



Meeting Minutes - Final
City Council

Tuesday, January 16, 2018

7:00 PM

Council Chambers

Roll Call

Present: 7 - Mayor Max Bacon, Councilmember Derek Norton, Councilmember Maryline Blackburn, Councilmember Charles Welch, Councilmember Susan Wilkinson, Councilmember Doug Stoner and Councilmember Ron Fennel

Absent: 1 - Councilmember Andrea Blustein

Also Present: 12 - Tammi Saddler Jones, Scott Cochran, Scott Andrews, Terri Graham, Ken Suddreth, Russell Martin, Joey Staubes, Ashley Youmans, Lisa Moore, Scott Stokes, Davi Santos and Chris Addicks

Call to Order

Mayor A. Max Bacon called the meeting of the Mayor and Council to order at 7:05 PM.

1. Invocation and Pledge:

Mayor Max Bacon called Pastor Brian Downing of Oakdale Church of God, located at 1631 Cooper Lake Road in Smyrna, Georgia who provided the invocation and led all in the Pledge of Allegiance.

2. Agenda Changes:

The Mayor announced that Item 4-B on the agenda would be tabled to the February 5, 2018 meeting.

3. Mayoral Report:

The Mayor asked Assistant City Administrator Scott Andrews to introduce the City's exchange student interns, Charlotte and Maelle from Lyon, France. They will be with the city for about two months. They are very talented in Graphic Design and Marketing.

Mayor Bacon announced that Councilmember Andrea Blustein was unable to attend the meeting due to personal issues.

4. Land Issues/Zonings/Annexations:

- A. **Public Hearing** - Zoning Request Z17-013 - Rezoning from R-15 to RAD-Conditional for the development of four single-family residences at a density of 3.39 units per acre - 1.18 Acres - Land Lot 593 - 1505 & 1515 Spring Street - Neighborhood Commercial, LLC

Sponsors: Blackburn

The Mayor called on City Administrator, Tammi Saddler Jones to give the background on the zoning request. Neighborhood Commercial Holdings, LLC is seeking rezoning from R-15 to RAD-Conditional for the development of four new single-family homes at density of 3.39 units per acre. This item was tabled from the September 11, 2017 Planning and Zoning Board Meeting to the October 9, 2017 meeting due to Tropical Storm Irma. The zoning item was heard at the October 9, 2017 Planning and Zoning Board Meeting and was recommended for denial by a vote of 5-1. Community Development has recommended approval of the proposed rezoning for 1505 and 1515 Spring Street with conditions.

Mayor Bacon called for a Public Hearing and asked anyone who wanted to speak to come forward. All who wanted to speak were sworn in by City Attorney Scott Cochran.

Councilmember Maryline Blackburn called Community Development Director, Ken Suddreth to give the details of the request. Mr. Suddreth stated that Community Development recommended approval of the rezoning, but the Planning and Zoning Commission recommended denial of the request. The Zoning Map, Future Development Map, and the Proposed Site Plan showing the requested setback, the stormwater detention plan and the open space where shown. Mr. Suddreth also referenced a map of private streets without public frontage in the city. This has been done in the City and in Williams Park previously. He showed the proposed streetview, proposed home elevations and pictures of the current property and adjacent properties. Staff recommended approval with following conditions:

Standard Conditions

(Requirements #2, 8 and 17 from Section 1201 of the Zoning Code are not applicable)

1. *The composition of the homes in a residential subdivision shall include a mixture of elements including; but not limited to: brick, stone, shake, hardy plank and stucco. No elevation shall be comprised of 100% hardy plank siding. The residences whose lots abut external roadways shall not be permitted to utilize hardy plank for any elevation facing these roads.*
2. *There shall be protective covenants with a mandatory homeowners association on all lots. These protective covenants shall be supplied to the City prior to the issuance of a building permit.*
3. *The developer shall provide at least 200 square feet of common space per lot. This common space shall be developed with improvements for the residential subdivision such as: gazebos, fountains, recreational/playground equipment or walking trails. The common space shall be controlled and maintained by the Homeowners Association.*
4. *The detention pond shall be placed and screened appropriately to be unobtrusive to homes inside and outside the development. The storm water detention plan shall be designed to create at least a 10% reduction in a 2-year to 100-year storm event. The City Engineer shall approve all plans.*
5. *All utilities within the development shall be underground.*
6. *The developer shall be responsible for any traffic improvements (including additional right-of-way dedications) deemed necessary by either the City or the County during construction plan review. Sidewalks shall be provided by the developer inside the subdivision and outside the subdivision adjacent to any public right-of-way consistent*

with City's requirements for the extent of the development. A grass buffer with a minimum width of 2' shall be provided between the back of curb and sidewalk. The grass buffer may be waived if it is deemed unnecessary by the City Engineer.

