

City of Cumming
Regular Meeting Agenda
February 20, 2024

- I. Meeting Called to Order-Troy Brumbalow, Mayor.
- II. Invocation
- III. Pledge to Flag
- IV. Consider Agenda for Adoption
- V. Consider for adoption the following meeting minutes:
 - A. Work Session Meeting of February 6, 2024
 - B. Executive Session Meeting of February 6, 2024
- VI. Acknowledgements, Proclamations, Resolutions, etc.
 - A. Key to the City Recognition- Pugh Brothers Garage
- VII. Old Business
- VIII. New Business
 - A. Cumming Fairgrounds
 - 1. Results of RFP- Multi-Purpose Barn
 - B. Planning and Zoning
 - 1. Alcoholic Beverage License Application- El Ray Restaurant and Cantina, 248 Atlanta Road
 - 2. Conditional Use Permit #2023274- Guven Investments (Public Hearing)
 - 3. Rezoning Application #2023264- Forsyth IL-AL Investors (Public Hearing)
 - 4. Annexation Application #2023265-Horizon Christian Academy (Public Hearing)
 - 5. Resolution- Annexation Conditions
 - C. Cumming Police
 - 1. Report of Quotes- Patrol Vehicle
 - D. Utilities
 - 1. Settlement Agreement with GDOT- Highway 9 South Water Line
- IX. Announcements
- X. Executive Session (If Needed)
- XI. Adjourn.

**CITY OF CUMMING
COUNCIL MINUTES
REGULAR MEETING
FEBRUARY 20, 2024**

I. There was a regular meeting of the Mayor and Council of the City of Cumming on Tuesday, February 20, 2024, at 6:00 P.M., at City Hall in Cumming, Georgia. The Mayor and all Council Members were properly notified as required by law and all were present with the exception of Christopher Light. Mayor Troy Brumbalow presided over the meeting and called the meeting to order.

II. Invocation: Mayor Brumbalow asked Mr. Phil Higgins to deliver the invocation.

III. Pledge to the Flag. Mayor Brumbalow asked Boy Scout Troop 109 to lead everyone in the Pledge to the American Flag.

IV. Consider Agenda for Adoption: A motion was made by Jason Evans, and seconded by Chad Crane to adopt the agenda as presented. The motion carried 4-0 with Christopher Light absent.

V. Consider for adoption the following meeting minutes: A. Work Session Meeting of February 6, 2024: A motion was made by Joey Cochran, and seconded by Jason Evans to approve the minutes of the Work Session Meeting of February 6, 2024 as presented. The motion carried 4-0 with Christopher Light absent.

B. Executive Session Meeting of February 6, 2024: A motion was made by Jason Evans and seconded by Chad Crane to approve the minutes of the Executive Session Meeting of February 6, 2024. The motion carried 4-0 with Christopher Light absent.

VI. Acknowledgements, Proclamations, Resolutions, etc.: A. Key to the City Recognition- Pugh Brothers Garage: Mayor Brumbalow presented a recognition plaque to members of the Pugh family.

VII. Old Business: none

VIII. New Business: 1. Cumming Fairgrounds: 1. Results of RFP- Multi-Purpose Barn: Fairgrounds Director Tracy Helms explained that at the January Work Session the Council approved an RFP to seek proposals on the construction of a new Multipurpose Barn at the Cumming Fairgrounds. Director Helms stated that the project would be paid for using Recreation Impact Fees. The RFP results were as follows:

Crown Service Contractors- \$397,552.00

Edge Roofing LLC- \$299,334.00

Greater Georgia Contracting- \$326,766.00 (with needed add-on-\$362,186.00)

The Fairgrounds staff recommends accepting the low proposal from Edge Roofing, LLC. A motion was made by Joey Cochran and seconded by Chad Crane to approve the low quote from Edge Roofing, LLC in the amount of \$299,334.00. The motion carried 4-0 with Christopher Light absent.

B. Planning and Zoning: 1. Alcoholic Beverage License Application- EL Rey Restaurant and Cantina, 248 Atlanta Road: The Department of Planning and Zoning received an Alcoholic Beverage License application for the sale of distilled spirits, malt beverages and wine for consumption on the premises for the business of El Rey Restaurant and Cantina, located at 248 Atlanta Road. Planning Director Scott Morgan, stated that in accordance with the City's alcohol ordinance, a background check was conducted on the license applicants and no issues were found to deny the applicants the licenses. Additionally, the applicants have met all the requirements of the application process and have paid all fees due the City. His recommendation was to grant the license. A motion was made by Jason Evans and seconded by Chad Crane to approve the 2024 Alcoholic Beverage License for the sale of distilled spirits, malt beverages and wine for consumption on the premises to El Rey Restaurant and Cantina located at 248 Atlanta Road. The motion carried 4-0 with Christopher Light absent.

