



Spalding County online

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, July 24, 2003 beginning at 6:00 o'clock p.m. with Commissioners Johnie McDaniel, Cecil Davis and Eddie Goss present. Chairman Dick Morrow and Vice Chairman Michael Kendall were absent. Chairman Morrow was absent due to the unexpected passing of a member of his family. Also present were Deputy County Manager Michael Sabine, Community Development Director Chuck Taylor, Zoning Attorney Newton Galloway and County Clerk Phyllis Doane.

With both the Chairman and Vice Chairman being absent from the meeting it was necessary for the Board to elect a temporary Chairman from the remaining members.

Commissioner Davis made a motion to appoint Commissioner Johnie McDaniel as temporary Chairman. Commissioner Goss seconded the motion and motion was unanimously approved by a vote of 5-0.

AMENDED AGENDA

A. Call to order: Acting Chairman Johnie McDaniel

Chairman McDaniel commented that there are some applications tonight on the agenda that the applicants have been requested to table. Those would be taken first to allow citizens to leave the meeting.

Application #03-11Z: High Top Holdings, Inc., Owner – Shawshank Ltd., Agent – 1.23 acres off East McIntosh Road located in Land Lot 126 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Application #03-11AZ: High Top Holdings, Inc., Owner – Shawshank Ltd., Agent - 13.82 acres off East McIntosh Road located in Land Lot 126 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Application #03-11BZ: High Top Holdings, Inc., Owner – Shawshank Ltd., Agent – 17.51 acres off East McIntosh Road located in Land Lot 126 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Application #03-11CZ: High Top Holdings, Inc., Owner – Shawshank Ltd., Agent – 19.96 acres off Stephens Street located in Land Lot 126 of the 3rd Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Application #03-11DZ: High Top Holdings, Inc., Owner – Shawshank Ltd., Agent – 23.83 acres off East McIntosh Road located in Land Lot 126 of the 3rd Land District –

requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Motion made by Commissioner Davis to table the above applications until the August 28, 2003 meeting. Commissioner Goss seconded the motion and motion to table was approved by a vote of 3-0.

Application #03-22S: New Era Missionary Baptist Convention of Georgia, Inc., Owner – Wagner, Johnston & Rosenthal, P.C., Agent – 1229 Green Valley Road (41.320 acres located in Land Lot(s) 214 & 235 of the 2nd Land District) – requesting a Special Exception to allow privately owned park or recreation area in the AR-1 District.

Zoning Attorney Galloway commented that over the past two (2) days we have engaged in discussions with both the adjoining property owners and also New Era and both parties have agreed to sit down and discuss this application and there is also a legal question about modifying this application to make this facility a religious campground. Mr. Galloway requested and recommended that Application #03-22S be tabled.

*Motion made by Commissioner Davis to table **Application #03-22S** until the August 28, 2003 meeting. Commissioner Goss seconded the motion and motion was approved by a vote of 3-0.*

Application #03-02Z: Clara Company, Owner – Triad Investments, LLC – Agent – Teamon Road (70.321 acres located in Land Lot 201 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-2 Conditional, Single Family Residential.

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 3rd Land District) – requesting a Special Exception to allow 1 acre lots in the R-2 District.

*Motion made by Commissioner Davis to table **Application #03-02Z** until the August 28, 2003 meeting. Commissioner Goss seconded the motion and motion was approved by a vote of 3-0.*

***Application #03-07S** is already on the table and does not require a motion to be left on the table , and the Board desires to leave this application tabled.*

B. Old Business:

- 1. 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 3rd Land District) – requesting a Special Exception to allow 1 acre lots in the R-2 District.

*Motion made by Commissioner Goss to lift **Application #03-17S** from the table. Commissioner Davis seconded the motion and motion was approved by a vote of 3-0.*

Mr. Brian Davison was not present yet and it was requested that the application be moved further down the agenda. Motion to lift from the table as well as seconded was withdrawn for item to be placed at the end of New Business (Rezoning Applications).

