

**CITY OF PINE LAKE
AGENDA
JULY 8, 2019
7:00 PM**

Call to order
Pledge of Allegiance
Announcements/Communication
Adoption of Agenda
Public Comments

CONSENT AGENDA

All matters listed under this item are routine or have been previously discussed by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

Approval of Meeting Minutes from 06/25/19 Called Meeting for Public Hearing and 06/25/19 Regularly Scheduled Council Meeting

PUBLIC HEARING

Application for Stream Buffer Variance – 591 Spruce Drive – Applicants Molly Smith and Russell Williams

Public Hearing and First Reading for Adoption of New Zoning Ordinance and Map

NEW BUSINESS

OLD BUSINESS

Public Comments
Mayor's Comments
Council Comment
Adjournment

**CITY OF PINE LAKE
CALLED MEETING FOR
PUBLIC HEARING
MINUTES
JUNE 25, 2019
6:30 PM**

Call to order

The meeting being properly noticed it was called for the purpose of conducting a public hearing to set the millage rate at 6: 35 pm by Mayor Melanie Hammet. Present were Mayor Pro-Tem Jean Bordeaux and Council Members Brandy Hall and Augusta Woods. Megan Pulsts arrived at 6:44 pm. Also present was Chief of Police Sarai Y'Hudah-Green and City Administrator Valerie Caldwell. Councilmember Kris Casariego was not present.

PUBLIC HEARING

Mayor Hammet opened the hearing for comments from the public. There were not any comments. The public hearing was then closed.

Adjournment

There being no further business, the meeting adjourned at 6:59 pm.

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**CITY OF PINE LAKE
CITY COUNCIL MEETING MINUTES
JUNE 25, 2019
7:00 PM**

Call to order

The meeting was called to order at 7:00pm by Mayor Melanie Hammet. Present were Mayor Pro-Tem Jean Bordeaux and Council Members Brandy Hall, Augusta Woods, and Megan Pulsts. Also present was Chief of Police Sarai Y'Hudah-Green and City Administrator Valerie Caldwell. Councilmember Kris Casariego was not present.

Pledge of Allegiance was led by Mayor Hammet.

Announcements/Communication

Bordeaux:

- Announced that DeKalb County Commissioner Steve Bradshaw was conducting a meeting at this time regarding the Memorial Drive Revitalization Plan and the overlay district. She also said that Pine Lake was a part of the plan. Bordeaux encouraged attendees of the council meeting to attend if they left early and to complete the website survey.

Hammet:

- Communicated that the June 5th Town Hall was well attended and a success and that all council members were present. She stated that some of the topics of discussion included chickens, the health of the lake and public spaces. Hammet said that she received positive feedback from the Town Hall and that another will be scheduled at the end of summer.
- Announced that Tracey Brantley has been added to the Economic Development Group and that Phase I was complete. Also, Phase II is in the beginning stage which is headed by David Burt, Consultant.

Adoption of Agenda

Hammet amended the agenda by removing Tennis Court Resurfacing/Restriping from New Business and adding PLAIN's offer to split cost with the City for purchase of acoustical panels for Club House. Pulsts motioned to approve the amended agenda; seconded by Bordeaux. 4-0.

Public Comments

None

Presentation – DeKalb County Transit Master Plan

Laura Everitt, VHB, Transit & Rail Planning Manager presented the 30-year transit vision plan followed by discussion. A question and answer period followed the presentation. Pulsts motioned to approve the Resolution of the City of Pine Lake related to the DeKalb County Transit Master Plan; seconded by Woods. 4-0.

CONSENT AGENDA Approval of Meeting Minutes from May 28, 2019 Council Meeting and June 5, 2019 Town Hall

Pulsts motioned to approve the agenda; seconded by Bordeaux. 4-0

PUBLIC HEARING

Public Hearing on Application for Alcohol License for Red Sea Café 4634 Rockbridge Road – Applicant: Berhane Hagos

Hammet opened the Public Hearing at 7:38 -7:45. Mr. Hagos presented his request for an alcohol license. There were no public comments in favor, or opposition. Mayor Hammet closed the public hearing. The restaurant and bar is scheduled to open the first week of July and Mr. Hagos stated that community is invited to the Grand Opening. Following a brief question and answer session by Council Pulsts motioned to approve; seconded by Hall. 4-0.

OLD BUSINESS

Second Reading and Adoption of Amended Fireworks Ordinance

Following a second reading of Ordinance # 01-2019 which had been amended to allow an assistant in the -roped off area for the lighting of the fireworks, Hall motioned to approve the ordinance; seconded by Pulsts. 4-0.

Award of Bid for City Hall Improvements

Pulsts motioned to award the bid to Jeff Hill Homes, LLC for \$5,800; seconded by Bordeaux. 4-0.

