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Town of Lake Lure

P. O. Box 255 • Lake Lure, NC 28746-0255 • 828/625-9983 • FAX 828/625-8371

Minutes of the Regular Meeting of the Zoning and Planning Board

Tuesday, April 21, 2009

Lake Lure Municipal Center

Vice-chairman Brodfuhrer called the meeting to order at 9:33 a.m. He reported that Chairman Washburn experienced the loss of his wife as well as suffered a heart attack and will be absent from the Zoning and Planning Board meetings for an extended period of time. The Board expressed their deepest sympathy for Chairman Washburn's loss and wished him a speedy recovery from the heart attack.

ROLL CALL

Present: Tony Brodfuhrer
Bill Bush
Paula Jordan (Entered late)
Donnie Samarotto
Russ Pitts, Council Liaison

Also Present: Shannon Baldwin, Community Development Director
Chris Braund, Town Manager
Clint Calhoun, Environmental Management Officer
Mike Egan, Legal Counsel
Amos Gilliam, Planner/Subdivision Administrator
Sheila Spicer, Zoning Administrator, Recording Secretary

Absent: Dick Washburn, Chairman

APPROVAL OF THE AGENDA

Mr. Bush made a motion to approve the agenda. Mr. Samarotto seconded the motion and all were in favor.

APPROVAL OF THE MINUTES

Mr. Bush made a motion seconded by Mr. Samarotto to approve the minutes of the March 17, 2009 regular meeting as presented. The motion passed unanimously.

NEW BUSINESS

(A) Review and Approve the Preliminary Plat for Lake Lure Professional Park Subdivision

Mr. Gilliam stated the applicant, Dr. Don Adams, DDS, is requesting preliminary plat approval of 14 non-residential lots on 17.74 acres adjacent to the existing Ingles grocery store. The lots range in size from .54 acres to 1.11 acres and are accessed off of two new streets. The property is currently zoned CG-Commercial General. This project proposes both medical and office uses in the NC Highway 9 area, which is a combination of uses and location that are described as desirable by the 2007-2027 Town of Lake Lure Comprehensive Plan. The developer is proposing to build two roads which meet town standards to access the property, and both will be dedicated public and offered for acceptance to North Carolina Department of Transportation (NCDOT). The proposed 'Community Drive' will access the property from NC 9, and 'Professional Parkway' will extend from Community Drive. The subdivision is proposing to use public water and public sewer systems to serve all Phase I lots; the lots in Phase II will be served by public water and a private forced main sewer system which will connect to the Town's sewer system near the intersection of Professional Parkway and Community Drive. All utilities will be installed within the road rights of way, or within dedicated easements. The developer has reserved common areas which are labeled on the submitted site plan. These areas have a combined area of approximately 2.93 acres. The developer has also proposed to construct an internal trail system that will connect to the Donald Ross Nature Trails on the opposite side of NC 9 from the development. The developer proposes to place a total of five fire hydrants throughout the development, with three in Phase I and two in Phase II. The developer will also construct a temporary turn around at the phase line between the developments to ensure that emergency vehicles have sufficient turn areas in the event that the second phase is not constructed promptly. Mr. Gilliam reported the proposed Lake Lure Professional Park project has been reviewed by the Development Review Committee (DRC) and is currently in compliance with all Town regulations.

Melanie Brethauer of Western North Carolina Professional Engineers and Surveyors (WNCPEs), the firm designing the project, was present and discussed the subdivision with the Board. She discussed their intent to develop a trail through the development that will connect with the existing Donald Ross Nature Trails. Ms. Brethauer reported the driveway permit from the NCDOT should be issued within a month and the Conditional Letter of Map Revision Based on Fill (CLOMR-F) permit from the Federal Emergency Management Agency for filling in the floodplain should be issued in a few weeks. She stated the roads in Phase I of the project will be designed to NCDOT standards, which exceed Town standards; however, there has been not been a permanent decision made on whether to turn the roads over to the Town or NCDOT upon completion. The roads in Phase II will only be designed to Town standards, not NCDOT standards. She also stated the developer will install a left turn lane in the northbound lane of NC Highway 9 per NCDOT specifications. (Ms. Jordan entered at 9:42 a.m.)

