



PUBLIC HEARING

A public hearing was held by the Spalding County Board of Commissioners in their office in the Courthouse Annex, Thursday, January 22, 2004 beginning at 6:00 o'clock p.m. with Commissioners Dick Morrow, Michael Kendall, Johnnie McDaniel and Eddie Goss present. Commissioner Davis was absent due to sickness. Also present were County Manager William Wilson, Community Development Director Chuck Taylor, Zoning Attorney Newton Galloway and County Clerk Phyllis Doane.

A G E N D A

A. Call to order: Chairman Kendall

B. New Business:

- 1. Application #03-23Z:** High Top Holdings, Inc., Owner – 1.79 acres on the corner of Poplar Street and Seago Drive located in Land Lot(s) 129 and 130 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Mr. Mike Jackson came forward and gave his address as 5138 Old Atlanta Road, Hampton, GA. He said he was requesting to build a 1250 SF single family home with a condition recommended by Planning Commission of a single garage.

Commissioner McDaniel asked if Mr. Jackson would be agreeable to a two car garage. Mr. Jackson said there would be a parking pad on the side if they don't have a two car garage. Mr. Jackson also requested that the rezoning be conditioned on a turnaround.

Mr. Bob Burke was signed up to speak against this application.

Mr. Bob Burke came forward and gave his address as 120 King Richard Drive. He said that he is not against this developer building this house; however, he was concerned about the R-5 zoning. He said that he cannot build any house on the 1.79 acres without a special exception. He said he feels it would be better served if the Board forgets about the R-5 zoning and gives Mr. Jackson a variance to build the house.

Chuck Taylor gave the Staff Report. He said the applicant's proposal to build a 1250 SF house in this area is actually an upgrade to the area. The average house size in this area is 900 to 1000 SF. He said in regards to the rezoning, he would rather see the rezoning instead of a variance to reduce house size. He said this would be a dangerous precedence to set.

*Motion made by Commissioner Morrow to approve **Application #03-23Z** conditioned upon a car garage and with a turnaround. Commissioner McDaniel seconded the motion and motion was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

- 2. Application #03-24Z:** G. T. Architecture Contractors Corporation, Owner – Integrated Science and Engineering, Agent – 84.614 acres off Teamon Road located in Land Lot 201 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-4, Single Family Residential.

Mr. Mark Whitley, G.T. Architecture, came forward and gave his business address as 7544 Southlake Parkway, Jonesboro, GA. He said that this parcel is north of Teamon Road just to the west of Hosannah Road. He said they came before the Planning Commission in August or September with a preliminary plat at that time upon the current zoning of AR-1. That plat had thirteen lots that fronted on Teamon Road. The Plat was approved but the Board members had concerns on the lots that fronted on Teamon Road. The Planning Commission asked them to go back and look at doing something differently, which we did and we came back before the Planning Commission with the revised plan tonight. He said they feel like this is consistent of what is in this area and also what is being developed in this area.

Mr. John Zadjura, Integrated Science & Engineering, spoke on the revised site plan. The site plan indicates one acre lots and is based on approval of the rezoning, coming back for a special exception for the one acre lots. He said that all of the 25% required green space is outside the limits of any lot. This area would fall under the homeowners association. Mr. Zadjura stated they had created an undisturbed buffer along the front and areas where there is no existing vegetation. None of the lots front on Teamon Road. Nearly all the lots are in close proximity to green space.

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

Chuck Taylor gave the Staff Report.

The applicant GT Architecture Contractors Corp. is requesting a rezoning of the property to allow the development of a 55-lot subdivision.

Approval of the rezoning allows the applicant to submit for a special exception to allow a 1-acre minimum lot size subdivision in order to carry the things they are proposing in this site plan.

Staff recommends approval with the following conditions:

1. The make up of the house sizes shall be as follows:
 - a. 50% - minimum 1,500 square feet
 - b. 50% - minimum 1,750 square feet
2. Exposed concrete foundations shall not be allowed on front and corner elevations.
3. All lots developed shall have sodded front yards.
4. All lots developed shall be served by underground utilities.
5. All detention facilities shall be landscaped and/or screened to minimize their visual impact.
6. The subdivision entrance shall include an accel/decel lane and the developer shall consult with the developer of Teamon Acres so that the entrance will line up with one of the entrances into Teamon Acres.
7. A no-access easement must be recorded with the Final Plat for all lots fronting on Teamon Road.
8. A minimum 50 foot undisturbed buffer shall be established along the lots fronting on Teamon Road. Where the buffer is deemed insufficient to provide sufficient opacity, the developer shall supplement said buffer with a mixture of canopy and understory trees to provide said opacity. A buffer plan shall be provided with the construction plan of the subdivision showing existing tree coverage areas and proposed planting.

