



PUBLIC HEARING

A public hearing was held by the Spalding County Board of Commissioners in their office in the Courthouse Annex, Thursday, January 24, 2002 beginning at 6:00 o'clock p.m. with Commissioners, Michael Kendall, Martha McDaniel, Merrill Massengale, Johnnie McDaniel and Dick Morrow present. Also present were County Manager William Wilson, Assistant County Manager Michael Sabine, Zoning Attorney Newton Galloway, Planner Jennifer Reynolds and County Clerk Phyllis Doane.

A G E N D A

A. Call to order – Chairman Johnnie McDaniel

Motion made by Commissioner Martha McDaniel to amend the Agenda to hear the Rezoning Applications before the Special Exceptions. Commissioner Massengale seconded the motion and motion was unanimously approved by a vote of 5-0.

Motion made by Commissioner Martha McDaniel to hear Application #01-108BZ and to vote on Applications #01-18Z, #01-18AZ and Applications #01-18CZ through #01-018RZ as a group. Commissioner Morrow seconded the motion and motion was unanimously approved by a vote of 5-0.

B. Rezoning:

1. **Application #01-18BZ: Lift from the table** - Urban Development, Inc., Owner – 20.75± acres on East McIntosh Road and Pineview Road, located in Land Lot(s) 132 & 175 of the 3rd Land District – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.

Motion made by Commissioner Morrow, seconded by Commissioner Martha McDaniel to lift Application #01-18BZ from the table and unanimously approved by a vote of 5-0.

Mr. Michael Jackson gave his address as 5138 Old Atlanta Highway, Hampton, GA, and stated he was here tonight representing this tract of land. He said that there were concerns about a large development being put in behind the residences and had come up with a plan that might help relieve some of the tension that the residents have. He said under the new plan they were proposing twelve (12) lots leaving one lot open space, with 50% greenspace that is required, with 1250 sq. ft. homes with two car garages and turn-a-rounds, which are compatible with the homes in the surrounding area. He said that they had agreed to the ten (10) foot buffers on the back and the side and intended to leave the hardwood trees. Since applying for the R-2 zoning, which is 1250 sq. ft., the zoning district for 1250 sq. ft. has been changed to R-5 under the new rules. Therefore, they are requesting the R-5 zoning district.

Ms. Patricia Willis was signed up to speak on this application. She gave her address as 441 E. Northwoods Drive and commended the Commissioners for upgrading their footage in the zoning districts and was in favor of the R-2 zoning on this application, which is now 1,400 sq. ft. minimum under the new rules. She said that the residents had no objections to the R-2 rezoning. She said that they did have concerns about the houses being on top of each other but with the new square footage, their concerns had been addressed.

Ms. Willis was told that she misunderstood the rezoning they were requesting as they are requesting 1250 sq. ft. homes with two car garages and under the new rule, the rezoning request has been changed to R-5.

Ms. Willis stated that she and the other residents objected to the R-5 rezoning for this tract of land. She said that she had a homeowner's petition for her vicinity, which she gave to the Board, which stated that they would accept no less than 1.5 acres per lot with the new R-2 zoning which is 1400 sq. ft. living space with one car garage. She said that the homeowners were not happy with the present development going

on by the Golden's. She said that the houses are small. She said that they did not feel that they were asking for too much. She said that they wanted a good subdivision and houses that provide good living space.

Mr. Jackson was asked if he could not agree to build 1400 sq. ft. homes. He said that he could not. He said with leaving 50% greenspace, losing half the density would cost you twice as much, bare dirt cost plus you have your development costs. He said that Mr. Golden's houses are selling at \$99,000 to \$104,000 and 1400 sq. ft. would be an additional \$20,000 and he does not believe that they have a market for this type house.

Commissioner Morrow read the square footages on a plat and most of them were between 1000 and 1200 sq. ft. homes. He said that the R-5 zoning Mr. Jackson is asking for is compatible with the homes in the area. In fact Mr. Jackson is building bigger than all the houses on the street, which fronts the development.

