

## ZONING PUBLIC HEARING

A public hearing was held by the Spalding County Board of Commissioners in Room 108 in the Courthouse Annex, Thursday, May 24, 2007 beginning at 6:00 o'clock p.m. with Commission Chairman Eddie Freeman presiding and Commissioners Gwen Flowers-Taylor, Edward Goss, Jr., Johnie McDaniel and David Phillips present. Also present were Assistant to the County Manager Paul Van Haute, Zoning Attorney Newton Galloway, Community Development Director Chuck Taylor, and Executive Secretary Teresa Watson.

### A. Call to Order.

*Commissioner McDaniel moved to amend the agenda to move Item #4 under Other Business to Item #1 under New Business, seconded by Commissioner Flowers-Taylor. Motion carried 5-0.*

### B. New Business:

1. Discussion, per Zoning Attorney Newton Galloway's request, on non-conforming lots of records.

Mr. Galloway stated that significant problems have arisen relating to how the County treats non-conforming lots of record, and the recent application of Ms. Pollard on Rivers Road brought this issue to light. This issue has been impacted by the new Supreme Court Case permitting Butts County to apply new regulations to lots of record that had already been platted, and this issue was detailed in a memo to William which was provided to the Board of Commissioners. Consequently, he and Staff have worked on a policy for dealing with non-conforming lots of record for review by the Board. He advised that the Board remember these points:

1. Lots of record are lots which exist at the time of an ordinance's adoption that do not meet the requirements of the ordinance. This would mean the adoption of a new zoning ordinance or any other text amendment that would increase the requirements of the zoning district to the point that the lot does not meet the new requirement.
2. To maintain a protected lot of record status, the original lot lines must be maintained. Elimination of same or modification of the lot metes and bounds will result in elimination of its non-conforming protection. In such case, it would then have to comply with new code requirements.
3. Any change in the zoning district in which a non-conforming lot of record is located will eliminate its non-conforming protected status. For instance, if a non-conforming lot is located in AR and it is moved to C-1, the lot in question would then lose its non-conforming protected status in AR. A text amendment coming to the Planning Commission on Tuesday regarding C-1B, Light Industrial/ Heavy Commercial, will eliminate the minimum lot size to address this problem in that district.
4. A change in ownership does not affect the lot's protected non-conforming status.
5. County policy should allow lots platted within a subdivision to be developed according to the zoning criteria that was in place at the time of platting for the district in which the subdivision is located.
6. County policy should allow the combination of preexisting, non-conforming lots into larger lots to at least reduce the nonconformity, even if the successor larger lot does not meet the minimum size requirements for the zoning district in which it is located. For example, two one-acre, preexisting, non-conforming lots of record in AR-1 which don't meet the current three-acre requirement could, in fact, combine the two one-acre lots. They could still combine and develop without problem.

Mr. Galloway said he wanted to review these policies with the Board, in terms of how the policy would be implemented and how we would enforce the issue of non-conforming lots of record and subsequent rights to develop on those lots, so that commissioners would realize how this is playing out in Community Development as Staff have to deal with these issues as they arise. Mr. Galloway advised they tried to be reasonable but everyone must recognize that lot lines have legal significance when they are platted. Rules should not, all of a sudden, change for a property in development. They should be governed by the rules as they were when they developed the property. When new design criteria are implemented, developments in progress are exempted from having to meet the new criteria.

2. **Amendment to FLA-07-04: Lift from the table** – Reginald and Carol Mangham, Owner – Markland Management, LLC, Agent – 163 Calhoun Road – from Agricultural to Low-Density Residential.

Mr. Taylor recommended leaving this amendment on the table. The applicant has stated he is looking to change the scope of the project by splitting a lot, which would probably mean that, because of the change to two lots with a great deal of acreage, the zoning might actually fall within

the requirements of the Future Land Use Map and not require an amendment at all. Some discussion followed about the number of times an application can be tabled. Mr. Galloway advised Commissioner Goss that the applicant was entitled to one tabling as a matter of right. Commissioner Goss felt the request to table could be used as a delay tactic in an effort to diffuse opposition to the request. Commissioners can, however, not lift it from the table and the application will continue until the next meeting unless it is withdrawn by the applicant. It was noted by Commissioner Flowers-Taylor that eight people had signed to speak on this petition.