*Motion was made by Commissioner Davis to delay action on **Application #03-17S** until we complete Items 2 & 3 under New Business. Commissioner Goss seconded the motion and motion was approved by a vote of 3-0.*

C. New Business:

1. **Application #03-09Z:** Steven A. Statham, Owner – 1231 Newton Road (0.692 acre located in Land Lot 210 of the 2nd Land District) – requesting a rezoning from C-1, Highway Commercial, to R-5, Single Family Residential.

Mr. Steven Statham came forward and gave his address as 231 Thrift Lake Drive, Mountain Rest, South Carolina. He said that he wanted to rezone his lot so he can build a 1300 SF single family residence without a garage.

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

Community Development Director Chuck Taylor gave the staff report. He said that when you rezone this to R-5 it will not conform to the minimum R-5 lot size requirement; therefore, he recommended that the Board grant the requested variance for minimum lot area and make it part of the motion.

Zoning Attorney Galloway commented that the Board has very limited variance authority; however, in this case one lot moving it to a residential class deals solely with the amount of the lot size and this would be a place where the exercise of that limited variance authority would be appropriate.

Motion by Commissioner Davis to approve Application #03-09Z with lot as it appears on record, .0692 acres. Commissioner Goss seconded the motion and motion was approved by a vote of 3-0. The Resolution will be incorporated into the minutes on second and final reading.

2. **Application #03-10Z:** Richard L. Boger, Owner – Ken Dorsey and Alan Mobley, Agents – 57.20 acres off Georgia State Route 155 located in Land Lot 49 of the 2nd Land District – requesting a rezoning from R-2, Single Family Residential and AR-1, Agricultural and Residential, to R-2, Single Family Residential and C-1, Highway Commercial.

Mr. Alan Mobley came forward and gave his address as 262 Mobley Road. He said that he wanted to develop thirty-eight (38) lots with a house size of 1500 SF minimum (R-4). The base price for the home would be \$146,800. He said there would be twelve (12) acres of greenspace, walking trails, sidewalks, streetlights. He said there is a proposed playground, pavilion and grill area, which was recommended at the Planning level. All the greenspace would be owned by the homeowners association. He is requesting that 2.5 acres of the 57.20 acres be zoned commercial at the entrance to the subdivision. The commercial space at the entrance will possibly allow some of the homeowners to set up businesses within walking distance of their homes. He said he would retain ownership of the commercial building. There was a concern regarding signage for this commercial building.

He addressed the issue of poison on the property, which had come up during discussions. He said that he has no knowledge of this and if it is there the University of Georgia is the one who put it there. He sees no impact of the herbicides or pesticides on this tract.

He said that he would be coming back to the Board on August 28th for a special exception of one-acre lots and would also present to the Board a preliminary plat showing playground area and pavilion.

Community Development Director Chuck Taylor gave the staff report. The Staff recommended conditional approval of the residential portion of this development and denial of the commercial tract. The residential conditions are as follows:

1. Streetscape plan including sidewalks, trees and street lighting shall be submitted along with the preliminary plat.
2. The greenspace areas shall have frontage along a public street and no lot shall be more than 500 feet from a greenspace area.
3. Design of the walking trails and or playground/park areas shall be submitted with the construction plans.

The Planning Commission recommended approval of R-4 Residential and approved the commercial with condition being streetscape plan including sidewalks, trees and street lighting shall be submitted along with the preliminary plat.

Staff recommended denial of the commercial element because there is an already established commercial node at the Jackson Road/McDonough Road intersection that, with the extension of walking trails through the property east of the subject tract can be accessible to the residence of the proposed development. Secondly, introduction of a commercial zoning as proposed here, could open the door for commercial strip development along the corridor and thirdly, the future land use map does not support the commercial zoning at this specific location.