Commissioner Kendall stated what about the houses behind the development, where the homes are much larger and are all brick houses. Mr. Kendall commented that he just as soon let it stay at C-2 zoning and take my chances as some kind of business coming in and building in a residential area.

It was pointed out that the Planning Commission recommendation was for 1400 sq. ft. living space with some kind of garage.

Zoning Attorney Newton Galloway commented that Mr. Jackson has designed for a conservation subdivision; however, in the conservation subdivision ordinance, which you just enacted, R-5 zoning was excluded as this is the only district you left for manufactured housing. He said that we do not have a requirement that allows him to serve residences off a private driveway. He said that if a conservation subdivision is approved, Mr. Jackson has to go back and do the necessary things under that ordinance to get it approved.

*Motion made by Commissioner Morrow to approve **Application #01-18BZ** to R-5 with the following conditions: site-built homes only, minimum 10 ft. buffer behind the lots on East McIntosh, two car garages and a maximum of 12 lot plus one out parcel. Commissioner Massengale seconded the motion. The motion failed by a vote of 2-3 with Commissioners Kendall, Johnie McDaniel and Martha McDaniel voting against the motion.*

Motion made by Commissioner Kendall to deny the R-5 rezoning. Commissioner Martha McDaniel seconded the motion. Zoning Attorney Newton Galloway stated that if the motion to deny is approved, the property remains C-2. He said that the Board has the authority to zone the property to any classification that you deem to be constitutional appropriate. Commissioner Kendall withdrew his motion as well as Commissioner Martha McDaniel her second. Mr. Kendall stated that he was not going to make a motion to rezone these people's property to something they don't want. Mr. Galloway stated that if that is your intent, then you need the motion to deny to R-5, if not, Mr. Jackson can come back with no time conclusion. If you deny the R-5, he can come back with another rezoning application in six months.

The Board asked Mr. Jackson if he could compromise. He said that he could move the square footage up to 1300 sq. ft. but no more.

Motion made by Commissioner Massengale to deny the R-5 rezoning. Commissioner Kendall seconded the motion for purpose of discussion. After discussion, Commissioner Massengale withdrew his motion to deny as well as Commissioner Kendall his second.

*Motion made by Commissioner Kendall to table **Application #01-018BZ** until the February Public Hearing to give us time to see if something can be worked out. Commissioner Massengale seconded the motion and motion to table was unanimously approved by a vote of 5-0.*

*Zoning Attorney Newton Galloway stated with the tabling of this Application, the remainder of the **#01-18Z** applications would not be lifted from the table.*

2. **Application #01-18Z: Lift from the table** - Ralph Lamar & Willie Mae Johnson, Owners – Spalding County Planning Commission, Agent – 1507 N. Pineview Road (Lot 9 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
3. **Application #01-18AZ: Lift from the table** - Willie Mae & Willie J. Gault, Owners – Spalding County Planning Commission, Agent – 1511 Pineview Road (Lot 10 located in

- Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
4. **Application #01-18CZ: Lift from the table** - Melvin & Mary Thrash, Owners – Spalding County Planning Commission, Agent – 1508 Pineview Road (Lot 16 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 5. **Application #01-18DZ: Lift from the table** - Wallace & Betty F. Watkins, Owners – Spalding County Planning Commission, Agent – 1504 N. Pineview Road (Lot 15 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 6. **Application #01-18EZ: Lift from the table** - Kimberly Gilbert Parker, Owners – Spalding County Planning Commission, Agent – 401 E. McIntosh Road (Lot 1 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 7. **Application #01-18FZ: Lift from the table** - Kimberly Gilbert Parker, Owners – Spalding County Planning Commission, Agent – Lot 2 E. McIntosh Road located in Land Lot 132 of the 3rd Land District – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 8. **Application #01-18GZ: Lift from the table** - Horace & Lillie Cleveland, Owners – Spalding County Planning Commission, Agent – 405 E. McIntosh Road (Lot 3 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 9. **Application #01-18HZ: Lift from the table** - Frances I. S. Foster, Owners – Spalding County Planning Commission, Agent – 407 E. McIntosh Road (Lot 4 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 10. **Application #01-18IZ: Lift from the table** - Willie C. & Clara M. Williams, Owners – Spalding County Planning Commission, Agent – 411 E. McIntosh Road (Lot 5 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 11. **Application #01-18JZ: Lift from the table** - David M. & Shirley Pack, Owners – Spalding County Planning Commission, Agent – 415 E. McIntosh Road (Lot 6 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 12. **Application #01-18KZ: Lift from the table** - Gayle W. Smith & Deborah W. Bailey, Owners – Spalding County Planning Commission, Agent – 419 E. McIntosh Road (Lot 7 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 13. **Application #01-18LZ: Lift from the table** - Walter D. & Billie W. Willis, Owners – Spalding County Planning Commission, Agent – 421 E. McIntosh Road (Lot 8 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 14. **Application #01-18MZ: Lift from the table** - Cemetery – Spalding County Planning Commission, Agent – Parcel 12 E. McIntosh Road located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 15. **Application #01-18NZ: Lift from the table** - Lucius Jr. & Janice Horton, Owners – Spalding County Planning Commission, Agent – 443 E. McIntosh Road (Lot 1 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 16. **Application #01-18OZ: Lift from the table** - Lucius Jr. & Janice Horton, Owners – Spalding County Planning Commission, Agent – Lot 2 E. McIntosh Road located in Land Lot 132 of the 3rd Land District – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 17. **Application #01-18PZ: Lift from the table** - Eddie Crawley, Jr., Owner – Spalding County Planning Commission, Agent – 445 E. McIntosh Road (Lot 3 located in Land Lot 132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
 18. **Application #01-18QZ: Lift from the table** - Eddie B. Favors, Jr., Owner – Spalding County Planning Commission, Agent – 447 E. McIntosh Road (Lot 4 located in Land Lot

132 of the 3rd Land District) – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.

19. **Application #01-18RZ: Lift from the table** - DanVest Equities, LLC, Owners – Spalding County Planning Commission, Agent – Lot 5 E. McIntosh Road located in Land Lot 132 of the 3rd Land District – requesting a rezoning from C-2, Manufacturing, to R-2, Single Family Residential.
20. Application #01-30Z: Lift from the table - **John T. Bolton, Owner – Richard L. Mullins, Agent** 4.64 acres on Rover-Zetella Road located in Land Lot 95 of the 1st Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

*Chairman McDaniel stated that the owner, John T. Bolton has requested that **Application #01-30Z** be withdrawn.*

Chairman McDaniel called for a short recess before hearing the Special Exceptions.

Chairman McDaniel called the meeting back to order.

B. Special Exceptions:

1. **Application #01-54S:** Sonya Busby Bond, Owner – 6.612 acres off Malier Road, located in Land Lot 44 of the 3rd Land District – requesting a Special Exception to allow an additional dwelling on property due to hardship.

Ms. Sonya Busby Bond gave her address as 1030 Malier Road and stated she was owner of the property. She is asking for permission to put a temporary 1991 doublewide mobile home on her property for her sister, who lives in Atlanta, to live in. Her sister is disabled and is on a limited income. She said that the mobile home was already in the immediate area and wants to put it on her property for her sister to live in because she can't live alone. She said that she did not want to take away her sister's independence. The mobile home would be placed on two (2) acres of the six (6) acres she owns.

It was pointed out that an easement has been granted for her present home and now she is asking for a second home and there seems to be a legal question.

