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Town of Lake Lure

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Minutes of the Regular Meeting of the Zoning and Planning Board

Tuesday, February 17, 2009

Lake Lure Municipal Center

Chairman Washburn called the meeting to order at 9:38 a.m.

ROLL CALL

Present: Dick Washburn, Chairman
Tony Brodfuhrer
Bill Bush
Paula Jordan
Donnie Samarotto
Jeanine Noble (Sitting in for Russ Pitts, Council Liaison)

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

APPROVAL OF THE AGENDA

The Board chose to reorder the agenda items as follows:

1. Consider a Request to Extend the Preliminary Plat for Lago Vista Subdivision
2. Discuss Amendments to the Mountain and Hillside Development Standards in the Zoning Regulations
3. Update on the Single Family Dwelling-Vacation Rental Policy Implementation Plan
4. Discuss Amendments to the Subdivision Regulations to Extend Preliminary Plat Approval for Major Subdivisions to Two Years
5. Review a Summary of Ongoing Subdivisions
6. Review of Bylaws

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

APPROVAL OF THE MINUTES

Mr. Bush made a motion seconded by Mr. Brodfuhrer to approve the minutes of the January 20, 2009 regular meeting. The motion passed unanimously.

Mr. Brodfuhrer made a motion seconded by Mr. Bush to approve the minutes of the January 27, 2009 recessed meeting. The motion passed unanimously.

NEW BUSINESS

Consider a Request to Extend the Preliminary Plat for Lago Vista Subdivision

Mr. Gilliam read the following memo that was included in the Board's packet:

MEMORANDUM

To: Z & P Board Members
From: Amos Gilliam, Planner/ Subdivision Administrator
CC: File
Subject: Lago Vista Preliminary Plat Approval Extension
Date: March 17, 2009

I have received a request for an extension of the preliminary plat approval for the Lago Vista subdivision. The developer is requesting a four month extension to his approval, due to delays described in the attached letter from the developer's engineer. This subdivision was approved on March 18, 2008. A four month extension would set the new deadline for final plat approval at July 18, 2009."

Mr. Brodfuhrer mentioned that other subdivisions have recently requested and been granted one year extensions to their preliminary plat approval. A one year extension would extend Lago Vista's preliminary plat approval to March 18, 2010.

Mr. Brodfuhrer made a motion to extend the preliminary plat approval for Lago Vista subdivision for one year. Mr. Bush seconded the motion and all were in favor.

OLD BUSINESS

Discuss Amendments to the Mountain and Hillside Development Standards in the Zoning Regulations

Mr. Egan pointed out his memo to the Board, a summary of concerns, and the latest draft of amendments in the Board's packet. He stated, as public concerns about the Mountain

and Hillside Development (MHDO) regulations were voiced, they were added to the summary along with staff's response to those concerns. He then went through each of the amendments to the MHDO regulations being proposed as outlined in his memo.

The Board had a lengthy discussion about a type of septic system called a drip system. Jim Jones, a civil engineer in the audience, described this system to the Board and pointed out that these systems require less land disturbance since the smaller, flexible drain lines can be woven around existing trees and are either left on top of the ground or buried at a shallower depth than traditional drain lines. The consensus of the Board was to exempt drip systems from the building and grading envelope calculations to encourage these types of systems on steep slopes. Josh Farmer, an attorney representing a few concerned citizens who may be impacted by the MHDO regulations, addressed the Board. He stated his clients feel including septic systems in the building and grading envelope would create too much of a burden on some property owners, and therefore all systems should be excluded since there are some concerns that the drain lines of drip systems could potentially freeze during cold weather. These clients feel the septic system and the driveway could potentially use up the majority of allowable disturbed area on some lots. Ed Yarborough, one of Mr. Farmer's clients, pointed out that, while he would prefer to have Town sewer, he feels it is unfair to penalize citizens who own property not accessed by Town sewer. Mr. Egan, responding to a question from Mr. Brodfuhrer, pointed out that a variance can be sought for individual lots that the regulations impose an undue burden on. The Board agreed that traditional septic systems should remain included in the building and grading envelope.

