



**COUNCIL MEETING
4040 SOUTH BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
FULL MINUTES
JANUARY 18, 2024**

ATTENDANCE

Mayor: Lois Salter

Council Members: Rodney Hammond, Scott Lee, Chip McDaniel, Bob Smith and Rebecca Spitler

City Officials: Leigh Threadgill - City Administrator, Rob Hiller – City Marshal

Dick Carothers – City Attorney, Thomas Mitchell – City Attorney

Members of the Public: 42

Members of the Press: 0

CALL TO ORDER

Salter called the meeting to order at 8:03 PM. A quorum of council members was in attendance.

AGENDA

Salter solicited motions regarding the agenda.

Hammond made a motion to accept the agenda as submitted. Spitler seconded the motion. All council members were in favor and the motion passed.

SWEARING IN OF NEWLY ELECTED OFFICIALS

- a) Lois Salter – Mayor
- b) Bob Smith – Council Member At-Large
- c) Rebecca Spitler – Council Member At-Large

Carothers swore in the incumbents who were re-elected in the November 7, 2023, general election.

PUBLIC HEARING

- a) O-24-251, Rezoning of 4477 and 4487 from Gwinnett County – Annexed, Neighborhood Commercial (GC-A, C-1) to Light Industrial (M-1).

Salter recognized Threadgill to give a brief overview of the rezoning.

Threadgill reviewed the application along with staff and planning and zoning commission recommendations by providing the following information.

- O-24-251 is an ordinance to conditionally rezone 4477 and 4487 Peachtree Industrial Boulevard from Gwinnett County – Annexed, sub classification Neighborhood Commercial, to Light Industrial.
- The subject property consists of two parcels and is approximately 4.996 acres in size.
- The applicant proposes to combine the properties and develop a headquarters for BuilderStone Global LLC, a wholesaler of stone slabs. The proposed use is for warehouse, executive offices and showroom in a campus style development that includes two buildings – a roughly 61,000-sf warehouse and a 14,500-sf office/showroom building.
- There will be no fabrication or cutting of slabs of stone on site.
- The property is adjacent to residential and light industrial to the north, residential and heavy industrial to the east, Peachtree Industrial Boulevard to the south and office and institutional to the west.
- In order to enable development as proposed, the applicant seeks three concurrent variances:
 - 1) Modification of the 75-foot undisturbed buffer required between M-1, light industrial, and R-100, single-family residential, so that the buffer between the land-locked property owned by Blue Ridge Industries, Tax Parcel 6268-019, is eliminated in favor of a 25-foot building setback. This removes approximately 4,800 square feet of buffer, though the applicant indicates an intent to use the area primarily to plant trees to meet the tree density requirement.
 - 2) Reduction of the ten-acre M-1 district area minimum to 4.996 acres.
 - 3) Reduction of the front setback from 75 feet to approximately 11 feet along about a 50-foot jog of Peachtree Industrial Boulevard right-of-way that juts into the property.
- The application, along with the staff's analysis, was considered by the Planning & Zoning Commission on August 8, October 10 and November 14.
- Staff, in review of the standards for zoning, recommended denial of the application due to the surrounding land use pattern, particularly the established residential area to the north/northeast. In addition, staff could not reconcile the proposed development of two buildings with existing city zoning regulations that limit development to one principal building/use per lot. But staff also prepared a list of conditions for Planning & Zoning Commission consideration if they were inclined to recommend conditional approval.
- The Planning & Zoning Commission recommended conditional approval at their meeting on November 14. The recommended conditions, which were revised during that meeting, are an exhibit to the ordinance rezoning the property that you have before you tonight.

Hammond asked for clarification that whatever action at this meeting tonight would still require a subsequent action.

Salter responded that the action tonight is to put the ordinance change on first read. At the next meeting, it would be up for second read and it could at that point be second read and adopted or just second read and considered for adoption further down the road.

Salter recognized the applicant and asked all of the speakers in the public hearing to be mindful of time, though 10 minutes will be allotted to make comment on the application. Salter asked for comments to be brief and not repetitious.

