

SPALDING COUNTY PLANNING COMMISSION
Regular Meeting
January 30, 2007

The Spalding County Planning Commission held its regular monthly meeting on January 30, 2007 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Frank Chastain, Vice-chairman, presiding; Janet Bailey; Ed Johnson; David Traer and John Youmans.

Also present were: Charles Taylor, Community Development Director; Chad Jacobs, Senior Planner; Chad Torri, Attorney; Bruce Ballard, Griffin-Spalding County School System and Yvonne Langford to record the minutes.

Mr. Chastain called the meeting to order, introduced the members of the Planning Commission, and invited those present wanting to address the Board regarding any matter to sign in on the appropriate form.

ELECTION OF VICE-CHAIRMAN

Mr. Chastain called for nominations for a vice-chairman.

Mr. Traer nominated Mr. Chastain for vice-chairman. Mr. Youmans seconded the nomination. There were no other nominations.

Mr. Chastain was elected vice-chairman with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the nomination.

ELECTION OF CHAIRMAN

Ms. Bailey nominated Mr. Johnson for Chairman. Mr. Traer seconded the nomination. There were no other nominations.

Mr. Johnson was elected chairman with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the nomination.

Mr. Johnson assumed chairmanship of the meeting.

Amendment to FLA-07-01: Various Property Owners – Spalding County Board of Commissioners, Agent – Airport Road from the City Limits to Martin Luther King, Jr. Parkway (Highway 19/41 By Pass) – from Medium–Density Residential, Institutional/Public, Open Space Network and Commercial to Commercial.

Mr. Taylor said there was a public meeting regarding this amendment last week. The members were furnished up-dated information regarding this application with the information received at that meeting. After reviewing the request with the public

comments received, the staff recommends conditional approval. The conditions are as follows:

1. The corridor will be planned as commercial; however, an overlay zone shall be created to encourage office and institutional uses over highway commercial uses.
2. A traffic study shall be performed by Grice and Associates or another firm approved by the Board of Commissioners to address access and travel demand issues.

MOTION

Mr. Chastain made a motion to approve Amendment to FLA-07-01 with the conditions as recommended by staff. The motion passed on a second by Ms. Bailey with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

Amendment to FLA-07-02: Various Property Owners – Spalding County Board of Commissioners, Agent – Rivers Road from Rover-Zetella Road to Yarbrough Mill Road – from Low-Density Residential, Agricultural, Forestry, and Open Space Network to Low-Density Residential.

Michele Williams and Howard Williams – 301 Rivers Road

Ms. Williams said they live on Rivers Road. They have 100 feet of road frontage with a ½ to ¾ mile drive to the house. The property flags and they have 35 acres. They want to remain zoned AR-1. They chose to move to this area because it is primarily agricultural, and they want it to remain agricultural. They do not want to see low-density housing. They oppose the updating of the Future Land Use Map.

Mr. Williams said, according to the map, they show a portion of their property in the new zoning. What happens to the balance of their property? Even though he is opposing the change, he would still like to understand why a portion of his property is being changed and not all.

Mr. Taylor said the boundaries could be adjusted, but the areas not included are so large it would add a significant amount of land area to the zoning. It can be changed very easily.

Ken Bell – 193 Rivers Road

Mr. Bell said his property borders new West Williamson Road for about a half mile. He is against this change. He does not understand why they want to make the change. His property is mostly wooded and pasturelands. He does not want it changed. He has been impacted enough by Florida Rock without having been impacted by the County. As far as the maps they were shown in the workshop, it is not correct. There is still an area that they said would be developed into a subdivision but that is rock quarry property, and it has been stated numerous times that they do not want any more houses built around there on their property. He is opposed to the change and wants it left as it is.

Eddie and Mindy Morton – 88 Rivers Road

Mr. Morton said he is opposed to changing the map. The traffic flow is already too high, and they feel, if there are more homes, it will be worse. Behind him is a tract of land which has the highest potential for a subdivision, and they do not want people that close to them. He said they moved there to have acreage, and they do not want a lot of people around.

Ms. Morton identified the tract they were discussing.

Mr. Taylor went over the history of the consideration for this change in the Future Land Use Map. He said there is no overwhelming demand for growth in this area. The staff recommendation is for denial.

MOTION

Mr. Chastain made a motion to deny Amendment to FLA-07-02. The motion passed on a second by Mr. Traer with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

Application #06-12Z: Aslam S. Bana and Shelina A. Hussain, Owners – 4265 Newnan Road (3.05 acres located in Land Lots 20 and 30 of the 1st Land District) – requesting a rezoning from R-2 Single Family Residential, to C-1 Highway Commercial.

