

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Hearing January 29th 2002

Call to Order: Chairman George Sipe called the meeting to order at 7:32 on January 29th 2002 at City Hall.

Present: George Sipe, Skip Johnson Juan Armendariz, Bob Herb, and David Hanson

Citizens Present: 11

Agenda includes three variance requests, administrative variance reviews, election for Chairman for the year 2002 and proposals for Code changes.

Old Business: George Sipe began by asking if all approved the minutes from the last meeting. The minutes were unanimously approved.

600 Hilltop: To expand a non-conforming structure. This is a variance request to build within a front setback at 43 feet vs. 65 feet. Chairman Sipe presented drawings. The house is non-conforming because it is less than 65 feet from the edge of the road. The proposed garage will also be less than 65 feet from the edge of the road. The plans were reviewed and discussed. **David Hanson motioned to disapprove the variance as requested. Skip Johnson seconded the motion. The motion failed. Juan Armendariz motioned to approve the Variance on the condition that the structure will not be closer to the road than the existing structure. Bob Herb seconded the motion.** Chairman Sipe pointed out that this is a pie shaped lot, which causes the structure to be spread out more naturally because it is at the end of the cul-de-sac. There was much discussion. Chairman Sipe read the conditions in which any variance is considered:

***Variance Guidelines:** For a Variance to be granted each one of the following should to be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.*

There was more discussion, which included concern about how large the structure will look from the lakeside. **Chairman Sipe called the question that the variance be approved so long as the new structure not be any closer to the road than the existing structure. The variance was granted unanimously.**

* Chairman Sipe reminded all those present that there is a 15-day period after a variance request is granted that any citizen can still come forward to contest this decision to City Council and then possibly be over turned.

4104 S Berkeley Lake Rd. – A variance to build within the side setback at a distance of 2 feet from the side lot line vs. the required 12.5 feet. There was no plat presented. A drawing was presented. There was much discussion. Neighbor Jim Fox stated that he felt that even though the garage would be attractive, he felt that it would be to close. David Hanson stated that he was appalled by the lack of documentation from a builder who has been before the P&Z many times, especially for such a large variance. The builder (Claude Murphy) stated that Charles Sewell was given this information. There was much discussion. This property was never advertised for a variance for the rear setback. This variance was advertised for the side setback. Chairman Sipe stated that they were not aware of the rear setback. Legally, all other issues aside, the Commission can not consider the variance at this time without posting for all the variances required to meet construction. David Hanson stated that the Ordinance is clear what type of documentation is required to request a variance and that the process should be respected. There was much discussion about the possibility of considering the variance when documentation is presented. Chairman Sipe stated that even with the documentation, there still should to be a request for the variance for the rear setback so that the variances will be considered as a total package. The motion will then be to approve the set of variances for a single project. The variance request was postponed until the new variance could be advertised. A scale drawing was strongly suggested.

3375 Commons Gate Bend – A variance request to clear vegetation and install landscaping elements within Rear Buffers one and two as defined on the plat. Chairman Sipe explained that Berkeley Commons has three distinct Buffer areas with the third Buffer being the most restrictive. Absolutely no clearing, construction or planting should take place in Buffer area three. The Buffers number one and two are not undisturbed. Buffer one states that no buildings play equipment or any other item may be constructed or placed in Buffer area one. Dead or diseased may be removed and underbrush may be cleared. Buffer Two states the same as Buffer One except that Buffer One can be disturbed more during the building process. Third Buffer should remain undisturbed. Chairman Sipe read from the Minutes of the December 19th 2000 P&Z meeting. At that time a variance request from 3315 Commons Gate Bend was approved. It was concluded that landscaping could be considered in Buffer Zones one and two. Much discussion followed. It was suggested that the Berkeley Commons Homeowners Assoc. request changes to the buffer areas as one organization. Chairman Sipe stated that in the interim it would be a good idea for the P&Z to establish some consistent guidelines for now and in going forward. **A Motion was made to approve this variance to permit landscaping through the first and into the second Buffer to a maximum of one third of the area of the second Buffer so long as the value of the landscaping is**

represented 50% in trees within the second Buffer. Three votes were made in favor of the motion. David Hanson abstained. This motion will be a guideline to be used in future decisions made by this Commission.

Chairman Sipe stated that two Administrative Variances have been approved. They are as follows:

108 Lakeshore Drive – To expand a nonconforming structure. This request was to expand in a direction, which would not in any way accentuate the aspects of nonconformance.

66 Lakeshore Drive – To expand a nonconforming structure. This request also was to expand in a direction, which would not in any way accentuate the aspects of nonconformance.

The Commissioners nominated and voted to reelect Chairman Sipe as Chairman for the year 2002.

The Commission unanimously voted to place on First Read the changes made to the Code of Ordinances. The changes are attached to these minutes.

The meeting adjourned at 9:15 PM

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Hearing February 26th 2002

Call to Order: Chairman George Sipe called the meeting to order at 7:38 on February 26th 2002 at City Hall.

Present: George Sipe, Skip Johnson Juan Armendariz, and David Hanson

Citizens Present: 3

Old Business: **George Sipe** began by asking if all approved the minutes from the last meeting. The minutes were unanimously approved. There was no other old business.

New Business

Agenda: Includes two variance requests as follows:

210 Lakeshore Drive: Mr. Robert Cardwell presented plans for a fireplace that is being newly constructed on the side of a non-conforming structure. There is a variance request for the modification to the non-conforming structure. There is also a variance request for further encroachment into the side setback. The commissioners asked questions as to why Mr. Cardwell was unable to obtain a plat of his property from the County. The commissioners also asked for pictures of what the structure looked like before beginning construction of the fireplace. Mr. Cardwell stated that the fireplace would be an additional 26 inches into the side setback. The fireplace is already under construction and the Ordinance Enforcement Officer has placed a “Stop Work Order” on the structure due to lack of Use Permits. Chairman Sipe stated that the variance request is basically to go from 9 feet to roughly 6.5 feet into the side set back. **Commissioner Skip Johnson motioned to approve the variance request.** Commissioner Hanson asked to see drawings and a survey. He stated that the Board of Commissioners risks problems if they don’t have a site plan or survey. This variance is a very easy one to approve but the Ordinance is crystal clear when it states that the proper documentation is necessary for approval. Chairman Sipe then read 39-1202 which states as follows: *All applications for Use Permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the sizes and the locations on the lot of any existing buildings or structures, the shape, size, height, use and the location on the lot of the building or structure to be erected, moved, added to or structurally altered and such other information as may be necessary to provide for the enforcement of this Ordinance.*

There was much discussion and Chairman Sipe stated that the Ordinance states that a survey will meet this requirement for the Use Permit but it does not call out for a survey per se. There was more discussion and Mr. Cardwell explained in more detail the drawings before the Commissioners. Chairman Armendariz stated that he would approve the variance with the understanding that Mr. Cardwell will submit a drawing showing the lot with the location of the house on it. Mr. Cardwell agreed to submit this drawing. Chairman Sipe then clarified the motion as follows: **Commissioner Armendariz motioned to second the approval of the variance as advertised subject to additional documentation to be provided showing the lay out of the lot with the exact location of the structure and the location of the chimney. There was no further discussion. Approval of the variance was unanimous.**

* Chairman Sipe reminded all those present that there is a 15-day period after a variance request is granted that any citizen can still come forward to contest this decision to City Council and then possibly be over turned.

Variance Guidelines: For a Variance to be granted each one of the following should be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.

12 Lakeshore Drive – A variance request to build a play fort within the rear setback at 23’ vs. the required 40’. A variance request to build within the side setback at 6.5’ vs. the required 12.5’. Mr. Rice stated that he became aware that a play set could in some cases be considered a permanent structure. He presented drawings of the play set. The Commissioners once again discussed the issue of a location drawing. **Commissioner Johnson motioned to grant the variance with the contingency that Mr. Rice provide a drawing, which shows a “top down view” of the exact location of the play set on the lot. Commissioner Armendariz seconded the motion. Approval was unanimous.**

Additional issues discussed by the P&Z were as follows:

1. Unanimous approval for a \$50 dollar fee for a variance request.
2. Discussion of the P&Z Chairman’s proposal on overcrowding/apartments/family dwellings.
3. Discussion of Chapter 39-805-5; lakeside rear set back.

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Hearing April 16th 2002

Call to Order: Chairman George Sipe called the meeting to order at 7:38 on April 16th 2002 at City Hall.

Present: George Sipe, Bob Herb, Juan Armendariz, and David Hanson

Citizens Present: 4

Old Business: **George Sipe** began by asking if all approved the minutes from the last meeting. The minutes were unanimously approved as corrected. There was no other old business.

