

MINUTES
TOWN OF LEXINGTON
PLANNING COMMISSION MEETING
October 19, 2022

The Planning Commission held a meeting on October 19, 2022 at 8:00 AM in the Council Chambers at Town Hall, 111 Maiden Lane, Lexington, South Carolina. The meeting was attended by Chairman Frank Berry, Commissioners Brian Amick, Roscoe Caughman, Jamie Fite, Sammy Hendrix, Jeannie Michaels, J. T. Stephenson, III and Joe Robertson. Vice-Chairman Jarett Harrelson was absent.

Others in attendance were Town Administrator Britt Poole, Planning, Building and Technology Director John Hanson, Assistant Zoning Administrator Jessica Lybrand, Town Prosecutor Cliff Koon, Economic Developer Jack Stuart, Parks and Sanitation Director Dan Walker, Transportation Director Randy Edwards, Town Engineer Rosemarie Nuzzo, Digital Media Coordinator Michael Tolbert and Assistant Municipal Clerk Karen Hanner. Four citizens were present and no one was present from the news media.

CALL TO ORDER & INVOCATION: Chairman Frank Berry welcomed everyone to the meeting. He announced that the meeting would be available for viewing on the Town's information cable channel 1301 and the Town of Lexington YouTube Channel. Planning Commission members introduced themselves. Commissioner Jeannie Michaels gave an invocation and Chairman Frank Berry led the Pledge of Allegiance.

Chairman Frank Berry called the meeting to order at 8:02 AM.

DELETIONS: None.

APPROVAL OF MINUTES: A motion was made by Commissioner Hendrix and seconded by Commissioner Fite to approve the Minutes from the Planning Commission Meeting on September 21, 2022, as submitted. There was no further discussion. The vote was unanimous in favor.

NEW BUSINESS:

- 1. Final Plat Approval of Barr Lake Phase 3B and an Update on the Provision of a Proportional Amount of the Open Space and Recreation Facilities– *Action Requested: Approval of the Final Plat***

Planning, Building and Technology Director John Hanson presented the request from Power Engineering which is asking for final plat approval for Barr Lake Phase 3B. This Phase consists of 35 lots on 15.07 acres. It was bonded in November 2019. Staff is requesting the Commission review and approve the final plat of this Phase due to persistent delays in the construction of the amenity package and changes in the Ordinance that were recently adopted.

Section 154.03.05 of the Land Development Ordinance says: All facilities within the Phase and a proportional amount of overall facilities must be installed with each Phase. This includes but is not limited to stormwater, utilities, open space and recreation facilities, sidewalks and pedestrian facilities, etc.

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Staff requested an update from the developer on the progress of the clubhouse and pool construction but was not provided one. There are 91 lots that remain to be bonded in the subdivision.

Chairman Berry confirmed the plat meets all other requirements. Director Hanson responded all except the one item on the proportional amount of facilities.

Commissioner J. T. Stephenson, III, recused himself from New Business #1 (Recusal Statement attached).

Mr. Shane Alford of Stanley Martin Homes introduced himself as the homebuilder in the community. He stated they are working in conjunction with the developer on the construction of the amenity clubhouse and swimming pool for Barr Lake subdivision. Mr. Alford said for Phase 3B the sidewalk has been installed, the greenways are in, the stormwater detention facilities are constructed and the lake has refilled after construction of the dam. He reported the amenity building is constructed and interior construction is being done at this point and the digging of the pool should be done sometime in the next three weeks. He said they expect to have the facility completed in the first quarter of next year and the developer is currently putting in the curb for the parking lot.

