

**CITY OF BERKELEY LAKE**  
**4729 PEACHTREE INDUSTRIAL BOULEVARD, SUITE A, NORCROSS, GA 30092**  
**PLANNING & ZONING COMMISSION MEETING**  
**FULL MINUTES**  
**February 24, 2009**  
**8:00 PM**

Those in attendance at the meeting were as follows:

Commission members	Sally Rich-Kolb Rodney Hammond Dan Huntington Craig Belt Jeff Cooper
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Deputy City Administrator:	Leigh Threadgill
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**I. CALL TO ORDER:**

Hammond called the meeting to order at 8:05 P.M. at 4729 Peachtree Industrial Boulevard, Suite A.

**II. MINUTES of October 8, 2008**

**Huntington moved to approve the minutes. Belt seconded the motion. All were in favor. The motion passed.**

**III. NEW BUSINESS**

a.) Election of Chair

**Kolb moved to nominate Rodney Hammond as chair. Cooper seconded the motion. All were in favor. The motion passed.**

b.) Election of Vice-Chair

**Huntington moved to nominate Craig Belt. Belt declined. The motion failed for lack of a second.**

**Kolb moved to nominate Dan Huntington. Huntington declined. The motion failed for lack of a second.**

There was discussion.

**Huntington moved to nominate Sally Rich-Kolb. Belt seconded the motion. All were in favor. The motion passed.**

c.) Appointment of Secretary

**Cooper moved to appoint Leigh Threadgill as secretary. Belt seconded the motion. All were in favor. The motion passed.**

d.) Discussion regarding next steps for the Planning & Zoning Commission

There was discussion regarding training opportunities, orientation for new members and possible improvements to increase efficiency.

#### **IV. CITIZEN COMMENTS**

None were present to comment.

#### **V. ADJOURNMENT**

**Huntington moved to adjourn. Belt seconded the motion. All were in favor. The motion passed.**

Hammond adjourned the meeting at 8:40 p.m.

Respectfully submitted,

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Leigh Threadgill  
Deputy City Administrator

**CITY OF BERKELEY LAKE**  
**4729 PEACHTREE INDUSTRIAL BOULEVARD, SUITE A, NORCROSS, GA 30092**  
**PLANNING & ZONING COMMISSION MEETING**  
**FULL MINUTES**  
**March 30, 2009**  
**7:30 PM**

Those in attendance at the meeting were as follows:

Commission members                      Sally Rich-Kolb  
   Rodney Hammond  
   Dan Huntington  
   Craig Belt  
   Jeff Cooper

Deputy City Administrator:                      Leigh Threadgill

Guests:    Charles Dean  
   Tom Rozier

**I. CALL TO ORDER:**

Hammond called the meeting to order at 7:33 P.M. at 4729 Peachtree Industrial Boulevard Suite A.

**II. APPROVAL OF AGENDA**

**Kolb moved to approve the agenda. Huntington seconded the motion. All were in favor. The motion passed.**

**III. MINUTES of February 24, 2009**

Threadgill noted that the location of where the meeting was called to order needed to be changed from 4040 South Berkeley Lake Road to 4729 Peachtree Industrial Boulevard Suite A.

**Cooper moved to approve the minutes with the suggested change. Belt seconded the motion. All were in favor. The motion passed.**

**IV. NEW BUSINESS**

a.) Administrative Variance – 118 Little Ridge Road – Expansion to a Non-Conforming Structure

Hammond stated that he had administratively approved the variance request, which was to construct a front porch on an existing non-conforming residence.

Belt asked if the administrative variance approval could be appealed as with a typical variance. Threadgill stated that it could, and that the appeal period ended today, March 30, 2009, which was 15 days from the date the sign was posted signifying approval of the variance.

b.) Consideration of Amendment to River District Preliminary Plan, Final Plat Unit 1 and Final Plat Unit 2

Hammond asked Charles Dean to introduce the proposal.

The applicant, Charles Dean, gave some history of the subdivision. Dean stated that the original subdivision allowed three different lot coverages – 15%, 20% and 40%, depending on the location of the lots. The idea was to save as many trees as possible.

He further stated that he thought that it may have been a drafting error to allow Lot 1, Unit 1 to have 20% lot coverage and to only allow 15% lot coverage for Lot 1, Unit 2. Lot 1, Unit 1 is 71,497 square feet in area and is allowed a 20% building footprint, which would be 14,299 square feet. Dean stated that in his opinion that lot should only be permitted a lot coverage of 15%. The smaller lot, Lot 1, Unit 2, is currently allowed 15% lot coverage. He is proposing to reduce the lot coverage for Lot 1, Unit 1 to allow 15% coverage and to increase the lot coverage of Lot 1, Unit 2 to 20% from 15%. Dean went on to state that it would be a better design to switch the lot coverage allowances for those lots so that the house to be constructed on Lot 1, Unit 2 could be a similar size as the others and compatible with the design of the development.

