

SPALDING COUNTY PLANNING COMMISSION
Regular Meeting
May 26, 2009

The Spalding County Planning Commission held its regular monthly meeting on May 26, 2009 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Ed Johnson, Chairman, presiding; Janet Bailey; Walt Glover; and David Traer. John Youmans was not present.

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

Mr. Johnson 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.

Mr. Johnson announced that the extensions for preliminary plat approval would be considered first since they would only take a few minutes.

S/D #05-07: Consider extension of preliminary plat for Vineyard Park Subdivision – Westmoreland Partners, Inc., Owner.

No one was present for this application.

Mr. Taylor said this was a standard extension of a previously approved plat, and the staff recommendation is for approval.

MOTION

Ms. Bailey made a motion to approve extension S/D #05-07. The motion passed on a second by Mr. Glover with Ms. Bailey, Mr. Glover, Mr. Johnson and Mr. Traer voting for the motion.

S/D #05-10: Consider extension of preliminary plat for Hunt’s Mill Estates Subdivision – Bank of North Georgia, Owner.

Bill Ramsey – 4159 Mill Street – Covington, Georgia

Mr. Ramsey said he was representing the Bank of North Georgia, current owner of the property. The property is under contract with an investment group and the new owners intend to develop the property, and they are requesting an extension of the plat.

MOTION

Mr. Glover made a motion, seconded by Ms. Bailey, to approve extension S/D #05-10. The motion passed with Ms. Bailey, Mr. Glover, Mr. Johnson and Mr. Traer voting for the motion.

S/D #05-11: Consider extension of preliminary plat for Teamon Pointe Subdivision – Minerva Spring Lake, LP, Owner.

Jane Curtis - 2292 Henderson Mill Road – Atlanta, Georgia

Ms. Curtis said she was representing Minerva, and they are requesting an extension of the preliminary plat for the Teamon Pointe Subdivision. They do plan to develop the property.

MOTION

Ms. Bailey made a motion to approve extension S/D #05-11. The motion passed on a second by Mr. Glover with Ms. Bailey, Mr. Glover, Mr. Johnson and Mr. Traer voting for the motion.

S/D #06-01: Consider extension of preliminary plat for Sun City Peachtree Subdivision – Minerva Spring Lake, LP, Owner.

Jane Curtis – 2292 Henderson Mill Road – Atlanta, Georgia

Ms. Curtis stated that she was representing Minerva Spring Lake and was requesting an extension of the preliminary plat for Sun City Peachtree Subdivision. Ms. Curtis was asked about some buffers that had been disturbed and needed to be replaced. Ms. Curtis advised that they have replaced most, but not all of the buffers. Their environmental consultant has reviewed the area and has made some recommendations which they are working on at the present time. They will meet those requirements within the next couple of months.

MOTION

Ms. Bailey made a motion to approve extension S/D #06-01 conditioned on the buffers being satisfied. The motion passed on a second by Mr. Glover with Ms. Bailey, Mr. Glover, Mr. Johnson and Mr. Traer voting for the motion.

S/D #07-04: Consider extension of preliminary plat for Cedar Cove Subdivision – Mickey Maurice Jones, Owner.

MOTION

Mr. Glover made a motion to approve extension S/D #07-04. The motion passed on a second by Ms. Bailey with Ms. Bailey, Mr. Glover, Mr. Johnson and Mr. Traer voting for the motion.

Application #FLA-09-01: William Larry Bowlin and Victoria K. Bowlin, Owners – Smith, Welch and Brittain, Agent – 525 Bethany Road (2.982 acres located in Land Lot 10 of the 2nd Land District) – from Rural Reserve to Industrial.

Application #09-02Z: William Larry Bowlin and Victoria K. Bowlin, Owners – Smith, Welch and Brittain, Agent – 525 Bethany Road (2.982 acres located in Land Lot 10 of the 2nd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to C-2, Manufacturing.

Mr. Johnson said these two applications will be discussed together and voted separately.

Mr. Taylor reviewed the application and said the area is very rural. The character of the area is agricultural mixed with very low-density residential. The closest industrial use is the rock quarry that is on Rover-Zetella Road. Other than that there are no large industrial parcels within that area. The recommendation is for denial on changing the Future Land-Use Map. Regarding the request for the rezoning, the staff considers this to be spot zoning because there is no other like zoning in the area. The number of uses allowed in the C-2 Manufacturing District requires access to adequate fire protection and paved roads are recommended for industrial uses. The character of the area and the potential need for additional county services and infrastructure lead the staff to recommend denial for the application.

