

**Cherokee County Planning Commission  
Public Hearing Minutes  
Tuesday, March 1, 2005  
7:00 p.m.**

The Cherokee County Municipal Planning Commission held its regular monthly public hearing on Tuesday, March 1, 2005, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Chairman Rob Cutting, Vice-Chairman Jay Wallace, Bill Jarrard, Michael Oxley, Betty Callahan, Garland Stewart, 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 7:00 pm. **Noted is that Planning Commission member Bob Whittaker was not in attendance.**

Chairman Cutting advised the attendees that the below referenced case has been postponed until the April 5, 2005 Public Hearing.

**Case #05-03-020 Warren Mongillo & Carlo DelPizzo** requesting to rezone 0.818 acres from R-40 to NC. If rezoned the property would be utilized for professional office space. The property is located on Bells Ferry Road in Land Lot 357 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N02, Parcel 096.

**APPLICANT HAS REQUESTED A POSTPONEMENT**

**New Cases**

**Case #05-03-017 Equity Associates, LLC** requesting to rezone 159.2233 acres from AG & R-80 to R-60. If rezoned the property would be utilized for a conservation subdivision. The property is located on Lower Burriss Road in Land Lot(s) 177, 184 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N14, Parcel 153.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Agriculture/Forestry and according to the applicant, the area still has predominant agricultural use. The density of the proposed development is approximately 0.63 dwelling units per acre and has a minimum lot size of 30,000 square feet. The Engineering Department has expressed the opinion that Lower Burriss Road should be able to accommodate the additional traffic generated by this 101 unit development. This project is currently under development as a 79 unit subdivision under its current zoning classification. The site plan has been approved and the applicant has a valid land disturbance permit. Public water is available and individual on-site sewage disposal systems will be required.

The School Board estimates the addition of 74 students from this subdivision as opposed to the 57 under its current zoning.

Chairman Cutting stated for clarification the project is being developed with 79 lots, but no homes have been built.

Parks Huff represented this case. He gave the Board a letter of agreeable stipulations dated March 1, 2005. He stated a total of 56 acres of conservation good land have been set aside for a nature preserve with 50 foot buffers around the perimeter outside of the deeded lots. He pointed out that the City of Canton boundaries are to the south. He stated this property is a good transition property for R-60 between City of Canton and the R-80. They are asking for 101 lots on 159 acres or 1.63 DUA. He discussed the type homes to be built at a higher end than was originally planned with amenity package as a community center. He stated 35% of this project is meaningful greenspace, minimum 2,500 square feet homes with side entry garage and he stated they had met with Russ Sims Board of Education and have submitted a letter to him for agreeable stipulations. He stated their neighbors are in favor of this development and in addition to the 50 foot buffer, they had agreed to erect a privacy fence and that is contained in the letter.

Chairman Cutting asked if this property is inside or outside the growth boundary agreement with City of Canton. Mr. Huff stated it is outside of the growth boundary agreement. Mr. Huff stated for the record that the developer and the School Board have agreed to \$673.00 per home.

Donnie Henriques wanted clarified where the privacy fence was to be placed. Mr. Huff replied on the adjacent homeowners west boundary line. He stated the 50 foot undisturbed buffer is outside the deeded lots.

No one spoke in favor.

Doug Flint spoke in opposition representing the Clayton Community Association, an agriculturally based association, and many of the individuals were here tonight. Their perspective is that this is one of the true remaining agricultural enclaves in Cherokee County. The Clayton Community has active farming and there is a reason why these areas are set aside for cattle and poultry farming operations contiguous to this piece of property and as such the odors emitting from a poultry farm are extreme coming from exhaust fans, dead chicken pits, fertilizers and in the near future incinerators will become mandatory. The poultry attracts flies, mice and pests. Complaints that poultry farmers get the most is from neighbors about the constant noise of roosters starting at 3:00 a.m. The Clines have 1,600 roosters and 18,000 hens starting their noise at 4:30 a.m. and sound carries. Feeders run constantly, chicken catching goes all night, the poultry houses have sirens to alert farmers to environmental conditions such as heat, loss of power. Chemicals and insecticides are used on farms such as sulfur, pesticides and in fact most farmers are required to be licensed handlers of industrial insecticides and herbicides. Cattle farms are adjacent to this and their fields are fertilized twice a year with chicken litter and that doesn't smell good and as he speaks they have had complaints from homeowners. The bailing of hay creates a tremendous

amount of dust, hay mold, bush hogging, truck traffic and the flies. He does not agree this is a transitional area, but a bona fide agricultural area and believes this would be spot zoning.

