

ZONING PUBLIC HEARING

The Spalding County Board of Commissioners held their Zoning Public Hearing in Room 108 in the Courthouse Annex, Thursday, June 25, 2009, beginning at 6:16 o'clock p.m. with Commission Chairman Edward Goss, Jr. presiding and Commissioners Gwen Flowers-Taylor, Eddie L. Freeman, Bob Gilreath and David Phillips present. Also present were County Manager William P. Wilson, Jr., County Zoning Attorney Newton M. Galloway, and Yvonne Langford to record minutes.

A. Call to Order.

Note: Persons desiring to speak must sign in for the appropriate application. When called, speakers must state their names and addresses and direct all comments to the Board only. Time allotted to speakers will be five minutes each, unless otherwise noted at the Board's discretion. No speakers will be allowed to readdress the Board without express consent from a Board member. Outbursts from the audience will not be tolerated. Common courtesy and civility area expected at all times.

B. New Business:

1. **Application #09-06S:** Mercy Ogbo and Elechi Wordu, Owners – 415 Ashley Trail (0.471 acre located in Land Lot(s) 60 and 69 of the 3rd Land District) – requesting a Special Exception to allow a Family Personal Care-Home in the R-2 District.

Mr. Taylor advised the applicant proposes to provide a family personal care home at 415 Ashley Trail in the Wills Walk Subdivision. The property consists of approximately .471 acre. The applicant proposes to use the existing 2,568 square foot home on the property. A Special Exception for a Home Day Care Facility was approved in 2006. According to the owners, the home is no longer used for that business.

Staff found the application compliant with the newly implemented requirements and recommends conditional approval with the following stipulations:

- a. Proof of compliance with all DHR and other State regulations prior to application of business license.
- b. The Home may not be used for a Day Care Center while being occupied as a Personal Care Home.

The Board of appeals recommended denial of the request, and their recommendation to deny included one opinion that a subdivision is not appropriate for the location of a Personal Care Home.

Discussion followed. The number of the family currently residing in the dwelling, two, would count toward the allowed number for a Personal Care Home, which is nine.

Ms. Mercy Ogbo, 415 Ashley Trail, Griffin, Georgia

Ms. Ogbo has owned the property for five years, and she has experience in Personal Care Homes with a nursing skill set.

Commissioner Flowers-Taylor said a review of the Board of Appeals meeting did not reveal much in the way of why the application was denied. The fact that the applicant desires to live in the home makes a difference for her over the previous application considered in a subdivision where the applicant was not going to live in the home.

Commissioner Gilreath moved to deny Application #09-06S, seconded by Commissioner Freeman, and the motion failed by a 2-3 vote with Chairman Goss and Commissioners Flowers-Taylor and Phillips voting in opposition.

Commissioners Flowers-Taylor and Phillips moved and seconded a motion to approve Application #09-06S with the stated conditions as follows:

- a. *Proof of compliance with all DHR and other State regulations prior to application of business license.*
- b. *The Home may not be used for a Day Care Center while being occupied as a Personal Care Home.*

Motion carried by a vote of 3-2 with Commissioners Freeman and Gilreath opposing after discussion.

2. **Application #FLA-09-01:** William Larry Bowlin and Victoria K. Bowlin, Owners – Smith, Welch and Brittain, Agent – 525 Bethany Road (2.982 acres located in Land Lot 10 of the 2nd Land District) – from Rural Reserve to Industrial.

Mr. Taylor advised he would talk about the Future Land Use Map first and stated the applicant has requested an amendment to the Comprehensive Plan, Future Land Use Map from Rural Reserve to Industrial in order to allow for rezoning of the property for the purposes of operating an office for the family business on the subject property. The property is located in a rural/low density residential area. Neither the character of the area nor the existing and proposed infrastructure improvement support the requested use change. The subject property on Bethany Road is in an area proposed for large tract residential and agricultural development on the Future Land Use Map. The complexion of the area changes as one approaches Highway 362 when medium residential development is indicated. Largely, though, the character of the area is agricultural and estate in nature, so the request to change to industrial is not in keeping with the area's character. Both Staff and the Planning Commission recommend denial of the request.

Mr. Taylor continued the original proposal by the applicant included a request to rezone the property to industrial. The desire to have an office on the property and also keep/maintain equipment on site drives the industrial zoning. The applicant has stepped back from their original intentions a bit and no longer desire to keep and maintain industrial equipment, so the rezoning could be changed to a light commercial office and institutional use, and this would be in keeping with the intent to retain the character of the area. At the Planning Commission meeting, although they agreed with Staff that rezoning this area and changing the Land Use Map was not appropriate, they did direct Staff to draft an Ordinance that would allow for this type use on a limited basis in the AR districts. This is proposed to come before the Planning Commission at next month's meeting and then to the Board of Commissioners in August. The concept is for people to be able to set up a small office in agricultural areas that would not interfere with the agricultural nature of the area.

