

ZONING PUBLIC HEARING

A public hearing was held by the Spalding County Board of Commissioners in Room 108 in the Courthouse Annex, Thursday, November 29, 2007 beginning at 6:00 o'clock p.m. with Commission Chairman Eddie Freeman presiding and Commissioners Gwen Flowers-Taylor (arriving late), Edward Goss, Jr., Johnie McDaniel and David Phillips present. Also present were Zoning Attorney Newton Galloway, Assistant to the County Manager Paul Van Haute, Community Development Director Chuck Taylor, Community Development Senior Planner Chad Jacobs, and Executive Secretary Teresa Watson.

A. Call to Order.

B. New Business:

1. **Application #07-34S:** Donna I. Taylor, Owner – 93 Wild Plum Road (15.3 acres located in Land Lot 242 of the 2nd Land District) – requesting a Special Exception to increase height of already approved telecommunication tower in the AR-1 District.

Applicant is requesting a special exception to construct a 500-foot communication tower at 93 Wild Plum Road. In 1999, the applicant was approved to erect a 250' tower on the subject property. The applicant did not construct the tower at that time but has recently been approved a permit to begin construction. It must be noted that Spalding County is planning to utilize this site as a part of the 800 MHz emergency response network.

Mr. Taylor advised that staff recommends conditional approval of the request with the following conditions:

- a. Applicant will provide verification of FAA approval for the new coordinates prior to application for this new tower building permit.
- b. The tower shall not exceed 495' in height.
- c. A radio frequency interference report from a certified RF engineer verifying that no radio interference from existing towers or produced from this site is possible.
- d. Confirmation that Georgia Power is relocating the power lines that are presently interfering with the guyed wires.

The Board of Appeals recommends conditional approval with the following conditions:

- a. Applicant will provide verification of FAA approval for the new coordinates prior to application for this new tower building permit.
- b. The tower shall not exceed 495' in height.
- c. The issue of the radio frequency needs to be resolved prior to the installation of the additional height. The applicant will work with the County and other regulatory agencies to ensure that at 495 feet, the tower will not interfere with other existing towers in the area.
- d. Confirmation that Georgia Power is relocating the power lines that are presently interfering with the guyed wires.

Assistant to the County Manager Paul Van Haute stated that while no contract has been executed for the County to lease tower space at this site, there have been negotiations and a memorandum of understanding exists. A contract will have to come before this Board for approval when appropriate.

Edward Powell, 89 Wild Plum Road, Griffin, Georgia

The tower property is positioned beside and behind his property. He has no objection with extending the height of the tower even though his property is in close proximity. He has had

good experiences with the property owners as neighbors to date, and they have carried through on all statements made to him.

Bill Taylor, agent for Donna Taylor, 1444 Dauset Drive, Griffin, Georgia

They have executed a signed agreement for Georgia Power to move the power line, and a copy has been provided in commissioners' packets, along with the FAA approval. Any detriment to an existing facility will have to be addressed by his engineer, but he assures him there should be no difficulty posed in that area. He appreciated the concerns of the Board, and noted that as mentioned in his meeting last week, he would lease space to the County for 1/3 of the current market rate for such an arrangement which is \$6500, so he would agree to lease the County tower space for \$3000. There will be a fenced in area with a burglar alarm system with motion detectors, and the entranceway will be fenced as well. Posted signs will be erected and keys provided to all appropriate personnel on an as-needed basis. There have been extensive construction costs already, with 55 yards of concrete poured and tower sections over and above requirements. The weighty tower sections will utilize 3/4" guy wire in construction and WKEU radio station only utilizes 1/4 " and he was certain the tower will withstand very stout winds. They currently have plans to go to 500 feet; Spalding County asked for additional height if possible and they can go to the top of the tower at no additional cost when extra height is constructed. His tower will also act as a backup for encrypted satellite communications among military systems and the EAS System for national emergency communications is being revamped with interruption code tones. NOAA weather access to this channel will also be supported, and WKEU may be a relay station for WSB because of this aspect. MA/Com is pleased with the tower and feel it supports more than what is needed. The first 300' of tower is current steel and will transition to a 6-phase tower for the extra 200 feet. Mr. Taylor concluded he will support anything the County desires to put on the tower.

Art White, 806 Natchez Court, Peachtree City, Georgia

As engineer for Mr. Taylor, he stated that detuning is done all the time. He services two dozen stations beside WKEU. The process is simple even though it sounds complex, and he can ensure no interference after completion. Cell tower personnel will ensure this is acceptable even more than the station. The tower will be detuned and grounded before anyone is put on it.

Commissioner McDaniel asked about, and Mr. Galloway recommended, keeping the conditions for approval in place as suggested even though the parties involved are comfortable they have now been satisfied.

Commissioners McDaniel and Phillips moved to approve Application #07-34S: Donna I. Taylor, Owner – 93 Wild Plum Road (15.3 acres located in Land Lot 242 of the 2nd Land District) – requesting a Special Exception to increase height of already approved telecommunication tower in the AR-1 District with conditions as follows, and motion carried by a vote of 4-0 (Commissioner Flowers-Taylor not present for vote).

