

# City Council Meeting Action Summary - Final MAYOR AND COUNCIL



Derek Norton, Mayor  
Tim Gould, Mayor Pro Tem (Ward 6)  
Glenn Pickens (Ward 1)  
Latonia P. Hines (Ward 2)  
Travis Lindley (Ward 3)  
Charles "Corkey" Welch (Ward 4)  
Susan Wilkinson (Ward 5)  
Kathy Young (Ward 7)

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

City Attorney Scott Cochran  
City Administrator Joseph Bennett  
City Clerk Heather K. Peacon-Corn

**August 21, 2023  
7:00 PM**

## **I. CEREMONIAL MATTERS**

### **1. Roll Call**

**Present:** 8 – Mayor Derek Norton, Councilmember Glenn Pickens, Councilmember Latonia P. Hines, Councilmember Travis Lindley, Councilmember Charles Welch, Councilmember Susan Wilkinson, Mayor Pro Tem / Councilmember Tim Gould, and Councilmember Kathy Young

**Also Present:** 1 – Scott Cochran

**Staff:** 9 – Tyler Addison, Joe Bennett, Dan Campbell, Jill Head, Russell Martin, Heather Peacon-Corn, Eric Randall, Joey Staubes, and Mark Wolff

### **2. Call to Order**

Mayor Derek Norton called to order the August 21, 2023 Mayor and Council meeting held at A. Max Bacon City Hall in Council Chambers at 7:00 PM.

### **3. Invocation and Pledge of Allegiance**

**A.** Pastor Brian Downing, Oakdale Church of God (1631 Cooper Lake Rd)

### **4. Agenda Changes**

### **5. Mayoral Report**

**A.** Introduction of Honorary "Mayor for the Day", Benjamin Mason Rhue, third grade student at St. Benedict's Episcopal School

Mayor Derek Norton said the downtown construction is coming along nicely. The splash pad will be open September 6, 2023. He also announced the October 7, 2023

151<sup>st</sup> Birthday Celebration. The full day schedule has been released with a variety of musical acts from many genres, entertainment, and fun activities. The City has added 100 more tables this year, and the tables will go on sale at 6:00 PM, August 23, 2023. He further explained that if someone is unable to get a table, this is a free concert, and all can still come and enjoy the concerts and activities.

## II. **DISCUSSION / ACTION ITEMS**

*Public comment during this portion of the Agenda must be limited to matters on the Agenda for action. If you wish to be heard, please sign up with the City Clerk, come to the podium when called by the Mayor, state your name and address for the record and make your remarks. The time allotted for each speaker is as follows: **Public Hearing - Five (5) Minutes***

### 6. **Proclamations and Presentations**

#### A. **PRC2023-015** Proclamation in Support of Vaping Enforcement Actions

Mayor Pro Tem Tim Gould presented the following proclamation:

A PROCLAMATION  
BY THE MAYOR OF THE CITY OF SMYRNA  
In Support of Vaping Enforcement Actions

*Whereas*, in January 2020 the Food & Drug Administration "FDA" issued industry guidance that detailed the agency's enforcement priorities relating to e-cigarettes, vapes and other electronic nicotine delivery systems "ENDS" products, that prioritized enforcement against "any flavored, cartridge-based ENDS products"; and  
*Whereas*, the January 2020 guidance created a loophole, whereby all disposable vaping products were insulated from any enforcement for going on three years; and since January 2020, millions of illegal, disposable vaping products, primarily manufactured in China and produced in kid friendly flavors have poured into the United States; and  
*Whereas*, since 2019, the CDC's National Youth Tobacco Survey shows that youth usage of disposable vaping products is up 2188%; and  
*Whereas*, the FDA's Center for Tobacco Products recently stated that the "majority of e-cigarettes used by youths are disposable and flavored."; and  
*Whereas*, an overwhelming majority of disposable vaping products have been introduced after the FDA regulatory submission threshold date of August 8, 2016, and/or have not complied with FDA's regulatory pathways for the marketing of new tobacco products that ensures products on store shelves are appropriate for the protection of public health; Now  
*Therefore*, I, Derek Norton, Mayor of the City of Smyrna, along with the Smyrna City Council, urge the FDA to take action to protect our youth and young adults from the danger of unregulated, disposable e-cigarettes by providing clear enforcement guidance to retailers and distributors in the United States; publish a directory of FDA approved disposable vapor products; encourage retailers to remove all illegal disposable vapor products from shelves; and urge the federal government to enforce these actions across all jurisdictions, at all ports and border control points of entry.

