



City Council Meeting & Public Hearing

MAY 20, 2024

OFFICIAL MINUTES

Office of the City Clerk

ALPHARETTA CITY HALL
COUNCIL CHAMBERS | 2 PARK PLAZA | 6:30 PM

OFFICIAL MINUTES

The public is advised that the following minutes are not a verbatim transcription of business presented at the Council Meeting of the date shown; but are a synopsis of pertinent information. The public is further advised that the video recording for said meeting is a matter of public record and is available to be viewed at the City Clerk's office during normal business hours or viewed online at <https://www.youtube.com/user/alpharettagov>.

1. CALL TO ORDER

- Mayor Gilvin called the meeting to order at 6:36 p.m.
- Mayor Gilvin announced that New Business Item B Invitation to Bid 24-012: Wills Park Wacky World Area Improvements will not be discussed during tonight's meeting.

2. ROLL CALL

• Council Members

- Mayor Jim Gilvin
- Mayor Pro Tem Dan Merkel
- Brian Will
- Fergal M. Brady
- Donald F. Mitchell
- Douglas J. DeRito
- John Hipes

• Staff

- Chris Lagerbloom, City Administrator
- Molly Esswein, City Attorney
- Lauren Shapiro, City Clerk
- James Drinkard, Assistant City Administrator
- Adam Montgomery, Director of Information Technology
- Brooke Lappin, Director of Courts
- Cris Randall, Director of Human Resources
- John Robison, Director of Public Safety
- Kathi Cook, Director of Community & Economic Development
- Morgan Rodgers, Director of Recreation, Parks & Cultural Arts Services

- Pete Sewczwicz, Director of Public Works
- Tom Harris, Director of Finance
- Michael Woodman, Planning and Development Services Manager

3. PLEDGE TO THE FLAG

4. PRESENTATIONS & PROCLAMATIONS

A. Wacky World Playground: Donor Recognition

- Wacky World Playground Committee Chairman, Jeremy Scott and Mayor Gilvin recognized The Maliconico Family for their dedication and commitment to the rebuild of Wacky World Playground.

B. Proclamation: Public Works Week

- Mayor Gilvin presented Director Sewczwicz and employees of the Public Works Department with a proclamation recognizing Public Works Week.

5. BOARDS & COMMISSIONS APPOINTMENTS

A. Natural Resources Commission Appointment by Mayor Pro Tem Merkel

- Mayor Pro Tem Merkel announced the appointment of Vijay Desai to the Natural Resources Commission.

B. Recreation Commission Appointment by Mayor Gilvin

- Council Member Will recommended the reappointment of Arijit "Jit" Saha to the Recreation Commission.
- Mayor Gilvin accepted the recommendation and announced the reappointment of Arijit "Jit" Saha to the Recreation Commission.

C. Development Authority Appointment by Mayor and City Council

PUBLIC COMMENT:

- There were no public comments.
- ❖ Mayor Gilvin offered a motion to approve the appointment of David Chatham.
 - Mayor Pro Tem Merkel seconded the motion.
 - The motion was approved (7-0).

D. Code Enforcement Board Appointment by Mayor and City Council

PUBLIC COMMENT:

- There were no public comments.
- ❖ Mayor Gilvin offered a motion to approve the appointment of Leander Murphy.
 - Mayor Pro Tem Merkel seconded the motion.
 - The motion was approved (7-0).

E. Swearing in of newly appointed and reappointed Board and Commission Members

- Mayor Gilvin swore in the new appointments.

6. CONSENT AGENDA

A. City Council Meeting Minutes (Meeting of 4/29/2024)

Consideration of approval of the City Council meeting minutes from the meeting of April 29, 2024.

B. Alcoholic Beverage License Applications

Consideration of approval of the following alcoholic beverage license applications:

- 1. PH-24-AB-06 Beto's Tacos Gourmet Food, LLC**
5530 Windward Parkway, Suite 101, Alpharetta, GA 30004
Eating Establishment
Consumption on Premises
Distilled Spirits, Beer, Wine & Sunday Sales
Owner: Beto's Tacos Gourmet Food, LLC
Registered Agent: Yvett Anita Pavia
- 2. PH-24-AB-07 Legacy Management and Investment Group, LLC d/b/a Ray's at Killer Creek**
1700 Mansell Road, Alpharetta, GA 30009
Change in Business Ownership
Eating Establishment
Consumption on Premises
Retail Package Sales (Wine Only)
Distilled Spirits, Beer, Wine & Sunday Sales
Owner: Legacy Management and Investment Group, LLC
Registered Agent: Daniel S. Groom
- 3. PH-24-AB-08 Boujee Butcher, Inc. d/b/a Southern Steer Butcher**
4620 Kimbell Bridge Road, Suite 5A, Alpharetta, GA 30005
Package Store
Retail Package Sales
Beer, Wine & Sunday Sales
Owner: Boujee Butcher, Inc.
Registered Agent: Kenneth Ekmark

C. Financial Management Report (Month Ending March 31, 2024)

Consideration of approval of the Financial Management Report for the month ending March 31, 2024.

