



**DRAFT MINUTES OF THE
MAYOR AND COUNCIL
CITY OF DULUTH, GA
SEPTEMBER 9, 2019**

PRESENT: Mayor Harris, Council members Bomar, Carden, Jones, Kelkenberg and Whitlock, City Manager, Department Directors, City Attorney

A work session was held prior to the regular scheduled meeting to allow the elected officials to discuss this evening's agenda items. No other items were discussed and no action was taken.

Mayor Harris called the meeting to order at 5:35 p.m. and called for a motion to enter into an Executive Session for the purpose to discuss pending/potential litigation, personnel and or real estate matters.

I. EXECUTIVE SESSION

A motion was made by Councilmember Kelkenberg, seconded by Councilmember Whitlock to adjourn into an executive session to discuss real estate, potential/pending litigation, and personnel.

Those voting for: Council members Bomar, Carden, Jones, Kelkenberg and Whitlock
Motion carried.

A motion was made by Councilmember Bomar, seconded by Councilmember Whitlock to recess from the executive session to the regular meeting.

Mayor Harris called for a moment of silence, followed by the Pledge of Allegiance.

II. ANNOUNCEMENTS

1. AGENDA CHANGES (IF NECESSARY)
2. UPCOMING EVENTS - www.duluthga.net/events

9/11 Tribute - September 11, Red Clay Music Foundry, 6:30pm-8:30pm

Duluth Fall Festival Concert - Saturday, September 14 featuring Electric Avenue, Town Green

Duluth Fall Festival - September 28 & 29 -www.duluthfallfestival.org

Duluth Beer and Wine Festival - October 5, Town Green, 12:00pm-5:00pm.

<https://www.bigtickets.com/event/details/index.cfm?d1=assc&d2=duluth-beer-and-wine-festival>

Deon Lewis Memorial HOPE 5K - October 6, Downtown, 8:00am-10:00am

S'mores N' Snores - October 12-13, Rogers Bridge Park, 6:00pm-10:00am

Rocky Horror Picture Show - October 19, Red Clay Music Foundry, 12:00am

Howl on the Green - October 25, Town Green, 6:00pm-10:00pm

Mayor Harris expressed her appreciation to the Public Works department staff for hosting the Student LEAD class.

III. CONSENT AGENDA

1. APPROVAL OF AUGUST 12 & 26 MINUTES
2. ORDINANCE TO APPOINT ASSOCIATE COURT JUDGES {A}

As discussed at the August 26 work session, the Duluth City Charter provides for the appointment of the municipal court judges by ordinance. State law OCGA 36-32-2 mandates that appointed municipal court judges be appointed for a term of not less than one year. Accordingly, approval of this item appoints Katherine Mary Armstrong and Tiffany P. Porter as Associate Judges.

3. ORDINANCE TO APPONT PARSONS ALLEY DESIGN REVIEW COMMITTEE {B}

The Duluth City Council appoints members by ordinance to the Parsons Alley Design Review Committee, which governs the enforcement of covenants and request for architectural and operational changes for merchants and landowners in Parsons Alley. Approval of this item appoints Greg Whitlock as a member to fulfill the unexpired term of Marsha Bomar, and further appoints Mayor Nancy Harris to the unexpired term of alternate Greg Whitlock.

4. ORDINANCE TO AMEND THE DULUTH CODE – TOBACCO FREE PARKS {C}

As presented at the August 26 work session, Council to consider an ordinance (O2019-19) creating smoke-free zones for any city-owned or operated building, indoor or outdoor recreational facilities. These restrictions include but are not limited to playgrounds, restrooms, athletic fields, rivers, park property, walking/hiking trails, agency owned vehicles, spectator and concession areas or public plazas, public sidewalks or public parking areas within the downtown entertainment district. Approval of this item approves replaces Article III of Section 10.5 of the Duluth Code of Ordinances as presented.

5. AUTHORIZATION FOR LOAN AGREEMENT – ROGERS BRIDGE ART {D}

Previously discussed at the August 26 work session, Council to consider a loan agreement with Alma Summerour to accept the loan offer of two original Rogers Bridge artworks. Approval of this item authorizes the Mayor or City Manager to execute the agreement.

6. PROCEDURAL GUIDELINES – DULUTH PUBLIC ART COMMISSION {E}

As presented during the August 26 work session, approval of this item approves the amended Duluth Public Art Funding, Goals, and Procedural Guideline document.

7. ORDINANCE TO AMEND THE FY20 BUDGET – (\$5,000) DULUTH PUBLIC ART FUND {F}

As voted on by DPAC on August 14, approval of this item authorizes a budget amendment (BA-FY20-05) to reduce current year's "Site Improvements" expenditure line item (209-6170-541200) from \$15,000 to \$10,000.