### 7. **Community Development Items**

#### A. **Z23-005** Public Hearing - Z23-005 - Rezoning from HI to MU-Conditional for a mixed use development with 390 multi-family units, and 5,500 sq. ft. of commercial use, at a density of 13.92 units per acre - Land Lot 284 - 28.01 acres - 6324 & 6330 Riverview Road - Brand Properties LLC

## ***Citywide***

Joe Bennett, City Administrator, provided the following brief background:

Brand Properties LLC. is requesting to rezone 28 acres of assembled properties along Riverview Road from HI (Heavy Industrial) to MU-Conditional for the development of a mixed-use development, which includes 390 multi-family units at a density of 13.92 units per acre and 5,500 sq. ft. of commercial space. The subject property is currently occupied by industrial uses and was recently annexed from Cobb County. The Planning & Zoning Board voted to approve by a vote of 6-0 at the July 10, 2023 meeting.

Russel Martin, Community Development Director, provided the following full background:

Brand Properties LLC. is requesting to rezone 28 acres of assembled properties along Riverview Road from HI (Heavy Industrial) to MU-Conditional for the development of a mixed-use development, which includes 390 multi-family units at a density of 13.92 units per acre and 5,500 sq. ft. of commercial space. The subject property is currently occupied by heavy industrial uses and was recently annexed from Cobb County. Portions of the site were previously used for a landfill and no permanent structures occupy the property.

The proposed development will consist of 390 units spread among three buildings. The heights will range between four to five story buildings. Building 1 will include 188 units, Building 2 will include 142 units and Building 3 will include 60 units. Among the 390 units, 245 units will be one-bedroom, 129 units will be two-bedroom, and 16 will be three-bedroom. There will be a central mailroom inside the amenity space/leasing office in Building 1 along Riverview Road. The building will incorporate 5,500 sq. ft. of commercial space on the ground level with multi-family units above.

The proposed development will be accessed by a full access drive on Riverview Road with a 20' fire lane designated for emergency response. The development also includes a second drive with additional parking spaces adjacent to the pond. The proposed development will have 630 total parking spaces which exceeds the city requirement of 418 spaces. 14 of the 630 spaces are designated for ADA. All of the parking spaces are surface level throughout the development. The Riverview Road right-of-way will be improved with 8' sidewalk, 8' bike lane, and 6' grass strip along the eastern frontage and 5' sidewalk and 2' grass strip along the western frontage. Parallel parking spaces are proposed along both sides of Riverview Road.

Approximately 3.75 acres of the development are to the east of Riverview Road that is currently a disturbed industrial use. The area is proposed to become a park for public use and include a connection to the Riverview trail. The developer has agreed to develop the park area and dedicate it to the city upon completion. The Trust for Public Lands is planning a 2.7 mile RiverLands Showcase trail in this area that will extend from Mableton Parkway to I-285. The developer will coordinate with the Trust for Public Lands to complete the portion of the trail along the eastern section of the subject property.

The existing pond on the site will be utilized for stormwater detention facilities for the development.

### **Zoning Review**

Community Development has reviewed the proposed plan against the zoning requirements of the MU zoning district (Section 720 of the Zoning Ordinance) with regards to setbacks, building height and building separations. The zoning proposal meets most of the zoning requirements of the MU zoning district.

1. Allow the mixed use building maximum side setback from 20' to 50' (Staff Supports).

Community Development has reviewed the variance requests and is supportive of the variances as submitted. The variances are required due to the environmental and infrastructure constraints within the subject properties.

Based on an assessment by the Atlanta Regional Commission, the proposed development is below the threshold of a Development of Regional Impact (DRI) and exempt from DRI review.

Based on an assessment by the Atlanta Regional Commission the proposed development on the site is contained within the existing disturbed area and exempt from Metropolitan River Protection Act (MRPA) review by the Atlanta Regional Commission.

### **Transportation Review**

Based upon the review of the development by the Transportation Engineer, the city recommends sidewalk and bike lane along the eastern frontage of Riverview Road to be consistent with the existing right-of-way to the north. The city recommends a 5' sidewalk along the western frontage of Riverview Road. Rapid flashing beacons may be required at the mid-block crossing on Riverview Road. Left turn lanes and a deceleration lane, or wide turning radius is recommended on Riverview Road at both entrances along the western frontage.

### **Stormwater Management Review**

The applicant is proposing to utilize the existing pond on the property for the stormwater management facility. The City Engineer takes no exception to the stormwater management concept as shown. The design submitted during permitting will consider site constraints such as topography, utilities, and stream buffer requirements. The site will be required to meet all the requirements of the City's Stormwater Management Ordinance.

### **Environmental Review**

The proposed site plan does depict stream buffers and 100-year floodplain on the northern section of the subject property. The proposed development will utilize land within the existing limits of disturbance. Area within the floodplain and stream buffers will remain undisturbed.

