



Board of Commissioners

**PUBLIC HEARING**

A public hearing was held by the Spalding County Board of Commissioners in their office in the Courthouse Annex, Thursday, June 26, 2003 beginning at 6:15 o'clock p.m. with Commissioners Dick Morrow, Michael Kendall, Johnnie McDaniel, Cecil Davis and Eddie Goss present. 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 Morrow**

**B. Old Business:**

- 1. Application #03-01Z: Lift from the table -** McCamy, Phillips, Tuggle & Fordham Self-Employed Retirement Trust/Carole C. Carlisle, Owners – Harp-Jones Development, Agent – Westmoreland Road (50 acres, more or less, located in Land Lot 36 of the 3<sup>d</sup> Land District) - requesting a rezoning from R-2, Single Family Residential and AR-1, Agricultural and Residential, to R-2, Single Family Residential.
- 2. Application #03-01AZ: Lift from the table -** McCamy, Phillips, Tuggle & Fordham Self-Employed Retirement Trust/Carole C. Carlisle, Owners – Harp-Jones Development, Agent – Westmoreland Road (50 acres, more or less, located in Land Lot 36 of the 3<sup>d</sup> Land District) - requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

*Chairman Morrow stated that we had already had several public hearings on these applications and have fulfilled the requirements of having to have a public hearing; however, he asked the Board what was their wishes to open the public hearings back up.*

*Motion made by Commissioner Davis to re-open the Public Hearing. Commissioner Goss seconded the motion and motion was unanimously approved by a vote of 5-0.*

*Motion made by Commissioner McDaniel to lift from the table **Application #03-01Z** and **Application #03-01AZ**. Commissioner Davis seconded the motion and motion was unanimously approved by a vote of 5-0.*

Mr. Mark Jones, Harp Jones Development, Inc., came forward and gave his address as 547 Ebenezer Road, Fayetteville, GA. He said that he feels that they have addressed the issues that have come up before the Commissioners. He said that they have exceeded all the requirements of the R-2 zoning with square footage of housing being a minimum of 1750 SF and the amount of conservation area and the decrease in the number of lots. He said there would be fifty (50) acres of green space with a maximum of ninety-nine (99) homes built on this remaining acreage. There

was a discussion regarding the Homeowners Association that would be established. The question was asked if you could pro rate the taxes on the common area amongst all the property owners if the homeowners association should fail.

Zoning Attorney Newton Galloway stated that the Commission had reviewed in December 2002 what would be standard covenants for a subdivision dealing with the eventuality that a homeowner association would fail. For the County to set back in, if necessary, charge all fees back to the homeowners. Mr. Galloway stated it could be done either way, start off with the pro-rata share taxes of common area to property owners or the County steps in case the association fails.

Speaking in favor of the Applications was:

Ray Browning came forward and gave his address as P. O. Box 330, Sunny Side, GA. He was speaking on behalf of the Planning Commission and how positive working with these developers has been. He said that this land has been under request for development for approximately two years and each time problems has brought us to a better product. He said these gentlemen have not hesitated to agree upon our entire request and he asked the Board to approve this development.

Speaking in opposition to the Applications was:

Mr. Robert Burke came forward and gave his address as 120 King Richard Drive. He asked the Board to deny this request. He said even though they had met the requests ask of them, he did not feel they were there yet. He had serious concerns regarding traffic on Highway 92.

Ms. Jane Westmoreland came forward and gave her address as 1194 Vineyard Road. She reminded the Commissioners of the petition that had been presented to them in an earlier meeting with 344 signatures opposed to the rezoning of the land on Westmoreland Road and Highway 92 from primarily AR-1 to R-2. She presented at the May 22<sup>nd</sup> meeting the following list of questions involving the impact of the development on the public health, safety and welfare of the community to the Board obtained from Richard Hubert and Eric White, attorneys at law. Mr. Galloway insisted that the County not address the questions that night but get with Community Development Director Chuck Taylor and provide answers to the questions once they have had a chance to review and discuss them. She asked that these twelve questions and their answers be incorporated into these minutes.

1. What will be the impact of the proposed residential subdivision on local schools?

As you are aware from your attendance at recent meetings between the Spalding County Board of Commissioners and representatives of the Griffin-Spalding County School Board, we have advised the Board of Commissioners that denial of a zoning request based solely on impact to Schools may raise legal issues. The standards for approval of a rezoning application are set forth in Section 414 of the Zoning Ordinance. Specifically, Section 414(F) refers to the police power of the County. Historically, school conditions do not fall within the traditional concept of the County's police power. Additionally, school impact is not referenced in the County's Comprehensive Plan, nor was the County required to include school issues therein under the requirements imposed upon its planning process by the Georgia Department of Community Affairs or House Bill 489.

On April 3, 2003, you attended a joint meeting of the Spalding County Board of Commissioners, the Planning Commission and representatives of the Spalding County School Board to discuss development impact on the school system. At that meeting, the parties agreed that for planning purposes the number of students in each new dwelling unit constructed in the County would be presumed at 1.2 students. Thus, any proposed development of 100 dwellings (irrespective of location) will be presumed to add 120 students.

