



# 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 3, 2021

7:00 PM

A. Max Bacon City Hall Council Chambers  
2800 King St SE, Smyrna Ga. 30080

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### Rollcall

**Present:** 8 - Mayor Derek Norton, Councilmember Glenn Pickens, Councilmember Austin Wagner, Councilmember Travis Lindley, Councilmember Charles Welch, Councilmember Susan Wilkinson, Councilmember Tim Gould and Councilmember Lewis Wheaton

**Also Present:** 1 - Scott Cochran

**Staff:** 9 - Joe Bennett, Penny Mocer, Heather Peacon-Corn, Tina Monaghan, Russell Martin, Joey Staubes, Jennifer Bennett, Dan Campbell and Julie Barwig

### Call to Order

Mayor Derek Norton called the May 3, 2021 Mayor and Council Meeting to order at 7:00 PM.

#### 1. Invocation and Pledge:

City Clerk Heather Peacon-Corn delivered the Invocation and led all in the Pledge of Allegiance.

#### 2. Agenda Changes:

There were no agenda changes.

#### 3. Mayoral Report:

*Mayor Derek Norton announced that it was International Municipal Clerk's week and thanked the Clerks in attendance for all that they do.*

*Campbell High School Baseball team did a great job in the play offs and will be recognized at a future meeting. The Campbell High School Girl's Tennis and Boy's Soccer teams have both won division games.*

*Pfizer vaccines will be available every Friday at the Smyrna Community Center from 1:00 PM to 4:00 PM. There have been and will continue to be events throughout various communities where vaccines will be administered in order to help those who are unable to get out and about. Information will be released as it becomes available.*

*A traffic initiative was recently approved as well as extending the stands at Latanze field. This will allow the City to host bigger games.*

*Mayor Norton concluded his report by saying that SPLOST projects including a splash*

*pad, design work on South Cobb Drive, downtown refresh/redesign, parking deck and much more will be coming soon.*

**A. [PRC2021-04](#)** Proclamation in Recognition of Memorial Day Poppy Distribution, May 15th, 21st, 22nd, 28th and 31st, 2021

*Councilmember Charles "Corkey" Welch read aloud the proclamation.*

*In attendance to receive the proclamation and to distribute poppies were Ms. Robin Lnenicka, Ms. Maryline Blackburn, Ms. June Burgess, and Ms. Cindy Monk.*

*Mayor Norton and Councilmember Welch presented the proclamation and Ms. Burgess took a few moments to speak about the poppy distribution program and what all it benefits. Ms. Blackburn read aloud a poem.*

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

**A. [2021-168](#)** Name change request for the apartment complex located at 5000 S Lincoln Trace Avenue to Edison at the Battery.

*City Administrator Joe Bennett provided the background information for this agenda item. There has been an ownership change of the apartment complex located at 5000 S Lincoln Trace Avenue and a name change has been requested. The requested name change would be from Ashford 75, LLC dba Ashford 75 Apartments to Windy Ridge Multifamily Partners, LLC dba Edison at the Battery. The name change has been approved by the Fire Marshal, Building Inspector, City Engineer, 911 Communications, Water Department, City Marshal, and Business License Officer. Name change request for the apartment complex located at 5000 S Lincoln Trace Avenue to Edison at the Battery.*

*Councilmember Glenn Pickens made a motion to approve a name change request for the apartment complex located at 5000 S Lincoln Trace Avenue to Edison at the Battery. Councilmember Charles "Corkey" Welch seconded the motion.*

*The motion to approve was carried by the following vote:*

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**B. [2021-116](#)** Public Hearing - V21-026 - Increase maximum impervious surface area from 45% to 48.8% - Land Lot 593 - 1607 Walker Street - Brian & Lauren Berry

*City Administrator Bennett read aloud the information relating to this agenda item. The applicant is seeking a variance to increase the impervious surface area from 45% to 48.8% to allow for the construction of a new swimming pool on the subject property. Section 801 sets the maximum impervious surface area in the RDA zoning district.*

*Community Development Director Rusty Martin provided some additional background information and details on the request. The subject parcel is a 0.17-acre lot located on the north side of Walker Street. The subject parcel and adjacent parcels to the east and west are zoned RDA and are occupied by single-family homes. The adjacent properties to the south are zoned RDA and RTD and are occupied by a single-family home and a duplex, respectively. The adjacent properties to the north are zoned RM-10*

and are occupied by duplexes.

