

**Cherokee County Planning Commission  
Public Hearing  
Minutes  
Tuesday, July 5<sup>th</sup>, 2005  
7:00 p.m.**

The Cherokee County Municipal Planning Commission held its regular monthly public hearing on Tuesday, July 5<sup>th</sup>, 2005, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Planning Commission were Chairman Rob Cutting, Jay Wallace, Ashley Holcomb, Bill Jarrard, Richard Spinks, Michael Oxley, Betty Callahan, Garland Stewart, and Bob Whittaker. In attendance for Cherokee County staff were Mark Mahler, County Attorney, Jeff Watkins, Planning Director, Vicki Taylor, Zoning Administrator and Jesse Perry, Senior Clerk. The meeting was called to order at 7:00 pm. **All members were in attendance.**

The meeting began with Chairman Cutting informing the citizens in attendance that the Planning Commission would be hearing the old cases first, because they felt that a lot of the people in attendance were present to hear those cases.

Case #05-05-033 **Watertank 35, LLC** requesting to rezone 55.56 acres from AG to R-20. If rezoned the property would be utilized for a residential subdivision. The property is located on East Cherokee Drive in Land Lot(s) 922, 950, 951 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N11, Part of Parcel(s) 156B, 187 and all of parcel(s) 185, 190, 191.

Vicki Taylor presented the case to the Planning Commission.

Grover Swilley represented the case. He spoke about how he met with Woodmont residents and made several concessions about how their development would be built. He spoke of how long the owners had lived in Cherokee County for over 100 years. He also presented a petition of over 80 names of residents in support of the rezone.

Frank Hargadon spoke in opposition.

Karen Doyle also spoke in opposition.

Bill Jarrard asked if they were the developer of the adjoining subdivision. Mr. Swilley stated that they were. Mr. Jarrard asked how many lots were in the currently developed land, and how many were proposed.

Mr. Swilley informed him that there were a total of 222 lots in both combined.

Discussion ensued about how many entrances the subdivision would need.

Mr. Stewart asked about the letter of intent.

Mr. Jarrard made a motion to recommend approval with letter of conditions intact.

Mr. Stewart seconded the motion.

**Motion passes 7-0 (Mr. Wallace and Mr. Holcomb recused)**

Case #05-05-039 **Etowah Heights, LLC** requesting to rezone 26.72 acres from AG to GC. If rezoned the property would be utilized for retail uses. The property is located at the intersection of Yellow Creek Road and Shiloh Church Road in Land Lot 322 of the 4<sup>th</sup> District and further described as Cherokee County Tax Map 04N10, Parcel 24C.

Vicki Taylor presented the case before the Planning Commission.

Elliot Smith represented the case. He spoke of significant amendments to the application. He told the Planning Commission that they had scaled back from 26.72 acres to merely 5 acres. He spoke of taking out the mini-warehouse components of the rezone.

Patsy Jordan spoke in opposition.

Jim Gibbs spoke in opposition.

Douglas Flint also spoke in opposition

Mr. Smith spoke in rebuttal.

Mr. Jarrard spoke about his concerns.

Mr. Stewart spoke about why a previous rezone case that had been submitted by Mr. Gibbs had been turned down.

Mr. Holcombe made a motion to recommend denial of the request. Mr. Jarrard seconded the motion.

#### **Motion to recommend denial passes 9-0**

Case #05-06-047 **B & H Properties, LLC**. Requesting to rezone 29.70 +/- acres from R-80 & NC to GC. If rezoned, the property would be utilized for commercial uses. The property is located on Cumming Highway and East Cherokee Drive in Land Lot 806 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N10, Parcel(s) 114 & 114A.

Vicki Taylor presented the case before the Planning Commission.

Benson Chambers represented the case. He spoke about the properties near this land were already zoned commercial, and how it would be fitting for the subject property to be rezoned.

Rebecca Hefner spoke in opposition.

James Nickelson spoke in opposition

Benson rebutted by saying that stream buffer regs are already in place and that traffic problems would be alleviated somewhat by this development.

Jay Wallace asked about the buffer requirements. Vicki Taylor said a year-around visual screen is what the ordinance requires.

Richard Spinks asked about who was doing the development. He also said that the buffer should be at least 50' with shoebox lighting to stop light trespass.

Discussion ensued about buffers and lighting issues.

Mr. Holcomb made a motion to recommend approval with the conditions that 1) The buffer to the north and east provide a year round visual screen and it is to be increased to 50' and 2) That the lighting is to be shoebox style to minimize the light trespass

Seconded by Bob Whitaker.

