

**Cherokee County Planning Commission  
Public Hearing  
Minutes  
Tuesday, December 2, 2003  
7:00 p.m.**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, December 2, 2003, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Bill Jarrard, Michael Oxley, Rob Cutting, Marsha Lathem, Dick Hall, Cecil Atchley, Jay Wallace and Chairman Ashley Holcomb. (Mr. Wallace and Mr. Atchley arrived at 7:20) In attendance for Cherokee County staff were Mark Mahler, County Attorney, Vicki Taylor, Zoning Administrator and Vicki Mulkey, Zoning Technician. The meeting was called to order at 7:00 pm.

**Old Cases**

**Case # 03-11-054 Ga. Gunite and Pool Co.** is requesting to rezone 6.67 acres from R-40 to LI. If rezoned the property would be utilized for a pool company with equipment. The property is located on Bascomb Carmel Road in Land Lot(s) 973 in the 21<sup>st</sup> District and further described as Cherokee County Tax Map 15N05, Parcel(s) 69, 75, & (part of parcel) 70.

Vicki Taylor gave Staff findings and referred to a revised site plan that the Board had been given a copy of. She stated the subject property is within 350 feet of existing light industrial zoning and in an area of transition to more commercial uses. She stated the submitted application states that no new buildings will be constructed, however, the submitted site plan shows a proposed building. She stated the applicant stated that the office portion of the business has been operated from the site for several years as zoned. She stated Staff is concerned that some six or seven additional structures have been constructed on this site without benefit of permits. She stated R-40 zoning only permitted one accessory structure.

Ken Patton represented this case.

Marvin Coldman spoke of concerns regarding access in and out of the property and concerns of resale values of homes in the neighborhood. He also stated there are soil and water problems. He stated that developer had agreed to erect privacy fences.

Mr. Patton spoke in rebuttal. He said there is soil and water problems and the applicant would be willing to work with the neighbors to alleviate this problem.

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Dick Hall asked what the buffer requirement would be. Vicki Taylor stated 50 feet.

Chairman Holcombe stated his observation that several of the existing buildings were in the buffer area.

**Dick Hall made the motion to approve with the conditions: 1) If modifications or renovations are to be made to any of the buildings it must be brought into conformance with zoning and development regulations in existence at the time of that renovation or modification. 2) A privacy fence be erected along the eastern side and southeastern side of the property to shield the adjacent property owners from the industrial activity. 3) Applicant will comply with County requirements. 4) Applicant will work with adjacent property owners regarding water runoff. Rob Cutting seconded. Motion passed 5-0.**

**Case #03-11-055 Centennial Lakes Partners, LLC** is requesting to rezone 165.4 acres from NC & R-40 to RTH & RZL. If rezoned the property would be utilized for a residential community. The property is located on Woodstock Road on the right as you enter Cherokee County from Cobb County in Land Lot(s) 1199, 1200, 1201, 248, 1249, 1250, 1271, 2173 in the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N06, Parcel 221.

**\*Requested to be postponed until next month\***

**Rob Cutting made a motion to postpone. Seconded by Michael Oxley. Motion passed unanimously.**

**Case #03-11-057 ISI Commercial, LLC** is requesting to rezone 177+/- acres from AG & R-80 to RZL. If rezoned the property would be utilized for residential/detached dwellings (homes). The property is located approximately .25 miles east of the East Cherokee Drive & Hwy. 20 intersections in Land Lot(s) 849, 850, 878, 879, 880, and 881 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N10, part of parcels 128, 130, and 189; tax map 03N11, parcels 193, 194, 196, and tax map 03N17, parcel 024.

**\*Requested to be postponed until next month\***

**Rob Cutting made a motion to postpone. Seconded by Michael Oxley. Motion passed unanimously.**

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### **New Cases**

**Case # 03-12-060 John & Valentina Caldwell** are requesting to rezone .96 acres from R-40 to GC. If rezoned the property would be utilized for a wildlife trapping company office. The property is located on Hwy. 140 in Land Lot(s) 643, & 654 in the 2<sup>nd</sup> District and further described as Cherokee County Tax Map 02N03, Parcel(s) 167.

Vicki Taylor gave Staff findings that the applicant's request is consistent with the land use (a shopping center) across the street as well as other commercial zoning approximately one-half mile to the north. She said the applicant had stated that it is their intent to use the existing building in its present state for their business office and no animals will be kept onsite.

Bill Jarrard excused himself from this case as he is a friend of the property owner.

Benson Chambers represented this case.

Chuck Dean spoke in favor of this request, but requested the zoning be O&I instead of GC.

George Lingefelt spoke in favor of the request. He stated he obtained the property by caring for his aunt and her husband for 25 years. He stated he was getting old and would like to reap some reward at this time. He stated the adjacent property owner had no problem with this rezone.

Mr. Chambers spoke in rebuttal and stated the property is appropriate for GC and O&I does not fit and does not provide for minimal storage. He stated the Future Land Use Map (FLUM) indicated the property as residential, but that Save Rite Grocery Store is across the street and the FLUM indicated undeveloped for that property. He further stated the property is located along State Route 140.