Jon Collier – 359 Rawls Road

Mr. Collier said he is on the corner of Bethany and Rawls Roads. The amount of traffic that will be generated is going to be beyond our “wildest dreams and nightmares”. He has watched the trucks disregard for stop signs that are at the intersection. They come onto the road at 45 to 50

mph and the speed limit is 25. He is accustomed to living on a dirt road so dust is not a big issue for him but the biggest thing is the amount of traffic going through there when you change the zoning from agriculture to manufacturing. There is an implication of things being put into the water tables. Anytime you have manufacturing you are going to have elements, diesel fuel, hydraulic fluids that are going to be accidentally put on the ground. That is a big concern because he has 2.5 acres with animals. There are a lot of horses in the area. Several of the residents in the area have horses on their own property. The traffic scares the horses. He is concerned about the children. His children have been told to stay completely out of the road due to the traffic. This is not a good thing. The reason he bought the house and the yard is because of the quietness when the traffic is not going. He does not want this zoning change. He is concerned about the school buses. Several months ago a school bus was traveling up Rawls Road toward Bethany Road from the Pike County area. A truck came through the stop sign without stopping. If the bus driver had not been attentive, they would have been hit by the truck.

Thomas Bowden – 117 Bethany Road – Williamson, Georgia

Mr. Bowden said he wanted to know the intended use of the property. He has a 13-year old daughter and he asked her why she was not riding her bicycle any more. When they moved to the property 3 years ago, she rode her bicycle and visited her friends. She said because she is scared of the traffic and the condition of the road. There have been times he would try to ride his motorcycle but the road has been so beat up by the traffic and tractor-trailers up and down the road it is impossible due to the pot holes. The dust is unbelievable from what it was two or three years ago. He contributes that to the increase in the traffic. The traffic has dropped down since the grading equipment does not seem to be at that location. There is still a lot of traffic going to the office there along with the UPS and FedEx trucks. I have seen trucks going through there 50/60 mph. Even at 3:00 in the morning you can hear a lot of trailers bouncing up and down the road. There is a lot of concern from his family and neighbors. He has only been there for three years and there are times he wished he had not bought out there because of the traffic. He would like to speak again when he knows what the intended use of the property will be.

Lori Banner – 107 Bethany Road

Ms. Banner said she appreciate the county lowering the speed limit and putting out the “Watch Out for Children” signs. It was a little bit of help, but not much. She lives in the first house on Bethany Road off of the Rover-Zetella Road. You can sit on her porch and listen and see how the company trucks, not just the big roadway trucks with the equipment on them, the noise and shaking and rattling of the windows is unbelievable. There are two trees forty feet from the road and her children are not allowed to go past those trees because they are afraid that someday someone is going to run off the road and hit them. There are many people that run off the road. They do not slow down before they exit Rover-Zetella Road. Her children are afraid to play in the yard. This is not a place to put a business. She has no problem with them building a company but not in a residential area.

Ray Lopes – 974 Bethany Road

Mr. Lopes said he owns Hidden Springs Farm and has 110 acres. He has lived on the dirt road for 14 years. He has had seen people run off the road and they have problems navigating when the road is wet. He has lived with the dust. He was told if he lived another 50 years he might see it paved so he has learned to live with the dirt. Six months ago he was present for a zoning change to O & I which was denied because it did not fit the land use. This zoning is for manufacturing and industrial use. He did not know what that zoning was for so he went to see Mr. Taylor. He found out that it is a lot more lenient than O and I. Mr. Galloway advised Mr. Lopes that the O & I was not denied. Mr. Taylor stated the applicant withdrew the application. Mr. Lopes said his problem is not with the Bowlin’s; they are probably his best friends and

probably run the best farm in Spalding County. They are careful about their land and their cattle and about the people that live there. They will help you with anything. The problem is that in that area there are approximately 150 to 180 acres of property that is absentee owned. If this zoning is approved for manufacturing, the other owners would change the whole place to industrial. Mr. Lopes said his land is in conservation use and there would be severe penalties if he decided to develop. He farms and that is all they do. They intend to stay there for the rest of his life. He hopes to be able to perpetuate his family farm so it stays that way forever. His fear is that the land around him will become industrial. There is a severe decline in people that farm for a living. There are four houses on that road. All Mr. Bowlin wants to do is to operate his office from this property. He wants to put one woman in for a full day and another for a half a day. He cannot understand why there is not some type zoning that will allow him to do what he wants to do without changing it to manufacturing. There should be a variance for Mr. Bowlin to do what he wants to do without changing the zoning. Mr. Bowlin and his employees drive carefully. The stop signs are very difficult because people think they don't have to stop on a dirt road in the back of nowhere. It is important to protect the agricultural farms in the area and protect the people that are taking care of those lands. He and Mr. Bowlin are taking care of their land and they need some help.