The net effect of the revision would be to reduce the total amount of footprint area for the development by 1,259 square feet.

There was further discussion.

Hammond stated that when River District was approved there were a lot of trade-offs to allow higher density on the former sod farm. There was a concern about how that increased density would benefit the city. It was important to keep the more wooded part of the property along North Berkeley Lake Road as natural as possible.

Kolb stated that she is concerned at the number of houses in the neighboring Hermitage subdivision adjacent to Lot 1, Unit 2.

There was further discussion.

**Huntington moved to approve the proposed revision to the Preliminary Plan, Final Plat Unit 1 and Final Plat Unit 2 to reduce the lot coverage on Lot 1, Unit 1 from 20% to 15% and to increase the lot coverage on Lot 1, Unit 2 from 15% to 20%. Belt seconded the motion.**

There was discussion regarding the procedure for plat revisions and the possibility of amending the lot coverage for Lot 1, Unit 2 to 17.5% in order to accommodate the proposed design.

There was further discussion.

It was requested that the site plan and architectural plans for the proposed construction on Lot 1, Unit 2 be made available. The Commission took a short recess while the plans were retrieved.

After the Commission returned from recess, there was further discussion.

**Belt, Cooper and Huntington voted in favor. Kolb voted in opposition. The motion passed.**

c.) Consideration of Amendment to Section 78-240, M-1 Permitted Uses(54:06)

Threadgill explained that the proposed zoning ordinance amendment was needed because of a new ordinance being considered by City Council to regulate wireless communication facilities, which proposes to allow the location of cell towers in the M-1 zoning district.

There was discussion.

**Belt moved to table the text amendment to Section 78-240 to allow the construction of cell towers in the M-1 zoning district subject to the requirements of the newly proposed Chapter 77, Standards for Wireless Transmission Facilities. Kolb seconded the motion.**

There was further discussion.

**Kolb and Belt voted in favor. Huntington and Cooper voted in opposition. Chairman Hammond cast the tie-breaking vote in favor of tabling consideration of the proposed amendment. The motion passed.**

d.) Consideration of Amendment to Section 78-269, C-1 Permitted Uses

Threadgill explained that the proposed zoning ordinance amendment was needed because of a new ordinance being considered by City Council to regulate wireless transmission facilities, which proposes to allow the location of cell towers in the C-1 zoning district.

**Belt moved to table the text amendment to Section 78-269. Kolb seconded the motion. Kolb and Belt voted in favor. Huntington and Cooper voted in opposition. Chairman Hammond cast the tie-breaking vote in favor of tabling consideration of the proposed amendment. The motion passed.**

e.) Consideration of a regular meeting schedule

There was discussion regarding whether to adopt a regular meeting schedule.

## **VI. CITIZEN COMMENTS**

Tom Rozier, 659 Lakeshore Drive encouraged the commissioners to listen to the minutes from the March council meeting regarding the cell tower proposals and invited them to attend the next council meeting scheduled for April 16<sup>th</sup> at 7:30 P.M.

## **VII. ADJOURNMENT**

**Cooper moved to adjourn. Belt seconded the motion. All were in favor, and the motion passed.**

Hammond adjourned the meeting at 9:21 p.m.

Respectfully submitted,

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Leigh Threadgill  
Deputy City Administrator

**CITY OF BERKELEY LAKE**  
**4729 PEACHTREE INDUSTRIAL BOULEVARD, SUITE A, NORCROSS, GA 30092**  
**PLANNING & ZONING COMMISSION MEETING**  
**FULL MINUTES**  
**May 11, 2009**  
**7:30 PM**

Those in attendance at the meeting were as follows:

Commission members                      Rodney Hammond, Chair  
   Sally Rich-Kolb, Vice-Chair  
   Craig Belt  
   Jeff Cooper  
   Dan Huntington

Deputy City Administrator:              Leigh Threadgill

**I. CALL TO ORDER:**

Hammond called the meeting to order at 7:30 P.M. at 4729 Peachtree Industrial Boulevard Suite A.

**II. APPROVAL OF AGENDA**

It was the consensus of the Commission to approve the agenda with no suggested changes.

**III. MINUTES of March 30, 2009**

Kolb noted that there was a need to change new business item (d) to provide for the motion to table consideration of Section 78-269.