7. A strip of brick pavers or stamped concrete shall be installed on the street at the subdivision entrance for a minimum distance of 20 feet.

8. The development of any streets (including private) shall conform to the city's standards for public right-of-ways.

9. No debris may be buried on any lot or common area.

10. The developer will install decorative streetlights within the development, subject to approval by the city engineer. Utilization of low intensity, environmental type lighting, the illumination of which shall be confined within the perimeter of the subject property through the use of "full-cutoff lighting".

11. The developer will comply with the City's current tree ordinance (unless noted elsewhere). All required tree protection measures shall be adhered to by the developer during construction.

12. All landscape plans must be prepared, stamped, and signed by a Georgia Registered Landscape Architect for any common areas or entrances.

13. All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.

14. All single-family and/or duplex residential lots shall provide the following at the time of certificate of occupancy: either four 3" caliper trees or three 4" caliper trees, unless otherwise approved by the City's Arborist. The following species of trees may be used: Nuttall Oak, Swamp Chestnut Oak, Allee Elm, and Village Green Zelkova. Other species may be used if approved by the City.

Special Conditions

15. The development shall maintain the following setbacks: Front - 20'; Side - 5' with a minimum of 10' between buildings; Rear - 30'

16. The development shall be developed with a minimum lot size of 9,080 square feet.

17. The proposed homes shall have a minimum floor area of 1,800 sq. ft.

18. The driveways shall have a minimum length of 22' from building face to edge of Private Street. Each unit shall have a two-car garage.

19. The final plat for the development shall include a right-of-way dedication of 5' along Springs Street.

20. The developer shall provide a 10' landscape buffer along the northern property boundary in accordance with Section 503 of the Zoning Ordinance.

21. A new 5' sidewalk with 2' grass buffer shall be constructed along both Spring Street and the new private street.

22. The private street shall have a minimum width of 26' back of curb to back of curb.

23. The applicant shall work with the City Engineer to remedy any sight distance issues along Spring Street. The applicant shall be responsible for any improvements deemed necessary by the City Engineer.

24. The developer shall be responsible for any water and sanitary sewer improvements deemed necessary by the Public Works Director during construction plan review.

25. The developer shall be responsible for any fire access improvements deemed necessary by the Fire Marshal during construction plan review.

26. The developer shall provide a 50' public access & utility easement over the private street for water and sanitary sewer services. All water and sanitary sewer mains must be located within this utility easement.

27. No stormwater management facility or portion thereof shall be located on any portion of the proposed lots. The stormwater management facilities shall be solely located on the HOA's property.

28. All trees within the limits of disturbance and not located within a tree protection area must be removed during the land clearing and grading phase of the development.

29. The developer shall create deed covenants for the private street in which the ownership, maintenance, and utilization are the shared responsibility of the HOA. These covenants must be supplied to the City prior to the issuance of a building permit.

30. The home adjacent to Spring Street shall have the front of the home on Spring Street.

31. The private street shall not be gated.

32. Approval of the subject property for the Residential Attached Detached (RAD) zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan submitted 9/26/2017 created by BH & D Engineering. The Community Development Director shall review and approve all minor changes and revision to the site plan during the plan review process.

33. The applicant shall be bound to the elevations submitted and dated 9/26/2017. Approval of any change to the elevations must be obtained from the Director of Community Development.

34. The approval of the rezoning is subject to the stipulations agreed upon by the applicant in the letter submitted and dated September 26, 2017 by Garvis Sams with Sams, Larkin, and Huff, LLP. If there should be a discrepancy between the stipulations in the September 26, 2017 letter and the stipulations stated above, the stipulations stated above shall apply.

