



PUBLIC HEARING

A public hearing was held by the Spalding County Board of Commissioners in their office in the Courthouse Annex, Monday, December 16, 2002 beginning at 6:20 o'clock p.m. with Commissioners Michael Kendall, Martha McDaniel, Merrill Massengale, Johnnie McDaniel and Dick Morrow present. Also present were County Manager William Wilson, Assistant County Manager Michael Sabine, Zoning Attorney Newton Galloway and County Clerk Phyllis Doane.

A G E N D A

A. Call to order: Chairman Johnnie McDaniel

B. Special Exceptions:

1. **Application #02-35S:** Robert and Faye Stipes, Owners – 51 Wani Road (2 acres located in Land Lot 10 of the 2nd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Robert Stipes, owner, came forward and gave his address as 51 Wani Road. He said that they were requesting to replace their existing mobile home with a new doublewide mobile home.

There was no one else signed up to speak for or against this application.

Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Massengale Application #02-35S was unanimously approved by a vote of 5-0.

2. **Application #02-38S:** Michael and Mary Ann Dayton, Owners – Galaxy Homes, Agent – 105 Amanda Avenue (1.12 acres located in Land Lot 53 of the 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Michael Dayton, owner, came forward and gave his address as 1078 Brockdell Court, Norcross, GA. Mr. Dayton stated they had purchased some property three years ago and had been developing it over that time and plan to retire in Spalding County and place a mobile home on the property.

There was no one else signed up to speak for or against this application.

Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Massengale Application #02-38S was unanimously approved by a vote of 5-0.

3. **Application #02-39S:** Robert L. Stinchcomb, Owner – Chappell Mill Road (5 acres located in Land Lot 121 of the 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Robert L. Stinchcomb, owner, came forward and gave his address as 418 Chappell Mill Road. Mr. Stinchcomb stated this application was for his son. He gave his son these five acres and he would like to place a mobile home on this property adjacent to his home.

It was noted that this area was prevalent to manufactured housing.

There was no one else signed up to speak for or against this application.

*Upon motion by Commissioner Massengale, seconded by Commissioner Martha McDaniel **Application #02-39S** was unanimously approved by a vote of 5-0.*

4. **Application #02-42S:** Linda V. Colwell, Owner – AT&T Wireless Services, Agent – Jackson Road approximately 573.74 feet from the intersection of Locust Grove Road (0.23 acre located in Land Lot 77 of the 2nd Land District) – requesting a Special Exception to allow a Telecommunications Tower in the R-2 District.

Ms. Kimberly Adams, representative for AT&T Wireless, came forward and gave her address as 534 Main Street, Palmetto, GA. She said that AT&T Wireless proposes to construct a 150-foot monopole on a 50' x 50' tract of property in a wooded, undeveloped tract with a 10-foot wide landscape buffer around the compound on the north side of Jackson Road between North Walkers Mill Road and Locust Grove Road. There would be limited visibility from the road. All existing tree growth will be saved within that area. The purpose of this monopole is to provide FCC mandated wireless telephone service to northeast Spalding County and the well-traveled corridor between Griffin and I-75. Currently, all of AT&T sites in Spalding County are on existing towers owned by others. The search ring has shown that there are no existing towers in this area to provide this coverage. The monopole will be able to support three additional carriers for co-location. Both staff and Board of Zoning Appeals have recommended approval of this application.

Those speaking in opposition were:

Mr. Walter Cliff Futral came forward and gave his address as 5061 Jackson Road and stated he was against this tower. He addressed the adverse effect this tower would have on the surrounding property and the closeness of the tower to existing occupied homes.

Mr. Wadie Barkley came forward and gave his address as 2676 Locust Grove Road and stated he would be highly impacted from the construction of this tower. He said that his land is 150 ft. away from the site of the tower and he is concerned about his property value.

Mr. James Gault came forward and gave his address as 2676-A Locust Grove Road and stated he was against the tower. He too was concerned about his property value. He said that the site is too close to his house.

*Commissioner Massengale made a motion to deny **Application #02-42S**. The motion died for the lack of a second.*

Commissioner Morrow asked since there was opposition to where the tower site is going to be placed, why can't the tower be moved to another location. Ms. Adams stated that the closest house is over 200 ft away and the requirement for tower height from an existing residence is 150 ft. Ms. Adams stated they had looked at property more to the south but staff felt like it was too much residential and another lease option was the Bradford property but it was turned down by AT&T's real estate department because of potential historical effects. She said that the tower could be moved approximately 25 to 30 ft. south closer to Jackson Road away from the existing houses and could also put up a wood privacy fence around the site to help block the view from the site area.