8. ACCEPTANCE OF DONATION – SOD FOR BUNTEN PARK MULTI-PURPOSE FIELD

Atlanta Fire United Soccer Association to donate sod improvements for the purpose of recreational soccer play. Field improvement is valued at \$10,000, which includes purchase and installation of sod.

A motion was made by Councilmember Bomar, seconded by Councilmember Kelkenberg, to approve the Consent Agenda as presented.

Those voting for: Council members Bomar, Carden, Jones, Kelkenberg and Whitlock
Motion carried.

IV. PUBLIC HEARINGS

1. ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE – CASE TA2019-004 {G}

Mayor Harris opened the public hearing and called Planning Director Bill Aiken forward to present. Mr. Aiken explained that the proposed ordinance (TA2019-004) concerns modifications to Article 2, Article 3, Article 4, Article 6, Article 7 and Article 9 of the Unified Development Code. He summarized each of the recommended changes.

- For “Definitions” of Household, Single Family Attached Dwelling, Active Use, as well as adding terms related to the state’s Small Cell Wireless Facility Model Ordinance.
- Architectural and Design Guidelines in the CBD to allow no more than 25% stucco on any exterior wall surface.
- Repeal and replace the UDC use tables (2-C and 2-D)
- Architectural standards for townhomes
- Building permit/inspection requirements for fences at 7’ high. Concerns were expressed about property lines. Aerial or GIS can be provided but no survey is currently necessary. Buffer information can be retrieved within a short time for any property owner but some erect fencing without any permit applied for.
- Amend table 3-B taking EIFS out of Stucco requirements
- Architectural treatments for pedestrian oriented facades (windows) and visibility 4-8’ high. Mr. Aiken clarified that those businesses already in violation of this regulation are ‘grandfathered’ in, but that staff has other ideas on how to get the property owners to improve the aesthetics. Council noted that fully covered windows that limit the visibility zone are a potential indicator for unwanted behavior, so this is also a public safety concern.
- Small cell wireless facility – adopt GMA model ordinance as Section 343.14
- Unattended donation boxes, required to be accessory use only when primary use in retail for resale or second-hand goods. Current permits are good for 6 month period and will not be renewed if they do not meet current requirements.
- Places of worship, minimum parking spaces by using the occupancy.
- Off street parking regulations in non-residential districts. Concern about food trucks, food service deliveries, RVs etc. Conditions in downtown are different than other areas. Changes recommended to refine the language.

- Table 6B- Freestanding and building signs – painted building signs (murals) would only allowed in the CBD up to 75% of the building. Remove for later discussion.
- Adjustments for community activity center character area
- Section 726 - MRPA requirements against wasting water. Concerns with language of 50 feet. Language needs to be included in City regulations prior to October. Enforcement should be sensible.
- Prohibit common on-site sewage disposals or septic tanks when public sewer is available.

Planning Commission recommended approval of Case TA2019-004 at the August 19, 2019 hearing, and Staff recommended approval.

Mayor called for discussion from Council. Comments were made during the presentation regarding fencing, off-street parking, water regulations, and murals/signage.

Councilmember Whitlock requested that vaping establishments be restricted. He asked that smoke shops be limited to the C-2 zoning as a special use.

Mayor Harris called for questions/comments from the public. Being none, she closed the public hearing and called for a motion.

A motion was made by Councilmember Whitlock, seconded by Councilmember Jones, to approve the text amendment ordinance for TA2019-004 with the following modifications: to modify the NAICS code 453991 which is the cigar tobacco and other smoker supply store, by disallowing this use in HC retail and HC Auto zoning districts, and to allow this use in C-2 zoning district if approved as a special use. To also strike the waste water prohibited (section 726) the freestanding signs (table 6B in section 605.04(b)2(c) and also strike prohibited off-street parking section (405.04) to be brought into Council work session for more clarification.

Those voting for: Council members Bomar, Carden, Jones, Kelkenberg and Whitlock
Motion carried.

2. ORDINANCE TO MODIFY CONDITIONS OF ZONING – Z2019-004 - MARKETPLACE {H}

Mayor Harris opened the public hearing.

Planning Director Bill Aiken came forward to present a request (Z2019-004) from LiDL US and the property owner, Duluth Marketplace WREG LLC, to modify the conditions of zoning approval on a +/- 3.86 acre property located at the southwest corner of the Main Street and Peachtree Industrial Boulevard intersection, Duluth, Georgia 30097 (tax parcel R7205 002). Said property being part of the larger +/- 14.91 acre master planned development known as the Marketplace Village (originally approved via case number Z2016-003 on March 13, 2017). The property is currently zoned Duluth PUD (Planned Unit Development District) and will not change. Approval of this item will allow the applicant to construct a +/- 29,136 square foot building with architecture and site plan features that were not approved as part of Z2016-003.