The Mayor asked for the applicant to come forward. Mr. Garvis Sams with Sams, Larkin, and Huff, LLP came forward to represent the applicants; the applicants were also present to answer any questions. Mr. Sams discussed the request which he stated is similar to other developments in the City. The property is 1.18 acres on the north side of Spring Street. The proposed rezoning is for four single family detached homes, ranging in price points of approximately \$650,000 to \$720,000. These are

custom built homes. He referred Council to the handout that he presented the Councilmembers. He discussed the other RAD-Conditional homes in the community which are contiguous to this property. This is moderate density on the Future Development map.

Mr. Sams discussed the differences in the 2015 zoning request and the current request on this property. The size of the property is smaller, the density is lower, the selling price point is higher and the architecture is different. Lot one is oriented toward Spring Street, and is designed to be four-sided architecture as a request from residents of the neighborhood. The 2015 zoning request sought to use the open space and detention facility of the adjoining properties; this request has those items included on the property. The original request was discussed with the previous Ward Councilmember over a year ago. Mr. Sams acknowledged that there are contentions about the development from the neighborhood based on the 2015 zoning request. Mr. Sams stated that the main difference is in the quality of the homes. The square footage is larger and along with the architecture make these homes sell for a greater price.

Mr. Sams' client purchased the property on February 11, 2017 based on conversations with the previous Ward Councilmember and with staff. Mr. Sams stated the sale was not contingent on a rezoning, but was based on the fact that a governing authority does not have the constitutional latitude to ignore its future land use plan, does not have the latitude to ignore its comprehensive land use plan nor ignore the recommendations of professional staff. The property owner asks that Council follows the staff recommendations and its land use plans. His client is agreeable with all stated conditions and asked that the request be granted.

The Mayor called anyone who was sworn in to come forward to speak. Lemuel Ward, of 1496 Spring Street came forward. He lives across the street from the property. He stated that this is important in the 12 year effort to make Williams Park one of the premier residential neighborhoods in the state. Mr. Ward presented the Council with a letter that would protect his legal rights to defend this decision. Mr. Ward asked for equal time to speak as Mr. Sams had. He believed that the requester could build three homes on the property without changing the zoning on the property. He stressed the importance of the matter to this particular neighborhood. This is different from other similar requests, because they did not use a dead end alley, stacked on a non-city owned street. The city code requires frontage on a street, either private or public. This street is not up to city code. This is not in accordance with the comprehensive land use plan. He believed that the Council is required to uphold its zoning codes. He is concerned about the 2-3 car garages; he believed that twelve cars using the proposed street will be a problem. He objected to the alley being called a private street. He seeks to protect the value of his home. He believed that if this is passed, it will increase the number of people with deep lots who seek to do the same kind of development. The comprehensive plan is designed to reduce the number of uses of conditional zoning; passing this request will not accomplish this.

Keith Bentley, an eleven year resident of Williams Park, who lives on Gilbert Street, also came to speak to Council. Many people have worked hard on improving the neighborhood. He believed this neighborhood is one of the most desirable ones in the area. He does not object to redevelopment of this property, he objects to the way it is proposed to be developed. This has been turned down by the Planning and Zoning Commission twice. He acknowledged the differences in this proposal and the one in 2015. The objection is the alley. He believed that the property owners can sale three homes on this property for the same price and make a profit. This was done not too

far from this property and the homes all sold before they were finished.

Ron Davis of 1351 Roswell Street addressed the Council. He moved to Williams Park in 1990. He agreed with Mr. Ward's legal assessment that this development does comply with the City Code. His opinion is that there should only be two or three homes on the property facing Spring Street. He believed this is a money making attempt by someone who does not live in the neighborhood to build as many homes as possible. This will set a precedent that the neighborhood does not agree with. There are no other developments in the neighborhood that front an alleyway. The applicant can make money by building fewer homes and help the neighborhood. It also does not comply with the LCI which promotes walkable streets; a dead end alley does not promote this. Mr. Davis noted that the Ward 3 Planning and Zoning Boardmember was not present at the last meeting, but she has acknowledged that she was not in favor of the development. There are a lot of deep lots in the neighborhood and he believed if passed, there will be more requests for this type of development.

