

ZONING PUBLIC HEARING

The Spalding County Board of Commissioners held their Zoning Public Hearing in Room 108 in the Courthouse Annex, Thursday, April 21, 2011, beginning at 6:01 p.m. with Commission Chairman Eddie Freeman presiding and Commissioners Gwen Flowers-Taylor, Bob Gilreath, Chipper Gardner and Raymond Ray present. Also present were Deputy County Manager Virginia Beams, Community Development Director Chuck Taylor, Zoning Attorney Newton Galloway and Glinda Robertson to record the 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 #11-02S:** Jack J. Little and Cecilia D. Little, Owners – 238 Boynton Road (8.118 acres located in Land Lot 171 of the 3rd Land District) – requesting a Special Exception to allow a manufactured home for certified medical hardship in the AR-1 District.

Chuck Taylor stated Mr. Little is asking for a special exception to use a manufactured home that is already located on the property, for a medical hardship. There was a letter in the packet from the applicant's physician's assistant. The home is already located on the property because the original approval for this hardship was in 1994. That person has since passed away. Mr. Little's request is now for a different person.

Mr. Taylor further stated that staff has found this request does meet the criteria for granting special exception. They recommend approval. The Board of Appeals recommends conditional approval. They are requesting a note signed by a physician and that the manufactured home be removed within 30-days of the hardship no longer existing.

Ms. Taylor asked when the previous hardship ended. Mr. Taylor stated the previous applicant passed away in 2000. Mr. Ray pointed out the letter from the physician's assistant is not dated. He asked that a date be added to the letter.

Ms. Taylor asked Mr. Little if he was aware when the previous special exception expired that he was supposed to remove the mobile home from the property. He stated he was aware of this. Ms. Taylor asked him why it has been four years and the mobile home is still there. He simply stated they had been down lots of roads and it was just never taken care of.

Mr. Freeman asked Mr. Little if anyone ever told him he did not need to get a letter from the doctor to keep the mobile home on the property. He stated Mr. Goss (the previous board chairman) told him he could leave the mobile home on the property.

Mr. Gilreath asked Mr. Little how it came about that Mr. Goss told him he did not have to remove the mobile home from the property. Mr. Little stated they just had a conversation when Mr. Goss came out to visit him.

Ms. Taylor stated there is everything wrong with everything that Mr. Little has said. She told Mr. Little that he knew he was supposed to remove the mobile home. She further stated the county has rules so that people don't take advantage of situations. Secondly, Ms. Taylor stated that Mr. Goss did not have the authority to allow Mr. Little to continue to keep his mobile home on this property. She has always had a problem that once these special exceptions have expiration conditions that no one is

checking to make sure the rules are followed. Ms. Taylor stated based on what she has heard she has no reason to believe Mr. Little will follow the rules if granted approval when this hardship ends. She does not believe a precedent should be set and she cannot support this request.

Mr. Freeman stated he is upset that Mr. Goss allowed this to happen and he does not believe the current commission would let this happen again.

Mr. Gilreath asked for the item to be tabled until a note is received from a doctor. Ms. Taylor stated Mr. Goss is not present to say he violated his office if that is in fact what happened. She stated Mr. Little's comments should be considered hearsay because of this. She too believes there should be a letter from a doctor with a date.

Motion/second by Ray/Freeman to approve with the condition that Mr. Little provides a dated note from the doctor or the note be dated effective as of today and the home be removed within 30 days once the hardship no longer exist. It is also requested that Code Enforcement look at the residence once a year to ensure hardship is continuing and carried by a vote of 3-2. Commissioner Gilreath and Flowers-Taylor opposed.

2. **Application #11-03S:** Kimberly Gilbert Parker – 401 East McIntosh Road (0.72 acre located in Land Lot 132 of the 3rd Land District) – requesting a Special Exception to allow a Family Personal Care Home in the R-2 District.

Chuck Taylor stated this is a special exception for a personal care home. This property is at the corner of East McIntosh and Pineview Rd. The home is currently a 1250 square foot dwelling. As part of the proposal the home is to be expanded an additional 1300 square feet. Once the addition is made, the house could have up to nine residents provided it has three bathrooms. This application does meet the criteria for special exception with these additions. Staff recommends conditional approval.