Wendy Kraby, land use attorney, representative for the applicant, BuilderStone Global LLC, gave a presentation of the application and proposed project. Kraby noted that this is all about creating a headquarters for this company that is currently located in Norcross in a space that doesn't meet their needs. They want to build a showcase that suits their needs for inventory, executive staff, sales staff and showroom. Kraby passed around samples of the company's inventory. The inventory is high-end stone, such as marble and quartz. The applicant has chosen Berkeley Lake because it is a great small town close to a much bigger town. Looking at the surrounding land uses and the comprehensive plan, this use seems to fit. This stretch of Peachtree Industrial is a little older and ripe for redevelopment. The hope is that this headquarters will be beautiful and inspire other companies to renovate their properties or companies to come in and redevelop properties. This application was originally put in in June of 2023 and was considered at three planning and zoning commission meetings. The applicant has put a lot of time and effort and money into this. The applicant is well aware of the stormwater issues associated with this property. Before even applying, a hydrology study was performed. The stormwater issues are not being taken lightly. Kraby asked for the builder to come up and introduce himself.

Taner Baltici, owner of BuilderStone Global, introduced himself.

Salter opened the public hearing for comments by the public in attendance who might like to speak in opposition.

Chris Holben, 325 Lakeshore Drive, stated that he and his wife Marlene have lived in Berkeley Lake for 49 years. He stated that he isn't against the property being developed but does want it to be done right. Two other developers have bought the property, clear cut it, graded it and filled the pond at 325 Lakeshore Drive with silt. Twice he has been in lawsuits over development of the property. Right now, the property is all trees and bushes. The water that comes on those five acres is all soaked up by the existing vegetation. No water leaves that site right now. When it's clear cut and graded, it will be a different story in a hard rain. There are two major concerns. The first is the silt leaving the property and how to get that silt out once its deposited downstream. It's difficult and expensive. It's been done before but it costs hundreds of thousands of dollars. The second concern is about the runoff. The pond was built

in the 50s before all the development that has grown up around it. All that water from Ryerson, the aquatic center, Peachtree Industrial, comes into that little pond. Will the pond be able to hold that increased runoff? Holben acknowledged Huetter who has worked with him for 25 years trying to keep his property and pond safe and knows this subject 5-acre property very well. He knows every square inch of that five acres.

David Huetter, director of ecological services, United Consulting, 625 Holcomb Bridge Road, has worked with Holben for about 25 years. He has worked in the area going back to 1996. The site will be developed, but stormwater management needs to be properly designed. In addition, the erosion and sediment control measures need to be properly designed, implemented and maintained. As Holben said, it is difficult to get sediment out of the pond. If this is approved, there needs to be some consideration so that everything is designed to account for increased runoff. There is little to no runoff that comes off that site other than the 60-inch pipe that comes under Peachtree Industrial. When it rains, the water is soaked up by the undeveloped property. With the increase in impervious surface for the development, there will be a lot more runoff. The proposed pond needs to be sized correctly, and just meeting the minimum requirements for stormwater management may not be enough. This is a concern not just for the pond at 325 Lakeshore but also for Lake Berkeley. If this project goes through, the developer needs to be held accountable for potential impacts to the downstream property.

Lee asked Huetter if the plan as proposed including an extended dry detention and bioretention area will address the concerns. Huetter acknowledged he is a biologist and not an engineer. He believes the plans need to be evaluated by an engineer to ensure it is sufficient. Even if it meets the minimum, the minimum may not be enough because of the potential impact to the downstream property.

Benjamin Guile, acknowledged that this property can have a parking lot because it's zoned so that we will have this runoff problem. The big question is whether there are warm and fuzzy feelings about the applicant. Paragraph 3, exhibit C, limits the uses, but once it gets changed to M-1 the floodgates are open and then we have something zoned for anything. He wanted it clear that the conditions are specific to these people and when that corporation ceases to own the property then it will revert to what it was zoned before.

Mitchell explained that the conditional rezoning ordinance includes a condition that it is zoned to this site plan and these particular uses. The conditions run with the land, so whether it's this owner/developer or another owner/developer, unless they come back and ask for something different, they have to build this site plan. Nothing else could be developed per the zoning action under consideration than what has been proposed in the site plan and associated conditions for approval.

