

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, APRIL 8, 2008, 7:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Wayne Hyatt
Commissioner Russ Pitts
Commissioner Jeanine Noble
Commissioner Linda Turner

Steve Wheeler, Town Manager
J. Christopher Callahan, Town Attorney

ABSENT: N/A

CALL TO ORDER

Mayor Proctor called the meeting to order at 7:00 p.m.

INVOCATION

Attorney Callahan gave the invocation.

APPROVE THE AGENDA

After discussion, Commissioner Noble made a motion to approve the agenda as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

Public Hearing - Ordinance No. 08-04-08 Amending Chapter 92, Section 92.062 of the Zoning Regulations of the Town of Lake Lure Code of Ordinances, Relating to Substituting a Waiver of Liability for Sewer Tap Approvals Before Certificates of Zoning Compliance are Issued by the Town

Town Manager Wheeler gave a brief overview and answered questions pertaining to proposed Ordinance No. 08-04-08.

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 08-04-08 and invited citizens to speak during the public hearing. John Bittle and John Cloud urged Council members to resolve the sewer capacity issues expeditiously. Mr. Bittle and Mr. Cloud were in favor the proposed ordinance.

Council members stated that they were already working expeditiously to resolve to the town's sewer capacity problem.

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Town Manager Wheeler mentioned that he would post on the town web site under town news updates on various topics including sewer capacity issues.

After discussion, Commissioner Turner made a motion to close the public hearing. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

Adopt Ordinance No. 08-04-08 Amending Chapter 92, Section 92.062 of the Zoning Regulations of the Town of Lake Lure Code of Ordinances, Relating to Substituting a Waiver of Liability for Sewer Tap Approvals Before Certificates of Zoning Compliance are Issued by the Town

Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Pitts made a motion to adopt Ordinance No. 08-04-08 as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 08-04-08

AN AMENDMENT TO CHAPTER 92 (ZONING REGULATIONS) OF THE TOWN OF LAKE LURE CODE OF ORDINANCES; TEMPORARILY SUSPENDING THE REQUIREMENTS FOR PROOF OF APPROVAL FOR SEWER TO ACCOMPANY APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

WHEREAS, the Zoning and Planning Board has recommended modifications to Zoning Regulations of the Town of Lake Lure as noted in the title of this ordinance; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 8th day of April, 2008, upon the question of amending the Zoning Regulations in this respect.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE:

SECTION ONE. Section 92.062 of the Zoning Regulations of the Town of Lake Lure, entitled "Certificate of Zoning Compliance Required; Applications", is hereby amended as follows:

§ 92.062 CERTIFICATE OF ZONING COMPLIANCE REQUIRED; APPLICATIONS

- (A) Except as otherwise provided in these Zoning Regulations, no building or other structure shall be erected, moved, added to or structurally altered, nor shall any County building permit be issued nor shall any change in the use of any building or land be made until a certificate of zoning compliance shall have been issued by the Zoning Administrator. No certificate of zoning compliance shall be issued except in conformity with the provisions of this chapter.

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Upon approval of a conditional use permit or variance by the Board of Adjustment the Zoning Administrator shall issue a certificate of zoning compliance.

- (B) All applications for zoning compliance certificates shall be accompanied by the following:
- (1) Detailed site plans, in duplicate and drawn to scale, showing the following:
 - (a) actual dimensions and general topography of the lot to be built upon;
 - (b) accurate dimensions, uses and locations on the lot of the building(s); proposed to be erected or altered;
 - (c) the significant trees to be protected or removed; and
 - (d) a steep slope plan in accordance with § 92.119 where such slopes occur.
 - (2) If connection is to be made to the Town's water or sewer systems, proof of approval for taps from the Town, or a completed "waiver of liability" on a form obtainable from the Town.
 - (3) If individual septic tanks and/or wells are to be used, proof of approval from the County Health Department.
 - (4) Such other information as may be necessary to provide for the enforcement of the provisions of this chapter.

Prior to issuance of a certificate of zoning compliance, the Zoning Administrator may consult with such qualified personnel as surveyors, geotechnical engineers, the tree protection officer, the erosion control officer, and others, as needed, for assistance to determine if the application meets the requirements of this chapter. The cost of a zoning compliance certificate shall be as set forth in the Town of Lake Lure fee schedule at the time the application for a zoning compliance certificate is made.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TWO. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 92.999 of the Zoning Regulations.

