



# City of Smyrna

A. Max Bacon City Hall  
Council Chambers  
2800 King Street SE  
Smyrna, GA. 30080

## Meeting Minutes - Final City Council

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Monday, May 17, 2021

7:00 PM

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2800 King St SE, Smyrna Ga. 30080

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### Roll Call

**Present:** 7 - Mayor Derek Norton, Councilmember Glenn Pickens, Councilmember Austin Wagner, Councilmember Charles Welch, Councilmember Susan Wilkinson, Councilmember Tim Gould and Councilmember Lewis Wheaton

**Absent:** 1 - Councilmember Travis Lindley

**Also Present:** 1 - Scott Cochran

**Staff:** 15 - Joe Bennett, Penny Mocer, Heather Peacon-Corn, Chris Addicks, Tyler Addison, Julie Barwig, Jennifer Bennett, Dan Campbell, Dat Luu, Russell Martin, Tina Monaghan, Landon O'Neal, Kristin Robinson, Joey Staubes and Keith Zgonc

### Call to Order

Mayor Derek Norton called to order the May 17, 2021 meeting of the Mayor and Council at 6:00pm.

### 1. Invocation and Pledge:

Pastor Brian Downing of Oakdale Church of God located at 1631 Cooper Lake Road, offered the invocation and led all in the Pledge of Allegiance.

### 2. Agenda Changes:

There were no Agenda Changes.

### 3. Mayoral Report:

*Mayor Norton announced that Support Smyrna continues to grow and help the community. Paying off school lunch debts is one of the more recent things that has been done. This movement was born out of the pandemic and is a great tool to allow citizens to help other citizens.*

*Some people have asked about the stimulus money that the city should be getting. Mayor Norton explained that the federal government miscategorized the city and once this is corrected and the exact amount to be received is known, plans on how to spend the money will be discussed.*

*Pfizer Vaccines continue every Friday at the Community Center. This now includes those ages 12 to 16 years of age. Parent/guardian must be present and be able to provide proof of age.*

- A. [2021-195](#) Presentation of the LGCIO ( Local Government Chief Information Officer ) Certification from Mr. Michael Hourihan of Carl Vinson Institute of Government to Mr. Dan Campbell, Information Systems Administrator.

*Mr. Hourihan came to the podium to provide some additional details about the training program that Mr. Campbell completed. Only about a third complete this level of certification. LGCIO is the Local Government Chief Information Officer. Mr. Campbell created a new inventory program for the criminal investigative area of the police department.*

*Mr. Dan Campbell thanked everyone for coming out. He thanked the Police Department for allowing him to work on the inventory project with them. He thanked his wife for her help with his paper for the project.*

IT System Administrator Dan Campbell was presented with a certificate documenting his completion in the Carl Vinson Institute of Government Local Government Chief Information Officer program.

#### 4. Land Issues/Zonings/Annexations:

- A. [2021-186](#) Request for a name change for The Carriage House apartment complex located at 810 Windy Hill Road to 810 Windy Hill Road, LP dba Beckett Park Apartments.

*Assistant City Administrator Penny Mocerì provided the background information for this agenda item. There has been an ownership change of the apartment complex located at 810 Windy Hill Road and a name change has been requested. The requested name change would be from Carriage House Apartments to 810 Windy Hill Road, LP dba Beckett Park Apartments. George Connell is the Applicant. The name change has been approved by the Fire Marshal, Building Inspector, City Engineer, 911 Communications, Water Department, City Marshal, and Business License Officer. Request for a name change for apartment complex located at 810 Windy Hill Road to 810 Windy Hill Road, LP dba Beckett Park Apartments.*

A motion was made by Councilmember Susan Wilkinson to approve item 2021-186, a request for a name change for The Carriage House apartment complex located at 810 Windy Hill Road to 810 Windy Hill Road, by the applicant LP dba Beckett Park Apartments; seconded by Councilmember Lewis Wheaton.

The motion to approve carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

- B. [ORD2021-10](#) **Public Hearing** - Approval of the code amendments to Sections 402, 712, 716 and 720 of the City's Zoning Ordinance to list private dog parks as permitted uses in the General Commercial (GC), Central Business District (CBD) and Mixed Use (MU) zoning districts and authorize the Mayor to sign and execute all related documents.

