

ZONING PUBLIC HEARING

A Zoning Public Hearing was held by the Spalding County Board of Commissioners in Room 108 in the Courthouse Annex, Thursday, November 30, 2006 beginning at 6:00 o'clock p.m. Commission Chairman Eddie Freeman presided, and Commissioners Gwen Flowers-Taylor, Edward Goss, Jr., and Johnie McDaniel were present. Absent was Commissioner Cecil Davis. Also present were County Manager William P. Wilson, Jr., Assistant to the County Manager Paul Van Haute, Community Development Director Chuck Taylor, Senior Planner Chad Jacobs, Zoning Attorney Newton Galloway and Executive Secretary Teresa Watson.

I. Call to Order.

II. New Business:

- 1. Application #06-18S:** Florida Rock Industries, Inc, Owner – Richard L. Mullins, Agent – Rover-Zetella Road (42.11 acres located in Land Lot 96 of the 1st Land District) – requesting a Special Exception to expand the operation of a granite quarry in the AR-1 District.

Mr. Taylor recommended the Board consider this application in conjunction with the second item on the agenda, Application #06-19S, but vote on the two issues independently.

Mr. Taylor explained the applicant is requesting two Special Exceptions to utilize the subject properties for the placement of overburden that is produced as a result of its mining operations. Overburden is the material that is left over after the rock has been mined, crushed and screened.

In November 2002, Florida Rock applied for a Special Exception on 84 acres of property west of the now abandoned West Williamson Road for construction of a new sediment pond, additional area for overburden and buffer from existing residential properties. The request was approved on January 23, 2003 by the Board of Commissioners. At present, said property is not

being utilized for a sediment pond or placement of overburden. The agent for the applicant indicated that Florida Rock has a 10-15 year development plan for the 84 acres previously mentioned, the 42 acres in request #06-18S and the 3.7 acres in the request #06-19S.

Staff recommends conditional approval of Application #06-18S with the following:

- a. Mining activities shall be prohibited.
- b. A vegetative berm shall be constructed along Rover Zetella Road beginning 50' from the right of way. The first 50' shall remain undisturbed. Said berm shall be 20' in height with vegetative screening on top consisting of Leyland Cypress.
- c. A 100' undisturbed buffer shall be maintained on both sides of the creeks that traverse the property.

The Board of Appeals recommends conditional approval of the request with the same conditions as proposed by staff and the following two additional conditions:

- d. That a 40' berm be added.
- e. That no asphalt/concrete plants be allowed.

Staff recommends conditional approval of Application #06-19S with the following:

- a. Property shall be used only as an undisturbed buffer and not for storage of overburden.

The Board of Appeals recommends conditional approval of Application #06-19S with the same condition as proposed by Staff.

Ben Roebuck, 23 Brookwood Drive, Newnan, Georgia

Mr. Roebuck, Vice-President of Sales for Florida Rock, showed a new map and aerial photograph of the Florida Rock operation. He explained that overburden is dirt that must be peeled back to get to covered rock in the quarry process. The existing berms incorporate the overburden material in composition. Plans are to surround the quarry with berms to provide a more extensive buffer. The berm has a 2 to 1 slope to provide stability. They want the ability to mine the rock all the way up to the property line of the 42-acre tract and the ability to just put the overburden dirt on the 42 acres. If this application is not approved, there would simply be no buffer in years down the road as the operation expands onto its remaining existing property, as is its right. This alternative would create a very beneficial buffer.

David Flynt

Mr. Flynt said he had nothing to add at this point.

