

After Agenda

**Board of Commissioners of Spalding County
Zoning Public Hearing
Monday, January 28, 2021
6:00 PM
Room 108, Annex Building**

The Spalding County Board of Commissioners held their Zoning Public Hearing in Room 108 of the Spalding County Annex on Thursday, January 28, 2021, beginning at 6:00 p.m. with Chairperson Gwen Flowers-Taylor presiding. Commissioners James Dutton, Rita Johnson and Ryan Bowlden were present for the meeting. Also present were County Manager, William P. Wilson, Jr., Assistant County Manager, Michelle Irizarry, County Zoning Attorney, Newton Galloway via Zoom, Community Development Director, Debbie Bell via Zoom and Kathy Gibson, Executive Secretary to record the minutes.

A. OPENING (CALL TO ORDER) by Chairperson Gwen Flowers-Taylor.

PLEASE SILENCE YOUR CELL PHONES AND ALL OTHER ELECTRONIC DEVICES.

B. INVOCATION

Commissioner Rita Johnson, District #3, delivered the Invocation.

C. PLEDGE TO FLAG

Commissioner James Dutton, District #2 lead the Pledge to the Flag.

D. PUBLIC HEARINGS

Note: Persons desiring to speak must sign in for the appropriate application. When called, speakers must state their names and addresses and direct all comments to the Board only. Speakers will be allotted three (3) minutes to speak on their chosen topics as they relate to matters being considered by the Board of Commissioners on this Agenda. No questions will be asked by any of the commissioners during citizen comments. Outbursts from the audience will not be tolerated. Common courtesy and civility are expected at all times during the meeting.

1. **Application #20-11Z:** Omran Habib, Owner- Atlanta Best Auto Auctions, LLC - 2539 N. Expressway (5.994 acres, more or less, located in Land Lot 102 of the 3rd Land District) - requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.

Debbie Bell, Community Development Director, stated that Mr. Habib would like to rezone the back portion of this parcel. The front portion of the parcel is already zoned C-1B and has been operated as auto and truck sales for a number of years. The owner would like to have a tenant in place to sell RV's and to do that they need additional area for outside storage for RV's. He is requesting that the remainder of the parcel be rezoned from C-1 to C-1B.

Ms. Bell then advised there is a 200' buffer to the west of the lot that was

required at the previous rezoning and that buffer is being retained. There is also a possible location noted for a retention pond which is on one of the lower parts of the site.

Chairperson Flowers-Taylor then asked what the zoning change would be between C-1 and C-1B?

Ms. Bell stated that C-1B allows outside storage which would allow for outside storage and they would need this to sell RV's. This would provide the extra parking needed to accommodate the inventory.

Chairperson Flowers-Taylor then asked how many RV sales locations were in the area of the proposed rezoning?

Ms. Bell advised there is an RV' sales and service business at the Malier Road intersection near Racetrac. There aren't any RV's sales and service businesses this far south. Ms. Bell then stated that the plan for the building would be to remain as is. They will only be expanding the asphalt parking.

Omran Habib, 2539 N. Expressway, Griffin, GA, property owner, stated that he had been listening and wanted to clear something up. The front portion of this property which is approximately 3 acres is already zoned C-1B. When he purchased the land he did not realize it was two parcels and that the back parcel had a different zoning.

Mr. Habib stated that at this time they have a very good future tenant with the RV Business from Jacksonville, Florida who wants to move into this location, if they decide not to move, he will be there with his used car lot. If you look at his history, in the time he has been at this location there has not been a single complaint filed. He has made the place very nice and the businesses surrounding him love what he has done and how he has maintained the lot.

Mr. Habib stated they have never experienced any problem in parking their cars on the lot. This property will never look like a junk yard. He will submit a formal application to the County before any changes are made. The plan now is to upgrade the current building, they will need to raise the height to accommodate the RV's. They are a service and retail business and will have real nice RV's there. He believes it is going to be good for the County.

Chairman Flowers-Taylor then asked Mr. Habib if he would continue to operate his used car lot on this property and the RV business be a secondary use for the property?

Mr. Habib stated his plan is to move his used car business closer to his home in McDonough and this location will become an RV Sales and Service location.

Conditions per staff are as follows:

CONDITIONAL APPROVAL as follows:

- a. A 200' undisturbed buffer zone shall be maintained along the western edge of the parcel.