Kyle Henson – 600 Bethany Road

Mr. Henson said he is the closest resident to this property. He has lived here for 11 years. He travels this road at 4:30 to 5:00 in the morning. He feels Mr. Bowlin is taking a little “heat” for the traffic. He sees maniacs coming through there from Pike County. He sees Mr. Bowlin's employees and they are not doing anything excessive that he can see. He has the same concerns as Mr. Lopes. He does not understand why he cannot have just an office. It seems there could be something that would allow him to have an office. They take care of their things. They do not bother him. He would like for Mr. Bowlin to be able to have an office on this property without opening it up for something that no one really wants.

Terry Harris – 121 Bethany Road

He asked what has changed since the last time. He has been out there for six years. Three years ago when they started working at Mr. Bowlin's place there was an increase in traffic. It has slowed some lately but with the economy the way it is nothing is going on. He would not mind a variance but where would it stop? He had a chance last time to change it and now we are going to manufacturing. If he just wants an office, why does he have to ask? Is this going to keep going on until he gets in litigation with the County? Where does it end? The office use to be off of Rover-Zetella Road. They still own land there. Why can't they go back there? His mother has cancer in the nose and the more traffic and the dust she has to wear a mask to go outside.

Andy Welch – 22 Keys Ferry Court – McDonough, Georgia

Mr. Welch said he is an attorney representing Mr. Bowlin. The general sentiment shared by most people in the room is that right now as he reads the zoning ordinance he is in a general quandary as to how to proceed to achieve what Mr. Bowlin wants to do with the property. He wants to run an office out of the building on Bethany Road. The problem is that initially when he wanted the O & I Zoning there was more going on there than just an office. There was heavy equipment on the property. What has since happened is that he initially wanted to continue the use of the property as both an office and the heavy equipment storage. Over the course of time, they have determined that it is not going to be practical, both in terms of the zoning of the property, the surrounding use of the property and Mr. Bowlin has moved all of the heavy equipment off of the property. He is no longer keeping heavy equipment there. The structure was used to help with the farm operation. If you go with the O & I, you might be disrupting the current land use plans for the area. They also might be disrupting the neighbors' uses over the long haul. Mr. Bowlin is

not trying to create a zoning out there that would invite other uses that would not be compatible. He is simply trying to operate his business out of this building on three acres of property. Originally, he wanted to operate the heavy equipment. They have since tried to scale that back and they are going to ask to put that heavy equipment in the barn behind the building. In light of the concern regarding the heavy equipment on the road, he had no intention of creating problems and traffic out there. He has five trips a day, maximum, on the road as it is now and does not want to increase that traffic. He does not want to have heavy equipment running down that road. They are trying to fit this "round peg into a square hole". The only zoning that would allow this would be O & I for an office use or to go to some type light manufacturing under a C-1 or C-2 use as applied for. It seems the people do not want the heavy equipment. Under the AR-1 zoning, they don't have a use that would allow them to maintain the grading office. The C-2 use seems to be extreme but with the heavy equipment that would have been the appropriate zoning. They are somewhere in between. They would like to continue the farm operation in the building and continue to use the building for the Bowlin Grading offices and keep the heavy equipment off. They need some direction because he cannot find a place in the ordinance that allows this to continue with some reasonable regulations or conditions placed on it like limiting the number of employees and limiting the number of hours of operation: things that would mitigate the use of the property and not create a problem adverse to the neighbors and not create other zoning in an area that is agricultural. They would appreciate consideration of the request. They need some guidance on how to proceed. When they initially talked with Mr. Taylor, they wanted to keep the heavy equipment on the property and the manufacturing was the only zoning that allowed that. That is why this zoning was requested.

Ms. Bailey asked what had been done with the heavy equipment. She has seen it removed and return previously.

Mr. Welch said they will keep it off. They have been cited and they are very clear that the heavy equipment is not going to be allowed on the site. They understand that. It could be a condition of the zoning request.

Mr. Traer said there seems to be a lot of concern about the traffic on Bethany Road. He asked if there was some way that Mr. Bowlin could use some of the alternate routes for his operation.

Mr. Welch said he would discuss that with Mr. Bowlin. It is certainly a worthwhile consideration.

Mr. Galloway said there are no special exceptions in the code that would allow what they are requesting. Anyone with a work farm probably has large equipment, trucks and possibly workers that are coming and going. The problem with the Bowlin property is that they moved beyond agricultural use and started a grading and construction business. Those uses are not allowed in AR and are not allowed as a special exception in AR. A variance cannot be approved for AR because they are not a permitted use. If there is an agricultural use on the property, you can have an office for the farm. The problem begins when the agricultural operation expands into something more like an industrial operation like grading and construction. You are not talking about an office for the farm you are talking about an office for the grading equipment. It has been out there for four years. There is not a good zoning fit.