SECTION THREE. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION FOUR. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,

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such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION FIVE. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

SECTION SIX. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 8th day of April, 2008.

Attest:

Mary A. Flack, MMC
Town Clerk

Jim Proctor
Mayor

Approved as to Form:

J. Christopher Callahan
Town Attorney

Public Hearing - Ordinance No. 08-04-08A Amending Chapter 92, Section 92.030 of the Zoning Regulations of the Town of Lake Lure Code of Ordinances, Relating to Ordinances Enacted August 8, 2006 and January 9, 2007 with Respect to Uses in the R-3 Resort Residential District

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 08-04-08A and invited citizens to speak during the public hearing. No one requested to speak.

After discussion, Commissioner Noble made a motion to close the public hearing. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

Adopt Ordinance No. 08-04-08A Amending Chapter 92, Section 92.030 of the Zoning Regulations of the Town of Lake Lure Code of Ordinances, Relating to Ordinances Enacted August 8, 2006 and January 9, 2007 with Respect to Uses in the R-3 Resort Residential District

Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Noble made a motion to adopt Ordinance No. 08-04-08A as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 08-04-08A

**AN ORDINANCE CONCERNING THE R-3 RESORT RESIDENTIAL DISTRICT;
AMENDING SECTION 92.030 OF THE ZONING REGULATIONS OF THE TOWN OF
LAKE LURE**

On February 4, 2008, in the case of *Marilyn Moore, Plaintiff vs. Town of Lake Lure, Defendant*, No. 07-CVS-270, Superior Court, Rutherford County, North Carolina, a Consent Final Judgment was entered which provided in pertinent part as follows:

The August 8, 2006 and January 9, 2007 amendments to Section 92.030 of Defendant's Zoning Ordinance . . . are declared unlawful and are ordered stricken from the Ordinance and the Ordinance returned to its status quo ante August 8, 2006.”

NOW, THEREFORE, BE IT ENACTED by the Town of Lake Lure, at its Regular April 8th meeting, that:

SECTION ONE:

1. The August 8, 2006 and January 9, 2007 amendments to Section 92.030 of the Zoning Ordinance of the Town of Lake Lure are hereby STRICKEN.

SECTION TWO:

2. Section 92.030 of the Zoning Ordinance of the Town of Lake Lure will now provide (and has since prior to the August 8, 2006 amendments now stricken), state as follows:

“R-3 RESORT RESIDENTIAL DISTRICT

- (A) Intent. The R-3 Resort Residential District is established as a district in which the principal use of land is for residential and commercial hospitality purposes to include multi-family structures, hotels motels and lodges. Uses in conjunction with hotels, motels and lodges may also be allowed when approved as a conditional use.
- (B) Permitted Uses. Within the R-3 Resort Residential District, a building or land shall be used only for the following purposes:
 - (1) Single-family dwellings, excluding mobile homes.
 - (2) Multi-family dwellings, including duplexes.
 - (3) Family care homes.

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- (4) Hotels, lodges, motels, boarding and rooming houses, bed and breakfast establishments, private clubs to provide lodging, services and board for the general public.
 - (5) Customary accessory buildings, including private garages, storage buildings, and non-commercial workshops shall be allowed for home occupations subject to all provisions of § 92.117.
- (C) Conditional Use Permit. The following uses require a Conditional Use permit subject to a finding by the Board of Adjustment that all applicable provisions of §§ 92.045 through 92.048 and 92.080 through 92.088 have been met:
- (1) Non-customary accessory uses.
 - (2) Home occupations as defined in § 92.005 and subject to all conditions stated therein.
 - (3) Public utility buildings and facilities as previously described in § 92.026 © (4).
 - (4) Planned unit developments.
 - (5) Restaurants, golf courses, and other uses designed in response to the unique natural setting of the area, when in conjunction with a hotel, motel or lodge.
 - (6) All telecommunication tower requirements listed in § 92.026(C)(7).
 - (7) Camps.
 - (8) All new commercial buildings; new building additions with a gross floor area of 1000 square feet, or more, to an existing commercial building; or any new addition to an existing commercial building where the building facade length, as existing on December 2005, will be increased by more than 50% as a result of an addition or multiple additions.