D. Conflict Waiver: Jarrard and Davis Representation of City of Alpharetta and Development Authority of Alpharetta

Consideration of approval of a Conflict Waiver regarding Jarrard & Davis, LLP's Joint Representation of the City of Alpharetta and the Development Authority of Alpharetta

related to an Intergovernmental Agreement for lease of 2970 Webb Bridge Road and with authorization for the Mayor to execute all necessary documents.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member Mitchell offered a motion to approve the Consent Agenda.
 - Mayor Pro Tem Merkel seconded the motion.
 - The motion was approved unanimously (7-0).

7. PUBLIC HEARING

A. V-24-12 115 Lambdin Lane Stream Buffer Variance

Consideration of a variance to allow for an encroachment into 25' stream buffer in order to stabilize a tributary associated with Long Indian Creek. The property is located at 115 Lambdin Lane and is legally described as being located in Land Lot 95, 1st District, 1st Section, Fulton County, Georgia.

- Planning and Development Services Manager, Michael Woodman, came forward to present this item.
- The applicant, Carter Engineering Consultants, Inc., is requesting consideration of a variance to allow a stream buffer encroachment in order to stabilize a streambank on a single-family detached lot. The applicant requests a variance to Unified Development Code (UDC) Subsection 3.3.2 Stream Buffer Protection to allow a gabion basket wall to encroach into the 25' stream buffer associated with a perennial tributary of the Long Indian Creek. The subject property is located at 115 Lambdin Lane in the Tuxford subdivision.
- Staff is recommending that Mayor and Council approve V-24-12 115 Lambdin Lane Variance, subject to the following conditions:
 1. Stream buffer encroachment and streambank stabilization strategy shall be limited to Streambank Stabilization Plans for the Agarwal Residence prepared by Carter Engineering, revised 4/18/24, except for modifications required to comply with the conditions below.
 2. Obtain any necessary state and federal approvals for the stream and buffer impacts.
- The 0.28-acre property is zoned R-12 (Dwelling, 'For-Sale', Residential) and is developed with a two (2) story, 3,878 square foot single-family detached home. An unnamed perennial tributary associated with Long Indian Creek is located at the rear of the property, which has a platted 25' stream buffer. Surrounding properties are zoned R-12 and are located in the Tuxford subdivision.
- A variance is requested from Unified Development Code (UDC) Subsection 3.3.2(D)(1)(b) Buffer and Setback Requirements, to allow for streambank

stabilization on a residential property. The City enforces the platted 25' stream buffer on the Tuxford subdivision plat, of which the plat was approved in Fulton County and not subject to the City's expanded perennial stream buffer requirements. The requested buffer encroachment would accommodate an approximately three-foot (3') gabion basket wall along the streambank. The City's Stormwater Engineer has reviewed the applicant's proposal and is in support of the applicant's variance request in order to resolve the erosion problem occurring along the streambank.

- The proposed design makes efforts to avoid shifting impacts to downstream properties. The property owner has met with Public Works and has requested that the scour at the existing pipe outlet be repaired.
- The site plan depicts an approximately three-foot (3') gabion basket wall along the edge of the streambank for approximately half of the length of the stream on the subject property. The gabion basket wall is aligned with the existing drainage pipe outlet. The western half the streambank will remain in its current state, except for some minor grading, live staking, and revegetation. A revegetation plan is proposed by the applicant and includes six (6) trees, live stakes (typically willow tree cuttings), and a variety of shrubs and groundcover.
- The Community Zoning Information Meeting was held on April 10, 2024. There were no public comments.
- The Citizen Participation Plan Report submitted by the applicant states that property owners within 500' were contacted regarding the applicant's intent. The report states that no comments were received and that the property owners discussed the project with neighbors located at 125 and 135 Lambdin Lane, of which neither had objections to the request.
- Staff has reviewed the proposal and finds that the requested variance does not conflict with the established criteria. The applicant's request is related to mitigating an existing streambank erosion problem. The City's Stormwater Engineer has worked with the applicant's engineer to find a viable solution that does not push the problem downstream. The existing streambank erosion problem is likely the result of the limited stream regulations required by Fulton County at the time Tuxford was developed.
- The applicant, Brian Kimsey (Carter Engineering Consultants), came forward to speak on behalf of this application and the homeowner.

PUBLIC COMMENTS:

- There were no public comments.
 - ❖ Mayor Pro Tem Merkel offered a motion to approve V-24-12 115 Lambdin Lane Variance, subject to the following conditions:
 1. Stream buffer encroachment and streambank stabilization strategy shall be limited to Streambank Stabilization Plans for the Agarwal

Residence prepared by Carter Engineering, revised 4/18/24, except for modifications required to comply with the conditions below.

2. Obtain any necessary state and federal approvals for the stream and buffer impacts.
 - Council Member DeRito seconded the motion.
 - The motion was approved unanimously (7-0).