As you are also aware, plans are currently underway to revise the County's Comprehensive Plan to include authority for consideration of school impact on review of any rezoning application. Currently, the County's planning staff provides copies of rezoning applications to the Board of Education for comment. Additionally, the County has directed the development of an appropriate ordinance to allow input from the School Board on rezoning applications. When these steps are completed, Spalding County will be one of the first counties in the State to coordinate residential development zoning issues with school policy. However, even with such level of coordination, school facilities will be only one factor to be considered by the County when it decides a rezoning request. Further, the School Board (as the County understands the duties thereof) is required to undertake actions necessary to provide for the education of all children residing in the County, including newcomers who have a legal right to reside here and live in the jurisdiction of their choice.

2. Where will funds come from to construct the added school facilities required to accommodate the additional students in this area?

This question presumes that additional school facilities will be required to accommodate children that may be added to the system from the proposed development on Westmoreland Road. Presently, no evidence has been tendered (either in support or opposition to the rezoning request) that such presumption is accurate or correct. This inquiry should be addressed to the School Board.

3. How many additional teachers may be required to accommodate the added students residing in the new proposed development?

Refer to response to No. 2, above.

4. Will the additional residents alter fire protection alter fire protection services for that area of Spalding County?

Based on review of the County's Comprehensive Plan, no alteration of service is anticipated resulting from the proposed development. Fire districts are established for each area of the County. According to the Spalding County Comprehensive Plan, a new station is already proposed for this area.

5. Has any analysis been performed respecting the increased fire protection services in this area of Spalding County respecting the proposed residential development?

Except as detailed in response to the previous question, no analysis has been performed. The main purpose of the Comprehensive Plan is to project growth and plan improvements to service delivery to accommodate the growth. The Comprehensive Plan has done so, as set forth above. In further response, any projected increase resulting

from this proposed development would not exceed that increase associated with providing services to other subdivisions, such as Nottingham, when constructed in 1996-1999.

6. Will the proposed residential development alter the number of law enforcement personnel in this area of Spalding County?

Police protection in unincorporated Spalding County is provided by the Spalding County Sheriff's Department. This inquiry should be addressed with the Spalding County Sheriff's Department.

7. Has an analysis been performed respecting the increased law enforcement personnel required for this area of the county respecting the proposed residential development?

No such analysis has been performed; however, it should be noted that the main purpose of having a Comprehensive Plan is to project growth and plan improvements to service delivery to accommodate the growth.

8. Have any traffic studies been performed to identify added burdens on local streets surrounding the proposed residential development, particularly respecting the location of additional traffic control devices, etc.?

Traffic analysis has already been reviewed by Staff and is a part of the Staff report on these rezoning applications. A basic traffic generation report was performed, based on the Institute of Traffic Engineers (ITS) Trip Generation Manual, with the following results:

Weekday A.M. Peak Hour:	98.7 Trips
Weekday P.M. Peak Hour:	130.8 Trips
Saturday Peak Hour:	120 Trips
Sunday Peak Hour:	116.8 Trips

The Staff report is a matter of public record, and a copy may be obtained from the Community Development Office.

9. Have any environmental impact studies been performed respecting the proposed residential development, particularly concerning any impact on the local water supply? If so, is any additional water treatment contemplated or necessary?

A formal environmental statement is not required. 42 U.S.C. 24332 requires an environmental impact statement for legislation and other ? major Federal actions significantly affecting the quality of the human environment. Plainly, this development does not involve either legislation or a ? major Federal action. There is no state regulation or Spalding County ordinance requirement for an environmental impact statement.

The proposed development must comply with the requirements contained in special environmental protection regulations (S-2 District) that provide for additional rules when developing near streams and creeks which are within protected watershed areas. Some portions of the property also may be floodplain and/or wetlands which are additionally protected from development. Spalding County's regulation of these issues is

pursuant to County ordinance, approved by the Department of Community Affairs. Compliance with those standards would be deemed sufficient to protect sensitive areas such as watersheds, flood plain and wetland areas. However, wetlands are principally regulated by the Army Corps of Engineers pursuant to the directions of the Clean Water Act, and any local ordinance applicability is secondary thereto. These issues will be addressed more fully at the platting stage of this development.

10. What is the anticipated increment to the tax revenues for Spalding County as a result of the proposed residential development?

The authority to consider the impact of a development on tax revenues is in legal flux. In Cannon v. Coweta County, 260 Ga. 56, 389 S.E.2d 329 (1990), Coweta County attempted to justify its regulation and restriction of manufactured housing to mobile home parks on the basis of the ad valorem tax differential between developments consisting primarily of manufactured housing versus those developed with conventional construction. Coweta County showed that tax revenues from manufactured housing were substantially less than tax revenues generated from houses constructed of conventional construction. Thus, the County contended that the influx of mobile homes would adversely impact the tax base and negatively impact tax revenues. The Georgia Supreme Court disagreed holding that (among other things) the ad valorem tax differential generated by manufactured housing and consequently the issue of whether such developments covered the costs of provision of service thereto was improper in a zoning matter.

Cannon was recently overruled, but on other grounds than the authority of the County to consider tax differentials in zoning decisions. (See: King v. City of Bainbridge, 276 Ga. 484, \_\_ S.E.2d \_\_ (2003)) Tax revenues do not appear to be included within the criteria established for considering a rezoning application, as set forth in Section 414 of the Zoning Ordinance.

That said, the incremental cost of providing service to any new subdivision on a per house basis (adjusted for time and inflation) should be no more than for any previously existing subdivision, such as and near to this development, Nottingham as it was developed from 1995-1999.

11. Has there been an analysis to determine the cost to the taxpayers of Spalding County as a result of the proposed residential development in terms of increased facilities, maintenance, and services?

