



**Zoning Public Hearing
January 27, 2005
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, January 27, 2005 beginning at 6:00 o'clock p.m. with Commission Chairman Eddie Goss presiding and Commissioners Cecil Davis, Johnie McDaniel, Gwen Flower-Taylor and Eddie Freeman present. Also present were County Manager William Wilson, Community Development Director Chuck Taylor, Zoning Attorney Newton Galloway and Executive Secretary Teresa Watson.

AGENDA

A. Call to order.

Community Development Director Chuck Taylor noted that the petitioner for Application #04-23Z, Item #7 on the agenda, requested that the petition be tabled.

Commissioner McDaniel made a motion to table Application #04-23Z, seconded by Commissioner Davis, amended and accepted to add that the petition would be heard at the March 24, 2005 meeting, passed unanimously at 5-0.

Mr. David Floyd, present to speak regarding Application #04-23Z, said he had provided packets to commissioners for their review regarding this petition. He requested that persons in attendance tonight sign a sheet he had prepared with names and phone numbers so that he could remind them when the petition was again scheduled for action. At the request of citizens in attendance, they stood as a show of solidarity for their position.

Community Development Director Chuck Taylor noted that the Planning Commission had tabled Items #13, 14 and 16 on the agenda, Amendments to UDO #A-05-03, UDO #A-05-04, and UDO #A-05-06 respectively. Consequently, he requested the Board of Commissioners table consideration of the amendments, as well.

Commissioner Davis made a motion to table Item #13, Amendment to UDO A-05-03, seconded by Commissioner McDaniel. The motion carried by a unanimous 5-0 vote.

Commissioner Davis made a motion to table Item #14, Amendment to UDO A-05-04, seconded by Commissioner McDaniel. The motion carried by a unanimous 5-0 vote.

Commissioner Davis made a motion to table Item #16, Amendment to UDO A-05-06, seconded by Commissioner McDaniel. The motion carried by a unanimous 5-0 vote.

The earliest date to hear the above-tabled amendments to the UDO is February 24, the next Zoning Public Hearing, but it could possibly be scheduled at a later date.

B. New Business:

- 1. Application #04-19Z: Lift from the table** – 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.

Commissioner McDaniel made a motion to lift Application #04-19Z from the table, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

Community Development Director Chuck Taylor stated the applicant has requested approval from Spalding County to allow the development of the property for a gas station/convenience store. The Future Land Use Map indicates that this property should be used as "Rural Reserve Residential." The development proposed is inconsistent with the Future Land Use Map for this property. Staff feels there will be an increase in threat to public health, safety and welfare due to the development of a convenience store. Noise and light are other impacts that need to be considered. Convenience stores often demand a level of site lighting that allows for night-time business. Required buffers and site lighting limitations near residential uses and zoning should help mitigate much of the impact.

Several Planning Commissioners pointed out that, in their opinion, the intersection of David Elder Road and State Route 92 is not safe enough to accommodate the traffic generated by the proposed use. Staff revisited the site to investigate that issue further. Staff concurred with the Planning Commission that turning movements of the traffic generated by the gas station/convenience store would add problems to an already unsafe intersection due to site distance issues. The Board of Commissioners tabled this item at their October meeting to the January meeting at the request of the applicant.

Staff recommends denial of the request, and Planning Commission recommends denial of the request.

Spokesperson, Robert Smejkal, had not yet arrived. Some speculation was voiced as to whether or not he thought the meeting began at 7 p.m. rather than 6 p.m. General discussion followed.

Commissioner Freeman stated the property in question was in his district, and he had no problems with the request. He was not aware of any safety concerns that would impact this intersection any more than others on this well-traveled road. The convenience store, he felt, would be an asset to the community. The speed limit in this area is 45 mph, both from the east and west.

Commissioner Flowers-Taylor asked if the family living adjacent to this property on David Elder Road were the owners of the property in question.

Mr. Taylor responded this property was part of an estate currently zoned AR-1. Probate Court, in dividing the property, created two illegal tracts that are nonconforming to the AR-1 zoning district requirements. This warrants a rezoning or somehow eliminating the property lines to bring the property into compliance, and in the rezoning request the applicant decided to request rezoning for a commercial use. Another portion of the property would remain AR-1 but would be an unbuildable lot. Additions to the home could not occur without rezoning to something other than AR-1 because of the division of the property by the Probate Court. When the tract was divided into two illegal parcels that were nonconforming, this negated obtaining any permits since the Spalding County Ordinance states a permit can only be issued if the property is in compliance with County ordinances.

