



**PUBLIC HEARING**

A public hearing was held by the Spalding County Board of Commissioners in their office in the Courthouse Annex, Thursday, September 25, 2003 beginning at 6:00 o'clock p.m. with Commissioners Dick Morrow, Michael Kendall, Johnie 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**

Chuck Taylor stated that he had received a fax late in the afternoon that applicant had requested that **Application #03-13Z:** Peach State Land Development, Inc. rezoning is withdrawn.

**B. Old Business:**

- 1. **Application #03-23S:** Richard L. Boger, Owner, - Ken Dorsey and Alan Mobley, Agents – 57.20 acres, more or less, off Georgia State Route 155 (Jackson Road) located in Land Lot 49 of the 2<sup>d</sup> Land District – requesting a Special Exception to allow 1 acre lots in the R-4 District.

Commissioner Morrow stated he was recusing himself from the discussion and the vote as he is married to Mr. Mobley’s Mother. Chairman Morrow asked Vice Chairman Kendall to preside over the meeting through this discussion and vote.

Community Development Director Chuck Taylor came forward and gave the Staff report. Ken Dorsey and Alan Mobley propose to develop a 38 - 1 acre lot single family subdivision. Approval of the Special Exception would allow for the submittal of a preliminary plat for a minimum 1 acre lot subdivision.

Staff recommends denial of the request because the development density is not representative of the development in this area.

The Board of Appeals recommended approval of the application with an addition of a pavilion, playground equipment, picnic table and grill in the green area.

Mr. Alan Mobley came forward and gave his address as 262 Mobley Road. He said that nothing has really changed on the site plan, but he and Mr. Dorsey have agreed to the covenant restrictions of the conservation area for the homeowners association as applicable in the Subdivision Ordinance in the UDO, Section 7-13.

Those signed up to speak in opposition were:

Mr. Ed Johnson came forward and gave his address as 600 Hamil Road. He said that the Land Use Plan designated the area as rural. He addressed the yearly average population growth for Spalding County in the Comprehensive 2020 Plan and that is 550 residences per year. He said in our first year of our 2020 Plan we would be well above our number of housing units if you allow these one acre lots. He said there are larger acre tracts in this area of the County and he requested that the Board deny this rezoning.

Ms. Maria Johnson came forward and gave her address as 600 Hamil Road. She asked the Board not to approve the one acre lots as the 2020 Land Use Map designates this area as rural. She had concerns if approved they may possibly want to purchase the neighboring property for further development and probably ask for one acre lots.

Commissioner McDaniel brought to Mr. & Mrs. Johnson’s attention that the Comprehensive 2020 Plan proposes for this area to be rural; however, the Plan has not been adopted yet.

*Motion made by Commissioner McDaniel to approve **Application #03-23S** conditioned as follows: (1) development served with underground utilities; (2) no exposed concrete block on front or side of the houses (3) front porches be underpinned and finished in character with the house; (4) any vinyl used must be a minimum of .042 thickness (5) playground and pavilion must be of commercial grade. Commissioner Davis seconded the motion. Commissioner McDaniel amended his motion to include as a condition (6) acceptance by the applicant of the provisions of Section 7-13 in the County's Conservation Subdivision Ordinance. Commissioner Davis amended his second to include this condition. Motion was unanimously approved by a vote of 4-0 (abstinence of Commissioner Morrow).*

2. **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 3<sup>rd</sup> Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.
3. **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 3<sup>rd</sup> Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.
4. **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 3<sup>rd</sup> Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.
5. **Application #03-11CZ:** High Top Holdings, Inc., Owner – Shawshank Ltd., Agent – 19.96 acres off Stephens Street located in Land Lot 126 of the 3<sup>rd</sup> Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.
6. **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 3<sup>rd</sup> Land District – requesting a rezoning from AR-1, Agricultural and Residential, to R-2, Single Family Residential.

Chairman Morrow returned to the meeting and presided over the remainder of the meeting.