Guile asked about the adequacy of the bond amount. Dredging costs a lot of money and will cost more in the future, not less. He questioned whether \$250,000 is enough. He proposed \$1,000,000. Once you get to the \$250,000, the extra dollars don't cost that much.

He also asked why it would be called at three years and why not hold it for longer. The bond should be put out for a longer term. We want to see. Earth moves slowly. In three years, you may only see a little bit.

Guile asked for the maximum height to be whatever building height is proposed if they are building lower than 40 feet.

Guile noted that he is next to Holben's pond and has lights coming dead at him. He asked that the condition include that all the lights be directed to Peachtree Industrial away from the residential area.

Guile questioned the landscaping plan condition requirement in the buffer area and wanted to understand that more.

Guile asked that mechanical equipment be screened with trees from the three sides other than the road.

Mitchell reviewed the lighting condition as already presented and said that the condition should ensure that no light leaves the property.

Steve Seitz, 34 Lakeshore Drive, stated he has lived in Berkeley Lake for 31 years and has worked with Holben and is very familiar with the property. Seitz acknowledged the planning & zoning commission and their work and agrees that this property will be developed, the goal is to work towards the best use. There are challenges with this property, and even with implementation of best management practices, it will be difficult to hold back siltation of the pond and subsequently the lake. Seitz asked about whether a cost assessment has been performed to understand the cost for silt removal to inform the performance bond amount. There was discussion about baseline surveys of sediment loads in both the pond and the cove, the cost of which shouldn't be borne by the property owner or BLHA. The duration of the performance bond is also important.

Gale Lightfoot, 353 Lakeshore Drive, has been in the community for a long time and reiterated the prior speakers. One of the things that is important to everyone here is the health of our community. The purpose of a variance is for the benefit of a resident without impinging on the benefits and health of neighbors. One of the major tributaries to Berkeley Lake is Holben's pond. We've seen the silt washing into the lake at that cove even after all the provisions and all the promises requiring developers to live up to a standard. In the past, developers haven't been able to live up to standards and they leave, and the pond suffers, and the lake suffers. A lot needs to be done to make certain that the developers are contractually accountable for what happens and that the repercussions are not the responsibility of the city or Holben. This is why most everyone is here. Many others in the community are here because we love it, we love the people, we love the environment, and we don't want to see it decay.

Kraby noted that the conditions are at the top of the packet which includes the ordinance and the conditions.

CONSENT AGENDA

Salter noted the following as items on the consent agenda and solicited a motion:

- a) Minutes of December 6, 2023, Special Called Council Meeting
- b) Financial Statements of November 2023 – Unaudited
- c) Atlas Contract for Dam Inspection
- d) CR Tree Experts – Memorandum of Understanding for Tree Services

McDaniel made a motion to approve all items on the consent agenda. Smith seconded the motion. All were in favor and the motion passed.

OLD BUSINESS

There was no old business for consideration.

NEW BUSINESS

- a) O-24-251 – Rezoning of 4477 and 4487 Peachtree Industrial Boulevard from Gwinnett County Annexed, Neighborhood Commercial (GC-A(C-1)) to Light Industrial (M-1)

Threadgill: O-24-251 is a proposed amendment to the zoning map to reclassify property located at 4477 and 4487 Peachtree Industrial Boulevard, Tax Parcel Numbers 6268 043 and 6268 044) from Gwinnett County – Annexed, Neighborhood Commercial to Light Industrial. In addition to the reclassification of property, three concurrent variances are sought for inclusion in the reclassification of the property. Those variances are as follows: 1) a modification of the required 75-foot undisturbed buffer between R-100 and M-1 to eliminate the buffer adjacent to tax parcel 6268 019 and impose a 25-foot building setback; 2) reduction of the 10-acre M-1 district area minimum to 4.996 acres; and 3) reduction of the 75-foot front setback to 11.11 feet along approximately 49.53 feet of the Peachtree Industrial right-of-way jog into the property. The Planning & Zoning Commission recommends conditional approval of the request, and the ordinance is presented here tonight for first read consideration.