- a. *Applicant will provide verification of FAA approval for the new coordinates prior to application for this new tower building permit.*
- b. *The tower shall not exceed 495' in height.*
- c. *A radio frequency interference report from a certified RF engineer verifying that no radio interference from existing towers or produced from this site is possible.*
- d. *Confirmation that Georgia Power is relocating the power lines that are presently interfering with the guyed wires.*

2. **Application #07-14Z:** Curtis C. Bland, Owner – 132 Johnson Road Extension (3.3 acres located in Land Lot 145 of the 2nd Land District) – requesting a rezoning from R-2, Single Family Residential, to AR-1, Agricultural and Residential.

Mr. Taylor advised the applicant has requested approval from the County to rezone the subject property from R-2 Single Family Residential to AR-1 Agricultural Residential. Applicant intends to keep horses on the subject property. The Board of Commissioners has already approved a change in the Future Land Use Map from Low Density Residential to Agricultural to support the rezoning. Staff recommends denial of the request for the following reasons:

- a. The rezoning would not increase the threat to the public health and safety; however, the precedent established for this area could affect the general welfare of the PDD zoned property.
- b. The average square footage per GIS for this immediate area is 2245. AR-1 zoning establishes a minimum house size of 1500 square feet.

The Planning Commission recommends approval of the application.

Mr. Taylor noted that planners have to anticipate worst-case scenarios. Mr. Bland is asking to put horses on the property. The next person to make a similar request could be planning for goats, chickens, etc., and agricultural uses can be very intensive. There are some restrictions but most agricultural uses could get very close to the Heron Bay homes and other homes in the area. Buffer areas with undeveloped green spaces would make this more palatable, and Mr. Taylor noted that many agricultural uses did not peacefully coexist with suburban areas.

Mr. Galloway noted that horses could be allowed in AR-2 with a larger house size classification more consistent with the average house size in the area, but this tract is only 4 acres and AR-2 has a minimum 5-acre lot size. Mr. Galloway said they could approve to AR-1 and condition only for horses if that was a more comfortable scenario. This area was zoned R-2 many years ago principally to keep out manufactured housing.

Curtis Bland, 132 Johnson Road Extension, Locust Grove

Mr. Bland, the applicant, has 3.3 acres and is the last lot on Johnson Road Extension. You can not see any of the larger, expensive homes in Heron Bay from his property. He has retired and cannot keep his horses anywhere else. There are some acres between him and Heron Bay and no one else should be building on this greenspace owned by Heron Bay. Commissioners referenced the site map.

Tim Wilkerson, 132 Johnson Road Extension, Locust Grove

Children from the Heron Bay development actually come and ride the horses, so he did not feel they would object. Neighbors who surround their property don't mind the horses and have voiced no objections.

Commissioner Phillips moved to approve Application #07-14Z: Curtis C. Bland, Owner – 132 Johnson Road Extension (3.3 acres located in Land Lot 145 of the 2nd Land District) – requesting a rezoning from R-2, Single Family Residential, to AR-1, Agricultural and Residential to AR-1 conditionally, with the only agricultural animals allowed being horses. Commissioner Flowers-Taylor seconded the motion.

Commissioner McDaniel said he voted against this issue earlier when it came up as a land use map amendment. The land use map change and zoning change is spotty at best, and while it won't hurt anything in the physical sense, he cautioned against putting in a piece here and there that dilute the original intent of the comprehensive plan and land use map. He did not want to see the land use tool lose its muscle and cease to provide any real community benefit.

Commissioner Flowers-Taylor asked if there was not previous discussion for changing the land use map for an encapsulated area to prevent further individuals coming in for such changes. She would like to see this explored by staff.

Commissioner McDaniel felt that Spalding County no longer needs AR-1 so perhaps they ought to separate out pure agricultural uses and do something different for equine uses. He asked if staff could look at that in the future, as well.

The consensus of the Board was to request that staff follow-up on areas in general where a blanket land use map change could be implemented and also to explore eliminating the AR-1 zoning classification. Mr. Galloway said only a few true agricultural uses still exist in the County, such as Rucks Dairy and Phil Ogletree's farm, as well as the Nixon farm, while there are others who are gentleman farmers, farmettes, suburban tracts, etc.

The AR-2 designation was created for larger acreage tracts, and it gives rural residential areas the capability for agricultural animals but excludes heavy agricultural uses which can have heavy runoff and environmental issues. Mr. Taylor urged caution before rushing headlong into the issue of deleting the AR-1 designation, citing the experiences of surrounding counties where they zoned out agricultural areas and are trying to bring them back now. Mr. Taylor will research these issues for further consideration.

Motion carried by a vote of 4-1 with Commissioner McDaniel opposing.

- 3. Amendment to FLA-07-09:** Anthony F. Johnson, Owner – Georgia State Route 16 West (6.71 acres located in Land Lot 12 of the 1st Land District) – from Agricultural to Commercial.

