

**MINUTES FOR CHEROKEE COUNTY
MUNICIPAL PLANNING COMMISSION PUBLIC HEARING
Tuesday, February 4, 2003
7:30 p.m.**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, February 4, 2003, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Cecil Atchley, Bill Jarrard, Marsha Lathem, Wayne Kosbe, Garland Stewart and Jay Wallace. In attendance for Cherokee County staff were Mark Mahler, Vicki Taylor and Vicki Dye. The meeting was called to order at 7:30 PM. Marsha Lathem was sworn into office by Mark Mahler.

Case #02-12-045 Carl Vasallo requesting to rezone 65.0 +/- 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 Hwy in Land Lot(s) 303, 274, 275 of the 14th District and further described as Cherokee County Tax Map 14N29, Parcel(s) 29, 33.

Chairman Stewart stated that the application had been amended requesting R-30 zoning.

Vicki Taylor noted that a set of revised site plans had been distributed to the Planning Commission members. She noted a Public Participation report was received.

Mr. Jarrard asked what was the total number of building lots for the revised plans under R-30. Chairman Stewart replied according to the plans 93 and added under a R-30 the maximum would be 98.

Mr. Doug Dillard represented this case. He stated that although the land use plan shows this area for low density, it is also in a transition zone. He stated that after reviewing the Comprehensive Land Use Plan and the Zoning Ordinance there were really no guidelines for this area. He felt like what was going on within the City of Canton, which was one or two property owners away from this property. He assumed a transitional zoning would transition from a higher use to a lower use as you move out into the County. He stated in the City there are commercial uses, then this property and away from this property you have existing agricultural and R-80 property. He stated across from this property is existing R-40, he understands this zoning was in place before the transition ring was put around the City as a part of the long range plan. He stated the application was amended by cutting the density in half. After meeting with the neighborhood and affected residents, Mr. Vasallo decided it was better to amend the application, and basically cut the project in half. He stated there were two meetings with the neighborhood and he understood they opposed this application even at 1.5, but he asked the Board to consider that there should be some other classification on this property other than something that is more rural in nature. He indicated these were not small lots, but three quarter acre lots. He stated the community will be a high quality community, priced at \$150 to \$200,000 homes. He stated the information they had supplied to the Planning Commission be included in the record indicates a clubhouse, a pool house and very attractive entry. He stated the homes will have single and

double car garages and the units will exceed 1,500 sq.ft. minimums. Further he pointed out a map of the property and then on the last page a site plan which shows the development of the property oriented on Hwy 20 and to the rear of the property there is a recreational path over which will be a conservation easement along the rear of all the properties. He stated there would be passive recreation for this neighborhood together with a nice clubhouse and a place for this community to gather. He felt this was a good transitional use for R-30 and appropriate and is compatible with the existing residential developments close by.

No one spoke in support of this application.

Jim Graham spoke in opposition. He stated he is speaking for the community around this property. He then asked for a show of hands in the audience for those he is representing. He stated he opposed the zoning for the following reasons: There is no precedence for this type of zoning around this area. He stated Brook Park, Flying Hills, Pebblebrook, and Governor's Preserve Subdivisions are all over 1 acre the highest is R-40 in this area. He stated the nearest R-15 is in the City and that development is five miles away. He indicated that only a small piece of the property is in the transition zone. He stated the property joins agricultural property on three sides. He stated it joins family estates, whose families have lived there many years. He stated another concern they have is traffic on Hwy 20 as it is a very dangerous road and lack of the road infrastructure. He stated the school system, Buffington only has first through fourth grades and the fifth through the six grades were moved on out due to crowding. He stated there are already mobile units there. He stated Teasley has mobile units and this will only add to the problem. He felt this development would further burden the County services. Their future concerns were the quality of house, being starter homes, that the people would move out and rent the homes. He asked the Planning Commission to approve R-40 zoning, no more than 65 houses, a minimum house size of 1,800 sq.ft. and 100 foot buffers around the property.