### **Water and Sewer Review**

Adequate water and sewer capacities are available in the area to accommodate the development associated with the rezoning. Any required improvements are the responsibility of the developer. Water and sewer are located within the right-of-way of Riverview Road and are maintained by Cobb County.

### **Fire Marshal Review**

The Fire Marshal's office has reviewed the site plan and in general believes that it meets the Fire Code requirements for fire truck access requirements. The applicant has provided a fire truck turn analysis process that verifies maneuverability through the site. The Fire Marshal's office will also require the buildings to have a fire sprinkler system.

### **Planning Review**

The proposed development plan includes a mixed-use development with 390 multi-family units, and 5,500 sq. ft. of commercial space. Among the 390 units, 245 units will be one-bedroom, 129 units will be two-bedroom, and 16 will be three-bedroom. The proposed development will have 630 total parking spaces which are all surface level. Additionally, the proposed development will improve multi-modal access along Riverview Road with the installation of bike and pedestrian infrastructure along the road frontage. The proposed development will also add connectivity to the existing Riverview Trail along the Chattahoochee River.

The City's 2040 Future Land Use Map designates the subject property as Industrial, which carried over the land use designation from the recent annexation. The proposed development requires a land use change to Mixed Use. The Mixed Use zoning district is compatible with the Mixed Use future land use designation. In addition, the proposed zoning meets the following goals and policies laid out in the City's Comprehensive Plan:

#### **Housing**

- Goal 3 – Encourage the development of a range of housing choices in order to meet market demand and allow residents to remain in Smyrna across different life-cycle stages.
  - o Policy 3.2 Encourage housing opportunities for young families, as well as “empty nester” households.
  - o Policy 3.3 Encourage housing opportunities to ensure those who work in Smyrna have the option of living within the City.
  - o Policy 3.5 Encourage opportunities for mixed use, live/work housing.

#### **Economic Development**

- Goal 5 – Promote revitalization of declining commercial & industrial areas.
  - o Policy 5.1 – Promote adaptive reuse and mixed-use redevelopment of declining strip commercial centers.
- Goal 6 – Promote continued economic development within downtown and other activity centers as vibrant mixed-use center for residential, government, office, retail and entertainment activities.
  - o Policy 6.1 Support higher-intensity housing within and adjacent to activity centers in conformity with the Future land Use Map.

#### **Land Use**

- Goal 13 – Encourage an efficient, equitable, and compatible distribution of land uses.
  - o Policy 13.2 Encourage an appropriate transition of type and scale between established neighborhoods and activity centers.
- Goal 15 – Encourage infill development and redevelopment that has a positive impact on existing neighborhoods and activity centers.
  - o Policy 15.1 Prioritize redevelopment and revitalization of existing underutilized commercial and industrial areas over development of new land for commercial purposes.
  - o Policy 15.2 Ensure that infill development is compatible with surrounding neighborhoods and activity centers.

## STAFF RECOMMENDATION

Community Development recommends approval of the rezoning from HI to MU-Conditional on 28 acres for a mixed-use development at a density of 13.9 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 mixed-use building 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 percent hardy plank siding. The residences along external roadways shall not be permitted to utilize hardy plank for any elevation facing these roads.
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. No debris may be buried on any lot or common area.
6. 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".
7. 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.
8. All landscape plans must be prepared, stamped, and signed by a Georgia Registered Landscape Architect for any common areas or entrances.
9. All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.

### Special Conditions

10. The development shall maintain the following minimum building setbacks:

#### Mixed Use Building Minimum:

Front – 0'

Side – 0'

Rear – 20'

#### Mixed Use Building Maximum:

Front – 20'

Side – 50'

#### Multi-family Building Minimum:

Front – 20'

Side – 15'

Rear – 40'

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

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



13. The developer shall be responsible for any stormwater improvements deemed necessary by the City Engineer.
14. The developer shall provide an 8' bike lane, 8' sidewalk and 6' grass strip on the eastern frontage of Riverview Road.
15. The developer shall provide a 5' sidewalk sidewalk and 2' grass strip on the western frontage of Riverview Road.
16. The developer shall provide deceleration lanes, or large turn radius, on River View Road for both entrances on the western side of River View Road. Final design to be determined in plan review.
17. The developer shall provide an all-way stop analysis be provided during plan review to determine if stop signs are warranted at the intersection of River View Road and southern full-access driveway.
18. The developer shall provide right-of-way dedication on Riverview Road to be a minimum of 40 ft from the roadway centerline.
19. 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.
20. 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.
21. The minimum floor area for attached dwelling units, condominium units and other residential units may not be less than an average of 900 square feet. (Section 720.9(2) of the Zoning Ordinance).
22. Parking for the commercial and residential 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.
23. The maximum number of residential units shall not exceed 390 Class A amenitized residential 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.
24. All residential units shall be maintained in a Class A/First Class manner.
25. The residential units shall include the following interior finishes:
  - i. Minimum nine-foot (9') ceilings;
  - ii. Forty-two inch (42") upper cabinets in the kitchen;
  - iii. Decorative lighting fixtures shall be utilized in the in the kitchen area of the units and spot track or recessed 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 shall be prohibited;
  - vi. Tile flooring shall be required in both the kitchen and bathrooms;
  - vii. All bathrooms shall have tile tub/shower surrounds;
  - 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.
26. Allow building height of up to 66 feet.
27. The developer shall develop the park area on the eastern side of Riverview Road and dedicate it to the city upon completion.
28. The developer shall coordinate with Trust for Public Lands to complete connection to the Riverview Trail extension.