B. MP-24-03 Costco/Oxford Green Master Plan

Consideration of a master plan amendment to allow for a 13,500 square foot expansion of the Costco building. A master plan amendment is requested to Oxford Green Master Plan Tract A to increase the maximum allowable square footage of the building from 138,500 to 152,000 square feet. The property is located at 2855 Jordan Court and is legally described as being located in Land Lots 1120 & 1121, 2nd District, 2nd Section, Fulton County, Georgia.

- Planning and Development Services Manager, Michael Woodman, came forward to present this item.
- The applicant, Costco, is requesting a master plan amendment to increase the maximum developable square footage in the Oxford Green Master Plan Tract A from 138,500 square feet to 152,000 square feet. Costco proposes an expansion of the sales area and relocation of the loading dock. The subject property is located at 2855 Jordan Court at the northwest corner of Jordan Court and Westfield Drive.
- This item was considered at the May 2, 2024 Planning Commission meeting. There was one (1) public comment in support, but with concerns over traffic blocking ADA spaces near the entrance. Some Planning Commissioners asked that the applicant look at the parking spaces along the main entrance driveway adjacent to the building as they tend to hold up the flow of traffic, as well as traffic control devices (stop signs and pavement markings) at realigned secondary ingress/egress. After discussion, Planning Commission recommended approval subject to staff's recommended conditions (vote 6-0).
- Staff is recommending that Mayor and Council approve MP-24-03 Costco/Oxford Green Master Plan, subject to the following conditions:
 1. Site shall be developed substantially similar to the site plan prepared by AEC, dated 3/1/2024.
 2. Maximum gross developable square footage shall not exceed 152,000 square feet in the Oxford Green Master Plan Tract A.
 3. Building additions shall complement the existing exterior of the building.

4. Property owner shall assess landscaping in the areas in close proximity to the proposed development activity and shall replace missing, dead or dying landscape material, with final approval by Staff.
 5. A parking lot landscape tree shall be required in the landscape island adjacent to the proposed 1,525 square foot addition on the north side of the building.
 6. A large canopy tree and shrubs shall be required in the newly created parking lot island near the entrance off Westfield Drive.
 7. Loading dock shall be heavily screened with a wall and evergreen landscaping to complement the existing condition, as approved by Staff.
 8. There shall be no outdoor storage on the property and semi tractor trailers shall only be parked in the loading dock area with the semi tractor attached to the trailer at all times.
- The 18.59-acre property is zoned O-I (Office-Institutional) and is subject to the Oxford Green Master Plan Tract A. The property is currently developed as a 1-story, approximately 138,500 square foot building. Surrounding properties are zoned O-I to the west, south and east, and C-1 (Neighborhood Commercial) to the north. Windward Pointe is located to the west and south, Connors Steak & Seafood, Bank of America, and a retail strip center are located to the east, and Windward Promenade is located to the north.
 - The Oxford Green Master Plan was approved in 1988 as an office park with incidental retail use and consists of approximately 255 acres along Windward Parkway and Westside Parkway. The applicant's request for master plan amendment relates to a condition of zoning approved for file# MP-99-11 Oxford Green/Pioneer Real Estate Development, which limited the maximum allowable square footage to 110,000 square feet. An administrative variance (AV2004007) was approved in 2004 to increase the allowable square footage to 132,000 square feet and a master plan amendment (MP-14-07) was approved in 2014 to further increase the allowable square foot to 138,500 square feet.
 - The site plan depicts expansion of the building adjacent to the liquor store (1,525 square foot addition) on the north side of the building and in the existing loading dock area (5,425 square foot addition) on the south side of the building. When accounting for the gross area of the building, the actual requested increase to the sales area of the building is 6,950 square feet. The loading dock is proposed to be pushed forward to accommodate the expansion. The proposal results in a reduction of parking from 691 to 673 spaces due to the relocation of the loading dock. The Unified Development Code (UDC) requires one (1) parking space/250 square feet for retail shopping centers between 50,000 square feet and 400,000 square feet, or 608 parking spaces, including the proposed expansion. Therefore, the proposal exceeds the City's minimum parking requirements.

- The Community Zoning Information Meeting was held on April 10, 2024. There were no public comments.
- The Citizen Participation Plan Report submitted by the applicant states that property owners within 500' were contacted regarding the applicant's intent. The report states that the applicant received a public comment in support of the expansion, as well as a request for additional information from the Windward Pointe HOA President who also had concerns about traffic.
- Staff has reviewed the applicant's proposal against the review criteria for a master plan amendment. The proposal would allow for a relatively small addition to the sales areas of the retail wholesale club. When accounting for the gross area of the building, the actual requested increase to the sales area of the building is 6,950 square feet which represents less than a five percent (5%) increase to the overall building size. While a small number of parking spaces would be impacted by the proposal, the site will continue to exceed the City's minimum parking requirements.
- The applicant, Julie Miller (AEC Engineering) for Costco, came forward to speak on behalf of this application.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to approve MP-24-03 Costco/Oxford Green Master Plan, subject to the following conditions:
 1. Site shall be developed substantially similar to the site plan prepared by AEC, dated 3/1/2024.
 2. Maximum gross developable square footage shall not exceed 152,000 square feet in the Oxford Green Master Plan Tract A.
 3. Building additions shall complement the existing exterior of the building.
 4. Property owner shall assess landscaping in the areas in close proximity to the proposed development activity and shall replace missing, dead or dying landscape material, with final approval by Staff.
 5. A parking lot landscape tree shall be required in the landscape island adjacent to the proposed 1,525 square foot addition on the north side of the building.
 6. A large canopy tree and shrubs shall be required in the newly created parking lot island near the entrance off Westfield Drive.
 7. Loading dock shall be heavily screened with a wall and evergreen landscaping to complement the existing condition, as approved by Staff.