*Assistant City Administrator Mocerì read aloud the information relating to this agenda item. Over the last year, the Community Development Department has met with businesses owners wishing to operate a private dog park within the City of Smyrna.*

*Community Development staff has worked to identify potential business locations, as well as assist with the permitting and licensing process. The City's Zoning Ordinance is silent on private dog parks and does not list the use as a permitted use under any zoning district in the city. Due to the number of requests to assist with the location of a private dog park within the city limits, Community Development is proposing a code amendment to the Zoning Ordinance to identify the appropriate zoning districts where private dog parks can be permitted. Staff recommends approval of the code amendments to Sections 402, 712, 716 and 720 of the City's Zoning Ordinance to list private dog parks as permitted uses in the General Commercial (GC), Central Business District (CBD) and Mixed Use (MU) zoning districts and authorize the Mayor to sign and execute all related documents.*

*Community Development Director Rusty Martin provided a brief summary of the item. Community Development has reviewed the City's Zoning Ordinance and found that private dog parks are not identified as permitted uses within any zoning district in the city. As currently written, Community Development staff would have to make an interpretation as to which zoning districts private dog parks would be permitted. The proposed code amendment would clearly define what private dog parks are, as well as identify the specific zoning districts where they would be permitted. Community Development is proposing to amend Section 402 of the Zoning Ordinance to add a specific definition related to private dog parks. Community Development is proposing to amend Sections 712, 716 and 720 of the Zoning Ordinance to add private dog parks as permitted uses under the General Commercial (GC), Central Business District (CBD) and Mixed Use (MU) zoning districts. This is the most appropriate zoning district staff feels is the most appropriate zoning district for private dog parks. In addition, this zoning district is consistent with other area municipalities that allow private dog parks. The proposed code amendment allows for dog parks to have a pouring license. The City's Alcoholic Beverage Ordinance will also need to be amended to address alcohol licensing. Some of these private dog parks in other municipalities, also sell beer and wine at their facilities and provide discounts to the members of their program. To be in-line with the existing market for private dog parks, the City should consider amending the Alcoholic Beverage Ordinance to allow for the private dog parks to hold a pouring license.*

*The public hearing was announced and no one came forward to speak.*

A motion was made by Mayor Pro Tem / Councilmember Tim Gould to approve item ORD2021-10 (Public Hearing) for the approval of the code amendments to Sections 402, 712, 716 and 720 of the City's Zoning Ordinance to list private dog parks as permitted uses in the General Commercial (GC), Central Business District (CBD) and Mixed Use (MU) zoning districts and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Glenn Pickens.

The motion to approve carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**C. [2021-139](#)**

**Public Hearing** - Zoning Request - Z21-007 - Allow rezoning from R-15 to R-10 for a two lot subdivision at a density of 4.08 units per acre - 0.49 acres - Land Lot 304 - 454 Smyrna Powder Springs Road - AOS 454 LLC

*The background information on this agenda item was read aloud by Ms. Penny Mocerri.*

AOS 454 LLC is requesting a rezoning from R-15 (Residential) to R-10 (Residential) for a two lot single-family detached subdivision. The Planning and Zoning Board voted to deny the request by a vote of 5-2 at the April 12, 2021 meeting. Community Development recommends denial of the rezoning from R-15 to R-10 with a density of 4.08 units per acre at 454 Smyrna Powder Springs Road.

Community Development Director Rusty Martin provided background along with a power point presentation. Property is located in Ward 5 with one single family home at the corner. The owner wants to split the lot, renovate the existing home and build an additional home. The change would interfere with future land use plan and therefore recommends denial.

Councilmember Welch asked about the driveway and whether it would be going through the other property. Existing portion of the driveway on the new lot would be removed.

Mayor Norton asked those wanting to speak to come forward to be sworn in by the city attorney.

The developer for the applicant, came forward to the podium and thanked Ward 5 Councilmember Susan Wilkinson who spent time working with them to understand the proposal. They are not big developers, have owned the property since 2004 and have used as a rental. They are trying to improve the corner and make it look nicer.

Councilmember Wilkinson had a couple of things to address. She clarified that R-15 are not half-acre lots. The individual that spoke against this request at the Planning & Zoning meeting was from a subdivision that annexed in and made single-family homes with 12 acres of common area. She also said that the Smyrna Grove went from 750 apartments to under 200 single-family homes so the comparison is not necessarily valid.

The developer utilized examples on the evening's agenda to justify his development. He feels like it is a good project that will benefit everyone to a certain extent.

The public hearing was announced by Mayor Norton.

Mr. Richard Simpson, a resident of Hickory Acres, thanked the applicant for the proposal. Supports staff recommendation to deny. Property not suitable to subdivide. Busy intersection. Parking is a problem for the residents in the area and by removing parking there is no room for visitors. There are many other possibilities for uses for the land including gardens or places for kids to play. Violation of the future land use plan. Rather than build another house, clean up the land and make it presentable. Goes against the open space movement.

Ms. Carol Inline, a 20 year resident of the Hickory Acres neighborhood, wishes to see the request denied. Concerned about setting a precedence that will make people want to do the same thing throughout the subdivision. She asked all the neighbors that she could find and everyone that she spoke to was against it. If the property owner cannot take care of the one house, how would they take care of an additional home.

