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Town of Lake Lure

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Minutes of the Regular Meeting of the Zoning and Planning Board

Tuesday, January 18, 2011

Lake Lure Municipal Center

Chairman Washburn called the meeting to order at 9:40 a.m.

ROLL CALL

Present: Dick Washburn, Chairman
Paula Jordan
Donnie Samarotto
Chris Corr
John Wisniewski
John Moore, Town Council Liaison

Also Present: Suzy Smoyer, Planner/ Subdivision Administrator, Recording Secretary
Shannon Baldwin, Community Development Director
Mike Egan, Community Development Attorney
Sheila Spicer, Zoning Administrator
Clint Calhoun, Environmental Management Officer

APPROVAL OF THE AGENDA

The agenda was approved upon a motion made by Ms. Jordan and seconded by Mr. Samarotto.

APPROVAL OF THE MINUTES

The minutes were approved as amended upon a motion made by Ms. Jordan and seconded by Mr. Samarotto.

NEW BUSINESS

(A) Approve 2011 Schedule of Meetings

Ms. Jordan made a motion to approve the schedule of meetings with the amended December meeting date as December 13, 2011. Mr. Samarotto seconded the motion. All were in favor.

(B) Election of Officers

Mr. Samarotto nominated Dick Washburn as Chairman and Paula Jordan as Vice-Chairman. Mr. Wisniewski seconded the motion. All were in favor.

(C) Review & discuss amendments to the Zoning Regulations concerning foundation surveys

Mr. Baldwin gave a brief overview of the proposed amendment to the Zoning Regulations. The Zoning Administrator reviewed her memo with the Board. The Zoning Regulations require that a foundation survey be submitted whenever an application for a certificate of zoning compliance indicates a new structure or addition to an existing structure will be within ten feet of any setback line. Section 92.064(A) states, "This survey shall be conducted after the corners of the structure are staked out, but prior to construction of any footer, foundation, or post." Past experiences have shown that the timing of the foundation survey is an ineffective way of ensuring that construction occurs in the location shown on the approved plans and does not encroach into the setbacks. Ms. Spicer specifically noted a recent Board of Adjustment case where the foundation was staked in 2006 and not built until 2010. Structures were located in the setback.

Ms. Spicer explained that town staff has been working on an amendment to the foundation survey requirements in the Zoning Regulations. We have consulted with professionals and other jurisdictions to determine what would be in the best interest of all parties. After much discussion, we have decided to recommend that the foundation survey be submitted after the construction of the foundation. While this may result in a rare case where a constructed foundation encroaches in a setback, we feel this would be the only alternative that accurately portrays the location of the proposed structure without causing undue delays for the contractor. It is not proposed in the regulations, but staff will recommend to the applicant that the foundation survey be performed after the concrete is poured and the first row of blocks installed instead of waiting until the entire foundation wall is constructed. This will be at a time when there will not be serious time constraints for the contractor but also before a proportionally large amount of cost has been expended. Ms. Spicer said that she will work with the building inspector to prevent a foundation inspection prior to the review and approval of the foundation survey.

Ms. Jordan made a motion to recommend that Town Council approve the amendment, noting that the amendment is neither consistent nor inconsistent with the Comprehensive Plan. Mr. Samarotto seconded the motion. All were in favor.

(D) Review & discuss amendments to the Zoning and Subdivision Regulations concerning setbacks and dimensional requirements in conservation design subdivisions

Ms. Smoyer gave an overview of the proposed amendment. It recently came to the Community Development Department's attention that the Zoning Regulations are not

consistent with the Subdivision Regulations as they pertain to setbacks in approved conservation design subdivisions. Per Section 91.44(B) (3) of the Subdivision Regulations, the minimum lot area, lot width and yard requirements may be reduced provided the arrangement, design and shape of lots provide satisfactory and desirable sites for building and contribute to the overall preservation of open space. While lot area and lot width are reviewed during the subdivision process, the setbacks are not reviewed until the certificate of zoning compliance is submitted to the Zoning Administrator. The Zoning Administrator pointed out that the Zoning Regulations do not refer to the reduced setbacks allowed in the Subdivision Regulations. Staff is recommending an amendment to the Zoning Regulations, specifically Section 92.040, to clarify that setbacks in an approved conservation subdivision may be reduced in accordance with Section 91.44(B)(3) of the Subdivision Regulations.

Staff also recommends that the Subdivision Regulations be amended to require the final plat to clearly state the approved setback requirements for all lots in a conservation design subdivision. If the approved setbacks are noted on the final plat, then the Zoning Administrator can easily reference the setbacks applicable to a specific conservation design subdivision.