**Cooper moved to approve the minutes with the proposed change. Huntington seconded the motion. All were in favor. The motion passed.**

**IV. OLD BUSINESS**

a.) Consideration of Amendment to Section 78-240, M-1 Permitted Uses

**Huntington moved to approve the proposed amendment to Section 78-240. Cooper seconded the motion. All were in favor. The motion passed.**

b.) Consideration of Amendment to Section 78-269, C-1 Permitted Uses

**Huntington moved to approve the proposed amendment to Section 78-269. Kolb seconded the motion. All were in favor. The motion passed.**

**V. NEW BUSINESS**

a.) Consideration of a New Chapter 77 – Standards for Wireless Communications Facilities

There was discussion regarding regulations for cell towers. It was discussed that the Planning & Zoning Commission would be responsible for review and approval of applications submitted under this ordinance.

**Kolb moved to table consideration of Chapter 77 until staff can research Section 77-10(b) for possible alternative language. Huntington seconded the motion. All were in favor. The motion passed.**

b.) Consideration of Amendment to Section 78-61, Height and Density (on the agenda as New Business “c”, this was discussed as New Business “b” in the meeting.)

**Cooper moved to adopt Section 78-61 as presented. Huntington seconded the motion. All were in favor. The motion passed.**

c.) Consideration of a new Section 78-93, Communication Towers (on the agenda as New Business “b”, this was discussed as New Business “c” in the meeting.)

**Cooper moved to adopt Section 78-93 as written. Huntington seconded the motion.**

There was discussion about amending the last sentence to end it following “Business.”

(Huntington departed the meeting, but it was noted that there was still a quorum present.)

**Cooper withdrew the motion.**

**Cooper moved to adopt Section 78-93 with the changes noted to put a period at the end of Neighborhood Business and delete the last clause of the paragraph. Belt seconded the motion. All were in favor. The motion passed.**

d.) Consideration of Planning & Zoning Commission By-Laws

It was noted that this was just for discussion and no vote was required at this meeting.

There was discussion.

Belt asked whether the requirements for a variance to be granted should be included in the by-laws.

It was noted that the Commissioners could review the document and provide comments back to staff for incorporation into the document and/or discussion at the next meeting.

## **VI. CITIZEN COMMENTS**

None were present to comment.

## **VII. ADJOURNMENT**

**Cooper moved to adjourn. Kolb seconded the motion. All were in favor, and the motion passed.**

Hammond adjourned the meeting at 9:17 p.m.

Respectfully submitted,

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Leigh Threadgill  
Deputy City Administrator

(approved June 3, 2009)

**CITY OF BERKELEY LAKE**  
**4729 PEACHTREE INDUSTRIAL BOULEVARD, SUITE A, NORCROSS, GA 30092**  
**PLANNING & ZONING COMMISSION MEETING**  
**FULL MINUTES**  
**June 3, 2009**  
**7:30 PM**

Those in attendance at the meeting were as follows:

Commission Members:                   Rodney Hammond, Chair  
  Sally Rich-Kolb, Vice-Chair  
  Dan Huntington  
  Tom Merkel

Deputy City Administrator:           Leigh Threadgill

Citizens Present:                       Frank Way  
  Walter Anderson

**I. CALL TO ORDER:**

Hammond called the meeting to order at 7:30 P.M. at 4729 Peachtree Industrial Boulevard Suite A.

**II. APPROVAL OF AGENDA**

It was the consensus of the Commission to approve the agenda with no suggested changes.

**Kolb moved to approve the agenda. Huntington seconded the motion. All were in favor. The motion passed.**

**III. MINUTES of May 11, 2009**

**Huntington moved to approve the minutes. Kolb seconded the motion. All were in favor. The motion passed.**

**IV. OLD BUSINESS**

a.) Consideration of a New Chapter 77 – Standards for Wireless Communications Facilities

Hammond framed this issue and the job of the Commission in its role as regulating land use to consider and approve or deny any proposal for cellular facilities. Currently there are no standards with which to evaluate a proposal. There is a draft ordinance which has been reviewed by council and council has requested P&Z to provide feedback. Once the Commission has reviewed and recommended language to the City Council, the draft ordinance will be considered for adoption.

There was discussion.

Huntington stated that he thought the only section that was being considered for revision was Section 77-10(b) regarding remedies for removal of abandoned towers.

There was discussion about the exemption of city owned, leased or controlled properties from having to meet the requirements and whether that exemption would apply if there isn't specific language in the ordinance creating the exemption.

There was discussion regarding the lease section and what to do to ensure that the City would not be responsible for paying for removal of abandoned structures. The language of Section 77-10(b) and 77-19 were compared. There was consensus to leave those sections as is.

**Huntington moved to recommend approval of Chapter 77. Kolb seconded the motion.**

Hammond indicated that there was some additional language, primarily having to do with visual impact, that he would like the Commission to consider for inclusion in the ordinance.