Community facilities are planned for as part of the Spalding County Comprehensive Plan. This plan projects growth and plans improvements to service delivery to accommodate the growth. Such projections are based on population and growth estimates throughout the County, and they are not dependent upon any particular development.

12. Are there any initial infrastructure costs that the County will be responsible for, rather than the developer? If so, what are they?

As is standard with developments of this type, the developer is responsible for the construction and installation of required infrastructure to provide essential services to

the residents. No initial infrastructure costs have been identified for which the County is responsible.

She said they felt that the answers to the questions did not give the Commission the information necessary to make a responsible decision as a Board regarding rezoning and asked that they not approve the rezoning with such a void of information.

She again asked that the Westmoreland name in no way be associated with the subdivision request.

Mr. Frank Westmoreland came forward and gave his address as 2530 West McIntosh Road. He said that the Westmoreland group had been coming down to the annex since February 2002 opposing the development request of this piece of property. He said they do not feel that this development is compatible with the surrounding area. It will not pay its way and asked that rezoning of this piece of property be denied.

*Motion made by Commissioner McDaniel to approve the zoning change on **Application #03-01Z** from R-2 and AR-1 to R-1 with the following conditions:*

- (1) A maximum of 99 lots*
- (2) No exposed foundation visible*
- (3) Sodded Front Yards*
- (4) Underground utilities*
- (5) Porches must be underpinned and finished with character of house*
- (6) Screening on lots that back up to other lots*
- (7) All detention facilities shall be landscaped to minimize visibility*
- (8) The subdivision entrance shall be designed and implemented by a landscape architect*
- (9) Streetlights and sidewalks throughout*
- (10) Restrictive covenants and a Homeowners Association incorporated*
- (11) Taxes on the open space would be pro-rated by the lots*
- (12) The Westmoreland name not to be associated in any way with this subdivision*

*Commissioner Davis seconded the motion for purposes of discussion.*

Commissioner Goss could not support the changing of the rezoning from AR-1 but agreed with the conditions Commissioner McDaniel set forth on the proposed subdivision.

Commissioner Davis commented that he respects people's rights to their property. When we have a quality builder come in to our area and build quality homes and follow all the guidelines on the Zoning & Planning Board and meet all the criteria, it makes a tough call.

Commissioner Morrow said he was very conflicted on this proposal as all the objections have been met; however, all these people here against the development are in his district. He said when the proposal arrived there was three main objections to it from the Westmoreland group. One being opening onto Westmoreland Road, another being the 1250 ft. houses proposed and the other being density. He said this developer has purchased land to have the subdivision opening off Highway 92; the 1250 sq. ft. homes have been increased to R-1, which is 1750 sq ft. homes and the density has been decreased to less than one house per acre. Yet the group is still against this proposal.

Commissioner Kendall's concerns were traffic problems and fire safety problems as the fire station has not been built in this area to cover fire protection in this part of the County; however, felt like these \$185,000 homes is what we need and want in Spalding County as it will increase the tax base tremendously.

*Chairman Morrow called the question to rezone **Application #03-01Z** to R-1 with conditions as stated by Commissioner McDaniel. The motion passed by a vote of 3-2 with Commissioners Goss and Morrow voting in opposition. **The Resolution will be incorporated into the minutes on second and final reading.***

*Motion made Commissioner McDaniel to rezone **Application #03-01AZ** from AR-1 to R-1 with the conditions as stated above on the previous Application. Commissioner Davis seconded the motion and motion was approved by a vote of 3-2 with Commissioners Goss and Morrow voting in opposition. **The Resolution will be incorporated into the minutes on second and final reading.***

Chairman Morrow called for a five minute recess before resuming the meeting.

Chairman Morrow called the meeting back to order.

- 3. Application #03-02Z: Lift from the table** - Clara Company, Owner – Triad Investments, LLC – Agent – Teamon Road (70.321 acres located in Land Lot 201 of the 3<sup>rd</sup> Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-2 Conditional, Single Family Residential.
- 4. Application #03-07S: Lift from the table** - Clara Company, Owner – Triad Investments, LLC, Agent – Teamon Road (70.321 acres located in Land Lot 201 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow 1 acre lots in the R-2 District.

*Upon motion by Commissioner McDaniel, seconded by Commissioner Davis **Application #03-02Z and Application #03-07S** was lifted from the table by a vote of 4-1 with Commissioner Goss voting in opposition.*

Chairman Morrow commented without objections, both applications would be heard at the same time.

Speaking in favor of the Applications were the following:

Mr. Greg Hecht came forward and gave his office address as 2622 Mt. Zion Road, Jonesboro, GA. He stated he was representing the applicant. He said at the May 22<sup>nd</sup> meeting, these were tabled and they were asked to attend the June 10, 2003 workshop regarding setting the criteria for a one-acre Special Exception. They have revised their site plan as a result of attending this meeting and he presented each Commissioner a copy of the new plan. He said that this is only a fifty-nine (59) community development with 26.3% green space with use restrictions. This will be a park community, no dead end streets, sidewalks on one side of the street, underground utilities, alleys with rear facing garages, sodded lawns, streetlights, landscape entrances and other defined amenities as discussed earlier. They had increased the buffer to 100 ft. to the west, north and south. The square footage is much higher than the one next door and is only .84 units per acre. The alley way is to eliminate traffic on Teamon Road. He said that they were able to eliminate 33 driveways along Teamon Road by putting in the extra expense of the alley way. They are also going to construct accel and decel lanes.