Kathy Pruitt, 893 Rover-Zetella Road, Griffin, Georgia

Her concern was one of safety. She provided pictures of damage done when material from a Florida Rock blasting hit her neighbor's (Jamie Ferrell) fence and house which adjoins her property. She had no problem with the Florida Rock operation expanding, but if they do then they need to expand their safety zone, as well. The property from Camden Road to Camden Road needs to be purchased by Florida Rock for a safety zone, at fair market value. One house was purchased because it was in a "danger zone," and that property, which belonged to Jamie Ferrell, was next to hers. Ms. Pruitt said she spoke with Mr. Roebuck who assured her that Florida Rock would take care of any damage but did not want to purchase her property. The residents have had issues with water lines to about five homes in the area, as well. Florida Rock has also agreed to do some monitoring, but she felt those numbers would most certainly be in the normal range since they knew they were being closely watched.

Greg Pruitt, 55 Partridge Path, Griffin, Georgia

He also presented pictures of the quarry operation and neighboring homes. Mr. Pruitt said he, too, was concerned about safety. Additionally, to sell the property, as these homeowners would like to do, is virtually impossible given the circumstances. If this is approved, these homeowners will have to live with their diminished values and safety concerns because they can neither afford to take the loss of their properties, nor can they afford attorneys as is the case with the large quarry operation. He asked the rock quarry personnel to work with these people and help them do what was right. He urged commissioners to table the issue to allow for negotiations between Florida Rock and the neighbors and further study.

Mr. Roebuck explained to Commissioner McDaniel that they had not actually identified any area as a "danger zone." The term used tonight was not coined by them and he considered anything outside their property to be in a safe zone since no rock should leave Florida Rock inadvertently. The accident referenced in 2002 was very unfortunate and they regretted it very much, but there was not an officially established safe zone. The Plant Manager and the

Environmental Manager concurred this was not an expression with which they were familiar. Their contention is that rocks should not leave their property, as well.

Reginald Silas, Environmental Manager, 200 Rockwood Road, Tyrone, Georgia
Georgia EPD has a surface mining branch that oversees quarries. EPD does require wet suppression and this quarry wets down as required, even on some of the stockpiles. The process is continual at the finishing plant and is done on the roads by a water truck as required. Mr. Goss said he heard of a home where the gutters on the house so filled with dust that they fell off the structure. Mr. Silas said he was unsure as to how this could happen or over what period of time it occurred, but he had recently heard the same story.

Tim Dealer, 889 Rover-Zetella Road, Griffin, Georgia
Mr. Dealer said his was the home with the gutter problem; the whole gutter did not fall but rather the corner over the front door where dust had accumulated in a three-foot section, to the point where the water runs over the gutter at the corner rather than going through the gutter. The roof is flat with a gable on the end with a tapered valley at the corner of the gutter. So, the runoff from the roof congregates at this corner and the dust runs off at this point from the roof. This has happened twice, the first time about two years ago and again recently. He did not contact the quarry or EPD but simply rectified the problem himself.

Mr. Roebuck said Florida Rock has talked with neighbors. He has not been aware of any other damage at all until this process was begun with the Board of Appeals for these special exceptions. Florida Rock will be happy to investigate and offer to make good on repairs, up to and including purchase of a home, should it become apparent that they have done the damage. Their request to put overburden on 42 acres will create a berm that will help alleviate the dust problem. So, the berm encasing the quarry will be a good thing. They will deal with neighbors in good faith whether there is any process going on with the County or not. Expansion will be a natural direction as the operation has a right to do.

David Flynt, 935 Ivy Falls Drive, Griffin, Georgia
Mr. Flynt advised he was very involved in the incident which occurred in 2002. They had every engineer possible investigate this isolated incident, and engineers have done their best to ensure this will never happen again. He assured the Board that Florida Rock is not gambling with anyone's safety. They have offered to purchase property when it was damaged; some residents chose to sell and some did not. Mr. Flynt stressed they have taken measures to address the problem and are convinced that the right precautions have been taken to prevent any future such occurrence.

Greg Pruitt said they hired a forensics engineer to inspect the water lines last week, and his report should be forthcoming soon.

Commissioner McDaniel said he had wrestled with this issue from several standpoints. He is sympathetic to the Pruitts' plight, but this Board needs to focus on whether or not this particular application has merit for approval. He urged Florida Rock to continue to work with neighbors, realizing that a quarry will always be, at best, a nuisance.

