

**BOARD OF COMMISSIONERS OF  
SPALDING COUNTY  
Zoning Public Hearing  
Thursday, July 22, 2010  
6:00 P. M.  
Room 108, Courthouse Annex**

The Spalding County Board of Commissioners held a Zoning Public Hearing on July 22, 2010 at 6:00 P. M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Eddie Goss Chairman, presiding; Gwen Flowers-Taylor; Eddie Freeman; Bob Gilreath, and David Phillips.

Also present were: Tim Whalen, Interim County Manager; Virginia Martin, Interim Assistant County Manager; Charles Taylor, Community Development Director; Newton Galloway, Attorney and Yvonne Langford to record the minutes.

Mr. Goss called the meeting to order.

**MOTION**

Ms. Flowers-Taylor made a motion to amend the agenda to include a presentation from Dan Reuter regarding the Atlanta Regional Commission Plan 2010 to be first on the agenda. The motion passed on a second by Mr. Freeman with Ms. Flowers-Taylor, Mr. Freeman, Mr. Gilreath, Mr. Goss and Mr. Phillips voting for the motion.

Mr. Goss gave the rules under which the meeting will be conducted.

**ATLANTA REGIONAL COMMISSION PLAN 2040**

Dan Reuter reported on the Atlanta Regional Commission Plan for 2040. He noted that Spalding County is in the Transportation Planning Area for the entire Atlanta Region. Spalding County is not in the Regional Commission but is in the Transportation Planning Area. Spalding County becomes involved when transportation and air quality are involved. They have to do a forecast for Spalding County for that process. Plan 2040 is in the process to update the regional plan for state rules and federal government rules. It produces the state plan and the regional transportation plan. The assessment document is on the web-site for anyone that is interested in the full report. It is anticipated that there will be a lot of growth in the Atlanta area. He noted that since November 2007, 234,000 jobs have been lost in the Atlanta region which has a huge impact. In the past couple of decades wages in the Atlanta region have not kept up with other places in the United States. Building permits have declined. Foreclosures have increased. It is anticipated that more people will be driving which will increase the demand for roads. Paying for transportation needs is becoming more difficult. It is more difficult to get things built. There are more hurdles and more bureaucracy; engineering issues and rights-of-way issues. He discussed how the revenue is being impacted negatively by the economy with lower sales tax and less revenue from motor fuel tax. There are some bright spots with some well established businesses headquartered in Atlanta: Coca Cola, UPS, Delta Airlines and Home Depot. A consistent source of water is a key issue in the region. 75% of the residents in the Atlanta region have no other options except driving a car. The Atlanta Regional Commission has to come up with strategies and approaches to help the population deal with things they care about. The next three or four months will be critical. They plan to return in the fall to discuss some of the strategies and determine whether or not they are going in the right direction.

**Application #10-06S:** Alma Clyde Head, Owner – American Tower, Agent – 128 Holly Grove Road (64.2191 acres, more or less, located in Land Lots 246 and 247 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow a telecommunication tower in the AR-1 District.

Mr. Taylor said in the last year there have been a number of tower applications with more companies wanting to locate in the county. The tower being proposed is the maximum height allowed at 150 feet. American Tower Company is building this tower for AT&T. There will be room for multiple carriers. The ordinance requirements for towers demand that there is need for the tower and that the construction of the tower fill an identified gap. They have met those requirements to the satisfaction of the staff and they meet the zoning criteria for the tower and the recommendation is for approval.

Mr. Taylor identified the location area of the tower. He showed the present coverage and the coverage after the tower is built.

Jay Sanders – American Tower – 1145 Ashton Trace – Atlanta, Georgia

Mr. Sanders was representing American Tower and AT&T Mobility. They are requesting a special exception for a 150 foot monopole tower. He discussed the need for a tower in this location due to poor coverage. He noted this was a wooded area and the tower would be almost entirely concealed.

#### **MOTION**

Mr. Phillips made a motion to approve Application #10-06S. The motion passed on a second by Mr. Freeman with Ms. Flowers-Taylor, Mr. Freeman, Mr. Gilreath, Mr. Goss and Mr. Phillips voting for the motion.

