



Cherokee County Planning Commission Work Session AGENDA

October 17, 2016

Business Center 6:30 PM

CALL TO ORDER

ZONING CASES

1. Case #16-11-035 Meritage Homes of Georgia, Inc. (BOC Dist. 3)

Applicant is requesting to rezone .96 acres at 469 New Light Road from AG to RZL for two (2) single family residential lots.

2. Case #16-11-036 Mark Shirey (BOC Dist. 2)

Applicant is requesting to rezone 26.04 acres at 965 Bailey Road from R-80 to AG for farming and to place property into conservation.

3. Case #16-11-037 Menna Development Company Inc., LLC (BOC Dist. 4)

Applicant is requesting to rezone 6.39 acres at 5306 Woodstock Road from R-40 to RD-3 for single family detached units.

4. Case #16-11-038 Hogan Pond Properties, LLC (BOC Dist. 1)

Applicant is requesting to rezone 199.4 +/- acres on the southeast side of Hogan Pond Lane, northeast of Highway 372 from AG and LI to R-80, R-60 and R-30 for a conservation master planned community.

5. Case #16-11-039 Southern Farms Development Company, LLC

Applicant is requesting to rezone 71.13 acres at Jep Wheeler Road from R-80 to R-40 for a conservation subdivision.

OTHER BUSINESS

APPROVAL OF MINUTES

ADJOURN



**Cherokee County, Georgia
Agenda Request**

Item#: 1.

SUBJECT: **Case #16-11-035 Meritage Homes of Georgia, Inc. (BOC Dist. 3)** **MEETING DATE:** 10/17/2016

SUBMITTED BY:
Tamala Davis

COMMISSION ACTION REQUESTED:

Applicant is requesting to rezone .96 acres at 469 New Light Road from AG to RZL for two (2) single family residential lots.

FACTS AND ISSUES:

Commission District: 3
Zoning Change: AG to RZL
Location: 469 New Light Road
Tax Map and Parcel No: 15N20, 394
Acres: 0.96 acres
Proposed Development: 2 single family residential lots
Future Development Map: Suburban Growth

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"/> Site Plan	Exhibit
<input type="checkbox"/> Zoning Map	Exhibit
<input type="checkbox"/> PP Report	Exhibit
<input type="checkbox"/> Future Development Map	Exhibit
<input type="checkbox"/> Legal Description	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: Paul Michael Phone: O: 678-348-8361 / C: 770-356-6864
 Email: paul.michael@meritagehomes.com

Applicant's Information:

Name: Meritage Homes of Georgia, Inc.

Address: 2700 Cumberland Parkway, Suite 400 Phone: 678-348-8361

City, State, Zip: Atlanta, GA 30339

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

Name: Estate of Douglas D. King

Address: 4811 Burlington Court Phone: 678-516-1190

City, State, Zip: Acworth, GA 30102

Requested Public Hearing (check all that apply):

- Rezoning Amendment / Modification of Zoning
 Variance / Appeal Other: _____

<p>STAFF USE ONLY:</p> <p>Commission District: <u>3</u></p> <p>Case: <u>16-11-035</u></p> <p>CityView # <u>PL2016-1216</u></p> <p>Received by: _____</p> <p>Fee Paid: \$ <u>250.00</u></p> <p>Date: <u>9/21/16</u></p>	<p>PUBLIC HEARING SCHEDULE:</p> <p>Public Participation Meeting: _____</p> <p>PC Work Session Date: <u>10/17/16</u></p> <p>Planning Commission Hearing: <u>11/1/16</u></p> <p>Board of Commissioners: <u>11/15/16</u></p> <p>Zoning Board of Appeals: _____</p> <p>Other: _____</p>
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SECTION II

Property Information:

Location: 469 New Light Road LWK

Current Zoning: AG Proposed Zoning: ~~R-20~~ RZL Total Acreage: .96 AC

Tax Map #: 15 N 20 Parcel #: 394 Land Lot(s): 313 District: 15

Future Development Map Designation: AG

Adjacent Zonings: North PDR- Holly Springs South Ol-Holly Springs & R-40 East AG West AG

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

Request to rezone subject property to ~~R-20~~ to allow for 2 single family residential lots.
RZL

Proposed Use(s) of Property:

2 single family lots

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, Paul Michael, 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 6 day of September, 20 16.

Print Name Paul Michael

Applicant Signature Paul Michael

SECTION III

Infrastructure Information:

Is water available to this site? Yes No

Jurisdiction: Cherokee County Water & Sewer

How is sewage from this site to be managed?

Connect to on-site sewer line

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

If yes, what is the projected increase? 1.45 students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home	2	0.725	1.45
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? 19.14 trips

Code	Land Use(s)	# of units or sqft*	Daily Trip Ends ⁺	Number of Trips
210	Single Family Home/ Townhome	2	9.57	19.14
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.

SECTION V

Applicant Response Statement- Rezoning and Amendments/ Modifications to Zoning Conditions:

1. Explain the intent of the requested zoning.

It is the intent of Meritage Homes to rezone a .96 acre tract from AG to ~~R20~~^{RZL} for the purpose of constructing two new single family detached homes. The new homes planned will be consistent with other new development occurring in the area and they will improve the subject site and add to the overall character of the surrounding community.

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 lies between a new single family subdivision and Holly Springs Elementary School. The property is also flanked by existing single family homes. The proposed development is consistent with surrounding land uses and will create a good transition between the elementary school and the new residential subdivision. The proposed lot size and density is similar to other residential development in the area.

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

The proposed development will not adversely affect the use or usability of adjacent property. The elementary school will not be negatively affected by the homes and the proposed residences will be compatible with the adjacent residential uses.

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

The subject property is a non-conforming lot since it is less than the AG district minimum of 2 acres, located in an area of predominately residential zoning. The small size of the property does not lend itself to agricultural use and thus, the existing zoning does not add to the economic value of the subject site. The highest and best use of the subject property is single family residential.

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 proposed use will not place an excessive or burdensome use of streets or other infrastructure. The intended use of the tract, two homes, will have minimal impact on existing infrastructure.

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

The county land use plan has the subject property in an area designated as Suburban Growth and it is across New Light Road from the City of Holly Springs Planned Development Residential zoning. The proposed residential use is a reasonable transition between these land use categories.

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.

The existing structure on the subject property is built very close to New Light Road and it appears to be within a few feet of the exiting right of way, based upon review of the County GIS map. This poses a potential hazard for motorists, as well as to occupants of the existing structure. The proposed development plan provides for a more standard forty foot front setback along New Light Road. Furthermore, the existing structure is in disrepair and the proposed new homes would provide a more pleasant approach to people accessing Holly Springs Elementary School off of New Light Road.

TO THE CHEROKEE COUNTY BOARD OF COMMISSIONERS
CHEROKEE COUNTY, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW, MERITAGE HOMES OF GEORGIA, INC., 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 AG, as established by the governing authority of Cherokee County, Georgia to the zoning category of ~~AG~~ ^{RZL}.

3.

The current AG zoning classification of the property and all intervening classifications between same and ~~AG~~ ^{RZL} are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, 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 AG as well as all intervening classifications between same and ~~AG~~^{RZL} 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

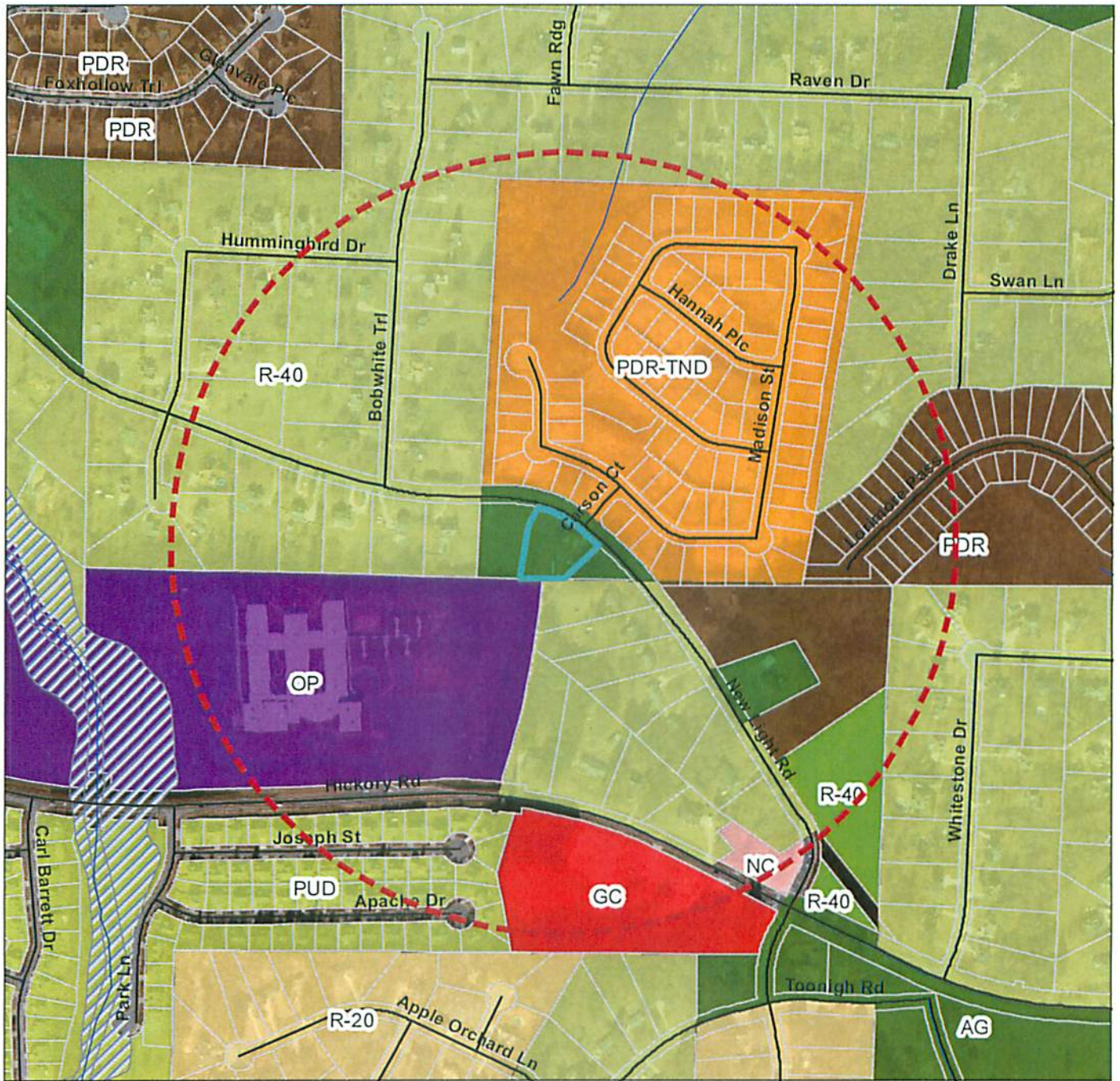
damages. This amount cannot be calculated to an exact certainty; however, the Owner/Applicant will assist the County by providing whatever additional information, if any, the County feels is necessary to adequately investigate this claim. If the Owner/Applicant does not receive a timely request for additional 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 7 day of September, 2016.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

PARKS F. HUFF
Attorney for Applicant
Meritage Homes of Georgia, Inc.