The Planning Commission recommends approval of the request with the same conditions as proposed by staff stated above.

Commissioner Goss made a motion to rezone Application #03-24Z to R-1 with conditions. There was no second to Commissioner Goss' motion; therefore, motion died for lack of a second.

Commissioner McDaniel asked Mr. Whitley if he would be acceptable to the R-1 zoning which is presently 1750 SF homes (the minimum 2000 SF goes in effect July 1). He said he wanted to be comparable with the development going on across the street. He was speaking about the Clara Company rezoning application. Commissioner Morrow thought they started out at 1400 SF and went up to 1500 SF homes. He said if it was 1750 SF homes, he would be able to compete with them. Mr. Taylor went to his office to obtain the square footages for Clara Company; however, when he returned, Mr. Whitley had already agreed to the 1750 SF minimum.

*Motion made by Commissioner Goss to approve Application #03-24Z to the present R-1 zoning which 1750 SF with the conditions. Commissioner McDaniel asked the conditions be amended as follows: Under no. 2 the condition is changed to "no exposed concrete or block foundation be allowed" and also the addition of front porches and stoops shall be underpinned in character with the house. Commissioner Goss amended his motion to include Commissioner McDaniel's conditions. Commissioner McDaniel seconded the amended motion and motion was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

The conditions are as follows:

- (1) All homes a minimum 1,750 square feet;
 - (2) No exposed concrete or block foundations be allowed;
 - (3) front porches and stoops underpinned and finished with the character of the house;
 - (4) All lots developed shall have sodded front yards;
 - (5) All lots developed shall be served by underground utilities;
 - (6) All detention facilities shall be landscaped and/or screened to minimize their visual impact;
 - (7) The subdivision entrance shall include an accel/decel lane and the developer shall consult with the developer of Teamon Acres so that the entrance will line up with one of the entrances into Teamon Acres;
 - (8) A no-access easement must be recorded with the Final Plat for all lots fronting on Teamon Road;
 - (9) A minimum 50 foot undisturbed buffer shall be established along the lots fronting on Teamon Road. Where the buffer is deemed insufficient to provide sufficient opacity, the developer shall supplement said buffer with a mixture of canopy and understory trees to provide said opacity. A buffer plan shall be provided with the construction plan of the subdivision showing existing tree coverage areas and proposed planting.
3. **Application #03-25Z:** Jefferson David Fincher, Etal, Owner – Minerva Properties, L.L.P., Agent – 199.669 acres off Johnson Road located in Land Lot 146 of the 2nd Land District – requesting a rezoning from R-2, Single Family Residential, to PDD, Planned Development District.
 4. **Application #03-25AZ:** Minerva Properties, L.L.P., Owner – 7.675 acres off Johnson Road (old railway line) located in Land Lot 146 of the 2nd Land District – requesting a rezoning from R-2, Single Family Residential, to PDD, Planned Development District.

Applications #03-25Z and #03-25AZ will be heard together as one item but voted on separately.

Mr. Brian Davison, Minerva Properties, came forward and gave his business address as 2292 Henderson Mill Road, Atlanta, GA. He said that Heron Bay development was now beginning in Spalding County. This will be an extension of the Heron Bay Golf & Country Club providing single family homes and open space. Mr. Davison stated that the homes would be in the price range of \$160,000 to \$200,000 patio homes on the golf course to \$500,000 to \$1M custom homes towards the lake. He said the old railway line had been acquired through Norfolk Southern. He said Johnson Road runs east and west through the property. Blue Sky Drive is to continue through Spalding County. He stated that the original plan submitted to Planning Commission showed 360 lots and the revised plan shown tonight reduces that number to 300 lots. He said there was a request to limit the traffic on Johnson Road and these changes have also been made on this revised plan. Another change is the concept of the sewer being served by Henry County. Henry County has made a request that if they provide sewer, that Minerva follow their water shed restrictions which technically do not apply in Spalding. They have asked for a 500 ft. buffer on each side of the creek that runs through the property. The revised plan shows the traffic taken off Johnson Road and filters out throughout the Heron Bay community. On the revised plan, Section JJ now shows 1750 SF minimum as requested by the Planning Commission.

