



Approved 6-4-2019

CHEROKEE COUNTY MUNICIPAL PLANNING COMMISSION

WORK SESSION MINUTES

**Cherokee County Administration Building
Business Center Conference Room
1130 Bluffs Parkway
Canton, Georgia 30114**

**May 20, 2019
6:30 p.m.**

Planning Commission Members Present: Bob Whitaker (Chairman), Dr. Rick Whiteside (Vice-Chairman), Marla Doss, Richard Weatherby, Tom Ware, Tom Hill, Scott Barnes, Ken Smith, and Lisa Tressler (To Be Appointed)

Planning and Zoning Staff Present: Michael Chapman (Zoning Manager), Jeff Watkins (Planning and Zoning Director), and Thomas Trawick (Planner).

Staff provided the Planning Commission with their packets containing staff comments.

Chairman Whitaker called the meeting to order at 6:30 pm.

ZONING & SPECIAL USE PERMIT APPLICATIONS:

1. Case #19-04-008 Gary and Christi Bagley (BOC District 1) – *(Tied vote at the May, 7th, 2019 Planning Commission Public Hearing)*

Applicant is requesting to rezone property located at 11911 Cumming Highway Canton, GA 30115 from R-40 (Single-Family Residential) to GC (General Commercial) for commercial truck sales. The property is approximately 3.921 +/- acres.

Case #19-04-004S Gary and Christi Bagley (BOC District 1) - *(Tabled for a vote at the May 7th, 2019 Planning Commission Public Hearing)*

Applicant is seeking a Special Use Permit to allow internet truck sales. The property is approximately 3.921 +/- acres.

Mr. Chapman summarized the decisions of the Planning Commission at the May 7th, 2019 Planning Commission meeting regarding the Rezoning and Special Use Permit applications for property located at 11911 Cumming Highway Canton, GA 30115. Mr. Chapman explained that the tied vote for the rezoning case would bring the case back to the Planning Commission for consideration per Article 18 of the Zoning Ordinance. Staff mentioned that in the case that a tied vote occurs a second time, the rezoning case would move forward for consideration of the Board of Commissioners with no recommendation from the Planning Commission. Staff further explained that the Special Use Permit

application was tabled at the same meeting by the Planning Commission to allow some time for the rezoning case to be considered by the Board of Commissioners. The Planning Commission held public hearings for both cases whereby Mr. Chapman explained that public notice would not be required to discuss and provide recommendations for the cases at the June 4th, 2019 meeting.

Staff explained that in the event an applicant files for both a Special Use Permit and a Rezoning application for public hearing regarding the same property, it may be necessary to allow the rezoning case to move forward prior to making a recommendation on the Special Use Permit. This would allow a recommendation for denial of a rezoning case, for example, be considered and possibly voted on by the Board of Commissioners prior to simply recommending denial for the Special Use Permit of the same site. Discussion ensued among the Planning Commissioners regarding how to proceed when a Special Use Permit and a Rezoning case are submitted concurrently. Chairman Whitaker explained that it may be important for the Planning Commission to make a recommendation for rezoning first, and, in the case of denial, to wait for the Board of Commissioners to consider and vote on that rezoning case before making a recommendation on the associated Special Use Permit. This way, both applications could be properly reviewed on their own merit instead of concurrently.

2. Case # 19-04-010 Abdel Mihar (BOC District 4) – (Case recommended for denial at the May 7th, 2019 Planning Commission Public Hearing)

Applicant is requesting to rezone property located at 5983 Highway 92 Acworth, GA 30102 from R-20 (Single-Family Residential) to GC (General Commercial) for a used car lot and sales office. Additionally, the applicant seeks a variance to Article 8, Section 8.10.4 (e) to locate the parking lot in front. Article 8, Section 8.10.4 (e) states, "Open parking areas shall be located at the Second and Third Lot Layers, except that Driveway aprons and drop-offs may be located at the First Layer." The property is approximately 0.45 +/- acres.

Case # 19-04-005S Abdel Mihar (BOC District 4) - (Case was tabled at the May 7th, 2019 Planning Commission Public Hearing)

The applicant is seeking a Special Use Permit to allow a used car dealership. The property is approximately 0.45 +/- acres.

Mr. Chapman summarized the decisions of the Planning Commission at the May 7th, 2019 Planning Commission meeting.

