



**PUBLIC HEARING**

A second public hearing was held by the Spalding County Board of Commissioners in their office in the Courthouse Annex, Thursday, May 27, 2004 beginning at 6:00 o'clock p.m. with Commissioners Cecil Davis, Eddie Goss, Johnie McDaniel and Dick Morrow present. Chairman Michael Kendall was absent. Also present were County Manager William Wilson, Community Development Director Chuck Taylor, Zoning Attorney Newton Galloway and Yvonne Langford to record the minutes.

**A G E N D A**

**A. Call to order: Vice Chairman Davis in the absence of Chairman Kendall.**

**B. New Business:**

- 1. Application #04-20S:** James Edward Eubanks and Pamela Palmer Eubanks, Owners – 3204 Newnan Road (2.63 acres located in Land Lot 15 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow an additional dwelling on property due to hardship in the AR-1 District.

Community Development Director Chuck Taylor came forward and gave the Staff Report. He stated the applicant is requesting a second home on this property due to a hardship. The existing home is a Class B Manufactured home and the owner wants to build an additional home on site. The applicant has provided the necessary paperwork from a physician describing the disability. Staff recommendation is for conditional approval. Appeals Board recommends approval conditioned on the location of the site build home be relocated so that the requirement to have the temporary manufactured home in the rear yard is met. The way the house is presently sited it would technically put the mobile home in the side yard. If the house is slightly rotated and moved forward it would put the manufactured home in the rear yard. This is a temporary approval and must be renewed annually. The applicant is aware that when the hardship ceases to exist the mobile home will have to be removed.

Ms. Pam Eubanks came forward and gave her address as 3204 Newnan Road and spoke in favor of this special exception. Ms. Eubanks said her mother-in-law has lived with them for 15 years. She has had a couple of heart attacks, strokes, tremors and a number of other things. They have 2.63 acres of land. They have a modular home; four bedrooms, two baths. There are six people living there. The mother-in-law is trying to raise two grandchildren. She wants to be independent. They want to build a 1500 SF house on the property. She understands that when the hardship no longer exists the manufactured home will have to be removed. She additionally understands that they will need to re-certify the disability annually.

No one was signed up to speak in opposition to this Special Exception Application.

*Commissioner Morrow made a motion to approve **Application #04-20S** subject to the condition that the location of the site-built home shall be relocated so that the requirement to have the temporary manufactured home in the rear yard is met. Commissioner McDaniel seconded the motion and motion was unanimously approved by a vote of 4-0.*

- 2. Application #04-06Z:** W. A. Alford, Sr. and Mary Lee H. Alford, Owner – Ray Browning, Agent – 1140 Cowan Road (1.087 acres located in Land Lot 94 of the 3<sup>rd</sup> Land District) – requesting a rezoning from R-1, Single Family Residential Low Density to O & I, Office and Institutional.

Community Development Director Chuck Taylor came forward and gave the Staff Report. He stated that the applicant is requesting a zoning amendment from R-1 to O & I for a daycare center. At the Planning Commission meeting the applicant indicated that if the daycare center did not develop they would be considering an office facility. Staff recommendation was for conditional approval. They recommend that site built or industrialized home of less than 1500 SF of heated square feet, Class A Manufactured Home,

two-family dwelling, and utility substation not be allowed and that preservation of the pecan trees on rear and side yard be required. The Planning Commission recommends approval conditioned on site built or industrialized home of less than 1500 SF of heated square feet, Class A Manufactured Home, two-family dwelling and utility substation not be allowed.

Mr. Bobby Browning came forward and gave his address as 136 Meadowvista Drive and spoke in favor of this application. Mr. Browning said he did not want to be offensive but law requires that he inform the Commission that at some point it may be necessary for them to exercise their constitutional rights if denied. The primary goal is to develop this property as a daycare facility. It might be used for some other type venue. The childcare industry is in the process of change and that might suggest some other use. However, this other use will be just as compatible, or from a traffic standpoint, be even better for the area. Uses, such as a speech clinic, combined with other therapeutic uses like dietary consultant, light physical therapy, insurance office or such other general office space, not retail, that might be needed in the area. All the uses would mean lighter traffic than the daycare. The old structure will be completely removed. The site plan presently presented is only to meet the requirement of the UDO. A more detailed site plan will be presented, along with the landscape plan, when the venue has been determined. There are several oak trees that will be left and most of the pecan trees to the rear will be left. It is costly to remove large trees and they fully intend to remove only the trees absolutely necessary. Landscaping will be added to complement the site. Upon questioning Mr. Browning said if the trees do not interfere with the building, they will be left.

