

Cherokee County Planning Commission
Special Called Meeting
Minutes
Tuesday, February 8, 2005
7:00 p.m.

The Cherokee County Municipal Planning Commission held its special called meeting public hearing on Tuesday, February 8, 2005, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Vice-Chairman Jay Wallace, Bill Jarrard, Michael Oxley, Betty Callahan, Garland Stewart, Bob Whitaker, Ashley Holcomb and Donnie Henriques. In attendance for Cherokee County staff were Jeff Watkins, Planning Director, Vicki Taylor, Zoning Administrator and Vicki Mulkey, Zoning Technician. The meeting was called to order at 7:15 pm. **Noted is that Vice-Chair Jay Wallace chose not to vote on these cases unless it would be necessary to break a tie vote.**

Case #05-01-001 Clayton Land, LLC requesting to rezone 108.9 acres from R-80 to GC & R-40. If rezoned the property would be utilized for a mixed use development consisting of single family detached residential office condominiums and neighborhood retail commercial. The property is located at Lower Burriss Road, Upper Burriss Road and Land Road in Land Lot(s) 178, 179 of the 14th District and further described as Cherokee County Tax Map 14N13, part of parcel 067.

(Note to Planning Commission: All of this case and part of next case minutes are from my notes. Tape unclear. All other cases came through on tape.)

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Agriculture/Forestry, Industrial, Commercial, and Public/Institutional. Clayton Elementary School is to the north and east of the subject property. There is other GC zoning present at the intersection and the remainder is predominantly in residential use. The density of the proposed development is approximately 0.76 dwelling units per acre for the R-40 area with a minimum lot size of 40,000 square feet. The Engineering Department has noted that some operational improvements need to be made at the intersection of Land Road and Lower Burriss Road and even possibly at the intersection of Lower Burriss Road and State Route 140. They further state that the existing roadway system can tolerate the additional traffic from this development provided some upgrades at the critical intersections are completed. Public water is available and individual on-site sewage management systems will be required. The School Board estimates the addition of 39 students from this development.

Parks Huff represented this case.

No one spoke in favor.

Jerry Kinzy spoke in opposition to the density and stated that the Clayton Community is a rural community.

Vice-Chairman Wallace asked if sidewalks were to be included in the front of the development since there is a school next door. Mr. Huff agreed to sidewalks.

Garland Stewart asked about a traffic light at the section of Land Road & Upper Burriss Road.

Donnie Henriques agreed with Mr. Stewart that a traffic light would be appropriate at this intersection.

Discussion ensued as to Engineering's comments as to the necessity of a light at this intersection.

Michael Oxley stated that Section B would be more appropriate as O&I for offices.

Ashley Holcomb made a motion to recommend approval with parcel A & C as R-40, parcel B as O & I with a condition 1) That the applicant or successor of the applicant will mitigate traffic engineering problems more specially a traffic signal. 2) To limit the GC portion on parcel D to NC permitted uses. 3) Side walks along Land Road from the north and south entrance east to Upper Burriss Road. Seconded by Don Henriques.

Case #05-01-002 Peachtree Residential Properties requesting to rezone 66.45 from R-80 to R-40. If rezoned the property would be utilized for a single family detached residential community. The property is located on Vaughn Road in land lot(s) 541, 542, 611, 612, 613 of the 15th District and further described as Cherokee County Tax Maps 15N27, Parcel(s) 087, 090.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Undeveloped and the area is in predominantly residential use. The density of the proposed development is approximately 1.02 dwelling units per acre and a lot size of 20,000 square feet (minimum for an R-40 conservation subdivision on public sewer is 15,000 square feet). The Engineering Department has expressed concern over the location of the entrance to the proposed subdivision. It is recommended that the applicant verify whether or not the planned location of the entrance driveway is situated in a position where traffic can safely enter Vaughn Road. Public water and sewer is available and the School Board estimates the addition of 50 students from this development. She noted that Mill Creek Overlook – 57 lots on 32 acres = 1.78 dwelling units per acre and 10% greenspace.

Parks Huff represented this case. He presented a letter of stipulations they had agreed to as a result of the public participation meeting.

Bob Whitaker asked who would own the greenspace and Mr. Huff replied the Homeowners Association.

Alesa Sisson spoke in favor.

