

CITY OF STATHAM

MINUTES

Statham Community Center

336 Jefferson Street, Statham, GA 30666



SPECIAL CALLED MEETING ADMINISTRATIVE APPEAL – August 3, 2023

6:00 P.M.

CALL TO ORDER – Mayor Piper called the meeting to order at 6:00 p.m.

Roll Call

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

Also Present: City Attorney Jody Campbell, Rachel Bembry (JAT Consulting, LLC), City Clerk Ashya Fambrough, Attorney Andrea Pearson, Bloom Parham, LLP.

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

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.

Councilmember Venable made a motion to adopt the following findings of fact and ruling on this appeal:

1. The property at issue consists of 19.8 acres of property, more or less, located on Providence Road and is known further as Tax Parcel Number ST05 131.
2. On June 16, 2022, Petitioner submitted Land Disturbance Permit Application LD-22-05 for the project known as “Providence Estates Unit II.” The LDP application sought to allow for the “GRADING AND UTILITY INSTALL TO SERVICE 36 SINGLE FAMILY HOMES.”
3. The Petitioner had previously obtained approval of a Preliminary Plat for the development of a 35-lot subdivision on the Property identified as “Providence Estates Unit II.”
4. The Preliminary Plat was approved on February 15, 2022.
5. The Preliminary Plat that was approved on February 15, 2022 is the same plat that was originally submitted to the City with the LDP Application.

6. Taylor Gallimore with Greyden Engineering, the engineering firm hired by Petitioner, has consistently referred to this project as “Providence II” in multiple emails to the City including emails sent on April 18, 2023, April 25, 2023, and May 1, 2023.
7. At the City Council’s May 4, 2023 Work Session meeting, an ordinance was introduced to amend the Unified Development Code of the City of Statham (the “UDC”) to impose restrictions on development of 100% “for rent” subdivisions and limit the number of single-family residential units that can be rented in a single development. The Meeting Minutes of May 4, 2023 Work Session are available online.
8. On May 12, 2023, Richard Cooper with The Pacific Group, Inc., which is the Petitioner’s parent company, sent an email to Jordan McDaniel. This email attached “the final set of plans pursuant to our current LDP application” and also added “one final note on the cover page and on the overall site plan we have added along with the changed subdivision name.” The email goes on to state that “this subdivision is intended to be developed and constructed for purposes of a single-owner of each lot, fee simple, who may rent the finished houses to long-term tenants.”
9. The May 12, 2023 email also indicated that the developer was renaming the project as The Lakes of Statham – Phase II and subjecting the property to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for the Lakes of Statham.
10. Prior to Mr. Cooper’s May 12, 2023 email, the owner of the property had never disclosed to anyone at the City that the intent of the developer was to create a 100% “for rent” community on the Property, nor was approval sought for such a development.
11. On May 16, 2023, the City Council adopted and approved Ordinance O-23-04, which, among other things, amended Section 15-206 of the UDC to provide that prior to the approval of any final plat, the developer must create a mandatory homeowners’ association with recorded covenants and bylaws, and that said covenants must include “a restriction that no more than 10% of the single-family units (with an additional 5% hardship) may be leased to third parties by individual owners.” The Meeting Minutes for May 16, 2023 City Council Meeting are available online.
12. On May 17, 2023, Jordan McDaniel, in his capacity as Public Works Director of the City of Statham, sent an email to Mr. Cooper denying the LDP application based on the inclusion of the “for rent” note on the cover page of the development plans as a violation of Section 15-206.
13. Section 15-206 only applies when a developer or property owner seeks approval of a final subdivision plat.
14. The developer has not filed any type of application seeking approval of a final plat, and thus, the property remains a single parcel per UDC Section 15-201.
15. With respect to the issuance of an LDP, the required information that is subject to approval includes “the applicant’s erosion, sedimentation and pollution control plan(s) with supporting data, as necessary.”
16. Development related notes such as the “for rent” note added to the cover page of the plans submitted on May 12, 2023 are wholly irrelevant to and outside the scope of staff’s duties relative to the consideration and review of erosion, sedimentation and pollution control plans. Thus, approval of the LDP application is not the same as approving such irrelevant notes.
17. Because this note is irrelevant to and outside the scope of the LDP application review, it cannot serve as a basis to deny the LDP application here.

18. Additionally, there is no requirement in the UDC that a property owner must obtain permission from the City of Statham prior to the recording of restrictive covenants for a piece of land.

Based on the foregoing findings of fact, the City Council finds that the denial of LDP application LD-22-05 was improper and said decision is hereby reversed. Pursuant to UDC Section 14-307(b), the City's decision should provide clarification to Mr. McDaniel as to the scope of his review of the LDP application and plans. The City Council directs Jordan McDaniel to complete his review of the plans submitted May 12, 2023, and if the plans comply with the requirements for issuance of a land disturbance permit as set forth in Article 7 of the UDC, then Mr. McDaniel shall approve the application and issue the LDP to Petitioner. It is expressly stated and understood, however, that at this time, Mr. McDaniel has absolutely no authority to approve development notes that are unrelated to the LDP considerations and irrelevant to the scope of the review of Petitioner's LDP application. Thus, approval of the LDP application shall not effectuate, nor be interpreted as, approval of General Note # 6 on the cover page of the development plans. Mr. McDaniel has a no authority to approve such notes, and the parties are expressly notified that Mr. McDaniel has no such authority and cannot bind the City in this regard. The City Council expressly reserves its right to enforce the terms of Section 15-206 of the UDC and hereby notifies Petitioner that if such a note or a similar provision appears on any proposed final plat or application for approval thereof, such plans will not be in compliance with Section 15-206 of the UDC and would not be eligible for approval.

As to the second element of Petitioner's appeal, neither Mr. McDaniel, nor anyone at the City are required to approve restrictive covenants prior to their recording. As such, any opinion expressed by Mr. McDaniel is of no legal force or effect. Petitioner is free to record whatever covenants and restrictions it chooses to the Property at this time. In the event Petitioner wishes to formally subdivide the Property in the future, however, the restrictive covenants must contain a provision imposing the rental restrictions as required by Section 15-206 of the UDC.

Councilmember Patterson seconded the motion and the motion passed unanimously.

ADJOURN

At 6:13 p.m., Mayor Piper asked for a motion to adjourn the meeting. Councilmember Venable made a motion to adjourn. Councilmember Krause seconded, and the motion passed unanimously.