



# Cherokee County Planning Commission Public Hearing AGENDA

December 1, 2015

1130 Bluffs Parkway, Canton GA 30114 7:00 PM

PLANNING COMMISSION PUBLIC HEARING

## **CALL TO ORDER**

### **ZONING CASES**

**1. Case #15-12-030 Centric Development, LLC (BOC Dist. 2)**

Applicant is requesting to rezone 4.72 +/- acres on Highway 92 from R-40 to OI for an assisted living facility.

**2. Case #15-12-031 Pacific Group (BOC Dist. 2)**

Applicant is requesting to rezone 29.37 +/- acres on Charles Cox Drive from AG to R-30 for a single family residential subdivision.

**3. Case #15-12-032 RRR 2015, LLC (BOC Dist. 1)**

Applicant is requesting to rezone 18.37 +/- acres on Ball Ground Highway from R-80 to RZL for a residential subdivision.

### **OTHER BUSINESS**

**1. Public Hearing on Tree Ordinance Revisions**

Hold a public hearing on the revisions and make a recommendation to the Board of Commissioners.

### **APPROVAL OF MINUTES**

### **ADJOURN**



## Cherokee County, Georgia Agenda Request

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**SUBJECT:**  
Case #15-12-030 Centric Development, LLC  
(BOC Dist. 2)

**MEETING DATE:**  
12/1/2015

**SUBMITTED BY:**  
Tamala Davis

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**COMMISSION ACTION REQUESTED:**

Applicant is requesting to rezone 4.72 +/- acres on Highway 92 from R-40 to OI for an assisted living facility.

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**FACTS AND ISSUES:**

Commission District: 2  
Zoning Change: R-40 to OI  
Location: Highway 92  
Tax Map and Parcel No: 15N24, 189, 190 and 191  
Acres: 4.72 +/-  
Proposed Development: Assisted Living Facility  
Future Development Map: Community Village

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**BUDGET:**

Budgeted Amount:	Account Name:
Amount Encumbered:	Account #:
Amount Spent to Date:	Remaining Budget:
Amount Requested:	

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**ADMINISTRATIVE RECOMMENDATION:**

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**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Application	Exhibit
<input type="checkbox"/> Legal Description	Exhibit
<input type="checkbox"/> PP Report	Exhibit
<input type="checkbox"/> Existing Site Resources	Exhibit
<input type="checkbox"/> FDM	Exhibit
<input type="checkbox"/> Notice Signs	Exhibit
<input type="checkbox"/> Site Plan	Exhibit
<input type="checkbox"/> Zoning Map	Exhibit



**CHEROKEE COUNTY**  
**Application for Public Hearing**

**Important Notes:**

1. Please check all information supplied on the following pages to ensure your response is complete and accurate before signing this form. This page should be the first page of your completed application package.
2. All required documents for this application shall be submitted at the same time as the application. An application for a Public Hearing will not be scheduled unless and until it is complete.
3. Please contact the Planning and Land Use Department at 678-493-6101 if you have questions regarding your application package or the public hearing process for your application.

**SECTION I**

Contact Person: Parks F. Huff, Attorney for Applicant Phone: 770-422-7016  
 Email: phuff@slhb-law.com

**Applicant's Information:**

Name: Centric Development, LLC  
 Address: 2562 Birchwood Drive Phone: \_\_\_\_\_  
 City, State, Zip: Atlanta, GA 30305

**Property Owner's Information:** \_\_\_ same as above  see attached authorization forms (multiple properties)

Name: See attached Exhibit "A" for Property Owners  
 Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_

**Requested Public Hearing (check all that apply):**

- Rezoning  Amendment / Modification of Zoning  
 Variance / Appeal  Other: \_\_\_\_\_

<b>STAFF USE ONLY:</b>	<b>PUBLIC HEARING SCHEDULE:</b>
Commission District: <u>2</u>	Public Participation Meeting: <u>9-30-15</u>
Case: <u>15 - 12 - 030</u>	PC Work Session Date: <u>Nov. 16<sup>th</sup></u>
CityView # <u>PL 2015-0469</u>	Planning Commission Hearing: <u>Dec</u>
Received by: _____	Board of Commissioners: <u>Dec</u>
Fee Paid: \$ _____	Zoning Board of Appeals: <u>up</u>
Date: <u>10.16.15</u>	Other: <u>up</u>

**SECTION II**

**Property Information:**

Location: North side of Highway 92, west of Woodlands Parkway and east of Ragsdale Road

Current Zoning: R-40 Proposed Zoning: OI Total Acreage: +/- 4.72

Tax Map #: 15 N 24 Parcel #: 189,190 and 191 Land Lot(s): 1178 District: 15th

Future Development Map Designation: Nodes/Community Village

Adjacent Zonings: North R-3(City of Woodstock) South R-40 (County) East R-3(City of Woodstock) West R-40 (County)

Applicant's Request (Itemize the Proposal, including code sections for Variance requests):

Centric proposes an approximately 84,000 square foot two-story assisted living facility with a memory care component. Access will be via a driveway directly onto State Route 92. The state of the art facility will provide a convenient location for aging Cherokee seniors to go where they can remain close to friends and family.

Proposed Use(s) of Property:

Assisted Living Facility.

**Applicant Affidavit:**

Upon receipt of the completed application package, the Planning and Land Use Department shall notify the applicant of scheduled date, times, and locations of the public meetings/hearings. The applicant or a representative must be present to answer any questions that may be asked. In the event that an application is not complete, the case may be delayed or postponed at the discretion of the department.

This form is to be executed under oath. I, Parks F. Huff, Attorney for Applicant, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Application for Public Hearing is true and correct and contains no misleading information.

This 16<sup>th</sup> day of October, 20 15.

Print Name Parks A. Huff, Attorney for Applicant.

Applicant Signature .



**SECTION III**

**Infrastructure Information:**

Is water available to this site?  Yes  No      Jurisdiction: Cherokee County

How is sewage from this site to be managed?  
Cherokee Water and Sewerage Authority

Will this proposal result in an increase in school enrollment?  Yes  No

If yes, what is the projected increase? N/A students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home		0.725	
Multi Family (Attached) Home		0.287	

**Traffic Generation:**

A traffic impact study prepared by a registered engineer will be required if the proposed subdivision exceeds 250 dwelling units; the non-residential development contains more than 25,000 square feet of floor area; or at the discretion of the County Engineer. If a traffic study is not required as part of this application, complete the following charts to estimate traffic generated by the proposal. Information for additional residential and all commercial/industrial development shall follow the summary of ITE Trip Generation Rates published in the Transportation Planning Handbook by the Institute of Transportation Engineers.

What is the estimated number of trips generated? 100 trips

Code	Land Use(s)	# of units or sqft*	Daily Trip Ends <sup>+</sup>	Number of Trips
210	Single Family Home/ Townhome		9.57	
220	Apartment		6.63	

**Notes:**

- \* Residential land uses are calculated based on the number of residential units. Commercial and industrial land uses are typically calculated based on square feet (sqft) of floor area for the use.
- + Residential daily trip ends per unit are shown. Contact Planning and Land Use staff about rates for other land uses.

**EXHIBIT "A"**  
**CHEROKEE COUNTY APPLICATION FOR PUBLIC HEARING**

**Property Owners List**

1. Miriam R. Webb TIN: 15N24 189  
13409 Highway 92  
Woodstock, GA 30188
  
2. Ruby Mae Curley Lingerfelt TIN: 15N24 190  
Sara Scoggins, Personal Representative  
for the Estate of Ruby M. Lingerfelt  
13319 Highway 92  
Woodstock, GA 30188
  
3. Doyle and Sara M. Scoggins TIN: 15N24 191  
13319 Hwy 92  
Woodstock, GA 30188

## SECTION V

### AMENDED APPLICANT RESPONSE STATEMENT - REZONINGS AND AMENDMENTS / MODIFICATIONS TO ZONING CONDITIONS

The applicant finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of property and shall govern the exercise of the zoning power.

**1. Explain the intent of the requested zoning.**

Centric Development, LLC proposes to build an approximately 84,000 square foot two-story assisted living facility.

**2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

The property is located on State Route 92 and is zoned R-40 subject to the Parkway Overlay. Adjacent and nearby uses are either intense residential or commercial and retail uses. The proposed assisted living facility will be less intense in terms of impact on the infrastructure and the impact on adjacent residents than nearby uses that include fast food restaurants.

**3. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.**

The proposed use will not adversely affect the usability of adjacent or nearby property. The use will create less noise and be less intrusive than any other potential use for the subject property.

**4. Whether the property to be affected by a proposed zoning has a reasonable economic use as currently zoned.**

The property does not have reasonable economic use as zoned R-40. No one would build a house on an acre lot on a busy state route.

**5. Whether the proposed zoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

The property is on a busy state route. The traffic created by an assisted living facility will be less than other potential uses for the subject property.

**6. Whether the proposed zoning is in conformity with the policy and interest of the land use plan.**

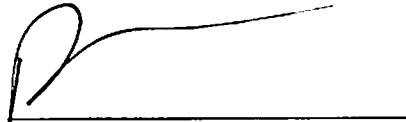
The property is in a Community Village Node as defined by the Comprehensive Plan. The use is consistent with this designation.

- 7. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approved or disapproval of the proposed zoning.**

South Cherokee county has both an aging demographic combined with new families that would like to relocate loved ones that need assistance close to them. This proposed facility will create an option for this much needed use.

SAMS, LARKIN, HUFF & BALLI, LLP

By:



PARKS F. HUFF  
Attorneys for Applicant  
Centric Development, LLC

**SAMS, LARKIN, HUFF & BALLI**  
A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF  
JAMES A. BALLI

SUITE 100  
376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

770•422•7016  
TELEPHONE  
770•426•6583  
FACSIMILE

ADAM J. ROZEN

WWW.SLHB-LAW.COM

October 16, 2015

**LETTER OF INTENT**

To: Cherokee County Board of Commissioners  
Members, Cherokee County Municipal Planning Commission

Re: Application of Centric Development LLC to rezone ±4.72 acres on Highway 92  
from R-40 to OI for an Assisted Living Facility.

**SCOPE OF THE PROPOSAL**

The applicant is requesting a rezoning of the subject property from its current category of R-40 to OI. The proposed development will be a two story Assisted Living facility with a memory care component. The 84,000 square foot building will be architecturally pleasing and an adequate buffer will be provided adjacent to the adjacent residential properties. The use is consistent with the County's Future Development Map and other developments in the immediate area.

**INFRASTRUCTURE**

The applicant submits that the zoning proposal will not result in a use which will cause an excessive or burdensome use of utilities, existing streets, transportation facilities or schools.

**Utilities:** Water capacity is available to the project and pressure will be verified by a flow test. The applicant will connect to the Cherokee Water and Sewerage Authority system.

**Roads/Streets:** Access to the property will be via a driveway onto State Route 92. The Georgia DOT will determine the exact location of the driveway when they grant the driveway permit. The use will produce less traffic than other potential retail and commercial uses and no infrastructure improvements are required other than a potential deceleration lane.

**Schools:** The proposed use will have a positive impact on the school system because it will add to the tax base without adding any additional students.



SAMS, LARKIN, HUFF & BALLI  
A LIMITED LIABILITY PARTNERSHIP

Cherokee County Board of Commissioners  
Members, Cherokee County Municipal Planning Commission  
October 16, 2015  
Page 2

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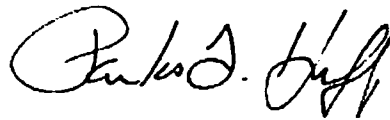
**SUMMARY**

Centric proposes an Assisted Living Facility in south Cherokee County to serve the aging demographic and to provide a convenient location so Cherokee residents can relocate aging parents close to them. The proposal is consistent with the Community Village designation in the Cherokee Land Use Plan.

Please contact me if you have any questions or concerns regarding the proposal.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP



Parks F. Huff  
[phuff@slhb-law.com](mailto:phuff@slhb-law.com)

PFH/dvm

**CAMPAIGN DISCLOSURE STATEMENT**

Nothing in Chapter 36 of OCGA shall be construed to prohibit a local government official from voting on a zoning decision when the local government is adopting a zoning ordinance for the first time or when a local government is voting upon a revision of the zoning ordinance initiated by the local government pursuant to a comprehensive plan as defined in Chapter 70 of this title.

No, I have not made any campaign contribution to County Officials voting on this application exceeding \$250 in the past two years.

Yes, I have made campaign contributions to County Officials voting on this application exceeding \$250 in the past two years.

To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

Date of Contribution: \_\_\_\_\_

Signature of Applicant's Attorney:  Date: 10-14-15

Print Name: Parks F. Huff, Attorney for Applicant

Sworn to and Subscribed before me this: 14<sup>th</sup> day of October, 2015.

Notary Signature: 

(Notary Seal)



NOTARY PUBLIC

I, the undersigned, do hereby certify that the foregoing is a true and correct copy of the original as shown to me by the person presenting the same for recording.

Witness my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public for the State of Georgia

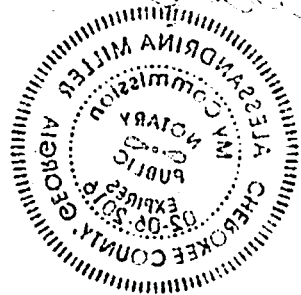
My Commission Expires \_\_\_\_\_

My Office is located at \_\_\_\_\_

My Office is located at \_\_\_\_\_

10-10-12

*Alexandra Miller*



SECTION IV

CONFLICT OF INTEREST CERTIFICATION

The undersigned below, making application for a zone change has complied with the O.C.G.A. § 36-67A, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided. Title 36 relates to disclosure of financial interests, campaign contributions, and penalties for violating O.C.G.A.

Signature of Applicant: N/A Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature of Applicant's Attorney:  Date: 10-16-15

Print Name: Parks F. Huff Title: Attorney for Applicant

Sworn to and Subscribed before me this: 16<sup>th</sup> day of October, 20 15.

Notary Signature: 

(Notary Seal)



CERTIFICATE REGARDING CORPORATE AUTHORITY TO PURSUE PUBLIC HEARING

1.

My name is David M. Vickers Sr. I am the secretary, assistant secretary or other officer to whom the operating agreement has delegated the responsibility for authenticating records of the company **CENTRIC DEVELOPMENT** (the "Applicant Company"). I am of legal age and suffer from no disabilities which would affect my competence to give this Certificate which is being given on my own personal knowledge for use with respect to the Applicant Company's Application to rezone certain real property located in Cherokee County, Georgia.

2.

In accordance with the requirements for completing a Cherokee County Application for Public Hearing, I hereby attest on behalf of the Applicant Company that I have reviewed the Public Hearing application and related documents which are being filed simultaneously therewith on behalf of the Applicant Company (collectively, the "Public Hearing Application") to which this Certificate is attached and hereby certify:

- (a) That the signature affixed to the Public Hearing Application is in fact the seal of the Applicant Company or a true facsimile thereof; and
- (b) That the officer or other representative of the Applicant Company who executed the Public Hearing Application does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Public Hearing Application on behalf of the Applicant Company, and that the signature of said officer or other representative is genuine; and
- (c) That the execution of the Public Hearing Application and the filing of the Public Hearing Application by the Applicant is with the express permission of the Property Owners.

CENTRIC DEVELOPMENT, LLC

By:  (SEAL)

Its: Managing Member



**CAMPAIGN DISCLOSURE STATEMENT**

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X No, I have not made any campaign contribution to County Officials voting on this application exceeding \$250 in the past two years.

     Yes, I have made campaign contributions to County Officials voting on this application exceeding \$250 in the past two years.

To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

Date of Contribution: \_\_\_\_\_

Signature of Applicant: *David M. Vick* Date: 10/14/15

Print Name: Centric Development, LLC

By: David M. Vick

Its: Managing Member

Sworn to and Subscribed before me this: 14 day of October, 2015.

Notary Signature: *Karen L. King*

(Notary Seal)



SECTION IV

CONFLICT OF INTEREST CERTIFICATION

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Signature of Applicant: *[Handwritten Signature]* Date: 10/14/15

Print Name: Centric Development, LLC  
By: David McVicker  
Its: Managing Member

Signature of Applicant's Attorney: N/A Date: \_\_\_\_\_

Print Name: N/A Title: N/A

Sworn to and Subscribed before me this: 14 day of October, 2015.

Notary Signature: *[Handwritten Signature]*

(Notary Seal)



**CAMPAIGN DISCLOSURE STATEMENT**

Nothing in Chapter 36 of OCGA shall be construed to prohibit a local government official from voting on a zoning decision when the local government is adopting a zoning ordinance for the first time or when a local government is voting upon a revision of the zoning ordinance initiated by the local government pursuant to a comprehensive plan as defined in Chapter 70 of this title.

No, I have not made any campaign contribution to County Officials voting on this application exceeding \$250 in the past two years.

Yes, I have made campaign contributions to County Officials voting on this application exceeding \$250 in the past two years.

To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

Date of Contribution: \_\_\_\_\_

Signature of Titleholder: *Sarah Scoggins* Date: 10-13-2015  
~~Signature of Applicant~~

Print Name: Sarah Scoggins, Personal Representative for the Estate of Ruby M. Lingerfelt

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *[Signature]*

(Notary Seal)



SECTION IV

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The undersigned below, making application for a zone change has complied with the O.C.G.A. § 36-67A, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided. Title 36 relates to disclosure of financial interests, campaign contributions, and penalties for violating O.C.G.A.

Signature of Titleholder: *Sarah Scoggins* Date: 10-13-2015

Print Name: Sarah Scoggins, Personal Representative for the Estate of Ruby M. Lingerfelt

Signature of Applicant's Attorney: N/A Date: \_\_\_\_\_

Print Name: N/A Title: N/A

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *[Signature]*

(Notary Seal)





**AUTHORIZATION OF PROPERTY OWNER**

Sarah Scoggins, Personal Representative for

I, the Estate of Ruby M. Lingerfelt, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states; That he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Cherokee County/Cherokee County, Georgia.

He/She authorizes the person named below to act as applicant in the pursuit of a request for:

- Rezoning
- Amendment / Modification of Zoning Conditions
- Variance / Appeal
- Other: \_\_\_\_\_

I hereby authorize the staff of the Cherokee County, Department of Planning and Land Use to inspect the premises which are subject of the application.

**Applicant's Information:**

Name: Centric Development, LLC

Address: 2562 Birchwood Drive Phone: \_\_\_\_\_

City, State, Zip: Atlanta, GA 30305

**Property Owner's Information:**

Name: Ruby Mae Lingerfelt

Address: 13319 Highway 92 Phone: \_\_\_\_\_

City, State, Zip: Woodstock, GA 30188

Signature of Owner: *Sarah Scoggins* Date: 10-13-2015

Print Name: Sarah Scoggins, Personal Representative for the Estate of Ruby M. Lingerfelt

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *[Signature]*

(Notary Seal)





**CAMPAIGN DISCLOSURE STATEMENT**

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X No, I have not made any campaign contribution to County Officials voting on this application exceeding \$250 in the past two years.

\_\_\_ Yes, I have made campaign contributions to County Officials voting on this application exceeding \$250 in the past two years.