Tony Page spoke in favor.

Grady Henrich spoke in opposition.

134 signed petitions in opposition was submitted to the Board.

Robert McMaster stated he lives at 502 Wesley Court, but he has 5 and a half acres adjacent to Mr. Hendrix's property across from Mill Creek. He stated he bought the property from a Wheeler family trust, specifically Don Wheeler. Mr. Wheeler sold the property to them because he wanted to make sure that Mr. McMaster planned to leave the property undeveloped and not coming in with a large subdivision. Mr. Wheeler's intention was to leave the area rural. A developer wanted to buy the property, but Mr. Wheeler chose not to go that way. The reason he chose Jep Wheeler Road is due to the rural area where his children could go to school. He stated the Future Land Use Map shows the area to remain rural. He stated that the development looks like a fine development, but is not intended for this area. He stated in the applicant's application and Staff recommendation, Engineering Department and the School Board they kept referring to a 58 lot subdivision. This subdivision has been amended to a 68 lot subdivision, actually he thought it was originally a 59 lot subdivision; however, he saw no changes to the recommendations or changes that Staff had included traffic issues to Vaughn Road. He stated the developer has not done any traffic studies as recommended by Engineering. He stated the School Board stated there would be an impact of 39 students for the 59 lot subdivision and 69 lots would be an impact of 49 students. The School Board didn't address that. He stated the schools affected are already overcrowded. He stated he didn't know why Staff recommendations would be used without proper information. He stated this confused him. He stated the applicant's attorney mention fair value for land and by denying this zoning would some how impact the current owner's value of land. He stated he was a developer and built apartments throughout Georgia and other southeastern states. He stated he was very aware of the value of land and how land is valued for current use, future use and development uses going around that property. He stated in some instances having a lower density land use and putting on a higher value house will actually raise the value of the land and higher density can devalue the land because of traffic issues, etc. He spoke of the issues of the trees.

John McLaughlin, 2145 Jep Wheeler Road, he stated his family was present and they had four houses on 28 acres. He stated his house is the smallest at 9,000 square feet so they had a considerable financial and emotional investment along Jep Wheeler Road. He stated this sounds like a very nice development, but his concern was the conservation concept. He thought it had been used as a subterfuge or an end run around many zoning issues and this has become apparent to the public and County officials because there are changes proposed to the conservation subdivisions. He asked the Board to suspend decisions on future zoning involving the conservation concept until this has been better detailed. The devil is in the details, but is that buffer unbuildable and just flood plain. The concept he believed is to donate buildable land which brings it more in line with the original concept of a conservation district, not come in and build on the prime lots and commit the unbuildable, never useable, land to the conservation district.

Garland Stewart stated that several people who spoke in opposition stated they lived on Jep Wheeler Road and asked if that property is contiguous to the property proposed to be rezoned. Ashley Holcomb stated it is across the creek from the subject property and the property lines are the center of the creek.

Michael Oxley stated the packets they had received had the correct information of 68 lots and any arrangements made with the School Board will encompass all of the lots, not just the 58 of the original application.

Vicki Taylor stated Engineering Development Regulations would be adhered to no matter that there was a change in lots. She stated that Engineering's main concern was entering onto Vaughn Road and that's why they referred to decel lanes and radius.

Mr. Oxley stated he was concerned about the buffer at the entrance allowing for this.

Mr. Huff stated additional property was obtained to give them a better ability to handle the entrance way and because they had added more property they had added more density.

Mr. Jarrard stated generally speaking the development and the quality of home appears to be commendable and is a fine development from that standpoint, but that he was leaning towards being in opposition for two reasons which the Board has not used very often, but in his opinion they are justifiable. All three schools in the area, Hickory Flat, Dean Rusk and Sequoyah are all in excessive overcrowding from 115% to 166%. He stated he knew that could not be the only reason for being in opposition, but it can be used legally as a factor in determining whether we are or are not against it. He stated for that reason and the fact that we don't need any more traffic on Hwy 140 he is leaning to be in opposition.

Vice-Chairman Wallace stated the development has 21 acres of greenspace and asked Mr. Huff to comment to the gentleman who had new concept standards versus old concept standards for the conservation subdivision.

