

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

**7:00pm | February 14, 2023 | Euharlee City Hall**

**MEMBERS PRESENT:** Judd Mobbs – Chair, James Evans, Kathy Foulk, Lovako Patterson, James Stephens – City Manager, Katie Gobbi – Community Development Director.

Chairman Mobbs called the meeting to order at 7:00pm.

The meeting agenda was approved with one change of moving the public comments to the start of the agenda.

Minutes of the December 13 meeting were approved with one correction.

### **Public Comments:**

- Joseph Turner said that he was not here to argue about the ordinances, knowing that the Commission keeps up with the city ordinances. Mr. Turner wanted to point out that a change to city ordinances pertaining to the sale and consumption of alcohol where the city cannot have control over, he fears that bars will start opening everywhere in the city in the future and the city will have no control over it.
- Ron Hartman, 26-year resident of Euharlee. Mr. Hartman asked if the commission has received a formal proposal from any entities regarding the rumored beer garden and if the members have come to any personal opinions regarding that type of business. Chairman Mobbs explained that commission has not and has only reviewed the existing alcohol ordinance for the purpose of updating it to be compliant with state law and based on council and staff recommendations. Mr. Hartman asked if the commission was responsible for all city ordinances. Mr. Stephens answered that they are and they are an advisory committee to the city council. Chairman Mobbs said that their actions hold no weight; they advise the city council. Mr. Hartman asked about the members' interactions with council members. Mr. Hartman said that he wanted to learn how the different committees work in the city. Ms. Patterson explained that the commission takes into consideration what the public brings to them, and in turn, they advise the city council. Mr. Hartman then asked about the commission's involvement in the Osborne Park redevelopment. Chairman Mobbs explained that they try to make sure that designs meet the city ordinances in place. Mr. Stephens also explained that because it is not a change in use, it is not the purview of the commission. Mr. Hartman then asked about a digital sign ordinance and if the commission was in favor of it. A brief discussion about the impact digital, lighted signs could have on the city in a rural setting. Mr. Hartman asked about the members' thoughts on the city-owned 17-acre parcel and the future of potential development on that site. Chairman Mobbs said that the commission had discussed it extensively. Mr. Hartman suggested cabins and camping there. Mr. Hartman then asked about revisiting the plans to rebuild Lowry Mill. Mr. Stephens outlined the project history, including the bids coming back significantly overbudget, and categorized the project as dormant at this time, not dead.
- Victor and Dolly Najarro, 45 Winchester Drive. The Najarrs stated that they want to open a beer garden in the Old Museum location. They approached the city because some ordinances would need to be changed to allow the business to operate. Mr. Najarro explained the type of business, and he said they would want to have food trucks vend and that could meet a food minimum. Chairman Mobbs and members asked questions about how the business would be structured to ensure safe operations and alcohol consumption. Commission members compared this business idea to the food truck park located on Highway 20. Ms. Najarro said that they and other residents leave Euharlee and take their money elsewhere to go to these type places. They want to stay here and bring more people and money into Euharlee. Mr. Stephens asked if the

commission would like to talk to the council about a joint session to discuss some of the changes that have been proposed for the alcohol ordinance. Chairman Mobbs agreed. He stated that he wants to be sure that the city is careful with the language in the ordinance to make sure that Euharlee does not have establishments opening everywhere, but not so restrictive that there was only one place this type of business could open. He suggested limiting the location to the downtown historic district and the ERCDO corridor. Ms. Najarro also explained that special event alcohol licenses are required from the state that would limit backyard pop-ups that they are worried about. Ms. Gobbi asked if the Najarros were wanting to sell retail as well. And they said yes, including growlers. Growlers are sealed glass jars full of beer from a tap to-go. Ms. Foulk asked about unsealed to-go alcohol sales during the COVID state of emergency and how that related to our ordinance. Mr. Stephens said that he believed that was part of Governor Kemp's emergency declaration and is no longer allowed. Chairman Mobbs said that he is okay with sealed containers leaving.