Chairman Morrow stated that we would consider the above rezoning applications together; however, would have to vote on them separately. Chairman Morrow commented that he recused himself at the last zoning hearing on these applications but has checked with Zoning Attorney Galloway as he has no financial interest in either one of these companies and was advised he did not have to abstain from voting.

Chuck Taylor came forward and gave the Staff report which covers all the applications. High Top Holdings is proposing a development consisting of a 62 lot – 1 acre on 5 tracts of land. Staff recommends conditional approval of the R-2 Zoning request. Approval of the request would allow for the submittal of a preliminary plat for a two acre tract subdivision.

Conditions recommended by staff for the R-2 Zoning are:

1. Streetscape plan, including sidewalks, trees, and street lighting shall be submitted along with the preliminary plat.
2. Greenspace area(s) shall have frontage along a public street and no lot shall be more than five hundred (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, at their June meeting, recommended approval of the rezoning with the same conditions as proposed by staff.

Approval of this request would allow the applicant to submit a preliminary plat for a two acre subdivision at this point because they do fall in the moratorium for reduction of lot sizes.

Mr. Nathan Mixon spoke in favor of these rezoning applications. He came forward and gave his address as 105 Hancock Road, Williamson, GA. He presented a revised plat that shows nine and one-half acres of green space and also two (2) entrances on the back side of the property, which is on Stephens Street and Dale Street and one (1) on the front. The front yards will be sodded and development will be serviced by underground utilities. The price of the houses will range from \$110,000 to \$140,000. He said the houses would have brick front with masonry accents. He said none of these tracts were in the flood zone. He said there would probably be sidewalks included but they are not shown on the revised plan.

Mr. John Herbert spoke in favor of these applications. He came forward and gave his address as 1750 Cardinal Drive. He said that he has been in the real estate business for thirty-five years and there is one

thing that everybody is trying to do and that is make the community better. In this particular area there are rather small houses on very small tracts and this proposed subdivision would be compatible to the area. He said this would definitely improve the community and quality of life in this area, which we are trying to accomplish.

Mr. Julius Dunn was signed up to speak in opposition to these rezoning applications. He gave his address as 1405 Lee Street and just wanted to know if they had found another way out of the proposed subdivision. Commissioner Morrow commented that there are now three (3) entrances to the subdivision.

*Motion made by Commissioner Davis to approve **Application #03-11Z** conditioned as follows (1) Streetscape plan, including sidewalks, trees, and street lighting shall be submitted along with the preliminary plat. (2) Greenspace area(s) shall have frontage along a public street and no lot shall be more than five hundred (500) feet from a greenspace area. (3) Design of the walking trails and/or playground/park areas shall be submitted with the construction plans and (4) Sodded front yards. Commissioner Goss seconded the motion and motion was approved by a vote of 3-2 with Commissioners Kendall and McDaniel voting in opposition.*

*Motion made by Commissioner Davis to approve **Application #03-11AZ** with the conditions stated on the Application #03-11Z. Commissioner Goss seconded the motion and motion was approved by a vote of 3-2 with Commissioners Kendall and McDaniel voting in opposition.*

*Motion made by Commissioner Davis to approve **Application #03-11BZ** with the conditions stated on the Application #03-11Z. Commissioner Goss seconded the motion and motion was approved by a vote of 3-2 with Commissioners Kendall and McDaniel voting in opposition.*

*Motion made by Commissioner Davis to approve **Application #03-11CZ** with the conditions stated on the Application #03-11Z. Commissioner Goss seconded the motion and motion was approved by a vote of 3-2 with Commissioners Kendall and McDaniel voting in opposition.*

*Motion made by Commissioner Davis to approve **Application #03-11DZ** with the conditions stated on the Application #03-11Z. Commissioner Goss seconded the motion and motion was approved by a vote of 3-2 with Commissioners Kendall and McDaniel voting in opposition.*

***Resolutions for these rezoning Applications will be incorporated into the minutes on second and final reading.***

7. **Amendment to UDO #A-03-25A: Lift from the table** – Appendix A. Subdivision Ordinance – Article 7. Conservation Subdivisions – Section 7f01:B – amend density requirements in Conservation Subdivisions. *Chuck Taylor asked to leave this Amendment to the UDO on the table.*

**C. New Business:**

- 1. Amendment to UDO #A-03-12:** Article 2. Definitions of Terms Used – Section 202:Z’ – add definition for Drug Abuse Treatment Program, and Article 12. C-1, Highway Commercial – Section 1203:B(6) – add provision for Drug Abuse Treatment Program as a special exception use.