Commissioner Flowers-Taylor said her greatest concern was no accel/decel lane on David Elder Road for cars to make that right turn into the proposed convenience store area. She agreed the convenience store might be an asset to the area.

Commissioner McDaniel said he recalled this application was tabled in November 2004 to explore the possibility of changing the location of the entrance from David Elder Road to Georgia Highway 92 which would include accel/decel lanes as required.

Commissioner McDaniel said he had visited site twice and saw both negative and positive elements. He asked Mr. Galloway to address use of adopted Land Use Map in dealing with applications such as this one.

Mr. Galloway stated the County's objective is to have zoning conducted in a manner that is compliant with the Future Land Use Map. This application was filed before the adoption of the new Land Use Map, and the past map would be the one that would be applicable for this determination. The two zoning maps, however, treat this property in the same manner. He reminded commissioners they should, as much as possible, remain consistent with the Comprehensive Plan and Future Land Use Map. Later in this meeting commissioners will be asked to consider adoption of an Ordinance tonight which will require anyone submitting an application not compliant with the Future Land Use Map to also file an application to amend the Land Use Map and, prospectively, the Board of Commissioners will be required to amend the Future Land Use Map and Comprehensive Plan before deciding on the rezoning petition that is noncompliant. If, in fact, they do not correctly amend the Land Use Map and Comprehensive Plan in advance of the rezoning, the Board will be precluded from reaching the question of the rezoning. Spalding County is diligently making a concentrated effort to tie rezonings to the Comprehensive Plan and to make it clear that modifications or changes from the Comprehensive Plan should be undertaken rarely and with great thought and good evidence to do so. Adoption of the Comprehensive Plan itself is a significant procedure requiring approval by and submission to the RDC and other agencies. Minor amendments to the Future Land Use Map are treated differently and enjoy a little more flexibility. The County's zoning map should be consistent with the Comprehensive Plan and Land Use Map. The Comprehensive Plan is an advisory document but is one that has been developed with sound planning principles and much careful consideration.

Dick Morrow, 263 Westchester Drive, Griffin, GA

He was signed to speak against the petition although he was not adamantly opposed to the proposed rezoning. He felt there were two issues, the first being Mr. Smejkal's agreement in November to look at changing the entrance to accommodate a safer accel/decel lane on Georgia Highway 92 rather than David Elder Road but appeared not to have acted in good faith to accomplish this. Secondly, he was concerned about voting to approve this since it would be in violation of either the old or the newly adopted Land Use Map. This Land Use Map was developed to preserve the rural quality of Spalding County as much as possible, holding down the density and protecting the land. A commercial tract in the midst of AR-1 where there is minimal commercial property sets a dangerous precedent.

Commissioners reviewed the map, and Mr. Taylor answered questions.

Mr. Taylor said most of the issues raised were best answered by the property owner, and he recommended delaying any decision until after 7 p.m. to see if Mr. Smejkal would be in attendance.

Linda Gilbert, 111 North Walkers Mill Road, Griffin, Georgia

Ms. Gilbert felt they should proceed with a decision since the application had been lifted from the table and the applicant should have been in attendance.

Commissioner McDaniel made a motion to move Item #1, Application #04-19Z, to the last item under New Business, seconded by Commissioner Freeman. The motion carried by a 4-1-0 vote with Commissioner Davis voting in opposition.

2. **Application #04-21Z: Lift from the table** - Earl Sherwood, Owner – Alan R. Mobley, Agent – High Falls Road off Alicia Drive (46.1 acres located in Land Lot(s) 207 and 208 of the 2nd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.
3. **Application #04-21AZ: Lift from the table** - Walter E. Jones, Jr., Executor for the Estate of Paul H. Walker, Jr. – Owner – Alan R. Mobley, Agent – High Falls Road (86.81 acres located in Land Lot(s) 209 and 210 of the 2nd Land District) – requesting a rezoning from R-2, Single Family Residential and AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Commissioner McDaniel made a motion to lift from the table Application #04-21Z and #04-21AZ, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

4. **Application #04-68S:** Alan R. Mobley, Owner – High Falls Road off Alicia Drive (46.1 acres located in Land Lot(s) 209 and 210 of the 2nd Land District) – requesting a Special Exception to allow 1-acre lots (Urban Proximity) in the R-5 District.
5. **Application #04-70S:** Walter E. Jones, Executor for the Estate of Paul H. Walker, Jr., Owner – Alan R. Mobley, Agent – High Falls Road (86.81 acres located in Land Lot(s) 209 and 210 of the 2nd Land District) – requesting a Special Exception to allow 1-acre lots (Urban Proximity) in the R-5 District.