Will Newton of 1533 Spring Street came forward to speak. He lives adjacent to this property to the east. If there is a precedent for this type of development, this is an opportunity to stop the overdevelopment. This is opposite of the desire of the neighborhood.

Councilmember Welch asked a question of Mr. Ward. Mr. Welch said the Council has heard the legal side from the City Attorney. He acknowledged that Mr. Ward has more to lose or gain from this development, and asked if he'd really rather look at three narrow lots than this proposal. Mr. Ward stated that if three narrow lots were developed fronting Spring Street, even with conditional zoning, he would not be opposed to it. He is opposed to a dead end alley with four large homes on it. He is not generally in favor of conditional zoning, and may speak against three lots, but if the right design is presented, he would be in favor.

Mayor Bacon closed the Public Hearing and called on Councilmember Blackburn to speak. Ms. Blackburn stated she had heard some compelling arguments, and believes in smart development.

Councilmember Susan Wilkinson stated that she did not hear enough about the developments which were called similar; so she did not know if they were on streets or alleyways. She expressed concerns about having homes facing a private drive that looks like it is 20' wide, which is not to City Code. She also expressed concern about the precedent of using a narrow street for utility and fire equipment.

A motion was made by Councilmember Maryline Blackburn to deny Zoning Request Z17-013, a Rezoning from R-15 to RAD-Conditional for the development of four single-family residences at a density of 3.39 units per acre on 1.18 Acres in Land Lot 593 located at 1505 & 1515 Spring Street by Neighborhood Commercial, LLC; seconded by Councilmember Susan Wilkinson.

The Mayor asked for clarification on the Council's vote from City Attorney Scott Cochran. Mr. Cochran stated that the motion was to deny the request, so if Councilmembers wanted to agree to the denial, they should vote "aye". The Mayor called for a second vote. The vote was tied, the Mayor voted to approve the motion to deny the request. The motion to deny the zoning request carried by the following vote:

Aye: 4 - Mayor Bacon, Councilmember Norton, Councilmember Blackburn and Councilmember Wilkinson

Nay: 3 - Councilmember Welch, Councilmember Stoner and Councilmember Fennel

Absent: 1 - Councilmember Blustein

B. Public Hearing - Zoning Request Z17-019 - Special Land Use Permit for the installation of a cell tower - 2.8 Acres - Land Lot 634 - 1700 Roswell Street - Verizon Wireless.

Sponsors: Blackburn

A motion was made by Councilmember Maryline Blackburn to table Zoning Request Z17-019 for a Special Land Use Permit for the installation of a cell tower on 2.8 Acres in Land Lot 634 located at 1700 Roswell Street by Verizon Wireless. This item will be tabled to February 5, 2018. The motion was seconded by Councilmember Derek Norton.

The motion to table the permit carried by the following vote:

Aye: 6 - Councilmember Norton, Councilmember Blackburn, Councilmember Welch, Councilmember Wilkinson, Councilmember Stoner and Councilmember Fennel

Absent: 1 - Councilmember Blustein

C. Public Hearing - Zoning Request Z18-001 - Modification of currently approved site plan and building elevations for commercial buildings on Pod B of the Belmont Redevelopment Project - 1.123 Acres - Land Lot 490 - Northwest corner of the intersection of Atlanta Road and Belmont Boulevard - Halpern Enterprises, Inc.

Sponsors: Blackburn

City Administrator Tammi Saddler Jones gave the background on the request. Halpern Enterprises is requesting a redesign of commercial/retail buildings on POD B of the Belmont Redevelopment Project. The original zoning of the property zoned POD B to a specific site plan, which reflected 11,000 sq. ft. of commercial/retail in two buildings along Atlanta Road with an open plaza area between the buildings. Halpern Enterprises is proposing to combine the two proposed buildings into one building by eliminating the plaza area and relocating the outdoor dining areas to the ends of the building and locating a service court for dumpsters and mechanicals in the center of the building. In addition, Halpern Enterprises is requesting to increase the floor area of the building by 1,000 sq. ft. to 12,000 sq. ft. total. The proposed change will allow Halpern Enterprise to address grade/elevation changes on the site and improve the building orientation to Atlanta Road. Community Development recommended approval with conditions.