There was no one signed up to speak in opposition to this application.

*Motion made by Commissioner Morrow to approve **Application #04-06Z** subject to the following condition: The following uses shall not be allowed: Site built or industrialized home of less than 1,500 heated square feet, Class A Manufactured Home, Two-family dwelling and utility substation and that Mr. Browning do all in his power to maintain the pecan and oak trees that exist. 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.***

3. **Application #04-07Z:** Holiday Investments, Inc., Owner – 1647 Williamson Road (3.53 acres located in Land Lot 84 of the 2<sup>nd</sup> Land District) – requesting a rezoning from C-1A, Neighborhood Commercial to C-1B, Heavy Commercial.
4. **Application #04-07AZ:** Holiday Investments, Inc., Owner – 1651 Williamson Road (1.28 acres located in Land Lot(s) 84 and 85 of the 2<sup>nd</sup> Land District) – requesting a rezoning from C-1A, Neighborhood Commercial to C-1B, Heavy Commercial.

Zoning Attorney Galloway stated that these two applications will be discussed simultaneously but voted on separately.

Mr. Morrow stated that he had a potential conflict as an investor in this project. He recused himself from consideration of these two applications. Mr. Morrow left the room during discussion and vote of these two applications.

Community Development Director Chuck Taylor came forward and gave the Staff Report. He stated that This application is for rezoning to expand a lawn and gardens center/landscaping operation. Originally staff recommendation was for denial of one of the sites because it did not meet the minimum acreage requirements. Since that time the applicant has submitted a revised plat with both sites now meeting the requirements. The recommendation is for conditional approval. The Planning Commission also recommends conditional approval. The conditions are that no outside sales be allowed in the front yard of the property, no automotive repairs/sale, no heavy equipment, no gas stations and no tire re-treading operations.

Mr. Taylor said there was a letter from Carolyn English who owns the adjoining property. She said that she does not object to the rezoning. She supports the conditions as recommended by the Planning Commission. She additionally requests that a kennel not be allowed because of the residences that are in a close proximity to this property.

Mr. Mike Jackson came forward and gave his address as 5138 Old Atlanta Highway, Sunny Side, GA. Mr. Jackson spoke in favor of his application. Mr. Jackson said he had not realized they would not be in compliance with the size of one of the sites. However, they have adjusted the sites so they both conform. They are in agreement with the suggested conditions and agree to have the kennel restriction also. He did not realize there were neighbors on adjacent properties. They are going to put up a 5000 foot storage building for storage of landscaping supplies. They would not have been allowed to do that with the

present zoning. This is going to give them more flexibility. It is presently leased part to a landscaper and part to Mid State Supply.

There was no one signed up to speak in opposition to these two applications.

*Motion made by Commissioner McDaniel to approve **Application #04-07Z** conditioned upon (1) no outside sales permitted in the front yard of the property, (2) no automotive repairs/sale, no heavy equipment, no gas stations and no tire re-treading operations, (3) no kennels and (4) the property will be reconfigured to create a conforming lot that is described in the next application #04-07AZ. Motion seconded by Commissioner Goss and approved by a vote of 3-0 (Commissioner Morrow not present for the vote). **The Resolution will be incorporated into the minutes on second and final reading.***

Motion made by Commissioner McDaniel to approve **Application #04-07AZ** conditioned upon (1) no outside sales permitted in the front yard of the property, (2) no automotive repairs/sale, no heavy equipment, no gas stations and no tire re-treading operations, (3) no kennels and (4) the property will be reconfigured to create a conforming lot that is described in the above application #04-07Z. Motion seconded by Commissioner Goss and approved by a vote of 3-0 (Commissioner Morrow not present for the vote). **The Resolution will be incorporated into the minutes on second and final reading.**

5. **Application #04-08Z:** Marlan Development Group, LLC, Owner – C. Mark McCullough, Agent – 1941 Zebulon Road (13.74 acres, more or less, located in Land Lot 105 of the 2<sup>nd</sup> Land District) – requesting a rezoning from R-6, Conditional, Planned Residential Community District to R-6, Conditional, Planned Residential Community District.