The applicant is proposing to build a 465 square foot in-ground pool with spa in the rear of the property. Due to the proposed swimming pool and size of the lot, the impervious surface area will be above the allowable 45% by 3.8%. To offset the increase in impervious surface area, the applicant is proposing a mitigation plan involving a gravel trench in the far rear of the property. This gravel trench will replace the existing gravel trench currently in the northwest corner of the property and accounts for the increase in impervious surface area. The City Engineer has reviewed the mitigation plan and is supportive of the variance with the stipulation that #6 and #7 shown on the mitigation plan's water quality notes is completed prior to building permit issuance. According to the submitted mitigation plan, water quality note #6 reads, "Contractor to perform soil boring in center of stormwater management basin to verify seasonal high water table meets minimum two (2) foot separation between bottom of soil media and seasonal high water" and water quality note #7 reads, "Contractor to provide a percolation test to verify water absorption rate of native soil has a minimum infiltration rate of 0.5 in/hr or more". The subject property is currently buffered from adjacent properties by an existing wooden five foot privacy fence. Due to the existing privacy fence, Community Development believes the proposal will not adversely impact adjacent properties. Community Development believes the variance is the minimum variance needed to construct a swimming pool in the rear of the property. The applicant is requesting to deviate from the development standards established by the City to increase the impervious surface area from 45% to 48.8%. 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 increased impervious coverage 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. The applicant shall complete items #6 and #7 shown on the mitigation plan's water quality notes prior to building permit issuance.

a. Water Quality Note #6: Contractor to perform soil boring in center of stormwater management basin to verify seasonal high water table meets minimum two (2) foot separation between bottom of soil media and seasonal high water.

b. Water Quality Note #7: Contractor to provide a percolation test to verify water absorption rate of native soil has a minimum infiltration rate of 0.5 in/hr or more.

3. The applicant shall submit a plat revision for recording, reflecting the new location of the stormwater detention facility prior to the final inspection.

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

Councilmember Travis Lindley made a motion to approve V21-026 - Increase maximum impervious surface area from 45% to 48.8% - Land Lot 593 - 1607 Walker Street - Brian & Lauren Berry. Councilmember Lewis Wheaton seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

C. [2021-169](#)

Public Hearing - V21-038 - Allow new construction on lot of record below minimum lot size requirements - Land Lot 560 - 2740 Morris Circle - Brookhaven Home Designs

*The background information on this agenda item was read aloud by Mr. Joe Bennett. : The applicant is requesting to build a new single-family home at 2740 Morris Circle on a substandard lot. Section 1208 requires a variance to build on a lot of record below minimum lot size requirements. Staff recommends approval with conditions.*

*Community Development Director Rusty Martin provided additional details to the request. The subject parcel is a 0.23-acre vacant lot located on the north side of Morris Circle. The subject parcel and all adjacent parcels are zoned R-15 and are occupied by detached single-family homes. The subject parcel is located within the Morris Manor Subdivision, which was platted in 1946, prior to the current zoning ordinance, which was implemented in 1976. The previous property owner pulled a demolition permit in August 2019 to remove the existing 1,046 square foot home with the intention of rebuilding on the property with a new single-family home. The property was then sold as a vacant lot. The new applicant is proposing to build a new 3,405 square foot two-story single-family home which will consist of 4 bedrooms, 3.5 bathrooms, and a 2-car garage. The new home will be in the craftsman/farmhouse style to match nearby homes with a mixture of masonry and cement siding. The lot is 10,572 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 1946, the hardship is not self-created. In fact, none of the adjacent properties meet the minimum 15,000 square feet lot size. 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 1946. 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 no one came forward to speak.*

Councilmember Travis Lindley made a motion to approve V21-038 - Allow new construction on lot of record below minimum lot size requirements - Land Lot 560 - 2740 Morris Circle - Brookhaven Home Designs. Councilmember Lewis Wheaton seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**D.**     [2021-171](#)

Public Hearing - V21-039 - Reduce the side setback from 10 feet to 3 feet for a carport and reduce the driveway setback from 5 feet to 3 feet - Land Lot 452 - 3212 Ridgecrest Road - Maria Swanson

