

*APPROVED*  
*February 4, 2003*

**MINUTES FOR CHEROKEE COUNTY  
MUNICIPAL PLANNING COMMISSION PUBLIC HEARING  
Tuesday, January 07, 2003  
7:30 p.m.**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, January 07, 2003 in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Garland Stewart, Cecil Atchley, Jay Wallace, Wayne Kosbe, Greg Elder, Ashley Holcomb, Bill Jarrard and newly appointed member Rob Cutting. In attendance for Cherokee County Staff were Mark Mahler, Vicki Taylor and Barbara Henderson. Chairman Stewart called the meeting to order at 7:30 P.M.

The first item of business was the swearing in of Rob Cutting. Next, the Planning Commission voted on the approval of the Woodmont Subdivision Master Plan. Chairman Stewart made a motion to approve the plan and Cecil Atchley seconded the motion. The vote was 7-0-1 for approval, with Jay Wallace abstaining.

A vote was then taken to approve an amendment to the Woodmont Subdivision Master Plan. Again, Chairman Stewart made a motion to approve the amendment. Bill Jarrard seconded the motion and the vote was 7-0-1 for approval, with Jay Wallace again abstaining.

**Old Cases**

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. Staff recommended approval, as the outstanding issues, including water availability, have been resolved.

John Norris presented this case to the Planning Commission. He outlined their plans for development and emphasized the large amount of greenspace that has been set aside – approximately 50 percent of the total acreage. He said that because of prior concerns, they were now planning on putting in a second entrance to the development. Mr. Norris then discussed the water treatment system they are proposing. He said that this development would be an asset to the community.

Cecil Atchley asked about the second entrance. Mr. Norris said it would not be paved; that it would only be an emergency access. A discussion ensued about nature trails and other amenities. Another discussion ensued about the proposed water treatment facility. Mr. Wickle elaborated on this system.

Bob Blackwell, an adjacent property owner, spoke in opposition. His primary concern was with the increased traffic, should this proposed subdivision be approved. He also voiced concerns

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about the water supply and the proposed sewerage treatment facility. He respectfully requested that the Planning Commission deny the application.

Eddie Blackwell spoke in opposition. His objection was concerning the proposed water treatment facility. He did not want this treated water to leach into his property. He said no matter how you dress it up, it still amounts to water that comes out of the toilet.

Mr. Norris gave his rebuttal. He pointed out that they could development the subdivision using septic tanks. He said, however, that the proposed water treatment system they were considering was far superior to septic systems. He also said that the entrance to the development had been relocated to the south for traffic safety purposes.

Chairman Stewart verified that the water situation had been resolved. He asked Mr. Norris if they had met with the School Board. Mr. Norris answered in the affirmative. A long discussion then ensued about the water treatment facility.

Chairman Stewart made a motion to approve an R-40 conservation subdivision. Wayne Kosbe seconded the motion. Jay Wallace voiced his concern over the density of this proposed development. The vote was 7-1 for approval, with Jay Wallace voting against approval.

Case #02-12-045, Carl Vasallo requested to rezone ±65 acres from AG to R-15 Conditional. If rezoned, the property would be utilized for a single-family residential subdivision. The property is located on Cumming Highway in Land Lots 303, 274 and 275 of the 14<sup>th</sup> District and is further described as Cherokee County Tax Map 14N29, Parcels 29 and 33.

Chairman Stewart called for a thirty day postponement on the case because of an error in the tax map. There were several adjacent home owners who were not notified of the rezone application because of this error. Mr. Stewart then made a motion to table the case for thirty days. Ashley Holcomb seconded the motion and the vote was 8-0 in favor.

### **New Cases**

Case #03-01-001, Sivica Commercial, Inc. requested to rezone ±25 acres from AG to OI (up to 9 acres for senior housing), NC (up to 7 acres) and the remaining acreage to OI. If rezoned, the property would be utilized for a mixed-use development with senior housing and neighborhood commercial uses. The property is located along Bells Ferry Road and is further described as Cherokee County Tax Map 15N07, Parcel 047.

