

TOWN OF HOMER PUBLIC HEARING & REGULAR MEETING

May 10, 2022

PUBLIC HEARING

The public hearing regarding Banks County Golf rezoning application # 01-22 was called to order by presiding officer Mayor Doug Cheek at 6:00 p.m. Mayor Cheek delegated the hearing over to Town Attorney David Syfan, and being the Mayor's delegate, Mr. Syfan acted as the hearing officer. Mr. Syfan opened the hearing with an explanation of the purpose of the hearing by stating that Banks County Golf, LLC and Mary Towns, property owner, are requesting the rezoning of 44.489 acres (parcel B50 0562) from Single Family Residential (R1) to Planned Community Development (PCD) with proposed use of 140 residential lots or units. Mr. Syfan in explaining the purpose of the hearing discussed the written explanation of the planning commission. The planning committee met on this rezoning application on April 28, 2022. Mr. Syfan read the written recommendation from the planning committee. The planning commission went through the nine factors that are considered in any rezoning and which is a part of the rezoning record. The planning commission's recommendation was to approve the application with 44 houses and 20% green space. Mr. Syfan then presented information as to the Town of Homer Comprehensive Plan as contained in the written recommendation of the planning commission. Mr. Syfan as the Mayor's delegate then presented information as to the Planned Community Development of the adjoining property and reading verbatim from the PCD Plan. He then asked for the applicant to speak and present their plan for the rezoning of the 44.489 acres. He will also allow anyone to speak in favor and against the rezoning request.

Michael Acton, resident of the Town of Homer and Chimney Oaks Development Community, spoke on behalf of the applicant and Mary Towns. He informed the mayor and council that there was a court reporter working via zoom making a record of the meeting, he stated that he encouraged legal counsel, town council, and the mayor to take the necessary steps to preserve information. Mr. Syfan as the Mayor's delegate stated that the town would participate in take down and would like a copy of the transcript. Mr. Acton asked the mayor and council to keep an open mind regarding the rezoning request. He stated that the current PCD includes 367 acres, approximately 120 of those acres are allocated to residential lots and homes. The balance is 247 acres are golf course, natural areas, and amenities. The current green space is at 67%. The PCD allows for 270 doors and with the 120 residential acres assigned that equates to 2.25 doors per acre. He stated that Mary Towns property has been in the family for 4 generations and they have paid taxes on that property excess of 100 years. He stated that it is not fair to allow the initial development to have more than 2.25 doors per acre and only allow Ms. Towns property to have 1 door per acre. He stated that only detached single family homes will be built on this property, no town homes will be built. He also addressed the traffic concern, he stated if they need to add a couple more entrances to Scales Creek Road to help with a traffic problem, they would be glad to do that. Also, with the help from the Mayor, council, and their engineers they will approach the GA DOT and submit a right in and right out onto Historic Homer Highway. They would like to have the support from local representative, Chris Erwin, the mayor and council members to help with the traffic concerns. He commented that the Chimney Oaks development was made up of retirees and empty nesters therefore there is no morning commute. The current development is approaching 100 homes the vast majority of the residents are retired and empty nesters, there are less than 10 school age children currently living in the development. He does not see any impact on the Banks County School System. He referred the mayor and council to the constitutional objectives and other objections in the documents that were presented to them. He also commented on the 2nd adoption of the home rule ordinance on the council election districts and subdivision regulations. He stated that they object to any redistricting that does not deliver equal representation to the voters in Chimney Oaks in district three, under the one person one vote rule. He stated they object to any changes in the subdivision regulations which would affect Chimney Oaks and changing the rules of the PCD in the middle of a development.

Mr. Syfan as the Mayor's delegate asked the council if they had any questions for Mr. Acton. Mayor Cheek asked a question regarding the existing townhomes being leased or rented. He asked if any of the new homes would be leased or rented. Mr. Acton stated that he only was aware of two renters in the townhomes and that in the single family homes he doesn't think there would be any but he doesn't know. Mr. Dumas asked if the new section was only for empty nesters and no children. Mr. Acton answered that he was not implying that.

