sq. ft.) required for the Cherokee Street Improvement Project from the tract at 3393 Cherokee Street. Based on appraisal values and staff evaluation, the City will receive a greater or equal value for the acquisition from the owners of 3393 Cherokee Street than they will for the City owned property.

The City-owned property to be deeded to the Dillards is described in Exhibit A and shown in purple on the plat attached as Exhibit B. The rights of way and property interests needed from the Dillards are described in Exhibit C and shown in blue, green and yellow on the plat attached as Exhibit D. The Public Works Director recommends approval of property exchange.

#### **RESOLUTION NO. 2021-55, 2021**

- F. Approval of RESOLUTION authorizing a contract renewal with the City Manager.

The City Manager's original contract was adopted by Resolution No. 2015-26, 2015 and renewed by Resolution No. 2020-42, 2020. This contract renewal will be for a term of four years. The Mayor recommends approval.

#### **RESOLUTION NO. 2021-56, 2021**

- G. On December 7, 2021, Faramarz Rahimi purchased one (1) lot in the Kennesaw City Cemetery. This lot is located in Section III, Plot 66, Lot A. Authorize the Mayor to sign the supporting deed for purchase of the lot. City Clerk recommends approval.

Motion by Mayor Pro Tem Viars to approve the Consent Agenda engross, seconded by Councilmember Eaton. Vote taken, approved 4-0-1 (*Councilmember Patel absent*). Motion carried.

#### **DEPARTMENT REPORTS**

## XII. GENERAL AND ADMINISTRATIVE

GINA AULD, Finance Director

- A. Consideration for approval of 2022 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for RaceTrac, Inc. d/b/a RaceTrac #052 located at 1625 Old 41 Hwy, Kennesaw, Georgia 30152. Applicant: Justin Daman

This is an existing business with the same licensee since 2010. This business was cited for providing alcohol to a minor and failure to have a valid server permit on July 1, 2021. The License Review Board suspended the Alcohol License for a period of two weeks (14 days) effective August 21, 2021. The business has served their suspension period and had no further violations. Finance Director recommends approval.

Motion by Councilmember Ferris to approve 2022 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for RaceTrac, Inc. d/b/a RaceTrac #052 located at 1625 Old 41 Highway, as presented, seconded by Mayor Pro Tem Viars. Vote taken, approved 4-0-1 (*Councilmember Patel absent*). Motion carried.

- B. Consideration for approval of 2022 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for RK Fortitude, LLC d/b/a RK Market located at 3338 Cherokee Street, Kennesaw, Georgia 30144. Applicant: Chetan Panchal

This is an existing business with the same licensee since 2014. This business was cited for providing alcohol to a minor on July 1, 2021. The License Review Board suspended the Alcohol License for a period of thirty (30) days effective August 13, 2021 and required that the establishment show proof that all employees, current and new, received third party alcohol training by February 13, 2022. The business has served their suspension period and had no further violations. Finance Director recommends approval.

Motion by Mayor Pro Tem Viars to approve the 2022 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for RK Fortitude, LLC d/b/a RK Market located at 3338 Cherokee Street, as presented, seconded by Councilmember Eaton. Vote taken, approved 4-0-1 (*Councilmember Patel absent*). Motion carried.

- C. Consideration for approval of an Alcohol License for Liquor and Sunday Sales for Melkorp Inc. d/b/a Frozen Cow Creamery located at 2870 Cherokee St, Kennesaw, GA 30144. Applicants: Thaddeus Melko and Angelique Melko

The applicants have completed the required alcohol workshop per Sec. 6-69. Signs have been posted and it has been properly advertised per Sec. 6-36. Current application, background check and fingerprint results are on file. Sec. 6-

43 refers to all locations within 600 feet of a park or a public building. This location is within 600 feet of a park and a public building. Sec. 6-6 states that the distance requirements set forth in section 6-43 shall not apply to establishments licensed to sell or serve alcohol within an entertainment district. This establishment is in the downtown entertainment district. Finance Director recommends approval.

100.0000.32.1100 Application Fee \$350.00

Motion by Mayor Pro Tem Viars to approve of an Alcohol License for Liquor and Sunday Sales for Melkorp Inc. d/b/a Frozen Cow Creamery located at 2870 Cherokee Street, as presented, seconded by Councilmember Eaton. Vote taken, approved 4-0-1 (*Councilmember Patel absent*). Motion carried.