Commissioner Joe Robertson stated he had received several emails from citizens in Barr Lake that he will submit for the record (attached). He noted after the dam was finished and the lake refilled, there was a lot of vegetation that had grown when the bed of the lake was dry. He said it was cleared but some grew back before the lake was filled. He added Nature Chem had come in and trimmed back on the lower third of the lake and he understood there was a contract to do clearing on the remaining two thirds of the lake but that wasn't executed. Commissioner Robertson asked Mr. Alford if that is something that is going to be done. Mr. Alford responded Stanley Martin Homes has no direct engagement in that contract or in that activity. He added if the developer has that in the scope of their work they will fulfill every obligation. Commissioner Robertson continued saying that it is something that the residents are concerned about and it is unsightly with some safety concerns as well. Chairman Berry asked Mr. Alford to pass that information to the developer. Mr. Alford said he certainly will and obviously from the standpoint of the homebuilding, the beautification of the lake is very important.

Commissioner Robertson stated there is also some concern about the stormwater ponds in the neighborhood not being maintained. Mr. Alford responded that is a developer issue and under the governance of the county.

Commissioner Robertson noted there is some frustration in the neighborhood with a perceived lack of communication on updates and he appreciated the update and timeline for the clubhouse and the pool. He added in the past a letter was sent to residents providing specific updates and if Mr. Alford would pass that along to the developer it would go a long way. Chairman Berry stated that is something the Commission is encouraging but not something they can force to be done. Mr. Alford stated they understand the importance of good communication.

Commissioner Fite confirmed the statement from Mr. Alford that by the first quarter of next year the pool and the clubhouse will be completed. Mr. Alford stated barring any delays such as supply

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chain issues, but most of the large items for construction are on site. He added he would be glad to update the Commission at a later time if there are any delays but right now they anticipate completion sometime in the first quarter and they would love to have the facility open by Memorial Day weekend.

Commissioner Robertson asked Mr. Alford if he knew when the next round of bonded plats would come through. Mr. Alford said no, he would have to defer to the developer for that. Commissioner Robertson noted that based on the estimate for the clubhouse and pool, that would be a good time for an update. Mr. Alford stated they were well over halfway in that community and only have a couple of phases left.

Chairman Berry commented that for the next update it would be good to have the developer attend. Director Hanson proposed that before another bonded plat is done, it should come before the Planning Commission for approval. Chairman Berry said that request has been in place since Phase 2 of this development. Director Hanson stated it was brought to the Planning Commission during Phase 2 because there were concerns about when the lake was going to be reconstituted and when the Barr Road entrance was going to be completed. He added after a couple of Phases, the Commission seemed satisfied that work was progressing so it hasn't been done in a while. Director Hanson noted there are 350 houses now with concerns about when they are going to get their amenities. He said he understood that the next bonded plat could come before the Town in about four months so that should coincide with what they are planning and he suggested that they ask to bring it back for an update with the next bonded plat. Mr. Alford said he would come back with a photo of the completed amenity site.

Mr. Leo Rigby of 108 White Torpedo Way in Barr Lake introduced himself and commented that the lake hasn't been cleared. He said the developer contracted to kill the vegetation after the lake was filled and cleared the lower third of the lake but on the upper two thirds of the lake the vegetation has not been cleared. He noted the sales office is at the lower third of the lake where it looks great but the upper two thirds of the lake looks horrible. He said he has been out there in his kayak and you can't navigate it and it is dangerous. He stated they have been working with the developer for quite a while and they are not getting anywhere. Mr. Rigby said the community deems the lake as the major amenity and the lake has not been finished. He said he understood the developer negotiated a contract to clear it but never executed it. He continued it needs to be addressed as people view the lake as the amenity of the development and he wanted to bring it to the Commission's attention.

Chairman Berry asked if there was anything the Planning Commission could legally do for something like this. Director Hanson said that could be a civil matter. Town Prosecutor Cliff Koon commented they are probably heading there with a final plat approval which the Planning Commission has the ability to hold back. Commissioner Hendrix asked if they could deny the bond. Director Hanson noted that the Commission can make a collective judgement on moving forward with additional Phases of a subdivision based on the information that is presented at the time.