Legend

- | | | |
|---------------------|-------------------------------|---|
| Rezoning Parcel | Cherokee County Zoning | RTH |
| Street | AG | RM10 |
| 1/4 Mile Radius | R80 | RM16 |
| 100 Year Flood Zone | R60 | TND |
| | R40 | PUD |
| | R30 | OI |
| | R20 | PDR-Planned Development Residential |
| | R15 | TND-Traditional Neighborhood Development |
| | RD3 | PUD-Planned Unit Development |
| | R10 | R-40-Single Family Residential Estate |
| | RZL | R-20-Single Family Residential |
| | RA | RD-20-Single Family and Duplex |
| | | RM-Multi-Family Residential |
| | | HDMFR-High Density Multi-Family Residential |
| | | NC |
| | | LI-Light Industrial |
| | | OI-Office Institutional |
| | | Belts Ferry Overlay |
| | | 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 and Land Use
Canton, Georgia
14 September 2016



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

SLHB-LAW.COM

September 7, 2016

**VIA E-MAIL: vtaylor@cherokeega.com
AND REGULAR U.S. MAIL**

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

Re: Rezoning Request for Meritage Homes of Georgia, Inc. for approximately ±.96 Acre on the south side of New Light Road, across from Carson Court, Tax Map 15N20, Parcel 394, from AG to R-20, Cherokee County, Georgia.

Dear Vicki:

Meritage Homes of Georgia, Inc. conducted a public participation meeting on August 30, 2016 at 6:30 p.m. at the Woodstock Main Library. Attached is a list of those who attended the meeting. Both of the nearby property owners fully supported the proposal and felt it would be an improvement to the site.

If you have any questions regarding the meeting, please contact me at your convenience.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP

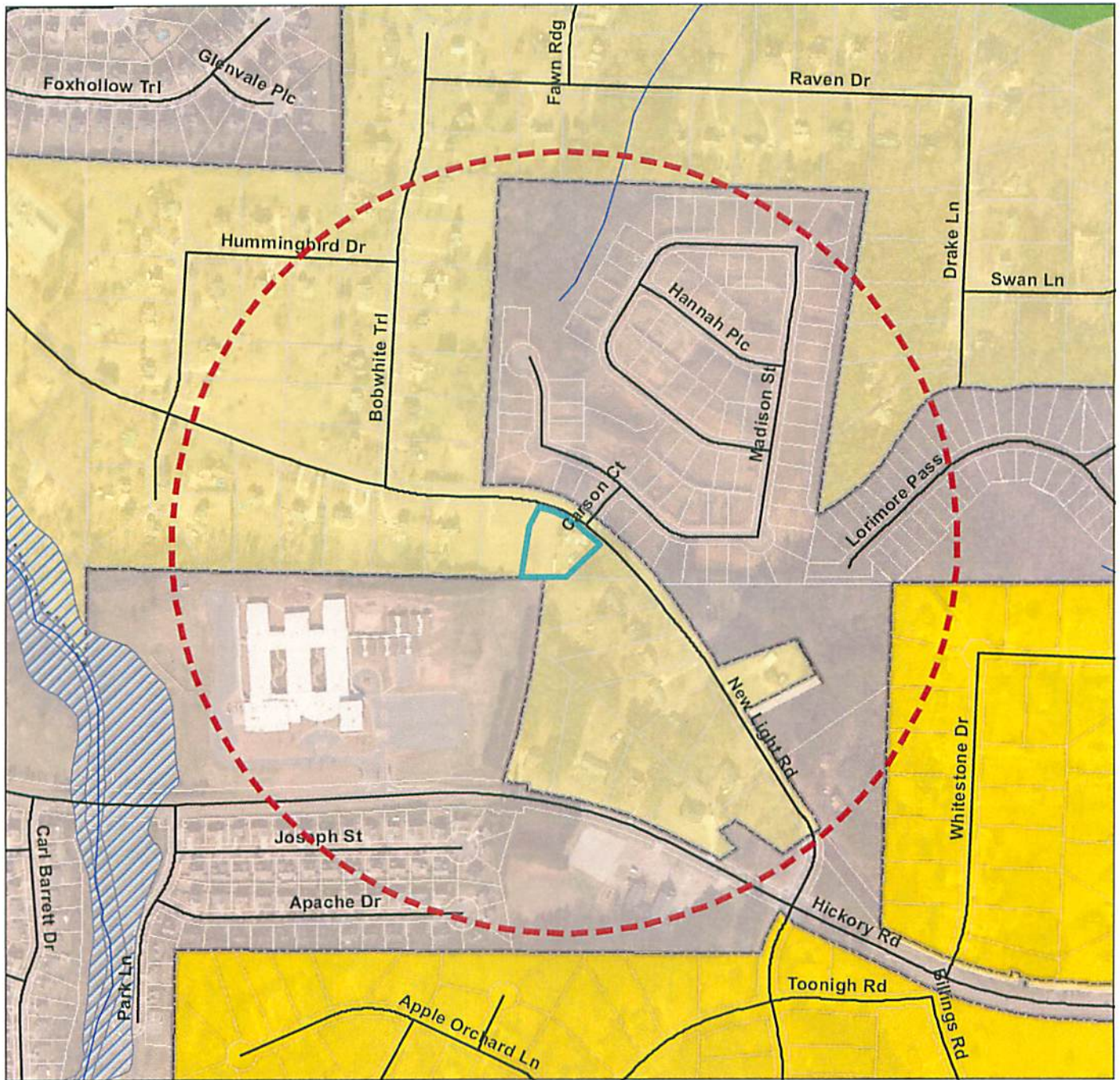


Parks F. Huff
Attorney for Applicant
phuff@slhb-law.com

PFH/dvm

Attachments

cc: Meritage Homes of Georgia, Inc.



Legend

- | | | |
|---------------------|--------------------------|------------------------|
| Rezoning Parcel | Development Nodes | Character Areas |
| Street | County Crossroads | Natural Preserve |
| 1/4 Mile Radius | Hamlet | Rural Places |
| 100 Year Flood Zone | Neighborhood Village | Country Estates |
| Ball Ground | Community Village | Suburban Growth |
| Canton | Corridors | Suburban Living |
| Holly Springs | Scenic Corridor | Neighborhood Living |
| Woodstock | Transitional Corridor | Bells Ferry LCI |
| | Development Corridor | Urban Core |
| | | Workplace Center |
| | | Regional Center |
| | | Waste Management |



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Prepared by:
Cherokee County
Planning and Land Use
Canton, Georgia
14 September 2016



WARRANTY DEED

STATE OF GEORGIA, Cherokee COUNTY

THIS INDENTURE, Made this 3rd day of July in the year of our Lord One Thousand Nine Hundred and Eighty-seven between Dorothy King

of the State of Georgia and County of Green of the first part, and Douglas D. King

of the State of Georgia and County of Cherokee of the second part:

WITNESSETH, That the said part Y of the first part, for and in consideration of the sum of TEN DOLLARS AND ALL OTHER VALUABLE CONSIDERATIONS Dollars, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, he granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said part Y of the second part his heirs and assigns, all that tract or parcel of land lying and being in

SEE SCHEDULE "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

6/16 PD 700 At Etowah Bank

CHEROKEE COUNTY, GA. REAL ESTATE TRANSFER TAX PAID None DATE 7-7-87 Annette Fleming CLERK OF SUPERIOR COURT

GEORGIA, CHEROKEE COUNTY, CLERK SUPERIOR COURT Filed in office this 7th day of July 1987 at 2:02 P.M. Recorded on July 6 1987 Page 281 Annette Fleming Clerk

TO HAVE AND TO HOLD, The said bargained premises, together 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 Douglas D. King the said part Y of the second part his heirs and assigns forever in Fee Simple

And the said part Y of the first part, for her heirs, executors and administrators, will warrant and forever defend the right and title to the above described property unto the said part Y of the second part his heirs and assigns, against the claims of all persons whomsoever.

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

Signed, sealed and delivered in presence of: Therman Ray, Annette Baker, Dorothy King (Seal), Notary Public, Cherokee County, Georgia My Commission Expires March 20, 1990



SCHEDULE "A"

All that tract or parcel of land lying and being in Land Lot 313 of the 15th District, 2nd Section, Cherokee County, Georgia as shown in a plat of survey prepared by Roger S. Lee, Registered Land Surveyor, and being more particularly described in said plat of survey as follows:

To Ascertain the True Point of Beginning, begin at the intersection of the southwest right of way of New Light Church Road (60 foot right of way); with the south land lot line of Land Lot 313; thence North 42 degrees 38 minutes 35 seconds East 200.60 feet along the southwest right of way of New Light Church Road to an iron pin set at the True Point of Beginning; thence South 26 degrees 20 minutes 47 seconds West 146.04 feet to an iron pin set on the south land lot line of Land Lot 313; thence North 85 degrees 14 minutes 38 seconds West 86.52 feet to an iron pin found (said iron pin being located 240.3 feet southeast of the southwest corner of Land Lot 313 as measured along the south land lot line of Land Lot 313); thence North 07 degrees 04 minutes 18 seconds East 125.35 feet to a point; thence North 14 degrees 48 minutes 37 seconds East 86.95 feet to an iron pin set on the southwest right of way of New Light Church Road; thence South 58 degrees 25 minutes 45 seconds East 61.41 feet along the southwest right of way of New Light Church Road to a point; thence South 49 degrees 14 minutes 37 seconds East 80.60 feet along the southwest right of way of New Light Church Road to the Point of Beginning.

Said tract containing 0.47 acres as shown in the plat of survey prepared by Roger S. Lee, which plat of survey is recorded in Plat Book _____, page _____, of the Cherokee County Plat Records and which recorded plat is incorporated herein and made a part hereof by reference for a more complete description of said property.

4
Rec 7-8-87
COPY



Cherokee County, Georgia
Agenda Request

Item#: 2.

SUBJECT:
Case #16-11-036 Mark Shirey (BOC Dist. 2)

MEETING DATE:
10/17/2016

SUBMITTED BY:
Tamala Davis

COMMISSION ACTION REQUESTED:

Applicant is requesting to rezone 26.04 acres at 965 Bailey Road from R-80 to AG for farming and to place property into conservation.

FACTS AND ISSUES:

Commission District: 2
Zoning Change: R-80 to AG
Location: 965 Bailey Road
Tax Map and Parcel No: 02N03, 164
Acres: 26.04
Proposed Development: Agricultural
Future Development Map: Country Estates

BUDGET:

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

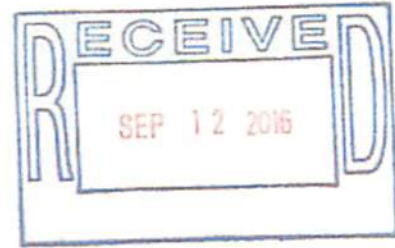
ADMINISTRATIVE RECOMMENDATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Application	Exhibit
<input type="checkbox"/> Legal Description	Exhibit
<input type="checkbox"/> Future Development Map	Exhibit
<input type="checkbox"/> Survey	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: Mark Shirey Phone: 404-372-5300
 Email: fss@bellsouth.net

Applicant's Information:

Name: Mark Shirey

Address: 5420 Buice Rd Phone: same

City, State, Zip: Alpharetta, GA 30022

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

Name: Mark & Vicky Shirey

Address: 5420 BUICE Rd Phone: 404-372-5300

City, State, Zip: Alpharetta, Ga 30022

Requested Public Hearing (check all that apply):

- Rezoning Amendment / Modification of Zoning
 Variance / Appeal Other: _____

<p>STAFF USE ONLY:</p> <p>Commission District: <u>2</u></p> <p>Case: <u>16-11-036</u></p> <p>CityView #: <u>PL2016-01222</u></p> <p>Received by: _____</p> <p>Fee Paid: \$ _____</p> <p>Date: _____</p>	<p>PUBLIC HEARING SCHEDULE:</p> <p>Public Participation Meeting: _____</p> <p>PC Work Session Date: _____</p> <p>Planning Commission Hearing: _____</p> <p>Board of Commissioners: _____</p> <p>Zoning Board of Appeals: _____</p> <p>Other: _____</p>
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SECTION II

Property Information:

Location: 965 Bailey Rd

Current Zoning: R-80 Proposed Zoning: AG Total Acreage: 26.04

Tax Map #: 02 N 03 Parcel #: 164 Land Lot(s): 436 District: ~~44~~ 2nd

Future Development Map Designation: Country Estates

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):

Requesting a rezone to AG for farming and place property into conservation

Proposed Use(s) of Property:

farm and 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, Mark Shirey, 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 12 day of September, 20 16.