Commissioner McDaniel made a motion to consolidate and consider collectively Items #2, 3, 4, and 5, Applications #04-21Z, 04-21AZ, 04-68S, and 04-70S, amended to stipulate separate votes on each application independently, seconded by Commissioner Davis as amended. The motion carried by a unanimous 5-0 vote.

Community Development Director Chuck Taylor said the applicant proposes a rezoning from AR-1 to R-5 and special exception for two tracts of land in order to develop a 72 lot subdivision with a minimum lot size of one acre. The design theme being proposed for the special exception is the “Urban Proximity” theme.

During the rezoning process, it was learned that the property contained a cell tower, which affected the lot yield. In review of the existing house sizes in the area, it was found that the average house size currently is 1,036 square feet. The requested zoning, therefore, would be an increase over the area’s average house size. The request is consistent with the Comprehensive Plan. The Land Use Map shows the property as future “Low Density Residential.”

Staff recommends approval of the rezoning request and conditional approval of the special exception with the following stipulations:

- 1) Front porches shall be finished in keeping with the houses’ character.
- 2) Front yards shall be sodded.

The Planning Commission recommended conditional approval of the rezoning request as follows:

- 1) All street shall be curb and gutter.
- 2) The problematic cell tower and fall zone issue shall be resolved, which has transpired.

Plats and maps were referenced in his presentation of the revised plan which addressed the resolution of the cell tower site. Additionally, at the last Board of Commissioners meeting there was a vote not to accept the donation of the greenspace area from the developer as public land. Consequently, Mr. Mobley would like to exclude this land from the rezoning. In order to accomplish this, Staff suggests they require the developer to come up with a metes and bounds description that excludes the area in question.

Alan R. Mobley, 262 Mobley Road, Griffin, GA

Mr. Mobley confirmed that Spalding County had received a copy of the statement from Walter Jones who could not be present tonight. The 86.8 acre tract is the Paul Walker Estate, and the Sherwood property consists of 52 acres. Some lots were lost due to unforeseen circumstances. Mr. Mobley said he agreed with the decision of Parks and Recreation and the Board of Commissioners regarding the donation of the 32.5 acres of greenspace, and this area will become an outparcel. The McSwains are interested in purchasing this tract. Mr. McSwain has agreed for Mr. Mobley to condition the sale with a deed restriction that timber between the power line easement and the gas easement and between High Falls Road and the gas easement shall remain in perpetuity to leave a buffer. This 50’ strip will be the responsibility of the homeowners’ association and will

be administrated for a minor fee. This will keep the process out of the lands of individual property owners.

Mr. Mobley proposed a green area throughout that can possibly be a 75' undisturbed buffer. This area could be used for septic tank drain field area if necessary, but no one could cut the timber. Prices of lots are \$29,000 which constitute a big increase in this area. The heated area will be around \$75,000 with garages and front porches bringing the home to around \$116,000, and the home price will probably go into the \$120's before the process is over. This is the base price of the development. His objective is to begin to positively turn this area of town around.

He noted that one could not rent out the dwellings from a fiscal standpoint, based on the new Section 8 guidelines, so he thought there should not be a valid comparison to developments that have gone in that direction, such as Waterford which he considered a failed development. Ashford Place is a comparable development in a more positive vein. This proposed development can work, and Mr. Mobley assured commissioners he would build the houses and market them himself.

Mr. Mobley showed sample home plans which can be modified and an aerial photo. There was some discussion regarding home designs. This project would have accel/decel lanes and has been approved by the Board of Appeals and the Planning Commission.

As he pointed out on the aerial photograph, there is a great deal of illegal activity on the property currently, including trash dumping, vehicle and heavy equipment abandonment, burn sites, trespassing, and illegal hunting. The proposed development would improve greatly on the current use of the property. One house to 1.94 acres is the proposed density. He has already purchased the Sherwood property, and the Paul Walker Estate would like to get the best return on that property. Mr. Mobley contended he and the owners of the Walker Estate felt their constitutional rights would be denied if this property should not be rezoned and special exception granted, based on best and reasonable use of property.

Zoning Attorney Galloway said he was not aware the greenspace would be coming out of the request, and he was concerned about the homeowners' association assuming responsibility. He asked if Mr. Mobley was willing to place restrictive covenants by contract to prohibit rentals, which he, as the developer, could impose through contracts. The configuration of the property is now different from what the Board of Appeals and the Planning Commission had reviewed.

