



Spalding County Board of Commissioners

Public Hearing

October 28, 2004

6:00 p.m.

Room 108, Spalding County Courthouse Annex

A public hearing was held by the Spalding County Board of Commissioners in Room 108 in the Courthouse Annex, Thursday, October 28, 2004 beginning at 6:00 o'clock p.m. with Commissioners Michael Kendall, Cecil Davis, Eddie Goss, Johnie McDaniel and Dick Morrow present. Also present were County Manager William Wilson, Community Development Director Chuck Taylor, Senior Planner Chad Jacobs, Zoning Attorney Newton Galloway and Executive Secretary Teresa Watson.

A. Call to Order

Chairman Kendall called the meeting to order and invited anyone wishing to speak regarding any item on the agenda to come forward and sign on the appropriate form.

B. Special Exceptions, Rezoning and Text Amendments:

1. **Application #04-56S:** Marshall T. Postin and Lara A. Postin, Owners – 2129 North McDonough Road (18.09 acres located in Land Lot 81 of the 2nd Land District) – requesting a Special Exception to allow a general home occupation in the AR-1 District.

Community Development Director Chuck Taylor said this application is to request a special exception to have a home occupation on the property in the AR-1 District located on Highway 155 North. The proposed occupation is a landscaping business contained within a 40 foot by 60 foot pole barn that is already constructed on the property. The Home Occupation requirements in the AR-1 District restrict the home occupation to 25% of the home on the property. The pole barn on the property is approximately 2400 square feet in size. The owner has confirmed he will only use a portion of the pole barn so the home occupation won't exceed the 25% limit imposed by the Ordinance.

Mr. Taylor and Staff recommend Conditional Approval of this Special Exception application as follows:

- a. That all equipment and vehicles associated with the home occupation be stored entirely within the pole barn out of sight from public view.
- b. That there will be no signage of any kind advertising the home occupation on site.

The Board of Appeals recommended Conditional Approval with the same conditions noted above by Staff.

Commissioner McDaniel asked to confirm that the 25% rule includes the home and all accessory buildings.

Mr. Taylor said everything used for the home occupation was added together to arrive at the percentage used, including home office space, the pole barn area, and any accessory buildings used, as well. Mr. Taylor said if Mr. Postin restricted his home occupation to only a portion of the pole barn, he could manage it so that it will not exceed the 25% restriction. The applicant has built quite a large home on site.

Mr. Marshall T. Postin, 2129 North McDonough Road, Griffin, Georgia

Mr. Postin said he and his wife had contacted the Community Development Office to determine requirements before they purchased the property. However, the law changed before the house was completed and they moved in on June 12, necessitating this request for a Special Exception. Until

they moved, they operated their business on their previous business license. Mr. Postin stated he had no problems with the conditions stipulated.

On a motion by Commissioner Morrow and a second by Commissioner Davis to approve Application #04-56S with the conditions that all equipment and vehicles associated with the home occupation be stored entirely within the pole barn out of sight from public view and that there be no signage of any kind advertising the home occupation on site, the vote to approve was unanimous.

- 2. Application #04-17Z:** Holiday Investments, Inc., Owner – Old Atlanta Road (2.368 acres located in Land Lot 102 of the 3rd Land District) – requesting a rezoning from C-1 Highway Commercial to C-1B, Heavy Commercial.

Commissioner Morrow recused himself since he had partial ownership in the company doing this.

Community Development Director Chuck Taylor said this application is to request approval from Spalding County to allow the development of the property for office warehouse use. The property is currently zoned C-1, has been approved for a site plan and is actually under construction as a C-1 office retail use. The rezoning would allow the developer an additional component of warehousing under the C-1B District. Staff recommends approval of the request with the following conditions:

- a. That uses requiring outside storage shall be prohibited.
- b. That restrictions on exterior lighting ensure they are designed to avoid glare into the adjacent neighborhoods.
- c. That the exterior building facades must be brick, stone or stucco if visible from either Old Atlanta Road or Ryder Road.

The Planning Commission recommends approval with the same conditions as proposed by Staff.

Mr. Tom Hughes, 240 Jefferson Woods Drive, Peachtree City, Georgia

Mr. Hughes said he represented the property owner, Holiday Investments, Inc. They would like to have the third condition modified, if possible. One building is visible from Ryder Road and they would like to not have to brick that particular side, which currently has metal siding. This building on the south side of the property would be accessed by an entrance on Ryder Road. He presented pictures of the adjacent houses and properties, as well as those across the street from the building site. They have no problem with putting a brick facade on the front, but would like to except the one building visible from Ryder Road.

Commissioners reviewed the pictures with Mr. Hughes' assistance.

Mr. Taylor responded to Commissioners that Staff recommended the brick, stone or stucco facade in order to facilitate the transitioning of the neighborhood to an upgraded appearance, and they try to do this whenever appropriate in areas that are transitioning from residential to commercial development. A masonry type of facade goes a long way toward upgrading the appearance and most, if not all, of the anticipated rezoning requests in the future for this area will be conditioned to incorporate some appearance-related components.