New Business

Agenda: Includes one variance request as follows:

75 Lakeshore Drive – Variance request by Tevis and Julie Stein to add a garage to a conforming structure at 8ft from the side set back vs. 12.5 Ft. Mr. Stein presented drawings of the house and proposed garage. He explained other changes being made to the house that are conforming. Mr. Stein presented a plat showing the lot size and dimensions. The request is to build a two car garage. To build to the other side would require a change to the septic tanks and the main structure of the existing house. The commissioners asked many questions about the location of the driveway and house directly next to the proposed garage. There were questions asked about the overhang of the garage roof. Chairman Sipe state that the approval of the variance must include the overhang of the roof. **Commissioner Herb motioned to approve the request. Commissioner Armendariz seconded the motion.** Chairman Sipe stated that he investigated the minimum required for a parking space. The minimum width is 9ft. It would seem that 18ft. is an absolute minimum for an indoor parking area with walls etc. Commissioner Hanson asked if the variance was enough to accommodate a sufficient overhang. The relevance to the next-door neighbor was discussed and decided that due to the grading, the structure would not be particularly onerous to the neighbor. **There was no further discussion and the variance was unanimously granted.**

* Chairman Sipe reminded all those present that there is a 15-day period after a variance request is granted that any citizen can still come forward to contest this decision to City Council and then possibly be over turned.

Variance Guidelines: For a Variance to be granted each one of the following should be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.

Other New Business:

Chairman Sipe presented the changes to Chapter 39 which were approved by Council at the March Council meeting. The definition of family, overcrowding, apartments in the City, etc. had been discussed by Council for the past few months. Chairman Sipe was asked to put his proposals into Ordinance form and present to Council. It is now on First Read. These proposals must be read and approved by the P&Z in order to proceed to the Public Hearing and Second Read at the April 18th Council meeting. There are two sets of Ordinances to be discussed. The first set is currently on first read. Chairman Sipe read and explained the following definitions and changes:

XXX" marks deletions, "-->" marks insertions.

39-103 Definitions

XXX q. Family: One or more persons living as a single housekeeping
XXX unit. The term "family" does not include any organization
XXX or institutional group.

--> q. Family: One or more persons living as a single housekeeping
--> unit and in a single living space. The term "family" does
not include any organization or institutional group.

REASON: To reinforce that a single family occupies a single living
space.

39-201 Establishment of Zoning Districts

For the purposes of this Ordinance, the incorporated area of
the City of Berkeley Lake, Georgia, may be divided into Zoning
Districts designated as follows:

R-100 Single Family Residential
--> RMD Residential Multifamily Duplexes
RA-101 Residential Agricultural
M-1 Light Industrial
C-1 Neighborhood Business
O-I Office-Institutional

--> 39-810 Residential Multifamily Duplexes
-->
--> This zoning district is intended to provide a mixed residential
--> area for both single family and duplex use. Minimum acreage 10.
-->
--> Within the RMD multifamily residence district, the following
--> uses are permitted:
-->
--> a. Residential structures designed for one or two family
--> occupancy.
-->
--> b. No more than one duplex may be constructed on each lot
--> of record.
-->
--> c. To partially offset the greater density of development,
--> the minimum lot area and minimum floor space for duplexes is
--> 50% larger than that required for single family structures.
-->
--> d. Except as stated above, RMD shall otherwise include all
--> provisions of the R-100 zoning district.

REASON: To provide a zoning district for future use which permits structures that may be occupied by two families.

N.B. 39-103-k defines "Duplex" as "A residential structure designed for two family occupancy."

39-703 Minimum Number of Off-Street Parking Spaces Required

XXX 6. Residences - Two spaces for each dwelling unit.

--> 6. Residences - One space for each vehicle present at the
--> residence which is operated by the family or two, whichever
--> is greater.

REASON: To insure adequate off-street parking is available for all vehicles based at a residential location.

39-804 Area, Yard Coverage, Height and Supplementary Regulations

XXX The following area, yard coverage, height and supplementary
XXX regulations apply to R-100 Single Family Residence Use Districts,
XXX except that lot depth and lot area shall not apply to any lots
XXX adjoining Lake Berkeley due to the topography and shape of
XXX said lots.

--> The following area, yard coverage, height and supplementary
--> regulations apply to R-100 Single Family Residence Use Districts,
--> except that due to the topography and shape of lots adjoining
--> Lake Berkeley, lot depth and lot area shall not apply while
--> building setbacks specified as distances from property lines
--> shall additionally apply to the natural shoreline of said lots.

5. Building Setback (Rear) Minimum 40 feet from any point of rear
lot line(s)

XXX or natural shoreline of Lake
XXX Berkeley

REASON: To clarify the current intent of the setback and to apply it
as the side as well as rear setback where applicable.

XXX 39-806 County Septic Application
XXX

XXX The Zoning Enforcement Officer shall determine the number of bedrooms
XXX for the County septic application.

39-806 Overcrowding

Dwellings shall not be occupied by more occupants than supported
by the structure and septic system, if any. Minimum requirements
are as follows:

1. Bedroom space must be available for each occupant and may
not be a kitchen, bathroom, toilet room, laundry, closet,
hall, garage, storage, utility or similar area.
2. Every bedroom occupied by one occupant shall contain at

least 80 square feet of floor area and every bedroom occupied by more than one occupant shall contain at least 60 square feet of floor area for each occupant thereof. There must be one or more attached, permanent closets accessible from within each bedroom totaling not less than 5 square feet of floor area for each occupant thereof. Floor area to be considered must have a ceiling height of not less than 7 feet.

3. There must be no less than 1 bathroom or toilet room for every 3 occupants.

REASON: Deletion recognizes the county/state's role in determining bedrooms for purposes of septic system sizing. Addition protects the City's interest in health, safety, and proper uses of residential districts.

39-1202 Use Permit Required

No building or other structure shall be erected, moved, added to or structural altered without a Use Permit issued by the Zoning Enforcement Officer. This would not apply to ordinary maintenance and repairs to existing structures.

XXX No Use Permit shall be issued except in conformance with the XXX provisions of this Ordinance.

--> No Use Permit shall be issued except in conformance with the
--> provisions of this Ordinance. The Planning Commission must
--> confirm compliance prior to issuance of any Use Permit in the
--> following circumstances:

-->

--> 1. Construction in any residential district which partitions
--> a dwelling into 2 or more non-interconnected spaces.

-->

--> 2. Construction in any residential district resulting in more
--> than 1 kitchen in a dwelling or any kitchen in an accessory
--> structure.

REASON: To insure acceptable use compliance in single family residential districts. N.B. 39-103-n defines "Dwelling, single family" specifically as "A building DESIGNED FOR or OCCUPIED exclusively by one family."

Discussion

Many questions were asked by the Commissioners about Chapter **39-804**- building setbacks. Chairman Sipe suggested that the P&Z define the word **Shoreline** and or **Natural Shoreline**. There were many questions asked about Chapter **39-806** with the following results: Commissioner Armendariz stated for the record that sewer and water systems in the United States are designed and based on land use and population. Chairman Sipe stated that while Commissioner Armendariz is correct, there is a procedural matter in Gwinnett County where the authority which approves septic systems, bases the size only on the number of bedrooms in a structure. **Commissioner Herb motioned to change the wording of Chapter 39-806-2 to read: There must be no less than 70 square feet of bedroom floor area for each occupant. There must be one or more attached permanent closets accessible from within each bedroom totaling not less than 5 square feet of floor area for each occupant. Floor area considered must have a ceiling height of not less than 7 feet. Commissioner Hanson seconded the motion and three commissioners approved with commissioner Armendariz abstaining.**

Chairman Sipe then read the proposed Ordinance offered by the City Attorney which is a proposed solution to 39-803 by adding a subsection 6. He explained some of the problems with this proposal. **Commissioner Hanson motioned to reject the proposal made by the City Attorney. Commissioner Herb seconded the motion. The motion was unanimously approved.**

Chairman Sipe then read the following proposal for changes to 39-803:

Background:

- 1. A limited number of R-100 properties have partitioned their houses into duplex dwellings.*
- 2. Those duplexes were illegally constructed and continue to be in violation of R-100 acceptable uses.*
- 3. In some cases, the construction was done in good faith... either under an invalid use permit or with the consent of City officials (who lacked the authority for such consent)*

Goal:

- 1. To provide a legal basis for the existence of duplexes constructed in good faith to continue their existence.*
- 2. To not create a precedent or other avenue for new duplex construction within the R-100 zoning district.*
- 3. To not encumber the City and all other R-100 zoning districts*

with permanent special exceptions.

- 4. To not enrich the owners of illegally constructed duplexes by limiting the special exception to current owners only.*
- 5. To protect public health by verifying appropriate septic capacity where applicable.*

39-803 In Residence District R-100, the Following Uses Are Permitted:

- 6. No multi-family housing units shall be built or occupied, except those which have been granted a temporary special exception pursuant to each of the following conditions:*
 - a. The duplex existed as of the date of this ordinance.*
 - b. There are no alterations to the exterior of the dwelling which would change the appearance from that of a single-family dwelling.*
 - c. Where served by septic systems, proof (such as receipts) must be provided to show capacity upgrades to support the duplex consistent with Gwinnett County septic system requirements.*
 - d. Construction of multi-family dwellings has never been permitted in this R-100 zoning district. Proof must be provided that construction of the duplex was performed in good faith. This may be either a Use Permit or a signed truthful statement identifying the City officials who authorized construction.*
 - e. This ordinance shall be advertised within 10 days of its date. Within 60 days of the date of this ordinance, upon application by the property owner, the Ordinance Enforcement Officer shall have inspected and certified that the duplex existed and that the terms of this ordinance are met. The properties granted this temporary special exception shall be read into the public record at the close of the 60 day period by identifying the current owner and address of each such property at the following City Council meeting.*
 - f. Duplexes permitted under this temporary special exception may be rented.*

g. Upon termination of this temporary special exception, the duplex units must be recombined to form a single living space. Such termination occurs upon any of the following events:

- 1. Documents provided for this temporary special exception are subsequently found to be fraudulent.*
- 2. The property owner no longer occupies one of the units.*
- 3. Title to the property is transferred.*

After discussion Commissioner Herb motioned to approve the substitute text (for that provided by the City Attorney) as submitted by Chairman Sipe. Commissioner Armendariz seconded the motion and approval was unanimous.