**Motion passes 8-1 (Mr. Stewart in opposition)**

Case #05-07-049 **JBL Construction, LLC** requesting to rezone 2.96 acres from R-40 to RM-4. If rezoned the property would be utilized for a residential subdivision. The property is located at the corner of Flat Bottom Trail and Ball Ground Road in Land Lot 133 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N07, Part of Parcel 035.

Vicki Taylor presented the case.

Ken Patton represented the case.

Discussion ensued about the Interim Land Use Plan.

Mr. Stewart made a motion to recommend approval.

Seconded by Mr. Jarrard

**Motion approved 9-0**

Case#05-07-050 **Chris Comer** requesting to rezone 6.0 acres from AG to R-40. If rezoned the property would be utilized for single family residences. The property is located at the corner of Freehome Road and Hicks Road in Land Lot(s) 1183 & 1194 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 033N24, Parcel 141.

Vicki Taylor presented the case before the Planning Commission.

Parks Huff represented the case.

Mr. Whitaker said that he felt the case should be denied, because above all else, the Planning Commission should be consistent in their recommendations.

Mr. Holcomb said it should be rezoned since the property adjacent to it is R-40 as well.

Discussion ensued about whether or not the property should be rezoned.

Mr. Jarrard made a motion to rezone the property to R-40. Mr. Holcomb seconded the motion. Motion fails 7-2.

Mr. Oxley made a motion to deny the request. Mr. Whitaker seconded the motion. Motion fails 6-3.

Mr. Holcomb made a motion to recommend approval as R-40 with the following conditions:

1) A 50' buffer for all lots along Hicks Road, except the .92 acre lot which has no frontage on Freehome Road. 2) There will be no access to Hicks Road for the lots with the 50' buffer 3) The .92 acre lot with no frontage on Freehome Road will have a 50' building setback from Hicks Road

Seconded by Mr. Wallace.

**Motion approved 7-2 (Bob Whitaker and Michael Oxley in opposition)**

Case #05-07-051 **Wise Investment Realty, LLC** requesting to rezone 7.32 acres from R-80 to R-40. If rezoned, the property would be utilized for a 7 lot subdivision. The property is located at the intersection of Turner Hill Road and North Arnold Mill Road in Land Lot 836 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N22, Parcel 229.

Vicki Taylor presented the case to the Planning Commission.

Parks Huff represented the case. He spoke about how much of the area around this property is zoned R-40, which is what they were asking for this property to be rezoned to.

Alan Brock spoke in opposition.

Craig Peer spoke in opposition.

Allan Owens spoke in opposition.

Herbert Murphy spoke in favor of the project.

The major points of the people who spoke in opposition were about the price of homes, access issues, and that even though all the surrounding properties are zoned R-40, they are developed on larger tracts than the minimum R-40 zoning.

Parks Huff rebutted their statements about price of homes and that they would work with DOT on access issues.

Bob Whitaker spoke about a lot of blanket rezones that aren't developed in the manner that they are zoned.

Mr. Jarrard said that it would be better planning to leave the property zoned R-80.

Mr. Jarrard made a motion to recommend denial of the request. Mr. Stewart seconded the motion.

**Motion passes 8-1 (Mr. Spinks in opposition)**

Case #05-07-052 **Dean Woodall Communitites, Inc.** requesting to rezone 109.93 acres from AG to R-40. If rezoned the property would be utilized for a residential neighborhood. The property is locate on Ficklen Church Way in Land Lot(s) 13 & 14 of the 22<sup>nd</sup> District and further described as Cherokee County Tax Map(s) 22N12, Parcel 1 and 21N07, Parcel 12.

Vicki Taylor presented the case before the Planning Commission.

Benson Chambers represented the case.

Andrea Warren-Smith spoke in opposition.

Dana Daniel spoke in opposition.

Jerry Kinzy spoke in opposition.

Phillip Ware also spoke in opposition.

Their major concerns were upon the dangerous traffic on Ficklen Church Way and the overcrowding of schools.

Mr. Chambers rebutted their concerns about the road improvements by saying Dean Woodall would have to pay for them. He also spoke about the blanket zoning in 1994 that took the property owner's rights away by changing the zoning from AG-R to simple AG.

Mr. Holcomb made a motion to postpone making a recommendation on this case until they heard the information on 05-07-053 and 05-07054 as well.

Seconded by Mr. Jarrard. Motion passes 9-0

After all three cases were heard, Mr. Jarrard made a motion to recommend denial for 05-07-052.