The Commission reviewed proposed changes to Section 77-5(i).

There was discussion.

The Commission reviewed additional language regarding the ability to require conditions upon approval of cell tower developments.

The Commission reviewed alternative setback requirements.

**Huntington amended his motion to recommend approval to include the new language in subsection 77-5(i) and other changes discussed. Merkel seconded the amended motion.**

Frank Way, 649 Lakeshore Drive, stated that he is in favor of having improved cellular service in Berkeley Lake. He recommended that the ordinance be carefully worded to ensure that there is not a costly lawsuit brought on by a cellular service provider. He acknowledged that it is a challenge because of the concerns of those in opposition to the location of a cell tower in the City.

Merkel stated that we have used language from a model code and other cities and counties codes which are strong and enforceable. The intent is to have an iron-fisted code.

Huntington noted that he thinks the City owes it to the citizens to provide good cellular coverage, but the development of the ordinance does not ensure that a tower will be constructed in the city to provide such.

Way continued stating that he read the 1996 Telecommunications Act. There are various ways to get cellular service, and any ordinance has to ensure equal opportunity for service providers. Can you write an ordinance that doesn't allow development of a cell tower on city-owned property if that is the only location that will work in the city to provide the service?

It was responded that the ordinance still allows a tower to be constructed on city property and that the language proposed is consistent with other jurisdictions.

**All were in favor. The motion passed.**

b.) Consideration of Planning & Zoning Commission By-Laws

**Merkel moved to approve the by-laws as presented. Kolb seconded the motion. All were in favor. The motion passed.**

Threadgill noted that the by-laws would require Council approval before enactment.

Huntington welcomed Tom Merkel to the Commission and wanted to reflect the Commission's appreciation of Craig Belt's many years of service.

#### **V. CITIZEN COMMENTS**

There were none.

#### **VI. ADJOURNMENT**

**Huntington moved to adjourn. Merkel seconded the motion. All were in favor, and the motion passed.**

Hammond adjourned the meeting at 8:30 p.m.

Respectfully submitted,

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Leigh Threadgill  
Deputy City Administrator

**CITY OF BERKELEY LAKE**  
**4040 SOUTH BERKELEY LAKE ROAD, BERKELEY LAKE, 30096**  
**PLANNING & ZONING COMMISSION MEETING**  
**FULL MINUTES**  
**August 18, 2009**  
**7:30 PM**

Those in attendance at the meeting were as follows:

Commission Members:                     Rodney Hammond, Chair  
  Sally Rich-Kolb, Vice-Chair  
  Jeff Cooper  
  Tom Merkel

Deputy City Administrator:             Leigh Threadgill

Citizens Present:                         Bob Herb

**I. CALL TO ORDER:**

Hammond called the meeting to order at 7:30 P.M. at 4040 South Berkeley Lake Road.

**II. APPROVAL OF AGENDA**

**Cooper moved to approve the agenda. Merkel seconded the motion. All were in favor. The motion passed.**

**III. MINUTES of June 3, 2009**

**Merkel moved to approve the minutes as presented. Kolb seconded the motion. All were in favor. The motion passed.**

**IV. OLD BUSINESS**

a.) Consideration of Planning & Zoning Commission By-Laws

Threadgill stated that the by-laws were sent back to the Planning and Zoning Commission from the City Council so that the Commission might consider a regular meeting schedule and reflect that in the by-laws. In addition, the draft by-laws have been amended to reflect comments from the planning and zoning training held on July 25, 2009.

There was discussion regarding changes to the draft by-laws. The individual revisions were discussed.

The Commission specifically discussed creating a regular meeting schedule on a monthly basis versus a quarterly meeting as proposed in the draft version of the by-laws.

The Commission decided to amend the draft by-laws to include a regular monthly meeting schedule for the second Tuesday of every month.

**Cooper moved to approve the by-laws as amended but with the modification to change the regular meeting schedule to the second Tuesday of each month. Merkel seconded the motion. All were in favor. The motion passed.**

The Commission agreed to begin the regular monthly meeting schedule in January, 2010.

## **V. NEW BUSINESS**

a.) Consideration of amending the zoning ordinance to modify Sections 78-61, Height and Density; 78-112, Exceptions to front yard requirements; 78-203, RMD, residential multi-family duplexes; 78-374, Fees; and to add Section 78-114, Substandard lots of record.

Threadgill reviewed the suggested changes.

Section 78-61, Height and density, is proposed to be amended to correct an erroneous reference.

Section 78-112, Exceptions to front yard requirements, is proposed for clarification of existing language.

The Commission discussed whether or not it is the goal to allow someone to do something not to code because of other non-conforming situations, which seems to be what this section allows.