*Upon motion by Commissioner Johnie McDaniel, seconded by Commissioner Martha McDaniel **Application #02-42S** was approved by a vote of 3-2 with Commissioners Morrow and Massengale voting against the motion.*

Chairman McDaniel stated that we have had a request to move item under Other Business up because a person who is contributing to that discussion has a commitment and therefore asked for a motion to amend the agenda.

Motion made by Commissioner Morrow to move Other Business up above Item C. Commissioner Martha McDaniel seconded the motion and motion was unanimously approved by a vote of 5-0.

D. Other Business:

1. Review status of proposed conservation subdivision covenants and consider future implementation steps.

Zoning Attorney Newton Galloway addressed the Board at this time stating this item addresses the work that was directed to us being the development of covenants for the long-term maintenance and care of greenspace and common areas within Conservation Subdivisions. The Board had authorized him to retain the services of Randy Lipschutz, who is an expert in covenant issues and he has prepared draft covenants for your review and perusal. Mr. Lipschutz is present to answer any questions the Board might have.

The Board members acknowledged that they were handed these drafts right before the meeting and had not had a chance to review them or to give any direction to Mr. Galloway nor Mr. Lipschutz concerning these covenants tonight.

These covenants are to do the following: (1) protect greenspace that is going to be allowed and required in conservation subdivisions by two means, one of which is covenants and the other is the creation of appropriate authority for the county to issue a special tax on the people who are beneficiaries on that greenspace for its care and upkeep.

With regard to the Reese development, Holiday Pass and the other development, Mr. Smith's Vineyard Ridge the covenants provide for care, maintenance and upkeep on common areas and common septic systems; however, with regard to Mr. Reese, the Board has to make a policy decision as Mr. Reese's development is viable under your conservation ordinance but only through the use and development of a community septic system. He said that copies of the covenant drafts were sent to both Mr. Reese and Mr. Smith for their review.

Mr. Galloway stated that a community septic system can be approved by EPD but it is up to you as a Board to decide if you want to proceed with this in order for us to proceed with appropriate restrictions and covenants developed along these guidelines to service this community, Holiday Pass on Tomochichi Road.

Assistant County Manager Sabine stated that regardless of the technology we have historically had a very poor record of maintaining communal facilities through homeowners associations in this County. We are optimistic that it will improve in the future; however, there is risk. If you permit the communal system there may be the risk that we will be called upon to intervene at some point to manage and operate that in the way that we do the greenspace.

The only decision the Board needs to make tonight is whether this Board, not binding the future Board that will take office in January, feels positive with these communal septic systems.

Mr. Reese was present and he said the proposed subdivision is 93 homes. On the septic system, when you go over 10,000 gallons per day it is no longer a DHR issue but a DNR issue. EPD takes over at this point. Mr. Reese stated that he has a subdivision that was approved one year ago in December under a conservation district condition and he has not moved the first piece of dirt. He said there were some flaws in the conservation ordinance, one being that the lots were too small to meet the state's standards of one-half acre for a private septic system and the county required a one-acre lot that did not meet the county health department's standards. He said that he has met with county staff, Mr. Moss and attorneys over thirty times in the last year and has spent more than \$100,000 in interest on this property. The only way this can work is with a community septic system and still preserve almost 50% greenspace. The septic system would be in the greenspace. He said this is a new system that absolutely has to be presented to EPD for approval because it would be over the 10,000 gallons per day limit. He said the covenants for your review would protect the county.

Zoning Attorney Newton Galloway stated that the covenants would provide for the following: the care and maintenance of the common area and common facilities and that would be done by homeowners association with rights and obligations that the people have. If the homeowner associations fails, disbands or becomes defunct the covenants would allow the county to move in, take responsibility, if necessary, and charge back to those persons who are the beneficiaries of that system. In addition to the covenants, draft an ordinance similar to the street lighting ordinance that would give the county the right to come in and maintain.

Commissioner Kendall commented that we made another developer indemnify us financially for some period of time in order to approve a common septic system on High Falls Road. He said that he was extremely hesitant to be putting the governmental apparatus in position of having to go out and start making folks pay for a failed septic system.

Mr. Reese said that there are mechanisms put in place for capital reserve for each lot. These mechanisms are assessments at the closing of each lot and also an impact fee that is charged to each builder on each lot. He said that he has several homeowner associations that have dues and he has never had a problem because there are a lot of new laws in place now.

Commissioner Kendall commented as long as we have got some way to guarantee there is some money available to take care of these problems and we do not have to worry about burdening the taxpayers, he is all for this.