Ms. Jill Gordon-Adams, spoke out against the request. The future land use is what concerns her. She doesn't want to see a precedent set where people buy two lots and build three homes. One of the examples that the developer used is not useable because it is in a flood plain and floods constantly. Defended the homes in the neighborhood because the developer stated that the homes are in varying degrees of

*disrepair.*

*Councilmember Wilkinson thanked the developer for the proposal, but hears what the residents are concerned about.*

A motion was made by Councilmember Susan Wilkinson to deny item 2021-139 (Public Hearing) for a Zoning Request, number Z21-007 to allow rezoning from R-15 to R-10 for a two lot subdivision at a density of 4.08 units per acre on 0.49 acres, Land Lot 304 located at 454 Smyrna Powder Springs Road, by the applicant AOS 454 LLC.; seconded by Mayor Pro Tem / Councilmember Tim Gould.

The motion to deny carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**D. [2021-141](#)**

**Public Hearing** - Zoning Request - Z21-005 - Allow rezoning from GC to MU for a mixed use development - 9.73 acres - Land Lots 779, 780, 805 and 806 - 2400 Lake Park Drive - 2400 Lake Park Atlanta Office LLC

*City Administrator Joe Bennett provided a brief summary of this agenda item. 2400 Lake Park Drive Atlanta Office LLC is requesting to rezone 9.73 acres at 2400 Lake Park Drive from GC to MU-Conditional for the development of 277 multi-family units at a density of 28.5 units per acre, 11,000 of office/co-working space and 10,000 sq. ft. of active/retail space. The applicant is proposing to retain the existing 105,000 sq. ft. office building and build a mixed use development in the existing parking area. The Planning and Zoning Board recommended approval by a vote of 7-0 at the April 12, 2021 meeting. Community Development recommends approval of the rezoning from GC and RM-12 to MU-Conditional on 9.73 acres for a mixed use community at a density of 28.5 units per acre, including those variances supported by staff as shown above, with conditions.*

*Community Development Director Rusty Martin presented a power point with information on the proposed project. Majority of units will be studio or one bedroom unit. Reducing parking from 1005 to 551 due to the size of units as well as the ability to utilize office parking for residents as well. Community Development recommends approval of the rezoning from GC and RM-12 to MUConditional on 9.73 acres for a mixed use community, with 277 units, 10,148 sq. ft. of retail, and 10,897 sq. ft. of co-work space, at a density of 28.5 units per acre, including those variances supported by staff as shown above, with the following conditions:*

*Standard Conditions*

*Requirements # 2, 3, 4, 8, 16 and 17 from Section 1201 of the Zoning Code are not applicable. The following requirements remain applicable.*

*1. The composition of the buildings in the development shall include a mixture of elements including; but not limited to: brick, stone, shake, Hardie Plank and stucco. No elevation shall be comprised of 100 percent Hardie Plank siding.*

*2. The retention 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 ten percent reduction in a 100-year storm event. The city engineer shall approve all plans.*

3. *All utilities within the development shall be underground.*
4. *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.*
5. *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.*
6. *No debris may be buried on any lot or common area.*
7. *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".*
8. *The developer will comply with the City's current tree ordinance. All required tree protection measures shall be adhered to by the developer during construction.*
9. *All landscape plans must be prepared, stamped, and signed by a Georgia Registered Landscape Architect for any common areas or entrances.*
10. *All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.*

*Special Conditions*

11. *The development shall maintain the following minimum building setbacks from the Mixed Use District:*
  - Front – 0'*
  - Side – 0'*
  - Rear – 20'*
12. *The developer shall meet all fire access requirements deemed necessary by the Fire Marshal during construction plan review.*
13. *The developer shall be responsible for any water and sewer improvements deemed necessary by the Public Works Director during construction plan review.*
14. *The developer shall be responsible for any stormwater improvements deemed necessary by the City Engineer.*
15. *Prior to issuance of a Certificate of Occupancy, the applicant shall have the stormwater detention pond maintained per the Blue Book Operations and Maintenance Guidance Document.*
16. *The developer shall provide a sidewalk connection from the development to Cobb Parkway and Lake Park Drive.*
17. *Prior to the issuance of a Land Disturbance Permit the traffic study and site plan*

*shall be reviewed by Georgia Department of Transportation (GDOT).*

*18. The development shall not be gated. The parking deck may use gates to control access.*

*19. The minimum floor area for attached dwelling units, condominium units and other multi-family units may not be less than an average of 653 square feet. (Section 720.9(2) of the Zoning Ordinance).*

*20. The development will include a minimum of 515 parking spaces per the current density shown. A reduction in the residential units caused by unforeseen site constraints would cause a commensurate reduction in parking to be reviewed by the Director of Community Development.*

*21. Parking for the office, commercial, retail and apartments within the development will be provided by means of surface and structured parking as shown on the submitted site plan, which will employ "shared" parking among the respective components and will provide sufficient and adequate parking for the total development.*

*22. The parking deck will provide a decorative brick exterior substantially similar to that shown on the elevations provided on April 2, 2021. Approval of any change to the parking deck exterior must be obtained from the Director of Community Development.*

*23. The applicant shall construct the initial segment of the Mountain to River Trail for pedestrian and bicycle connectivity.*