Mr. Mobley said he was not aware he could do that but would certainly be willing to do that. Those outparcels, composing 105 acres since the 32.5 acres of greenspace now were included, can remain as currently zoned. Some are R-2 and he thought some were even AR-1. It would not be R-5 or residential although in the subdivision area. He pointed out the area under contract to the Chapmans who were present to speak tonight. This will be added to their home, and they will deed restrict this to no residential homes, no commercial use and no dwellings of any sort. The only thing he can do as far as developing the property is to add outbuildings. He has no frontage on the new street coming in, and the homeowners' association will maintain control of the streets. Most of the remainder of this tract is not suitable for homes. He was not sure if the McSwains would purchase all of the remainder, but that is a possibility and he is willing to have Mr. Mobley deed restrict the timber harvest in what is listed as open space to protect the visual aspect of the subdivision.

Mr. Mobley confirmed for Mr. Galloway that the Chapmans, the McSwains and himself were the beneficiaries who could force the deed restrictions. There should be limited development on these properties. This information would certainly be disclosed at the time of sale of the subdivision tracts. The request tonight excludes this 32.5 tract although it was included in the petitions to Planning Commission and Board of Appeals earlier. This change was necessitated by the County declining the donation of the tract.

Mr. Galloway said if the advertisement, the hearing and the notice identifies a larger tract that includes everything that is to be rezoned, then if a modification is requested to include a smaller portion of that tract or a subpart of the tract, then the County takes the position there is no defect in notice even though the actual configuration of the property may be slightly different from what was on the application.

Mr. Mobley addressed Commissioner Flowers-Taylor concern over the size of the homes being proposed. This would increase the price, and he did not feel he could sell the larger homes in this particular area. The high \$120s and \$130s would make the homes price prohibitive for this tract. The next zoning district calls for 1500 square feet, so you could do \$130s but you would end up with a 1500 square foot box with a front door. The cost has to be line with what the market will bear in this area, and he felt this subdivision would definitely be a positive change for the area. The impact fees generated on this proposal would total \$97,920.

The detention pond could be placed on the 32 acre tract for whomever buys it, or it could be placed in the subdivision and have the homeowners' association own it. Another option is to have a retention pond that actually creates a lake, and the McSwains want a lake. If he wants the water runoff for his lake, he would have the maintenance issues, as well.

If he were to increase square footage of the homes to 1500 and had to choose designs, Mr. Mobley said he would probably go with the Cody's Plantation look or perhaps the same as he has chosen because of the aesthetics and the turn-of-the-century look they are trying to achieve. The additional square footage, though, with all the other items you have to do for Urban Proximity, would place the selling price too high, in the \$150s, and he would not be willing to undertake the development in that instance.

Doug Chapman, 1139 High Falls Road, Griffin, Georgia

Mr. Chapman spoke in favor of the petition and showed pictures of his house to the immediate left of property he is interested in purchasing from Mr. Mobley. He stated he favors development of the property at the stated home to almost two acres. He would like to see a good use for the land instead of it being used as a dumping ground or a racetrack for four-wheelers and dirt bikes. It would improve the neighborhood, he felt.

Mr. Taylor responded that Staff's analysis of the property was when it included the greenspace as part of the development. The most likely use of the property should rezoning be denied would be for a conservation subdivision as currently zoned with conservation design and no architectural criteria. This would be one unit for every two acres and produce about 66 lots if the tract was rezoned, and probably half that number if it should not get rezoned to a residential district. Other uses in the AR-1 district include residential at 1500 square feet minimum, farms with livestock, poultry, and pigs, as well as churches or private campgrounds for instance by special exception.

Commissioner Flowers-Taylor said she still had a problem with square footage. She has watched the Board over the past year and a half demonstrate how important it was to have larger homes with more square footage to generate more revenue and bring more quality to the residential area. She had a concern in that there is no transition area from rural to urban in the Urban Proximity designation. She was just not comfortable and would like to see Urban Proximity revisited by Staff and Planning Commission members. She doesn't want to see housing of the kind the county cannot afford to have as a result. She wondered how greenspace could be such an important issue for rural zoning but not in Urban Proximity. She had no confidence in covenant restrictions and, much like a previous commissioner, did not mind being called a tree hugger.

Mr. Galloway said the Planning Commission and Staff could place this on a future agenda for revisiting at Commissioner Flowers-Taylor's direction.

