

**Cherokee County Planning Commission  
Public Hearing Minutes  
Tuesday, August 5, 2014  
7:00 p.m.**

**Revised  
Approved 9-9-2014**

The Cherokee County Planning Commission held its regularly scheduled meeting on Tuesday, August 5, 2014 in Cherokee Hall at the Cherokee County Administration Building. In attendance for the Planning Commission were Chairman Bob Whitaker, members Thais Escondo, Richard Weatherby, Rick Whiteside, Tom Hill, Scott Barnes, Garland Stewart, Bill Dewrell and Betty Callahan. In attendance for Cherokee County Staff were Vicki Taylor Lee, Zoning Administrator and Margaret Stallings, Principal Planner.

Chairman Bob Whitaker called the meeting to order at 7:15 p.m.

**Case #14-08-017 James H. and Kelly S. Cook** requesting to rezone 1.73 acres from RA to R-40. If rezoned, the property will be utilized for a single family residence. The property owned by James H. and Kelly S. Cook is located at 298 Steels Bridge Road in Land Lots 291 and 358 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section of Cherokee County, Georgia and indicated as Parcel 071 on Tax Map 15N02.

Ms. Vicki Lee presented this case. She discussed staff comments, location, surrounding zoning and uses. She stated no site resource map or public participation meeting was required. She stated the proposed zoning is in compliance with the Future Development Map. She stated she has received no letters in opposition to or in support of this request.

James Cook represented this case. Mr. Cook stated he is requesting this rezone to build a single family residence.

Mr. Whitaker asked if there was anyone to speak in support or opposition. There being none, he closed public comment.

Mr. Dewrell made a motion to approve. Seconded by Ms. Callahan. Unanimous approval.

**Case #14-08-018 SF Capital, LLC** requesting to rezone 18.5 acres from R-40 to R-15. If rezoned, the property will be utilized for a residential subdivision. The property owned by J. Daniel Taylor, III, Laura R. Taylor, David William Womack, Lorraine P. Womack and Robinson Land Partnership, LLC is located off Taymack Farm Drive and Rocky Creek Trail in Land Lot 1118 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section of Cherokee County, Georgia and indicated as parcels 230, 230B, 230C and 230D on Tax Map 15N30.

Ms. Vicki Lee presented this case. She discussed staff comments, location, surrounding zoning and uses. She stated a site resource map was provided and a public participation meeting was held with 25 attendees. She stated the proposed zoning is in compliance with the Future Development Map.

Mr. Whitaker stated due to his friendship with the property owners he recused himself from this case and stated Mr. Hill will act as Chair.

Ashley Holcomb represented this case. Mr. Holcomb presented a constitutional challenge to staff for the file. Mr. Holcomb stated the conservation subdivision ordinance has changed since the original development of The Estates at Fernwood Creek and those significant changes impedes the landowners from developing and selling the property with the same results as the surrounding subdivision. He

discussed the location of this property and surrounding property that was developed under the old conservation subdivision ordinance.

Mr. Danny Taylor, property owner also represented this case. Mr. Taylor presented 6 images showing the chronological order of his property. He stated they purchased the property in 1999 and originally there was no development around them, in 2000 they built their new home and sold the Womack's four (4) acres with the old home. He stated in 2005 the original Fernwood Creek was developed as R-20 conservation and then the Estates at Fernwood Creek was rezoned in 2007. In 2008, they sold some property to Robinson's Land Trust and in 2009 the first houses went in. In 2014, the 2<sup>nd</sup> phases of the subdivision have been completed and the proposed lots for this proposed subdivision will be the same lot sizes as the surrounding subdivisions.

Mr. Hill asked if there was anyone to speak in favor or in opposition to this application.

Felicia Kane spoke in opposition. Ms. Kane stated she is here to represent 104 residents from The Estates at Fernwood Creek and have a petition signed. She is requesting that the property be rezoned to R-30 to be the same zoning as surrounding properties. Ms. Kane stated their concerns with bringing in an R-15 zoning into an existing R-30 conservation community. She stated this would replace an unreasonable burden on the HOA, discussed their inadequate parking and amenities being overcrowded. Ms. Kane stated her concerns with safety and that any development of this property to be consistent with the existing developments.

Mr. Holcomb spoke in rebuttal. He stated they worked with several different plans to make it consistent with the adjoining developments with the same lot size and will meet the overall open space requirements. He stated the parking requirements and the pool requirements will be handled in site plan review.

Mr. Hill closed public comment.

Ms. Escondo asked staff regarding the comments of changes to the conservation subdivision ordinance. Ms. Lee stated the previous ordinance did not have a minimum open space requirement and now has a required 40 percent. Ms. Escondo asked about variances to be allowed to develop under the same guidelines. Ms. Lee stated this is a new rezone and would need to be in compliance with the regulations today. Ms. Escondo asked questions regarding parking and amenity capacity. Ms. Lee stated she does not regulate pool size and currently they are meeting parking requirements.

Dr. Whiteside asked if this proposed subdivision will be part of the existing subdivision. Mr. Watkins stated this subdivision can stand alone, they do not have to join the HOA, however the applicant is proposing to be part of the existing subdivision.

Ms. Callahan asked if this proposal is in compliance with the Future Development Map. Ms. Lee stated yes.

Mr. Stewart asked questions regarding some of the lots on the plat that was presented by Ms. Kane. Ms. Kane stated they are actually putting 32 homes on 14 acres.