Chairman Berry stated when this first started it was about the swimming pool, the clubhouse, the dam and the back entrance. He noted the dam is done, the entrance is done and the pool and clubhouse are underway and when they bring a final plat for review they could get an update then.

Commissioner Robertson stated he agreed and the proportional amount of overall facilities is what they are tasked with determining. He added he feels they are met at this point but he would like further updates before the next plat comes before the Town.

Commissioner Robertson made a motion to approve the final plat for Phase 3B and require an update before the next plat is before the Town. Chairman Berry questioned either bonded or final. Director Hanson stated it is their call if the Commission wants to see them all or just additional expansions. He added they could address concerns on the front end of an expansion rather than at the final. Commissioner Robertson clarified his motion to approve the final plat for Phase 3B with a request for an update from the developer before the next Phase comes into bond. Commissioner Michaels seconded the motion. There was no further discussion. The vote was six in favor, one opposed (Caughman) and one recused (Stephenson). The motion carried in favor.

Commissioner Hendrix stated the Town and this Commission are being asked to correct things they don't have the authority to do. He said the developer is not appeasing the residents and them. Commissioner Hendrix stated when the next bond comes before the Commission he would recommend strongly that the developer attend and answer some questions. Director Hanson replied they requested that for this meeting. He added moving forward it will be a judgement call whether the bonded plat that is presented for approval complies with the approved subdivision and a proportional share is underway.

Commissioner Hendrix stated staff is doing what they can and the builder can't answer those questions. He said the Commission is frustrated and asked what recourse they have. Director Hanson responded they may withhold additional expansion of the subdivision until they are satisfied.

Chairman Berry noted they expect a bonded plat for the next Phase about the same time as Mr. Alford expected completion of the amenities, around February or March. Commissioner Hendrix asked about the problems with the lake. Chairman Berry responded that is not a problem for the Planning Commission and he felt that would be between the HOA or developer and the homeowners. Town Prosecutor Koon noted the Planning Commission can take a careful look at future expansions.

Mr. Rigby commented that the developer is the HOA presently and they have tried to address it with them. He added they have no other recourse.

2. Amendment to the Land Development Ordinance – Corner Lot Setbacks – Action Requested:
Recommendation to Amend the Land Development Ordinance

Planning, Building and Technology Director John Hanson presented the request from recent discussions about zoning amendments related to PR2 developments and the setback requirements for corner lots. The Land Development Ordinance currently allows side yard setbacks for “the side adjacent to the street of corner lots to be one half of the front yard setback.” This allows setbacks for alley loaded townhomes to be as little as 7.5 feet.

The Commission is being asked to recommend an amendment to the corner lot section of the Land Development Ordinance to require a minimum 15-foot setback for all corner lot subdivisions.

Commissioner Michaels made a motion to recommend a minimum 15 foot setback for a corner lot in subdivisions. Commissioner Robertson seconded the motion. Chairman Berry asked if the current front setback is 30 foot. Director Hanson said it depends on the Zoning classification and the product. He noted a PR1 subdivision would have a 30 foot front yard setback, a PR2 subdivision with a front loaded product would have a 25 foot front yard setback, an alley loaded product in PR2 would be as little as 15 foot and under the current Ordinance the corner lot could have a 7.5 foot or 12.5 foot side yard setback so they recommended a minimum of 15 foot. The vote was unanimous in favor.

3. Amendments to the Zoning Ordinance – Chart of Height, Setback, Buffer and Parking Requirements for Each Activity– *Action Requested: Recommendation to Amend the Land Development Ordinance*

Planning, Building and Technology Director John Hanson stated the previous Zoning Ordinance included a section that allowed the approving authority discretion to approve a variety of commercial activities on properties with Industrial Zoning. This section was omitted from the recent zoning rewrite. The Commission should consider a recommendation to amend the Ordinance reinstating this provision.