Ms. Jordan asked that subsection E of section 92.203 of the regulations be clarified to state that "final" plats recorded subsequent to November 18, 2008 are considered to be existing lots of record. She also asked that section 92.200 (A)(3) be changed to state the average slope calculation "shall" include the entire lot. Mr. Egan also pointed out that the sections of the regulations referenced in 92.200 (A)(3) will be updated.

John Bittle, a general contractor in the audience, addressed the Board. He stated he is concerned about the entire lot being used in the calculation of the slope of the lot. He also stated he feels development on rock outcroppings should be allowed with the analysis of any architect or engineer, not just a geotechnical engineer. Mr. Calhoun cautioned against this last suggestion, and the Board, after a brief discussion, chose to not make any changes to this requirement.

Ms. Jordan asked that an illustration of rooflines be added to section 92.041(C) to further identify what is acceptable in the Protected Mountain Ridge Overlay Zone.

Mr. Bush asked Commissioner Noble if the Board has addressed the concerns raised by Town Council during the initial public hearing for the MHDO regulations. Commissioner Noble responded that they have, but suggested they take more time to consider the amendments if they feel they need it. After recapping the changes suggested to the amendments to the MHDO regulations, the Board felt the ordinance could be forwarded on to Town Council without further review.

Mr. Bush made a motion to send the proposed ordinance amending the MHDO regulations, with the changes suggested by the Board, to Town Council with the recommendation that it be adopted. He added that the ordinance is in harmony with the 2007-2027 Town of Lake Lure Comprehensive Plan. Ms. Jordan seconded the motion and all were in favor.

Commissioner Noble stated the public hearing for the ordinance would be held during the March 10, 2009 Town Council meeting which will be held at the Lakeview Restaurant starting at 7:00 p.m.

Update on the Single Family Dwelling-Vacation Rental Policy Implementation Plan

Mr. Gilliam pointed out the action plan and implementation schedule included in the Board's packet. He stated he had received the first draft of the proposed Residential Vacation Rental (RVR) regulations from Mr. Egan earlier that morning. Mr. Gilliam stated the goal of the subcommittee working on this project is to launch the program in May, which would require a final review of the proposed regulations by the Board in March so Town Council can adopt them in April. He mentioned the regulations would not affect existing contracts. Mr. Brodfuhrer asked why the name of the project had changed from Single Family Dwelling-Vacation Rental (SFD-VR) to Residential Vacation Rental. Mr. Egan responded RVR is easier to say and clarifies the program more. Mr. Brodfuhrer questioned whether this would mean it also includes duplexes and condos and therefore moves away from the original intent. Mr. Egan stated this could be addressed in the definition of residential vacation rental. Mr. Baldwin mentioned Town Council was in favor of this name for the program.

Mr. Bush asked that the Board be given time to review the first draft of the proposed RVR regulations and then discuss them at the next regular meeting. Mr. Brodfuhrer asked that the members of the SFD-VR stakeholder committee be provided a copy of the proposed regulations. Mr. Gilliam stated they would also be posted on the Town website.

Mr. Bush asked what measures would be taken to ensure property owners comply with the regulations. Mr. Gilliam stated a letter will be sent to all Lake Lure property owners. This letter will notify them of the new regulations once they are adopted and require that all RVR properties be registered with the Town. Mr. Bush pointed out that some property owners may ignore these letters. Mr. Egan agreed, but reminded there could be repercussions for noncompliance.

Mr. Baldwin asked that the Board send any comments they may have about the draft regulations via email so these comments can be addressed prior to the next meeting. Mr. Egan pointed out that the first draft of the proposed regulations only addresses the regulation of RVR properties through the zoning regulations. He stated this draft does not address the licensing of property managers or the strengthening of the nuisance regulations. Mr. Egan also stated this draft requires staff to analyze the impacts of RVRs

in 2014 and present their findings to Town Council. This draft also points out that Town Council has the option to repeal the phase out of RVRs at any time.

Mr. Egan voiced his concern that the proposed regulations can be reviewed and edited in just one meeting. He suggested the Board consider holding a special meeting. Mr. Brodfuhrer stated the regulations should reflect the lengthy discussions held by the subcommittee and felt a special meeting would not be needed. The Board agreed that a special meeting would be held on March 3, 2009 at 9:30 only if the members feel it is needed after reviewing the proposed regulations.