*24. The applicant will re-stripe the private drive for safety and operational improvements at Cobb Parkway.*

*25. All air conditioning condenser units, transformers and any other utilities shall be fully screened from view from any public right-of-way. The utility units components placed on the roof of the buildings may be screened by parapets and the utility components at ground level may be screened by landscaping.*

*26. Dumpsters shall be positioned so as to prevent visual intrusion from streets, connection points to community spaces and wherever possible with screening by landscaping, walls and/or vegetation. Dumpsters shall have rubber lids and bumpers to minimize noise during emptying. At grade trash compaction shall also be allowed and screened as appropriate in accordance with the City's regulations.*

*27. The maximum number of residential units shall not exceed 277 Class A amenitized multi-family units. One hundred percent (100%) of the said units shall be constructed so that the units can be modified to individually owned condominium units in the event of future favorable market conditions.*

*28. All apartment units shall be maintained in a Class A/First Class manner.*

*29. The multi-family units shall include the following interior finishes:*

- i. Minimum nine-foot (9') ceilings;*
- ii. Forty-two inch (42") upper cabinets in the kitchen;*
- iii. Pendant lighting shall be utilized in the in the kitchen area of the units and flush-mount LED can lighting shall be used in both the kitchen and dining areas of the units;*
- iv. Bathroom cabinets need to be of equal or similar quality as kitchen cabinets;*

- v. Sheet vinyl flooring and VCT vinyl flooring shall be prohibited;
- vi. Tile flooring shall be required in both the kitchen and bathrooms including luxury vinyl tile (i.e. not sheet vinyl or VCT);
- vii. All bathrooms shall have tub/shower surrounds with an aesthetic similar to tile;
- viii. All kitchen and bathroom counter and cabinet tops shall be solid surface granite or similar material. Laminate counter tops are prohibited;
- ix. All kitchen counter tops shall be horizon style counter tops; and
- x. All kitchen sinks shall be under-mounted stainless-steel sinks.

30. The approximate mixture of unit types shall consist of the following: seventy seven percent (77%) one bedrooms and twenty-three percent (23%) two bedrooms

31. Approval of the subject property for the MU-Conditional zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan submitted April 2, 2021 and created by Pond and all zoning stipulations above.

32. The applicant shall be bound to the conceptual elevations submitted on April 2, 2021. Approval of any change to the elevations must be obtained from the Director of Community Development.

Councilmember Tim Gould had some questions. Asked about the parking. Will the office and residential sharing the parking? Is there parking nearby in case there is a need for additional parking? Average parking size is 653...do we stipulate a minimum size?

Councilmember Susan Wilkinson asked if the parking deck would house all the parking spaces? Some will be on the deck and other parking already exists around the outside areas.

Councilmember Charles "Corkey" Welch stated that is roughly 1.8 parking spaces per unit. Will this be enough?

Councilmember Susan Wilkinson asked about the percentages for one bedroom and studio. 67% is smaller units and the rest are two bedroom units. She was concerned about the enclosed dumpster area that is already there. Will this be changed? Will there be separate dumpster areas for the offices/residents?

The public hearing was announced and those wanting to speak came forward to be sworn in by City Attorney Scott Cochran.

Mr. David Kirk, attorney representing applicant came forward to speak. He provided a brief overview of the project.

Mr. Clay Grubb with Grubb properties that have been in business for over 57 years. Goal of the project is to enhance the neighborhood. Link apartments are smaller than normal apartments but meet the goal of essential housing. Never sold one of their apartment communities. Not family oriented, but attracts young professionals. .75 parking per units and encourage residents by providing a discount to use bikes instead of cars.

Mr. Paul O'Shaughnessy spoke about the Link apartments and how they meet the needs of essential housing. Got rid of wasted space to bring down the price. Six core floor plans that are repeated over and over again. Many amenities are on these



properties, which make them desirable. Already invested a lot of money into the office building. 382 parking spaces on deck and 133 surface parking spots. Average unit is 653 square feet with 27 studio units, mostly one bedroom units and some two bedroom units. Looking to bring something to pull the energy from Cobb park to the area.

Mr. Eric Swann discussed the multi-use trail. Similar to the beltline trail in Atlanta. Increases property values and helps in many facets. A study was conducted that helped with recommendations. Key recommendation was the connection to the Battery. Wish to go to Marietta, Cobb, etc to create a large trail line in the area.

Councilmember Wilkinson asked about the pond and green space on the property. She says that the residents have contacted her and are concerned about this. Explained that the pond will not be disturbed in any way. Central amenity will be the pond and surrounding trees. Trail will not disturb this but will better the area.

Councilmember Lewis Wheaton asked about the price point for the units. Studios starting at \$1000 and one bedrooms at \$1400 with two bedrooms starting around \$2000 and up.

Councilmember Gould asked about the minimum square feet.

Councilmember Wilkinson asked what percentage of the studio units are the minimum size. About 10%.

Councilmember Austin Wagner spoke about the green space. Taking the parking that is already there and changing it to living space. Recycling space and turning it into a positive attribute.

