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**MINUTES FOR CHEROKEE COUNTY
MUNICIPAL PLANNING COMMISSION PUBLIC HEARING
Tuesday, December 03, 2002**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, December 03, 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, Ashley Holcomb and Bill Jarrard. In attendance for Cherokee County staff were Mark Mahler, Vicki Taylor and Jim Cain. The meeting was called to order at 7:30 P.M.

Chairman Stewart outlined the rules and time limitations for presenting the cases and for opposition.

Case #02-11-032, Knox Bridge Properties, Inc. – A full presentation of this case was made at the last meeting on November 05, 2002. The case had been tabled at that time in order to obtain additional information. Vicki Taylor gave an update on the outstanding issues. She said Planning and Zoning had now received a revised site plan and a Public Participation Report. Staff again recommended approval of the rezone, with the condition that the applicant will meet with Staff to discuss the resolution of any other issues that were outstanding. She said she had not yet received a flow test from the applicant.

Chairman Stewart asked Benson Chambers if the flow test had been done. The applicant could not proceed with development until this test is completed.

Chairman Stewart made a motion to approve the application, with the condition that there be a maximum of 94 lots developed, according to the site plan submitted. Bill Jarrard seconded the motion and the vote was 7-0 for approval. Ashley Holcomb had not yet arrived at the meeting at this time.

Case #02-11-033, Sirron Group Development LLC – Chairman Stewart introduced a letter from the Sirron Group requesting that this case be tabled for sixty days, until a determination could be made about the availability of water for the proposed development from the City of Waleska. Chairman Stewart was concerned about the legality of tabling the case for sixty days, since it had already been tabled for thirty days at the last meeting. According to the rules, a case can only be tabled a total of sixty days. Mr. Stewart said he had discussed this situation with Mark Mahler, County Attorney.

Chairman Stewart then made a motion to table the case for an additional thirty days. The motion was seconded by Greg Elder. The vote was 8-0 in favor of tabling the case.

Case #02-12-039, Arthur Burk requested to rezone 3.05 acres from AG to R-40. If rezoned, the property would be utilized for a single-family residence. The property is located on Knox Bridge Highway in Land Lots 54 and 55 of the 14th District and is further described as Cherokee County Tax Map 14N12, Parcel 014.

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

Arthur Burk presented his case to the Commissioners. He asked to be allowed to place a modular home on the subject property for his son's residence.

Jerry Kinsey spoke in opposition. He did not want the AG Zoning Classification changed on the property. He did not understand why a home could not be put on the site under the current zoning classification. Chairman Stewart explained that there was already a residence on the subject property and in order to place an additional residence on the 3.05 acres, the property would have to be rezoned to R-40.

Chairman Stewart made a motion to approve the application. Ashley Holcomb seconded the motion and the vote was 8-0 for approval.

Case #02-12-040, Ken Densler and Lee Upshaw requested to rezone 2.13 acres from R-40 to OI. If rezoned, the property would be utilized for office condominiums. The property is located on Holly Springs Parkway in Land Lot 417 of the 15th District and is further described as Cherokee County Tax Map 15N14, Parcel 041.

Vicki Taylor gave the staff recommendation. There is an existing six inch water line to the property and the Fire Department said it required an eight inch water line. Therefore, Staff recommended approval of the application, contingent upon the water line problem being resolved.

Lee Upshaw and Ken Densler presented their case to the Commissioners. They submitted updated site plans. They described the architectural design for the proposed office buildings and the timeframe for construction. They said there would be minimal removal of trees; that they wanted to keep the site as natural as possible.

Don Elliott spoke. He wanted clarification of OI Zoning. He said that he had no objections to construction of office/professional buildings. He just did not want more intense development. He asked that the Commissioners put a condition on the approval of this request, specifying that the only use approved is office/professional. The applicants had no objection to this condition being included in the approval.

Chairman Stewart asked how close the subject property is to Sixes Road. Bill Jarrard wanted clarification on the buffer requirements.

Chairman Stewart made a motion to approve the application, with the condition that the use would be for office/professional use only and that modifications to the site plan would show thirty foot buffers on all three sides that are adjacent to R-40 property. Bill Jarrard seconded the motion. The vote was 8-0 for approval.

Case #02-12-041, Tony Boles requested to rezone 3.895 acres from R-40 to GC. If rezoned, the property would be utilized for a commercial retail center. The property is located on Cumming

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Highway in Land Lot 978 of the 3rd District and is further described as Cherokee County Tax Map 03N23, Parcel 246.

Vicki Taylor gave the staff recommendation. Instead of GC, Staff recommended NC Zoning Classification or OI in order to lessen the land use impact.