29. 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 August 7, 2023 and created by Pond all zoning stipulations above.  
30. The applicant shall be bound to the elevations submitted on June 6, 2023. Approval of any change to the elevations must be obtained from the Director of Community Development.

Kevin Moore representing applicant Brand Properties came forward. Mr. Moore explained that the City annexed the properties around Riverview Road through the legislature, so the application originally started in Cobb County. This allowed them to previously meet with the Mableton Improvement Coalition and the surrounding properties prior to the application to the City. The applicant will also be working with GDOT for a potential signal improvement at Veterans Memorial Parkway. He stressed that the developers are quality developers.

A public hearing was called.

Mr. Charles Bolash, 6205 India Wood Circle, came forward in favor of this item because it is a complementary development to the area. Mr. Bolash encouraged that a connection be made from the residential areas to the trail. He suggested a traffic light be added at Riverview Road and Veterans Memorial. And from Dickerson Road to S Cobb Drive, he asked that something be done with storm water issues because it builds up over time whenever there is significant rain.

The public hearing was closed.

Councilmember Kathy Young made a motion to approve item Z23-005, a public hearing and zoning request (Z23-005) for rezoning from HI to MU-Conditional for a mixed-use development with 390 multi-family units, and 5,500 s. ft. of commercial use, at a density of 13.92 units per acre on land lot 284 on 28.01 acres located at 6324 and 6330 Riverview Road by applicant Brand Properties LLC; seconded by Mayor Pro Tem Tim Gould.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- B. Z23-006 Public Hearing - Z23-006 – Rezoning from R-20 to R-10 Conditional for the development of three single-family homes at a density of 3.29 units per acre - Land Lot 519 - 0.91 acres - 1313 & 1323 Pierce Avenue - Two Windy Hills, LLC**  
***Ward 3 Councilmember - Travis Lindley***

Joe Bennett, City Administrator, provided the following brief background:

The applicant is requesting a rezoning from R-20 to R-10-Conditional for the development of three (3) single-family detached units at a density of 3.29 units per acre. A land use change from Moderate Density Residential is not required for this



rezoning. The Planning & Zoning Board voted to approve by a vote of 5-1 at the July 10, 2023 meeting.

Russell Martin, Community Development Director, provided the following full background:

The applicant is requesting a rezoning from R-20 to R-10-Conditional for the development of three (3) single-family detached units at a density of 3.29 units per acre. A land use change from Moderate Density Residential is not required for this rezoning.

Staff recommendation:

Approval of the rezoning from R-20 to R-10 Conditional for three new single-family detached units.

Planning & Zoning Board Recommendation:

Approved 5-1 at the July 10, 2023 meeting.

### **Project Analysis**

Two Windy Hills, LLC is seeking approval of a rezoning for 1313 & 1323 Pierce Avenue from R-20 to R-10-Conditional for the development of three single-family detached residences at a density of 3.29 units per acre. The two existing single-family homes will be demolished to allow the construction of three single-family homes. Each home will have a side entry garage located at the rear of the house. The proposed lots will be 13,333 sq. ft. The applicant proposes to use elements such as brick, stone, and siding for the façade materials for each home.

### **Engineering Review**

The applicant has provided a site plan with the rezoning application for reference. A formal review of stormwater management requirements will be assessed during plan review and permitting. There is no stream located on the subject property. The applicant will be required to add new sidewalk, curb, and gutter along the frontage of Pierce Avenue.

### **Fire Marshal Review**

The Fire Marshal's office has reviewed the revised site plan and believes there is sufficient access to provide emergency services to the three homes.

### **Planning Review**

The proposed rezoning would provide for three (3) new residences at density of 3.29 units per acre. The subject property is located in an area where the surrounding properties have a future land use designation of Moderate Density Residential (up to 4.5 units per acre).

