

CITY OF BERKELEY LAKE
4040 SOUTH BERKELEY LAKE ROAD, BERKELEY LAKE, 30096
PLANNING & ZONING COMMISSION MEETING
FULL MINUTES
August 9, 2011
7:30 PM

Those in attendance at the meeting were as follows:

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

Deputy City Administrator: Leigh Threadgill

Citizens Present: 1

I. CALL TO ORDER:

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

II. MINUTES

a) Minutes of February 8, 2011

Threadgill recommended adding to the title “public hearing” because a stream buffer variance had been considered at that meeting.

Cooper made a motion to approve the minutes with the suggested change. Merkel seconded the motion. All were in favor and the motion passed.

III. APPROVAL OF AGENDA

Threadgill recommended adding item new business (d) to discuss rescheduling the November regularly-scheduled meeting due to a conflict with the city election.

Huntington made a motion to accept the agenda with the recommended addition. Cooper seconded the motion. All were in favor. The motion passed.

IV. NEW BUSINESS

a.) Administrative Variance – 342 Lakeshore Drive

Hammond noted that this is for information only and reported that an administrative variance had been granted on March 2, 2011. Threadgill explained that the variance was to allow an addition to a non-conforming structure where the addition complied with all setbacks and other requirements of the zoning ordinance.

b.) River District Final Plat Revision

Hammond stated that this was a proposal to revise the plats on the River District. He opened the floor for discussion. Threadgill noted that a representative of the applicant was in attendance. Hammond recognized the applicant.

Hannah Smith Seaton of Ed Castro Landscape stated that she was the landscape designer of a new pool, outdoor kitchen and retaining wall. In order to build what the owner wants, tree removal is required. Currently the plat only allows tree removal for construction of a house and driveway. As such, the applicant is seeking a revision to the plat to allow tree removal for other improvements to the lot.

Kolb asked whether the applicant had sought a variance and wasn't that the best way to handle this type of request. Threadgill stated that this action is not a good case for a variance because the limitation is being imposed by a plat condition and not a regulation in the city's zoning ordinance. Therefore, amending the plat is the appropriate course of action.

There was further discussion.

Kolb asked whether it needed to be the original developer that requested a plat revision. Threadgill stated that she did not believe it was necessary for the original developer to make the request.

There was discussion about how to amend the plat language and whether additional tree density should be required. The history of the current plat condition was discussed and it was noted that the reason the condition was required was a compromise in exchange for the city making concessions in other areas of the development.

Merkel stated that he believed that amending the plat to require twice the tree density is punitive and opening the city up to a lawsuit.

Hammond stated it was the deliberate intent of the city at the time the subdivision was approved to make sure those trees were protected. It is not a question of ensuring that those properties are treated the same as every other. The remainder of the River District down below was permitted to be developed more densely than permitted in the city and part of the quid pro quo was to impose greater restrictions in the upper ridge level.

Hammond noted that the city has no legal obligation to change this plat, in which case the homeowner who now wants to cut some trees could be out of luck. What we're doing is offering some consideration to this homeowner in exchange for some consideration for the citizens of Berkeley Lake.

Kolb asked if we couldn't just amend the plat to require a variance when development other than that for just a house and driveway was proposed and trees needed to be removed.

There was further discussion.

Huntington asked about the requirement for the lots to meet a 30% lot coverage requirement.

There was further discussion.

Huntington made a motion to adopt staff's recommended language "Tree removal on lots 1-8 of the Estate are and Lot 1 of the Village area shall be limited to removal of trees only as necessary for lot improvements. Estate area lots 1-8 and Village area Lot 1 shall meet a tree density equal to twice the minimum required by the City of Berkeley Lake Buffer, Landscape and Tree Ordinance. Lot coverage shall be limited to no more than 30% of the area of the lot" amended to remove the 30% reference and simplified to just require lot coverage per city requirement. Kolb seconded the motion.

There was brief discussion.

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

Merkel wanted to go on record stating that he does not support requiring twice the tree density as he feels that it is punitive.