- Joseph Turner asked to respond. He said that the idea of the food truck does not match our current ordinance for the minimum percentage of food. Mr. Turner also questioned if this type of business would impact the school events hosted in Osborne Park. He also is concerned about children all over the city and we cannot control people drinking and then getting in their cars and driving.
- Victor Najarro said that the proprietors would be responsible for not overserving, per state law. They would try to maintain the natural beauty of the area and create a spot for people to relax.
- Marshall Aiken, 65 Lazy Water Drive. Concerning the beer garden, Mr. Aiken reminded the commission members to consider writing the ordinance to keep a dive bar while letting the nice things exist.
- Joseph Turner asked if the parking lot can accommodate this business. Ms. Foulk said she does not know how many people would be going there. She also pointed out that the ordinance needs to be modified because right now it has a requirement for paved parking.
- Annie Smith, 16 Cathedral Place. Spoke in support of the beer garden. Ms. Smith said it is more than a bar. They could hold Bible study there. She also said that people could drink and drive at Food Truck Friday or other places, too. The community is responsible and law-abiding. Ms. Smith asked if they are going to put the ordinance changes out for voting or comment. Chair Mobbs explained the process.

Alcohol Ordinance Amendment: Chairman Mobbs asked for a motion to table this for a joint session with the City Council. Mr. Evans asked for additional information. Mr. Stephens said that he would ask the mayor about a called work session. Ms. Foulk motioned to table. Mr. Evans seconded.

Vape Shops: Chairman Mobbs said that he thought that the commission recommended an ordinance prohibiting vape shops in the city. The shop opening on Euharlee Road received their business license over a year ago. Former P&Z Director Mr. Reese indicated he encouraged prohibiting them, but nothing was presented to the city manager or city council. Ms. Gobbi said that she reviewed the P&Z minutes from 2016 on and it was not mentioned. Mr. Stephens said that we will have one, but they can put something in place. Chairman Mobbs asked staff to do more research. Ms. Gobbi said that Bartow County and Cartersville do not have one, but she will do further research on the topic.

Mr. Evans motioned to adjourn at 7:58pm. Ms. Patterson seconded. Meeting was adjourned.

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

**7:00pm | March 14, 2023 | Euharlee City Hall**

**MEMBERS PRESENT:** Judd Mobbs – Chair, Steve Gray, James Evans, James Stephens – City Manager.

Chairman Mobbs called the meeting to order at 7:00pm.

The meeting agenda was approved.

Minutes of the February 14 meeting were approved.

Update on Current Legislative Session: Mr. Stephens provided the members with an update about the 2023 Georgia General Assembly legislative session in which there are several bills pertaining to state and local zoning operations. The Georgia Municipal Association alerted members to HB 517, which did not make it through crossover day but would have prohibited local municipalities from creating a larger minimum lot size than what the state department of health determined was safe for lots served with sewer. This would have taken away local control.

Mr. Stephens continued to explain that another bill that did crossover involves trailers. This would affect the trailer park on Euharlee Road now rezoned R-3 multi-family. As it currently stands, the owners cannot bring any new tenants or trailers in after the rezoning. The bill would allow for trailers to be replaced with brand new units even if it is a lawful nonconforming use of property. If it passes, this could hinder our enforcement of the zoning and development that was approved last year.

Minimum Lot Size: Chairman Mobbs reminded the members that this was discussed last October, but he was not present for the discussion. The commission recommended dropping the minimum lot size for R-1 on sewer from 15,000 sq ft to 14,000 sq ft. Mr. Stephens said that we did not talk about RE-1 at the time and asked if the members wanted to also have a discussion about that. Chairman Mobbs asked if anyone is asking to change RE-1. Mr. Stephens said no, but there is one application that was withdrawn asking to rezone from RE-1 to R-1 so it may be worth considering while the discussion is had. There is a comparative table of surrounding jurisdictions for members in the package. Mr. Stephens said that the 14,000 allows three houses per acre. Chairman Mobbs asked if any members had thoughts about it since October. He also asked Mr. Stephens if three houses per acre was what the council was looking for. Mr. Stephens said that he believes that they are looking for something denser than the 14,000 sq ft. He does not think any of the council members are interested in going below 8,000 sq ft. Mr. Evans said that he was not interested in going below 10,000 or four houses per acre. Chairman Mobbs said that a quarter acre lot is just a postage stamp. Mr. Stephens asked if any of the members had thoughts on annexing the development going up just outside of Anna's. He asked because those lots may be 8000 sq ft. Mr. Evans asked if they would just annex that as is. Mr. Stephens said yes that any recommendation tonight would not impact that annexation from happening. Mr. Evans said his recommendation would be four houses per acre. Chairman Mobbs said three. Mr. Stephens asked about specify low- or high-density minimums similar to some of the jurisdictions on the chart. Mr. Evans said we did not need progressive densities. There is single family and multi-family. Mr. Gray said we already have diversity with the new PUD with five houses per acre, the R-1 and RE-1. Mr. Stephens said that Cherry Glen computes out to 2.99 houses per acre. It is 102 lots. Mr. Gray motioned to recommend the minimum lot size for R-1 with access to sewer be 14,000 square feet. Mr. Evans seconded. The motion passed.