Community Development Director Chuck Taylor stated that one of the conditions that could be added is for the applicant be required to do a Phase II environmental assessment on the property including a soil's testing for potential pollutants of the soil. He said that he has a call into the Experiment Station to find out what types of pollutants or chemicals may be used on the property but does not have an answer tonight.

Those signed up to speak in opposition to the Application were as follows:

Ms. Maria Johnson came forward and gave her address as 600 Hamil Road. She asked the Board to deny the commercial portion of this development. She said that she and her husband had been participating in the 2020 Comprehensive Plan and commercial is not shown in this particular area. She said that she was also not in favor of one-acre lots.

Mr. Ed Johnson came forward and gave his address as 600 Hamil Road. He had concerns in increased traffic on Highway 155 and lights for security on commercial development would not be good for a residential neighborhood. He asked that the commercial portion be denied also. He is in favor of the density of two (2) acre lots for the rural atmosphere.

Mr. James Milam came forward and gave his address as 3061 Jackson Road. He commented he was against the commercial development and for the two (2) acre lots.

Mr. Mobley asked to readdress the Board. He said he would be willing to limit some of the tenant development and the hours of operation for the commercial building.

*Motion made by Commissioner Goss to approve **Application #03-10Z** with the entire tract being zoned to R4 zoning classification with the following conditions. Commissioner McDaniel seconded the motion and motion was approved by a vote of 2-1 with Commissioner Davis voting in opposition. **The Resolution will be incorporated into the minutes on second and final reading.***

1. *Streetscape plan including sidewalks, trees and street lighting shall be submitted along with the preliminary plat.*
2. *The greenspace areas shall have frontage along a public street and no lot shall be more than 500 feet from a greenspace area.*
3. *Design of the walking trails and or playground/park areas shall be submitted with the construction plans.*
4. *Implementation of Phase II Environmental Assessment testing soil for pollutants if deemed necessary prior to the issuance of any building permits on this property.*

Chairman McDaniel called for a five minute recess.

Chairman McDaniel called the meeting back to order.

Chairman McDaniel commented that we will now hear Application #03-17S to lift from the table.

1. **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^d Land District) – requesting a Special Exception to allow 1 acre lots in the R-2 District.

Motion made by Commissioner Davis to lift from the table Application #03-17S. Commissioner Goss seconded the motion and motion was approved by a vote of 3-0.

Mr. Brian Davison, Minerva Properties, came forward and gave his address as 2292 Hendersonville Road, Atlanta, Ga. As stated at the previous public hearing this is a defensive measure to keep this property from getting cluttered up with low end housing for major profit. This property is at the front entrance basically to their Spring Lake project, which they are moving forward with. They presented a revised site plan showing the development as can be built out on two acres as present zoning versus a redesigned site plan depicting the one acre development showing play park and major water park centrally located, walking trails, variety of home styles and types, widen Teamon Road for a turn lane and also accel, decel lanes at the entrance, which would make the traffic safer. He said this is really a neat neighborhood and to do this project takes a massive infrastructure investment upfront. He said the negative side from what he is hearing is the combination of lot sizes and density.

He said that he would like to leave these concepts open and talk with Mr. Taylor and the Planning Staff over the next month and asked for their application to be re-tabled and lift it from the table again when the time is appropriate.

Community Development Director Chuck Taylor addressed this application. He addressed some procedural issues, which are Mr. Davison is trying to amend his special exception request in order to now talk about this new development and this is something you cannot do. Minerva will actually have to go back and reapply for a new special exception and this is made more difficult now that we have a moratorium on special exceptions to reduce lot size. Another thing is to get

the density he wants on this property the sewer line would have to be extended across the road and this would be the first time of a private sewer system going across a county road, which would require additional consideration given county regulations on the issue. There are also two (2) creeks converging on this piece of property; however, on the new plan they show staying away from the creeks. Mr. Taylor recommended leaving this on the table and giving staff a good bit of time to get with the developer and try to work through those issues.