Those speaking in favor of the applications were as follows:

Ed and Doreen Palmer came forward and gave their address as 417 Johnson Road. Mr. Palmer said they feel this type of community will be good for the area. He had a question for the Board, which is the future of the roads in this area as far as paving. He said he is aware that the County has a plan for unpaved roads but considering the development that is going on in this northeast part of the County, he asked the Board to reconsider the unpaved roads. He said that Johnson Road runs by them and they are directly concerned about this being paved in conjunction with this development.

Commissioner Kendall commented that there were no specific plans to pave these roads as there is no money available at this time; however, we are in the process of talking about a new sales tax. He understands that something is going to have to be done about Trestle Road, Johnson and Johnson Road Ext.

Mrs. Palmer stated that it is only 1/10 of a mile from Jarrett's property to Johnson Road where the paving is going to end. There is only another 500 ft. until the end of the intersection. Mr. Palmer said that is going to create more wear and tear on the paved part of the road. Mr. Palmer asked the Board to consider taking another look at this paving request.

There was no one else signed up to speak.

Chuck Taylor came forward and gave the Staff Report. He spoke about Johnson Road improvements. He said he was concerned about the intersection of Johnson Road and Highway 155 because of the alignment and the sight distance is not that great and will not take a lot of traffic. He says that you will definitely see an increase in cars on Johnson Road.

Mr. Taylor stated that we have just recently received the revised plan as it was submitted after the Planning Commission made their recommendation. From the Staff's standpoint we are recommending that this be sent back to the Planning Commission for reconsideration by them giving the new plan as there has been a significant change in the plan. Their recommendation is to table tonight and send back to Planning Commission for consideration.

Commissioner Morrow stated that he feels like this in essence is a better plan. Staff stated that policy is and has been any significant changes in a plan has to be sent by through the Planning Commission as on PDD's, the zoning is tied to the plan that gets submitted. He said that this will introduce all kinds of confusion at the Planning Commission level.

Mr. Davison asked to speak at this time. He said that a preliminary plat has to be approved by the Planning Commission and back to the Board of Commissioners for their approval. He said that as a result of making all the requested changes, he feels they are being penalized for this. He said that is discouraging for us to make improvements in the process.

Zoning Attorney Galloway commented that you can approve the zoning tonight but it has to be tied to the site plan presented tonight as a condition. Mr. Davison still has to come back with a preliminary plat that is consistent with this revised site plan.

Chuck Taylor stated that if the Board was going to approve this rezoning tonight, there were a list of conditions recommended by Staff that needed to be included in the motion.

Motion made by Commissioner McDaniel to approved Application #03-25Z with the conditions as recommended by Staff and approved by the Planning Commission and conditioned on the new site plan. Commissioner Morrow seconded the motion.

County Manager Wilson asked about Johnson Road condition (C-3) which states a minimum off 50% of cost of the improvements to Johnson Road, a small bridge on Johnson Road, and intersection improvements at Johnson Road and S.R. 155 that are needed as a result of the increased traffic on Johnson Road shall be bourn by the Developer. Chuck Taylor said that Staff recommended this but Planning Commission recommended removal of this condition, which is C3.

Mr. Davison stated that Minerva tried to buy the property which fronts on Highway 155 to redesign Johnson Road but was unable to purchase this property. They plans were to realign Johnson Road to come directly out on Highway 155.

Mr. Davison stated that he did not see a problem of paving the section of Johnson Road at the Palmer's property assuming that the homeowners will voluntarily provide the proper right of way to do this. This is the 1/10 mile of dirt road the Palmer's requested the County to pave.

Motion made by Commissioner McDaniel to delete C-3, under Streets and Sidewalks regarding improvements to Johnson Road, which was not approved by the Planning Commission. Commissioner Morrow seconded the amended motion.