**Amendment to UDO #A-10-04: - Article 22".** TC Tri County Crossing Overlay District – add new section to UDO.

Mr. Taylor said the amendment is for an ordinance overlay district that will apply to a portion of the Tri-County LCI Area a plan for which was adopted by this board about a year and a half ago. Recently there has been some misinformation that has surfaced regarding the ordinance requirements. The roads on the regulating plan are proposed roads to try to avoid future traffic problems as land develops in the area. There is no requirement for the property owners to have to build roads. The construction of the roads will happen when the property is developed. The plan is to create a network of roads not individual roads on individual properties. The value of the property will not increase with the adoption of the ordinance. The value generally increases when you make improvements to the property. The county is not going to condemn property in order to build roads. The county does not intend to build roads on anyone's private property. The county is not going to four-lane Zebulon Road.

Mr. Taylor gave the history of the LCI study. He reviewed the plan and the goal of having a network of roads and the reason for the network. A lengthy discussion was held regarding how the plan will be implemented as the property in the overlay district is developed.

Ed McKinney – 653 – Chaney Drive – Atlanta, Georgia

Mr. McKinney said he is with AECON, the consulting group which has been working on the overlay plan. The critical issue is the connectivity of the network of roads. He discussed how this will develop in increments and the need to have a layout design for the roads so the roads will network over long term development of each tract.

Anthony Dukes – 306 South Pine Hill Road

Mr. Dukes said they have looked at the Atlanta Region as a whole and the congestion issues. Certain areas developed rapidly with the population boom and they missed the opportunities that still exist in this area to plan for connections of future roads. Some of the developers responsible for the Atlanta growth have a presence in Spalding County and are looking at other development sites. It is to the county's advantage, to the homeowner's advantage and to the citizen's advantage to take a pro active approach so this intersection will not "choke up" with traffic within the next few years.

Mitchell Perkins – 2084 McKinley Road – Atlanta

Mr. Perkins furnished the Commissioners with an informational map. He is in the real estate finance business. He developed the McDonald's, Rite Aid and the Flower's Bread Store. He is presently working on the Horton Home site. He purchased a sewer easement and extended the sewer across the By-Pass for future development. He reviewed some of his other developments. He has attended most of the meetings regarding this plan and expressed his concerns at the first meeting. He does not want the plan to burden the property owner's rights to develop their property to achieve maximum value. He has been a conditional proponent of the plan since the beginning and the condition was critical. He wanted specific language to guarantee future understanding for property owners. He requested specific language and it did not happen. He wanted language to guarantee that the landowner would have the right to align the street to maximize the site and maintain the connectivity of the plan. Any language less clear will only burden the land with conditions open to debate and conjecture by future planners and commissioners and it is unacceptable. He would never have spoken in favor of the plan had he known the language would never make the plan. He expressed concern regarding land being taken without compensation. He identified some land that cannot be developed with this plan. He further was concerned about people being affected that did not receive notice of the plan. He was concerned regarding the things he would not be able to do with his land if this is approved.

Betty Perkins – 7650 Rico Road – Palmetto, Georgia  
Mitchell Perkins spoke for her.

Dayne McKinney – 22340 Country Club Lane – Cornelius, North Carolina

Ms. McKinney's family owns 17 acres in this proposed overlay district. The connecting road from Moreland Road to Zebulon Road goes right through the middle of their property. The road system is not her source of concern. They would like to sell their property. The building restrictions are their concern. They are concerned that it is too expensive for a developer to put in the roads. The need does not exist for this overlay district. They need a large "buyer pool" to sell their land and this is going to diminish the "buyer pool". She asked for a no vote.

Maude Prescott – 1612 Zebulon Road

Dayne McKinney spoke for her. Ms. McKinney said that Ms. Prescott is concerned about the proposed light at Moreland and Clark Roads. This light will cause traffic to "stack" and make it difficult for her to get out of her driveway.