Community Development has reviewed the proposed development against the zoning standards of the recent nearby rezonings and found the proposed development to be compatible with the surrounding area. The subdivision and construction of three new single-family homes result in a density of 3.29 units per acre on the subject property. The lot width and lot size are compatible with the other in-fill developments in the surrounding area. The applicant is requesting a rezoning from R-20 to R-10-Conditional and the proposed zoning is in compliance with the Future Land Use Plan.

Community Development considers the proposed density of 3.29 units per acre to be below the 4.5 unit per acre threshold of Moderate Density Residential land use. The proposed rezoning will require a variance from the R-10 zoning district for the side setback reduction. Staff is supportive of the variances required for the proposed development.

Community Development recommends approval of the rezoning from R-20 to R-10-Conditional for the development of three single-family units at a density of 3.29 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'

Side – 5'

Rear – 25'

10. The minimum lot size shall be 13,333 sq. ft.

11. The minimum lot width shall be 50 feet.

12. Driveway – 22' minimum length from building face to back of sidewalk.

13. The developer shall install a 5 ft. sidewalk and 2 ft. grass strip at the frontage of property along Pierce Avenue.

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

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-10-Conditional zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan submitted 6/9/2023 and created by DGM Land Planning Consultants and all zoning stipulations above.

18. Approval of the subject property shall be conditioned upon substantial compliance with the elevations submitted on 6/9/2023.

David Meyer, DGM Land Planning Consultants, came forward on behalf of the applicant. The petition consists of two lots which have homes that are being currently rented. 1313 address is a duplex and is currently rented as a duplex. The intent is to build Craftsman-style homes with garage side-entry. Mr. Meyer explained that the homes will be narrower and deeper homes because of the side-entry garages/driveways. The applicant, Mr. Kelly, will choose a quality builder.

A public hearing was called, and no one came forward in favor of or in opposition to this item.

Councilmember Travis Lindley made a motion to approve item Z23-006, a public hearing and zoning request (Z23-006) for rezoning from R-20 to R-10 Conditional for the development of three single-family homes at a density of 3.29 units per acre on land lot 519 on 0.91 acres located at 1313 and 1323 Pierce Avenue by applicant Two Windy Hills, LLC; seconded by Councilmember Kathy Young.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- C. ATH2023-30** Apartment Complex Name Change Request – A request was made to change the name of Alder Park Apartments, 8 Cumberland Way SE, to Elme Cumberland. The applicant is D'Mitri Hart, Community Manager with Elme Communities.

***Ward 1 Councilmember - Glenn Pickens***

Councilmember Glenn Pickens made a motion to approve item ATH2023-30, an apartment complex name change from Alder Park Apartments (8 Cumberland Way SE) to Elme Communities; seconded by Councilmember Charles Welch.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- D. **ORD2023-010** Public Hearing - Approval of Ordinance ORD2023-010 for the amendments to Chapter 106 in relation to tree bank expenditures and authorize the Mayor to sign and execute all related documents.  
***Citywide***

Joe Bennett, City Administrator, provided the following background:

The City of Smyrna is coordinating a program with Trees Atlanta to allow tree bank funds to be used for the planting of street trees on private property. Currently, the Tree Ordinance restricts tree bank funds to be used solely for maintenance, education and the purchase and planting of trees on public sites. Community Development is proposing an amendment to the tree ordinance to allow street tree planting on private property where specific conditions are met.

A public hearing was called, and no one came forward in favor of or in opposition to this item.

Councilmember Travis Lindley made a motion to approve item ORD2023-010, a public hearing and approval of Ordinance ORD2023-010 for the amendments to Chapter 106 in relation to tree bank expenditures and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

8. **Privilege License and Show Cause Hearing**

9. **Formal Business**

- A. **ATH2023-27** Authorization for installation of “No Parking for Vehicles Over 5 Tons” on River View Road beginning and Nichols Drive up to an including the parking spaces at the dog park.  
***Ward 7 Councilmember - Kathy Young***

Joe Bennett, City Administrator, provided the following background:

Large trucks park in the parallel spaces along both sides of River View Road and Nichols Drive. These parallel spaces were designed and intended to be used as guest parking for adjacent residential properties and businesses.

Councilmember Susan Wilkinson asked if this is a site view issue. Councilmember Kathy Young stated that when two trucks park parallel across from each other, it is very difficult to see or to pass.