Print Name Mark Shirey

Applicant Signature 

SECTION III

Infrastructure Information:

Is water available to this site? Yes No

Jurisdiction: CCWSA

How is sewage from this site to be managed?

septic

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

If yes, what is the projected increase? _____ students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home	1	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? 10 trips

Code	Land Use(s)	# of units or sqft*	Daily Trip Ends ⁺	Number of Trips
210	Single Family Home/ Townhome	1	9.57	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.

AUTHORIZATION OF PROPERTY OWNER

I, Mark & Vicky Shirey, 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: Mark Shirey
Address: 5420 Buice Rd Phone: 404-372-5300
City, State, Zip: Alpharetta, Ga 30022

Property Owner's Information:

Name: Mark & Vicky Shirey
Address: 5420 Buice Rd Phone: 404-372-5300
City, State, Zip: Alpharetta, Ga 30022

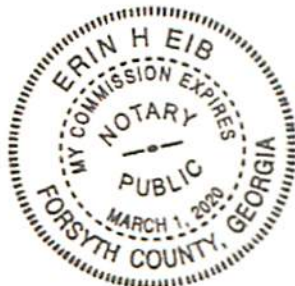
Signature of Owner: [Signature] Date: 09/15/2016

Print Name: MARK Shirey / Vicky Shirey

Sworn to and Subscribed before me this: 15 day of September, 2016.

Notary Signature: [Signature]

(Notary Seal)



Mark and Vicky Shirey
5420 Buice Rd
Alpharetta Ga. 30022

We are requesting a rezoning of our property located at 965 Bailey Rd Woodstock Ga. from R-80 to Agriculture. We are building our home and shop on the 26.04 acres. We plan to retire here and raise some cows, goats, fish and grand kids. Most all of the houses around us have horses, cows and other farm animals. Once rezoned, we are planning to put the property into conservation. There should not be any adverse effect to the traffic and schools as we are building a single-family home. It is my understanding that the property change would conform with the land use plan.

Sincerely

Mark Shirey

Beverly J. Hall, Esq.
LaFon & Hall
Attorneys at Law
P. O. Box 1276
Roswell, GA 30077-1276

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF CHEROKEE

This Indenture Made the 28th day of April, 2016, between **PERIMETER GROUP CORPORATION**, a Georgia corporation, as party of the first part (hereinafter called Grantor), and **MARK P. SHIREY** and **VICKY R. SHIREY**, as parties of the second part (hereinafter collectively 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 other good and valuable considerations and the sum of **TEN AND 00/100 DOLLARS (\$10.00)** 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:

All that tract or parcel of land lying and being in Land Lot 436 of the 2nd District, 2nd Section, Cherokee County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found at the southeast corner of said Land Lot 436, which corner is common also to Land Lots 437, 500 and 501 of said District, Section and County, said iron pin found also being located 18.90 feet northerly as measured along the easterly line of said Land Lot 501 from the point of intersection of the easterly line of said Land Lot 501 and the northerly right-of-way of Bailey Road (having a 30 foot right-of-way); thence north 89 degrees 59 minutes 16 seconds west along the southerly line of said Land Lot 436 a distance of 392.35 feet to an iron pin located on the northeasterly right-of-way of Bailey Road; running thence northwesterly, westerly and southwesterly and following the curvature of Bailey Road a distance of 1,108.21 feet to an iron pin located on the westerly line of said Land Lot 436 (easterly line of Land Lot 435 of said District, Section and County); thence north 00 degrees 54 minutes 47 seconds west along the westerly line of said Land Lot 436 a distance of 839.24 feet to an iron pin found at the northwest corner of said Land Lot 436, which corner is common also to Land Lots 429, 430 and 435 of said District, Section and County; thence north 88 degrees 39 minutes 02 seconds east 518.55 feet to an iron pin; thence south 29 degrees 42 minutes 18 seconds east 130.40 feet to an iron pin; thence south 21 degrees 30 minutes 21 seconds east 157.63 feet to an iron pin; thence south 57 degrees 03 minutes 41 seconds east 147.26 feet to an iron pin; thence north 85 degrees 13 minutes 19 seconds east 131.32 feet to an iron pin; thence south 64 degrees 12 minutes 29 seconds east 468.33 feet to an iron pin located on the easterly line of said Land Lot 436; thence south 01 degrees 20 minutes 00 seconds east along the easterly line of said Land Lot 436 a distance of 775.07 feet to the iron pin found at the southeast corner of said Land Lot 436 and the point of beginning, being a tract of land consisting of 26.04 acres according to survey prepared by Bates-Long & Associates, Registered Land Surveyors, dated October 8, 1984.

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 any wise appertaining to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE; subject, however, to the exceptions shown on Exhibit "A" attached hereto and incorporated herein by reference.

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 claiming by, through or under Grantor.

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

SIGNED THIS 23rd DAY
OF APRIL, 2016, IN
THE PRESENCE OF:

[Signature]
UNOFFICIAL WITNESS

[Signature]
NOTARY PUBLIC

PERIMETER GROUP CORPORATION

By: Margie T. Wood
Margie T. Wood, President

[CORPORATE SEAL]

SEAL

KYLE D. LAFON
NOTARY PUBLIC
Fulton County
State of Georgia
My Commission Expires 03/18/2020

COPY

EXHIBIT "A"

PERMITTED TITLE EXCEPTIONS

- [1] Reservation of Easement contained in that Warranty Deed from H. V. Blalock, Jr. to John Keith and Bobbie Keith dated October 10, 1984, recorded in Deed Book 423, Page 1, Cherokee County Records.
- [2] Right-of-Way Easement from H. V. Blalock, Jr. to Sawnee Electric Membership Corporation dated August 10, 1961, recorded in Deed Book 66, Page 151, Cherokee County Records.

COOPY

Case # 16-11-036 Mark Shirey

Future Development Map



Legend

Rezoning Parcel	County Crossroads	Natural Preserve
Street	Hamlet	Rural Places
1/4 Mile Radius	Neighborhood Village	Country Estates
100 Year Flood Zone	Community Village	Suburban Growth
	Corridors	Suburban Living
	Scenic Corridor	Neighborhood Living
	Transitional Corridor	Bells Ferry LCI
	Development Corridor	Urban Core
		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 and Land Use
Canton, Georgia
15 September 2016



Case # 16-11-036 Mark Shirey

Zoning Map



Legend

- | | | |
|---------------------|-------------------------------|---------------------|
| Rezoning Parcel | Cherokee County Zoning | RTH |
| Street | AG | RM 10 |
| 1/4 Mile Radius | R80 | RM 16 |
| 100 Year Flood Zone | R60 | TND |
| | R40 | OI |
| | R30 | NC |
| | R20 | GC |
| | R15 | LI |
| | RD3 | HI |
| | R10 | Bells Ferry Overlay |
| | RZL | Hwy 92 Overlay |
| | RA | |



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 and Land Use
Canton, Georgia
15 September 2016





Cherokee County, Georgia
Agenda Request

Item#: 3.

SUBJECT: **Case #16-11-037 Menna Development Company Inc., LLC (BOC Dist. 4)**
MEETING DATE: 10/17/2016

SUBMITTED BY:
Tamala Davis

COMMISSION ACTION REQUESTED:

Applicant is requesting to rezone 6.39 acres at 5306 Woodstock Road from R-40 to RD-3 for single family detached units.

FACTS AND ISSUES:

Commission District: 4
Zoning Change: R-40 to RD-3
Location: 5306 Woodstock Road
Tax Map and Parcel No: 21N12, 001
Acres: 6.39
Proposed Development: Single Family Residential Detached Units
Future Development Map: Suburban Living

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"/> Home Layout	Exhibit
<input type="checkbox"/> Deed	Exhibit
<input type="checkbox"/> Legal Description	Exhibit
<input type="checkbox"/> Public Participation Report	Exhibit
<input type="checkbox"/> Site Plan	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: RICHARD RAKUSIN Phone: 678-778-4658
 Email: RICKRAKUSIN@GMAIL.COM

Applicant's Information:

Name: DAVID C. MENNA, PRES. MENNA COMPANY INC. LLC ^{DEVELOPMENT}
 Address: 1955 LOWER ROSWELL RD #A Phone: 404-314-8111
 City, State, Zip: MARIETTA GA 30068

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

Name: DAVID C. MENNA, PRES. MENNA COMPANY INC.
 Address: 1955 LOWER ROSWELL RD #A Phone: 404-314-8111
 City, State, Zip: MARIETTA GA 30068

Requested Public Hearing (check all that apply):

- Rezoning Amendment / Modification of Zoning
 Variance / Appeal Other: _____

STAFF USE ONLY:	PUBLIC HEARING SCHEDULE:
Commission District: <u>4</u>	Public Participation Meeting: <u>9/7/16</u>
Case: <u>16-11-037</u>	PC Work Session Date: <u>10/17/16</u>
CityView #: <u>PL2016-1264</u>	Planning Commission Hearing: <u>11/1/16</u>
Received by: <u>MS</u>	Board of Commissioners: <u>11/15/16</u>
Fee Paid: \$ <u>250.00</u>	Zoning Board of Appeals: _____
Date: _____	Other: _____



SECTION II

Property Information:

Location: 5306 WOODSTOCK ROAD
 Current Zoning: R-40 Proposed Zoning: RD-3 Total Acreage: 6.39
 Tax Map #: 21 N 12 Parcel #: 21-1251-0009 Land Lot(s): 1251 District: 21
 Future Development Map Designation: SUBURBAN RESIDENTIAL
 Adjacent Zonings: North R-40 South COBB COUNTY East R-40 West R-40 | RD-3

Applicant's Request (Itemize the Proposal, including code sections for Variance requests): (Article 7
- RE-ZONING FROM R-40 TO RD-3 Section
- VARIANCE REQUEST TO REMOVE ALLEY 7.4-1.1-
PROVISION OF RD-3 ZONING DUE TO NO. OF RESIDENTIAL UNITS AND
SITE CONFIGURATION
d.5)

Proposed Use(s) of Property:
RD-3⁽¹⁸⁾ SINGLE FAMILY DETACHED
RESIDENTIAL UNITS

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, David C. MENNA, 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 31ST day of August, 20 16.

