

Ordinance
of the
City of Ball Ground, Georgia

ORDINANCE NO. _____
REZONING CASE NO. 2024-R-03

APPLICANT: Lee Lusk (LGL Investments, LLC) for the Estate of Wanda Anderson

AN ORDINANCE TO APPROVE AN APPLICATION FOR REZONING IN THE CITY OF BALL GROUND, GEORGIA, (HEREINAFTER THE "CITY) CONCERNING 9.12 +/- ACRES LOCATED IN LAND LOTS 67 AND 78 OF THE 3RD DISTRICT, 2ND SECTION OF CHEROKEE COUNTY, GEORGIA, AND INDICATED AS PARCEL 03 N01 086, AND 03-0078-0002.

WHEREAS, it is hereby found and determined that Lee Lusk/LGL Investments, LLC filed a petition with the City to change the zoning of the property described above from Residential 80,000 Square Foot Lot Minimum - R-80 (Cherokee County) to Residential Zero Lot Line - RZL (City of Ball Ground) on or about October 23, 2024.

WHEREAS, the petition to change the zoning proposes the development of a single family detached residential subdivision of 38 new lots as shown on the site plan attached hereto as **Exhibit A**; and,

WHEREAS, O.C.G.A. 36-66-4 mandates any local government taking action which will result in a zoning decision shall provide for a hearing on the proposed action by causing to be published a notice in a newspaper of general circulation; and,

WHEREAS, the notice of public hearing, a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference, was published more than 15 days prior to the public hearing; and,

WHEREAS, the Cherokee County Planning Commission held a public hearing on January 7, 2025 upon this request for change of zoning in the Cherokee County Administration Building with meeting minutes attached hereto as **Exhibit C**; and,

WHEREAS, the recommendation by the Planning Commission for approval of the requested rezoning with conditions, attached hereto as **Exhibit D**, has been received regarding the subject property as described in the legal description, a copy of which is attached hereto as **Exhibit E** and incorporated herein by reference; and,

WHEREAS, the conditions of approval as recommended by the Planning Commission, also detailed in **Exhibit D** and incorporated herein by reference, have been considered; and,

WHEREAS, the Developer Agreement, attached hereto as **Exhibit F** and incorporated herein by reference, is executed by all required parties prior to the issuance of a land disturbance permit and must be fulfilled in a timely manner; and,

WHEREAS, the Ball Ground City Council has considered the proposed petition in contemplation of the Comprehensive Plan as adopted and interpreted by the Planning Commission; and, has examined the subject property and surrounding area, the statutory zoning criteria, and the need to modify the exercise of the police power with regard to this particular property as such exercise relates to the comprehensive exercise of that power throughout the incorporated area of the City of Ball Ground, Cherokee County, Georgia; and,

WHEREAS, after balancing the interests of the community in promoting public health, safety, morality, or general welfare against the right of the property owner to unrestricted use of the property.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of Ball Ground, that the petition for a change of zoning from R-80 (County) to RZL (City) is hereby declared to be **APPROVED AS RZL (City)** **AND SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Developer shall develop the property according to the site plan that was prepared by Civilogistix dated October 25, 2024, and submitted as part of this application, adhering to all requirements including, but not limited to, minimum lot size, minimum lot width, maximum impervious surface lot coverage and building setbacks. Said site plan is attached hereto as Exhibit "A" and incorporated herein.
2. Developer shall not develop/construct more than 38 new single family residential for sale units may be developed across the entire site.
3. The development may not be "build-to-rent."
4. Prior to the issuance of any building permits, developer shall construct the roadway completely abutting to the property line south of Lot 23, providing inter-parcel vehicular access in accordance with the goals of the Comprehensive Plan Construction of the roadway shall include the completion of all curb, gutter, asphalt, storm drain, utilities, sidewalk, street trees, sodding an lighting.. A fifty (50') foot public right-of-way shall be dedicated to the City completely abutting to the property line along with all developer-constructed roadway items mentioned here.
5. Developer shall bear all costs and development responsibility associated with extending water and sewer service lines necessary to serve the project. This shall include all mains, service lines, public and private pump stations, manholes, clean outs and similar items required to serve new residences with water and sewer service.
6. Prior to the issuance of the first building permit, the developer must have stormwater engineering plans created by a licensed engineer and have these plans reviewed and approved by the City in accordance with all applicable rules.
7. The developer shall provide a five (5') foot wide sidewalk on each side of the new, internal roadway and a five (5') foot wide sidewalk within the public right-of-way of Cartersville Street on the development side for the entire length of the parcel's Cartersville Street frontage. These sidewalks must be completed prior to the City's acceptance of infrastructure.
8. A 10' undisturbed buffer internal to the site shall be provided between the row of lots 24-38 and the Interstate 575 right-of-way to better protect future residents from the characteristics of the interstate. Any removal of existing plant material, including trees, and grading, or other disturbances that reduce the existing natural buffer shall be remedied by replanting with a combination of canopy trees, understory trees and shrubs, to be reviewed and approved by staff in accordance with City Code section 105.5. No certificates of occupancy will be issued for lots 24-38 until the City approves, and continues to approve, the condition of the buffer. . Between this 10' buffer and the home, a minimum 6' tall, opaque fence shall be installed for each lot. Fencing shall be no less than 6' in height and no greater than 8' in height. Fencing shall be constructed of solid wood, shall be fully opaque without gaps between boards, shall not feature barbed wire or chain link, shall be fixed to the ground with 4" x 4" wooden posts set in concrete.

