

**APPROVED**  
**January 07, 2003**

**MINUTES FOR CHEROKEE COUNTY  
MUNICIPAL PLANNING COMMISSION PUBLIC HEARING  
Tuesday, November 05, 2002**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, November 05, 2002 in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Garland Stewart, Bob Whitaker, Cecil Atchley, Jay Wallace, Wayne Kosbe, Greg Elder and Bill Jarrard. Ashley Holcomb and Rhon Redwine were absent. In attendance for Cherokee County Staff were Mark Mahler, Vicki Taylor, Jim Cain and Barbara Henderson. The meeting was called to order at 7:50 P.M.

Chairman Stewart addressed a concern about rezone notification signs that had been brought up during the Board of Commissioners' Meeting, which was just prior to this meeting. He said that the county needs to purchase better quality signs that will withstand the inclement weather. Chairman Stewart recommended that the Planning Department staff go to Mr. Cooper and request the purchase of better signs. He said he would personally call Mr. Cooper, also.

Chairman Stewart then went over the rules of conduct for the meeting.

Case #02-11-032, Knox Bridge Properties, Inc. requested to rezone 127 acres from AG to R-40. If rezoned, the property would be utilized for a residential conservation subdivision. The property is located on Sugar Pike Road in Land Lots 208, 209, 223, 224, 225, 280, 281 and 282 of the 2<sup>nd</sup> District and is further described as Cherokee County Tax Map 02N01, Part of Parcel 211 and Tax Map 02N02, Parcel 220.

Vicki Taylor gave the staff recommendation. She informed the Planning Commission that a large number of letters in opposition to this case had been received by the Planning and Zoning Department. Based on the comments in these letters, Ms. Taylor felt that there was a misconception about the role played by the Planning and Zoning Department in giving staff comments. She proceeded to clarify this role. After explaining Staff's position on this case, Ms. Taylor recommended approval of the application, with the condition that the applicant be required to meet with staff prior to submission of site drawings, to resolve issues raised by the various county departments.

Attorney Benson Chambers, representing the applicant, presented the case to the Planning Commission. He described the subject property and the surrounding area. He proceeded to describe the proposed development. He answered questions from Commission members. Mr. Chambers reserved the remainder of his time for rebuttal.

Two people spoke in opposition. Lynn Hammond spoke in behalf of the Oak Hill Estates Homeowners' Association. His concern was with the proposed fifty foot buffer. He said that a minimum buffer of fifty feet would allow the developer to take down trees. He also voiced concern over the impact this development would have on police protection, the schools and

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traffic. He wanted the proposed entrance to the development moved further away from the entrance into Oak Hill Estates.

Barry Atkinson spoke in opposition. He asked for a show of hands from those opposed to this rezone application. He said all of these people had moved away from congested counties to escape this sort of development. He also said that the applicant, when asked why he was seeking high density zoning, had stated that in order to make money he needed that density. Mr. Atkinson said he felt the homeowners in the area should not suffer because the applicant wanted to make more money. He suggested that the applicant go elsewhere for his development.

Benson Chambers gave his rebuttal. He said the owners of the subject property would be hurt if this application is denied, not the developer. He indicated that their constitutional rights would be violated if the rezone application was denied. He answered questions from the Commissioners. A discussion ensued.

Chairman Stewart made a motion to table the case for thirty days, to give the applicant time to bring the site plan up to date. Greg Elder seconded the motion. The vote was 7-0 to table. Chairman Stewart said there would not be another public hearing on this case. If the applicant has met the requirements by the next meeting, then the Planning Commission will vote on the case at that time. It was recommended to the audience that anyone who still had concerns about this case should notify the Planning and Zoning Department, which in turn, will notify the Planning Commission.

Case #02-11-033, Sirron Group Development LLC requested to rezone 231 acres from AG to R-40. If rezoned, the property would be utilized for a residential conservation subdivision. The property is located on Reinhardt College Parkway in Land Lots 77 and 78 of the 14<sup>th</sup> District and is further described as Cherokee County Tax Map 14N08, Parcels 070 and 086.

