

**CITY OF BERKELEY LAKE**  
**4040 SOUTH BERKELEY LAKE ROAD, BEREKELEY LAKE, 30096**  
**PLANNING & ZONING COMMISSION MEETING and PUBLIC HEARING**  
**FULL MINUTES**  
**February 8, 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:                              4

**I. CALL TO ORDER:**

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

**II. MINUTES**

a) Minutes of September 14, 2010

**Cooper made a motion to approve the minutes as submitted. Merkel seconded the motion. Kolb and Huntington abstained due to lack of attendance at the September 14<sup>th</sup> meeting. Cooper, Merkel and Hammond were in favor and the motion passed.**

b) Minutes of November 9, 2010

**Cooper made a motion to approve the minutes as submitted. Kolb seconded the motion. Merkel and Huntington abstained due to lack of attendance at the November 9<sup>th</sup> meeting. Cooper, Kolb and Hammond were in favor and the motion passed.**

**III. APPROVAL OF AGENDA**

**Cooper made a motion to accept the agenda as submitted. Merkel seconded the motion. All were in favor. The motion passed.**

#### **IV. NEW BUSINESS**

##### **a.) Stream Buffer Variance – 3432 Glen Devon Lane**

Hammond recognized the applicant and asked him to introduce the project. Joe Voyles, representing the owner, Vish Emani, explained the project.

Joe Voyles, Signature Homes, 142 Bayway Circle, asked if Commissioners had had the opportunity to visit the site. He indicated that it is a unique situation topographically, and the stream makes it even more complicated. The original developers had retained the backyard with a railroad tie retaining wall. The lot was a cut and fill situation, and a railroad tie retaining wall had been constructed to hold the fill side. There was an erosion problem going into the stream and the house foundation had faltered because of failure of the railroad tie retaining wall. The grandfather clause allowed the repair of the wall. The owner has spent a great deal of money trying to correct the problem. He has done an exceptional job with maintaining the stream buffer. He's done a good job with the wall construction. The stream bed has been stabilized with riprap. The water management system installed includes 8-inch drains to carry water off the roof and impervious surfaces from the lawn area. All of that goes into one big basin that is designed like a car wash so that sediment can sit in the bottom and then water runs out. The hardship in this situation is that the foundation needs to be stabilized by putting a footer under a footer and then putting back a slab. There was a slab in the back next to the wooden deck that was the same as the impervious area being added back which had been removed. For the amount that would be slab, it would be pinned to the grade beam. In terms of siltation and detriment to the stream buffer itself, it's 100% better than it was when we started the project. The current deck and the slab that was removed is essentially the footprint of what he wants to add back. There is an additional impervious area of stairs coming around the back which are integrated into the grandfathered wall project. The wall can't be finished without the steps because they are woven into both of the walls. The drain system is tied into it as well. If you've been there, it's a tough situation. A great deal of the existing house is already encroaching into the stream buffer. The owner wants to do the right thing.

Huntington asked for further explanation of the stairs and the integration of that to the wall project. Why do the stairs have to be concrete? If they weren't concrete, does that address the impervious question at all? Threadgill responded that she would have to further investigate whether or not wooden stairs would be considered pervious. Voyles stated that if you used a railroad tie or landscape timber, then it won't last as long as hardscape.

Kolb asked if the stairs were an integral part of stabilizing the foundation. Voyles stated, the stairs aren't needed for the foundation stabilization. Kolb asked if the foundation would need to be stabilized even if the addition weren't built. Voyles stated that grade beams may still need to be installed under the ground to support the house. He used the analogy of tree roots.

Hammond asked staff to provide highlights of the city engineer's analysis. Threadgill responded that the staff report included a couple of comments from the city engineer. She went on to say that the city engineer didn't believe that the applicant had provided adequate mitigation from a water quality standpoint to offset the intrusion into the stream buffer. The drainage system that has been installed hasn't met the threshold for mitigating the impact to the stream. In addition, the engineer had recommended a larger pipe size for the drainage system based on city development standards and expressed concern that the 8-inch pipe size may become clogged.

There was further discussion about the drainage system that had been installed. Kolb noted that when she visited the site there were several deep pools of water standing in the yard. It was noted that the backyard would need to be built up

There was further discussion about the drainage system and mitigation of the impact to the stream resulting from the buffer intrusion.

Cooper noted that the house was about to fall into the stream, and the stream is moving. What was there was a disaster for both the homeowner and the stream. They've done a yeoman's work trying to repair that. The drainage system seems to be excessive already.

Threadgill responded that, according to the city engineer, the drainage system does not meet the criteria for a water quality benefit as required by the ordinance to mitigate the impact to the stream.

There was further discussion.