Bob Herb, 30 Lakeshore Drive, asked the purpose of the code.

Threadgill stated that this is common code language and that it provides for a consistent streetscape by not requiring a new house, for example, to be constructed at the required setback which may be some distance behind the front building lines of houses on neighboring properties.

There was discussion about abolishing the section and requiring a variance for any reduction in the front setback requirement.

Bob Herb, 30 Lakeshore Drive, stated that this section of code seems to say that two wrongs make a right, but the purpose of the code is to bring everyone up to the required standard rather than allow new nonconformities to arise because of existing nonconformities.

There was discussion about the detrimental impact on the value of properties that are required to develop at a greater setback than neighboring properties.

There was further discussion.

Section 78-203, RMD, is proposed to be amended to correct one word.

Section 78-374, Fees, is proposed in conjunction with a project to amend the existing fee schedule.

Section 78-114, Substandard lots of record, is a new section being proposed that is common in other codes and would prevent the need for a variance when there is something about the lot that does not meet minimum lot standards (area, depth or width) when the lot is an existing lot of record.

The Commission discussed the proposed addition of Section 78-114, Substandard lots of record. It was decided that in the event of a side setback variance request on substandard lots of record, the Commission

could not grant variances any more than 2.5 feet on either side such that a 10-foot side setback is met on each side.

**Cooper moved to adopt O-106-09 as modified to limit side setback variances to 2.5 feet for requests on substandard lots of record. Kolb seconded the motion. All were in favor. The motion passed.**

b.) Consideration of amending the zoning ordinance to allow accessory housing and modify Sections 78-3, Definitions; 78-196, Permitted uses (R-100); 78-317, Building permit required; and Article XV, Amendments, to address Special Use Permit requirements including reorganizing the article and adding two new Sections – 78-396, Special use permit procedure and 78-397, Site plan standards.

Threadgill provided the background regarding the proposed amendment. She stated that the Comprehensive Plan 2030, adopted September 2008, includes an implementation item to consider accessory housing as an option for elderly residents. There is also a need to clarify the intent of existing code which requires Planning and Zoning Commission approval for the addition of a second kitchen in the primary dwelling or any kitchen in an accessory structure or the division of a residence into two non-interconnected spaces.

Threadgill stated that the Council has requested background from the P&Z regarding the existing code.

Bob Herb, 30 Lakeshore Drive, stated that the purpose of the existing language is to eliminate multi-family uses from single-family residential neighborhoods.

Hammond stated that this can be a complicated issue. It is a good thing that the City is trying to address the changing demographic and to make it possible for elderly citizens to remain in the community. The concern with enacting a code change which permits accessory housing is that it could conflict with the plan for the city to maintain a single-family residential character.

There was discussion that the impetus for the proposed change is to provide for the elderly but that the applicability of the proposed change is to the whole community. Any citizen, not just an elderly citizen, could create an accessory apartment provided that they met the requirements and were granted a special use permit subject to the required procedures.

Bob Herb, 30 Lakeshore Drive, stated that the code to require approval prior to the construction of a second kitchen was to cut down on the development of rental units.

There was discussion that one possible way to address the comprehensive plan implementation for elderly housing would be annexation.

Threadgill stated that the proposed amendment is to allow accessory housing as an accessory use in single-family residential districts subject to obtaining a special use permit after meeting the requirements set forth in the ordinance. Those requirements are meant to provide for compatibility with the single-family character of the city.

There was discussion about enforcement when ownership changes hands and the importance of owner occupancy when an accessory dwelling exists.

There was further discussion.

Herb stated that the code preventing a second kitchen was probably adopted prior to all the dimensional requirements now in place and having those dimensional requirements provides some protection. They will limit the number of lots that can take advantage of accessory housing.

There was further discussion.

There was discussion about tabling consideration of this ordinance amendment to allow time for further analysis by members of the Commission.

There was discussion about the proposed special use regulations and the applicability of those.

**Merkel moved to table consideration of O-107-09 until a meeting in September. Kolb seconded the motion. All were in favor. The motion passed.**

The Commission discussed possible meeting dates in September.

c.) Discussion – Impervious Surface Limitation

Hammond introduced this topic by stating that Bob Herb has raised a concern about a weakness in our code regarding this topic.

Bob Herb, 30 Lakeshore Drive, provided an example of a situation where a lot under development was virtually clear cut and part of the reason that trees were removed was for an oversized driveway that is proposed. The current code does not limit the amount of impervious surface on a lot, so there is nothing to prevent someone from constructing a driveway like this and removing trees to do so. Herb noted that someone could plan a driveway such as this and get approval to remove trees and never construct the driveway as planned, but the trees would be gone nonetheless. He requested that the Planning and Zoning Commission consider amending the zoning ordinance to require an impervious surface limitation which would serve to protect trees. He added that the Commission may also wish to consider requiring setbacks for driveways and sidewalks. Herb did not have a recommendation of what the impervious surface limit should be, but thought that 30% to 35% may be reasonable.