Lee made a motion to place O-24-251, an ordinance to amend the zoning map of the City of Berkeley Lake to reclassify property located at 4477 and 4487 Peachtree Industrial Boulevard from Gwinnett County – Annexed, Neighborhood Commercial to Light Industrial on first read. Smith seconded the motion. All were in favor and the motion passed.

- b) Code of Conduct Affirmation

Salter: The next item of new business is the agreement this group made with each other years ago wherein we would annually recall to our attention the code of conduct we worked together to create. We want to annually affirm that. The code requires that it be brought before council annually and asks each council member to ratify the Code of Conduct anew at that time.

Code of Conduct

- a) *The City of Berkeley Lake adopts by reference, as if fully set forth herein, the provisions of OCGA 45-10-1 and Section 2.14 of the City of Berkeley Lake Charter. Any conflict between local ordinance and state statutes and/or the charter shall be resolved in accordance with the provisions of state statute and the charter.*
- b) *It is the policy of the City of Berkeley Lake to observe the highest standards of public conduct, considering the roles of both elected and appointed city officials to be primarily that of a trustee of the public's resources. Consequently, this code seeks to establish criteria and guidelines that will encourage all city officials to serve others, not themselves; to use resources with efficiency and economy; to treat all people fairly; to use the power of their positions only for the well-being of constituents; and to create an environment of honesty, openness and integrity.*
- c) *Public officials and employees of the city shall treat all citizens with courtesy, impartiality, fairness, and equality under the law, and shall avoid both actual and potential conflicts of interest between their private self-interest and the public interest.*
- d) *The following are found to be ethics violations in the City of Berkeley Lake and are prohibited:*
 - 1) *Coercing or attempting to influence persons outside a public meeting by offering to exert the power and resources of their position to achieve a private objective;*
 - 2) *Making commitments, implicitly or explicitly, that the city will take actions the council has not agreed to;*
 - 3) *Accepting gifts or favors with a value of more than \$50, or multiple gifts with a cumulative value of \$100 from any single source, from persons regulating and conducting business with the city;*
 - 4) *Disclosing confidential information from closed meetings without the prior authorization of the mayor and council;*
 - 5) *Requesting, using or permitting the use of any publicly-owned or publicly-supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of a member of the mayor and council, except as otherwise provided by law;*
 - 6) *Engaging in private employment with, or rendering services in exchange for compensation for, any entity that has business transactions with the city, unless full disclosure of the nature and extent of such employment or services has been made;*
 - 7) *Appointing or voting for the appointment of any person related to the individual by blood, marriage or adoption to fill an office, position, employment, or duty, when the salary, wages, pay, or compensation is to be paid out of public funds;*

- 8) *Making remarks in a public meeting that are personally disparaging or reflect negatively on the character of others (rather than expressing a different point of view), or allowing others to do the same;*
 - 9) *Failing to vote on all matters lawfully coming before a member of the city council or a commission appointed by the city council without stating a reason for doing so.*
- e) *In the interests of advancing efficient, transparent and good government, the following activities shall be required:*
- 1) *City council members and commission members appointed by the city council will announce the details of ex parte contacts and communications prior to any action on a matter which was the subject of the ex parte contact/communication;*
 - 2) *Presiding officers of city meetings shall not permit personally disparaging remarks or comments that reflect negatively on the character of others (rather than expressing a different point of view), and shall declare such persons out of order;*
 - 3) *To avoid the appearance of impropriety, any member of the mayor and council or commission member appointed by the mayor and city council determined to have a conflict of interest or a potential conflict of interest shall leave the room for the entire duration of the deliberations and actions on the matter;*
 - 4) *Persons wishing to speak at public meetings must first be recognized by the chair or presiding officer;*
 - 5) *Council members who communicate, by whatever means, policy positions, opinions, or city-related recommendations which are not the official position of the city shall clarify that their communications speak only for themselves and are not the official position of the city;*
 - 6) *Violations of the city's codes of ethics witnessed by members of the governing body will be reported to the mayor (or mayor pro tem in the event the mayor is the subject of an alleged violation);*
 - 7) *The city's ethics ordinances shall be reviewed annually by the mayor and council.*
- f) *Hearings and Determinations: Upon the sworn complaint of any person alleging facts, which if true would constitute a violation of this code, the mayor and council shall conduct a public hearing at which the accused shall be given the opportunity to be heard, either personally or through counsel. At the conclusion of said hearing, the mayor and council shall, in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct of the official or appointee in question.*