Mr. Steve Moore came forward and gave his address as 165 Forest Drive, Locust Grove, GA. He said that they did attend the June 10<sup>th</sup> workshop meeting and took a copy of the handout of the menu items and has provided things that are consistent with that menu and have listed them at the top of the revised site plan.

Commissioner McDaniel commented that this application is for R-2, which is a minimum of 1400 SF and they were proposing 50% at 1400 SF, 25% at 1500 SF and 25% at 1600 SF and asked would they consider raising the zoning classification to R-4, which is 1500 SF minimum to raise the bar and make it a Special Exception. Mr. Hecht stated that they would be willing to go to R-4 classification.

Mr. Ray Browning, Chairman of the Planning Commission, stated he was endorsing this subdivision. He said this was a very unique design of this subdivision. He said that he feels that mix-size homes are acceptable in subdivisions instead of having one size home throughout. He stated he would like to say that the people who they have been dealing with have also been very cooperative in meeting the Planning Commission's design criteria.

Mr. Greg Pruitt, a member of the Board of Zoning Appeals and Planning Commission, stated that these people met every requirement we as Boards put out and feels that it is a real unique subdivision. He too felt the mix-size homes would compliment this subdivision.

Those signed up to speak against these applications were:

Mr. Tilman Blakely came forward and gave his address as 599 Smoak Road. He referred to the impact of this section of the County that Spring Lake Community will have with 2100 housing units. He said Spring Lake is a high density development and this subdivision with high density development would just be compounding the problem. He said this area was being bombarded with one acre special exceptions. He addressed the house sizes.

Mr. Bob Burke came forward and gave his address as 120 King Richard Drive. He addressed the school impact from new subdivisions and the density. He said as zoned at present they can build thirty (30) homes and with the special exception they would be able to build fifty-nine (59) homes. He asked the Board to deny these applications.

Mr. Glen Adcox came forward and gave his address as 2640 Teamon Road. He commented he was opposed to this subdivision because of the additional traffic, more children in the area and more interest in the County to do something with these roads and the school systems and also the lack of fire stations. He referred to a fire and how it was responded to.

Mr. Kerry Sampler came forward and gave his address as 785 Smoak Road. He addressed traffic concerns out in this area.

Chairman Morrow stated he would be recusing himself from voting on these applications stating conflict of interest.

*Motion made by Commissioner Goss to deny **Application #03-02Z**. Commissioner Davis seconded the motion for discussion. After a lengthy discussion the question was called and motion to deny tied with a vote of 2-2 with Commissioners Goss and Davis voting in favor and Commissioners Kendall and McDaniel voting in opposition. No action was taken.*

*Motion made by Commissioner McDaniel to rezone **Application #03-02Z** from AR-1 to R-4 conditioned as follows: all lots to have sodded yards, all lots developed shall be served by underground utilities, all detention facilities shall be landscaped and screened to minimize their visual impact, only two entrances in the subdivision from Teamon Road with each one having an accel and decel lane, a no access easement must be recorded with the final plat fronting on Teamon Road, no residential curb cuts on Teamon Road, the park design and landscaping of the buffer design shall be included on the preliminary plat and also sidewalks be placed on both sides of the street, no exposed foundations and front porches be underpinned and finished in character with the house as we see in the example on plat. There was no second to the motion; therefore, motion died for lack of a second.*

*Zoning Attorney Galloway stated that the application for the Special Exception is muted since no action was taken on the rezoning application. He recommended that the Special Exception application be tabled.*

*Upon motion by Commissioner Davis, seconded by Commissioner McDaniel **Application #03-07S** was tabled by a vote of 40 with Commissioner Morrow recusing himself from the vote stating conflict of interest.*

- 5. Application #03-10S: Lift from the table** - Crescendo Land, LLC, Owner – Next Generation Properties, Agent – Georgia Highway 155 (41.26 acres, more or less, located in Land Lot 111 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow 1-acre lots in the R-2 District.

*Upon motion by Commissioner McDaniel, seconded by Commissioner Goss **Application #03-10S** was lifted from the table by a unanimous vote of 5-0.*

Those speaking in favor of the application were as follows:

Mr. Steve Langford came forward and gave his address as P. O. Box 310201, Atlanta, GA and stated he represents Next Generation Properties. He handed out a revised site plan to each of the commissioners. He stated that they had attended the June 10<sup>th</sup> workshop to set criteria for special exceptions. He listed the components they propose to have in this development. He said the entrance way would be brick, stucco or rock and will be an island entrance. There would be architectural light poles in addition to street signs. It would be a sidewalk community. There will be incorporated in the rear of the development European fencing. There will be a park with benches near the creek. The average lot size would be 1.25 acres with minimum homes of 2000 square feet. There would be underground utilities. The homes would have one to three sides' brick or stucco (with one side masonry) and side garage entrances. There will be sodded yards and have increased the green space to a total of seven acres. There will be only thirty-one (31) lots in the development. Traffic seemed to be the main concern by citizens and we understand that Department of Transportation is proposing to incorporate passing lanes scheduled for June 2004. He addressed another concern which was septic tanks and stated theirs met with EPD guidelines. He said the development is consistent with the Land Use Map discussed at the meeting earlier this month.

Mr. Bob Burke came forward and gave his address as 120 King Richard Drive and stated he was in favor of this kind of development. He stated the minimum ought to be one acre lots with 1800 SF minimum homes and this company has met his standards. He set this was the best plan he has seen presented to this Board in the last two years.