NEW BUSINESS

Adoption of Resolution # R-05-2019 - Setting of Millage Rate for 2019

Bordeaux motioned to approve the resolution to set the millage rate at rollback, 21.530 mills; seconded by Pulsts. 4-0.

Discussion of the acoustic panels project for the Club House

SEED members Tracey Brantley & Jackie Biggers presented the purchase of acoustic panels at the cost of \$1,160 and stated that PLAIN will pay one-half. Hall motioned to approve the city paying one half at the cost of \$580; seconded by Pulsts. 4-0

Update of Rockbridge Road

Hammet stated a meeting is scheduled for July 12th and will provide update.

Public Comments

Jackie Biggers 458 Allgood Road inquired about the timeline for the Rockbridge Road Project.

Mayor's Comments

There were not any.

Council Comments

Pulsts stated that she will be meeting with the Audubon Society Bird soon and that the date has not been established.

Hall recommended sending an email blast to residents regarding the DeKalb County Transit Master Plan. The website is <https://www.dekalbcountyga.gov/public-works/transit-master-plan>.

Adjournment: At 8:10pm Pulsts motioned to approve; seconded by Hall. 4-0.

Missye Varner, Administrative Assistant



ARCHITECTURE
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PLANNING
CPLteam.com

May 29, 2019

Ms. Valerie Caldwell, City Administrator
City of Pine Lake
462 Clubhouse Drive
Pine Lake, GA 30072

VIA EMAIL

RE: City of Pine Lake
591 Spruce Drive Stream Buffer Variance

Dear Ms. Caldwell:

We have reviewed the variance application for 591 Spruce Drive and have the following comments:

1. While the lot's utility is reduced by the presence of the stream buffer, the applicant is proposing a water quality BMP that will capture runoff from the roof and allow it to infiltrate into the ground. We believe the applicant's plan appropriately addresses storm water quality. Should the city choose to grant the variance, we recommend the city only approve it on the condition that they install the water quality measures shown in the site plan.

Please call us with any questions.

Sincerely,

CPL ARCHITECTURE ENGINEERING & PLANNING

Rich Edinger, P.E.
Vice President

cc: file

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Suwanee, GA 30024
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Stream Buffer Variance

MEMORANDUM

TO: Valerie Caldwell, City Administrator
FROM: Bill Johnston, Zoning Administrator
SUBJECT: Stream buffer variance to allow construction of a single family dwelling
DATE: Tuesday, 26 March 2019

Applicant	Molly Smith and Russell Williams
Location	591 Spruce Drive (PIN 18-041-09-168)
Zoning	R-1, Single Family Residential District
Proposal	Stream buffer Variance to allow construction of a single family dwelling

APPLICATION SUMMARY

Ms. Molly Smith and Mr. Russell Williams have filed an application for a stream buffer variance that would allow construction of a single family detached dwelling within an undisturbed, natural vegetative buffer.

FINDINGS

Sec. 22-113. *Land development requirements* establishes the following standards relative to protection of stream buffers:

(a) Buffer and setback requirements. All land development activity subject to this article shall meet the following requirements:

(1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.

(2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

(3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

The depth of the lot is approximately 116 feet. A stream is located to the rear of the property. As proposed, the dwelling cannot be erected on the lot without a variance that would allow substantial encroachment into the 50-foot and the 25-foot buffers. A number of lots, including 591 Spruce Drive are shallow along this stretch of Spruce Drive as well as throughout Pine Lake.

591 Spruce Drive (PIN 18-041-09-168)
Stream Buffer Variance

Sec. 22-113 also establishes the following procedures for considering a variance to the stream buffer:

“Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

(1) Where a parcel was platted prior to the effective date of the ordinance from which this section is derived, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the city finds and determines that the requirements of this article prohibit the otherwise lawful use of the property by the owner, the city council may grant a variance from the buffer and setback requirements hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.”

The building lot is assumed to have been platted prior to the effective date of the stream buffer ordinance. Accordingly, a variance may be granted provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.

Sec. 22-113. *Land development requirements*, subsection (b) Variance procedures, paragraph (2) establishes the following guidance in determining the appropriateness of granting a buffer variance:

- a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a buffer variance is granted.
- b. Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.

An extreme hardship would be created by strict adherence to the standards of the stream buffer ordinance.

Subsection (4) establishes the following factors to be considered in deciding a variance application:

- a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- b. The locations of all streams on the property, including along property boundaries;
- c. The location and extent of the proposed buffer or setback intrusion;
- d. Whether alternative designs are possible which require less intrusion or no intrusion;

591 Spruce Drive (PIN 18-041-09-168)

Stream Buffer Variance

- e. The long-term and construction water-quality impacts of the proposed variance;
- f. Whether issuance of the variance is at least as protective of natural resources and the environment.