Mr. Aiken showed the location and explained the previous activity.

- March 2017: Originally rezoned. Marketplace Village Master Planned Community
- April 2019: Active Adult Multi-Family + Outparcel A modified rezoning.
- September 2019: Modify Outparcel

The architecture presented in the original Development Summary Report from 2016 was conditioned. Staff was approached by LiDL in the spring to build their new store model. The architecture of the new model (T-17) varied significantly than the approved model. Staff believed that since the discussions regarding LiDL's architecture was widely debated by the surrounding communities and elected officials, that any substantial alteration to the architecture would merit a return to the public hearing process.

Mr. Aiken showed the new site plan, which shows minor changes. There is a reduction in square footage of the building footprint from 35,962 to 29,136 which also allowed for a reduction in parking. The key aspects of the previously approved architecture were a curved truss roof system and large amount of transparent glass. The main changes to architecture now include a flat roof with an extended parapet wall towards Peachtree Industrial Blvd, and the clerestory windows are now spandrel glass. Staff was a bit more concerned with the newer version, as a flat pitched roof with rooftop units necessitates screening. This building essentially has four "fronts" as it has roadways around all four sides.

Mr. Aiken specifically commended LiDL and their architects for working with Staff and altering their model to fit within the spirit and intent of the Marketplace Village PUD and the high standards of design including brick and glass that Staff works toward in every project.

He also discussed changes regarding the prior plans for the loading dock, which was very prominent. The building was unable to be rotated as staff had suggested, so there was extra screening required, and the monument sign provided screening as well. There was a double bay, but the loading dock is much smaller in the new version.

Mayor Harris call forward the applicant.

Kyle Maxwell representing applicant LiDL came forward to answer questions.

Councilmember Whitlock asked why the decrease in square footage was proposed and reasoning for the other changes.

Mr. Maxwell said they are a private company, with the ability to constantly tweak the needs of each store by community. They aim to have the buildings run at 100% ability. Business analysis for east coast operations has shown that by decreasing the store size, they are optimizing construction and operations costs.

Councilmember Kelkenberg noted that he had been through the Snellville store, and asked if the aisles would be more compact, etc. He also asked if the glass change was more of an energy feature. Mr. Maxwell said that this reduction is mainly for warehousing ancillary areas, and the sales floor size is not impacted. The change in glass is due to the new roofline, and vision glass is not going to support the structure.

Councilmember Whitlock asked if it was going to feel more like a department store/discount store. By lowering the ceiling level, reducing the size, it seems like it is going to diminish the shopping experience.

Mr. Maxwell said that the layout is the same, with the same amount and type of products in the store.

Ms. Anastasia Kostrominova came forward representing McMillan, Pazdan & Smith architects. She said that they did not design the original prototype but handled the modification. She noted that for the bottom elevation, the whole wall is still 10ft high, as the goal of LiDL is to keep visibility.

Planning Commission recommended approval of Case Z2019-004 at the August 19, 2019 hearing and Staff recommended approval.

Mayor Harris called for questions/comments from the public. Being none, Mayor Harris called for discussion from Council.

After no further comment, Mayor Harris closed the public hearing and called for a motion.

A motion was made by Councilmember Bomar, seconded by Councilmember Kelkenberg, to approve the ordinance of zoning modification for Case Z2019-004 as presented with note that staff should address screening requirements under 306.06 of the Unified Development Code.

**Those voting for: Council members Bomar, Carden, Jones, Kelkenberg and Whitlock
Motion carried.**

V. MATTERS FROM CITY MANAGER

City Manager James Riker reported that the City is soliciting volunteers to serve on the "Make Duluth Count" committee. The committee may have a booth at the Duluth Fall Festival as well as at other city-sponsored events.

VI. EXECUTIVE SESSION - CONTINUED

Mayor Harris announced that it was necessary to adjourn back into executive session.

A motion was made by Councilmember Kelkenberg, seconded by Council member Carden to adjourn into executive session to discuss real estate, potential/pending litigation, and personnel at 7:35 p.m.

**Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg, and Whitlock
Motion carried.**

After the discussion, a motion was made by Councilmember Bomar, seconded by Councilmember Kelkenberg to adjourn from Executive Session at 8:25 p.m.

**Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg, and Whitlock
Motion carried.**

VII. ADJOURNMENT

A motion was made by Councilmember Jones, seconded by Councilmember Carden to adjourn at 8:25pm.

**Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg, and Whitlock
Motion carried, meeting adjourned.**

The next scheduled meeting of the Mayor and Council is a work session for September 23, 2019 at 5:30 p.m.