

*Approved*  
*9/2/2003*

**Cherokee County Planning Commission  
Public Hearing  
Minutes  
Tuesday, August 5, 2003  
7:00 p.m.**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, August 5, 2003, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Bill Jarrard, Marsha Lathem, Michael Oxley, Dick Hall, Jay Wallace and Chairman Ashley Holcomb. In attendance for Cherokee County staff were Mark Mahler, County Attorney, Vicki Taylor, Zoning Administrator and Vicki Dye, Zoning Technician. The meeting was called to order at 7:00 pm.

**Case #03-08-036 RGC, LLC** requesting to rezone 304.5 acres from R-40 w/conditions to R-20. If rezoned, the property would be utilized for a residential community. The property is located on Cumming Highway in Land Lot(s) 666, 667, 668, 701, 702, 703, 738, 739, 740, 773, 774, 775 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N16, Part of 070A.

Vicki Taylor gave findings that the Future Land Use Map calls for agriculture/forestry. There was a previous rezone from AG to the R-40, case number 01-10-046, October 2001. She stated this project is a development of regional impact and has been submitted to the Atlanta Regional Commission (ARC) and the Georgia Regional Transportation Authority (GRTA) for determination and the County is precluded from taking any action pending their findings.

**Mr. Dick Hall made a motion to table to next month or until such time that the Development of Regional Impact (DRI) report is received from the ARC. Seconded by Mr. Jarrard. Motion passed unanimously.**

**Case #03-08-037 Linda Chandler** requesting to rezone 1.42 +/- acres from AG to R-60. If rezoned, the property would be utilized for a single family residence. The property is located on Wyatt Road in Land Lot(s) 1055 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N23, Parcel 047.

Vicki Taylor gave findings that this property is rendered useless by its separation from its original parcel by Wyatt Road and the County's finding is that this is not

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a legal lot of record. Staff had suggested that rather than rezoning this property to R-60, a recommendation be made to the Board of AG zoning with conditions of development consistent with R-60 zoning. However, it was determined that this was not a viable solution because of the size of the parcel.

Ms. Linda Chandler said she had nothing to add to Ms. Taylor's findings.

No one spoke in favor or opposition.

Discussion ensued regarding buffers, setbacks and house size. Ms. Chandler stated to Mr. Oxley the setbacks for R-80 and the house size conditions were agreeable. Vicki Taylor stated there were no buffer requirements between AG and R-60.

**Mr. Dick Hall made a motion to approve R-60 zoning with two conditions: 1) To meet the R-80 building setback requirements. 2) The minimum house size will be 2,500 sq.ft. heated floor space. Seconded by Marsha Lathem. Motion passed unanimously.**

**Case #03-08-038 John Tarabula, DVM** requesting to rezone 1.88 acres from R-40 to GC. If rezoned, the property would be utilized for an animal medical facility. The property is located on Knox Bridge Hwy in Land Lot 128 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N18A, Part of Parcel 001.

Vicki Taylor gave findings that development trends in this area are toward commercial and mixed-use and residential use on Highway 20 is not recommended. This property's close proximity to the City of Canton and the mixed-use development along with its location within a transition area make this request reasonable and consistent with current land use. Staff suggested a possible reduction to the 200-foot separation obligation with enhanced buffers rather than waiving the requirement.

Ken Patton represented this case. He stated this property is adjacent to the west and across Knox Bridge Highway to the City of Canton. He stated in their facility now that is located on Knox Bridge Highway near Marietta Hwy that has been in operation for 15 years with a fully enclosed facility with no animals being housed

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outside. He stated in the 15 years that the business has been located where it currently is with 50-foot setbacks there has not been a single complaint registered against the Animal Medical Facility. He said there is a request to approve the building setback to be less than the 200 feet required in Article 7 of the Zoning Ordinance for an animal medical facility. He said City of Canton's Zoning Ordinance does have a 50-foot setback in their C-1 and C-2 Ordinances for commercial buildings and have no additional setback requirements for veterinary clinics or animal medical facilities. He stated there was a public participation meeting held and only the property owner showed up at that meeting. He stated he did receive one telephone call from an individual that lives on the north side of Hwy 20 and asked why they were notified since they weren't an adjacent property owner and they stated they had no problem with this commercial request. He noted for the record there is a constitutional challenge on file within the rezone application.