*Motion to lift from the table Amendment to FLA-07-04 by Commissioner Goss, seconded by Commissioner Flowers-Taylor, failed by a vote of 2-3 with Commissioners McDaniel, Freeman and Phillips voting in opposition.*

Citizens in attendance were advised of the Board's action on this matter. Mr. Taylor noted the application would probably just go away because the Future Land Use Map amendment would not be necessary if all the applicant wanted to do was to just split the property into two lots. As a result of this change, this will most likely not continue to be a project.

- 3. Amendment to FLA-07-05:** Jackie Perkins, Owner – 2303, 2305 and 2307 Williamson Road (3.76 acres located in Land Lot 52 of the 2<sup>nd</sup> Land District) – from Low-Density Residential to Commercial.

Mr. Taylor said the applicant initiated a request to allow for the amendment of the Spalding County Future Land Use Map and the Comprehensive Plan at 2303, 2305 and 2307 Williamson Road from low density residential to commercial. The applicant proposes to eventually rezone the subject property to a commercial category. The land use amendment and potential rezoning requests are for speculative purposes and are not in conjunction with a specific development plan. Staff recommends denial of the request. The Planning Commission recommends approval of the request.

Mr. Taylor responded to questions and displayed the overhead site map, identifying this tract and surrounding properties. The property has had a commercial use before but never carried a commercial zoning designation. Perhaps it was under the old M-1 zoning which translated into AR-1 with the implementation of the Spalding County Unified Development Ordinance. Mr. Galloway noted that when the M-1 designation transferred, they removed commercial classification. The property is near the Savannah Park subdivision being developed by Mr. Greg Pruitt. There is no commercial property below the railroad track on Williamson Road, but from the railroad track back toward town is entirely industrial and/or commercial. The Future Land Use Map designates the immediate area as residential.

Dick Slade, Realtor, 415 Country Club Drive, Griffin, Georgia

Mr. Perkins is not a real estate investor, noted Mr. Slade. He owns just his home and this property which he bought 20 years ago. He is recently retired and now wants to sell this tract. The property is shown on the land use map as residential, but it was anything but today when he waited a very long time for rail cars to move across the road. He could not believe anyone would want to build a residence there with a railroad behind it. There is no sewer there and 200' deep well. The property is ideal for use as light commercial and that scenario would better facilitate his retirement with this sale. A shopping center is going in nearby on the same side of road just inside the City limits. This 3.7 acres needs to be something other than residential given the changing nature of the area. The property at Oak Grove Road and Williamson Road is in the City in a location where the County was negotiating with Mr. Pruitt to get larger houses in exchange for better access through the County for the Savannah Park Subdivision. The Pruitt development will proceed within the City and they have worked out access with GDOT, so the County will not be involved in the access issue. Consequently, folks on Oak Grove Road are about to have neighbors at about 8 units to the acre in 1100 square foot dwellings.

Jackie Perkins, 1667 West Poplar Street, Griffin, Georgia

Mr. Perkins owns the property. St. Regis Paper Company operated a commercial business at this location from 1958 to 1986 when he purchased it. He felt he might put a business there at the time but put that plan on the back burner as his career changed direction. He is now ready to retire and will not develop it himself. He would like to see it be allowed as a commercial property as it was when he purchased it. This would provide him with a better resale value and is really better suited to the property. Commercial zoning is spotted throughout area, and it is evident to him that it would tend to develop that way with a railroad track right behind it. Mr. Slade will try to sell it for him and a commercial designation would be more profitable and provide a higher and better use. He was never notified that it was no longer zoned commercial whenever that zoning designation changed. He desires just light commercial but has not specific plan for development. When he gets a potential buyer, that buyer can put his plan forth for rezoning and submit an application for same at that time.