Mr. Huff stated that there is a 50 foot buffer outside the deeded lots in this development and that is what the new conservation concept requires. The portion along Mill Creek is in flood plain and typically that would be part of the lot, but since it was out of the deeded lots there would be no fencing or clearing.

Mr. Holcomb stated it is an impressive plan and a great attempt at mitigating the impact of the surrounding areas and although a portion is in the flood plain and that flood plain, even owned by individuals, gets a good bit of impact. For the future conservation it is realized that area would need to be further protected from individuals owning that area which may do as they please with it. He stated it was a good looking plan. To respond to Mr. Jarrard's statement about the School Board, recognizably everything is over populated in the school situation there, but this Board has made it a policy going forward to make the applicants be a part of the solution not as much as a part of the problem by mitigating their impact to the School Boards and to the surrounding schools and that is important to recognize while it does contribute to the overcrowding it also is a means for contributing to the solution of the overcrowding. That is a double edged sword, but sometimes that had to be done to achieve a solution.

Mr. Stewart stated he sponsored some years ago to increasing the Cherokee County's stream bank buffer regulations from 25 feet to 50 feet. He stated this plan would increase that buffer anywhere from 100 percent to 200 percent in some places. He does a lot of work with the State of Georgia on stream buffer problems and situations and you can put silk barriers whatever, he has done Engineering work for 40 years, but undisturbed buffers are the best buffers there are. This would be a tremendous protection to Mill Creek, he believed. The retention pond is designed to catch the runoff water and meter it out into the natural drainage area so that it does not have extensive damaging effects to the creek in big rain events. He stated he is a champion of the conservation subdivision. This may not meet the new plan because it does take some advantage of the flood plain area in the greenspace, but it will be protected as undeveloped, undisturbed and owned by the Homeowners Association which is easier for enforcement rather than 68 different homeowners and the buffers being on their property.

Ashley Holcomb made a motion to recommend approval as submitted. Seconded by Betty Callahan. Motion passed 6-1, with Bill Jarrard in opposition.

Case #05-01-003 Northridge Residential, Inc. requesting to rezone 24.26 acres from AG & R-80 to R-40. If rezoned the property would be utilized for a single family residential 14th District and further described as part of parcel 130 on tax map 14N14 and part of parcel 113 on tax map 14N15.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Agriculture/Forestry although the area has predominant residential use. The density of the proposed development is approximately 0.87 dwelling units per acre and a minimum lot size of 40,000 square feet. The Engineering Department has expressed the opinion that the existing County road can successfully handle this 21 home development provided the entrance driveway is designed in accordance with current standard guidelines. Public water is available and on-site sewage disposal systems will be required.

Benson Chambers represented this case. He stated everyone who attended the Public Participation meeting was in support of this project and some were interested in purchasing a home in the development. The Northridge is a builder in Great Sky, Copper Hills and other houses in the County. He explained surrounding zoning to the Board and that City of Canton is adjacent to this property.

No one spoke in favor.

Jerry Kinzy spoke in opposition due to the density because the area is rural. It seems that every time an R-40 comes in an area that is AG, it affects the future zoning of the area. He suggested R-60 would be better than R-40.

Mr. Chambers spoke in rebuttal and stated sometime he should take Mr. Kinzy and show him the boundaries of Sutallee because it is not in the Clayton Community and not to be disrespectful to him the zoning map shows R-40 in the area. The only property between the existing R-40 and City of Canton is this property. The Clayton Community has been fighting City of Canton for high density of 3, 4 and even 6 units to the acre. The Clayton Community is welcoming a low density and quality development.

Ashley Holcomb recused himself from participating in this case.

Garland Stewart made a motion to recommend approval. Seconded by Bob Whitaker. Motion passed 5-1, with Ashley Holcomb abstaining.

Case #05-01-004 Premium Investment Properties, LLC requesting to rezone 36.65 +/- acres from GC with conditions, AG and R-80 to GC. If rezoned the property would be utilized for commercial uses. The property is located at the intersection of Cumming Hwy and Hwy 369 in land lot(s) 771, 814 of the 3rd District and further described as Cherokee County Tax Map 03N16, Parcels 100, 101, 102, 103, and 104.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Commercial for the subject parcel, making this request in compliance. Engineering Staff is of the opinion that the additional traffic generated by this application will not adversely affect the current roadway system provided all improvements are constructed and designed in accordance with current standards. Permits for the access drives for this project must be authorized by Georgia Department of Transportation. Public water service is available and onsite sewage management systems will be required in cooperation with the Department of Natural Resources.

