



City of Smyrna

2800 King Street
Smyrna, Georgia 30080

Meeting Minutes - FINAL Committee of the Whole

Thursday, November 12, 2020

6:00 PM

Community Center Magnolia Room

**Smyrna Community Center Magnolia Room / 200 Village Green Circle SE
Parking and entrance to meeting on Powder Springs Street Side of Building
MASKS REQUIRED / TEMPERATURE WILL BE CHECKED**

Roll Call

Present 14 - Mayor Derek Norton, Councilmember Charles Welch, Councilmember Charles Welch, Councilmember Susan Wilkinson, Councilmember Susan Wilkinson, Councilmember Glenn Pickens, Councilmember Austin Wagner, Councilmember Travis Lindley, Councilmember Charles Welch, Councilmember Charles Welch, Councilmember Susan Wilkinson, Councilmember Susan Wilkinson, Mayor pro tem / Councilmember Tim Gould, and Councilmember Lewis Wheaton

Also Present 1 - Scott Cochran

Staff 9 - Jennifer Bennett, Joe Bennett, Penny Mocerri, Heather Peacon-Corn, Frank Durrance, Joey Staubes, Frank Martin, Russell Martin, and Kevin Moore

1. Call to Order

Mayor Derek Norton called the November 12, 2020 meeting of the Committee of the Whole to order at 6:00pm.

2. New Business

A. [COW20-13](#) Committee on Policy and Procedure - Hiring Process Policy Review - Austin Wagner & Carol Sicard

Human Resources Director Carol Sicard reviewed the current Hiring Process Policy with Council as well as the suggested changes to the policy as discussed by the Committee on Policies and Procedures.

Chair Austin Wagner spoke about the need for the policy to have a waiting period between the introduction of a department head and the formal vote. He referenced recently hired department heads and the floor was opened for discussion regarding the changes.

Several members of Council weighed in on the pros and cons of the policy and the changes suggested. Specifically, it was mentioned that a waiting period could inhibit an applicant from starting with the City, if approved, if in addition to our waiting period they would also allow for a two week notice from a former employer.

Mr. Wagner and Mr. Wheaton countered that policies were put in place to have a procedure that everyone would follow and set up guidelines that allowed Mayor and

Council to make decisions with the best interest of the staff and citizens in mind and with an appropriate amount of available time for due diligence.

Further pros and cons to the policy were discussed and the item would need further review before being moved to a formal agenda item.

B. [COW20-15](#)

Approval of the 2021 Mayor and Council Meeting Dates

City Clerk, Heather Peacon- Corn, brought forth the upcoming Mayor and Council meeting dates for final approval. The dates would be published in the Marietta Daily Journal for public notice as well.

C. [COW20-18](#)

Private Club/Event Ordinance - Rusty Martin

Community Development Director Russell Martin reviewed and discussed ORD 2020-17, which would amend the Code of Ordinances for Chapter 6 - Alcoholic Beverage Ordinances.

The Community Development Department has received requests for alcohol pouring licenses for non-profit private clubs and special event facilities. 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. Both the non-profit private club and the special event facility cannot meet that requirement. Staff has reviewed the City's Alcoholic Beverage Ordinance and is proposing code amendments to address the issue.

Community Development reviewed the alcoholic beverage ordinances of several local municipalities, such as, Sandy Springs, Dunwoody, Duluth, Alpharetta, Woodstock, Marietta, Kennesaw and Cobb County. Most of these municipalities address pouring licenses for private clubs and special event facilities within their ordinances. All the municipalities that do address pouring licenses for private clubs or special event facilities have similar requirements for each type of facility. Community Development has drafted a code amendment inline with our neighboring jurisdictions for consistency and to maintain competitiveness in attracting these types of 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 clubs and special event facilities. To accomplish this request, the city would be required to make amendments to several sections in the Alcoholic Beverage Ordinance.

In addition to the text amendments, Community Development is recommending the amendment of the city's fee schedule to provide a reduced pouring license fee for non-profit organizations. The proposed fees are inline with Cobb County's fee schedule for non-profit organizations.

The following are the changes recommended:

Sec. 6-2. - Definitions.