The following amendment should be added to the Zoning Ordinance:

On parcels that are zoned Industrial (IND), whether or not those parcels are located in an Industrial Special overlay district, the Approving Authority has the discretion to allow not only the uses that are expressly listed in the chart of permitted uses as being allowed on parcels that are zoned IND but also any commercial activity that is permitted by the chart. The decision whether to allow a particular commercial activity on a parcel zoned IND shall be based on criteria that include but are not limited to:

- Whether the location is reasonable for such use;
- Whether the intent of the zoning district supports such a use;
- Whether the intent of the road classification supports such a use;
- Whether the proposed use is compatible with existing adjacent and nearby uses;
- Whether the proposed use is likely to be compatible with future industrial uses on adjacent or nearby parcels;
- Whether the setbacks and buffers between the proposed use and existing adjacent use is reasonable;
- Whether the height ratio is reasonable in relation to the heights of adjacent and nearby uses; and
- Whether the activity is in the best interest of the public health, safety and general welfare.

Commissioner Hendrix made a motion to approve as recommended. Commissioner Fite seconded the motion. There was no further discussion. The vote was unanimous in favor.

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OTHER BUSINESS: Town Administrator Poole announced two movies scheduled at the Icehouse Amphitheater; Ghostbusters, the Afterlife on October 22 and The Addams Family on October 29. The Town of Lexington Police Department will host their Fall Fest at the Icehouse Pavilion on October 25. The Tokyo Joe Breast Cancer Research Fundraiser is on October 28. Voting is taking place on the Town of Lexington Facebook page for the Downtown Scarecrows on Main Street contest.

ADJOURNMENT: Commissioner Hendrix made a motion to adjourn. Commissioner Michaels seconded the motion. The vote was unanimous in favor

Chairman Frank Berry thanked everyone for attending the meeting and announced a recording will be shown on the Town of Lexington information channel 1301 and on the Town of Lexington YouTube page.

The meeting adjourned at 8:28 AM.

Respectfully Submitted,



Karen Hanner
Assistant Municipal Clerk

APPROVED:



Chairman Frank Berry

FOIA COMPLIANCE – Public notification of this meeting was published, posted and mailed in compliance with the Freedom of Information Act and the Town of Lexington requirement

RECUSAL STATEMENT

Member Name: J.T. Stephenson III

Meeting Date: 10-19-2022

Agenda Item: Section New Business Number 1

Topic: Barry Luke An 313

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

Professionally employed by or under contract with principal

Owns or has vested interest in principal or property

Other: _____

Date: 10-19-2022 Member: _____

Approved by Parliamentarian: _____

from kmvickery5@gmail.com

Good Afternoon,

I wanted to email with my concerns about the overgrowth in Barr Lake, as I am a resident of a lake lot in this community. I understand this is on the agenda for the meeting tomorrow morning.

The overgrowth above the water level in the front portion of the lake was cut close to a year ago after the lake was filled, but no effort was ever made to cut it in the back portion of the lake. The overgrowth is very dangerous for kayakers, and also extremely unattractive. In the summer months, it appeared that algae was growing on the lake at the base of where all the overgrowth was sticking up. I can imagine this is probably not a great thing for the ecosystem in and around the lake.

When we paid a lot premium for the lake lot, we were under the impression the developer would restore the lake to its original condition. Can you please see what the progress is on this, and when the developer plans to address the overgrowth issue in the back of the lake?

Thank you,
Karen Vickery

Ronald Sykes <sykezone@gmail.com>

Mr. Robertson

I am a fellow resident of the Barr Lake subdivision residing on White Torpedo Way. I believe there is a vote to approve the final phase 3B plat designation. I feel that this is premature as we haven't been provided assurances by the developer to complete the development of the lake and neighborhood as promised. In purchasing the home two years ago, we were assured by Essex and then Stanley Martin that the developer was to complete the cleaning of the lake and retention ponds. To this date, the developer has taken as many short cuts as possible to avoid these obligations. For instance, the upper part of the lake has not been cleared, although the lower part has been since this is where the lake is shown off to prospective buyers, and there is still unsightly and potentially dangerous growth. We have all waited for the lake to be returned to its natural state. The developer was paid to do this and has utterly failed.