Mr. Dewrell asked staff if this plan fits with the intent of the surrounding property. Ms. Lee stated the lot sizes will be the same and they are proposing the homes be the same. She stated she feels it is consistent with what is already there.

Ms. Escondo stated she feels whether they are part of the existing subdivision or not should reflect their decision in this zoning. Ms. Lee stated this is a private agreement whether these property owners choose to be part of this amenity or not. She stated the only time they are required to have an HOA is if they are a conservation subdivision.

Dr. Whiteside stated the applicant has indicated he is proposing to be part of the existing HOA.

Mr. Dewrell asked the applicant if they are planning for these additional 33 lots to be part of the existing HOA. Mr. Holcomb stated yes this is their intent but if there are stipulations they would reserve their right to not join.

Ms. Escondo made a motion to approve as R-30 with the conditions that any code requirements for amenity package would be consistent and be on the developer not the HOA, any extension of parking to be compliant with county code and all open space requirements be consistent. Seconded by Dr. Whiteside.

Mr. Dewrell stated he doesn't feel the Board should be rezoning property to a different zoning district than what has been asked. He stated you can always deny the request.

Mr. Hill asked for all in favor of the motion. Two (2) in favor, six (6) oppose. Motion fails.

Mr. Dewrell made a motion to approve as requested. Seconded by Ms. Callahan.

Mr. Stewart would like to add a stipulation to this motion that the minimum lot size would be equal or more than the average lot sizes of existing development.

Ms. Callahan does not feel that this stipulation needs to be added.

Mr. Dewrell rejects the amendment to the motion.

Mr. Hill asked for all in favor of the motion. Four (4) in favor, four (4) oppose. Motion fails.

Dr. Whiteside made a motion to deny. Second by Mr. Weatherby. Four (4) in favor, four (4) oppose. Motion fails. Mr. Hill stated this case will go forward to the Board of Commissioners with no recommendation.

Mr. Whitaker returned to his seat.

**Case #14-08-019 Danny and Dena Milner** requesting to rezone 10.60 acres from R-80 to AG. If rezoned, the property will be utilized for agricultural uses and special events. The property owned by Danny and Dena Milner is located at 2181 Lower Burris Road in Land Lots 149 and 176 of the 14<sup>th</sup> District, 2<sup>nd</sup> Section of Cherokee County, Georgia and indicated as parcels 063D and 063F on Tax Map 14N14.

Ms. Vicki Lee presented this case. She discussed staff comments, location, surrounding zoning and uses. She stated no site resource map or public participation meeting was required. She stated the application is in compliance with the Future Development Map. She stated she received no letters in opposition to or in support of this request at the time of the worksession, however since then she has received 28 emails with 27 being in support of and 1 in opposition.

Mr. Weatherby stated he would recuse himself due to being friends with the applicant.

Dena Milner represented this case. Ms. Milner stated most of her family lives around this property and the majority of the property is currently used for livestock. The existing pole barn and the building will be used for events such as Christmas events, family and church events, weddings, anniversaries and various other occasions. She stated they have had a few family weddings and church gatherings over the years. She stated they have had several people want to use the property and decided to turn this into a business. She stated they will comply with the County regulations and have already met with Cherokee County. She stated with only one exception all of their neighbors are in support of this request. Ms. Milner stated after speaking with the Mulkey's they are proposing to construct a 100 foot privacy fence that is 8 foot in height. She stated they are currently Leyland cypress trees that provide a barrier. Ms. Milner provided a packet to the member to show an aerial of the property, where the fence will be constructed and where the existing vegetation is on the property.

Mr. Whitaker asked if there was anyone to speak in support, there being none he asked if there was anyone to speak in opposition.

Christopher Mulkey spoke in opposition. Mr. Mulkey stated they recently put in a pool and the Milner's property is slightly elevated from their property. He stated their pool is about 180 feet from their out building so their concern is the privacy, noise and safety. He stated during one of Ms. Milner's events, a child came over onto their property and was on their trampoline. He stated they are in favor of a 115 foot long privacy fence which is a little longer and enclosing the rest of the property for safety concerns.

Dena Milner spoke in rebuttal. Ms. Milner stated they do want to be a good neighbor but they do have a budget with this business just starting. She stated they did discuss adding the fence around the front of the property but cannot afford that too at this time. She stated Mr. Mulkey does have a wrought iron fence around their pool.

Ms. Callahan asked will the entrance be off Sardis Road. Ms. Milner stated yes. Ms. Callahan asked what type of livestock do you have. Ms. Milner stated cattle.

Mr. Dewrell asked if the applicant was okay with the section of fencing adjoining the neighbor, Mr. Mulkey. Ms. Milner showed the location to Mr. Dewrell.

Mr. Whitaker closed public comment.

Mr. Stewart asked when this property was zoned R-80. Ms. Taylor stated she was not sure, she thought this property was already zoned R-80.

Ms. Callahan made a motion to approve. Seconded by Mr. Dewrell.

Mr. Whitaker asked would they accept an amendment to the motion to add the stipulation of 115 foot of privacy fence. Ms. Callahan and Mr. Dewrell stated as long as both parties are in agreement. Unanimous approval.

Mr. Weatherby returned to his seat.

The last item on the agenda was approval of July 1, 2014 Minutes. Mr. Hill made a motion to approve. Seconded by Ms. Callahan. Unanimous approval.

Mr. Barnes made a motion to adjourn. Seconded by Mr. Weatherby. Unanimous approval.

The meeting adjourned at 8:45 pm.