Roger Cline spoke in opposition. He has a cattle farm and agreed that Mr. Flint had really summed up the extent of the smells, noise, etc. of being adjacent to a cattle and poultry farm.

Jimmy Chadwick spoke in opposition. He stated he owned the farm adjacent to this property and he raised beef cattle and chickens and he can always tell where Roger's house is because there is a big orange bright light and you can hear the chicken cackling. He had experienced a situation with a lady, who built a house next to the pasture, and she told me she was planning a Spring wedding for her daughter and wanted to know if I would be fertilizing and I told her I fertilize every Spring so she led me to believe if I did she would sue me. That was a problem and then other problems that come along for example young children think they want to go pet a young born calf and that is about the quickest way to get stomped and run over. There are a couple of ponds on the property a parent told me I had mean cattle in the pastures. Some children were going fishing in one of his ponds and they had their minnow buckets, but the cows didn't know if that wasn't a feed bucket. The cows all came running and the kids got tore up going over the barbed wired fence. He stated last Summer he was rolling hay and each roll runs about a thousand pounds and he just happened to look in the rear view mirror and saw a couple of boys riding along back of the baler, but if he had dumped a bail of hay it could have killed them. He stated his property was marked for no trespassing.

Parks Huff spoke in rebuttal. The argument that this area is not appropriate for subdivisions is nebulous in that platted subdivisions are already in the area and City of Canton borders this property.

Chairman Cutting asked Mr. Huff what the greenspace is in the original plan and he answered 48 acres and then the new plan has 56 acres of greenspace.

Donnie Henriques stated the first home he had in Cherokee County was next to a horse farm and although it wasn't pleasant he knew it was there when he bought it. These homes are a lot nicer.

Chairman Cutting said they had definitely heard the negatives, but some of the positives are there is no school board contribution under the current plan and if we made a recommendation in favor there would be \$673.00 per home contribution to the School Board with 22 additional lots and greenspace additions. He said he stated this to let them all know the difference and is not touting the subject.

Mr. Jarrard stated as far as the application, this is not a subject of whether a subdivision will be there because that is already a predetermined case where you are going to have a 79 lot subdivision. It isn't about the schools or greenspace. In his opinion he doesn't see any R-60 in the contiguous area and if we are going to maintain any of the AG areas in the County this is where it should be maintained.

Chairman Cutting pointed out that as recently as last month the Planning Commission and Board of Commissioner's had approved a sizeable acreage to the north as R-40. Mr. Jarrard said he stands corrected.

Michael Oxley wanted to know if the stipulations submitted would be part of a motion.

Jay Wallace stated he could support R-80, but not R-60.

Betty Callahan spoke to Mr. Cline and Mr. Chadwick and said she understood their concerns and she faces it everyday.

**Ashley Holcomb made a motion to recommend approval of R-60 with the six conditions noted in the Sams, Larkin & Huff letter of March 1, 2005 and a 100 foot buffer outside the deeded lots adjacent to all agriculture property to be undisturbed with the exception of planned infrastructure. Lots to be affected are 59-99 where a 50 foot undisturbed buffer with a privacy fence erected was agreed to. Garland Stewart seconded. Motion passed 6-2, with Jay Wallace and Betty Callahan in opposition.**

Case #05-03-018 Jeremy Kubat requesting to rezone 1.7 acres from R-40 to R-20. If rezoned the property would be utilized for residential uses. The property is located on Barnes Road in Land Lot 911 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N23, Parcel 059.

Vicki Taylor gave Staff findings that the Future Land Use Map indicates a Medium Density Residential designation for this property, which the Comp Plan identifies as 1.01 - 2.0 dwelling units per acre. It is the opinion of the Cherokee County Engineering Department that there should not be any appreciable change in the current level of service on Barnes Road and adjacent intersections as a result of the approval of this application. There is public water and individual on-site sewage management systems will be required. The School Board does not seek donations from developments of less than 25 residential units.

Jeremy Kubat represented this case and said he was trying to build two houses and it would be an upgrade to what is existing now.

Garland Stewart asked if the homes were to be for sale or for family members. Mr. Kubat stated for sale.