The public hearing was opened by Mayor Norton.

Mr. Bob Rash, representative for an earlier request, asked if they are changing the future land use. The answer was yes.

Mr. Adebambo Sonaike, owner of property heard earlier in the meeting, spoke about making changes for big guys as well as little guys. Why change future land use for big guys and not for little guys?

Ms. Cathy Omates, resides in a condo in Countryside on Spring Road, moved to Smyrna from Michigan. Likes that Smyrna is a community with families and is concerned that this project is out of reach to people of modest means. Pricing is very high and traffic is a huge concern as well. Concerned about parking as well as trash cans on the trails.

Mr. Skylar Akins, a resident at Countryside at Cumberland, spoke about traffic plan and how it only showed up today. Zoning sign was not very visible which is against code. Provided some examples of information from the traffic study. Concerned about the carbon footprint of an existing tree canopy covered surface lot into a multi unit apartment complex. Unacceptable to use an almost three year old traffic study to determine what is good for now.

Ms. Jamie Fine questioning legality of the hearing due to only one poorly placed sign prior to the meetings. Not facing traffic and near the property, not at the property. To notify the city of the change of this magnitude should be a priority. Why would staff support an increase in density? Why would staff support decreasing size of

*apartments to such a small amount? Traffic is a huge problem already...why create more? Bike path is not a selling point...the homes should be. Why would staff support decreasing parking spots?*

*Mr. Paul O'Shaughnessy came back up to address some of the concerns mentioned. There will be trashcans everywhere and every unit has laundry as well. They know it works because they have done this type of project before and it has been successful. Traffic survey issues were addressed and clarity was provided.*

*Mr. Grubb came back up and offered some more explanation of the copenhagen effect that was spoken of. Trail is meant to better the area. Housing is a crisis right now. Not sustainable...goal is to urbanize and get people near where they work and shop and to provide affordable housing. Proud of their environmental strides and have a price point that no one else would be able to deliver.*

*Ms. Cathy Omates came back up to speak about how she cannot see people paying so much money because the units are so small.*

*Councilmember Wagner spoke about how supply is not meeting demand. This is something that is not already here in Smyrna. Interesting opportunity to bring in economic development to the city.*

A motion was made by Councilmember Austin Wagner to approve item 2021-141 (Public Hearing) for a zoning request number Z21-005 to allow rezoning from GC to MU for a mixed use development on 9.73 acres, Land Lots 779, 780, 805 and 806 located at 2400 Lake Park Drive by the applicant 2400 Lake Park Atlanta Office LLC.; seconded by Councilmember Charles "Corkey" Welch.

The motion to approve carried by the following vote:

**Aye:** 5 - Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**Nay:** 1 - Councilmember Pickens

**E. [2021-191](#)**

**Public Hearing** - V21-044 - Reduce the rear setback from 30 feet to 24 feet for a deck - Land Lot 384 - 632 Austin Drive - David Samani

*Background provided by Mr. Bennett at the request of Mayor Norton. The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a minimum rear yard setback of 30 feet. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with conditions.*

*Community Development Director Rusty Martin provided some additional background.*

*The subject parcel is a 0.53-acre lot located on the south side of Austin Drive, at the intersection of Austin Drive and Grace Meadows Lane (see Figure 1). The subject parcel and adjacent parcels to the east, west, and south are all zoned R-15 while the adjacent parcels to the north are zoned R-12; all are occupied by detached single-family homes. The applicant is proposing to replace an existing deck on the rear of the existing home, which has existed on the property since at least 2007 when the applicant purchased the home. The existing home is pushed to the rear of the property with a large front yard and little space for an addition in the rear. The rear of the home is 31 feet from the rear property line and the existing deck is 21 feet from the rear property line. Moreover, the door to the rear yard from the home is 7 feet off the ground, causing an unsafe condition if the deck were to be completely removed. To try to adhere to the rear setback as much as possible, the applicant will be reducing the length of the deck by 3 feet; this will reduce the current setback encroachment from 21 feet to 24 feet and improve the existing condition. As the home sits now, 31 feet from the rear property line, strict application of the ordinance would only allow for a one-foot deck off the rear of the home or moving the foundation of the home to accommodate a rear deck addition. The building on the adjacent property to the south is over 100 feet away from the proposed addition so there should be minimal disturbance to surrounding neighbors. The proposed deck will be replacing an existing non-conforming deck and improving the setback from the rear property line. Community Development believes the variance requested is the minimum variance needed to replace the existing deck. Staff recommends approval of the requested variance with the following condition:*

*1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan and elevations submitted with the variance application.*

*The applicant, Mr. David Samani came up to answer any questions but there were none.*

*The public hearing was announced and no one was present to speak.*

A motion was made by Councilmember Charles "Corkey" Welch to approve item 2021-191 (Public Hearing) a variance request (V21-044) to reduce the rear setback from 30 feet to 24 feet for a deck on Land Lot 384 located at 632 Austin Drive by the applicant David Samani; seconded by Councilmember Austin Wagner.