Ms. Aline Cabrel gave her address as P. O. Box 838, Hampton, GA. She said that she has owned eighty-four (84) acres since 1960 adjacent to it and her land is under conservation and there will be no change in her acreage. She said that it looks as if the mobile home would not be visible from the street. She said that she would not want the mobile home to be permanent if the hardship ceases to exist.

No one was signed up to speak against this application.

*Motion made by Commissioner Martha McDaniel to deny **Application #01-54S**. Commissioner Massengale seconded the motion and motion to deny passed by a vote of 3-2 with Commissioners Kendall and Johnie McDaniel voting against the motion.*

2. **Application #01-56S:** Stanley L. Colwell, Owner – Union Baptist Church, Agent – 34.22 acres off North McDonough Road, located in Land Lot 49 of the 2nd Land District – requesting a Special Exception to allow a Church in the AR-1 District.

Mr. Tim Conort gave his address as 4014 Wesley Drive and stated he was the Pastor of Union Baptist Church and was seeking the Special Exception because the land the present church was on was landlocked with no potential for growth. He said they wanted to build a new church and continue their ministry in the same area they have been in for nearly 52 years. He said that Planning & Zoning Board approved their request for Special Exception.

There was no one signed up to speak against this application.

*Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Morrow, **Application #01-56S** was unanimously approved by a vote of 5-0.*

Commissioner Kendall left the Public Hearing at this time as he had another engagement to attend.

3. **Application #01-58S:** Niasia A. Campbell, Owner – Galaxy Homes, Inc., Agent – 3 acres on Boynton Road, located in Land Lot(s) 149 & 150 of the 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Keith Robertson gave his address as 9870 Tara Boulevard, Jonesboro and stated he was with Galaxy Homes in Jonesboro. He stated he was representing Niasia Campbell and she has bought a 2,000 sq. ft. manufactured home from them. She brought an application before Board of Zoning Appeals last month and was denied but he had further details to present tonight. He said that there were approximately twenty-three (23) mobile homes in the surrounding area. He said this would be in the SunnySide Farms, which was developed for manufactured homes.

Commissioner Massengale stated that Boynton Road is now in the process of being paved and there are some very nice upscale homes being built in that area. He said there are very few mobile homes on Boynton Road but quite a few on North Pomona Road.

Assistant County Manager Sabine commented that the number of site built homes on Boynton Road are fourteen (14) and there are approximately eight (8) manufactured homes, which be would approximately 65% site-built homes.

Mr. Terry Smithson gave his address as 70 Boynton Road and spoke in favor of this application. He said that his land adjoins the lot and welcomes the mobile home out there.

There was no one signed up to speak against this application.

*Motion made by Commissioner Massengale to deny **Application #01-58S**. Commissioner Morrow seconded the motion and motion to deny was unanimously approved by a vote of 4-0.*

4. **Application #01-60S:** Brenda Lane, Owner – 1068 North McDonough Road (2.008 acres located in Land Lot 47 of the 2nd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Ms. Brenda Lane gave her address as 1068 North McDonough Road and stated she was requesting to replace her present manufactured home that has been there since 1973 with an upgrade manufactured home. She said it was compatible to the neighborhood.

There was no one else signed up to speak for or against this application.

*Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Morrow **Application #01-60S** was unanimously approved by a vote of 4-0.*

5. **Application #01-64S:** Arthur C. Krepps III, Owner – 351 Teamon Road (42.435 acres located in Land Lot 118 of the 3rd Land District) – requesting a Special Exception to allow a general home occupation in the R-2 District.

Mr. Arthur Krepps, III gave his address as 1980 South Sixth Street Ext. and stated he was owner of the 42.435 acres. He stated they were asking for the Special exception to allow for a home occupation in conjunction with the general variance approved by the Zoning Board. He said they were selling the house and wanted to locate a shop area in the back for the Davidson's.

Mr. Tony Davidson gave his address as 143 Minter Road. He said the only way they could purchase the property is to have their shop as the property they own in Sunny Side, they would have to sell, lease or rent to purchase the Krepps' property. The nature of the home occupation would be utility construction. He said that they do pipeline, water, sewer and storm drain.

