



ZONING PUBLIC HEARING

The Board of Commissioners of Spalding County, Georgia, held their Zoning Public Hearing on Thursday, March 24, 2005 in their office in the Courthouse Annex in the City of Griffin, Spalding County, Georgia, beginning at 6:00 o'clock p.m. with Chairman Edward Goss presiding and Commissioners Cecil Davis, Johnie McDaniel, Gwen Flowers-Taylor and Eddie Freeman present. Also present were County Manager William Wilson, Zoning Attorney Newton Galloway and Executive Secretary Teresa Watson.

A. Call to order.

B. New Business:

- 1. Application #04-23Z: Lift from the table** - Deborah J. Puckett, Owner – Bill Singh and Bob Singh, Agent – 19 North McDonough Road (1.25 acres located in Land Lot(s) 15 and 16 of the 3rd Land District) – requesting a rezoning from R-2, Single Family Residential, to C-1, Highway Commercial.

A motion to lift from the table was made by Commissioner McDaniel, seconded by Commissioner Davis, and passed by a unanimous 5-0 vote.

Community Development Director Chuck Taylor referenced a letter from Ms. Puckett stating she wished to table the matter until June 2005. The option to table is once by right then only with a specific reason for a second time according to the new amendment to the ordinance. Ms. Puckett's application, however, was already in the system before the law was changed, and it was Mr. Taylor's opinion she was exempt from the new rule. Having said that, however, he noted that commissioners can act on an application even if a request to table is made, except for the first time by right. He continued, though, that commissioners could not address the issue tonight because signs were not posted on property 15 days prior to the hearing tonight as required. They could table the application until the next meeting which would give time for the property to be posted.

David Floyd, 35 North McDonough Road, Griffin, GA 30223

Mr. Floyd asked about and was explained the new rules regarding how many times Ms. Puckett can table this application. Mr. Taylor explained this was Ms. Puckett's second request to table but he reiterated he did not feel she could be compelled to follow the new rule since her application was submitted before the new rule was adopted. Her most recent letter requesting to table until June came after the last meeting in February at which the Board of Commissioners had tabled the application until the March meeting. The Board of Commissioners can act on the application at any time, as long as it was properly advertised, signed and posted. In essence, Ms. Puckett actually is governed by a previous lack of policy.

Commissioner Flowers-Taylor made a motion to table Application #04-23Z until the April 28, 2005 Zoning Public Hearing, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

Mr. Taylor responded he would notify Ms. Puckett of the Board's action and its intention to act on her application at the April meeting. The property will be legally advertised, signed and posted.

2. **Application #04-31Z:** RR Browning Enterprises, Inc. D/B/A Bo Ray Construction, Owner – 100 Teamon Circle (Lot 16 – 1.90 acres located in Land Lot 202 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Commissioner McDaniel made a motion to hear both Application #04-31Z and Application #04-32Z together as a single discussion but to execute a vote on each application separately, seconded by Commissioner Flowers-Taylor. Motion carried by a unanimous 5-0 vote.

Mr. Chuck Taylor detailed the background of this rezoning request at Hosanna Road near the sharp curve. The two lots are part of the Pine Lake Subdivision. This petition was reviewed at the last Zoning Public Hearing but took no action. The applicant is requesting to rezone in order to develop two homes in the Teamon Circle subdivision. At the Planning Commission the applicant indicated he may want to subdivide the lots further and create two additional lots on Hosanna Road. Staff recommended denial because of the house size in the area averages near 1500 square feet, but this average does not include the numerous mobile homes in the area. Planning Commission recommended conditional approval with the stipulations that houses be held at a minimum 1350 square feet and each have a two-car garage. If denied, the applicant could put two homes by right on these two properties with a minimum 1250 square foot house size, since these were grandfathered lots, with no conditions or amenities and could also request to put mobile homes back in by Special Exception.

Ray Browning, 128 Meadowvista Drive, Griffin, Georgia

He confirmed that as a result of being grandfathered, nothing was grandfathered beyond the minimum at the time of 1250 square feet except for R-3, which was 1000.