Malinda Edge spoke in opposition. She stated her family has resided at 2468 and 2600 Epperson Road. She stated she was speaking on behalf of her community, the county and her family. She stated they own a total of 29 acres and from creek to creek their property adjoins the Roper property which runs a distance of 1,679 feet. Ms. Edge stated she is employed by a local bank for 34 years and the past 20 years has been a mortgage lender. She stated her family has supported growth in the area, but any new development should compliment the existing area and not decline the values. She stated the community consists of large tracts of land with cattle and poultry farms as well as subdivisions consisting of 1 acre to 5 acre tracts. She felt that the proposed application does not conform to the land use plan. She further stated there was a concern for soil erosion and sedimentation in the creek that would pollute the water. She stated there should be a buffer of at least 100 feet and a privacy fence to separate the agriculture horse and cattle farms from the subdivision. She further stated there was a concern for their well water since their property is down grade from the proposed site. She was concern about the placement of the clubhouse and pool near the creek and asked that it be centrally located within the development due to the noise level and the lights. She stated they were not opposed to new development but feel that the proposed development is inappropriate for their community. She stated they are not in a transitional area and they have homeowners around them who have been in residence for more that five generations. She asked for consideration of an R-40 conservation

subdivision, minimum lot size of one acre, with a total of 65 homes with 1,800 sq.ft. minimum and a 100 foot buffer to surround the development.

Mr. Dillard spoke in rebuttal. He stated that if they put a 100 foot buffer around the property due to the shape of the property you couldn't run a street or put lights on the property. They planned to put an equestrian fence around the property. He submitted a 28 lot difference between what his client is proposing and what the community could support is not enough difference to impact the fire, police and schools. He stated the schools under their current system of building buildings, the State and Board of Education, will not appropriate until the students are there. He stated these were not starter homes because they are \$150,000 homes. He stated the plans are for a 1,500 sq.ft. minimum and they want 1,800 sq.ft., the difference between a three quarter or 25,000 sq.ft. lot versus a 42,000 sq.ft. lot, he stated he didn't believe anyone driving pass could tell the difference. He stated it was a million dollars difference to this developer. He stated the law says you must consider the reasonable economic use of the property. He advised the Board they are not there to guarantee them to make the most money possible, but they are here to judge what the difference is and whether or not the difference in value is significant and whether or not public safety, health and welfare is being protected by the difference. He stated there is R-30 in the zoning ordinance, they realize R-30 out in the county is not an appropriate classification so somewhere you must make a decision where to use it. He stated it would seem logical to use it in the area called a transition. He stated there are other areas throughout the county that has been zoned for half acre lots, in rural designation. He stated they were asking for three-quarter acre lots that would not over tax the police and fire and it is significantly detrimental to the property owner and further a 100-foot buffer is unreasonable. He stated they would fence it and provide passive recreational activities around the borders of the property, which is a use that is consistent with the transition zone. He stated he could not find, and the planning department was not aware of, any decisions in these transition zones for appropriate land uses. He stated the developer was there to work with the Board and community to make sure that this is a development that will blend in with what is going on along Hwy 20 and the Comprehensive Plan, what would be consistent for what is anticipated for the transitional area and also taking in consideration there is fairly dense commercial being developed within the Canton area. He stated the traffic issue is non-existent because the peak hour trips are less than 20 in the mornings and less than 20 peak hour trips in the evening given the difference between R-40 and the R-30 they are asking for.

Chairman Stewart clarified to Ms. Edge that a R-40 conservation subdivision would not necessarily have 40,000 sq.ft. lots, there could be lots up to that or it could go down to half that. It is the developer's right to decide to develop R-40 or R-40 conservation subdivision.

Jay Wallace made a motion to approve R-60. Motion failed for lack of second.

Chairman Stewart made a motion to approve R-40 zoning. Seconded by Mr. Jarrard. Passed with one opposing, Jay Wallace.

Case #03-02-006 Grover Swilley requesting to rezone 5.66 acres from AG to NC. If rezoned the property would be utilized for commercial businesses. The property is located on Cumming Hwy in Land Lot(s) 910, 963 of the 3rd District and further described as Cherokee County Tax Map 03N23, Parcels 44, 45.

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Grover Swilley represented this case.

No one spoke in support.

Thomas E. Lathem spoke in opposition unless the rezone was approved per the amended site plan that he and Mr. Swilley had discussed earlier regarding 1) the south end of Matt Lathem Road stays the same, 2) screening southern portion with 8 foot shadow box, and 3) no future variances to the type of uses in NC (Neighborhood Commercial).