Jim Johnston – 1600 West Wesley Road – Atlanta

Mr. Johnston said he had helped Mr. Bana and Ms. Hussain prepare this application. This tract presently has a vacant home on the tract. It has been vacant for approximately four years. They have had discussions with DOT about the property. The ingress and egress are presently on Vaughn Road. There are plans for a decel lane on Highway 16 so there will not be danger on Highway 16. The problem with using the property as residential is the noise and traffic on Highway 16, and it is no longer suitable for residential. Across the road is commercial property. The entire area is moving in that direction. The proposed convenience store will renovate the entire property. It will be nice and will improve the intersection and improve the tax base. He requested approval of the change.

Dwayne Ford – 52 Vaughn Road

Mr. Ford said he lives adjacent to this property. At the last hearing, this intersection was the main discussion and the deaths and traffic accidents that occur there. It was decided that it would not be rezoned until DOT improved the intersection. He hears and sees those wrecks everyday. He would rather not have a commercial location next to him. He purchased it as residential. The decel lane is not going to change anything down the hill because you cannot see that far when you “top the hill”. You still have the car slowing in front of you, and the accidents are still going to occur. The only thing that is going to fix it so it will be useable is for the DOT project to be completed. The Board said they would reconsider it in a year but that it would be denied again if the project was not underway. He wants to be certain they do what they said they would do. There have been deaths at that intersection for the last four year. A 16 year old died at that intersection almost a year ago.

Sam Ali – 4289 Highway 16

Mr. Ali said Edward Bullard was going to speak regarding this application.

Edward Bullard – 124 North Hill Street

Mr. Bullard said at the Commissioners' meeting, when this was considered previously, it was noted that it was said this would be denied until the DOT had the opportunity to work on the grade on Highway 16. He gave copies of information to the members of the Planning Commission. There was information from the DOT which represented only the accidents where the State Patrol responded. The Sheriff's Department does not have a way to access records for a particular intersection. From February 2000 to June 2003, there were 34 accidents that were responded to by the State Patrol. That is more than one per month. There was no information regarding whether or not there was a fatality involved. There are a lot of fatalities at this intersection. Mr. Bullard had a petition signed by 87 people in the area in opposition. There is a station already there. It is a sparsely populated area, and there is no need for another such operation until the grade is fixed. In the area, there are a lot of streams and ponds, and there is concern regarding soil contamination. He had a video regarding a fatal accident showing how the visibility is such that a decel lane would not correct the visibility and sight distance. There will not be a visibility improvement until the grade is changed. To change this zoning would increase the problem at this intersection. His understanding is that the DOT is working at some point to get this intersection changed, but it is going to be tremendously expensive and there are other projects at the moment.

It was decided not to show the film.

Sam Ali – 4289 Highway 16

Mr. Ali said Mr. Bullard had said what he wanted to say. Whatever happens there he sees everyday for the last five or six years.

Wayne and Kelly Gasaway – 7 Briarcliff Road

Mr. Gasaway said he lives at 7 Briarcliff Road and owns three lots adjacent to this. He identified the location of his property. He identified an 18 foot drop from the center of Highway to the edge. You put a 9 foot decel lane from that side and with the drop, what happens? There will be more problems. The way property is going between his and the tract behind him that whole lot, to do the development, blocks off the natural drainage from DOT's under Highway 16 which comes under two of his lots. If there is development, it will back up all the DOT drainage to his property. This is a 35 mph speed zone. He has been involved in an accident there. He has lived there for 13 years. There should be nothing done there until DOT development of Highway 16 is corrected.

Jim Johnston

Mr. Johnston said they have known for sometime that the elevation on Highway 16 is dangerous and there have been numerous accidents. In discussions with DOT, they do have plans to cut the hill down and elevate the entire intersection so people don't come up over a hill to find people turning into Vaughn Road or into this property. He requested that consideration be given to approve it contingent on DOT approval or

improvement of the intersection. They do not want any accidents there. They plan to work with the DOT to make the improvements.

Discussion was held regarding the plans for the improvements by DOT and how long it might take to complete the project.