Mr. Taylor said this tract was near an intersection, but the County, in its land use planning, did not envision this to be a commercially designated intersection. The applicant has initiated a request to allow for the amendment of the Spalding County Future Land Use Map and the Comprehensive Plan on Newnan Road from Agricultural to Commercial in order to ask for a rezoning of the property to C-1B Commercial. The intent is to develop the property for a used

car lot, which was never the type development intended even for identified commercial crossroad areas within the County. The property was identified for commissioners on a site map. Both staff and the Planning Commission recommend denial of the request. Staff recommends denial primarily because it would create a negative land use strategy with respect to surrounding existing and future residential development. This area does not have a Department of Transportation proposed intersection improvement element to the request.

Jim Jones, 6898 Newnan Road, Griffin, Georgia

He purchased his property, about 250 yards from the property in question, about two weeks ago. He felt the used car lot would not increase the traffic, and many utilize Mr. Johnson's automotive service shop, and he felt it might be beneficial. He also has spoken with the owner of the six-acre tract nearby on the corner, and he saw no reason to oppose the request either.

David Brisendine, 125 Thomas Trail, Meansville, Georgia

He was present to assist Mr. Johnson in this application. He noted that existing use is one of the criteria to be considered, and Mr. Johnson already has one commercial use on the adjacent property (3 acres) in the automotive repair center. As far as suitability of the property to the requested use, it is well suited although not a part of the comprehensive plan. Mr. Johnson is merely asking to grow his existing commercial use. There are no anticipated threats to health and public safety. There will be a decel lane as required by the Department of Transportation. Traffic should not pose a problem. He and Mr. Johnson believe the value of the property will actually be increased and not devalued. The lot size is 6.7 acres but the entire tract is not buildable and the usable area is to the front of the lot along the roadway. The back is rather wet most of the time and not conducive to development.

Chairman Freeman moved to approve Amendment to FLA-07-09: Anthony F. Johnson, Owner – Georgia State Route 16 West (6.71 acres located in Land Lot 12 of the 1st Land District) – from Agricultural to Commercial, seconded by Commissioner Phillips.

Commissioner McDaniel said he found them again in the position of approving changes to the land use map on a tract by tract basis. This area is still pristine, and it's the County who can help keep it that way. This is not a matter of keeping something out, but rather of protecting and planning. To allow anything at all to go into an area, even at intersections, is not a good idea because sooner or later intersections fill and the commercial sprawl will fill in between.

Commissioner Flowers-Taylor reminded them of the situation on Highway 92 where a landowner wanted to put in a gas station/convenience store. He was in a similar situation, but the corner that was rezoned was shortly put up for sale after the successful rezoning. It is still for sale today and was rezoned probably two years ago. She doesn't want to see the same sprawl as has developed along Highway 19/41. To zone this commercial will make it harder to tell the next person no, and more will definitely come. She agrees that Highway 16 is still attractive although busy, and she doesn't want to adversely affect it. She urged the Board to not support this request.

Chairman Freeman stated other requests have arisen at intersections and this applicant already has a commercial use on an adjacent property. He saw no reason to oppose the application.

Commissioner McDaniel said a couple of junk cars appear to be positioned behind and he would not want to see any more of that happen with this tract.

Commissioner Flowers-Taylor reminded the Board of the overlay area at Highway 155 at Teamon Road where this same mentality and thought structure was applied. That same reasoning applies here, she maintained. The Board doesn't want to keep Mr. Johnson from pursuing his livelihood but planning is necessary, and another commercial crossroads area is very nearby. The intersection already designated commercial just a mile away is the better area to plan for commercial growth, and perhaps Mr. Johnson could put in a car lot after getting a special exception on the tract he already has zoned commercial.

Motion carried 3-2 with Commissioners McDaniel and Flowers-Taylor opposing.

4. **Application #07-15Z:** Anthony F. Johnson, Owner – David G. Brisendine, III, Agent – Georgia State Route 16 West (6.71 acres located in Land Lot 12 of the 1st Land District) – requesting a Rezoning from AR-1, Agricultural and Residential, to C-1B, Heavy Commercial.

The applicant has requested approval from Spalding County to rezone the property to C-1B for purpose of allowing the sale of used automobiles. Both staff and the Planning Commission recommend denial of the request.

Mr. Taylor read some of the allowed uses in the C-1B zoning classification at the request of Commissioner McDaniel who reminded the Board that all the allowed uses could be utilized on this property, not just a used car lot unless it were conditioned so.

Motion to approve Application #07-15Z: Anthony F. Johnson, Owner – David G. Brisendine, III, Agent – Georgia State Route 16 West (6.71 acres located in Land Lot 12 of the 1st Land District) – requesting a Rezoning from AR-1, Agricultural and Residential, to C-1B, Heavy Commercial was made by Chairman Freeman, conditioned to include both an accel and decel lane, seconded by Commissioner Phillips. Motion carried by a vote of 3-2 with Commissioners McDaniel and Flowers-Taylor opposing.

C. **Other Business:**

D. **Adjournment.**

Motion and second to adjourn by Commissioners McDaniel and Phillips carried 5-0 at 7:55 p.m.

County Clerk

Chairman