

CITY OF STATHAM

Minutes

Statham City Hall

327 Jefferson Street, Statham, GA 30666



ADMINISTRATIVE APPEAL PUBLIC HEARING – July 18, 2023

5:30 P.M.

CALL TO ORDER: Mayor Piper called the meeting to order at 5:45 p.m.

Roll Call

Present: Mayor Piper and Councilmembers Krause, Patterson, Thrasher and Venable

Also Present: City Attorney Jody Campbell, City Clerk Ashya Fambrough, Attorney Andrea Pearson, Bloom Parham, LLP.

Absent: Councilmember Penn

PLEDGE OF ALLEGIANCE - Mayor Piper led the pledge of Allegiance and thanked all the Veterans and their families for their service.

At 5:46 p.m., Councilmember Krause made a motion to enter into Public Hearing. Councilmember Patterson seconded the motion, and the motion passed unanimously

PUBLIC HEARING

AA-23-01 Appeal of administrative decision. In accordance with Division III, “Appeal of Administrative Decision,” of Article 14, “Variances and Appeals,” of the Statham Unified Development Code, amended May 16, 2023, The Pacific Group, Inc., by Simon H. Bloom of Bloom Parham, LLC, Attorneys, has filed an application to appeal to the City Council the denial by the public works director, acting in the capacity of zoning administrator, on May 17, 2023, of an application for a land disturbance permit (LDP) for phase II of Lakes of Statham subdivision (originally named Providence Estates II), for property fronting on the north side of Providence Road (Map/Parcel ST05/131). The application alleges that the administrative official erred in denying the LDP application on the basis that said application is inconsistent with the Statham Unified Development Code, Sec. 15-206, “Creation of Homeowner’s Association,” as amended May 16, 2023. The applicant seeks relief from said administrative decision by the Statham City Council.

Andrea Pearson of Bloom Parham, LLP spoke on behalf of the appellant, GDCI GA 7, L. P: The appellant is requesting the LDP decision be set aside and to not be held to the restrictive covenants of the ordinance that the city recently passed. Rental covenants such as those are illegal and unconstitutional. The plan is for 35 single family rental homes. They have vested rights, and the city cannot change the rules. Case law from WMM Properties, Inc. v. Cobb County supports that the zoning at the time the application is what should be followed. The preliminary plans have been approved and monies have been expended so they have the right to receive permits. The property was purchased in July of 2020, covenants were submitted in 2020, and Phase I was approved in 2020. “Exhibit B” includes a note that states that Phase II can be subject to Phase I. The appellant has received a Zoning Confirmation letter that gave the zoning as UR- Urban Residential. They

have received a Land Disturbance Permit for a bury pit for grading. On May 10, 2023, a pre-construction meeting was scheduled. Updated plans were submitted on May 12, 2023 and on May 15, 2023 Supplemental declarations were recorded. On May 16, 2023 the meeting was delayed and the new rental ordinance was passed. On May 17, 2023, a letter was received from Jordan McDaniel denying the Land Disturbance Permit. Submissions for this development began in June of 2023, and the new ordinance was passed in May of 2023 therefore the LDP should be granted. An email from Jordan McDaniel states that the plans are “design wise good.” The appellant relied on formal and informal approvals, spent funds, and graded the development all with the understanding that it would be a for rent community. The appellant is prepared to file suit as the denial violates the Due Process Rule and stereotypes renters which is a Fair Housing concern. Last, it is noted that 2 additional emails have been sent that need to be included in the official record.

Jody Campbell spoke on behalf of Jordan McDaniel: The timeline matters. At the May 4, 2023 Work Session, D.R. Horton asked for additional building permits. This is the same meeting that the rental restriction ordinance was presented. Eight days later the project became Lakes of Statham II. It was previously Providence Estates II with no mention of rentals. On May 12, 2023, Note #6 is the first time “rental” is mentioned for this development. Originally, there were no notes on the plat. The Lakes of Statham Plat final plat was approved and was not phased nor had any suggestion there was going to be a second phase. Being owned by the same company does not make it the same development. The February 2022 Preliminary Plat was the only thing approved. Development plans come later so there is no vested rights based on the Preliminary Plat approval. According to the UDC land is one lot until it is subdivided. The order is zoning approval/Preliminary Plat, LDP, then Final Plat. The rental restrictions in the UDC apply only to applications for the approval of a final plat. There cannot be an approved final plat without the HOA covenants including rental restrictions. With that reasoning, the denial was incorrect by the city and the city should approve the appeal and allow Mr. McDaniel to actually review the last plans that were submitted to make sure it complies with the Land Disturbance Permit requirements. UDC 14-304(b) states that council “may” direct LDP issuance and/ or provide clarification. An LDP application can be approved but the City can expressly state that irrelevant notes and matters that are not applicable to the LDP review analysis are not approved.

As to the second part of the appeal, the covenants were not rejected. The City does not ever approve of Covenants. The applicant has a right to place whatever covenants it wants on its property at any time and the City does not approve that. The only time the City concerns itself with covenants is when specific restrictions are required for some kind of approval, such as the final plat application.

Jody Campbell further stated that the City Council should not interpret the applicant’s attorney’s statements about suing the City as a threat. She is simply preserving the right to sue, which is required by the law. The city welcomes the challenge because we believe our UDC satisfies the Georgia and Federal Constitution. Also, the city reserves the right to enforce the UDC.

Rebuttal: The open space on the Lakes of Statham plat is directly adjacent to the property. Notes on that plat refer to the bury pit. The appellant has a vested right and the ordinance is being used now for denial. The only change in the application was the addition of the note.

Council will hold a special called meeting on Thursday, August 3, 2023 at 6 p.m. to vote on the matter.

At 6:26 p.m., Councilmember Krause made a motion to exit the Public Hearing. Councilmember Thrasher seconded the motion and the motion passed unanimously.

ADJOURN

At 6:26 p.m., Mayor Piper asked for a motion to adjourn the meeting. Councilmember Venable made a motion to adjourn. Councilmember Thrasher seconded, and the motion passed unanimously.