Print Name David C. Menna.

Applicant Signature .

SECTION III

Infrastructure Information:

Is water available to this site? Yes No

Jurisdiction: _____

How is sewage from this site to be managed?

ROUTED TO EXISTING CHEROKEE WATER & SEWER AUTHORITY FACILITIES

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

If yes, what is the projected increase? 13 students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home	<u>18</u>	0.725	<u>13</u>
Multi Family (Attached) Home	<u>—</u>	0.287	<u>—</u>

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? 172.26 trips

Code	Land Use(s)	# of units or sqft*	Daily Trip Ends*	Number of Trips
210	Single Family Home/ Townhome	<u>18</u>	9.57	<u>172.26</u>
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.

AUTHORIZATION OF PROPERTY OWNER

I, DAVID C. Menna, 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: David C. Menna

Address: 197 Candace Lane NW Phone: 404. 314. 8111

City, State, Zip: Kennesaw GA 30144

Property Owner's Information:

Name: DAVID C. MENNA

Address: 197 Candace Lane NW Phone: 404. 314. 8111

City, State, Zip: Kennesaw GA 30144

Signature of Owner:  Date: 8/31/16

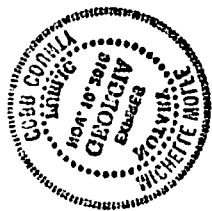
Print Name: David C. Menna

Sworn to and Subscribed before me this: 31ST day of August, 2016.

Notary Signature: _____

(Notary Seal)





**SECTION V – APPLICANT RESPONSE STATEMENT – REZONINGS AND AMENDMENTS / MODIFICATIONS TO ZONING CONDITIONS
5306 WOODSTOCK ROAD - RE-ZONING REQUEST**

1. The intent of the requested zoning.

The intent of the re-zoning is to create a better use of the irregular land lot configuration, with the RD-3 zoning. The location of the property is close to increasing residential and commercial development activity occurring in the area of I 75 corridor.

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 adjacent areas to the west, south and a portion to the east are similar single family detached zoning districts with higher densities than the current R-40 zoning

To the west across Woodstock Road lies Centennial Lakes that is zoned RD-3.

The common parcel boundary on the south side is Cobb County. The adjacent Centennial Commons subdivision in Cobb County is zoned RA-5 (cluster residential) zoning. The RA-5 zoning allows 5 units per acre and minimum lot sizes of 7,500 sf.

On the east side, within 200-300 feet of the site is a neighborhood zoned R-20.

The 3 properties on the north/northeast across Dot Burke Lane, a private road are zoned R-40 single family detached. Two out of the three R-40 lots are owned by a single landowner.

Due to the fact there are neighborhoods with 100-200 + homes each with higher densities, the re-zoning closely matches these densities, and conforms to the Cherokee County Proposed Land Use Map.

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

This re-zoning request with 18 lots has a much smaller impact in comparison to the size of the 3 surrounding neighborhoods.

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

The current property zoning classification allows for 6 residential lots. The surrounding area has developed as a higher density use, and therefore the land acquisition and infrastructure costs require the proposed zoning change to ensure the economic viability of the project.

**SECTION V – APPLICANT RESPONSE STATEMENT – REZONINGS AND
AMENDMENTS / MODIFICATIONS TO ZONING CONDITIONS
5306 WOODSTOCK ROAD - RE-ZONING REQUEST**

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

There would be negligible impact to transportation facilities.

There would be some increase to the traffic on Woodstock Road but not in any significant way.

Based on present site utilities investigation, the water and sewer services are available from Cherokee Water and Sewer Authority (CCWSA) and are accessible and do not present any significant impact.

Based on the zoning unit per student multiplier for school enrollment there would be an additional student population at 13. Based upon the current R-40 zoning, additional student population would be 5 students.

6. *Whether the rezoning will result in a use is in conformity with the policy and interest of the land use plan.*

The rezoning request is compatible with the Cherokee County Proposed Land Use Map. The Land Use Map proposes this area as suburban living.

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 trend of increasing residential development close to the transportation access and interchange for I-75 and Highway 92 commuting corridors make a case for higher density neighborhoods. The close proximity alleviates clogged local road commutes and makes sense for increasing what might be considered a previously original and outdated density. The "close in" location with growing neighborhood retail services both sides of the county lines would be in synch with the surrounding trend for higher density development along the transportation node.

SECTION VI – APPLICANT RESPONSE STATEMENT – VARIANCES
5306 WOODSTOCK ROAD - RE-ZONING REQUEST

1. *Explain requested variance.*

The request is to alleviate the alley provisions in the RD-3 zoning.

2. *There are exceptional or extraordinary conditions pertaining to the particular piece of property in question, due to its size, shape or topography.*

The triangular site is very suitable for the open space concepts of the RD-3 zoning and Public Realm characteristics. The application of the 30% of the homes or 6 houses to have alleys hurts the opportunity to create meaningful open space preservation and intent in the RD-3 zoning. The site is a small site of 6.39 acres with 18 homes.

3. *The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.*

Would create a hardship and unnecessarily increase the amount of pavement area.

4. *Such conditions are peculiar to the particular piece of property involved.*

The extraordinary triangular shape is challenging to any layout but further challenging to comply with the alley provisions.

5. *A literal interpretation of this ordinance would deprive the applicant of the rights that others in the same district are allowed.*

There would be no impact unless others would have a similarly shaped and size site.

6. *Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this ordinance.*

The alley concept has its place and purpose where the development sites are larger. No effect if granted.

**SECTION VI – APPLICANT RESPONSE STATEMENT – VARIANCES
5306 WOODSTOCK ROAD - RE-ZONING REQUEST**

7. *Special circumstances or conditions applying to the building and land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.*

This property has an irregular shape. It appears that adjacent RD-3 neighborhoods have been relief granted from this provision though we don't know under what circumstances and understand that is not a prerequisite to granting relief.

8. *Granting the variance is necessary for preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.*

As this property would be developed as a small community and to be enjoyed by its residents, the gain to the developer would be transferred to the residents by creating more vegetated open space.

9. *The condition from which relief or a variance is sought did not result from willful action by the applicant.*

No.

10. *Authorizing the variance will not impair adequate supply of light and air to adjacent ...The request will not impair adequate light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, impair the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the County.*

The request to eliminate the alleys would not have any effect to the adjacent properties. If alleys were required, it would facilitate more vehicular traffic and unnecessary pavement areas closer to the site's surrounding buffers and boundaries, whereas this area could be left as a landscaped or natural tree buffer area.

The alleys if required would provide an area that in fact would be less safe to the neighborhood as they are not in a continuously visible location.

**SECTION V – APPLICANT RESPONSE STATEMENT – REZONINGS AND
AMENDMENTS / MODIFICATIONS TO ZONING CONDITIONS
~~5600~~ WOODSTOCK ROAD - RE-ZONING REQUEST**

ATTACHMENT - PROPOSED HOME LAYOUT AND SITE FEATURES

HOME LAYOUT

The attached layout illustrates the type of home layouts in accordance with the setback, density and lot configuration within the proposed RD-3 zoning. The property owner will be the builder of the craftsman style homes. The property owner acknowledges and embraces the intent of the Public realm and community concepts specifically addressed in a RD-3 zone.

There would be 3 different size and configuration of homes. The homes would be varied and mirrored in layout without a consecutive duplication of one particular home on any two lots. In addition to configuration, coloration will be varied.

The garage doors would be carriage style and individual versus a singular door for the entire width. Intent is to meet the RD-3 zoning and scale down and de-emphasize the garage.

Homes would have covered porches on all homes. The rear of the majority of the homes would also have covered patios especially on southerly rear facing homes. Homes are envisioned as two story and 2200 to 2850 square feet in size.

CENTRAL OPEN SPACE

It is the intent that the large central open space be used for the homeowners' enjoyment for recreational and communal functions.

The plan will include a covered gazebo-like elevated and fully open structure with seating, a small children's' play area adjacent the open structure, floral planting areas, benches and shielded lighting fixtures. Depending upon the postal manager prerogative, this would be the ideal location for the neighborhood postal boxes.

The central open space would have the required connecting ADA accessible pedestrian cross walks linking the sidewalk system.

EAST OPEN SPACE

This large triangular area will largely be left in its natural state with 5' wide walk paths that will connect with the sidewalk via an access easement. The intent is that this area will be enjoyed by older children and adults. A quiet seating area is envisioned by the property owner.

Page 2

**SECTION V – APPLICANT RESPONSE STATEMENT – REZONINGS AND
AMENDMENTS / MODIFICATIONS TO ZONING CONDITIONS
5608 WOODSTOCK ROAD - RE-ZONING REQUEST**

ATTACHMENT - PROPOSED HOME LAYOUT AND SITE FEATURES

WEST OPEN SPACE – ENTRANCE ON NORTH SIDE OF ENTRY DRIVE

This linear portion of land is envisioned as the area for the subdivision identifying signage and the seating for the school bus stop.



RETURN TO: GLENN F. SHERMAN
SHERMAN & PHALEN, P.C.
1955 LOWER ROSWELL ROAD-SUITE B
MARIETTA, GEORGIA 30068
16-1026

Deed Book 13983 Pg 125
Filed 08/09/2016 09:25 AM
28-2016-027853
Transfer Tax 205.00
Penalty 0.00
Patty Baker
Clerk of Superior Court Cherokee Cty, GA

LIMITED WARRANTY DEED

THIS INDENTURE, Made this 22th day of July, 2016, by and between

GENEVA ORTHODOX PRESBYTERIAN CHURCH, INC.,
a Georgia corporation

(hereinafter called "Grantor"), and

MENNA COMPANY,
a Georgia corporation

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 the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS (\$10.00) DOLLARS in hand paid, before the sealing and delivery of these presents, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

All that tract or parcel of land lying and being in Land Lot 1251 of the 21st District, Cherokee County, Georgia, being more particularly described in the attached Exhibit "A".

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 holding by, through, or under the grantor.

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:

Geneva Orthodox Presbyterian Church, Inc.

CRUCK

Witness

Wallace King

(SEAL)

By: Wallace King
Title: President

[Signature]

Notary Public

Chris W. Lille

(SEAL)

By: Chris W. Lille
Title: Secretary

GLENN F. SHERMAN
NOTARY PUBLIC
Cobb County
State of Georgia
My Comm. Expires May 25, 2017

Exhibit "A"

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 1251 OF THE 21ST DISTRICT, 2ND SECTION, CHEROKEE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, BEGIN AT THE SOUTHWEST CORNER OF LAND LOT 1251, THE SAME CORNER BEING THE COMMON CORNER OF LAND LOTS 1250, 1251, 1270 AND 1271; THENCE TRAVEL ALONG THE SOUTHERLY LAND LOT LINE OF LAND LOT 1251 SOUTH 89 DEGREES 11 MINUTES 02 SECONDS WEST A DISTANCE OF 89.99 FEET TO A 1/2" REBAR FOUND; THENCE NORTH 89 DEGREES 04 MINUTES 26 SECONDS EAST A DISTANCE OF 177.68 FEET TO A 1/2" REBAR FOUND; THENCE NORTH 89 DEGREES 04 MINUTES 26 SECONDS EAST 5.11 FEET TO A POINT, SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE NORTH 27 DEGREES 14 MINUTES 19 SECONDS EAST A DISTANCE OF 187.28 FEET TO A R/W MONUMENT FOUND; THENCE NORTH 36 DEGREES 56 MINUTES 59 SECONDS EAST A DISTANCE OF 285.68 FEET TO A R/W MONUMENT FOUND; THENCE NORTH 51 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 167.84 FEET TO A T-IRON PEN FOUND AT AN IRON POST; THENCE SOUTH 53 DEGREES 15 MINUTES 34 SECONDS EAST A DISTANCE OF 825.78 FEET TO A 1/2" REBAR FOUND ON THE SOUTHERLY LAND LOT LINE OF LAND LOT, 1251; THENCE SOUTH 89 DEGREES 45 MINUTES 03 SECONDS WEST A DISTANCE OF 1051.15 FEET ALONG THE SOUTHERLY LAND LOT LINE OF LAND LOT 1251 TO A POINT, SAID POINT BEING THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND BEING MORE PARTICULARLY SHOWN AND DELINEATED ON THAT CERTAIN PLAT OF SURVEY FOR KEVIN J. CUMMINS AND SUSAN S. CUMMINS BY DUE WEST SURVEYING, INC., CHRISTOPHER P. WEHRLE, G.R.L.S. NO. 2494, DATED MARCH 4, 2002 AND REVISED December 12, 2002, CONTAINING 6.39 ACRES.