Councilmember Kathy Young made a motion to approve item ATH2023-27 for installation of “No Parking for Vehicles Over 5 Tons” on River View Road beginning at Nichols Drive up to and including the parking spaces at the dog park; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- B. ATH2023-28** Authorization for the installation of installing “No Parking for Vehicles Over 5 Tons” signs on the eastern side of Roswell Street from Hawthorne Avenue up to the Cayce Foods driveway.  
***Ward 2 Councilmember - Latonia P. Hines***

Councilmember Latonia P. Hines made a motion to approve item ATH2023-28 for the installation of “No Parking for Vehicles Over 5 Tons” signs on the eastern side of Rowell Street from Hawthorne Avenue up to the Cayce Foods driveway; seconded by Councilmember Travis Lindley.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- C. ORD2023-08** Approval of Ordinance ORD2023-08 for the amendment to Part II, Chapter 46, Environment, Article VI, Stream Buffer Protection and authorize the Mayor to sign and authorize all related documents.  
***Citywide***

Joe Bennett, City Administrator, provided the following background:

The Metropolitan North Georgia Water Planning District (Metro Water District) has implemented a comprehensive water management plan for water supply and conservation, watershed protection, wastewater management, and public education across 15 counties in the Atlanta metro area. The Georgia Environmental Protection Division (EPD) conducts regular audits on counties and cities in the Metro Water District to ensure compliance with the plan and model ordinances. Compliance is required in order for cities and counties to modify or obtain new water withdrawal permits, stormwater permits, or obtain loans for water and wastewater projects.

The proposed changes to the City’s Stream Buffer Protection Ordinance are a result of the Georgia EPD review for compliance with the Metro Water District plan and model ordinance. The proposed

changes include clarifying language that refers to buffers as “feet of the stream”, rather than “feet from the stream”, and the addition of civil penalties to the ordinance.

Councilmember Susan Wilkinson asked for some clarification on the changes and what its connection is to flood plains. Mark Wolff, City Engineer, explained that there is no connection between this and the flood plain management ordinance. He also clarified that this corrects language within the ordinance that currently refers to buffers as “feet of the stream” rather than “feet *from* the stream.” The buffer is measured from the edge of vegetation.

Councilmember Travis Lindley made a motion to approve item ORD2023-08, a public hearing and approval of Ordinance ORD2023-08 for the amendment to Part II, Chapter 46, Environment, Article VI, Stream Buffer Protection and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- D. **ORD2023-09** Approval of Ordinance ORD2023-09 for the amendment to Part II – Code of Ordinances – Chapter 46 – Environment – Article VII Illicit Discharge and Illegal Connection and authorize the Mayor to sign and execute all related documents.

***Citywide***

Joe Bennett, City Administrator, provided the following background:

The Metropolitan North Georgia Water Planning District (Metro Water District) has implemented a comprehensive water management plan for water supply and conservation, watershed protection, wastewater management, and public education across 15 counties in the Atlanta metro area. The Georgia Environmental Protection Division (EPD) conducts regular audits on counties and cities in the Metro Water District to ensure compliance with the plan and model ordinances. Compliance is required in order for cities and counties to modify or obtain new water withdrawal permits, stormwater permits, or obtain loans for water and wastewater projects.

The proposed changes to the City’s Illicit Discharge and Illegal Connection Ordinance are a result of the Georgia EPD review for compliance with the Metro Water District plan and model ordinance. The proposed changes include the addition of civil penalties to the ordinance.

Mayor Pro Tem Tim Gould made a motion to approve item ORD2023-09, the amendment to Part II of the Code of Ordinance, Chapter 46, Environment, Article VII Illicit Discharge and Illegal Connection and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Travis Lindley.

The motion to approve carried with the following vote:



**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- E. ORD2023-011** Approval of Ordinance ORD2023-011 for the amendment to Part II – Code of Ordinances – Chapter 86 – Solid Waste – article IV. Litter and authorize the Mayor to sign and execute all related documents.  
***Citywide***

Joe Bennett, City Administrator, provided the following background:

The Metropolitan North Georgia Water Planning District (Metro Water District) has implemented a comprehensive water management plan for water supply and conservation, watershed protection, wastewater management, and public education across 15 counties in the Atlanta metro area. The Georgia Environmental Protection Division (EPD) conducts regular audits on counties and cities in the Metro Water District to ensure compliance with the plan and model ordinances. Compliance is required in order for cities and counties to modify or obtain new water withdrawal permits, stormwater permits, or obtain loans for water and wastewater projects.

The proposed changes to the City's Litter Ordinance are a result of the Georgia EPD review for compliance with the Metro Water District plan and model ordinance. The proposed changes include updating ordinance language regarding evidence and the addition of civil penalties and enforcement responsibilities.

Councilmember Susan Wilkinson made a motion to approve item ORD 2023-011, the amendment to Part II, Code of Ordinance, Chapter 86, Solid Waste, Article IV. Litter and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Glenn Pickens.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- F. AGR2023-039** Approval of Intergovernmental Agreement AGRE2023- between Cobb County and the City of Smyrna for the installation and operation of a red-light running photo enforcement system at the intersection of East/West Connector and Sr 280/South Cobb Drive for public safety purposes and authorize the Mayor to sign and execute all related documents.  
***Ward 7 Councilmember - Kathy Young***  
***Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

Joe Bennett, City Administrator, provided the following background:

Cobb County owns and operates the equipment at the intersection of South Cobb Dr. at East-West Connector. This agreement will allow the city to install the equipment required for our red light camera enforcement program.