These two tracts were actually two-acre lots until road paving took some property along the road frontage which resulted in their being only 1.9 acre lots through no fault of his own. Looking from the rear of the lot from Hosanna Road, the property is low and topographically challenged. Mr. Browning doesn't think he can get four lots because of this topography and will be happy to acknowledge he will only create three lots. His proposed homes will be more than compatible with the average square footage in this area because many homes are less, there are numerous mobile homes, and many at or above this range don't have garages. He felt he would be enhancing the neighborhood with three 1350 square foot homes, each with double-car garages. For the two lots zoned R-5, he can subdivide as a matter of right and he wants to do so, except that he wants only to create three lots instead of four because of the topography, and he must request rezoning to subdivide the lots at all. The two lots on Teamon would retain the same frontage. The third one would be created and face Hosanna. The lots are deep and go from Teamon to Hosanna. He detailed the positioning on the overhead map for commissioners. All three lots would be in excess of one acre, and he would have to shape the third created lot carefully because the 100' setbacks and depths are important. He has never had a septic system fail and didn't plan on starting now; the two septic systems on the two tracts have been in place for quite some time but would be checked out by the Health Department.

Darrell E. Meyers, 139 Teamon Circle, Griffin, Georgia

Mr. Meyers and his wife have lived at this location for over 30 years. Everyone has two or more acres in his immediate area and all are happy with the residential/agricultural atmosphere. Mark Phillips spoke against this application at the last meeting but couldn't make the meeting tonight. He concurred with Mr. Phillips comments at the last meeting.

Commissioner McDaniel noted that everything on the south side of Teamon Circle backs up to R-1 zoning. The area is designated Low Density Residential on the Future Land Use Map which is one house per one acre. More than half of the residences identified in the area are smaller than what Mr. Browning is proposed for site-built homes. Mr. Browning noted again that mobile homes' square footages were not included in the statistics.

Mr. Taylor said that in Mr. Browning's case, grandfathering means platted lots for an approved subdivision are allowed homes with square footage requirements that were in place at the time the lots were created. People building on lots not part of a subdivision must adhere to the 1500 square foot minimums. Planning Commission recommended 1350 square feet minimums with a two-car garage on each.

Mr. Browning said the reason for subdividing is there are four substandard, uninhabited and uninhabitable dwellings 20+ years old that are infested and falling down. Three mobile homes were actually combined into one dwelling on one of the lots. The cost to remove them and clean before constructing new homes will be tremendous.

Commissioner Davis made a motion to approve Application #04-31Z with the following conditions, seconded by Commissioner McDaniel:

- a. **There shall be created no more than a maximum of three lots on the two combined tracts referenced in both Application #04-31Z and Application #04-32Z collectively.**
- b. **Homes shall each be a minimum of 1350 square feet heated with a two-car garage.**

Motion carried by a 3-2 vote with Commissioners Flowers-Taylor and Goss opposing.

3. **Application #04-32Z:** RR Browning Enterprises, Inc. D/B/A Bo Ray Construction, Owner – 106 Teamon Circle (Lot 17 – 1.90 acres located in Land Lot 202 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Commissioner Davis made a motion to approve Application #32-Z with the following conditions, as amended, and seconded (with amendment) by Commissioner McDaniel:

- a. **There shall be created no more than a maximum of three lots on the “two combined acres” (amended to read “two combined lots totaling four acres”) referenced in both Application #04-31Z and Application #04-32Z collectively.**
- b. **Homes shall each be a minimum of 1350 square feet heated with a two-car garage.**

Motion carried by a 3-2 vote with Commissioners Flowers-Taylor and Goss opposing.

4. **Application #05-01Z:** Roger D. Rainey, Owner – Alan R. Mobley, Agent – 160 Mimosa Road (3.87 acres located in Land Lot 43 of the 2nd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Community Development Director Chuck Taylor said the applicant is proposing to rezone property on Mimosa Road in order to subdivide for the construction of a new residence. Staff and Planning Commission recommend denial of request. The request is consistent to some degree with area but is not consistent with the Future Land Use Map and Comprehensive Plan. There is a real mix in the area that is characteristic of rural Spalding County.

