

## **EUHARLEE PLANNING & ZONING MEETING MINUTES**

**7:00pm | September 12, 2023 | Euharlee City Hall**

**MEMBERS PRESENT:** Kathy Foulk – Vice Chair, James Evans, Steve Gray, Lovako Patterson, James Stephens – City Manager and Katie Gobbi – Community Development Director

Vice Chairman Gray called the meeting to order at 7:02pm.

Mr. Evans motioned to defer item number two, Adult Entertainment Ordinance Review to the next meeting. Ms. Foulk seconded.

Minutes of the August 8 meeting were approved.

Election of Officers: Judson Mobbs was reelected as chair unanimously. Kathy Foulk was elected as Vice Chair unanimously.

Public Hearing: Rezoning Application RZ2023.1 - Parcel No. 0034-0753-002; Environmental Overlay - Parcel No. 0034-0753-002, Parcel No. 0034-0753-003, Parcel No. 0034-0688-002, Parcel No. 0034-0752-001

Ms. Gobbi outlined the conduct of the hearing as is written in the Zoning Ordinance.

Brandon Bowen, Esq. spoke on behalf of the Applicant McWhorter Properties and Etowah Bend. Mr. Bowen said that the application was before the commission a year ago and withdrawn due to concerns that there was not a plat. Now, the rezoning application not also has a plat. The applicant is requesting Parcel No. 0034-0753-002 be rezoned back to R-1 from RE-1 and the environmental overlay removed. They would like to have all of the property to be zoned the same as the surrounding properties. This is the only parcel in the city with RE-1 zoning. There are 151 acres with 328 proposed lots. This complies with the zoning ordinance for R-1. The density factor would be 2.16, which is permitted density under R-1 and the environmental overlay district. They can not get to the 40% green space required by the overlay. The current plat shows just over 29% greenspace.

Mr. Evans asked where the river buffer began. He said that it looked like it was measured from the middle of the river. Mr. Bowen said that property rights generally go from the middle of the river. Mr. Evans said that current ordinance says measured from the high-water mark. Mr. Bowen said that he can ask the engineer who drew it, but they are willing to comply with the ordinance with the exception of the Environmental Overlay greenspace/buffer percentages.

Mr. Evans asked if they plan to have sewer. Mr. Bowen said that they have confirmation that there is capacity at the lift station and that there is sewer at Milam Bridge and Euharlee Road. There is a question about one stretch of the line that has enough capacity today, but they understand that it would be their responsibility to work with the county to resolve that issue. Mr. Evans asked if the applicant wanted them to approve the application without the sewer capacity. Mr. Bowen said yes, they are asking for the same zoning to be applied to this property as all the surrounding ones. Mr. Evans said that if it's not sewer served, the lots would have to be more than 10,000 square feet. Mr. Bowen said yes, if that is the case then we can not go forward with the current plan. Mr. Evans said for them to come back when they have the sewer confirmation letter because he can not approve 300 lots. Mr. Bowen asked for approval with the condition that the sewer confirmed before the final plat is approved.

Mr. Gray said that his issue is that the commission approved rezoning and nothing ever was done with it. He asked why they did not ask for the rezoning from A-1 to R-1 instead of RE-1 when it was last rezoned. Mr. Bowen said that the applicant was advised to go with RE-1 zoning and they tried to sell those lots, but the market is not there. Mr. Gray said that he disagreed because he did not get a call back when wanting to look at the property. Mr. Bowen reserved his remaining time.

Vice Chair Foulk asked about the green space. She is concerned about how low the percentage is with that many houses. Mr. Evans said that the buffer is supposed to be 200 feet from the high-water mark not the middle of the river. It is in Section 7.17.5 of the zoning ordinance. Mr. Gray read it aloud. He asked if the flood plain is the same as the high-water mark. Mr. Bowen said that the tan area on the plat is not to scale and the buffer starts from the edge of the water, but he can ask the engineer. Mr. Bowen said the banks of the Etowah do not change that much as the water goes up and down. Mr. Gray asked about what adjoining landowners think about the plan. Mr. Bowen said that the property owners he spoke with appreciated the increase in the buffers, but that he had not spoken to every adjoining property owner. Mr. Bowen said that they spoke with Lehmann Smith and Mr. Thibault.

Mr. Evans asked about how much traffic they anticipate adding. Mr. Bowen said that residential adds about four trips per household per day. Mr. Evans disagreed and that it was a minimum of seven. He said that the road is pretty much to capacity for the size of the road. Ms. Foulk said that with the condition of the road, it would probably all need to be redone. Mr. Evans pointed out the Milam Bridge Road has a right of way of 40 feet. Ms. Foulk asked if they have looked at it, and Josh McWhorter, owner of the property, said they had now. Mr. Bowen pointed out that usually the rezoning is just the first step in this process. He also said that the information they are requesting is very expensive to obtain and that it is not usually required until later on in the zoning process. Ms. Foulk asked what happened to RE-1. Mr. Bowen said they marketed it. Mr. Stephens said they built the road and infrastructure.

Ms. Foulk said her concerns are Milam Bridge Road, sewer and greenspace. If they fixed those, maybe I am good with it. Mr. Gray added that he has an issue with the high-water mark. Mr. Bowen said that he has never heard that the high-water mark included the entirety of the flood plain. Mr. Stephens agreed. Mr. Bowen said it is up to the ordinance to define what high-water mark means. It is not defined in the ordinance. Mr. Bowen said that the water goes up and down with the fluctuation of the water release. Ms. Patterson said that it does go wider where it is shallow. Mr. Bowen said the engineer surveyed the property and marked the edge of the water.