Commissioner McDaniel addressed Urban Proximity with some historical perspective. Sometimes the County has to correct mistakes and improve on the system in the process. He wished for what he felt would be a win-win situation here of the two avenues open in

his perspective ... the County can perpetuate what's already thriving in this area or they can elect to bring about an awareness of better living with improved conditions. Perhaps surrounding areas would be inspired to fix up and clean up, as well.

He did agree that a greenspace requirement might need to be incorporated in Urban Proximity, but these districts are generally right around the City where there are no greenspace requirements, and this was intended to be a transition, although in hindsight the progression is not adequate. This can, however, be revisited. The other option for Mr. Mobley is that he could develop this tract as a conservation subdivision with absolutely no architectural criteria although the home size would be a minimum 250 square foot larger. The conservation district allows for open ditch sections, instead of curb and gutter, and other loose requirements that mimic a rural situation. The County could end up with another undesirable area similar to ones already in existence. Although it takes about a 1500 square foot home to break even on the tax situation, not including school taxes, there are other factors with which the Board needed to be concerned, as well. He was conflicted himself on how to address this situation.

Commissioner Davis felt Mr. Mobley had covered all his bases and presented a good plan that worked around some problems satisfactorily. He noted both Staff and Planning Commission recommended approval.

Commissioner Flowers-Taylor made a motion to deny Application #04-21Z, seconded by Chairman Goss. The motion carried by a 4-1-0 vote with Commissioner Davis opposing.

Commissioner Flowers-Taylor made a motion to deny Application #04-21AZ, seconded by Commissioner Freeman. The motion carried by a 4-1-0 vote with Commissioner Davis opposing.

With denial of Applications #04-21Z and #04-21AZ, the remaining applications for Special Exception, Applications #04-68S and #04-70S, become extraneous and require no action.

6. **Application #04-72S:** Debra B. Thomas and Jason R. Thomas, Owners – 109 Evans Road (2.357 acres located in Land Lot 21 of the 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Mr. Chuck Taylor presented background. The applicants request a Special Exception to replace an existing manufactured home with a new manufactured home on the property in the AR-1 district. The proposed home is an older model Peach State home with approximately 1500 square feet heated space and an estimated cost of \$45,000. The home is being moved from another part of the County, so model year restrictions do not apply. However, the architectural roof pitch requirements do apply, and the home conforms. A setback variance was granted for the property in November 2004. Based on the requirements from Section 413G' of the UDO, there are no trends toward conventional home construction in this area. There is an overwhelming trend of manufactured homes along Evans Road. Based on these factors, Staff recommends approval of the petition, as did the Board of Appeals. The old home has been removed.

Deborah Thomas, 2010 Steele Road, Griffin, Georgia

She has been the property owner 20 years. Just this week she discovered she won't need this manufactured home since she had been given a house by the City and will move it to the property. She will have to return later for another request to place a manufactured home on the back of her property, but no longer needed this particular request. After some general discussion Ms. Thomas voluntarily withdrew application.

7. **Application #04-23Z: Lift from the table -** Deborah J. Puckett, Owner – Bill Singh and Bob Singh, Agent – 19 North McDonough Road (1.25 acres located in Land Lot(s) 15 and 16 of the 3rd Land District) – requesting a rezoning from R-2, Single Family Residential, to C-1, Highway Commercial.

As noted at the beginning of the public hearing, Community Development Director Chuck Taylor stated the petitioner for Application #04-23Z, Deborah Puckett, had requested the petition be tabled. *Commissioner McDaniel earlier made a motion to table, seconded by Commissioner Davis, amended and accepted to add that the petition would be heard at the March 24, 2005 meeting. The motion carried unanimously at 5-0.*

8. **Application #04-28Z:** Cynthia M. Hoffman, Owner – 3320 North Expressway (0.863 acre located in Land Lot 105 of the 3rd Land District) – requesting a rezoning from C-1, Highway Commercial, to C-1B, Heavy Commercial.

Mr. Chuck Taylor said the applicant was requesting approval from Spalding County to allow the use of the tract for RV sales and storage. The reason for the requested zoning amendment is because the ordinance does not allow for recreational vehicle sales and storage within a C-1 district, therefore rezoning to C1-B is necessary.

Staff recommends conditional approval with the stipulation that the property owner limit the inventory in order to allow for sufficient parking for customers. Parking must be provided at one space for every two hundred square feet of gross floor area. The Planning Commission recommends conditional approval of the request but revised the stipulation to provide for one parking space for every 200 square feet of office space. Mr. Taylor said the Board could also stipulate that more spaces would have to be provided accordingly should the building expand.