There was no further new business. Chairman Sipe stated that the next P&Z meeting will be on April 30th to hear a variance request for the following: 108 Lakeshore – changes to a non conforming structure; variance to front setback for 58’ vs. 65’.

The meeting adjourned at 9:20 PM

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Hearing April 30th 2002

Call to Order: Chairman George Sipe called the meeting to order at 7:32 on April 30th 2002 at City Hall.

Present: George Sipe, Bob Herb, Juan Armendariz, David Hanson, and Skip Johnson

Citizens Present: 2

Old Business: **George Sipe** began by asking if all approved the minutes from the last meeting. The minutes were unanimously approved as corrected. There was no other old business.

New Business

Agenda: Includes one variance request as follows:

108 Lakeshore Drive – Variance request for the construction of an enclosed stairwell along the left side of the structure as it is faced. The structure is very close to the road and therefore is a nonconforming structure. The second variance is that the stairwell is closer to the road than the left side of the building; therefore it is closer to the road than the front set back permits. It is 58ft. vs. the required 65ft. However, compared to the rest of the structure the stairwell is further back because most of the structure is very close to the road. Mr. Steventon showed the plans for the stairwell and explained that he needed this stairwell because of the need to construct an elevator for an elderly person living in the home. The elevator has replaced the existing stairwell and therefore by law another stairwell had to be added. There were many questions about the previous requests for variances on this property. Chairman Sipe stated that the specifics of the approval, should the commissioners decide to grant an approval, should read as follows: To expand a non-conforming structure. Front setback variance from 65ft. to 58ft. with the conditions that the construction should be representative of the drawings and documents submitted to the Planning and Zoning Commission.

Commissioner Johnson motioned to approve the variance as requested. The motion was seconded by Commissioner Armendariz. There was no discussion. There were three votes for approval. Commissioner Hanson abstained.

There being no further new business Chairman Sipe adjourned the meeting at 7:50 PM.

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting July 16, 2002

Call to Order: The meeting was called to order by Chairman George Sipe at 7:36 on July 16, 2002 at City Hall.

Present: Chairman George Sipe, Skip Johnson, David Hanson, Bob Herb and Juan Armendariz

Guests Present: 3

3481 Mansions Parkway - Commission Chairman Chairman George Sipe began the meeting by stating that there had been one Administrative Variance granted to construct within the 50-ft. front setback, which is established by the plat. One corner of the new construction is located at 48 feet. This request was well within the rules for an Administrative Variance.

519 Lakeshore Drive – To construct a plant shed within the rear set back. Mr. Andreu presented a presentation of his drawing and pictures of the proposed 8’x8’ structure. With a gabled roof the height will be approximately 12 feet. The structure has no floor, electricity or plumbing. The location is about the only place it can be constructed because of the location of the septic tank and aesthetic as well as convenience reasons. The use will be for garden and tool storage. He has talked with the neighbors and they seem to have no objection to the structure. The Commissioners asked many questions. Commissioner Johnson motioned to accept the variance request. Commissioner Herb seconded the motion. Chairman Sipe stated that it comes down to the intent of the code for a 40ft. set back. Part of the idea of the code is how much structure is imposing on neighboring lots. This structure doesn’t seem to present any sort of major imposition. One of the risks of approving a variance of this nature is that if Jack sells his house the next homeowner may want to come in and make the structure more permanent by pouring a concrete floor or fully inclosing the structure. We could place restrictions on the variance, which would allow Jack to build what he wants to build without the possibility for future changes. **The restrictions named were the following: No plumbing, no electricity, no solid floor and to remain partially open on one side. Commissioner Johnson amended the motion to include the restrictions named. Commissioner Herb seconded the motion. The motion passed with commissioner Hanson abstaining.**

Variance Guidelines: For a Variance to be granted each one of the following should be true; 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.

Approval of the Minutes – The Minutes of the June P&Z meeting were unanimously approved.

Chairman Sipe discussed the Special Called Meeting of Council where City Council's decision was to appoint the Mayor as the lead with the developers of the Parson's property. Chairman Sipe further stated that Council Member Reynolds spoke against the idea while the other Council members were in favor of the appointment. The Mayor also spoke against the idea expressing her confidence in the P&Z as being the right place for the leadership over the developers. There was a time for Citizens Comments at the meeting and Chairman Sipe stated that he spoke for the P&Z by stating that at all times in the past the P&Z has taken the lead and that we have the experience. Neither council nor the Mayor has the experience in the development process. He stated that he reminded Council that the P&Z has in the past only been responsible for coming up with the best result in the City's interest and then forward the recommendations to Council for a decision. The process that Council approved breaks that process. Chairman Sipe further stated that he had asked Council if there was any reason that any of them could state not to have the P&Z take the leadership in this process and no one had an answer to that question. The vote was taken and except for Council Member Reynolds, it was in favor of having the Mayor take the leadership. This was against the Mayor's wishes.

There were questions asked by the P&Z as to whether the decision by Council is the best way to protect the citizens. Chairman Sipe stated that he believes that it is a dangerous experiment and that it is unprecedented and there is a lot of risk inherent with it. This is a project with some complexity as well as some history, which this Council is not familiar.

There were also questions asked by the commissioners about why this project is so much more important than any other project in the past. Chairman Sipe stated that he did mention to Council that this project is not the largest that the City has ever undertaken. Clearly Miramont and Berkeley Walk were much larger projects. This new process essentially blocks the P&Z's expertise from being engaged. When there are issues about if a permit should be issued, the OEO will not necessarily consult with us. The developer will not see us as the primary point of contact. The Council's main focal point is for the Mayor to be sure and report every thing that happens to the Council. What they are really saying is that they will be acting in the role of the Planning and Zoning Commission and they might ask us questions on occasion. Chairman Sipe stated that Council really does not give a clear reason why they are making this decision and if the citizens are interested in this issue, they are going to have to approach the City Council and ask them. The P&Z

commissioners are not the elected officials and Council is most certainly empowered to make this decision. Chairman Sipe stated that it would be his wish that Council had a member with some P&Z experience in Berkeley Lake.

A question was asked about why the City has hired an engineering firm and is this firm taking the place of the P&Z? Chairman Sipe stated that even though people have tried to minimize this issue, others recognize that the engineering firm hired by the City has not been running at the direction of the P&Z. Usually the P&Z is the one who engages the engineering firm and tells them what needs to be done. The P&Z directs the engineer to interpret technical issues as opposed to having the engineer try to interpret ordinances which is the job of the P&Z. In this case this engineering company has engaged in a lot more than merely the technical aspects of the proposal. They are in fact framing the issues, which has in the past been the job of the P&Z. Chairman Sipe stated that he has objected to the engineer taking that role and that is why he has asked the question about whether Minutes were taken when City Manager John Rockers met with the City engineer and the developer. Mr. Rockers states that no Minutes were taken during those meetings. The only results we have from those meetings are the reports from the engineers. That is a contrast to what would happen if it had been done by the P&Z. We do not discuss anything with the developer except in open meetings with Minutes. That is a major issue. In response to questions about the status of the development Chairman Sipe explained that the developers want to clear the land and they also want to obtain a variance for the 50ft. buffer between them and the firehouse. We have not received any requests for a variance at this time. In regards to the question of sub division of the property, the commissioners agreed that there would have to be provisions in the plat and in some type of deed covenants which would insure that the City's interest in security and in the ongoing upscale maintenance. Chairman Sipe stated that while the P&Z will probably be consulted for the 50ft. variance, the P&Z will unlikely be consulted on the issue of sub division in so far as we are not legally mandated, only in this loophole case, to consider that. Council is free to make whatever decisions and manage the process and do whatever negotiations they so desire. Chairman Sipe further explained that there had been a question asked as to whom could represent the City's interest in dealing with the developer? If it was a residential development, it would be the P&Z. Since it is not a residential development, no one has the responsibility by way of Ordinance. Up until this point, the engineering company has been doing it at the discretion of Council. Nothing gives them the legal mandate to take the lead except having been appointed by Council. However, they were saying that nothing directs the P&Z to take the lead and that is the legal question. It is a bogus question because the same applies to them as it would to the P&Z. In other words the P&Z could be directed by Council to take the lead. The question asked by the engineering firm at the meeting which was attended by myself, the City Manager, the Mayor, and Council Member Ken Massaroni was, "is there any legal restriction to the P&Z taking the lead?" Those present at that meeting, with the exception of the engineering company decided, that the P&Z could be the lead for this project. I was directed to check to see if there was a legal problem to stop this decision. The Mayor asked me to contact the City Attorney the next day, which I promptly did, but he was unavailable and I spoke at length with his Administrative Assistant and she understood what the question was and agreed to communicate it to the City Attorney. I

later found out that the engineer himself directly contacted our City Attorney and asked a different question than I was charged to ask. He asked if there was anything mandating that the P&Z take the lead. The City Attorney correctly said that there was not. This caused some degree of confusion and the Council in so far as they were interpreting this statement as that the P&Z could not be charged with taking the lead. The full context of the question together with the answer wasn't made clear. Chairman Sipe further stated that Council has no experience at all in zoning issues, and they don't understand the risk they are taking.