Mr. Swilley then agreed to the conditions and agreed he would be developing the property.

Mr. Jarrard made motion to approve as per amended site plan 6.336 +/- acres to NC with three conditions, 1) that the south end of Matt Lathem Road stays the same, 2) provide 8 foot shadowbox fence along Thomas C. Lathem property line as shown on site plan (fence to be 6 inches off property line), 3) no variances will be allowed to the type of uses allowed in the NC zoning district. Seconded by Mr. Kosbe. Motion passed unanimously.

Case #03-02-007 Doe Rae Fensterman requesting to rezone 18.63 acres from R-40 to AG. If rezoned the property would be utilized for single family residential and a riding academy. The property is located on Tellico Road in Land Lot(s) 1202, 1203, 1246, 1247 of the 2nd District and further described as Cherokee County Tax Map 03N18, Parcel 113.

Vicki Taylor gave staff recommendations for approval of AG with no swine or poultry activities.

Ms. Fensterman represented this case and she agreed to no swine or poultry activities. She stated the rezone was for a riding academy.

Robert Jones, as the current landowner, spoke in favor of the case. Jim Spruell spoke in favor.

Chairman Stewart made motion to rezone the property to AG and only for an equestrian operation. Seconded by Mr. Kosbe. The motion passed unanimously.

Case #03-02-008 Alan Bobo requesting to rezone 1.865 acres from R-40 to GC. If rezoned the property would be utilized for a car wash and storage warehouse facility. The property is located on Trickum Road in Land Lot(s) 1131 of the 15th District and further described as Cherokee County Tax Map 15N24, Parcel 055.

Ken Patton represented this case. He noted that a constitution challenge had been submitted with the application and also that Mr. Bobo had chosen to opt out of the Hwy 92 guidelines.

Travis Mitchell spoke in opposition representing Kings Gate Subdivision, that has approximately 50 homeowners. He objects due to lights and noise because the property is within 200 feet of his property.

James Gregory Payne spoke in opposition due to noise and lighting.

Mark Kresak spoke in opposition due to there not being a need for further storage units in that area.

Mr. Patton stated he attended the public meeting as well, and Mr. McCleskey stated at that time that his storage facility was 100% leased. He stated Mr. Bobo felt there would be no diminution of property values for this residential subdivision as there is already existing commercial property located closer to the subdivision than Mr. Bobo's property, also there is no pasture land located on Mr. Bobo's property, it is 1.865 acres of land, there was a single family home that Mr. Bobo lived in, it has been rental property until this past August for almost 10 years, with it being completely surrounded by GC, General Commercial zoning including three sides with the City of Woodstock. They feel it is appropriate that this property be zoned general commercial for the proposed uses that Mr. Bobo has proposed.

Mr. Kosbe, Planning Commission member, stated he did not see a residential use for the lot. The biggest objection he had heard was that it was a proposed car wash and would the applicant consider a GC rezone stipulation of no car wash. Mr. Patton stated he did not think Mr. Bobo would preclude the car wash from his proposal.

Mr. Jarrard stated the petition given to the Chairman looked like it had about 50 or 60 who have signed the petition in opposition to this. He asked Mr. Mitchell as a general rule how far away is this property from where these people live. Mr. Mitchell stated they were taken from the first two streets within the Kings Gate community that are in closest proximity to the property. He stated every homeowner he went to were more than willing to sign the petition stating their opposition to the rezoning request. Mr. Jarrard asked if the objections from the neighbors was due to hours of operation or diminishing of the property value or what their primary objection was in signing this petition against it. Mr. Mitchell stated diminishing of the homes.

Discussion ensued regarding managing of the property, as it is suppose to be a 24 hour operation, unmanned except for every 6 hours to check machines and site. Mr. Payne stated a lot of the objection was due to the noise and lights.

Ken Patton stated the subdivision the applicants live in has a solid wooden fence between the residential units and Trickum Road and the existing commercial. He stated Mr. Bobo's property is approximately 150 to 200 feet away from the closest residential lot within that subdivision. He stated the existing lighting with the storage facility is closer than Mr. Bobo's property. He stated Mr. Bobo does plan to have planted vegetation between the car wash and the mini-storage warehouses on site as he stated in his public meeting with the adjoining property owners and he would plant some vegetation along Trickum Road, but he did not want to plant it so thick that he would lose visibility of the proposed business.