Vicki Taylor gave the staff recommendation. She explained why the applicant had requested OI zoning for the senior living facility. She also told the PC members that she had consulted with County Attorney Mark Mahler and he had agreed with their assessment that RM-16 zoning would be more appropriate for this facility. Ms. Taylor had consulted with Mr. Mahler about a request from the School Board for an additional condition of rezoning, stipulating that the residents of the senior facility must be 55 years or older. Mr. Mahler said that the Planning Commission could not legally impose this condition. However, the applicant could agree to the stipulation as a condition of rezoning. She introduced a letter from the applicant to this effect.

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Staff then recommended approval, with the condition that the development would be the same type quality as the adjacent PUD.

Terry Taylor, President of Sivica Commercial, spoke in favor. He gave some background information on Sivica. He then described their plans for this project. They are working with Ambling Development Company on the construction of the senior housing facility. Norm Hanson, Sr., Vice President of Ambling, was also present at this hearing. Mr. Taylor described the subject property and the topography. He said they were proposing a quality development, following the same guidelines as the adjacent Bridge Mill PUD, which they also developed when they were known as Concordia. He said that this development would cater exclusively to residents 55 years or older. Mr. Taylor said they were proposing that all of the NC uses front on Bells Ferry Road only. He then addressed some of the staff comments. He discussed buffers.

Mark Mahler informed Mr. Taylor that his allotted time for presenting his case was up. Mr. Taylor then proceeded to wrap up the presentation. He respectfully requested that the Planning Commission recommend approval to the Board of Commissioners.

Chairman Stewart made a belated announcement that proponents and opponents would each be allowed ten minutes total for their presentations.

There was no opposition to the case. Bill Jarrard asked for legal clarification on the proposed age restriction for the residents of the senior living facility. Mr. Jarrard also discussed exploring the possibility of a zoning classification for senior living facilities. Wayne Kosbe asked questions about the size and price of the individual living units. He also asked questions about the square footage of the proposed NC units. A discussion ensued about the additional uses the applicant had requested for the NC zoning portion of the development. Mr. Taylor reviewed the list of additional uses with the Planning Commission in order to determine what items would be included and which items would be excluded should the application be approved.

Chairman Stewart made a motion to approve the application as follows:

9 Acres designated as RM-16 zoning for the senior living facility, with a maximum of 150 units.

7 Acres designated as NC, with the special additional uses.

7 Acres designated OI, with the special additional uses.

A 30 foot buffer is required on the east, west and north boundaries of the subject property.

A discussion ensued about the density yield for the senior living facility. Ashley Holcomb seconded the motion. Chairman Stewart asked that the applicant's agreement to limit the age of the residents to 55 years or more be made a part of the official record. The vote for approval was 8-0.

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Case #03-01-002, QuikTrip Corporation requested to rezone 0.74 acres from R-40 to GC. If rezoned, the property would be utilized for expansion of QuikTrip parking and showroom/office space for Custom One Leasing. The property is located on East Rope Mill Lane and is further described as Cherokee County Tax Map 15N15A, Parcel 039.

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

Parks Huff, representing QuikTrip Corporation, spoke in favor. Brian Cormet and Thomas Wells were with him to answer any technical questions about QuikTrip that the Planning Commission might have. Mr. Huff described the subject property and explained why the requested rezone is necessary for development. He referred to a letter from Ms. Betty Williams which stated that she was not opposed to the rezone if the stipulations outlined in her letter were included as conditions of that rezone. He said that they were agreeable to this. He discussed the proposed landscaping and possible fencing. He thanked the Commissioners for their time.

Chairman Stewart asked about the lease agreement with Custom One. Glen Nedza spoke. He was not in opposition; he just had some questions about curbing on East Rope Mill Lane. He also asked about right-of-way changes.

Chairman Stewart asked for a copy of the Betty Williams letter. He asked Mr. Huff if he had any problems with the five conditions of rezoning that Ms. Williams had outlined in her letter. Mr. Huff said he did not.

Bill Jarrard made a motion to approve the rezone, including the five conditions proposed in Betty Williams' letter. They are as follows:

1. There shall be no car wash as part of this project, either on the QuikTrip property or the Coggins tract.
2. There are no plans for any improvements or structures in the northeastern portion of the proposed QuikTrip property beyond the slope for the parking lot at this time.
3. A six foot high wooden fence can be placed along the northeastern property line of the Coggins tract that abuts my property, in lieu of a planted buffer, if I so desire.
4. At such time as the Coggins tract is used for a non-residential purpose, the existing driveway shall be relocated to the southwest. This distance shall be determined by Cherokee County Development Regulations.
5. Items 1 through 4 shall be incorporated into the conditions of zoning for this property.