There was discussion about the impact of an impervious surface limitation on odd shaped lots, such as flag lots, where the access to the house is quite long because of the shape of the lot. In such a case, a variance could be requested.

Threadgill noted that limiting impervious surfaces is not only beneficial from the standpoint of tree preservation, but also from the standpoint of stormwater management.

There was further discussion about the need for a setback from driveways.

There was discussion about the need to revise the tree ordinance.

Hammond indicated that the intent of the Commission is to consider amending the code to limit impervious surfaces for the purpose of protecting the City's environmental plan regarding trees.

**Cooper moved to direct staff to investigate possible language regarding impervious surface limitations to protect trees according to City plan. Merkel seconded the motion. All were in favor. The motion passed.**

## **VI. CITIZEN COMMENTS**

There were none.

## **VII. ADJOURNMENT**

**Merkel moved to adjourn. Cooper seconded the motion. All were in favor, and the motion passed.**

Hammond adjourned the meeting at 9:46 p.m.

Respectfully submitted,

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Leigh Threadgill  
Deputy City Administrator

**CITY OF BERKELEY LAKE**  
**4040 SOUTH BERKELEY LAKE ROAD, BERKELEY LAKE, 30096**  
**PLANNING & ZONING COMMISSION MEETING**  
**FULL MINUTES**  
**September 22, 2009**  
**7:30 PM**

Those in attendance at the meeting were as follows:

Commission Members:                     Rodney Hammond, Chair  
  Sally Rich-Kolb, Vice-Chair  
  Jeff Cooper  
  Tom Merkel

Deputy City Administrator:             Leigh Threadgill

Citizens Present:                         4

**I. CALL TO ORDER:**

Hammond called the meeting to order at 7:36 P.M. at 4040 South Berkeley Lake Road.

**II. MINUTES of August 18, 2009**

**Cooper moved to approve the minutes. Kolb seconded the motion. All were in favor. The motion passed.**

**III. APPROVAL OF AGENDA**

Hammond asked the Commission to approve an amendment to the sequence in which agenda items are heard as well as adding new business to hear comments from the resident at 34 Lakeshore Drive.

**Merkel moved to approve the changes to the agenda. Cooper seconded the motion. All were in favor. The motion passed.**

**NEW BUSINESS**

a.) Consideration of permitting an educational/tutoring center at Berkeley Village in the O&I zoning district.

Hammond indicated that the proposed use is not specifically listed as permitted in the O&I zoning district, but the code does allow the Commission to permit other similar uses.

Dan Duchraney with Advanced Realty, the listing agent for two office buildings in Berkeley Village, indicated that James Chen has a contract to purchase 3301 N. Berkeley Lake Road and is looking to occupy the whole 6,000 square foot building for the location of his tutoring business.

James Chen, owner of the tutoring center, stated that his existing business location is in Suwanee. The tutoring center mainly operates after school and on the weekends. The classroom won't be used all the

time. Overall, based on the current practice, parking won't be an issue. The subjects most often taught are math and English. Berkeley village is a good location for the business.

Merkel noted that the Commission is to take into consideration businesses of similar character. Based on that and seeing that daycare centers and business offices are permitted, he believes a tutoring center is definitely similar and recommends that this be approved.

**Merkel moved to approve the tutoring center at 3301 North Berkeley Lake Road in the Berkeley Village development. Cooper seconded the motion. All were in favor. The motion passed.**

b.) 34 Lakeshore Drive Citizen Comment

Steve Seitz, 34 Lakeshore Drive, described the existing boathouse and dock located on his property. There was no roof overhang included on the boathouse, and water is running off and damaging the side of the boathouse wall, including the doors and windows. He indicated that he intends to add a 2-foot overhang approximately 24 feet long to the existing roofed area to prevent further rotting of the boathouse wall. This addition of roofed area requires a variance.

#### **IV. OLD BUSINESS**

a.) Consideration of amending the zoning ordinance to allow accessory housing and modify Sections 78-3, Definitions; 78-196, Permitted uses (R-100); 78-317, Building permit required; and Article XV, Amendments, to address Special Use Permit requirements including reorganizing the article and adding two new sections – 78-396, Special use permit procedure and 78-397, Site plan standards.

Hammond introduced the topic and stated that this is a follow-up to the August meeting. Additional time was needed because of the complexity of the issue.