Overnight Parking Ordinance: Mr. Stephens explained that there is a short example ordinance in the package as a starting point. This has been discussed previously and the police chief is present and may want to speak on it.

Chief Jody Matthews said that multiple cars parking overnight in front of a residence can be a hazard, especially for emergency vehicles. He would like some sort of restriction for overnight parking when space is available in a driveway except when it may be full. Something that the police can articulate and enforce.

Chairman Mobbs asked to what width did the council reduce the minimum street size. Mr. Stephens stated that it went from 26 feet to 24 feet and the change would be consistent with Bartow County. Mr. Gray asked how many people do you have a problem with this. Chief Matthews said that there are a number of neighborhoods that have this problem with cars parked on opposite sides of the road. Chairman Mobbs asked if restricting parking to one side of the road would be effective. Chief Matthews said that limiting cars from parking across from each other to obstruct the roadway but picking one side of the road may be hard to enforce.

Council Member Joseph Turner asked to make a comment regarding the neighborhood on Cliff Nelson Road. He said that the houses are close together and the driveways may be taken up with just two cars. If the husband has a work truck, where would they put it if they cannot park on the street. Chairman Mobbs said that he has been in several neighborhoods throughout the state where they had trouble getting their regular vehicles through with the on-street parking.

Chairman Mobbs suggested adding a sentence to the proposed ordinance with the phrase parked vehicles shall not hinder the flow of traffic. Mr. Evans motioned to recommend the ordinance with the added phrase. Mr. Gray seconded. The motion passed.

Sign Ordinance – Digital Sign: The current ordinance does not allow for signs to be lighted interiorly which does not allow for digital sign. Mr. Evans said that the signs could be helpful but we need to be very careful with the lumens and restrictions for light pollution. Chairman Mobbs asked for staff to research surrounding area ordinances for the commission to consider. Mr. Evans made a motion to table the item to the next meeting to allow staff time to research the matter. Mr. Gray seconded. The motion passed.

Public Comments:

- Joseph Turner said that the city needs to be careful about annexation because of increased police response time. Chairman Mobbs said people have to be asked to annex and that annexations would go through city council. Mr. Stephens said that the city council is looking at Glenmore for annexation.

Mr. Evans motioned to adjourn at 7:29pm. Mr. Gray seconded. Meeting was adjourned.

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

**6:00pm | April 11, 2023 | Euharlee City Hall**

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

Chairman Mobbs called the meeting to order at 6:00pm.

Minutes of the March 14 meeting were approved.

The meeting agenda was approved.

Sign Ordinance – Digital Sign: Chairman Mobbs asked if the commission wants to consider changing the sign ordinance to allow for digital signage. Mr. Evans said digital said they can be good if they are done very cautiously. Examples from surrounding municipalities were reviewed by staff for consideration by the commission. Chairman Mobbs listed the few locations that could take advantage of a digital sign as the historic district would not be included. He asked if this was something that should be put in the ordinance or something that should be handled on a case-by-case basis with a variance. Ms. Foulk and Mr. Evans agreed that a case-by-case basis with general ground rules would be appropriate. Mr. Stephens suggested assigning a subcommittee that could allow for a faster response to the applicant. Staff will prepare a list of criteria for consideration and research Hilton Head, Madison, Georgia for their ordinance and criteria for the next meeting. Mr. Evans motioned to table the discussion. Ms. Foulk seconded.

Zoning Ordinance Amendments – Ms. Gobbi presented the commission members with proposed amendments to Section 14 of the Zoning Ordinance. The changes were needed for the city to be in compliance with HB 1405 from the 2022 session of the General Assembly. The changes pertain to and increased published notice period for quasi-judicial bodies and amount of time required for parties to speak at public hearings. Ms. Foulk motioned to recommend the amendments. Ms. Patterson seconded.