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 1251 OF THE 21ST DISTRICT, 2ND SECTION, CHEROKEE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, BEGIN AT THE SOUTHWEST CORNER OF LAND LOT 1251, THE SAME CORNER BEING THE COMMON CORNER OF LAND LOTS 1250, 1251, 1270 AND 1271; THENCE TRAVEL ALONG THE SOUTHERLY LAND LOT LINE OF LAND LOT 1251 SOUTH 89 DEGREES 11 MINUTES 02 SECONDS WEST A DISTANCE OF 89.99 FEET TO A ½" REBAR FOUND; THENCE NORTH 89 DEGREES 04 MINUTES 26 SECONDS EAST A DISTANCE OF 177.68 FEET TO A ½" REBAR FOUND; THENCE NORTH 89 DEGREES 04 MINUTES 26 SECONDS EAST 5.11 FEET TO A POINT, SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE NORTH 27 DEGREES 14 MINUTES 19 SECONDS EAST A DISTANCE OF 187.28 FEET TO A R/W MONUMENT FOUND; THENCE NORTH 36 DEGREES 56 MINUTES 59 SECONDS EAST A DISTANCE OF 285.68 FEET TO A R/W MONUMENT FOUND; THENCE NORTH 51 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 167.84 FEET TO A T-IRON PEN FOUND AT AN IRON POST; THENCE SOUTH 53 DEGREES 15 MINUTES 34 SECONDS EAST A DISTANCE OF 825.78 FEET TO A ½" REBAR FOUND ON THE SOUTHERLY LAND LOT LINE OF LAND LOT 1251; THENCE SOUTH 89 DEGREES 45 MINUTES 03 SECONDS WEST A DISTANCE OF 1051.15 FEET ALONG THE SOUTHERLY LAND LOT LINE OF LAND LOT 1251 TO A POINT, SAID POINT BEING THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND BEING MORE PARTICULARLY SHOWN AND DELINEATED ON THE CERTAIN PLAT OF SURVEY BY DUE WEST SURVEYING, INC., CHRISTOPHER P. WEHRLE, R.L.S. NO. 2494, DATED MARCH 4, 2002 AND REVISED DECEMBER 12, 2002, CONTAINING 6.39 ACRES.

Rick Rakusin, Architect
3229 Birdsnest Court
Marietta, GA 30062
rickrakusin@gmail.com

PUBLIC PARTICIPATION MEETING REPORT AND MINUTES
MEETING HELD AT THE CHEROKEE COUNTY
COMMUNITY CENTER ON SEPTEMBER 7, AT 7:00PM
RE-ZONING REQUEST FOR 5306 WOODSTOCK ROAD.
Menna Development, LLC

Meeting Discussion

- 1- The meeting was attended by 5 neighbors, including 4 from the Centennial Lakes subdivision and 1 from the largest adjacent property owner to the north side of the site. (See sign in sheet attached)
- 2- The Menna team consisted of David Menna of Menna Development, LLC, Richard Smith, PE, civil engineer and Richard Rakusin, Architect.
- 3- The Menna team presented all pertinent and required information for a Public Participation Meeting following the prescriptive format. In addition to this information, the team showed the attendees the types of craftsman-style houses to be constructed. Also, the team related to the attendees, the intent and requirements of the RD-3 zoning in detail.
- 4- The Centennial Lakes attendees were largely concerned about two items:
 - 1- What would be the buffer between them and the new development? and
 - 2- What would be the general traffic impact to the area on Woodstock Road.The Centennial Lakes folks expressed concern on what would happen to the trees abutting the east (Woodstock Rd.) side of the subdivision. This is a parcel between them and the road. They thought that property on their side of Woodstock was part of the Menna property. The Team related this was not the case.

Their concern was largely centered on preserving as many trees and vegetation as possible especially as a buffer to traffic noise. The Team showed that there would be a very wide distance (50-60') between Woodstock and the property line that was in the right-of way as a result of previous Woodstock road re-alignment. Also, explained were the open space/buffers required in the RD-3 zoning and are located on the west, north and east sides of the property.

Dave Menna expressed cooperation in preserving as much vegetation on the three sides of the Cherokee boundaries.

**PUBLIC PARTICIPATION
MEETING REPORT AND MINUTES
Page 2**

- 5- Fred Burke, the largest land owner at 5328 Woodstock Road was concerned about what was to be developed in general. As a side item he expressed the visibility of the intersection of the private road, Dot Burke and Woodstock Road. The Team expressed that the vegetation would have to be cleared as a result of the general site improvement and frontage on the Woodstock side. The clearing would aid in better visibility from the Dot Burke intersection.

Also a side item was his opportunity to tie into the new site's sewer system getting off his septic system. Dave Menna expressed cooperation in extending the new sewer system to his property.

Overall, he expressed no further objection and was favorable to the amount of open space and buffer the new site afforded against his property.

There was a required question and answer period at this meeting after the presentation. Contact information was given for Cherokee County Zoning and the Team members should further questions come up later.

In summary, the meeting was not contentious, very informative for all parties and meeting ended amicably.

If there are any questions and/or comments please advise the writer.

Minutes written by:

**Rick Rakusin, Architect
September 11, 2016**

Attachments:

**Site Plan as presented
Meeting Notice
Sign in sheet
Notification List
Certification of Mailing**



Cherokee County, Georgia
Agenda Request

Item#: 4.

SUBJECT: Case #16-11-038 Hogan Pond Properties, LLC (BOC Dist. 1)
MEETING DATE: 10/17/2016

SUBMITTED BY:
Tamala Davis

COMMISSION ACTION REQUESTED:

Applicant is requesting to rezone 199.4 +/- acres on the southeast side of Hogan Pond Lane, northeast of Highway 372 from AG and LI to R-80, R-60 and R-30 for a conservation master planned community.

FACTS AND ISSUES:

Commission District: 1
Zoning Change: AG & LI to R-80, R-60 and R-30
Location: Hogan Pond Lane
Tax Map and Parcel No: 03N14, 051, 051A, 052, 053, 054
03N20, 001, 002, 003, 004, 005, 006
Acres: 199.4 +/-
Proposed Development: Conservation Master Planned Community
Future Development Map: Country Estates

BUDGET:

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

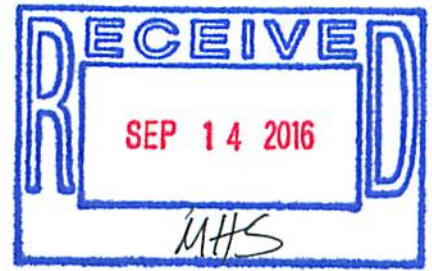
ADMINISTRATIVE RECOMMENDATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Application	Exhibit
<input type="checkbox"/> Existing Site Resource Map	Exhibit
<input type="checkbox"/> Legal Description	Exhibit
<input type="checkbox"/> Public Participation Report	Exhibit
<input type="checkbox"/> Site Plan	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: Patrick Clark Phone: 770-231-5637
Email: pclark@barkerstreet.com

Applicant's Information:

Name: Hogan Pond Properties LLC

Address: 2030 Laurel Cove Phone: See Above

City, State, Zip: Ball Ground, GA 30107

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

Name: See Exhibit A attached

Address: Phone:

City, State, Zip:

Requested Public Hearing (check all that apply):

- [x] Rezoning [] Amendment / Modification of Zoning
[] Variance / Appeal [] Other:

STAFF USE ONLY: Commission District: 1 Case: 16-11-038 CityView #: PL2016-1285 Received by: MHS Fee Paid: \$ 1744.00 Date: PUBLIC HEARING SCHEDULE: Public Participation Meeting: 9.1.16 PC Work Session Date: 10.17.16 Planning Commission Hearing: 11.1.16 Board of Commissioners: 11.15.16 Zoning Board of Appeals: Other:



SECTION II

Property Information:

Location: On the southeast side of Hogan Pond Lane northeast of Highway 372

Current Zoning: AG & LI Proposed Zoning: R-80,R-60,& R-30 Total Acreage: +,- 199.4 acres

Tax Map #: 03 N ^{14,20} Parcel #: See attached Land Lot(s): 336,385,407,408,409,456 District: 3

Future Development Map Designation: Country Estates

Adjacent Zonings: North PUD South AG East PUD West AG

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

Applicant requests rezoning from AG & LI for purpose of a 166 Lot conservation master planned community of R-80, R-60, & R-30 lots.

Proposed Use(s) of Property:

Master Planned residential development.

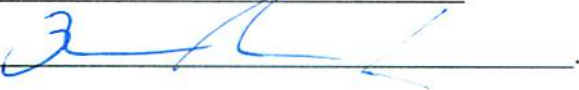
Applicant Affidavit:

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, Patrick D. Clark, 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 14 day of September, 20 16.

Print Name Patrick D. Clark , Representative for the Applicant

Applicant Signature 

SECTION III

Infrastructure Information:

Is water available to this site? Yes No Jurisdiction: CCWSA

How is sewage from this site to be managed?

Sanitary Sewer will be served by the new River Bend Water Pollution Control Plant currently in development.