8. There shall be no outdoor storage on the property and semi tractor trailers shall only be parked in the loading dock area with the semi tractor attached to the trailer at all times.

- Council Member Mitchell seconded the motion.
- The motion was approved unanimously (7-0).

C. PH-24-11 Unified Development Code (UDC) Text Amendments – Exceptions

FIRST READING

Consideration of text amendments to Subsection 4.5.5 of the Unified Development Code (UDC) to amend regulations pertaining to Exceptions.

- City Attorney, Molly Esswein, read the Ordinance title aloud.
- Director of Community and Economic Development, Kathi Cook, came forward to present this item.
- This item was considered at the May 2, 2024 Planning Commission meeting. There was one (1) public comment unrelated to the proposed text amendment, but specific to a past request for exception for backyard chickens. After discussion, Planning Commission recommended approval (vote 6-0).
- Staff recommends amendments to Unified Development Code (UDC) Article IV Procedures to amend regulations pertaining to Exceptions. Amend UDC Subsection 4.5.5 Exceptions to clarify that exceptions exceeding 50% of a stipulated requirement are considered by the City Council and to add regulations pertaining to uses customarily accessory to dwellings located in residential zoning districts (UDC Subsection 2.3.3(C)) as an allowable exception. Uses customarily accessory to dwellings located in residential zoning districts include detached garages, sheds, gazebos, children's play equipment, swimming pools, and backyard chickens.
- Exceptions and hardship variances include the same three (3) review criteria, except that exceptions include an additional review criterion which does not require a hardship. Because an exception does not require a hardship, they are limited to specific types of requests, including building setbacks, building height, signage, parking, and tree preservation, to name a few.
- The proposed text amendments are attached hereto as "Exhibit A."

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to approve PH-24-11 Unified Development Code (UDC) Text Amendments – Exceptions
 - Council Member Brady seconded the motion.
 - The motion was approved unanimously (7-0).

D. Fiscal Year 2024 Budget Amendment Ordinance

FIRST READING

Consideration of adoption of the City of Alpharetta's Fiscal Year 2024 Budget Amendment Ordinance.

- City Attorney, Molly Esswein, read the Ordinance title aloud.
- Director of Finance, Tom Harris, came forward to present this item.

PUBLIC COMMENTS:

- There were no public comments.
 - ❖ Council Member Brady offered a motion to the adoption of the City of Alpharetta's Fiscal Year 2024 Budget Amendment Ordinance.
 - Council Member Will seconded the motion.
 - The motion was approved unanimously (7-0).

E. PH-24-14 City of Alpharetta Capital Improvement Element (CIE)

Consideration of adoption of a resolution authorizing transmittal of the Fiscal Year 2023 Capital Improvement Element and Annual Report.

- City Attorney, Molly Esswein, read the resolution title aloud.
- Planning and Development Services Manager, Michael Woodman, came forward to present this item.
- The Georgia Planning Act of 1989 (The Act) requires that local governments keep their Comprehensive Plans current as a pre-requisite for maintaining Qualified Local Government status, a requirement for eligibility for receipt of State of Georgia funds. The Act requires that local governments provide annual updates to their Capital Improvement Element (CIE), prepared in accordance with the Minimum Planning Standards and Procedures and the Development Impact Fee Compliance Requirements.
- The City of Alpharetta is required to transmit its annual update of the CIE to the Atlanta Regional Commission for review prior to Council Adoption.

PUBLIC COMMENTS:

- There were no public comments.
 - ❖ Council Member DeRito offered a motion to adopt a resolution authorizing transmittal of the Fiscal Year 2023 Capital Improvement Element and Annual Report.
 - Council Member Brady seconded the motion.
 - The motion passed unanimously (7-0).

8. NEW BUSINESS

A. Resolution: GDOT Local Road Assistance (LRA) Administration Grant Application

Consideration of adoption of a resolution to authorize the submission of a Fiscal Year 2024 Local Road Assistance Grant Application to the Georgia Department of Transportation and with authorization for the Mayor to execute the submittal cover letter and all necessary documents.