9. Privacy fencing and landscaping shall be installed behind units 1-17 to buffer the adjacent, existing homes. Fencing shall be no less than 6' in height and no greater than 8' in height. Fencing shall be constructed of solid wood, shall be fully opaque without gaps between boards, shall not feature barbed wire or chain link, shall be fixed to the ground with 4" x 4" wooden posts set in concrete. Required landscaping shall be a minimum of one (1) evergreen tree, at least six (6) feet in height, located every ten (10) linear feet along the property line. Fencing and buffering shall be installed prior to the issuance of any building permits for lot 1 - 17.
10. Owner/developer shall establish a mandatory homeowner's association for the development and shall submit all restrictive covenants and homeowner's documents for review by the Planning Director prior to final plat approval. The homeowner's association shall be responsible for the upkeep and maintenance of the entrance area, signage, all common areas, private roads, mail kiosk and other community features to protect the quality and integrity of the overall development.
11. Developer shall record and enforce a Declaration of Restrictive Covenants prior to recording of a final plat for the development. This shall contain covenants, rules and regulations applicable to the proposed residential community, including requirements that all residential building lots shall be sold on a fee simple basis, all homes within the proposed community shall be "for sale" homes and the number of homes available which may be leased at any one time shall be restricted to no more than ten (10%) percent.
12. Prior to the City's acceptance of infrastructure, the developer shall improve the section of Cartersville Street immediately adjacent to this parcel, in accordance with the City's roadway standards, including curb, gutter, asphalt, sidewalk, and street trees as shown on Exhibit A.
13. The developer shall agree to construct all new roadways to City standards, which may include but are not limited to, the development of acceleration and deceleration lanes, installation of curb and gutter, installation of sidewalks, installation of decorative lampposts similar in style to those found throughout the City and completion of other streetscape requirements as required by the City's Development Code. All lighting shall be those fixtures currently provided by Georgia Power within the City and be approved by the Director of Planning and Zoning prior to final plat approval.
14. Signage at each entrance point shall be ground based, monument style. The entrance areas shall be landscaped, maintained, and themed to the architecture and style of the community. City staff will review and approve all signage in accordance with Division 112 of the Ball Ground Code of Ordinances.
15. Developer shall activate greenspace by constructing nature trails, installing bench seating, and providing wayfinding signage. to be reviewed and approved by staff during the plan review stage. Greenspace activation must be completed prior to the final certificate of occupancy.
16. All garages must be of sufficient size to incorporate two minimum 8' x 20' parking stalls exclusive of any storage or utility provisions. This will be reviewed as part of the building permitting process.
17. All driveways must be greater than 20' in length to accommodate parked vehicles without encroaching onto the sidewalk and preventing the free flow of pedestrians along this thoroughfare. This will be reviewed as part of the building permitting process.
18. The developer shall designate one side of the new roadway as a "No Parking" zone and install signage along the entirety of the roadway to protect the ability of emergency vehicles to pass freely. Signage shall be installed prior to the City's acceptance of infrastructure and locations of these signs shall be shown on all site plans submitted to the City. Additionally, a note shall be

provided on all site plans and plats submitted to the City designating the one side of the street as a "No Parking" zone.