Councilmember Kathy Young made a motion to approve item AGR2023-039, an intergovernmental agreement (AGR2023-039) between Cobb County and the City of Smyrna for the installation and operation of a red-light running photo enforcement system at the intersection of East/West Connector and Sr 280/South Cobb Drive for public safety purposes and authorize the Mayor to sign and execute all related documents; seconded by Mayor Pro Tem Tim Gould.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- G. 2023-172** Approval to award RFQ 23-028 Call to Artists: Painted Utility Boxes to Elaine Stephenson and Shea O'Connor and to authorize the Mayor to sign and execute all documents.

***Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

Joe Bennett, City Administrator, provided the following background:

Brawner Hall to the Belmont Shopping Center. The first projects to be implemented are utility box murals, both painted and vinyl wrapped. The Painted Utility Box project includes utility boxes located at two intersections along Atlanta Road: Fleming Street and Collier Drive.

The city received 21 submissions for RFQ 23-028 Call to Artists: Painted Utility Boxes. Members of the Arts & Culture Task Force scored the submissions and recommended two artists, one for each available utility box in this project. The task force recommends awarding the project to artists Elaine Stephenson and Shea O'Connor. Artists will each receive a \$3000 stipend for execution of their work.

Mayor Pro Tem Tim Gould made a motion to approve item 2023-172 to award RFQ23-028 Call to Artists: painted Utility Boxes to Elaine Stephenson and Shea O'Connor and to authorize the Mayor to sign and execute all related documents; seconded by Councilmember Travis Lindley.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

- H. **2023-173** Approval to award RFQ 23-029 Call to Artists: Vinyl Wrapped Utility Boxes to Becca McCoy and Wendy Meyer and to authorize the Mayor to sign and execute all documents.

***Ward 3 Councilmember - Travis Lindley***

Councilmember Travis Lindley made a motion to approve item 2023-173 to award RFQ23-029 Call to Artists: Vinyl Wrapped Utility Boxes to Becca McCoy and Wendy Meyer and to authorize the Mayor to sign and execute all related documents; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young

**Nay:** 0 – None

**Recuse:** 0 – None

- I. **CHOR2023-004** Authorization of change orders to the approved contracts and budgets for the Downtown Redevelopment projects for a reduction of \$229,507.00 to Ohmshiv Construction LLC. (805 Progress Court, Suite A, Lawrenceville, GA 30043) and an increase of \$229,507 to The Winter Construction Company (5616 Peachtree Road, Suite 100, Atlanta, GA. 30341) based on scope performed and authorize the Mayor to sign and execute all related documents.

***Ward 3 Councilmember - Travis Lindley***

Joe Bennett, City Administrator, provided the following background:

Purchase orders PO22004208 and PO 23002392, for Ohmshiv Construction LLC and The Winter Construction Company respectively, were each prepared based on separate competitive bidding processes with scopes and fees defined for each project. Much of the grading and drainage work was to be performed by in the work area that Winter Construction was to perform the majority of their contract scope. During the turnover period, part of the work necessary for Winter Construction to mobilize was unreasonably delayed, and the scope to be complete was removed from Ohmshiv's scope for Winter Construction to complete as a field change. Winter Construction has provided the attached proposed Change Order in the amount of \$229,507.00 to be deducted from PO22004208.

Councilmember Travis Lindley made a motion to approve item CHOR2023-004, change orders to the approved contracts and budgets for the Downtown Redevelopment projects for a reduction of \$229,507.00 to Ohmshiv Construction LLC (805 Progress Court, Suite A, Lawrenceville, GA 30043) and an increase of \$229,507.00 to the Winter Construction Company (5616 Peachtree Road, Suite 100, Atlanta, GA 30341) based on scope of work performed and authorize the Mayor to sign and execute all related documents; seconded by Mayor Pro Tem Tim Gould.

The motion to approve carried with the following vote:

**Aye:** 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 1 – Councilmember Wilkinson  
**Recuse:** 0 – None

## 10. Consent Agenda

Councilmember Travis Lindley made a motion to approve the Consent Agenda as presented; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

**Aye:** 7 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould, Councilmember Young  
**Nay:** 0 – None  
**Recuse:** 0 – None

**A. MIN2023-081** Approval of the August 3, 2023 Committee of the Whole Minutes

This item was approved on the Consent Agenda.

**B. MIN2023-082** Approval of the August 7, 2023 Pre-Council Meeting Minutes

This item was approved on the Consent Agenda.