- City Attorney, Molly Esswein, read the resolution title aloud.
- Director of Public Works, Pete Sewczwicz, came forward to speak on this item.
- The Georgia Department of Transportation (GDOT) has included \$250 million in Local Road Assistance funds (LRA) in their amended fiscal year 2024 budget. The LRA funds will be administered and distributed utilizing the current Local Maintenance and Improvement Grant (LMIG) application system. All eligible activities / projects for LRA funds will be the same as the LMIG program. LRA funds will require no match.
- GDOT began accepting applications March 15, 2024, and all electronic applications must be received no later than June 15, 2024. The City of Alpharetta is slated to receive funding from this grant in the amount of \$837,515.43, and several city roads will be milled and resurfaced utilizing the grant funding awarded from GDOT.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member DeRito offered a motion to adopt a resolution to authorize the submission of a Fiscal Year 2024 Local Road Assistance Grant Application to the Georgia Department of Transportation and with authorization for the Mayor to execute the submittal cover letter and all necessary documents.
 - Council Member Brady seconded the motion.
 - The motion passed unanimously (7-0).

B. Invitation to Bid 24-012: Wills Park Wacky World Area Improvements

REMOVED: This item was removed from tonight's agenda and will not be discussed or considered during tonight's meeting.

Consideration of approval of a contract award for ITB 24-012 to Tri Scapes, LLC for the construction of Wills Park Wacky World Area Improvements in an amount not to exceed \$3,777,082.00, approval of Change Order #1 to PO 23000470 with Barge Design Solutions for limited construction administration design services in the amount of \$29,000.00, and with authorization for the Mayor to execute all necessary documents.

C. Contract Approval: Body Worn and In-Car Dash Cameras

Consideration of approval of a contract extension between Utility Associates, Inc. and the City of Alpharetta for Public Safety's Body-Worn and In-Car Dash Cameras and with authorization for the Mayor to execute all necessary documents.

- Director of Public Safety, John Robison, came forward to present this item.
- The Department of Public Safety seeks approval to extend the Utility Associates, Inc. contract for an additional (3) three years. Utility Associates provides the department with body-worn and in-car dash cameras. The extension encompasses several key enhancements and streamlining measures to optimize our law enforcement capabilities and operational efficiency.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member Will offered a motion to approve a contract extension between Utility Associates, Inc. and the City of Alpharetta for Public Safety's Body-Worn and In-Car Dash Cameras and with authorization for the Mayor to execute all necessary documents.
 - Council Member DeRito seconded the motion.
 - The motion passed unanimously (7-0).

D. PH-24-09 Dr. J.L. Morris House/116 North Main Street – Historic Designation

SECOND READING

The first reading occurred during the April 29, 2024 City Council Meeting and Public Hearing.

Consideration of a request to designate the Dr. J.L. Morris House as historic. The property is located at 116 North Main Street and is legally described as being located in Land Lot 1252, 2nd District, 2nd Section, Fulton County, Georgia.

- City Attorney, Molly Esswein, read the Ordinance title aloud.
- Planning and Development Services Manager, Michael Woodman came forward to share that there have been no changes since the first reading.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member Mitchell offered a motion to approve PH-24-09 Dr. J.L. Morris House/116 North Main Street – Historic Designation.
 - Mayor Pro Tem Merkel seconded the motion.
 - The motion passed unanimously (7-0).

E. PH-24-07 Unified Development Code Text Amendment – Hotels

SECOND READING

The first reading occurred during the April 29, 2024 City Council Meeting and Public Hearing.

Consideration of text amendments to Articles I and II of the Unified Development Code (UDC) to amend the definition and miscellaneous regulations pertaining to 'Extended Stay Hotel', add a definition for 'Hotel, Hybrid', add 'Hotel, Hybrid' use in certain zoning districts, and add 'Hotel, Hybrid' miscellaneous regulations.

- City Attorney, Molly Esswein, read the Ordinance title aloud.
- Director of Community and Economic Development, Kathi Cook, came forward to present this item.
- There has been one change to the language related to square footage for the conditional use of this definition for conference room / meeting space.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to approve PH-24-07 Unified Development Code Text Amendment – Hotels.
 - Council Member Mitchell seconded the motion.
 - The motion passed unanimously (7-0).

F. North Point Development Framework Plan (RFP 24-111) Contract Award

Consideration to award contract to Starr Whitehouse Landscape Architects and Planners LLC for the North Point Development Framework Plan.

- Director of Community and Economic Development, Kathi Cook, came forward to present this item.
- The purpose of the North Point Development Framework Plan is to build on the recommendations of the North Point LCI and North Point Creative Placemaking Plan by providing a framework of public streets, public space, trails, and green infrastructure to guide high-value, sustainable redevelopment of auto-centric properties in the North Point area. The Plan will help ensure that redevelopment within the North Point District aligns with the community-based plans and vision for a walkable, mixed-use district and will provide actionable guidance that aligns public policy, regulatory tools, public capital investment, and private investment.
- The North Point Development Framework Plan RFP (#24-111) was issued on January 18, 2024 with proposals due on February 15, 2024. Six (6) consultant teams responded to the RFP with the top three (3) scoring teams shortlisted for interviews, which included Starr

Whitehouse, Kimley-Horn & Associates, and MKSK. The RFP scoring criteria provided below was utilized to shortlist the consultant teams for the presentation and interview.