Ashley Holcomb seconded the motion and the vote was 8-0 for approval.

Case #03-01-003, PEC Development requested to rezone 101.7 acres from AG to R-40. If rezoned, the property would be utilized for a single-family residential conservation subdivision.

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The property is located on Thomas Road and is further described as Cherokee County Tax Map 02N01, Parcel 002.

Vicki Taylor gave the staff recommendation. Staff suggested that if this property is rezoned, it should be a less intense classification than requested, such as R-80 or R-60 Conservation.

Kevin Moore, representing PEC Development, spoke in favor. Paul Corley, principal of PEC, was also present at the meeting to answer any questions. Mr. Moore described the subject property and the proposed development. He said that the property was no longer viable for agricultural uses. Mr. Moore said that the proposed open space totals 40.2 acres, which is nearly 40 percent of the entire property. He said they were proposing only one crossing of the stream in order to access the property. He said that they were in agreement with the recommendations made by the various county departments. He asked the Planning Commission for a favorable consideration of this case.

Four people spoke in opposition. Richard Calhoun spoke first. He felt that the requested density is too high and would be more appropriate in an urban setting. He discussed the recommended improvements to Thomas Road.

Jim Hubbard spoke in opposition. He, too, was concerned with the proposed density of this development. He said it was just too many houses for the area. Mr. Hubbard said that Thomas Road is very narrow and winding and could not support this development. He said the disclosure statement and the application had been signed, but that the questions had not been filled out and he thought the applicant should fill out the forms before going forward. He discussed a previous attempt to rezone this property which had been denied. He said some of the tracts had subsequently been sold and used as agricultural properties with no ill effects. He asked that this application be denied.

Steve Sherrill spoke. He owns the 62 acres adjacent to and southeast of the subject property. He had bought the his property in July of last year and has plans for developing a horse farm on 30 acres and possibly 5 acre residential tracts for the remainder. He said he had done extensive research before purchasing his property and now he was facing the possibility of a high density subdivision going in next to his property. He said he was not against development, but he was in favor of smart development. He requested that the Planning Commission recommend denial of the application.

Win Shirey spoke in opposition. He said he had spoken in opposition the last time an attempt was made to rezone this property and his position has not changed. His objection was also with the proposed high density development. He said that Environmental Health would not approve septic systems in this development and he saw no evidence that the applicant had secured easements from property owners in order to tie into the existing sewer line.

Mr. Moore gave his rebuttal. He said the development would be on sewer and that they were in the process of obtaining easements toward this end. He said the previous rezone request was for a PUD and the present request is a far cry from that density.

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Vicki Taylor let the Commissioners know that the packets she placed in their chairs pertained to this case. For the record, Chairman Stewart said there were 22 letters of opposition to this case. Mr. Moore affirmed that they had submitted a Public Participation Report and that they had met with the School Board.

Bill Jarrard made some comments before making his motion. He agreed with the applicant that AG zoning was not appropriate for the subject property. He said, however, that the entire area consists of low density (2 acre plus) tracts. Mr. Jarrard said the road was barely passable now, and he hated to think what condition it would be in after introducing a high density subdivision. Obviously, the road would have to be improved at considerable expense to the county, he said. Mr. Jarrard then made a motion to approve R-80 zoning. Greg Elder seconded the motion and the vote was 7-1, with Jay Wallace opposing.

Case #03-01-004, Pearson Communities, Inc. requested to rezone 44.57 acres from R-40 and GC to RTH and LI. If rezoned, the property would be utilized for a single-family detached gated community and office warehouse. The property is located on Dupree Road at Interstate 575 and is further described as Cherokee County Tax Map 15N12, Parcels 76, 77, 78, 88, 90, 91, 92, 93, 93A, 94, 96 and 97.

Vicki Taylor gave the staff recommendation. She said this application constituted a redevelopment of the area and is in compliance with the Future Land Use Map. Therefore, Staff recommended approval, subject to design criteria being met. Staff also felt that this development would be an improvement over the existing mobile home park.

