

**Cherokee County Planning Commission
Minutes
Tuesday, February 3, 2004
7:00 p.m.**

The Cherokee County Municipal Planning Commission held its regularly scheduled public hearing on Tuesday, February 3, 2004, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Bill Jarrard, Michael Oxley, Chairman Rob Cutting, Marsha Lathem, Dick Hall, Cecil Atchley, Jay Wallace, Ashley Holcomb and Wayne Kosby. In attendance for Cherokee County staff were Mark Mahler, County Attorney, Jeff Watkins, Planning Director, Vicki Taylor, Zoning Administrator and Vicki Mulkey, Zoning Technician. The meeting was called to order at 7:00 pm.

Old Cases

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 21st District and further described as Cherokee County Tax Map 21N06, Parcel 221.

Vicki Taylor gave Staff findings of facts that:

ANALYST AND COMMENTS:

The subject property contains a total of 165.4 acres and is located on Woodstock Road with access also on Priest Road. The applicant proposed to rezone this property from its current NC and R-40 zoning to RTH and RZL for development of a residential community with a total of 625 dwellings.

A revised site plan has been received showing 435 lots, 169 townhomes and 21 live-work units. There are no delineation on said site plan showing what portion of this property is requested RTH and what portion RZL. In addition, the plan calls for 21 live-work units, for which we have no zoning classification. A public participation meeting was held and a report was received January 22, 2004. No letters of opposition to this rezone request have been received in our office.

FINDINGS:

Georgia Regional Transportation Authority (GRTA) issued a Notice of Decision regarding this project on December 22, 2003, a copy of which is attached for your review. This notice approves the proposed development subject to conditions as shown in the recommendations.

This property is currently zoned for residential use, therefore land use itself is not at issue here. The overall proposed density for the development is 3.77 dwelling units per acre, which the comp plan considers medium density for properties served by sewer.

Benson Chambers represented this case.

Cathy White spoke in favor of this development and stated it was a quality development.

Jennie Shaw spoke in favor of this development and stated it would upgrade the neighborhood.

Jerry Kinzy spoke in opposition to the density and asked for R-40 zoning.

Richard Spinks spoke in opposition due to the number of roads to be upgraded and some of those roads being in Cobb County.

Ronald Dietz spoke in opposition due to traffic safety concerns.

Marty Beyer spoke in opposition due to house sizes.

B. G. Norton spoke in opposition due to sewer concerns.

Benson Chambers spoke in rebuttal and stated this will be a quality development and asked the Board to recommend approval.

Bill Jarrard recommended this zoning case be given to Engineering for their schedule of road improvements and boulevard concerns. He stated concerns of school capacity. He stated the Future Land Use Map (FLUM) shows low-density residential for this area. He stated he does not want an approval of RZL, but could see and R-20 zoning and cut the number of townhomes from 169 to 100.

Dick Hall stated the boulevard is internal to the development due to number of curb cuts. He stated he would like to review the Georgia Regional Transportation Authority (GRTA) impact report further and suggested postponing this case until the next regular meeting in March.

Discussion ensued as to road access to this property.

Dick Hall made a motion to postpone to the next regular meeting in March. Seconded by Wayne Kosbe. Motion passed unanimously 9-0.

Chairman Cutting explained to the audience that there would be no further public input at the March 2, 2004 meeting since the public hearing had been completed that night.

Case #04-01-002 Carmichael Farms is requesting to rezone 340 +/- acres is sought to be rezoned from AG/R-80 to R-20. If rezoned the property would be utilized for an equestrian residential community. The property is located on East Cherokee Drive and Union Hill Road in land lot(s) 1229, 1292, 4, 5, 6, 69, 68, 67, 75, 76, 77, 140 of the 2nd district, 2nd section of Cherokee County, Georgia and indicated as parcel(s) 117, 139 on tax map 02N01.

Case has been postponed until March 2, 2004 meeting.

Upcoming Cases

Case # 04-02-007 Perimeter Group Corporation are requesting to rezone 39.54 acres from R-80 to RZL. If rezoned the property would be utilized for single-family detached residences. The property is located on Bailey Road in Land Lot(s) 435 & 436 in the 2nd District and further described as Cherokee County Tax Map 02N03, Parcel(s) 164, and part of 143.

Case has been postponed until March 2, 2004 meeting.

Case #04-02-008 Jean Shapiro is requesting to rezone +/- 2 acres rezone property from R-80 to GC. If rezoned the property would be utilized for a dance and music school. The property is located on Hickory Flat Hwy. in land lot 573 of the 2nd district, 2nd section of Cherokee County, Georgia and indicated as parcel 158 on tax map 02N03.

Vicki Taylor gave Staff findings of facts that:

ANALYSIS AND COMMENTS:

The subject property contains approximately 1.8 acres and is located on Hickory Flat Highway less than one half mile north of Sugar Pike Road. The applicant proposed to rezone this property from its current R-80 zoning to GC for use as a music and dance studio.