Conditions are proof of compliance with all DHR and other state regulations prior to application for business license; building addition, including the required number of bathrooms shall be made prior to application for license; no more than 9 residents shall be allowed; and a driveway cut shall not be widened and no additional driveway shall be allowed. The Board of Appeals recommends denial.

Mr. Taylor stated the minimum square footage for a personal care home in this zoning district is 1500 square feet. Operation of the personal care home cannot begin until construction is complete.

Ms. Kimberly Parker was present to address the board's questions. Ms. Taylor asked if Ms. Parker is presently living in the house and she responded "no" as there are repairs being made on the house at this time. It is her plan to move back into this home. Ms. Parker stated her goal is not to have nine residents. Her goal is to have three to four people that require 24 hour supervision.

She is currently a licensed practical nurse and has been one since 1992. Ms. Taylor asked if Ms. Parker was licensed to administer medications. Ms. Parker stated she is. She further stated you do not have to have a license to administer medications already prescribed by doctors. She will be following orders from doctors. She will be keeping medication administrative records.

Ms. Parker stated her goal is not to hurt the neighborhood in any way. She cares about this neighborhood.

Mr. Taylor reiterated his office cannot issue a business license until all requirements of the personal care ordinance have been met including residency. Inspectors will be confirming this. She will also be subject to state inspections.

The following people spoke against this item:

Esther White – 1529 Pineview Rd.

Ms. White stated she does not want her neighborhood to be commercialized. There are older residents who would like to keep their neighborhood a quiet place.

Eldora Smith – 1526 Pineview Rd.

Ms. Smith's concern is similar. She believes the applicant should go to an area that has already been zoned commercial. This is not the first time someone has tried to put a personal care home in the neighborhood. They want to keep it residential.

Wayne T. Sims – 421 E. Northwood Dr.

Mr. Sims has been in the neighborhood for over 30 years. It is a nice neighborhood and he doesn't want it to change. It's not the place for a personal care home. He wants it to be kept residential.

Chester Milner – 1531 Pineview Dr.

Mr. Milner has also been in the neighborhood for about 30 years. He has concerns about the neighborhood remaining family friendly. He does not want the traffic a personal care home will create. He is also concerned about the parking. He has nothing against Ms. Parker.

Carolyn West – 431 E. Northwood Dr.

Ms. West stated a doctor does have to be involved in the care of these residents. She has been in the neighborhood for about 33 years. She does not want a business in her neighborhood. She further stated there are typically a lot of mental patients in these facilities. There are responsible homeowners in the neighborhood that do not want to see this personal care home in their neighborhood.

Ms. Taylor stated she has a problem with the applicant not currently living in the house. Mr. Galloway assured her the applicant has to live in the home before a business license will be issued. Mr. Gilreath stated he has a problem with the parking situation.

Ms. Taylor asked if this property is sold later on to someone else can they operate the house as a personal care home if they live there. Mr. Galloway stated this is tied to licensing. A license is personal to the applicant. There is not an absolute clear cut answer to Ms. Taylor's question. Mr. Galloway's opinion is that on something that requires a license of this nature, if they decide to move then whoever comes in afterwards would have to satisfy the licensing requirements.

Mr. Galloway is strongly recommending the board look at new DHR regulations on this subject.

Motion/second by Flowers-Taylor/Gilreath to approve application with stipulations of staff. The motion also included some type of fencing be placed on the property. Motion failed by a 2-3 vote. Commissioners Ray, Gardner, and Freeman opposed.

Motion/second by Freeman/Ray to deny application and carried by a vote of 3-2. Ms. Flowers-Taylor and Mr. Gilreath opposed.

- 3. Application #11-04S:** Patricia Neal, Owner – 159 Wilder Way (3.904 acres located in Land Lot 12 of the 2nd Land District) – requesting a Special Exception to allow a General Home Occupation, excluding public garage, repair garage and kennel, in the R-2 District.

Chuck Taylor stated this request is for a hair salon on Ms. Neal's property. He stated she does meet the requirements for a general home occupation. The Board of

Appeals did recommend approval. Parking is an issue that has come up. There is a proposal to have parking spaces that would face the property owner on the south side.

Mr. Taylor made a subsequent visit to the site. He believes the proposed site for parking may pose a problem. Mr. Taylor is recommending if the commissioners approve this request that parking be relocated to the backyard and closer to the actual framed structure that will be the hair salon. Staff recommendation is for approval with these recommendations.