- 19. The developer must provide at least 5 guest parking spaces no smaller than 9' by 18' at the northern end/Cartersville Street side of the development and at least 5 guest parking spaces no smaller than 9' by 18' near the southern end of the development. These guest spaces shall be provided in addition to any parking spaces or drop-off/pick up areas related to the mail kiosk. All guest parking spaces shall be installed prior to the first certificate of occupancy.
- 20. All cul-de-sacs must have sufficient radius for fire trucks to turn around and notes shall be provided on all site plans indicating such. The Cherokee County Fire Marshal will be the final authority on this and no plan approvals will be issued until the Fire Marshal provides confirmation to City staff of their office's review and approval of the plans.
- 21. The developer shall contribute \$_____ to Cherokee County, GA government for future improvements to Cartersville Street as identified in the February 27, 2025 "In-House Concept Memo for Cartersville Street Maintenance and Safety Improvements." Contribution shall be made in full prior to the first issuance of a building permit.
- 22. As requested by the Cherokee County School System, developer/owner shall provide a mitigation fee of \$_____ per lot, to be submitted prior to issuance of each building permit.

This ordinance shall become effective _____, thirty days after approval by the Mayor and City Council.

The Planning Director of the City of Ball Ground, Georgia is hereby instructed to make any and all appropriate changes to the Official Zoning Map of Ball Ground, necessitated by this action described herein; however, said changes to the Official Zoning Map of Ball Ground are effective concurrent with the effective date _____, whether or not they have been physically made and represented.

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SO RESOLVED, APPROVED, AND ADOPTED this ___ day of _____, 2025 by the Mayor and City Council of Ball Ground, Georgia.

CITY OF BALL GROUND, GEORGIA

A.R. Roberts, III, Mayor

Attest:

Kaylyn Bush, City Clerk
(Seal)

EXHIBIT B
Notice of Public Hearing



Publication Name:
The Cherokee Tribune

Publication URL:

Publication City and State:
Canton, GA

Publication County:
Cherokee

Notice Popular Keyword Category:

Notice Keywords:
Public+Hearings

Notice Authentication Number:
202412190800236360991
3233613314

Notice URL:

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Notice Publish Date:
Thursday, December 19, 2024

Notice Content

gpn16 TCT-8190 GPN-16 NOTICE OF PUBLIC HEARING Lee Lusk with LGL Investments, LLC for The Estate of Wanda Anderson CASE# 2024-R-03 Lee Lusk with LGL Investments, LLC for The Estate of Wanda Anderson has submitted a petition requesting to rezone 9.12 +/- acres of property within the City of Ball Ground from R-80 (Estate Residential) to RZL (Residential Zero Lot Line). The property is located at 1065 Cartersville St, Ball Ground, GA 30107 in Land Lot 78 of the 3rd District, 2nd Section of Cherokee County, Georgia, and indicated as Parcel 086 on Tax Map 03N01. An exact legal description of the property is on file at the Cherokee County Department of Planning and Zoning, 1130 Bluffs Parkway, Canton, Georgia, and may be reviewed along with any other information regarding this request, between 8:00 a.m. and 5:00 p.m. Monday through Friday. The Cherokee County Municipal Planning Commission will hold a Work Session at the Cherokee County Administration Building, 1130 Bluffs Parkway on Monday, December 16, 2024, at 6:30 p.m. The Cherokee County Municipal Planning Commission will conduct a public hearing with the City of Ball Ground City Council on the request at its meeting on Tuesday January 7, 2025, at 7:00 p.m. at the Cherokee County Administration Building, 1130 Bluffs Parkway, Canton, Georgia. The Planning Commission will forward its recommendation to the City of Ball Ground City Council based upon the information presented at the public hearing. The Ball Ground City Council may consider this request at its meeting on Thursday, February 13, 2025, and on Thursday, March 13, 2025, at 7:00 p.m. at the Ball Ground City Hall Council Chambers, 215 Valley Street, Ball Ground, GA. Meetings of the Planning Commission and the Meetings of City of Ball Ground City Hall are open to the public. Note: Georgia Law requires that all parties who have made campaign contributions to any member of the City of Ball Ground City Council in excess of two hundred fifty dollars (\$250) within two (2) years immediately preceding the filing of this request, and who desires to appear at the public hearing in opposition to the application, shall, at least five (5) days prior to the public hearing, file a campaign contribution disclosure with the Cherokee County Department of Planning and Zoning. As set forth in the Americans with Disabilities Act of 1992, the Cherokee County Government does not discriminate on the basis of disability, and will assist citizens with special needs, when given seven (7) working days advance notice. For information, please visit www.cherokeega.com/Zoning. 12:19-2024