No one spoke in favor or opposition.

Mr. Jarrard stated that the code does have a 200-foot setback. He asked Mr. Patton what setback he could live with on the site plan in lieu of the 200 feet. Mr. Patton stated that Dr. Tarabula would prefer a 50-foot setback with plant materials as a screening and buffering method within the setback as that is consistent with City of Canton C-2 zoning requirements of a 50-foot setback.

Discussion ensued whether the development could be shifted forward to apply a greater setback along the sides. Mr. Patton said that would be possible.

Chairman Holcomb stated the intent is to screen these type of facilities and he stated the intent would be met by not giving a complete variance to this screening. He stated the 50-foot would accomplish that intent and certainly the showing of no opposition he stated he believed the area would be receptive to it.

Mr. Oxley stated it did make sense to shift it forward. Mr. Patton stated it is a three-lane highway with a 100-foot right-of-way.

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**Mr. Dick Hall made a motion to approve GC zoning with two conditions: 1) A 75 foot buffer with plantings along the south property line will be maintained from any residentially zoned property. 2) No outside cages for dogs. Seconded by Marsha Lathem. Motion passed unanimously.**

**Case #03-08-039 Black Wolf, LLC** requesting to rezone 1.420 acres from GC & R-20 to GC. If rezoned, the property would be utilized for an urgent care medical facility and retail commercial. The property is located at the intersection of I-575, Riverstone Pkwy and Transit Avenue in Land Lot(s) 205, 228 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N22A, Parcel(s) 005, 008.

Vicki Taylor gave findings that the development trends in this area are toward commercial and residential use is not indicated. This property's close proximity to the City of Canton and the commercial development along with its location within a transition area as well as the High Technology Mixed Use Corridor is consistent with the Future Land Use Map and current land use.

Ken Patton represented this case. He stated there was no opposition expressed at the public participation meeting. He stated for the record there is a constitutional challenge contained as part of the rezone application.

No one spoke in favor or opposition.

**Mr. Bill Jarrard made a motion to approve GC zoning. Seconded by Marsha Lathem. Motion passed unanimously.**

**Case #03-08-040 Premium Investment Properties, LLC** requesting to rezone 58.73 acres from AG to R-20. If rezoned, the property would be utilized for residential uses. The property is located at the intersection of Curtis Road and Old Curtis Road in Land Lot(s) 1063, 1098 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N17, Parcel(s) 29, 27 and Tax Map 03N18, Parcel 030.

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Vicki Taylor gave findings that this proposed development is adjacent to the Woodmont PUD and is consistent with that land use and density. She stated that while the maximum density would be 2.178 dwelling units per acre, this proposal is 1.96 dwelling units per acre and offers 19.13 acres of green space (32.57%). She stated the site plan as presented has no lots adjacent to the perimeter therefore maximizing the intent of the buffer. She stated agriculture is no longer a reasonable use for this property and the proposed subdivision is not in conflict with the Future Land Use Map.

Benson Chambers represented this case. He stated there was no specific opposition at the public participation meeting there were questions as to the use of Curtis Lane for access to property for construction and he confirmed that the applicant has agreed not to use Curtis Lane as a condition for construction. He stated the most common comment received was that they were glad the chicken houses are going. The developer has indicated he is willing to discuss with the County some options in terms of either contributions, in funds or right-of-way in assisting in the improvement to Curtis Road. He stated the applicant has agreed to a contribution of \$650 per lot to the County School System.

No one spoke in favor of this request.

Emmet Curtis, 300 Curtis Lane, stated he was not in opposition, but had two facts he wanted to turn over. He stated he did not want Curtis Lane used for construction purposes because of his children's safety. He stated there are two (2) poultry houses he operates adjacent to this property and that he will continue to operate after this subdivision goes in.

Michael Robinson, 711 Inverness Way, spoke for a minimum house size of 2,600 sq.ft. to be consistent with the adjacent homes in Woodmont.