- Starr Whitehouse was the top scoring consultant team, which combined the initial evaluation criteria and the presentation and interview. Staff recommends awarding the contract to Starr Whitehouse.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to award contract to Starr Whitehouse Landscape Architects and Planners LLC for the North Point Development Framework Plan.
 - Council Member DeRito seconded the motion.
 - The motion passed unanimously (7-0).

8. PUBLIC COMMENT

- There were no public comments.

9. REPORTS

- Mayor Pro Tem Merkel shared that the ribbon cuttings for the two most recent grand openings of our pocket parks (Waters Road Park and Mid Broadwell Park) have been incredible and is looking forward to continuing these.
- Council Member Mitchell gave a shoutout to the Alpharetta Arts Center and shared that the Plein Air / Paint the Town event this year during the Taste of Alpharetta was wonderful. He encouraged people to visit the Arts Center to take a look at the art that was created during the event.

10. EXECUTIVE SESSION (IF NECESSARY)

- ❖ Mayor Pro Tem Merkel offered a motion to adjourn to Executive Session for the purposes of litigation.
 - Council Member Will seconded the motion.
 - The motion was approved unanimously (7-0).
- Mayor Gilvin recessed the meeting at 7:44 p.m.
- ❖ Council Member Mitchell offered a motion to reconvene the meeting.
 - Council Member Will seconded the motion.
 - The motion was approved unanimously (7-0).
- Mayor Gilvin reconvened the meeting at 8:26 p.m.

11. ADJOURNMENT

- ❖ Mayor Pro Tem Merkel offered a motion to adjourn the meeting.

- Council Member Will seconded the motion.
 - The motion was approved unanimously (7-0).
- With there being no further items to consider or discuss, Mayor Gilvin adjourned the meeting at 8:26 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lauren Shapiro". The signature is written in a cursive, flowing style.

Lauren Shapiro, City Clerk

EXHIBIT A

ORDINANCE NUMBER:



AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF ALPHARETTA, GEORGIA TO AMEND ARTICLE IV OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA; TO AMEND REGULATIONS PERTAINING TO EXCEPTIONS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and Council of the City of Alpharetta (the “City Council” or “Council”) are charged with the protection of the public health, safety, and welfare of the citizens of the City of Alpharetta;

WHEREAS, the Unified Development Code was designed to be amended from time to time when circumstances warrant that modifications be made in order to make said Codes more responsive to community needs;

WHEREAS, the City Council finds that ordinances and regulations governing the uses of land and development of land within the City, as well as the City’s operations, should be continually improved from time to time and modified as necessary to better protect and promote the public health, safety and welfare of the residents and businesses of the City of Alpharetta;

WHEREAS, the City Council desires to amend Article IV of the Unified Development Code for the foregoing purposes; and

WHEREAS, the City Council finds that the following amendments to the Unified Development Code promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the City of Alpharetta.

NOW THEREFORE, the Mayor and City Council of the City of Alpharetta hereby ordains, as follows:

Section 1: Article IV, Subsection 4.5.5 titled “Exceptions” of the Unified Development Code is hereby amended by amending same as set forth in Exhibit “A” attached hereto as if fully set forth herein.

Section 2: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

Section 3: This Ordinance shall be effective immediately upon its adoption by the City Council and the amendments made herein shall be incorporated into the Unified Development Code of the City of Alpharetta, Georgia, as applicable. This Ordinance hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of June ____.

CITY OF ALPHARETTA

By: _____
Jim Gilvin, Mayor

COUNCIL MEMBERS

Mayor Pro Tem Dan Merkel

Council Member Donald F. Mitchell

Council Member Brian Will

Council Member Douglas J. DeRito

Council Member John Hipes

Council Member Fergal Brady

(SEAL)

Attest:

Approved as to form and legal sufficiency:

Lauren Shapiro, City Clerk

[INSERT ATTORNEY], City Attorney

Exhibit “A”

4.5.5 Exceptions.

A. General.

1. An exception requested as part of a rezoning or conditional use application shall be heard by the Planning Commission and decided by the City Council as part of the public hearing process related to the rezoning or conditional use application. All other exceptions (which do not exceed 50% of the stipulated requirement) shall be heard and acted upon by the Board of Appeals, unless approved administratively by the Director as provided herein. Exceptions which exceed 50% of the stipulated requirement shall be heard and acted upon by the City Council.
2. Exceptions shall be limited to relief from the following requirements of this Ordinance:
 - a. Minimum building setbacks;
 - b. Maximum building height;
 - c. Buffers and screening;
 - d. Signage in accordance with a coordinated signage plan;
 - e. Minimum street frontage;
 - f. Parking and loading requirements;
 - g. Tree preservation;
 - h. Signage height and copy area; and
 - i. ~~Minimum street frontage; Regulations pertaining to uses customarily accessory to dwellings located in residential zoning districts (See Section 2.3.3(C));~~
 - j. Minimum building size;
 - k. Maximum impervious area

B. Standards for Approval.

1. An exception may be granted upon a finding that:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of size, shape or topography; or
 - b. The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or
 - c. There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned; or
 - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the Ordinance.
2. An exception may be granted from the requirements of this Ordinance regarding tree preservation. The factors to be taken into consideration include the following:
 - a. The ease with which the applicant can alter or revise the proposed development or improvement to accommodate existing trees.
 - b. The economic hardship that would be imposed upon the applicant were the exception denied.

