



# Town of Lake Lure

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Incorporated 1927

## Minutes of the Regular Meeting of the Zoning and Planning Board

Tuesday, July 21, 2009

Lake Lure Municipal Center

Chairman Washburn called the meeting to order at 9:35 a.m.

### ROLL CALL

**Present:** Dick Washburn, Chairman  
Tony Brodfuhrer  
Bill Bush  
Paula Jordan (entered late)  
Donnie Samarotto  
Russ Pitts, Council Liaison

**Also Present:** Amos Gilliam, Planner/Subdivision Administrator  
Sheila Spicer, Zoning Administrator, Recording Secretary

### APPROVAL OF THE AGENDA

The agenda was amended to move item 5. (A) to the first item of business and to add item 5 (D) Review a Proposed Amendment to Policy LU-1-2.3 of the 2007-2027 Town of Lake Lure Comprehensive Plan.

**The amended agenda was unanimously approved upon a motion made by Mr. Bush and seconded by Mr. Brodfuhrer.**

### APPROVAL OF THE MINUTES

The Board asked that the second full paragraph on page three of the minutes of the June 16, 2009 meeting be amended to state that Ms. Jordan also asked if the recent problems other jurisdictions have experienced with surety bonds were caused by isolated cases of fraud.

**Ms. Jordan made a motion to approve the minutes of the June 16, 2009 regular meeting as amended. Mr. Brodfuhrer seconded the motion and all were in favor.**

## NEW BUSINESS

### **(A) Review and Discuss CU-09-01, A Conditional Use Permit Request from Lure Ridge Subdivision for a Clubhouse in the R-1D Residential Zoning District.**

Ms. Spicer addressed the Board and gave a brief overview of this project. Lake Lure 25, current owner of the Lure Ridge Subdivision, is requesting a conditional use permit for a common amenity in the R-1D zoning district. This common amenity will consist of a clubhouse and swimming pool for the use of property owners in the Lure Ridge subdivision as well as the Highlands of Lake Lure Subdivision. The site consists of 2.28 acres, of which 1.31 acres is dedicated to open space. Ms Spicer pointed out that this open space was not included in the primary or secondary open space requirements for the subdivision; therefore, the swimming pool and septic field are allowed in the open space. There will be Town water and a private septic system on site. The clubhouse will have a gross floor space of 7010 square feet, of which 4807 square feet will be heated space. The entire site will be accessed by Black Rock Road, a private road within the Lure Ridge Subdivision.

Ms. Spicer stated the information included in the Board's packet addresses the requirements of 92.047 of the Zoning Regulations. She pointed out that the request was reviewed by the Development Review Committee (DRC) on June 17, 2009; a copy of the minutes to that meeting was also included in the packet.

Steve Ranshaw, representing Lake Lure 25, was present and addressed the Board. Mr. Brodfuhrer enquired about the elevation of the proposed site for the clubhouse in relation to the rest of the subdivision. Mr. Ranshaw responded that the site is the highest elevation within the Lure Ridge subdivision but pointed out that there are higher elevations within the neighboring Highlands subdivision. Mr. Brodfuhrer asked if the clubhouse will be visible from Memorial Highway. Mr. Ranshaw responded that there will be a wooded buffer surrounding the site, and he did not believe it would be visible from the highway. Mr. Brodfuhrer also asked if it would be visible from Tryon Bay to which Mr. Ranshaw assured it would not.