To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

Date of Contribution: \_\_\_\_\_

Signature of Titleholder: \_\_\_\_\_

~~Signature of Applicant:~~ \_\_\_\_\_

*Miriam R. Webb*

Date: 10/13/15

Print Name: Miriam R. Webb

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *Debbie T Karp*

(Notary Seal)



SECTION IV

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Signature of Titleholder: Miriam R. Webb Date: 10/13/15

Print Name: Miriam R. Webb

Signature of Applicant's Attorney: N/A Date: \_\_\_\_\_

Print Name: N/A Title: N/A

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 20 15.

Notary Signature: Debbie T Karp

(Notary Seal)



**AUTHORIZATION OF PROPERTY OWNER**

I, Miriam R. Webb, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states; That he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Cherokee County/Cherokee County, Georgia.

He/She authorizes the person named below to act as applicant in the pursuit of a request for:

- Rezoning
- Amendment / Modification of Zoning Conditions
- Variance / Appeal
- Other: \_\_\_\_\_

I hereby authorize the staff of the Cherokee County, Department of Planning and Land Use to inspect the premises which are subject of the application.

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Address: 2562 Birchwood Drive Phone: \_\_\_\_\_  
City, State, Zip: Atlanta, GA 30305

**Property Owner's Information:**

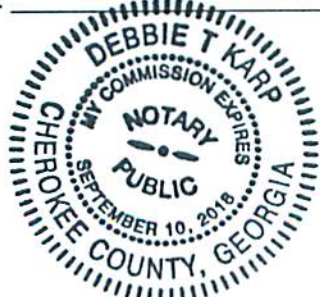
Name: Miriam R. Webb  
Address: 13409 Highway 92 Phone: \_\_\_\_\_  
City, State, Zip: Woodstock, GA 30188

Signature of Owner: *Miriam R Webb* Date: 10/13/15  
Print Name: Miriam R. Webb

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *Debbie Karp*

(Notary Seal)





**CAMPAIGN DISCLOSURE STATEMENT**

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To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

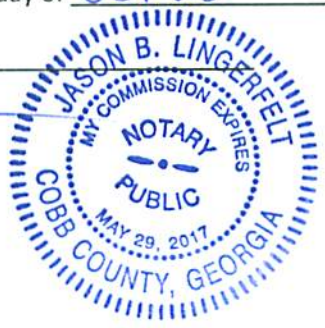
Date of Contribution: \_\_\_\_\_

Signature of Titleholder: ~~Signature of Applicant~~ Doyle Scoggins Date: 10-13-2015

Print Name: Doyle Scoggins

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: \_\_\_\_\_



(Notary Seal)

SECTION IV

CONFLICT OF INTEREST CERTIFICATION

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Signature of Titleholder: Doyle Scoggins Date: 10-13-2015

Print Name: Doyle Scoggins

Signature of Applicant's Attorney: N/A Date: \_\_\_\_\_

Print Name: N/A Title: N/A

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: [Handwritten Signature]

(Notary Seal)



**AUTHORIZATON OF PROPERTY OWNER**

I, Doyle Scoggins, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states; That he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Cherokee County/Cherokee County, Georgia.

He/She authorizes the person named below to act as applicant in the pursuit of a request for:

Rezoning  Amendment / Modification of Zoning Conditions  
 Variance / Appeal  Other: \_\_\_\_\_

I hereby authorize the staff of the Cherokee County, Department of Planning and Land Use to inspect the premises which are subject of the application.

**Applicant's Information:**

Name: Centric Development, LLC  
Address: 2562 Birchwood Drive Phone: \_\_\_\_\_  
City, State, Zip: Atlanta, GA 30305

**Property Owner's Information:**

Name: Doyle Scoggins  
Address: 13319 Hwy 92 Phone: \_\_\_\_\_  
City, State, Zip: Woodstock, GA 30188

Signature of Owner: *Doyle Scoggins* Date: 10-13-2015  
Print Name: Doyle Scoggins

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *[Signature]*

(Notary Seal)



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To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

Date of Contribution: \_\_\_\_\_

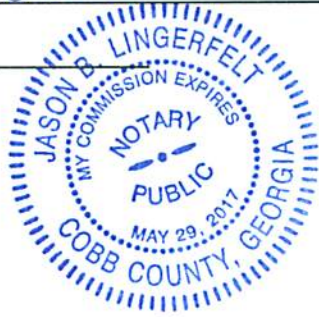
Signature of Titleholder: Sara M. Scoggins Date: 10-13-2015  
~~Signature of Applicant~~

Print Name: Sara M. Scoggins

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: \_\_\_\_\_

(Notary Seal)





SECTION IV

CONFLICT OF INTEREST CERTIFICATION

The undersigned below, making application for a zone change has complied with the O.C.G.A. § 36-67A, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided. Title 36 relates to disclosure of financial interests, campaign contributions, and penalties for violating O.C.G.A.

Signature of Titleholder: *Sara M. Scoggins* Date: 10-13-2015

Print Name: Sara M. Scoggins

Signature of Applicant's Attorney: N/A Date: \_\_\_\_\_

Print Name: N/A Title: N/A

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *[Signature]*

(Notary Seal)





**AUTHORIZATON OF PROPERTY OWNER**

I, Sara M. Scoggins, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states; That he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Cherokee County/Cherokee County, Georgia.

He/She authorizes the person named below to act as applicant in the pursuit of a request for:

- Rezoning
- Amendment / Modification of Zoning Conditions
- Variance / Appeal
- Other: \_\_\_\_\_

I hereby authorize the staff of the Cherokee County, Department of Planning and Land Use to inspect the premises which are subject of the application.

**Applicant's Information:**

Name: Centric Development, LLC

Address: 2562 Birchwood Drive Phone: \_\_\_\_\_

City, State, Zip: Atlanta, GA 30305

**Property Owner's Information:**

Name: Sara M. Scoggins

Address: 13319 Hwy 92 Phone: \_\_\_\_\_

City, State, Zip: Woodstock, GA 30188

Signature of Owner: \_\_\_\_\_ Date: 10-13-2015

Print Name: Sara M. Scoggins *Sara M. Scoggins*

Sworn to and Subscribed before me this: 13<sup>th</sup> day of October, 2015.

Notary Signature: *[Handwritten Signature]*

(Notary Seal)



Cherokee County Location Map



**SAMS, LARKIN, HUFF & BALLI**  
A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF  
JAMES A. BALLI

SUITE 100  
376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

770-422-7016  
TELEPHONE  
770-426-6583  
FACSIMILE

---

ADAM J. ROZEN

---

WWW.SLHB-LAW.COM

October 21, 2015

**VIA EMAIL AND  
REGULAR MAIL**

Ms. Vicki Taylor Lee, AICP, Zoning Administrator  
Cherokee County Planning and Zoning Department  
1130 Bluffs Parkway  
Canton, GA 30114

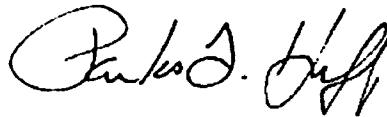
Re: Application of Centric Development, LLC to rezone an approximately ±4.72 acre tract from R-40 (Highway 92 Overlay) to OI, Land Lot 1178 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section, Tax Map 15N24, Parcels 189, 190 and 191, Cherokee County, Georgia.

Dear Vicki:

Enclosed please find a copy of the Letters Testamentary giving Ms. Sara Scoggins the authority to sign on behalf of the Estate of Ruby M. Lingerfelt. If you have any questions, please contact me.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP



Parks F. Huff  
[phuff@slhb-law.com](mailto:phuff@slhb-law.com)

PFH/dvm  
Enclosures

cc: Centric Development, LLC

GEORGIA PROBATE COURT  
STANDARD FORM

FILED IN OFFICE  
This 18<sup>th</sup> day of July, 2003  
at 3:20P M.

*Cheryl M. Morris*  
Clerk, Cherokee County Probate Court

STATE OF GEORGIA  
COUNTY OF Cherokee

#2003-246

**LETTERS TESTAMENTARY  
(Relieved of Filing Returns)**

By Kipling L. McVay, Judge of the Probate Court of said County.

KNOW ALL WHOM IT MAY CONCERN:

That on the 18<sup>th</sup> day of July, 2003, at a regular term of the Probate Court, the last Will and Testament dated May 11, 1993 of Ruby M. Lingerfelt, deceased, at the time of her death a resident of said

County, was legally proven in Solemn form and was admitted to record by order, and it was further ordered that Sara Scoggins, named as

Executrix in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executrix. \* Iris Cook Named as Co-Executrix died on December 12, 2002.

NOW THEREFORE, the said Sara Scoggins, having taken the oath of office and complied with all the necessary prerequisites of the law, is legally authorized to discharge all the duties and exercise all the powers of Executrix under the Will of said deceased, according to the Will and the law.

Given under my hand and official seal, the 18<sup>th</sup> day of July, 2003:

Recorded July 22, 2003  
Minute Book No. 116, Pages 355  
Kipling L. McVay, Judge of the Probate Court

*Kipling L. McVay*  
Kipling L. McVay  
Judge, Cherokee County Probate Court

(SEAL)

TO THE CHEROKEE COUNTY BOARD OF COMMISSIONERS  
CHEROKEE COUNTY, GEORGIA

**CONSTITUTIONAL CHALLENGE**

COMES NOW, CENTRIC DEVELOPMENT, LLC, hereinafter referred to as the "Applicant", and asserts the following, to wit:

1.

By application to which this exhibit relates, Applicant has applied for a rezoning of certain real property lying and being in Cherokee County, Georgia, a more particular description and delineation of the subject property hereinafter referred to as the "Property", being set forth in said Application.

2.

The Application for Public Hearing of the property seeks a rezoning from the existing category of R-40, as established by the governing authority of Cherokee County, Georgia to the zoning category of OI.

3.

The current R-40 zoning classification of the property and all intervening classifications between same and OI, are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section 1, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.



4.

The zoning classification of R-40 as well as all intervening classifications between same and OI as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classifications are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

The Cherokee County Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with zoning applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law.

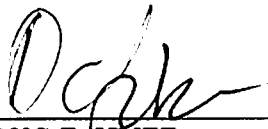
6.

Pursuant to O.C.G.A. §§ 36-11-1 and 36-33-5, please consider this your notice that as of today's date the Owner/Applicant is contending that Cherokee County's unconstitutional zoning classifications of the property have caused damages to the Owner/Applicant. As a direct and proximate result of the unconstitutional zoning classifications, the Owner/Applicant has suffered and will continue to suffer monetary damages in the nature of attorneys' fees and costs, interest and other expenses on pending loans on the property, loss of income from the property and other related

damages. This amount cannot be calculated to an exact certainty; however, the Owner/Applicant will assist the County by providing whatever additional information, if any, the County feels is necessary to adequately investigate this claim. If the Owner/Applicant does not receive a timely request for additional information, it will be presumed that the County does not require any additional information and can make a determination within the allowed statutory period.

Respectfully submitted, this the 16 day of October, 2015.

SAMS, LARKIN, HUFF & BALLI, LLP

By:   
PARKS F. HUFF  
Attorneys for Applicant  
Centric Development, LLC

**BRICKMONT - WOODSTOCK**  
**LEGAL DESCRIPTION**  
**LL 1178, 15<sup>TH</sup> DIST.; 2<sup>ND</sup> SEC.**  
**CHEROKEE COUNTY, GEORGIA**  
**TAX PARCEL(S)**  
**15N24-191/15N24-190/15N24-189**

All that tract or parcel of land lying and situated in Land Lot 1178 of the 15<sup>th</sup> District; 2<sup>nd</sup> Section of Cherokee County, Georgia, and containing 4.72+/- acres and being more particularly described as follows:

To find the POINT OF BEGINNING, commence at the intersection of the northerly right of way of State Route 92 and the common Land Lot Line 1178 and 1179; thence a North 63 degrees 9 minutes 38 seconds West, a distance of 335.11 feet to a point; thence North 63 degrees 9 minutes 38 seconds West, a distance of 7.23 feet to a point; thence North 08 degrees 30 minutes 00 seconds East, a distance of 293.81 feet to a point; thence South 75 degrees 35 minutes 47 seconds East, a distance of 210.04 feet to a point; thence South 74 degrees 16 minutes 2 seconds East, a distance of 167.49 feet to a point; thence South 00 degrees 54 minutes 29 seconds East, a distance of 456.47 feet to the POINT OF BEGINNING.

Said tract containing 4.72+/- acres and being more particularly described on Existing Site Resources Map by Metro Engineering and Surveying Co., Inc., dated October 13, 2015.



Transfer Tax \$0.00  
Patty Baker  
Clerk of Superior Court Cherokee Cty, GA

Record and Return to:  
J. Rago  
*The law firm of*  
**RAGO & ASSOCIATES, P.C.**  
2167 Northlake Parkway, Suite 104  
Tucker, Georgia 30084

File # 08-04-4926

STATE OF GEORGIA  
COUNTY OF DEKALB

## WARRANTY DEED

THIS INDENTURE, made this 26th day of June, 2008, by and between Tony W. Webb of Cherokee County, State of Georgia, as party or parties of the first part, (hereinafter called "Grantor"), and Miriam R. Webb, as party of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of TEN DOLLARS (\$10.00) and OTHER GOOD AND VALUABLE CONSIDERATION in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, the following real property, to-wit:

All that tract or parcel of land lying and being in Land Lot 1178, of the 15th District, 2nd Section District of Cherokee County, Georgia, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.

The above described property is conveyed subject to all restrictions and easements of record.

This Warranty Deed is made pursuant to Item 4 of Settlement Agreement in Civil Action File No. 06-CV-1701 styled Miriam Reese Webb v. Tony William Webb.

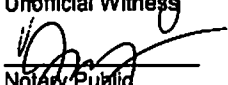
TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, the day and year above written.

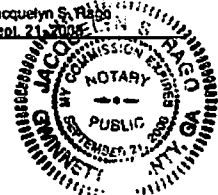
Signed, sealed and delivered  
in the presence of:

  
Unofficial Witness

  
Notary Public

My Commission Expires

Jacquelyn S. Rago  
Sept. 21, 2008



 (Seal)  
Tony W. Webb - Grantor

File #: 08-04-4926

EXHIBIT "A"

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 1178 of the 15th District, 2nd Section, Cherokee County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin located on the northeasterly right of way of Georgia Highway #92 (also known as Old Alabama Road) at the point of intersection of the said northeasterly right of way of Highway 92 with the east Land Lot Line of Land Lot 1178, said district, section and County, (which point of intersection is located 1,158.90 feet southeasterly, as measured along the northeasterly right of way of Georgia Highway #92, from the intersection of said right of way and the easterly right of way of Ragsdale Road) and running thence north 49 degrees 47 minutes 45 seconds west along said right of way a distance of 259.10 feet to an iron pin and corner located at the southeasterly corner of property now or formerly owned by L. W. Lingerfelt; running thence north 26 degrees 48 minutes 30 seconds east along the said Lingerfelt line a distance of 311.33 feet to an iron pin; continuing thence north 24 degrees 51 minutes 00 seconds east a distance of 120.33 feet to an iron pin and corner located along the easterly line of Land Lot 1178, said District, Section and County, which Land Lot Line also forms the westerly boundary of property now or formerly owned by Mrs. Charles J. Hendrix, Sr. (formerly Mrs. Era Blankenship); running thence south 0 degrees 43 minutes 00 seconds east along the said Land Lot Line and the westerly line of Mrs. Hendrix a distance of 554.35 feet to the iron pin at the Point of Beginning; being 1.23 acres with a house located thereon as shown on survey for Tony W. Webb and Miriam R. Webb made by Dorsey R. Brumbelow and Rodney H. Reese, Registered Land Surveyor, dated August 19, 1978.

COPY



**CERTIFICATE OF ORDER OF YEAR'S SUPPORT**  
(Pursuant to O.C.G.A. §53-5-11)

GEORGIA, CHEROKEE COUNTY Estate No. 8628

DATE ORDER GRANTED: September 8, 1992

GRANTOR: (NAME OF DECEASED) Lewis Woodrow Lingerfelt

GRANTEE: (NAME OF WIDOW(ER), INCLUDING (MAIDEN)(MIDDLE) NAME,  
AND EACH MINOR CHILD, AND DATE OF BIRTH AND AGE OF EACH  
MINOR) Ruby Mae Curley Lingerfelt, Widow

No Minor Children

Legal Description of Real Property and Interest Therein:

See Schedule "A" attached

Georgia, Cherokee County  
Filed in office this 21 day of Sept 1992  
at 3:19 PM Recorded in Book 1285 Page 343  
this 22 day of Sept 1992  
Annex  
Clerk Superior Court  
in Probate Court  
#6193

Also land in \_\_\_\_\_ County(y)(ies).

~~Certificate prepared by:~~

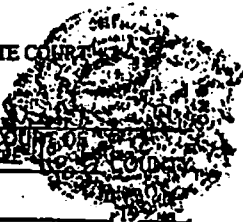
I do hereby certify that the information  
herein is true and correct.

~~SIGNATURE OF ATTORNEY~~

JUDGE OF THE PROBATE COURT

By: [Signature]  
JUDGE GEORGE, PROBATE COURT OF  
CHEROKEE

Delivered to \_\_\_\_\_ SC. \_\_\_\_\_





## PUBLIC INPUT PLAN

COMES NOW, CENTRIC DEVELOPMENT, LLC, (hereinafter "Applicant") to file this Public Participation Plan along with its Public Hearing Application for property located on the north side of Highway 92, west of Woodlands Parkway. The Applicant is implementing the following plan in order to inform the community of the development proposal and to create a dialogue with the surrounding residents and the effected government entities.

1.

The Applicant mailed notices to all property owners within 750 feet of the subject property and persons on the Interested Parties List, and invited them to the Public Participation Meeting. Said letter was mailed prior to the Public Participation Meeting and was mailed to all property owners based upon the Cherokee County Tax Assessor records and all interested parties.

2.

The notice of the Public Participation Meeting included a summary of the Applicant's rezoning request and a plat of the proposed development.

3.

The Applicant submitted to the Planning and Zoning Office a copy of the notices and a list of the property owners so served.

4.

The Public Participation Meeting occurred prior to filing the Public Hearing Application and a summary of the results of this meeting has been sent to the Planning and Zoning Office.



5.

The Applicant will continue a dialogue with the respective County departments regarding transportation and other issues relating to the proposed zoning.

6.

The notice of the Public Participation Meeting as described above adequately notified those parties who are interested in the development. The Applicant will adjust its Public Participation Plan consistent with the feedback it receives during the rezoning process.

Respectfully submitted this 16 day of October, 2015.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

\_\_\_\_\_  
PARKS F. HUFF  
Attorney for Applicant,  
Centric Development, LLC

SAMS, LARKIN, HUFF  
& BALLI, LLP  
A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
SUITE 100  
376 POWDER SPRINGS ST.  
MARIETTA, GA 30064  
770.422.7016

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF  
JAMES A. BALLI

SUITE 100  
376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

770•422•7016  
TELEPHONE  
770•426•6583  
FACSIMILE

---

ADAM J. ROZEN

---

WWW.SLHB-LAW.COM

October 16, 2015

**VIA EMAIL: [vtaylor@cherokeega.com](mailto:vtaylor@cherokeega.com)  
AND REGULAR MAIL**

Ms. Vicki Taylor Lee, AICP, Zoning Administrator  
Cherokee County Planning and Zoning Department  
1130 Bluffs Parkway  
Canton, GA 30114

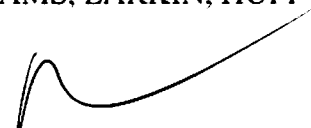
Re: Application of Centric Development, LLC to rezone an approximately ±4.72 acre tract from R-40 (Highway 92 Overlay) to OI, Land Lot 1178 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section, Tax Map 15N24, Parcels 189, 190 and 191, Cherokee County, Georgia.