*Commissioner Kendall called the question. The motion to approve with the following conditions was approved by a vote of 3-1 with Commissioner Goss voting in opposition. **The Resolution will be incorporated into the minutes on second and final reading.***

A. Zoning by Pod:

1. Section JJ shall be developed consistent with the requirements of the R-2 zoning district, with a minimum heated floor area of 1,750 square feet and with the additional conditions prescribed in Section B and C.
2. 2. Section KK shall be developed consistent with the requirements of the R-2 zoning district, with a minimum heated floor area of 1,500 square feet and with the additional conditions prescribed in Section B and C.

3. Section LL shall be developed consistent with the requirements of the R-2 zoning district, with a minimum heated floor area of 1,500 square feet and with the additional conditions prescribed in Section B and C.

B. General conditions applied to all the tracts:

1. All front and side yards shall be sodded. Rear yards abutting open space or the golf course shall be sodded.
2. The minimum roof pitch for all structures shall be 6:12.
3. Architectural shingles shall be required.
4. Cantilevered chimneys are not permitted.
5. Exposed concrete foundations shall not be allowed. No concrete block foundations are allowed.
6. Decks shall be painted or stained if they back onto the golf course or open space.
7. Mailboxes shall be coordinated and uniform within neighborhoods.
8. No chain link fencing permitted unless it is vinyl coated.
9. Free standing dog pens shall not be permitted.
10. Accessory structures shall match the style and materials of the home.
11. If vinyl siding is used, a minimum .44 mil siding is required.
12. Garages shall not protrude more than five feet beyond the front building line of the home.
13. All front porches shall and porch stairs shall be underpinned with material compatible with the architectural design of the Home.
14. Recreational vehicles shall not be stored between the street and the front building line of any home.
15. Subject of density approval by the Henry County Water and Sewer Authority, prior to subdivision construction plan submittal.
16. Zoning is subject to water and sewer service and provided by the Henry County Water and Sewer Authority.
17. Zoning Subject to approval of the water and sewer service by Spalding County.

C. Streets and Sidewalks

1. A street tree plan shall be implemented through the development. The plan shall conform to the following standards:
2. Sections JJ, KK, and LL: Street trees shall be required on both sides of the street. Trees are required at 50-foot intervals. Trees shall be hardwood species, with a minimum 2-inch caliper.

*Motion made by Commissioner McDaniel, seconded by Commissioner Morrow to approve Application #03-25AZ conditioned on the new site plan with the same conditions as stated in the above Application #03-25Z. Motion carried by a vote of 3-1 with Commissioner Goss voting in opposition. **The Resolution will be incorporated into the minutes on second and final reading.***

5. **Amendment to UDO #A-03-34:** Article 22. AKB Arthur K. Bolton Parkway Overlay Zone – Section 2203:A(5) – add provision to allow expansion of existing or new construction of single family residential on any existing lot of record as of the date of enactment of this Ordinance.

Chuck Taylor addressed this amendment to the UDO. The amendment proposes to allow for the expansion of existing single family, site built homes in the Arthur K Bolton Zoning Overlay District without having to go through a very detailed process. Staff and the Planning Commission recommend approval.

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

*Upon motion by Commissioner Morrow, seconded by Commissioner McDaniel Amendment to UDO #A-03-34 was unanimously approved by a vote of 4-0. **The Resolution will be incorporated into the minutes on second and final reading.***

C. **Other Business:**

Motion made by Commissioner McDaniel to amend the Agenda to move Item No. 2 to Item No. 1 and Item No. 1 to No. 2. Commissioner Morrow seconded the motion and motion was unanimously approved by a vote of 4-0.

1. Discussion regarding private road policy.

Chuck Taylor addressed this item. He stated that Minerva applied for a variance to allow for Private Roads in Pods DD and DD-1 of Heron Bay in order to place gates across these roads limiting public access to them.

According to the applicant, the gates will have help considerably in his effort to market the higher-end homes in the subdivision that Mr. Davison described earlier today. Staff recommended against approving the variance because of issues with public safety access and because of concerns that allowing private roads and therewith gated communities would tend to weaken the sense of community at a time when Spalding County depends on the strength of the community to accomplish her goals.

After several communications on the subject by individual County Commissioners and staff, it was recommended at the Board of Appeals that this item be tabled to allow for input by the Board of Commissioners on this subject.

Mr. Taylor gave the opinions of a Planner. He commented that people that live behind these gates tend to be less concerned about the issues of the community and they feel they are separated from the problems of the community, especially those that have the more elite type of subdivisions behind the gate. He said that access for public safety, even with the best technology in the world, have problems with that technology and it could delay access for emergency services when seconds count. The advantage is that it does save the County road maintenance money and if you can separate private roads from gates it might be something that can be worked out.