Vicki Taylor gave the staff recommendation. She said the site plan received by the Planning and Zoning Department did not meet the minimum requirements. Nearly every department in the county found significant problems with this application. She elaborated on these concerns. Staff recommended that, should the rezone be approved, the applicant must be required to meet with all of these county departments in order to resolve the issues.

Because of all the concerns involved with this application, it was suggested that the application be tabled for thirty days without hearing the case, in order for the applicant to address the issues. Chairman Stewart sought Mark Mahler's legal opinion. A discussion ensued about the availability of water for this project. Mr. Mahler said the case could be tabled; however, it would require re-advertising the case before the next meeting.

Chairman Stewart made a motion to table the case for thirty days. Cecil Atchley seconded the motion and the vote was 7-0 in favor of tabling the case.

Case #02-11-034, Brynn Stensrud, was withdrawn by the applicant prior to this meeting.

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Case #02-11-035, Global Investment Partners, Inc. requested to rezone 15.68 acres from AG to RZL. If rezoned, the property would be utilized for a single-family detached residential subdivision. The property is located on Bells Ferry Road in Land Lot 686 of the 21<sup>st</sup> District and is further described as Cherokee County Tax Map 15N04, Parcels 45, 46 and 48.

Vicki Taylor gave the staff recommendation. As far as the zoning alone, RZL Zoning Classification with six units per acre would be much more desirable than Industrial Zoning which is indicated on the Future Land Use Map. However, there are significant problems concerning the future of Bells Ferry Road.

Attorney Joel Larkin, representing the applicant, spoke in favor. He described the subject property and the surrounding area. He said they were talking with the GDOT and trying to get definitive plans on the Bells Ferry Road project, but, to date, there are no such plans. Therefore, they wanted to proceed to develop the site under the current conditions.

Jeffrey D. Layne, Sr. spoke in opposition. He lives directly behind the subject property. Mr. Layne said that most of his neighbors were not notified of this rezone application. He voiced concern about increased traffic and the overcrowding of schools. Mr. Layne was asked what kind of notification he had received for this hearing. He said he had received a letter from the law firm of Sams, Larkin and Huff. He said his subdivision did have a Homeowners' Association. Bill Jarrard asked Mr. Layne how he thought the subject property should be zoned. He answered that it should be zoned the same as his. He has 2/3 of an acre and he said most of the homes were that size or larger.

Joel Larkin gave his rebuttal. A discussion ensued about the Future Land Use Map designation for the subject property. Another discussion ensued concerning the zoning classifications of abutting properties. Chairman Stewart asked what the schedule was for the GDOT to do work in the area. Commissioner Singleton spoke. He said that construction lines by the GDOT were undefined at this time and recommended that the Planning Commission proceed with this application without consideration of the Bells Ferry Road construction. A discussion ensued on the proposed Bells Ferry Road construction.

Russ Sims of the School Board said he and the applicant had held a short meeting, but they needed to have further discussions. A discussion ensued about the Public Participation Plan.

Bob Whitaker made a motion to approve the application, with the condition that the rear buffer be at least 35 feet and consist of effective visual screening to the adjacent properties. Chairman Stewart seconded the motion. Jay Wallace said that he was struggling with the density of RZL zoning, after taking into consideration the surrounding zoning districts. The vote was 6-1, with Jay Wallace voting against the motion.

Case #02-11-036, Steven Hyland requested to rezone 0.457 acres from R-20 to OI (Office Institutional). If rezoned, the property would be utilized for office uses. The property is located on Bells Ferry Place in Land Lot 1296 of the 15<sup>th</sup> District and is further described as Cherokee County Tax Map 15N06A, Parcel 094.

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Vicki Taylor gave the staff recommendation. Staff's main concern with this application was the lack of a sufficient site plan and the fact that the subject property does not have the required acreage for O & I Zoning. The subject lot is also part of a subdivision. Although the request itself is not unreasonable, due to the surrounding zoning, Staff recommended denial because of the aforementioned concerns. Should the Planning Commission approve this application, then Staff recommended that the approval be contingent upon an approved site plan and possibly additional acreage being acquired.