Craig Justice, an attorney representing several concerned citizens, addressed the Board and stated he has reviewed the proposed regulations. He mentioned the regulations, as currently written, phases out RVRs in all districts, not just R-1 and R-2 as recommended by the stakeholder committee and Town Council. The Board agreed this was not the original intent. Mr. Justice also stated the Town is seeking to regulate the conduct of renters. He feels the regulations penalize owners of vacation rentals for the conduct of their renters but not the owners of other rental properties such as apartments and bed and breakfast establishments. He pointed out the regulations seem geared towards regulating density but argued two residences on one acre will generate more congestion than one RVR on one acre.

Tom Cox, a member of the audience, mentioned the wording in the proposed regulations switches from residential in the beginning to recreational towards the end. He also expressed his concern that enough facts have not been gathered to support the need of the regulations. He encouraged the Board to recommend that Town Council allow RVRs in all districts without regulations.

Mr. Baldwin asked the Board to also review the schedule in their packet and determine if it is acceptable.

NEW BUSINESS

Discuss Amendments to the Subdivision Regulations to Extend Preliminary Plat Approval for Major Subdivisions to Two Years

The Board's packet included a draft ordinance amending the subdivision regulations to extend preliminary plat approval for major subdivisions to two years.

Mr. Brodfuhrer made a motion to recommend that Town Council adopt the proposed amendments to the subdivision regulations extending preliminary plat approval for major subdivisions to two years. Ms. Jordan seconded the motion and all were in favor.

Review a Summary of Ongoing Subdivisions

Chairman Washburn thanked staff for the charts that were included in the Board's meeting packet.

Mr. Gilliam stated there are currently ten open subdivisions; however, some are different phases of one subdivision. Of these ten, only the Ridge at Firefly Cove subdivision is under a performance guarantee. Mr. Gilliam stated there is one new proposed subdivision, Lake Lure Professional Park, going before the Development Review Committee the following day.

Ms. Jordan pointed out that Overlook subdivision is in the eastern part of town, not the western as mentioned on the chart. Mr. Gilliam stated the chart will be updated and included in the Board's packet each month.

OLD BUSINESS

Review of Bylaws

Mr. Egan stated he had sent the revised bylaws to staff by email prior to the meeting. He mentioned he has removed items that should not be included in the bylaws in this revised draft. Mr. Bush stated he feels there are no major changes that would require a lengthy review. Chairman Washburn pointed out that, during the last few years, Town Council has been advised of and given their approval of projects the Board is working on. He read the following statement and asked if it should be included in the bylaws:

"Item 10-1: Work projects shall be initiated by either the Town Council or the Zoning & Planning Board. In either event, the project shall be approved & prioritized by the vote of a majority of the members of the Town Council before the work may begin."

Mr. Egan cautioned that projects initiated by staff should not be excluded. Mr. Baldwin stated approval from Town Council could be as simple as a memo placed on the consent agenda.

NEW BUSINESS

Review an Amendment to the Zoning Regulations Pertaining to Live-Work Units

Mr. Brodfuhrer mentioned there was information in the Board's packet that was supposed to have been added to the agenda. Referencing the proposed amendments to the Zoning Regulations pertaining to live-work units, he stated this is an important issue encouraged by the 2007-2027 Town of Lake Lure Comprehensive Plan. Commissioner Noble stated this amendment should be addressed at the current meeting. Mr. Baldwin stated the proposed amendments have been recommended for approval by Town Council.

Mr. Brodfuhrer moved to recommend approval to Town Council the amendments to the Zoning Regulations defining live-work units and adding them as a permitted

use in the commercial zoning districts. Ms. Jordan seconded and the motion passed unanimously.

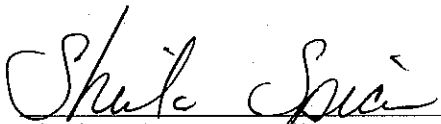
ADJOURNMENT

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

The meeting was adjourned at 11:35 a.m. The next regular meeting is scheduled for Tuesday, March 17, 2009 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST


Richard Washburn, Chairman


Sheila Spicer, Recording Secretary