*Mr. Bennett provided a brief summary of this agenda item. The applicant is requesting a variance to reduce the side setback from 10 feet to 3 feet at 3212 Ridgecrest Road to replace an existing nonconforming driveway and carport. The existing driveway and carport are currently non-conforming at three feet from the property line. Section 801 requires a side setback in the R-15 zoning district of 10 feet and a driveway setback of 5 feet. Staff recommends approval with conditions.*

*Community Development Director Rusty Martin explained that this is an existing house with existing carport but replacing with new that is better in line with the house. The subject parcel is a 0.26-acre lot located on the west side of Ridgecrest Road, at the intersection of Ridgecrest Road and Ridgecrest Drive (see Figure 1). The subject parcel and adjacent parcel to the south are zoned R-15 while the adjacent parcels to the north and east are zoned FC (Future Commercial) and are all occupied by detached single-family homes. The adjacent parcel to the west is zoned R-15 and is occupied by a commercial non-profit organization. Due to the location of the existing carport and concrete driveway, the location of the proposed carport and driveway will minimize disturbance to the subject property and surrounding neighbors. Strict application of the ordinance would deny the applicant the ability to add covered parking to the subject property. The variance proposed is the minimum variance needed to replace the carport and driveway. The hardship is not self-created since the driveway has*

*historically existed in the same location and within three feet of the property line. The applicant is requesting a variance to replace the existing nonconforming driveway and carport with a new carport and driveway. The existing nonconforming driveway and carport are currently three feet off the property line. The replacement of the driveway and carport is part of a larger home renovation project on the subject property. The applicant is renovating the existing one-story house, adding an 868 square foot addition to the rear of the home as well as a 392 square foot deck. The existing one-story structure is 1,333 square feet, while the minimum house size of R-15 is 2,000 square feet. With all the renovations, the home will be 2,201 square feet, bringing the home into compliance with the R-15 floor area requirement. Additionally, to remain under the allowed 35% impervious surface area requirement, the applicant will be removing a large section of the driveway, which previously went from the carport to the rear shed structure and the driveway turnaround in the front yard. Furthermore, the adjacent building to the south will be further than 10 feet from the closest point of the carport on*

*the subject*

*property, thus no fire suppression system is required for the carport. The applicant is requesting to deviate from the development standards established by the City for the R-15 zoning district, which requires a side setback of 10 feet. The applicant is requesting to construct a carport in the side setback, approximately three feet from the side property line. 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 placing the carport in the side setback will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following condition:*

*1. Approval of the subject property for 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 public hearing was announced and no one came forward to speak.*

Councilmember Travis Lindley made a motion to approve V21-039 - Reduce the side setback from 10 feet to 3 feet for a carport and reduce the driveway setback from 5 feet to 3 feet - Land Lot 452 - 3212 Ridgecrest Road - Maria Swanson. Councilmember Lewis Wheaton seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**E. [2021-172](#)**

**Public Hearing - V21-040 - Reduce the rear setback from 35 feet to 25 feet for a building addition - Land Lot 554 - 3766 Ashwood Drive - Stan & Laura Thompson**

*The background was provided by City Administrator Bennett. The applicant is requesting a variance to reduce the rear setback from 35 feet to 25 feet to build a building addition with a 3-car garage and second floor storage area on an existing home with a non-conforming rear setback. Section 801 of the zoning ordinance requires a rear setback of 35 feet for lots zoned R-20.*

*Community Development Director Rusty Martin went into some additional detail regarding the request. The subject parcel is a 0.44-acre lot located on the south side of Ashwood Drive, near the intersection of Ashwood Drive and Hickory Circle (see Figure 1). The subject parcel and adjacent parcels to the east and west are all zoned R-20 while the adjacent parcels to the north are zoned R-15; all are occupied by detached single-family homes. The adjacent parcel to the south is zoned RM-12 and is occupied by an apartment complex. The applicant is proposing to remodel the existing 1,912 square foot two-story home by adding a roughly 1,314 square foot building addition with a 3-car garage and a second-floor storage area off the eastern side of the home. The existing home is pushed to the rear of the property with a large front yard.*