The Mayor called for a Public Hearing and no one came forward to comment.

Community Development Director Ken Suddreth showed the map of the property which is Pod B of the Belmont Development. There is no change in zoning or future development. The current site plan had a courtyard in the center of two buildings planned. The applicant asked to change the plans and move the two buildings together with the two courtyards on the end of the building. The center would house the service/dumpster area. The parking lot would not change. There is a problem with elevation change. There will be a retaining wall, but this change in building design will lessen the height of the wall. Staff recommended approval with the conditions that were previously agreed to, with changes to reflect the change in the building. These conditions are as follows:

1. *The rezoning is subject to the stipulations agreed upon by the applicant in the letter submitted and dated January 20, 2009 by Kevin Moore with Moore, Ingram, Johnson and Steele, LLP.*
2. *The approval of the zoning amendment shall be in substantial conformity to the zoning plan submitted on August 10, 2012, titled Belmont Zoning Plan and created by Halpern Enterprises, Inc. (Replace stipulation #2 in the letter above.)*
3. *The approval of the zoning amendment shall be in substantial conformity to the road cross sections submitted on August 10, 2012, titled Belmont Road Sections and created by Halpern Enterprises, Inc. (Replace stipulation #A (4) in the letter above.*
4. *The approval of the zoning amendment and the development of Pods "C" and "D" shall be in substantial conformity to the site plan submitted on January 17, 2014, titled "Belmont Hills Pods C and D" and created by Ridge Planning and Engineering.*
5. *The approval of the zoning amendment and building elevations for the homes in Pods "C" and "D" shall be in substantial conformity to the building elevations submitted on January 17, 2014, titled "David Weekly Homes at Belmont Hills" and created by Caldwell & Cline Architects and Designers.*
6. *The minimum floor area for the homes in Pods "B", "C" and "D" shall be 1,500 square City of Smyrna Page 2 Printed on 1/12/2018 File Number: 2018-29 feet.*
7. *The approval of the zoning amendment and the development of Pod "B" shall be in substantial conformity to the site plan submitted on June 29, 2017, titled "Zoning Plan for David Weekly Homes" and created by Northpoint Land Surveying.*
8. *The approval of the zoning amendment and building elevations for the homes in Pod "B" shall be in substantial conformity to the building elevations submitted on May 3, 2017, titled "David Weekly Homes at Belmont - POD B".*
9. *The developer shall be responsible for any traffic improvements (including additional right-of-way dedications) deemed necessary by the City Engineer during construction plan review.*
10. *The developer shall be responsible for any water and sanitary sewer improvements deemed necessary by the Public Works Director during construction plan review.*
11. *The developer shall be responsible for any fire access improvements deemed necessary by the Fire Marshal during construction plan review.*
12. *The developer will be required to relocate the water main along the northern access road to 4' behind curb of the access road to prevent any private improvements (i.e. patios, porches, accessory structures, fences...) being located within 10' of the water main. No improvements shall be located within 10' of the water main.*
13. *The northern access road shall be a public road and dedicated to the City. The development of any streets (including private) shall conform to the city's standards for public right-of-ways.*
14. *The developer shall provide parallel parking along the northern access road for the length of the development.*

15. The Fire Marshal's office shall review all plans for the gated entrances prior to the issuance of a Land Disturbance Permit (LDP).

16. The rear yards of lots #41 to #59 of POD B shall be prohibited from being fenced or enclosed. Screening walls shall be permitted on either end of the home per the zoning exhibit submitted by the applicant on 7/13/2017. The screening walls shall be limited to a maximum height of 6' and shall not extend further than 8' from the home. These screening walls shall not be connected in any way to enclose the backyards of the homes.

17. The approval of the zoning amendment and the development of the commercial portion of Pod "B" shall be in substantial conformity to the site plan submitted on December 15, 2017, titled "Belmont - Buildings 5 & 6" and created by Atwell.

Item 17 reflected the change in the conditions of the zoning request.

Mr. Kevin Moore, on behalf of Halpern Enterprises came to the podium to discuss the request. The current site plan has the building with too much length and cannot accommodate the 10% grade change on the side that fronts Atlanta Road. This shortens up the length of the building and will make the building grade level. This does not change the proposed use.