The site plan dated April 18, 2019 indicates a 25-foot state stream buffer measured from the 100-year flood limits elevation which is presumed to be the "top of bank." However, the City of Pine Lake Ordinance requires that an "An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank." The Pine Lake Ordinance also requires that "An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited."

Sec. 22-114. *Compatibility with other buffer regulations and requirements* provides that where state and local ordinances may conflict, "whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence:"

"This article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence."

The site plan indicates that the natural undisturbed buffer will be disturbed and impervious surfaces will be placed within the additional 25-foot buffer. The variance needed to accomplish the proposed construction a variance to each of the buffers adopted in the Pine Lake stream buffer ordinance.

CONCLUSION

One of the factors to be considered in deciding a variance application is "the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property." Virtually the entire lot is located within the combination of the 50-foot undisturbed buffer and the 25-foot buffer within which no impervious surfaces may be installed. The size of the property and the proximity of the stream are such that a reasonable construction plan cannot be achieved without the granting of a stream buffer variance.

RECOMMENDATION

Based on the above findings, approval of the proposed stream buffer variance is appropriate subject to approval of site development measures to be taken that would be at least as protective of natural resources and the environment as though no encroachment into the stream buffer were planned by the City Engineer.



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TO: Mayor and Council
City of Pine Lake

FROM: Laurel E. Henderson
City Attorney

RE: Zoning Ordinance

DATE: May 17, 2019

At long last, we have completed the comprehensive review and draft of the updated zoning ordinance. The City had approved the substantial amendment of four sections of the old zoning ordinance. The remainder has not been changed nearly to the extent of those four earlier amendments. Most changes have been made for consistency with amended text or due to legal constraints. The purpose of this memorandum is to identify substantive changes and explain the reasons for them.

While not a substantive change, the first thing you will notice is that the ordinance has been numbered throughout as one document. Previously, numbering started over with every section, making it virtually impossible to find one's way around the text or to skip back and forth. Additionally, each section was composed of numerous "sections," making it even harder to communicate with a third party when using the text. (There were 17 sections 1's for instance, one for each article). In the updated ordinance the former "section" designations are now articles, with each article having a corresponding number. Sections within that article contain the article number, followed by the corresponding section number. There is no duplication of numbering as appeared previously. This should make life simpler for everyone, but in particular, your city attorney.

In article 1, two changes appear. The authority underlying the zoning ordinance in section 1-3 has been updated instead of referencing a repealed state statute. In section 1-5 we have added language stating that if there are potentially conflicting provisions within the zoning ordinance, the most restrictive controls. We also reordered the sections of this article in accordance with uniform drafting procedures for ordinances.

In article 2, section 2-4 has been updated to show the new district designations previously adopted by the City. In section 2-8A, we have deleted language that unzoned land shall be automatically afforded a designation. Zoning Procedures Law requires a specific procedure be followed where land comes in by annexation, and there can be no automatic designation assigned, absent a rezoning hearing. We omitted a former paragraph in this section that allowed the zoning administrator to “correct” the map. The map, once adopted, can only be corrected through rezoning under the ZPL. The last paragraph of section 2-8 has been substantially reworked to bring it into accordance with ZPL. It also now requires formal subdivision to chop one lot into smaller lots. The zoning map previously appeared here in the middle of the text. It has been pulled to follow the ordinance at its end, and the map is incorporated by reference. When this ordinance is ready for adoption, the adopting ordinance will attach the new text as Exhibit A and the map as Exhibit B. For now, Jean has moved it to the end of the ordinance.

In article 3, two changes have been made to section 3-2. The first deletes a former provision that measures lot width on cul-de-sacs, since the entire residential portion of the City is on a grid pattern, and a grid pattern is required for new development. We also deleted the last sentence in paragraph C of section 3-2 that referenced the nonconforming use provisions, because it is duplicative.

In article 4, we added the proviso at the end of section 4-3B referring to section 7-4 for clarity. We also deleted former paragraph 4 of section three stating no building footprint could be expanded on a nonconforming building, since the R-1 district specifically permits that to be done within specified limits. Paragraphs D and G were amended to reference only nonresidential buildings, since the City does not regulate facades in residential areas and the R-1 district pertains to this provision with respect to residential uses. Former section 7, “special exception for expansion of nonconforming uses” has been omitted in favor of using the City’s variance procedure. We also eliminated former section 8 concerning administrative permits, as the City does not have anyone on staff with expertise in the area and Valerie asked that she not be given authority to issue administrative permits.