The motion to approve carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**F. [2021-192](#)**

**Public Hearing** - V21-045 - Allow encroachment into 50-foot undisturbed stream buffer setback for a deck - Land Lot 810 - 2946 Woodruff Drive - Suellen A. Stepp

*City Administrator Bennett summarized this request. The applicant is requesting a variance to allow encroachment into the City's 50-foot undisturbed stream buffer setback to replace the existing detached deck at 2946 Woodruff Drive. The City's stream buffers are controlled by Chapter 46 of the City's Code of Ordinances.*

*Mr. Rusty Martin spoke about the request. The applicant is requesting relief from the*

City's 50-foot undisturbed stream buffer setback to replace an existing detached deck in the rear yard. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards.

After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following conditions:

1. Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.
2. If the City of Smyrna must work within the 30-foot drainage and utility easement, the property owner may be required to move the deck at their own expense

Mayor Norton announced the public hearing and no one came forward to speak.

A motion was made by Councilmember Glenn Pickens to approve item 2021-192 (Public Hearing) for variance request V21-045 to allow encroachment into 50-foot undisturbed stream buffer setback for a deck on Land Lot 810 located 2946 Woodruff Drive by the applicant Suellen A. Stepp; seconded by Councilmember Lewis Wheaton.

The motion to approve carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**G. [2021-193](#)**

**Public Hearing** - V21-046 - Allow new construction on lot of record below minimum lot size requirements - Land Lot 304 - 436 Smyrna Powder Springs Road - AOS 454 Land LLC

Community Development Director Rusty Martin explained the variance and reasoning for the request. The subject parcel is a 0.28-acre vacant lot located on the south side of Smyrna Powder Springs Road. The subject parcel and all adjacent parcels to the west, east and south are zoned R-15 and are occupied by detached single-family homes. The adjacent parcels to the north are occupied by a detached single-family home and HOA common space; they are zoned RDA-Conditional and are in the Smyrna Grove subdivision. The subject parcel is located within the Hickory Acres Subdivision, which was platted in 1962, prior to the current zoning ordinance, which was implemented in 1976. The applicant is proposing to build a new 2,200 square foot two-story single-family home which will consist of 4 bedrooms, 2.5 bathrooms, and a 2-car garage. The new home will have a mixture of façade materials and will not have 100 percent hardiplank on the front elevation. The lot is 12,308 square feet and the R-15 Zoning District requires lots to be a minimum of 15,000 square feet in size. Since the subject property is an existing lot of record, originally platted in 1962, the hardship is not self-created. The proposed home will meet all the R-15 zoning requirements and no other variances are required to build the new home.

*The subject property is unique in that it has less square footage than what the R-15 zoning district requires. The hardship is not self created as the property is an existing lot of record, originally platted in 1962. The variance requested is the minimum variance needed to build a new single-family home on the subject property. Community Development does not believe building a new single-family home on the subject property in accordance with the R-15 zoning requirements will negatively impact the surrounding properties. The applicant is requesting to deviate from the City's minimum lot area requirement established for the R-15 Zoning District. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with the four (4) standards and believes that the variance will not adversely affect surrounding residents. Therefore, staff recommends approval of the requested variance with the following condition:*

*1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan and elevations submitted with the variance application.*

*Mayor Norton announced the public hearing and those wanted to speak were asked to be sworn in.*

*Mr. Bob Rash, developer of the proposed project said that it was a lot of record since 1962 and that they want to build a house. Would like to build a larger house since the other request was denied. The purpose was to build three matching houses but since the other request was denied the plans have changed.*

*Mr. Martin explained that the minimum is what he was given but he cannot surpass the impervious surface.*

*The applicant, Mr. Adebambo Sonaike, came forward to speak and express his feelings about being denied in his first request. Feels that future land use should be changed for small guys as well as corporations.*

A motion was made by Councilmember Susan Wilkinson to approve item 2021-193 (Public Hearing) for variance number V21-046 to allow new construction on lot of record below minimum lot size requirements on Land Lot 304 located at 436 Smyrna Powder Springs Road by the applicant AOS 454 Land LLC.; seconded by Councilmember Lewis Wheaton.

A motion to approve was carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

## 5. Privilege Licenses:

There were no Privilege Licenses.

**6. Formal Business:**

- A. [ORD2021-09](#) **Public Hearing** - Approval of code amendments to the City Alcoholic Beverage Ordinance with regards to alcohol pouring licenses for private dog parks.