Mr. Ray Browning, Chairman of the Planning Commission, stated he endorsed this development. He said these gentlemen have certainly raised the bar in this neighborhood and he wholeheartedly supported this development.

Ms. Debra Jo Steele came forward and gave her address as 1819 N. Walkers Mill Road. She said the group she was representing supported this proposal and felt this would be a nice change to the area.

Those speaking in opposition to the application were as follows:

Mr. Tilman Blakely came forward and gave his address as 599 Smoak Road. He commented he was against one-acre lots and was concerned about the lot size. He said that the only thing good he can see regarding this development is the 2,000 square foot house and this was the first time he has heard this.

*Upon motion by Commissioner Davis, seconded by Commissioner McDaniel Application #03-10S was approved with the following conditions by a vote of 3-2 with Commissioners Goss and Morrow voting in opposition. **The Resolution will be incorporated into the minutes on second and final reading.***

- (1) A maximum of 31 lots;*
- (2) Entrance shall be brick, rock and/or stucco;*
- (3) Architectural lighting poles;*
- (4) Sidewalk community;*
- (5) Underground utilities;*
- (6) Minimum 2000 SF homes;*
- (7) Must have 1 to 3 sides brick or stucco homes (minimum 1-side masonry);*
- (8) Side garage entrances*

*In addition the Board of Commissioners will initiate a zoning change to R-1.*

- 6. Application #03-11S: Lift from the table -** Byron F. Smith, Owner – McKinley Drive (3.61 acres, more or less, located in Land Lot 150 of the 2<sup>d</sup> Land District) – requesting a Special Exception to allow condominium dwelling, patio dwelling, or zero lot line dwelling in the R-1 District.

*Upon motion by Commissioner Davis, seconded by Commissioner McDaniel Application #03-11S was lifted from the table by a unanimous vote of 5-0.*

Mr. Byron Smith, the applicant, came forward and gave his address as 490 N. Pine Hill Road. He stated when he originally bought the property he had in mind to divide up some of the frontage into 100 ft. front lots to equal what was in the neighborhood. He also thought about to make a little horse farm out of the property and build two houses for family; however, 95% of the people in the neighborhood was opposed to the horse farm for numerous reasons. He said that he has had the property for approximately three years. He said that he did not want to develop the whole piece of property. He was proposing building nine 1750 square foot homes. He said there are forty-two houses in the neighborhood and the average size is 1663 square feet. He said what he proposes to build is compatible in lot size and house size. He said what he is proposing does not affect the wetlands in the neighborhood. He said if this is turned down, the only other thing he can do is a conservation subdivision.

Chairman Morrow called for a brief recess and then called the meeting back to order.

Those speaking in opposition to the application were as follows:

Mr. Mike Carr came forward and gave his address as 163 McKinley Drive. He said this was a unique neighborhood as it was only one street in a horseshoe shape. He commented he was concerned with the property value of existing homes by increasing the density. He said he was present for the zoning meetings when this was first introduced. He said there were only seven houses directly across the street. He said a few of the houses sit on two to three lots. He said they had met with their Commissioner, Commissioner Davis and came up with the following recommendations, which we feel is half way. They recommended one acre lot with a minimum of 140 ft. across the front and a setback of sixty to eighty feet from the road, which would make it special. Also we would like to continue with the brick mode at least on three sides. He said he was speaking for their neighborhood and had a petition signed by thirty-six of the forty-three homeowners, which was placed in the records.

Mr. John Stewart came forward and gave his address as 123 McKinley Drive. He commented that this property is not suitable for development because of the wetlands.

Ms. Patsy Stewart came forward and gave her address as 123 McKinley Drive and commented that another condition they talked about was double carports and asked that be placed on the conditions also.

Mr. Frank Robertson came forward and gave his address as 133 McKinley Drive stated he supported what has already been said and also had a concern regarding lot sizes.

Ms. Margaret Varnom came forward and her address as 111 McKinley Drive and stated she was concerned with honesty from Mr. Smith because of the things that have been going on for the past two years. She said that he has not met with the neighbors or tried to get along with us.

Mrs. Duana Smith came forward and stated she was the wife of Mr. Smith. She said they were proud of their community and they want to improve Griffin. She said they were not going to put anything in this neighborhood that will cause them any grief.

Joe Conkle, Pat Bender and Jerry Martin did not wish to come forward and speak but agreed with all the comments made by their fellow neighbors.

Commissioner Davis asked Mr. Smith if he would be willing to reduce the lots from nine to six as this is a density problem. Mr. Smith said that he would sit down with the neighbors and Commissioner Davis and discuss this further to see if something can't be worked out where Mr. Smith can develop the property with the endorsement of the neighborhood.

*Motion made by Commissioner Davis to deny **Application #03-11S**. Commissioner Goss seconded the motion and motion was unanimously approved by a vote of 5-0.*

- 7. Application #03-17S: Lift from the table** - Ruth Rice Bonnell and Richard Donald Bonnell, Etal, Owners – Minerva Properties, L.L.P., Agent – Teamon Road and Smoak Road (100.67 acres located in Land Lot(s) 231 and 232 of the 3<sup>d</sup> Land District) – requesting a Special Exception to allow 1 acre lots in the R-2 District.