It was verified by Vicki Taylor, Zoning Administrator that the other surrounding property was zoned commercial and that she did not have City of Woodstock's zoning.

Chairman Stewart stated he thought it would be appropriate for the property to be commercial in that area and the only other problems he saw was the hours of operations for the car wash and

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also how you take care of the waste water coming off the car wash. He commented that the City of Woodstock has a moratorium now on sewer hook ups.

Chairman Stewart made a motion to approve the GC with the stipulation that the car wash would not be put on a septic system until such time as there would be available sewer hook ups. Of course, it couldn't be built without going through the environmental health department. Also to limit the hours of operation of the car wash facility to not be in operation from 10:00 pm until 6:00 am. Seconded by Mr. Jarrard. Passed unanimously.

Case #03-02-009 D. R. Gable Enterprises, LLC requesting to rezone from R-40 to GC. If rezoned the property would be utilized for a automobile repair facility. The property is located on Bascomb Carmel Road in Land Lot(s) 973 of the 21st District and further described as Cherokee County Tax Map 15N05, Part of Parcel 076.

Vicki Taylor gave staff recommendations and stressed the largest concern is the driveway that comes out at Bascomb Carmel and Bells Ferry, but recommended approval with the stipulation that the remedy to the entrance/exit issue to this property be resolved with Engineering prior to submittal to technical review. In addition, Planning Commission had asked her to check with the County Arborist on recommendations for screening which has been made in writing.

Parks Huff represented this case. He stated the location of the property is at the intersection of Bascomb Carmel Road as it intersects Bells Ferry Road and the entire tract is a 2.68 acre tract. The 0.9 acres is the only tract closes to Bells Ferry Road coming for rezoning. He stated the property has been used for commercial use in the past and the building depicted in the plat is presently on site. He stated that Mr. Gable plans to use the existing house for administrative offices and the garage in the back for an auto repair business. He stated Mr. Gable has a shop in Woodstock now and he needs this for an overflow shop to direct customers to. He stated the adjoining property owners he had spoke to had no objections. He stated he agrees with staff recommendations and could move the driveway to the north or south of the property. He stated he would be willing to meet with County Arborist about providing some buffering in the area but candidly the neighbors abutting them do not have those concerns, but he would be glad to do whatever the County Arborist recommends. He requested approval with staff recommendations.

No one spoke in favor or opposition.

Mr. Jarrard commented that after a while these type facilities can become an eye sore and how does Mr. Gable plan to treat this as plain concrete block. Chairman Stewart stated the building is already there. Mr. Huff stated the building is a wooden siding that is painted and it is his understanding it will stay the way it is and the advantage to this being an office will be upfront near the road and the repairs will be in back of the house.

Mr. Jarrard noted the site plan shows a 10 foot buffer required and would this would need to go before the Zoning Board of Appeals for a variance. Mr. Mahler stated the Board of Commissioners could deal with that part, that they had done that in the past.

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Chairman Stewart made a motion to approve the GC with the conditions Mr. Gable meet with the County Arborist and discuss the plan for the screening and planting and possible cutback on the buffers and meet with the County Engineering for the best way to minimize the impact on Bascomb Carmel Road for access to the property. Seconded by Mr. Jarrard. Passed unanimously.

Case #03-02-010 Jerry Thacker, Roger McIvor and Barbara McIvor requesting to rezone property from AG and R-40 to R-20. If rezoned the property would be utilized for a residential subdivision. The property is located on Earney Road in Land Lot(s) 713, 728 of the 2nd District and further described as Cherokee County Tax Map 02N04, Parcel (s) 269, 278, 278A.

Vicki Taylor gave staff recommendations of approval with stipulations that development issues be resolved with Technical Review Committee.

Chairman Stewart asked Ms. Taylor what specifically were those issues and she replied primarily access issues.