Seconded by Mr. Spinks

**Motion to deny approved 5-4 (Mr. Holcomb, Mr. Wallace, Mr. Cutting, Mr. Stewart in opposition)**

Case # 05-07-053 **Dean Woodall Communities, Inc.** requesting to rezone 41.09 +/- acres from AG to R-40 and GC. If rezoned the property would be utilized for a residential neighborhood with commercial out lots at the front. The property is located on Knox Bridge Hwy. in Land Lot 23 of the 22<sup>nd</sup> Distrcit and further described as Cherokee County Tax Map 22N13, part of parcel 36.

Vicki Taylor presented the case to the Planning Commission.

Benson Chambers represented the case.

Jerry Kinzy spoke in opposition. He spoke about the dangerous traffic and the interim land use plan.

Wes Fyre spoke in opposition. He spoke about the traffic and fire protection issues.

Evelyn Wilson spoke in opposition

Bethany McClean spoke in opposition

Andrea Warren-Smith spoke in opposition.

Mr. Chambers rebutted their arguments and concerns about traffic by saying that the property is located on a state route, and that neither the county nor the developer have any control over where a red light is placed on them, or when a state route will be widened to handle traffic issues.

Mr. Jarrard made a motion to postpone making a recommendation on the case until after they had heard the information about 05-07-052 and 05-07-054.

Seconded by Mr. Holcomb. Motion passes 9-0

After all three cases were heard, Mr. Holcomb made a motion to recommend approval with the condition that there be 100' of right of way, with 50' to each side of the roadway centerline.

Seconded by Mr. Wallace.

**Motion passes 5-4 (Mr. Whitaker, Mr. Oxley, Mr. Stewart, and Mr. Jarrard in opposition)**

Case #05-07-054 **Michael Fowler and Claude Blankenship** requesting to rezone 39.97 acres from AG to R-40. If rezoned the property would be utilized for a residential neighborhood. The property is located on Ficklen Church Way in Land Lot(s) 44, 45, & 101 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N07, Parcel 18.

Vicki Taylor presented the case to the Planning Commission.

Benson Chambers represented the case

Jerry Kinzy spoke in opposition.

Dana Daniel spoke in opposition.

Danny Rogers spoke in opposition.

Phillip Ware spoke in opposition.

Jurl Rogers spoke in opposition.

Their concerns entailed increased traffic, overcrowding schools, and decreasing surrounding property values.

Mr. Chambers spoke in rebuttal.

Mr. Stewart spoke about his concerns which including the grading that would be required on these proposed lots & buffer issues for streams.

Mr. Wallace stated that previous AG-R zoning does carry precedence since property owners rights were taken away.

Mr. Whitaker spoke about topography issues.

Mr. Jarrard spoke about his numerous concerns. He felt that all three cases should be denied.

Mr. Spinks said he felt that 05-07-053 should be approved, but that the other two cases should not be.

Mr. Jarrard made a motion to recommend denial.

Mr. Whitaker seconded the motion.

**Motion to recommend denial passes 6-3 (Mr. Stewart, Mr. Cutting, and Mr. Wallace in opposition)**

Case #05-07-055 **Robert J. Goodson** requesting to rezone 1.0 +/- acres from NC to GC. If rezoned the property would be utilized for outside storage. The property is located on Arnold Mill Road in Land Lot 910 of the 15<sup>th</sup> District and further d3cribed as Cherokee County Tax Map 15N23, Parcel 074.

Vicki Taylor presented the case before the Planning Commission.

Benson Chambers represented the case.

Mr. Holcomb made a motion to recommend approval.

Ms. Callahan seconded the motion.

**Motion to recommend approval passes 9-0**

Case #05-07-056 **Betty Callahan** requesting to rezone 12.99 +/- acres from R-40 to GC. If rezoned the property would be utilized for commercial uses. The property is located at the corner of Reinhardt College Pkwy. (Hwy. 140) and Sardis Circle in Land Lot 103 of the 143t5h District and further described as Cherokee County Tax Map 14N08, Parcel 133.

Vicki Taylor presented the case before the Planning Commission.

Benson Chambers represented the case.

Mr. Jarrard made a motion to approve.

Seconded by Mr. Holcomb.

**Motion to recommend approval passes 7-0 (Ms. Callahan recused herself and Mr. Stewart abstained)**

**Other Items**

Approval of June 7<sup>th</sup>, 2005 Minutes.

**Mr. Holcomb made a motion to accept the minutes. Seconded by Mr. Wallace. Motion passed 9-0.**

Meeting adjourned at 11:30.