Attorney Elliott Smith, representing the applicant, presented their case to the Planning Commission. He described the proposed development. Jay Wallace asked Mr. Smith how he felt about Staff's recommendation of NC or OI instead of the GC Classification. Mr. Smith said that NC would prevent development of a shopping center and they were proposing to develop a retail center. Also, the square footage would be limited under the NC Classification. Bill Jarrard asked questions about the possibility of gas stations and underground storage tanks, or convenience food stores. Mr. Boles said he did not have any plans at this time to build a gas station or convenience store. However, the tract has an outparcel that he would probably want to sell in the future. A discussion ensued.

Chairman Stewart made a motion to approve GC Zoning. Ashley Holcomb seconded the motion. Jay Wallace commented that under the circumstances, he felt that GC was more appropriate than the NC that Staff proposed. The vote was 7-1 for approval, with Bill Jarrard opposing.

Case #12-12-042, Residential Environments LLC requested to rezone ±159 acres from AG/R-80 to R-60. If rezoned, the property would be utilized for a residential conservation subdivision. The property is located on Lower Burris Road in Land Lots 177 and 184 of the 14th District and is further described as Cherokee County Tax Map 14N14, Parcel 153.

Vicki Taylor gave the staff recommendation. Staff recommended consideration of an R-80 Conservation Subdivision instead of the R-60 that was applied for. This would lessen the impact of the changing land use.

Attorney Benson Chambers represented this case. He described the subject property and the proposed plans for development. Mr. Chambers discussed the lack of availability of water from the City of Waleska, offering possible alternate solutions. He reserved the remainder of his time for rebuttal.

Barry Satterfield spoke in opposition. He gave the Commissioners a petition signed by approximately 150 people who opposed this development. He also asked all the opposition people present at the meeting to stand up. Mr. Satterfield listed his points of opposition, with reference to the Steinberg Act. He pointed out that not only is the surrounding property zoned AG, it is also used for agricultural purposes.

Jody Weaver spoke in opposition. He told the Commissioners that he and the other adjacent property owners were very upset about this situation. They did not want to live in a PUD and did not want one adjacent to them. He received a round of applause from the audience.

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Mr. Chambers gave his rebuttal. He said the City of Canton has plans to annex most of the land in the vicinity of the subject property. He also outlined the differences between development standards for AG and R-60 Conservation. Mr. Chambers said that, if this application is approved, they would dedicate 40% of the land to greenspace. He asked the Planning Commission to consider the application on its merits and recommend approval to the Board of Commissioners.

Bill Jarrard asked Mr. Weaver if his group had any objections to the Planning Commission approving R-80 zoning. Mr. Weaver said that they wanted the zoning to remain AG. The owner of the property could still build one house for every two acres of land. Mr. Satterfield also preferred that the subject property remain AG. Chairman Stewart explained the different development standards between AG and R-80. A discussion ensued.

Jay Wallace made a motion to deny the rezone. The motion was seconded by Greg Elder. The vote was 7-1 for denial. Chairman Stewart voted against the motion.

There was a brief pause in the meeting so that the people whose cases had already been heard could clear the room.

Case #02-12-043, Christopher D. Alvey, DVM, PC and Bryan Nunn requested to rezone approximately 5.9 acres from R-40 to GC. If rezoned, the property would be utilized for a veterinary hospital and full service car wash. The property is located on Bells Ferry Road in Land Lots 223 and 224 of the 15th District and is further described as Cherokee County Tax Map 15N08, Parcel 114.

Vicki Taylor gave the staff recommendation. She informed the Commissioners that the applicants' request for a car wash had been withdrawn from their application. They now only sought a rezone for the veterinary clinic. Ms. Taylor said that Staff did support approval of this rezone if the applicants would agree to adherence to the architectural standards of Bridge Mill.

Attorney Benson Chambers represented this case. He described the subject property and informed the Planning Commission that one of the original applicants, Mr. Nunn, was no longer involved. The proposed car wash was Mr. Nunn's plan and since he no longer was involved, the request for a car wash had been withdrawn from the application. Mr. Chambers said that the only opposition in the Public Participation Meeting was Jack Barnes. He said Mr. Barnes had his property on the market for sale.

William Hansley spoke in opposition. He owns the property adjacent to the subject property. He was concerned about what the remainder of the 5.9 acres would be used for after the veterinary hospital had been built. The car wash was no longer a factor. He was also concerned about the noise level from the clinic, such as barking dogs. Mr. Chambers said all the animals would be housed indoors, with outside areas for exercise and walking the animals only. Mark Mahler said there was no noise ordinance that governed GC. A discussion ensued about where the veterinary hospital would be located on the property.