Dear Vicki:

On September 30, 2015 I conducted a public participation meeting at Magnolia Hall in the City of Woodstock. The meeting was attended by one of the sellers and a neighboring property owner. The property owner was pleased with the proposed development and had no issues. After the meeting, I had a telephone conference with another adjacent property owner who was concerned about the view of the proposed building from her house. She was informed that the applicant will have a buffer along the rear of the subject property that will be planted and maintained in compliance with the County buffer standards. Please let me know if you have any questions regarding the public participation process.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP



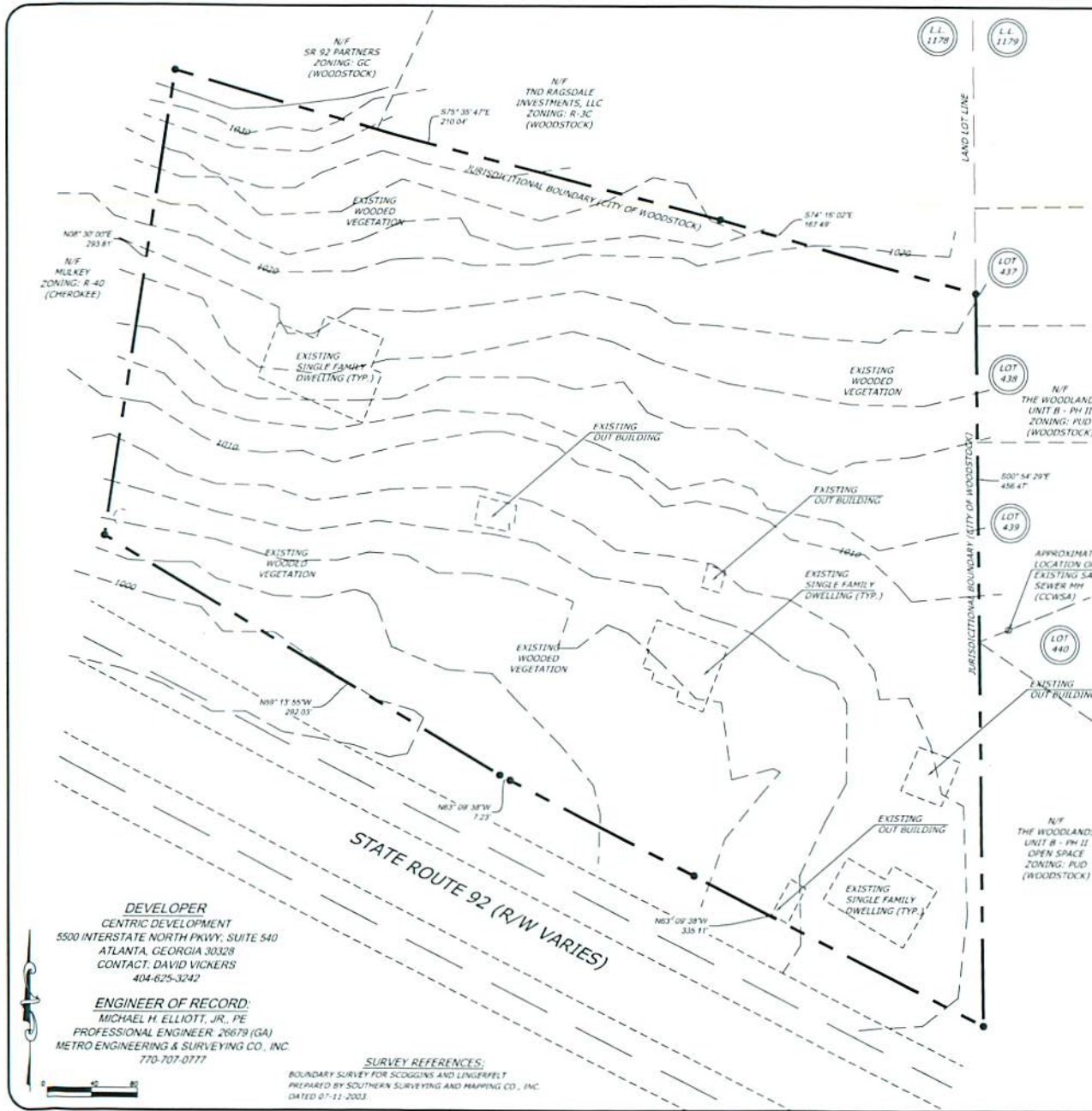
Parks F. Huff  
[phuff@slhb-law.com](mailto:phuff@slhb-law.com)

PFH/dvm

Enclosure

cc: Centric Development, LLC





**EXISTING RESOURCES NOTES:**

EXISTING SITE AREA: 4.72 ± AC

CURRENT ZONING: R-40

THIS SITE DOES NOT CONTAIN ANY 100 YEAR FLOODPLAIN PER THE FEMA FIRM PANEL FOR THIS AREA.

THERE ARE NO LIVE STREAMS, WATERS OF THE STATE, OR JURISDICTIONAL WETLANDS LOCATED WITHIN THE LIMITS OF THIS SITE OR WITHIN 200 LF OF THIS TRACT.

THERE ARE NO KNOWN SIGNIFICANT WILDLIFE HABITATS LOCATED ON THIS SITE.

THERE ARE NO KNOWN ENDANGERED OR THREATENED SPECIES OR HABITAT LOCATED ON THIS SITE.

THERE ARE NO KNOWN HISTORICAL, ARCHAEOLOGICAL, OR CULTURAL FEATURES LOCATED ON THIS SITE.

TO MY KNOWLEDGE, THIS SITE IS NOT IDENTIFIED AS A LOCAL, STATE OR FEDERAL HISTORICAL SITE.

THIS SITE IS NOT PART OF A GROUNDWATER RECHARGE AREA.

THIS SITE DOES NOT CONTAIN ANY CEMETERIES.

**DEVELOPER**  
 CENTRIC DEVELOPMENT  
 5500 INTERSTATE NORTH PKWY, SUITE 540  
 ATLANTA, GEORGIA 30328  
 CONTACT: DAVID VICKERS  
 404-625-3242

**ENGINEER OF RECORD:**  
 MICHAEL H. ELLIOTT, JR., PE  
 PROFESSIONAL ENGINEER, 26679 (GA)  
 METRO ENGINEERING & SURVEYING CO., INC.  
 770-707-0777

**SURVEY REFERENCES:**  
 BOUNDARY SURVEY FOR SCODGINS AND LINGERFELT  
 PREPARED BY SOUTHERN SURVEYING AND MAPPING CO., INC.  
 DATED 07-11-2003

**BRICKMONT - WOODSTOCK**  
 LL 1178 - 15TH DISTRICT, 2ND SECTION  
 CHEROKEE COUNTY, GEORGIA  
 FOR  
 CENTRIC DEVELOPMENT  
 5500 INTERSTATE NORTH PKWY, SUITE 540  
 ATLANTA, GEORGIA 30328



REVISIONS	DATE

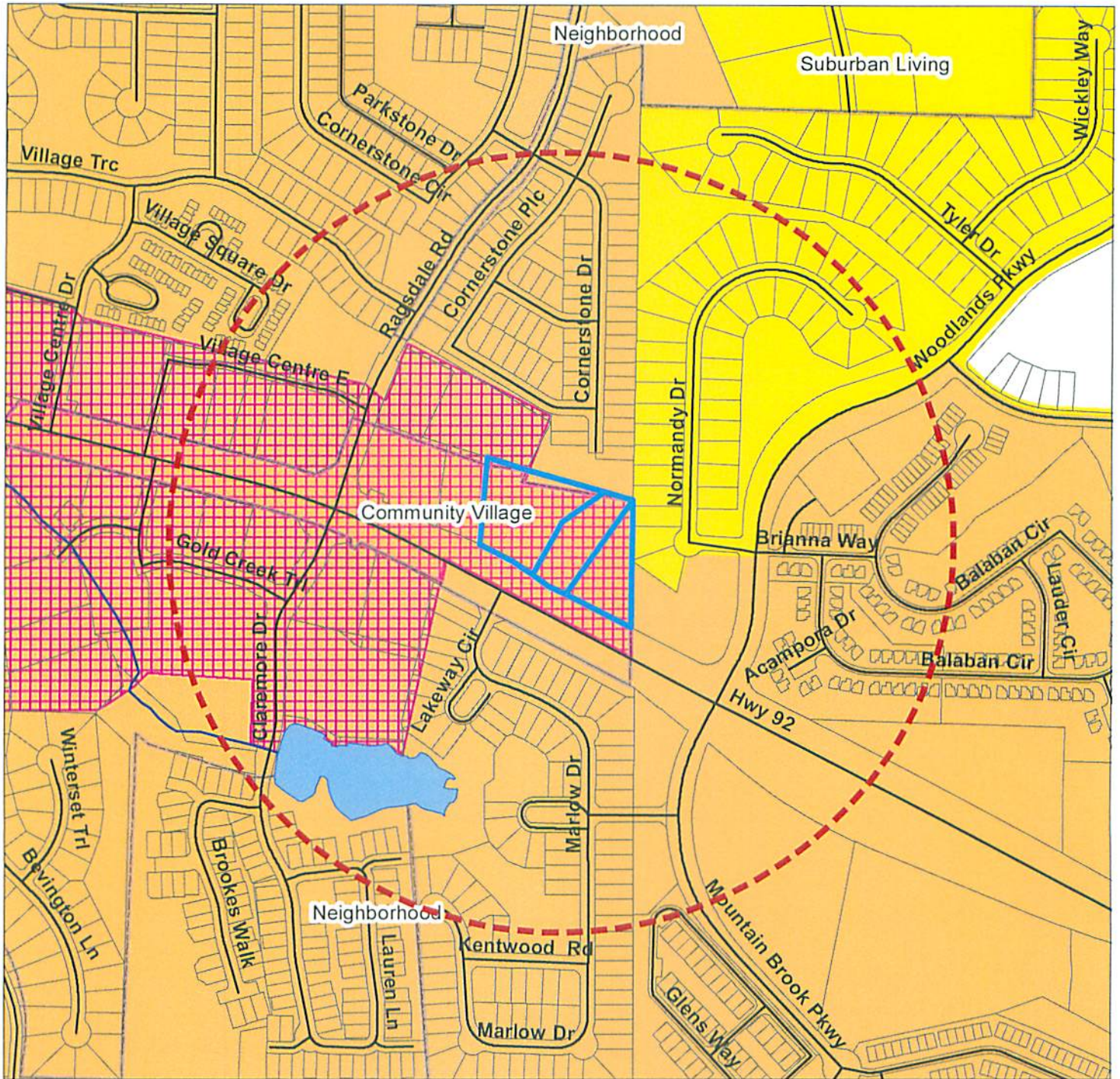
DRAWING INFORMATION	
DATE	10-13-2011
SCALE	1"=20'
DRAWN BY	JAV AME
CHECK BY	JAV AME
DATE	10/13/11
PLT	13200 BRICKMONT
EXISTING SITE RESOURCES MAP	

**EXISTING**



# Case # 15-12-030 - Centric Development, LLC

Future Development Map from the Comprehensive Plan



## Legend

Rezoning Parcels	<b>Character Areas</b>	<b>Development Nodes</b>	<b>Woodstock Character Areas</b>
Streets	Natural Preserve	County Crossroads	Natural Preserve
1/4 mile radius	Rural Places	Hamlet	Community Facilities
100 Year Flood Zone	Country Estates	Neighborhood Village	Suburban Living
Woodstock	Suburban Growth	Community Village	Traditional Neighborhood
	Suburban Living	<b>Corridors</b>	Neighborhood Living
	Neighborhood Living	Scenic Corridor	Urban Village
	Bells Ferry LCI	Transitional Corridor	Neighborhood Village
	Urban Core	Development Corridor	Community Village
	Workplace Center		Urban Core
	Regional Center		Regional Center
	Waste Management		Workplace Center
			Transit Oriented Development



This map has been compiled from the most up to date and reliable sources available. Cherokee County is not responsible for errors and omissions contained in this map. No warranties or representations are expressed or implied in fact or in law.



Prepared by:  
Cherokee County  
Planning & Land Use  
Canton, Georgia  
October 28, 2015







# ZONING NOTICE

Case # 15-12-030

Public Hearing Date Dec. 1<sup>st</sup>

Present Zone R-40

Change To OI

7:00 P.M.

CHEROKEE HALL  
CHEROKEE COUNTY  
ADMINISTRATION BUILDING  
1130 BLUFFS PARKWAY, CANTON

678-493-6101

[www.cherokeega.com](http://www.cherokeega.com)



# ZONING NOTICE

Case # 15-12-030

Public Hearing Date Dec. 1<sup>st</sup>

Present Zone R-40

Change To OI

7:00 P.M.

CHEROKEE HALL,  
CHEROKEE COUNTY  
ADMINISTRATION BUILDING  
1130 BLUFFS PARKWAY, CANTON

678-493-6101  
[www.cherokeega.com](http://www.cherokeega.com)



# ZONING NOTICE

Case # 15-12-030

Public Hearing Date Dec. 1<sup>st</sup>

Present Zone R-40

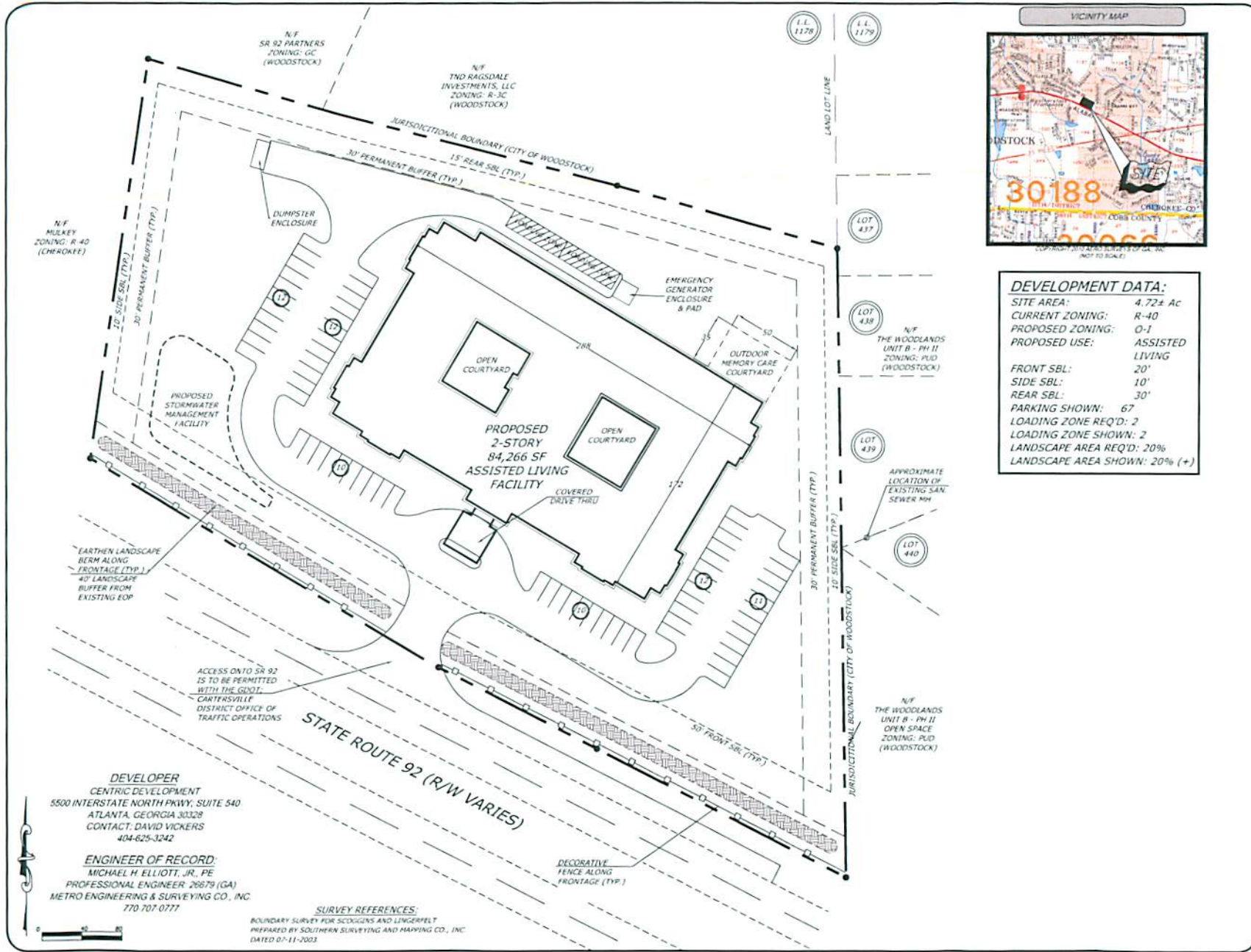
Change To OI

7:00 P.M.

CHEROKEE HALL,  
CHEROKEE COUNTY  
ADMINISTRATION BUILDING  
1130 BLUFFS PARKWAY, CANTON

678-493-6101  
[www.cherokeega.com](http://www.cherokeega.com)





N/F  
MULKEY  
ZONING: R-40  
(CHEROKEE)

N/F  
SR 92 PARTNERS  
ZONING: GC  
(WOODSTOCK)

N/F  
TND RAGSDALE  
INVESTMENTS, LLC  
ZONING: R-3C  
(WOODSTOCK)

1.L.  
1179

LOT  
437

LOT  
438

LOT  
439

LOT  
440

LAND LOT LINE

30' PERMANENT BUFFER (TYP.)