*City Administrator Bennett provided the background for this ordinance. The Community Development Department has received requests for alcohol pouring licenses for private dog parks. Under the City's Alcoholic Beverage Ordinance, requires pouring licensees to have at least 50% of sales derived from the sale of food prepared to be consumed on premises. Private dog parks cannot meet that requirement. Staff has reviewed the City's Alcoholic Beverage Ordinance and is proposing code amendments to address the issue. Community Development recommends approval of the proposed text amendments to the City's Alcoholic Beverage Ordinance.*

*Community Development Rusty Martin provided a brief summary of explanation behind this change. Private dog parks are a fairly recent development that have been permitted in City of Atlanta and Alpharetta. Community Development has drafted a code amendment inline with our neighboring jurisdictions for consistency and to maintain competitiveness in attracting private dog park facilities to Smyrna. Community Development and the City Attorney have also reviewed the State's Code with regard to the sales of alcoholic beverages and believe it allows for on-premise consumption of alcohol at private dog parks. To accomplish this request, the city would be required to make amendments to several sections in the Alcoholic Beverage Ordinance. Community Development is proposing the following amendments to the City's Alcoholic Beverage Ordinance:*

*The following are proposed code amendments to several sections of the Chapter 6 of the City Ordinance and are presented in legislative draft format.*

*Amend Section 6-2 of Chapter 6 – Alcoholic Beverage Ordinance to add the following definitions:*

*Sec. 6-2. - Definitions.*

*Private dog park means a privately owned and operated dog park. Any such facility shall have a minimum of 25-dues paying members; and, shall derive no more than 25 percent of its total annual gross revenue from alcohol sales. Total annual gross revenue may include daily rates, memberships, non-alcoholic beverages, pre-packaged snacks, merchandise sales, special event proceeds, and dog treats as revenue sources.*

*Except as provided in this definition, a private dog park shall be subject to the same requirements as on-premises eating establishments, including hours of permitted alcohol sales.*

*Add Section 6-85 to Chapter 6 – Alcoholic Beverage Ordinance to add the pouring license requirements for private dog parks:*

*Sec. 6-85. – Private Dog Parks.*

*In order to be eligible for a pouring license, a private dog park must meet the definition of private dog park as set forth in Section 6-2 herein as well as the following requirements:*

*(1) Has a minimum of 25 due-paying members;*

*(2) Derives no more than 25 percent of its total annual gross revenue from alcohol sales. Total annual gross revenue may include daily rates, memberships, non-alcoholic beverages, pre-packaged snacks, merchandise sales, special event proceeds, and dog treats as revenue sources.*

*Except as provided in this definition, a private dog park shall be subject to the same requirements as on-premises eating establishments, including hours of permitted alcohol sales*

*Amend Section 6-124 of Chapter 6 – Alcoholic Beverage Ordinance to add private dog parks to the list of exempt licensing types from the pouring requirements:*

*Sec. 6-124. - Pouring requirements.*

*No pouring license, except a license for a wine specialty shop, growler specialty shop, cigar specialty shop, brewery, brewpub, winery, non-profit private club, special event facility, private dog parks, hotel sundry shop/hotel reception or educational tasting, shall be issued to, or held by, any applicant unless at least 50 percent of the business by volume, when considering the total of sales from alcoholic beverages and food prepared to be consumed on the premises, shall be from the sale of prepared foods to be consumed on the premises.*

*(1) All establishments licensed to pour shall submit a quarterly audit showing the sales of alcoholic beverages and food prepared on the premises and nonalcoholic drinks to the city business license office no later than at the time of renewal for the coming license year.*

*(2) Authorized officials of the city may examine the records of applicants at any reasonable time to ascertain that the requirements of this section are met.*

*(3) The dining area or serving area of the applicant must have a minimum seating capacity of 40.*

*The pouring licensing fees for private dog parks will remain the same as the fees for all other pouring establishments. The city's pouring license fees are as follows: \$600 for beer, \$600 for wine and \$5,000 for liquor.*

*The public hearing was announced and no one came forward to speak.*

A motion was made by Mayor Pro Tem / Councilmember Tim Gould to approve item ORD2021-09 (Public Hearing) for the approval of code amendments to the City Alcoholic Beverage Ordinance with regards to alcohol pouring licenses for private dog parks; seconded by Councilmember Austin Wagner.

The motion to approve carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton



**B. [2021-203](#)****Public Hearing for the Fiscal Year 2022 Proposed Budget**

*The background was given by Mr. Bennett at the request of the Mayor. This is the Public Hearing for the FY 2022 proposed budget. The total budget, as proposed, is \$110,205,348. The General Fund budget is \$55,491,625, Special Revenue Funds are \$6,321,526, Capital Project Funds are \$23,488,029, Internal Service Fund is \$1,248,000 and the Enterprise Funds are \$23,656,168. For comparative purposes, the total revised FY 2020 budget, to date, is \$113,342,785. The General Fund budget is \$53,598,327, Special Revenue Funds are \$9,081,435, Capital Project Funds are \$26,013,114, Internal Service Fund is \$1,331,463 and the Enterprise Funds are \$23,318,447. The budget is scheduled for adoption on June 7, 2021.*

*Finance Director Kristin Robinson and Budget Manager Landon O'Neal were present with a power point.*