In addition to the lake, the retention ponds within the neighborhood have not been addressed appropriately. This is a rather upscale living community and the retention ponds have been left unfinished without any landscaping, as well as, fencing to protect children from inadvertent entry. This seems only sensible given the number of residents and nature of the housing.

I am asking that the vote for the final plat of phase 3B and a contingency for completion of the amenities be postponed until we have secured firm commitment that the developer will complete taskings that were part of earlier phases and development.

Thank you for your consideration,

Ron Sykes
112 White Torpedo Way

Thanks Joe, we have been trying to get this addressed for well over a year now with the developer and he has been non responsive.

Leo Rigby

From: Robertson, Joseph <Joseph.Robertson@kimley-horn.com>
Sent: Tuesday, October 18, 2022 11:17:16 AM
To: Leo Rigby <larigby@live.com>; Todd Carnes <todd.carnes@toddrealtypartners.com>
Subject: RE: Barr Lake

Hi Leo,

Thanks for sending and following up—I saw your message and you were on my to-do list to reply. I'll echo these concerns during the meeting tomorrow morning and see if they can explain what's going on and provide an update.

Thanks,
Joe

Joe Robertson, P.E., PTOE, RSP₂
Kimley-Horn | 802 Gervais Street, Suite 201, Columbia, SC 29201
Direct: 803-403-8557 | Main: 803-403-8558 | www.kimley-horn.com

From: Leo Rigby <larigby@live.com>
Sent: Tuesday, October 18, 2022 11:03 AM
To: Todd Carnes <todd.carnes@toddrealtypartners.com>
Cc: Robertson, Joseph <Joseph.Robertson@kimley-horn.com>
Subject: Barr Lake

Hi Todd & Joe:
Please see below. I sent it last night but was not sure if you received it.

This is a big concern that the developer needs to address, and had planned to but never did address. It directly relates to amenities and safety.

Due to the extremely short notice of this meeting, it is not possible for myself and others who are very concerned with this to be there.

Please be sure it is raised in the Planning Committee meeting tomorrow.

Thank You!
Leo Rigby

From: Leo Rigby <larigby@live.com>
Sent: Monday, October 17, 2022 6:44 PM
To: Todd Carnes
Cc: Joseph.robertson@kimley-horn.com
Subject: Re: Agenda

Thanks Todd,

Could Joe or someone relay the communities continuing concern about the condition of the upper 2/3rds of the lake for which the developer never finished cutting the growth in the lake? The developer had NatureChem cut the lower 1/3rd, and NatureChem submitted a contract to cut the upper 2/3rds which should have been but was not executed by the developer. The lake is unusable in the upper 2/3rds, it is also dangerous. The Barr Lake community looks at this as part of the agreed upon amenities, and they have always expected a safe and usable lake.

Thank You!
Leo

From: Todd Carnes <todd.carnes@toddrealtypartners.com>
Sent: Monday, October 17, 2022 5:58:40 PM
To: Leo Rigby <larigby@live.com>
Cc: Joseph.robertson@kimley-horn.com <Joseph.robertson@kimley-horn.com>
Subject: Agenda

Leo,

Agenda was just published today. Meeting is on the morning of the 19th. The verbiage of the item may be a little confusing. Normally the review and finalization of these plats is done at a staff level. So what John Hanson is saying is that he is asking this to be handled at a planning commission review level because of the delay in the amenities.

Power Engineering will be asked for updated timelines as I assume they will attend, and there will be a time for any public comments before Planning Commission takes any action. Kerri and I are on vacation this week so I will not be able to attend.

We do have representation on Planning Commission with Joe Robertson from our neighborhood. I have copied him on this email.

TODD CARNES
PARTNER

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