SECTION THREE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 8th day of April, 2008.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor

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Approved as to form:

J. Christopher Callahan
Town Attorney

PUBLIC FORUM

Mayor Proctor invited the audience to speak on any non-agenda item and/or consent agenda topics. William Frykberg, Chairman of Rutherford County Economic Committee, made an announcement about plans underway to get a Thomas Jefferson charter school in Lake Lure. John Cloud questioned if hand outs were made available of Ordinance No. 08-04-08 concerning the R-3 resort residential district, amending Section 92.030 of the Zoning Regulations of the Town of Lake Lure. Mayor Proctor stated that copies were made available of Ordinance No. 08-04-08 to the public, posted on the town web site, and public notices were duly given and published in the Forest City Daily Courier newspaper.

STAFF REPORTS

Town Manager Wheeler read his report into the record dated April 8, 2008. (Copy of the town manager's report is attached).

Mr. Wheeler reported on the council action items log. He announced that copies of this report are available at town hall for anyone interested.

COUNCIL LIAISON REPORTS & COMMENTS

Commissioner Turner and Commissioner Pitts reported on the activities of the Zoning and Planning Board.

Commissioner Pitts presented Resolution No. 08-04-08 for consideration.

After discussion, a motion was made by Commissioner Pitts to adopt Resolution No. 08-04-08 as amended. Commissioner Turner seconded the motion and the vote of approval was unanimous.

RESOLUTION NUMBER 08-04-08

A RESOLUTION AMENDING RESOLUTION 07-08-14 ACCEPTING THE SCOPE OF WORK FOR THE STUDY OF THE USE OF SINGLE FAMILY DWELLINGS AS VACATION RENTALS AND ESTABLISHING A STAKEHOLDER COMMITTEE

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WHEREAS, the Town of Lake Lure 2007-2027 Comprehensive Plan (Plan) defines policies, goals, and action steps to secure desirable outcomes with respect to economic development, transportation/circulation, utility infrastructure, parks and recreation, lake management, boat management, community services and facilities, community appearance, government and administration, natural environment and open space, and land use and growth management in order to maximize the public safety, public health, and general welfare for the residents and tax payers of Lake Lure; and

WHEREAS, the Plan directs town staff in Policies LU 1-2.3 and ED 2-3.1 to study the impacts (economic, quality of life, tourism, etc...) of vacation rentals in the Town of Lake Lure; and

WHEREAS, there exists a need to solicit input from stakeholders, voters, property owners, business owners, and residents of the Town of Lake Lure through carefully designed surveys, interviews, and public meetings concerning the future of the town, and

WHEREAS, the Zoning and Planning Board advises Town Council and makes recommendations on land use and development policies as they relate to the Town of Lake Lure, and

WHEREAS, a scope of work (attached and incorporated as Exhibit "A") has been submitted to Town Council, outlining the process for developing a comprehensive understanding of the use of single family dwellings as vacation rentals, now

THEREFORE, BE IT RESOLVED,

ONE: The Lake Lure Town Council hereby adopts the scope of work as presented (Exhibit "A" as per Resolution 07-08-14), and directs staff to present the findings of the study to Town Council by October 1, 2008 ~~within (6) months after the first meeting of the SFD/VR Stakeholder Committee~~ along with the recommendations of the SFD/VR Stakeholder Committee and the Lake Lure Zoning and Planning Board.

TWO: The Lake Lure Town Council hereby appoints a SFD/VR Stakeholder Committee to guide the study process outlined in the scope of work. Said

SFD/VR Stakeholder Committee shall be made up of a total of nineteen (19) individuals from the following groups:

- Group 1** **Owners of SFD/VR's.** Two representatives of the owners of SFD/VR shall be appointed.
- Group 2** **Owners of homes adjacent to SFD/VR's.** Two representatives of owners of homes adjacent to SFD/VR's shall be appointed.
- Group 3** **Realtors.** One local realtor shall be appointed.