Ann Aaron – 1531 Etheridge Mill Road

Ms. Aaron said she is opposed to this overlay because it will decide how her property will be developed without input from the owners. She and her sister own approximately 87 acres. She expressed concern that this has been in the planning stages since 2008 and they have never been notified. The study shows a road splitting their property in half and shows they will only be able to develop only half of the property with the balance being nature trails and green space. They were also concerned that the expense would prohibit them from selling to a developer.

Lorice Harrison – 1515 Etheridge Mill Road

Ms. Harrison said she is Ms. Aaron's sister. She has the same concerns. If they want to build a lake they can't because there is a road that is supposed to go through the property. She was concerned that this was creating a burden for their children.

Joe Scott – 1614 Zebulon Road

Mr. Scott said his property is on the corner of Clark and Zebulon Roads. He has never been notified anything about the overlay. He learned through his neighbors. He sees the traffic congestion everyday. They need to put a right turn lane in front of McDonald's

now. Some of his other concerns have been addressed. He is concerned about accidents if the Moreland to Clark Road is put in across the By-Pass. He is opposed to this.

Tom Morgan – 8989 Highway 18 – Concord

Mr. Morgan said his wife is one of the landowners in the proposed overlay district. His concern is with this type overlay and the fact that it has to meet certain criteria that needs to be considered. He is concerned because there has been no traffic/accident study. There is no developer that has spoken on behalf of the plan. Courts look at reasons for the overlay and the burdens it places on the landowner. They also look at health, safety and moral issues. This is not a health or moral issue and there has been no traffic study to know about the safety issues. He is concerned because this is being done to reduce congestion and there may be no congestion.

Rhonda Morgan – 8989 Highway 18 – Concord

Ms. Morgan said she and other family members own approximately 17 acres behind Rite Aid and McDonalds with road frontage on the By-Pass as well as Highway 18. She expressed concern that if they try to develop the property in anyway the road that connects Clark Road with Moreland Road is right across her property will be expensive and they will not be able to afford to build the road. If the ordinance is passed their property will be completely useless. All that will be left is for them to pay property taxes.

Sallie Brown – 189 Eppinger Bridge Road – Concord.

She is Ms. Morgan's sister and one of the owners of the 17 acres. She spoke in opposition to the overlay district.

Kerry Godard – 523 Ivy Road

Mr. Godard said his family owns 37 acres between Highway 19 and the By-Pass. He has been a proponent of this plan from the beginning but as they get closer to approving this he thinks he feels it will be a disservice to put an ordinance over all the property telling them what they have to do with it. He is concerned that if the overlay is approved it will delay their ability to sell the property. He opposed the ordinance.

Mark Scudder – 401 Vineyard Road

Mr. Scudder spoke in opposition to the overlay district because he feels it will deprive the owners of their right to do with their property what they want. He does not feel it is appropriate for the County to try to make the people pay for the roads. He feels this is taking from the property owners.

Mr. Taylor spoke regarding the notification to the property owners in the area regarding the LCI study. He said the list of property owners were identified through the tax records.

Mr. Galloway said there is no legal requirement for notification for the LCI. The county complied with the publication requirements regarding adoption of the zoning ordinance. He reviewed the procedure the county uses to notify property owners of things that might impact their property.

Mr. Galloway said the county is in no way taking property from the property owners. In all of his time in working with the county the county has never used tax money to fund infrastructure on private property that is being developed for the first time. It is always a cost of development, whether it is a residential subdivision or whether it is a commercial development.

The County Commissioners and Mr. Galloway had a discussion regarding the responsibility of the government regarding action of the type under consideration with this ordinance.

Mr. Taylor said there is no requirement regarding the construction of any roads until the property is developed. If the property is never developed the roads will never have to be built. He reviewed the design criteria for the development and reconfirmed that the same uses they presently have for the use of the property remain in tact.

Mr. Galloway addressed Mr. Perkins comments regarding the wording that he requested. That wording is included in the ordinance. He identified the location of that wording and read that portion of the ordinance.

Discussion was held regarding the comments by Ms. Harrison that she would not be able to put a lake on her property if this was passed. Mr. Taylor said that Ms. Harrison's property is not in the overlay district. They can build a lake on their property. They are tied only to the current zoning on the property and can do anything that zoning allows.