Mr. Hughes responded the additional cost incurred because of the conditions would approximate \$6000, but he had no problem with the conditions if that is what it would take to get approval.

More discussion was held regarding the visibility of the buildings in question. The back of the property, which Mr. Hughes had requested not be required to have a masonry facade, could incorporate a natural screen to hide most of this building. Commissioners explored the possibility of specifying which building should have to have the recommended facade and on which sides for each building. Mr. Taylor suggested they use the wording on the plat to designate the Phase I building and Phase II building for conditions.

On a motion by Commissioner McDaniel and a second by Commissioner Davis to approve Item #04-17Z with the conditions that uses requiring outside storage shall be prohibited, restrictions on exterior lighting ensure they are designed to avoid glare into the adjacent neighborhood, the exterior building

facade for the Phase II building be brick on three sides (front and two ends), and the exterior building facade for the Phase I building be brick on the one side (front) facing Old Atlanta Road, the motion passed by a vote of 4-0-1 with Commissioner Morrow abstaining.

- 3. Application #04-19Z:** Sara Kathleen Smejkal, Owner – Fayetteville Highway (1.9 acres located in Land Lot 110 of the 4th Land District – requesting a rezoning from AR-1, Agricultural and Residential, to C-1, Highway Commercial.

Community Development Director Chuck Taylor said this application is to request an approval of a rezoning from AR-1 to C-1 to allow the development of property for a gas station and convenience store. The future Land Use Map indicates this property should be used as rural residential. The proposed development is inconsistent with the recommended use on the future Land Use Map. There will be increased threat to public health and safety due to the development of this site. The level of lighting required for the nighttime operation of a convenience store and other impacts that are intrusive to residential areas need to be taken into consideration. Buffering and restrictions to lighting can help mitigate much of these impacts.

Several Planning Commission members also pointed out the intersection of David Elder Road and Highway 92 is not safe enough to accommodate the increased traffic that will be generated by such an operation. Staff revisited the site to investigate that issue further and concurs with Planning Commission members that the turning movements of the type generated by a gas/convenience store operation would add problems to an already unsafe intersection due to distance issues.

Mr. Robert Smejkal, 50 David Elder Road, Griffin, Georgia

Mr. Smejkal hoped all members of the Board of Commissioners had read the two prior reports presented on this property so that he could just address Mr. Taylor's comments of tonight and not have to present a case history. When he came to the last meeting he felt he made an excellent case for this property meeting all the criteria for a commercially-zoned property. However, because he put a driveway on David Elder Road for ingress and egress into this facility, he made a major mistake.

The Commission is partially right that placing a driveway here would create a public safety hazard, so he revisited the issue, went to the Department of Transportation and changed the driveway to make it safer. He took some pictures, as well, which he shared with Board of Commission members. They were from vantage points at the top of the hill, looking at a house across the street from the actual driveway, looking out a car window on Highway 92 toward Fayetteville with an unobstructed view for over 1000 feet in a 45-mph zone, and a view from east to west, which is the one that most concerned Commissioners. From the top of the hill you have a clear view in excess of .3 mile. Department of Transportation told him an accel/decel lane was required, and he felt this would improve traffic flow. The length of the accel/decel lane, coupled with the reduced speed limit of the area, should alleviate any problem, and he did not think the entrance should be considered unsafe. He urged Commissioners to table the issue tonight if they wanted to look at the property, measure distances, verify photographs or otherwise investigate the project further.

Mr. Smejkal said he had received support for this project from the entire community. He could have brought many who supported this rezoning and project, but he felt the people who are in support of an issue rather than those who oppose it do not carry as much weight. The only opposition he has encountered has been from Spalding County zoning and building officials. For whatever reasons, they do not want to see the project go forward. He felt he had addressed the problems they have identified.

As far as lighting with regard to safety, at night the convenience store's indirect lighting (not harsh) would help to make the area brighter and probably actually slow traffic somewhat.

There was a fatality near, not at, this intersection when the speed limit was 55 mph whereby someone fell asleep at the wheel on the way home from work. That could have happened anywhere in this County at any time, and it had nothing to do with sight distance. Another fatality occurred approximately two miles away at Cheatham Road. The contributing factor in this accident was passing improperly (with no broken-line passing zone). Again, this accident was not location-specific but rather could have happened

anywhere that this violation occurred. There haven't been any major accidents at this intersection in over two years.

Mr. Smejkal stated that if the County or State wanted him to perhaps install a side light to better identify the property, red blinking lights or whatever, he would be glad to do whatever was deemed necessary to better come to an agreement. He felt they could make this work and urged Commissioners not to just turn down this request. If he were to build a \$750,000 building on this property and dress it up, greater restrictions on the project to make it look good would actually be to his benefit. People are more apt to stop and use facilities that are more aesthetically pleasing. The taxes from such a project would certainly support the County's tax base, and he felt as though more Spalding County projects by people like him ought to be a good thing. He drew a comparison between taxes that might theoretically be received by the County for residential versus his proposed commercial use. Successful counties have a good blend of residential and commercial use properties.

