

Cherokee County Planning Commission
Public Hearing Minutes
Tuesday, September 3, 2013
7:00 p.m.

Approved 10-1-2013

The Cherokee County Planning Commission held its regularly scheduled meeting on Tuesday, September 3, 2013 in Cherokee Hall at the Cherokee County Administration Building. In attendance for the Planning Commission were Chairman Bob Whitaker, members Thais Escondo, Joe Long, Richard Weatherby, Dr. Rick Whiteside, Garland Stewart, Betty Callahan and Scott Barnes. Tom Hill was not in attendance. In attendance for Cherokee County Staff was Vicki Taylor Lee, Zoning Administrator and Tamala Davis, Planning Technician.

Chairman Bob Whitaker called the meeting to order at 7:01 p.m.

Case # 13-08-010 EAH Investments, LLC requesting to rezone 53.44 acres from R-20 to R-15 with a variance to the green space requirement. If rezoned, the property will be utilized for a single family residential subdivision. The property owned by Kimberly Williams, Rebecca Williams, Julie Chiselbrook Dyer, Carey Neil Chiselbrook and Gerald Parks is located at 295 Hames Road and 2235 Jamerson Road in Land Lots 1276 and 1277 of the 15th District, 2nd Section of Cherokee County, Georgia and indicated as parcels 130 and 157 on Tax Map 15N18.

Ms. Lee presented the case. Ms. Lee discussed staff comments, location, surrounding zoning, buffers and land uses. She stated she has received no letters of support or opposition. Ms. Lee stated a public participation meeting was held with the original RD-3 layout and had 10-12 attendees. She stated since this meeting, the applicant revised their application to an R-15 zoning using conservation subdivision design and requesting a variance to the 40% green space requirement.

Kevin Moore, attorney for the applicant represented this case. Mr. Moore stated Ken Wood, Project Engineer and Paul Corley, Principal of Edward Andrew Homes was also present to answer any questions. Mr. Moore stated this is a 53 acre tract located at Jamerson Road, Trickum Road and Hames Road. He stated the variance request is to reduce the open space from the required 40%. He stated the open space provided is significant and is a little over 17 acres. Mr. Moore stated the open space provided will buffer Trickum, Jamerson and Hames Road at this intersection and also along existing residential properties. He stated the open space will be 65 feet in width along the north, 233 feet along the west and 55 feet in width along the South. Mr. Moore stated these buffers will have tree save areas, natural and enhanced buffers. He discussed the history of the property where he was involved in prior applications that were requesting RD-3 or higher density that did not receive approval he feels due to the location of the property and the volume of traffic at this intersection. Mr. Moore stated his applicant has revised their application from an RD-3 to an R-15 conservation subdivision with a density less than 3 units per acre and are proposing 143 homes. He further

stated this will be an excellent community that Cherokee County will be proud of with a full amenity area and home prices being \$300,000 and up. He noted there will be open space with pocket parks that adds to the aesthetics of the community. He stated they are agreeable to Engineering's comments to slide the entrance to the subdivision further up Trickum Road. Mr. Moore presented a slideshow to the Commission members showing the elevations, variety of materials and style of the homes proposed for this development.

Mr. Barnes asked if the green space around the perimeter of the development is set up as full access such as trails or will it be a wooded buffer and if the water space areas are just retention areas that are fenced in or do they slope in. Mr. Moore stated there will be trails for some of the use of the open space. Mr. Corley stated they anticipate access for the open space and if they have enough depth they intend to get trails in and will provide pocket parks within the community. Mr. Wood stated these would retain some water but not like a full lake and would be tied in more to the open space with a walking trail and rain garden to be more appealing.

Ms. Escondo asked Mr. Moore if he could make the case for a particular hardship due to shape or physical features of this property for the need of this variance request as stated in the Ordinance. Mr. Moore stated one of the physical characteristics of this property is the vast amount of road frontage which impacts the property such that in terms of providing open space and buffers against the roads which pushes the development further back to the existing residential. He stated then you want to increase the buffers on other sides that you end up with too much in the dead center so they tried to balance it out and they could not achieve the 40% open space.

Ms. Escondo stated you could reduce the number of lots. Mr. Moore stated yes, you could lose lots but then you endanger losing what you can ultimately do with the open space and amenity area.

Mr. Corley stated the 40% requirement in open space is significant and what is unique about this property is it is all usable, there are no floodplains, no creeks and everything is good viable land. He stated the quality of the open space and the remaining area is what he feels you should look at and how they are providing the community with areas that can really be used and the other thing to look at is the quality of the homes that will be built.

Dr. Whiteside asked of the 17.7 acres of open space, what exactly is being counted towards this open space.

Ms. Lee stated we received a revised site plan, the amenity acreage dropped from 17.7 to 17.5 acres of open space since they removed the paved areas from the total.

Mr. Wood shows the open space areas to all Commission members.

Dr. Whiteside asked the storm water features are not included in this acreage. Mr. Wood stated yes, they are included. Mr. Wood stated they are allowed to be included in the conservation subdivision not the RD-3 and they included them since they are not doing just the general ponds they are making them into an amenity feature.

Dr. Whiteside stated in Paragraph 23-10 it states the area devoted to the installation of the stormwater structure may not be used to satisfy the Greenspace requirement for the development. Mr. Wood stated the way they looked at this and discussed with Staff is that if they built a regular pond with a high fence around it then it could not be counted but if they do a low impact development pond where you have the shallow, micro pool with plantings and you can put more of a decorative fence with walking trails near it then the pond feels more a part of the open space community.

Mr. Whitaker asked if you would irrigate these areas to keep them alive during the summer. Mr. Wood stated this has not been discussed but they will retain water for water quality.

Ms. Callahan asked what if we have a dry year. Mr. Wood stated it will actually look more like a meadow.