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Mike King spoke in favor of the new Chimney Oaks development. He thanked the mayor and council for their service and time. He stated that he assumes that the mayor and council are trying to manage smart growth for Banks County and the Town of Homer. He stated that what Jim Pritchard and Mike Acton have done at Chimney Oaks around the golf course has benefitted everyone in the town. He doesn't want uncontrolled growth that causes crime and infrastructure problems. As a resident he wants to see something nice go on the property that is being discussed. He doesn't want to see chicken houses built on the property. He also mentioned if a park was built on the property, it would cause trouble and crime. He has lived in Gwinnett County where there was a park across the street which brought in crime to the county. He is concerned that these things could go on the property that would not be beneficial to anyone. He also discussed the fact that there are not many children in the development now so he does not see much impact on the schools from the new development. He stated that the roads need to be fixed regardless if there was 2 or 200 cars going down Scales Creek Road.

Mayor Cheek asked if the number of proposed houses would be a concern for Mr. King since they would be in his back door. Mr. King said that would not be a concern for him. Mr. King stated that it would be awesome if the homes could be sold on one acre lots, but he doesn't think that the developers could build one house per acre and make money. He would rather it be a well built home that would bring value than something else being built on the property. Mr. Dumas stated that houses are being built all over the town on one acre lots and the builders are making money.

Mr. Syfan as the Mayor's delegate asked for comment from anyone else in favor of the application. No one else was in favor.

Mr. Dumas asked the Chimney Oaks engineer about the entrance to the proposed property on the drawing. The entrance is beyond the crest of a hill in a curve. He has a concern regarding safety since that will be the main entrance to the golf course. The engineer stated that a traffic study will be done during the design process and the drive will probably move. Mr. Dumas stated that there will be a safety issue no matter where the drive has moved. The engineer stated that they would like to have the opportunity to have a right in and right out onto Historic Homer Highway that could come out anywhere on the back edge up the hill.

Mr. Dumas also asked about Holbrook Creek on the property. The head waters look like they are on the 44 acres. He asked how the lots would be impacted by this. The engineer stated that the lot lines go to the centerline of the creek. The required buffers will still be maintained. Mr. Dumas stated that would have to be a 50 foot buffer. The property would have to be clear cut in order to get the 140 lots. Engineer stated that is correct, it would be a mass grade. Mr. Dumas asked if there would be an environmental study done to see how the creek would be impacted. Engineer stated that an environmental study had not been done yet. The developers do not want to spend the money for the studies until they have assurance that they can do the proposed request. The proposed layout is a maximum use and the lot number will probably decrease. This will be determined in the design process.

Cliff Hill asked if the current sewer system will accommodate the proposed new houses. Engineer stated that there is enough capacity for the new development.

Mr. Dumas asked if the engineer was aware of the agreement that was reached in 2020 in paragraph F. He stated that he was aware and he helped write it. He stated that intentions that they had were that it was the entire development not just the additional property. Mr. Syfan as the Mayor's delegate asked where the wording entire development appears in that paragraph. The engineer stated that it talks about the development all through the ordinance. Mr. Syfan read a portion of the PCD ordinance that discussed additional property. The engineer stated that he thinks the wording could be misconstrued to mean of the entire development. Mr. Syfan noted that the words entire development do not appear at all in the paragraph.

Mr. Syfan asked if there was anyone that would like to speak in opposition to the application.

David Kaufman, resident of Scales Creek Road, spoke in opposition to the rezoning application. He commended the planning commission for lowering the number of sites to 44 instead of 140 and noted they did a good job. He is

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concerned about the traffic on Scales Creek Road. It is a very dangerous place with a lot of hills and turns. The speed limit is 25 mph to 45 mph. He lives on the Bellamy end of Scales Creek. He stated that they do not go 45 mph. He is also concerned that the subject property should not rely on the golf course for green space. He stated that Scales Creek cannot handle another entrance especially in the proposed area. Scales Creek cannot handle that amount of traffic. He is concerned about the Sheriff's department with the increase in infrastructure that they will have to have. He asked for the mayor and council to be concerned about the environmental and engineering studies that need to be done. Mr. Kaufman indicated that he lived on two acres on Scales Creek, which is required where he lives, and the development was out of character with the surrounding area.