JURISDICTIONAL BOUNDARY (CITY OF WOODSTOCK)

N/F  
THE WOODLANDS  
UNIT B - PH II  
OPEN SPACE  
ZONING: PUD  
(WOODSTOCK)

VICINITY MAP



**DEVELOPMENT DATA:**

SITE AREA:	4.72± Ac
CURRENT ZONING:	R-40
PROPOSED ZONING:	O-1
PROPOSED USE:	ASSISTED LIVING
FRONT SBL:	20'
SIDE SBL:	10'
REAR SBL:	30'
PARKING SHOWN:	67
LOADING ZONE REQ'D:	2
LOADING ZONE SHOWN:	2
LANDSCAPE AREA REQ'D:	20%
LANDSCAPE AREA SHOWN:	20% (+)

**BRICKMONT - WOODSTOCK**  
LL 1179, 15TH DISTRICT, 2ND SECTION  
CHEROKEE COUNTY, GEORGIA

**CENTRIC DEVELOPMENT**  
5500 INTERSTATE NORTH PKWY., SUITE 540  
ATLANTA, GEORGIA 30328



REVISIONS	DATE

**DRAWING INFORMATION:**

DATE	10/14/2011
SCALE	1"=30'
JOB NO.	
CHECK NAME	
DATE	10/14/2011
FILE	11004 BRICKMONT
CONCEPT	SITE PLAN

**CONCEPT**

**DEVELOPER**  
CENTRIC DEVELOPMENT  
5500 INTERSTATE NORTH PKWY., SUITE 540  
ATLANTA, GEORGIA 30328  
CONTACT: DAVID VICKERS  
404-625-3242

**ENGINEER OF RECORD:**  
MICHAEL H. ELLIOTT, JR., PE  
PROFESSIONAL ENGINEER 26679 (GA)  
METRO ENGINEERING & SURVEYING CO., INC.  
770-707-0777

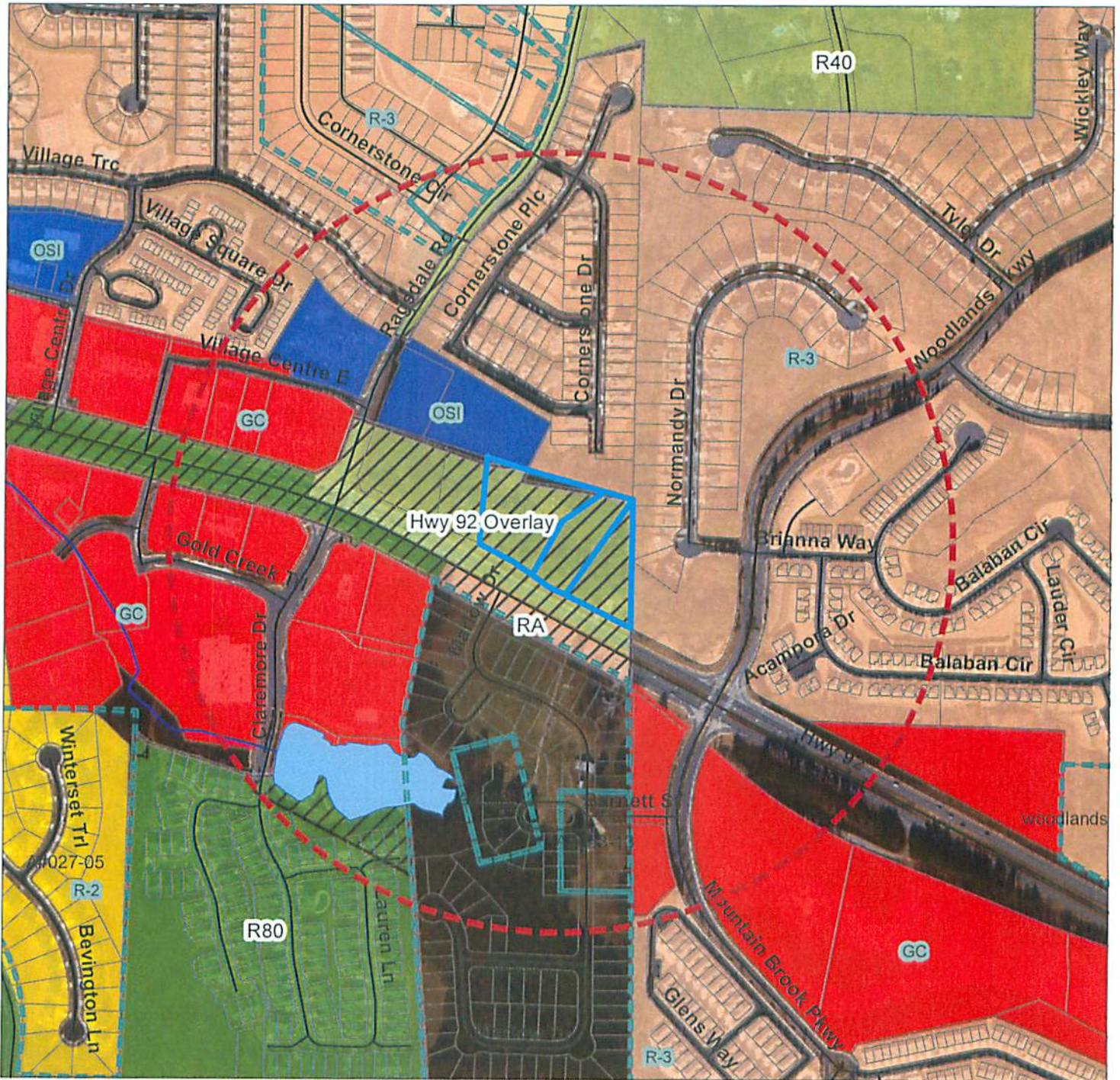
**SURVEY REFERENCES:**  
BOUNDARY SURVEY FOR SCOGGINS AND LINGERFELT  
PREPARED BY SOUTHERN SURVEYING AND MAPPING CO., INC.  
DATED 07-11-2003





# Case # 15-12-030 - Centric Development, LLC

## Current Cherokee County Zoning Map



### Legend

- Rezoning Parcels
- Streets
- 1/4 mile radius
- Recent Zoning Cases
- City Annexations
- Woodstock

### Woodstock Zoning Cherokee Zoning

<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> GC	<span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> AG
<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> NC	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black;"></span> R80
<span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> OSI	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R60
<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> PUD	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightyellow; border: 1px solid black;"></span> R40
<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R30
<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightyellow; border: 1px solid black;"></span> R20
<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R15
<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> R-4	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> RD3
	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R10
	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> RZL
	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> RA

<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> RTH
<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> RM10
<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> RM16
<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> TND
<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> PUD
<span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> OI
<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> NC
<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> GC
<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> LI
<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> HI
<span style="border: 1px solid black; padding: 2px;"> </span> Bells Ferry Overlay
<span style="border: 1px solid black; padding: 2px;"> </span> Hwy 92 Overlay



This map has been compiled from the most up to date and reliable sources available. Cherokee County is not responsible for errors and omissions contained in this map. No warranties or representations are expressed or implied in fact or in law.



Prepared by:  
Cherokee County  
Planning & Land Use  
Canton, Georgia  
October 28, 2015







## Cherokee County, Georgia Agenda Request

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**SUBJECT:** **Case #15-12-031 Pacific Group (BOC Dist. 2)** **MEETING DATE:** 12/1/2015  
**SUBMITTED BY:**  
Tamala Davis

---

**COMMISSION ACTION REQUESTED:**

Applicant is requesting to rezone 29.37 +/- acres on Charles Cox Drive from AG to R-30 for a single family residential subdivision.

---

**FACTS AND ISSUES:**

Commission District: 2  
Zoning Change: AG to R-30  
Location: Charles Cox Drive  
Tax Map and Parcel No: 02N02, 133, 133A and 133B  
Acres: 29.37 +/-  
Proposed Development: Residential Subdivision  
Future Development Map: Country Estates

---

**BUDGET:**

Budgeted Amount: Account Name:  
Amount Encumbered: Account #:  
Amount Spent to Date: Remaining Budget:  
Amount Requested:

---

**ADMINISTRATIVE RECOMMENDATION:**

---

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Application	Exhibit
<input type="checkbox"/> Existing Site Resources	Exhibit
<input type="checkbox"/> FDM	Exhibit
<input type="checkbox"/> Notice Signs	Exhibit
<input type="checkbox"/> PP Report	Exhibit
<input type="checkbox"/> Site Plan	Exhibit
<input type="checkbox"/> Zoning Map	Exhibit



**CHEROKEE COUNTY**  
**Application for Public Hearing**

**Important Notes:**

1. Please check all information supplied on the following pages to ensure your response is complete and accurate before signing this form. This page should be the first page of your completed application package.
2. All required documents for this application shall be submitted at the same time as the application. An application for a Public Hearing will not be scheduled unless and until it is complete.
3. Please contact the Planning and Land Use Department at 678-493-6101 if you have questions regarding your application package or the public hearing process for your application.

Contact Person: E. Benson Chambers, Attorney Phone: 404-273-9757  
 Email: ebchamberslaw@gmail.com

**SECTION I**

**Applicant's Information:**

Name: Pacific Group  
 Address: 5755 Dupree Road, Suite 130 Phone: 678-385-2887  
 City, State, Zip: Atlanta, Georgia 30327 Fax: 770-984-8171

**Property Owner's Information:** \_\_\_ same as above

Name: Bobby G Stanley and Martha Stanley  
 Address: 301 McDaniel Road NE Phone: \_\_\_\_\_  
 City, State, Zip: Calhoun, Georgia 30701 Fax: \_\_\_\_\_

**Requested Public Hearing (check all that apply):**

Rezoning \_\_\_ Amendment / Modification of Zoning  
 Variance \_\_\_ Other: \_\_\_\_\_

<b>STAFF USE ONLY:</b> <u>PL2015-0470</u>	<b>PUBLIC HEARING SCHEDULE:</b>
Commission District: <u>2</u>	Public Participation Meeting: <u>10-2-2015</u>
Case: <u>15-12-031</u>	PC Work Session Date: <u>11-16-2015</u>
Received by: _____	Planning Commission Hearing: <u>Dec 1, 2015</u>
Fee Paid: \$ _____	Board of Commissioners: <u>Dec 15, 2015</u>
Date: <u>10.16.15</u>	Other: _____



**SECTION II**

**Property Information:**

Location: North of Lower Birmingham Road and South Charles Cox Drive

Current Zoning: AG Proposed Zoning: R-30 Total Acreage: 29.37

Tax Map #: 02N02 Parcel #: 133, 133A, 133B Land Lot(s): 286, 291, 292 District: 2<sup>nd</sup>

Future Development Map Designation: AG

Adjacent Zonings: North AG South R-30, R-60 East AG West AG

Applicant’s Request (Itemize the Proposal, including code sections for Variance requests):

Applicant is developing an adjacent subdivision called The Falls at Hickory Flat which is zoned R-30, R-60 and R-80. Applicant desires to add the subject property to its R-30 portion of the subdivision with approximately 32 lots on 31 acres developed using the conservation development plan so as to protect the flood and/or wetlands, if any along Mill Creek and its tributaries.

Proposed Use(s) of Property:

Residential Single Family Homes

**SECTION III**

**Infrastructure Information:**

Is water available to this site?  Yes \_\_\_ No Jurisdiction: Cherokee County Water and Sewer Authority

How is sewage from this site to be managed?

Cherokee County Water and Sewer Authority

Will this proposal result in an increase in school enrollment?  Yes \_\_\_ No

If yes, what is the projected increase? 23.2 students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home	32	0.725	23.2
Multi Family (Attached) Home		0.287	

**Traffic Generation:**

If a traffic study is not required as part of this application, complete the following charts to estimate traffic generated by the proposal. Information for additional residential and all commercial/industrial development shall follow the summary of ITE Trip Generation Rates published in the Transportation Planning Handbook by the Institute of Transportation Engineers.

What is the estimated number of trips generated? 306 trips

Code	Land Use(s)	# of units*	Daily Trip Ends	Number of Trips
210	Single Family Home/ Townhome	32	9.57	306
220	Apartment		6.63	

• A unit for residential purposes is equal to one residential unit. For commercial/industrial uses it is defined in the ITE table, but most often is equal to 1,000 square feet of floor area for the use specified.

**SECTION IV**

**Authorization:**

Upon receipt of the completed application package, the Planning and Land Use Department shall notify the applicant of scheduled date, times, and locations of the public meetings/hearings. The applicant or a representative must be present to answer any questions that may be asked. In the event that an application is not complete, the case may be delayed or postponed at the discretion of the department.

This form is to be executed under oath. I, RAYMOND W. CUNLIFFE, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Application for Public Hearing is true and correct and contains no misleading information.

This 15 day of OCTOBER, 2015.

Print Name RAYMOND W. CUNLIFFE.

Applicant Signature R W Cunliffe.

## APPLICANT RESPONSE STATEMENT

### REZONINGS AND AMENDMENTS / MODIFICATIONS TO ZONING CONDITIONS

The applicant finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of property and shall govern the exercise of the zoning power.

If this application is in response to an annexation and/or rezoning, please respond to the following standards in the form of a written narrative:

1. Explain the intent of the requested zoning. Applicant wishes to add the subject property (32 acres) to Falls at Hickory Flat, a subdivision which Applicant is currently developing.
2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. The subject property is located in an area of prominent residential use. It is adjacent to subdivision of which this property will be added to and zoned the same classification of R-30.
3. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property. No, the existing use of adjacent and nearby property is residential use.
4. Whether the property to be affected by a proposed zoning has a reasonable economic use as currently zoned. No, the property is affected by flood zones and possible wetlands limiting its usability in an area which predominantly residential with classifications ranging from R-30, R-60, R-80 and AG.
5. Whether the proposed zoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. No, the property will have access to Lower Birmingham and Batesville Road through the existing subdivision, a projected school age increase of 23.2 students, county water and country sewer are sufficient.
6. Whether the proposed zoning is in conformity with the policy and interest of the land use plan. Yes, the zoning ordinance directs consideration of the policy and intent of the land use plan, based upon the current uses and not the map which fails to reflect current uses adjacent to this property, the request for R-30 is consent with a the future land use plans expressed intent of residential in the R-30 classification.
7. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approved or disapproval of the proposed zoning. Yes, with the rerouting of Batesville Road and the improved multilane intersection with Highway 140, Lower Birmingham and Batesville road carry increased traffic levels. The area has seen transitional zoning from agricultural based and residential uses to include non-residential, high, medium and low density residential uses on adjacent and nearby properties.

**CONFLICT OF INTEREST CERTIFICATION**

The undersigned below, making application for a zone change has complied with the O.C.G.A. § 36-67A, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided. Title 36 relates to disclosure of financial interests, campaign contributions, and penalties for violating O.C.G.A.

Signature of Applicant: *R W C* Date: 10/15/15  
Print Name: RAYMOND W. CUNLIFFE

Signature of Applicant's Attorney: *E Benson Chambers* Date: 10/15/15  
Print Name: E. Benson Chambers Title: Attorney

Sworn to and Subscribed before me this: 15 day of October, 20 15.

Notary Signature: *Jeri Lynn Kelly*



**DISCLOSURE STATEMENT**

Nothing in Chapter 36 of OCGA shall be construed to prohibit a local government official from voting on a zoning decision when the local government is adopting a zoning ordinance for the first time or when a local government is voting upon a revision of the zoning ordinance initiated by the local government pursuant to a comprehensive plan as defined in Chapter 70 of this title.

No, I have not made any campaign contribution to County Officials voting on this application exceeding \$250 in the past two years.

Yes, I have made campaign contributions to County Officials voting on this application exceeding \$250 in the past two years.

To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

Date of Contribution: \_\_\_\_\_

Signature of Applicant: RLH Date: 10/15/15

Print Name: RAYMOND W. CUNLIFFE

Sworn to and Subscribed before me this: 15 day of October, 2015.

Notary Signature: Geri Lynn Kelly





**AUTHORIZATION OF PROPERTY OWNER**

I, Bobby G Stanley and Martha Stanley, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states; That he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Cherokee County/Cherokee County, Georgia.

He/She authorizes the person named below to act as applicant in the pursuit of a request for:

Rezoning  Amendment / Modification of Zoning Conditions  
 Variance  Other: \_\_\_\_\_

I hereby authorize the staff of the Cherokee County, Department of Planning and Land Use to inspect the premises which are subject of the application.

**Applicant's Information:**

Name: Pacific Group, Applicant Representative: E. Benson Chambers, Attorney at Law

Address: 5755 Dupree Road Phone: 678-385-2887

City, State, Zip: Atlanta, Georgia 30327 Fax: 770-984-8171

Signature of Owner: *Bobby G. Stanley* Date: 10-15-2015.

Print Name: Bobby G. Stanley

Signature of Owner: *Martha Stanley* Date: 10-15-2015.

Print Name: Martha Stanley

Sworn to and Subscribed before me this: 15<sup>th</sup> day of Oct, 2015.

Notary Signature: *Karla M. Martin*

(Notary Seal)





IN RE: Pacific Group

**NOTICE OF CONSTITUTIONAL CHALLENGE**

-1-

In accordance with the instructions attached to the zoning application, and in order to protect our rights for using our property at the highest and best use, and in a constitutional manner, we therefore submit that we have a constitutional issue to present in this case.

-2-

The classification of the subject property within the AG Zoning Classification within which the owners proposed use is prohibited as not being a permitted use by the Cherokee County Zoning Ordinances is unconstitutional, null and void in that such restriction effectively prohibits the owners to a use which is unreasonable and uneconomically suited; and, is thereby the equivalent of a substantial destruction of valuable rights of the owners without payment of just and adequate compensation in violation of the Compensation Clause of the 5th Amendment to the United States Constitution, Article 1, Section 3, Paragraph 1 of the Constitution of the State of Georgia, 1983, and the provisions of O.C.G.A. § 22-1-5.

-3-

A refusal by Cherokee County to rezone our property as requested so as to permit a reasonable economic return on investment and a highest and best use or reasonable use of the property, would therefore be unconstitutional null and void and that this refusal is arbitrary capricious without a rational basis and thus constitutes an abuse of discretion which would affect the restricted property to a use to which it is unsuited. This action by the governing authority would effectually prohibit the owners from using their property for a use which is best suited and would constitute a taking of the owner's property in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia 1983, and the due process clause of the 14th Amendment to the Constitution of the United States.

-4-

Please be advised that the continued application of the AG zoning classification to the owner's property results in little or no gain to the public in general and fails to promote the health, safety or morals of general welfare of the public and further does not bear fair and substantial relation to the objectives of the zoning ordinance, and would constitute a substantial construction of the property value of owners, and is confiscatory and void.

Respectfully submitted on behalf of Applicant

  
E. BENSON CHAMBERS  
Attorney for Applicant Pacific Group



**E B CHAMBERS LAW**  
*E. Benson Chambers*  
**Attorney at Law**

---

October 16<sup>th</sup>, 2015

Cherokee County Board of Commissioners  
Cherokee County Planning Commission  
1130 Bluff's Parkway  
Canton, GA 30115

RE: Pacific Group  
Letter of Intent

Greetings:

The applicant is currently developing The Falls at Hickory Flat, a subdivision that consists of R30, R-60 and R-80 zoning lots. The applicant desire to add an additional 31.1 acres to The Falls at Hickory Flat. Of the 31.1 acres 29.37 is to be rezoned to R-30 with 32 additional lots developed under the conservation design to be consistent with the existing R-30 portion. The new phase is proposed to have 69.9% open space. The remaining 1.73 acres has a house located on it and the applicant does not plan to include it in the rezone application. The additional acreage will be accessed from Lower Birmingham Road through The Falls at Hickory Flat.

Shown on the site plan is an existing easement to Charles Cox Road which provides access to the adjacent property belonging to Eberhardt. The applicant proposes no access to Charles Cox Road which was the expressed desire from local residents at the public participation meeting. In the event the overall development of the project with the inclusion of the new acreage requires a second entrance and in keeping with the desires of neighboring property owners, the applicant proposes the following variance as a condition for consideration by the Board, as follow:

“An emergency access only entrance will be constructed along the property line of lots 52 and 53 in Phase 2 of The Falls at Hickory Flat. The easement from the cul-de-sac to Old Batesville Road will be 20 feet in width and will include a 20 foot wide paved drive, using the same residential specification as used inside The Falls of Hickory Flat. This emergency access only entrance will satisfy he requirement of a 2<sup>nd</sup> entrance for The Falls at Hickory Flat.”

Thank you for your consideration of this information.

Yours truly,

A handwritten signature in blue ink, appearing to read 'E. Benson Chambers'.

