



Cherokee County Board of Commissioners MINUTES

February 21, 2017

Regular Meeting

Cherokee County Admin, Cherokee Hall, 1130 Bluffs Parkway, Canton, GA 30114 6:00 PM

INVOCATION

Kendall Jones with MUST Ministries in Canton will give the invocation.

Kendall Jones gave the invocation.

PLEDGE OF ALLEGIANCE

Chairman Ahrens led the Pledge of Allegiance.

"Veterans of U.S. military service may proudly salute the flag while not in uniform based on a change in the governing law on 25 July 2007"

1. CALL TO ORDER

Chairman Ahrens called the regular meeting to order at 6:04 p.m. Those present included Commissioner Steve West; Commissioner Raymond Gunnin; Commissioner Bob Kovacs; Commissioner Scott Gordon; County Manager Jerry Cooper; County Attorney Chris Hamilton; County Clerk Christy Black. Also present were Agency Directors/Department Heads; the media; and the public.

2. RATIFY CLOSURE OF EXECUTIVE SESSION

Chairman Ahrens called for a motion to ratify closure of Executive Session at 5:45 p.m. where one item will be brought forward.

Raymond Gunnin made a motion to approve; Scott Gordon seconded. The resulting vote was Passed, 5-0.

3. PRESENTATIONS / PROCLAMATIONS

3.1. Proclamation & Presentation - Fire Explorers.

Chief Tim Prather spoke about the Fire Explorers' recent competition in Gatlinburg. They competed against 3,600 other teenagers and this year placed in the top three more than ever. They received six 1st place, two 2nd place and five third place awards. Chief Prather thanked the Commissioners for their support of the program and also the advisors who consist of former and current fire fighters. He showed a video highlighting some of the activities from Gatlinburg. Chairman Ahrens read the proclamation and congratulated the Explorers on a job well done. He encouraged everyone to visit the website to view more

information on the competition and the Explorers.

3.2. Amendment: Proclamation - Prosecution-based Victim Advocacy Day in Georgia.

Chairman Ahrens read the proclamation and presented a copy to District Attorney Shannon Wallace and Solicitor General Jessica Moss.

4. AMENDMENTS TO AGENDA

4.1. Add under Proclamations: Prosecution-based Victim Advocacy Day in Georgia.

4.2. Add item under County Manager's Section: Consideration of Purchase and Sale Agreement.

Raymond Gunnin made a motion to approve the amended agenda; Bob Kovacs seconded. The resulting vote was Passed, 5-0.

5. ANNOUNCEMENTS

5.1. ARC Board Memo: Special Master recommends denial to the U.S. Supreme Court for an equitable apportionment of the waters of the ACF Basin.

The Special Master recommended that, because Florida has not met its burden, the Court *deny* Florida's request for relief.

The two-page memo is attached.

Parks and Recreation Annual Report.

Chairman Ahrens commented on the Annual Report presentation by Parks and Rec Director Bryan Reynolds during Work Session that included a summary of the programs and services they offer as well as their financials.

6. APPROVAL OF MINUTES

6.1. Approval of Work Session, Executive Session and Regular Minutes from February 7, 2017 as presented by the County Clerk.

Scott Gordon made a motion to approve; Bob Kovacs seconded. The resulting vote was Passed, 5-0.

7. PUBLIC HEARING

7.1. Public Hearing to consider request by Manor Lake Development LLC to amend zoning conditions (Zoning Case # 04-06-041) Dist. 3

Conduct a Public Hearing to consider a request by Manor Lake Development LLC to amend zoning conditions (Zoning Case # 04-06-041)

Scott Gordon made a motion to open the Public Hearing at 6:27 p.m.; Steve West seconded. The resulting vote was Passed, 5-0.