No one spoke in favor or opposition.

Chairman stated from the work session that R-30 would fit better than R-20, since he is next to R-40.

Garland Stewart stated R-20 is across the street so he has no problem with it.

**Donnie Henriques made a motion to recommend approval of R-20. Seconded by Betty Callahan. Motion passed unanimously 8-0.**

**Case #05-03-019 Carlo DelPizzo** requesting to rezone 0.759 acres from R-40 to GC. If rezoned the property would be utilized for a restaurant. The property is located on Bells Ferry Road in Land Lot 224 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N08, Parcel 112.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Medium Density Residential, however, the location, shape, and size of this lot does not promote residential use. It is the opinion of the Cherokee County Engineering Department that the existing roadway system can handle the additional trips generated by this application provided the proper operational improvements are in place at the project entrance. Department of Public Health has stated that public water is available and public sewer will be required.

Carlo Delpizzo represented this case. He said that Bridgemill Golf Course was around the property and the property fronts on Bells Ferry Road. He would have a family-type restaurant. He stated he was in negotiations with Bridgemill to obtain more land for parking.

Bobby Fowler as owner of the property has lived there 30 years and Bridgemill is pushing him out.

Discussion ensued as to the buffers and that if required buffer had to be adhered to this would not work.

No one spoke in opposition.

**Michael Oxley made a motion to recommend approval as submitted of GC. Seconded by Ashley Holcomb. Motion passed unanimously 8-0.**

**Case #05-03-021 Highway 53 Properties, Inc.** requesting to rezone 104.69 acres from AG to R-30. If rezoned the property would be utilized for a residential subdivision. The property is located on Marion Spence Road, I-575 and Duckett Lane in Land Lot 270 of the 4<sup>th</sup> District and further described as Cherokee County Tax Map 04N01, Parcel 017.

**Jay Wallace recused himself from this case.**

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Commercial along with the I-575 High Technology Mixed Use Corridor. This property in

within the Ball Ground Growth Boundary but not yet contiguous to existing city limits. The density of the proposed development is approximately 0.80 dwelling units per acre with a minimum lot size of 30,000 square feet. It is the Engineering Department's opinion that Marion Spence Road is not adequate in its present condition. Once the roadway is widened and upgraded to a sufficient width to accommodate two-way traffic, then the roadway system should be able to handle the additional traffic generated by this 83 unit development. CCWSA has indicated that the nearest waterline is an 8-inch main approximately 1500 feet away at Old Highway 5. The School Board has estimated the addition of 61 students and on-site sewage management systems will be required.

Benson Chambers represented this case. He showed the surrounding zoning to the Board and the property's proximity to neighboring Heritage Oaks Subdivision. He stated there were two issues that came out of the Public Participation Meeting and it was fine to put as a condition of zoning that there be no access to Duckett Lane and also upgrades to Marion Spence Road. He stated the donation to the School Board would be \$650 per lot.

Fred Reeves is a family member and it seems a natural extension of the development now known as Heritage Oaks Subdivision to the I-575 right-of-way.

No one spoke in favor or opposition.

Mr. Oxley wanted clarification of the road improvements for Marion Spence Road. Discussion ensued and those improvements would need to meet Engineering requirements.

**Donnie Henriques made a motion to recommend approval of R-30 with the condition of: 1) Minimum 1,900 sq.ft. heated floor space, 2) No access to Duckett Lane and any improvements to Marion Spence Road as deemed necessary by Engineering. Seconded by Michael Oxley. Motion passed 7-0, with Jay Wallace recused.**

**Case #05-03-022 W. S. Lathem Properties, LLC** requesting to rezone 21.20 +/- acres from R-40 to R-20 for a residential subdivision. The property is located on Cartersville Street in Land Lot(s) 7 and 8 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N01, Parcel 102L. This property was recently annexed into the City of Ball Ground.

**Bill Jarrard and Jay Wallace recused themselves from this case.**

Vicki Taylor gave Staff findings that the Future Land Use Map indicates High Technology Mixed-Use Corridor over High Density Residential designation for this property. The subject property is within the City of Ball Ground Growth Boundary and the City has indicated this property has already been annexed into their City Limits. It is the opinion of the Cherokee County Engineering Department that the existing roadway system can marginally handle the additional trips generated by the 48 units in the proposed development provided the entrance driveway can be situated in a location where adequate intersection sight distance can be obtained and the standard turn lane and radii are constructed as per

current County standards. There is public water and sewer available. The School Board has estimated the addition of 35 students from this proposed subdivision.