One of the complexities of this is how the Commission would approach the granting of the Special Use Permit.

Hammond asked whether the Special Use Permit would expire when property changes hands. Threadgill stated that 78-396(b)(6)(d) addresses this issue, and that it would expire with the conveyance of property.

There was further discussion about the interpretation of transfer and conveyance of property with regard to the expiration of the Special Use Permit.

Kolb asked whether a 2-year expiration could be set on the Special Use Permit. Threadgill responded that the code could be written that way. There was further discussion.

Hammond gave some background on existing code which was put in place to prevent multi-family residential situations in what was intended to be single-family residential. It's hard to know whether this change would create a substantial shift in the residential character of the community.

There was discussion about which sections of the city would be affected by this change and the role of homeowner's covenants.

Cooper and Merkel stated that they do not believe that the amendment to allow accessory housing would change the character of the City.

There was discussion regarding attached versus detached apartments and the permitted sizes for each. Threadgill explained that the intent is that an attached or detached apartment would be clearly an accessory to the primary residence. One way to achieve that is by limiting the size.

It was noted that Section 78-196 (b)(3)(b) was a typographical error that should be deleted in its entirety.

There was discussion about whether to require one or two parking spaces for accessory apartments.

There was discussion about whether to remove the provision for detached accessory apartments and just allow attached accessory apartments. As a compromise, it was discussed to reduce the total permitted size for a detached accessory apartment to 1,000 square feet.

**Cooper moved to recommend approval of O-107-09 with the following modifications: deletion of 78-196 (b)(3)(b), amendment to the parking requirement for both attached and detached accessory apartments to be for one space per adult occupant, and amendment to the area limitation for detached accessory apartments to be 1,000 square feet rather than 1,200 square feet. Merkel seconded the motion. All were in favor. The motion passed.**

## **V. NEW BUSINESS**

c.) Consideration of amendment to Sections 78-3, 78-89 and 78-197 of the zoning ordinance to require a limitation on the amount of impervious surface allowed.

Hammond indicated that this follows the discussion from the August meeting to limit the amount of impervious surface that can be added to a lot. This change supports some of the environmental priorities of the city. This would indirectly limit the unnecessary removal of trees.

Threadgill stated that other jurisdictions regulate all impervious surfaces in a lot coverage requirement, but the proposed amendment maintains the current 15% limit to the footprint size of structures as well as adds a 30% limit to the total amount of impervious surfaces on the lot. The purpose for continuing to limit the footprint size in addition to the new impervious surface limitation is to protect the views throughout the City. There was discussion.

Merkel stated that he does not see the need for the proposed amendment and is concerned that this change has been driven by the perception of one development and the tree removal associated with it.

Threadgill responded that the concept behind the proposed amendment existed prior to the referenced lot's development and is significant to the city because it will help limit the amount of stormwater runoff generated. In addition, the proposed amendment does not prevent a homeowner from removing trees so long as the current tree density requirements are met. There was further discussion.

**Cooper moved to recommend approval of O-109-09. Kolb seconded the motion. All were in favor. The motion passed.**

d.) Discussion regarding annexation issues

Hammond introduced the topic and stated that the Peachtree Corners Civic Association intends to create a Planning District which would have certain rights short of a city. It would allow members of that district to take control of planning matters and tax to support that.

This is pertinent because the role of the City's Planning and Zoning Commission is, in part, to think about long-range planning. Hammond shared a concern that if this were to occur it would eliminate the future ability of the City of Berkeley Lake to regulate land use on properties around the borders of the city, particularly those in the Lake Berkeley watershed and some of the commercial areas that may need redevelopment.

There was discussion about the boundaries of the proposed planning district, although no information regarding the exact boundaries was available.

Merkel indicated that the draft resolution is good and commended Hammond for writing it, but he suggested adding a paragraph to encourage the City to start talking on the record and pursuing annexation.

Hammond noted that he had considered addressing that in the resolution, but he thought that the areas of interest would need to be stated and it could be very complicated.

Merkel stated that the City should not only be concerned about Peachtree Corners forming a Planning District but also the other nearby jurisdictions which are actively trying to annex land in the vicinity. There was further discussion about the annexation process.

There was discussion about the need to control lands adjacent to the city to manage the watershed of Lake Berkeley as well as to broaden the tax base for the future.

There was further discussion.

The Commission considered adding verbiage to the Resolution regarding the Comprehensive Plan and annexation.

**Merkel moved to recommend the resolution regarding the Peachtree Corners Planning District with the addition of verbiage regarding the Comprehensive Plan and annexation. Cooper seconded the motion. All were in favor and the motion passed.**

## **VI. CITIZEN COMMENTS**

There were none.

