

ZONING PUBLIC HEARING

The Spalding County Board of Commissioners held their Zoning Public Hearing in Room 108 in the Courthouse Annex, Thursday, August 27, 2009, beginning at 6:00 p.m. with Commission Chairman Edward Goss, Jr. presiding and Commissioners Eddie L. Freeman, Bob Gilreath and David Phillips present. Absent was Commissioner Gwen Flowers-Taylor. Also present were County Manager William P. Wilson, Jr., Assistant to the County Manager Paul Van Haute, and Teresa Watson to record minutes. Zoning Attorney Newton Galloway was absent.

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 are expected at all times.

B. New Business:

1. Application #09-10S: Georgia Banking Company, Owner – Ideal Homes of Griffin, Agent – 232 South Stewart Lane (1 acre located in Land Lot 54 of 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Taylor advised the applicant has requested approval from Spalding County to allow a manufactured home within an AR-1 zoning district at 232 South Stewart Lane in the Runaway Lakes Subdivision. More than half of this subdivision is comprised of manufactured homes, and the residents in the neighborhood are in favor of the application. The proposed home has approximately 1976 square feet of heated space and will feature a large deck built on the back facing the lake. Per the applicant, the total cost of the home will be approximately \$124,000. The home, as proposed, did not meet front-yard setback requirements as discussed at the Board of Appeals meeting but Tom Ross, the Ideal Homes representative, indicated that he will be able to meet the average of the setbacks of adjacent homes per infill dwelling requirements. Staff recommends approval of the request as did the Board of Appeals.

Tom Ross, 101 Moreland Road, Ideal Homes, Griffin, Georgia

He represented his client Irene Gibbs who desires to place the home on this lot. It is certainly compatible with the type of housing that is predominant in the area. He has met with Building Official Mac Gregory and they have determined that, with the final placement of the home, there will be no need for a variance on the setback.

Motion to approve Application #09-10S, by Commissioner Phillips, seconded by Commissioner Freeman, carried by a vote of 4-0.

2. Application #09-11S: Minerva Spalding Village, LP, Owner – David C. Kirk as attorney for Verizon Wireless of the East, L.P. – 1486 Teamon Road (4.0456 acres located in Land Lot 183 of the 3rd Land District) – requesting a Special Exception to allow a telecommunication tower in the AR-1 District.

Mr. Taylor reported the applicant requests a Special Exception to locate a 199-foot monopole telecommunications tower in the AR-1 District. This Marklar site property is located at 1486 Teamon Road in Land Lot 183 of the 3rd Land District of Spalding County, which is near the intersection of Teamon and Jordan Hill Roads. The property consists of 4.04 acres, more or less. The proposed location of the telecommunications tower is on 0.2296 acres, more or less, on the southern portion of the property. Spalding County has to follow the Telecommunications Act which gives relatively broad powers, and our law follows that law. Appendix I of the UDO governs location of cell towers. In review of the application, staff found that the requirements of this section are met. As part of the application, a request for a waiver of the landscaping requirements was made by the applicant, but this request was verbally withdrawn at the Board of Appeals meeting. Cell phone coverage in this area is not adequate for their systems currently and certainly will not support anticipated future growth. They have, in Mr. Taylor's opinion, demonstrated need. Staff recommends approval. One person, Marcia Norris, a local resident in the area requests that the cell tower be made to resemble a pine tree.

Wanda Folds, 1481 Teamon Road, Griffin, Georgia

This proposed tower is within ¼ mile of her home which was far too close in her opinion. She has researched the matter and felt that cell towers were detrimental to one's health. The tower will also, in her estimation, affect her property values because no one will want to purchase in close proximity to such a tower should she and her husband desire to sell in the future. She felt the tower in front of her mother- and father-in-law's home was a mitigating factor in both their deaths. There are plenty of other available locations not so close to her.