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Jack Barnes said he was also concerned about the noise from dogs barking. He asked that the Commissioners turn this application down.

Barney Green spoke in opposition. He was opposed to the noise level.

Mr. Chambers gave his rebuttal. He introduced Dr. Alvey to address the noise concerns. Dr. Alvey said the clinic was being designed by an architect who will specifically address the noise level concern. The walls will be soundproof. He said there would be more noise coming from the street than from the clinic. Dr. Alvey was asked where he planned on situating the clinic now that the car wash no longer being proposed. He said he would have to go back to the drawing board.

Ashley Holcomb made a motion to approve GC zoning, with the condition that there would be no outside storage of animals. The outside area would be restricted to exercise and walking the animals only. Greg Elder seconded the motion. Bob Whitaker added the condition that the clinic be constructed according to the Bridge Mill architectural designs. The vote was 8-0 for approval.

Case #02-12-044, John Wieland Homes and Neighborhoods, Inc. requested to rezone 70.54 acres from AG to R-20. If rezoned, the property would be utilized for a residential conservation subdivision. The property is located on Collett Drive near its intersection with Arbor Hill Road in Land Lots 1139, 1166, 1211 and 1238 of the 3rd District and is further described as Cherokee County Tax Map 03N12, Part of Parcel 129.

Vicki Taylor gave the staff recommendation. Staff recommended approving either R-30 or R-40 instead of the requested R-20 Conservation. This would give a transitional density between the Woodmont PUD and AG.

Attorney Benson Chambers presented the case. He told the Commissioners that the applicant was proposing an extension of the Woodmont PUD. He described the subject property and the proposed development. He said, contrary to what had been said, there would be no access off Collett Drive. Mr. Chambers said that Dan Fields, a representative of Wieland Homes was present and could answer any questions the Commissioners might have. Chairman Stewart asked how many entrances there are to Woodmont now. Mr. Chambers said there were at least three now and a total of four or five entrances were being proposed.

Chris McCauley spoke in opposition. She owns property adjacent to the subject property. She requested that the Planning Commission stipulate the lowest possible density for whatever zoning classification is approved.

Melvin Sams, another adjacent property owner, spoke in opposition. He had no objections to the rezone, he just wanted lower density than what is being requested. Mr. Sams said that the proposed greenspace is located in a flood plain and could not be developed anyway. He asked that the density be at least a minimum of what Woodmont is.

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Alan Ivy spoke. He also was not opposed to the development, but to the density. He also had concerns about an increase in his property taxes due to the proposed development. He wanted something stipulating that children from the proposed subdivision could not come up the creek and into his lake.

Mr. Chambers gave his rebuttal. He did not think that R-20 Conservation zoning was inconsistent with the surrounding zoning. He also said that the new development would be just like the existing Woodmont PUD. Mr. Chambers pointed out that although the bulk of the proposed greenspace is in a flood plain, if it was not designated as greenspace then the property owner could use the property. It would not be undisturbed. A discussion ensued.

Mr. Fields then explained why they were requesting a higher density development than is presently in Woodmont. He said many people wanted smaller lots with less maintenance, although the homes themselves would be comparable to the existing ones.

Another discussion ensued about the Fire Department's concern relating to ingress/egress into the proposed development.

Bob Whitaker said that when the first Woodmont was approved, they were told it would be one house per acre. He did not think it made sense to increase the density as the development approached the perimeter. He said the atmosphere in this area is still rural. He then made a motion to approve R-40 zoning, consistent with the density of the original Woodmont development. Chairman Stewart seconded the motion. The vote was 7-0 for approval, with Jay Wallace abstaining.

Case #02-12-045, Carl Vasallo requested that his case be tabled for thirty days. Bill Jarrard made a motion to grant the applicant's request to table the case for thirty days. Ashley Holcomb seconded the motion and the vote was 8-0 to table.

Case #02-12-046, A T & T Broadband requested to rezone 2.0 acres from R-80 to R-80 Conditional. If rezoned, the property would be utilized for a digital telecommunication transmission exchange. The property is located on Old Mountain Road in Land Lots 581, 582, 643 and 644 of the 2nd District and is further described as Cherokee County Tax Map 02N03, Part of Parcel 174.

Vicki Taylor gave the staff recommendation. Staff recommended approval, with the condition that a thirty foot screening buffer around the entire perimeter be required.