Chairman Sipe stated that if there was no other topic needed to be discussed that there was no other business to be scheduled for a future meeting at this time.

The meeting adjourned at 8:21PM

PLANNING AND ZONING COMMISSION

Meeting September 19, 2000

Call to Order: The meeting was called to order by George Sipe at 7:32 on September 19 2000 at City Hall.

Present: George Sipe, Juan Armendariz and Bob Herb, David Hanson

Guests Present: 10

Old Business: George Sipe began by stating that the minutes of the last P&Z meeting will be available for approval at the next P&Z meeting. George announced the Variance requests received were for 574 Lakeshore Drive which is Mr. Stan Kelly's residence and for 108 Lakeshore Drive which is Mr. David Steventon's residence. Mr Kelly's request is for the enhancement of a non-conforming structure.

574 Lakeshore Drive: Mr. Stan Kelly is making decorative changes to his home. Mr. Kelly is here because his home is a nonconforming structure and therefore requires a variance exclusively for the enhancement of a nonconforming structure. He is not asking for any other kind of variance. He is only here because any exterior change to a non conforming structure requires a variance. Mr Kelly presented an artists rendition of the changes to the house. Chairman Sipe asked if anyone had questions for Mr Kelly. There being no questions, Chairman Sipe asked for a motion. David Hansen made a motion to accept the variance as requested. The motion was seconded by Bob Herb and all approved without discussion.

Summation: Chairman Sipe stated that he would like to enhance the administrative Variance Code to include this kind of a Variance for a change to a non-conforming structure. When the request stands alone as an enhancement to a non conforming structure and conforms to all the other rules, it should be easier to get the variance. George further stated that he will have text for approval at a future meeting.

George then called for a final

***Variance Guidelines:** For a Variance to be granted each one of the following needs to be true; 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the*

piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.

George asked if there were any further questions then asked if there was a motion for debate. George asked if there was any discussion on the motion to approve. George made the point that even though the side setback is huge that this is a very unique circumstance with this particular lot compared to other lots. George stated that he did not see where this request was in any conflict with any of the guidelines previously read.

Call the Question: George stated that if there was no further questions, comments or discussion that all those in favor of the motion to grant this variance should so indicate. Motion was passed unanimously. Variance was granted. George reminded the Cook's and everyone present that there is always a fifteen day period where anyone could protest the Variance whether the Commission had voted for or against, the decision by the Commission could be appealed to the City Council.

52 Lakeshore Drive – Ms. Joan Riley – This is a Variance request to extend a boat dock which is actually an existing structure, 28 feet into the lake versus the required 25 feet. George reported that the background on this structure is the fact that the structure has actually been out in the water by a distance substantially more than 28 feet. The homeowner has attempted to comply with our Ordinances and has engaged Joe Voyles to pull the dock back as far as possible. They believe that the dock is now back as far as it can be and are therefore asking for a Variance for the 28 foot length. Joe explained that the boathouse is 3 feet further out than where it should be but getting it to the shore any closer would be extremely difficult. The dock has the self contained Styrofoam units under it to make it float and they are hitting the shore. Unless he dredges the shore bank in order to make it deeper, the dock is as far in as possible. The dock has been there for 26 years. It used to be 43 feet out and we have moved it in to be only 28 feet out. There was discussion about whether the structure had been “grand-fathered in” at the 43-foot distance and therefore did not require a Variance. It was decided that this possibility could not be proven and therefore the Commission could only grant a Variance for where the dock is now. A motion was made by Bob Herb to approve the Variance. Juan Armendariz seconded the motion.

Summation: *George explained that the P&Z does not actually know whether the boathouse is “grand fathered” or not. We don’t know exactly when the 25-foot maximum was actually put into the city code. We know that the boathouse was built quite sometime ago. There is a good chance that it is legally “grandfathered” and there is also a good chance that it is not. We are not here to consider that, we are here to only assume that it is not “grandfathered” and then to decide whether or not to grant a Variance for the dock being at 28 feet. Let us assume that the structure is already “grandfathered”, then what ever we do here is not going to change its status unless it is substantially rebuilt at some time in the future. We can give the homeowner the legal right to keep the dock where it is regardless of any dispute on the “grandfathered” status. Other questions were asked about how the boathouse sits in the water and if it interferes with other boat traffic. George stated that under these circumstances, considering the extreme good will on the part of the homeowner to pull the dock in as far as possible and with the*

substantial cost to the homeowner to dredge the shoreline and reconstruct the boathouse; to apply the letter of the law and ignore the circumstances would be unreasonable.

Call the Question: George asked that all those in favor to grant the Variance so indicate. The variance was unanimously granted.

3375 Commons Gate Bend – Mr. and Ms.Hsu – A request to place an accessory structure in a plated buffer. George pointed out to the Commission the e-mails from the previous OEO which stated that a Variance has been requested to construct a gazebo in the buffer zone at the rear of the stated property. The OEO provided no additional information. Ms. Hsu stated that she had given all pictures and drawings to the previous OEO and did not bring any more drawings with her. Questions were asked by the Commission to establish the homeowner's reasons for wanting a gazebo in the buffer zone. It was explained that there was both a buffer area and a non-disturbed buffer area behind the home. The plat was read which described the restrictions in the buffer zones behind Berkeley Commons. The plat clearly states that no buildings, play equipment or any other item may be constructed or placed in the second buffer zone. The Variance request is to put a structure, which is a gazebo, in the second buffer area. A motion was made by Bob Herb to deny the Variance. Juan Armendariz seconded the motion.

Summation: *George stated that the community is very concerned about the buffer zones as has been demonstrated in the recent past. This is not an undisturbed buffer zone, but it is still a buffer zone. If we grant this request we could see a whole string of gazebos in these buffer zones. George explained that this is not a Deed Covenant issue for a subdivision e.g. the construction of mailboxes etc. This issue may or may not be covered by your subdivision's Deed Covenant. A plat restriction has nothing to do with Deed Covenants. Plat restrictions have nothing to do with a Homeowner's Assoc. Only the City has the power to speak to plat restrictions. Only the P&Z has the power to speak to plat restrictions. Miramont, for example, can enforce their Deed Covenants only by hiring a private attorney and have a private civil action based on the Deed Covenant restrictions. The City does not officially recognize Deed Covenant issues. The City does not make decisions that over-ride Deed Covenants; the City makes decisions based only on the City Ordinances and things that are City governing laws. It is possible that in addition to the City's interest as expressed in the plat, the subdivision might also express the same law in their Deed Covenants. When the City approves a plat, it does not approve the Deed Covenant restrictions. The plat sets the requirements of the development of a specific parcel. The City has the authority to place restrictions on plats and enforce the restrictions during subsequent periods of time. Once a property is subdivided, instead of being one big parcel, it becomes many parcels subject to requirements of the plat plus all other City Ordinances. A developer then may add additional restrictions. He does not have to go to the City for approval of these restrictions. Since the developer owns the individual parcels, when he sells them to the homeowner, he doesn't give them the same deed that he received. He adds restrictive Covenants...he adds new restrictions to that deed which go on forever. Any Variance the City may grant may go against a Deed Covenant. The City is not expected to know all the Deed Covenants of all the subdivisions. That is why, when we grant a Variance, we tell the homeowner that there might be Deed Covenant restrictions in their own subdivision. An example is when the homeowner in Miramont got approval from their*

homeowners' association for a swing set. This approval was not speaking for the City. We encourage the subdivisions to always remind people that the City has requirements also. We are here only to consider the plat requirements. George added, that the intent of the plat clearly says that the homeowner can not build this gazebo.

Call the Question: George then asked that all in favor of the motion as stated to please so indicate. The motion was unanimously carried. George explained the rights of the homeowner to appeal to the City Council.

150 Bayway Circle – Tom Kitchens on behalf of BLHA – The Berkeley lake homeowners association would like to rebuild a dock which will go to the side setback. Plans and a description of the project (attached) were dispersed among the Commission. Tom explained that even though the dock will be built with exactly the same setback as the existing dock, there was a Variance on the original dock. The Variance is 32 feet of Chapel property. George explained that the dock is not just being rebuilt, but it is being torn down and replaced. The current non-conforming structure goes to a zero setback at one edge. There was more discussion and explanation. The property Variance has been advertised and there has been no argument, therefore from the P&Z perspective we are assuming that the neighbor (Chapel) has no problem with this Variance. Juan Armendariz made a motion to approve the Variance; Bob Herb seconded the motion. George asked if there were any other discussion.