Zoning Attorney Galloway commented that this was going to require several more meetings and recommended that essentially a workshop format be set up to review this concept in an informal basis with public discussion with input from the neighbors along with Minerva and address the issues Mr. Taylor raised and also the issues of a packaged plant.

Those signed up to speak in opposition were as follows:

Mr. Tilman Blakely came forward and gave his address as 599 Smoak Road. He spoke against the density that the one acre development allows because density is the devil we are fighting. Instead of the 77 units asked for previously they are asking for 206 units, which would be adding an additional 515 people in addition to the population of Spring Lake.

*Motion made by Commissioner Davis to table indefinitely **Application #03-17S**. Commissioner McDaniel seconded the motion and motion was approved by a vote of 3-0.*

Application #03-12Z: Michael O. Banister, Owner – Alan R. Mobley, Agent – 121 Timber Ridge Drive (2 acres located in Land Lot(s) 54 and 55 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Mr. Alan Mobley came forward and gave his address as 262 Mobley Road. He said that the Banister's were building them a house in Lamar County at Whispering Pines Plantation and they own a vacant lot at Timber Ridge Drive, Runaway Lakes. He has gotten approval from the homeowners association to divide this tract into two (2) lots and plans to build 1400 SF homes. He said after he completes his house and the sales take place, he intends to tear down the existing singlewide mobile home before any building permits are issued, which was recommended by Planning & Zoning Board.

There was no one signed up to speak in opposition.

Community Development Director Chuck Taylor commented that the two lots would be compatible with the one acre lots in this area and also the house size would also be compatible. Staff recommends a time limit of sixty (60) days for the mobile home to be removed compared to the Planning Commission's recommendation prior to a building permit being issued. He highly recommends staying with a time limit if for some reason the swap doesn't go through, you will have created a non-conforming use.

Mr. Mobley stated that he did not want any time limit placed on the removal of the mobile home. He said before he builds any homes on these tracts the mobile home will be removed.

*Motion made by Commissioner Davis to approve **Application #03-12Z** with condition that mobile home be removed before building permits are issued. Commissioner Goss seconded the motion and motion was approved by a vote of 30. **The Resolution will be incorporated into the minutes on second and final reading.***

1. **Amendment to UDO #A-03-20:** Appendix B. Ordinance Establishing Planning Commission – Section II(a) and Section III – deletion of the sixth (6th) member of the Planning Commission (Chairman of the Board of Appeals).

Community Development Director Chuck Taylor stated that Staff and Planning Commission recommended approval of amendment.

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

*Upon motion by Commissioner Davis, seconded by Commissioner Goss Amendment to UDO #A-03-20 was approved by a vote of 3-0. **The Resolution will be incorporated into the minutes on second and final reading.***

2. **Amendment to UDO #A-03-21:** Appendix C. Ordinance Establishing Board of Appeals – Section II and Section III – deletion of the eighth (8th) member of the Board of Appeals (Chairman of the Planning Commission).

Community Development Director Chuck Taylor stated that Staff and Planning Commission recommended approval of amendment.

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

*Upon motion by Commissioner Davis, seconded by Commissioner Goss Amendment to UDO #A-03-21 was approved by a vote of 3-0. **The Resolution will be incorporated into the minutes on second and final reading.***

3. **Amendment to UDO #A-03-22:** Article 4. General Procedures – Section 408:A(3) – amend “Building Permit Required” information.

Community Development Director Chuck Taylor stated that Staff and Planning Commission recommended approval of amendment.

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

*Upon motion by Commissioner Davis, seconded by Commissioner Goss Amendment to UDO #A-03-22 was approved by a vote of 3-0. **The Resolution will be incorporated into the minutes on second and final reading.***

4. **Amendment to UDO #A-03-23:** Article 17: Planned Development District – Section 1703:A(1), B((1), & C(1), and Article 22. AKB Arthur K. Bolton Parkway Overlay Zone – Section 2203:A(1), B(1), & C(1) - amend to reflect current R-6 title.