E. Benson Chambers  
Attorney for Pacific Group

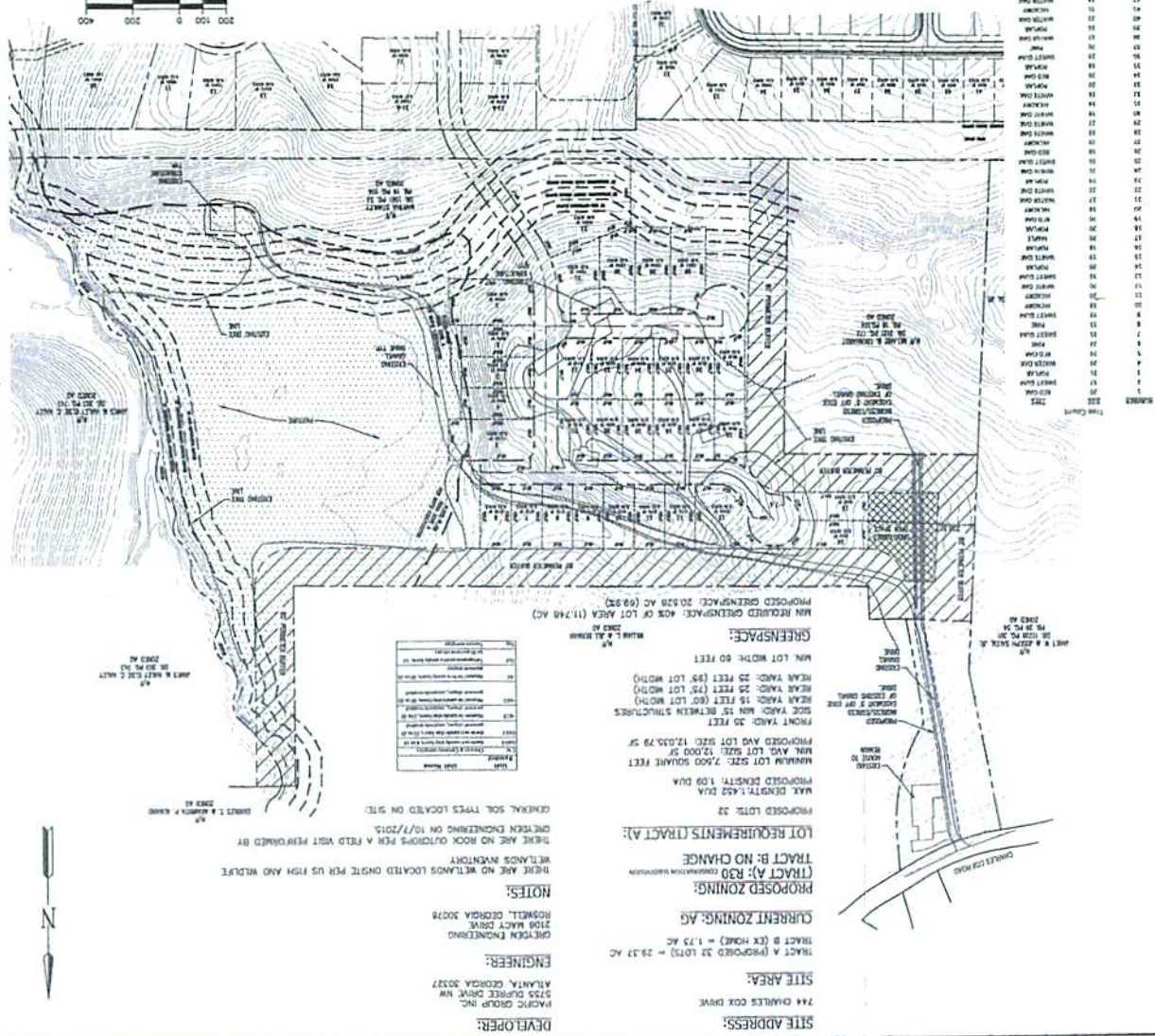


SHEET NO. 11 OF 12  
 PROJECT NO. 11-001  
 DATE: 11/2012  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

**ZONING SITE PLAN & SITE RESOURCES MAP**  
**HICKORY FLAT - CHARLES COX**  
 CHARLES COX, GEORGIA

**GREYDEN**  
 ENGINEERING  
 2108 MARY DRIVE  
 ROSWELL, GEORGIA 30076  
 PHONE: (770) 585-1111  
 FAX: (770) 585-1112

**PACIFIC GROUP INC**  
 24 HIGH HEMPSTEAD CORNER, ALPHARETTA / THASALATIS  
 2900 CHARLES DRIVE NE, ALPHARETTA, GEORGIA 30207



SYMBOL	DESCRIPTION
[Symbol]	Proposed Green Space
[Symbol]	Lot Requirements (Tract A)
[Symbol]	Current Zoning (AG)
[Symbol]	Site Area
[Symbol]	Site Address

**DEVELOPER:**  
 PACIFIC GROUP INC  
 5755 DUNWOODY DRIVE NW  
 ATLANTA, GEORGIA 30327

**ENGINEER:**  
 GREYDEN ENGINEERING  
 2108 MARY DRIVE  
 ROSWELL, GEORGIA 30076

**NOTES:**  
 THERE ARE NO WETLANDS LOCATED ON-SITE PER US FISH AND WILDLIFE BUREAU'S INVENTORY.  
 THERE ARE NO ROCK OUTCROPPERS PER A FIELD VISIT PERFORMED BY GREYDEN ENGINEERING ON 10/7/2012.  
 GENERAL SOIL TYPES LOCATED ON SITE:

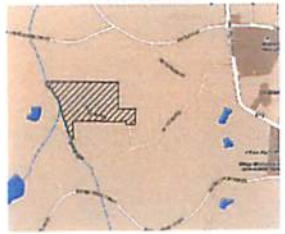
**PROPOSED LOTS: 32**  
**MAX DENSITY: 1.452 DUA**  
**PROPOSED DENSITY: 1.09 DUA**  
**MINIMUM LOT SIZE: 7,500 SQUARE FEET**  
**MIN. AVG. LOT SIZE: 12,000 SF**  
**PROPOSED AVG LOT SIZE: 12,025.79 SF**  
**FRONT YARD: 30 FEET**  
**REAR YARD: MIN 15' BETWEEN STRUCTURES**  
**REAR YARD: 25 FEET (95' LOT WIDTH)**  
**REAR YARD: 25 FEET (95' LOT WIDTH)**  
**MIN. LOT WIDTH: 60 FEET**

**GREENSPACE:**  
**MIN REQUIRED GREENSPACE: 40% OF LOT AREA (11,748 AC)**  
**PROPOSED GREENSPACE: 20,528 AC (69.9%)**

**LOT REQUIREMENTS (TRACT A):**  
**TRACT B: NO CHANGE**  
**PROPOSED ZONING:**  
**CURRENT ZONING: AG**  
**TRACT A (PROPOSED 32 LOTS) = 29.37 AC**  
**TRACT B (EX HOME) = 1.73 AC**

**SITE AREA:**  
**744 CHARLES COX DRIVE**

**SITE ADDRESS:**



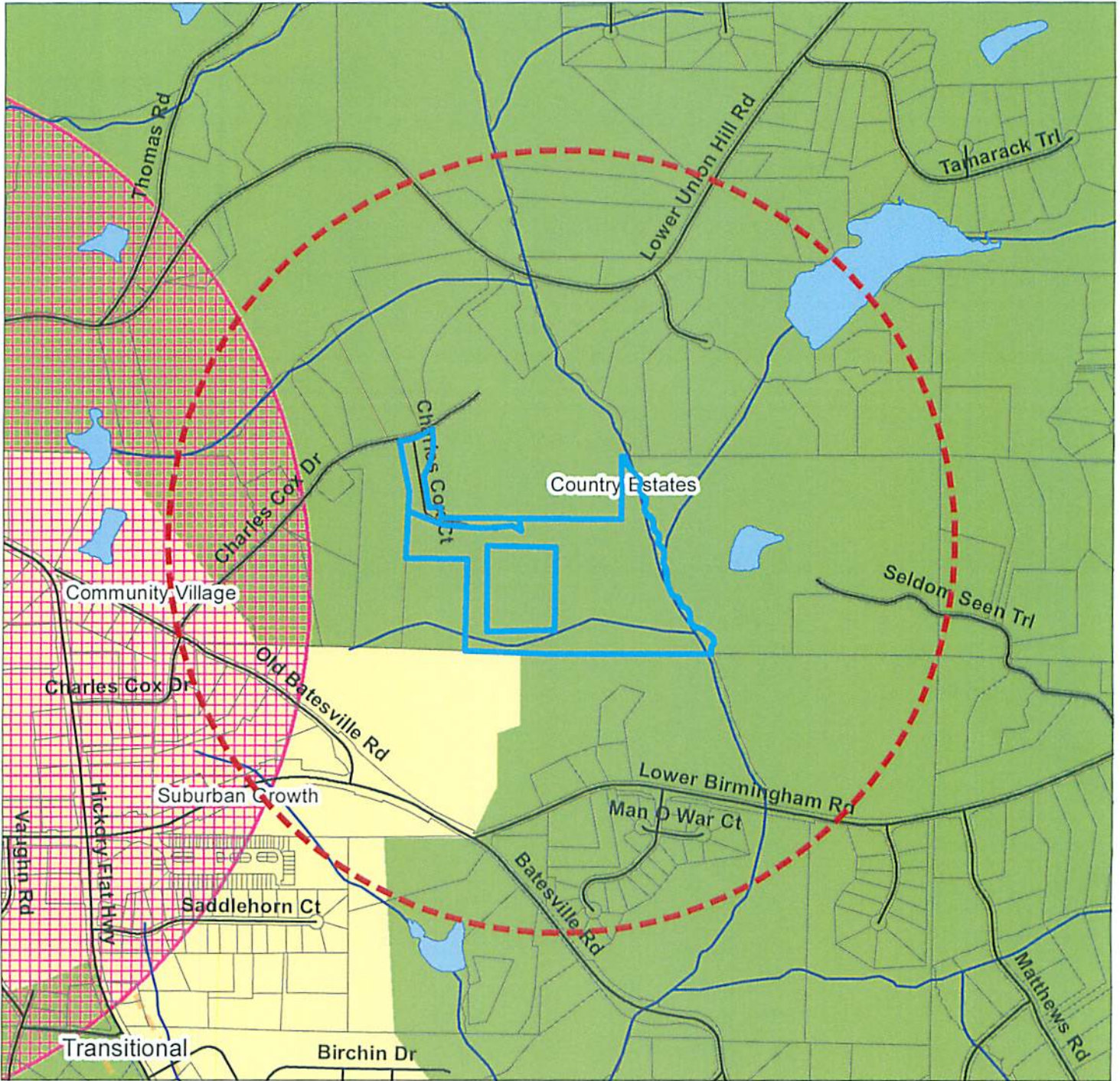
**FEMA MAPS**  
 ALL  
 Flood Hazard Zones

TRACT	AREA	PERCENTAGE
TRACT A	29.37 AC	100%
TRACT B	1.73 AC	100%
TOTAL	31.10 AC	100%



# Case # 15-12-031 - Pacific Group

## Future Development Map from the Comprehensive Plan



### Legend

Rezoning Parcels	<b>Character Areas</b>	<b>Development Nodes</b>
Streets	Natural Preserve	County Crossroads
1/2 mile radius	Rural Places	Hamlet
	Country Estates	Neighborhood Village
	Suburban Growth	Community Village
	Suburban Living	<b>Corridors</b>
	Neighborhood Living	Scenic Corridor
	Bells Ferry LCI	Transitional Corridor
	Urban Core	Development Corridor
	Workplace Center	
	Regional Center	
	Waste Management	



This map has been compiled from the most up to date and reliable sources available. Cherokee County is not responsible for errors and omissions contained in this map. No warranties or representations are expressed or implied in fact or in law.



Prepared by:  
Cherokee County  
Planning & Land Use  
Canton, Georgia  
October 28, 2015





Pacific Group

15-12-031  
PL 0015-02170





**ZONING NOTICE**  
Case # 1512031  
Public Hearing Date Dec 1st  
Proposed Zone AG  
Map to R-50  
7:00 P.M.  
CITY OF CHEROKEE  
CHEROKEE COUNTY  
ADMINISTRATION BUILDING  
1100 BLUFFS PARKWAY, CANTON  
678-493-6101  
www.cherokeega.com

10-29-2015 15:48





**E B CHAMBERS LAW**  
*E. Benson Chambers*  
Attorney at Law

---

October 9<sup>th</sup>, 2015

Cherokee County Board of Commissioners  
Cherokee County Planning Commission  
1130 Bluff's Parkway  
Canton, GA 30115

RE: Pacific Group  
Public Participation Report

Greetings:

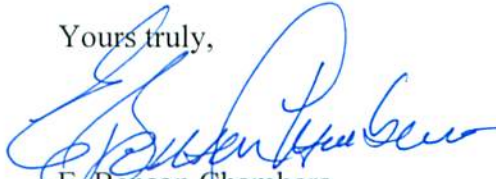
The Public Participation Meeting for the above reference rezone case was held on October 2<sup>nd</sup>, 2015. The meeting was held in the Community Room of the Hickory Flat Fire Department beginning at 6:30 and ending at approximately 7:30.

Fifty Nine notices were mailed to local property owners and interested parties. A sign in sheet was provided which indicates that seven individuals were in attendance. Comment sheets were also provided for the attendees, but no comments were made.

The attendees were given an opportunity to review the proposed site plan and ask questions about the proposed development. Verbal comments were consistent among the attendees which included a desire for larger lots but that the project was acceptable given the fact that there was no proposed access to Charles Cox Drive and that it would clear the property of mobile homes that are currently located there.

Thank you for your consideration of this information.

Yours truly,



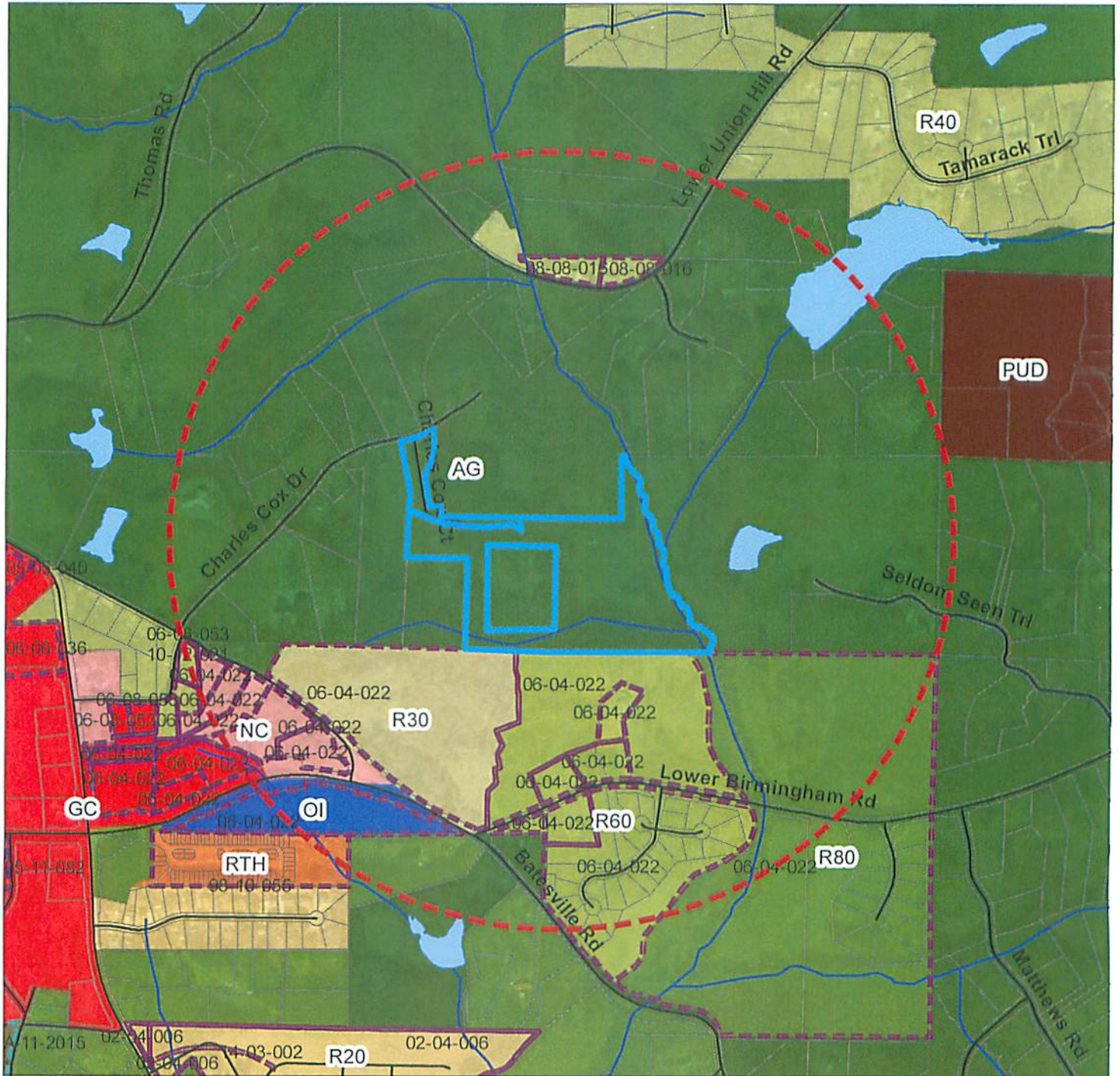
E. Benson Chambers  
Attorney for Pacific Group





# Case # 15-12-031 - Pacific Group

## Current Cherokee County Zoning Map



### Legend

- Rezoning Parcels
  - Streets
  - 1/2 mile radius
  - Recent Zoning Cases
  - City Annexations
- |   |  |
|---|--|
| <p><b>Cherokee Zoning</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #4CAF50; margin-right: 5px;"></span> AG</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FFEB3B; margin-right: 5px;"></span> R80</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #C8E6C9; margin-right: 5px;"></span> R60</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #E8F5E9; margin-right: 5px;"></span> R40</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FFF9C4; margin-right: 5px;"></span> R30</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FFF176; margin-right: 5px;"></span> R20</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FFEB3B; margin-right: 5px;"></span> R15</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FFC107; margin-right: 5px;"></span> RD3</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF9800; margin-right: 5px;"></span> R10</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF5722; margin-right: 5px;"></span> RZL</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF8A65; margin-right: 5px;"></span> RA</li> </ul> | <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF5722; margin-right: 5px;"></span> RTH</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FFC107; margin-right: 5px;"></span> RM10</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF9800; margin-right: 5px;"></span> RM16</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF5722; margin-right: 5px;"></span> TND</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF5722; margin-right: 5px;"></span> PUD</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #2196F3; margin-right: 5px;"></span> OI</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF8A65; margin-right: 5px;"></span> NC</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF0000; margin-right: 5px;"></span> GC</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #9C27B0; margin-right: 5px;"></span> LI</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #673178; margin-right: 5px;"></span> HI</li> <li><span style="display: inline-block; width: 10px; height: 10px; border: 1px solid black; margin-right: 5px;"></span> Bells Ferry Overlay</li> <li><span style="display: inline-block; width: 10px; height: 10px; border: 1px solid black; margin-right: 5px;"></span> Hwy 92 Overlay</li> </ul> |
|---|--|



This map has been compiled from the most up to date and reliable sources available. Cherokee County is not responsible for errors and omissions contained in this map. No warranties or representations are expressed or implied in fact or in law.