Non-profit private club means a corporation organized and existing under the laws of the state or veterans' organization associated with and a part of a recognized national veterans' organization which is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and which immediately prior to the application for a license hereunder:

- (1) Has at least 100 members regularly paying dues; and
- (2) Has tax exempt status under the provisions of section 501(c)(19) of the U.S. Internal Revenue Code; and
- (3) Owns or leases a building or space for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of servers and employees for cooking, preparing and serving meals for its members and guests; and
- (4) Has no members or officers, agent or employees of the club receiving compensation directly or indirectly in the form of commissions or other compensation based on the amount of profits from the sale of malt beverages and wines beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club; and
- (5) Has no part of the net earnings inuring to the benefit of any shareholder or member; and
- (6) Has been in continuous operation for at least one year prior to the application for a license hereunder.

Special events facility means any public place kept, used, maintained, advertised and held out to the public as a place where special events including, but not limited to, weddings, wedding receptions, private parties and similar events are held and which provides meals for food services in connection with such events. Any such facility shall be equipped with an adequate and sanitary kitchen and dining room facility, and shall be capable of preparing and cooking meals, or serving catered meals and other food products associated with its special events on site. Any such establishments shall derive at least fifty (50) percent of its total annual gross sales from rental for special events and the service of meal and food products in connection with such special events. The revenues received from alcohol sales shall never exceed fifty (50) percent of the total annual gross sales for any such facility.

Add Section 6-83 to Chapter 6 – Alcoholic Beverage Ordinance to add the pouring license requirements for non-profit private clubs:

Sec. 6-83. – Non-profit private clubs.

In order to be eligible for a pouring license, a private club or non-profit private club must meet the definition of non-profit private club as set forth in Sec 6-2 herein. Where an application for a license is submitted for a non-profit private club the application shall be made in the name of the highest elected officer and/or the manager of the club or organization.

(a) No alcoholic beverage license shall be granted to a private club organized or operated primarily for the selling or serving of alcoholic beverages.

Add Section 6-84 to Chapter 6 – Alcoholic Beverage Ordinance to add the pouring license requirements for special event facilities:

Sec. 6-84. - Special event facilities.

In order to be eligible for a pouring license, a special event facility must meet the definition of special event facilities as set forth in Section 6-2 herein as well as the following requirements:

- (1) Attendance is by invitation of the party renting the special events facility only and not open to the public;
 - (2) All alcoholic beverages served at the private function shall be supplied to invited guests free of charge;
 - (3) The costs of the alcoholic beverage(s) served at a private function are to be paid for by the host renting the special events facility;
 - (4) Alcohol may be served only in conjunction with the service of meal and food products; and
 - (5) Alcohol must be served by a trained alcohol server, who holds either an alcohol handling permit issued by the City of Smyrna or another local government jurisdiction.
- Amend Section 6-124 of Chapter 6 – Alcoholic Beverage Ordinance to add non-profit*

private clubs and special event facilities 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, 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.

Amend the City's Fee Schedule for alcoholic beverage license to provide a reduced license fee for non-profit veteran organizations:

- Beer Pouring – Non-profit private club - \$500.00
- Wine Pouring – Non-profit private club - \$500.00
- Liquor Pouring – Non-profit private club - \$1,000.00
- Sunday Sales Pouring – Non-profit private club - \$500.00

This Ordinance would take effect on December 1, 2020.

Council had several questions regarding the some specific events and instances such as open bar vs. cash bar.

City Attorney Scott Cochran reviewed the definitions and his recommendation along with Community Developments input would move forward for a final vote.

3. Review of the November 16, 2020 Mayor and Council Agenda

A. [COW20-17](#) Review of the November 16, 2020 Mayor and Council Meeting Agenda.

The agenda for the November 16, Mayor and Council meeting was reviewed as follows:

3A.) The proclamation in recognition of Small Business Saturday was reviewed for final read at the November 16 meeting.

4A.) Zoning Request Z20-011 / 1529 Roswell Street was reviewed and Mr. Martin discussed the property, showing the site plan submitted and discussing staff recommendation of approval as well as the Planning and Zoning Boards approval of a vote of 6-0. Mr. Martin reviewed the recommendation with conditions:

Community Development recommends approval of the rezoning from GC (General Commercial) to R-15 for the development of one single-family unit at a density of 1.64 units per acre with the following conditions:

Standard Conditions

Requirements # 2, 3, 4, 5, 8, 9, 10, 12, and 17 from Section 1201 of the Zoning Code

are

not applicable. The following requirements remain 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. All utilities within the development shall be underground.
3. 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 two feet shall be provided between the back of curb and sidewalk.
4. No debris may be buried on any lot or common area.
5. 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.
6. All landscape plans must be prepared, stamped, and signed by a Georgia Registered Landscape Architect for any common areas or entrances.
7. All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.
8. All single-family and/or duplex residential lots shall provide the following at the time of certificate of occupancy: either four 3" caliper trees or three 4" caliper trees. The following species of trees may be used: Nuttall Oak, Swamp Chestnut Oak, Allee Elm, and Village Green Zelkova. Other species may be used if approved by the City.