Community Development Director Chuck Taylor stated that Staff and Planning Commission recommended approval of amendment.

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

*Upon motion by Commissioner Goss, seconded by Commissioner Davis Amendment to UDO #A-03-23 was approved by a vote of 3-0. **The Resolution will be incorporated into the minutes on second and final reading.***

5. **Amendment to UDO #A-03-24:** Article 24. Powers and Duties of Various Officials Concerning this Ordinance – Section 2403:A – amend to reflect correct section for Powers and Duties of Building Official.

Community Development Director Chuck Taylor stated that Staff and Planning Commission recommended approval of amendment.

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

*Upon motion by Commissioner Davis, seconded by Commissioner Goss Amendment to UDO #A-03-24 was approved by a vote of 3-0. **The Resolution will be incorporated into the minutes on second and final reading.***

6. **Amendment to UDO #A-03-25:** Appendix A. Subdivision Ordinance – Article 7. Conservation Subdivisions – Section 701:B – amend density requirements in Conservation Subdivisions.

Community Development Director Chuck Taylor stated that Staff and Planning Commission recommended approval of amendment. We have already amended the UDO to separate density from lot size in our R-districts and also the density remains neutral at one unit per acre whether there is sewer or no sewer; however, when that change was made, it created a conflict with the subdivision regulations, which allows 1.75 units per acre. Adopting this amendment would make these two (2) portions of the ordinance agree again.

Mr. Greg Pruitt came forward and gave his address as 55 Partridge Path. He said that he was against neutral density. He said the purpose of the conservation subdivision was to get more density and put up a lot of greenspace to have more houses on less road. The residential zonings were one acre lots and now developers are asking for special exceptions to get the one acre lots, which there is now a moratorium in effect. He said the Board should consider doing away with conservation subdivisions because it does not work on non-sewer property at all where there is county water. He asked the Board to table this text amendment.

Deputy County Manager Michael Sabine suggested since we are about done with the Comprehensive Plan this is a very good time to have a workshop and tie it to the goals of the Comprehensive Plan and discuss the future of conservation subdivisions in relation to the implementation and adoption of the draft Comp Plan. There have been issues raised tonight that need to be addressed. He suggested a workshop no later than October and tie it into the Comp Plan.

*Motion made by Commissioner Davis to table **Amendment to UDO #A-03-25** until we have a full Board and further study. Commissioner Goss seconded the motion. Mr. Galloway recommended within sixty (60) days there be a Board of Commissioners and Staff workshop. Commissioner Davis amended his motion to include this and Commissioner Goss amended his second. Motion to table was approved by a vote of 3-0.*

D. Other Business:

Upon motion by Commissioner Davis, seconded by Commissioner Goss the Board voted unanimously to go into a Closed Meeting as requested by Mr. Galloway.

Zoning Attorney Galloway desires a Closed Meeting to discuss potential litigation.

Those present were Commissioners Johnie McDaniel, Cecil Davis and Eddie Goss. Also present were Deputy County Manager Michael Sabine, Zoning Attorney Newton Galloway, Community Development Director Chuck Taylor 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 July 24, 2003.

2.

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

3.

The executive session was called to order at 8:40 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)*_____.

This the 24th day of July 2003.

Spalding County Board of Commissioners

Sworn to and subscribed
Before me this 24th day of
July 2003.

Phyllis P. Doane

Notary Public

My commission expires: March 13, 2006

Cecil L. Davis
Edward Goss, Jr.
Johnie A. McDaniel

Upon motion by Commissioner Davis, 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.

E. Adjournment.

Upon motion by Commissioner Davis, seconded by Commissioner Goss the meeting was unanimously adjourned at 8:45 P.M.

County Clerk

Chairman

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