Keith Folds, 1481 Teamon Road, Griffin, Georgia

Mr. Folds echoed his wife's comments, citing the same health issues for his parents and others and what he perceives will be declining property values.

David Kirk, Troutman & Sanders, 600 Peachtree St., NE, Suite 5200, Atlanta, GA 30308

Mr. Kirk responded this proposed location is on the property of Minerva Spalding Village. Studies that suggest a lowering of property values have been inconclusive. As far as health effects, those studies have been inconclusive, as well. The FCC and FAA both have a considerable role in the regulation and operation of cell towers, and they certainly take all the factors into consideration. Their input naturally restricts location to a large degree. The FCC sets standards for the emission of radio frequencies, and those frequencies are the same as those ambient emissions of digital alarm clocks, fm radios, etc. These emissions are stringently regulated, and the carrier must meet those federal standards; further, local governments are not allowed to more stringently regulate those standards. Spacing of towers is not necessarily random but rather is specific for filling the gaps in the system, and this location is what has been recommended by the engineers, although Mr. Kirk stated he is sensitive to the issues mentioned by residents. Trees toward the front of the property will not be removed so as to provide a natural buffer area; only a few will be removed to provide for access, etc.

Motion to table Application #09-11S by Commissioner Gilreath died for lack of a second.

Motion to approve Application #09-11S by Commissioner Freeman was seconded by Commissioner Phillips.

Commissioner Phillips noted the Telecommunications Act gave the County very limited discretion in these type matters. This request is basically just a formality. Mr. Taylor advised that Zoning Attorney Newton Galloway, as noted in the meeting minutes, has opined in this same fashion. Much of this same discussion took place in the Board of Appeals meeting. Telecommunications companies will not arbitrarily be throwing up towers all over the county that will result in a proliferation; these towers are expensive and labor intensive and provide a specific need. There are a great many collocates that happen, but a brand new tower such as this one is a rarity. It does appear that this location and the rationale for it are well documented. Some discussion followed on the outbuildings and basic engineering that would be necessary for the location.

Motion carried by a vote of 3-1 with Commissioner Gilreath opposing.

3. Application #09-03Z: HSD Limited Partnership, Owner – 2051 North Expressway (7.868 acres located in Land Lot 101 of the 3rd Land District) – requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.

Mr. Taylor reported the applicant has requested approval from Spalding County to rezone the front portion of the property, currently zoned C-1 to C-1B for purposes of marketing the property to conducting motorcycle sales and service business. During the zoning review, it was noted the applicant also proposes the sale of used cars on the property. While the Planning Commission did not see a problem with that request overall, the members did require the applicant to meet with staff to go identify where the display and storage of the cars would take place. As of this writing, the applicant has indicated that he would contact this office to schedule a meeting, but has not done so. Staff recommends conditional approval of the request as follows:

- a) The trailer that is currently parked in front of the building shall be removed (the trailer has already been moved).
- b) All outside storage shall be located behind the building and shall be further screened
- c) Only that portion of the property currently zoned C-1 shall be rezoned to C-1B.

The Planning Commission recommends conditional approval with the following recommended stipulations:

- a) All vehicles, other than those for sale and any other storage, shall be located behind the building and shall be further screened.
- b) Only that portion of the property currently zoned C-1 shall be rezoned to C-1B.
- c) Mr. Gossett is required to meet with Mr. Taylor and work out the details regarding the location of parking and outside sales, prior to consideration by the Board of Commissioners.

Howard Gossett, III, 2018 Tallwood Place, Griffin, Georgia
Mr. Gossett said he did have someone applying to lease the building that would perform sales and service functions.

Motion to approve Application #09-03Z with following conditions by Staff and Planning Commission, by Commissioner Freeman, seconded by Commissioner Phillips, carried by a vote of 4-0.