*Motion made by Commissioner McDaniel to lift **Application #03-17S** from the table. Commissioner Davis seconded the motion and motion passed by a vote of 4-1 with Commissioner Goss voting in opposition.*

Mr. Brian Davis came forward and gave his address as 2292 Henderson Mill Road, Atlanta, GA and stated he was with Minerva Properties. He said the Spring Lake project, which Minerva has, usually starts to create activity around us and some is good and some is bad, which we have seen tonight. He discussed traffic concerns and the already construction of realigning Highway 20. He said that this is an open field and this was a defensive measure to protect their Spring Lake development. He said they were trying to figure a way to sewer this piece of property but at the time have not done so but want to get this property zoned in a manner that makes some economic sense for us to acquire this piece of property. He discussed all the design criteria of the homes they plan to build along with all the amenities such as sidewalks, streetlights, tree preservation, neighborhood parks, etc. He said all these things make a project special. He said the purpose of the application is to make a few design changes to the one acre lots, 100 ft. wide lots and to allow us to plan it in a manner that we can do the best job possible within the ordinance guidelines.

Commissioner Morrow stated that by just looking at this plat, it does not look like your real plat and wanted to know if Minerva was planning on changing it. Mr. Davison commented that one change was requested by the Board of Zoning Appeals and that was to place a park somewhere in the neighborhood. Mr. Morrow said that we have been looking for special things for special exceptions, and he does not see what is special about this. He said you have added a park as recommended; however, we have come up with criteria such as sidewalks, walking trails, upgraded houses and sizes, etc. Mr. Davison commented that he would be happy to do them all. However, there was no site plan that shows all the detail criteria you are willing to do.

He said that his fear is that this piece of property gets approved for someone else who comes in and does a development similar to those already around there. He said if there are a series of issues he would be happy to go through and document now or leave for another meeting.

County Manager Wilson commented that staff would be happy to work with Mr. Davison and work on anything you might want for a future meeting.

Community Development Director Chuck Taylor stated that staff recommended denial because the land use map in this area did not support the development that was being asked for. He said when staff recommends approval they usually have a list of conditions to be placed on the application; however, that was not the case. He said there was a substantial creek that crosses this property and this definitely brings up some issues.

Those speaking in opposition to the application were as follows:

Mr. Tilman Blakely, who had previously spoken on other issues, came forward and presented eighty petitions with signatures of people on Teamon Road, Smoakfield Road, Smoak Road and Bar H Road. The petitions stated their opposition as they feel it should be lower density. These petitions were entered into the records. Mr. Blakely stated he was against cutting forest and against one acre lots. He said the character of the area is rural and that is how they wanted to keep this part of the county. He said seventy-seven (77) houses on one acre lots on one hundred acres subdivision is not the way to keep us rural.

Mr. Glen Adcox came forward and gave his address as 2640 Teamon Road. He said his property is at the corner of Smoak Road and Teamon Road and are surrounded by Minerva Properties. He

said that his concerns were additional traffic and lack of adequate fire protection in this area. He commented this was a very dangerous area as there have been twenty-seven (27) accidents in his yard alone. He said Minerva is asking for another seventy-seven (77) houses across the street and this was not in the best interest of the neighborhood or the county.

Mr. Kerry Sampler came forward and gave his address as 785 Smoak Road and stated he was opposed to this because with Spring Lake this section of the county is already overloaded.

*Motion made by Commissioner Davis to table **Application #03-17S** until the July 24, 2003 meeting. Commissioner McDaniel seconded the motion and motion was unanimously approved by a vote of 5-0.*

### C. New Business:

1. **Application #02-36Z:** Euvalyn Touchstone, Owner – Lot 37 Armstead Circle (1 acre located in Land Lot(s) 157 and 158 of the 3<sup>d</sup> Land District) – requesting a rezoning from C-2, Manufacturing, to R-4, Single Family Residential.

Community Development Director Chuck Taylor addressed this application. He said that Staff recommends approval subject to a variance for lot width being granted and Planning Commission recommended approval with the same condition. This is a request to go from commercial zoning to residential zoning.

Ms. Pat Golden spoke in favor of this application. She gave her address as 536 North Rover Road, Williamson, GA. She asked would it possible for the Board to approve this subject to the plat that they have submitted so that Mrs. Touchstone doesn't have to spend additional money for a variance. They are requesting reducing the lot width from 125 ft to 90 ft.

Zoning Attorney Galloway commented that the Board does have limited variance authority as defined in Section 411:D of the UDO. In Mrs. Touchstone's case it would be factual specific and there would be little chance that similar problems with other people with similar lots would arise. The variance would be a unique case. The rezoning would have to be approved conditional to grant the variance.

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

*Motion made by Commissioner Morrow to approve **Application #02-36Z** with conditioned to the submitted plat and simultaneously grant the variance for the lot width with a finding that the facts of this case are unique and justify the authority for awarding granting the variance pursuant to Section 411:D. Commissioner McDaniel seconded the motion and motion was unanimously approved by a vote of 5-0. **The Resolution will be incorporated into the minutes on second and final reading.***

2. **Application #03-04Z:** Cedar Creek Farms, Inc., Owner – Southwest corner of Highway 19/41 and Birdie Road (24.3 acres, more or less, located in Land Lot 104 of the 3<sup>d</sup> Land District) – requesting a rezoning from C-1, Highway Commercial and AR-1, Agricultural and Residential, to C-1B, Heavy Commercial.

Chairman Morrow stated that since he has a business that has done some business owned by this gentleman recently, he was recusing himself from the discussion and voting on this application.