Mr. Watkins stated that the Public Hearing is to consider a request by Manor Lake Development LLC to amend zoning conditions to a previously zoned piece of property. He

stated it is a zoning decision, and it is covered by the zoning procedures act of the State of Georgia and has been advertised per those procedures. Mr. Watkins stated that the property is located on Bells Ferry Road and Holly Street and Miles Branch Road in District 3. The property is 5.58 acres and was zoned from AG and R-40 to NC in June 2004. The proposed use at that time was for a neighborhood retail, restaurants and office use. He stated that the Planning Commission's recommendation was for approval with conditions, and the Board of Commissioners had approved it with 13 conditions. Mr. Watkins stated that Manor Lake Development LLC proposes to develop the site as a single story assisted living facility with a memory care unit of 55,000 sq. ft. He described the site plan and surrounding areas and listed the 13 conditions imposed as part of Case 04-06-041 Innovative Capital LLC which the applicant wishes to amend as follows: (1) Applicant wishes to keep this condition which lists the purposes for which the property will not be used; (2) Applicant wishes to keep this condition which states the applicant acknowledges that the Thomas's are owners of the property northeast of the property on Mile Branch Road and they agree to have a 40 ft. buffer contiguous to that property; (3) Applicant would like to remove this condition which has to do with planting, maintaining and replacing a one hundred foot buffer along the property line contiguous to the Thomas's property; (4) Applicant is requesting to remove this condition which states that applicant agrees to construct and build the neighborhood retail, restaurant and office complex in accordance with the Site Plan. (Mr. Watkins stated that the applicant is proposing to build an assisted living facility and none of these buildings that are mentioned in this condition.); (5) Applicant is requesting to remove this condition which states that building will be constructed of four-sided brick; (6) Applicant requests to remove this condition which states that applicant agrees that all buildings will have flat roofs and peaked canopy facades in order to resemble a residential type; (7) Applicant requests to remove this condition which states that according to the Site Plan the applicant intends to open, cut, grade and provide acceleration and deceleration lanes to the development from Miles Branch Road which is related to the neighborhood retail, restaurant and office complex; (8) Applicant agrees to leave this condition that states that the applicant agrees that it shall have a surface water and erosion control study undertaken of the property prior to obtaining a land disturbance permit or building permit, and provide the copies to the Engineering Department in order that they can determine that the applicant's development of the property will comply with the laws of the State of Georgia and will not in any sense impose additional flow of water, concentration of water, or erosion upon the property of the Thomas's; (9) Applicant requests to remove this condition which states that applicant agrees to limit the number of buildings to five (Mr. Watkins stated that he is proposing to build just one building); (10) Applicant requests removal of this condition which states that the applicant agrees to landscape and beautify the property in order that it will be an attractive, well maintained and well-kept multi-use development similar to "215 Riverstone Drive, Canton, Georgia 30114" which in 2004 the developer was building; (11) Applicant requests to remove this condition which states that the applicant agrees to maintain the property, replace trees and keep well-kept and agrees to include a declaration of covenants; (12) Applicant requests to remove this condition which states that the building should be kept to the standards of "215 Riverstone Drive" which was being developed at that time; (13) Applicant is requesting to leave this condition which states all lighting shall be pointed down and inward. Mr. Watkins described the surrounding zoning, character areas and future buffers. Mr. Watkins reiterated that Manor Lake Development LLC requests to amend the zoning conditions stating that in order to develop an assisted living memory care one story 55,000 sq. ft. building, applicant requests conditions 3, 4, 5, 6, 7, 9, 10, 11, 12 be removed.

The applicant for Manor Lake Development LLC, Bill Creekmore, came forth and provided a picture similar to the building that they intend to build. He stated that it will be located across from the Bridgemill Golf Club, and it will be one story with 70 rooms and roughly 78 beds. He stated that it will abide by the County's regulations regarding landscaping, and it will be covered in stone and brick. He stated that he met with the Thomas's twice and he will be meeting with the County building department to address the storm water runoff.