Chuck Taylor commented that we heard this before; however, there was a six-month waiting period from the time you announce it until the time you can take action on it.

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

*Upon motion by Commissioner McDaniel, seconded by Commissioner Davis Amendment to UDO #A-03-12 was unanimously approved by a vote of 5-0. The Resolution will be incorporated into the minutes on second and final reading.*

- 2. Application #03-12S:** Trumbull Development Corporation, Owner – 240 – 246 O’Dell Road (4.646 acres located in Land Lot 108 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow a Drug Abuse Treatment Program in the C-1 District.

Chuck Taylor came forward and gave the Staff Report. Mr. Brutz, President of Trumbull Development Corporation is requesting a special exception to allow a Drug Abuse Treatment Program at 240-246 O’Dell Road. Approval of the Special Exception will allow McIntosh Trail MH/MR/SA to locate a Drug Abuse Crises Center to this location.

Staff and the Board of Appeals recommend approval; however, staff requests that the approval be given subject to approval of the second reading of the ordinance amendment that allows this use in the C-1 district.

Mr. Michael Brutz came forward and gave his address as 101 Commerce Place, Barnesville, GA. This will be the construction of a seventeen (17) bed unit facility for a program through McIntosh Trail MH/MR/SA operated by Pine Woods. They are going to move a nice facility up from Barnesville and it will employ twenty-four (24) people full time. The value of the building will be approximately \$900,000.

There was no one signed up to speak in opposition.

*Upon motion by Commissioner McDaniel, seconded by Commissioner Davis Application #03-12S was approved subject to approval of ordinance amendment #A-03-12 at second reading by a unanimous vote of 5-0.*

- 3. Application #03-31S:** 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 and 235 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow a religious campground in the AR-1 District.

Commissioner Kendall commented he was recusing himself from the discussion and vote on this application as he has a conflict of interest as he owns an interest in the property that abuts this property. Commissioner Kendall left the meeting room.

New Era Missionary Baptist Convention owns a campground at 1229 Green Valley Road. They are currently classified as a nonconforming use, but are proposing to construct a 50’ by 100’ steel structure on the site. The nonconforming use cannot be altered as proposed without the approval of a special exception that would bring the use into compliance with the UDO. Approval of the special exception will allow New Era Missionary Baptist Convention to submit commercial site development plans for the proposed building.

Staff and the Board of Appeals recommended conditional approval of the request.

Staff’s recommended conditions are as follows:

1. Buffering consistent with that required of a commercial use in a residential area shall be created. This requirement shall consist of twenty-five (25) feet of buffer along all side and rear property lines, which shall include screening in the form of vegetation (Trees intended for buffer, i.e. Leyland Cypress, shall be used for the screening).

2. The applicant shall submit site construction plans that meet the requirements of Spalding County Unified Development Ordinance (UDO) Appendix J: Commercial/Industrial Ordinance (or equivalent).
3. Certification by a certified engineer shall be submitted indicating that the integrity of the dam for the pond is such that it will sustain the traffic generated by the activities performed on this property.
4. An easement shall be recorded and submitted to the Spalding County Community Development Department for ingress and egress across the adjoining tract to the north.
5. The hours of operation shall be limited as follows: All outside events must commence after 8:00 a.m. and conclude prior to 11:00 p.m.
6. All lighting for the property shall have a minimum setback of fifty (50) feet from each property line and be constructed in a manner to not reflect onto adjoining properties.
7. The proposed structure shall be a minimum of fifty (50) feet from any property line.
8. The site plan submitted with this application shall constitute a "development plan" and any changes to this plan, affecting the intent and character of the development, the density or land use pattern, or other substantial changes, must be approved by the Board of Commissioners upon the recommendation of the Board of Appeals.