Vice-chairman Brodfuhrer asked about the proposed signs in the Board's packet for the subdivision. Ms. Spicer stated the signs are not being approved today; she just included them in the packet to bring to the Board's attention what types of signs are being proposed. She pointed out that subdivision entrance signs as well as additional signs along public thoroughfares are allowed for developments located in a residential district but are not allowed under the current sign regulations in a commercial district, which is where the property is located. Ms. Spicer asked the Board to consider whether they feel the sign regulations should be amended to allow these types of signs in the commercial districts.

Mr. Bush asked if the preliminary plat checklist is complete for the proposed subdivision. Mr. Gilliam responded that the checklist is complete and stated Town staff has recommended approval of the project. However, Mr. Gilliam cautioned the Board that, while the plans submitted meet all current Town standards, this development will require significant grading that will be visible from other areas in town. Ms. Jordan asked what building heights are being proposed. Carroll Hughes, an architect working with Dr. Adams, addressed the Board and stated that will be up to the individual property owners who purchase the lots. He mentioned they anticipate professional offices such as medical and dental offices that would most likely be one or two story structures. Ms. Jordan praised the developer's plans to replant with major canopy trees and asked about the visibility of the development from the lake. David Scott, the landscape architect for this project, discussed the landscape plans. He stated some of the species being proposed for replanting are fast growing and will reach maturity in ten to fifteen years depending on the size of the trees used.

Vice-chairman Brodfuhrer asked if there would be any construction of buildings prior to the sale of the lots. Dr. Adams addressed the Board and stated he plans to construct a dental office that he will operate as soon as possible. Other than that, all other individual lots will be developed by the purchasers. He stated the visibility of the project from the lake is important to him and pointed out the development is designed so that the majority of the grading will be hidden behind the hill. He stated the portion that will be visible from the lake will be reforested. He also pointed out that the grading will remove the overgrowth of kudzu currently onsite. Mr. Adams assured the Board there will be covenants in the subdivision to restrict the types of buildings and landscaping.

Ms. Jordan made a motion to approve the preliminary plat for Lake Lure Professional Park subdivision. Mr. Bush seconded the motion and all were in favor.

Mr. Adams thanked Mr. Gilliam and all of the DRC members and praised them for the work they did during the review process. He also expressed his sympathy for the loss of Chairman Washburn's wife.

(B) Discuss Amendments to Town Regulations Regarding Fabric Structures

Ms. Spicer reported there are conflicts in the various Town regulations as they pertain to fabric structures. She stated chapter 97 of the Town Code states fabric structures should

comply with the Zoning Regulations, while the Zoning Regulations state fabric structures should comply with chapter 97. She mentioned Town Council recommended ensuring fabric structures comply with the setback and use requirements when she raised the issue with them at their last regular meeting. Mr. Baldwin asked that the Board list the issues they would like addressed with respect to regulations for fabric structures, and then allow staff to study these issues and draft recommended amendments for the Board to consider. During discussion, the Board expressed concerns about the size of fabric structures, duration of stay, use, setbacks, the amount of land disturbance allowed for these temporary structures, and the application process.

(C) Discuss Possible Amendments to the Subdivision Regulations Regarding Performance Guarantees

Mr. Gilliam stated recent problems in other jurisdictions has raised concerns about the liability of offering the option to developers of entering into a financial guarantee with the Town for obtaining final plat approval of a subdivision in lieu of completing the infrastructure prior to selling individual lots. He pointed out that the North Carolina General Statutes do not require that this option be given; however, if the option is allowed, a range of options must be offered. He asked that the Board discuss whether offering developers the opportunity to enter into a financial guarantee is in the best interest of the Town. Vice-chairman Brodfuhrer mentioned that the Board has no authority over performance guarantees as they must be approved by Town Council. Commissioner Pitts stated the Board is being asked to advise whether amendments should be made to the Subdivision Regulations concerning performance guarantees. Mr. Bush expressed his opinion that the Board is not prepared to discuss this issue due to a lack of knowledge about the subject. The rest of the Board agreed.