Commissioner Goss stated he agreed with Commissioner McDaniel but this was dealing with a zoning issue. He hoped, too, that Florida Rock would continue with negotiations with neighbors to arrive at a satisfactory resolution.

Chairman Freeman said he would probably feel the same were the quarry in his neighborhood, but he would make an effort to work with the quarry and urged these residents to do the same .

Commissioner Flowers-Taylor moved that Application #06-18S be approved with the previously stated conditions, including a 40' berm rather than a 20' berm. Commissioner McDaniel seconded the motion which carried by a vote of 4-0 with the following conditions:

- a. *Mining activities shall be prohibited.*
- b. *A vegetative berm shall be constructed along Rover Zetella Road beginning 50' from the right of way. The first 50' shall remain undisturbed. Said berm shall be 40' in height with vegetative screening on top consisting of Leyland Cypress.*
- c. *A 100' undisturbed buffer shall be maintained on both sides of the creeks that traverse the property.*
- d. *No asphalt/concrete plants shall be allowed.*

2. **Application #06-19S:** Florida Rock Industries, Inc., Owner – Richard L. Mullins, Agent – Rivers Road (3.761 acres located in Land Lot 66 of the 1st Land District) – requesting a Special Exception to expand the operation of a granite quarry in the AR-1 District.

Commissioner McDaniel moved to approve Application #06-19S with the stated condition:

- a. *The property shall be used only as an undisturbed buffer and not for storage of overburden.*

Motion was seconded by Commissioner Flowers-Taylor and carried by a vote of 4-0.

3. **Application #06-29S:** Carleton W. Moten, Owner – 1331 Teamon Road (2 acres located in Land Lot 170 of the 3rd Land District) – requesting Special Exception for medical hardship in the AR-1 District.

Mr. Taylor stated that applicant requests a Special Exception to allow the use of an existing manufactured home for a medical hardship. The applicant's brother-in-law was diagnosed with Parkinson's disease in 2002. A recent survey indicated that a portion of the existing structure encroaches onto the neighboring property. A statement from the applicant's doctor is included in the application. The property owner must, by ordinance, periodically recertify the hardship to continue the Special Exception. Once the criteria no longer exists, the hardship Special Exception will be required to be moved within 30 days. Both Staff and Board of Appeals recommend approval of the application.

Carlton W. Moten, 1331 Teamon Road, Griffin, Georgia

Mr. Moten said Mr. Taylor summarized everything perfectly and asked for their favorable consideration.

Commissioner McDaniel moved to approve Application #06-29S, seconded by Commissioner Flowers-Taylor. Motion carried by a vote of 4-0.

4. **Application #06-05Z:** Alan R. Mobley, Owner – 1295 Minter Road (39.96 acres located in Land Lot 42 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Mr. Mobley requested this and the next application be tabled until the next meeting.

5. **Application #06-28S:** Alan R. Mobley, Owner – 1295 Minter Road (39.96 acres located in Land Lot 42 of the 3rd Land District) – requesting a Special Exception to allow 1-acre lots (Estate Life Neighborhood) in the R-2 District.

Commissioner McDaniel moved to table Application #06-05Z and Application #06-28S until December 21, 2006, seconded by Commissioner Flowers-Taylor. Motion carried unanimously at 4-0.

6. **Application #06-06Z:** Anthony F. Johnson, Owner – David G. Brisendine, III, Agent – 1101 Brooks Road (2.97 acres located in Land Lot 12 of the 1st Land District) – requesting a rezoning from C-1A, Neighborhood Commercial, to C-1B, Heavy Commercial.

Mr. Taylor explained the applicant has requested approval to rezone the subject property from C-1A Neighborhood Commercial to C-1B, Heavy Commercial. Staff recommends conditional approval with the following:

- a. All outdoor storage shall be kept neat and orderly at all times.
- b. The site will limit all lighting so any neighboring residential properties or rights of way will not be affected from glare.