Dick Mullins, 676 Brook Circle, Griffin, Georgia

His client is agreeable to six parking spaces but suggests he be permitted to select where the six parking spaces are located, perhaps on the side of the building. Inventory would be prohibited from encroaching on these six parking spaces. The client will further agree to provide another parking space for every 200 square feet of additional office space should future expansion occur.

General discussion followed regarding the parking spaces and addition of RV sales area.

Commissioner Davis made a motion to approve with conditions to: 1) presently provide six parking spaces, and 2) increase parking appropriately for any future expansion at the stated one parking space for every 200 square feet of additional office space. The motion was seconded by Commissioner Flowers-Taylor and carried by a unanimous 5-0 vote.

9. **Amendment to UDO #A-04-21:** Development Standards – add provision to allow private driveways in the AR-1, AR-2, R-2, R-1A and R-2 Districts.

Mr. Taylor said this was one of the final pieces to come out of the infill ordinance and would allow private driveways with a series of development standards for each of the districts that would allow for private driveways on existing lots of record with less road frontage than the ordinance requires. He answered Chairman Goss and Commissioner Flowers-Taylor that all weather is a term applied to an improved gravel road or better at least 12 feet wide. It alleviates having to provide a public road and allows a developer to do less density on lots in return for being able to do a private drive.

Discussion followed, and Commissioner McDaniel agreed it might be better to define all weather surfaces in greater detail. This amendment came out of the Task Force recommendations to provide for infill type developments as a means to develop property in existing areas. This would allow utilization of these pockets available for development within already established areas. This County has a history of road frontage being chopped up and it was fairly popular to cut up road frontage in the one acre lot size with a large tract behind that minimum amount of frontage. Flag lots were an even greater abuse of this practice. It resulted in large tracts of land being available with no road frontage to accommodate. This amendment is restricted to certain zoning classifications: AR-1, AR-2, R-1, R-2, R-1A with development standards to apply, and he detailed those standards.

Chairman Goss expressed his major concern of safety issues with emergency vehicle access. He said in a discussion today, Fire Chief Gardner had stated he considered this a safety hazard and had encountered problems previously with private driveways and private roads. He surmised it might also present problems for future property owners.

Dick Morrow, 263 Westchester Drive, Griffin, Georgia

Mr. Morrow spoke in favor of what he considered to be a good method of addressing the problem of developing “left-over” pieces of property from developments. This amendment would serve those areas that are between 5 acres (which cannot accommodate more than one house) and 30 acres (which is better suited for a subdivision with all its ensuing regulations). The Task Force identified on the map a fixed number of areas that could be served by this amendment, and more cannot be created. He referenced one such area on the map for commissioners and detailed how the computer program identified the areas. Private driveways save trees and are more eco-friendly than roads. There are no high density problems since the zoning district dictates that standard, small houses for the same reason, or one acre lots. It eliminates the need for a road and the resulting maintenance involved. The 12 foot drive, roughly the equivalent of a one-lane road, will allow for emergency access. This style of development is found in quality growth areas and is popular in surrounding counties. Mr. Morrow said this amendment actually resulted in attracting larger, more expensive homes, rather than the suggested smaller houses.

Raymond Ray, Jr., 1000 Springer Drive, Griffin, Georgia

These changes require thought. School buses are prohibited from entering private driveways or single lane gravel roads. The safety of children is the primary issue for him. Children who must walk in the elements to board the bus at the end of the private driveway will get sick. Public safety issues regarding emergency vehicle access is of great concern, as well. The last thing a resident needs in case of fire or other emergency is an entryway that is inaccessible or congested. He reminded commissioners to consider taxes since improved roads are beneficial to the tax base, but this is not true of private driveways. Assessments go up with larger houses built on roads, and state funding increases proportionately. State funding for a school system is affected by property values, and he felt this amendment would end up hurting the school system. The requirement of a two-lane road would benefit the community, the homeowner and ultimately, the taxpayer.

Commissioner Flowers-Taylor questioned the all weather surface criteria and emergency vehicle access. She wondered, too, if perhaps the private driveways should be clearly marked so as to delineate them from public roads.

County Manager Wilson said Chief Gardner was concerned because of problems in years past with private driveways and private roads. Enforcement can be a big issue. The County can mandate that the surface be paved to help in this area and will help in value of homes, too, although it would elevate the cost. This will be beneficial to emergency vehicles and probably increase the value of the homes. Numbering and mail boxes must be at the main entrance since school buses and post office personnel won't travel on private driveways.

