

After Agenda

**Board of Commissioners of Spalding County
Zoning Public Hearing
Thursday, February 25, 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, February 25, 2021, beginning at 6:00 p.m. with Chairman Clay Davis presiding. Commissioners Gwen Flowers-Taylor, 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, Community Development Director, Debbie Bell and Kathy Gibson, Executive Secretary to record the minutes.

A. Opening (Call to Order) by Chairman Clay Davis.

PLEASE SILENCE YOUR CELL PHONES AND ALL OTHER ELECTRONIC DEVICES.

B. Invocation

Commissioner James R. Dutton, District #2, delivered the Invocation.

C. Pledge to Flag

Commissioner Ryan Bowlden, District #4 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.

E. New Business

1. Consider approval of final plat for Perez Family Farm subdivision located on Covington and Steele Road.

Debbie Bell, Community Development Director, stated there is a provision in Section V, AR-1 Chapter of the Zoning Ordinance for parcels that are subdivided into 5 or more lots from the parent parcel. Since the inception of the ordinance there is a provision that these be presented as preliminary plat and final plat going through that process.

This subdivision before you is a result of that provision. They are not adding any new infrastructure, they are simply creating road frontage lots. There are four lots out of this parcel which exceeded the threshold from the original

parent parcel. Staff recommends approval, the plats meets all of the requirements of the Zoning Ordinance.

Motion/Second by Dutton/Johnson to approve the final plat for the Perez Family Farm subdivision located on Covington and Steele Road.

Commissioner Flowers-Taylor then asked if the same person owns the parcel that is on the backside of the frontage property?

Ms. Bell stated that that the people who own the parcel on the corner of Covington and Steel purchased the property from the previous owner of the larger parcel.

Motion carried unanimously by all.

F. Other Business

1. Review of UDO provisions on Non-Conforming uses, Section 403.

Newton Galloway, County Zoning Attorney, stated that approximately 60% of the questions that arise in Community Develop pertain to non-conforming uses. Those are uses that pre-date the Zoning Ordinance, or uses that pre-date a restriction of the Zoning Ordinance which are permitted to continue. Then we always have a questions that come up as to whether that use can continue under the Zoning Ordinance, if there is a change. Whether or not the time period in which the non-conformity can't be extended? There are a ton of different ways a non-conforming use can arise, and it is problematic for Ms. Bell because she is trying to make a decision and tell people whether they can or can't do going forward.

Mr. Galloway stated that a few months ago, as part of the American Planning Association materials, they issued a directive that discusses a multitude of ways to deal with non-conforming uses that are more creative and to allow people to use property, or not, depending on clearer guidelines tied to where the property might be located, what the primary use of the property may be and he recommended to Ms. Bell that they utilize this as a guideline to proceed in discussion of modifying our non-conforming use positions to make them easier for her to administer. This is not an easy task and it will take some time, so we have brought it to you to get direction before we commit to that process.

Mr. Galloway stated that would use this as a guide to come back with ordinance provisions that address some of the problems that we have had. Commonly this comes up when someone purchases a piece of property that may be zoned AR, years ago, there was some type of commercial or industrial activity that the ordinance allowed on the property and they don't understand why Ms. Bell has to tell them "no." What evidence establishes that use on the property? How do we know the property was ever used for that particular activity? So, to be fair and to be clear to everybody and to give Ms. Bell that balance, we are requesting that you allow us to look at this. What we will do is sit down and see this as a starting line and see how that functions for Spalding County and then go forward from there and bring you back a revision.

Consensus of the Board is to proceed with this review.

G. Closed Meeting

Consultation with the county attorney, or other legal counsel, to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1);

Motion/Second by Flowers-Taylor/Johnson to enter into Executive Session for the purpose of discussion of discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1) at 6:11 p.m. Motion carried unanimously by all.

Motion/Second by Flowers-Taylor/Bowlden to close the Executive Session at 6:22 p.m. Motion carried unanimously by all.

Motion/Second by Flowers-Taylor/Johnson to amend the agenda to include an update from staff on potential annexation on Williamson Road. Motion carried 4-1 (Dutton).