**C. MIN2023-083** Approval of the August 7, 2023 Mayor and Council Meeting Minutes

This item was approved on the Consent Agenda.

**D. 2023-174** Authorize Atkins Park Tavern Restaurant & Bar to operate a beer and wine trailer/station with sales at the Hispanic Heritage Celebration in the Village Green Park in Downtown Smyrna on September 23, 2023 from 5:00PM - 9:00PM (Set up/break down 3:00PM - 5:00PM and 9:00PM - 11:00PM) and approve application of required Special Event Permit through the Community Development office and the Alcohol Sales approval through the State of Georgia.

***Ward 3 Councilmember - Travis Lindley***

This item was approved on the Consent Agenda.

**E. 2023-175** Approval to hold the remaining 2023 Committee of the Whole meetings ( September, November and December) on Wednesdays at 6:30PM. The new dates for these meetings will be as follows:  
September 13, 2023, September 27, 2023, October 11, 2023, November 1, 2023, November 15, 2023, November 29, 2023 and December 13, 2023.

This item was approved on the Consent Agenda.

## 11. Ward and Staff Reports

- Councilmember Glenn Pickens – reminded all about the joint wards 1,2 & 3 town hall that will take place in Council Chambers on August 29 at 6:30 PM.
- Councilmember Latonia P. Hines – announced that Commissioner Richardson will be designating areas in Smyrna as historical areas.
- Councilmember Travis Lindley – thanked guest Mayor Benjamin Rhue who is a proud resident of ward 3. He also thanked staff for their hard work to get Council Chambers repaired and ready for meetings.
- Councilmember Charles Welch – thanked Mayor Rhue. He also reminded all that table tickets will go on sale at 6:00 PM on August 23, 2023.
- Mayor Derek Norton – reminded all that even if one is unable to purchase a table, the concert and activities are free. He thanked Mayor Rhue and stated they had a great day with a tour of City Hall, lunch, police escort, and tour of the fire station.
- Councilmember Susan Wilkinson – thanked Mayor Rhue.
- Mayor Pro Tem Tim Gould – five Smyrna schools' PTSA's were nationally recognized by the National PTA: Campbell Middle, Griffin Middle, King Springs Elementary, Nickajack Elementary, and Teasley Elementary. Mayor Norton added that the Teasley third graders welcome he and Mayor Pro Tem Gould and had lots of great questions for them.
- Councilmember Kathy Young – reminded all that the Smyrna Youth Council will kick off soon. She thanked Mayor Rhue, and she thanked the hardworking staff for getting Council back into Council Chambers.
- Heather Peacon-Corn, City Clerk – reminded all about election qualifying happening on August 22 – 23, 2023 in the HR Training Room from 8:30 AM – 4:30 PM closing for lunch between noon – 1:00 PM daily.

## III. CITIZEN PARTICIPATION

*Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the City Council. No subject may be acted upon by the City Council unless that subject is on the agenda and is scheduled for action. If you wish to be heard, please sign up with the City Clerk, come to the podium when called by the Mayor, state your name and address for the record and make your remarks. The time allotted for each speaker is as follows: **Public Comment - Three (3) Minutes***

## 12. Public Comment

Alex Backry

- consider term limits;
- wants to know what the monetary figures are for the purchase of the Baptist Church;
- what is going on that property if purchased? Taxpayers should have a say about how money is being spent;
- looking forward to a time when mayoral candidates can debate.

Charles "Corkey" Welch (870 Austin Drive)

- announced he will be qualifying to run for ward 4 council member for his fourth and final time;
- has been on council for 12 years;
- feels his experience as a civil consulting engineer for 42 years qualifies him for a final term on Council;

- this is his home where he raised his children, and he is running to do the best for the City;
- he will remain accessible;
- when one calls his City extension, it rings to his cell phone;
- he encourages good growth and development, he will remain fiscally conservative, and will vote on the facts as presented;
- get out and vote.

Yvonne Ogbuefi – 1680 Roswell St, Ward 2 – thanked council for resolving the parking problem that has been an issue.

Tim Gould

- will be running again for ward 6 council member.
- first elected in 2018, again in 2019;
- wants to continue to make Smyrna a great place to live.

### 13. Adjournment

Mayor Derek Norton adjourned the August 21, 2023 Mayor and Council meeting at 8:18 PM.

Facilities are provided throughout City Hall for convenience of persons with disabilities.

\*\*\*\*\*

THIS MEETING WAS PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS IN ACCORDANCE WITH THE NOTICING STANDARDS AS OUTLINED IN O.C.G.A. 50-14-3:  
The City of Smyrna website – [www.smyrnaga.gov](http://www.smyrnaga.gov)  
City Hall, 2800 King Street SE, Notice Boards