Councilmember Fennel asked how much this change would delay the timeline of the project. Mr. Moore stated it will add about 3 weeks to the timeline to submit the plans. Mr. Fennel thanked Halpern for their continued support of the Smyrna area.

A motion was made by Councilmember Maryline Blackburn to approve Zoning Request Z18-001 for a Modification of currently approved site plan and building elevations for commercial buildings on Pod B of the Belmont Redevelopment Project on 1.123 Acres in Land Lot 490 located on the Northwest corner of the intersection of Atlanta Road and Belmont Boulevard by Halpern Enterprises, Inc.; seconded by Councilmember Charles Welch.

The motion to approve the zoning request carried by the following vote:

Aye: 6 - Councilmember Norton, Councilmember Blackburn, Councilmember Welch, Councilmember Wilkinson, Councilmember Stoner and Councilmember Fennel

Absent: 1 - Councilmember Blustein

D. Public Hearing - Appeal the denial by the License and Variance Board for V17-054 - Allow accessory structure in front yard of commercial property - 4.95 acres - Land Lot 345 - 2552 S Cobb Drive - SunTrust

Sponsors: Wilkinson

The Mayor called for the City Administrator to provide the background on the appeal. The applicant is requesting a variance for the placement of a free standing Automated Teller Machine (ATM) at 2552 South Cobb Drive. The proposed location of the ATM will be in the front of the property, in the parking lot 50 feet from the front property line, however the canopy will extend within the front setback. Per Section 501.2 of the Zoning Ordinance, accessory structures are prohibited in the front or side yards. The License and Variance Board denied the request (3-0) at the November 8, 2017 hearing. The applicant is appealing that decision. After a review of the standards of Community Development believes that there is no justifiable hardship for the accessory structure

in the front yard and approval would set a negative precedent; therefore, staff recommends denial.

Councilmember Doug Stoner recused himself from the discussion and the vote because he is a property owner of an adjacent property. He left the dais and the Council Chambers.

The Mayor asked anyone who wished to speak on this appeal to come forward to be sworn in by the City Attorney. Mr. Cochran swore in the applicants.

Councilmember Wilkinson asked the applicant to explain the request. Dionne Edwards, a manager for SunTrust Bank stated they want to appeal the denial by the License and Variance Board. They previously had a branch location in the nearby Publix, which has closed, would like to place this ATM to serve their customers that used the Publix facility. It would benefit merchants in the shopping center. The applicant believed the Wells Fargo ATM McDonalds on South Cobb Drive set the precedent for approval of a remote location. The parking lot is about 45,000 square feet of retail, which would require 202 parking spaces. It currently has 162 spaces, but the landlord is willing to restripe the lot to come closer to the required parking spaces which would increase the parking by about 30 spaces.

Mayor Bacon stated he didn't know there was an ATM at the McDonalds. He also asked about crime associated with ATMs. She stated there are some areas where crime is an issue, but other areas it is not an issue. SunTrust uses a rating system for crime statistics, this rating is taken into consideration when SunTrust decides to put in an ATM.

Councilmember Ron Fennel asked if there is a Wells Fargo bank in the McDonalds shopping center. There is not.

The Mayor asked City Attorney Scott Cochran about whether the Wells Fargo ATM set precedence. Mr. Cochran said that this should be looked at on its own merit. It is not improper to look at precedent, but it should be looked at whether or not it is a hardship sufficient to have this relocated site.

Councilmember Susan Wilkinson asked if the ATM was inside the Publix, applicant said it was a full service branch with an ATM. Ms. Wilkinson asked Ken Suddreth about the Wells Fargo ATM. Mr. Suddreth stated that the ATM was considered with the redevelopment of the shopping center. She asked if extra parking spaces are necessary. He stated the updated parking space count is part of the proposal and that providing the extra spaces is up to the shopping center.

Councilmember Fennel asked if this would interfere with the planned future development of the South Cobb Drive corridor plans. Mr. Suddreth didn't think it does.