Chairman Freeman asked if the Board could go ahead and approve not only the Future Land Use Map amendment but a rezoning application, as well, since he remembered well the commercial business that had been located there. Mr. Galloway said an application for such had not been filed, and any such petition would have to comply with zoning procedures as far as advertising, notice requirements and notice to neighboring properties as required by state law. Those have not been done, so the Board could

not consider such a rezoning request tonight. Mr. Perkins must return with an application to rezone in order to begin that process. The Future Land Use Map amendment process is a precursor to rezoning. It is merely step one in the procedure.

Chairman Freeman said he understood from Mr. Taylor that, without the rezoning, Mr. Perkins could not obtain a commercial appraisal on the property. Some discussion followed, and Mr. Slade, a real estate agent and commercial appraiser, advised Mr. Perkins could indeed get a commercial appraisal whenever he desired. It was explained to Mr. Perkins that, if approved, this was merely an amendment to the Future Land Use Map and a rezoning request would have to follow for the specific development planned by the new owner in the future.

Commissioner Flowers-Taylor was concerned with the proposed shopping center and other commercial concerns near what will be a village node, and this application would only add more curb cuts. Mr. Taylor confirmed the Village Node would be slightly south at Rover-Zetella Road and Highway 362. Chairman Freeman said the railroad didn't go all the way to the Village Node but rather used the area behind Mr. Perkins' property for turnarounds. It is, in fact, a busy piece of track for that reason.

Commissioner McDaniel supports the Future Land Use Map and doesn't favor spot changing, but this is really close in proximity to other commercial and industrial uses. With the configuration of this property, Mr. Perkins couldn't subdivide for residential and might not even be able to get one house with setbacks, driveway, etc. The property is only 245' deep on the western boundary; it is a very sharply triangular shaped lot. Commercial will be difficult enough as well, but he felt that residential would be even more problematic. This situation leaves little for Mr. Perkins to do with his property; consequently, even though he is not normally in favor of changing the Future Land Use Map, he would support this application, particularly given the close proximity to industrial and commercial areas.

Commissioner Goss agreed the property's shape and proximity to the railroad was such that no resident would purchase the tract for a dwelling.

*Motion to approve Amendment to FLA-07-05 by Commissioner McDaniel, seconded by Commissioner Goss, carried by a vote of 4-1, with Commissioner Flowers-Taylor opposing.*

4. **Application #07-06Z:** Alan R. Mobley, Owner – 191 Bourbon Street (0.42 acre located in Land Lot 159 of the 3<sup>rd</sup> Land District) – requesting a rezoning from C-2, Manufacturing, to R-5, Single Family Residential.

*Motion to hear input for both Application #07-06Z and Application #07-06AZ, with a vote separately on each, was made by Commissioner Flowers-Taylor, seconded by Commissioner McDaniel, and carried by a vote of 5-0.*

Mr. Taylor said the applicant has requested approval from Spalding County to rezone the subject property from C-2, Manufacturing to R-5, Single Family Residential. The applicant intends to develop the two lots with single family residential dwellings. Staff recommends approval of the request. Staff also recommends that the County initiate rezoning all of the lots along Bourbon Street to R-5. The Planning Commission recommends approval, and they voted separately as well to recommend initiation of the residential zoning for the neighborhood. One acre is the minimum lot size for R-5 but lots of record are allowed if they are able to be served by sewer. Mr. Mobley, even if his request to rezone is successful, can't develop if the lots won't percolate, which is a determination that the Health Department will have to make. The houses now are non-conforming uses because, as was the case in many areas in this community, these lots all belonged to the mills at some point who had it rezoned to commercial. The County allowed homes to be built in that district, and there was no reason for either the residents or the mill to ever request a change. Without rezoning, any C-2 use, which is heavy industrial, could go on the property as long as a septic tank would perc on the lot. Commissioner Flowers-Taylor said some septic systems were actually in the front yards of these homes.