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EXHIBIT C
Planning Commission Minutes – Record of Public Hearing



**Cherokee County Planning
Commission Public Hearing
MINUTES**

January 7, 2025
Planning Commission Regular Meeting
Cherokee County Admin Complex Cherokee Hall 1130 Bluffs Pkwy Canton, GA 30114 7:00 PM

CALL TO ORDER

1. APPROVAL OF MINUTES

- 1.1 **December 3, 2024 Public Hearing Minutes**
Approve December 3, 2024 Public Hearing Minutes
- 1.2 **December 16, 2024 Public Hearing Worksession Minutes**
Approve December 16, 2024 Public Hearing Worksession Minutes

2. ZONING CASES

- 2.1 **Case # 25-01-001 - Jacob Miller for CRI Tree Service**
Applicant requests to rezone 4.5072 +/- acres from R-40 (Single-Family Residential) to GC (General Commercial) for a tree service business. Applicant is requesting a concurrent variance to Article 10, Table 10.1 to eliminate the zoning buffer from 35-feet to 0-feet around the existing house parcel.
- 2.2 **Case # 2024-R-03 - Lee Lusk with LGL Investments, LLC for The Estate of Wanda Anderson**
Applicant is requesting to rezone 9.12 +/- acres from R-80 (Estate Residential) to RZL (Residential Zero Lot Line) for a residential subdivision.
- 2.3 **Case # 25-01-002 - Diane Lummus**
Applicant is requesting to rezone 0.51 +/- acres from AG to R40 to subdivide the property into two lots.

3. OTHER BUSINESS

ADJOURN

EXHIBIT D
Recommendation by the Planning Commission



Department of Planning and Zoning
1130 Bluffs Parkway • Canton, Georgia 30114

DATE: January 7, 2025

TO: City of Ball Ground
Eric Wilmarth, City Manager
Christopher Luly, Director of Planning and Zoning

FROM: Thomas Trawick, Zoning Manager

RE: Recommendation of Planning Commission

CASE NUMBER: 2024-R-03

APPLICANT: Lee Lusk with LGL Investments, LLC for The Estate of Wanda Anderson

ZONING: R-80 (Estate Residential) to RZL (Residential Zero Lot Line)

LOCATION : 1065 Cartersville St, Ball Ground, GA 30107

MAP & PARCELS : 03N01, 086

ACRES: 9.12 +/-

COMMISSION DISTRICT: 1

FUTURE DEVELOPMENT MAP: Neighborhood Living

As a result of the public hearing held on January 7, 2025, the Cherokee County Planning Commission recommended **approval** of zoning, with the following conditions:

1. Applicant shall develop the property according to the site plan that was prepared by Civilogistix dated October 25, 2024, and submitted as part of this application, adhering to all requirements including, but not limited to, minimum lot size, minimum lot width, maximum impervious surface lot coverage and building setbacks.
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2. Applicant may not develop/construct more than 38 new single family residential for sale units may be developed across the entire site.
 3. The development may not be “build-to-rent.”
 4. Applicant shall construct the roadway stub out all the way to the property line south of Lot 23, to provide for inter-parcel vehicular access in accordance with the goals of the Comprehensive Plan, prior to issuance of first building permit. Right-of-way shall also be provided all the way to the property line.
 5. Developer shall bear all cost associated with extending water and sewer service lines necessary to serve the project.
 6. Prior to issuance of permits, the developer must have stormwater engineering reviewed and approved by the city.
 7. The developer shall provide 5’ wide sidewalk on each side of the new, internal roadway and within the public right-of-way of Cartersville Street for the entire width of the parcel. These must be completed prior to the City’s acceptance of infrastructure.
 8. A 10’ undisturbed buffer internal to the site shall be provided between the row of lots 24-38 and the Interstate 575 right-of-way to better protect future residents from the characteristics of the interstate. Any disturbances within this buffer shall be remedied by replanting with a combination of canopy trees, understory trees and shrubs as required by staff. Any required plant material shall be installed prior to issuance of final certificate of occupancy. Between this 10’ buffer and the home, a minimum 6’ tall, opaque fence shall be installed for each lot.
 9. Privacy fencing and landscaping shall be installed behind units 1-17 to buffer the adjacent, existing homes. Fencing and buffering shall be installed prior to the issuance of the final certificate of occupancy.
 10. Owner/developer shall establish a mandatory homeowner’s association for the development and shall submit all restrictive covenants and homeowner’s documents for review by the Planning Director prior to final plat approval. The homeowner’s association shall be responsible for the upkeep and maintenance of the entrance area, signage, all common areas, private roads, mail kiosk and other
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community features to protect the quality and integrity of the overall development.