Mr. Galloway noted that private driveways are different from private roads that might be more easily confused with public roads.

Commissioner Flowers-Taylor felt the County needed the ordinance but with possible refinement.

Commissioner Freeman wondered if the ordinance might be amended to widen the 12 foot criteria.

Commissioner McDaniel cautioned that to widen the requirement greatly and stipulate paving would, in essence, make the private driveway be a road and defeat the purpose of the concept.

Commissioner Flowers-Taylor said she did not have a problem with 12 feet with paving, and Commissioner Freeman said he stated that only because of the comments of Fire Chief Gardner. He suggested Staff explore what footage was actually needed.

Commissioner Freeman made a motion to table Amendment to UDO #A-04-21 with direction to Staff to return with revisions to the Ordinance to include a greater definition of all-weather road surface, possibly to include paving, seconded by Chairman Goss. The motion to table carried by a unanimous 5-0 vote.

Staff will work closely with commissioners and the Zoning Attorney in refining the amendment.

10. **Amendment to UDO #A-04-22:** Development Standards – add provision to allow for the re-subdivision of previously combined lots of record in platted subdivisions.

RE: Text Amendment #A-04-22

AMENDMENT TO THE ZONING ORDINANCE OF SPALDING COUNTY

RESOLUTION AMENDING

THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations;

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and therein adopted the Official Zoning Map of Spalding County, Georgia, in Article 23, Section 2301, et. seq.;

WHEREAS, the Board of Commissioners of Spalding County has determined that it is in the best interests of the citizens of Spalding County for certain text revisions and amendments to be made to the Zoning Ordinance of Spalding County;

WHEREAS, such text amendments to the Zoning Ordinance of Spalding County were reviewed by the Spalding County Planning Commission, and a hearing on the text amendments to the Zoning Ordinance of Spalding County was conducted by the Board of Commissioners of Spalding County, Georgia on January 27, 2005, pursuant to O.C.G.A. ' 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 7, "R-1 Single-Family Residential Low Density" to appear as Section 704(N)(3):

Section 704: Development Standards for R-1 Districts.

N. **Reduction of Yards or Lot Area:** Except as otherwise provided in this Ordinance, not lot existing on or before the date of the adoption of this Ordinance may be reduced, divided or changed in any way which does not comply with the area, width or yard requirement of this Ordinance, provided, however that:

3. A lot within a platted subdivision which has been previously combined with another lot (or other combination thereof) within the subdivision prior to the date of adoption of this Ordinance may be split to allow for development as such lot was originally platted.

Section 2: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 7A, "R-1A Single-Family Residential District" to appear as Section 704A(N)(3):

Section 704A: Development Standards for R-1A Districts.

N. **Reduction of Yards or Lot Area:** Except as otherwise provided in this Ordinance, not lot existing on or before the date of the adoption of this Ordinance may be reduced, divided or changed in any way which does not comply with the area, width or yard requirement of this Ordinance, provided, however that:

3. A lot within a platted subdivision which has been previously combined with another lot (or other combination thereof) within the subdivision prior to the date of adoption of this Ordinance may be split to allow for development as such lot was originally platted.

Section 3: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 8, "R-2 Single-Family Residential District" to appear as Section 804(N)(3):

Section 804: Development Standards for R-2 Districts.

N. **Reduction of Yards or Lot Area:** Except as otherwise provided in this Ordinance, not lot existing on or before the date of the adoption of this Ordinance may be reduced, divided or changed in any way which does not comply with the area, width or yard requirement of this Ordinance, provided, however that:

3. A lot within a platted subdivision which has been previously combined with another lot (or other combination thereof) within the subdivision prior to the date of adoption of this Ordinance may be split to allow for development as such lot was originally platted.

Section 4: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 10, "R-4 Single-Family District" to appear as Section 1004(N)(3):

Section 1004: Development Standards for R-4 Districts.

N. **Reduction of Yards or Lot Area:** Except as otherwise provided in this Ordinance, not lot existing on or before the date of the adoption of this Ordinance may be reduced, divided or changed in any way which does not comply with the area, width or yard requirement of this Ordinance, provided, however that:

3. A lot within a platted subdivision which has been previously combined with another lot (or other combination thereof) within the subdivision prior to the date of adoption of this Ordinance may be split to allow for development as such lot was originally platted.