Commissioner Morrow said he had been prepared to reject this application but decided it might be worth another listen based on a couple of things he had said. He asked where the actual entrance would be based on the length of the decel lane and whether or not it would be further down the hill to contribute to a sight distance issue. He felt the entire development might have to be shifted back away from the road further, resulting perhaps in a limited buffer and screen area. The decel lane may even make the buffer and screen area tougher to implement.

Some discussion followed, but Mr. Smejkal felt it was logistically feasible. He had not redrawn plans because up until now, he had always felt there was some recourse. When objections were made, he had the opportunity to rectify the situation before this meeting. The County has also said there was commercially zoned property at the other end of this road, on Bicycle Road, that would be better suited for a convenience store. The owner of that property convinced the County to rezone this property in 1989, but the property was never deeded or recorded, and he surmised it should still be, in essence, AR-1. To put a convenience store here would also prove difficult since there is a church right across from it, within the distance prohibited by County code.

Commissioner Morrow said this property was in his district, and he has witnessed several problems at this corner. He would like to talk with some of the people in the area.

Mr. Smejkal said the vote did not have to be tonight; he urged Commissioners to table the issue if they needed more time or information to study the issue. This Board was his last hope, and he assured Commissioners he was not going away because he felt he was right. He felt he had met the criteria and didn't know about the legalities, but might have to pursue the issue.

Commissioner McDaniel said Mr. Smejkal had presented a good case and he asked where the entrance would be in light of the accel/decel lane. Mr. Smejkal said he had not had it drawn up and wasn't sure exactly how many feet it would be without his figures with him tonight. Department of Transportation will not become involved but based on pictures and examination, they saw no problem. Mr. Smejkal said he felt the road would become four lanes in the near future, but Commissioner Morrow, in his capacity as Chair of the Griffin-Spalding Area Transportation Committee, disagreed, saying it was not in near future plans.

Commissioner Davis made a motion to table this application until the December 16th meeting. The motion was seconded by Commissioner Morrow and passed with a unanimous vote of 5-0.

- 4. Application #04-20Z:** Walter E. Jones, Jr., Owner – Alan R. Mobley, Agent – South Walkers Mill Road (106.90 acres located in Land Lots 11 and 22 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-4, Single Family Residential.

Commissioner Morrow recused himself from consideration of agenda items 4 and 5 since he is married to Mr. Alan Mobley's mother.

Community Development Director Chuck Taylor said these two applications are to request a rezoning from AR-1, Agricultural and Residential, to R-4, Single Family Residential, and then to request a Special Exception to allow 1-acre lots, country club subdivision style, in the R-4 District. He instructed the Commissioners to consider them both in context and then vote on each separately. The request is to

develop a residential community on one-acre lots using the Country Club design theme. The development would include 69 single family residential dwelling units and approximately 27.6 acres of open space, which would meet the 25% open space requirement.

Mr. Taylor and Staff recommend approval of the rezoning but to R-2 with the mandatory 1750 square foot house size required in R-2 since the average house size in this area totals 1567 square feet. At their September meeting, the Planning Commission recommended approval, as well, to rezone the property to R-2.

Regarding the Special Exception, Staff recommends conditional approval of the request with the conditions that the applicant will confirm that all exteriors will be constructed with brick, stone or stucco facades and that the applicant will correct the 500 foot distance maximum to common space and amenities, which is shown on the most recent revised plan submitted. At their October meeting, the Board of Appeals recommended conditional approval in keeping with the conditions recommended by Staff.

Mr. Alan Mobley, 262 Mobley Road, Griffin, Georgia

Mr. Mobley said with 69 homes on this 106.9 acre tract, the average home site would be 1.5 acres. The amenities include 30% green space; timber left intact except for clearing as absolutely necessary for streets and retention pond; brick, stone or stucco facades; walking trail; tennis court; street lights; underground utilities; streetscape plan that will include one tree every 40 linear feet on both sides of all three streets; sidewalks; playgrounds; and a homeowners' association.

Mr. Mobley noted the project had been approved by Planning Commission and the Board of Appeals. The average price per home would be in the mid-\$160,000s. He had no problem with adjusting to the 1750 square foot minimum. The total buildout on the project will exceed \$12,000,000 and will include curb and gutter. This tract is adjacent to a .6 acre tract with a house. There are other one-acre lots scattered through the neighborhood, along with some 2- and 3-acre tracts and some even larger.

Mr. Mobley said he had visited Glenview Estates today, and it was the only negative aspect of his interest in developing this property. This development has been a huge disappointment. They are leaving timber that will create a buffer near this property and, hopefully, with the advent of Walkers Mill Estates, the average size of the homes in the area will increase. Glenview Estates is on South McDonough Road and was developed under the old Ordinance where, as a matter of absolute right, if you had sewer, you could develop 20,000 square foot lots with the average size house under 1500 square feet, and in this development most are probably closer to 1250 square feet. The playground there consists of one small department store swing set in the bushes.