Community Development Director Chuck Taylor came forward and gave the Staff Report. He stated that this is basically to change the conditions of a rezoning placed on the property at the time of the original request. The Staff did not make a recommendation at the time of the Planning Commission meeting because they did not have any samples of the material for the siding. At the Planning Commission meeting they provided a sample of the siding. The Planning Commission recommended approval conditioned on 50% brick, stone or masonry front façade, allowing the applicant to decide on the feasibility of a pool, and to keep all other conditions of the original zoning request and redevelopment decision in place.

Mr. Morrow asked if there was a staff recommendation with the additional information.

Mr. Taylor said the issue is the balance regarding what is more valuable to the community, whether it is an increase in the percentage of brick versus the percentage of the addition of vinyl or whether to keep it at 30% brick and the Hardi-plank. He said he was not a fan of vinyl siding. The developer can make an argument that it is lower maintenance and that it is better for the community. It is a difficult balance and he does not have a “best way out of it”.

Mr. Mark McCullough, agent, came forward and gave his address as 800 Springer Drive. He said the vinyl is a maintenance issue. The Hardi-plank requires paint and yearly maintenance. The vinyl siding is less maintenance, mildew resistant and it is the highest quality. They talked about eliminating the pool. In the original conditions the pool was not required. It stated a recreational area. On the construction plans they labeled it a pool area. They may or may not include a pool. They would like to leave it up to the homeowners once a majority of the homes/lots are sold. They will be removing the existing home that is on site and will build a new 1700 SF clubhouse.

On discussion the siding that will be used is .048 and they are willing to condition it to that quality.

Mr. McCullough said the Hardi-plank has to be installed properly and it can have waviness, mildew, and peeling paint. The vinyl will eliminate the waviness and will always look good. The Hardi-plank will not always look good. The homeowner’s association will maintain the exterior of the buildings.

There was no one signed up to speak in opposition to this application.

*Motion made by Commissioner Morrow to approve **Application #04-08Z** conditioned on increasing the required brick, stone, or masonry front façade to 50%, specify that the applicant is allowed to decide on a pool or not, the vinyl used be .048 or better and keep all other conditions of the original zoning request and redevelopment decision in place. Mr. McDaniel seconded the motion for purposes of discussion.*

Commissioner McDaniel commented he has some concerns. Since this was originally approved he has had some times when they could have this one back. It bothers him when it is approved, even if there are conditions, that there is a desire to change those conditions. They have listened to applications recently

where Hardi-plank is a selling point and now they are hearing that it is not. What bothers him is a builder/seller being concerned about the maintenance. The owner being concerned is understandable but it is bothersome when the seller is concerned about long-term maintenance. He understands that vinyl will be less expensive. If there was a hardship he might look at it differently.

*After the discussion the question was called and motion to approve **Application #04-08Z** was denied by a vote of 3-1 with Commissioner Morrow voting in opposition to deny. **Conditions originally placed on rezoning still remain.***

- 6. Application #04-09Z:** Farhad Fallahi and Parvin Abolverdi, Owners – 4021 North Expressway (.40 acres located in Land Lot 107 of the 3<sup>rd</sup> Land District) – requesting a rezoning from C-1, Highway Commercial to C-1B, Heavy Commercial.

Community Development Director Chuck Taylor came forward and gave the Staff Report. He stated this application is to allow for car sales. There is presently a tire store on the property. The property is .40 acres and cannot meet the minimum two acre standard that is required for C-1B. The Staff and Planning Commission recommend denial. Additionally, the structure does not meet the setback requirements.

Mr. Goss said he had visited this site and has no problem with the application if it is conditioned upon only two cars at a time and minor car repairs.

Ms. Lisa Bradley, owner of the property, came forward and gave her address as 731 Buck Creek Road and spoke on behalf of this application. Ms. Bradley stated they were not aware they could get approval with conditions. They would accept any conditions that would allow minor auto repair. They are not talking about ten cars at one time. They are talking about one or two for sale. Mr. Fallahi will be managing the shop. He has a back condition that will not allow him to do major repairs. They would be willing to have this approved conditioned on two vehicles.

Mr. Taylor said they want to expand the tire store business to include auto repair and car sales.

Ms. Parvin Abolverdi said that being able to sell just tires is so limited. They want to just have a small business and make a living. They want to be legal and do everything right.

There was no one signed up to speak in opposition to this application.