Community Development Director Chuck Taylor gave the Staff report. Staff recommends the property be rezoned to C-1 with conditions instead of the C-1B as requested. He said that C-1B is a heavy commercial district that allows outside storage and Mr. Jackson does not have any specific uses that are being proposed on the property right now. He stated that the Planning Commission recommends approval subject to the conditions as recommended by staff with the additional condition that the cur cuts be limited to two (2) on US 19/41 and that the developer provides inter-parcel access.

Mr. Mike Jackson, the developer, came forward and gave his address as 5138 Old Atlanta Highway, Hampton, GA. He said the main reason for the C-1B zoning is the rear of the property is zoned agricultural and he would like to have some mini warehouses and maxi-minis for storage

in the rear portion. He said it would be shielded and screened. He said that he had already gotten approved three (3) curb cuts by the D.O.T. and was fixing to put them in. He said other than car lot either rental or possible sales, he would not want anything with outside storage on 19/41 or Birdie Road. He said he was agreeable to the conditions recommended by Staff and Planning Commission. He said that he only has twelve (12) lots.

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

*Motion made by Commissioner Goss to deny **Application #03-04Z** until they come back with some definite plans of what they want to do. There was no second to his motion; therefore motion died for lack of a second.*

*Motion made by Commissioner McDaniel to approve the change from AR-1 portion of the property to C-1 with conditions as stated below. Commissioner Davis seconded the motion and motion passed by a vote of 3-1 with Commissioner Goss voting in opposition and Commissioner Morrow recusing himself from voting. **The Resolution will be incorporated into the minutes on second and final reading.***

*(1) Brick, stone or masonry stucco façade shall be used on the walls of buildings facing the rights-of-way of any interior streets, US 19/41, and Birdie Road. For all other building walls visible from any rights-of-way, brick, stone or masonry stucco shall be used for a minimum depth of 20 feet along side building walls;*

*(2) Lighting for individual sites shall be designed to not reflect into adjacent properties;*

*(3) Free standing signs for individual lots will be uniformed in size and style. The sign plan must be submitted with the preliminary plat and recorded as a subdivision covenant;*

*(4) The developer submits a development plan of the tract in conjunction with or prior to the submittal of a preliminary plat that meets the minimum requirements of the zoning district. This condition shall be implemented in addition to the conditions previously stated and*

*(5) Limits on curb cuts on 19/41 are established at a maximum of two curb cuts and developer to provide for interparcel access.*

- 3. Application #03-05Z:** Randy D. Turner, Owner – 2035 N. Expressway (Tract C - 0.57 acres, more or less, located in Land Lot 101 of the 3<sup>rd</sup> Land District) – requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.
- 4. Application #03-06Z:** Randy T. and Roxanne J. Turner – 2043 N. Expressway (Tract B – 0.58 acres, more or less, located in Land Lot 101 of the 3<sup>rd</sup> Land District) – requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.

Chairman Morrow commented that these two applications would be considered both at the same time if there are no objections and there were none.

Community Development Director Chuck Taylor stated for **Application #03-05Z** staff recommends denial of the request and The Planning Commission has no recommendation. For **Application #03-06Z** staff recommends denial of the request and Planning Commission recommended denial of the request. The denial is based on the property is currently being utilized commercially and the applicant has not suggested any changes to the current use that would require a change in zoning. Adjacent uses are C-1 and residential and no C-1B has been approved in any area. The property does not meet the requirements of the C-1B zoning (setbacks and lot area) and would most likely not meet the requirements of the commercial/industrial ordinance. It would be better to allow a legal, non-conforming use of continue in the C-1 zoning

district rather than create a non-conforming property by changing the zoning to C-1B. The non-conformity will be created because C-1B requires two (2) acres for property on septic and the existing structures do not meet the setback requirements of the C-1B zoning district. Approving this request will open this property to more intense uses on property that could potentially create safety hazards for the general area and also the apparent purpose of this request is real estate speculation and does not bring the existing use into conformity.

Speaking in favor of the rezoning was Mr. Richard Collier, attorney for the applicants, Randy and Roxanne Turner. Mr. Turner runs the Alignments Unlimited on the west side of Highway 19/41 and they own another lot just to the north, which is currently used as a pool hall and pawn shop. Mr. & Mrs. Turner bought the first lot in 1988 and began using the property as Alignments Unlimited, which is auto repair. In the early 1990's the County came in with its new zoning ordinance and made auto repair C-1B; however, the Turner's were grandfathered in. These lots are approximately .625 acres, not two (2) acres and they are on septic. The Turner's purchased this tract in 1998 and they are renting it out now. They want to be able to use these two (2) lots similarly and they want the zoning to be consistent with the use. He said none of the neighbors object to this change in zoning. They are willing to have it conditioned with use only for auto sales or auto repair. He presented a petition signed by all the neighbors stating they had no objections and it was placed in the zoning file.

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

*Motion made by Commissioner Goss to approve **Application #03-05Z**. Commissioner Davis seconded the motion and motion failed by a vote of 1-4 with Commissioners Morrow, Davis, McDaniel and Kendall voting in opposition.*

*Motion made by Commissioner McDaniel to deny **Application #03-05Z**. Commissioner Davis seconded the motion and motion passed by a vote of 4-1 with Commissioner Goss voting in opposition*

*Motion made by Commissioner McDaniel to deny **Application #03-06Z**. Commissioner Davis seconded the motion and motion passed by a vote of 4-1 with Commissioner Goss voting in opposition.*

5. **Application #03-07Z:** Abu Bakr, Owner – 1360 Trestle Road (38.73 acres located in Land Lot 144 of the 2<sup>nd</sup> Land District) – requesting a rezoning from R-2, Single Family Residential, to AR-2, Rural Reserve.