Garland Stewart asked that two of the parcels had been withdrawn and when was that. Ms. Taylor stated as of January 19th.

Benson Chambers represented this case. He stated that because of the length of time that lapses between the application being filed and the actual hearing of the case, it was believed these parties would be a part of the rezone. There were some contractual issues that developed and they were no longer a part of it; however, they are now again part of it, but not in time for the actual advertisement of it. In addition to those two partials, two additional partials also have indicated that they wanted to join as a total unit and those also were not available for advertisements. One of the things that might make sense in this case is to postpone it so that those can be advertised and the proposed project can be considered as one project under one site plan.

Bill Jarrard stated he did not have a site plan nor a public participation report.

Ms. Taylor stated at the time she typed the Staff report she did not have a Public Participation Report in December and it had since come in and no one came to the meeting.

Mr. Stewart made a motion to postpone this case.

Vice-Chairman Wallace asked that since the public hearing has been opened is it appropriate to postpone.

Mr. Stewart stated the Board could postpone the case and move forward with the public hearing.

Mr. Holcomb stated that it would be appropriate to hear public input and then postpone the case.

Vice-Chairman Wallace asked Mr. Stewart if he would withdraw his motion. Mr. Stewart withdrew the motion he had previously made.

Mr. Chambers had a clarification question from the Board or Staff asking would the addition require another public participation. Ms. Taylor suggested that he cover everything again.

Mr. Chambers represented this case. He stated the only condition placed on the property that is already GC was to comply with the Freehome / Lathemtown overlay requirements and since that time the overlay had been repealed by the Board of Commissioners. However, there are some new development regulations for commercial that would apply. He explained where the property was located at Hwy 369 and Hwy 20 and that it was appropriate for commercial use.

No one spoke in favor.

Bill Majure stated he lives in Macedonia and his city limits don't go very far either, but to assume that we should be limited in our interest to a little tiny area is ludicrous. He started by asking

questions if there would be a re-hearing of the public hearing. Vice-Chairman stated there would be since additional parcels will be added. Mr. Majure stated just because there are large trucks traveling the road doesn't necessary mean that commercial is appropriate because if that were the case commercial would be along every strip of the highway. This area is rural and the businesses in the area are unobtrusive. He stated the hearing sign has disappeared at the corner, but there are some magnificent trees facing Hwy 20 and he would ask that a condition be to preserve those trees.

Mary Catarineau spoke and said she was on the Interested Parties List and she would have gone to the Public Participation Meeting if she had been notified of it. She stated a couple of her friends were also on the same list and they did not get notification so that might explain why no one was at that meeting. She stated she went to Planning and Zoning and it might not be germane, but the file had an initial plan of 365,000 square feet of retail space and 1,600 parking spaces. She stated this is much too dense for this area. Anything over 300,000 square feet should go before the Development of Regional Impact (DRI) and should be reviewed by the Atlanta Regional Commission (ARC). She displayed pictures of the trees that Mr. Majure had mentioned and asked the Board to preserve those trees.

Jerry Kinzy spoke of the traffic problems already in existence along Hwy 20, but he asked that the Board, if approved, require the developer to work with the State of Georgia and that the intersection have accel/decel lanes and a traffic light and that these improvements be made before the development even starts.

Benson Chambers spoke in rebuttal. He stated there is a plan to change the intersection into a 90 degree intersection and they had taken that into consideration for their site plan. Also that DOT will have to approve any entrances to this property because it is on two State highways. The need for more commercial development is a concern of the Commissioners.

Mr. Stewart said this is his favorite piece of property to talk about. Further, that we should have in this County a site plan specific on all General Commercial, Office and Institutional and Light Industrial property. He stated that when the existing general commercial property was rezoned years ago; they had been told it was going to be an antique store and they were going to use the house on the property for that purpose. After it was rezoned, a for sale sign went up the next day and nothing ever happened with it. He stated if the plan changes traumatically from what we see now, he would like to make a motion to postpone this case and have a revised site plan.

