

*Approved 4/1/03*

**MINUTES FOR CHEROKEE COUNTY  
MUNICIPAL PLANNING COMMISSION  
PUBLIC HEARING**

**Tuesday, March 4, 2003**

**7:30 p.m.**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, March 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, Michael Oxley, Garland Stewart, Rob Cutting, Ashley Holcomb and Jay Wallace. In attendance for Cherokee County staff were Mark Mahler, County Attorney and Vicki Taylor, Zoning Administrator Planning & Zoning. The meeting was called to order at 7:30 PM.

**New Cases**

Case #03-03-016 Todd Ellerbee and Brian Seagraves requesting to rezone 17.72 acres from R-40 to RZL. If rezoned the property would be utilized for a residential development. The property is located along Bells Ferry Road in Land Lot(s) 127 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N18A, Parcel 071.

**\*\* Request to be tabled until April Meeting\*\***

Chairman Stewart made a motion to table this case until the April 2003 meeting. Seconded by Mr. Cutting. Passed unanimously.

Case #03-03-019 Greystone Partners, LLC requesting to rezone 104.73 acres from R-40 and AG to R-20. If rezoned the property would be utilized for a residential conservation subdivision. The property is located along Cox Road and Wiley Bridge Road in Land Lot(s) 1046, 1115, 1117, 1118, 1187 and 1190 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N30, Parcel 228, 229, 229A.

**\*\*Request to be tabled until April Meeting\*\***

Chairman Stewart made a motion to table this case until the April 2003 meeting. Seconded by Mr. Jarrard. Passed unanimously.

Case #03-03-014 Marion A. Morrison requesting to rezone 115.551 acres from AG to R-40. If rezoned the property would be utilized for a residential conservation subdivision. The property is located on Franklin Goldmine Road in Land Lot(s) 829, 900, 901 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N28, Parcel 049 and Tax Map 03N29, Parcel 081.

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Vicki Taylor, Zoning Administrator gave staff recommendations for approval and stated that Forsyth County did not have any comments at this time since the amenity center is in their county.

Grover Swilley represented this case and stated the purpose of this development is to provide a community of homes and amenities that will be the very best of quality of living for a residential development and restated the site plan and amenities. He stated they had met with a number of residents in the area such as Mr. Tom Fuller and he does not oppose the rezoning. They also talked with Mr. Tim Perkins and Dr. Larry Gerlik who have also stated they do not oppose the rezoning.

Mr. Swilley stated within the Public Participation Plan Meeting, they have met with some residents who reside to the north of this property. They did agree at that meeting to provide instead of a 50-foot rear setback line a 100-foot setback line.

He stated that Paulette Pond, Broker of Hawks Ridge Development would speak in favor of the project. She stated that Hawks Ridge would not oppose the project.

Mr. Swilley stated they have met with Russ Sims of the School Board and have agreed to provide a contribution in the amount of \$90,000.00, which represents \$720.00 per lot toward the school system.

Mr. Swilley stated they would be tying into the Hawk's Ridge sewer treatment facility.

Mr. Marion Morrison reiterated how outstanding the development would be. He stated there were some people attending the meeting tonight that live at the north part of this property that have two acre lots and they have talked to them extensively to come to some agreement and they would like to come to an agreement with them, but tonight they cannot say they can do this or do that. He stated to purchase the property is a condition of rezone and if they do not get the rezone for 125 lots, they will not be purchasing the property.

Mr. Rick Bode spoke in opposition. He stated he was concerned with traffic coming in on Franklin Goldmine Road and the radius of the road concerning traffic as it relates to a stop sign or red light. He discussed the impact fees. He stated the rezone case was defeated two years ago. He spoke about his fears of sewer, soil and sedimentation and water drainage onto his property. He spoke of school concerns.

Mr. Paul Galvin spoke in opposition as to how the plan is laid out. He asked for a show of hands as to whom in the room was in opposition. He stated the plan two years ago for 115 lots was voted down. Mr. Galvin reiterated traffic concerns. He had been speaking with Mr. Swilley to come to an agreement regarding buffers and as of this date, no agreement has been reached. He stated the detention pond was to be at his property line two years ago and that pond is now going to be eliminated or that's what they are hoping for. He spoke of school overcrowding. He spoke of his concern of turning lanes into the subdivision because of a blind hill at that location.

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Ms. Kim Bailey of Brook Hollow Subdivision spoke in opposition due to lot size. She indicated a lot size of 2 acres or R-80 would be more acceptable since it is in the Etowah River Watershed area.