*The subject property was constructed in 1972 and has a non-conforming rear setback of roughly 20 feet from the rear property line. The requested rear setback is based off the location of the rear of the existing home (excluding the large wooden deck). The proposed building addition encroaches into the rear setback, but not closer than the existing home to the rear property line. Moreover, the building on the adjacent property to the south is over 100 feet away from the proposed addition. As noted above, the existing one-story structure is 1,912 square feet while the minimum house size of R-20 is 2,100 square feet. With the addition, the home will be roughly 3,226 square feet, bringing the home into compliance with the R-20 floor area requirement. The subject property was constructed prior to the adoption of the zoning ordinance and has an existing non-conforming setback and is below the minimum house size. Strict application of the rear setback requirement would require the garage be pushed in front of the home, causing the garage to be the central focus of the home as opposed to the home itself. Community Development believes the variance requested is the minimum variance needed to build the garage addition. The hardship is not self-created, as the original home was built prior to the adoption of the zoning ordinance. Community Development does not foresee any negative impacts to adjacent properties should the variance be approved. The applicant is requesting to deviate from the development standards established by the City for the R-20 zoning district, which requires a minimum rear yard setback of 35 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 variances 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 public hearing was announced and no one came forward to speak against the request.*

*The applicant came forward to explain their need for the request.*

Councilmember Tim Gould made a motion to approve V21-040 - Reduce the rear setback from 35 feet to 25 feet for a building addition - Land Lot 554 - 3766 Ashwood Drive - Stan & Laura Thompson. Councilmember Lewis Wheaton seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**F. [2021-173](#)**

Public Hearing - V21-041 - Reduce side setback from 10 feet to 7 feet for a detached garage - Land Lot 408 - 3945 Green Forest Lane -

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**Howard Dale & Virginia B. Williams**

*City Administrator Bennett summarized this request and the following, which both belong to the same property. The applicant is requesting two variances at 3945 Green Forest Lane to build a new detached 2-car garage. The variance requests are to reduce the side setback from 10 feet to 7 feet and allow an additional accessory structure. The regulations pertaining to accessory structures and uses are located in Section 501 of the Zoning Ordinance. Section 801 requires a side setback of 10 feet for lots zoned R-15.*

*Mr. Rusty Martin, Community Development Director provided additional details. The subject parcel is a 0.29-acre lot located at the southeast side of Green Forest Lane, near the intersection of Green Forest Lane and Lake Drive (see Figure 1). The subject parcel and all adjacent properties are zoned R-15 and are all occupied by detached single-family residences. The property consists of a 2,520 square foot single-family home and an existing 320 square foot shed structure located in the rear yard. The existing shed in the rear yard is used primarily for storage. The applicant is requesting a variance to construct a new 504 square foot 2-car garage at the end of an existing driveway, which is currently seven feet off the side property line. Since the driveway is more than five feet from the side property line, no additional driveway setback variance is required. Additionally, the adjacent building to the southwest is more than 10 feet from the proposed detached garage, thus no fire suppression system is required for the detached garage. Due to the existing concrete driveway, the proposed location of the garage within the side setback at the end of the existing driveway will decrease disturbance to the subject property and surrounding neighbors. Strict application of the ordinance would deny the applicant the ability to add covered parking area over the existing driveway due to the current encroachment. The hardship is not self-created since the driveway has historically existed in the same location and within seven feet of the property line. The applicant is requesting to deviate from the City's accessory structure requirements established in Section 501 and the side setback standard of 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. Community Development recommends approval of the requested variance with the following stipulation:*

*1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan and elevation submitted with the variance application.*

*The public hearing was announced by Mayor Norton but no one was present to speak other than the applicant who briefly explained his reasoning for the requests.*

*Councilmember Charles "Corkey" Welch made a motion to approve V21-041 - Reduce side setback from 10 feet to 7 feet for a detached garage - Land Lot 408 - 3945 Green Forest Lane - Howard Dale & Virginia B. Williams. Councilmember Lewis Wheaton seconded the motion.*

*The motion to approve was carried by the following vote:*



**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**G.**     [2021-174](#)

Public Hearing - V21-042 - Allow second accessory structure - Land Lot 408 - 3945 Green Forest Lane - Howard Dale & Virginia B. Williams

*City Administrator Joe Bennett explained that this is the second variance from the previous property. There was no additional information to add.*

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

Councilmember Charles "Corkey" Welch made a motion to approve V21-042 - Allow second accessory structure - Land Lot 408 - 3945 Green Forest Lane - Howard Dale & Virginia B. Williams. Councilmember Glenn Pickens seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

**H.**     [2021-175](#)

Public Hearing - V21-043 - Reduce streetside setback from 23.3 feet to 11 feet for a pool - Land Lot 519 - 1210 Pierce Avenue - Keri Kennedy Morgan