Mr. Wilson agreed the subdivision had been a problem from the outset, with major issues mounting with contractors and developers ranging from an expired preliminary plat, to grading without a permit, to mass grading that resulted in erosion, to recent soil problems that actually interfered with the dedication this year. The green space for this development actually touches the green space for Walkers Mill Estates.

Commissioner McDaniel said Glenview Estates was the Commissioners' first experience in this area with green space and walking trails. Then, once the zoning was approved, things quickly deteriorated.

Mr. Mobley agreed Glenview Estates was the perfect example of what a subdivision should not be. Walkers Mill Estate still has a rural atmosphere, but incorporates some really nice amenities. It is a quality subdivision with an above-average price for Spalding County, and he felt future development on this side of the County could go even higher. As a local developer, he uses mostly Griffin subcontractors and purchases most of his materials in Spalding County in an attempt to keep as much money here as possible. All the detention pond areas will be owned by the homeowners' association, and they are located where they should not impact surrounding properties at all. This development will include the Country Club design theme. Mr. Mobley said he was not sure why so many residents were in opposition to the project unless they just wanted to area to remain as it is.

Mr. Walter Jones, Jr., 850 East Maddox Road, Griffin, Georgia

Mr. Jones said he was Executor of the Estate that owned this property and had been the responsibility of liquidation. The parties involved with the Estate feel that selling to Mr. Mobley with this proposed purpose is in the best interest and is a good use of the land. He and Mr. Walker used to timber this land, but with today's market prices for timber, that use is not economically as prudent as it once was. Mr.

Mobley had incorporated many aspects with which they are pleased, such as 30% green space, with 14 acres of this green space right up front on Walkers Mill Road; an effort to keep the rural atmosphere; the County Club design theme; the walking trails; the homeowners' association; the increased heated square footage to 1750 for homes; the average price of \$165,000 for subdivision homes; the playgrounds and clubhouse; the architectural design criteria; and street and sidewalk criteria. He felt this would be an upscale development and urged approval.

Mr. Bud Williams, 1769 South Walkers Mill Road, Griffin, Georgia

He asked why the property was zoned AR-1 a few years ago with a three-acre requirement if changes are now being made to allow the smaller tracts. He asked if the zoning occurred in order to control growth. He said traffic was going to be adversely affected with this development. He asked if the petition was considered by Commissioners; these are the people who will be impacted the most on Walkers Mill Road from Orchard Hill to Highway 16. Approximately 90% of those contacted signed the petition in opposition of the development.

Mr. Williams asked about the two-step process to approve a development such as this, and Mr. Taylor explained the necessity of two different applications to Mr. Williams. Mr. Taylor explained why Staff recommended approval to R-2, particularly as it related to house size, and also for the Special Exception to one-acre lots with conditions.

Commissioner McDaniel explained that the zoning classification AR-1 had been around for quite some time, and the preponderance of property in Spalding County is probably zoned AR-1. However, a person can request a change in whatever zoning a property might be, to facilitate their being able to do something reasonable with their property. He assured citizens, based on comments he had heard, that no kickbacks had ever been received. A great deal of Spalding County property is zoned R already and, under the old rules, if someone wanted to develop a subdivision on property already zoned R, all that was necessary was to bring a final plat for approval. The County had no influence or control over what type houses were constructed. In order to establish control and manage growth, the County initiated a requirement for two-acre lots. In this manner, there is some control exercised over individual property owners. Few people, though, will ever develop subdivisions on two-acre lots because it is not economically feasible, so they must come before the County to ask for rezoning or Special Exception status in order to do one-acre lots. This also places some degree of control with the County for the managed development of the property. They can upgrade the houses and other items that could not have been accomplished without the implementation of the original two-acre minimum. A great deal of work has been done on the Special Exception ordinances. There are several types of Special Exceptions for one-acre lots from which the developer can choose. Each has requirements that must be met and are designed to help manage the growth, and the Special Exceptions were viewed more as an effort to control rather than to expect someone could develop a two-acre subdivision.

Mr. Williams said the individual property owners, such as himself when he built seven years ago, were held to the strict standard of AR-1 with a two-acre requirement. He asked if individuals could get this Special Exception or was it for special people or instances.

Mr. Newton Galloway responded anyone has a right to ask to rezone their property. If someone petitioned to put a house on a lot and not rezone property to accomplish this, then they have to comply with the requirements of the zoning. If someone asks to rezone, they are sent through the process to make the determination of whether or not the rezoning would be in the best interest of the County, the property owner, and the adjoining property owner(s). Sometimes it's a balancing act between the entities as to whether or not rezoning should occur.

Mr. Williams said he had a five-acre flag lot with 50 feet of road frontage. The people who bought in this area, such as himself, bought in good faith that the AR-1 would be adhered to by County officials. He was sure Mr. Mobley would build a nice subdivision. This was his first involvement in the rezoning or development process. He wondered how much traffic would be added to the road and whether or not a traffic count had been done. He felt the amount of traffic on South Walkers Mill Road would double. He wondered about the density of this development taxing other infrastructures such as schools, fire protection and water.