Zoning Attorney Galloway stated that he did not believe that the decision to allow a private road or a gated community should rest with the variance procedure that is in front of BZA. It should be based upon a political decision, policy decision that you make to allow the communities. To allow these types of communities the County needs to adopt appropriate ordinances to set standards for those.

Mr. Taylor commented that BZA had heard that the Board of Commissioners was concerned about this and they tabled the variance application pending input from the Board from this meeting.

Mr. Brian Davison, Minerva addressed his request. He said that the whole concept of Heron Bay is to try to have as much diversity as we can. He said the whole nature and design of the neighborhood speaks for itself with homes from \$140,000 up to \$600,000 to \$1M range all in the same community. He said the concept that it becomes a closed system is untrue because design of Heron Bay is a lot different than that. He said that there are masses of connection trails for the entire community. He said a gate at the front of a pod will stop people's fear of strangers driving in their neighborhood in off-hours and gives them a sense of safety. He said the gated sections are now in Henry County. These private roads are being maintained by the residents in that community. Mr. Davison stated they intended to put in a reserve account for operation of maintenance of roads. The residents in each pod own the streets in their section. Heron Bay gives a blanket easement to all utility companies. He said if they are able to put the gated pods in there will be a \$300,000 or more per house impact.

Zoning Attorney Galloway asked Mr. Davison if there was a Henry County ordinance since Heron Bay was placing gated communities in their development on the Henry County side. He said there was but in his opinion, it does not cover what it needs to thoroughly. The residents are responsible for the road maintenance with no reserve account set up.

Mr. Galloway asked Mr. Davison if he could find a county ordinance on gated communities that does not have flaws and provide it to the County. He said that he would look around and obtain one as a model for the County.

The Board agreed that this was not appropriate for a variance procedure and needed to be a policy decision. Mr. Galloway stated that the Board needs to table Mr. Davison's request until we can draft a policy which is established by an ordinance and this will go back to the Planning Commission. This is already tabled at BZA and they will need to lift item from the table at their next meeting and table this application indefinitely.

2. The Zoning Attorney desires a Closed Meeting to discuss pending litigation.

Upon motion by Commissioner McDaniel, seconded by Commissioner Kendall the Board voted unanimously to go into a Closed Meeting to discuss pending litigation.

Those present were Commissioners Dick Morrow, Michael Kendall, Johnie McDaniel and Eddie Goss. Also present were County Manager William Wilson, Community Development Director Chuck Taylor, Zoning Attorney Newton Galloway and County Clerk Phyllis Doane.

CLOSED MEETING AFFIDAVIT

[A copy of the affidavit must be filed with the minutes of the meeting]

STATE OF GEORGIA
COUNTY OF SPALDING

AFFIDAVIT OF CHAIRMAN

Members of the Spalding County Board of Commissioners, being duly sworn, states under oath that the following is true and accurate to the best of his/her knowledge and belief:

1.

The Spalding County Board of Commissioners met in a duly advertised meeting on January 22, 2004.

2.

During such meeting, the Board voted to go into closed session.

3.

The executive session was called to order at 8:25 p.m.

4.

The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law:

Yes 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);

No Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and
*(insert the citation to the legal authority making the tax matter confidential)*_____;

No Discussion of the future acquisition of real estate as provided by O.C.G.A. § 50-14-3(4);

No Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a county officer or employee as provided in O.C.G.A. § 50-14-3(6);

No Other *(describe the exemption to the open meetings law):* _____ as provided in
*(insert the citation to the legal authority exempting the topic)*_____.

Spalding County Board of Commissioners

Sworn to and subscribed
Before me this 22nd day of
January 2004.
Phyllis P. Doane, Notary Public
My commission expires: March 13, 2006

Dick Morrow
Edward Goss, Jr.
Johnie A. McDaniel
M. Michael Kendall

Upon motion by Commissioner McDaniel, seconded by Commissioner Kendall the Board voted unanimously to come out of Closed Meeting and go back into the Public Hearing Session.

No business was transacted at this time.

D. Adjournment.

Upon motion by Commissioner Kendall, seconded by Commissioner Morrow the meeting was unanimously adjourned at 8:53 P.M.

County Clerk

Chairman

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