Mr. Taylor said it had been over a year since this application was considered previously. DOT is still in the design phase of the project. They are trying to also clear the environmental issues. The DOT is committed to making the improvements regardless of the outcome of this application. There is an environmental problem. There is a house on the property that qualifies as a historic structure under the State's definition. This means the DOT cannot purchase right-of-way from the property because of that designation. Mr. Bana advises that the property has a residential loan due to the house being there. The lender has a problem allowing Mr. Bana to tear down the house so the DOT can acquire the property for the widening project. The lender is willing to allow for removal of the house if the property is zoned commercially. The DOT has clearance if the house is removed. The DOT project does not depend on them being able to get the right of way from Mr. Bana. However, it will be a safer project and less expensive if they can get the property from Mr. Bana. Mr. Taylor went over the proposed project with the right-of-way from Mr. Bana and without that right-of-way.

Mr. Bullard said his experience is that the DOT is a "2000 pound gorilla" and can find ways to accomplish their goals. He finds it hard to believe that Mr. Bana's lender is able to keep the DOT from working something out to get the house moved. If it is a problem with the loan being secured, the house can certainly be move back rather than being torn down. He does not understand how his lender can be a puppeteer controlling what the DOT plans to do. It will be like pouring kerosene on a fire to rezone this until it is completely ironed out.

Mr. Taylor said conditional zoning can be allowed so that that land cannot be developed for commercial purposes until the road improvements are completed by the DOT. That would allow for whatever the lender wants to do. The lender is not holding up the DOT. The State law will not allow the DOT to touch the property until the house is moved because it is considered a historical structure. The staff recommends holding development on the site until such time as the DOT project is completed.

MOTION

Mr. Chastain made a motion to approve Application #06-12Z conditioned on improvement of the intersection by the DOT and no construction started until that is completed. The motion passed on a second by Mr. Youmans with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

Application #06-13Z: Cindy M. Hoffman, Owner – Tony Wayne and Suzanne B. Thompkins, Agent – 3635 Old Atlanta Road (1.61 acres located in Land Lot 104 of the 3rd Land District) – requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.

Mr. Taylor said they had received a request to table this application.

MOTION

Mr. Chastain made a motion, seconded by Mr. Youmans, to table Application #06-13Z until the next meeting. The motion passed with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

S/D #06-09: Walker’s Creek – John Wall, Owner – 52.52 acres off Tomochichi Road located in Land Lots 22 and 23 of the 2nd Land District – 25 Lots.

Mr. Taylor said the staff recommends approval.

MOTION

Mr. Youmans made a motion to approve S/D #06-09. The motion passed on a second by Mr. Youmans with Ms. Bailey, Mr. Chastain, Mr. Johnson and Mr. Youmans voting for the motion and Mr. Traer voting against.

S/D #06-10: Big Pines Farm – Big Pines Farm, LLP, Owner – 285.3 acres, more or less, off Smoak Road located in land Lots 198, 218, 219, 220 and 230 of the 3rd Land District – 247 Lots.

Robert Hockett – 497 Smoak Road

Mr. Hockett said his family has owned this property since the 1950’s. The development of this property has been in discussion for a long period of time. They have been before the County for the past three years with this project. They are requesting approval now for the preliminary plat.

John Scott – 1906 North 2nd Street Extension

Mr. Scott said he is concerned because this property joins his. He identified his property on the plat. His concern is with the proposed sewer plant. Basically, there appears to be no boundaries as far as the County is concerned. How far from the property line or anything does it have to be? He identified the location of the Minerva Project sewer plant. His house is a mile and a half from the Minerva Sewer Plant. When Minerva “cranked up” the sewer pumps, they were testing them. There is no consideration as to noise. He identified the location of the Hockett’s sewer plant. He said it will be less than a mile from his house. They are concerned about the noise and the odor. It comes back to how is will be built. It appears that there are no standards. Is it enclosed or is it exposed? There is no answer. What is going to be on their property line? Everyone is entitled to develop their property but what will this do to his property? He realizes there will be a nice subdivision but he also understands there may be other alternatives to take care of the sewer situation. He is also concerned that it may be built at another location. Where will the spray fields be? How much room will there be between his property line and the sewer plant, or how much work they can do there? That is a good question. He does not know and there appears to be no answer. His biggest concern is; what are the boundaries? There is a boundary that says the sewer treatment plant must be 400 feet from a livable house. It doesn’t say anything about where there is not a livable house.

Likewise, it will prevent them from putting anything on their property because they would have to absorb the same distance that is required by the EPD. He is only concerned about what is up against his property line. He is more interested in the sewer.