Ms. Gwen Pyron, 1345 South Walkers Mill Road, Griffin, Georgia

Ms. Pyron said this type development was not good for the County or for the community. Such an impact is too drastic for those who were born and reared in this area as she and her mother were,

expecting it to remain as it is zoned – AR-1. She did not want to see the peace and quiet and the wildlife of the area disrupted or destroyed. She looked forward to being able to retire and enjoy these aspects of rural life. She understood there would have to be growth, but she challenged Mr. Mobley to develop the subdivision according to existing AR-1 guidelines and not destroy the area just for the sake of money. She felt Mr. Mobley and others could structure their developments to enhance the community and ensure its health rather than sacrificing the greenery, wildlife and larger acreage tracts. Everyone has a right to make money, but not to the detriment of a whole community, its school system, its services, and its residents. She questioned the need to make exceptions to a zoning policy that was established in everyone's best interest. She urged Commissioners not to make another drastic mistake in this area by voting yes, and if they did vote yes, she asked that they explain why.

Mr. William J. Freeman, 2269 South Walkers Mill Road, Griffin, Georgia
His major concern was for the increased traffic he felt would result from this development.

Mr. Kenneth D. Shivers, 515 South Walkers Mill Road, Griffin, Georgia
Mr. Shivers was also concerned for the increased traffic he anticipated and the issue of safety for the ingress/egress of the development since it had only one entrance. He had previously lost his home on Highway 92 to the Georgia Department of Transportation acquisition, and he knew what it meant to add to an already substantial traffic flow with as many houses as were being proposed on this tract. Mr. Shivers did not want to see this area on South Walkers Mill Road go the same direction as Highway 92. He urged Commissioners to take this public input into consideration.

Mrs. Dean Chasteen, 1889 Rehoboth Road, Griffin, Georgia
Her family owns all four corners where Rehoboth Road and Walkers Mill Road intersect, and she anticipated the traffic near her property will be inordinately increased. She objected, primarily, to the change of direction from agricultural to dense residential. They love the three-acre restriction and the rural atmosphere and desired to see the area remain so. There were also some wetlands involved in Glenview Estates and this proposed Walkers Mill Estates and wondered about percolation if they were to incorporate septic systems. She urged Commissioners to listen to the surrounding landowners.

Chairman Kendall called for a brief recess.

On reconvening, Chairman Kendall called for additional speakers.

Mr. Philip Bennett, 1821 South Walkers Mill Road, Griffin, Georgia
Mr. Bennett said only six months ago he applied for a building permit for a home to be constructed at this location and had to get a variance. He wanted to build on a lot less than three acres, but officials told him he had to adhere to the 3-acre rule, as well as build a structure that was 2000 square feet heated. His home overlooks the area where they are anticipating allowing not only less than the required acreage, but the square feet he had to build to, as well. He was not against the development, but felt they should adhere to existing requirements.

Commissioners asked how a 2000-foot rule could have been stipulated, and Mr. Bennett said it was a variance restriction. There are nine acres he owns with his brother and father. He had wanted to shrink the lot size, which they would not allow, but they did reduce the required road frontage. County officials told him they would allow him to do this if he would, in exchange, build a 2000 square foot home. Minimum square footage in AR-1 is 1500. When questioned at length, Mr. Bennett said the variance was requested six months ago and it was the Board of Appeals who mandated the requirements.

Chairman Kendall said there were certain criteria on which they based rulings for variances but this instance was most unusual. It was difficult for him to believe the Board of Appeals would have cut such a deal.

Zoning Attorney Newton Galloway said he did not recall the specific application. He said they have imposed conditions to tie square footage to a variance, but it was usually in conjunction with the plans the applicant already had. He asked Mr. Bennett if he had already planned to build a 2000 square foot house.

Mr. Bennett said he had not submitted a house size; he was simply trying to get a building permit. This additional footage cost him an additional \$50,000.

Mr. Greg Pruitt responded to Chairman Kendall that he recalled the application but in a somewhat different light than Mr. Bennett. He stated Mr. Bennett came with other members of his family. Several members of the Board of Appeals did not want to grant the variance but, because of the family, he saw no problem to reduce the required road frontage. This is what Mr. Bennett needed since he could not rezone and was the only request made to the Board of Appeals. No one on the Board told him he had to build 2000 square feet, although he could not assume that no other County official told Mr. Bennett that. He recalled that someone in Mr. Bennett's family, perhaps the applicant, volunteered that the house was going to be 2000 feet, and he asked Board members that night how they could complain about a man who wanted to build a 2000 square foot house near his family on a three-acre lot. Members then approved the application to grant a variance for road frontage but as far as the Board of Appeals telling Mr. Bennett he had to do 2000 square feet ... that did not happen.

Mr. Galloway said the variance could very well then have incorporated the 2000 square foot into their conditional approval, but it was not because of anything they mandated. They were simply using a statement made during the application process for square footage to consider the merits of the request.