Dick Hall expressed concerns that in the past when zoning was approved for GC for one purpose as the Board understood it to be then later a for sale sign would be placed on the property and not used for the purpose as it's use was rezoned to. Mr. Hall asked the Board if it would be too restrictive to limit the use to this request.

Chairman Holcombe stated he thought it would be unfair. Discussion ensued.

Rob Cutting stated the use is always a concern.

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Jay Wallace stated it might be correct to place conditions with the rezone.

**Marsha Lathem made the motion to approve GC with the condition that it be stipulated to the current structures and uses specified in the application. Seconded by Cecil Atchley. Motion passed 6-0, with Mr. Jarrard abstaining.**

**Case #03-12-061 Robert Harris Homes, Inc.** is requesting to rezone 15.24 acres from R-40 to RTH. If rezoned the property would be utilized for an attached townhome. The property is located on Bells Ferry Road in Land Lot(s) 1117 in the 21<sup>st</sup> District and further described as Cherokee County Tax Map 15N06, Parcel(s) 132 and a portion of 131.

Vicki Taylor gave Staff findings that the subject property is adjacent to a previously rezoned RTH parcel of land. She stated additionally there is Multi-Family zoning with 16 dwelling units to the acre to the north. She stated this petition is in compliance with the Future Land Use Map (FLUM) and current uses and density in this area of the County.

Parks Huff represented this case. He stated no one appeared at the Public Participation meeting. He stated that the site plan indicates a 30-foot buffer and he understood it should be a 35-foot buffer. He stated the applicant is willing to meet the 35-foot buffer and he was not requesting a buffer variance.

No one spoke in favor or opposition.

Michael Oxley asked about berms. Mr. Huff stated there would be berms, landscaping and a fence.

Rob Cutting asked for the record what the Board of Education would receive for this development. Mr. Huff stated \$263.00 per home for a total of \$19,988.00.

**Bill Jarrard made the motion to approve. Seconded by Rob Cutting with the condition the cap will be 76 units. Motion passed 7-0.**

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**Case #03-12-062 Robert E. Wilson** is requesting to rezone of 3.29 acres from AG to R-60. If rezoned the property would be utilized for two residential structures. The property is located on Walden Lane in Land Lot(s) 811 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N04, Parcel 31.

Vicki Taylor gave Staff findings that this property is clearly not suitable for agricultural use and many surrounding parcels are of comparable size to the proposed lots of 1.65 acres each and yet the old zoning classification was AR and all surrounding property remains zoned agricultural. She stated it is reasonable to request residential zoning for this property and R-60 is the least dense zoning that would accommodate the two lots requested by the applicant.

Bob Wilson represented this case. He stated he would be living in one home and would pick neighbor for the other home if the rezone were approved.

Donna Wagner stated the property abuts Lake Allatoona and she felt the property should remain AG. She stated she had heard recently that a building permit was denied for another person because they did not have a full two acres.

Mr. Wilson had no rebuttal comments.

Rob Cutting responded to Ms. Wagner if someone had been refused a building permit that that person has not come before the Board for a rezoning. He stated his observation for the existing area and surrounding properties were smaller lots than two acres.

**Dick Hall made the motion to approve. Seconded by Mr. Jarrard. Motion passed 7-0.**

**Case #03-12-063 Wesley Godwin** is requesting to rezone 42.85 acres from R-40 to GC, RA, & RZL. If rezoned the property would be utilized for mixed-use residential & commercial development. The property is located on the corner of Bells Ferry Road & Butterworth Road in Land Lot(s) 11, 12, & 61 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 14N12B, Parcel(s) 148, and 150 and 15N07, Parcels 1 & 2.

Vicki Taylor gave Staff findings that while the subject property is shown as low density residential on the Future Land Use Map (FLUM), it is quite near a transition area due to

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its proximity to the City of Canton. She stated it is also near Bridgemill and the River Green development within the City. She stated the proposed development calls for 162 dwelling units on a total of 37.19 acres of RA and RTH, yielding a density of 4.36 dwelling units per acre.

Benson Chambers represented this case.

Jerry Kinzy spoke in opposition and stated he objected to the density of this project. He read Engineering comments that Butterworth Road could not handle additional traffic. He stated the improvements to the road were being made for already existing traffic concerns. He suggested R-40 zoning.

Ethel Miles spoke in opposition stating that Butterworth Road cannot hand any more development and that Butterworth Road is dangerous. She stated the elderly live in that area. She stated if this project is approved that a 12-foot privacy fence be erected to keep people away from her home, she asked for a 50-foot buffer and that green space be required. She stated a red light was needed at Bells Ferry Road and Butterworth Road instead of the existing four way stop.

Benson Chambers spoke in rebuttal. He stated Mr. Godwin, the developer, had agreed to the privacy fence requested. He stated Mr. Kinzy was correct that the road needs improvement and this is the time for those improvements. He stated the developer would offset any problems with impact fees he would be required to pay.

Dick Hall asked if the property is contiguous to the City of Canton. Vicki Taylor stated no, but the property was not far from the city limits.