Summation: George added that this Variance is not actually changing anything outside of making it safer. This approval is mostly a technicality because there is not a change of a non-conforming structure; the structure will be removed. However, it will be replaced by a similar structure and that is why we are here to discuss the issue. This is not just simply maintenance. BLHA could replace a few boards a month and accomplish the same goal under maintenance. Basically the safety will be improved.

Call the Question: George asked that all those in favor of the motion as stated to please so indicate. The Variance was unanimously approved.

New Business: No new business: George reported that the calendar was clear at this time, therefore no future date will be set for another hearing until requests have been made.

Adjournment: The meeting was adjourned at 8:45 PM

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting September 3, 2002

Call to Order: The meeting was called to order by Chairman George Sipe at 7:37 on Sept 3rd, 2002 at City Hall.

Present: Chairman George Sipe, Bob Herb, Skip Johnson and David Hanson

Guests Present: 6

Old Business: Chairman George Sipe began by stating that the minutes from the last meeting will be approved at the next meeting. There are two variances to be heard tonight.

850 Valley View Lane – Variance to expand a non conforming structure and a variance to build within the front setback at 55 feet vs. the required 65 feet. The commissioners reviewed the drawings; the builder, Claude Murphy explained the changes. There was much discussion. Chairman Sipe stated that the side variance was not advertised or posted, therefore would have to go through the process and be heard in three weeks. He stated that the commissioners can hear the request for what is posted so that there would not be a need for as much representation the next time. There needs to be a third variance for the side lot even though the existing structure had a variance, this will be an increase in the variance. We will ask questions tonight so that we will be prepared to act quickly at the next meeting. Mr. Murphy was commended for his thorough presentation. The neighbors who would be most affected by the variances, Mr. and Mrs. Ahrel spoke in favor of the changes. Chairman Sipe stated that with no further questions this variance request would be advertised and posted. This will be accomplished in a timely manner.

***Variance Guidelines:** For a Variance to be granted each one of the following should to be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.*

4070 South Berkeley Lake Road -Variance to expand a non-conforming structure and a variance to build within the side set back at 3.5ft. Vs. 12.5ft. This is a structure to which the P&Z has granted a previous variance and subsequently a survey found that the structure exceeds the variance by less than 6 inches. Additionally, since the time the variance was granted the P&Z changed the definition for the set backs to include overhangs. Therefore, even though the structure would exceed the variance under the previous rules by only six inches the current rules make the side set back variance at 3.5 ft. There was much discussion. Chairman Sipe stated that the amount of area that is non compliant with the variance that was originally granted is a very small number of square inches; the variance only applies to one corner of the structure, but technically we need to grant a new variance.

Commissioner Johnson motioned to accept the variance request. Commissioner Hanson seconded the motion and approval was unanimous.

Chairman Sipe stated that in Chapter 3 of the Code there is a section that defines the terms of the P&Z as being three years. It is unclear as to when this definition was written but it is believed to be in 1998 or 99. This definition has never been followed. The legal status of that section of the Code is unclear. Council made other changes to Chapter 3 a year ago and this section was copied over and the Chapter was passed. This section has never been followed. There doesn't appear to be any note of the change in the Council Minutes from 1998-99. This leaves many questions as to the appointments the Mayor has made for the last several years and how the transitions take place. There are many possibilities for problems with the Code written in this way. Chairman Sipe further stated that he thinks it would be a mistake to have such a short cycle on the P&Z terms. "If we find that it is valid, my proposal is that it be rewritten to make that section consistent with what was written in the 1970 ordinance that we have always followed."

Chairman Sipe stated that the next P&Z meeting will be September 24th There being no other new business, the meeting adjourned at 8:02 PM.

PLANNING AND ZONING COMMISSION HEARING

December 19, 2000

Call to Order: George Sipe called the meeting to order at 7:36 on December 19, 2000 at City Hall.

Present: George Sipe, David Hansen, Skip Johnson

Guests Present: 5

Old Business: George Sipe began by stating that the review of the minutes will be delayed until after the Variance hearings.

3315 Commons Gate Bend – Ms. Audrey Robbins – The request is for a variance to a plat restriction. The request is to place a walled garden within a buffer zone. Ms. Robbins began by stating that this buffer area had been devastated by the tornado before they purchased the home. They had cleared out the underbrush in this area and put up an 18 inch high, bricked vegetable garden, that we later found out was considered a structure. Ms Robbins presented drawings to show the exact location of the wall.

George Sipe pointed out that this area is not the undisturbed buffer zone, but the second buffer. George also stated that there are a set of guidelines that the P&Z follow in order to come to an accurate and fair conclusion to variance requests, they are as follows:

Variance Guidelines: For a Variance to be granted each one of the following needs to be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance. 5. The Variance is granted for use of land or building or structure that is not prohibited by this ordinance.

Ms. Robbins continued by pointing out that the buffer zone begins very close to her home and that the buffer issue was not explained to her before she purchased the home. She explained that she was told that she could do anything she wanted to the yard except for the back 25 feet which has been left completely undisturbed. If she had not created this garden area, the buffer would just be a bleak area that was left by the tornado. The other properties around the area were either more level or had trees remaining after the tornado. Ms Robbins stated that they would like a Variance so that they can keep the 18 inch high stacked brick vegetable garden. It is about 16 feet in diameter and no more than 18

inches high. If the stone is removed and she continues to try and garden in that area, there will be run-off and silt. David Hansen pointed out that had there not been a structure created as a part of the garden there never would have been a problem. Ms. Robbins is within her rights to garden in this buffer area, it is the structure that is the problem...George stated that from the perspective of the Variance requirements, it is not even close and does not meet most of the requirements. There is actually a different question, and that is; is this enough of a structure to be handled as a structure. When we considered the gazebo in the same situation in the second buffer zone, that was an easier decision. Here is an analogy: you have a 12 1/2 foot side set-back, you can't put a structure such as a gazebo in it, however, you can build a retaining wall or any other landscaping wall within this 12 1/2 feet. In some ways this is no more than an expanded set back. However, no one else has ever done this and it has never been approved; if we do approve it, we can expect to see similar structures. David Hansen asked the question that if we saw this type of structure in every home that was associated with this similar set back, would we object to it? There was much discussion. The general consensus was the fact that the wall is not imposing or intrusive and no actual clearing was done to create it. David Hansen moved to approve the variance request, the motion was seconded by Skip Johnson.

Summation: Chairman Sipe *stated that what was really being approved here is not a Variance but rather that we may have had an over zealous enforcement and perhaps it should have never been an issue that needed to come before the P&Z. We would never say not to bring situations to our attention because when there is a question, it needs to be brought to our attention. We are some of the ones who specifically approved this plat in the first place. The actual definitions would not include this 18 in wall as a structure. The wall is more likely to be considered landscaping or a retaining wall which can be built without a Variance. We are approving this as a Variance when actually we don't think it meets the requirements in the code for approval. However, this is more than likely a matter of landscaping in the second buffer and we are approving that...and saying that it is really not an issue for a Variance.*

** What this really amounts to is that if this became a legal issue, the Variance might be overturned on technical grounds, the fact is that this 18in wall is actually landscaping and so is not Variance material. We are happy to handle these issues in this way rather allow the OEO to decide on his own these types of issues which are debatable*

630 Lakeshore Drive: Mr Joe Voyles requests a Variance to enhance a non-conforming structure. Mr. Voyles presented drawings and explained that on the back of his home there is a floating concrete slab which runs almost the entire distance of the back of the house on the lake side. Mr. Voyles does not want to add to the footprint of the house, but wants to utilize the concrete slab to change the roof line to bring in the area to be heated square footage. The only point that makes this house a non-conforming structure is the distance the house sits from the road. This change will be made to the rear of the house. Skip Johnson made a motion to approve the Variance request, David Hansen seconded the motion.

**Chairman Sipe pointed out that this change is otherwise conforming. The only point of discussion that is truly relevant is that this change to this structure is 100% conforming...the only reason Mr. Voyles needed a request for a Variance is because the*

house is a non-conforming structure. If the house was conforming, Mr. Voyles would not be before the P&Z for this change. This change in no way accentuates the aspect in which this structure is non-conforming. It is not going to be any closer to the road or imposing on the road by adding height. The reason people come before us for expanses of non-conforming structures is for us to be sure that it doesn't accentuate the degree of non-conformance.

David Hanson asked if a site plan was required to be presented at the Variance hearing? Chairman Sipe stated that actually a site plan is a requirement for a Use Permit and the homeowner is supposed to present all documentation to the OEO at which time a need for a Variance would be discovered and then all the documentation including a site plan should be forwarded to us. This would be a recommendation to the OEO in the future to have all pertinent information given to us before the Variance hearings because in some cases the Variance request may have to be postponed due to lack of information.

Call the Question: Chairman Sipe asked for all in favor to approve this Variance to please indicate. The Variance was granted.

There were Variance requests at this meeting of the P&Z that had not been officially advertised. Chairman Sipe read from the City Codes the following:

***REQUIRED NOTIFICATION FOR HEARINGS:** Before the Planning Commission acts upon application for a Variance a notice of the time and place of the hearing shall be published at least 15 days prior to the hearing in the official organ of Gwinnett County in the Sheriffs advertisements. The Planning Commission shall insure a sign is erected in a conspicuous place on the property and shall contain information as to the Variance applied for and the time and place of the hearing. This required sign shall be erected at least 15 days prior to the hearing. Failure to erect and maintain the sign as specified shall invalidate any subsequent determination by the Planning Commission.