Bob Stratton, 713 Inverness Way, presented a petition with 110 signatures for a minimum house size of 2,600 sq.ft. heated living area. He stated concerns for the wetland areas and drainage problems that may occur with added new homes for potential erosion issues and asked the County to consider this concern in development.

Chairman Holcomb stated to Mr. Stratton's concerns regarding the wetland areas would be addressed in the County's Technical Review process and thanked him for his input.

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Mr. Chambers spoke in rebuttal and gave some history of the area and that the applicant would agree to a minimum 2,600 sq.ft. homes.

**Mr. Bill Jarrard made a motion to approve with one condition: 1) The minimum house size will be 2,600 sq.ft. heated floor space. Seconded by Wayne Kosbe. Jay Wallace made an amendment to add a second condition of a maximum 115 units as indicated on the site plan. Mr. Jarrard accepted. Motion passed unanimously.**

**Case #03-08-041 Tal Mar Properties, Inc.** requesting to rezone 25.29 acres from LI to RTH and NC. If rezoned, the property would be utilized for a town home community and a neighborhood shopping center. The property is located on Bells Ferry Road and Victoria Road in Land Lot(s) 543, 609 and 610 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N09, Parcel 581.

Vicki Taylor gave findings that the proposed development is more consistent with the residential and emerging commercial character of the area than the current LI zoning that is also reflected on the Future Land Use Map. She stated the office and retail components of the NC area will serve the new townhomes as well as current residents. She stated the site plan shows landscaped buffers and the proposed development is an upgrade to any light industrial development.

Mr. Parks Huff, of Huff, Sams and Larkin Attorneys, represented this case. He stated there would be 128 town home units, a minimum of 1,700 sq.ft, the exterior will be brick, stone or other hard surface facades with garages, the price range would be from \$160,000 to \$190,000. He stated at the public participation meeting a 50 foot undisturbed buffer was agreed to around the perimeter of the property and the parking was changed to accommodate not facing the adjacent residential. He stated the project will enter and exit off of Victoria Road because DOT does not want access onto Bells Ferry Road. The developer has agreed to donate right-of-way for a decel lane into the property as requested by the DOT. He stated the NC in front of the development is designed to serve the community with a mix of office, restaurant and retail. He stated they had met with the school board and agreed to their request for that contribution and in addition had agreed to no more than 10% of the units would be rentals. He stated there would be access connections between the NC and town home community for a

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community walking feeling with plantings, decorative lighting, benches, landscaping and sidewalks.

No one spoke in favor.

Pansy Millsaps, 6781 Bells Ferry Road, said she was not opposed, but she is concerned about the existing easement to her property going through this property. She stated she did not want her easement re-routed.

Christel Cason, 6769 Bells Ferry Road, said she is not opposed to the development, but is concerned about the added traffic. She understands there will be a turning lane into this community, but thinks that a center lane needs to be added to Bells Ferry Road.

Park Huff spoke in rebuttal. He agreed to Ms. Millsaps' access to remain at the same location.

Mr. Michael Oxley asked about the 50 foot buffer and how it will look. Mr. Huff stated the buffer is undisturbed and there is dense trees in the area now and they would be left remaining.

Mr. Bill Jarrard asked about the meeting with school board . Mr. Huff said they submitted an August 5<sup>th</sup> letter and the Mr. Sims of the school board had given them their calculations for what the school board is looking for and they had agreed to that amount. Mr. Sims of the Board of Education confirmed that even though they had reduced the number of units, the applicant had kept the contribution the same.

Chairman Holcombe stated to Ms. Cason that Bells Ferry Road being a state highway, the County was limited to any improvements that may have to be made or that should occur.

**Mr. Dick Hall made a motion to approve RTH and NC as submitted. Seconded by Mr. Jarrard. Motion passed unanimously.**

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**Other Agenda Items**

Approval of July 1, 2003 Minutes.

**Mrs. Marsha Lathem made a motion to approve the July 1, 2003 minutes. Dick Hall seconded. Motion passed unanimously.**

Meeting adjourned at 8:45 p.m.