The site plan received substantially meets Planning and Zoning requirements, however a 35 foot zoning buffer would have to be maintained between the adjacent R-20 and R-80 property. A public participation meeting was held on December 20, and a report was received.

FINDINGS:

While most of the surrounding property is still zoned residential, there are increasing numbers of commercial uses on Highway 140. With high traffic volume, it is clear that this parcel is no longer suitable for

residential use and does not meet the minimum acreage for R-80 zoning. Attempts to sell the property as residential have failed. The proposed school will have a limited number of students and hours of operation, therefore minimizing the impact on traffic and adjacent residential use. Either NC or GC zoning classifications would allow this proposed use.

Jean Shapiro represented this case. She stated she had no objections from the 30 people she mailed out to in compliance with the Public Participation Plan.

Steve Hammonds of the Twin Lakes Subdivision across the road from this property expressed concerns to GC zoning and requested NC zoning since GC would allow more intense retail uses than NC and he understood a dance and music studio would be allowed in NC. He welcomed Ms. Shapiro to the neighborhood.

Chuck Dean reiterated the concern of the GC zoning classification and requested NC zoning. He welcomed Ms. Shapiro to the neighborhood.

Jean Shapiro addressed the Board and stated she had no problem with a NC zoning classification.

Dick Hall made a motion to recommend approval of NC conditional to the specific use of a dance and music studio and associated activities. Seconded by Bill Jarrard. Motion passed unanimously 9-0.

Case #04-02-009 East Cherokee Village LLC is requesting to rezone 20.84 acres from GC & R-40 to GC, OI, & RZL. If rezoned the property would be utilized for Commercial and Residential purposes. The property is located on East Cherokee Drive in land lot 699, 700, 741, 742 of the 15th district, 2nd section of Cherokee County, Georgia and indicated as parcel 217 on tax map 15N16, and parcel(s) 50, 51, 52, & 53 on tax map 15N22.

Vicki Taylor gave Staff findings of facts that:

ANALYSIS AND COMMENTS:

The subject property contains a total of 27.42 acres with 16.94 acres already zoned GC and is located on East Cherokee Drive just east of Highway 5. The applicant proposed to rezone this property from its current GC and R-40 zoning to GC, OI, and RZL for a commercial and residential development.

The site plan received substantially meets Planning and Zoning requirements, however a 35-foot zoning buffer would have to be maintained between the GC and R-20 property as well as a 20-foot buffer between the RZL and the R-20. The zoning buffer adjacent to any PUD is

50 feet. Two public participation meetings were held and a report was received.

FINDINGS:

A portion of this development is already zoned commercial and is currently a truss manufacturing site. The Future Land Use Map shows this property with Commercial and Undeveloped classifications. As you are aware, Undeveloped is a classification, not a land use, and is defined in the Comp Plan as property not yet developed or abandoned for the use for which it was developed. The single-family portion is proposed at 4.97 dwelling units per acre. The adjacent PUD has a density of approximately 2 dwelling units per acre as does the R-20 with 2.178 dwelling units per acre.

Parks Huff of Sams, Larkin and Huff represented this case. He stated there had been two public participation meetings conducted with Arbor View & Copper Ridge Subdivision and offered the Board of copy of that agreement dated January 30, 2004, addressing 16 items of concerns that had been worked out as a result of these meetings.

John Albere representing homeowners of Arbor View and Copper Ridge Subdivisions spoke in favor of this rezone and referred to the January 30, 2004 letter of agreement and the 16 items agreed to with the applicant.

Angie Gowan of Arbor View Subdivision spoke in opposition to the RZL density of 4.5 dwelling units per acre (DUA).

Parks Huff spoke in rebuttal that the 4.5 density was a compromise and is less than what his client would want.

Bill Jarrard stated in had no problem with the GC & OI portion of the rezone request but agreed with Ms. Gowan that RZL was too dense. He stated this would set a precedence on East Cherokee Drive and suggested the R-20 zoning classification.

Dick Hall stated there is some RZL on Hwy 140 due to a court case that put that zoning in effect. He congratulated the public participation plan results in coming to an agreement between the applicant and residents in the community.

Michael Oxley asked what R-20 zoning would do to the development and Mr. Huff stated it would cut the density in half. Mr. Oxley asked about the Park area shown on the plans and Mr. Huff stated it would be a passive amenity center for the residents. Mr. Oxley stated he felt the park area and buffers offset the RZL zoning.

Rob Cutting stated he would like to hold those uses of the park area and uses shown on the plan not to exceed what is on the plan.