*The background information was read aloud by City Administrator Bennett. The applicant is seeking a variance to reduce the street side setback from 23.3 feet to 11 feet to allow for the construction of a new swimming pool on the subject property. Section 801 sets the setback requirements in the R-12 zoning district.*

*Community Development Director Rusty Martin gave some additional information. The subject parcel is a 0.42-acre lot located at the intersection of Dixie Drive and Pierce Avenue. The subject parcel and adjoining parcel to the east are zoned R-12 while the adjoining properties to the north and south are in Cobb County; all are occupied by detached single-family homes. The adjacent property to the west is occupied by the railroad in between Dixie Avenue and Atlanta Road. The applicant is proposing to build a 432 square foot inground pool in the rear of the existing house. Due to the unique triangular property shape and being a corner lot, although the pool will be behind the home, it will encroach into the street side setback by 12 feet. The existing home, built in 2005, sits in line with the surrounding homes at the front setback line of 35 feet.*

*This*

*creates a large front yard with a small rear yard area. In order to construct the pool behind the home, the applicant is requesting to reduce the street side setback to 11 feet. The interior side setback of 10 feet will be maintained. Due to the property shape and existing house location, the applicant had minimal area to build the swimming pool without encroaching into the setbacks. Therefore, the hardship is not self-created. The subject property is buffered from adjacent properties by an existing vinyl privacy fence and landscaping (see Figure 5). Due to the location of the lot and the existing fence, Community Development believes the proposal will not adversely impact adjacent properties. Community Development believes the hardships are not self-created and are the minimum variances needed to construct a swimming pool in the rear of the property. The applicant is requesting to deviate from the City's setback requirements established in Section 801 of the Zoning Ordinance. 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 condition:*

*1. Approval is conditioned upon substantial compliance with the site plan submitted with the variance application.*

*The public hearing was announced and the only person who came forward was the applicant in order to introduce herself and allow for questions which there were none.*

Councilmember Travis Lindley made a motion to approve V21-043 - Reduce street side setback from 23.3 feet to 11 feet for a pool - Land Lot 519 - 1210 Pierce Avenue - Keri Kennedy Morgan. Councilmember Charles "Corkey" Welch seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

I. [2020-233](#)

Public Hearing - Zoning Request - Z20-006 - Rezoning from NS & RM-10 - Conditional for the development of 8 single-family detached homes at a density of 7.4 units per acre - 1.08 acres - Land Lot 669 - 3302 Atlanta Road - Edgeline, LLC

*Mr. Joe Bennett read the background on this zoning request. Edgeline, LLC is requesting the rezoning of the subject property on the south side of Atlanta Road from NS to RM-10-Conditional for the development of a eight (8) unit single-family detached subdivision at a density of 7.4 units per acre. The application previously proposed ten (10) townhome units, however, after continued discussion with the city, the development has been reduced to eight (8) single-family detached units. The Planning Board recommended approval by a vote of 6-0 at the August 10, 2020 meeting. Community Development recommends approval of the rezoning from NS to RM-10 for the development of eight single-family detached units at a density of 7.4 units per acre with conditions.*

*Community Development Director Rusty Martin was in attendance with a Powerpoint presentation for Mayor and Council to view. Community Development recommends approval of the rezoning from NS to RM-10 for the development of eight single-family detached units at a density of 7.4 units per acre with the following conditions:*

*Standard Conditions*

*(Requirement #2, 8, 16 and 17 from Section 1201 of the Zoning Code is 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 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.*

*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.*

#### *Special Conditions*

*14. The development shall maintain the following setbacks:*

*Front – 30’  
Side – 12’  
Rear – 40’*

- 15. The proposed homes shall have a minimum floor area of 2,000 sq. ft.*
- 16. The private drive shall be a minimum of 26’ wide from back of curb to back of curb.*
- 17. The private drive shall have an accessible gate for emergency services through the Villas of Vinings Condominiums.*
- 18. The front entrance to the development shall not be gated.*
- 19. The development shall provide appropriate turning radius for non-emergency commercial vehicles.*
- 20. The units shall have four-sided architecture.*
- 21. The developer shall be responsible for any water and sanitary sewer improvements deemed necessary by the Public Works Director during construction plan review.*
- 22. The developer shall be responsible for any fire access improvements deemed necessary by the Fire Marshal during construction plan review.*
- 23. The developer shall provide a right-in and right-out access from the private drive to Atlanta Road.*
- 24. 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.*
- 25. 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.*
- 26. Approval of the subject property for the RM-10 zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan submitted 4/21/2021 created by Blue Landworks and all zoning stipulations above.*
- 27. The applicant shall be bound to the elevations submitted and dated 4/21/2021. Approval of any change to the elevations must be obtained from the Director of Community Development.*
- 28. The additional stipulations agreed upon by the applicant in the letter submitted and dated on 4/21/2021. If there should be a discrepancy between the stipulations in the 4/21/2021 letter and the stipulations stated above, the stipulations stated above shall apply.*