Benson Chambers represented this case and asked Mr. Holcomb if the property had already been annexed into the City of Ball Ground. Mr. Holcomb replied it has had one reading. This project is adjacent to I-575. The City Manager of Ball Ground has been working with this developer.

No one spoke in favor or opposition.

Chairman Cutting asked if arrangements have been made with the School Board and Mr. Chambers indicated they had been. The donation usually runs between \$650 and \$675.00. Mr. Sims stated approximately \$32,000.

Discussion ensued as to the entrance of the subdivision; buffers and Mr. Holcomb said the City Manager of Ball Ground is working these issues out.

**Garland Stewart made a motion to recommend approval. Seconded by Donnie Henriques. Motion passed 6-0, with Jay Wallace and Bill Jarrard recused.**

Case #05-03-023 Dale & Linda Sunderland requesting to rezone 2.12 +/- acres from AG to GC. If rezoned the property would be utilized for an individual storage facility for residential and business. The property is located on Lower Bethany Road in Land Lot 248 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N20, Part of Parcel 066.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Undeveloped for the subject parcel, and the adjacent 400 acres to the west now lays within the City Limits of Canton with a PUD zoning classification. Engineering Staff is of the opinion that the County roadway system should be able to handle the projected number of trips generated by this application without any significant negative impact on the existing roadway system in this area. Public water service is available and onsite sewage management systems will be required.

Benson Chambers represented this case. He stated the area although not shown on the map as commercial or industrial has many non-conforming uses in the area and he pointed those out. He stated the City of Canton has 800 homes approved as a PUD mixed use project. Sivica has 700 home approval in the City of Canton. He stated there would be a 35 foot buffer around this property.

No one spoke in favor or opposition.

Mr. Jarrard asked even though the properties around it were commercial or industrial non-conforming uses, would the applicant consider a conditional use because he felt that GC would be a spot zoning.

Mr. Chambers stated that would be fine with the applicant.

**Betty Callahan made a motion to recommend approval of GC with the specific use of the storage warehouse as presented. Seconded by Bill Jarrard. Motion passed 7-1, with Jay Wallace in opposition.**

**Case #05-03-024 Linn H. Howell** requesting to rezone 5.2 acres from AG to GC. If rezoned the property would be utilized for commercial uses. The property is located on Cumming Hwy in Land Lot 850 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N10, Parcel(s) 128, 130A and 130B.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Low-Density Residential for the subject parcel; however, current trends would not support a minor subdivision at this site. It is the opinion of the Cherokee County Engineering Department that State Route 20 is at capacity now for a two-lane facility. However, if the proper operational improvements are designed and constructed at the entrance to this project, then the facility will possible be able to handle the additional trips. Since this is a state route, any improvements at the entrance will have to be in accordance with GDOT criteria and standards and will require GDOT permitting. Public water and sewer service is available.

Linn Howell represented this case. He had signed an agreement with the developer limiting his uses allowed by the developer and what was appropriate for Cherokee County. He stated no one had opposition at the Public Participation Meeting.

No one spoke in favor or opposition.

**Ashley Holcomb made a motion to recommend approval of GC. Seconded by Donnie Henriques. Motion passed 8-0.**

### Old Cases

**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 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N05, parcel(s) 19, 19A.

Vicki Taylor stated this case was postponed due to questions about the site plan and the Public Participation Meeting. There is a site plan now and there was another Public Participation Meeting held and eight people showed up at that meeting.

Benson Chambers represented this case.



No one spoke in favor.

Susan Wester spoke and stated she is an adjacent property owner and she has a problem with an entrance on Dobson Circle as it is a very narrow road.

Annie Sue Dobson spoke and said she called DOT and no permit had ever been granted to enter onto Highway 20 at this location. She stated her grandchildren play out in the yard and she does not want any traffic to come up Dobson Circle.

Roger Dobson spoke as an adjacent property owner. He said he would want a privacy fence erected so he wouldn't have to look at it.

Annie Sue Dobson said there is so much pollution on that property per EPA.

Kathy Dobson stated she and her two daughters live right at the proposed facility and she is afraid her mentally handicapped child will be lured by someone at that facility.