Vape Shops – There is now a permitted Vape Shop in Euharlee and there are no ordinances to specifically address them. Ms. Gobbi provided an example from Woodstock that provided distance requirements for vape shops from religious institutions, daycares, schools, and other vape shops. The Woodstock ordinance defines the businesses as CBD/Tobacco Specialty Stores Ms. Foulk asked if the stores are regulated by the state or city. Mr. Stephens said that there are heavily regulated at the state level and the city does a background check prior to permitting. The state will not approve without a local license. The members asked if these types of stores will allow marijuana sales if it becomes legal in the state. Staff will find where this should be placed in our current ordinance prior to the next meeting. Chairman Mobbs liked the wording of the example ordinance because it allows the city more control without being so narrow that it eliminates all places in the city from having these types of businesses. Ms. Patterson motioned to table the matter for the next meeting. Mr. Gray seconded.

Ms. Foulk asked for an update about the mobile home parks on Euharlee Road and the RV campground in Frankie Harris Park. Mr. Stephens said that there have been no further plans from the owners. The General Assembly passed the bill that allowed continued legal non-conforming use with new mobile homes which could potentially keep the city from enforcing the rezoning. Ms. Foulk asked for an update on the alcohol ordinance amendments. Mr. Stephens said that no joint meeting has been held but there are ongoing discussions. An update about development and boat ramp on the 17-acres and the Euharlee Road bridge across the Etowah River.

Mr. Evans discussed solar panels.

Ms. Patterson motioned to adjourn at 6:48pm. Mr. Evans seconded. Meeting was adjourned.

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

**7:00pm | May 9, 2023 | Euharlee City Hall**

**MEMBERS PRESENT:** Judd Mobbs – Chair, Steve Gray, James Evans, Katie Gobbi – Community Development Director.

Chairman Mobbs called the meeting to order at 7:00pm.

Minutes of the April 11 meeting were approved.

The meeting agenda was approved.

Sign Ordinance – Digital Sign: Chairman Mobbs said that the city council agreed to do the mass texting and communications since the last meeting and would not be putting up a digital sign. He suggests that the commission recommend to leave the sign ordinance as is, and allow parties to come apply for a variance on a case-by-case basis. Mobbs noted that the example from Madison, Georgia provided by staff allows for digital signage for fuel stations for pricing. Mr. Gray asked about messaging on the fuel signs. The referenced example was just numbers for fuel prices. Chairman Mobbs asked if the commission wanted to recommend adding the exception for fuel prices to the ordinance. Mr. Evans said that it should be kept as a variance. Chairman Mobbs said that the main focus is to make sure that we are not allowing businesses to infringe on their neighbors with light pollution. The members decided to recommend leaving the ordinance as is. No votes taken.

Vape Shops – Ms. Gobbi presented the proposed Tobacco and/or CBD Specialty Store Ordinance that would go into the definitions in the Zoning Ordinance and Section 6.34 outlining the distance restrictions for any Tobacco and/or CBD Specialty stores from schools, religious institutions, daycares, and other Tobacco and/or CBD Specialty Stores. Mr. Evans motioned to recommend that city council adopts this ordinance. Mr. Gray seconded.

Mr. Evans motioned to adjourn at 7:15pm. Mr. Gray seconded. Meeting was adjourned.

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

**6:00pm | July 11, 2023 | Euharlee City Hall**

**MEMBERS PRESENT:** Judd Mobbs – Chair, Steve Gray, James Evans, Kathy Foulk, and Katie Gobbi – Community Development Director.

Chairman Mobbs called the meeting to order at 6:01pm.

The meeting agenda was amended to add a discussion about Public Comments to the end.

Minutes of the May 9 meeting were approved.

Business License Ordinance Amendment: Ms. Gobbi explained that the staff have requested Section 6.7 of the Zoning Ordinance titled Home Occupations and Home Offices be reviewed and updated to allow beauty and barbershops with one stylist to operate in homes. This became a more frequent request during the Covid pandemic. Ms. Gobbi presented the members with the City of Cartersville ordinance that allows for this. Regulations and requirements from the Georgia Secretary of State were also provided for home-based salons.

Also, staff asked the commission members if they wanted to consider including e-commerce and online retail businesses in this section of the ordinance. The commission declined to make any recommendations to the council dealing with e-commerce and business licenses because it is too hard to regulate.

Ms. Foulk asked to included animal grooming businesses along with the barbershop and beauty salons, all with one stylist to the ordinance.

Mr. Evans motioned to recommend that barbershops, beauty parlors, and animal grooming be removed from prohibited home occupations and adding those occupations with one stylist to the list of permissible occupations. Ms. Foulk seconded. The motion carried.