One person signed up to speak:

1. Carlo Carbetta, member of the Sixes Community Coalition, signed up to speak. He stated that the SCC is not able to neither oppose nor support the request of variances due to not being able to conduct a formal public poll and because there was no public information meeting. He stated that since the zoning was approved in 2004, the area has changed and the SCC requests that the Board of Commissioners insure several requests as follows: (1) insure that the architecture fits into the Sixes Corridor style; (2) conduct a traffic study given the turn onto Bells Ferry from Holly Street is very difficult due to the curve and elevation change on Bells Ferry; (3) consider the development will impact two schools, a fire station, a police precinct, in addition there is a development being considered on Bells Ferry Road by Tony Perry that will impact traffic; and (4) consider the lighting and aesthetics to the adjacent neighbors.

Mr. Creekmore spoke up to state that there will not be an entrance on Bells Ferry and it would be located on Holly Street and an employee entrance will be located on Miles Branch Road due to Bells Ferry being too challenging.

Scott Gordon made a motion to close the Public Hearing at 6:38 p.m.; Bob Kovacs seconded. The resulting vote was Passed, 5-0.

Commissioner Kovacs stated that the conditions assigned to the previous development left no issue removing them, but some conditions are not just associated to the previous development and those pose concern. The site plan does not address several issues such as parking, what the Thomas's will be looking at, dumpster locations, etc. He stated that he does not believe the Board is in a position to approve or deny the removal of the conditions requested by Manor Lake.

Bob Kovacs made a motion to table the application until the applicant has met with the planning department and given them a Site Plan and see what the impacts of the new plan may be and to address whether or not the conditions can or cannot be removed; Scott Gordon seconded.

Chairman Ahrens questioned if the request was going onto the next agenda. Mr. Watkins suggested sending them to the Plan Approval Team meeting which takes place every Thursday where the applicant can meet with the whole team and get a better idea of the whole plan. Chairman Ahrens stated that it can be targeted for the second meeting in March.

Bob Kovacs amended the motion to table the application until March 21, 2017; Scott Gordon seconded the amended motion. The resulting vote was Passed, 5-0.

8. PUBLIC COMMENT

No one signed up to speak.

9. ZONING CASES

9.1. Case #17-02-003 Kathryn Reedy (BOC Dist. 2)

Consider request by Kathryn Reedy to rezone 2.0 +/- acres at 1518 Arbor Hill Road from AG to R-40 for residential uses.

Mr. Watkins stated that the applicant, Kathryn Reedy, is seeking to rezone 2 acres at 1518 Arbor Hill Road from AG to R-40 for the purpose of putting two lots on the property. He stated that the Public Hearing was held February 7, 2017 and the Planning Commission's

recommendation was for denial. Mr. Watkins provided a brief overview the case and described surrounding zoning and character areas. He stated that there is no proposed change in use; it is used as a residence today and it will be used as a residence in the future.

Raymond Gunnin stated that after Work Session discussion he was ready to move forward with the recommendation to approve the application. He stated that it is a family and they are trying to clear it up and the easiest way to do that is to make it R-40 so that they can proceed with their plans; Steve West seconded. Commissioner Gordon stated that he appreciates the Reedy family's situation, but he agrees with the Planning Commission that to rezone it to R-40 opens the door for a precedent setter. He stated that there are other nonconforming one acre lots around the property, and he prefers to see a variance procedure as opposed to rezoning. The resulting vote was Passed, 4-1. Nay: Gordon

9.2. Case #17-01-001 Carson Developments, Inc. (BOC Dist. 2).

Consider request by Carson Developments, Inc. to rezone 21.627 acres on Hickory Road from GC to RA to allow development of an active adult community.