The Planning Commission recommended conditional approval of the request with the same conditions noted by Staff. Mr. Taylor answered questions, explaining that automotive repair is ongoing on the property, representing a non-conforming use. This change will allow that use to continue and bring them into conformity with the ordinance. The County will interpret the phrase "neat and orderly."

David Brisendine, III, 125 Thomas Trail, Meansville, Georgia

He clarified they were currently operating the automotive repair operation under Special Exception status.

Commissioner Goss moved to approve Application #06-06Z, seconded by Commissioner McDaniel. Motion carried by a vote of 4-0.

7. **Amendment to FLA-06-08:** Nancy Couch Pollard, Owner – 140 Rivers Road (5 acres located in Land Lot 67 of the 1st Land District) – from Agricultural to Low-Density Residential.

Mr. Taylor said the applicant has requested approval to allow for the amendment of the Spalding County Future Land Use Map and the Comprehensive Plan from Agricultural to Low Density Residential in order to divide her property and build two additional homes. Staff recommends denial of the request, as did the Planning Commission.

Mr. Taylor continued that, in 1980, a plat was filed in the Clerk of Court's office that basically cut another one-acre tract out of the existing tract, but no deed was filed, so it was not recognized as a legal lot of record in the County. Had the tract been considered legal, it still would not have made a difference since she wanted to do something totally different with the lot anyway with combining two lots, which could not happen under her current grandfather status. Should the Board choose to allow this amendment to the Future Land Use Map, it will be followed with an application requesting rezoning to one of the "R" designations. Per the applicant, upon successful land use map amendment and subsequent rezoning, two additional one-acre tracts would be subdivided for residential development. The Future Land Use Map designates the subject property as agricultural and is bordered by areas of low density residential. Approval from Agricultural to Low Density Residential could create a negative precedent for existing tracts planned for agricultural densities (1 unit per every 3 acres). Wholesale changing of agricultural land uses could create very difficult demands on the County's infrastructure should adequate planning (directed by the Comprehensive Plan and Land Use Map) not be maintained.

Nancy Pollard, 140 Rivers Road, Williamson, Georgia

She brought her original plat recorded in 1980, and she stated she could put one house on whichever remaining lot she chose. There are flag lots around her house, and she offered for review the plat she had recorded February 13, 1980 and discussed her drawing extensively with Chairman Freeman.

Basically, said Commissioner McDaniel, the request is to change the Land Use Map for one house. Ms. Pollard can erect one additional house on the tract with no action required. If, in fact, she wants to erect a second additional house as she contends, or if she moves property lines, the rezoning request will necessarily follow because the protected grandfathered status will go away. She has stated she wanted to build two houses around 1250 square feet, probably in the R-5 zoning classification.

Commissioner Flowers-Taylor said she would rather table this and give Ms. Pollard an opportunity to produce a viable deed which she thought she had, making it a legal lot of record. Commissioner Flowers-Taylor did not agree with changing the Future Land Use Map for such spot-zoning situations. Tabling would also save Ms. Pollard an added expense for further processing of the application.

Commissioner McDaniel moved to table FLA-06-08 until the next Zoning Public Hearing on December 21, 2006, seconded by Commissioner Flowers-Taylor, and motion carried by a vote of 4-0.

8. **Amendment to FLA-06-09:** Julia Spencer Sailors, Executrix – Estate of Mary Woodard Spencer, Owner – Harlow Avenue (Lot(s) 15, 16 & 17 – 1.90 acres located in Land Lot 178 of the 2nd Land District) – from Medium-Density Residential to Commercial.

Mr. Taylor said this proposal was submitted in conjunction with an application requesting rezoning of the subject property to a commercial zoning district. The property is proposed to be used for a commercial silt fence manufacturer. The Future Land Use Map designates the subject property as Medium Density Residential. However, the corridor between Searcy Avenue and Highway 16 has developed into a light industrial corridor with commercial uses at the corner of Highway 16 and Harlow. The medium density designation represents the three existing homes which are the only residential structures along this corridor. Staff and Planning Commission both recommend approval.