Mr. Chambers spoke in rebuttal and stated the developer has a Phase 2 Environmental Study and Closer Report that no further remediation is necessary if anyone would like to see that. The seller of the property is one of the Dobson family members and you've heard from other members of the Dobson family that live around it. Mr. Dobson spoke and said what he wanted and we stipulated to it. He said he suspects there is a family issue going on an issue that is not an appropriate issue for a zoning case. What is appropriate are the uses allowed on a particular piece of property. It meets the Land Use Plan and part of it is contiguous to commercial property and it is appropriate for this area.

Michael Oxley asked the width of the entrance. Mr. Chambers stated approximately 30 feet. He wondered due to truck traffic going in. Mr. Oxley asked 8 foot privacy fence all around. Mr. Chambers said yes. Mr. Oxley asked if there is any landscaping on the outside of the fence. Mr. Chambers said he didn't think so, that the landscaping would be on the inside. Mr. Oxley asked about the time of operation. Mr. Chambers said no access after 10 p.m. in the Summer and 9 p.m. in the Winter. Chairman Cutting asked if it was no access or controlled access and it was determined it was controlled access with a punch code which means they can come and go 24 hours a day. Mr. Oxley stated his concern was that the property goes very deep and the property to the sides and rear would be impacted due not just to traffic lights but operational lights.

Mr. Chambers said the Lighting Ordinance would address these type issues.

Mr. Oxley said he had a problem with the General Commercial zoning going back that deep and he has buffer concerns as well.

Mr. Wallace, Mr. Holcomb and Chairman Cutting agreed with Mr. Oxley's points of concerns.

Discussion ensued as to right-of-way. Chairman Cutting asked if they had agreed in the work session that 100 feet was enough for future expansion of Highway 20.

Ashley Holcomb stated his concern was the property going back so deep in the residential area and he suggested that the first 300 feet depth facing Highway 20 could be GC with no conditions and pass that point further away from Highway 20 be GC with any conditions imposed.

Mr. Oxley spoke to curb appeal as far as landscaping for the folks living on Dobson Circle to mitigate the visual impact.

Mr. Jarrard said that he agreed with Mr. Holcomb and Mr. Oxley, but he would like to consider getting a new site plan and delaying this 30 days to have something visual to look at as far as what Mr. Holcomb and Mr. Oxley has in mind.

Vicki Taylor pointed out that there will be a 35 foot buffer and an 8 foot fence for year round visual screening.

Betty Callahan made some suggestions of moving the parking lot from the front to the side of the building.

William Haines, the applicant, stated they have had discussions about putting a landscaped buffer along Dobson Circle if it would be admissible by the County and DOT and he has no problem doing additional landscaping.

**Ashley Holcomb made a motion to recommend that the first 300 feet running parallel to Highway 20 be zoned GC with no conditions, the remaining portion to be used for storage uses, a 75 foot undisturbed buffer along rear property line and privacy fencing around the perimeter of the property. Seconded by Bill Jarrard. Motion passed unanimously 8-0.**

**Case #05-02-010 KADCO Landing, Inc.** requesting to rezone 46.11 +/- acres from AG to R-20. If rezoned the property would be utilized for a residential subdivision. The property is located on Curtis Road in Land Lot(s) 1025, 1026, 1027, 1062, 1063 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N17, Parcel 031H.

Vicki Taylor gave Staff findings that the Future Land Use Map shows a designation of Undeveloped, nevertheless, the area is predominantly in residential use. The density of the proposed development is 1.89 dwelling units per acre with planned open space of 13.69 acres or 30%. The Engineering Department has expressed the opinion that placing the additional traffic from this development on this inadequate roadway would add to the existing safety and maintenance concerns of the County. Once Curtis Road is reconstructed (late 2005 or early 2006) the volumes from this development and others should be well tolerated by the roadway. Applicant is requested to provide an additional 10 feet of right-of-way across the site frontage for future widening of Curtis Road by the County. Public water and sewer is available. Using the School Board's formula with the revised number of lots, the School Board estimates the addition of 63 students from this development.

**Ashley Holcomb recused himself.**

Benson Chambers represented this case. He stated an agreement had been reached with the School Board granting an easement for utility that the school needs, in lieu of a per lot agreement. He explained the surrounding zoning and explained that even though the property is not contiguous to Woodmont now, it will be once the parcel between this parcel and Woodmont is started and is currently under request to be rezoned and part of Woodmont. He stated the application stated the houses would be a minimum of 1,600 square feet, but that was a typo and the houses are to be a minimum of 2,600 square feet.