Threadgill stated that she also wanted to look at some of the other plat language since we were looking at revising the plat at this time. She stated that there are certain lots which have been permitted to build structures that exceed the building coverage requirement of the zoning ordinance. On those lots that were allowed building coverage above code, Threadgill proposed allowing lot coverage to exceed that required by code so that there would not be confusion at the time of building permit application. As an example, currently there are several lots which can be built with structures whose footprints occupy up to 40% of the area of the lot. This exceeds the maximum lot coverage allowance of 30% of the area of the lot. Threadgill suggested allowing an additional 15% of lot coverage for construction of a driveway, sidewalk and other impervious areas so that lots can cover up to 55% of the area of the lot when allowed structure coverage of 40% of the lot. Threadgill stated that she wanted to add a sentence to the general notes that specifies the amount of lot coverage permitted on those lots which have specific building coverage limits different than those required by code.

Huntington made a motion to recommend to council to amend the plat to allow an additional 15% for impervious surface coverage for those lots that have specific building coverage allowances which exceed that required by code. Cooper seconded the motion. All were in favor and the motion passed.

c.) Zoning Ordinance Amendment – Adoption of C-2 and M-2 classifications and associated regulations and related changes (Sections 78-25, 78-93, 78-239, 78-240, 78-241, 78-242, 78-268, 78-269, 78-271, 78-272, and 78-398)

Hammond noted that this was a lot of material, however, the context as to why this is coming up is because there is a lot going on right now in terms of overtures being made for annexation of business areas. The commission should be reminded that these areas under discussion are part of the area that the commission discussed for annexation in 2009. As things have unfolded, the state did declare a lot of areas

that we have been interested in to be a part of the new City of Peachtree Corners, but since that time a number of property owners have expressed interest in being voluntarily annexed into Berkeley Lake. In thinking about annexing properties, we need to ensure that we have the necessary zoning codes to address annexed property.

Huntington stated that he supports staff's proposal with the exception of removing cell towers as a permitted use in C-1. He recommended continuing to allow cell towers in the C-1 zoning district. Merkel and Cooper concurred with allowing cell towers in C-1.

Merkel stated that annexation has been kicked around since April maybe March and he believes that communication is lacking and suggests that the city council begin using this commission as its purpose is intended. He went on to say that the commission has been talking and sending communications to city council for more than a year about the need to annex and then it reared its head in March and April when it hit the papers and then it got quiet again in June. Two days before staff presented the proposal to us, the paper reported that Berkeley Lake is planning on doing this. He believes that the Planning and Zoning Commission should have been included in this. It's a function of the job we're supposed to do and to be kept in the dark is appalling.

There was further discussion about the location of cell towers.

There was further discussion about annexation and the need for zoning changes to preserve zoning on annexed properties. It was noted that this change is largely to adopt permitted uses for C-2 and M-2 zoning districts, and the Gwinnett County Zoning Resolution was used as the basis for the changes proposed, although the permitted use lists are not identical to those in the Gwinnett County Zoning Resolution.

There was further discussion.

Merkel made a motion to recommend approval of the proposed changes to the zoning ordinance with the exception that we will allow cell towers to continue to be located in C-1.

There was further discussion about the need to amend the motion to add verbiage in all permitted uses lists proposed to allow the Planning and Zoning Commission the right to approve other uses that were similar in character.

Merkel amended his motion to recommend approval of the proposed changes to the zoning ordinance with two changes as follows: 1) to allow cell towers in C-1 and 2) to add the following verbiage to the permitted uses lists "other uses which upon the findings of the Planning Commission are of the same general character as provided for herein, meet the standards of this zoning district and will not be detrimental to the other uses within the district as to the adjoining land uses." Cooper seconded the motion.

There was brief discussion about allowing cell towers in C-1. Kolb noted that she would need more information about cell towers in C-1 to vote affirmatively.

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

Huntington wanted to go on record expressing his gratitude for Hammond's involvement in the annexation initiative. The other Commissioners joined in expressing their appreciation.

d.) Rescheduling of November P&Z Commission meeting

Threadgill explained that the second Tuesday of November falls on Election Day and that the City will be holding an election this year and that it will be necessary to reschedule the P&Z meeting.

It was proposed to meet on the first Tuesday after the election, which is November 15, 2011.

Huntington made a motion to reschedule the November meeting from November 8th to November 15th, if needed. Kolb seconded the motion. All were in favor and the motion passed.

V. CITIZEN COMMENTS

There were none.

VI. ADJOURNMENT

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

Hammond adjourned the meeting at 8:29 p.m.

Respectfully submitted,

Leigh Threadgill
Deputy City Administrator