2. Conditional Use Permit #2023274- Guven Investments (Public Hearing): Planning Director Scott Morgan read into the record the following staff report:

The owner has made application, to the proper authorities, for a Conditional Use Permit (CUP), to establish an outdoor storage facility in the Highway Business (HB) zoning district. The property is fronting Buford Dam Road, between the Kingswood residential subdivision and the Lanier Tire business. The combined acreage for the two parcels is 4.56 acres.

The Planning Commission met on January 16 and there were no public comments.

They voted unanimously to recommend approval of the CUP with the following conditions:

1. Per the owner's CUP site plan, the Buford Dam Road frontage of the parcel can utilize a 4-rail equestrian fence in front of a minimum of two rows of a variety of visual landscape plantings, to be approved by the Planning and Zoning Department. The remaining perimeter of the Buford Dam Road parcel must be either fenced, with an eight-foot (8') high wooden privacy fence or slatted chain link fence.

2. A landscape plan for the entire site must be submitted to, and approved by, the Planning and Zoning Department, before installation, and include a variety of visual landscape plantings, from the lots along the northern boundary.

3. As indicated on the owner's CUP site plan, a secured, gated entrance will be required, including a concrete entrance apron off Buford Dam Road, to align with Lake Center Parkway.

4. Given this property is identified as an Environmentally Sensitive Parcel (ESP) in our Zoning Ordinance, core sample results will be required, before any building can be approved to be constructed on the property.

5. The future outdoor expansion area, as identified on the owner's CUP site plan, will need to be reviewed and approved by the Planning and Zoning Department, before it can be established.

A motion was made by Susie Carr and seconded by Jason Evans to open the public hearing. The motion carried 4-0 with Christopher Light absent.

No public comments were recorded. A motion was made by Susie Carr and seconded by Jason Evans to close the public hearing. The motion carried 4-0 with Christopher Light absent. A motion was made by Joey Cochran and seconded by Susie Carr to approve Conditional Use Permit #2023274-Guven Investments with the five (5) conditions recommended by the Planning Commission. The motion carried 4-0 with Christopher Light absent.

3. Rezoning Application #2023264- Forsyth IL-AL Investors (Public Hearing):

Planning Director Scott Morgan read into the record the following staff report: *The agent has made application, on behalf of the property owner, to rezone 7.3198 acres, more or less, from Office Commercial Multi-Story (OCMS) to Institutional (INST), for constructing a senior living community. The proposed facility will consist of approximately 190 units, including independent living, assisted living and memory care*

units. There are also requested variances to exceed the building height and the number of off-street parking spaces. The Forsyth County Department of Engineering must approve both the proposed entrance on Sanders Road and the private thru-road connections with Sanders and Market Place Boulevard. Adjacent property zoning is INST and future land use designation for this, and adjacent properties, is Office Professional (OP), therefore; this rezoning request is in conformance with the City's Comprehensive Plan.

The Planning Commission held a public hearing on December 16, 2023 and there was public comment from neighbors, concerned about the development buffers separating them. The applicant has provided an updated landscape plan to address these concerns. The Board then voted unanimously to recommend approval of this rezoning, with the revised conditions provided, and including the requested variances.

A motion was made by Jason Evans and seconded by Joey Cochran to open the public hearing. The motion carried 4-0 with Christopher Light absent. Representing the applicant was Mr. Sean Courtney with Lipscomb Johnson, LP and Mr. Cameron Swengel with the developer, Smith/Packett. Mr. Swengel explained that plans were to develop a 4-story Senior Living Community with 100 Independent Living units, 60 Assisted Living units and 30 Memory Care units. The facility operator would be Harmony Senior Services.

Among the adjacent property owner's concerns were the increase in traffic and noise. A motion was made by Jason Evans and seconded by Chad Crane to close the public hearing. The motion carried 4-0 with Christopher Light absent. A motion was made by Joey Cochran and seconded by Jason Evans to postpone any action on Rezoning Request #2023264 for Forsyth IL-AL Investors, LLC. until the March 5 Work Session. The motion carried 4-0 with Christopher Light absent.