Chairman Cutting asked if this piece will eventually become a part of Woodmont and Mr. Chambers replied that is his understanding.

No one spoke in favor.

Jack Green spoke in opposition. He stated he lives on Curtis Road and two cars can't get around and the road needs to be widened.

Vicki Taylor stated Engineering had planned to widen Curtis Road.

Mr. Jarrard stated he thinks it is significant that only one person spoke in opposition to a request from AG to R-20.

Chairman Cutting stated he thought it would be better to restrict access onto Curtis Road.

Donnie Henriques asked if no C.O. would be issued until Curtis Road is improved.

Mark Mahler stated that was not the best way to go.

Jay Wallace stated that the PUD and R-15 has an affect, but he would be more comfortable with an R-30 or R-40 as you get away from Woodmont. Discussion ensued as to area zoning and the new school.

Chairman Cutting stated he could support R-20.

**Garland Stewart made a motion to recommend approval of R-20. Seconded by Donnie Henriques. Motion passed 5-2, with Bill Jarrard and Jay Wallace in opposition.**

### Other Items

#### Discussion and vote on the Interim Land Use Plan

Chairman Cutting opened up discussion of the Interim Land Use Plan stating that everyone should have the 3/1/05 version.

He added they had agreed unanimously to add the Active Adult Community Provision as a guideline as a deviation of this plan, Appendix A.

Garland Stewart said he voted with everyone to add the Active Adult Community Provision, but he got to thinking over all this and he was going back to his strong opinion that this should go back as a revision or addition to our zoning ordinance and he would make a motion to strike the last paragraph for guidelines for deviation to strike the references to the Active Adult Communities. He stated he felt it was added too quickly without enough study as far as impact and how we want them to be treated. What is described is a very limited use and he thought a better study and proper hearing should be held about an addition to our ordinance and at this time he does not feel it needs to be added to our Interim Land Use Plan.

Garland Stewart made a motion to strike the last paragraph of guidelines for deviation from Land Use Plan and to strike Appendix A, Active Adult Community.

Chairman Cutting said we will discuss this before we entertain any motions.

Mr. Stewart said he made a motion and it would need to be addressed. Chairman Cutting said they have a policy that all cases would be discussed first. Mr. Stewart said that does not follow Roberts Rules of Order. Chairman Cutting said they discuss all issues first.

Mr. Jarrard stated he felt this was given serious consideration last night and it was discussed 30 or 45 minutes. He felt when they took a vote and it was 7-0 last night if

a vote was taken prior to these words being put in here it may have been 4-3 one way or another, he didn't know, that vote wasn't taken. He felt that since they did take that vote of 7-0 he didn't feel it was fair to attempt to change that at this point. He thinks it is a serious subject and should take a lot of discussion, but approving this tonight does not approve it because it has to go to the BOC.

Garland Stewart stated this was not part of the document discussed at public hearing.

Chairman Cutting said it was in that document. Mr. Stewart disagreed. Chairman Cutting said the component of Active Adult Community was discussed in the first work session, the public hearing, the second work session and then tonight. Mr. Stewart said it was not in the document. Chairman Cutting said in fact Commissioner Johnston had come before the Board at it's first work session and introduced this and did a very thorough job of going through this it was a very healthy discussion and agreement by Commissioner Johnston in front of that Board that this would be a welcome part of this Interim Land Use Plan. Chairman Cutting said his concerns lay with what this really looked like and that is why a lot of work went into what this is and what this is not.

Mr. Jarrard stated Mr. Stewart was correct in that it was not discussed at previous meetings however there were several things not on the table months ago because it has been tweaked since then and added to since then. The date is 3/1/05, it has been updated 4 times since a month and a half ago.

Chairman Byrd stated he met with a couple of people from the ARC along with Jeff Watkins and a State Delegate and Cobb County has just put in a new zoning classification for adult centers and they are going to get us a copy.

Donnie Henriques stated he agreed with Mr. Stewart that this should be a separate ordinance at some point; however, between now and when that happened he didn't think that type of project should be eliminated. Further, he said adding it as an appendix certainly can suffice until they get to the point that the BOC will adopt a new ordinance.