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

If yes, what is the projected increase? 120 students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home	166	0.725	120
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? 1589 trips

Code	Land Use(s)	# of units or sqft*	Daily Trip Ends*	Number of Trips
210	Single Family Home/ Townhome	166	9.57	1589
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"

Property Owners and Tax Parcel Information

TIN/PIN	Owner	AC	Description
03N14 054 /03-0409-0003	HOGAN POND PROPERTIES LLC 109 Bridlewood Pass Ballground, Ga. 30107	0.99	372 Frontage
03N14 053/03-0409-0002	HOGAN POND PROPERTIES LLC 109 Bridlewood Pass Ballground, Ga. 30107	1.22	372 Frontage
03N14 051 A/03-0409-0006	HOGAN POND PROPERTIES LLC 109 Bridlewood Pass Ballground, Ga. 30107	0.29	372 Frontage
03N20 001/03-0408-0002	HOGAN POND HOLDINGS LLC 2030 Laurel CV Ballground, Ga. 30107	49.39	372 Frontage (2 ac.)+ 47 ac.
03N20 002/03-0407-0001	HOGAN POND HOLDINGS LLC 2030 Laurel CV Ballground, Ga. 30107	40	
03N14 052/03-0409-0008	HOGAN POND PROPERTIES LLC 109 Bridlewood Pass Ballground, Ga. 30107	2.29	Renter house w barn
03N20 003/03-0385-0002	HOGAN POND PROPERTIES LLC 109 Bridlewood Pass Ballground, Ga. 30107	3.77	LI where Sales office was
03N20 005/03-0385-0001	HOGAN POND PROPERTIES LLC 109 Bridlewood Pass Ballground, Ga. 30107	3.76	Manufacturing facility
	Total for Billy and Jerald Hill	101.71	
03N20 004/03-0385-0003	Billy Hill 2030 Laurel CV Ballground, Ga. 30107	2.91	Brick home across from MFG
03N20 006/03-0336-0001	Hill, William Jennings Trustee ET AL Cleve and Seth Hill 721 Midway Ave Canton, Ga.30114	71.96	Large parcel north of MFG
03N14 051/03-0409-0007	Rebecca and Michael Jenkins 10 Twin Ridges Ballground, Ga. 30107	17.9	East side of HPL
	Total per County Tax Parcel Information	194.48	

Section V

APPLICANT RESPONSE STATEMENT-REZONINGS AND AMMENDMENTS/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.

Hogan Pond Properties LLC proposes to rezone the property to an R-80, R-60, & R-30 Conservation based residential master planned development.

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 majority of the property abuts existing, and future residentially utilized property and some undeveloped raw land. Thru the implementation of the conservation subdivision standards, and the intentional layout of the site plan, there will be adequate buffers for adjacent property owners and the impact on the surrounding properties will be minimal.

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

The proposed residential use is consistent with the majority of adjacent properties and will pose no adverse effect on the use or usability of those adjacent or nearby properties.

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

As zoned, the property does not have a reasonable economic use. The AG zoning on the majority of the subject property would not allow for sufficient density to cover the cost associated with developing the land which would include extending public utilities. The LI zoning on a portion of the property is non-typical in its configuration and location in a residentially based character 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.

Hogan Pond Lane and the intersection at highway 372 were improved by Cherokee County in 2007 to local road county standards providing sufficient access to the property as proposed. The neighbors who attended the Public Participation meeting indicated concerns with access to Highway 372 from Hogan Pond due to the high speed nature of traffic on Highway 372. Hogan Pond Properties will bring this concern to the attention of Cherokee County Engineering during the review process.

At build out, the proposed development is expected to add approximately 120 students of varying ages to the school system posing a minimal impact. In addition, the school board previously acquired a new school site approximately one mile from the property in anticipation of expected growth in the area.

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

The proposed R-80, R-60, & R-30 zoning comprises a blend of the Country Estates , Suburban Growth, and Suburban Living Character areas in the Future Land Use Plan. The placement of the different lots sizes on the proposed plan were intended to align with adjoining properties in a complimentary configuration, and to provide a thoughtful transition from the PUD zoning along the entire eastern boundary. The elimination of the current LI zoning and the blended lot sizes in a conservation themed development is consistent with the intent of the plan.

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

The surrounding area is becoming more residential in nature which is inconsistent with the location of the Light Industrial zoning and existing manufacturing facility. The current construction of the new Water Pollution Control Plant and the access to County sewer, in conjunction with the application of the Conservation Subdivision standards, now provides the opportunity to develop an aesthetically appropriate and environmentally responsible development in this Character Area.

TRACTS 3,4 and 5 LEGAL DESCRIPTION

All that tract or parcel lying or being in Land Lot 409 of the 3rd District, 2nd Section of Cherokee County, Georgia and being more particularly described as follows:

Beginning at the southeast corner of Land Lot 409, Thence leaving the aforementioned Land Lot corner, S.08°16'35"W. a distance of 209.92 feet to a point; Thence, N.80°23'50"W. a distance of 437.27 feet to a point located on the easterly right-of-way of Georgia Highway No. 372 (60' R/W); Thence continuing northwesterly along the aforementioned right-of-way, N.42°00'00"W. a distance of 71.76 feet to a point; Thence, N.44°08'20"W. a distance of 62.50 feet to a point; Thence, N.45°35'05"W. a distance of 75.70 feet to a point located on the easterly right-of-way of Hogan Pond Road (30' R/W); Thence, N.47°11'30"W. a distance of 40.94 feet to a point located on the westerly right-of-way of Hogan Pond Road (30' R/W); being **The True Point of Beginning**; Thence continuing along the aforementioned right-of-way of Georgia Highway No. 372, N. 48°09'00"W. a distance of 22.64 feet to a point; Thence, N.47°08'05"W. a distance of 24.89 feet to a point; Thence, N.50°04'05"W. a distance of 48.99 feet to a point said point; Thence, N.50°35'25"W. a distance of 51.16 feet to a point; Thence, N.51°19'40"W. a distance of 51.63 feet to a point; Thence, N.51°56'30"W. a distance of 53.38 feet to a point; Thence, N.52°41'50"W. a distance of 45.62 feet to a point; Thence, N.52°23'35"W. a distance of 53.10 feet to a point; Thence, N.52°03'30"W. a distance of 15.01 feet to a point; Thence, N.52°03'30"W. a distance of 82.95 feet to a point; Thence, N.51°55'35"W. a distance of 53.40 feet to a point; Thence, N.51°13'55"W. a distance of 56.11 feet to a point; Thence, N.51°15'50"W. a distance of 56.97 feet to a point; Thence, N.51°05'55"W. a distance of 23.86 feet to a point; Thence leaving the aforementioned right-of-way, N.39°38'40"E. a distance of 300.09 feet to a point located on the western right-of-way of Hogan Pond Road (30' R/W); Thence continuing southeasterly along the aforementioned right-of-way, S.06°16'25"W. a distance of 29.34 feet to a point; Thence, S.04°37'45"E. a distance of 55.87 feet to a point; Thence, S.19°09'40"E. a distance of 45.96 feet to a point; Thence, S.27°43'20"E. a distance of 43.33 feet to a point; Thence, S.33°30'45"E. a distance of 60.69 feet to a point; Thence, S.27°43'20"E. a distance of 35.46 feet to a point; Thence, S.30°48'00"E. a distance of 38.57 feet to a point; Thence, S.30°49'20"E. a distance of 92.79 feet to a point; Thence, S.32°00'25"E. a distance of 126.00 feet to a point; Thence, S.32°33'35"E. a distance of 54.56 feet to a point; Thence, S.29°21'50"E. a distance of 53.20 feet to a point; Thence, S.29°32'20"E. a distance of 41.21 feet to a point; Thence, S.02°13'20"E. a distance of 22.84 feet to a point said point being **The True Point of Beginning**.

Said Tract or parcel contains 1.92 acres

TRACT LEGAL DESCRIPTION HILL TRACT

All that tract or parcel lying or being in Land Lots 408, 407, 385, 336 of the 3rd District, 2nd Section of Cherokee County, Georgia and being more particularly described as follows:

Beginning at the southeast corner of Land Lot 409 said point being **The True Point of Beginning**; Thence continuing northerly along the eastern line of land Lot 409, N.02°50'30"E. a distance of 1421.58 feet to a point located on the northeast corner of Land Lot Thence, N.00°56'40"E. a distance of 40.21 feet to a point; Thence, N.00°49'10"E. a distance of 344.00 feet to a point; Thence, N.00°51'30"E. a distance of 847.63 feet to a point located at the northwest corner of Land Lot 385; Thence, N.06°04'15"E. a distance of 1598.31 feet to a point located at the northwest corner of land Lot 336; Thence continuing easterly along the northern line of Land Lot 336, S.86°46'30"E. a distance of 1313.75 feet to a point located on the northeast corner of Land Lot 336; Thence continuing southerly along the eastern Line of Land Lot 336, S.03°20'35"W. a distance of 2830.13 feet to a point located on the northwest corner of land Lot 407; Thence continuing east along the northern line of Land Lot 407, S.86°28'15"E. a distance of 1410.39 feet to a point located on the northeast corner of Land Lot 407; Thence continuing southerly along the eastern line of Land Lot 407, S.03°25'35"W. a distance of 1423.09 feet to a point located on the southeast corner of Land Lot 407; Thence continuing westerly along the southern line of Land Lot 407, N.86°33'05"W. a distance of 1410.45 feet to a point located on the southeast corner of land Lot 408; Thence continuing westerly along the southern line of Land Lot 408, N.86°29'35"W. a distance of 1123.91 feet to a point; Thence leaving the aforementioned land lot line, N.03°31'10"E. a distance of 147.58 feet to a point; Thence, N.86°28'50"W. a distance of 147.63 feet to a point; Thence, S.03°31'10"W. a distance of 147.58 feet to a point located on the southern line of Land Lot 408; Thence continuing westerly along the aforementioned land lot Line, N.86°28'50"W. a distance of 50.12 feet to a point located at the southeast corner of Land Lot 409; said point being **The True Point of Beginning**.

Said Tract or parcel contains 177.13 acres

TRACT LEGAL DESCRIPTION JENKINS TRACT

All that tract or parcel lying or being in Land Lot 409 of the 3rd District, 2nd Section of Cherokee County, Georgia and being more particularly described as follows:

Beginning at the southeast corner of Land Lot 409, said point being **The True Point of Beginning**; Thence continuing westerly along the southern line of land Lot 409, N.87°52'00"W. a distance of 607.93 feet to a point located on the easterly right-of-way of Hogan Pond Lane (30' R/W); Thence leaving the aforementioned land Lot Line and continuing northerly along the eastern right-of-way of Hogan Pond Lane, N.01°44'17"E. a distance of 38.56 feet to a point; Thence, N.30°01'50"W. a distance of 50.63 feet to a point; Thence, N.33°24'18"W. a distance of 134.03 feet to a point; Thence, N.32°42'08"W. a distance of 99.35 feet to a point; Thence leaving the aforementioned right-of-way, N. 50°21'03"E. a distance of 46.10 feet to a point; Thence, N.30°17'30"W. a distance of 71.63 feet to a point; Thence, S.79°05'08"W. a distance of 52.53 feet to a point located on the easterly right-of-way of Hogan Pond Lane (30' R/W); Thence continuing northerly along the aforementioned right-of-way. N. 32°42'08"W. a distance of 8.71 feet to a point; Thence, N.34°34'21"W. a distance of 34.48 feet to a point; Thence, N. 33°45'00"W. a distance of 49.41 feet to a point; Thence, N.54°34'43"W. a distance of 50.98 feet to a point; Thence, N. 28°58'14"W. a distance of 50.16 feet to a point; Thence, N.18°26'16"W. a distance of 49.40 feet to a point; Thence, N.00°13'17"W. a distance of 48.16 feet to a point; Thence, N.08°39'44"E. a distance of 60.82 feet to a point; Thence, N. 08°05'32"E. a distance of 49.70 feet to a point; Thence, N.15°47'25"E. a distance of 48.96 feet to a point; Thence, N. 26°15'27"E. a distance of 50.38 feet to a point; Thence, N.34°56'25"E. a distance of 51.76 feet to a point; Thence, N. 40°43'52"E. a distance of 55.16 feet to a point; Thence, N.51°44'56"E. a distance of 50.07 feet to a point; Thence, N. 60°34'50"E. a distance of 64.84 feet to a point; Thence, N.67°32'38"E. a distance of 46.95 feet to a point; Thence, N. 74°53'20"E. a distance of 92.93 feet to a point; Thence, N.69°19'03"E. a distance of 118.18 feet to a point; Thence, N.71°59'27"E. a distance of 47.86 feet to a point; Thence, N.75°38'20"E. a distance of 48.81 feet to a point; Thence leaving the aforementioned right-of-way S.49°48'56"E. a distance of 527.62 feet to a point located on the eastern line of Land Lot 409; Thence continuing southerly along the aforementioned eastern Land Lot Line, S.01°33'38"W. a distance of 758.83 to a point; said point being **The True Point of Beginning**.