Review of Minutes: The Minutes from the August 15, 2000 meeting were reviewed and approved. The Minutes from the September 19, 2000 hearing were reviewed and approved with notations by Chairman Sipe.

Ordinance for Commercial Zoning: The City Council requests a change in the Ordinance that concerns restrictions for hotels/motels. This Ordinance, as it reads now, would allow a motel or hotel to be handled as a commercial structure with no additional requirements. This is a request that the Commercial Zoning Code have an added portion to cover specific restrictions for hotels and motels should anyone want to build such a structure in a commercial district. In order to be placed on 2nd read for the next Council meeting, the changes must be approved and recommended by the Planning Commission. The restrictions were read and discussed.

**Chairman Sipe explained that these restrictions do not block the ability for anyone to build a hotel or motel on this property and that it would be illegal to actually do that. However, what the City can do is establish standards for motels on any lot that happens to be Commercial District within our City.*

A motion was made by David Hanson to approve the changes in the Ordinance. The motion was seconded by Skip Johnson. There being no further discussion...

Call the Question: The motion to approve the changes in the Commercial Zoning Ordinance passes unanimously.

Chairman Sipe introduced the following proposed changes to the Code:

39-602 - Non-Conforming Structures

- ❑ Enlarged, altered or rebuilt except in conformance with this Ordinance, but it may be repaired to the extent necessary to maintain it in a safe and sanitary condition.

Change To :

- ❑ Enlarged or rebuilt except in conformance with this Ordinance, but it may be repaired to the extent necessary to maintain it in a safe and sanitary condition.

David Hanson made a motion to change 39-602 to the provided text. The motion was seconded by Skip Johnson and passed unanimously.

39-804 – Minimum Lot Area

- ❑ Currently a lot has to have a minimum of 20,000 square feet

Change To:

- ❑ Lot has to have a minimum of 28,050 square feet

Chairman Sipe explained that in 1998 Gwinnett County changed their requirements for lots with Septic Systems to have the minimum of 28,050 square feet. We are actually coming into conformity with what the County says a lot size should be for lots with Septic Systems. In the future, when plats are approved in the City this new size will be a requirement. A motion was made by Skip Johnson to approve this change to the Ordinance as provided. The motion was seconded by David Hanson and passed unanimously.

39-1401.2 Variances – Administrative

- ❑ An administrative variance may be granted at the option of the Chairman of the Planning Commission for certain variance requests. Such variances may be granted only to numerically qualified ordinance limits where the request does not exceed 10% of that limit. To be granted, the Chairman of the Planning Commission must concede that the request would be granted if heard by the full Planning Commission (and subject to all requirements for Variance consideration).

Change To:

An Administrative Variance may be granted at the option of the Chairman of the Planning Commission for certain Variance requests. Such Variances must meet one of the following conditions:

- (a) a Variance to a numerically qualified Ordinance limit where the request does not exceed 10% of that limit.
- (b) A Variance for a conforming change to a non-conforming structure where such change does not increase the impact of the existing non-conformance aspects.

To be granted, the Chairman of the Planning Commission must conclude that the request would be granted if heard by the full Planning Commission (and subject to all requirements for a variance consideration).

A motion was made by Skip Johnson to approve the changes to the Ordinance. The motion was seconded by David Hanson and passed unanimously.

There being no further new business, the meeting was adjourned at 8:35 PM.

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting September 24th, 2002

Call to Order: The meeting was called to order by George Sipe at 7:37 on Sept 24th, 2002 at City Hall.

Present: George Sipe, Bob Herb, Skip Johnson

Guests Present: 2

Old Business: Approval of Minutes from the July 16th and the September 3rd meetings. Chairman Sipe suggested changing the Minutes where necessary to state Chairman Sipe rather than Mr. Sipe. **The Minutes were approved with corrections noted.**

850 Valley View Lane – Variance to expand a non conforming structure and a variance to build within the front setback at 55 feet vs. the required 65 feet. A variance to the side setback from 12 ½ feet to 3 feet. Commissioner Johnson stated that he has no problem with the side setback because it is basically predetermined and the neighbors have testified that they have no objections. The front setback is no problem because the house sits so far below grade that it would never become a major issue. **Commissioner Johnson motioned to accept the three variances as read by Chairman Sipe. Commissioner Herb seconded the motion.**

Chairman Sipe stated that he does not see any strong issue with these variance requests. The side setback is relatively even with the house going forward and basically what they are doing is expanding this house into the hill. It won't be imposing on the street and the neighbors were here at the last meeting and testified that it would not be a problem for them. The variances are reasonable because of the orientation of the house and the nature of the project. Commissioner Herb stated that the fact that the house is below grade keeps the request for the variance to the front setback within reason.

There was no further discussion. The vote for approval of the variance requests was unanimous.

The variance was granted. Chairman Sipe stated that there is a 15 day right to appeal and if anyone does object within that time frame and work has already been done a homeowner could legally be required to undo the work.

Variance Guidelines: For a Variance to be granted each one of the following should be true: 1. There are extraordinary and exceptional conditions pertaining to the

particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.

There being no further business, Chairman Sipe adjourned the meeting at 7:55PM.

**CITY OF BERKELEY LAKE
4040 BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
PUBLIC HEARING/COUNCIL MEETING
Full Minutes
October 17th, 2002**

Those in attendance for the Public Hearing and Council Meeting were as follows:

Mayor – Lois Salter

Council Members: Frank Lombardi, Ken Massaroni, Delicia Reynolds, and David Steventon

Dick Carothers – City Attorney

Claire Grimes – City Clerk

Citizens Present - 3

CALL TO ORDER

Mayor Salter called the meeting to order at 4043 Berkeley Lake Road.

PUBLIC HEARING

A Public Hearing was held in order for citizens to comment on the following: Ordinance Chapter 17 and the Insurance License Fee Ordinance. There were no citizens' comments.

MAYORS BUDGET MESSAGE

The Mayor stated that for the first time in quite a while the City expects to spend more than it receives. "That is an intentional choice that we have made because we chose to lower taxes and maintain the same level of services by pulling money from our surplus." The Mayor cautioned Council that she believes the City will be spending a good bit of money for Public Works in the next year. There are quite a few things that have been building up that need to be fixed in the next year. She stated that she and Marcie Zielazienski have been working on bids for some of the Public Works projects that Council will be hearing about at this meeting. The Mayor also stated that there was no money in the budget for the new City building because we are not far enough along to have a projected cost. The other issue of concern is the Kudzu problem in the City greenspace. There is really no way of knowing what it will cost at this time, but the Mayor feels strongly that this problem must be tackled.

CITIZENS' COMMENTS

The following citizens made Comments:

Pam Williamson 3996 North Berkeley Lake Rd. – Pam stated that she has been hearing the discussions about a full time City Manager and she wanted to let Council know that she believes their time is better spent on the higher level decision making. Someone

needs to be available to follow up on Council's decisions. She stated that she fully supports the idea of a City Manager.

WORKING SESSION

Council had many questions to ask Marcie Zielazinski about her submittal on the various Public Works projects under consideration. Further information on these projects will be appearing on the City website and can be obtained in City Hall. Other issues discussed were the consideration of candidates for the Arbitration Board and to fill the vacancy for City Council.

MINUTES

The following corrections were suggested:

On the first page, Recognition is misspelled. Third page a period after the word unanimous. Fourth page a fourth of the way down the page, change "and" to "an". On page five under Kudzu Issues change to the word first. On the last page under Citizens' Comments, the word convenient is misspelled.

Council Member Lombardi motioned to approve the September Minutes as amended. Council Member Reynolds seconded the motion. Approval was unanimous.

FINANCIAL REPORT

Council Member Reynolds moved to accept the Financial Report as filed. Council Member Massaroni seconded the motion and approval was unanimous.

Council Member Reynolds motioned to put \$200,000 dollars into a CD at Peachtree Bank. Council Member Massaroni seconded the motion and approval was unanimous.

STAFF AND COMMITTEE REPORTS

Mayor Salter announced that she has received the following reports: BLEMA, Arbitration Board, Finance Affairs, Stormwater Management, Communications, OEO and Police Report. Council Member Steventon asked about the report from the OEO regarding the boat docks on the lake.

ANNOUNCEMENTS

The Mayor announced that there is a young man in our City who is trying to become the first deaf Eagle Scout in our State. She asked the Council and citizens present for any ideas of City projects he could use as his Eagle project. There was much discussion, which included the City Park and planting trees in the greenspace. Council Member Steventon suggested that the Berkeley Lake Homeowners' Association be contacted for help with replacing the picnic tables in the picnic area. The Scout could develop a template to be followed and produce replacements for many of the tables.

The Mayor also announced that Fall Earth Day is Saturday November 16th. Mr. Steventon has been able to locate a place to dispose of batteries. There will be a need for citizens to prove that they live in the City in order to use this service. There has been abuse by people living in some of the surrounding areas in the past. Council Member

Steventon stated that he would be placing signs about Earth Day in various locations throughout the City and during various activities in the near future.