Attorney Ralph Walker spoke in favor. He described the subject property and its surroundings. The current development in the area consists of a mobile home park, older homes and abandoned houses. The property is bounded by I-575, Highway 92 and Towne Lake Parkway. He said they were proposing to redevelop an area that is in decline. He proceeded to describe the proposed development. Mr. Walker said that because they were targeting 55 years plus residents for this community, there would not be a great impact on traffic. He surmised that most of these people would be retired and not crowding the roads during rush hours. Mr. Walker said that this proposed development would have the least impact on the roads, schools and infrastructure and would actually improve the area. He introduced a stipulation letter and asked that it be entered into the record. He also entered a constitutional challenge and asked that it be made a part of the record.

Mark Mahler asked Mr. Walker what the status now is on their request for annexation into the City of Woodstock. He said that in the Public Participation Meeting required by the City of Woodstock, only two people showed up and neither was in opposition. The annexation was approved by a vote of 4-2. After talking with some of the County Commissioners, the developer decided to remain in the county and seek a rezone.

Mr. Walker was asked for clarification on lot size and the number of units proposed. He also explained why they were asking for a reduction in the buffer adjacent to I-575. He submitted photographs of this area. A discussion ensued about Dupree Road. The county would be

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providing water to the development. Another discussion ensued about acceleration/deceleration lanes and a center turn lane.

Opposition for this case was as follows:

Linda Huxhold, who lives in Kings Ridge Estates, spoke. She was very concerned about the probability of increased traffic. She felt that Dupree Road is unsuitable for this kind of development. She asked that the Planning Commission deny the application.

Ms. Salas was also concerned about increased traffic in the area and, in particular, on Dupree Road. She did not feel that the requested zoning is appropriate for this site and she thought there should be more open space planned for in the development.

Donna Stancliff spoke. Her concerns were about traffic. She said there would have to be major improvements to Dupree Road if this development goes forward.

Joel Ebersberger was concerned with the proposed density of the development. He said that if the county is providing sewer for this development, then they should provide sewer for the entire area. He said he had lived here for thirty years without sewer. He asked about the proposed office development. He, too, had concerns about increased traffic.

Harold Huffman spoke. He thought that the proposed density of 306 houses was ridiculous. He then talked about traffic concerns.

Mr. Walker gave his rebuttal. He said everything around the subject property has a higher density than R-40. Therefore, he felt that the requested zoning is very appropriate.

Mr. Walker was asked if the City of Woodstock had already approved this zoning. Mr. Walker said they had not taken the final step of going before the City Council. Jay Wallace said there needed to be a traffic study before voting on this case. He asked if the Engineering Department had looked into this. Chairman Stewart felt that the density is too high. He said, however, if they turn down this case and the BOC also denies it, next month the applicant would be back before the City of Woodstock where they would be approved. He said he did not like being held hostage in this case.

Wayne Kosbe voiced concerns about the LI zoning. He thought OI would be more appropriate, considering the condition of Dupree Road.

Chairman Stewart made a motion to approve the commercial component as OI and the residential component as R-15. He further proposed a condition that the appropriate buffers called for adjacent to I-575 be imposed. Bill Jarrard seconded the motion. A discussion ensued about the special stipulations being proposed by the applicant. Mr. Walker was asked about meeting with the Board of Education and about a Public Participation Meeting. The vote was 7-1, with Jay Wallace opposing.

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Case #03-01-005, New Pointe Investments, Inc. requested to rezone ±65 acres from R-40 to R-20. If rezoned, the property would be utilized for a residential conservation development. The property is located on Highway 92 in Land Lots 1107, 1108, 1126 and 1127 of the 21<sup>st</sup> District and is further described as Cherokee County Tax Map 21N12, Parcels 17, 18, 19, 22, 52, 52A and 53A.

Vicki Taylor gave the staff recommendation. Staff preferred a step-down density if this rezone is approved, with the greater density closer to Highway 92. Any residential development that would abut R-40 zoning should be of lesser density. Ms. Taylor said that the original site plan did not meet minimum development standards.

Attorney Benson Chambers spoke in favor. He described the subject property and outlined the proposed development. Because of time constraints, Mr. Chambers said the applicants had been unable to file a new site plan. He pointed out on the map the various zoning classifications of the surrounding properties. He said that although Staff had indicated that this property is designated for commercial use on the FLUM, after further thought, he felt that the property fell within the Village Mixed Use Corridor. He asked that this be verified. Because he was not involved with the previous application for a variance on the subject property, he now raised a constitutional objection indicating that failure to rezone this property to R-20 might result in the loss of property rights that could violate the Fourteenth Amendment of the United States Constitution and similar provisions of the State of Georgia Constitution. Mr. Chambers asked for favorable consideration of this application.