Mr. Ranshaw presented the Board with a picture of a house that is representative of the color scheme of the proposed clubhouse. He stated this picture depicts the colors proposed more clearly than the color samples included with the application. Mr. Ranshaw then addressed some of the concerns raised during the DRC meeting. He mentioned the height of the proposed structure is now in conformity with the regulations, a fact that Ms. Spicer concurred with. He also pointed out that the list of proposed plants for the landscaping of the project has been updated by a licensed landscape architect since the DRC meeting and that this list includes the required native species. Mr. Brodfuhrer asked about the proposed fence around the swimming pool. Mr. Ranshaw referenced a photo of the type of fence proposed included in the Board's packet. He stated the height of the fence will be dictated by insurance requirements and assured it will have a self-latching gate that will be locked after hours. Mr. Ranshaw also pointed out that additional parking

has been added to the lower level of the parking lot near the pool as shown on the site plan in the packet. He stated one of these spaces will be dedicated as handicapped parking and that "no parking" signs will be posted along the drive to this lower parking area to ensure emergency access to the rear of the building. Chairman Washburn asked about the proposed sign for the clubhouse. Ms. Spicer responded she has discussed the fact that incidental signs are not allowed to have logos and stated Mr. Ranshaw has assured there is no logo proposed for the subdivision. Mr. Ranshaw stated the acorn depicted on the proposed sign drawing was for representational purposes to show that some form of decorative artwork may be used on the sign. Ms. Jordan asked if potential stormwater runoff has been addressed as requested by Clint Calhoun, Environmental Management Officer, during the DRC meeting. Mr. Ranshaw stated Mr. Calhoun has reviewed an engineer analysis of the site. Ms. Spicer reminded that this project will be required to have a valid land disturbance permit approved by Mr. Calhoun prior to any land disturbance.

**Mr. Brodfuhrer made a motion to forward a recommendation to the Board of Adjustment that CU-09-01 meets the requirements of the Zoning and Planning Board's review as outlined in the Zoning Regulations. Mr. Bush seconded the motion and all were in favor.**

### **OLD BUSINESS**

#### **(A) Discussion Pertaining to Performance Guarantees**

Mr. Gilliam distributed a chart outlining the concerns pertaining to performance guarantees identified by the Board as well as different options available to address those concerns. He stated he also added a concern expressed by Mayor Jim Proctor at the previous meeting about the possibility of requiring a guarantee for the completion of infrastructure installation when a subdivision is not bonded. Mr. Gilliam stated his research has shown that the Town's policies pertaining to performance guarantees are similar to the requirements of other jurisdictions. He also stated he has researched the rating of bonding companies and spoken to an insurance company about this matter. This insurance company has recommended accepting nothing less than an AA rating when accepting a surety bond. Based on this recommendation, Mr. Gilliam suggested the Town should consider adopting regulations pertaining to the level of rating the Town will accept for a bonding company. He also stated limiting the amount of a project that can be bonded is a good recommendation. Mr. Gilliam mentioned that raising the amount of the infrastructure cost that must be guaranteed from the current 125% to 150% or even 200% was discussed at a recent subdivision workshop he and Ms. Jordan attended, due to the fact that the cost of materials have the potential to increase during the time it takes to complete the work. He did point out this would increase the cost to purchase the bond. After discussion, Ms. Jordan suggested compromising to suggest raising the amount to 175% of the proposed cost. The following issues were discussed with the recommended solutions agreed upon by the Board:

- Reliability of surety bonds – the Board recommends requiring that bonding institutions meet identified standards as measured by appropriate entities.
- Size of guarantee – the board recommends to require that projects proposing to guarantee the installation of infrastructures be broken into phases of a limited size as well as establish a cap on the amount that any one instrument or agency is allowed to guarantee.
- Guarantee of sedimentation and erosion control measures at time of preliminary plat approval – the Board recommends requiring a guarantee sufficient to stabilize the site with restoration measures that include the replanting of trees in the event the project is not completed by the developer.
- Guarantee of Town infrastructure prior to construction – the Board recommends requiring a deposit be held by the Town in the event that any Town infrastructure is damaged during construction as well as withhold any other permitting approvals until such time that necessary repairs have been made.

Mr. Gilliam stated he will draft a proposed amendment to the subdivision regulations that includes the Board's recommendations for review at a later date.