Julian Mobley, speaking for Alan Mobley, 325 Birdie Road, Griffin, Georgia
There is currently a 1300 square foot home refurbished on this 3.87 acre tract. They would like to keep this home on a designated 1.87 acre lot and then use remaining 2-acre lot for only one 1750 square foot home, so there would be a final subdivision of two lots and not three as had been mentioned in the Planning Commission meeting as a concern. There is no intent to create three lots at all, but rather he will commit to build only one 1750 square foot home on the two acre tract remaining after subdividing out the 1.87 acres where the 1300 square foot home currently is positioned. There will, of course, be

a 30% masonry accent on front of the new 1750 square foot heated home, as well as a two-car garage. The frontage on the two-acre lot will be 263 feet, and 206 feet would be the frontage on the 1.87 acre lot.

The timing of this applicant was before passing the amendment that the Future Land Use Map and the Comprehensive Plan would have to be amended if inconsistent rezoning requests were approved by the Board. Strips on both sides of this road have been rezoned to R-2 from East Griffin all the way down Jackson Road to Arthur K. Bolton Parkway. This rezoning done many years ago prohibited mobile homes but allowed duplexes.

Commissioner McDaniel noted the Board of Commissioners needed to be careful in handling cases that challenge the Future Land Use Map and the Comprehensive Plan. One thought is that this proposal would definitely benefit Mimosa Road, but his greatest problem was its inconsistency with the Land Use Plan. He cautioned commissioners about going down the slippery slope of not supporting the Land Use Plan. While commissioners would not have to amend the Land Use Plan and Map based on the timing of submittal of this application, they still needed to proceed carefully. This case, while only for one house, is important.

Much discussion followed regarding the character of the immediate area, property development and land uses. Mr. Taylor noted that to allow this request would not preclude the Board's future adherence to keep the area as rural in nature and large-lotted as possible. He urged caution, though, against following a path to change the zoning regardless of what the County's future planning dictates, and he did not recommend doing so. Commissioners could approve the request tonight and also amend the Land Use Map and Comprehensive Plan, but he felt this would indicate intent to move the area in the direction of residential use.

He urged careful thought. The Land Use Map says there should be one unit per three acres. If the request is approved, it provides the ability to cut out another acre; if not, he would have to sell the house on a three-acre lot.

Commissioner McDaniel noted that from this point on, anything the Board approves that is not consistent with the Land Use Plan and Land Use Map will be precedent-setting. Setting a dangerous precedent means a more difficult decision later on requests that might carry more weight than the one tonight. To go against the Land Use Plan and Land Use Map will eventually destroy its effectiveness. Decisions such as this one are painful. The request is an innocuous one but the principle of going against the Land Use Plan and Map is much larger. On the practical side, it's a nice plan for a nice house on a beautiful lot. However, long-term ramifications can result from deviating from the Land Use Plan and Map. More discussion followed.

Commissioner Flowers-Taylor said she was sure Mr. Mobley intended to build a quality home, but she felt they should adhere to the basic footprint detailed in the County's Comprehensive Land Use Plan. This area is designated for agricultural use and she realized that each case should be considered on its own merit, but felt they should not veer from the directed path in this instance.

Zoning Attorney Newton Galloway said the test for rezoning is not whether or not the property will be an asset, but rather whether the zoning on the property will allow someone reasonable economic use of that property. Underlying the Land Use Map is the premise that future development will follow trends on the Land Use Map and will reflect the economic value of property shown on the Land Use Map. He cautioned that the Board will probably see more instances of the Land Use Map being circumvented through the use of conservation subdivisions in agricultural zoning districts. This will allow development in the path of least resistance without the need for rezoning and the avoidance of controversy. Therefore, they are more concerned with minimum square footages in AR-1. People are indeed watching the actions of the Board. He did note, however, that there was much less precedent on this rezoning request than could be encountered with others. As precedents go, this request was not a detrimental one but he also advised commissioners to proceed with caution.