Ms. Foulk asked why the thought this would sell over RE-1. Mr. Bowen said that these are the types of homes are selling. There is pushback to townhomes and apartments, but single-family detached homes are selling. Mr. Gray disagreed. Mr. Bowen said that everyone in the market shares. Ms. Foulk said that banks are getting tighter on loans.

Stephen and Mary Ellen Edwards, 131 Milam Bridge Road, are adjacent property owners concerned about chemicals, run-off, and drainage affecting their organic household and garden. They are also concerned about traffic. They asked if they would have to tap in to the sewer if it was brought down Milam Bridge Road. Mrs. Edwards asked if they planned to run the driveway next to their property.

Joe Kraft, 46 Collen Karen Road, is an adjacent property owner and expressed concern about the grading and flooding; school capacity; concern about previous pricing for the land; erosion, and wildlife.

Tammy Prance, 100 Linda Road, is an adjacent property owner concerned about flooding, erosion, more people, traffic, accidents, and drainage. She said she does not want to live in the middle of a city, wants land and attempted to buy a 3-acre lot but it was too expensive. Ms. Prance said they have lost ten feet of land in the last several years.

Ms. Foulk asked if the Army Corps had done anything on the river to prevent erosion. She also asked Mr. McWhorter what their plan was. Mr. McWhorter said that they do not have the plan yet. They have been focusing on the plat.

Ashley Ring and Kyle Holladay, 279 Milam Bridge Road, asked who would be paying for the road improvements. They also had concerns about speeding already and losing their front yard if the road is widened. They had concerns about building in a flood plain. They also asked if there would be a stoplight and traffic.

Ms. Foulk asked Mr. McWhorter about elevation and grading. He said that they were asked for a plan. They have made thirteen revisions to this plan in the last year. They have put a lot of time and effort to get here. He knows that they will lose lots due to sloping. He said that the 40% is really tough, so they have 30% greenspace and large buffers. There are no lots in the flood plain. A lot of these conditions are out of their control. Mr. McWhorter respectfully asks that since the city advised them to rezone from R-1 to RE-1, can he get a reasonable explanation why he can not get the R-1 zoning.

Someone from the audience asked for clarification on the R-1 and RE-1. Mr. Bowen held up the zoning map for clarification. Mr. McWhorter said that he was told by prior people from the city told him that he had to rezone. Ms. Prance asked for clarification because she was told that it was changed from Agricultural to RE-1. Ms. Foulk said that it was previously residential. Mr. Stephens pointed out that most of the same people were in the room when the rezoning took place. Ms. Gobbi said that the property was zone residential since 1986.

Mr. Gray said that they were told that it was zoned agricultural. He said that they were sold on the three acre lots which gives diversity in housing in Euharlee. Mr. Stephens said that the Environmental Overlay permits 10,000 square foot lots even in RE-1, with the 40% greenspace. Ms. Gobbi read Section 7.17.8 from the zoning ordinance that outlines this. Mr. Stephens said that the rezoning application in this would not be that big of a change, considering the Environmental Overlay permitting the 10,000 square foot on lots served by sewer. Mr. Evans said that they need to revisit that later because it does not make sense.

Grey Taylor, 205 Milam Bridge Road, is concerned about traffic, flooding, and neighbors.

Mr. Gray said it was not fair that Mr. McWhorter did not offer every adjacent property owner the same as the ones he talked to. Mr. McWhorter said he talked to the adjacent property owners that expressed concern to him.

Victor Najarro, 45 Winchester, said his concerns had already been expressed by other commenters.

Ron Hartman, 123 Amberwood Lane, said he was concerned about land usage, infrastructure, impact to the community, and the execution of the public notification process. He did not know what the zoning issue was on the agenda, so he called the city manager and had his questions answered. He saw the rezoning sign in front of the property. He asked that more information be put on the agenda instead of just the parcel number. Mr. Hartman also said that this is not just 300 homes. If it is 328, 2.16 houses per lot, it is closer to 600 homes. Mr. Evans said it is 2.16 per acre not lot. Mr. Hartman said he is opposed to high density residential development.

Peter Piliero, 26 Woodvine, is a candidate for council and is running against more residential housing. He said no one wants residential housing.

Mr. Bowen said runoff is a legitimate concern. City has ordinances in place to deal with that. Approval of a development is not license to create runoff on someone else's property. He said that this is appropriate according to our comprehensive plan. Apply the same zoning to them as the neighboring property. It is a constitutional problem.

Ms. Patterson made a motion to adjourn. Mr. Stephens and Ms. Gobbi asked for the members to make a recommendation for city council.

Ms. Foulk said that some people want to live on smaller lots. She doesn't, but some people do. Mr. Piliero said that they can move somewhere other than Euharlee.

Ms. Gobbi asked for clarification about the motion to be sure whether they would table it or deny the application. Mr. Evans and Mr. Gray said that they were not tabling it, but denying it because their questions were not answered and did not have enough information.

Mr. Gray made a motion to recommend council deny the application due to not enough information and until the information is available. Ms. Patterson seconded.

Mr. Gray motioned to adjourn at 8:23pm. Mr. Evans seconded. Meeting was adjourned.