- a) ***All outside storage shall be located behind the building and shall be further screened***
- b) ***Only that portion of the property currently zoned C-1 shall be rezoned to C-1B.***
- c) ***Vehicles for sale shall be limited to the area shown on the map dated August 20, 2009 as mutually agreed upon by Mr. Gossett and Community Development.***

4. Amendment to UDO #A-09-06: Article 5. AR-1 Agricultural and Residential – Section 503:B(6') and Article 6. AR-2 Rural Reserve – Section 603:B(6') – amend to add private airstrip as a Special Exception.

Mr. Taylor advised this was simply a housekeeping item that was brought to light a few months ago. There is a private airport under some power lines, one that was brought into existence without the required special exception approval as provided by our ordinance. This airstrip is right across the reservoir at the tip of Sam Sullivan Road. The Board of Appeals agrees with establishing a more refined definition, much in the same manner as the County did with the word bathrooms, etc. If approved, this particular use will have to come to the Board of Appeals for a variance where such problems as proximity to high-power lines can be addressed.

Motion/second to approve Amendment to UDO #A-09-06: Article 5. AR-1 Agricultural and Residential--Section 503:B(6') and Article 6. AR-2 Rural Reserve--Section 603:B(6') -- amend to add private airstrip as a Special Exception, by Commissioners Phillips and Freeman, carried 3-1 with Commissioner Gilreath opposing.

C. Other Business:

1. Consider, on second reading, Ordinance #2009-14 to amend the Spalding County Code of Ordinances, to provide for a change to Section 6-1057, Days When Sales Prohibited for Alcoholic Beverages for Consumption on Premises.

SPALDING COUNTY, GEORGIA
PART VI, LICENSING AND REGULATION
ORDINANCE NO. 2009-14

TO AMEND THE CODE OF SPALDING COUNTY, GEORGIA, TO PROVIDE FOR CHANGE TO PART VI LICENSING AND REGULATION, CHAPTER 1 BUSINESSES AND OCCUPATIONS, ARTICLE C. SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON PREMISES, SECTION 6-1057, DAYS WHEN SALES PROHIBITED, SUBSECTION (a).

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County have determined that it is in the best interests of the citizens of Spalding County, Georgia for certain amendments to be made to the Spalding County Code of Ordinances;

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Spalding County Code of Ordinances is of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

WHEREAS, it is the intention of the Board of Commissioners of Spalding County, Georgia to fully exercise its power to address such conditions pursuant to the authority granted to Spalding County, Georgia by O.C.G.A. §§ 41-2-7 through 41-2-17;

NOW THEREFORE, it shall be and is hereby RESOLVED by the Board of Commissioners of Spalding County, Georgia that the Spalding County, Georgia Code of Ordinances shall be and is hereby amended, as follows:

Section 1: Section 6-1057, Days When Sales Prohibited, in the aforementioned Part VI Licensing and Regulation, Chapter 1, Businesses and Occupations, shall be amended as follows:

Under subsection (a), Sub-paragraph (3) shall be struck in its entirety and inserted in lieu thereof the following:

“(3) On any day between 3:00 a.m. and 10:00 a.m. provided, however, that each licensee hereunder shall close his place of business by midnight each Saturday.”

Section 2: It is the intent of the Board of Commissioners of Spalding County, Georgia that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Spalding County, Georgia, and that the sections of this Ordinance be numbered to accomplish such intent.

Section 3: The within and foregoing amendments to the Spalding County, Georgia Code of Ordinances shall become effective immediately upon adoption of this Ordinance.

Section 4: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

Motion to approve, on second reading, Ordinance #2009-14 to amend the Spalding County Code of Ordinances, to provide for a change to Section 6-1057, Days When Sales Prohibited for Alcoholic Beverages for Consumption on Premises. by Commissioner Freeman, seconded by Commissioner Phillips, carried by a vote of 4-0.

D. Adjournment

Motion to adjourn at 6:55 p.m., by Commissioner Freeman, seconded by Commissioner Phillips, carried by a vote of 4-0.

Chairman
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County Clerk
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