*Councilmember Tim Gould asked Mr. Martin to answer some questions including the turn around and how it is determined what vehicles can turnaround such as delivery trucks. Will they be required to do an underground detention pond? Planning to do an above ground but a hydrology study will determine how big it will need to be in the long run.*

*Councilmember Susan Wilkinson inquired about sidewalks. Mr. Martin explained that there will be sidewalks at the beginning of the subdivision but not all the way to the back because there is no through street there and not enough room.*

*Councilmember Glenn Pickens wanted to know why it was in right in/right out only. There is a small median in the middle of the road preventing left turn in. There is an existing u turn near there so no existing improvements are needed.*

*Attorney Garvis Sams was unable to make it so Attorney Joel L. Larkin was there to represent the applicant. The applicant, Edgeline, was also present to answer any questions. The front two homes will face Atlanta road with porches and sidewalks. Transitions to low density residential with 6 additional homes and plenty of guest parking.*

*Councilmember Wilkinson asked about Amazon trucks as well as City trash trucks. The trash trucks can come in and turn around in the neighborhood.*

*Councilmember Welch asked about the other nearby neighborhoods being able to make a left hand turn in and out of their respective entrances. The other two can because they are clear of the concrete median.*

*Councilmember Gould asked for further explanation as to why they were unable to have shared roads with the Villa Court subdivision. They were unable to get everyone to agree to make that a completely shared road.*

*Councilmember Wheaton asked about barriers between the neighborhoods which will include trees, shrubs etc.*

*Public hearing was announced by Mayor Norton and one person came forward to be sworn in by City Attorney Scott Cochran.*

*Mr T.J. Wilkes stated that the right in and right out is not the best option and thinks that the concrete median should be removed in order to allow for left turns in and out of the proposed subdivision. He feels that this is already a dangerous area and there will be increased accidents if things are left as currently proposed.*

*Councilmember Gould thanked staff and the applicant for all of their hard work on this project.*

*Councilmember Tim Gould made a motion to approve Zoning Request - Z20-006 - Rezoning from NS & RM-10 - Conditional for the development of 8 single-family detached homes at a density of 7.4 units per acre - 1.08 acres - Land Lot 669 - 3302 Atlanta Road - Edgeline, LLC. Councilmember Austin Wagner seconded the motion.*

*The motion to approve was carried by the following vote:*

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

**Nay:** 2 - Councilmember Pickens and Councilmember Lindley

## **5. Privilege Licenses:**

There were no privilege licenses.

## 6. Formal Business:

- A. [ORD2021-07](#) Approval of Ordinance 2021-07, to amend Section 50-8, add section 58.1(Special use permit for consumer fireworks) and amend section 46 (Noise Ordinance) in order to better regulate consumer fireworks to the extent allowed by state law and authorize the Mayor to sign and execute all related documents.

*City Administrator Bennett provided the background for this ordinance. Recently, the Georgia legislature amended state laws to give local governments more authority over consumer fireworks in certain circumstances. In an effort to take advantage of this state law, the city is amending its applicable ordinances. Under this state law, local governments have little authority to regulate fireworks on the last Saturday and Sunday in May, July 3 and 4th, the first Monday in September and December 31 between 10 am and midnight and January 1 from 10:am until 1:00 am. At other times, however the local government may require the fireworks to comply with its noise ordinance. This ordinance changes the time that fireworks are allowed so that it follows state law and allows the city to regulate fireworks as much as the state law allows.*

*Staff recommends approval of Ordinance 2021-07, to amend Section 50-8, add section 58.1(Special use permit for consumer fireworks) and amend section 46 (Noise Ordinance) in order to better regulate consumer fireworks to the extent allowed by state law and authorize the Mayor to sign and execute all related documents.*