Spitler made a motion to ratify the code of Conduct for 2024. Hammond seconded the motion. All were in favor. The motion passed signifying that each council member has personally ratified the Code of Conduct.

c) Election of Mayor Pro Tem

Lee nominated Rebecca Spitler to fulfill the duties of mayor pro tem for 2024. McDaniel seconded the nomination. All were in favor and the motion passed.

d) Mayoral Appointments

City Administrator, City Clerk & Election Superintendent	Leigh Threadgill
Court Clerk and Deputy City Clerk	Lila Hunter
City Treasurer	John Pendleton
City Marshal/Ordinance Enforcement Officer	Rob Hiller
Deputy City Marshal	Marty Bozeman
City Attorney	Dick Carothers
Solicitor	Angela Couch
City Auditor	James Whitaker
City Building Inspector	Craig Lokey
Municipal Judge	Charles Barrett
Pro Hac Vice Judge	Margaret Washburn
Planning & Zoning Commissioner	Dan Huntington
Planning & Zoning Commissioner	Pekka Ignatius
Planning & Zoning Commissioner	Barbara Geier
City Engineer	Greg Sistrunk
Georgia Piedmont Land Trust Board Member	Rebecca Spitler

Neighborhood Liaisons

Berkeley Walk and Berkeley Commons	Rodney Hammond
Berkeley Field and Habersham on the River	Chip McDaniel
BLHA and River Mansions	Scott Lee
Miramont and Hermitage Plantation	Rebecca Spitler
River District and Commercial Areas	Bob Smith

Committees

Conservancy (Liaison – Rebecca Spitler)

Susan Hanson – Chair
Kaye Berg
Louise Gabron
Jim Gawlas
Sue Swanson

Financial Affairs (Liaison – Bob Smith)

John Pendleton – Chair
Calvin Grier
Dorris Hollingsworth
Ron Mechling
Steve Rea
Kathy Sanders
John Small

Arts Committee (Liaison – Chip McDaniel)
Chris Kimberley – Chair
Britt Collins
Tom Merkel
Ginny Nevins
Jason Ouimette

Park Committee (Liaison – Leigh Threadgill)
Amy Voss – Chair
Lisa Ribeiro
Casey Case

Smith made a motion to approve the mayoral appointments as presented. Lee seconded the motion. All were in favor and the motion passed.

e) ARPA Stormwater Project Easement – 3750 and 3760 Hermitage Drive

Threadgill: Before you tonight are two permanent drainage and maintenance easement agreements associated with stormwater infrastructure that is the subject of the pending ARPA Stormwater Maintenance Project. The subject infrastructure, a pipe and junction box, connects to a catch basin in the city right-of-way. In order to ensure that the city has the ability to proceed with the project as planned, the city engineer has prepared these easements for signature and recording. Both properties are owned by Bruce Duncan, who has signed the easement agreements. Staff asks that the council authorize the mayor to sign the easement agreements so that they can be recorded.

McDaniel made a motion to authorize the mayor to sign the permanent drainage and maintenance easement agreements for 3750 and 3760 Hermitage Drive. Spitler seconded the motion. All were in favor and the motion passed.

PUBLIC COMMENTS

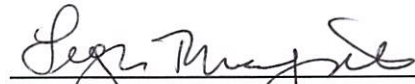
There were none.

ADJOURNMENT

There being no further business to discuss, Hammond moved to adjourn. Smith seconded the motion. All were in favor and the motion passed.

Salter adjourned the meeting at 8:48 PM.

Submitted by:



Leigh Threadgill, City Clerk