Commissioner McDaniel said what happens in the zoning process is what the Code will allow. There are certain conditions or criteria must be met for a rezoning, and this must have been considered if zoning officials suggested the request of a variance rather than rezoning. The general consensus was this suggestion was good advice to get an approval with the least objection and procedure possible for a more speedy resolution. He received good procedural advice. To get a rezoning would have required two or three hearings and much more time and expense.

Chairman Kendall stated he could, however, understand Mr. Bennett's position. If the three-acre requirement was so paramount to Spalding County, as was obviously the case with Mr. Bennett's application, then why is Spalding County considering an exception to that very requirement tonight.

Commissioner McDaniel said they really did not have the specifics of this case before them tonight; they simply had what Mr. Bennett stated, what Mr. Pruitt stated, and what Mr. Galloway stated. He felt there was a big difference in a single lot versus a large development, with regard to lot size.

Chairman Kendall said it was not at all different in his mind, whether the applicant was a single landowner making a request individually or a developer making a request for 69 different prospective homeowners.

Mr. Taylor said it was staff procedure to steer applicants away from variance requests, which is the worst way to handle zoning issues. Staff recommends rezoning over variance procedures, although it does take longer, which is why many people opt for the variance procedure. Rezoning takes several hearings versus the one for a variance. The variance proposed by the applicant was not for lot size; it was for lot frontage. Again, they steer people away from lot frontage variances because they directly affect traffic with density and driveways. Staff recommended denial of the frontage variance. At the hearing Mr. Bennett spoke, and Mr. Taylor read from the actual minutes of the Board of Appeals meeting. The minutes reflected that Mr. Bennett asked for a variance because he lacked 50 feet to conform to road frontage, saying they would build 2000 square foot homes and would be good for the area which had a lot of trailers and modular homes. Mr. Taylor said the issue of acreage never came up because Mr. Bennett had enough acreage and this petition was just about road frontage.

Mrs. Barbara Pyron, 1349 South Walkers Mill Road, Griffin, Georgia

Mrs. Pyron said she knew when Mr. Walker died their lives would be impacted, but she didn't realize it would be in this way. She moved from Atlanta to be with her 91-year old mother and they loved the South Walkers Mill community. They didn't want to see the subdivision developed and felt it would bring more problems than good. She did not want to lose the quality of life they have enjoyed up until now, even though that might sound selfish.

Commissioner Davis said this development was in his district, and he directed questions and comments to several participants.

When asked by Commissioner Davis, Mr. Walter Jones responded he lived on East Maddox Road. It was not paved, and a development of 70-80 lots on this unpaved road was recently approved by the Board of Commissioners. Mr. Jones did not object at that time. Commissioner Davis said if they required a two-acre minimum from Mr. Mobley, they could get 52 lots instead of 69, but they would not

be sodded and would average 1500 square feet. He suggested you give a little to get a little. He lives on South Sixth Street where the average house size is 2850 square feet with a minimum lot size of 2-3 acres. The ninety acres adjacent to him is zoned for one-acre lots, although surrounding property owners spoke in opposition at the rezoning request. The tax on Mr. Walker's land was approximately \$1,000 versus the 69 houses averaging \$160,000 each to produce land valued at \$12,000,000. Taxes collected on that will be significantly greater than Mr. Walker's taxes, adding to the County's tax base for improvements to infrastructure and schools. There will be 30 acres of green space with most of it in trees, cutting only what is necessary for streets and lot development. He felt this development would, in fact, be best for Spalding County.

Commissioner McDaniel said these issues always became emotional for surrounding property owners, and most of the time the landowners aren't even aware of what's going on in the County until it reaches their back yards. Everyone has rights, however, and the people who own this property have a right to develop it for a reasonable economic use. Others have the right not to be negatively impacted, and the Board of Commissioners are the ones charged with the responsibility of determining reasonable use and negative impact. This Board and others before it have done a great deal to manage the growth of Spalding County. They have raised house size and dealt with quality issues through the use of Special Exceptions. They do want growth to be quality and to have amenities, you must have certain volume. Developments such as this one provide that volume. Whether we like it or not, whether it's good or not, this side of the County near I-75 will develop. Over time, I-75 will change the complexion of the County; things will not stay the same. What the County has tried to do with zoning laws have changed the way developers have to do business in Spalding County. We are fortunate not to have sewer in place, he surmised, or this development could utilize half-acre lots. He conceded Glenview Estates was an unfortunate development that pointed to mistakes, but the County learned from it. For AR-1, you can't get a variance to a smaller lot size, and you have to change to an R zoning to get two acres. For acreage smaller than two acres, you must meet the Special Exception requirements.

Commissioner Goss asked if residents could get together with Mr. Mobley and see if a compromise as to density and number of lots could be worked out before a vote by the Board of Commissioners was taken.

Mr. Mobley said he had already put in place more amenities, design provisions, green space, and square footage to develop a quality subdivision. At the contract price, he has met all the requirements of the Special Exception provision and there is nothing he felt he could add to it or take away from it. Three-acre lots are just not economically feasible and would cut the land value at least by half. He was not willing to adjust lot size.