**Cooper made a motion to approve the variance as requested. Merkel seconded the motion.**

Kolb stated that the house is already in the buffer. We're making it more intrusive by granting this variance by making the house larger and extending impervious areas. It's a concern that what we have doesn't meet the requirements for granting the variance. The application seems to focus on the wall and not the addition. There was only one part that seemed to address the stairs.

Kolb asked whether the stairs would be intruding into the side setback. Voyles responded that he believed the stairs and side wall were right up to the side property line.

Kolb stated that it was the charge of the Commission to consider an alternative design that would not be as intrusive, and she didn't see that one had been considered. Voyles stated that the architect and engineer couldn't come up with an alternative. Kolb noted that the addition could possibly be eliminated. Voyles stated that he had hoped that Daniel Rojas, the contractor who had built the wall, would be available to testify to the size of the concrete slab that had been removed which would be about equivalent to the amount of impervious area that the addition would comprise.

Hammond noted that he couldn't find evidence of a previous slab having been located there. Voyles described the location of the slab that had been removed and showed pictures of the rear of the house to depict where the location had been.

Cooper stated that he wanted to advocate on behalf of residents of Berkeley Walk who are concerned about how long this project has been going on and ask every day when it will be finished. He believed that the stream had been cleaned up and left better than it was. The homeowner needs it done and Berkeley Walk wants the project finished.

Hammond asked what the implication would be if the variance were denied. Voyles stated that they would have to drop back and come up with a different game plan to deal with erosion if the wall can't be finished and how would we repair the structure of the house.

Kolb asked why the wall couldn't be finished. Voyles explained that there are two walls that become integrated with the stairs. The bank is such that you couldn't grade it without having an erosion problem.

Kolb asked if the stairs could be done in a pervious material. Voyles stated that the risers would have to be masonry or concrete, but the treads could be pervious, gravel or grass.

Kolb stated that she doesn't see the hardship or the reason for the addition. It is just more intrusive into the buffer. She understands that the wall needs to be finished. She would like to see something that would be less intrusive to the stream. Documentation of a hardship is needed as well as an alternate plan, and neither of those had been provided.

Voyles stated that in terms of the addition, the alternative would be not to do it. The drainage management system could be reviewed and have that meet whatever requirement the city engineer felt appropriate. Voyles stated that he feels the drainage system is already overkill. He stated that it has done well when it's been raining hard.

Hammond called for a vote.

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

b.) Rezoning – 3640 North Berkeley Lake Road

Hammond stated that this action would be a recommendation to council regarding the rezoning pursuant to an annexation request. City Council would take final action on the rezoning request.

He recognized the applicants and asked them to introduce the project. Daniel Kinev, 3640 North Berkeley Lake Road, stated that they would like to be part of the community. He indicated that they are next to the lake and want to meet people, and they think it is a great opportunity.

Huntington stated that he loves Berkeley Lake and there are great things about this city, but there are also some down sides. Huntington stated that the garage that they have built couldn't have been built under our ordinances. He wanted to make sure that they are aware of the regulations here.

Mary Kinev, 3640 North Berkeley Lake Road, stated that she was aware of the requirements and that she has been accustomed to strict homeowner's regulations in the past.

**Kolb made a motion to accept the proposal as submitted. Merkel seconded the motion. All were in favor and the motion passed.**

Hammond thanked the applicants for considering joining Berkeley Lake. It's a great place. He noted that it would be nice if some of the adjacent property owners would consider annexation as well.

c.) Election of Chair

**Huntington made a motion to nominate Hammond as Planning & Zoning Commission chair. Merkel seconded the motion. All were in favor of electing Hammond as Chair and the motion passed.**

d.) Election of Vice Chair

**Cooper made a motion to nominate Merkel as vice chair. Kolb seconded the motion. All were in favor of electing Merkel as Vice Chair and the motion passed.**

e.) Appointment of Secretary

**Merkel made a motion to appoint Threadgill as secretary to the Planning & Zoning Commission. Kolb seconded the motion. All were in favor and the motion passed.**

f.) 2010 Annual Report

Hammond directed the Commissioners attention to the draft report contained in the packet. He stated that if there were no suggested changes this draft would be submitted to council for their information regarding 2010 Planning & Zoning Commission activity. Commissioners took a moment to review the draft report.

Huntington asked if the discussion related to changes to the by-laws had been finalized. There was further discussion about the changes to the by-laws, and it was noted that City Council had just taken action to change the by-laws and ordinance to clarify issues related to quorum and voting.

Hammond asked when the report would be submitted to City Council. Threadgill noted that the next Council meeting was on February 17<sup>th</sup>, and the report was currently on the agenda, but could be added.

Huntington stated that he would propose alternate language regarding the tree ordinance that he would submit to Threadgill for inclusion in the report before submission to City Council. It was the consensus of the Commission that in general the report was acceptable, but that Huntington or other Commissioners may submit comments for inclusion in the report prior to submission to City Council.

## **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,

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Leigh Threadgill  
Deputy City Administrator