Ken Patton, representing the applicant, spoke in favor. He described the subject property and the proposed use, if rezoned. Mr. Patton said that the applicant planned on leasing the existing house for office use and would be willing to market the subject property, in conjunction with the adjacent undeveloped O & I zoned property, for resale. At the time of this resale, then the applicant would submit a detailed site plan in compliance with Cherokee County requirements. The subject property is currently rental property. Mr. Patton said that Mr. Hyland was in negotiations with the owner of the adjacent property, in order to acquire additional acreage. He reserved the remainder of his time for rebuttal. Mr. Patton was commended on his Public Participation Report.

Three people spoke in opposition. They were Mike Young, Tom Glenn and Jimmy Smith. Their concerns were with the size of the subject property and the inadequate buffers. Mr. Glenn represented the Homeowners' Association for this subdivision and voiced concern about rezoning a residential lot in a subdivision to O & I. Mr. Smith, who has lived here for 18 years, said that the subject lot was originally designated as a tennis court for the subdivision. He asked the Commissioners if they would want this kind of development in their subdivisions.

Ken Patton gave his rebuttal. He said there was no evidence that there is a formal Homeowners' Association with this subdivision. He also said there were no restrictive covenants recorded. He addressed the site plan issue. Mr. Patton was asked by Bill Jarrard why he did not seek a variance instead of trying to rezone. Mark Mahler and Mr. Patton both agreed that the County Zoning Ordinance did not allow for a variance for lot size. Staff was asked about the history of the adjacent lot.

Mr. Glenn told the Planning Commission that the subdivision did indeed have a Homeowners' Association, along with recorded restrictive covenants. Since the subdivision consists of more than 18 lots, the covenants would automatically roll over for an additional 20 years.

Chairman Stewart made a motion to deny the rezone. Wayne Kosbe seconded the motion. The vote was 7-0 for denial.

Case 02-11-037, Aleksandr Kovalchuk requested to rezone 1.3 acres from R-40 to R-20. If rezoned, the property would be utilized for single-family residential uses. The property is located on Wiley Bridge Road in Land Lot 1120 of the 15<sup>th</sup> District and is further described as Cherokee County Tax Map 15N30, Parcel 118.

Vicki Taylor described the subject property and the surrounding area. After giving the pros and cons of the case, Staff chose not to make a recommendation.

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Aleksandr Kolvalchuk presented his case to the Planning Commission. He explained the circumstances which caused him to seek to rezone his property. The existing house is too close to the road and he is concerned about his children's safety. He said he could not afford to demolish the present house, because there is still a mortgage on that home. He is proposing to build another house further back from the road. The Commissioners asked questions of Mr. Kolvalchuk, in order to clarify exactly what he was attempting to do.

Several people spoke in opposition to this case. They were only opposed to the change in zoning classification from R-40 to R-20. They were not opposed to Mr. Kolvalchuk making renovations and additions to his present home. Mr. Kolvalchuk gave no rebuttal.

A discussion ensued about Mr. Kolvalchuk's possible options. BOC Chairman Lemcke suggested that Mr. Kolvalchuk might want to consider requesting approval of a non-conforming lot, which would allow the zoning to remain R-40.

Bill Jarrard made a motion to deny the application. Wayne Kosbe seconded the motion and the vote was 7-0 for denial.

Case #02-11-038, Carolyn W. Jacobson requested to rezone 9.30 acres from R-40 to AG (Agricultural). If rezoned, the property would be utilized for a single-family residence and working farm. The property is located on Birmingham Road in Land Lots 47 and 48 of the 2<sup>nd</sup> District and is further described as Cherokee County Tax Map 02N12, Parcel 005A.

Vicki Taylor gave the staff recommendation, which was for approval.

Carolyn Jacobson presented her case to the Planning Commission. She presently has a horse farm on the premises and wants to continue having a horse farm, which at this time with the R-40 zoning, is a non-conforming use. AG Zoning would bring the property into compliance with the County Zoning Ordinance.

Chairman Stewart made a motion to approve the application, with the condition that there would be no chicken houses and no swine kept on the property. Bill Jarrard seconded the motion and the vote was 7-0 for approval.

Bob Whitaker made a motion to approve the minutes for the October 01, 2002 Meeting. Cecil Atchley seconded the motion. The vote was 7-0 for approval.

The meeting was adjourned at 9:35 P.M.