Mr. Galloway stated that in January 2021, the County received notice of a proposed annexation on Williamson Road in between South Pine Hill and Oak Grove Road. The proposal was to annex 30-acres of property and for it to developed within the City of Griffin as apartments. Under the County ordinance, if somebody wanted to build apartments, they could have 8 units per acre; however, in the City they can have 12 units per acre. So, on a 30-acre tract there could potentially be 360 apartment units. The proposed development is not consistent with our comp-plan, which provides generally for a residential use. That piece of property is zoned Office and Institutional because many year ago the Board had approved a VA facility to go there.

Now, a little bit of history on the property, this was some of the first zoning work that he had to do for Spalding County back in 1995 and 1996. When we were approached by a developer to put a convenience store at the corner of South Pine Hill and Williamson Road and when we had a developer who wanted to build the subdivision that is now on Oak Grove Road. Oak Grove Road was approved and is a nice subdivision development. The developer also owned the rest of the property that extended to South Pine Hill Road behind where the convenience store is located and then he ran into financial difficulties. He lost the property, the property went into foreclosure and somebody bought it and rather than coming to the County to develop it as we had zoned it, they requested to annex it into the City and the City zoned a planned development for them, but the City also allows very dense residential areas and that is now known as Powers Court. Powers Court is not a quality development.

Mr. Galloway then stated in having watch that occur, we actually in the late 1990's implemented and the City agreed to a zoning annexation procedure that is in appendix L of the UDO which required coordination in annexation and zoning and it also imposed an obligation if you have a piece of property coming in for rezoning and it was next to the City, we notify them and they notify us. In the interim, Georgia

passed a revision to the annexation statute. In OCGA 36-36-11 which created a formalized notification of objection procedure and if the rezoning and annexation could not subject to agreement sets out a complicated arbitration process. The notice requirements are short-fused.

The purpose of this is to require some degree of coordination. Now, we filed an initial objection under Mr. Wilson's signature to the annexation and the rezoning, as required by the statute and we did not send the second notice in as Mr. Galloway was sick with COVID and we missed that deadline. Formal arbitration procedure under the State Code is no longer available. That procedure is cumbersome. He advised that in Henry County this is a common procedure to voice objection to annexation.

Having missed the second notice, we requested and the City agreed, to participate in a call that we had last week to review the objections. The proposed apartments are no consistent with our plans and we do not view them with being consistent with Oak Grove. So, you have the property in between Lenox, much closer to Lenox and the residences on Oak Grove and South Pine Hill and it is impacted by what is present at Powers Court. We participate last week in a ZOOM call with the City, the call was reasonably productive, but the goal was to approach the City to say that we ought to be able to coordinate what we propose to with Appendix L of the UDO as opposed to having to go through mediation and a citizen review panel arbitration policy and to respect the future last use map classifications and the zoning classification of the respective jurisdiction if there is any. Verbally, the City was agreeable to that, but we did not get to the point to where there was a discussion of where we go back to Appendix L.

Mr. Galloway then turned the matter over to Ms. Bell and Mr. Wilson to give their perspective of the conversation. He hopes there is more cooperation going forward to be able to coordinate when we have zoning and annexation issues. He doesn't know nor can he represent that he feels this will occur. We were advised that the developer has agreed to limit the number to 150 units, although we haven't seen anything in writing. He then advised that according to Mr. Jacobs' Office P&Z will hear this on March 15th and the Board of Commissioners will hear it on March 23. Mr. Galloway then stated that he would recommend that a minimum the County make it's objection know, but again without having through the citizen review panel process try to develop and get us back to where we were 20 years ago.

Mr. Wilson stated that this is just Powers Court apartments all over again.

Commissioner Dutton stated that he is vehemently opposed to this.

Mr. Wilson asked if the Board would consider having Mr. Galloway represent us that evening and present a written statement?

Mr. Galloway state he would have to check his schedule, but they will need to do some preparatory work and let the City know that we will be there to voice an objection.

Mr. Wilson stated that at a minimum we should present them with something that can be read into the records.

Mr. Galloway stated that at a minimum an objection should be written and he believes that the ultimate result if we had gone through the citizen review panel would not be any different. But what the governments need to is cooperate and respect the comprehensive plans and the zoning ordinances of the other.

H. Adjournment

Motion/Second by Flowers-Taylor/Johnson to adjourn the meeting at 6:38 p.m. Motion carried unanimously by all.