Josephine Scott – 1906 North 2nd Street

Ms. Scott said they are only one-half mile from the Minerva sewer plant not a mile and a half as Mr. Scott stated. The Hockett sewer plant and the Minerva sewer plant will only be 1200'. Those will be real close to each other. She is concerned because there does not appear to be any noise regulations or odor regulations on these plants in the County. She said she understands that Mr. Hockett plans a 100 foot border around this subdivision. Some people have enhanced borders. She is requesting that he leave the vegetation that now exists between their property and that 100 foot which is at least 30 years old. She requested that he not be allowed to run any sewerage in it. Her worst nightmare is to wake up and have a soaker running sewerage right at her property line. She requested that a condition be placed so they cannot put sewerage in the border. She asked if the location of the plant is to be where it is identified on the plat.

Mr. Taylor said the EPD governs approval of the plant itself. He is uncertain of the exact requirements. The plant and the drain fields for this subdivision have not been approved by EPD. If there is a problem with the location of this plant, it will have to be looked at. If EPD requires a relocation of the plant, it will have to be relocated. If there is a major relocation, he felt it would require the County to review the plat. He is uncertain if it will be open for discussion to the public.

Ms. Scott said she is just requesting that there be a requirement that the border remain and that the lines not infringe closer to her property lines.

Wayne Smith – 23 Hampton Street

Mr. Smith said he was present to answer questions, and he requested that the other speakers be allowed to speak first.

Andrew Welch – 2200 Keys Ferry Court – McDonough, Georgia

Mr. Welch said he was the attorney for Mr. Hockett and was present to answer questions. He asked if Mr. Rosser could speak first and then he could address his questions at the same time.

Elton Rosser – 3030 Teamon Road

Mr. Rosser said he was present representing the Roosevelt Railroad which is the railroad that is adjacent to this property. Their main interest is the railroad. Mr. Hockett can do whatever he wants with his property. The only time they have concern is when it affects the railroad. A sewerage plant adjacent to the railroad will affect them. They have been in negotiations with Anthony Dukes with the regional transportation regarding a walking trail near the tracks. They operate open air passenger cars for the children and families in the summer. People are not going to like having a sewerage treatment plant next to the railroad tracks to have to ride through. They have been in negotiations with them regarding an easement under the rail lines so they can tie onto the Minerva treatment

plant so they can eliminate the need for one in their subdivision. This has been recommended to them. They have not heard from them. Their right-of-way is 50 feet from the center line of the tracks on both sides.

Mr. Traer asked how the developers planned to have access to the sewerage treatment plant because there were no roads identified on the plat.

Mr. Welch said he was the attorney representing the owners of the Big Pines Farm. This project has been under development for sometime and as a result of the rezoning went into litigation. The County and Board of Commissioners decided to settle the case with the Hockett Family, and the resulting negotiations were to plan for the development of the property as a conservation subdivision. The concept plan was approved. This is the same plan with more detailed information per the subdivision ordinance for a preliminary plat. The sewer issue was critical in determining the settlement of the case. The two options are to either build a wastewater treatment plant on the property or to run the sewer line to get to the Minerva treatment plant. There are three possible ways to get to the Minerva plant. Connecting to the Minerva plant is the preference of the Board of Commissioners. They are trying to work through the options. There has not been anything in writing from Mr. Rosser or the railroad company. The sewer treatment plant as depicted on the preliminary plat identifies the most likely location if they are unable to connect to the Minerva plant. He located the roads that would allow access to the treatment facility.

Mr. Hockett said in the settlement agreement with the County, which has been approved signed and entered into the court, they have reserved the option to either build a plant or tie into Minerva's plant. It will depend on the economics and feasibility. They have to get approval from EPD which is a lengthy process. They are exploring both options very aggressively.

Mr. Welch said this is a preliminary plat stage so the final location of the treatment plant and the final location of the roads will not be determined until the construction plans and the engineering is done on the property. This will be on the final plat which will be approved by the Board of Commissioners. In the last meeting before the Board of Commissioners, there was a discussion regarding a 100 foot buffer around the property. The subdivision requirement is for a 25 foot buffer. With the concerns that were expressed, the Hockett's committed to a 100' buffer. If the economics work out, the preference would be to connect to Minerva, and there would be no additional noise involved with an additional plant. Generally, there is no odor involved in a wastewater treatment facility, but it will be a deciding factor in what is done. There are conditions in the settlement agreement. The staff and the departments in the County have reviewed the plat and have recommended approval. No one has recommended denial. The staff recommendation is for approval subject to the condition that the provision for sewer will be determined. They have sent them a document with the language that this would be approved conditioned on the landowner or developer obtaining sanitary sewer pursuant to the terms of the settlement agreement of October 26, 2006.