- D. Consideration for approval of a Beer, Wine, Liquor, and Sunday Sales Package License for Monte Cristo Spirits, LLC d/b/a Monte Cristo Beer, Wine, and Liquor located 1635 Old US 41 Hwy, Suite 110, Kennesaw, GA 30152. Applicant: Cedric Jackson

The applicant has completed the required alcohol workshop as per Sec. 6-69. Signs have been posted and it has been properly advertised as per Sec. 6-36. Current application, background check and fingerprint results are on file. Sec. 6-42 refers to all locations within 300 feet of a private residence. This location is within 300 feet of a private residence. Sec. 6-42 states the Mayor and Council may waive the distance requirement if the quiet enjoyment of the premises by the residents thereof shall not be adversely affected and the granting of such license shall not have any adverse effect on the private residence. Finance Director recommends approval.

100.0000.32.1100 Application Fee \$350.00

Motion by Mayor Pro Tem Viars to approve of a Beer, Wine, Liquor, and Sunday Sales Package License for Monte Cristo Spirits, LLC d/b/a Monte Cristo Beer, Wine, and Liquor located 1635 Old US 41 Highway, Suite 110, as presented, seconded by Councilmember Ferris. Vote taken, approved 4-0-1 (*Councilmember Patel absent*). Motion carried.

### **XIII. PUBLIC SAFETY**

BILL WESTENBERGER, Police Chief  
NIKKI MCGRAW, 911 Communications Director

### **XIV. INFORMATION TECHNOLOGY**

RICK ARNOLD, Operations Specialist  
JOSHUA GUERRERO, Systems Administration Specialist

### **XV. PUBLIC WORKS**

RICKY STEWART, Public Works Director  
ROBBIE BALENGER, Facilities Manager

## **XVI. RECREATION AND CULTURE**

RICHARD BANZ, Museum Director  
STEVE ROBERTS, Parks and Recreation Director  
ANN PARSONS, Smith-Gilbert Gardens Director

## **XVII. COMMUNITY DEVELOPMENT**

LUKE HOWE, Economic Development Director  
DARRYL SIMMONS, Zoning Administrator  
SCOTT BANKS, Building Official

- A. Approval of a Central Business District (CBD) project submitted by Bulldog Acquisitions, LLC for the property located at 2652 South Main Street. Case # CBD2021-04.

The applicant is seeking approval of a Central Business District (CBD) project located at 2652 S Main Street. The property consists of 19.125 +/- acres, and lies in Land Lots 167 & 168 and Tax Parcel 2 of the 20th District, 2nd Section, Cobb County Georgia. The intent of the project is to construct a mixed-use development with for-sale townhomes, 318 multi-family apartment units, 5,000 to 10,000 square feet of commercial that wraps around a multi-level parking deck, an additional detached retail building with 10,000 to 25,000 square feet of commercial space, southern extension of the City's existing Gateway Park along Main Street, interconnected trails and pedestrian connectivity. The CBD project approval process requires a business plan review and approval by the Kennesaw Downtown Development Authority (KDDA) and the conceptual design approval by the Kennesaw Historic Preservation Commission (HPC). At their regularly scheduled meeting held on September 14, 2021, the KDDA recommended to approve the CBD application. Vote 4-0. On a special call meeting held on November 12, 2021, the HPC recommended to approve the application with the stipulation that the applicant will submit for approval and review to the HPC the design and schematics for landscaping, architectural elevations and the commercial buildings within that property for twenty five percent (25%) submittal, and subsequent submittals to be further evaluated and decided by the HPC with respect to the final approval and final design plans. Vote 4-0. The Zoning Administrator recommends approval with the stipulations as defined by the HPC.

Motion by Councilmember Henderson to approve a Central Business District (CBD) project submitted by Bulldog Acquisitions, LLC for the property located at 2652 South Main Street as presented, seconded by Councilmember Eaton. Vote taken, approved 3-1-1 (*Councilmember Ferris and Councilmember Patel absent*). Motion carried.

## **XVIII. PUBLIC COMMENT/BUSINESS FROM THE FLOOR**

**XIX. CITY MANAGER'S REPORT (Jeff Drobney)**

- A. City Manager reports, discussions and updates.

**XX. MAYOR'S REPORT**

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

Motion by Mayor Pro Tem Viars to ratify the reappointment of Derek Easterling to the Airport Advisory Board with a term ending December 31, 2023, seconded by Councilmember Henderson. Vote taken, approved 4-0-1 (*Councilmember Patel absent*). Motion carried.

**XXI. COUNCIL COMMENTS**

**XXII. EXECUTIVE SESSION - Land, Legal, Personnel**

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

**XXIII. ADJOURN**

Mayor Easterling adjourned the meeting at 7:38 PM. The next regularly scheduled meeting will be held Monday, January 3, 2022 at 6:30 P.M. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.