In addition to the Staff's Comments, the following conditions were negotiated between New Era and their next door neighbor, Ms. Roof:

9. **Parking Facilities.** In order to accommodate the requests of the County and the Roofs, a new parking area will be constructed on the property, which will accommodate the parking needs of the attendees at functions held on the property.
10. **Entrance and Exit.** In order to accommodate the requests of the County and the Roofs, a new entrance to the Applicant's property will be constructed on the adjoining property to the north, which such property is also owned by the Applicant. The new entrance and driveway will connect with the existing driveway, making a one-way traffic capable "loop" across the property. The current entrance can then be used as an exit from the property. To the extent permitted by law, this new entrance will have appropriate signage indicating that it is the entrance to the property.
11. **Contact Information.** In order to accommodate the requests of the County and the Roofs, information will be posted at or near the entrance to the property, which will include the names and telephone numbers of the Applicant's representatives. Information regarding contacting the Applicant is also listed in the telephone book. This contact information is intended to assist those who are interested in using the property for gatherings and to provide the neighbors with a contact person in the event that they have suggestions or complaints for the Applicant.
12. **Outside Amplification.** In order to accommodate the requests of the County and the Roofs, information with regard to the need for a permit for the amplification of noise will be added to the rental agreement, which is executed by all users of the property.
13. **Representative On-Site During Usage.** A representative of the Applicant is generally on the property during the entire time that the property is used for one of the Applicant's meetings or functions. In addition, a representative of the Applicant is generally on the property for some portion of the usage of the property for functions, which are not held by the Applicant. Users of the property are provided with contact information in the event of a maintenance issue or other emergency. In addition, as stated in Paragraph 11 above, contact information for representatives of the Applicant is listed in the telephone book and will be provided on the property.
14. **Acoustical insulation** shall be placed on the walls and ceilings of the interior of the building.

Chairman Morrow commented that a no. 15 condition has been placed on the application which is that outside amplifications will cease to exist at 9:30 P.M. Zoning Attorney Galloway stated that it was in the contract but doesn't know if it was meant to be a condition. This would be discussed during the presentation.

Ms. Beth Jones from the law firm of Wagner, Johnston & Rosenthal spoke in behalf of New Era Missionary Baptist Convention. She gave their firm address as 3340 Peachtree Road, Atlanta, GA. Ms. Jones said New Era Baptist Convention owns this property and the property which is

immediately adjacent to the north. They acquired the property approximately seven (7) years ago and have been using the property, which is consistent with its prior use, which is to have various recreational activities which are held there. There is a tennis court, basketball court, swimming pool, small house which is used as a dormitory and they have a number of activities which are conducted out there. Most of the activities are smaller meetings with ten to fifteen individuals; however, there are several large events, such as family reunions and the annual convention held in July where there are about 350 attending. In the past New Era has requested outside amplification for this convention, which they have received approval; however, with the construction of the new building and moving this event inside, this would preclude any need for this particular event having noise amplification. However, there may be occasion in the future where there would be outside amplification for a wedding or such and if there were a condition of no outside amplification, this property would be more restricted than other property, which is similar situated. Ms. Jones stated they New Era has added to the lease agreement that all people are required to comply with the requirements of Spalding County including no noise amplification before 7:00 a.m. or after 11:00 p.m. They have also put into their contract “for consideration of the neighbors no noise amplification after 9:30 p.m.”, but did not want that to be a condition on the property.

Ms. Sandra Roof came forward and gave her address as 1269 Green Valley Road. She spoke in opposition to any kind of outside amplification but does not object to the construction of the building. She requested that the building be inspected to make sure it has the proper insulation and that the conditions placed on them are carried out.