Ron Hartman, a resident, said he ran two online businesses and disagreed with not allowing e-commerce businesses. Ms. Gobbi clarified that the commission did not address e-commerce at all.

Land Subdivision Ordinance Review: Ms. Gobbi said that the new third-party engineer reviewed plans for the Cherry Glen development and suggested that the city make updates to the Land Subdivision Regulation Ordinance since it was last amended in 2006. This will bring it up to date with current building materials and practices.

Mr. Evans stated that he would like to table the matter to give the commission members time to review the proposed changes.

Mr. Gray asked for more information about the third-party engineer and whether they should be referred to as the City Engineer.

Mr. Evans motioned to table the review until the next meeting. Ms. Foulk seconded. The motion carried.

Public Comments: Mr. Hartman presented members of the commission with typed copies of his comments regarding the city council's decision to not move forward with purchasing a digital sign. Chairman Mobbs explained that after the city council decided to not move forward with the sign, the commission decided to not recommend any changes to the sign ordinance but instead review any digital signs on a case-by-case basis through the variance process. Ms. Foulk said that the Planning & Zoning Commission does not make decisions about spending any city funds.

Jim Thibault, a resident, asked if an attorney or other entity reviews the ordinances. Chairman Mobbs said that the commission is an advisory board and that other parties review and vote on the ordinance before it becomes official.

Ms. Foulk made the statement that she wants to recommend that the city council and commissions adopt a public comment policy to require the public to sign up for public comments prior to a meeting and allow them to speak for three minutes. Mr. Gray said that he would prefer five minutes.

Hartman said that if the public had to sign up, then the agenda should be published a week in advance and that each person should be allowed three minutes per agenda topic.

Mr. Evans motioned to adjourn at 6:54pm. Mr. Gray seconded. Meeting was adjourned.



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

**7:00pm | August 8, 2023 | Euharlee City Hall**

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

Vice Chairman Gray called the meeting to order at 7:00pm.

Minutes of the July 11 meeting were approved.

Ms. Foulk motioned to amend the meeting agenda to add Public Comments as agenda item 4. Mr. Evans seconded.

Dirt Bike Tracks: Shaw Woods HOA President Tracy Queen reported that there were a few property owners in Shaw Woods that have turned their backyards into motocross tracks and causing a noise disturbance for their neighbors. Mr. Queen pointed out that there was no ordinance in Euharlee that regulated dirt bike tracks in residential districts; he stated that there is a county ordinance. He was hoping that the city could draw up an ordinance that prohibited these tracks on properties less than 2 acres or something similar. Ms. Foulk asked could the HOA just amend their covenant? Mr. Queen said that the HOA does not have any teeth where the city would. Ms. Gobbi pointed to the member meeting package that outlines the county and city ordinance that allows for motocross tracks as a conditional use on properties zoned A-1 agriculture that are 50 acres or larger, which seems to be geared toward professional use rather than personal. Mr. Queen said that there were no local ordinances that spoke to personal tracks on residential. Mr. Gray confirmed that the zoning for Shaw Woods is R-1. Ms. Foulk asked if the noise ordinance would help with the disturbance. Mr. Queen said that it is hard to enforce because it sounds like a lawn mower. Mr. Evans said that most of the riders take the mufflers off.

Mr. Evans said that he would like to prohibit all dirt bikes in residential. Mr. Gray asked Mr. Queen what his suggestion would be for zoning district and minimum lot size. Mr. Queen said 5 acres. Mr. Gray said that he would like to see tracks prohibited in any zoning district that starts in an R. Mr. Queen said that the attorney needs to look at it to make sure it is appropriately written. He said that with increased residential development on smaller lots, this could happen anywhere.

Mr. Evans said he would like to make it illegal to ride dirt bikes in the city limits. Ms. Gobbi said that would also require rewriting the conditional use in A-1 districts. Mr. Queen said this is a hornet's nest that he is stirring and he anticipates complaints. Mr. Queen said that they do cross streets but they are difficult to catch in the act. He did get the people to stop riding across other people's lawns. Ms. Patterson said that she did not think we could regulate what other people are doing on their own property even if we want to.

Ms. Gobbi says that section 7.9 of the noise abatement ordinance would be enforceable as it prohibits vehicles without mufflers. The commission discussed adding decibel levels to the noise abatement ordinance.