Councilmember Charles "Corkey" Welch stated that the Wells Fargo had a site on there before it was redeveloped and that is why they placed the ATM there. He asked about the restriping, it appeared that some of the restriping would be on an adjacent lot. He also asked what the barrier for the site was. Mr. Andrew Gonzalez, with SunTrust engineering department stated there would be bollards adjacent to the drive through to protect any parked. As far as the adjacent lot, they would have to get permission from that owner to restripe the lot. If it is not allowed, it would reduce the number of parking spaces.

Mr. Steve West of Halpern Enterprises stated that the shopping center is not under parked and hasn't been for many years. The only reason to restripe would be just to fit closer into the code. It has plenty of parking spaces. The property also had two outparcels in the past, now this is just one.

Mr. Welch said he'd rather see the parking lot stay the way it is because it is easier to navigate the way it is. Ms. Wilkinson agreed. She asked if they could work with Community Development to have a better parking plan to help with the flow.

Mr. Suddreth reminded that they will have to get a site plan which will be reviewed and approved for function by staff.

A motion was made by Councilmember Susan Wilkinson to approve the appeal of the denial by the License and Variance Board for Variance Request V17-054 to allow accessory structure in front yard of commercial property on 4.95 acres in Land Lot 345 at 2552 S Cobb Drive by SunTrust Bank; seconded by Councilmember Maryline Blackburn.

The motion to approve the variance request carried by the following vote:

Aye: 4 - Councilmember Blackburn, Councilmember Welch, Councilmember Wilkinson and Councilmember Fennel

Nay: 1 - Councilmember Norton

Absent: 1 - Councilmember Blustein

Recuse: 1 - Councilmember Stoner

E.

Public Hearing - Appeal the denial by the License and Variance for Variance Board Request - V17-058 - Allow parking of 11,000 lb commercial vehicle on residential property - 0.59 acres - Land Lot 554 - 3624 Lee Street - Rob Wagner

Sponsors: Stoner

Ms. Saddler Jones provided the background. A. Wagner Plumbing is requesting a variance to park an 11,000 lb. commercial vehicle at his residence. Section 80-3 prohibits parking of commercial vehicles above 10,000 lb. Section 80-3 of the Smyrna Code limits the parking of a vehicle weighing more than 10,000 pounds upon residential property or residential street. Originally zoning code restricted vehicles to 6,000 lbs. and below, but was amended in 2005 to allow up to 10,000 lb. The License and Variance Board denied the request (3-0) at the December 13, 2017 public hearing. The applicant is appealing that decision. Staff recommends denial of the requested variance as no unique hardship has been identified and no similar variances have been approved.

The Mayor called for a Public Hearing and no one came forward to speak. Mr. Cochran swore in the applicant, Mr. Rob Wagner. Community Development Director Ken Suddreth discussed the variance request. The truck's weight exceeds the ordinance's limits. He stated the department got requests of this type often. It is an ordinance issue, and that is why it is before Council. Mr. Suddreth showed pictures of the property, which is a corner lot. Staff and License and Variance recommended denial.

Councilmember Fennel asked if the vehicle was in the picture shown. Mr. Suddreth stated it was not and there was not a picture. Mr. Fennel asked if the vehicle was

weighed, and Mr. Suddreth said it was not. There is a chart based on size that is used to determine the weight and this vehicle was over the limit.

Councilmember Welch asked if this citation was based on a complaint or observed by the Community Development Marshals. It was observed by the Marshals.

Councilmember Wilkinson asked if Community Development receives complaints about this type of violation. Mr. Suddreth said that they do.

Councilmember Stoner asked if the business owner has a current business license in Smyrna. Mr. Suddreth did not research that information, but assumes that he does.

The Mayor called Mr. Wagner to come forward to discuss his appeal. Mr. Wagner has been in business as A. Wagner Plumbing for 11.5 years with a current business license since 2006. He operates this business from his home. He is asking to be able to park his work truck at his home as he does not have anywhere else to park it. The truck is crucial to his business as it houses all his equipment and 24 hour access to it is important because he runs a 24 hour a day operation. This business is his family's sole source of income. He lives on two lots and the truck sits in the back of the home. Mr. Wagner presented pictures of the property and truck to the Council.

The Mayor asked about the wooded fencing shown on the property. The applicant said the truck would be parked behind the fence and he has added a gate to the fence.