Kellie Jones, 175 Scales Creek Road resident, spoke in opposition to the rezoning application. She has concerns regarding the traffic on Scales Creek Road. She has presented several traffic studies and has also asked the sheriff's department to come out to Scales Creek Road. She has a study from May 5th that reflects high traffic volume between Wright Street and the entrance to Chimney Oaks and an even higher traffic volume between the entrance to Chimney Oaks and Historic Homer Highway with speeds in the second area 84% going over the posted speed limit with an average of 1200 cars a day. Pursuant to Mr. Acton's prior request, Mr. Syfan asked Ms. Jones to add the new report to the record. The report was done by Sgt. Coombs from the Banks Co. Sheriff's Department. She is concerned that the lots still being built in Chimney Oaks will increase the traffic number. She feels the current traffic problem needs to be fixed before even more houses added. She also addressed the comment made by Mike Acton regarding Chimney Oaks only having retirees living here presently. May 6, 2022
2 between the hours of 7 & 8 a.m. 67 cars passed the trailer at 176 Scales Creek. On 4-26-22 between 7 & 8 a.m. there were 228 cars that passed the same trailer. She also gave traffic numbers on different dates during different hours and stated there is no way that is retirees. The statistics do not support that. She stated again the existing problems need to be fixed before other homes are built. She is concerned about an additional entrance to the new development on Scales Creek. She is not opposed to growth but thinks it needs to be managed. Roadways need to be improved first. She hopes that the developers and the town can come together fix and address the present problems and the readdress adding acreage to the present PCD. Density does matter and this density is too much. Studies should be done before 144 lots on 44 acres are presented.

David Dueker, resident 110 Wild Turkey Pass in Chimney Oaks subdivision, addressed the comments made about school age children in Chimney Oaks. He stated that those comments are false and that is a violation of the fair housing act and that many children live in Chimney Oaks. He also questioned the 20% green space. He stated that there is a current problem with flooding in the neighborhood which has caused his family not to be able to get to their house. Flooding that is caused by poor erosion control. He is concerned about mud being washed down the storm drain which will cause problems for the residents later. Jerry Payne asked how many children he thought were in the neighborhood. Mr. Dueker said he could think of 20. He is about growth as long as the existing is taken care of first.

Sharon Underwood, resident at 667 Scales Creek Road, discussed the young children riding on golfcarts on the road without supervision. She is concerned about traffic on Scales Creek Road. It is not just people from the golf course she is concerned about. She is concerned about additional traffic when new houses are built and additional golf carts on Scales Creek Road. James Dumas asked how often golf carts are on the public road. She stated almost everyday.

Andy Marple, golf course resident, stated that no decision should be made based on assumption. He is concerned about the entrance, buffer zone, etc. He does agree that Mike Acton has brought value to the area, but he disagrees that 140 homes will bring value. He is not for or against the rezoning he thinks there is a good compromise. The property, if developed properly would add value. He suggested tabling the application and not approving or denying based on assumptions. He suggested letting them do studies. He stated that property taxes would not cover the potential kids in the new development that would go to school.

Ken Bennett, resident 1112 Bennett Road, stated that the new development will affect all of Banks Co. not just Homer. He is not against anyone selling anything that they own including property. However, zoning rules and regulations are in place for a reason. He is concerned about Banks Co. law enforcement having to pick up any

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additional law enforcement needed for the additional homes. Citizens of county will pay increased taxes for the development. The development will also impact noise pollution, traffic, and garbage. He asked the Mayor and council to stand by their regulations of one acre per home.

Abby Parks, Soapstone Road, her concern is the county not being ready for traffic congestion, schools being overcrowded, emergency services being flooded with issues and the roads being maintained by community taxes.

Kim Scales Crane, Scales Creek Road resident, is concerned that putting that many houses in that small of an area is not what is needed. She stated that the acre lot restriction is in place for a reason and the Mayor and council should not be bullied again and again in order to get what they want.

Kyle Cassell, 767 Brewer Road resident, stated that the infrastructure of the new development will not just impact the existing intersection it will also impact Banks Crossing. The sewer system spray field is no different than an agricultural spray field, litter is being sprayed across their yards. Property should be able to be sold for the right reasons and the right development if it would benefit the community as a whole and this development doesn't.

Lynn Smith, 185 Scales Creek Road resident, the property that is being discussed is directly across from her house. She asked how it is possible to build 44 houses on 44 acres and still maintain the greenspace and buffer. She is concerned about hearing traffic from 441 and Hwy 51 because there will not be trees to buffer noise. She is concerned about the EMS and Fire Dept. not being able to keep up if a fire happens with the houses being so close together.