Mr. Swilley spoke in rebuttal. He said there would be a sophisticated drainage system. He stated they would work with Forsyth County regarding the entrance to the subdivision for proper site distance. He stated the property will some day be developed and thought their plan would be something to be proud of and stated there is approximately 33 acres dedicated to open space that includes amenities. He stated they have talked with Mr. Sims of the school system.

Mr. Morrison stated they went from 115 to 125 to offset the cost of impact fees and they know they can get sewer and that will cost them twice the price of septic tanks.

Mr. Jarrard stated the report they have from the staff is that no public sewer is available at this time. Mr. Swilley stated they could not do the plan without sanitary sewer and Mr. Jerry Wecliff with Water Wise is in the process of getting State and EPD permits to do a treatment facility for Hawks Ridge.

Chairman Stewart asked if this would be a private sewer line system and Mr. Swilley answered yes.

Mr. Cutting asked for the zoning on the Forsyth County line and Mr. Swilley answered Agricultural. Mr. Swilley stated in Forsyth County Agricultural is one-acre lots.

Chairman Stewart made a motion for R-80 zoning. Mr. Oxley seconded. Vote was tied 4 to 4 with Ms. Lathem, Mr. Cutting, Mr. Holcomb and Mr. Jarrard voting in opposition.

Mr. Jarrard made a motion for R-60. Motion died for lack of second.

Mr. Cutting made a motion for R-60 against the northern boundary contingent on the sewer. Mr. Holcomb made a friendly motion to amend to R-40 with R-60 lot designs along the north property line. Mr. Cutting accepted motion. Seconded by Mr. Holcomb. Motion passed with Mr. Atchley and Mr. Wallace in opposition.

Case #03-03-015 Don Davis requesting to rezone 42.0 +/- acres from AG to R-30. If rezoned the property would be utilized for a residential conservation subdivision. The property is located at the corner of Fields Landing Drive and Knox Bridge Hwy in Land Lot(s) 54, 55 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N06, Parcel 051.

Vicki Taylor, Zoning Administrator gave Staff recommendations for approval. Mr. Jarrard noted the 50-foot buffer is not shown on the site plan. Ms. Taylor indicated that would be brought to their attention during Technical Review.

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Mr. Don Davis represented this case. He stated the only place on the site plans that do not reflect the 50-foot buffer is adjacent to Bridgemill and along the 120 foot Georgia Power power line easement.

Chairman Stewart asked if this project would be brought into Bridgemill and Mr. Davis answered yes and with restrictive covenants.

No one spoke in opposition.

Mr. Jerry Kinsey suggested some conditions that the Planning Commission may want to put in this rezone: 1) He stated he would like to see the rezone at possibly R-40 or R-60 due to the surrounding zoning, 2) Open space not to be considered part of the lots and the amenities not be built on the open or green space, 3) the minimum be increased to 25 percent for open space, 4) a 50 foot buffer all around instead of just at Fields Landing, and 5) the Tree Ordinance be adhered to. He stated he is not in opposition to this development, but would like to see a few changes.

Mr. Davis spoke in rebuttal. He stated the buffer issue had been resolved because there is no need for a buffer against a power line and these lots are in excess of 20,000 sq.ft. average.

Mr. Holcomb made a motion to approve as submitted R-30 and to confirm there is a 120-foot easement there and in lieu of the 50 foot buffer that the 120 foot can substantiate the buffer. No buffer along Bridgemill. Mr. Cutting made friendly amendment no access on Hwy 20 or Fields Landing Drive. Seconded by Mr. Jarrard. Passed unanimously.

Case #03-03-017 W. C. Cook, Jr. requesting to rezone 3.03 +/- acres from R-80 to GC. If rezoned the property would be utilized for commercial uses. The property is located along Cumming Hwy in Land Lot(s) 853 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N10, Parcel(s) 028, 029.

Vicki Taylor, Zoning Administrator gave Staff recommendations for approval to GC. She pointed out the Zoning Regs do provide for situations where a site plan is not required.

Mr. Cook represented this case and gave a history of the property. Mr. Cook gave several examples of businesses that might go there such as a fire station, full service restaurant, medical facility, etc.

Mr. Cutting asked if Neighborhood Commercial would be an acceptable zoning. Mr. Cook stated he thought due to the size of the property, general commercial would be better suited.

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Mr. Ken May of Autumn May Subdivision spoke in opposition as an adjacent homeowner due to the fact no specific business had been designated. Some businesses could decrease his property value and other businesses may have light and noise problems. He commended Mr. Cook as a good neighbor and would like to keep them as his neighbor. Mr. May spoke of traffic problems in that area being busy.