Prepared by:  
Cherokee County  
Planning & Land Use  
Canton, Georgia  
October 28, 2015





## Cherokee County, Georgia Agenda Request

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**SUBJECT:** **Case #15-12-032 RRR 2015, LLC (BOC Dist. 1)** **MEETING DATE:** 12/1/2015

**SUBMITTED BY:**  
Tamala Davis

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**COMMISSION ACTION REQUESTED:**

Applicant is requesting to rezone 18.37 +/- acres on Ball Ground Highway from R-80 to RZL for a residential subdivision.

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**FACTS AND ISSUES:**

Commission District: 1  
Zoning Change: R-80 to RZL  
Location: Ball Ground Highway  
Tax Map and Parcel No: 14N27, 013B  
Acres: 18.37 +/-  
Proposed Development: Residential Subdivision  
Future Development Map: Workplace Center

---

**BUDGET:**

Budgeted Amount: Account Name:  
Amount Encumbered: Account #:  
Amount Spent to Date: Remaining Budget:  
Amount Requested:

---

**ADMINISTRATIVE RECOMMENDATION:**

---

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Application	Exhibit
<input type="checkbox"/> Existing Site Resources	Exhibit
<input type="checkbox"/> FDM	Exhibit
<input type="checkbox"/> Notice Signs	Exhibit
<input type="checkbox"/> Legal Description	Exhibit
<input type="checkbox"/> PP Report	Exhibit
<input type="checkbox"/> Site Plan	Exhibit
<input type="checkbox"/> Zoning Map	Exhibit





**CHEROKEE COUNTY**  
**Application for Public Hearing**

**Important Notes:**

1. Please check all information supplied on the following pages to ensure your response is complete and accurate before signing this form. This page should be the first page of your completed application package.
2. All required documents for this application shall be submitted at the same time as the application. An application for a Public Hearing will not be scheduled unless and until it is complete.
3. Please contact the Planning and Land Use Department at 678-493-6101 if you have questions regarding your application package or the public hearing process for your application.

**SECTION I**

Contact Person: Curt Swilley Phone: 404-569-5904  
 Email: swilley@flash.net

**Applicant's Information:**

Name: RRR 2015 LLC

Address: 6185 Crooked Creek Rd Ste. C Phone: 404-569-5904

City, State, Zip: Norcross, GA 30092

Property Owner's Information:  same as above  see attached authorization forms (multiple properties)

Name: Chesley Davis

Address: 5695 Black Mtn. Rd Phone: 770-905-4455

City, State, Zip: DAhlonaga, GA 30533

**Requested Public Hearing (check all that apply):**

- Rezoning  Amendment / Modification of Zoning  
 Variance / Appeal  Other: \_\_\_\_\_

<b>STAFF USE ONLY:</b>	<b>PUBLIC HEARING SCHEDULE:</b>
Commission District: <u>1</u>	Public Participation Meeting: <u>9-22-15</u>
Case: <u>15-12-032</u>	PC Work Session Date: <u>11-16-15</u>
CityView # <u>PL2015-0471</u>	Planning Commission Hearing: <u>12-1-15</u>
Received by: _____	Board of Commissioners: <u>12-15-15</u>
Fee Paid: \$ _____	Zoning Board of Appeals: <u>N/A</u>
Date: <u>10-9-15</u>	Other: _____

**SECTION II**

**Property Information:**

Location: Ball Ground Hwy near Willow Rd

Current Zoning: R-80 Proposed Zoning: RZL Total Acreage: 18.37

Tax Map #: 14 N 27 Parcel #: 013B Land Lot(s): 261, 280 District: 14th

Future Development Map Designation: Workplace Center

Adjacent Zonings: North R-80 South R-80 East R-80 West R-80

Applicant's Request (Itemize the Proposal, including code sections for Variance requests):

Applicant is requesting rezoning the property from R-80 to RZL to allow for 51 homes on the subject property.

Proposed Use(s) of Property:

Residential

**Applicant Affidavit:**

Upon receipt of the completed application package, the Planning and Land Use Department shall notify the applicant of scheduled date, times, and locations of the public meetings/hearings. The applicant or a representative must be present to answer any questions that may be asked. In the event that an application is not complete, the case may be delayed or postponed at the discretion of the department.

This form is to be executed under oath. I, Curt Swilley, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Application for Public Hearing is true and correct and contains no misleading information.

This 22 day of September, 2015.

Print Name Curt Swilley For RRR 2015, LLC.

Applicant Signature .

**SECTION III**

**Infrastructure Information:**

Is water available to this site?  Yes  No      Jurisdiction: \_\_\_\_\_

How is sewage from this site to be managed?

Sewer \_\_\_\_\_

Will this proposal result in an increase in school enrollment?  Yes  No

If yes, what is the projected increase? 31 students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home	51	0.725	37
Multi Family (Attached) Home		0.287	

**Traffic Generation:**

A traffic impact study prepared by a registered engineer will be required if the proposed subdivision exceeds 250 dwelling units; the non-residential development contains more than 25,000 square feet of floor area; or at the discretion of the County Engineer. If a traffic study is not required as part of this application, complete the following charts to estimate traffic generated by the proposal. Information for additional residential and all commercial/industrial development shall follow the summary of ITE Trip Generation Rates published in the Transportation Planning Handbook by the Institute of Transportation Engineers.

What is the estimated number of trips generated? 488 trips

Code	Land Use(s)	# of units or sqft*	Daily Trip Ends*	Number of Trips
210	Single Family Home/ Townhome	51	9.57	488
220	Apartment		6.63	

**Notes:**

\* Residential land uses are calculated based on the number of residential units. Commercial and industrial land uses are typically calculated based on square feet (sqft) of floor area for the use.

+ Residential daily trip ends per unit are shown. Contact Planning and Land Use staff about rates for other land uses.

**CAMPAIGN DISCLOSURE STATEMENT**

Nothing in Chapter 36 of OCGA shall be construed to prohibit a local government official from voting on a zoning decision when the local government is adopting a zoning ordinance for the first time or when a local government is voting upon a revision of the zoning ordinance initiated by the local government pursuant to a comprehensive plan as defined in Chapter 70 of this title.

No, I have not made any campaign contribution to County Officials voting on this application exceeding \$250 in the past two years.

Yes, I have made campaign contributions to County Officials voting on this application exceeding \$250 in the past two years.

To Whom: \_\_\_\_\_

Value of Contribution: \_\_\_\_\_

Date of Contribution: \_\_\_\_\_

Signature of Applicant:  Date: 9/22/2015

Print Name: Curt Swilley for RRR 2015, LLC

Sworn to and Subscribed before me this: 22 day of September, 2015.

Notary Signature: 

(Notary Seal)





giving a local government official from voting on a matter... shall be construed to prohibit a local government official from voting on a matter... shall be construed to prohibit a local government official from voting on a matter...

1. I have not made any campaign contribution to County Officials voting on the... in the past two years.

2. I have made the campaign contribution to County Officials voting on the... in the past two years.

To Whom: \_\_\_\_\_  
Name of Contribution: \_\_\_\_\_  
Date of Contribution: \_\_\_\_\_

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
I have read and understand the contents of this statement and I agree to the terms and conditions of this statement.



(Print Name)

SECTION IV

CONFLICT OF INTEREST CERTIFICATION

The undersigned below, making application for a zone change has complied with the O.C.G.A. § 36-67A, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided. Title 36 relates to disclosure of financial interests, campaign contributions, and penalties for violating O.C.G.A.

Signature of Applicant:  Date: 9/22/2015

Print Name: Curt Swilley, Manager for RRR 2015, LLC

Signature of Applicant's Attorney: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Sworn to and Subscribed before me this: 22 day of September, 2015.

Notary Signature: 

(Notary Seal)



**AUTHORIZATION OF PROPERTY OWNER**

I, Chesley Davis, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states; That he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Cherokee County/Cherokee County, Georgia.

He/She authorizes the person named below to act as applicant in the pursuit of a request for:

Rezoning

Amendment / Modification of Zoning Conditions

Variance / Appeal

Other: \_\_\_\_\_

I hereby authorize the staff of the Cherokee County, Department of Planning and Land Use to inspect the premises which are subject of the application.

**Applicant's Information:**

Name: RRR 2015 LLC

Address: 6185 Crooked Creek Rd. Ste C Phone: 404-569-5904

City, State, Zip: Norcross, GA 30092

**Property Owner's Information:**

Name: Chesley Davis

Address: 5695 Black Mtn. Rd. Phone: 770-905-4455

City, State, Zip: Dahlonega, GA 30533

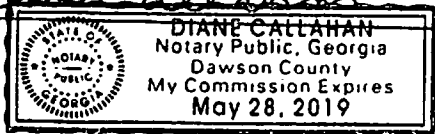
Signature of Owner: Chesley Davis Date: 9-29-15

Print Name: Chesley Davis

Sworn to and Subscribed before me this: 29 day of September, 2015.

Notary Signature: Diane Callahan

(Notary Seal)





# **APPLICANT RESPONSE STATEMENT**

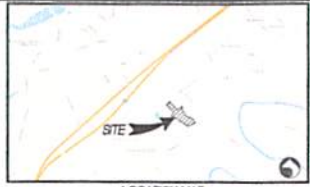
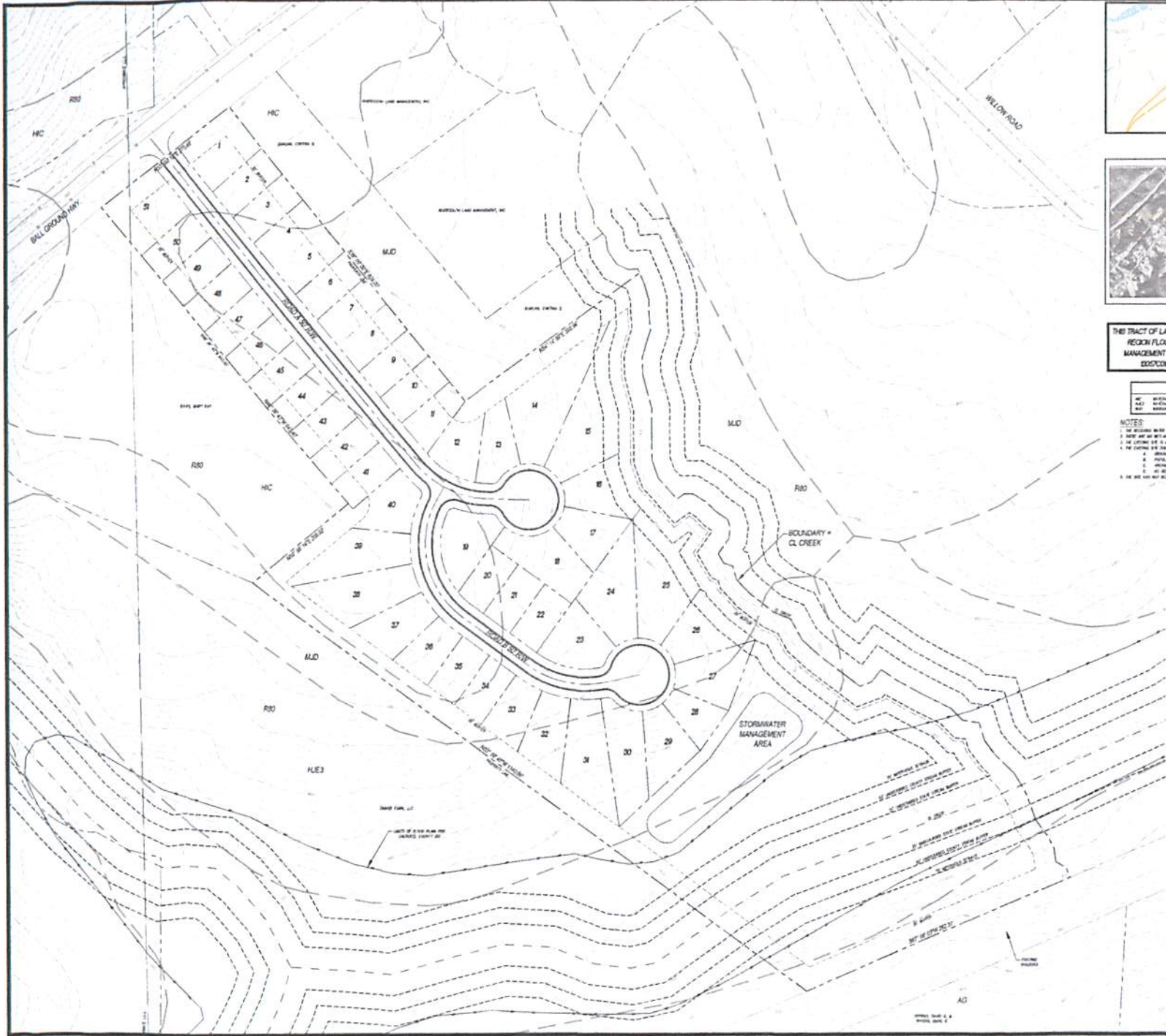
## **REZONINGS AND AMENDMENTS / MODIFICATIONS TO ZONING CONDITIONS**

The applicant finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of property and shall govern the exercise of the zoning power.

If this application is in response to an annexation and/or rezoning, please respond to the following standards in the form of a written narrative:

- 1. Explain the intent of the requested zoning. APPLICATION/OWNER SEEKS A ZONING CLASSIFICATION CONSISTENT WITH THE AREA. CURRENTLY THERE IS GC, LI, RM10 AND RZL NEAR AND AROUND THE PROPERTY.**
- 2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. YES, THE ADJACENT AND NEARBY PROPERTIES WOULD NOT BE AFFECTED WITH THE ZONING.**
- 3. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property. NO. THIS AREA WILL CONTINUE TO BE A WORKPLACE AREA FOR THE COUNTY. MOST OF THE USES ON THIS ROAD ARE COMMERCIAL AND LIGHT INDUSTRIAL. THERE IS A NEED FOR MORE AFFORDABLE HOUSING IN THIS AREA.**
- 4. Whether the property to be affected by a proposed zoning has a reasonable economic use as currently zoned. NO. THE CURRENT ZONING CLASSIFICATION OF R-80 IS NOT CONDUCIVE TO THE AREA. THERE IS NO MARKET FOR 2 ACRE LOTS IN THIS AREA.**
- 5. Whether the proposed zoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. NO, PREVIOUSLY CHEROKEE COUNTY ENGINEERING HAS REPORTED THAT BALL GROUND HWY IS ADEQUATE AS A TWO LANE PAVED LOCAL ROADWAY. ADEQUATE UTILITIES INCLUDING SEWER AND WATER ARE AVAILABLE. THE ADDITION OF 37 STUDENTS SPREAD ACROSS ALL GRADE LEVELS CAN BE MITIGATED THROUGH THE SCHOOL SYSTEM.**
- 6. Whether the proposed zoning is in conformity with the policy and interest of the land use plan. YES, THE LAND USE PLAN FOR THIS AREA IS WORKPLACE AREA WHERE PEOPLE CAN LIVE AND WORK. THIS DEVELOPMENT WOULD CUT DOWN ON WORKERS TRAVELING OUTSIDE THIS AREA INTO THE COMMUNITY TO WORK.**

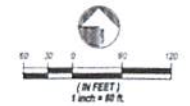
7. Whether there is other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approved or disapproval of the proposed zoning. THE NEARBY AREA IS CONTINUING TO INCREASE WITH JOBS THAT NEED MORE WORKING IN THE AREA THAT CAN LIVE IN THE AREA. THIS COMMUNITY WOULD HELP TO PROVIDE WORKERS HOUSES THAT THEY CAN AFFORD.



THIS TRACT OF LAND DOES NOT LIE WITHIN THE 100 YEAR INTERMEDIATE REGION FLOOD ZONE AS PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY AS SHOWN ON COMMUNITY PANEL NO 805200404 LAST REVISION SEPTEMBER 28, 2008.

SOIL CLASSIFICATIONS	
AG	WATERLOO SOILS (SANDY LOAM) 4 TO 10 INCHES TO 3 FT
MJD	MIDDLEBURY SOILS (SANDY LOAM) 10 TO 20 INCHES TO 2 FT
R8D	ROSELAND SOILS (SANDY LOAM) 10 TO 20 INCHES TO 2 FT

- NOTES**
- THE BOUNDARY BETWEEN THE 100 YEAR INTERMEDIATE REGION FLOOD ZONE AND THE 500 YEAR FLOOD ZONE IS SHOWN ON COMMUNITY PANEL NO 805200404 LAST REVISION SEPTEMBER 28, 2008.
  - THE EXISTING SITE IS UNDEVELOPED AND PRESENTLY UNIMPROVED.
  - THE EXISTING SITE DOES NOT CONTAIN ANY SPECIAL OCCURRENCE OF THE FOLLOWING:
    - UNDESIGNED BURIED SERVICE
    - UNDESIGNED BURIED UTILITY SERVICE
    - UNDESIGNED BURIED WATER SERVICE
    - UNDESIGNED BURIED GAS SERVICE
    - UNDESIGNED BURIED TELEPHONE SERVICE
  - THE SITE IS NOT BEING DEVELOPED IN ANY MANNER OF LAND, WATERS, AND SERVICES.



THE CLIENT AND CONTRACTOR ARE THE SOLE RESPONSIBLE PARTIES FOR THE ACCURACY OF THE INFORMATION SHOWN ON THIS PLAN. THE CONTRACTOR SHALL VERIFY ALL INFORMATION FOR THE PROJECT BEFORE AND AFTER THE CONSTRUCTION BEGINS. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL INFORMATION SHOWN ON THIS PLAN. ALL INFORMATION IS FOR INFORMATIONAL PURPOSES ONLY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION SHOWN ON THIS PLAN.