Mr. Taylor provided an overhead site map and answered questions during the extensive discussion. Mr. Taylor advised Chairman Freeman these lots were 450 feet from the North Hill Street intersection. An overlay for this redevelopment is between North Second Street and North Ninth Street, so this joint project with the City is for a sizable area.

Commissioner Flowers-Taylor said much work needed to be done along this corridor to Sun City. She had no problem with rezoning these lots to R-5 but felt he might have problems with lot sizes. Further discussion followed.

*Motion to approve 07-06Z was made by Commissioner Flowers-Taylor, seconded by Commissioner McDaniel, and carried by a vote of 5-0.*

*Staff was directed by a general consensus of the Board of Commissioners to initiate rezoning all of the lots along Bourbon Street to R-5. The City and County collectively are working on this redevelopment area.*

5. **Application #07-06AZ:** Alan R. Mobley, Owner – 193 Bourbon Street (0.39 acre located in Land Lot 159 of the 3<sup>rd</sup> Land District) – requesting a rezoning from C-2, Manufacturing, to R-5, Single Family Residential.

*Motion to approve 07-06AZ by Commissioner Flowers-Taylor, seconded by Commissioner McDaniel, carried by a vote of 5-0.*

6. **Amendment to UDO #A-07-04:** Appendix A – Section 502:Q – upgrade Roadway Classification Standards.

Public Works wanted to see an increase in base and topcoat requirements for heavy use portions of a subdivision i.e. entranceways, curb radii, and cul de sac turnarounds. The State will still require accel/decel lanes. Both Public Works and the Planning Commission recommend approval, as does Staff. This is not for full roadbeds noted Commissioner Flowers-Taylor but rather just for the heavy use portions of subdivision roadways.

*Motion to approve Amendment to UDO #A-07-04 by Commissioner McDaniel, seconded by Commissioner Flowers-Taylor, carried by a unanimous 5-0 vote.*

**D. Other Business:**

1. Consider approval of final plat of Birdie Acres Subdivision (Minor Subdivision) off Covington Road and Steele Road – 4 lots.

Chairman Freeman and Commissioner Goss stated they would like to see the Board review the concept of a minor subdivision and it’s requirements. It was noted the Board of Commissioners could review the criteria at a later date.

*Motion to approve the final plat of Birdie Acres Subdivision (Minor Subdivision) off Covington Road and Steele Road for 4 lots was made by Commissioner Flowers-Taylor, seconded by Commissioner McDaniel, and motion carried by a 5-0 vote.*

The applicant requesting final plat approval asked what would transpire if the buyer of one of the lots wanted to increase its size and whether or not he could make any such changes. Mr. Taylor advised the Board would need to see a revised final plat. This change, it was determined, would result in only three total lots, so it would not be considered a minor subdivision but rather just a lot split subdivision and would not need to meet the minor subdivision criteria. Therefore, the applicant will probably choose to not record the final plat approved tonight, change the layout and simply handle it at the office window without the necessity of coming back before the Board.

2. Consider approval of final plat of River Falls Subdivision off Locust Grove Road – 44 lots.

All departments have reviewed and recommended approval. Inspections are complete and bonds for road maintenance executed. Vegetation is established with a good stand of grass and, as a conservation subdivision, no treescape issues, sidewalks and other normally seen issues are part of the criteria.

*Motion to approve final plat of River Falls Subdivision off Locust Grove Road for 44 lots, made by Commissioner McDaniel and seconded by Commissioner Flowers-Taylor, carried 5-0.*

- b. Consider acceptance of Right-of-Way Deed for River Walker Court, River Falls Drive and Rivers Edge Lane located in River Falls Subdivision off Locust Grove Road.

*Motion to accept Right-of-Way Deed for River Walker Court, River Falls Drive and Rivers Edge Lane located in River Falls Subdivision off Locust Grove Road was made by Commissioner McDaniel, seconded by Commissioner Flowers-Taylor, carried by a vote of 5-0.*

**E. Adjournment.**

*Motion and second to adjourn at 7:30 pm by Commissioners McDaniel and Flowers-Taylor carried 5-0.*

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County Clerk

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Chairman

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