Marsha Lathem made a motion to recommend approval with the following conditions: 1) 64 unit maximum, 2) 16 stipulations contained in the letter of agreement dated January 30, 2004 and 3) square footage of passive park area and uses specified are not exceeded. Seconded by Ashley Holcomb. Motion passed 7-2 with Mr. Jarrard and Mr. Wallace opposing.

Case #04-02-010 ACA Properties is requesting to rezone 8.19 acres from LI, NC, & AG to RZL. If rezoned the property would be utilized for Commercial and Residential. The property is located on Bells Ferry Road in land lot(s) 686 & 755 of the 21st district, 2nd section of Cherokee County, Georgia and indicated as parcel(s) 39, 40, & 41 on tax map 15N04.

Vicki Taylor gave Staff findings of facts that:

ANALYSIS AND COMMENTS:

The subject property contains a total of 8.19± acres with frontage on Bells Ferry Road. However, the site plan shows access through the RZL development to the north. The applicant proposed to rezone this property from its current classification to RZL for a residential development.

The site plan received substantially meets Planning and Zoning requirements. A public participation meeting was held on January 12, 2004 and a report was received.

FINDINGS:

This proposal appears to be intended as an extension of the RZL development to the north. The applicant is proposing 4.40 dwelling units per acre that is less than the maximum of 6 DUA. While the FLUM shows this property with an Industrial classification, higher density single-family residential developments have been the trend for this area.

Parks Huff of Sams, Larkin & Huff represented this case. He stated on January 21, 2003, the property to the north of this property was rezoned to RZL at 6 dwelling units per acre (DUA). He stated that if the applicant had not donated the property for Bells Ferry Road proposed ROW the density would be 4.04 DUA. He stated the public participation concerns were due to the widening of Bells Ferry and the direction of the Bells Ferry Road path.

Chairman Cutting stated that the County has no input with the widening of Bells Ferry Road because it is a State Route and is under the State DOT umbrella.

No one spoke in favor.

Joan McIntosh spoke in opposition and said if you talk to the State DOT about the widening they referred you to the County and if you talk to the County they refer you to the State. She stated she was representing the residents of the Countryside Villas. She stated that 44 lots were purchased in that subdivision with the expectation and the road plans they had been shown that the new proposed Bells Ferry Road widening would put Bells Ferry further away from the Villas than it is now. She stated those residents wanted the donated land to be to the west and not the east of this proposed property.

Anthony Perry stated he also was told the road was going through the middle of this property when he sought to buy it years ago.

Parks Huff spoke in rebuttal and stated the issue is zoning and not road issues that may or may not happen. He stated this is an State engineering issue and the land was set aside a full year ago when the State's plans changed.

Dick Hall asked Mark Mahler what the Planning Commission could do. Mr. Mahler stated the Board would not design roads and only the zoning issue before them to decide on.

Michael Oxley stated that a traffic light and drive alignment might be considered with the DOT. Mr. Huff said he would be glad to talk with DOT regarding this issue.

Mr. Oxley made a motion to recommend approval as requested. Seconded by Marsha Lathem. Motion passed unanimously 9-0.

Case #04-02-011 FuClassic LLC is requesting to rezone 42.02 acres from AG to R-60. If rezoned the property would be utilized for a Residential Conservation Subdivision. The property is located on George McClure Lane in land lot(s) 824, 833, & 834 of the 3rd district, 2nd section of Cherokee County, Georgia and indicated as parcel 168 on tax map 03N22.

Vicki Taylor gave Staff findings of facts that:

ANALYSIS AND COMMENTS:

The subject property contains a total of 42 acres with frontage on George McClure Lane. The applicant proposed to rezone this property from its current classification to R-60 for a residential development. The first four lots of this subdivision were platted and recorded with the existing AG zoning under the Conservation Subdivision Ordinance provisions.

The site plan received substantially meets Planning and Zoning requirements. A public participation meeting was held on January 15, 2004 and a report was received.

FINDINGS:

This development proposes a density of 0.75 dwelling units per acre, 31 lots on 42.02 acres. It is adjacent to a PUD development, Hawks Ridge with a minimum lot size of 1.1 acre, however, lots vary greatly in size up to approximately 14 acres. With a total of 50.02 acres (Phase I in AG and Phase II in R-60) and a total of 19.11 acres of green space, this development will offer better than 38% green space.

Chad Milford represented this case.

Harris Turner spoke and said he does not oppose the rezone but was concerned about \$500,000 homes coming into the area and he owns and operates a hog farm. He stated he didn't want these people coming in and trying to shut him down. He asked that each homeowner sign that they understand there is a hog farm in the area.

Mr. Milford stated in his rebuttal that a person cannot move to a nuisance and then complain and Mr. Turner would be protected by State Law.

Bill Jarrard made a motion to recommend approval with the condition that the developer give full disclosure, and notify in writing, of the existence of the hog farm to prospective buyers. Seconded by Cecil Atchley. Motion passed unanimously 9-0.