Mr. Taylor said if you have a large farm operation, you would have an office that would oversee the farm operation. What is different about this is the large equipment moving in and out for commercial businesses. Farm operations generally have equipment but the equipment generally stays on site because it is used for the farm. When equipment is moved on and off site is when

there is generally a problem. An office for a farm would be a reasonable application in an AR zone but a contractor's office, even without the equipment, would require O & I zoning.

Mr. Welch said in late December of 2006 the Board of Commissioners approved a very similar request for an ongoing gravel trucking industry for Trice Trucking; David and Deborah Trice. They had a two-acre piece of property zoned AR-1 in a residential subdivision. This was approved by the Board of Commissioners to zone it to C-2, Manufacturing. This is a very similar circumstance. They were asking for an O & I use with limiting conditions. The zoning was granted and the surrounding pieces of property were all AR-1. The single condition placed on the property was that it would be limited to use as a trucking company. In that statement the representation was made to the Board that it was the only way to bring that into compliance. That was no different than the current situation. That was granted and approved. They are not pushing for the C-2 zoning but for the O & I, with reasonable conditions limiting it to office use, would be appropriate. The County shoved that square peg in a round hole before on a much more severe use, which was a gravel operation. It is bothersome that some people are allowed that privilege and others are not, even though they are coming to you trying to limit the extent of that use in a very respectful and considerate and thoughtful way. He requested that a zoning of O & I be allowed with reasonable conditions.

Mr. Ballard said this does not necessarily deal with the population of schools but he deals with graders and construction equipment and workers in his position with the school system. Over the years when you come across conditions with the zoning codes, we review and try to make it right. They have made some good points. Over the years there have been issues with the rock quarry and everybody has tried to change those things and open the door for that type effort or other commercial efforts. The one thing that is different that might be considered to tie something is that the heavy equipment could be for the farm work. Mr. Bowlin has agreed to remove that equipment. They do have an office out there that is for their farm. If something could be considered in the O & I zoning. If they could continue to keep that office open with the farm office and it be a joint office rather than having to go out and create another office.

Mr. Johnson said he understands Mr. Ballard's comments but his concern is that changing the zoning on this would open up to changing the zoning on any AR district. If you approve this, you would not be able to turn anyone else down.

Thomas Bowden requested to speak again. He said the people that have said the traffic is not a big issue lives further down Bethany Road and they see the traffic after it has slowed down. Someone made the comment to try to restrict the trucks on the roadway. There are already signs put in place by DOT that say, "No Through Trucks". They have been up for a year but the truck traffic is continuous carrying the grade alls, scrapers and bulldozers. Trice Trucking with the two acres was mentioned. They are asking for zoning for 2.98 acres and who is to say they won't later want to zone all of their property. The main concern is the traffic going up and down the road.

Mr. Johnson directed Mr. Taylor to research and bring recommendation for an expanded list of variances to allow what is being requested.

MOTION

Ms. Bailey made a motion to deny Application #FLA-09-01. The motion passed on a second by Mr. Glover with Ms. Bailey, Mr. Glover and Mr. Johnson voting for the motion and Mr. Traer voting against.

MOTION

Mr. Glover made a motion to deny Application #09-02Z. The motion passed on a second by Ms. Bailey with Ms. Bailey, Mr. Glover and Mr. Johnson voting for the motion and Mr. Traer voting against.

Amendment to UDO #A-09-05: Article 4. General Procedures – amend to allow temporary housing after disaster.

Mr. Taylor said that during the recent tornado activity this spring there have been a number of houses on the west side of the county damaged. As a result a homeowner, facing a lengthy investigation by insurance companies and rebuilding, requested a permit for a temporary mobile home on his property. The ordinance does not allow for this so the Board of Commissioners requested that an ordinance be drafted that would allow for a temporary mobile home for reconstruction of a home after such a declared emergency. Mr. Galloway has written the proposed Amendment to UDO.

MOTION

Mr. Glover made a motion to approve Amendment to UDO #A-09-05. The motion passed on a second by Mr. Traer with Ms. Bailey, Mr. Glover, Mr. Johnson and Mr. Traer voting for the motion.

MINUTES

Mr. Traer made a motion to approve the minutes of the April 28, 2009 meeting. The motion passed on a second by Mr. Glover with Mr. Glover, Mr. Johnson and Mr. Traer voting for the motion and Ms. Bailey abstaining because she was not present.

ADJOURN

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

Ed Johnson – Chairman

Yvonne M. Langford - Recorder