Said Tract or parcel contains 18.23 acres

TRACT 2 LEGAL DESCRIPTION

All that tract or parcel lying or being in Land Lot 456 of the 3rd District, 2nd Section of Cherokee County, Georgia and being more particularly described as follows:

Beginning at the southeast corner of Land Lot 409, said point being **The True Point of Beginning**; Thence leaving the aforementioned Land Lot corner, S.08°16'35"W. a distance of 209.92 feet to a point; Thence, N.80°23'50"W. a distance of 437.27 feet to a point located on the easterly right-of-way of Georgia Highway No. 372 (60' R/W); Thence continuing northwesterly along the aforementioned right-of-way, N.42°00'00"W. a distance of 71.76 feet to a point; Thence, N.44°08'20"W. a distance of 62.50 feet to a point; Thence, N.45°35'05"W. a distance of 75.70 feet to a point located on the easterly right-of-way of Hogan Pond Road (30' R/W) ; Thence leaving the northerly right-of-way of Georgia Highway No. 372 (60' R/W) and continuing northerly along the eastern right-of-way Hogan Pond Road, N.00°16'30"E. a distance of 19.60 feet to a point; Thence leaving the aforementioned right-of- way, S. 86°36'30"E. a distance of 607.95 feet to a point; said point being **The True Point of Beginning**.

Said Tract or parcel contains 2.21 acres

BARKER STREET LLC

Diversified Real Estate Leadership

September 7th, 2016

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

Dear Vicki:

Hogan Pond Properties LLC conducted a public participation meeting on September 1st 2016 at 6:30 p.m. at the Freehome Fire Station Community room at 9253 Freehome Hwy. Canton, Ga. 30115. The fire station is located close to the subject property making it very convenient to area residents. Attached is a list of those who attended the meeting. The three most common concerns/ questions related to: a) traffic concerns at the intersection of Hogan Pond Lane and Hwy 372, b) what are the set-back distances from adjoining property owners, and c) how will the development affect property values in the area? There were some additional questions on the timing of the new River Bend Water Pollution Control Plant, and to clarify the various lot sizes for the proposed zoning categories. Overall, most attendees were appreciative of the information presented and offered good points of further discussion. Please let me know if you have any additional questions or concerns regarding this meeting.

Sincerely,

Barker Street LLC



Patrick D. Clark

Representative for Applicant

pclark@barkerstreet.com

cc: Hogan Pond Properties LLC

Public Participation Plan

COMES NOW, HOGAN POND PROPERTIES,LLC (hereinafter "Applicant) to file this Public Participation Plan along with its Public Hearing Application for property located along Hogan Pond Lane , east of Birmingham Highway. The Applicant has implemented 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 the filing of 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 all 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 7 day of September, 2016.

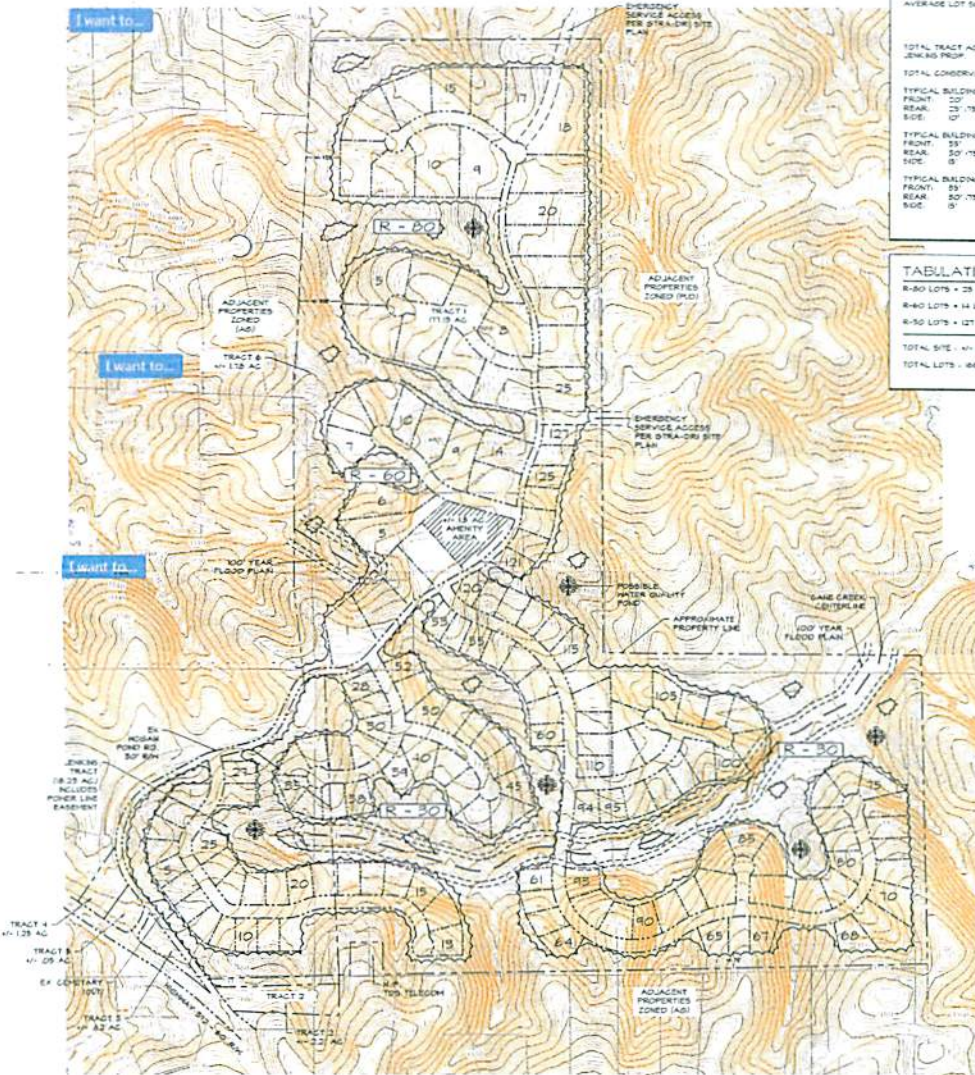
Barker Street LLC

By: 

Patrick D. Clark

Representative for the Applicant

Hogan Pond Properties LLC



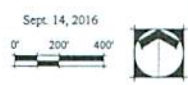
SITE DATA

TOTAL LOTS	66 LOTS
LOTS BY CONSERVATION SPACE ADJACENT	56 (84%)
AVERAGE LOT SIZES:	6-80 (200' x 300')
	8-60 (150' x 300')
	8-50 (100' x 300')
TOTAL TRACT ACRES BY ZONING PROP.	111.96 AC
TOTAL CONSERVATION AREA	11.95 AC (14%)
TYPICAL BUILDING SETBACKS (R-60 CONSERVATION):	
FRONT:	20'
REAR:	25'-75' FROM TRACT BOUNDARY
SIDE:	0'
TYPICAL BUILDING SETBACKS (R-60 CONSERVATION):	
FRONT:	25'
REAR:	20'-75' FROM TRACT BOUNDARY
SIDE:	0'
TYPICAL BUILDING SETBACKS (R-60 CONSERVATION):	
FRONT:	25'
REAR:	20'-75' FROM TRACT BOUNDARY
SIDE:	0'

TABLATION CHART

R-60 LOTS + 28 LOTS
R-60 LOTS + 4 LOTS
R-50 LOTS + 12 LOTS
TOTAL SITE = 111.96 AC
TOTAL LOTS = 66 LOTS

+ TOPOGRAPHY & BOUNDARY HAS TAKEN FROM USGS AND CHEROKEE COUNTY GIS AND IS APPROXIMATE ONLY.



1305 May Drive
 Roswell, Georgia 30076
 404.576.8111
 www.hf.com

CONCEPTUAL MASTER PLAN
 HOGAN POND PROPERTY
 CHEROKEE COUNTY, GEORGIA

This drawing is the property of Bruce Hoopes & Fischer, Inc. and is not to be copied, in whole or in part, without written permission. It is only to be used for the project and site specifically identified herein. Changes shall be retained immediately upon request.

Revision	No.	Date	Remarks

Project No.
 Date
 File Name
 Scale
 Drawn By
 Checked By
L-101
 Sheet Number



Cherokee County, Georgia
Agenda Request

Item#: 5.

SUBJECT: **Case #16-11-039 Southern Farms Development Company, LLC**
MEETING DATE: 10/17/2016
SUBMITTED BY: Tamala Davis

COMMISSION ACTION REQUESTED:

Applicant is requesting to rezone 71.13 acres at Jep Wheeler Road from R-80 to R-40 for a conservation subdivision.

FACTS AND ISSUES:

Commission District: 2
Zoning Change: R-80 to R-40
Location: Jep Wheeler Road
Tax Map and Parcel No: 02N03, 032
Acres: 71.13
Proposed Development: Conservation 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"/> Site Plan	Exhibit
<input type="checkbox"/> Public Participation Report	Exhibit
<input type="checkbox"/> Legal Description	Exhibit
<input type="checkbox"/> Existing Site Resource 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: R. Lawton Jordan III Phone: 404-458-4095
Email: LJordan@williamsteusink.com

Applicant's Information:

Name: Southern Farms Development Company LLC

Address: 424 Holly Oak Trace Phone: 770-265-2855

City, State, Zip: Canton, GA 30114

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

Name: Pantheon Capital, Inc.

Address: 5870 Glenridge Drive, Suite 270 Phone:

City, State, Zip: Atlanta GA 30328

Requested Public Hearing (check all that apply):

- [x] Rezoning [] Amendment / Modification of Zoning
[] Variance / Appeal [] Other:

STAFF USE ONLY:

Commission District: 2
Case: 16-11-039
CityView # PL2016-1301
Received by:
Fee Paid: \$ 500.00
Date:

PUBLIC HEARING SCHEDULE:

Public Participation Meeting: 9/28/16
PC Work Session Date: 10/17/16
Planning Commission Hearing: 11/1/16
Board of Commissioners: 11/15/16
Zoning Board of Appeals:
Other:

SECTION II

Property Information:

Location: 71 acre parcel on west side of Jep Wheeler Road (across the street from 1960 Jep Wheeler Rd).

Current Zoning: R-80 Proposed Zoning: R-40 (conservation) Total Acreage: 71.130

Tax Map #: 02 N 03 Parcel #: 032 Land Lot(s): 577, 578 District: 2nd

Future Development Map Designation: Country Estates

Adjacent Zonings: North R-80 South R-80 East R-80 West R-80, R-60

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

Rezone to R-40 (conservation)

Proposed Use(s) of Property:

Residential Development

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, Matt Langley, 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 3 day of October, 20 16.

Print Name Matt Langley

Applicant Signatu 

SECTION III

Infrastructure Information:

Is water available to this site? Yes No

Jurisdiction: Cherokee County

How is sewage from this site to be managed?