OLD BUSINESS

Ridge Road Drainage Issue

The Mayor stated that we are expecting bids back on this project and we are moving along on this project as fast as we can.

Berkeley Lake Conservancy

The Mayor stated that she has officially contacted Carol Hassell, who is the contact person for the Gwinnett County Open Land Trust, at Council's request. Council suggested that the Conservancy committee should make the suggestion as to when there should be a Town Meeting in regards to the Gwinnett Open Land Trust. Council further suggested that the Conservancy committee report the status at the next Council meeting.

Policy on use of City Logo - Reynolds

Council Member Reynolds stated that she has prepared the policy and is open for Council suggestions. The Logo Policy is attached to these Minutes. Ken Massaroni expressed that he had reservations about some areas and will comment at the next meeting.

City Manager – Steventon

Council Member Steventon stated that his committee is still in the process of fine-tuning what the City needs before we begin to advertise.

Revision of Insurance License Fee Ordinance

Council Member Reynolds motioned to adopt the Revised Insurance License Fee Ordinance. Council Member Lombardi seconded the motion and approval was unanimous.

Expense Reimbursement Policy

Council Member Lombardi presented his final draft of the proposed Reimbursement Policy. Council commended Mr. Lombardi on a job well done. There was much discussion followed by final changes.

Council Member Lombardi motioned to accept the Expense Reimbursement Policy with corrections noted. Council Member Massaroni seconded the motion and approval was unanimous.

Ordinance Chapter 17, Septic Systems

Council Member Steventon presented the changes to the Ordinance, which was suggested by Council at the last Council meeting and at the Council Retreat. There was much discussion. Council Member Reynolds suggested that Council adopt a policy that states what is required for someone to become a registered contractor for septic system service in the City before we adopt the Ordinance that requires the citizens to use a registered person. Council Member Steventon will upload the proposed changes to the website.

Arakawa Transition

Council Member Massaroni stated that he would be meeting with Mr. Arakawa very soon and will be reporting to Council his findings.

Other

Council Member Reynolds asked Council Member Lombardi about the status of the computers in City Hall. Mr. Lombardi stated that he would continue to research the project and report his findings next month.

NEW BUSINESS

Staggered Terms for P&Z Members

There was much discussion about the findings from the researched Minutes, which revealed that the last adoption for P&Z terms was for three-year terms. Council Member Massaroni stated that he would research the schedule of appointees to the Commission and decide who should be coming off next. Then the City could get on a regular program of appointing new Commissioners according to the three-year schedule. Council Member Steventon suggested that research be done as to the criteria by which a Commissioner is nominated; specifically, should a commissioner reside in the City?

Annexation of the Ferrier Property

City Attorney Carothers explained the procedure necessary to annex the Ferrier property into the City.

Council Member Massaroni motioned to place the Annexation Ordinance on First Read. Council Member Reynolds seconded the motion and approval was unanimous.

Council Member Massaroni motioned to place on First Read the amendment to the Zoning Ordinance and Zoning Map to rezone this property from Gwinnett County's classification M-1 to the City of Berkeley Lake's R-100. Council Member Reynolds seconded the motion and approval was unanimous

Council Member Massaroni motioned to approve the Resolution to authorize the City Attorney to transmit to the County these zoning changes. Council Member Reynolds seconded the motion and approval was unanimous.

Website Usage

Council Member Reynolds announced that she has posted a message on the website that listed the number of visitors the website has had for the past year. There is a link to it on the Community page. There will also be a link to the most recently updated pages.

Miramont Backup Generator and Fencing

Council Member Massaroni stated that he has spoken to the County and asked what would happen if the Miramont backup generator went down. They are supposed to be looking into the issue and have not gotten back as yet. Mr. Massaroni further stated that in regards to the fencing problem along Ridge Rd. that he has spoken to the Homeowners' Association in Miramont and they agree that there is a problem. Mr. Massaroni stated that he will be meeting with the President of the Association soon and will take to them the message that the fence should not come down unless it needs repair. There was much discussion. Mr. Massaroni stated that he does not believe that it would be the responsibility of the Homeowners' Association to monitor the situation; monitoring the fence would be a City responsibility. He stated that he believes the Association will put a warning in their next newsletter.

City Hall Hours Change

The Mayor announced the proposed new City Hall hours which are as follows: Monday 10:00 AM - 2:00 PM, Wednesday 10:00 AM – 4:00 PM, Friday 10:00 AM – 2:00 PM. After discussion, Council agreed to the change.

Public Works Projects

Council Member Massaroni motioned to approve expenditure of up to \$8,500 dollars for certain repairs to be made to the roads and sink holes in Miramont and the River Mansions catch basin cover as specified in the submission made by Ms. Zielazinski entitled Public Works projects for Council Consideration. Council Member Steventon seconded the motion and approval was unanimous.

Council Member Lombardi motioned to go ahead with the work on the walkway between 73 and 75 Lakeshore Drive at the cost of \$2,363 dollars. Council Member Massaroni seconded the motion and approval was unanimous.

Budget 1st Read

Council Member Massaroni motioned to place the Mayor’s proposed budget on First Read. Council Member Reynolds seconded the motion and approval was unanimous.

Other

Council member Massaroni stated that he had received compliments on the new City Government page in the Reflections newsletter.

CITIZEN COMMENTS

The following citizens made comments:

Pam Williamson asked Attorney Carothers for an update of the action on 4016 N Berkeley Lake Road. Attorney Carothers stated that a hearing is pending in Municipal Court for next week.

THERE BEING NO FURTHER NEW BUSINESS, COUNCIL MEMBER STEVENTON MOTIONED TO ADJOURN THE MEETING. COUNCIL MEMBER MASSARONI SECONDED THE MOTION AND APPROVAL WAS UNANIMOUS. THE COUNCIL MEETING WAS ADJOURNED AT 8:20 PM.

**CITY OF BERKELEY LAKE
4040 BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
PUBLIC HEARING/COUNCIL MEETING
Full Minutes for
November 21, 2002**

Those in attendance for the Public Hearing and Council Meeting were as follows:

Mayor – Lois Salter

Council Members: Frank Lombardi, Ken Massaroni, Delicia Reynolds, and David Steventon

Richard Carothers – City Attorney

Claire Grimes – City Clerk

Tom Kitchens – BLEMA

Citizens Present 5

CALL TO ORDER

Mayor Salter called the meeting to order at 6:10 PM at 4043 South Berkeley Lake Road.

PUBLIC HEARING

The 2003 Budget. There were no Citizens' comments.

CITIZENS' COMMENTS

Tom Kitchens reported that the dam had recently been inspected. Georgia Safe Dams require the following corrections: The clearing of the underbrush on the west side of the dam is still not complete. The clearing needs to be taken almost to Emily Dennison's property. Until this takes place, they cannot thoroughly inspect the dam. The erosion of the shoreline is sufficient enough that they are recommending that we implement the same solution we started a few years ago. This solution involved placing riprap along the front edge of the dam where the water line meets the dam level with an under liner that will prevent weed growth through the riprap. This solution was estimated to cost the City about \$32,000 a few years ago. On the other side of the road on the right-of-way, there are toe drains from the plume on the dam side of the road. This area needs to be cleaned out so that the area can be inspected.

WORKING SESSION

Topics discussed during the Council Working Session include the following: City Hall security issues, commercial activities permitted in a residential area, candidates for the Arbitration Board, candidates for the vacant Council position and the timing of the Planning and Zoning appointments.

MINUTES

Council Member Massaroni motioned to approve the October Minutes as amended to correct the spelling of Massaroni under Financial Report on page 2. Council Member Reynolds seconded the motion. Approval was unanimous.

FINANCIAL REPORT

Council Member Reynolds moved to accept the Financial Report as filed. Council Member Lombardi seconded the motion and approval was unanimous.

STAFF AND COMMITTEE REPORTS

Mayor Salter announced that she has received the following reports: BLEMA, Arbitration Board, Finance Affairs, Stormwater Management, Communications, OEO and Police.

ANNOUNCEMENTS AND APPOINTMENTS

The Mayor announced that the Homeowners' Association Presidents meeting was held on Saturday November 16th and those present voted to change future meetings from every three months to every four months. The suggestions were as follows: To put tops on all the street signs in the City that would say "City of Berkeley Lake". This is done in other nice areas and looks very good. Council agreed that this project is worth exploration.

The Mayor reported that Clay Keller, who is the President of the Miramont Homeowners' Assoc., reported that the homeowners in Miramont have been informed through their community newsletter that they are not to remove the fence along Ridge Road. The fence will not come down unless it is decided that it needs repair by the Miramont ARC.

The Mayor announced that the drainage problem between 73 and 75 Lakeshore Drive has now been fixed. This is very gratifying, as this area was a major cause for mosquitoes. The corrections to the roads and sinkholes in the Miramont subdivision are also being addressed and are nearly complete thanks to the efforts of Marcie Zielazinski. Council Member Massaroni agreed that the citizens in Miramont were very pleased with a job well done in the subdivision. Mr. Massaroni suggested that the company the City used to make these corrections be considered for future projects throughout the City. The Mayor also announced that the Ridge Road project has been placed on hold because the County plans to dig up that area and place larger water pipes along the road. We are grateful for that and will be working with the County time-line in order to allow them to finish the digging before we do the much needed drainage work.