Zoning Attorney Newton Galloway recommended the Board go ahead and hear the next Application, #06-07Z, as well where the applicant is requesting approval to rezone the subject property from AR-1, Agricultural Residential, to C-1B Heavy Commercial. The property is proposed to be used for a commercial silt fence manufacturer.

9. **Application #06-07Z:** Julia Spencer Sailors, Executrix – Estate of Mary Woodard Spencer, Owners — Lot(s) 15, 16 and 17 Harlow Avenue (1.90 acres located in Land Lot 178 of the 2nd

Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to C-1B, Heavy Commercial.

Mr. Taylor said Staff and Planning Commission recommend conditional approval of this request (Application #06-07Z) with the following conditions:

- a. Fencing will be located behind the front setback to screen storage from Harlow Avenue.
- b. All outdoor storage shall be neat and orderly at all times.
- c. The site will limit all lighting so any neighboring residential properties or rights of way will not be affected from glare.
- d. A variance will be obtained for front setback and minimum lot size in a C-1B.

Julia Sailors, 827 Bel Air Circle, Griffin, Georgia

Ms. Sailors said she had owned Spencer’s Roller Rink there for over 25 years, with she and her brother taking over when her father passed away, and she had thought it was already commercially zoned until this process began. They desire to sell and they have a buyer, but rezoning will be necessary to accomplish this.

Robert Page, 638 Windy Hill Road, Griffin, Georgia

Mr. Page stated that 620 North Expressway is the site of his erosion control operation now, at the corner of Melrose and Posey Streets, and he would like to close on this new property as soon as possible. It would help Ms. Sailors out to sell the property, and would assist him, as well. He asked if the Board could go ahead and approve second and final reading at this meeting tonight. Mr. Galloway explained they could not, but he noted they could amend the agenda at the Board of Commissioners Regular Monthly Meeting on Monday, December 4, 2006 to have second reading. Commissioners concurred they would be willing to make that accommodation.

Commissioner McDaniel moved to approve Amendment to FLA 06-09, seconded by Commissioner Goss. Motion carried by a unanimous vote of 4-0. Commissioner McDaniel also directed Community Development Director Chuck Taylor to take a look at this corridor for potential changes to the Future Land Use Map.

Commissioner McDaniel moved to approve Application #06-07Z with the conditions recommended by Staff as follows, seconded by Commissioner Flowers-Taylor. Motion carried by a vote of 4-0.

- a. *Fencing will be located behind the front setback to screen storage from Harlow Avenue.*
- b. *All outdoor storage shall be neat and orderly at all times.*
- c. *The site will limit all lighting so any neighboring residential properties or rights of way will not be affected from glare.*
- d. *A variance will be obtained for front setback and minimum lot size in a C-1B.*

- 10. Application #06-08Z:** Hooper Trailer Sales, Inc. and C. L. Cook, Owners – Lakeside Construction, Agent – 1726 US Highway 41 South By Pass (2 acres located in Land Lot 120 of the 2nd Land District) – requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.

Mr. Taylor explained the applicant requests rezoning to C-1B, Heavy Commercial. The applicant intends to add a 720-square foot addition to the existing structure for additional office space and storage. At present the business has unenclosed outside storage which has been grandfathered in its present state. In order for the new addition to be possible, the property must be brought into zoning compliance.

Staff and Planning Commission recommend conditional approval of the request with the following:

- a. All outdoor storage shall be neat and orderly at all times.
- b. The site will limit all lighting so any neighboring residential properties or rights of way will not be affected from glare.
- c. A variance shall be applied for the front setback encroachment.