The following people spoke in favor of this item:

Yvonne Durr – 167 Wilder Way

Ms. Durr stated she is the sister of the applicant and she is for this request. Her sister is just trying to make ends meet.

Sherry Owens – 167 Wilder Way

Ms. Owens doesn't see anything wrong with Ms. Neal's request. She lives in the subdivision. No cars will be on the street.

The following people spoke out against this item:

Mrs. Cheryl Hawthorne – 157 Wilder Way

Ms. Hawthorne lives right next door to the applicant. She is against this request because she lives in a quiet neighborhood. Ms. Hawthorne works during the week and likes to sleep in on Saturday. She believes this will bring a lot of traffic and noise to the neighborhood. She is concerned about trash being strewn and unknown people in the neighborhood. She can already hear noise from the home.

Mr. Garner Hawthorne – 157 Wilder Way

Mr. Hawthorne stated the proposed parking is on top of his drainage field for his septic system. He is also concerned with unknown people being in the neighborhood. Her business will offer an unobstructed view of his backyard. He will lose his privacy. He believes this should be in a downtown area somewhere. He is considerate of his neighbors and fears that Ms. Neal will not always be able to control her customers. Mr. Hawthorne is also concerned with how this will affect his property value.

Ms. Neal addressed the board at this time at the request of Ms. Taylor. Ms. Neal stated she does hair Wednesday through Saturday. She will be working from 3:00 p.m. to 6:00 p.m. with the exception of Saturday which would be 8:00 a.m. to noon.

Motion/second by Ray/Flowers-Taylor to approve home occupation as a hair salon and with modifications to the parking arrangements as requested by the Community Development office and carried by a vote of 5-0.

4. **Application #11-05S:** Teresa Marie Parker, Owner – Gail S. Arceneaux, Agent – 63 Ponderosa Road (2.06 acres located in Land Lot 167 of the 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Galloway stated this is not up for consideration tonight. This application came before the board back in February and was denied. By error, they were told they could re-file. A special exception is prohibited from being re-filed for a year after denial. If the desire of the board is to have this come back before the board, the board has the authority to do so. It was left on the agenda in order for the board to give direction.

Mr. Gilreath stated this should have been removed from the agenda. Mr. Galloway stated he felt a responsibility to Ms. Arceneaux due to the fact he had told her she had the authority to re-file. Mr. Galloway also received inquiries from some of the commissioners about the process. They allowed it to stay on the agenda for the full board to make a decision.

Motion/second by Flowers-Taylor/Gilreath not to reinstate the application at this time and carried by a vote of 3-2. Commissioner Freeman and Gardner voted to hear the request again.

5. **Application #FLA-11-01:** Randall Ralph Hendrix has requested a future land use map change from Commercial to Industrial for the following: North Expressway and Malier Road (10.69 acres) and North Expressway (6 acres) located in Land Lot(s) 85 and 108 of the 3rd Land District.

Chuck Taylor stated previous boards have always been in favor of cleaning up the 19-41 corridor. He sees this as an opportunity to make a change in the land use policy in this corridor in order to try and get this area cleaned up. This will give the opportunity to put conditions on these properties.

Mr. Taylor stated that if the commissioners feel changing the land use in that corridor to an industrial land use is not going to achieve that goal, they should not vote for the land use change. Staff is recommending approval of the change from commercial to industrial.

Motion/second by Flowers-Taylor/Gardner to approve future land map change and carried by a vote of 5-0.

6. **Application #11-01Z:** Randall Ralph Hendrix, Owner – North Expressway and Malier Road (10.69 acres located in Land Lot(s) 85 and 108 of the 3rd Land District) – requesting a rezoning from C-1, Highway Commercial; AR-1, Agricultural and Residential; and R-2, Single Family Residential to C-2, Manufacturing.

Mr. Hendrix is proposing to put a machine shop on this property. Staff is recommending approval of the rezoning of the property with the following conditions:

- A minimum 100' undisturbed buffer shall be provided along the western property line. Said buffer shall be supplemented natural screening of trees and shrubs at a planting height of 6' where the existing buffer is insufficient.
- The property owner shall work with county staff in removing all inoperative vehicles from the site. All other outside storage shall be located behind the principal building on the property, screened and otherwise kept in an orderly manner.
- The existing curb cut on U.S. 19-41 shall be shared between the two properties.
- No curb cut shall be allowed on Malier Road.
- Site lighting to be designed so as to not glare in adjacent residential areas or onto public streets.