The Mayor also announced that she has gotten a letter from John Linder, which states that we will not be getting our own Zip Code.

The Mayor also announced that she has heard from Ben Nash who is the owner of the Capital Commons project. He welcomes any dialog in regards to the purchase of office space for a City Hall and the possibility of annexation of the area into the City of Berkeley Lake.

Council Member Massaroni stated that pursuant to section 3-203 of the City Ordinances, he motions the appointment of Betty Covington to fill the term of Council Member Arakawa until the next regularly scheduled election. Council Member Steventon seconded the motion and approval was unanimous.

Council Member Massaroni motioned to approve the Mayor's appointment of Bill Crawley to the Arbitration Board. Council Member Steventon seconded the motion and approval was unanimous.

OLD BUSINESS

Policy on use of City Logo

Council Member Massaroni stated that he has forwarded to the City Attorney his comments on the policy and has made a number of suggestions as to how the policy can be augmented by including the possibility of using an exhibit for the accepted proper use. Also, a suggestion as to a form license agreement that a participant must sign. He stated that he would like the City Attorney's input on these suggestions and then move forward with the final policy at the next meeting.

City Manager

Council Member Lombardi stated that he and Council Member Steventon are continuing to tighten up the actual job description for the position and will have a report by the next Council meeting.

Ordinance Chapter 17, 2nd Read

Council Member Steventon reported that there are already State guidelines in place for the certification of septic contractors; therefore, the City cannot have additional guidelines for certification. If the City places certain restrictions on the type of inspection that needs to take place and if the contractor cannot provide those services, then it will become self-limiting. Council Member Steventon also suggested that there be some type of staggered dates of the deadline for inspections to take place. This time frame could be similar to the staggered dates for license plates. This would allow the most popular and efficient contractors to have time to complete one section of homes by the deadline and then move on to the next group with the next deadline. These deadlines will be widely published in both a newsletter and possibly a mailing. There was much discussion.

Staggered Terms for P&Z

Council Member Massaroni reported that there are currently five members of the P&Z that have been appointed to five-year terms. Skip Johnson was appointed in 2001 and that seat will be up for reappointment in 2006. Juan Armendariz was appointed in 2002 and that seat will be reappointed in 2007. George Sipe is up for reappointment in 2003. The seat Bob Herb occupies will come up for reappointment in 2004. The seat David Hanson occupies will come up for reappointment in 2005. Each of these five gentlemen was appointed for five-year terms notwithstanding the fact that our ordinance section 3-701B calls for a three-year term.

Council Member Massaroni motioned that the City leave each of these individuals on the current five-year term and when that term ends and comes up for reappointment the Mayor and Council will reappoint that seat to a three year term. The result of that would be, for example, seat number three, George Sipe, will come up for reappointment in 2003 and then again in 2006. That will coincide with seat number one, Skip Johnson, who was appointed in 2001 and according to a five year term will come up for reappointment in 2006. Seat number four, Bob Herb, would

be reappointed in 2004 and then again in 2007, which would coincide with seat number two, Juan Armendariz seat, which will come available for reappointment in 2007. Seats one and three will be on the same three-year stagger and seats two and four would be together on a different three-year stagger and seat five would be by itself on a third three-year stagger. Council Member Reynolds seconded the motion and approval was unanimous.

Annexation of Ferrier property

Attorney Carothers explained that the P&Z must recommend the annexation of the Ferrier property. The P&Z will hear the case this week. The Public Hearing and Council vote will be advertised to take place at the next Council meeting.

Miramont Backup Generator and Fence

Council Member Massaroni reported that he has spoken with the County representative for the Miramont pump station generator. The address for the generator is 877 Lakeshore Drive. It is pump station #3085 and the County representatives know it well. The pump station has a gas fired electric generator that automatically kicks on when there is an interruption in power. It also has a telephone link back to the control station so that if there is ever a problem it automatically calls the station. This function is similar to the home security systems that call the police when there is a problem. The backup system automatically starts every Tuesday morning at 10:00 AM and runs for ten minutes as a test. If everything does not work properly, the system will then call the control station. The representatives visit and check the pump station no less frequently than every two weeks.

City Hall Planning Update

Council Member Massaroni reported that he has met with Mike Penny and he is quite confident that a new building could be built at the site of the current location of City Hall. It would tie in very nicely with the proposed sidewalk and would make a very nice tie-in with the City Park. He is in the process now of putting out some pins to show where the building would fit in relationship to the existing building. He suggests that the building be turned so the front entrance would be from the park as opposed to entering the building from the parking lot. The cost would probably be less because there would be so much less site preparation in comparison to the other proposed site.

The County sewer system will be a reality within the next year and the new City Hall will be able to tap into it from either the Bush Road side or the Berkeley Lake Road side. The Chapel will also be able to tap into the sewer, which is good news for the Chapel. There will be at least three months of construction along Berkeley Lake Road and Bayway Circle. There will be a lot of inconvenience with road closures and detours. The suggestion has been made that we work with the County to coordinate the construction of the sidewalks to come after the placement of the sewer lines.

An alternate suggestion made by a citizen was that we rent office space. Council Member Massaroni stated that he has contacted Ben Nash who is the president of the Nash Land Co. and the developer of the Capitol Commons project. He has sent an e-mail stating that the cost of office space there would be \$130 a square foot. He is very interested in Berkeley Lake having a City Hall in the Capital Commons complex and offered that they would like to be annexed by the City of Berkeley Lake because having a

Berkeley Lake address would be positive for his business. He has sent an informational brochure and is waiting for us to contact him for a visit to the property. Mr. Massaroni cautioned that while this option is worth exploring, we should keep in mind that the City Hall would be just one suite in a large building. The Mayor stated that annexation would be positive even if we do not have a City Hall there. Council suggested a visit to the property.

Budget 2nd Read

Council Member Reynolds motioned to accept the 2003 Budget. Council Member Massaroni seconded the motion and approval was unanimous.

NEW BUSINESS

Resolution re: City/County Inspection Agreement

Council Member Steventon stated that he would still like to see the undefined terms to this agreement clarified. City Attorney Carothers suggested that Council read the agreement and send suggested changes to him after Thanksgiving so that he can present the changes to the agreement to the County before the next Council meeting.

Building Permit Revision – Steventon

Council Member Steventon stated that he still needs an answer as to how the OEO responsibilities work in tandem with the County. The Mayor asked Mr. Steventon to e-mail some specific questions for Charlie to answer and she will get his responses.

Arbor Day Proclamation – Lombardi

Council Member Lombardi motioned to proclaim February 21st 2003 as Arbor Day for the City of Berkeley Lake. Council Member Reynolds seconded the motion and approval was unanimous.

Sidewalks

After much discussion and explanation by Council Member Lombardi and Marcie Zielazinski, Council Member Lombardi motioned to approve up to \$4,000.00 for the sidewalk connecting Berkeley Walk and the elementary school. Council Member Massaroni seconded the motion and approval was unanimous.

Marcie Zielazinski then explained that there is still \$38,000 left in these matching funds offered by the County for sidewalks in the City. We need to have a need identified by December 15th in order to apply for this money. There was much discussion. It was suggested that Marcie look into whether these matching funds could be used for repair of sidewalks in some of the subdivisions.

Amendments to Gwinnett co. Development Reg's and Floodplain Mgt. Ord.s, 1st Read

Council member Reynolds motioned to place the Amendments on 1st read. Council Member Massaroni seconded the motion and approval was unanimous.

Other

The Mayor stated that she has received a letter from a citizen in Berkeley Walk asking the City to consider burying the power lines on North and South Berkeley Lake Roads. The Mayor stated that she has told the citizen that this would cost too much money and the citizen has replied by saying that they feel so strongly about it that they are willing to

petition the newer subdivisions to agree to Berkeley Lake Road lines being buried. There was much discussion. Council agreed that if the citizen wants to begin the research to find out the cost that Council would be interested in the findings. Council Member Steventon suggested that as long as the roads are going to be torn up for the sewer lines and traffic will have to be diverted for a time, it might be a good time to experiment with a new traffic flow in the dam area in order to determine future possibilities. The Mayor asked if Mr. Steventon would take on that project. Mr. Steventon agreed.

CITIZEN COMMENTS

Tom Kitchens asked about the status of the billboard issue. The Mayor stated that there is supposed to be a decision in Federal Court in about five months and there has been a motion for Summary Judgement filed, which would get the decision the quickest way. Tom reminded Council that the City will need about \$32,000 to fix the dam and in addition, the brush removal and fixing the toe drains will put the estimate in the neighborhood of \$36,000 to \$38,000 thousand dollars to make the whole thing happen. We need to plan for that money; we will be getting a formal statement from the State in four to six weeks. Tom also asked if the appointment of Bill Crawley to the Arbitration Board was to replace Ray Dunlap. The Mayor answered in the affirmative.

THERE BEING NO FURTHER NEW BUSINESS, COUNCIL MEMBER REYNOLDS MOTIONED TO ADJOURN. COUNCIL MEMBER MASSARONI SECONDED THE MOTION. THE COUNCIL MEETING WAS ADJOURNED AT 8:05 PM.