**(B) Discuss Amended Regulations Pertaining to Fabric Structures**

The Board reviewed the proposed amendments to the Zoning Regulations concerning fabric structures included in their packet. Mr. Bush stated the Board should also discuss possible amendments to the requirements for metal structures since they are referenced in the same section. Ms. Jordan agreed and stated the regulations should address requirements for metal structures in commercial districts as the current regulations only address standards for residential districts. She asked if metal structures are intended to only be allowed as temporary structures. Ms. Spicer responded that temporary structures are not addressed in the regulations. While she agreed that they should be addressed, she pointed out that it would be a lengthy process and should be discussed as a separate topic, possibly during the proposed drafting of a Unified Development Ordinance. Ms. Jordan stated she does not feel permanent, major metal structures should be allowed in the downtown area. Mr. Gilliam reminded that new commercial structures are a conditional use and subject to Board review. Ms. Jordan replied that she is still concerned about the aesthetics of a permanent metal structure. Commissioner Pitts cautioned against precluding the use of metal structures in commercial districts due to the economic benefits of the structures. Mr. Brodfuhrer stated he feels they should fit in with the Design Guidelines for New Commercial Construction.

Chairman Washburn asked if a permit is required for fabric structures. Ms. Spicer answered that there is currently a permitting process and pointed out that the final approval for the permit is with the Town Manager or Town Council depending on the size of the structure and duration of its stay. She did mention that the permit requires a review by the fire chief and the zoning administrator. Chairman Washburn then asked if insurance is required and who is liable if the structure collapses or otherwise causes injuries. Ms. Spicer responded she will look into that. Chairman Washburn also enquired about the sanitation and lighting requirements for fabric structure permits. Mr. Gilliam

added that entertainment permits are needed for large events held in Town limits. Ms. Spicer stated she was not sure of the requirements for entertainment permits and reminded that the fire chief reviews all fabric structure permits for compliance with the state fire code.

Commissioner Pitts asked if the regulations address fabric structures that are less than 500 square feet but in place for an extended period of time. Ms. Spicer responded there are no requirements for fabric structures under 500 square feet. Ms. Jordan stated there should be a cap on the duration a fabric structure can be erected if it is visible from a public road. It was agreed that all fabric structures in place over a certain amount of time should have Town Council approval regardless of the size of the structure.

Ms. Spicer reminded that the Board had previously raised concerns about the amount of land disturbance that should be allowed for fabric structures. She mentioned that Ms. Jordan had provided suggestions as to these limits and her suggestions were included in the proposed amendments. The Board agreed with the suggestions included. Ms. Spicer stated Ron Morgan, Fire Chief, has stated he feels the setback requirements for fabric structures in the state fire code are sufficient. The Board agreed with this, also.

Ms. Spicer stated she would have a revised amendment for the Board to review at the next meeting

## **NEW BUSINESS**

### **(B) Review Proposed Amendments to the Sign Regulations Pertaining to Signs in Commercial Subdivisions**

Ms. Spicer reminded the Board that this topic was briefly discussed during the preliminary plat approval for the Lake Lure Professional Park subdivision. She pointed out there are currently no provisions in the Zoning Regulations for signs in commercial subdivisions, only residential subdivisions. She mentioned that the Lake Lure Professional Park will be a subdivision where businesses will be located on individual lots that will most likely not be visible from the main road. The entrance to the development will be off N.C. Highway 9 with no provisions to advertise the development. Ms. Spicer stated the language used for the proposed amendments was adapted from the requirements for subdivision signs in residential districts currently in the Zoning Regulations.

Ms. Jordan voiced her concerns over allowing larger signs for larger commercial structures. She feels no signs should be allowed larger than the current Ingles sign. Ms. Spicer pointed out that the provision Ms. Jordan referenced is currently in the regulations, but assured she will get the measurements of the Ingles sign and revise the proposed amendment if needed.