Those signed up to speak against the application were as follows:

Mr. Sid Jennette gave his address as 1980 Kilgore Road. He said that he had a petition of ninety-two (92) names from the citizens in the area and also had photographs out of the outside storage now located in Sunny Side. He said that the citizens who have purchased homes in this area feel that the residential area needs to be protected. He gave some reasons for the Board to consider denial which were (1) only two people benefit (buyer and seller), (2) downgrade property, (3) no hardship has been proven, (4) storage area in Sunny Side and (5) set a precedence in Spalding County and (6) downgrade the prospects for quality development in this area. He asked the Board not to grant the request.

Mr. Gerry Bilbro gave his address as 482 Hillview Road, Hampton, GA and stated that he did not want to see the character of the residential property changed. He said there was no beneficial reason to grant this request.

Mr. Jim Harpe gave his address as 420 Teamon Road and stated he lives directly across from the Krepps' property. He said that the Master Plan has already been set up and to change this would affect the property values of homes in this area. He set this would set a precedence in R-2 areas. He asked the Board to vote against this request.

Ms. Marsha Ann Cooper gave her address as 697 Steele Road. She said that they were planning to build a home on some property they own across from the property in question and commented she did not want this business across the street from her new home.

Commissioner Morrow asked Ms. Reynolds if Planning & Zoning Board approved the variance for outside storage subject to our special exception allowing the home occupation. She answered yes along with several conditions, which were buffering around outside storage on the western side, approval of a curb cut by Public Works Department and the open outside storage area would be conditioned to the site plan present with no expansion.

Commissioner Johnnie McDaniel reminded the Board about some of the criteria for a Special Exception and the criteria to meet a home occupation. Commissioner Morrow commented this was very difficult but from a legal standpoint, criteria rules for a Special Exception would prohibit the Board from approving. He said this would also set precedence in a R-2 district and would open the door, which would be very dangerous.

*Commissioner Morrow made a motion to deny **Application #01-64S**. Commissioner Massengale seconded the motion and motion to deny was unanimously approved by a vote of 4-0.*

D. Text Amendments:

1. **Amendment to UDO #A-01-20:** Amendment to C-1, C-1A, C-1C, & C-2 Districts – to allow the continued use and expansion of existing single family homes being used for residential use.

There was no one signed up to speak for or against this amendment.

*Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Massengale **UDO #A-01-20** was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

2. **Amendment to UDO #A-01-21:** Amendment to Appendix E. Sign Ordinance – Section 1104: allow permitting of signs less than 12 feet in height without certification by a surveyor or registered engineer.

There was no one signed up to speak for or against this amendment.

*Upon motion by Commissioner Morrow, seconded by Commissioner Martha McDaniel **UDO #A-01-21** was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

3. **Amendment to UDO #A-01-22:** Amendment to Article 3. Establishment of Districts – Section 301:A – change R-2 to Single Family Residential; add R-2A – Single Family and Two Family Residential, R-6 – Planned Residential Community, & PDD – Planned Development District, and Section 301:B – add AKB – Arthur K. Bolton Parkway Overlay Zone, S-3 – Sensitive Land-Groundwater Recharge Protection, & S-4 – Sensitive Land-Wetlands Protection.

There was no one signed up to speak for or against this amendment.

*Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Massengale #UDO-A-01-22 was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

E. Other Business:

There was a discussion regarding the rezoning of the East McIntosh Road. The Planning Commission initiated this rezoning and it was the consensus of the Board (with Commissioner Kendall being absent) to request in writing that Planning & Zoning Board withdraw their application for rezoning of these properties.

F. Adjournment.

Upon motion by Commissioner Martha McDaniel, seconded by Commissioner Morrow the meeting was unanimously adjourned at 8:23 P.M.

County Clerk

Chairman

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