Mr. Taylor stated that at their meeting in February, the Planning Commission recommended Conditional approval of the rezoning (5-0) with the same conditions as proposed by staff.

Mr. Gilreath stated that most of this corridor is in the city limits of Sunnyside and the county does not have the authority to step in and clean it up. Ms. Taylor stated the county can have control over restrictions on building and site maintenance.

The applicant is proposing to build the machine shop just south of the existing building.

Landscaping plans will be submitted along with building site plans.

Randall Hendrix – 1422 Mundy's Mill Rd. – Jonesboro

Mr. Hendrix stated he does not have enough room to grow his business in Jonesboro. He did not realize he had to have the land rezoned to add his shop when he first bought the property. He has ten employees that will move to this site. Mr. Hendrix hopes to develop this property in the future.

Mr. Taylor stated it would be advisable to approve with condition that a buffer is established, but that the detention pond and drainage facility may encroach into the buffer.

Motion/second by Flowers-Taylor/Gardner to approve with recommendations of staff with allowance for the detention pond to encroach into the buffer and carried by a vote of 5-0.

7. **Application #11-01AZ:** Randall Ralph Hendrix, Owner – North Expressway (6 acres located in Land Lot(s) 85 and 108 of the 3rd Land District) – requesting a rezoning from C-1B, Heavy Commercial to C-2, Manufacturing.

Motion/second by Flowers-Taylor/Gardner to approve with recommendations of staff and stipulation that the retention pond may encroach into the buffer and carried by a vote of 5-0.

8. **Application #FLA-11-02:** Inland Empire, Inc. has requested a future land use map change from Agriculture to Commercial for the following: 3458 Teamon Road (2.85 acres located in Land Lot(s) 113 and 114 of the 2nd Land District).

Chuck Taylor stated this is a request for the site located at the corner of Teamon Rd. and SR 155. The intended use of the property is for a drug store. This is one of the fastest growing areas in the county right now. In 2004 the current future land map was adopted. It was understood the county was going to grow; however the board wanted the county to grow in a meaningful way to preserve the rural feel of the county.

The planned growth areas are called village nodes. According to Mr. Taylor, by concentrating growth into smaller areas and not letting it sprawl, the county will save a lot of money. One area of savings will be transportation. The land use pattern that has been proposed for the county will save in the widening of roads. This is just one aspect of saving money.

Mr. Taylor stated this zoning request affects this policy because it is a foot in the door. There will be a commercial node where one had not been planned before. It will be along a corridor where there is no residential area planned around it, therefore, virtually everyone that will go to the store will be driving as opposed to the village node concept where people walk and ride bikes, etc.

Mr. Taylor continued by saying the county wants commercial development but this had to be very carefully planned. These types of requests are going to take away from the village nodes the county is trying to grow.

The following people spoke out in favor of this item:

Angie Boylan – 4456 Teamon Rd.

Ms. Boylan currently has her property for sale. She is under a hardship. They have 30 acres. She would like to be a part of the land use map change to change it back to what it was when she originally bought her property. She believes the only feasible use for her property is commercial.

Ms. Boylan stated that all the neighbors she has spoken with would like to see this area zoned commercial. She stated that everyone present at the meeting tonight would like to see the area rezoned to commercial.

Angie Ball – 179 Micki Court – Hampton

She purchased her property in June 2006. She stated this is the fastest growing quadrant in the county. It is ideal for commercial use. She has had previous contracts on her land but could not get the land rezoned. She further stated it has been predicted by 2020 the traffic counts will be 13,000 vehicles per day on Hwy. 155 and 3,000 per day on Teamon Rd. There was a study conducted previously paid for by the county and the report showed this property is not suitable for residential use and would best be used as commercial.

Georgia Jones – 3130 Hwy 155 – Loquist Grove (Spalding County)

Ms. Jones asked the board to amend the future land use map. She stated that amends means to improve. To improve means to make better. This will make the county better. There have been three businesses lost to Henry County. Ms. Jones stated that there is overwhelming support from residents in the area in support of this. She had a petition signed by local residents showing their approval of this application. Ms. Jones further stated this is a prime commercial location. She stated the board has approved applications like this in the past and she respectfully asks this application be approved.