- c. The heightened desirability of preserving tree cover in densely developed or densely populated areas.
 - d. The need for visual screening in transitional zones or relief from glare, blight, commercial or industrial ugliness or any other visual affront.
 - e. Whether the continued presence of the tree or trees is likely to cause danger to a person or property.
 - f. Whether the topography of the area in which the tree is located is such a nature to be damaging or injurious to trees.
 - g. Whether the removal of trees is for the purpose of thinning a heavily wooded area where some trees will remain.
 - h. Whether tree removal would have an adverse impact upon existing biological and ecological systems.
 - i. Whether tree removal would affect noise pollution by increasing source noise levels to such a degree that a public nuisance may be anticipated or a violation of the noise control ordinance will occur.
- C. *Limitations.* In no case shall an exception be granted from the conditions of approval imposed on a property through a zoning change granted by the City Council, nor may a minimum lot size required by a zoning district be reduced, nor may any use of land or buildings or structures be granted that will result in an increase in housing units or non-residential building density or is not permitted by the zoning district that is applicable to the property.

SECTION 4.5 APPEALS¹

4.5.1 Initiation.

- A. All requests for relief from the imposition of the regulations and requirements of this Ordinance on a property or development activity, or from an interpretation of the meaning of words or the boundaries of zoning districts, or from an administrative decision of the Director, shall be taken as an appeal to the Board of Appeals, except as otherwise provided in this Section.
- B. Appeals to the Board of Appeals may be initiated by any person aggrieved or by an officer, department, board or bureau of the City. Such appeal shall be initiated within 15 days of the action or decision appealed from by filing with the Director notice of said appeal specifying the grounds thereof. The Director shall transmit to the Board of Appeals any papers constituting the record of the action or decision from which the appeal was taken.
- C. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is made certifies to the Board of Appeals, after the notice of appeal shall have been filed with them, that by reason of facts stated in the certificate a stay would, in the Director's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of competent jurisdiction.

(Ord. No. 859 , § 1(Exh. A), 6-26-2023)

4.5.2 Public hearing process.

- A. Public Notice.
 - 1. *Notification to the General Public.*
 - a. At least thirty (30) days but not more than forty-five (45) days prior to each public hearing, notice shall be published in a newspaper of general circulation within the City. The Director shall prepare such notice, which shall state the time, place and purpose of the hearing. Additionally, notice of the public hearing shall be sent to the owner of the property that is the subject of the proposed action at least thirty (30) days prior to the hearing date by regular mail.
 - b. If a request for a variance is to be heard at the hearing, then the notice shall, in addition to the above requirements, include the proposed code provisions requested to be modified. Each section of this Code requested to be varied shall be separately identified in all required notices.
 - c. If an appeal of an administrative decision is to be heard at the hearing, then the notice shall, in addition to the above requirements, include a summary of the purpose of the appeal.

(Ord. No. 859 , § 1(Exh. A), 6-26-2023)

4.5.3 Public hearing.

- A. The Director shall submit the appeal to the Board of Appeals, together with any Staff Report. The Board of Appeals shall review and take action upon each appeal after holding a public hearing. In making a decision on

¹Ord. No. 859 , § 1(Exh. A), adopted June 26, 2023, deleted § 4.5 in its entirety and enacted a new § 4.5 as set out herein. Former § 4.5 pertained to similar subject matter and derived from Ord. No. 751 , § 2, adopted October 16, 2017.

the appeal, the Board of Appeals shall follow the standards set forth under this Section. No member of the Board of Appeals shall rule on a matter in which he or she has a financial interest, directly or indirectly.

- B. In taking on an appeal, the Board of Appeals by majority of those voting may approve, approve with conditions, or deny the appeal, or the Board of Appeals may table the matter for consideration at its next regular meeting.
- C. The following procedures shall govern public hearings for purposes of considering applications as specified in this Section.
 - 1. Presiding officer. The public hearing shall be conducted by the presiding officer.
 - 2. Requirements for speakers. Persons wishing to speak in support (including the applicants and designated representative) or opposition to any application shall provide their name and address on the specified form to City staff prior to speaking at the public hearing. In addition, each person shall be required to disclose any campaign contributions/gifts equal to or greater than \$100 given to any City elected official within two (2) years of the public hearing date.
 - 3. Time limits. Speakers at the public hearing shall be allowed not less than ten (10) minutes per side, provided, however, that the presiding officer may at his or her discretion elect to extend this time period equally to proponents and opponents.