Ms. Flowers-Taylor said planning for future growth and the impact the traffic will have is a responsibility that needs to be addressed before it happens. A turn lane at McDonalds will only be a "band-aid" and will not solve the problem. She addressed the problem that Mr. Perkins had with the wording to allow the property owners more flexibility with the location of the roads on their property.

Mr. Taylor addressed the issue of the connection points that are important but the way the owner places his roads to get to those connection points can be flexible. He identified the locations that are critical to have the desired connectivity.

Mr. Morgan was allowed to return to make additional comments. He addressed the issue regarding the property owners in the area. He said there are 34 property owners with some of them owning multiple sites. Of the 34, 19 were notified and 15 were never notified and of those 15 some were major land owners. He addressed the additional requirements that will be imposed with the implementation of this overlay ordinance and the hardship it will cause. He asked the County Commissioners to read the document carefully prior to approval. He noted that no one spoke in favor of this ordinance.

Ms. Flowers-Taylor said she appreciates what Mr. Morgan is saying. She noted that there were two ladies present that spoke out of fear that their property was going to taken because their property was in the study area, not because their property was in the overlay area. She does not agree with using fear to get people to agree with the majority. She is not accusing anyone of creating that fear but that is the message she received from them. They were not informed. They were afraid they were going to lose the use of their property because they thought they were going to be inside the actual overlay area, not the study area. She feels there was some misinformation.

Ms. Flowers-Taylor addressed the issue of the time and effort that had gone into the study. There have been educated people who do transportation and planning throughout the state and the southeast that have looked at traffic patterns and population growth. The Commissioners did not just take the position that people are going to drive fast and there are going to be a few more cars. She does not want the public to think they just jumped up and decided this was a thing to do. She is not completely closed off from suggestions from others but basically the only thing she has heard tonight is, "just don't do it". There have been no a suggestions for something different. Nobody is trying to take someone's land.

Mr. Galloway addressed the issue regarding the notification to the landowners or stakeholders regarding this action. There were two steps to the process. The process of the LCI Study began in September 2008. There is a list of people that received notices in 2008 which is a different list than the ordinance list. He reviewed the process that was used to continue to notify people that had indicated they were interested in attending the

meetings dealing with the LCI Study. The notification regarding the text amendment was treated as every other text amendment. There is no rezoning of property. This action deals with a general application ordinance and there is no requirement to notice particular property owners. State law and the Spalding County Ordinance require a notice in the paper for both the Planning Commission meeting and the Board of Commissioner's meeting.

Mr. Phillips asked Mr. Perkins and Mr. Godard if they were more comfortable with the ordinance since they have been informed of the wording in the document.

Mr. Perkins said that the term "network grid" identifies a larger area that he perceived. He needs language that he and his family are comfortable with no matter who is involved in interpreting the document. He discussed the term "grid network" which made him uncomfortable. That is not defined in the plan and has just recently been inserted in the plan. Discussion was held and it was determined that the word could be eliminated and would not change the document.

Mr. Godard said he feels somewhat better but does not understand why a document is being created that is going to require the property owners to apply for a variance when all the county wants is a road pattern.

Ms. Flowers-Taylor addressed the need to develop areas for people to shop in the southern part of the county and they would like to plan for the type development the will bring orderly growth.

**MOTION**

Ms. Flowers-Taylor made a motion to approve, on first reading, Amendment to UDO #A-10-04 Article 22. – Tri County Crossing Overlay district and add new section to UDO with the change to remove grid from the above mentioned text on page 13 where it states "grid network". The motion passed on a second by Mr. Gilreath with Ms. Flowers-Taylor, Mr. Freeman, Mr. Gilreath, Mr. Goss and Mr. Phillips voting for the motion.

**ADJOURN**

The meeting was adjourned on a motion by Mr. Freeman and a second by Mr. Gilreath with Ms. Flowers-Taylor, Mr. Freeman, Mr. Gilreath, Mr. Goss and Mr. Phillips voting for the motion.

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Eddie Goss – Chairman

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Yvonne M. Langford - Recorder