- b. Detention area shall not be within the buffer zone.
- c. The use of a salvage operation shall be specifically excluded.
- d. The use shall be limited to the use as proposed in the application.
- e. All outdoor storage shall be maintained in a neat, orderly fashion.
- f. There shall be no junked, abandoned, or wrecked vehicles stored on the site except those kept in the building for repairs.
- g. All site lighting shall be pre-approved and be downcast lighting designed in such a way that it does not leave the property.
- h. All vehicles shall be parked on designated paved areas, not in grassed or graveled areas.

Motion/Second by Dutton/Johnson to approve Application #20-11Z: Omran Habib, Owner- Atlanta Best Auto Auctions, LLC - 2539 N. Expressway (5.994 acres, more or less, located in Land Lot 102 of the 3rd Land District) - requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial with conditions as recommended by staff. Motion carried unanimously by all.

2. **Amendment to UDO #A-20-10:** Article 2. Definitions – Section 202:BBB’ – amend definition; Section 202: BBB’, BBB”, BBB3, BBB4, BBB5 – renumbering sections; C-1 – Section 1203:A(17); C-1A – Section 1303: B(4); C-1B – Section 1403:A(82); C- 1C Section 1403A:A(79); C-2 – Section 1503:A(108); VN – Section 1703 A:B (11) & O&I – Section 1903:A(7) – amend personal care homes.

Newton Galloway, Spalding County Zoning Attorney stated, this is the second of two ordinances that are intended to “clean up” and amend how we treat personal care homes to bring the treatment of them into compliance with and in conjunction with State regulations. In November or December 2020, the Board approved an ordinance on personal care homes in our residential districts that applied to smaller personal care homes. Homes with no more than six (6) clients in the home.

Mr. Galloway then advised that we had to do this because the State regulations governing the definitions on personal care homes changed without notice to any of the local governments who may have adopted the State regulations. So, we have had to go back and redo our regulations to make them consistent. We completed the residential classes and residential definitions for personal care homes first, because that is where the greatest demand is.

Mr. Galloway stated that the Ordinance before the Board this evening is for personal care homes in commercial districts and the definition is tied to medical assistance facilities in Title 49 of the Official Code of Georgia and having at least 25 beds and the definition states what services have to be provided. Making our definition consistent with Georgia law.

Mr. Galloway then advised that they then had to go into each commercial and

residential district where we allow a personal care home to redefine it within that zoning district. This Ordinance adopts the new definitions that apply to a personal care home and applies those criteria in each commercial zoning district in which the land use appears. This document brings us into compliance with the State rules and regulations and the State definitions.

Mr. Galloway stated that this Ordinance only applies to commercial personal care facilities that provide personal care, treatment and services. These are larger facilities with 25 beds or more. That is the demark line under the State regulations.

Motion/Second by Johnson/Dutton to approve an Amendment to UDO #A-20-10: Article 2. Definitions – Section 202:BBB’ – amend definition; Section 202: BBB’, BBB”, BBB3, BBB4, BBB5 – renumbering sections; C-1 – Section 1203:A(17); C-1A – Section 1303: B(4); C-1B – Section 1403:A(82); C- 1C Section 1403A:A(79); C-2 – Section 1503:A(108); VN – Section 1703 A:B (11) & O&I – Section 1903:A(7) – amend personal care homes. Motion carried unanimously by all.

3. **Application #21-01S:** John Geter, Owner - Barbara Geter, Agent - 1518 Pineview Road (1.02 acres located in Land Lot 132 of the 3rd Land District) - requesting a Special Exception to allow a general home occupation in the R-2 District.

Ms. Bell stated that this applicant requested the special exception in order to open a home daycare. The Board of Appeals approved the special exception with staff conditions. Staff recommend that prior to issuance of a business license:

- a. All areas related to the home occupation shall comply with all applicable building codes and be inspected and approved by the Fire Marshal prior to approval of business license issuance.
- b. A copy of all required State paperwork must be provided for the Fire Marshal.

Barbara Geter, 1518 Pineview Road, she stated that she is seeking a business license to run a home daycare for six children that range in ages from 1-4.

Motion/Second by Dutton/Bowlden to approve Application #21-01S: John Geter, Owner - Barbara Geter, Agent - 1518 Pineview Road (1.02 acres located in Land Lot 132 of the 3rd Land District) - requesting a Special Exception to allow a general home occupation in the R-2 District. Motion carried unanimously by all.

4. **Application #21-31S:** Marcus Robinson, Owner - 1303 Manley Road (36.45 acres located in Land Lot 39 of the 3rd Land District) - requesting a special exception to allow a Class A Manufactured home in the AR-1 district.