Case #04-02-12 Ed Cipriani is requesting to rezone 16.83 acres from AG to R-20. If rezoned the property would be utilized for Residential Purposes. The property is located on East Cherokee Drive in land lot(s) 996 & 1021 of the 3rd district, 2nd section of Cherokee County, Georgia and indicated as parcel 119 on tax map 03N11.

Vicki Taylor gave Staff findings of facts that:

ANALYSIS AND COMMENTS:

The subject property contains a total of 16.83 acres with frontage on East Cherokee Drive. The applicant proposed to rezone this property from its current classification to R-20 for a residential development.

The site plan received substantially meets Planning and Zoning requirements. A public participation meeting was held on January 20, 2004 and a report was received.

FINDINGS:

This development proposes a density of 1.13 dwelling units per acre, 19 lots on 16.83 acres. The proposed minimum lot size of 25,000 square feet. It is near an R-15 development as well as several R-20 zonings. The Future Land Use Map shows this property with an Undeveloped classification. As you are aware, Undeveloped is a

classification, not a land use, and is defined in the Comp Plan as property not yet developed or abandoned for the use for which it was developed.

Benson Chambers represented this case. He stated there would be a maximum of 19 lots, 25,000 to 27,000 sq.ft. lots and the largest lot will be 1.5 acres, 1.13 DUA density and there have been no requested contributions by the Board of Education.

No one spoke in favor.

Kenny Norton stated he was not in opposition but would like to see R-30 zoning instead of R-20.

Beth Sisson stated she felt better about the project since Mr. Chambers had given his information regarding lot number, size and density.

Jay Wallace and Ashley Holcomb excused themselves from participating in this case due to possible conflict of interest.

Dick Hall made a motion to recommend approval with the conditions that 1) a 25,000 sq.ft. lot minimum and 2) 19 lot maximum. Seconded by Wayne Kosbe. Motion passed 7-0 with Mr. Wallace and Mr. Holcomb abstaining.

Case #04-02-013 Meadow Brook LLC is requesting to rezone 165.05 acres from R-40 w/conditions to R-40 w/conditions. If approved, the property will be under one zoning case bound to a site-specific plan. The property will be utilized for single-family purposes. The property is located on East Cherokee Drive and Little Road in land lot(s) 472, 537, 538, 543, 610 of the 15th district, 2nd section of Cherokee County, Georgia and indicated as parcel(s) 35B and 49 on tax map 15N27.

Vicki Taylor gave Staff findings that:

ANALYSIS AND COMMENTS:

The subject property contains a total of 165.05 acres with frontage on East Cherokee Drive, Waters Road, and Little Road. The applicant previously rezoned this property to R-40 for a residential conservation development in two separate zoning cases in 2001. At the recommendation of the Board of Commissioners, this is an application to amend these two zoning cases to one zoning case bound to a specific site plan.

FINDINGS:

This development as proposed has a density of 1.085 dwelling units per acre, meeting the requirements of R-40. The proposed minimum lot size is 18,000 square feet, where the minimum is 15,000 square feet for

R-40 under the Conservation Subdivision Ordinance. According to the site plan, the green space provided will be 47.80 acres or 28.96%.

Doug Dillard of Dillard & Galloway represented this case.

No one spoke in favor.

Jim Hubbard spoke in opposition that the Garland property that was suppose to be a part of the master plan had not been purchased by Chatham Holdings. This piece of property contained the open space for the development and without this property the open space requirement cannot be met by the developer. He stated that Mr. Garland had renewed his interest in the conservation program with the County that is for a 10-year period of time.

Albert Austrum spoke in opposition that there are no buffers and about the abuse of open space.

Dennis James, President of Bradshaw Farms HOA, stated he thought this was a R-40 conservation subdivision that Chatham Holdings own and not someone else.

Doug Dilliard spoke in rebuttal. He stated that Mr. Garland had indicated he would like for his children to finish out school in the next 4 or 5 years. He stated the property is part of the master plan. He stated any penalty resulting from pulling out of the conservation program could be met at such time.

Dick Hall asked Mark Mahler if Mr. Garland's property is bound to the master plan. Mr. Mahler replied yes unless changed by the Board of Commissioners.

Discussion ensued as to property ownership, open space, site plan specifics.

Ashley Holcomb made a motion to recommend approval as submitted site plan specific to the master plan. Seconded by Dick Hall. Motion passed 7-2 with Bill Jarrard and Jay Wallace in opposition.

Other Items

Ashley Holcomb made a motion to approve the January 2004 meeting minutes. Seconded by Dick Hall. Motion passed unanimously 9-0.

Dick Hall made a motion to adjourn. Seconded by Marsha Lathem. Motion passed unanimously 9-0.

Approved March 2, 2004

Meeting adjourned at 9:50 PM