LAND PLAN  
**HIGHWAY 20 TRACT**  
LAND LOTS 391 & 392  
CANTON, GEORGIA 30114

OWNER/DEVELOPER  
**ROCK RIVER REALTY, LLC**  
#185 CROOKED CREEK ROAD  
SUITE C  
MORCROSS, GEORGIA 30092  
PHONE: 404.888.8944



REVISIONS

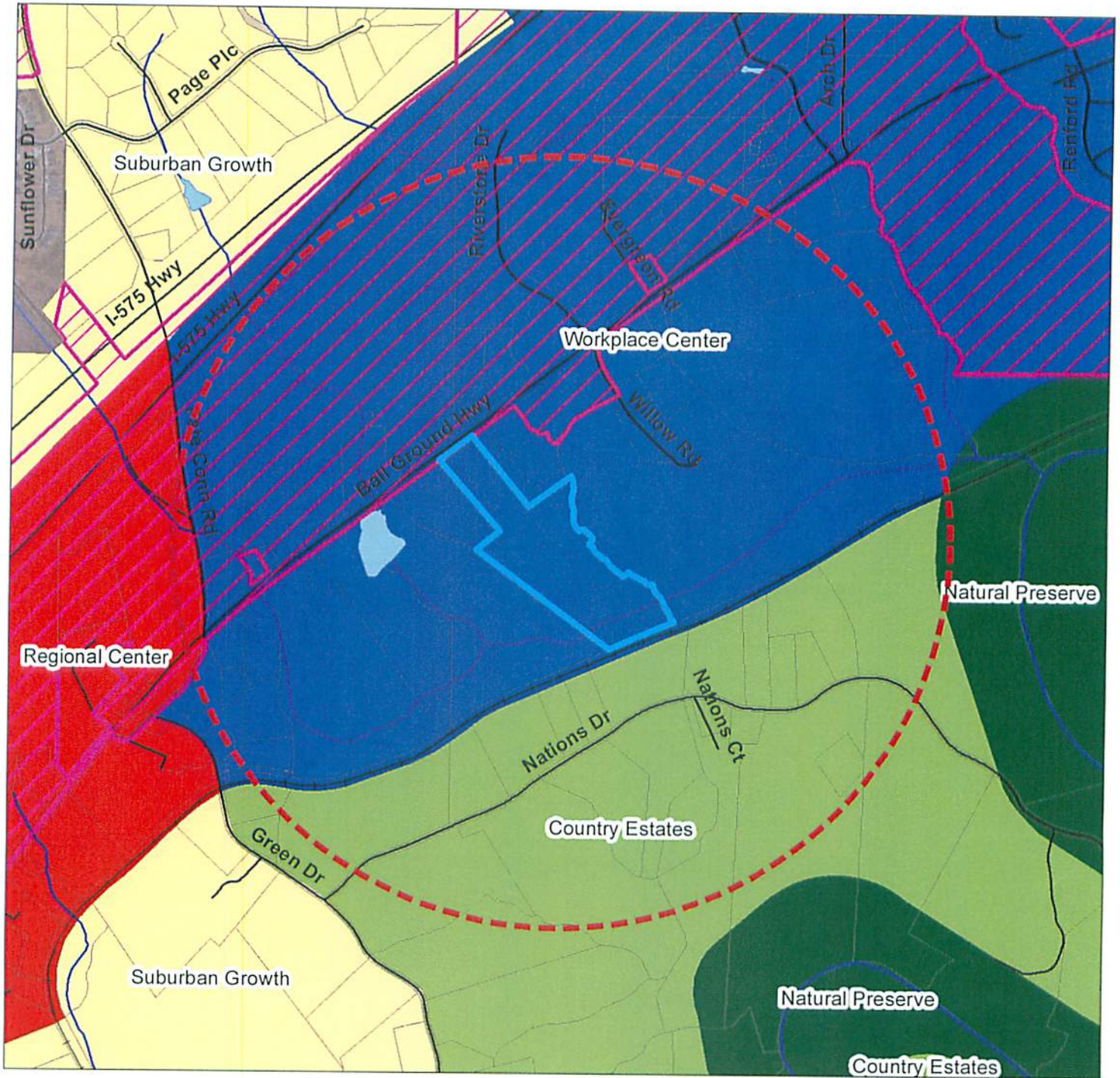
NO.	DESCRIPTION

SITE RESOURCE PLAN  
**Z101**



# Case # 15-12-032 - RRR 2015 LLC

Future Development Map from the Comprehensive Plan



### Legend

- |                  |                        |                          |
|------------------|------------------------|--------------------------|
| Rezoning Parcels | <b>Character Areas</b> | <b>Development Nodes</b> |
| City of Canton   | Natural Preserve       | County Crossroads        |
| Tech. Ridge OZ   | Rural Places           | Hamlet                   |
| Streets          | Country Estates        | Neighborhood Village     |
| 1/2 mile radius  | Suburban Growth        | Community Village        |
|                  | Suburban Living        | <b>Corridors</b>         |
|                  | Neighborhood Living    | Scenic Corridor          |
|                  | Bells Ferry LCI        | Transitional Corridor    |
|                  | Urban Core             | Development Corridor     |
|                  | Workplace Center       |                          |
|                  | Regional Center        |                          |
|                  | Waste Management       |                          |



This map has been compiled from the most up to date and reliable sources available. Cherokee County is not responsible for errors and omissions contained in this map. No warranties or representations are expressed or implied in fact or in law.



Prepared by:  
Cherokee County  
Planning & Land Use  
Canton, Georgia  
October 28, 2015





**ZONING  
NOTICE**

Case # 15-VL032

Case #

Public Hearing Date Dec 1<sup>st</sup>

Public Hearing Time 7:00

Project # BZL

Time 7:00 P.M.

7:00 P.M.

COURT HALL

GEORGIA COUNTY

ADMINISTRATIVE BUILDING

100 SOUTH FRONT STREET

678-493-6101







Please return to:  
James H. Turner, P.C.  
Attorney at Law  
4396 Earnsey Road  
Woodstock, GA 30188

**QUIT-CLAIM DEED**

**Deed Service Only / No Certification as to Title**

State of Georgia  
Cherokee County

**THIS INDENTURE**, made this 23rd day of May, 2005 between CRD Farm, LLC, a Georgia limited liability company *f/k/a* Davis Scott Farm, LLC, a Georgia limited liability company, of the State of Georgia and County of Cherokee of the first part, and CRD Farm, LLC, a Georgia limited liability company, of the State of Georgia and County of Cherokee, as party of the second part.

WITNESSETH: That the said party of the first part for and in consideration of the sum of One Dollar and other valuable consideration, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold and does by these presents bargain, sell, remise, release and forever quit-claim to the said party of the second part, its heirs and assigns, all that right, title, interest, claim or demand which the said party of the first part has or may have had in and to the following parcel of land:

All that tract or parcel of land lying and being in Lot Lots 261 and 280 of the 14<sup>th</sup> District, 2<sup>nd</sup> Section of Cherokee County, Georgia and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, begin at an iron pin set which is located at the intersection of the common land lot line of Land Lots 261 and 280 and the northwesterly right of way of the Georgia Northeastern Railroad (40 foot right of way allowed); thence traveling along the northwesterly right of way of the Georgia Northeastern Railroad the following courses and distances: North 53°13'45" East a distance of 175.63 feet to a point; thence traveling North 53°13'45" East a distance of 84.21 feet to a point; thence traveling North 56°58'30" East a distance of 110.43 feet to a point; thence traveling North 62°51'55" East a distance of 112.58 feet to a point; thence traveling North 65°19'44" East a distance of 123.93 feet to a point; thence traveling North 65°44'00" East a distance of 210.30 feet to a point; thence traveling North 65°28'58" East a distance of 253.09 feet to a point; thence traveling North 65°31'37" East a distance of 182.44 feet to a point; thence traveling North 65°42'03" East a distance of 140.46 feet to an iron pin set which is THE TRUE POINT OF BEGINNING; thence leaving the northwesterly right of way of the Georgia Northeastern Railroad and traveling North 57°17'15" West a distance of 1234.85 feet to an iron pin set; thence traveling North 51°51'02" East a distance of 200.00 feet to an iron pin set; thence traveling North 41°49'10" West a distance of 620.51 feet to an iron pin set which is located on the southeasterly right of way of Ball Ground Highway *a/k/a* State Route 5 (80 foot right of way); thence traveling along the southeasterly right of way of Ball Ground Highway *a/k/a* State Route 5 North 51°51'02" East a distance of 743.72 feet to a point; thence leaving the southeasterly right of way of Ball Ground Highway *a/k/a* State Route 5 and traveling South 40°43'00" East a distance of 42.25 feet to a point; thence traveling South 14°27'31" East a distance of 11.90 feet to a point; thence traveling South 20°48'59" East a distance of 35.13 feet to a point; thence traveling South 13°54'27" East a distance of 22.66 feet to a point; thence traveling South 33°24'43" East a distance of 41.36 feet to a point; thence traveling South 39°26'53" East a distance of 17.93 feet to a point; thence traveling South 58°40'42" East a distance of 32.30 feet to a point; thence traveling South 59°08'21" East a distance of 40.15 feet to a point; thence traveling South 72°05'01" East a distance of 13.22 feet to a point; thence traveling South 08°44'58" West a distance of 14.70 feet to a point; thence traveling South 29°00'29" East a distance of 37.65 feet to a

*MKD*

point; thence traveling South 56°40'16" East a distance of 25.93 feet to a point which is located at the centerline of a branch; thence traveling along the centerline of the meanderings of said branch the following courses and distances: South 32°05'48" East a distance of 64.27 feet to a point; thence traveling South 21°16'57" West a distance of 40.65 feet to a point; thence traveling South 18°57'10" East a distance of 134.54 feet to a point; thence traveling South 37°44'57" East a distance of 41.40 feet to a point; thence traveling South 61°30'39" East a distance of 38.49 feet to a point; thence traveling South 05°09'26" East a distance of 73.49 feet to a point; thence traveling South 07°29'29" West a distance of 57.25 feet to a point; thence traveling South 07°03'13" East a distance of 55.90 feet to a point; thence traveling South 16°05'38" East a distance of 23.87 feet to a point; thence traveling South 04°11'31" West a distance of 87.04 feet to a point; thence traveling South 21°14'58" East a distance of 45.04 feet to a point; thence traveling South 61°07'21" East a distance of 43.49 feet to a point; thence traveling North 45°29'36" East a distance of 17.50 feet to a point; thence traveling South 49°25'48" East a distance of 90.61 feet to a point; thence traveling South 28°36'53" West a distance of 51.74 feet to a point; thence traveling South 66°54'12" East a distance of 38.18 feet to a point; thence traveling South 15°46'37" East a distance of 27.88 feet to a point; thence traveling South 52°16'07" East a distance of 109.37 feet to a point; thence traveling South 26°23'32" East a distance of 66.59 feet to a point; thence traveling South 62°14'37" East a distance of 75.06 feet to a point; thence South 46°05'48" East a distance of 50.43 feet to a point; thence traveling North 79°28'13" East a distance of 15.53 feet to a point; thence traveling North 58°22'52" East a distance of 23.63 feet to a point; thence traveling South 69°01'55" East a distance of 12.48 feet to a point; thence traveling South 55°12'53" East a distance of 175.17 feet to a point; thence traveling South 55°28'26" East a distance of 92.85 feet to a point; thence leaving the centerline of said branch and traveling along the centerline of a ditch South 27°57'00" East a distance of 243.93 feet to a marble monument found which is located on the northwesterly right of way of the Georgia Northeastern Railroad (40 foot right of way allowed); thence traveling along the northwesterly right of way of the Georgia Northeastern Railroad the following courses and distances: South 70°52'56" West a distance of 78.85 feet to a point; thence traveling South 70°22'29" West a distance of 90.97 feet to a point; thence traveling South 67°37'22" West a distance of 94.31 feet to a point; thence traveling South 65°42'03" West a distance of 131.37 feet to an iron pin set which is THE TRUE POINT OF BEGINNING. Said parcel contains 24.367 acres and is known as Tract 3 on a survey prepared for Mary Kay Davis by Chastain & Recce, P.C., dated October 27, 1999 and recorded in Plat Book 61, Page 74, Cherokee County, Georgia records and incorporated herein by reference thereto.

**Less and except:**

All that tract or parcel of land lying and being in Land Lot 280 of the 14<sup>th</sup> District, 2<sup>nd</sup> Section Cherokee County, Georgia and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, begin at iron pin found (5/8 inch rebar) which is located at the intersection of the northerly right of way of Ball Ground Highway a/k/a State Route No. 5 (80 foot right of way) and the common land lot line of Land Lots 261 and 280; thence leaving said iron pin and traveling North 72°56'22" East a distance of 240.69 feet to an iron pin set (1/2 inch rebar) which is located on the southerly right of way of Ball Ground Highway a/k/a State Route No. 5 and which is THE TRUE POINT OF BEGINNING; thence traveling along the southerly right of way of Ball Ground Highway a/k/a State Route No. 5 North 53°22'50" East a distance of 365.19 feet to a point located at the centerline of a stream; thence leaving the southerly right of way of Ball Ground Highway a/k/a State Route No. 5 and traveling along the centerline of said stream the following courses and distances: South 39°11'12" East a distance of 42.25 feet to a point; thence traveling South 12°55'43" East a distance of 11.90 feet to a point; thence traveling South 19°17'11" East a distance of 35.13 feet to a point; thence traveling

MKD

South 12°22'39" East a distance of 22.66 feet to a point; thence traveling South 31°52'55" East a distance of 41.36 feet to a point; thence traveling South 37°55'05" East a distance of 17.93 feet to a point; thence traveling South 57°08'54" East a distance of 32.30 feet to a point; thence traveling South 57°36'33" East a distance of 40.15 feet to a point; thence traveling South 70°33'13" East a distance of 13.22 feet to a point; thence traveling South 10°16'46" West a distance of 13.79 feet to a point; thence leaving the centerline of said stream and traveling South 54°13'14" West a distance of 346.58 feet to an iron pin set (1/2 inch rebar); thence traveling North 40°17'22" West a distance of 250.00 feet to an iron pin set (1/2 inch rebar) which is located on the southerly right of way of Ball Ground Highway a/k/a State Route No. 5 and which is THE TRUE POINT OF BEGINNING. Said parcel contains 2.00 acres. Specific reference is made to a survey for Davis Scott, LLC prepared by Robert J. Cagle, R.L.S. #2392, dated January 29, 2001 and recorded in Plat Book 65, Page 49, Cherokee County, Georgia deed records and incorporated herein by reference thereto.

with all the rights, members and appurtenances to the said described premises in anywise appertaining or belonging.

TO HAVE AND TO HOLD the said described premises unto the said party of the second part, its heirs and assigns, so that neither the said party of the first part nor its heirs, or assigns, nor any other person or persons claiming under them shall at any time, claim or demand any right, title or interest to the aforesaid described premises or its appurtenances.

IN WITNESS WHEREOF, the said party of the first part has hereunto set its hand and affixed its seal the day and year above written.

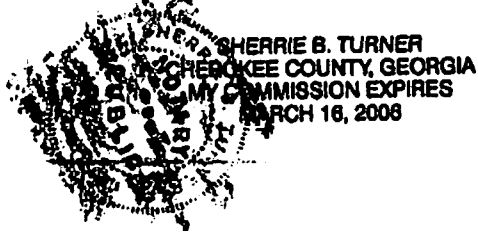
Signed, sealed and delivered in the presence of:

CRD Farm, LLC, a Georgia limited liability company

Jamie R. Christy  
Witness

Mary Kay Davis  
By: Mary Kay Davis  
Its: Manager

Shirley B. Turner  
Notary Public





October 7, 2015

Cherokee County Planning Commission  
Cherokee County Board of Commissioners

Subject: Public Participation Plan Report for Rezoning Parcel #14N27-013B

To Whom It May Concern:

In an effort to foster good community accord among neighbors, we sent a letter to all surrounding property owners within 750 feet of the legal boundary of the subject property and all individuals on the interested parties list (please see list attached) to inform them of our intentions. Included in the letter was a site plan (please see attached copy of letter and site plan). We held a meeting on September 22 at 6:30 P.M. at the Ball Ground Library located at 435 Old Canton Rd, Ball Ground, GA 30107. There were no attendees.

Respectfully submitted,  
RRR 2015, LLC

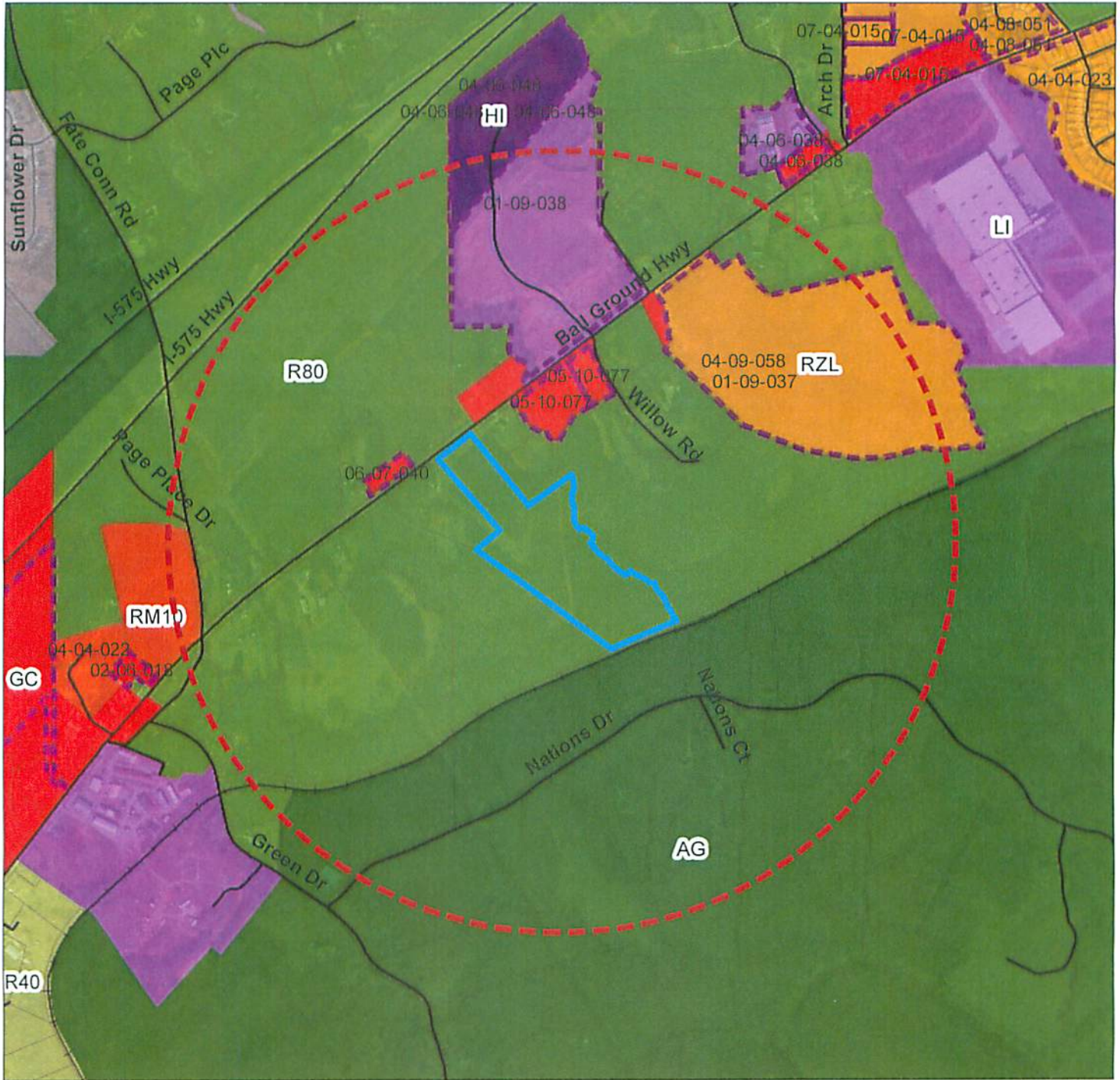
A handwritten signature in blue ink, appearing to be 'G. Curtis Swilley', written over the text 'RRR 2015, LLC'.

By: G. Curtis Swilley Its: Manager



# Case # 15-12-032 - RRR 2015 LLC

## Current Cherokee County Zoning Map



### Legend

- |                     |                 |                     |
|---------------------|-----------------|---------------------|
| Rezoning Parcels    | Cherokee Zoning | RTH                 |
| City of Canton      | AG              | RM10                |
| Streets             | R80             | RM16                |
| 1/2 mile radius     | R60             | TND                 |
| Recent Zoning Cases | R40             | PUD                 |
|                     | R30             | OI                  |
|                     | R20             | NC                  |
|                     | R15             | GC                  |
|                     | RD3             | LI                  |
|                     | R10             | HI                  |
|                     | RZL             | Bells Ferry Overlay |
|                     | RA              | Hwy 92 Overlay      |



This map has been compiled from the most up to date and reliable sources available. Cherokee County is not responsible for errors and omissions contained in this map. No warranties or representations are expressed or implied in fact or in law.