In the definitions of article 5, we have modified the definition of “dwelling, multiple family” for clarity. “Average roof elevation” and building height were eliminated as being in conflict with the standard adopted for the R-1 district. Dwelling, townhome has been revised for clarity. Family has been modified to recognize the Fair Housing Act requirement that disabled persons living together as a housekeeping unit constitute a family. The fence definition has been modified to accommodate the visibility change in R-1 districts. Regulating plan has been modified to remove a reference to the zoning map. It should not be part of the zoning map, as that map can only be amended through advance notice and public hearing. Residential treatment and storefront treatment have been eliminated as the regulations formerly for design of commercial areas no longer exist. Sign has been eliminated as a defined term, as that is taken care of through the sign ordinance. Storefront treatment has been simplified in accordance with changes to the commercial district.

Article 6 concerns streets and blocks and was previously comprehensively amended. No new changes have been made.

Article 7 concerns the R-1 district. It was previously comprehensively amended. In addition, section 7-16B is new language that clarifies zoning approval is needed prior to issuance of building permits.

Article 8 concerns the commercial district and has also been comprehensively amended by the Council. No additional substantive changes were made.

Article 9 concerns mixed use overlay. It was previously adopted by Council as a new ordinance. No further substantive changes were made.

Article 10 regulates the open space district. This is different than open space requirements on private property. Accordingly, the reference that previously appeared in section 1 to open space requirements on private property has been eliminated to avoid confusion. Section 10-5B is new language that makes clear private entities may not construct buildings or own property in the open space district, as it is all public land.

We have removed general provisions regarding subdivision of land, as that is a separate area from zoning and should be elsewhere.

Article 11 concerns special use permits. This article was also revised and readopted in its entirety. No additional substantive changes were made.

Article 12 concerns variances. Section 12-12 has been completely rewritten to provide a process that is identifiable. Former language referencing the flood plain ordinance has been eliminated as that is a separate regulatory system. We have eliminated former section 8 that allowed variances solely to preserve trees as it had no standards and would be unconstitutional for that reason. We have added, however, paragraph F to section 12-3, the conditions for granting a variance, to recognize that the ability to preserve trees, among other standards that must be met, has relevance to Pine Lake. We have also eliminated former section 9 that allowed administrative variances.

Article 13 is the procedure for amending the text of the zoning ordinance or zoning map. Section 13-2B has been broadened to allow all elected officials, as well as the zoning official, to request an amendment. The time limit for decision in section 13-3 has been increased from six to 12 weeks. This allow time for the planning consultant to review and comment on the application and for all notices to be run. Section 13-2C is entirely new language. The hearing process as set out in section 13-5 has been amended in minor respects to accord with state law and to simplify language. The last sentence of that section makes clear this hearing process is to be used not only for rezonings, but also for variances and special use permits. Section 13-6C makes clear that the standards of review are to form the basis for decision. Former section 6 of this article has been deleted in that it suggested Council could proceed to make a determination without first having conducted a public hearing. The criteria for zoning amendments in section 13-7 has been modified by adding the length of time the property has been vacant as zoned and removing references to the tree ordinance and storm water ordinance. These are not proper zoning criteria, but are development criteria. Former section 9(2) has been deleted as duplicative and covered elsewhere.

Section 13-8 has been amended to formally include the zoning official in the review process for all applications. In section 13-9 we have added information to make clear that substantial revisions to an application will cause a delay so they can be analyzed. That same section also provides when rehearing is required. Section 13-11 has been substantially modified to put in a firm limit on reconsideration if the original decision is made by the Council and to change the date for withdrawal without prejudice from before decision to before public hearing. Section 13-12B has been modified to accord with state law that requires conditions to be either stated in the minutes or on the face of the ordinance. Paragraph C has had language included to make clear the Council may attach conditions to any zoning decision. I've also eliminated language in paragraph F.a that required a public discussion by the Council, standard by standard, as the law does not require that and, in any given situation, some standards may be very important while others are irrelevant. Paragraph F is pretty much all new language. Former section 15 concerned temporary suspension of the rules and denied any vested rights. It has been deleted in its entirety as violative of state law. Section 13-14 has been retained, since this determination would go to the planning consultant.

Appeals are covered by Article 14. Section 14-3 has been expanded substantially to build due process protections into the appeal process.

Article 15 covers administrative provisions. Section 15-1 has been expanded to recognize the ability, but not a requirement, to fill the zoning official position by contract. With respect to notices of violations and complaints, section 15-3B has been expanded to require the notice to state corrective action needed. This is a due process protection. We have removed language regarding building permits, other than a requirement they comply with zoning. Building permits are not a zoning function. The technical codes, as well as the recently adopted ordinance sufficiently address those matters.

Article 16 codifies general and supplementary provisions. We have omitted former section 5 on transit shelters as this is likely unenforceable. We've also eliminated former section 7, parking space requirements, as this is covered elsewhere. We've also eliminated former section 8 on antennas as this does not meet standards of federal law. We've also eliminated former section 9 concerning outdoor storage of junk vehicles as this is not a zoning issue and should be covered elsewhere in the code.