Ms. Bell stated that the request is to allow a manufactured home. The major item leading to the staff recommendation is the analysis of other types of home construction in the general area. We do an analysis of a half-mile radius of the parcel in question. In this area 13.5% of the parcels are vacant or have a non-residential use. 78.4% of the parcels in the analysis area contain conventionally constructed homes and only 8.1% contain manufactured homes which led to the

staff recommendation, based on the requirements of the UDO, to deny the application.

Spoke in favor of the application:

Jennifer Lassen, 15 Harold Till, Forsyth, GA representing Georgia Modular Home Association.

Spoke against the application:

Glenn Duncan, 1397 Manley Road
Tracy McDonald, 1322 Manley Road
Jean Haynie, 1301 Manley Road
Patricia Pendley, 811 Manley Road
Terry Sweat 1315, Manley Road

Motion/second by Bowlden/Dutton to deny Application #21-31S: Marcus Robinson, Owner - 1303 Manley Road (36.45 acres located in Land Lot 39 of the 3rd Land District) - requesting a special exception to allow a Class A Manufactured home in the AR-1 district. Motion carried unanimously by all.

5. **Application #21-01Z:** Saira, Ali, Owner - 4301 Newnan Road (2.4981 acres, more or less, located in Land Lot 29 of the 1st Land District) - requesting a rezoning from AR-1, Agricultural and Residential, to C-1, Highway Commercial.

Ms. Bell stated that this property had a convenience store on it; however, it was removed when GDOT made the intersection improvements there. The building was demolished. The property owner currently owns the property on the corner as well as the commercial property to the west of the parcel in question. This is a six-acre parcel and they are only asking to rezone approximately 2.5 acres to be combined with the corner parcel so it is all C-1 to enable him to rebuild a new convenience store. This location is within a Community Crossroads Area on the Future Land Use Map so property adjacent to that intersection is intended to be for Commercial uses.

Chairperson Flowers-Taylor asked if the property owner is requesting to combine the three properties on that corner.

Ms. Bell stated that he is only trying to combine B-1 and B-3, tract B-2 will still be independent of the other two locations. We have made provisions within the staff recommendations to deal with that. Staff is recommending a conditional approval with the following conditions:

- a. Interparcel connectivity with the adjacent commercial parcel to the west is required and shall be shown in the construction plans and a curb cut provided at time of construction. The plan is to take out four substandard driveways along Newnan Road that currently enter the property and there will be only one DOT approved driveway from Newnan Road.
- b. Outdoor storage is not allowed.
- c. All site lighting shall be pre-approved and be full-cutoff, downcast type lighting, including the fuel canopy, signage and any building-mounted lighting.
- d. All vehicles shall be parked on designated, striped paved areas.

- e. Building shall have four-sided masonry finish such as split face concrete block, brick, or a cementitious lap siding. No exposed plain CMU or metal siding is allowed.

Chairperson Flowers-Taylor stated that the access to tract B-2 will still be through tract B-1.

Commissioner Dutton stated that this is the same owner who came before us before. There was a requirement when he came the first time that he demolish the old store, because that is what the Board requested during the last application. When we wanted to attach the condition that the old store be demolished, he wouldn't agree to that. He then stated that he wanted to build a new store, but he wanted to keep the old store. There are a number of people who came into that meeting asking that the rezoning not be approved. There were allegations of drug sales at the location and they were adamant. He would love to have the new store, but we do not want the old store left standing.

Chairperson Flowers-Taylor stated that she didn't vote for it at the last meeting because tract B-2 was included in the request. Tract B-2 is not included in the request before us this evening and we cannot deny him the highest and best use of his commercial property that is already zoned and established. If he builds a new Convenience Store and Service Station on B-1 and B-2, that is still property taxes from a new business and revenue that we are going to get from a new business that would not exist. If he chooses to use that one story block building for supply, if somebody wants to put a beauty shop in there, if he wants to store beer in it, we don't have a right to tell him how to make that building over. What is the problem with the parcels before us this evening? If you look at this on the face of what is being requested, why would we demand that he tear this other building down. It has actually nothing to do with the application before this Board today, parcel B-1 and B-2 except for the condition that there won't be a driveway cut for that parcel, the only way you will be able to get to that lot is if you go through the parking lot where the new construction is going to be.

Chairperson Flowers-Taylor stated that she doesn't want to set a precedent of denying people the use of their property for what reason?