Dr. Whiteside stated he sees where you can put it in the greenspace however it clearly states you cannot count it towards your greenspace and you are asking for a larger variance than what's permissible by the Ordinance.

Ms. Lee stated we could leave this up to the Board of Commissioners or how the Commission members feel about it but it was determined by our office based on the design as an amenity that it could be counted as part of the greenspace.

Dr. Whiteside asked where in the Ordinance does it allow you to do this?

Ms. Lee stated you would have to discuss this with the Director; this isn't a stormwater detention pond it is being constructed as an amenity feature that would be totally accessible.

Dr. Whiteside asked how many acres are within these detention facilities. Mr. Wood stated probably 1 ½ acres.

Mr. Corley stated they are trying to have something that blends in well and obviously the alternative is your typical detention pond that is not attractive. He stated this will cost more but feels these are much better planning methods that staff and Mr. Wood have used to handle stormwater and storm quality.

Mr. Whitaker indicated that the Ordinance has been changed since the last time they looked at one of these and the HOA will maintain these areas as opposed to being part of the lots.

Mr. Whitaker asked if there was anyone to speak in favor or opposition of this application. There being none, he closed the public hearing.

Ms. Escondo stated she just recently familiarized herself with this Article 23 and asked if staff went out on a site inspection as stated in this article. Ms. Lee stated she did not go out and was not sure if the Director went out on site.

Ms. Escondo asked the applicant if a site inspection was done by Planning Staff. Mr. Moore stated he was not sure but they met with staff a few times.

Ms. Lee stated if the Director has not gone out, staff will go out within the next two (2) weeks if required.

Ms. Escondo asked staff if the location of the house sites meet the requirements of Section 23.8. Ms. Lee stated she does not have any house locations.

Ms. Escondo asked if staff was satisfied that this site plan as submitted meets all the requirements of Article 23 for a conservation subdivision. Ms. Lee stated she has not looked at every item, but staff has worked with the developer/engineer and we are very happy with this design.

Ms. Escondo stated she had asked at work session if there have been any other applications for a variance to a conservation subdivision. Ms. Lee stated she was not aware of one but it doesn't mean it hasn't happened.

Ms. Lee stated this is a variance to the design not to the zoning category and this is why they are allowed to ask for a variance as long as it is properly advertised.

Ms. Escondo asked if staff feels they have met the hardship for a variance. Ms. Lee stated they meet the intent of the greenspace and every square foot of what they are providing will be available and accessible.

Ms. Escondo asked how we defend our Ordinance moving forward if the next applicant wants conservation and has no physical defects to his property.

Mr. Whitaker stated we have to look at each case individually.

Ms. Lee stated as far as the intent, the design, and the layout and working within the parameters they have to work with, staff thinks this is a good design that is appropriate for this site.

Mr. Wood stated there is a 100 foot building setback from the right of way of all the roads shown on the plan.

Mr. Barnes stated the adjoining neighborhood has about 96 homes with no greenspace so he likes the layout of this proposed plan and fits better for this area.

Ms. Escondo stated she likes the density and feels the zoning is appropriate, but has a hard time granting a variance and feels this is not a zoning issue.

Mr. Stewart stated the applicant would have to give up approximately 39 lots to come into compliance with the 40% required greenspace. He stated this would give them about 106 building lots.

Mr. Stewart made a motion to deny this rezone request. Motion dies for lack of second.

Dr. Whiteside stated they are at about 82% of the 40% requirement and if you remove the detention ponds whether you can include them or not this number gets higher. He stated he

feels R-15 is appropriate for this location but the applicant needs to come closer to the 40% requirement than what they are at now and the Ordinance states they cannot include the detention ponds in this green space. He stated he is not opposed to tabling this case to see if the applicant can make some adjustments on this and put this out to the Board for discussion.

Mr. Stewart stated they already had two applications, one for an RD-3 that called for 33% greenspace, in which they could not meet that and then they changed to an R-15 conservation which required more greenspace and they could not meet that. He stated from his calculations, they are going to have to give up at least 35-39 lots to meet or come close to meeting the greenspace requirement. He stated he is not sure they would be able to do this and distribute the cost for development with 25% less lots.

Dr. Whiteside stated if they took the ponds out of the equation they may be at approximately 75% and feels we are allowing things to be counted that we should not account for.

Mr. Weatherby asked staff if they are including the water areas towards greenspace from Section 23.8-3 of the Ordinance.

Ms. Lee stated in discussions with the Director this was determined due to the design of the development in making these ponds as an amenity to the area. She stated this may be the section of the Ordinance he used, she would discuss this with the Director further.

Mr. Whitaker made a motion to table this application for 30 days and that there needs to be two distinct goals in that period of time. He stated the applicant needs to be looking at ways to increase the greenspace and that the Board members and staff need to clarify their issues, as well. He stated he is not trying to criticize anyone but if Planning Staff is guiding the applicant, and he thinks it is pretty clear that they have in this case, and feel that they can ignore or discount part of the Ordinance then this is something that needs to be discussed at work session so we don't end up in this meeting trying to figure out what they did. He stated maybe the Director needs to come to the next work session and just brief them on what he told the applicant.

Ms. Lee stated she doesn't believe Staff discounted anything. Mr. Whitaker stated we are unable to account for it right now and he doesn't feel like they got a very good accounting of why they need a variance.

Ms. Callahan seconded the motion. Unanimous approval.

The last item on the agenda was approval of August 6, 2013 Minutes. Ms. Callahan made a motion to approve. Seconded by Mr. Weatherby. Unanimous approval.

Mr. Weatherby made motion to adjourn. Seconded by Mr. Whiteside. Unanimous approval.

The meeting adjourned at 8:02 p.m.