Mr. Watkins stated that the applicant, Carson Developments, Inc., seeks to rezone 21.627 acres at 5155 and 5175 Hickory Road from GC to RA for the purpose of putting an active adult community on the property. He stated that the hearing was held January 3, 2017 and the Planning Commission's recommendation was for approval. Mr. Watkins provided a brief overview the case and described surrounding zoning and character areas. He stated that the applicant is requesting several variances as part of the rezoning. The variances would include: (1) To use dead end drives in lieu of cul-de-sacs and will meet the Fire Marshal requirements to be less than 150 ft. in length; (2) Grade in the zoning buffer to the north and west; (3) To construct walls in impervious stream bank buffer setback (install gabion walls only, no buildings or structures within buffer); (4) (Has been withdrawn); (5) Reduce zoning buffer on west side of property adjacent to GC from 35 ft. to 30 ft. and from 35 ft. to 15 ft.; and (6) To reduce the zoning buffer on west side of property adjacent to R-40 from 35 ft. to 15 ft.. Mr. Watkins described the variances in an illustration. Mr. Watkins listed the conditions of zoning to include: (a) The zoning will be limited to an active adult community; (b) All homes will be built and comply with the Easy Living Standards as promulgated by the ARC; (c) The applicant will agree to a deed restriction that the development will comply with the age restrictions contained in the Federal Fair Housing Act limiting the development to Age 55 and older. The age restriction shall be contained in the covenants and shall run with the land and be binding on the development in perpetuity. The restriction shall also be a condition of zoning so that it can be enforced by Cherokee County; (d) The developer shall install a sidewalk along the entire Hickory road frontage. Developer shall also work with the Cherokee County Library Board of Trustees to connect the development by internal sidewalk to the adjacent Sequoyah Library via the first dead end street within the development; (d) Applicant will comply with all requirements of the Cherokee County Engineering Department regarding road improvement along Hickory Road; (e) The entire community will have common yard, landscaping, and exterior maintenance that includes a professional landscaping company to maintain all common areas and a maintenance company to repair the exteriors of each home. There shall be funds escrowed every month to make major repairs in the community; and (f) There shall be a professional management company that will manage the day to day operation of the Homeowners Association. The management company will hire the maintenance companies, landscaping companies and enforce the covenants.

Raymond Gunnin made a motion for approval with the conditions and variances as part of the approval; Steve West seconded. Scott Gordon stated that he needed clarification on variance No. 3, rewording it to be more specific, such as stating hydrologically invisible or gabion walls, so there won't be any question in the future. The resulting vote was Passed, 5-0.

9.3. Case #16-11-035 Meritage Homes of Georgia, Inc. (BOC Dist. 3).

Applicant is requesting to rezone 0.47 acres at 469 New Light Road from AG to RZL for two (2) single family residential lots.

Mr. Watkins stated that the applicant, Meritage Homes, is seeking to rezone 0.47 acres at 469 New Light Road from AG to RZL for the development of two residential lots. He stated that the Public Hearing was held November 1, 2016, and the Planning Commission's recommendation was for approval as R-20. Mr. Watkins provided a brief overview the case and described surrounding zoning and character areas and provided a viewing of the site plan. He stated that (1) the lot was a nonconforming lot in AG at 0.96 acres; (2) the portion of the property was taken for public purpose; (3) cannot annex, creates unincorporated island; (4) no zoning district available to deliver as required; (5) will be associated with development immediately adjacent. To permit in AG, need variance to (a) reduce front and rear setbacks to 40 ft. from 50 ft.; (b) reduce minimum lot width to 65 ft. at front building line; (c) reduce minimum lot area to 0.27 acres; (d) allow interior side setback of 5 ft.; (e) reduce exterior side setback to 10 ft.; and (f) increase max impervious lot coverage to 40%. Mr. Watkins stated that the site plan provided meets all these criteria.

Commissioner Kovacs stated that the challenge to rezoning this to RZL is that there is a five acre minimum in RZL and he feels it is a dangerous precedence to set with that type of variance. He stated that this would be creating two nonconforming lots that are probably in better condition because they don't have to back out onto New Light Road as the school buses are trying to pull out 50 ft. up the road. He stated that it would actually be improving the situation.

Bob Kovacs made a motion to approve to keep the parcel as AG with the variances required but with the condition of a driveway configuration that doesn't require backing out onto New Light Road; Raymond Gunnin seconded. The resulting vote was Passed, 5-0.