Mr. Jarrard stated he has serious reservations about the last paragraph himself, concerned it would go in rural areas where he did not want to establish a high density precedence; however, he did fill strongly about leaving it in for the purposes its in there for.

Chairman Cutting stated defining rural could be done a few different ways, but the Future Land Use Map and the amendments are clearly appropriate for activity centers they are just different in that some are more active than others and some are

less active. This product belongs as part of an Activity Center. It is far less intrusive than the activity that goes on in those centers. It is extremely low impact. It is for relatives to still enjoy Cherokee County and not have to live in their children's home. It gives them a secure gated community and maintenance free environment.

Michael Oxley asked how this would be handled. Commissioner Byrd stated by going over Cobb County's ordinance with input by the Atlanta Regional Commission.

Mr. Jarrard stated he had a discussion with the County Attorney and he didn't want to misquote him, but he asked him about the legality of putting an age limit on these type activities and he said he did. Further the Court cases we have had in Cherokee County is that we could not defend properly a senior citizens type facility because of the age limits.

Mr. Mahler clarified that he didn't think the Commissioners could create a zoning district with age limitations, but private owned would be a possibility. He stated his concern was if it was zoned multi-family for the purposes of a nursing home and they put in apartments instead.

Chairman Cutting stated this would be a residential product.

Mr. Jarrard stated and he concurred with Mr. Stewart that we do not have an active adult zoning designation and that would take a designated verbage and that would take a couple months and we do not need to take that time, but move on.

Commissioner Johnston stated he didn't want to imply that he supports this and he probably does not. His comments were that he welcomed any input even if it isn't something he personally supports.

Chairman Cutting stated, with all due respect, so when I clearly asked if this was a specific defined deed restricted for this specific use and I used The Orchards component as an example and I said would that be welcomed in the activity centers and you acknowledged it would be, that was the question I asked, and you told the Board it would be welcome and I thought we had an understanding this would be a welcome component. I apologize if I misunderstood you.

Commissioner Johnston said he was interested in what this Board had to say whether it is something I like or not.

Mr. Wallace said that all the paragraph is saying is give me some consideration. The consideration may be no, but give it consideration.

Mr. Stewart said he supports active adult communities, but he stated he thought the cart was getting before the horse because the land use plan is incorporating something we don't even have yet. It only allows for one type of community, but he would like to see Cobb County's and either take away from or add to. He thought the Board was getting ahead of itself to include it in this Interim Land Use Plan.

Chairman Cutting said the reason he didn't think the cart was before the horse is because this type community could be done with their present zoning classifications.

Commissioner Byrd said he had read the document many times and each time he reads it he interprets parts of it differently and he has to believe that many people in the County would do the same. He asked the Board to postpone a vote because he would like to see a color coded map showing exactly what this document does because it could affect thousands of people and he wanted the people to have the opportunity to compare this map. He stated the Interim Land Use Plan could be interpreted to mean rezoning some properties, but he didn't think that was the intent but it could be interpreted that way. He stated he did not want a document that would dictate what they were going to do for the next ten years in Cherokee County. He would like to have maps and another public hearing so the people can come in and see what affect it has on their property.

Ashley Holcomb stated this is a very important document and this Board requires their applicants to contact people within 750 feet of the property and a public participation and a public hearing meeting and he felt this Board should require public participation meetings on these areas such as Highway 140, Highway 20, etc. because it will affect a great number of people. Commissioner Johnston asked Mr. Holcomb what he felt objectionable to. Mr. Holcomb replied nothing, but thought there should be public participation meetings held. He agreed with Commissioner Byrd and thought this should go a little slower.

Chairman Cutting said they have two public hearings when there is a revamping of the Zoning Ordinance and we have only had one public hearing on this document. He understood time is of the essence, but the amount of people to be affected should not be crunched down to make a deadline that does not include at least two public hearings.

Mr. Jarrard disagreed strongly with Commissioner Byrd and thought he is on the wrong track and thought it is ridiculous to wait and wait and wait. He asked how you could make it more democratic than they have already done. There is not an Ordinance, look at the Conservation Ordinance, do most of the people understand it? No they don't. He stated you can't make something this complex and expect everybody to understand it. There is no way to expect to have public hearings on and on and expect every person to be there and express themselves. However, he

thought it was time and it should be dove tailed into the Comprehensive Land Use Plan which we have already committed to pay \$456,000 for and that will be done shortly and they will start meeting in March. He thought it was time to get a motion on the table.