Mr. Mobley said he viewed the Land Use Plan and Land Use Map as just that ... a plan from which you can deviate when need be. A request should be handled on its own merit. He noted also that the area already zoned R-2 as discussed earlier is in close proximity.

Chairman Goss, in whose district this property is positioned, said he realized the implication of going against the Land Use Plan and Map but felt the request would be beneficial for the area. With so few houses coming in at 1750 square feet on two acres, he could not see the reasoning for disallowing it.

Chairman Goss made a motion to approve Application #05-01Z with the following conditions, seconded by Commissioner Freeman:

- a. Each home shall have a two-car garage.
- b. Each home shall incorporate a minimum 30% masonry facade.
- c. All porches and/or stoops shall be finished in character with the homes' designs.

Because this application was filed before adoption of the requirement that the Comprehensive Land Use Plan and Land Use Map be amended for rezoning requests that are inconsistent with the Comprehensive Land Use Plan and Land Use Map, a successful vote to rezone tonight would not have to fulfill such a requirement. The motion carried by a 3-2 vote with Commissioners McDaniel and Flowers-Taylor opposing.

5. **Amendment to UDO #A-05-03: Lift from the table – R-3 Multiple Family District – Section 905:AA – amend required development standards for planned apartment communities.**

Commissioner McDaniel made a motion to lift Amendment to UDO #A-05-03 from the table, seconded by Commissioner Davis, which carried by a unanimous 5-0 vote.

Zoning Attorney Galloway said R-3 was the only Multiple Family classification and allows two principle uses: manufactured home developments and planned apartment communities. The ordinance diverges and stipulates specific requirement for each principle use. These amendments address some of the shortfalls of the previous standard with regard to landscape, design and architectural, and amenity criteria. These came about after the R-3 moratorium and resolution of the Greg Walker/Dr. King litigation. These provide an assurance of getting a better quality development. This amendment dramatically rewrites criteria for planned apartment communities. He detailed square footage, required recreation area, greenspace, maximum lot coverage footprints, landscaping requirements, architectural and design criteria, construction framing and exterior materials, amenities required and services, public water and sewer, that are required. He noted the moratorium on R-3 expires at the end of March, so if the Board chooses not to vote tonight they should extend the moratorium past the deadline.

General discussion followed. Commissioner Flowers-Taylor said she felt the square footage minimums for apartment homes should be more in line with the City of Griffin's requirements, which were slightly higher, in order to be consistent and provide continuity. She also felt to not include a provision for three bedroom apartment homes was exclusionary. Discussion followed.

Commissioner Davis made a motion to approve Amendment to UDO #A-05-03 with the following changes, seconded by Commissioner Freeman:

- a. **In Section 905: Development Standards for R-3 Districts, Item A: Minimum Heated Floor, For Apartment Homes: one bedroom units shall be 850 square foot minimum, two bedroom units shall remain at 1000 square foot minimum and a third option for three bedroom units shall be added with a stipulated 1250 square foot minimum.**
- b. **It shall be stipulated that no more than 10% of the total number of apartments in a development in R-3 District shall be three bedroom units.**

The motion carried by a unanimous 5-0 vote.

- 6. Amendment; UDO #A-05-04: Lift from the table – R-1, Single Family Residential Low Density – Section 703, R-1A Single Family Residential – Section 703A, R-2 Single Family Residential – Section 803 and R-4 Single Family Residential – Section 1003 – amendment to delete zero lot line dwelling developments and replace with Cluster Development.**

No motion was made to lift Amendment: UDO #A-05-04 from the table and it shall be carried over until the next scheduled Zoning Public Hearing on April 28, 2005.

C. Other Business:

There was none.

D. Adjournment.

A motion to adjourn by Commissioner Davis, seconded by Commissioner Freeman, carried by a unanimous 5-0 vote, and the meeting was adjourned at 8:07 p.m.

County Clerk

Chairman

.....