

**SPALDING COUNTY PLANNING COMMISSION**  
**Regular Meeting**  
**September 28, 2004**

The Spalding County Planning Commission held its regular monthly meeting on September 28, 2004 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Karen Mathiak, Chairman, presiding, Ray Browning, Ronald Green, Delores Phillips, and John Youmans. Ex-Officio Member Bruce Ballard was not at the meeting.

Also present were Charles Taylor, Community Development Director, Newton Galloway, Attorney, Chad Jacobs, Senior Planner, and Yvonne Langford to record the minutes.

Ms. Mathiak 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. Galloway introduced two guests from the City of Milner. Harold Wilson and George Weldon are present to observe for informational purposes.

**Application #04-17Z:** Lift from the table – Holiday Investments, Inc., Owner – Old Atlanta Road (2.368 acres located in Land Lot 102 of the 3<sup>rd</sup> Land District) – requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.

**MOTION**

Mr. Browning made a motion, seconded by Mr. Youmans, to lift Application #04-17Z. The motion passed with Mr. Browning, Mr. Green, Ms. Mathiak, Ms. Phillips, and Mr. Youmans voting for the motion.

Tom Hughes – 240 Jefferson Woods Drive – Peachtree City, Georgia

Mr. Hughes said he was representing Holiday Investments. The intent is to improve this property and add value to the area. They want to develop warehouse and office space on this tract. He has seen the staff report and has no problems with the conditions as stipulated.

Community Development Director Chuck Taylor said the recommendation is for approval with conditions. The conditions are that outside storage will be prohibited, exterior lighting will be designed to avoid glare into the adjacent neighborhood, and exterior building facades must be brick, stone or stucco if visible from either Old Atlanta Road or Rider Road.

## **MOTION**

Mr. Youmans made a motion, seconded by Mr. Green, to approve application #04-17Z conditioned that outside storage will be prohibited, exterior lighting will be designed to avoid glare into the adjacent neighborhood, and exterior building facades must be brick, stone or stucco if visible from either Old Atlanta Road or Rider Road. The motion passed with Mr. Browning, Mr. Green, Ms. Mathiak, Ms. Phillips, and Mr. Youmans voting for the motion.

**Application #04-19Z:** Sara Kathleen Smejkal, Owner – Fayetteville Highway (1.9 acres located in Land Lot 110 of the 4<sup>th</sup> Land District – requesting a rezoning from AR-1, Agricultural and Residential, to C-1 Commercial.

Bob Smejkal – 50 David Elder Road

Mr. Smejkal said he is representing Sara Smejkal on this application. They live 100 yards behind this property. There are some discrepancies in the staff report. The report states that the property is zoned AR-1. Technically there is no zoning at all on this property. That is the reason he is present. His wife and her brother inherited it from her parents. They went to the County Probate Judge who ordered the division of the property. They used a county real estate attorney to have the property separated between the two parties. They went to the clerk of court who accepted the application that was presented for the two properties. At no time were they advised that anything they were doing was illegal. This property meets all the C-1 requirements. It has quite a bit of road frontage, is 1.9 acres, has all utilities available, has already been cleared, has no environmental impact, is not in any wetlands, and has no impact on schools or traffic. It is on a state highway. There are six criteria to rezone property. He went over the criteria and said he has had a cabinet shop in the area for 20 years and is currently licensed. When they first moved to the property, it was zoned M-1. They have not moved and have been continually licensed for 20 years. At sometime, the county decided they wanted to eliminate the M-1 zoning and zoned this whole area to AR-1. He continued to pay for a commercial license to operate a business and now he is advised that he is grandfathered and that he does not have commercial property. Commercial property has been taken away from him. Across the street there is a medical supply operation that has a C-1 zoning. Adjacent to that is a garage that has been there for 25 years and has the same problem. He is in an AR-1 zone. If you give someone a license, they should have the C-1 zoning which they deserve. The closest convenience store in the county for this property is three miles away. He went over the development that is anticipated in the area. He addressed the issue of the additional taxes and jobs that would be generated if a convenience store is put on the property versus a residence.

Community Development Director, Chuck Taylor advised that this property is zoned, as all land is zoned. The property was owned by two parties and was divided without filing a plat which is generally reviewed before it is filed at the courthouse. This was filed by a Probate Judge. It was a means of dividing the property. In doing this, the Probate Office

created a parcel that does not meet the AR-1 zoning. Rezoning is in order to provide reasonable economic use of the property. In zoning property, the land use map is used to make the initial determination for zoning. The land use map does not support commercial zoning of this property. The land use map does have areas for commercial uses along Highway 92. It is important to evaluate commercial uses along this corridor. Commercial all along the road would not be good, and it is a very inefficient way to grow. The recommended closest commercial area to this property is Highway 92 and Bicycle Road. There is current C-1 zoning in the area. The recommendation is that the application be denied, and the property should be zoned to a residential district that would afford the property owner reasonable use of the property.

A discussion was held regarding the division of property that is handled through the courts as was done in this case. Mr. Browning said he has no problem denying a request from an applicant, but he does have a problem with changing the zoning that is presently on the property. To change this, it would be changing it from non-conforming to another non-conforming use. He is concerned about commercial zoning on this property. He lived in this community and raised his children in this community on Moore Road. He lived there for 30 years and continues to own the property. It is five miles away. There is a very poor sight distance problem with this site. To rezone this would increase the traffic at this intersection. The problem is from east to west when you top the hill. There is a problem with rear-end collisions from people trying to turn left or right onto David Elder Road. This would be increasing the hazard to this section of the county.

Mr. Youmans said he travels this road frequently and agrees with Mr. Browning about the danger of the area. He feels that it will be a long time before the safety issue is resolved. He questioned how far it was to the convenience store on the other side of the river.