Mr. Lipschutz addressed the Board and stated that one of the things that is addressed in the covenants is that you require the association to be under the Georgia Property Owners Association Act. Under this Act, the legislature has given you a mechanism where you have lien rights to collect from the homeowners the cost of maintaining those common areas through a septic system or just common greenspace. One of the things we have proposed in the covenants is an assignment of a limited right to the county if the homeowner's association does not proceed or does not fund or maintain that system the way it is suppose to. There is also a provision for a special tax district to collect monies to maintain common greenspace or common septic system. He addressed bankruptcy of homeowner associations.

Commissioner Morrow stated that we have two separate issues here. The draft on covenants address the conservation areas and the other issue is the community septic system. He said that he had reviewed the covenants and personally he feels that these are a little too heavy for common conservation areas. He said the community septic tank system is another whole issue. He really doesn't know all the ins and outs on it; however, if EPD is involved he assumes it is reasonably strict and if we can accommodate Mr. Kendall's financial concerns, then I think we have to give Mr. Reese the benefit of looking at this with an open mind.

Mr. Galloway said that the Board needs to give us direction to continue tweaking the covenants and bring back further revised covenants in the form of an ordinance and to make a decision whether or not you are willing to consider doing a common septic system assuming we have covenants in place that are appropriate and that satisfies your concerns.

Commissioner Martha McDaniel stated that Mr. Reese has been caught between a rock and a hard place, which none has been any of his fault, and she would be much in favor of having a special tax district in which Spalding County would in fact, control the monies coming in and be done through the Water and Sewerage Authority, which we already have in place.

Mr. Reese stated that sometimes a municipality will take ownership and the entire system is deeded over to the County. Another system is where we have a separate assessment for the sanitary sewer. Commissioner Kendall stated that he never has supported wastewater being a private enterprise. He said that a system needs to be operated from a governmental capacity.

Mr. Lipschutz stated that one of the things that has been created is a mechanism where you as a county collecting on a monthly basis from everyone of those individual homeowners, you get the association to remit to you on a monthly basis, which leads you to only one check.

County Manager Wilson stated that all of the covenants talked about tonight and the community septic tank system would adversely affect the 489 Agreement with the City of Griffin. He said that you are talking about another level of service that is going to have to be funded with tax dollars in county government. He said that he realizes that people want sewer to be the responsibility of the government, but we do not have the staff set up or the billing set up or any of the mechanisms in place to handle this.

There was a consensus on the Board that they were willing to consider the community septic system. The Board also felt that there should be two (2) completely separate sets of covenants.

Assistant County Manager Sabine commented that staff would get with the commissioners-elect to make sure their views are included in the opinion before going forward to the Planning Commission.

C. Rezoning Requests:

- 1. **Application #02-30Z: Lift from the table** - William R. King, Jr., A. M. Oshlag, and Gayle G. Taylor, Owners – James S. Murray, Jr., Agent – Highway 19/41 (10.87 acres located in Land Lot 101 of the 3rd Land District) – requesting a rezoning from R-3, Multiple Family, Conditional, to R-3, Multiple Family.

This item was not lifted from the table upon request of the owners.

- 2. **Application #02-33Z:** Hollis J. Hutchinson, Owner – Shepherd and Johnston, LLP, Agent – Calhoun Road (1.712 acres located in Land Lot 41 of the 3rd Land District) - requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Ms. Christine Livingston came forward and stated she was from Shepherd & Johnston and was representing the owner, Hollis Hutchinson. Mr. Hutchinson would like to make this a buildable, sellable lot, which is compatible with the surrounding neighborhood. He would like to build a 1250 SF home with carport and would be willing to put in a garage if that was a condition for rezoning.

Those signed up to speak in opposition were:

Mr. Robert Burke came forward and gave his address as 122 King Richard Drive. He said that he does not live in this area but was opposed to smaller homes. He asked that the square footage be raised.

Mr. Chris Bergen came forward and gave his address as 275 Rehoboth Church Road. He said he lives immediately south of the property for rezoning. His concern was the square footage and was opposed to R-5. He said that he would like to see the property rezoned to R-2 and would also like to request 30% brick or stucco on the outside. He said that the Board had just previously rezoned land in the area to R-2 and it would be an injustice to zone this property R-5.

*Motion made by Commissioner Morrow to approve **Application #02-23Z** to a R-2 rezoning with a single car garage. Commissioner Martha McDaniel and Commissioner Massengale seconded the motion simultaneously and motion was unanimously approved by a vote of 5-0.*

E. Adjournment.

Upon motion by Commissioner Johnie McDaniel, seconded by Commissioner Martha McDaniel the meeting was unanimously adjourned at 8:26 PM.

County Clerk

Chairman

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Please send comments to webmaster@spaldingcounty.com
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