*Motion made by Commissioner McDaniel to approve **Application #03-31S** with conditioned upon the fourteen (14) conditions as stated above agreed upon by all parties involved. Commissioner Davis seconded the motion and motion was unanimously approved by a vote of 4-0 (abstinence of Commissioner Kendall).*

4. **Application #03-13Z:** Peach State Land Development, Inc., Owner – 13.41 acres off Highway 16 West, Brooks Road and Tri-County Road located in Land Lot 13 of the 1<sup>st</sup> Land District – requesting a rezoning from AR-1, Agricultural and Residential, to C-1, Highway Commercial.

#### **Withdrawn by applicant.**

5. **Application #03-19Z:** Thomas West Gary, III, Owner – 1740 Highway 16 West (6.989 acres located in Land Lot 79 of the 2<sup>nd</sup> Land District) – requesting a rezoning from C-1, Highway Commercial, to AR-1, Agricultural and Residential.

Chuck Taylor gave the Staff report. Mr. Gary made application to rezone the property from C-1 to AR-1 in order to allow him to build a house on the property. Approval of the request would allow Mr. Gary to apply for a residential building permit.

Staff and Planning Commission recommend approval of the request. At the meeting, Planning Commission Chairman Ray Browning brought up the potential of future commercial development along S.R. 16 impacting the quality of life for Mr. Gary. Newton Galloway suggested that Mr. Gary may want to talk with his other family members who own adjacent commercially zoned property about bringing rezoning requests for those as well.

Mr. Tom Gary came forward and gave his address as 3040 Brook Hollow Drive, Rex, GA. He said that he has own this land for 28 years and acquired it from his grandfather. He came in to get a permit for his shop and was told that the land had been rezoned to commercial. He said that he has cleared the land for the construction of his residence and a workshop building.

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

*Upon motion by Commissioner Davis, seconded by Commissioner Goss **Application #03-19Z** was unanimously approved by a vote of 5-0. The Resolution will be incorporated into the minutes on second and final reading.*

6. **Amendment to UDO #A-03-28:** Article 4. General Procedures – Section 416 – revision to add R-2A, R-3, PDD, and PRRRD to zoning checklist and add clarification for topography requirements.

There was no one signed up to speak for or against the amendment. Mr. Taylor stated that this was a housekeeping ordinance. *Upon motion by Commissioner McDaniel, seconded by Commissioner Davis Amendment to UDO #A-03-28 was unanimously approved by a vote of 5-0. The Resolution will be incorporated into the minutes on second and final reading.*

**D. Other Business:**

Chairman Morrow discussed the accel/decel lanes at Wills Walk Subdivision. The site plan was approved by the Board of Commissioners and we accepted the plat and the accel/decel lanes were on the plat but were never constructed. He said that this has presented two (2) issues, one of which is getting the accel/decel lane built and the other is making sure this error doesn't happen again. This was overlooked by staff, the engineer, the developer, the Board and also Public Works. He requested Mr. Taylor to get a procedure in place with a checklist that would prevent this error in the future. Mr. Taylor responded that staff had amended their checklist and Public Works Department had amended their inspection checklist to reflect turning lanes as well. The engineer signed the certification on the plat certifying that it was all built to standards and to the plat. County Manager Wilson commented that we have consulted with our legal counsel and we are in full authority to ask the developer to construct this. We have prepared a letter to Mr. Brian Jackson asking him to construct these accel/decel lanes commencing within thirty days from receipt of the letter.

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

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

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, 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 September 25, 2003.

2.

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

3.

The executive session was called to order at 7:55 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 25<sup>th</sup> day of September 2003

Spalding County Board of  
Commissioners

Sworn to and subscribed  
Before me this 25<sup>th</sup> day of  
September 2003.

Phyllis P. Doane

Notary Public

My commission expires: March 13, 2006

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 Meeting.*

*No business was transacted at this time.*

**E. Adjournment.**

*Upon motion by Commissioner McDaniel, seconded by Commissioner Davis the meeting was  
unanimously adjourned at 9:00 P.M.*

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

\_\_\_\_\_  
Chairman

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