Mr. Smejkal said the other side of the river is Fayette County and the Spalding County Commission needs to be concerned about Spalding County and not sending Spalding County citizens to Fayette County.

Mr. Youmans said when it comes to the choice of spending a little money in Fayette County or getting killed at a convenience store, he doesn't mind them going to Fayette County.

#### **MOTION**

Mr. Browning made a motion, seconded by Mr. Youmans, to deny application #04-19Z. The motion passed with Mr. Browning, Mr. Green, Ms. Mathiak, Ms. Phillips, and Mr. Youmans voting for the motion.

**Application #04-20Z:** Walter E. Jones, Jr., Owner – Alan R. Mobley, Agent – South Walkers Mill Road (106.90 acres located in Land Lots 11 and 22 of the 3<sup>rd</sup> Land District)

– requesting a rezoning from AR-1, Agricultural and Residential, to R-4, Single Family Residential.

Alan Mobley – 262 Mobley Road

Mr. Mobley said this is part of Paul Walker's estate and Walter Jones, Jr. is executor of the estate. They have signed a contract on this property and property on High Falls Road that is part of this same estate. They plan to develop this with the country club theme. There will be tennis courts, adequate green space, and walking trails. This is a 106-acre tract, and they propose to develop 69 houses. The detention ponds will be in the green space. He had a proposed site plan. The tract is totally wooded. Timber has not been cut on this tract in at least 20 years. The majority of the timber is hardwoods, and the only timber that will be cut is for the right of way. He said the staff recommendation is for R-2, and he does not want that. He does not mind half 1500 SF and half 1750 SF. This tract of land is close to Glenview Estates which has the old R-2 zoning, and the houses will be smaller. He would really rather that the square footage be left a 1500 SF throughout.

Derek H. Jones – 365 Dix Leon Drive – Fairburn, Georgia

Mr. Jones said he and his wife own 40 acres across the street from this property and his wife owns an additional 10 acres. This development is a surprise, because they know the county is changing. This land has been in his wife's family for four generations. They are concerned about a subdivision of this density. This is a drastic change for the area. The zoning will allow for two-acre lots and they will have to get a special exception to get it changed for one-acre lots. Even the two-acre lots represent a drastic change. They are concerned about the property values forcing other people with large tracts of land to sell because the taxes will soar. They are concerned about the septic fields. They would like to see zoning that is less intense. There is zoning that would require five-acre lots and that would be preferable. This would preserve the character of the area.

Gwendolyn Pyron – 1345 South Walkers Mill Road

Ms. Pyron said she agrees with Mr. Jones. She does not object to a subdivision but would like the five-acre lots.

Annie M. Hixson – 1384 Walkers Mill Road

Ms. Hixson said this property is right behind her house. There are a lot of things she would like to know about before this is done. She feels this is too many houses on this tract of land. Two acres per house might be all right but five acres per house would be better.

Mr. Mobley identified her house with relation to this development. He showed her that the green space is in the area of her house. Lot #40 backs up to her house, and he said he would put in some additional buffers on lots 39, 40, & 41 that would afford her some additional protection.

Ms. Hixson said she had some trees that she would like to have cut that would help her property.

Mr. Mobley and Ms. Hixson had a lengthy discussion regarding what he could do to help Ms. Hixson with some trees in the area.

Ms. Mathiak advised them that they would need to discuss that privately and whatever arrangements they make will be outside any zoning that is approved. She wanted to discuss further the buffering on the east end of the property and the price range of the houses that will be built.

Mr. Mobley said he did not mind buffering the rear of any of the properties with the exception of the property on one side because they are going to have to build on the rear of the property and the buffering will be at the front of the property. The price of the completed house will be from \$150,000 to \$170,000.

During the discussion, it was noted that Mr. Mobley's intent is to keep all the trees possible, and the buffering is probably not an issue.

**MOTION**

Mr. Browning made a motion to approve Application #04-20Z for R-4 zoning conditioned on 50% of the houses being 1500 SF of heated space and 50% being 1750 SF of heated space. The motion died for lack of a second.

**MOTION**

Mr. Green made a motion to approve R-2 zoning. The motion passed on a second by Mr. Youmans with Mr. Green, Ms. Mathiak, Ms. Phillips and Mr. Youmans voting for the motion and Mr. Browning voting against.

**CS/D #04-01: Brooks Station** – Jimmy Weeks, Owner – 9.62 acres off Buckeye Road and Georgia Highway 16 West located in Land Lot 14 of the 1<sup>st</sup> Land District – 6 lots.

Jimmy Weeks – 180 Eason Road – Fayetteville, Georgia

Mr. Weeks said this property is zoned C-1. They propose to develop this into 6 commercial lots.

Community Development Director, Chuck Taylor, said the staff recommendation is for approval conditioned on all county departments' approval. He said there are some minor issues. When the departments have minor issues, the staff recommends approval with the condition rather than hold up an application for another month.

**MOTION**

Mr. Browning made a motion to approve CS/D #04-01 conditioned on all county departments' approval. The motion passed on a second by Mr. Youmans with Mr. Browning, Mr. Green, Ms. Mathiak, Ms. Phillips and Mr. Youmans voting for the motion.

**MINUTES**

Mr. Green made a motion to approve the minutes of the September 14, 2004 meeting. The motion passed on a second by Ms. Phillips with Mr. Browning, Mr. Green, Ms. Mathiak, Ms. Phillips, and Mr. Youmans voting for the motion.

**MOTION**

The meeting was adjourned on a motion by Mr. Youmans and a second by Mr. Browning with Mr. Browning, Mr. Green, Ms. Mathiak, Ms. Phillips, and Mr. Youmans voting for the motion.

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Karen Mathiak – Chairman

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Yvonne M. Langford - Recorder