Mr. Bush questioned whether off-premise signage is needed for businesses in commercial subdivisions. He stated patrons will be able to find the businesses based on their address.

Commissioner Pitts stated he feels the signs being proposed by Lake Lure Professional Park are appealing and are a necessary option. He pointed out this subdivision will be in a location that could be difficult to locate due to the topography. He suggested a possible procedure that requires an individual review of these types of signs. Mr. Brodfuhrer mentioned that the proposed Lake Lure Professional Park entrance signs are similar to the entrance signs at Rumbling Bald Resort. Mr. Bush stated he agrees with Commissioner Pitts' suggestion of an individual review process. Commissioner Pitts asked if the proposed amendments would allow the signs being proposed for Lake Lure Professional Park. Ms. Spicer responded that, while she is not sure of the size of the proposed signs, the types of signs being proposed would be allowed.

Chairman Washburn asked if the size of the sign's supports is addressed. Ms. Spicer stated the only way the size of the sign support is addressed is through the height limits.

Mr. Brodfuhrer pointed out that the proposed charter school will have similar problems with signage. Ms. Spicer agreed due to the fact that the location of the proposed school is zoned GU-Government Use; she reminded that the regulations have no provisions for signs in the GU district. Mr. Brodfuhrer requested that this be addressed in the proposed amendments. Ms. Spicer stated she will provide the revised amendments at the next meeting.

#### **(C) Discuss Implementation Procedures for the Residential Vacation Rental Regulations**

Mr. Gilliam stated this item was placed on the agenda for discussion in the event that Town Council adopted the proposed regulations pertaining to residential vacation rentals. He pointed out that Town Council has not adopted these regulations at this time, and until such time that regulations are adopted there are no procedures to discuss. Commissioner Pitts cautioned the Board to not discuss the proposed regulations at length until Town Council finishes working through them and adopts them.

#### **(D) Review a Proposed Amendment to Policy LU-1-2.3 of the 2007-2027 Town of Lake Lure Comprehensive Plan**

Commissioner Pitts pointed out the memo and proposed resolution from Community Development Attorney Mike Egan that was included in the Board's packet. He stated that, while Town Council agrees the sunset clause should be removed from the proposed Residential Vacation Rental Regulations, they still feel residential vacation rentals should be banned in certain districts if harmony with the single family residential nature of these districts can't be achieved through the enforcement of regulations. He stated Town Council wants to make that intent clear to future Town Council members by adding it as a policy in the 2007-2027 Town of Lake Lure Comprehensive Plan.

Mr. Brodfuhrer suggested adding a statement to the proposed resolution outlining the vacation rental stakeholder committee's recommendations for the R-1 and R-2 zoning

districts. Commissioner Pitts assured the Board he would forward this recommendation to Mr. Egan.

Ms. Jordan stated she previously thought Town Council had agreed to be bound by the guidance of the Comprehensive Plan when implementing new policies but has learned this is not the case. She suggested that Town Council adopt a statement agreeing to this. Commissioner Pitts stated he supports that suggestion and will forward the suggestion to Town Council.

**Mr. Brodfuhrer made a motion to recommend Town Council adopt the proposed resolution amending Policy LU-1-2.3 of the 2007-2027 Town of Lake Lure Comprehensive Plan. Ms. Jordan seconded the motion and all were in favor.**

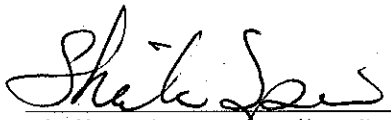
**ADJOURNMENT**

**Mr. Brodfuhrer made a motion seconded by Mr. Samarotto to adjourn the meeting. The motion passed unanimously.**

The meeting was adjourned at 11:25 a.m. The next regular meeting is scheduled for Tuesday, August 18, 2009 at 9:30 a.m. at the Lake Lure Municipal Center.

**ATTEST**

  
Richard Washburn, Chairman

  
Sheila Spicer, Recording Secretary