Prepared by:  
Cherokee County  
Planning & Land Use  
Canton, Georgia  
October 28, 2015







## Cherokee County, Georgia Agenda Request

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**SUBJECT:**  
**Public Hearing on Tree Ordinance Revisions**

**MEETING DATE:**  
12/1/2015

**SUBMITTED BY:**  
Margaret Stallings, Principal Planner

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**COMMISSION ACTION REQUESTED:**

Hold a public hearing on the revisions and make a recommendation to the Board of Commissioners.

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**FACTS AND ISSUES:**

Planning and Engineering Department staff have prepared revisions to the Tree Ordinance pertaining to Timber Harvesting, the definition of Pasture Land and a targeted Industrial Development Exclusion. After this public hearing, the matter will then come to the Board of Commissioners for adoption on December 15, 2015.

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**BUDGET:**

Budgeted Amount:

Account Name:

Amount Encumbered:

Account #:

Amount Spent to Date:

Remaining Budget:

Amount Requested:

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**ADMINISTRATIVE RECOMMENDATION:**

Make a recommendation to the Board of Commissioners on these Zoning Ordinance revisions.

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**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Proposed Ordinance	Ordinance
<input type="checkbox"/> Memo to Development Authority	Backup Material
<input type="checkbox"/> Summary from Development Authority	Backup Material

STATE OF GEORGIA  
COUNTY OF CHEROKEE

ORDINANCE NO. 2015-\_\_\_\_\_

**AN ORDINANCE TO AMEND ARTICLE 27 – TREE PRESERVATION AND REPLACEMENT OF THE 1992 ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA; TO PROVIDE CLARIFICATION REGARDING A STATE STATUTORY EXEMPTION TO THE CHEROKEE COUNTY TREE PRESERVATION AND REPLACEMENT ORDINANCE; TO REQUIRE PRIOR NOTICE AND FINANCIAL GUARANTEES FOR CERTAIN TIMBER HARVESTING ACTIVITIES; TO UPDATE THE PASTURE LAND DEFINITION; TO PROVIDE AN EXCLUSION FOR MAJOR INDUSTRIAL BUILDINGS; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the county may adopt clearly reasonable ordinances, resolutions, and regulations; and

**WHEREAS**, O.C.G.A. § 36-1-20 authorizes counties to enact ordinances for protecting and preserving the public health, safety, and welfare of the population of the unincorporated areas of the County; and

**WHEREAS**, the governing authority of Cherokee County (the “County”), to wit, the Board of Commissioners (the “Board”), desires to exercise its authority in adopting this Ordinance; and

**WHEREAS**, Article 27 of the 1992 Zoning Ordinance of Cherokee County, sets forth compliance standards for Tree Preservation and Replacement within the County; and

**WHEREAS**, the Board finds that it is in the public interest to amend Article 27, Tree Preservation and Replacement Ordinance, Section 27.6, Exemptions, of the 1992 Zoning Ordinance of Cherokee County to clarify regarding a State statutory exemption for timber harvesting operations pursuant to Official Code of Georgia Annotated, Section 12-6-24 and requirements for prior notice, financial guarantees and procedure; and

**WHEREAS**, the Board finds that it is in the public interest to amend Article 27 – Tree Preservation and Replacement to revise site density requirements for industrial development and update the definition of pasture land, of the 1992 Zoning Ordinance of Cherokee County; and

**WHEREAS**, a notice of public hearing was duly published as required by O.C.G.A. § 36-66-4 a copy of which is attached hereto as **Exhibit B**; and

**WHEREAS**, pursuant to O.C.G.A. § 36-66-4, a public hearing by the Cherokee County Municipal Planning Commission was held on December 1, 2015 after public notice as required by law, at which time owners of property affected and other citizens of the county were given the opportunity to attend and comment;

**NOW, THEREFORE,** BE IT ORDAINED AND RESOLVED BY THE CHEROKEE COUNTY BOARD OF COMMISSIONERS AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE 1992 ZONING ORDINANCE OF CHEROKEE COUNTY IS HEREBY AMENDED AS SHOWN IN **EXHIBIT A** ATTACHED.

**SO ENACTED AND EFFECTIVE** THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2015.

**CHEROKEE COUNTY BOARD OF COMMISSIONERS**

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L.B. Ahrens, Chairman

ATTEST:

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Christy Black, County Clerk



## EXHIBIT A

### Section 27.3 Definitions

Strike:

~~**Pasture Land** — Land cleared of trees for agricultural use as depicted on County aerial photos as of the January 1, 2005.~~

Replace with:

**Pasture Land** – Land cleared of trees and used for livestock grazing or crop production for the past 5 years as depicted on aerial photos from Cherokee County or other sources.

### Section 27.6 Exemptions

Strike:

~~6-1.7 Timber harvesting operations not incidental to development that qualify as forestry land management practices or agricultural operations on tracts which are zoned for forestry, silvicultural, or agricultural purposes. An approval letter from the Arborist is required prior to commencement of qualified timber harvesting.~~

Insert:

6-1.7 Timber harvesting operations as described in O.C.G.A. § 12-6-24(e)(3) and (4), meaning timber cutting that: 1) qualifies as a 'forest land management practice' or 'agricultural operation' under O.C.G.A. § 12-7-17; 2) is not incidental to development; and 3) is located on tracts zoned for or used for forestry, silvicultural, or agricultural purposes. However, such timber harvesting operations shall remain subject to the notice and guarantee requirements of Subsection 27.6.4, when applicable.

#### 27.6-4 Timber Harvesting Operations.

6-4.1 Notice. Pursuant to and in compliance with O.C.G.A. § 12-6-24, all persons or firms harvesting standing timber in any unincorporated area of the County for delivery as pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant shall provide notice of such harvesting operations to the County Arborist prior to entering onto the property if possible, but in no event later than 24 hours after entering onto the property. Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed. Such notice shall be provided for each separate tract to be harvested and shall be on and comply with the form provided by the Georgia Forestry Commission at Section 224-2-.01 of the Rules of the Georgia Forestry Commission. Such notice shall be accompanied by a guarantee as required by Subsection 6-4.2 below. Such notice may be provided to the County Arborist in person, by mail, by facsimile transmission, or by email transmission. Any subsequent change in the facts provided in the notice shall be reported to the County Arborist within three (3) business days after such change. A copy of all timber harvest notices received by the County Arborist shall be provided to the Cherokee County Tax Assessor and the Cherokee County Tax Commissioner.

## EXHIBIT A

- 6-4.2 **Guarantee.** Pursuant to and in compliance with O.C.G.A. § 12-6-24(b)(3), the notice required by Section 6-4.1 above shall be accompanied by a bond or letter of credit, protecting the County against any damage caused by the timber harvesting operations, in the amount of \$5,000.00 or such lesser amount as the County Arborist may authorize in writing. All such bonds and letters of credit shall be on the forms provided by the County and shall be submitted to the Cherokee County Engineering Department by delivering the original bond/letter of credit or a copy of the previously provided and current bond/letter of credit applicable to that person. No more than one bond/letter of credit is required from each person or firm harvesting timber regardless of the number of tracts harvested, so long as the bond remains in effect. Otherwise, a valid replacement bond/letter of credit must be obtained and delivered to the County Arborist no later than the close of business on the fifth business day following the day that the County filed a claim to recover damages against the then-existing bond. Upon filing such claim, the County shall provide immediate notice thereof, including the date the claim was filed, to the person or firm causing the damage. Such notice may be given in person, by facsimile transmission or by email transmission.
- 6-4.3 **Fees.** There is no fee required for submitting a notice of timber harvest.
- 6-4.4 **Penalty.** Violation of the notice requirements of this Subsection 27.6-4 shall be punishable by a fine not exceeding \$500.00.

### **Appendix C – Site Density Requirements**

Insert:

#### **Industrial Development Exclusion**

Large industrial buildings for headquarters, manufacturing, warehouse distribution and similar uses often cover the majority of a development site. In addition, the development of the site for a single industrial building typically requires a significant amount of tree clearing and grading. Considering these unique development conditions for this land use, 100% of the building footprint may be excluded from site density calculations if the following conditions are met:

1. Property is zoned LI or HI
2. Minimum building footprint is 30,000 square feet

# Memo on Tree Ordinance and Stream Buffers

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## Purpose

This memo is intended to respond to suggestions from the Cherokee County Office of Economic Development’s Review of our Cherokee County Tree Ordinance and Stream Buffer requirements.

## Background

Tree ordinances in the Metro Atlanta area vary greatly. Each ordinance is designed to fit the unique environment of each jurisdiction. There may be common provisions but it is difficult to compare individual provisions across multiple jurisdictions because they are each part of a whole set of regulations.

Focusing on the regulations from the counties of Cherokee, Forsyth, Hall and Gwinnett, there are significant differences in the overall package of requirements in each tree ordinance. The chart below illustrates these differences.

	<i>Cherokee</i>	<i>Forsyth</i>	<i>Gwinnett</i>	<i>Hall</i>
Area for Calculations	Total Site	Disturbed Area	Disturbed Area	Total Site
Tree Density per acre	15	15	16	15
Pasture Land Density Reduction	10	No	No	No
Buffer Credit - Zoning	Yes, 50%	No	No	No
Buffer Credit - Stream	Yes, 50%	No	Yes	No
Flood Plain Credit	Yes, 100%	No	Yes, 50%	No
Min. Existing Trees	4in caliper	2in caliper	3in caliper	1in caliper
Min. Replacement Trees	2in caliper	1in caliper	2in caliper	1in caliper
Flowering Ornamental Credit	Yes	Yes	Yes	No
Pine Tree Density	100%	100%	100%	30% max.
Specimen Tree Credit	4x	4x	1x	2x
Specimen Tree Recompense	2x	3x	2x	1x
Building Footprint Exclusion	No	No	No	Yes, 100%

For example, half of the ordinances use the disturbed area versus the total site for the tree density calculations. In addition, there is a lot of variety in the various credits available and which trees may be included in calculations of tree density. The Cherokee County Tree Ordinance sets a relatively high standard for some requirements but offers a lot of credits and reductions to balance the impact on development. The following discussion will go into more depth about the concerns expressed in the COED report.

## Unit Values

### Existing Tree Values

Our existing tree ordinance, allows two methods of establishing the density of existing trees on a property, sample areas or timber cruising. The sample area method requires a series of 50ft square areas to be marked and all trees within each square to be cataloged. This method is relatively labor



intensive. In contrast, the timber cruising method is relatively quick since the surveyor can stand in a single spot and use a prism to assess the trees in all directions. The only disadvantage to timber cruising is that trees smaller than 4in caliper cannot be counted. The minimum threshold in the ordinance was set to 4in caliper so that the two methods would be comparable.

#### Replacement Tree Values

During the recent tree ordinance revision, a minimum replacement size of 2" caliper was added to give newly developed sites a quicker recovery and better initial appearance. Considering the table at the beginning, the minimum 2in caliper is not inconsistent with other ordinances.

### **Pasture Land Density Reduction**

The Pasture Land Density Reduction is a unique feature of the Cherokee County Tree Ordinance. We agree that the definition for Pasture Land needs to be revised. We will be proposing the following revised definition:

**Pasture Land** – Land cleared of trees and used for livestock grazing or crop production for the past 5 years as depicted on aerial photos from Cherokee County or other sources.

### **Building Footprint Exclusion**

We considered the challenges that are unique to large industrial buildings. The Hall County exclusion is an interesting provision that tries to address these issues. We will be proposing the following targeted exclusion provision

#### **Industrial Development Exclusion**

Large industrial buildings for headquarters, manufacturing, warehouse distribution and similar uses often cover the majority of a development site. In addition, the development of the site for a single industrial building typically requires a significant amount of tree clearing and grading. Considering these unique development conditions for this land use, 100% of the building footprint may be excluded from site density calculations if the following conditions are met:

1. Property is zoned LI or HI
2. Minimum building footprint is 50,000 square feet

### **Stream Buffers**

Stream buffers are based upon the definition of state waters. All state waters require a minimum 25 foot undisturbed buffer along both sides of a stream measured from the point of wretched vegetation.

With Cherokee County being located in the Metropolitan North Georgia Water Planning District area, we are also required to comply with the minimum MNGWPD stream buffer requirements – 25 foot undisturbed state waters buffer, additional 25 foot undisturbed MNGWPD buffer and a 25 foot impervious buffer – measured from the point of wretched vegetation. Cherokee County allows grading up to a 3:1 slope in the impervious buffer.

The stream buffer ordinance is set up with a variance procedure if the MNGWPD buffer requirements cause a hardship for development of a parcel. All variances are heard and granted by the Zoning Board of Appeals.

Cherokee County cannot, however, grant any variances to the minimum 25 foot state undisturbed buffer. Those variances are granted by the Georgia Department of Natural Resources – Environmental Protection Division.

### **Implementation Process**

All ordinance revisions will have to follow the public hearing process before they can be adopted by the Board of Commissioners. The chart below describes the steps in the public hearing process and earliest possible dates for completing those steps.

Steps	Earliest Possible Dates
Discussion with Board of Commissioners & Set Public Hearing before Planning Commission	November 3, 2015
Legal Ad printed in Cherokee Tribune	November 13, 2015
Planning Commission holds Public Hearing & votes to make a recommendation to BOC	December 1, 2015
Board of Commissioners votes on ordinance revisions	December 15, 2015



## **Review and Comparison of Cherokee County Tree Ordinance**

### **Background**

It was brought to the attention of the Development Authority of Cherokee County (DACC) that the standing Cherokee County Tree Ordinance may not be conducive to development of light industrial properties/projects. The DACC Board and BOC Chairman Buzz Ahrens requested that the ordinances be reviewed and suggestions made.

### **Method**

The Tree Ordinances of five Georgia counties were reviewed in comparison the current Cherokee County ordinances. These counties include: Cobb, Forsyth, Fulton, Hall and Gwinnett. The tree ordinance of the City of Alpharetta and Johns Creek in North Fulton County were also reviewed. Bartow County and Pickens County do not currently have a Tree Preservation Ordinance.

The review looked at several categories of comparison including site density requirements per acre, tree replanting standards, pasture land, specimen tree credit, specimen tree replacement with and w/o permission, existing tree values, and replacement tree values. Buffer, landscape stripping and parking lots were also reviewed in relation to site density requirements.

### **Results**

#### *Site Density Requirements*

Cherokee County's units per acre site density requirements are comparable to the other counties reviewed at 15 units/acre for LI. The difference is seen in the value of a unit when looking at existing tree and replacement tree values.

#### *Existing Tree Value*

Cherokee's Tree Ordinance states that an existing tree with a 1"-4" caliper has no value. In the majority of other counties reviewed, a 1"-4" caliper held a value of .1 unit or more.

#### *Replacement Tree Value*

In Cherokee County, a 2" caliper equals .4 units. In the majority of reviewed counties a 1" caliper held a value of .4 units or .5 units for larger species.





### *Specimen Tree Credit*

Cherokee County Ordinance gives a credit of 4x a specimen trees assigned unit value if the tree is preserved, trees must be in or adjacent to developable areas. The credit is in line with other counties, although other county ordinances do not have the tree location verbiage.

### *Specimen Tree Replacement*

Cherokee asks for a recompense of 2x the unit value removed at a 4" caliper minimum. In the majority of counties reviewed, it is common practice that there be an equal value recompense. A caliper minimum was seen in other counties. 2" caliper was most common.

### *Specimen Tree Removal w/o Permission*

In Sect 4.1.1.2 of the ordinance, the penalty is to replace the removed trees with 3x the units removed. There will also be a stop work order and a penalty of no less than \$1000. In addition, it states in Appendix A that any specimen tree removed without review and approval of the arborist must be replaced by a total density of 8x the unit value removed.

In other counties the most common penalty is being required to replace the trees removed with 2x the unit value. Monetary penalties and stop work orders were also seen but varied.

### *Heritage Tree Removal*

The Cherokee County ordinance states that a heritage tree removed will need to be replaced by 8x the unit value removed. There will also be a stop work order and a monetary penalty of no less than \$1000. Heritage tree removal was only referenced separately from specimen trees in one other county where the replacement criteria was equal to the Cherokee County requirements.

### *Parking Lot Trees*

Within Section 13 Parking Lot Planting Requirements of the Cherokee County Tree Ordinance it does not state whether the trees planted in accordance to these requirements would be considered in meeting the total site density requirements. In other counties tree ordinance, that mention parking lot requirements, they do clearly state that the trees planted in the parking lot area will be counted towards total sit density requirements but cannot be excluded if site density requirements have been met elsewhere.

### *Pasture Land*

In Cherokee County, a reduction of minimum tree density is warranted for new development if the property or portions of the property have been devoid of trees for agricultural use (as depicted in a 2005 aerial of the property) ie. Pasture Land. This includes LI. In Fulton County, if determined by arborist that land has been barren and void of trees for a long amount of time, trees will count as 2x unit value.

### *Buffers*

According to the Cherokee ordinance, in an effort to preserve trees and other natural vegetation within a development, 50% of the required post-development tree density shall be met outside the stream bank and zoning buffer areas. The tree requirement cannot be fully met by trees in a buffer area. The area of a development outside the buffers must separately meet 50% of the required per acre tree density, even if the trees in the buffer compensate or more than compensate the requirements. Each county handles this differently; there is no common trend or best practice seen.

### *Alternative Compliance*

In Cherokee County, if the site density requirements cannot be met on the site there are two alternatives to fulfill the ordinance, off-site planting in a tree bank area (not to exceed 25% of total trees required) or contributing to the Tree Replacement Fund in a dollar amount that is determined through taking the middle dollar value from 3 landscape contractor estimates (this cannot exceed 25% of required trees). These two options are seen in Fulton County as well. Other counties offer the Tree Fund option only with the cost of \$400/unit in two counties and \$220/2" caliper tree in another. Other counties do not specify a percentage.

### *Other notable differences scene in other Counties Ordinances*

*Hall County*- When calculating site density requirements, the 15 units/acre will not include land area that is covered by a building

*Forsyth County*- There is a Tree Protection Commission in place, made up of 5 members including a registered landscape architect, botanist/arborist/forester or horticulturist, a registered architect or engineer, a member of the development community and a citizen interested in environmental protection/preservation. This commission shall hear and decide appeals of authorized by the ordinances among other responsibilities. This takes a large amount of responsibility/work off of an arborist and looks at issues through a broader more diverse eye.

### **Suggestions that Promote or Aid Development**

- In order to be more aligned with surrounding counties, it is our suggestion that the current unit values be raised to reflect what was commonly seen in the majority of counties reviewed.
- As currently written, a 2005 aerial is used when evaluating pasture land. In some cases, this could hold new owners responsible for decisions the past owner made for their land. For example, if land purchased in 2015 is devoid of trees due to the previous owner timbering their property in 2014; as currently written, the new owner would not qualify for the reduction and would be responsible for replacing trees at the full 15 units/acres. This would result in significant cost and could deter potential development. It is our suggestion that a reduction be set in place for land that was cleared of trees prior to purchase so to not penalize the new owners.



- It is our suggestion that Cherokee County adopt the site density requirements of Hall County of 15 units/acre (not to include land area that is covered with a building). This change would promote development and be attractive to prospects/developers.