Special Conditions

9. The development shall maintain the following setbacks:

Front – 35'

Side – 10'

Rear – 30'

10. The development shall have a maximum of 50% impervious lot coverage, and provide a water quality program.

11.

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

12. The developer shall be responsible for any stormwater improvements deemed necessary by the City Engineer.

13. Approval of the subject property for the R-15 zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan submitted 9/11/2020 and created by Barclift Associates and all zoning stipulations above.

14. The applicant shall be bound to the elevations submitted on 9/21/2020 and created by Caldwell Cline. Approval of any change to the elevations must be obtained from the Director of Community Development.

4B.) Zoning Request Z20-012 / 2588 Bates Street was reviewed and Mr. Martin discussed the property, showing the site plan submitted and discussing staff recommendation of approval as well as the Planning and Zoning Boards approval of a vote of 6-0. Mr. Martin reviewed the recommendation with conditions: Community Development recommends approval of the rezoning from R-12 to R-8-Conditional

for the development of two single-family units at a density of 4.84 units per acre with the following conditions:

Standard Conditions

Requirements # 2, 3, 4, 5, 8, 9, 10, 12, and 17 from Section 1201 of the Zoning Code are

not applicable. The following requirements remain 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. All utilities within the development shall be underground.
3. 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 two feet shall be provided between the back of curb and sidewalk.
4. No debris may be buried on any lot or common area.
5. 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.
6. All landscape plans must be prepared, stamped, and signed by a Georgia Registered Landscape Architect for any common areas or entrances.
7. All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.
8. All single-family and/or duplex residential lots shall provide the following at the time of certificate of occupancy: either four 3" caliper trees or three 4" caliper trees. The following species of trees may be used: Nuttall Oak, Swamp Chestnut Oak, Allee Elm, and Village Green Zelkova. Other species may be used if approved by the City.

Special Conditions

9. The development shall maintain the following setbacks:

Front – 25' (from existing right-of-way)

Side – 5'

Rear – 20'

10. Driveway – 20' minimum length from building face to private driveway.

11. The developer shall dedicate right-of-way along Bates Street to achieve 25 feet from the property line to centerline of the road.

12. The developer shall install curb, gutter, and sidewalk at the frontage of property along Bates Street.

13. All structures will be built to a maximum height of 35' as measured from the sidewalk along the front elevation.

14. The developer shall meet all fire access requirements deemed necessary by the Fire Marshal during construction plan review.

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

16. The developer shall be responsible for any stormwater improvements deemed necessary by the City Engineer.

17. Approval of the subject property for the R-8 zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan

submitted 9/11/2020 and created by Paramount Surveys and all zoning stipulations above.

4C.) *** Councilmember Corkey Welch recused himself from this item and left the room for the discussion***

Plat Approval with Variance - V20-065 / 3813 Cooper Lake Road was reviewed and Mr. Martin discussed the property, showing the preliminary plat submitted and discussing staff recommendation of approval as well as the Planning and Zoning Boards approval of a vote of 7-0. Mr. Martin reviewed the recommendation with conditions:

Community Development has reviewed the proposed plat against the requirements of the R-15

zoning district. The variance for Tract 2 is necessary until such time that the existing structure is

demolished. The subject property will maintain an R-15 zoning classification and will not increase

the density for the property as two homes currently occupy the property. Community Development recommends approval of the requested reconfiguration and replatting with the

following conditions:

- 1. A reduction of the side setback from 10' to 2.3'.*
- 2. Approval is conditioned upon substantial compliance with the site plan submitted October 21, 2020 and prepared by Gaskins.*

4D.) Appeal of Variance Approval / 1460 Memory Lane was reviewed and Mr. Martin discussed the property. Additionally, City Attorney Scott Cochran reviewed the procedures for an appeal. The background is as follows:

CMS Custom Homes, LLC is seeking approval for a reduction in minimum lot size at 1460

Memory Lane for the development of two single-family detached residences at a density of 2.22

units per acre. The proposed lots will be 19,463 sq. ft. and 19,594 sq. ft. (or 18,018 sq. ft. and

19,094 sq. ft. after the 5' right-of-way dedication along Memory Lane & Northview Place). Lot 1

will have a side entry garage accessed from Northview Place, and Lot 2 will have a front entry

garage accessed from Memory Lane. The applicant has submitted building elevations and floor

plans for each home in the rezoning application. The applicant proposes to use brick, stone,

and siding for the façade materials for each home.

The subdivision was created in 1951 and the subject property was originally two lots (Lot #11 &

#12 of the FM Collier Subdivision). The subject property was annexed into the city in 2001, and

the R-20 zoning designation was applied to the subject property, even though the lots were

below the minimum 20,000 sq. ft. lot area requirement, making the lots non-conforming lots

under the R-20 zoning district. The subject property was later consolidated into one lot when a

single-family home was built over the lot line separating the two lots. In addition, a swimming

pool was constructed on the property, further in supporting the property was consolidated because accessory uses must be located on the same lot as the principal building (home) per section 501.1 of the zoning ordinance. That home has been demolished within the last year. The applicant is requesting to revert to the original subdivision plan with the lot configuration as originally platted. The number of units and density will remain unchanged from the original subdivision plan. The lots in the immediate area are zoned R-20, however many are non-conforming and are also below the 20,000 square foot lot minimum. Therefore, if the rezoning is approved, the lots would be consistent with the other non-conforming lots immediately adjacent to the subject property. The applicant requested a rezoning in 2019 from R-20 to R-15. During the Planning and Zoning Board meeting on December 9, 2019, several members of the community had concerns that rezoning to the subject property to R-15 would set a negative precedent and allow other lots in the area to be rezoned to R-15 allowing additional density in the neighborhood. After hearing those concerns, the Planning and Zoning Board recommended to deny the request by a vote of 7-0. Thereafter, staff recommended modifying the requested zoning category from R-15 to R20-Conditional with variances for the lot sizes to maintain the R-20 zoning designation in the immediate neighborhood. Mayor and Council voted 6-1 to deny the request at the February 17, 2020 meeting. The applicant subsequently submitted a variance application on September 2, 2020 to lower the minimum lot size to 19,463 sq. ft. The License and Variance Board held a public hearing for the variance and recommended approval by a vote of 3-0 at the October 14, 2020 meeting. An appeal was filed by adjacent property owners on October 23, 2020. Community Development is supportive of the variance request for reduction of minimum lot size from 20,000 sq. ft. to 19,463 sq. ft. Staff feels comfortable that this will not create a future precedent due to this property previously being two recorded lots of record and tying approval of the request to the specific site plan. Therefore, Community Development recommends approval of the variance request for reduction of minimum lot size for the development of two single-family units at a density of 2.22 units per acre with the following condition:

1. Approval is conditioned upon substantial compliance with the site plan and elevations submitted on September 2, 2020.

4E.) Ordinance 2020-16 for amendments to Sections 402 and 714 to propose to add a definition related to outdoor recreational facility was discussed by City Attorney Scott Cochran and recommended for approval.

5A.) Privilege License LIC2020-18 was reviewed and will be tabled until the December 7, 2020 meeting of the Mayor and Council as the applicant is unable to attend the November 16, 2020 meeting.

5B.) Privilege License LIC2020-19 / 3100 Highlands Parkway SE was reviewed by Mr. MArtin and is recommended for approval.

6A.) Meeting dates to be approved as previously discussed.

6B.) Reappointment of Mr. George Davis to the Civil Service Board.

6C.) Renewal of the yearly prisoner housing agreement with the City of Marietta recommended for approval by Police Chief Joseph Bennett.

6D.) Approval of Ord2020-17 was previously reviewed on the COW and is recommended for approval.

7A.) Mr. Martin reviewed the issuance of a commercial building permit for 1625 Roswell Road.

The consent agenda was reviewed and there were no issues with the minutes as presented.

4. Other Business (as needed)

5. Executive Session (as needed)

6. Adjournment

Mayor Derek Norton adjourned the November 12, 202 meeting of the Committee of the Whole at 7:59 PM.