Connected to Cherokee County sewer system

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

If yes, what is the projected increase? 66 students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home	<u>92</u>	0.725	<u>66</u>
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? 880 trips

Code	Land Use(s)	# of units or sqft*	Daily Trip Ends*	Number of Trips
210	Single Family Home/ Townhome	<u>92</u>	9.57	<u>880.44</u>
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.

Applicant Response Statement – Jep Wheeler Road

1. Explain the intent of the rezoning.

Rezone the subject property to R-40 (conservation) for purposes of constructing a single family residential development.

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. This property is located in a primarily residential area and the utilization of a conservation design standard will permit smaller individual-owned residential due to the proximity of this area to a stream.

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

No. This area is primarily residential and the addition of these residential units should not have an adverse impact.

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

No.

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 proposed development would result in uses that are consistent with the current property uses in the area.

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

The proposed zoning is not in conformity with the current future land use category of Country Estates.

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

Communities that utilize the conservation design standard assist in preserving significant areas of land for ecological, recreational, and agricultural purposes and to encourage more efficient development of land consistent with public health, safety, and general welfare.



R. Lawton Jordan
Attorney at Law

404.458.4095
ljordan@williamsteusink.com

September 24, 2016

Via Electronic Mail (tdavis@cherokeega.com)
Cherokee County Planning and Land Use Office
130 Bluffs Parkway
Canton, GA 30114

Re: Rezoning Application filed by Southern Farms Development Company LLC for property located on Jep Wheeler Road across from 1960 Jep Wheeler (as amended, the "Application")

Dear Sir or Madam:

This firm represents Southern Farms Development Company (the "Applicant") with respect to the Application. The Applicant respectfully asserts its constitutional objections to the denial of the proposed rezoning as set forth below, and requests that this letter be placed in the file for the Application.

To the extent the Applicant is prohibited and/or limited from presenting evidence and/or being heard by the County Commission during its consideration of the Application, the Applicant objects that such prohibition would be unconstitutional and illegal, constituting a violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States. A denial of the Application would be unconstitutional in that it would unreasonably impair and destroy Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A denial of the Application would also be unconstitutional, illegal, null and void, constituting a taking of Applicant's property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States, by denying the Applicant an economically viable use of the land while not substantially advancing legitimate state interests. A denial of the Application would constitute an unreasonable hardship upon the Applicant without advancing the public health, safety and welfare and would constitute an arbitrary and capricious act without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A denial of the Application would unconstitutionally discriminate, in an arbitrary, capricious and unreasonable manner against the Applicant and owners of other similarly situated adjacent and nearby properties in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

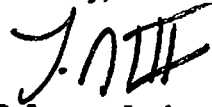
Accordingly, Applicant submits that the current zoning classification and any other zoning of the property, save for what has been or is in the future requested by the Applicant, would constitute an

September 24, 2016

Page 2

arbitrary and unreasonable use of the zoning and police powers because it bears no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harms the property owner and the Applicant. All inconsistent zoning classifications between the existing zoning and the zoning requested by the Applicant would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the property owner. Further, any attempt by the County Commission to impose greater restrictions upon the manner in which the property will be developed than presently exist would be unconstitutional.

Sincerely,

A handwritten signature in black ink, appearing to read "J. III". The signature is stylized and cursive.

R. Lawton Jordan, III, Esq.

**Supplement to Public Participation Plan – Jep Wheeler Road
Application of Southern Farms Development Company, LLC**

Affected parties

The neighboring property owners and interested parties (for which a certificate of mailing has been previously submitted) may be affected by this application. Notification has been made to the neighboring property owners and interested parties by mail (51 letters), in addition to email notice to those persons who attended and placed their name on a sign-in sheet from the previous meeting held on September 7, 2016. In addition, Cherokee County has been notified directly by the applicant by virtue of the application.

Notice to Affected Parties

In addition to the September 7 meeting, a meeting was held on Wednesday, September 28, at the Hickory Flat Fire Department, Station 23, 7675 Vaughn Road, Canton, GA 30115 from 6:30 to approximately 8:00 to discuss the application. At this meeting the applicant explained the revised proposal, and answered audience questions.

A copy of the sign in sheet is attached. Approximately 55 people attended this meeting.

Comments

At the meeting the representative of the Applicant presented a new site plan for R-60 (conservation) zoning with 2 variances, one for density and one for lot size. This revised plan represented a reduction in lots from the previous plan presented from 92 to 65. It was noted that there would be a 100 foot setback from Jep Wheeler Road, and a 40 foot buffer around the perimeter of the project. It was also noted that 47% (33 acres) would be conservation space.

A representative of one of the neighbors followed the presentation by Applicant's representative. In his presentation he outlined several reasons for opposition including the perceived lack of qualifications of the developer, perceived traffic safety issues that would be created by the location of the entrance to the proposed project, what he believed to be increased runoff from the site to adjacent property, and the overall density of the project which he believes is too high and out of conformity with the remainder of the neighborhood.

After this occurred, Applicant's representative answered questions and listened to comments from those in attendance. The majority of those in attendance expressed opposition to any use of the property other than for its current R-80 zoning. One attendee noted that the preferred use of the property was seven 10-acre lots.

Attendees at the meeting also expressed concerns about existing traffic on Jep Wheeler Road and surrounding areas, and the impact the development would have on traffic. Applicant's representative acknowledged that there are traffic related issues in this part of the County, and indicated a willingness to work with the County staff to ensure the entrance to the project is built in a safe manner and to ensure the intersection with Jep Wheeler Road is designed in built in a safe manner. Applicant's preliminary traffic calculations indicate the overall traffic impact of this development, given the existing volume on Jep Wheeler Road, would be negligible.

In response to concerns regarding affecting the existing neighborhood, Applicant's representative noted that while the lots in this proposed development would be smaller than many of the lots in the neighborhood, the proposed development represented a good development option for this area as it preserved nearly half the subject property as conservation area, and that with the 40 foot opaque perimeter buffer and 100 foot buffer on Jep Wheeler Road (both in combination with conservation areas and rear lot setbacks), the impact on surrounding properties would be minimized, as the new homes would all be a significant distance from the property line. In addition, the Applicant's representative expressed a willingness to work with neighbors to fashion certain conditions to further minimize the impact of such development.

The applicant plans to continue to communicate with nearby residents and interested parties in order to respond to additional concerns.

BK PG
6248 404

FILED IN OFFICE
CLERK OF SUPERIOR COURT
CHEROKEE COUNTY, GA

03 JUN 18 PM 2:25

BOOK 6248 PAGE 404

Anne M. Renew

27884

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16⁰⁰

Prepared by and return to:

John George Mansour, Esquire
Ayoub & Mansour, LLC
669 Atlanta Country Club Drive
Marietta, Ga. 30067

CHEROKEE COUNTY, GA.
REAL ESTATE TRANSFER TAX

PAID 1205.00

DATE 6/18/03

Anne M. Renew
CLERK OF SUPERIOR COURT

LIMITED WARRANTY DEED

THIS INDENTURE, made this the 12th day of June, 2003, between LUCKANA CHAYA, a Georgia resident, as party of the first part (hereinafter call the "Grantor") and PANTHEON CAPITAL, INC., A Georgia corporation, as party of the second part (hereinafter called the "Grantee").

The words "Grantor" and "Grantee" shall include their respective heirs, successors and assigns where the context requires or permits.

WITNESSETH, That the Grantor, for an in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration in hand paid and before the sealing and delivery of these presents, the receipt of which 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 Grantee, all that tract or parcel of land lying and being in Cherokee County, Georgia, and being more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

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

And the said Grantor will, except for those matters set forth on Exhibit "B" attached hereto, warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by, through or under said Grantor, but not otherwise.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal, the day and year first above written.

GRANTOR:

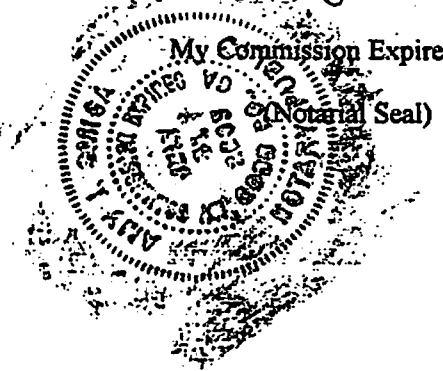
By: Luckana Chaya
Luckana Chaya

Signed, sealed and delivered this
12th day of June, 2003, in the presence
of:

Jaime Mink
Witness

Angela L. Souza
Notary Public

My Commission Expires: _____



COPY

BK PG

6248 406

EXHIBIT "A"

**PROPERTY LINE DESCRIPTION
71.13 ACRE TRACT**

All that tract or parcel of land lying and being in Land Lots 577 & 578 of the 2nd District, 2nd Section, Cherokee County, Georgia and being more particularly described as follows:

To Find the **True Point of Beginning** begin at the intersection of the north line of Land Lot 578 and the west right of way of Jep Wheeler Road aka Wheeler Road (50' R/W) and running thence along the west right of way of said road in a southerly direction a distance of 674.97 feet to the **Point of Beginning**: run thence along said right of way the following calls S 06°50'03" W a distance of 69.91 feet to a point; thence S 12°38'55" W a distance of 81.84 feet to a point; thence S 19°59'34" W a distance of 133.75 feet to a point; thence S 24°07'29" W a distance of 85.55 feet to a point; thence S 28°09'26" W a distance of 98.76 feet to a point; thence S 31°30'00" W a distance of 156.69 feet to a point; thence S 34°53'57" W a distance of 63.48 feet to the intersection of the west right of way of Jep Wheeler Road and the south line of Land Lot 578; run thence along said Land Lot Line N 89°08'06" W a distance of 1036.25 feet to an iron pin found and the common corner of Land Lots 577, 578, 647 & 648; run thence along the south line of Land Lot 577 N 88°49'02" W a distance of 1312.93 feet to an iron pin found and the common corner of Land Lots 577 & 648; run thence along the west line of Land Lot 577 N 02°53'03" E a distance of 1088.31 feet to an iron pin found and the common corner of Land Lots 577 & 576; run thence along the north line of Land Lot 577 S 89°14'08" E a distance of 1266.51 feet to a rock found and the common corner of Land Lots 575, 576, 577 & 578; run thence along the north line of Land Lot 578 S 87°55'14" E a distance of 925.47 feet to a point; running thence and leaving said Land Lot Line S 02°04'37" W a distance of 674.26 feet to a point; run thence S 87°55'23" E a distance of 397.03 feet to a point on the west right of way of Jep Wheeler Road and the **Point of Beginning**.

Said tract or parcel of land contains 71.13 acres and is more particularly shown on a boundary survey for Luckana Chaya by Jerry Thacker & Associates dated May 22, 1981.

EXHIBIT "B"

PERMITTED TITLE EXCEPTIONS

1. Real Estate taxes for the year 2003 and subsequent years, not yet due and payable, and any additional taxes which may result from a reassessment of the subject property or re-billing of the taxes.
2. Recorded plat filed May 26, 1981, Plat Book 18, page 181, Cherokee County Records reveals: a) branch crossing southern portion of subject property.
3. Rights of upper and lower riparian owners in and to the waters of branch crossing or adjoining the property, and the natural flow thereof, free from diminution or pollution.

COPY

See 8-7-03