Mr. Galloway said he had some concerns there may be some confusion about the status of the application. The Planning Commission did direct Staff to look at the possibility of drafting an Ordinance text amendment to allow a minor office in agricultural districts. Mr. Welch, attorney for the Bowlins, sent a draft amendment by letter of June 15, and Mr. Galloway has issues with that draft. He has requested a meeting with them hopefully in mid-July, and currently he is not sure if they would want to proceed with this application or wait for the text amendment. In their absence from this meeting tonight, he has called Mr. Andy Welch but has received no response as yet. Should the application be denied, he has thirty days to file an appeal and protect his rights. The Board could also hold the rezoning and Future Land Use applications in order to see if the text amendment that is being developed would be desired. Out of fairness, Mr. Galloway was concerned that Mr. Welch and Mr. Bowlin may believe that, since the text amendment was suggested by the Planning Commission, this application would not see formal application at this point. The Board could request that Mr. Bowlin not be charged for a subsequent application, also. Further discussion followed.

Jon Collier, 359 Rawls Road (at corner with Bethany Road)

He knew Mr. Bowlin had been asked to remove his equipment, and the bulk of that equipment has been removed. Mr. Collier provided pictures and stated Mr. Bowlin is using the heavy equipment during late night hours, from midnight sometimes until 4 or 5 in the morning. His job has a fluctuating schedule and his hours are erratic; so, he does see the lowboys coming and going at night and in the early morning hours. Even if there should be a satisfactory amendment, he felt Mr. Bowlin would find a way to get around it, just as he has shown he could do with moving heavy equipment late at night. The lowboys have to take the Rawls Road exit and not the Bethany Road exit because of their size, and when they reach Bethany via Rawls Road they are almost always speeding, which is problematic with a full load. The speed limit there is 25 mph, and this could be dangerous for the school bus traffic on these roads, too. He has timed it on one occasion and found equipment going out every 10 or 15 minutes. He wondered about possible runoff contamination of the local well water supply with truck and equipment fuel, fluids and oils. Additionally, the unimproved roads don't fare well in this residential area with heavy truck traffic, so he felt his tax dollars would be used to maintain the roadways because of Mr. Bowlin, as well. The dust and "washboard" effect to the roads are tremendous. Mr. Collier questioned why Mr. Bowlin could not use his facility on Rover-Zetella Road.

Allan McCallum, 2831 Williamson Road, Griffin, Georgia

Mr. McCallum spoke in opposition of the rezoning and cited areas which he felt showed the rezoning incompatible with established criteria.

Motion/second to deny Application #FLA-09-01 by Commissioners Freeman and Gilreath carried by a 5-0 vote.

- 3. **Application #09-02Z:** William Larry Bowlin and Victoria K. Bowlin, Owners – Smith, Welch and Brittain, Agent – 525 Bethany Road (2.982 acres located in Land Lot 10 of the 2nd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to C-2, Manufacturing.

Application #09-02Z is rendered moot by the previous action to deny rezoning to Application #FLA-09-01.

- 4. **Amendment to UDO #A-09-05:** Article 4. General Procedures – amend to allow temporary housing after disaster.

Mr. Taylor reported this was contemplated in the aftermath of the last tornado activity this past spring. This Ordinance, if adopted, would allow someone temporary use of an RV or mobile home for the time it would take to repair/renovate the damaged dwelling. It will allow occupants to remain on-site during construction so they may keep an eye on the property while insurance companies and repair companies resolve the issues.

Motion/second to approve Amendment to UDO #A-09-05 by Commissioners Freeman and Phillips carried by a vote of 5-0.

C. Other Business:

- 1. Consider extension of amendment to Moratorium on the Receipt, Acceptance, Consideration and Approval of any Request to Change the Future Land Use Map to or from the Village Node (VN) Classification and the Receipt, Acceptance, Consideration and Approval of any Application Seeking Rezoning to the Village Node (VN) Zoning District.

Mr. Taylor stated this extension of the existing moratorium until December 31, 2009 would allow Staff to work on the final pieces of the puzzle before the moratorium is lifted. The TDRs (Transferrable Development Rights) that are so important to making VNs successful are still being drafted. This additional time would allow for completion of those aspects. This would also provide for time to actually see the VN plan on the ground at Sun City.

Motion/second to approve extension of the Moratorium on the Receipt, Acceptance, Consideration and Approval of any Request to Change the Future Land Use Map to or from the Village Node (VN) Classification and the Receipt, Acceptance, Consideration and Approval of any Application Seeking Rezoning to the Village Node (VN) Zoning District, by Commissioners Flowers-Taylor and Freeman, carried by a vote of 5-0.

Mr. Wilson requested that all commissioners sign the Closed Meeting affidavit before leaving tonight, and he needed to discuss a conflict that has arisen with the Airport Advisory Commission and LPA consultants on July 9. McIntosh Trail RDC has scheduled an important meeting regarding the upcoming merger on that date. Chairman Goss must be at the McIntosh Trail RDC meeting, so a possible date for July 16 was offered at the same time and place – 6 p.m. at the Welcome Center. Mr. Wilson will work with City Manager Kenny Smith to ensure City Commissioners can attend on that day, as well.

D. Adjournment.

Motion/second to adjourn at 7:00 p.m. by Commissioners Phillips and Freeman carried 5-0.

Chairman

County Clerk

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