Ashley Holcomb wanted to make it clear that another public participation meeting would be held and the public hearing would be re-advertised.

Garland Stewart made a motion to postpone this case until the April 5, 2005 Planning Commission Public Hearing. Seconded by Ashley Holcomb. Motion passed 7-0.

Case #05-01-005 The Joyce B. Wright Revocable Trust requesting to rezone 1.41 +/- acres from R-80 to LI. If rezoned the property would be utilized for light industrial purposes. The property is located on Faulkner Lane in land lot(s) 295, 318 of the 14th District and further described as Cherokee County Tax Map 14N27, Parcel 082.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Industrial within the I-575 High Technology Mixed Use Corridor for the subject property. Engineering Staff has noted with the exception of the first 600 feet, more or less, Faulkner Road is not adequate to handle additional traffic. The one-lane section approaching the subject parcel will need to be widened to a full two-lane roadway prior to the opening of this business. Public water and sewer are available at the site.

Benson Chambers represented this case. He explained the Wright's business. He explained the area and existing light industrial in the area.

No one spoke in favor or opposition.

Ashley Holcomb made a motion to recommend approval. Seconded by Bob Whitaker. Motion passed 7-0.

Note: Bill Jarrard left the meeting at 9:20 p.m.

Case #05-01-006 William A. Haines requesting to rezone 4.72 acres from GC and R-80 to GC. If rezoned the property would be utilized for small retail with self storage in rear. The property is located at Cumming Hwy and Dobson Circle in land lot 937 of the 3rd District and further described as Cherokee County Tax Map 03N05, parcel(s) 19, 19A.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Industrial for the subject parcel, however commercial may be more appropriate with the associated commercial use adjacent and nearby on this busy state highway. Engineering Staff is of the opinion that State Route 20 can handle the vehicle trips generated by this development provided the entrance is properly permitted by the Georgia Department of Transportation.

Terry Shehand represented this case and stated there was no opposition at the public participation meeting and there was a request to erect a privacy fence which they had agreed to do.

Roger Dobson spoke in favor of this rezone and stated he adjoins this property. He showed the Board the property as it exists today and also examples of what the applicant has built in another location at Jones Bridge and Abbots Bridge Road.

Annie Sue Dobson said she did not get notice of the public participation meeting and that's the reason she did not attend. She stated she lives in the house across the street and the road is wide enough for one car to go up and the building is going to be in her back door. She stated her two grandchildren live in her house and one is mentally handicapped and people would be coming out of that strip mall and possibly watching her grandchildren and put one in a car. She stated no one had approached her about a buffer that would hide her house. She stated the only notice she had received was for the public hearing, so she did not want it to go through. She did not want them coming out on her road, especially where there is children.

Sue Dobson spoke in favor as the owner of the property she is trying to sell. She stated she cannot afford to pay the taxes. She said she is retired and it takes about \$100 per month and she won't be burdened with the taxes. She stated they ran a service station there for 35 years and she drove a

school bus for Cherokee County for 38 and a half years and she has lived here all her life. She would like the Board to consider rezoning this property.

The mother of the mentally handicapped child spoke in opposition. She stated the child is real susceptible to people saying hey, look at what I got. She stated one goes to a Christian school and Crystal will graduate from Cherokee High School this year.

Terry Shehand agreed to a buffer for Ms. Dobson.

Bob Whittaker stated there was no site plan and asked doesn't the County require a site plan for commercial. Vicki Taylor explained she had been instructed not to turn down an application for commercial if they did not have a site plan.

Terry Shehand showed Mr. Henriques the conceptual site plan he had since there are security and traffic issues. He stated it would be tree buffered and fenced around each side.

Discussion ensued as to how County staff can review these cases properly without a site plan.

Discussion ensued as to how public participation letter notifications.

Vice-Chair Wallace stated due to the fact there was not a clear site plan submitted and there are questions regarding public participation notification it would probably be prudent to postpone this case.

Donnie Henriques made a motion to postpone this case until the next regular scheduled Planning Commission public hearing on March 1, 2005. Seconded by Michael Oxley. Motion passed 6-0.

Betty Callahan made a motion to adjourn. Seconded by Donnie Henriques. Motion passed 6-0.

Meeting adjourned at 9:40 p.m.