Commissioner Johnson stated that she remembers people coming out at the last meeting where this property was discussed and advocating against it. However, they are not here tonight, so we may need to consider that. Even though, she sees what Chairperson Flowers-Taylor is saying in our not being able to tell people what to do with their property.

Commissioner Dutton then asked how many times are the citizens going to have to come out and stand up against this. Is it going to be an annual thing where they have to come out once a year and stand up against this?

Chairperson Flowers-Taylor stated that you can't pick subjective things in order to deny an application. The people who came here this evening from Manley Road, they didn't want that in their neighborhood for their own reasons; however, if that community had been trending toward mobile homes, we would have probably went ahead with the trend, because that would have been the

recommendation.

Chairperson Flowers-Taylor then stated that there is no other convenience store out in this area, there are no other gas stations out there. We can't deny that neighborhood those resources because of Commissioner Dutton's concerns. If the store is out there operating and people are doing stuff illegally, that is what we've got the Sheriff for. If the Sheriff had come in this evening and said that he didn't need these people building this, then she would be saying maybe we shouldn't do it.

Commissioner Dutton then stated that he has had multiple clients, as a criminal defense attorney, be arrested at that store.

Mark Buckner, 221 East Bank Street, Griffin, advised that he is a registered land surveyor with Scanlon Engineering Services representing Mr. Ali. They did the survey and Jerry Scanlon their Engineer did the conceptual site plan. He stated that he cannot elaborate on what Ms. Bell had to say on what Mr. Ali is trying to do. He is going to eliminate the four substandard driveways and put a GDOT approved driveway in. Mr. Buckner stated that no one disapproves it this time around because nobody is here to voice an opinion against it. Evidently, they are okay with it now because there is no one present this evening to oppose it. He thinks Mr. Ali is trying to improve the property and will make it look the best that he can and Ms. Bell and the Planning Commission have given their recommendations on the things they want him to do and he is willing to do all of that.

Sadru Ali, 3788 Sutton Place, Tucker, he stated that by profession he is a mechanical engineer. Mr. Ali advised that he purchased the corner spot at this location in 2000 and he was in business until 2013. In 2013, the Georgia Department of Transportation purchased the land along the front and side of the property to improve the road. They demolished the store at that time and this put me out of business.

In 2018, the neighbor to the property contacted him and asked if he wanted to purchase his property with the small store. He then purchased that property so that he would be back in business. The store on this location is an independent building. Mr. Ali then advised that "yesterday, he spent \$10,000 to do the parking in that lot." He also installed 4-5 poles for outdoor lighting at that location. Now, there should be no illegal activity going on at that store. They are open until 9:00 p.m. and he has people coming in telling them that they did the right thing.

Mr. Ali then advised that when he appeared before the Board two years ago, there was complaints about that building; however, there have been no complaints that he is aware of in the last two years.

Ms. Bell stated that there were no complaints at the Board of Appeals meeting.

Mr. Ali stated he has been keeping the property well lit and when he develops this property, it will be amazing. That is all he wants to say. He can scale the construction down to just gas pumps and a kiosk, but if you allow me, I can do

much better.

Chairperson Flowers-Taylor then asked Ms. Bell if there was anything that she would like to add.

Ms. Bell stated that there was no one who came to speak in opposition to this zoning at the Planning Commission meeting. The signs were posted and post cards were mailed to the adjacent property owners as is required.

Commissioner Dutton then asked if Ms. Bell had reviewed the plan that Mr. Ali put forward last time?

Ms. Bell stated she did not look at that plan.

Chairperson Flowers-Taylor then asked if there were any further questions for Mr. Galloway or Ms. Bell.

Commissioner Dutton stated that he would really like for the neighborhood to sign off on it.

Chairperson Flowers-Taylor stated that process has been followed. The community has been served and they have had the same opportunity as they had a year ago to come and present any opposition.

Commissioner Dutton then stated that he felt COVID has to be considered. We can't assume that they don't have any problems with it now as nothing has changed about it. He feels that COVID is keeping these people away. Without affirmative support contradicting what they did last time, he is a "no." Instead of motion to turn him down, we should give him an opportunity to go to those neighbors.

Chairperson Flowers-Taylor then advised that this is a separate application. Ms. Bell says there are no complaints.

Commissioner Johnson stated that there have been no criminal complaints in the last year. Regardless of whether the community is here or not, if there had been complaints, people would be here and there have been none. COVID is not going to stop you from complaining and COVID is not going to stop you from calling 911.