Jan Parks, Banks County resident, she understands that communities have to grow. She also understands what happens when one door is opened. But because she lived in Gwinnett County previously, she also knows the growth can't be stopped.

Mr. Syfan asked the applicant if they would like to do a rebuttal. No rebuttal.

Public Hearing closed 7:37p.m.

Mr. Syfan noted that the town zoning ordinance, zoning procedures ordinance, copy of PC plan for Chimney Oaks, planning commission minutes and recommendation and other materials submitted by the applicant, and those that are opposed are all part of the rezoning record.

REGULAR MEETING

The meeting was called to order by Mayor Doug Cheek.

Present were James Dumas, Cliff Hill, David Dunson and Jerry Payne.

The invocation was given by Jerry Payne.

The pledge to the flag was led by Mayor Doug Cheek.

Motion was made by James Dumas to approve the minutes of the April 12, 2022 regular meeting. Motion was seconded by Jerry Payne and approved. (5-0)

RE-ZONE APPLICATION #01-22 Banks Co Golf LLC

Mayor Cheek asked for questions from council regarding the rezoning application #01-22. He is concerned about children on golf carts on the public road.

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Mike Acton has no explanation for children on golf carts. He doesn't know who the children are. He can't speak for parenting and why they allow their child to drive on the road. Mary Towns stated that she is on the golf course frequently and sees kids riding 4-wheelers from a white house across from hole # 8. She has also seen golf carts with Pete Garrison and grandchildren riding on the road. They are not residents of Chimney Oaks. Julie King suggested looking into ATV's on the road all over Homer.

Jerry Payne asked if the planning commission recommendation could be altered. Mr. Syfan stated that the recommendation could be changed. Mr. Payne would like to propose to alter the number of homes from 44 to 32 or 34 based upon facts that 20% is supposed to be for green space and there has to be consideration for entrances and streets.

James Dumas agrees about the greenspace but allowing 44 homes would be acceptable to him to show good faith that we are trying to work with the applicant. He is concerned about environmental impact with clear cutting property. He stated that the runoff is devastating. He would like to see an environmental impact study and traffic study. An agreement was reached in December 2020 that they can add property to PCD. He has concerns about the design but that would be left up to the engineer.

Cliff Hill has concerns regarding sewage, what happens if the current system is no accurate. Mr. Acton stated that the current sewer system is governed by the EPD and was built to handle 50,000 gals of waste a day. They are currently using less than 6,000 gals a day. Home's will not be built all at one time and occupied all at one time. They will stop building if they reach sewage capacity.

David Dunson made a motion to table based on the fact that they don't have enough information to make an educated decision.

Mr. Syfan stated that there is nothing in the ordinance that mandates that they have to provide an environmental study or engineering study, so this is not a reason to not make a decision.

James Dumas made the motion to grant the rezoning of 44.489 acres into the PCD with the maximum residential lots of 44, 20% greenspace and as redesign is done a traffic pattern survey be done and as set out within the written rezoning ordinance. One acre lots as indicated in the previous agreement and is conforming with 2018 comprehensive plan. Motion was seconded by Mayor Cheek and approved in accordance with the written rezoning ordinance. (3-2) Cliff Hill and David Dunson opposed.

SECOND ADOPTION OF THE HOME RULE ORDINANCE COUNCIL ELECTION DISTRICTS

Mr. Syfan discussed election districts. Ga Mountain RDC devised a map. Districts were composed within 5% of each other. District 1 has population 506, District 2 has a population of 506 and District 3 has a population of 252. One person on vote rule. Motion was made by Jerry Payne to approve home rule ordinance to accept the districts that have been proposed and adoption of home rule ordinance. Motion was seconded by Cliff Hill and approved. (5-0)

Subdivision Regulations

Mayor Cheek discussed subdivision regulations. Jerry Payne suggested meeting with Adam Hazel again. James Dumas stated that there will be no impact on the PCD zoning but have impact on new subdivisions. Jerry Payne made the motion to extend the moratorium for 90 days past June. The motion was seconded by James Dumas and approved. (5-0)

Motion was made by David Dunson to appoint Julie King to the DDA board. The motion was seconded by Jerry Payne and approved.

Fire

Cliff Hill stated paperwork for the permit for July 4th Fireworks is in process.

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There being no further business the meeting was adjourned.

Tracey King, Assistant Clerk

Doug Cheek, Mayor