Commissioner McDaniel moved to approve Application #06-08Z, seconded by Commissioner Flowers-Taylor, and motion carried by a vote of 4-0 with the following conditions:

- a. *All outdoor storage shall be neat and orderly at all times.*

- b. *The site will limit all lighting so any neighboring residential properties or rights of way will not be affected from glare.*
- c. *A variance shall be applied for the front setback encroachment.*

11. **Amendment to UDO #A-06-13:** Article 17B. AAR Active Adult Residential – amend to allow building permit issuance prior to final plat approval.

Mr. Galloway advised the sole purpose for this amendment is so Minerva can begin construction of the twelve model homes before the final platting process. It should have no impact on any other subdivision or project, and this narrow application cannot be broadened for other applications.

Commissioner Goss said he was not in favor of approving this amendment to the ordinance for one particular applicant, even if it was Minerva, and he was concerned about others trying to utilize this process to circumvent the final platting process prior to construction. Mr. Galloway said the reality is that Spalding County won't see another AAR development, so it's probably a moot point that any other developer could take advantage.

Commissioner McDaniel moved to approve Amendment to UDO #A-06-13, seconded by Commissioner Flowers-Taylor. Motion carried 3-1, with Commissioner Goss opposing.

12. **Amendment to UDO #A-06-14:** Appendix A. Subdivision Ordinance – add regulation for storage of recreational vehicles within residential subdivisions.

Mr. Taylor said this amendment was introduced by the Planning Commission to prohibit the parking of recreational vehicles in residential neighborhoods, as defined by the County, in front yards. Side yard and rear yard parking will be allowed. As drafted, it applies to all subdivisions unless specifically exempted in the ordinance. Mr. Taylor explained that the Board of Commissioners can request legislation, as can individual applicants who pay their fee, and/or the Planning Commission.

Commissioner Goss moved to deny Amendment to UDO #A-06-14 be denied, seconded by Commissioner McDaniel. Motion carried by a vote of 4-0.

III. Other Business:

Mr. Taylor provided a timeline background for the process to date for the Rover Village Node and introduced Bill Bruce, with Community Concepts, who made a presentation regarding the Village Node Designs for the Jackson Road and Rover Village Nodes.

Bill Bruce, 5399 Forest Brook Parkway, Marietta, Georgia

Mr. Bruce said the Rover Road design fit the land mass well, and he detailed the features that can work to ensure the Rover Road Node can capture a potential \$34 million market. The residential component will consist of 500 units of single family and multi-family dwellings, as well as cottages and town homes. It will also include retail, office, civic, and religious structures, as well as parks, open space and recreation areas for this 125 acre node development. He showed representative images of the type structures and layout he envisioned for the Rover Road Node.

He repeated the process for the Jackson Road Node, a 150 acre node development that can capture a potential retail market of about \$28.6 million. This node design will incorporate 600 residential units in the form of single- and multi-family dwellings, cottages and town homes. The Jackson Village will have retail, office, civic, and recreational areas with parks and green space. Again, he showed representative images of the type architecture and layout he envisioned for the Jackson Road Village.

Mr. Taylor thanked Minerva who shared the economic portion of presentation, along with providing the representative images.

Mr. Bruce concluded that the current village node text in the ordinance provides a good basis but can be refined as more information is obtained and more experience is gathered.

Mr. Galloway noted it was probably time to take this presentation "on the road" directly to the areas proposed for node development to show and to elicit input regarding the VN designs and TDRs (transfer development rights) as a trade-off: the preservation of rural areas for areas where density makes more sense. He recommended beginning this process in the Ringgold community.

Mr. Taylor advised this would conclude the services of Mr. Bruce and his company unless developments transpired that might require significant changes. At that time the County could enter into a new agreement with Mr. Bruce.

Mr. Galloway advised he could have a resolution to extend the Moratorium on acceptance of applications for conservation subdivisions ready for the Monday Board of Commissioners meeting. The agenda can be amended to include consideration of such a resolution at Monday's meeting.

IV. Adjournment.

Commissioner McDaniel moved to adjourn at 9:05 p.m., seconded by Commissioner Goss, and motion carried by a 4-0 vote.

County Clerk

Chairman

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