*Councilmember Gould noted that fireworks and the danger around them are something that many residents are passionate about which was the driving force in taking such an action to better enforce the laws that are in place.*

Councilmember Tim Gould made a motion to approve Ordinance 2021-07, to amend Section 50-8, add section 58.1(Special use permit for consumer fireworks) and amend section 46 (Noise Ordinance) in order to better regulate consumer fireworks to the extent allowed by state law and authorize the Mayor to sign and execute all related documents. Councilmember Lewis Wheaton seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

- B. [2021-179](#) Approve Resolution 2021-02 authorizing the city to enter into a Sale Agreement and a Bond Purchase Agreement incident to the Downtown Smyrna Development Authority's issuance of bonds in an amount not to exceed \$29,000,000, with the proceeds to be used to design and construct certain projects within the 2022 SPLOST project list and fund other road and infra structure projects and authorize the Mayor to sign and execute all related documents.

*The background was given by Mr. Bennett at the request of the Mayor. Approve Resolution 2021-02 authorizing the city to enter into a Sale Agreement and a Bond Purchase Agreement incident to the Downtown Smyrna Development Authority's issuance of bonds in an amount not to exceed \$29,000,000, with the proceeds to be used to design and construct certain projects within the 2022 SPLOST project list and*

*fund other road and infra structure projects and authorize the Mayor to sign and execute all related documents.*

Councilmember Charles "Corkey" Welch made a motion to approve Resolution 2021-02 authorizing the city to enter into a Sale Agreement and a Bond Purchase Agreement incident to the Downtown Smyrna Development Authority's issuance of bonds in an amount not to exceed \$29,000,000, with the proceeds to be used to design and construct certain projects within the 2022 SPLOST project list and fund other road and infra structure projects and authorize the Mayor to sign and execute all related documents. Councilmember Glenn Pickens seconded the motion.

The motion to approve was carried by the following vote:

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

**Nay:** 1 - Councilmember Wilkinson

## **7. Commercial Building Permits:**

There were no commercial building permits.

## **8. Consent Agenda:**

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

Councilmember Tim Gould made a motion to approve the consent agenda as read aloud by City Administrator Joe Bennett. Councilmember Charles "Corkey" Welch seconded the motion.

The motion to approve was carried by the following vote:

**Aye:** 7 - Councilmember Pickens, Councilmember Wagner, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Gould and Councilmember Wheaton

- A. [MIN2021-27](#) Approval of the April 19, 2021 Pre-Council Meeting minutes.
- B. [MIN2021-28](#) Approval of the April 19, 2021 Mayor and Council Meeting minutes.
- C. [2021-154](#) Approval to use the Cooperative Procurement contract from City Of Alpharetta for Pipe Rehabilitation Services and Award to Utility Asset Management, Inc., 86 Peaches Drive Reynolds, GA 31076 using City of Alpharetta Contract No. 16-111C and authorize the Mayor to sign and execute all related documents.
- D. [2021-178](#) Approval of Property/Liability Insurance annual renewal with Georgia Local Government Risk Management Agency (GIRMA) for \$632,489 and approval to bind Excess (\$1M) Cyber Liability coverage with Crum and Forrester for \$14,800 and authorize Mayor to execute related documents



- E. [2021-184](#) Approval of 2021 City of Smyrna Community Events and corresponding Street Closings from May 2021 through December 2021.

**9. Ward / Committee Reports:**

*Councilmember Travis Lindley thanked City Clerk Heather Peacon-Corn for accommodating his virtual attendance.*

*Councilmember Charles "Corkey" Welch encouraged everyone to get the COVID vaccine.*

*Councilmember Tim Gould spoke about the JROTC sponsored clean up at Campbell High School this past weekend.*

*Councilmember Lewis Wheaton encouraged everyone to come out and get his or her vaccines. The vaccines are being made available around the City.*

*City Clerk Heather Peacon-Corn noted that it is Municipal Clerk's Week.*

**10. Show Cause Hearings:**

There were no show cause hearings.

**11. Citizen Input:**

*Ms. Angela Mc Reynolds, 5204 Afton Way, petitioning to have no parking sign placed directly across from her residence. Vehicles constantly parked there illegally making it difficult to move around as well as creating difficulty for emergency vehicles to access the homes. She had a petition to present to Mayor and Council.*

**12. Adjournment:**

Mayor Derek Norton adjourned the May 3, 2021 Mayor and Council meeting at 8:09 PM.