Mr. Egan reported the guarantee choices offered in the Town's regulations are typical options offered and the due diligence of the Town attorney in reviewing any agreement should prevent problems from occurring. Mr. Braund stated Town Council has discussed this issue and is concerned that the current regulations may need to be reviewed to ensure the Town is not at risk while also protecting the interests of the purchaser of property that is part of a development under a financial guarantee. He mentioned the slowdown in the development market presents a good opportunity to step back and review the subdivision process. Mr. Gilliam reminded the Board that, if there is no performance guarantee, the Town has no other recourse to ensure a project is completed. Ms. Jordan stated a joint meeting should be held with the Board and Town Council to discuss this issue. The rest of the Board agreed. Mr. Egan advised the Board may want to request the presence of a reputable lender at the joint meeting due to the fact that lenders will typically complete a project if the developer is unable to. Vice-chairman Brodfuhrer recommended asking Town Council to attend the next regular Zoning and Planning Board meeting to discuss this issue. Commissioner Pitts stated he will contact the other members of Town Council and the Mayor. Mr. Baldwin assured the Board that Town staff will gather additional information and have it ready for the meeting. Mr. Egan also suggested contacting David Lawrence of the School of Government to get any information he may have.

OLD BUSINESS

(A) Review Regulations Pertaining to Residential Vacation Rentals (formerly Single Family Dwelling-Vacation Rentals) and Make a Recommendation to Town Council

Vice-chairman Brodfuhrer reported that the sub-committee met prior to the meeting and suggested changes to the proposed regulations as they pertain to permitting process, as well as how timeshares and resorts will be addressed. He stated these changes were not complete and the Board would not be discussing the regulations at this meeting. He then asked if any of the audience members wished to address the Board.

Jeanine Noble of 197 Hawthorne Drive stated her and her husband have been members of the community for twelve years. She mentioned prior to that her family has been visiting Lake Lure since 1969 and would rent a vacation rental for their stay. She stated there have been many changes since then and pointed out that there are more residents than there used to be. Ms. Noble reported she has had to call the police on two different occasions due to problems with vacation renters partying until the early morning hours and has had incidents where vacation renters have trespassed on her boathouse. She stated that, while she doesn't feel residential vacation rentals should be banned, the Board needs to consider the protection of the permanent residents by attempting to ensure the renters abide by Town regulations.

Yvonne Anderson of 502 Garden Lane stated she has friends who live on the lakefront that also live next to a residential vacation rental. She stated these friends never know who will be living next to them, and while some of the renters are good, others are not. She mentioned she feels regulations for residential vacation rentals are a good idea but worries they will be difficult to enforce.

Nancy McNary of 189 Sunset Cove Road reported she has had problems with vacation renters in the past, as well. She pointed out that there are several residential vacation rentals in Sunset Cove and many of them are enlarged, older cabins that advertise as being able to accommodate up to twenty-three people. Since most of the residences in Sunset Cove are on individual septic systems, Ms. McNary stated she is worried about health problems that could be caused from too many people using an aging septic system. Vice-chairman Brodfuhrer assured her that this concern has been extensively discussed and mentioned the proposed regulations limit the occupancy of a vacation rental in the R-1 and R-2 zoning districts to ten guests, regardless of the number of bedrooms.

Verlye Lynn Cox of 324 Snug Harbor Circle expressed her concerns that residents will be responsible for reporting problems in order for the regulations to be enforced.

Ellen Huber of 227 Sunset Cove Road reported that friends of hers who live across Sunset Cove have had problems with vacation renters trespassing and improperly disposing of their garbage and stated she feels regulations are needed.

Mary Ann Dotson of 383 Tryon Bay Circle also expressed her concerns about residential vacation rentals that are on individual septic systems or ancient, private sewer lines.

Martha Jones of 146 Yacht Island Drive stated she purchased her property with her sister from a couple who owned it since 1979. She reported she had problems with the septic system and has had to make repairs. She stated she has to rent the residence to be able to afford to keep it and stays in frequent contact with her neighbors to ensure there are no problems with the renters.

Mr. Hughes suggested discussing the state building code with the building inspector to find out what the requirements are for residences used for transient rentals.

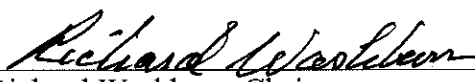
Vice-chairman Brodfuhrer stated the subcommittee will continue to discuss the proposed regulations. Mr. Egan stated the proposed regulations should be ready in time for the Board to review them at their next regular meeting.

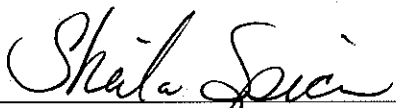
ADJOURNMENT

Ms. Jordan made a motion seconded by Mr. Samarotto to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 11:15 a.m. The next regular meeting is scheduled for Tuesday, May 19, 2009 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST


Richard Washburn, Chairman


Sheila Spicer, Recording Secretary