*Budget Officer Landon O'Neal spoke about the various sources of revenue and the differences between this year and last year and he provided explanation for each of these. Revenues versus expenditures were shown and it was noted that the state requires that the budget be balanced. Spending more than we are taking in this year but this was the opposite case for previous years which helps moving forward. 58% of general fund revenues are from property taxes. The page numbers on the slides correspond with the budget book pages that can be found on the website, at the Library and at the Office of the City Clerk. Public safety is the biggest expenditure. Hotel/motel was the hardest hit area of revenue due to the pandemic. There are some proposed fee changes among departments. See budget book page 25 for more detailed explanations of the proposed fee changes. A sanitation increase in the amount of 3% to commercial only due to increases that the city has been absorbing for some time now. Street light fee which is something that most cities and counties already have in place which helps recoup what we already pay in streetlights. This fee is only to recoup, not to profit and will be used to fund energy projects etc. Separate rates for residential versus commercial which are \$42 a year for residential, \$84 a year for commercial/industrial.*

*Finance Director Kristin Robinson presented information on debt obligations. The city has held back on projects due to COVID to be fiscally responsible. Eleven projects are receiving recommendation this coming fiscal year. Reed House landscaping to increase rentals and the maintenance areas/buildings at some parks need renovations. Air filling system which is a replacement, police laptop computer refresh, swat tactical vest replacement. Public Works projects include green energy projects, carpet replacement, roof repairs and replacements, detention pond maintenance, replacement of underground sanitation can, sanitation carts. Storm water Capital Improvement Projects (CIP) includes a .07 increase effective in January. 2016 SPLOST will stop collecting 1% sales tax in December 2021. Future SPLOST will begin in January 2022. Recommending 17 vehicle replacements and additions. Recommending 6 full time positions and 1 part time position.*

*The public hearing was announced by Mayor and no one came forward to speak.*

*No vote was taken on this item; this was a public hearing was held to present the proposed FY2022 budget.*

**7. Commercial Building Permits:**

*There were no Commercial Building Permits.*



**8. Consent Agenda:**

*City Administrator Joe Bennett read aloud the consent agenda.*

A motion was made by Mayor Pro Tem / Councilmember Tim Gould to approve the consent agenda as read aloud; seconded by Councilmember Lewis Wheaton.

The motion to approve was carried by the following vote:

**Aye:** 6 - Councilmember Pickens, Councilmember Wagner, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**Absent:** 1 - Mayor Norton

- A. [MIN2021-25](#) Approval of the April 15, 2021 Committee of the Whole Meeting Minutes.
- B. [MIN2021-31](#) Approval of the May 3, 2021 Pre- Council Meeting Minutes.
- C. [MIN2021-32](#) Approval of the May 3, 2021 Mayor and Council Meeting Minutes.
- D. [2021-185](#) Award Ward Park grandstand seating to GT Grandstands, Inc. using the TIPS cooperative contract # 181101 in the amount of \$252,426.00 to be funded from the General Fund and authorize the Mayor to execute any related documents.
- E. [2021-187](#) Request to install a no parking zone on the East side of Afton Way from approximately 5206 Afton Way to approximately 5191 Afton Way.
- F. [2021-196](#)  
Approval to award MaxAir Mechanical (814 Livingston Court, Marietta, Ga. 30067) to replace two (2) evaporative air-cooled chillers at the Smyrna Community Center using \$276,011.00 of Smyrna Public Works funds from CDBG Public Facilities balance and authorize the Mayor to sign and execute all related documents.
- G. [2021-205](#) Approval of the King Springs Elementary Mobile 5th Grader Parade on Wednesday, May 26, 2021 at 10:00am with rolling road closures with police presence following the attached route from North Cooper Lake Park to King Springs Elementary.

**9. Ward / Committee Reports:**

*Councilmember Austin Wagner thanked staff for doing a great job and providing professional advice.*

*Councilmember Charles "Corkey" Welch commented on picking and choosing what is best for the city without personal or political gain. It is the responsibility of every elected official to carefully weigh the pros and cons of each individual proposed project*

*and make a decision based upon the information given.*

*Councilmember Susan Wilkinson asked if the meetings are back on Charter cable television. City Clerk Heather Peacon-Corn explained that they are back on line as of the first meeting in May.*

*Councilmember Lewis Wheaton offered condolences to the family and friends of the pedestrian that was recently killed in an accident. He thanked everyone involved in the increased traffic safety throughout the city.*

*City Administrator Joe Bennett apologized for being late due to attending his son's Kindergarten graduation.*

#### **10. Show Cause Hearings:**

There were no Show Cause Hearings.

#### **11. Citizen Input:**

*Ms. Angela McReynolds, 5204 Afton Way, thanked everyone for the fast action in obtaining a no parking sign in her neighborhood to resolve dangerous issues. She is proud to be a Smyrna resident.*

#### **12. Adjournment:**

Mayor Derek Norton adjourned the May 17, 2021 meeting of the Mayor and Council at 10:19PM.