Amy Hillman, representing the applicant, spoke in favor. Bud Caldwell and Eric Pilcher were with Ms. Hillman to answer any questions. She described their development plans for a non-tower telecommunications transmission facility for fiber optics broadband. She said the facility would be analogous to a telephone exchange facility. Ms. Hillman proceeded to explain their objections to a thirty foot screening buffer and/or an opaque fence. That would render the facility invisible from the road and could promote vandalism or terrorism, as this facility would be unmanned. It would increase traffic in and out of the facility in order to make sure everything was alright. The buffer would also prevent Mr. Sims' cattle from grazing on the property and

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that is part of AT&T's agreement with Mr. Sims. She submitted pictures that showed what the facility will look like. Considering the cell tower adjacent to the proposed site and also the adjacent commercial property, they felt that no one would want to construct a home on this site. Therefore, Ms. Hillman said that what they are asking for would be appropriate for the area.

Bill Jarrard asked why the Planning Commission was even considering residential zoning on this proposed use, since AT&T Broadband is not a public utility. He thought the zoning should be commercial or OI. Ms. Hillman read the definition of a public utility from the dictionary and said that the proposed facility did satisfy that definition. Mr. Jarrard said he thought that a company was not a public utility if it did not have the right of eminent domain. Again, Ms. Hillman gave examples of public utilities such as gas companies that did not have the right of eminent domain. She pointed out that public utilities were heavily regulated by the government and could not refuse service to people.

Jay Wallace asked the engineers about the height of the proposed building. They determined that it was twenty feet high. A discussion ensued about the proposed fence. They are not proposing to use barbed wire on the fence because of the potential danger to the grazing cattle.

Chairman Stewart asked why this particular location was selected. The engineer explained that this particular facility is called a northern digital hub, which has to be strategically located in order to boost the signals. Chairman Stewart wanted to know if they were planning on digging up any roads. They are not. There was no opposition to the case.

In reference to a letter he had received, Chairman Stewart said he wished that Carl Westmoreland had attended this meeting. He did not like the tone of that letter and wanted to tell Mr. Westmoreland so in person. A discussion then ensued about the surrounding neighbors and the possible abandonment by the county of Old Mountain Road. Chairman Stewart could not understand why the applicant had chosen this particular site when there were other sites zoned GC in the immediate vicinity. The applicant wanted to locate close to the existing hub, which is next to the existing cell tower. Another discussion ensued about the appearance of the proposed building. It was suggested that the building be given more of a residential appearance in order to blend in with the area.

Bill Jarrard again stated his position that the zoning should be GC or OI instead of residential. Mr. Mahler said that would open the door to much more intense use of the property. He also said that in order to approve GC or OI, the case would have to be re-advertised in the legals. Mr. Mahler said it was a close enough call that he recommended leaving the property zoned R-80 and to have a public hearing, rather than rezoning to GC or OI.

Bill Jarrard made a motion to approve the application, with the following conditions:

1. The facility would be used specifically as a non-tower digital telecommunication transmission exchange only.
2. The building would have to be earthtone in color.

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3. The project must conform to the County Lighting and Road Glare Ordinance.

A discussion ensued about buffer requirements. Bob Whitaker seconded the motion. The vote was 8-0 for approval.

The last item on the agenda was the discussion of the county's Public Participation Plan revisions. Jay Wallace asked if the Plan would now be mandatory. The answer was in the affirmative. The new Plan also defines the limits of notification. A discussion ensued about notification of Home Owners' Associations. Bob Whitaker wanted a stipulation added that would include notification of HOA's that fall within the required 750 foot radius. The Commissioners decided that the wording should include any homeowners and HOA's within the 750 foot radius.

Jim Cain said he had also added to the ordinance a clause addressing commercial uses in AG. A discussion then ensued as to how the Planning and Zoning Department would go about confirming that all the people in the 750 foot area were indeed given notification. Mr. Cain said that the applicant was responsible for this process and that the agreement was to get delivery confirmations from the post office. Another discussion ensued. Ashley Holcomb was skeptical on enforcement of this part of the Plan. Emily Lemcke felt that the developer should be responsible for verifying notification and not Staff. Again, a discussion ensued.

Bob Whitaker asked that in Paragraph 5, which reads, "It is mandatory for applicant to schedule and hold a public participation meeting when they send out the notifications", the words "and hold" be stricken.

Chairman Stewart made a motion to recommend approval of the revised Public Participation Plan, including the requested changes, to the Board of Commissioners. Bob Whitaker seconded the motion. The vote was 8-0 for approval.

For the record, Bob Whitaker thanked Ms. Lemcke for her four years of service with the county. He also told her that, for the two years he has been on the Planning Commission, it has been a privilege to serve with her.

The meeting was adjourned at 10:30 P.M.