Benson Chambers represented this case. He stated the rezone was for approximately 43.6 acres located west of Hwy 140 and south of Earney Road. He stated the property was surrounded by R-20 zoning and to the east of the property is Hill Crest Subdivision, south is Crabapple Falls Subdivision and west and north of the property is Creek Hollow Subdivision. He stated that because of the topography of the property and certain water locations on the property, the proposal is to limit the 43 acres to 37 lots, a density of .85 or greater than 1 acre to a unit. He stated that access to the property is from Earney Road and there are 3 lots proposed to be accessed from Creek Hollow Drive with 3 private driveways as well as 2 lots that are located on the south side to be accessed from Rock Point Look located in Crabapple Falls.

John Childers spoke for Crabapple Falls S/D regarding concerns due to increase of traffic and access.

Michelle Lane from Creek Hollow spoke in opposition to any thru roads to Earney Road.

Kevin Shunn spoke in opposition to thru traffic to Earney Road.

Mr. Chambers rebuttal was that there were no plans for a cut thru to Earney Road.

Chairman Stewart made a motion for R-20 with the following conditions 1) maximum of 37 lots, 2) No more than 2 lots shall be accessed through Crabapple Falls, 3) No more than 3 lots shall be accessed through Creek Hollow, and 4) no thru traffic to Earney Road. Seconded by Jay Wallace. Passed unanimously.

Case #03-02-011 John Wieland Homes & Neighborhoods, Inc. requesting to rezone 22 acres from AG to R-20. If rezoned the property would be utilized for a residential conservation

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subdivision. The property is located on Gaddis Road in Land Lot(s) 1139 of the 3rd District and further described as Cherokee County Tax Map 03N12, Parcel 130.

Vicki Taylor gave staff recommendation of approval with stipulation that all lots adjacent to Woodmont meet 15, 000 sq.ft. minimum lot size.

Dave Turner spoke in opposition regarding safety issues.

Beth Sisson spoke in opposition regarding traffic off Gaddis Road.

Chairman Stewart made a motion to approve R-20 with the following condition that all lots adjacent to Woodmont meet 15,000 sq.ft. minimum lot size. Seconded by Mr. Jarrard. Passed unanimously.

Case #03-02-012 James H. Turner, Huie L. Turner, Jr. and Jonathan L. Turner requesting to rezone 40 acres from AG to R-40. If rezoned the property would be utilized for a residential subdivision. The property is located in Land Lot(s) 140, 149, 150 of the 2nd District and further described as Cherokee County Tax Map 02N01, Parcel(s) 122, 122A.

Benson Chambers represented case.

Vicki Taylor gave staff recommendations for approval of R-40.

Mr. Jarrard made a motion for approval of R-40. Seconded by Mr. Atchley. Passed unanimously.

Case #03-02-013 Troy Brookshire requesting to rezone 8.74 +/- acres from R-40 to LI. If rezoned the property would be utilized for light industrial uses. The property is located in Land Lot(s) 416, 417, 448, 449 of the 15th District and further described as Cherokee County Tax Map 15N15, Parcel 093.

Benson Chambers represented this case.

Vicki Taylor gave recommendation for approval.

Don Elliott spoke in opposition and referenced petition submitted February 3, 2003.

Mr. Chambers stated his client cannot agree with #1 and #2 because the property abuts the railroad right-of-way and it is appropriate to be light industrial.

Mr. Jarrard made a motion to approve LI with the following stipulations: 1) no outside storage of raw or finished material or products 2) no ongoing outside manufacturing or assembling, 3) no outside storage silos for pre or post manufacturing material and 4) all other zoning and building

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requirements for the light industrial permitted uses required by Cherokee County. Seconded by Jay Wallace. Passed unanimously.

Discussion of Revision to Article 18; Public Participation Plan Requirements.

Jay Wallace made motion to table Public Participation until the March Public Hearing. Seconded by Mr. Kosbe. Passed unanimously.

Discussion of Sign Posting for Rezone Applications.

Chairman Stewart made a motion that rezone signs be posted 30 days prior to the public hearing. Seconded by Mr. Kosbe. Passed unanimously.

Discussion to add Campground Regulations to Zoning Ordinance.

Chairman Stewart made a motion to add campground regulations to the zoning ordinance. Seconded by Mr. Wallace. Passed unanimously.

Approval of January 7, 2003 Minutes.

Chairman Stewart made a motion to approve the January 7, 2003 meeting minutes. Seconded by Mr. Atchley. Passed unanimously.

Meeting adjourned at 10:15 pm.