Community Development Director Chuck Taylor stated this zoning change request is to allow Mr. Bakr to raise horses on his property. Both Staff and Planning Commission recommended approval of the request.

Mr. Abu Bakr, owner, came forward and gave his address as 1360 Trestle Road and stated he would like to keep horses on his property.

Mr. John Gilbert spoke in opposition to this rezoning request. He came forward and gave his address as 219 Rustic Road, a Henry County resident. He said he has no problem with the zoning of this except there are two plats, one done by the Roosevelt Museum and one Mr. Bakr had done, and there seems to be a plat discrepancy about 30 feet between the two. He said that they have no problem with paying for a new survey being done.

*Motion made by Commissioner Davis to approve **Application #03-07Z** with the condition of only the property actually owned by Mr. Bakr. Commissioner Goss seconded the motion and motion was unanimously approved by a vote of 5-0. **The Resolution will be incorporated into the minutes on second and final reading.***

6. **Application #03-08Z:** Vingreco, LLC, Owner – Todd Albritton, Agent – Southwest corner of Zebulon Road and Pecan Point (Lot 19 – 1.03 acres located in Land Lot 119 of the 2<sup>nd</sup> Land District) – requesting a rezoning from R-1, Single Family Residential Low Density, to C-1A, Neighborhood Commercial.

Community Development Director Chuck Taylor stated the plan shows a doctor's office at the entrance to The Orchards Subdivision. Staff recommends conditional approval (conditions in motion) of the rezoning and Planning Commission recommends approval with those conditions with additional ones of instead of the square footage on the secondary use proposed by staff, they recommend that the secondary use shall not diminish the green space of the property shown on the site plan and they also recommend restricting the development to medical office only.

Mr. Todd Albritton, the architecture, came forward and gave his address as 202 East Main Street, Thomaston, GA. The plans are to put two (2) doctor offices in one (1) building on this corner lot and we have no objections to meeting the recommendations of staff and Planning Commission. He said there should be no problem with headlights from the business. He said they would maintain buffers along the rear of the property that adjoin the residential area and meet the green space requirements as set forth.

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

*Motion made by Commissioner Davis to approve **Application #03-08Z** with the following conditions as outlined by staff and Planning Commission. Commissioner McDaniel seconded the motion and motion was unanimously approved by a vote of 5-0. **The Resolution will be incorporated into the minutes on second and final reading.***

- (1) *The façade of the proposed structure shall be a minimum of 25% brick, stone, or masonry stucco for any side visible from a street;*
- (2) *If a secondary use is developed, as indicated in the site plan, it shall be developed so as not to diminish the green space of the property as shown on the site plan. Such uses shall not include restaurants with a drive-thru, service station, auto repair or pawnshop;*
- (3) *Driveways shall be designed in a way that limits the impact of vehicle light (headlights) on the adjacent residential uses;*
- (4) *Site lighting for the property shall be designed in such a way as to prevent glare on adjacent residential uses;*
- (5) *Restricted to medical office use only.*

7. **Amendment to UDO #A-03-15:** Appendix E. Sign Ordinance – Article 2. Definitions – add definition for Vehicle Signs, and Article 5. General Regulations – add provision for Vehicle Signs.

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

*Upon motion by Commissioner McDaniel, seconded by Commissioner Davis, **Amendment to UDO #A-03-15** was approved by a vote of 4-1 with Commissioner Goss voting in opposition. **The Resolution will be incorporated into the minutes on second and final reading.***

8. **Amendment to UDO #A-03-18:** Article 5. AR-1, Agricultural and Residential – Section 503:B(12) – amend to delete Solid Waste Disposal Facility (landfill) as a special exception use, and Article 15. C-2, Manufacturing – Section 1503:B(8) – add provision for Solid Waste Disposal Facility as a special exception use.

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

*Upon motion by Commissioner McDaniel, seconded by Commissioner Davis, **Amendment to UDO #A-03-18** was unanimously approved by a vote of 5-0. **The Resolution will be incorporated into the minutes on second and final reading.***

**B. Other Business:**

County Manager Wilson stated that we need to have a Closed Meeting and asked that a motion be made to amend the agenda to go into a Closed Meeting to discuss a personnel matter.

*Motion made by Commissioner McDaniel to amend the agenda to go into a Closed Meeting to discuss a personnel matter. Commissioner Davis seconded the motion and motion was unanimously approved by a vote of 5-0.*

Those present were Commissioners Dick Morrow, Michael Kendall, Johnie McDaniel, Cecil Davis and Eddie Goss. Also present were County Manager William Wilson, 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 June 26, 2003.

2.

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

3.

The executive session was called to order at 11:25 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:

**No** 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);

**Yes** 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)\_\_\_\_\_.

This the 26<sup>th</sup> day of June 2003.

Sworn to and subscribed  
Before me this 26th day of  
June 2003.  
Phyllis P. Doane \_\_\_\_\_  
Notary Public  
My commission expires: March 13, 2006

Spalding County Board of Commissioners

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

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

*No business was transacted at this time.*

**C. Adjournment.**

*Upon motion by Commissioner McDaniel, seconded by Commissioner Morrow the meeting was unanimously adjourned at 11:37 P.M.*

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

\_\_\_\_\_  
Chairman