9.4. Case #16-12-045 Georgia-Tennessee Development Partners, LLC (BOC Dist. 1)

Applicant seeks to rezone 87.946 acres located on the northwest side of East Cherokee Drive from AG to R-15 for 149 single-family residential dwellings and 14.573 acres on the southeast side of East Cherokee Drive from AG to RA for 60 single-family (age restricted) quads.

Mr. Watkins stated that the applicant, Georgia-Tennessee Development Partners, LLC, was seeking to rezone 102.519 acres at East Cherokee Drive from AG to R-15 and RA for the purpose of developing a residential development. He stated that the Public Hearing was on December 6, 2016, and the Planning Commission's recommendation was for denial. Mr. Watkins provided a brief overview the case, described surrounding zoning and character areas, and provided a viewing of the site plan. He stated that immediately following the Planning Commission meeting the property owners contacted Planning and Land Use inquiring about amending the application and removing Georgia-Tennessee as the applicant. The property owners and a new representative met with staff to discuss significant changes to the application and the site plan, so the decision was made not to move the application forward until all facets were better understood. Mr. Watkins stated that in mid-January the property owners presented an amended application/site to staff. He stated that because Planning Commission made a recommendation for denial, the 90 day tolling for which action needs to take place ends March 6. He stated that if no action takes place by the Board of Commissioners it would be considered a denial of the application and there would be a 12 month restriction for the property owners to bring forth another case. Mr. Watkins stated that there are several property owners involved and there was confusion between the owners, but that confusion has now been clarified. He stated that he met with the representing attorney and they have scheduled their public participation meetings. He stated that there is now an amended application and site plan and they are now ready to

move forward. The unusual request has been allowed for the property owners to amend the application and have it reheard and resubmitted through the process as if it were a new application. Mr. Watkins stated that it his request for the Board of Commissioners to take action on the application at this February 21, 2017 meeting and allow the property owners to amend the application and send it back through the process. Commissioner West stated that it would be like withdrawing without prejudice and starting over again. Mr. Watkins replied that it is somewhat unusual and that he requested from the property owners to withdraw and start the application over, but they were adamant about amending the application.

Steve West made a motion to follow staff recommendation and allow the amendment and start the process over again; Raymond Gunnin seconded. Scott Gordon stated that he would prefer to follow established procedures and have it withdrawn and start the procedures over again. Bob Kovacs asked for confirmation that the public information meeting is scheduled and it will not drag out for a year or longer. Mr. Watkins confirmed that he has the amended application and site plan and spoke with their attorney and it is possible for April, 2017. The resulting vote was Passed, 4-1. Nay: Gordon

10. COMMISSION BUSINESS

10.1. Request for approval of private streets within the Bascomb Carmel Road subdivision. (BOC District 4).

Consider a request for the designation of private streets pursuant to Article 5, Section 5.5-6.1 of the Cherokee County Zoning Ordinance (BOC District 4).

Mr. Watkins stated that there is a request by David Weekly Homes to use private streets in a subdivision they are developing off of Bascomb Carmel Road. He stated that according to the ordinance in Code Section 5.5-6.1A, anyone using private streets needs to ask for the approval of the Board of Commissioners. Commissioner Gordon stated that he met with staff and commented that the property sets off Bascomb Carmel Road just off of Bells Ferry and it is a development that fingers out into the middle of the block and not on either corner. He stated that Bells Ferry Overlay would like for streets to remain open and he agrees it is important, but in this case it is off of Bells Ferry and a bit further back. He noted that there is no connectivity to the adjacent subdivision nor is there a request for any connectivity due to the type of development to be placed on the property. He stated that this is a case where it's far enough off the road and a case could be made to make these private streets. He stated that it is a gated senior living facility with a private entrance for protection of the facility, and the way the roads are set up there is connectability through the street grid to pull it back in the future if needed. He stated that to deny the approval would prohibit the timely sale of the property.