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- Group 4** **Property Managers of SFD/VR's.** One representative of local property managers of SFD/VR's shall be appointed.
- Group 5** **Local Business Owners/ Managers.** One representative from each of the categories of restaurant/ food service, hotel/ motel, and retail shall be appointed.
- Group 6** **Lake Advisory Committee (LAC).** One representative of the LAC shall be appointed.
- Group 7** **Hickory Nut Gorge Chamber of Commerce .** One local representative of the HNG Chamber shall be appointed.
- Group 8** **Zoning and Planning Board.** One representative of the Z&P Board shall be appointed, and serve as the chair of the SFD/VR Stakeholder Committee.
- Group 9** **Citizens at large.** One representative of each of the four designated areas shown on the application, and three additional representative from any of these areas shall be appointed.

THREE: The Lake Lure Town Council shall appoint a facilitator ~~provided by the NC Department of Commerce, Division of Community Assistance,~~ to help identify and work through issues, concerns, generate discussion, keep the meetings moving forward, and assist the SFD/VR Stakeholder Committee (and Zoning and Planning Board) in reaching consensus regarding SFD/VR information, issues, impacts, and options.

FOUR: The Lake Lure Town Council requests that all recommendations from the SFD/VR Stakeholder Committee and the Zoning and Planning Board presented for consideration be in harmony with the 2007-2027 Comprehensive Plan.

Adopted this 8th day of April, 2008.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor

Commissioner Pitts presented Resolution No. 08-04-08A for consideration.

After discussion, a motion was made by Commissioner Pitts to adopt Resolution No. 08-04-08A as amended. Commissioner Turner seconded the motion and the vote of approval was unanimous.

RESOLUTION 08-04-08A

A RESOLUTION AMENDING RESOLUTION 07-08-14A REQUESTING A FACILITATOR ~~THE SERVICES OF THE NORTH CAROLINA DEPARTMENT OF COMMERCE, DIVISION OF COMMUNITY ASSISTANCE, WESTERN REGIONAL OFFICE~~ FOR FACILITATION SERVICES FOR THE SINGLE FAMILY DWELLING/VACATION RENTAL STAKEHOLDER COMMITTEE

WHEREAS, the Town Council of Town of Lake Lure, North Carolina, has established a Single Family Dwelling/Vacation Rental Stakeholder Committee (“Committee”); and

WHEREAS, the Town Council would like a facilitator ~~the North Carolina Department of Commerce, Division of Community Assistance (“DCA”), Western Regional Office,~~ to assist the Town of Lake Lure, North Carolina (“Town”) “to help identify and work through issues, concerns, generate discussion, keep the meetings moving forward, and assist the SFD/VR Stakeholder Committee (and Zoning and Planning Board) in reaching consensus regarding SFD/VR information, issues, impacts, and options (“Facilitation Services”).

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby:

1. Requests that the Development Director and Planner/Subdivision Administrator of the Town of Lake Lure find a facilitator ~~DCA~~ assist the Town with Facilitation Services;
2. Agrees to reimburse the facilitator ~~DCA~~ for ~~DCA~~ staff travel expenses (mileage, meals and/or lodging) incurred in relation to the Project in accordance with ~~DCA~~ reimbursement rates in effect at the time any such travel occurs;
3. Requests that the Community Development Director and Planner/Subdivision Administrator of the Town of Lake Lure, North Carolina, work with the facilitator ~~DCA~~ staff to develop a mutually agreeable Facilitation Agreement for Facilitation Services between the facilitator, Town Council, DCA Facilitation and the appointed Committee. The Facilitation Agreement will outline the tasks to be performed by the facilitator ~~DCA~~ staff and those to be performed by the Town and the Committee (and others, if applicable) as well as the time frames within which such tasks should be completed.

Adopted this 8th day of April, 2008.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor

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Commissioner Turner reported on the activities of the Parks and Recreation Board.

Commissioner Hyatt reported on the activities of the Lake Lure ABC Board and the Board of Adjustment/Lake Structures Appeals Board.

Commissioner Noble reported on the activities of the Lake Advisory Committee and the Golf Course Committee.

Mayor Proctor reported on the way Rutherford Council distributes sale tax money to Lake Lure.

CONSENT AGENDA

Mayor Proctor presented the consent agenda and asked if any item should be removed before calling for action.