Mark Mahler gave some background information on this case. The applicant had originally gone before the Zoning Board of Appeals in an attempt to include the entire tract into the Highway 92 Overlay. The ZBA felt they were not authorized to make that decision and recommended that the applicant consider rezoning the property instead.

Bill Jarrard asked about the zoning on a parcel of land marked in green on the map. Mr. Chambers said that this parcel is zoned R-20. Mr. Chambers was then asked how the applicant feels about complying with the Highway 92 Overlay standards. He answered that this was their intention when they applied for a variance. They wanted to include the entire tract into the Highway 92 Overlay.

Three people spoke in opposition. Tim Prather wanted a lower density zoning approved. He asked for an assurance from the developer and the county Engineering Department that there would be no runoff or erosion from the development construction onto his property. A discussion ensued about the number of proposed units.

Jerry Kinsey spoke in opposition. He thought that after the greenspace and the amenities were taken out, there would be less than 10,000 square feet per lot remaining. He said this amounted to a cluster development. If the Planning Commission should see fit to approve this application, then Mr. Kinsey asked that they approve R-40 instead of R-20. He also asked that buffers be imposed on all four sides of the subject property and that as many trees as possible be left standing on Highway 92.



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Cathy White spoke. She represented an adjacent property owner who has a sales contract with New Pointe Investments. This contract expires if not closed by March. She wanted a stipulation that, should the contract not close, the developer would be required to install a fence separating the neighbor's lake and property from the development.

Mr. Chambers gave his rebuttal. Chairman Stewart asked about plans to submit an updated site plan. Mr. Chambers was also asked about the parcel that had originally been set aside for a fire station. He addressed the concerns about soil erosion. He also told Mr. Kinsey that the area of the county where he resided was buffered by Lake Allatoona. He again requested that the Planning Commission give favorable consideration to this application. Mr. Chambers said that the applicant had attempted to meet with the School Board. He also confirmed that their Public Participation Plan had been submitted to Ms. Taylor in the Planning and Zoning Department.

Vicki Taylor said that Russ Sims had contacted her and informed her that he had a conflict in meetings and could not attend this hearing.

Chairman Stewart assured Mr. Prather that there are 50 foot stream buffers imposed by the county and on the rivers, there are 150 foot buffers. He then made a motion to approve R-20 zoning for this property, with the stipulation that the entrance into the development falls within the 1,000 foot Highway 92 Overlay and that the development would follow the Highway 92 Overlay guidelines for landscaping. Mr. Stewart added another condition that, should the developer not close the sale on the White property, then the developer would be required to install a fence to prevent incursions from the residents onto the White property and the lake. Jay Wallace asked that another amendment be included to require the developer to adhere to the Highway 92 Overlay minimum development standards. A discussion ensued. The Commissioners decided to amend the motion to require the developer to use the Highway 92 Overlay streetscapes plan.

Bill Jarrard voiced his concerns about the R-20 Conservation zoning. He suggested possibly rezoning to R-30. Otherwise, he felt that R-20 Conservation would be spot zoning. Chairman Stewart said he did not agree with this conclusion. Mr. Jarrard asked that he be allowed to continue with his statement. Because of the interruption, he decided not to continue.

Chairman Stewart then re-stated his motion to approve R-20 Conservation zoning, with the stipulation that the front entrance area would meet the Highway 92 Overlay streetscapes standards. He proceeded to describe the concept of the conservation subdivision. Should the sale of the adjacent property not close, then the developer would be required to fence off that property and restrict access to the lake. Greg Elder seconded the motion. The vote was 7-1, with Bill Jarrard opposing. He did not agree that all conservation subdivisions were win-win situations.

Greg Elder made a motion to approve the minutes for the November 05, 2002 Meeting. Ashley Holcomb seconded the motion and the minutes were approved unanimously.

Greg Elder made a motion to approve the December 03, 2002 Minutes. Wayne Kosbe seconded the motion. The vote was again unanimous for approval.

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The meeting was adjourned at 10:35 P.M.