The Board reviewed the draft amendment. Mr. Samarotto made a motion to recommend that the Town Council approve the amendment noting that it is consistent with the Lake Lure Comprehensive Plan. Ms. Jordan seconded the motion. All were in favor.

(E) Review RZ-2011001- Rezoning request from the Town of Lake Lure to rezone approximately 2.5 acres from the R-1A Residential District to the GU Government Use District. The property consists of the R1-A zoned portion of Tax Pin 1608101

Ms. Smoyer gave an overview of the rezoning application. The subject property is a portion of a larger tract of land owned by the Town of Lake Lure. It has historically been used for dam operations. The southeastern corner of this property was rezoned to GU in August of 2010. The Town of Lake Lure has now petitioned to have the northeastern portion of this property rezoned from R-1A Residential to GU Government Use. The Town does not intend on rezoning the lakeside R-1 zoned property at this time. There was a brief conversation about the future use of the property. Mr. Egan noted that is good policy to not talk about specific uses to occur on the property. Mr. Moore noted that since the property is government owned property, it would be appropriate to have some discussion. The Town Manager, Chris Braund, joined the meeting to discuss the property. There has been preliminary discussion by the Parks and Recreation Board regarding the use of the property. If the property is zoned government use, it will be consistent with the Comprehensive Plan. The Town will have flexibility for the future use of the property. Chairman Washburn noted a historic event that flooded the northern section of the dam. Ms. Jordan made a motion to recommend approval of the rezoning request noting that the rezoning is consistent with the Comprehensive Plan. Mr. Samarotto seconded the motion. All were in favor.

OLD BUSINESS

(A) Continue discussion regarding amendments to the tree protection provisions in the Zoning Regulations

Shannon Baldwin gave history of the tree protection provisions. Mike Egan gave an overview of the memo and the draft ordinance. The following are the primary goals of this Ordinance:

1. To scale back the reach of the tree protection regulations originally adopted in June of 2007 in order to lessen the scrutiny on activities on developed homesites.
2. In doing this, to relieve the burden on homeowners of obtaining authorization from the Town for the trimming and cutting of trees on their homesites and, at the same time, to reduce the Town's cost of administering such regulations.
3. To put in place some means to educate townspeople and tree professionals as to best management practices for trimming and cutting trees.

The referenced draft ordinance seeks to accomplish these goals in the following manner.

- A. Section three of the ordinance would create a new Chapter 65 of the Town Code entitled "Tree Protection." This chapter requires anyone who provides tree services for compensation to be licensed by the Town. Such persons will have to pay a license fee and demonstrate knowledge of good tree management principles. A person cutting trees on his or her own property or any other person cutting or trimming trees without compensation is not subject to the licensure requirement. A prohibition against "the excessive removal of trees", would apply to everyone, including those cutting trees on their own property. The terms, "excessive removal of trees", is defined as follows:

The removal, by any means, of all or substantially all the trees and / or woody shrubs from one acre or 25 percent of the acreage of a lot or tract of land, whichever is greater.
- B. The ordinance incorporates the definition of "excessive removal of trees" into both the Subdivision and Zoning Regulations, thus standardizing these various regulatory programs. The term "clearcutting" is, thus, rendered obsolete and has been removed.
- C. Section seven of the ordinance effects some clean-up of §92.120 of the Zoning Regulations. In particular note new §92.120(E)(5) which clearly exempts tree removal on property containing a single-family dwelling or duplex so long as it does not constitute the excessive removal of trees as defined in the regulations. This makes it clear that removing or trimming trees on the lot where one lives is not regulated by the Town unless it is excessive.

Please note it is the intention of staff to transfer §92.120 to the Soil Erosion and Sedimentation Control Regulations once the State gives the go-ahead to modify them.

The Board suggested modifications on page 7 of the ordinances.

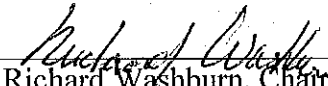
Clint Calhoun briefly discussed the certification process for professional tree cutters. Staff discussed the overall improvement to the regulations with the proposed amendment.

Paula Jordan made a motion to recommend approval of the amendments with the requested changes, noting that it is in compliance with the Lake Lure Comprehensive Plan. Mr. Wisniewski seconded the motion. All were in favor.

ADJOURNMENT

Mr. Samarotto made a motion seconded by Ms. Jordan to adjourn the meeting. The motion passed unanimously. The meeting was adjourned at 11:47 a.m. The next regular meeting is scheduled for Tuesday, February 15, 2011 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST


Richard Washburn, Chairman


Suzy Smoyer, Recording Secretary