Mr. Welch asked if Mr. Wagner had gotten any complaints from his neighbors and he said he had not. He actually does most of their plumbing. He asked if he could put lighter box on the same truck and then weigh in under the 10,000 limit. Mr. Wagner said he probably could.

Mr. Stoner asked if the gate and fence would hide the truck. It would cover most of the truck, but one could see the top of the truck. Mr. Wagner has lived in the home for 16 years and parked the truck there for over 11 years. Mr. Stoner stated that it is a violation of the code, but he understands the situation. Mr. Stoner asked if he had ever had gotten permission to park the truck, and he was told he could. They did not talk about the truck's size. There is nothing documented about this conversation. Mr. Stoner felt there are some hardship issues in this situation.

The City Attorney said that in the ordinance, the weight is determined by the weight rating of the truck.

A motion was made by Councilmember Doug Stoner to approve the appeal the denial by the License and Variance for Variance Board Variance Request V17-058 to allow parking of 11,000 lb commercial vehicle on residential property on 0.59 acres in Land Lot 554 located at 3624 Lee Street by Rob Wagner; seconded by Councilmember Ron Fennel.

The motion to approve the variance request appeal carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blackburn, Councilmember Welch, Councilmember Stoner and Councilmember Fennel

Nay: 1 - Councilmember Wilkinson

Absent: 1 - Councilmember Blustein

5. Privilege Licenses:

There were no Priviledge License requests.

6. Formal Business:

There was no Formal Business.

7. Commercial Building Permits:

There were no Commerical Building Permits.

8. Consent Agenda:

A motion was made by Councilmember Charles "Corkey" Welch to approve the Consent Agenda as read aloud by City Administrator Tammi Saddler Jones; seconded by Councilmember Derek Norton.

The motion to approve carried by the following vote:

Aye: 6 - Councilmember Norton, Councilmember Blackburn, Councilmember Welch, Councilmember Wilkinson, Councilmember Stoner and Councilmember Fennel

Absent: 1 - Councilmember Blustein

A. Approval of the January 2, 2018 Mayor and Council Meeting Minutes

Sponsors: City Council

B. Approval of January 2, 2018 Pre-Council Meeting Minutes

Sponsors: City Council

C. Approval of the December 28, 2017 Committee of the Whole Meeting Minutes

Sponsors: City Council

D. Award Walker Court Drainage Project to the lowest quote Tucker Grading and Hauling for \$36,879.75 and authorize the Mayor to execute any related documents.

Sponsors: Welch

E. Award RFP 18-007 Pat Mell Storm Drainage Improvements to the lowest bidder D&H Construction Company for \$204,646.75 and authorize the Mayor to execute any related documents.

Sponsors: Welch

F. Approval for Atkins Park Tavern to extend premises for Smyrna OysterFest January 27- 28, 2018

Sponsors: Blackburn

9. Committee Reports:

Councilmember Norton had no report.

Councilmember Blackburn stated that she and Councilmember Wilkinson attended the Cobb County NAACP's Martin Luther King Day celebration at Turner Chapel. She also offered her condolences to Turner Chapel the death of Dr. Marcus.

Councilmember Welch reminded about the Keep Smyrna Beautiful pickup, weather permitting, on Saturday 20 at 9:00 am at the Recycling Center.

Councilmember Wilkinson spoke about the Smyrna Strategic Vision Planning meeting on January 17. On January 23, there is a public engagement session about things that can be done to help citizens with disabilities.

Councilmember Stoner had no report.

Councilmember Fennel expressed his condolences to the family of former employee Jerry Jacobs. He also reminded citizens to be careful driving in the snow.

City Administrator Tammi Saddler Jones announced the second public input meeting of the North Cooper Lake Park Mountain Bike conceptual plan on January 25 at the Community Center. She encouraged the public to attend.

The Mayor thanked IT Department Director Chris Addicks for filling in to video the Council meeting.

10. Show Cause Hearings:

There were no Show Cause Hearings.

11. Citizen Input:

There was no Citizen's Input.

12. Adjournment:

Mayor A. Max Bacon adjourned the meeting of the Mayor and Council at 9:08 PM.