Discussion was held and on question Mr. Welch said if the sewerage treatment facility is located on the property as shown on the preliminary plat, they may have to infringe on the 100 foot buffer that is adjacent to the Scott's property.

The issue was raised as to whether or not this is a buffer or a setback. It was noted that they should have been using the term setback rather than buffer. This will be a setback from the property line. A lengthy discussion was held regarding the setbacks and the sewerage treatment plant. There was concern expressed regarding the infringement on the 100 foot setback for the sewerage treatment plant. Mr. Welch said they could not commit to that issue until the location of the plant is determined because that might be the only place the system can be located. It will be determined prior to beginning any construction on the property. This issue is addressed in the settlement agreement with the County.

Mr. Taylor said the Planning Commission is charged with the responsibility of determining whether or not the preliminary plat meets the County Ordinance. All the departments have reviewed the plat and have determined that it meets the requirements. The sewer issue is still to be resolved. They will be required to go through a series of approval processes. They do recommend that the approval be conditioned with respect to Spalding County granting approval for the provision of sanitary sewer by a private provider or by the Department of Natural Resources' authorized sewer provider. Mr. Taylor said he did not believe they should review any construction plans until the sewer issue is settled. The construction plans depend heavily on the outcome of the location of the sewer.

MOTION

Mr. Youmans made a motion, seconded by Mr. Chastain, to approve S/D #06-10 conditioned on Spalding County granting approval for the provision of sanitary sewer by a private provider or by the Department of Natural Resources' authorized sewer provider. The motion failed with Mr. Chastain and Mr. Youmans voting for the motion and Ms. Bailey, Mr. Johnson and Mr. Traer voting against.

Mr. Johnson said he wants to approve conditioned on the sewerage not going into that 100 foot buffer/setback and that the sewage be handled by Minerva.

Mr. Welch said the Board could vote on that if they want to but there is no way the Board can violate the direct order of the Board of Commissioners that would take away the rights to use the property as it is which is to allow them to have a wastewater treatment facility if EPD approves. A settlement agreement has been entered into by the parties and it is the settlement of the lawsuit and to infringe on that settlement agreement might send them right back into court.

Mr. Torri said he was going to reiterate what Mr. Welch is saying. The Planning Commission is approving the preliminary plat. All that needs to be determined is whether or not the plat complies with the County Ordinance. Mr. Taylor has said it does

subject to the recommended condition of sewer. The Board is not in position to impose further conditions other than what has been established.

MOTION

Mr. Johnson made a motion to approve preliminary plat S/D #06-10 conditioned with respect to Spalding County granting approval for the provision of sanitary sewer by a private provider or by the Department of Natural Resources' authorized sewer provider and that they not encroach on the 25 foot buffer and the vegetation left as is. The motion passed on a second by Mr. Chastain with Mr. Chastain, Mr. Johnson and Mr. Youmans voting for the motion and Ms. Bailey and Mr. Traer voting against.

Amendment to UDO #A-06-15: Lift from the table – Appendix K. Landscape and Tree Preservation Ordinance – replace existing Landscape and Tree Preservation Ordinance with a new Landscape and Tree Preservation Ordinance.

MOTION

Mr. Youmans made a motion to lift Amendment to UDO #A-06-15 from the table. The motion passed on a second by Mr. Chastain with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

Discussion was held regarding this proposed amendment, and it was decided that a more defined list of trees is needed along with an avoidance list prior to any action. Mr. Youmans will bring some information from people in the community that has an interest in this ordinance.

MOTION

Mr. Chastain made a motion to table Amendment to UDO #A-06-15 until the next meeting. The motion passed on a second by Mr. Youmans with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

Amendment to UDO #A-07-01: Article 3. Establishment of Districts – Section 301:A (18, 19 & 23) – add VN. Village Node, AAR. Active Adult Residential and A-O Airport Overlay Districts.

Mr. Taylor said this change is for “housekeeping”. There have been some changes that impacted other parts of the ordinance that need to be updated. He recommended approval of the amendment.

MOTION

Ms. Bailey made a motion to approve Amendment to UDO #A-07-01. The motion passed on a second by Mr. Traer with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

MINUTES

Mr. Youmans made a motion to approve the minutes of the December 12, 2006 meeting. The motion passed on a second by Mr. Traer with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

ADJOURN

The meeting was adjourned on a motion by Mr. Chastain and a second by Mr. Youmans with Ms. Bailey, Mr. Chastain, Mr. Johnson, Mr. Traer and Mr. Youmans voting for the motion.

Ed Johnson – Chairman

Yvonne M. Langford - Recorder