Chairman Kendall said he was not the biggest fan of these variances and special exceptions, but there were part of the Code. He had some difficulty reconciling these options with what property owners actually want. The one they approved on East Maddox Road was just like this one, but no one voiced opposition to it.

Mr. Jones said he asked Mr. Mobley to meet the criteria with his design, and he has done that plus some. He put the green space in not just because some green space is mandated, but he had genuine concern for trying to keep the natural aspect a part of the development. He has incorporated many amenities that will make sure this area is special and different. Mr. Mobley helped him decide this was a good way to liquidate the estate, and some of Mr. Walker's beneficiaries do need the money. Mr. Jones said he didn't oppose the development on East Maddox Road because Mr. Mobley will do the same in that area. He will incorporate berms, green space, plantings, and amenities ... everything he can do to make it quality while allowing for a profit himself. This development is across the street from Mr. Jones' 31-acre tract. Everyone is entitled to his/her own opinion, but Mr. Mobley has exceeded project requirements. He felt Mr. Walker would approve of the project.

Mr. Jones complimented the Board of Commissioners on the job they have done over the past few years to change these County ordinances and code. In the not too distant past, Mr. Mobley would not have even had to put in green space, and he was appreciative of their efforts and diligence.

Chairman Kendall agreed standards have definitely risen since he arrived on the scene in 1992. He just felt that people should be treated the same. There should be neither a double standard nor inconsistency in how the regulations are enforced or adhered to in the County. He had no problem with the quality of Mr. Mobley's developments, but that was not the issue for him.

Commissioner McDaniel said he, too, had voted to approve a development within a half-mile from his home with half-acre lots when his property is in a development that has two-acre lots. There will also be a planned development near his home where the lot size is even smaller than a half-acre. One development is smaller than the one being considered tonight, but one is twice this size. What side of town a development is on does not matter to him.

Chairman Kendall said a great many of these subdivisions have been approved with one-acre lots, and he suggested to Ms. Gwen Pyron that she and others should have been in attendance at some of the other hearings if they wanted to voice objections to the practice, rather than just object to this development in their back yards.

Ms. Pyron said she had not been aware of these practices until now, but would be at every meeting henceforth. She stated she will do whatever she can to preserve the County.

Chairman Kendall said that was the attitude he liked to see, one of genuine concern. It was hard for him to vote against this development, however, since they have approved others in different areas. This one is consistent with others, and some have more restrictions while others have fewer, based on the situation. Residents in all these areas say the same thing and have the same complaints, essentially.

Ms. Gwen Pyron asked why concerned citizens should waste their time and effort since it appeared the decision had already been made behind closed doors.

Chairman Kendall said many did share the perception that it's a waste of time. If the developer doesn't get what he wants, many times he then sues the County and gets it anyway. He noted the County doesn't always approve such requests, as can be attested by the number of lawsuits against the County.

Commissioner McDaniel said the Board of Commissioners could not make its decision based on what people like or don't like. There are code requirements and parameters within which they work. The people who own the property in question also have rights.

Chairman Kendall stated everyone is doing the same exact thing. Homeowners are trying to maximize the value of their property, and Ms. Pyron said that was good. However, he continued, developers are doing the same thing, and it would not be logical to criticize the developer for trying to make money when the homeowners are trying to maximize the value of their properties. People want to demonize the developer for doing what they are doing themselves, as well. There is nothing wrong with trying to ensure the value of your property, but that right extends to both sides.

On a motion by Commissioner McDaniel and a second by Commissioner Davis to approve the rezoning Application #04-20Z to R-2 with a stipulated 1750 square feet requirement, the vote was 3-1-1 with Commissioner Goss voting in opposition and Commissioner Mobley abstaining.

- 5. Application #04-51S:** Walter E. Jones, Jr., Owner – Alan R. Moble, Agent – South Walkers Mill Road (106.90 acres located in Land Lots 11 and 22 of the 3rd Land District) – requesting a Special Exception to allow 1-acre lots (Country Club Subdivision) in the approved R-2 District.

On a motion by Commissioner McDaniel and a second by Commissioner Davis to approve the Special Exception with the conditions that the applicant will confirm that all exteriors will be constructed with brick, stone or stucco facades; the applicant will correct the 500 foot distance maximum to common space and amenities; and all front porches be finished in character with the house, the vote was 4-0-1 with Commissioner Morrow abstaining.

Based on a recommendation by Mr. Galloway, the Board of Commissioners, on a motion by Commissioner McDaniel, seconded by Commissioner Davis, voted unanimously to amend the agenda to move Item One under Other Business to Item Six of New Business.

- 6. Consider Resolution to Extend the Moratorium on the Acceptance and Approval of Rezoning Application and the Acceptance and Approval of Development Plans, Construction Plans and Building Permits for Developments in the R-3 Multiple Family District.**

Mr. Galloway said they were asking for an extension on this moratorium until the next portion of the King Murray rezoning applications come in and until the Planning Commission can get the R-3 zoning criteria on their December agenda.