## **VII. ADJOURNMENT**

**Cooper moved to adjourn. Kolb seconded the motion. All were in favor, and the motion passed.**

Hammond adjourned the meeting at 9:20 p.m.

Respectfully submitted,

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Leigh Threadgill  
Deputy City Administrator  
(approved by the Planning & Zoning Commission October 13, 2009)

**CITY OF BERKELEY LAKE**  
**4040 SOUTH BERKELEY LAKE ROAD, BERKELEY LAKE, 30096**  
**PLANNING & ZONING COMMISSION MEETING**  
**FULL MINUTES**  
**October 13, 2009**  
**7:30 PM**

Those in attendance at the meeting were as follows:

Commission Members:                   Rodney Hammond, Chair  
  Sally Rich-Kolb, Vice-Chair  
  Dan Huntington  
  Tom Merkel

Deputy City Administrator:           Leigh Threadgill

Citizens Present:                       1

**I. CALL TO ORDER:**

Hammond called the meeting to order at 7:35 P.M. at 4040 South Berkeley Lake Road.

**II. MINUTES of September 22, 2009**

**Kolb moved to approve the minutes. Merkel seconded the motion. Huntington abstained due to being absent at the September 22<sup>nd</sup> meeting. All were in favor. The motion passed.**

**III. APPROVAL OF AGENDA**

It was consensus to approve the agenda as presented.

**IV. NEW BUSINESS**

a.) Variance to Section 78-89 (g)(6) – 34 Lakeshore Drive – to allow a boathouse roof expansion

Hammond introduced Steve Seitz, resident of 34 Lakeshore Drive. Seitz gave the background of the request.

Seitz stated that the boathouse had been damaged previously. Following that damage, a permit was issued to repair the damage and replace the roof. The permitted plans included a one-foot overhang at the west wall that the contractor did not build. Consequently, what has happened is that the water runs from the roof down the west wall and has damaged the wall, door and windows. The recommendation from the contractor is to add a shed roof to cover the west wall. The proposal is to add a 2-foot extension to the roof, along the length of the wall.

Hammond stated that the Planning & Zoning Commission must consider certain criteria in order for a variance to be granted. He referenced the six criteria included in the variance application form and highlighted that there should be special conditions related to the size, shape or topography of the lot or for

the expansion of a non-conforming structure, there should be no increase in the non-conforming aspects of the structure.

Seitz reiterated that the best way to repair the roof to avoid further water damage is to add roof area.

There was further discussion about the criteria for variance issuance as they relate to the subject application as well as the Commission's authority to consider the application.

There was discussion regarding other remedies that had been considered.

There was discussion about whether the subject structure meets the definition of a boathouse and, if not, are the regulations applicable. There was further discussion about the purpose behind the current regulations limiting boathouse size and roof area to reduce shoreline clutter.

There was discussion about regulations that may allow the repair of a non-conforming structure in this situation without the need for a variance, but it was determined that a variance would be required since the repair included an expansion that did not meet the dimensional requirement for roof area of a boathouse.

**Merkel made a motion to approve the variance request due to ambiguity in the code regarding this particular situation. Huntington seconded the motion.**

Hammond clarified that his sense of the motion is that there are enough gray areas in the code to allow us to address this situation. There is question about whether the original intent of the code was to prevent extensions of roof areas when necessary for safety as well as questions about the definition of a boathouse, the definition of a roof versus an awning and the distinction between repair and expansion in this situation.

**All were in favor. The motion passed.**

There was discussion about the need in the next year to reflect on the code.

b.) Official Zoning and Current Land Use Map Update

Threadgill gave a brief explanation of what has changed on this map from the existing map.

**Huntington made a motion to recommend approval of the Map. Merkel seconded the motion. All were in favor. The motion passed.**

There was discussion regarding the annexation resolution discussed at the September 22<sup>nd</sup> meeting. It was determined that Threadgill should email the last draft of the resolution to the city council.

Huntington asked for a synopsis of the resolution discussed at the last meeting. Merkel responded that the Planning and Zoning Commission has encouraged City Council to openly discuss and consider annexing properties that are in the Lake Berkeley Watershed as well as to openly oppose the formation of the Peachtree Corners Planning District.

Huntington stated that it seems like the Council needs to develop a committee to look at the annexation issue.

He went on to ask whether we should limit ourselves to the watershed. He cautioned against being too narrow in the delineation of potential annexation areas.

#### **V. CITIZEN COMMENTS**

There were none.

#### **VI. ADJOURNMENT**

**Merkel moved to adjourn. Kolb seconded the motion. All were in favor, and the motion passed.**

Hammond adjourned the meeting at 8:42 p.m.

Respectfully submitted,

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Leigh Threadgill  
Deputy City Administrator