Scott Gordon made a motion to approve; Bob Kovacs seconded. The resulting vote was Passed, 5-0.

11. CONSENT AGENDA

11.1. Cherokee Fire & Emergency Services Transfer of surplus Fire Equipment.

Consider approval the transfer of miscellaneous surplus fire equipment to Bethany-Salem Fire Department in Pickens County.

11.2. Fire Fund Budget Amendment.

Consider approving a Budget Amendment in the amount of \$2,451,634 to add the City of Canton Fire Department to the Cherokee County Fire Fund.

11.3. Intergovernmental Agreement with the City of Woodstock for the use of County-owned GIS Data.

Consider approval of an Intergovernmental Agreement with the City of Woodstock for the use of County-owned GIS Data.

11.4. Intergovernmental Agreement with the City of Holly Springs for the use of County-owned GIS Data.

Consider approval of an Intergovernmental Agreement with the City of Holly Springs for the use of County-owned GIS Data.

Bob Kovacs made a motion to approve Consent Agenda; Steve West seconded. The resulting vote was Passed, 5-0.

12. COUNTYMANAGER

12.1. Full Time Position for Emergency Management Agency.

Consider creating a full time position in the Emergency Management Agency of the Marshal's Office and consider approving a Budget Amendment for the County FY17 Budget.

Scott Gordon made a motion to approve; Bob Kovacs seconded. The resulting vote was Passed, 5-0.

12.2. Pest Control Services Contract.

Consider awarding the County's standard Professional Services Agreement to the highest scored proposer, Cannon Termite and Pest Control, Inc., in the annual amount of \$20,460.00 for pest control services of County facilities.

Raymond Gunnin made a motion to approve; Bob Kovacs seconded. The resulting vote was Passed, 5-0.

12.3. Generator Service Contract Award.

Consider awarding standard County Professional Services Agreement to highest scored proposer, W.W. Williams, in an annual amount of \$48,687 for the annual inspection and servicing of the County's generators.

Raymond Gunnin made a motion to approve; Steve West seconded. The resulting vote was Passed, 5-0.

12.4. Arborview Parkway Sidewalk and Drainage Project - Supplemental Agreement No. 1.

Consider Supplemental Agreement No. 1 for the Arborview Parkway Sidewalk and Drainage Project from Lewallen Contracting Company in the amount of \$11,047.50. The total cost of Supplemental Agreement No. 1 to be reimbursed by the Cobb County Water System.

Bob Kovacs made a motion to approve; Raymond Gunnin seconded. The resulting vote was Passed, 5-0.

12.5. Property Tax Reimbursement.

Consider request by Northside Hospital for property tax reimbursement.

Steve West made a motion to approve; Bob Kovacs seconded. The resulting vote was

Passed, 4-0. Abstain: Gordon

Scott Gordon abstained because his firm has done some work on the project.

12.6. Vehicle Purchase for the Marshal's Office.

Consider approving purchase of two 2017 Ford Police Utility Vehicles from the lowest bidder, Hardy Ford, in the total amount of \$57,090.00, equipping the vehicles from the lowest bidder, Diversified Electronics, in the total amount of \$6,328.34 and consider approving a Budget Amendment in the amount of \$50,000.

Scott Gordon made a motion to approve; Raymond Gunnin seconded. The resulting vote was Passed, 5-0.

12.7. Amendment: Purchase and Sale Agreement.

Consideration of Purchase and Sale Agreement for approximately 20 acres of property located on Gresham Mill Parkway, adjacent to the Aquatic Center.

Raymond Gunnin made a motion to approve; Bob Kovacs seconded. The resulting vote was Passed, 5-0.

13. COUNTY ATTORNEY

ADJOURN

The Chairman asked if there was anything else to come before the Board. Hearing none, Scott Gordon made a motion to adjourn at 7:18 p.m.; Raymond Gunnin seconded. The resulting vote was Passed, 5-0.