Discussion was held and the commissioners were unanimous in wanting to help with this application but did feel that it would be difficult to enforce the conditions. Mr. Goss said he had no problem allowing minor repairs and limiting the number of cars. Mr. Taylor requested that if this was approved to please give very clear directions on the intent of what is being allowed as a minor repair and what would not be allowed. It can be very difficult to enforce and even more difficult if the conditions are not specific. Additionally, there would have to be a variance for lot size if this is approved.

Discussion was held regarding looking at the ordinances to see if some changes could be made that would be appropriate to help with situations like this.

*Motion made by Commissioner Morrow to deny **Application #04-09Z**. Commissioner McDaniel seconded the motion and motion passed by a vote of 3-1 with Commissioner Goss voting in opposition.*

- 7. Amendment to UDO #A-04-11:** All Single Family Residential and Commercial Districts – Development Standards – revision to substandard lots.

Mr. Taylor said in the ordinance there is a section that says if there are two lots that a vacant next to each other and they don't meet the minimum requirements in the ordinance those two lots are considered one lot for the purpose of development. If someone owns the two lots they would have to combine the lots to develop them. The Planning Commission read this and thought it was not fair to require the lots be combined and therefore requested this amendment. This takes out that requirement in all the zoning districts.

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

*Motion made by Commissioner Morrow to approve **Amendment to UDO #A-04-11**. 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.***

**8. Amendment to UDO #A-04-12:** Article 7. Conservation Subdivisions – replace existing Conservation Subdivision requirements with new Conservation Subdivision requirements.

Mr. Taylor stated this is one of the amendments the task force worked on along with the special exceptions. This ordinance will reduce the number of steps for a conservation subdivision. It will bring the process more in line with how standard subdivisions are approved and it takes some of the confusion out of the ordinance. It should result in a better process. The Planning Commission recommended approval of this amendment.

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

*Motion made by Commissioner Morrow to approve Amendment to UDO #A-04-12. 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.*

**9. Amendment to UDO #A-04-13:** Appendix D. Soil Erosion and Sedimentation Control Ordinance – replace existing Soil Erosion and Sedimentation Control Ordinance with new Soil Erosion and Sedimentation Control Ordinance.

Mr. Taylor stated that the State has sent the model Soil Erosion and Sedimentation Control Ordinance. The changes have been incorporated into this amendment. This is being required by the State and the recommendation from the Planning Commission is for approval.

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

*Motion made by Commissioner Morrow to approve Amendment to UDO #A-04-13. 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.*

**C. Other Business:**

*Commissioner McDaniel made a motion to amend the agenda to include consideration of a Closed Meeting requested by Zoning Attorney Galloway to discuss pending litigation. Commissioner Morrow seconded the motion and motion was unanimously approved by a vote of 4-0.*

Mr. Greg Pruitt asked for the opportunity to discuss a situation with the County Commissioners. They agreed to allow him to speak. He came forward and gave his address as 55 Partridge Path.

Mr. Pruitt said in the design criteria there is a requirement for 25% brick, stucco or stone. One of the builders in one of his developments used the stucco accent and it detracts from the development. He would like for stucco to be eliminated from the 25%. If stucco is used it should be required for the entire front of the house because an accent stucco wall does not look good. He would like for the Commission to start the process to have this changed.

Mr. Morrow said he felt Mr. Pruitt had a legitimate request and would like to have Mr. Taylor look at the ordinance.

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

Those present were Commissioners Dick Morrow, Johnie McDaniel, Cecil Davis and Eddie Goss. Also present were County Manager William Wilson, Zoning Attorney Newton Galloway and Community Development Director Chuck Taylor.

**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 May 27, 2004.

2.

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

3.

The executive session was called to order at 7:15 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 27<sup>th</sup> day of  
May 2004  
Phyllis P. Doane  
Notary Public  
My commission expires: March 13, 2006

Dick Morrow  
Cecil L. Davis  
Edward Goss, Jr.  
Johnnie A. McDaniel

*Upon motion by Commissioner McDaniel, seconded by Commissioner Goss the Board voted unanimously to come out of Closed Meeting and go back into Open Session.*

No business was transacted at this time.

**D. Adjournment.**

*Upon motion by Commissioner McDaniel, seconded by Commissioner Goss the Board unanimously adjourned the meeting at 7:30 P.M.*

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Chairman

Please send comments to [webmaster@spaldingcounty.com](mailto:webmaster@spaldingcounty.com)  
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