Mr. Queen said that he wanted to forward the complaints that he was receiving. Ms. Foulk asked if the residents in question would argue that they were grandfathered in if they passed an ordinance.

Staff will research if this is something that the city could legally do. Mr. Evans suggested that staff talk to the state as well.

A member of the public asked if a code enforcement officer has visited or if they had videotaped the riders. He also suggested putting it on social media to see what the public wanted. Mr. Queen said that social media is a double edge sword. Mr. Queen has asked the homeowners to call the police and record the noise. Another member of the public said that he would not want to see the city telling people what to do on their property. Euharlee Police Chief Jody Matthews said please tell them to call 911.

Ms. Foulk motioned that they table the item for more research to be conducted. Ms. Patterson seconded.

Noise Abatement Ordinance – Table 1: Chief Jody Matthews requested that the commission simplify the time frames outlined in Table 1 of the noise abatement ordinance to make it more enforceable. This would be in place of the table and become Section 7.11 in the ordinance. Chief Matthews presented time frames based on type of property: residential, non-residential, and commercial, between specific hours.

Chief Matthews also pointed out section 6 of the ordinance in reference to the dirt track discussion, stating that this was the first he heard of the issue for dirt bike.

Chief Matthews said that this would not change other aspects of enforcement with animals etc. He said that fireworks and holidays are allowed by state code.

A public comment about the distance requirement.

Mr. Evans motioned that the commission recommend the proposed amendment to city council. Ms. Foulk seconded.

Land Subdivision Ordinance Review: Ms. Gobbi reminded the commission that the new third-party engineer reviewed plans for the Cherry Glen development and suggested that the city make updates to the Land Subdivision Regulation Ordinance since it was last amended in 2006. This will bring it up to date with current building materials and practices as well as lessons learned after the Great Recession in 2008.

Mr. Gray asked about the city engineer position. Ms. Gobbi said that one could be appointed as city engineer at the beginning of the year along with the city attorney. Mr. Gray also asked what is a flag lot. Ms. Gobbi provided a definition. Mr. Gray asked if we had a definition of wastewater. He asked if the city had a code enforcement officer. Ms. Gobbi said the city's code enforcement officer is Lewis Wilkie. Mr. Evans said that he would like preliminary plat application to first come before Planning and Zoning Commission prior to City Council. Ms. Gobbi asked about sidewalks. Ms. Foulk said that she wished every road had sidewalks.

Mr. Evans motioned to recommend the changes the commission discussed to the city council. Ms. Foulk seconded.

Public Comments: Ron Hartman asked who the zoning administrator is. Ms. Gobbi said that the zoning administrator, depending on the situation, is either the city manager or her.

Mr. Hartman asked about the Certificate of Appropriateness application for 118 Covered Bridge Road in regard to Drowned Valley Microbrewery. Ms. Gobbi responded that the Historic Preservation Commission would be hearing that application for the new building on August 22.

Mr. Hartman asked about Senate Bill 213 from the most recent legislative session.

Mr. Hartman presented members of the commission with typed copies of an email regarding Plant Bowen closing in 2035 and asked whether the city and the Planning & Zoning Commission has considered future uses of that property.

Mr. Queen asked if the land behind Shaw Woods that had recently been purchased was being developed. Ms. Gobbi said that they had not received any application related to that property.

Mr. Evans motioned to adjourn at 8:11pm. Ms. Foulk seconded. Meeting was adjourned.

## **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.

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

**7:00pm | October 10, 2023 | Euharlee City Hall**

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

Vice Chairman Foulk called the meeting to order at 7:00pm.

Mr. Evans motioned to approve the agenda. Ms. Patterson seconded.

Minutes of the September 12 meeting were approved.

Undisturbed Buffer – Zoning Ordinance Section 5.16- Ms. Gobbi explained that the discussion at the September meeting showed that a clarification in the definition of Undisturbed Buffer and High-Water Mark is needed. Staff recommends adopting the definition used by Bartow County.

Members of the public asked for clarification if the buffer width requirements would be affected by this change and how it may change the requirements for Environmental Overlay and Conservation Subdivisions.

Mr. Evans requested that staff look through the entire ordinance and address the entire ordinance for consistency with river/stream buffer language.

Mr. Evans made a motion that the language determining the high-water mark be consistent throughout the entire ordinance. Ms. Patterson seconded. Ms. Foulk said this would table it to bring it back with staff recommendations for all of the changes.