Commissioner Byrd replied with two points. 1) We can vote this plan every third Tuesday and we can adhere to this plan so we aren't losing ground. Take the document and put it in front of each Commissioner and say this is not official, but we can agree to agree to this. He stated its not like sand going through our fingers and we are losing something. We can adhere to this plan every third Tuesday so we do have time for this. 2) We're not dove tailing this plan into the Comprehensive Land Use Plan because they are a separate group and paying them half a million dollars to do an independent study unbiased. He stated he wished they didn't even know about this interim plan, but they do now obviously and this is going to have an impact to the final plan, but to say we have to rush into this, this has been pushed by a few people and he understood why and it doesn't need to be. We have a Commission that votes 5-0 on most of the cases and we aren't losing anything and color maps would be something the property owners could come in and see and know what is happening to them. He agreed to agree to this and lets just do this right.

Commissioner Mahurin made comments, *(but unfortunately she was not near enough to the mike to hear her comments.)*

Mr. Holcomb reiterated the need for more information and another public hearing.

Jay Wallace addressed Commissioner Byrd and asked if he envisioned a public hearing by the Board of Commissioners. He agreed to Commissioner Johnston to adhere to this plan.

Mr. Stewart asked Commissioner Byrd how they were going to get any more people to come to a public hearing than last time. Commissioner Byrd stated if they had some maps for people to look at they will come. Mr. Stewart asked how they would get them there.

Donnie Henriques stated he was glad to hear Chairman Byrd and other people say it feels like a rush to judgment. He stated he respected what Commissioner Johnston was trying to do here, but he himself felt rushed and every time he reads it he interprets something different. The only truly democratic way to do this is put it on a ballot and let them vote for it and then only 10 percent would show up and at least we would have done everything we could have, but we cannot do that. He agreed with Chairman Byrd to give them another opportunity to look at maps and he would support that.



Michael Oxley said he had a real concern when we start looking at procedures and then circumventing them. He thought that procedure should be followed and if the public is aware and no one shows up, that's not the point, the point is we followed the procedures and opened it up to the public and we have done due diligence. He complimented Commissioner Johnston. Mr. Oxley said he has had a good education from Commissioner Johnston's presentation and has learned a lot from this document.

Mr. Jarrard stated at the last public hearing there wasn't but one person who had an objection to this plan and everyone was ready to go with it. Chairman Cutting said that was not the case. Mr. Jarrard stated a motion should be put on the table.

Mr. Stewart stated the maps were not updated to show non-conforming uses to make sensible limits.

Mr. Oxley didn't think the public hearings, the way they are conducted, were very effective and he personally is a visual person and he didn't know why there weren't maps on the wall now.

Chairman Cutting stated he didn't think public hearings should be in conjunction with rezone hearings because they end up 11:00 at night and everybody gets tired and goes home.

Commissioner Johnston stated of course he was ready to go now and he understood other people weren't motivated to do so and he understands that. It does concern him that the scope of this document seems to be going the way of the round table, two year and half a million dollar cost and that was what he was trying to avoid. He stated he was trying to get something they could use for the next two years. He said he would like to move as quickly as they could and that being said waiting another two weeks wasn't going to hurt anything. He said if Commissioner Byrd would commit to use the plan that was all he wanted anyway and have a plan to use. He took Commissioner Byrd up on his offer.

Mr. Stewart wanted to know about a special meeting or one month from now because the timeline was not such to advertise before the next BOC meeting and further that the colored maps made a lot of sense to him.

**Garland Stewart made a motion to postpone and schedule another public hearing on the Interim Land Use Plan at the regular April 2005 Planning and Zoning Public Hearing Meeting, properly advertised and at that time there would be colored coded maps that would show existing zoning and land use plan for an**

area and an adjacent map to show proposed changes. Seconded by Mr. Holcomb. Motion passed 5-0, with Mr. Oxley, Mr. Wallace and Mr. Jarrard in opposition.

Approval of February 1<sup>st</sup> Minutes.

Betty Callahan made a motion to approve the February 1<sup>st</sup> minutes. Seconded by Garland Stewart. Motion passed 8-0.

Mr. Jarrard made a motion to adjourn. Seconded by Jay Wallace. Motion passed 8-0.

Meeting adjourned at 10:50 p.m.

*Approved April 5, 2005*