(Ord. No. 859 , § 1(Exh. A), 6-26-2023)

4.5.4 Hardship variances.

- A. *General.*
 - 1. Relief from the application of the provisions of this Ordinance may be granted by the board of Appeals upon a finding that compliance with such provision will result in a hardship to the property or owner that is substantially unwarranted by the protection of the public health, safety or general welfare and the need for consistency among all properties similarly zoned.
 - 2. Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience to the applicant nor to gain any advantage or interest over similarly zoned properties.
- B. *Standards for Approval.* A hardship variance may be granted in whole or in part, or with conditions, in such individual case of unnecessary hardship upon a finding by the Board of Appeals that:
 - 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; or
 - 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or
 - 3. There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.
- C. *Limitation.* In no case shall a hardship variance be granted from the conditions of approval imposed on a property through a zoning change granted by the City Council, nor may any use of land or buildings or structures be granted that is not permitted by the zoning district that is applicable to the property.

(Ord. No. 859 , § 1(Exh. A), 6-26-2023)

4.5.5 Exceptions.

- A. *General.*

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1. An exception requested as part of a rezoning or conditional use application shall be heard by the Planning Commission and decided by the City Council as part of the public hearing process related to the rezoning or conditional use application. All other exceptions (which do not exceed 50% of the stipulated requirement) shall be heard and acted upon by the Board of Appeals, unless approved administratively by the Director as provided herein. Exceptions which exceed 50% of the stipulated requirement shall be heard and acted upon by the City Council.
 2. Exceptions shall be limited to relief from the following requirements of this Ordinance:
 - a. Minimum building setbacks;
 - b. Maximum building height;
 - c. Buffers and screening;
 - d. Signage in accordance with a coordinated signage plan;
 - e. Minimum street frontage;
 - f. Parking and loading requirements;
 - g. Tree preservation;
 - h. Signage height and copy area; and
 - i. Minimum street frontage; Regulations pertaining to uses customarily accessory to dwellings located in residential zoning districts (See Section 2.3.3(C));
 - j. Minimum building size;
 - k. Maximum impervious area

B. *Standards for Approval.*

1. An exception may be granted upon a finding that:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of size, shape or topography; or
 - b. The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or
 - c. There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned; or
 - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the Ordinance.
2. An exception may be granted from the requirements of this Ordinance regarding tree preservation. The factors to be taken into consideration include the following:
 - a. The ease with which the applicant can alter or revise the proposed development or improvement to accommodate existing trees.
 - b. The economic hardship that would be imposed upon the applicant were the exception denied.
 - c. The heightened desirability of preserving tree cover in densely developed or densely populated areas.
 - d. The need for visual screening in transitional zones or relief from glare, blight, commercial or industrial ugliness or any other visual affront.

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- e. Whether the continued presence of the tree or trees is likely to cause danger to a person or property.
 - f. Whether the topography of the area in which the tree is located is such a nature to be damaging or injurious to trees.
 - g. Whether the removal of trees is for the purpose of thinning a heavily wooded area where some trees will remain.
 - h. Whether tree removal would have an adverse impact upon existing biological and ecological systems.
 - i. Whether tree removal would affect noise pollution by increasing source noise levels to such a degree that a public nuisance may be anticipated or a violation of the noise control ordinance will occur.
- C. *Limitations.* In no case shall an exception be granted from the conditions of approval imposed on a property through a zoning change granted by the City Council, nor may a minimum lot size required by a zoning district be reduced, nor may any use of land or buildings or structures be granted that will result in an increase in housing units or non-residential building density or is not permitted by the zoning district that is applicable to the property.

(Ord. No. 859 , § 1(Exh. A), 6-26-2023)

4.5.6 Interpretations.

- A. The Board of Appeals, upon appeal of an aggrieved party or at the request of the Director, shall interpret the use of words or phrases within the context of the intent of this Ordinance, the boundaries of the various zoning districts where uncertainty exists, and such other provisions of this Ordinance as may require clarification or extension. The Board of Appeals shall also hear and decide appeals from any order, determination, decision or other action by the Director where a misinterpretation of the requirements or other provisions of this Ordinance is alleged, except for appeals of administrative decisions denying design approval of signs reviewed by the Director for compliance with the design standards set forth in the Design Review Board Ordinance.
- B. An interpretation by the Board of Appeals shall be final, unless an appeal of their action is taken to Superior Court within 30 days of the Board's action.

(Ord. No. 859 , § 1(Exh. A), 6-26-2023)

4.5.7 Appeals of Administrative Variance Decisions.

Any administrative variance decision or administrative exception decision made pursuant to Section 5.1 may be appealed in accord with the procedures set forth in Sections 4.5.2 and 4.5.3.

(Ord. No. 859 , § 1(Exh. A), 6-26-2023)