Commissioner Noble moved, seconded by Commissioner Hyatt, to approve the consent agenda items as presented. Therefore, the consent agenda, incorporating the following items were unanimously approved:

- a. minutes of the March 11, 2008 (regular meeting and closed session), and April 24, 2008 (special meeting);
- b. a request from Leslie Flynn to suspend the town's alcohol ordinance in order to serve wine during a wedding reception being held inside the Lake Lure Municipal Center on May 3, 2008, from 4:00 p.m. until 8:00 p.m.;
- c. ratifying approval of a request from Thomas Coyne on behalf of the Lake Lure Lions Club to: (1) hold a plant sale March 22-23, 2008 on town property located in the Meadows adjacent to the visitor center; (2) waive the rental fees for use of town property; and (3) suspend the town's peddling ordinance for this event;
- d. ratifying approval of a request from Jim Proctor on behalf of Doug Long, Race Director of the dragon boat event, the suspension of the town's alcohol ordinance for Monday, March 31, 2008 in order to officially christen a dragon boat with a bottle of champagne and allow participants to drink champagne during this event being held at the town's marina parking lot. This event is being held as promotion for the up coming dragon boat racing event to be held on May 10, 2008 which has already been approved by town council; and
- e. a request from Wayne Edwards on behalf of the Mountain Lake Arts and Crafts to hold craft shows on town property for July 4-6, 2008 and August 30, 2008 through September 1, 2008; suspend the town's peddling ordinance during these events.

End of Consent Agenda.

UNFINISHED BUSINESS:

a. Update Regarding a Request from Harrison Development for the Town to Accept Carsons Way Lane, the Access Road to Blue Heron Point Subdivision into the Town's Street System

Town Attorney Chris Callahan gave an update report on the request from the Harrison Development for the town to accept Carsons Way Lane, the access road to Blue Heron Point Subdivision into the town's street system. Attorney Callahan reviewed the legal issues relating to this request.

Alan Moore an adjacent property owner to Carsons Way Lane expressed his concerns about the town considering dedication of Carsons Way Lane. Mr. Moore recommended that the town get the State to take over the maintenance of this road.

Tom McKay questioned the town's policy on protocol for naming and renaming roads in Lake Lure. Community Development Director Shannon Baldwin explained that Rutherford County E-911 names and renames town roads. Mr. Baldwin stated that the Town of Lake Lure does not name or rename town streets.

Bill Bush stated that there is a problem with infringement rights of the Lake Lure Village Resort with regards to Carsons Way Lane.

Town Council members took no action at this time on the request from Harrison Development.

UNFINISHED BUSINESS:

b. Other Unfinished Business

There was no other unfinished business for discussion.

NEW BUSINESS:

a. Discussion Pertaining to a Flood Damage Prevention Ordinance

Community Development Director Shannon Baldwin asked council members to review a draft flood damage prevention ordinance furnished to them and submit their feedback in advance of the Zoning and Planning Board's regular meeting being held in April. Mr. Baldwin asked that council schedule a public hearing to be held at the next regular town meeting to consider the adoption of this proposed ordinance.

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After discussion, Commissioner Turner made a motion to schedule a public hearing on Tuesday, May 13, 2008, at 7:00 p.m. or thereafter, to consider proposed amendment to the flood damage prevention regulations. Commissioner Noble seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

b. Presentation Regarding a Proposal for a Musical Event

Council members removed this agenda item off the agenda at the request of Skipper Hough with Waterdog Promotions in South Carolina. Mr. Hough called and left a message at town hall that he would not be able to attend this meeting to make the presentation of a proposal for a musical event.

NEW BUSINESS:

c. Appoint a Council Member to Work with Town Staff on a APFO (Adequate Public Facility Ordinance) Project and Impact Fees

After discussion, Commissioner Turner made a motion to appoint Commissioner Jeanine Noble to work with town staff on a APFO (adequate public facility ordinance) project and impact fees. Also, appoint Commissioner Russ Pitts to backup during Commissioner Noble's absence. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

d. Schedule a Capital Improvements Program and Budget Workshop Meeting

After discussion, Commissioner Tuner made a motion to schedule a special workshop meeting with department heads to be held Monday, April 28, 2008, 9:00 a.m., at the Lake Lure Municipal Center to review/discuss the draft budget/capital improvements program for Fiscal Year 2008-2009. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

e. Schedule a Special Meeting to Discuss Fire Protection in Lake Lure

After discussion, Commissioner Noble made a motion to schedule a special meeting with fire chiefs to be held on Wednesday, April 23, 2008, 7:00 p.m., at the Lake Lure Municipal Center to