4. Annexation Application #2023265- Horizon Christian Academy (Public Hearing):

Planning Director Scott Morgan read into the record the following staff report: *The owner has made application, to the proper authorities, to annex 32.985 acres, more or less, and rezone from County Single-Family Residential (R1) to City Institutional (INST). The subject property, 1270 Sawnee Drive, Cumming, Georgia 30040, is the location of private Christian school, known as Horizon Christian Academy. The owner has no plans to alter the existing use.*

Given the subject property is not within the corporate limits, it is not depicted on the City's Future Land Use Map. However, directly adjacent zoning/future land use across Sawnee Drive is designated as Public Institutional and Low-Density Residential on the City's Future Land Use Map. Therefore, this rezoning, upon annexation, would be in conformance with the City's Comprehensive Plan.

The Planning Commission held a public hearing on January 16 and there was public comment, regarding school traffic on Sawnee Drive. They then voted unanimously to recommend approval of the annexation/rezoning, absent County objection.

Forsyth County has officially objected to the proposed annexation/rezoning (enclosed) and this matter will be addressed in arbitration between the County and the owner. The owner's attorney has also included County CUP conditions and variances, as approved by the BOC in 2023, which the owner has agreed to comply with and incorporated into their annexation/rezoning request to the City of Cumming (enclosed).

After the public hearing, Council may vote to deny the annexation/rezoning, however; a vote to approve the annexation/rezoning cannot be made, until the arbitration process is complete.

A motion was made by Susie Carr and seconded by Joey Cochran to open the public hearing. The motion carried 4-0 with Christopher Light absent. Representing the applicant was Mr. Ethan Underwood with Miles Hansford, LLC. Mr. Underwood explained that Horizon Christian Academy requests to be annexed into the City of Cumming and rezone the property from Single Family Residential District (R1) (County) to Institutional District (INST) (City) with the conditions already in place by the Forsyth County Board of Commissioners.

Public comments were made regarding the school traffic on Sawnee Drive. A motion was made by Jason Evans and seconded by Chad Crane to close the public hearing. The motion carried 4-0 with Christopher Light absent. A motion was made by Jason Evans and seconded by Joey Cochran to postpone any decision on Annexation Application #2023265-Horizon Christian Academy until the March 5th, 2024 Work Session. The motion carried 4-0 with Christopher Light absent.

5. Resolution- Annexation Conditions: City Attorney Kevin Tallant presented a

Resolution stating that: *“the City of Cumming considers this resolution in the hope that Forsyth County will withdraw its objection to the annexation of Horizon Christian Academy, will avoid the unnecessary cost and expense to the taxpayers of Forsyth County for an arbitration panel to determine what conditions, if any would be placed on the annexation, and will thus allow the City to take a vote on whether it desires to annex the subject property.”* After further discussion, a motion was made by Jason Evans and seconded by Chad Crane to approve the resolution. The motion carried 4-0 with Christopher Light absent.

C. Cumming Police: 1. Report of Quotes- Patrol Vehicle: The Cumming Police

Department reported the following quotes for the proposed Patrol Vehicle:

Wade Ford:	\$47,500.00
Brannen Ford:	\$55,000.00
Akins Ford:	\$49,500.00

The Police Department recommends accepting the low quote by Wade Ford. The plan is to outfit the vehicle with funds from the Police Foundation.

A motion was made by Chad Crane and seconded by Susie Carr to approve the quote for the 2022 Ford Expedition Patrol Vehicle from Wade Ford in the amount of \$47,500.00.

The motion carried 4-0 with Christopher Light absent.

D. Utilities: Settlement Agreement with GDOT- Highway 9 South Water Line:

Utilities Director Jon Head explained that GDOT had plans to widen Highway 9 South from Highway 20 near Burger King to Highway 141. The City has several hundred feet of water line along this roadway which will be in conflict with the proposed road widening project. The GDOT has agreed to pay the City of Cumming \$1,178,948.25 in settlement for our existing water line easements along Highway 9 South. A motion was made by Jason Evans and seconded by Joey Cochran to authorize Mayor Brumbalow to sign the Settlement Agreement with GDOT for the Highway 9 South Water Line. The motion carried 4-0 with Christopher Light absent.

IX. Announcements: none

X. Executive Session: Mayor Brumbalow stated there a need for Executive Session to discuss acquisition of real property. A motion was made by Chad Crane and seconded by Jason Evans to recess into Executive Session. The motion carried 4-0 with Christopher Light absent.

After a brief Executive Session, a motion was made by Chad Crane and seconded by Jason Evans to reopen the regular meeting. The motion carried 4-0 with Christopher Light absent.

XI. Adjourn: A motion was made by Jason Evans and seconded by Chad Crane to adjourn the meeting. The motion carried 4-0 with Christopher Light absent.

Approved this 5th day of March, 2024.

Mayor

Councilmember

Councilmember

Councilmember

Councilmember

Attest:

City Clerk

Councilmember