Mr. Cook spoke in rebuttal. He stated the adverse effects would not be significant due to the commercial properties in the area now. He stated he attended the State Highway Department meeting and they were supposed to have already started the road widening in that area.

Mr. Jarrard asked if it is appropriate to vote on this without a site plan. Vicki Taylor, Zoning Administrator stated it is appropriate in certain instances to waive a site plan taking into consideration what is going on in the area.

Chairman Stewart stated he did have a problem without knowing how any business would affect the residential properties. He made the comment that GC may be intrusive to the neighboring residential.

Mr. Jarrard made motion to accept the petition for GC. Mr. Wallace made a friendly amendment to increase the buffer on the rear to 50 feet and on the east side to 50 feet as well. Mr. Jarrard agreed it was acceptable to him. Seconded by Mr. Wallace. All in favor were three Mr. Holcomb, Mr. Jarrard, and Mr. Wallace and five opposed. Motion failed.

Chairman Stewart made a motion for NC with 50-foot buffer to the north boundary and 50-foot buffer on the east property line. Mr. Holcomb asked if the east property line buffer could be relaxed. Discussion ensued. Chairman Stewart made an amendment to his motion for a 50-foot buffer to the north boundary only. Seconded by Mr. Holcomb. Passed with one opposing Jay Wallace.

Case #03-03-018 James W. and Holly Martin requesting to rezone 1.21 acres from R-20 to GC. If rezoned the property would be utilized for an antique shop. The property is located at the corner of Cumming Hwy & Cotton Road in Land Lot(s) 809, 810 and 847 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N16, Parcel 007.

Vicki Taylor, Zoning Administrator gave Staff recommendations for approval of NC.

Mr. Cutting made a note that the agenda reflects this property to be rezoned to General Commercial. Mr. Taylor stated the application originally had GC, but was amended to NC.

Mr. Jarrard asked if NC was a permitted use. Ms. Taylor confirmed it was appropriate zoning for an antique store.

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Mr. Larry Pollard represented this case.

Mr. Ed Cipriani spoke in favor of this rezone.

No one spoke in opposition.

Mr. Cutting made a motion to approve Neighborhood Commercial. Seconded by Mr. Holcomb. Passed unanimously.

Case # 03-03-020 CAM Properties of Georgia, Inc. requesting to rezone 68.16 acres from AG to R-40. If rezoned the property would be utilized for a residential subdivision. The property is located on Bart Manous Road in Land Lot(s) 39, 105, 106, 111, 112, 178, 183 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N25, Parcel(s) 177A, 138 and part of 138A.

Mr. Jarrard excused himself from this case. He is an adjoining property owner with over 1190 feet adjoining the development on the east side of this proposed subdivision. He stated he had discussed this with the applicant and briefly with Staff. He stated he did attend the Public Participation Meeting at the Hickory Flat Library and did not speak at this meeting. He stated he has not discussed this case with any of the adjoining property owners. He stated he has not discussed this case with any members of the Planning Commission. He felt ethically he must excuse himself from this case.

Vicki Taylor, Zoning Administrator gave Staff recommendations for approval with some concerns as to how property is configured.

Benson Chambers represented this case.

Jim Hubbard spoke in opposition as far as density and buffers.

Mark Bowman spoke as not opposed but proposed amendment to buffer on the south being expanded to 100 feet.

Mr. Chambers rebuttal was against the 100-foot buffer and wanted the 50-foot buffer.

Mr. Holcomb stated no buffer is shown on the plat. Mr. Chambers stated the property would be developed as a straight R-40 zoning.

Mr. Holcomb made a motion to approve the rezone as R-40. Amendment was made that Tract 3 be paved with a 10-foot vegetative buffer and developer would consult with County Arborist. Mr. Holcomb restated a 10-foot vegetative buffer to be planted to run along the western property line from north to south and consult with the County Arborist for appropriate vegetation. Seconded by Mr. Cutting.

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Mr. Wallace stated a concern for a spot zoning. Passed with Jay Wallace opposing.

**Other Items**

**Revision to Article 18; Public Participation Plan Requirements.**

Ms. Taylor explained the revisions primarily cleaned up loose areas and on the interested parties list they added one person and the Planning Commission Members so you would be automatically notified of any public participation meetings.

Chairman Stewart asked for all in favor of changes to Article 18 signify by saying "I". Passed unanimously.

Motioned made by Jay Wallace to approve the minutes of the February 4, 2003 public hearing. Seconded by Cecil Atchley. Passed unanimously.

Motion made and seconded to adjourn. Meeting adjourned at 9:10 p.m.