11. Developer shall record and enforce a Declaration of Restrictive Covenants prior to recording of a final plat for the development. This shall contain covenants, rules and regulations applicable to the proposed residential community, including requirements that all residential building lots shall be sold on a fee simple basis, all homes within the proposed community shall be “for sale” homes and the number of homes available which may be leased at any one time shall be restricted to no more than ten percent.
 12. Prior to the City’s acceptance of infrastructure, the developer shall improve the section of Cartersville Street immediately adjacent to this parcel, in accordance with the City’s roadway standards, including curb, gutter, asphalt, etc.
 13. The developer shall agree to construct all new roadways to City standards, which may include but are not limited to, the development of acceleration and deceleration lanes, installation of curb and gutter, installation of sidewalks, installation of decorative lampposts similar in style to those found throughout the City and completion of other streetscape requirements of the City.
 14. Signage at each entrance point shall be ground based, monument style. The entrance areas shall be professionally designed, landscaped, maintained, and themed to the architecture and style of the community. City staff will review and approve before final certificate of occupancy.
 15. Developer shall activate greenspace with trails, seating, etc. as determined by staff during the plan review stage. Greenspace activation must be completed prior to the final certificate of occupancy.
 16. All garages must be of sufficient size to incorporate two, minimum 8' x 20' parking stalls exclusive of any storage or utility provisions. This will be reviewed as part of the building permitting process.
 17. All driveways must be greater than 20' in length to accommodate parked vehicles without encroaching into the pedestrian thoroughfare. This will be reviewed as part of the building permitting process.
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EXHIBIT E
Legal Description of Subject Property

8/20/24, 1:03 PM

Landmark Web Official Records Search

DEED BOOK:14664 PG:1964 Filed: 06/24/2021 10:44 AM Clerk File Number: 28-2021-034942
Rec: \$25.00 TRANSFER TAX \$120.00
Patty Baker, Clerk of Superior Court - Cherokee County, GA
ParticipantIDs: 0839437588 SubmitterID: 7067927936

EXHIBIT "A"

Description of Real Property

All that tract or parcel of land lying and being in the Third District and 2nd Section of Cherokee County, Georgia and being in Original Land Lots Number Sixty-seven (67) and seventy-eight (78) and being more fully described as follows:

BEGINNING at anstake on the South side R/W of Cartersville-Ball Ground Road, said point being one and one-half (1½) mile, plus or minus, from the City of Ball Ground, Georgia and also said point being nine and two-tenths (9.2') feet north of the Original Land Lot corner of Lot Numbers sixty-six (66), sixty-seven (67), seventy-eight (78) and seventy-nine (79); thence South 87 degrees 31 minutes West as shown by a traverse line a chord distance of three hundred and twenty-six one-hundredths (326.26') feet (the R/W being the correct property line to a stake on the south R/W of Cartersville-Ball Ground Road; thence South 0 degrees 10 minutes East along Hendrix property thirteen hundred and eighty-four and three-tenths (1384.3') feet to a stake on the Original east and west line of Lots Number seventy-eight (78) and one hundred and thirty-nine (139); thence North 89 degrees 50 minutes East along said Original Line three hundred-and twenty (320') feet to an iron pin at the corner of Original Land Lots Number one hundred and thirty-nine (139), one hundred and thirty-eight (138), seventy-eight (78) and seventy-nine (79), said point also being near a thirty-six (36") poplar tree; thence North 0 degrees 10 minutes West along the Original Line of Lots 78 and 79 and Roberts property thirteen hundred and ninety-seven and two-tenths (1397.2') feet to point of beginning. Said tract containing ten and three one-hundredths (10.03) acres.

For a more detailed description of the meets and bounds of the property herein conveyed specific reference is hereby made to plat of survey by Radford Grant, L.S., dated July 22, 1967 and recorded in Plat Book 46, Page 170, Deed Records, Cherokee County, Georgia.

LESS AND EXCEPT:

All that tract or parcel of land conveyed to the Department of Transportation, State of Georgia, by Right of Way deed dated May 28, 1982 and acords in Deed Book 323 page 80, Cherokee County Deed Records.

1st Reading:
2nd Reading:

EXHIBIT F
Developer Agreement

DRAFT