Commissioner Bowlden then asked what the construction was going across the street from this location?

Ms. Bell advised there are plans for a convenience store across the street. With regard to complaint, we have not received any calls in the office with any complaints or any questions about this particular request. She then added that COVID or not, if people are concerned, they have been very vocal and have called or emailed us.

Mr. Wilson then asked in what stage of development the convenience store across the way is in?

Ms. Bell stated they are just getting started, she is not sure of the status of the plans at this time. They are very close to getting their permit if it is not already signed off.

Mr. Wilson stated that the future land use map for that area is Crossroads Commercial.

Motion/Second by Johnson/Flowers-Taylor to approve Application #21-01Z: Saira, Ali, Owner - 4301 Newnan Road (2.4981 acres, more or less, located in Land Lot 29 of the 1st Land District) - requesting a rezoning from AR-1, Agricultural and Residential, to C-1, Highway Commercial with staff conditions. Motion failed 2/2. No action taken.

Mr. Galloway stated that Chairperson Flowers-Taylor is correct, there is no action taken as there is a tie vote.

Mr. Wilson then advised that the Governor has appointed a 5th Commissioner who will be sworn in next week. He asked Mr. Galloway if we need to table this or will it automatically come up on the next agenda.

Mr. Galloway stated that if there is no additional motion and if it is assumed that the motion would be split similarly, then the policy would be to table it to the next agenda. No action, it has not been approved. So, it just continues to sit and it would appear on the next agenda, or they could table specifically to the next zoning agenda.

No further action was taken and this item will be placed on the February Zoning Public Hearing.

E. NEW BUSINESS

1. Consider approval of an extension on a Resolution adopted by the Board of Commissioners on July 20th, 2020, establishing a moratorium on the acceptance of an application for Rezoning, Permit Application for Improvement and/or Development and Request for Approval of Construction plans for certain properties currently zoned "C-2 Manufacturing" under the Zoning Ordinance of Spalding County.

Mr. Galloway stated that he and Ms. Bell have worked on this since the moratorium was established for the purpose of developing criteria for protecting the mill villages from having commercial development around the exiting mill villages to encourage their redevelopment. We have looked at a number of different ordinances and this will be an ordinance that will be proposed by means of an overlay and there are very good criteria to we have. This overlay is not ready to be presented; therefore, we are requesting the current moratorium be extended to April 21st, which would be the April zoning hearing. Staff will have this ready for you at that meeting.

Motion/Second by Dutton Flowers-Taylor to extend the moratorium as recommended by staff.

Chairperson Flowers-Taylor stated that she had a gentleman come to her regarding a piece of property in the mill village with multiple zonings. 99% of the property he purchased is zoned C-1 which has most of the buildings, so as long as the moratorium is on, he can't really do anything because that little piece of property has different zonings including an R-1. So, he can't ask that it be changed to C-2 because we have a moratorium.

Mr. Galloway stated he didn't know which parcel Chairperson Flowers-Taylor is talking about, but the moratorium are on a number of particular parcels which are listed in the Resolution which are subject to the restrictions. So, if his parcel is not specifically enumerated in the moratorium, then his parcel is not subject to it.

Mr. Wilson stated that his parcel is in the moratorium.

Ms. Bell stated that she believes it is in the moratorium area and she had someone this week who was wanting to park tractor trailer trucks on the southern most parcel along Quilly Street. So, the moratorium is preventing someone from creating a tractor trailer parking lot on Quilly Street.

Motion carried unanimously by all.

2. Consider approval of final plat for Sun City Peachtree Subdivision - Pod 15.

Ms. Bell stated they have completed the construction work on Pod 15, passed all of their inspections, applied all of the necessary bonds, street light petition and other documents to be able to submit this final plat for approval.

Motion/Second by Johnson Dutton to approve the final plat for Sun City Peachtree Subdivision – Pod 15. Motion carried unanimously by all.

3. Consider approval of final plat for Sun City Peachtree Subdivision - Pod 17.

Ms. Bell stated that Pod 17, has also completed construction and passed all of their inspections. They have submitted the necessary bonds and other documents to be eligible to submit for your approval.

Motion/Second by Dutton/Bowlen to approve the final plat for Sun City Peachtree Subdivision – Pod 17. Motion carried unanimously by all.

F. OTHER BUSINESS: None.

G. CLOSED MEETING – None.

H. ADJOURNMENT

Motion/Second by Johnson/Flowers-Taylor to adjourn the meeting at 7:25 p.m. Motion carried unanimously by all.