Commissioner Davis made a motion to extend the moratorium until January 31, 2005, seconded by Commissioner Morrow, and the vote was unanimous at 5-0 in favor.

7. Amendment to UDO #A-04-20: Infill Ordinance – add provision in Definitions and in all single family residential districts as permitted use.

Mr. Taylor stated these four separate ordinances, put under an umbrella topic for discussion, dealt with various aspects of development.. Two of these did not make the timeline for advertisement, so he requested that the Board of Commissioners only consider the two sections marked “Infill/District” and “Infill/Definition.” These two ordinances deal with the possibility of allowing someone to build an infill house in a neighborhood on an existing lot that is compatible with houses in that neighborhood. The next part of this ordinance is to allow that in all zoning districts. In every residential zoning district in the County, someone could build a house that is compatible with houses in the neighborhood, regardless of the zoning on the property. This will allow someone to extend or finish out an existing subdivision, as long as the lots are compatible with the original subdivision requirements and provided the lot sizes are no less than one acre for septic systems and one-half acre for those on sewer. House size is whatever is set by the zoning district.

One infill ordinance addresses properties that are zoned AR-1, AR-2, R-1, R-1A and R-2. If there are lots that don’t meet road frontage requirements but are between 6 and 40 acres, one can develop a private driveway and up to five lots, with each lot having to conform to minimum size for that zoning district but never less than two acres.

A final ordinance is being developed for mill village infill. There are two mill villages and a finite number of instances where this can occur in the County. If tracts have been combined in the past, this would allow one to subdivide tracts back out. There is a limited area around these mill villages where you could extend the streets and build some additional houses that are compatible in lot size and house size.

Mr. Taylor stated the two ordinances being requested tonight deal with a definition of infill and a designation of districts. The ordinances dealing with private driveways and mill villages will have to come back for approval later. The infill tracts are identified and cannot be created. A map has been created that identifies the infill lots but, due to a technical error, the computer visual could not be developed for tonight’s meeting. These lots are between 5 and 30 acres and are generally adjacent on three sides to lots that have been developed and are one-acre lots or less. These are truly infill areas, such as the one on McKinley Drive. Mr. Taylor brought in a printed map for commissioners to view that showed the Infill Districts, and some discussion followed.

Commissioner Morrow said he and Commissioner McDaniel had spent weeks with their task force identifying these five areas. They tried to take the “fight” out of the process, allowing development of these infill tracts in a reasonable, compatible manner with what surrounds the particular area. A developer can develop what is compatible provided he conforms to house size, lot size and zoning specifications. These translate into five different kinds of situations. Future boards will benefit from this process that will ultimately allow this finite number of lots to be developed.

Discussion followed. In instances where these small tracts were left, for whatever reason, undevelopable, these ordinances will allow people to run fire hydrants, utility meters, etc. to develop the property. This is done in other Counties and he felt the positive outweighed the negative in these few, limited cases. Public driveways will be defined in order to facilitate emergency vehicles. There are many existing private driveways that will, and many that won’t, accommodate emergency vehicles.

Fire Chief Gardner said his only concern was to provide for such ingress for emergency vehicles if they could. Fire protection needs to be afforded to all.

On a motion by Commissioner Morrow and a second by Commissioner McDaniel, the vote to approve the "Infill/Definition" was unanimous at 5-0.

On a motion by Commissioner Morrow and a second by Commissioner McDaniel, the vote to approve the "Infill/District" was unanimous at 5-0.

C. Other Business:

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

Commissioner McDaniel made a motion, seconded by Commissioner Morrow, to go into executive session at 9 p.m. to discuss pending and potential litigation. The motion passed unanimously on a 5-0 vote.

The executive session convened at 9:00 p.m. with Commissioners Michael Kendall, Johnie McDaniel, Cecil Davis, Dick Morrow and Eddie Goss. Also present were County Manager William P. Wilson, Jr., Zoning Attorney Newton Galloway, Community Development Director Chuck Taylor, Community Development Senior Planner Chad Jacobs, and Executive Secretary Teresa Watson.

CLOSED MEETING AFFIDAVIT

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 October 28, 2004.

2.

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

3.

The executive session was called to order at 9:00 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 28th day of October 2004.

Sworn to and subscribed
Before me this 28th day of October, 2004.

Teresa A. Watson
Notary Public
My commission expires: 03/03/07

Spalding County Board of Commissioners:
Cecil L. Davis
Edward Goss, Jr.
M. Michael Kendall
Johnie A. McDaniel
Dick Morrow

Commissioner Morrow made a motion, seconded by Chairman Kendall to exit the closed meeting and reconvene in open session.. The motion passed unanimously with a 5-0 vote.

The County Commission reconvened in open session at 9:55 p.m. with all members present.

3. Adjournment.

Chairman Kendall made a motion, seconded by Commissioner Morrow to adjourn the meeting at 10 p.m.. The motion passed unanimously on a 5-0 vote.

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