The following person opposes this application:

Ed Johnson - 600 Hamil Rd.

Mr. Johnson asked the board if they were going to stick to the plan that was developed or are they going to start making exceptions. Mr. Johnson stated once you make one exception, that is now the rule. You can't give one property owner preference over another one. He asked the board to support the long term plan by denying this application.

Ms. Taylor stated she understands Ms. Boylan's situation; however she believes the only reason the village node has not developed as planned is because of the downturn in the economy and everything stopped developing. She stated the county needs to have smart growth but also help maintain the rural fiber that everyone says is unique about Spalding County. Ms. Taylor stated approving this just for the sake of someone getting a business license is not the way to go.

Mr. Freeman stated the county is going to end up not letting any commercial properties come in and that goes with the growth of the county. He further stated if the county starts zoning everything out, they are not accomplishing anything. The county wants quality growth and believes the board will do the right thing. Mr. Freeman stated he has never agreed with any property being on a state route as being anything other than a commercial piece of property.

Motion/second by Gardner/Freeman to approve and carried by a vote of 3-2. Commissioners Gilreath and Flowers-Taylor opposed.

Motion/second by Flowers-Taylor/Ray to amend the agenda to add a closed session to discuss pending litigation at this point and carried by a vote of 5-0.

Motion/second by Flowers-Taylor/Ray to go into closed session at 8:30 p.m. and carried by a vote of 5-0.

Motion/second by Flowers-Taylor to come out of closed session and go back into open session at 8:55 p.m. and carried by a vote of 5-0.

CLOSED MEETING AFFIDAVIT

[A copy of the affidavit must be filed with the minutes of the meeting]

STATE OF GEORGIA
COUNTY OF SPALDING

AFFIDAVIT OF CHAIRMAN

Members of the Spalding County Board of Commissioners, being duly sworn, states under oath that the following is true and accurate to the best of his/her knowledge and belief:

1.

The Spalding County Board of Commissioners met in a duly advertised meeting on April 21, 2011.

2.

During such meeting, the Board voted to go into closed session.

3.

The executive session was called to order at 8:30 p.m.

4.

The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law:

Yes Consultation with the county attorney, or other legal counsel, to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1);

No Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and _____(insert the citation to the legal authority making the tax matter confidential);

No Discussion of the future acquisition of real estate as provided by O.C.G.A. § 50-14-3(4);

No Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a county officer or employee as provided in O.C.G.A. § 50-14-3(6);

No Other (describe the exemption to the open meetings law): _____ as provided in _____(insert the citation to the legal authority exempting the topic).

This the 21st day of April 2011.

Spalding County Board of Commissioners

Sworn to and subscribed

Before me this 21st day of April 2011.

Chipper Gardner

Raymond Ray

Glinda P. Robertson
Notary Public

Eddie Freeman

Bob Gilreath

My commission expires:

Gwen Flowers-Taylor

Feb 23, 2014

9. Application #11-02Z: Inland Empire, Inc., Owner – 3458 Teamon Road (2.85 acres located in land Lot(s) 113 and 114 of the 2nd Land District) – requesting a rezoning from R-2, Single Family Residential to C-1, Highway Commercial.

Motion/second by Gardner/Flowers-Taylor to table for 30 days and carried by a vote of 5-0.

- 10. Amendment to UDO #A-10-09:** Appendix K. Landscape and Tree Preservation Ordinance – amend Section 106: Definitions and add new article: Tree Protection.

Chuck Taylor stated this amendment is about preserving nature in terms of large trees. This will allow someone to get credit on their landscaping requirement by preserving trees on the site. For every 5 inches of tree that you save on the ground, you get to save one inch of planting requirement. This ordinance applies to preserving existing trees.

Motion/second by Ray/Gardner to approve and carried by a vote of 5-0.

- 11. Amendment to UDO #A-11-01:** Article 4. General Procedures – Section 408: N – amend to define demolition and removal of a building.

Chuck Taylor stated this ordinance addresses debris and remnants left behind after a demolition takes place. This amended ordinance will require someone to clean up a site within 90 days.

Motion/second by Flowers-Taylor/Gardner to approve and carried by a vote of 5-0.

C. Other Business:

D. Adjournment.

Motion/second to adjourn by Gardner/Ray at 9:08 and carried by a vote of 5-0.

Chairman

County Clerk

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