Chairman Whitaker asked staff to summarize the process for when an applicant or representative for an application is absent for a public hearing. Mr. Chapman provided the Planning Commission members a document referencing Section 18.3-5 of the Zoning Ordinance and explained that staff is considering amending Article 18 to remove some of the restrictive language regarding this issue. Establishing a policy, instead, that would provide a level of discretion and flexibility by the Planning Commission in the case where an applicant or representative are absent to present their case at a public hearing is being considered. Discussion ensued among the Planning Commission members.

While the Rezoning case for property located at 5983 Highway 92 Acworth, GA 30102 was recommended for denial by the Planning Commission and will move forward for the

Board of Commissioners to consider, the decision to table the associated Special Use Permit application will not require additional public notice since the public hearing was already held for that case. Mr. Chapman explained that at the May 7th, 2019 meeting, staff recommended to the Planning Commission Board to postpone providing a recommendation on the Special Use Permit application so that the Board of Commissioners could consider and vote on the rezoning case first. Staff explained that the Special Use Permit application will be considered by the Planning Commission at the June 4th, 2019 meeting.

Dr. Whiteside asked staff to explain a discrepancy in the size of the subject parcel. Dr. Whiteside explained that it is unclear from the staff report and the application if the site was over 0.5+/- acres or less than 0.5+/- acres. Staff explained that when Highway 92 was widened, approximately 0.9 acres was acquired from the property for additional right-of-way, thus, the property is under 0.5+/- acres.

3. Case # 19-06-014 Allison Naples – (BOC District 1)

Applicant is requesting to rezone 1.0+/- acres located at 2120 Ball Ground Highway from R-40 to GC for a therapeutic massage studio for healing, wellness, and stress relief.

Mr. Chapman introduced the case and summarized the staff and Engineering reports. The Engineering Department anticipates an increase in the number of trips generated by the proposed use. Scott Barnes asked if the driveway shown on the submitted site plan will need to be re-located? Staff clarified that the existing driveway has two access points on Ball Ground Highway. The proposed exit of the use, which reflects the current driveway access, is shown to be located within a deceleration lane for a proposed residential subdivision located behind the subject property. Staff stated that the exit may need to be relocated from the deceleration lane.

Marla Doss asked staff if the proposed use could be allowed in an NC (Neighborhood Commercial) zoning classification? Staff confirmed, yes.

4. Case # 19-06-015 Larry Waddell – (BOC District 1)

Applicant seeks to rezone 4.14+/- acres located at 2970 and 3020 Trinity Church Road Canton, GA 30115 from AG (General Agricultural) to R-40 (Single-Family Residential) in order to allow for the property to be subdivided into four (4) parcels for residential use.

Mr. Chapman introduced the case and summarized the staff report.

Dr. Whiteside asked if the property currently had two homes on the same lot? Staff confirmed, yes, and explained that two properties were combined in 2007 creating the 4+/- acre lot with two homes. Tom Ware asked if the property could qualify as a legacy lot per Article 5 of the Zoning Ordinance? Jeff Watkins explained that this could not qualify as a legacy lot under Article 5 because a legacy lot subdivision allows no more than one non-conforming lot to be created. The applicant has proposed four lots that meet the minimum lot size for the R-40 zoning district, thus, requiring a rezoning of the property. Discussion ensued among the Planning Commission members.

One member noted that should the property be rezoned to R-40, it would be surrounded

by AG zoned property. Staff confirmed that while this is true, there is some nearby R-40 zoned property at the corner of Trinity Church Road and Free Home Highway, as well as at the intersection of Cumming Highway and Holbrook Campground Road.

Marla Doss asked, in the case of a legacy lot on an AG zoned property, would AG or R-40 setbacks be required? Staff explained that the R-40 setbacks would usually apply in those situations since the new, non-conforming lot would need to adhere to the Environmental Health Department's standards for septic installation and location.

Dr. Whiteside explained that one of the Fire Marshal's comments referred to a 150-foot driveway distance as the maximum length allowed for a fire apparatus to successfully back out without requiring a cul-de-sac or hammerhead turnaround. Dr. Whiteside observed that the proposed access easement to Lot C, as shown on the site plan, is a 20-foot easement that appears to exceed 150-feet in length. Staff explained that it is unclear whether the Fire Marshal's Office has been flexible in interpreting this standard. As shown, however, staff confirmed that the proposed 20-foot access easement to Lot C does not appear to meet this standard.

ADJOURN

Mr. Chapman reminded the Planning Commission that their next regular meeting is scheduled for June 4th, 2019.

There being no further business, Chairman Whitaker adjourned the Work Session at 7:25 p.m.