Adult Entertainment Ordinance Review- Ms. Foulk said that this has not been reviewed since it was passed in the 1990s. Ms. Gobbi explained that Bartow County's ordinance was given as an example because it was the most up to date. Ms. Gobbi pointed out a few definitions for the members to review including principal purpose, sexual device shop, and sexual device. The Euharlee ordinance also needs updating to reflect the name of our current zoning districts and staff members.

A member of the public asked what is considered adult entertainment.

Ms. Patterson motioned to table the item for further review. Mr. Evans seconded.

Dirt Bikes- Ms. Gobbi said that the Noise Abatement Ordinance, if employed correctly, would solve most of this issue. Staff recommendation is to call 911. A member of the public suggested looking at the City of Adairsville's nuisance ordinance.

Ms. Patterson motioned to table the item.

Ms. Patterson motioned to adjourn at 7:29pm. Mr. Evans seconded. Meeting was adjourned.

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

**6:00pm | November 14, 2023 | Euharlee City Hall**

**MEMBERS PRESENT:** Judd Mobbs – Chair, Kathy Foulk – Vice Chair, James Evans, Steve Gray, and Katie Gobbi – Community Development Director; Lovako Patterson, not present.

Chairman Mobbs called the meeting to order at 7:00pm.

Ms. Foulk motioned to approve the agenda. Mr. Evans seconded.

Minutes of the October 10 meeting were approved.

Zoning Ordinance Section 7.17.6-7- Euharlee resident James Thibault, 101 Milam Bridge Road, asked to present to bring to the attention of the commission members an issue he sees with the density factor calculation formula in Section 7.17.6-7, pertaining to the Environmental Overlay. He states that he reviewed this ordinance because of a zoning application for a property adjacent to his. Mr. Thibault reviewed the overlay district and then laid his proposed resolution to the conflicting sections. He suggests that the density factor should be multiplied by .6 to align with the 40% greenspace requirement for properties in the overlay district. The stated purpose of the overlay is to preserve green space and environmentally sensitive areas.

Mr. Thibault also pointed out that the ordinance states that the Planning and Zoning Commission shall have input on preliminary plats for developments in environmental overlay districts.

Mr. Evans asked if the ordinance allows 10,000 square foot lots on properties zone RE-1 in an environmental overlay district on septic. The answer is no. He also asked if the applicant currently seeking preliminary plat has guaranteed sewer access. Robert Walker, the attorney representing the applicant, stated that there is a letter from Lamont Kiser granting sewer capacity. Mr. Evans said he's not asking about capacity but access. Mr. Walker said that they have not yet built a line because the project has not yet been approved by the city.

Chairman Mobbs said the presentation to the commission is about adding .6 to the formula. Mr. Mobbs suggested tabling the matter so the language and the math can match. Mr. Gray said that he thinks that they should vote because even if it is changed, it will not affect the current application the city council will be voting on at their meeting on the same night.

Mr. Walker said that he did not believe that the issue was properly advertised as an amendment to the Zoning Ordinance. He said that this would be a violation to the Zoning Procedures Law and the Georgia Constitution and a violation of his client's constitutional rights. Chairman Mobbs said that it would not affect the client's application.

Mr. Gray motioned. Mr. Evans seconded. Motioned approved.

A member of the public asked when the last time the full Zoning Ordinance was reviewed. Ms. Gobbi stated that was something they would discuss in 2024.

A member of the public asked if the Etowah Bend application was denied. Ms. Gobbi stated that it was recommended for denial. Mr. Gray asked why it was denied. Ms. Gobbi said it has been a few months but the main factor was there was no sewer capacity guarantee at that time. Mr. Evans and Mr. Gray said that it was because of the high-water mark and no specific site information.

Adult Entertainment Ordinance Review- To review, the current ordinance was adopted in 1999. Ms. Gobbi recommends that the city largely adopts the ordinance that Bartow County has in place.  
Discussion included:



- Defining substantial in the ordinance
- Keeping the distances from education, childcare, and other regulated businesses consistent with the current ordinance
- Limiting the display to not be visible from the window and a certain distance from the entrance/street
- Defining sexual device and sexual device shop
- Add that these businesses would only be allowed in commercial and industrial zoned property.

Mr. Mobbs asked if Ms. Gobbi could have all of the changes prepared for the next meeting.

Ms. Foulk motioned to adjourn at 6:50pm. Mr. Gray seconded. Meeting was adjourned.