Bill Jarrard stated he had no problem with the commercial portion of the project. He stated the Future Land Use Map (FLUM) indicated low-density residential for this property. He stated that Engineering did indicate there are problems with the road. He stated he had problems with the density and that he had not been shown the need for the density and three zoning classifications. He recommended the requested RA & RZL been approved for R-20 and not a conservation subdivision and approval of commercial.

Discussion ensued as to Bridgemill Subdivision density and density of City of Canton.

Rob Cutting asked for the record what the Board of Education would receive from this development. Mr. Chambers stated \$75,000.

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Michael Oxley spoke of concern of not having the right tools to work with these type RZL rezone requests for density.

Rob Cutting stated they could condition the zoning to a certain density.

Chairman Holcombe spoke of concerns of the city limits being close to the property.

**Dick Hall made the motion to approve GC as proposed with the following conditions: 1) Zoning buffers will be adhered to. 2) The remaining property approved for RZL with a cap of 3 units per acre. Rob Cutting seconded. Motion passed 4-3 with Jay Wallace, Bill Jarrard and Michael Oxley in opposition.**

**Case #03-12-064 Brookwood-Woodall, LLC** is requesting to rezone 31.74 acres from AG to R-60. If rezoned the property would be utilized for residential purposes. The property is located on Darby Road in Land Lot(s) 66 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N09, Parcel(s) 33D.

Vicki Taylor gave Staff findings that the Future Land Use Map (FLUM) designates this property as Undeveloped, allowing for flexibility in zoning and land use, however, as submitted, the plan does not appear to meet the intent of the Conservation Subdivision Ordinance due to each lot exceeding 40,000 square feet (the minimum is 30,000 square feet). She stated there is only approximately 16% open space provided and there are larger lots, but at the expense of green space. She stated this is a Conservation Subdivision and the site plans indicate a total of 24 lots, but actually the project would be limited to 23 lots.

Benson Chambers represented this case.

No one spoke in favor or opposition.

**Rob Cutting made the motion to approve with the condition of limiting drive cuts to 5 on Darby Road. Seconded by Dick Hall. Motion passed unanimously 7-0.**

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**Case #03-12-065 Pebblebrook Development, LLC** is requesting to rezone 49.26 acres from AG to R-20. If rezoned the property would be utilized for residential purposes. The property is located on Gaddis Road in Land Lot(s) 1096 and 1137 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N12, Parcel(s) 153.

Vicki Taylor gave Staff findings that the proposed development is consistent with adjacent Woodmont (PUD and R-20) in density, lot size and house size. She stated this property is no longer viable for agricultural use and residential use is in harmony with emerging land use in the area. She stated, however, there are serious development issues to resolve at the technical review stage of the process.

Benson Chambers represented this case. He stated he thought the developer had addressed most of the concerns of the adjacent home owners brought up at the Public Participation meeting and gave a list of the conditions the developer had agreed to. He stated neighboring Woodmont Subdivision is a PUD, but PUD zoning had been done away with and therefore John Wieland Homes had sought and been approved for R-15 and R-20 zoning for several parcels in the area. He stated the Board of Education had been contacted.

Beth Sisson speaking for 250 residents from the Macedonia Community spoke in opposition to the development and presented to Chairman Holcombe a signed petition from those residents.

Benson Chambers spoke in rebuttal.

Bill Jarrard asked about the stipulations the developer had agreed to and if the neighbors agreed with the stipulations. Mr. Chambers stated he didn't say the opposition agreed with the stipulations but only those are the stipulations the developer could agree with as a result of the public participation meeting.

Rob Cutting asked for the record what the Board of Education would receive as a result of this development. Mr. Chambers replied \$60,000.

**Rob Cutting made the motion to approve as R-40. Seconded by Michael Oxley. Motion passed 6-1, with Jay Wallace in opposition with the following conditions:**

- 1) House style, architecture and subdivision covenants to be similar as that of Woodmont.**



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- 2) **Minimum lot size to be 20,000 sq.ft.**
- 3) **Minimum house size to be 2,600 sq.ft. heated.**
- 4) **Developer shall install a landscaped berm along Gaddis Road.**
- 5) **Permanent 50 foot undisturbed perimeter buffer along the west, north and east boundary.**
- 6) **Homes that back up to Grandmar Chase to be held to the same architectural standards as homes in Woodmont that back up to golf course.**
- 7) **50 feet undisturbed buffer to be enforced after builder is gone.**
- 8) **Woodmont and its amenities package will not be used in marketing of the community and will not be used by its homeowners.**
- 9) **A reasonable contribution will be made to the Cherokee County School Board in mitigate of enrollment increase.**
- 10) **Mass grading will not be permitted by developer.**
- 11) **Developer will set hours of operations restrictions on builders in regards to construction: 7:00 am to 7:00 pm Monday through Saturday.**
- 12) **Subject to Engineering approval, the entrance shall be aligned with Huntington Chase Subdivision with traffic devices as recommended by Cherokee County.**

### Other Items

Approval of minutes for November meeting.

**Chairman Holcomb made a motion to approve minutes. Motion passed unanimously.**

**Chairman Holcomb made a motion to adjourn. Motion passed unanimously.**

Meeting adjourned at 9:25 pm.