Section 5: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 11, "R-5 Single-Family District" to appear as Section 104(N)(3):

Section 1104: Development Standards for R-5 Districts.

N. **Reduction of Yards or Lot Area:** Except as otherwise provided in this Ordinance, not lot existing on or before the date of the adoption of this Ordinance may be reduced, divided or changed in any way which does not comply with the area, width or yard requirement of this Ordinance, provided, however that:

3. A lot within a platted subdivision which has been previously combined with another lot (or other combination thereof) within the subdivision prior to the date of adoption of this Ordinance may be split to allow for development as such lot was originally platted.

Section 6: The foregoing amendments to the Zoning Ordinance of Spalding County shall become effective immediately upon adoption of this resolution.

Section 7: All Ordinances or resolutions in conflict herewith shall be and are hereby, repealed.

Mr. Taylor said this amendment was a result of the Infill Ordinance, also, and allowed for the re-division of lots that had been previously combined in platted subdivisions. The lots may have been combined for any number of reasons, and this was simply a mechanism for correcting these type inequities. The owner could come to the Community Development office and plat those combined lots back out without having to rezone the property and get special exceptions in some cases as has been the case. The applicants would be required to provide the original plat showing the lots separated and shouldn't provide enforcement issues. Approval would still be required from the Health Department if septic tank systems are utilized.

Dick Morrow, 263 Westchester Drive, Griffin, Georgia

Mr. Morrow spoke in favor of this amendment and felt it would help put residents back in older subdivisions and neighborhoods rather than new sites, thereby preventing further sprawl. This will address the basic inequities created in the County over the past few years.

Raymond Ray, Jr., 1000 Springer Drive, Griffin, Georgia

Mr. Ray, although signed to speak, declined at this time.

Zoning Attorney Galloway noted this amendment did not have broad application but rather was specific and limited to unique circumstances. Mr. Taylor concurred, saying the Highland Mill Village, for instance, has lots that were previously combined. In areas undergoing transition, this amendment would allow development in existing neighborhoods, along with any new houses being built, resulting in a balanced area that will probably be better kept and maintained. This mechanism facilitates new housing in existing areas in a manner that would not require new roads, water lines, etc.

Commissioner McDaniel made a motion to approve, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

11. **Amendment to UDO #A-05-01:** General Procedures – Section 414:A, B & C, and Official Zoning Map – Sections 2302:B and 2306:B – provision added to require an amendment to the Comprehensive Plan and Future Land Use Map for rezoning applications not consistent therewith.

**RESOLUTION AMENDING
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA**

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police

power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations;

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and therein adopted the Official Zoning Map of Spalding County, Georgia, in Article 23, Section 2301, et. seq.;

WHEREAS, the Board of Commissioners of Spalding County has determined that it is in the best interests of the citizens of Spalding County for certain text revisions and amendments to be made to the Zoning Ordinance of Spalding County;

WHEREAS, such text amendments to the Zoning Ordinance of Spalding County were reviewed by the Spalding County Planning Commission, and a hearing on the text amendments to the Zoning Ordinance of Spalding County was conducted by the Board of Commissioners of Spalding County, Georgia on _____ pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia;

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 4, "General Procedures:" Section 414(A).

Section 2: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 4, "General Procedures" to appear as Section 414(A):

Section 414: Amendments.

A. If a developer or landowner finds that a proposed new use of his land does not meet the requirements of this Ordinance, he may request that the Official Map be amended to permit his proposed use pursuant to the procedures set forth herein:

1. The developer or owner requesting an Amendment of the Official Map must have at least fifty-one (51) per cent ownership of the subject property or be the duly authorized agent of such a person, possessing notarized authorization in writing under the owner's signature.
2. The Administrative officer shall review the request for Amendment of the Official Map to determine whether it is consistent with and complies with the requirements of the Future Land Use Map contained within the Spalding County Comprehensive Plan.
3. In the event the request for Amendment of the Official Map does not so comply, the developer or owner shall be required to file a separate request for Amendment to the Future Land Use Map. The application for Amendment to the Future Land Use Map shall be considered simultaneously with the request for an Amendment to the Official Map pursuant to the procedures set forth in Section 414(E - J) of this Ordinance,

provided however, that the request for Amendment to the Future Land Use Map shall be approved prior to consideration the Amendment to the Official Map.

B. The Planning Commission or the Board of Commissioners may also propose an Amendment. However, any proposed Amendment to the Official Map shall comply with the provisions of Section A(3).

C. The power to approve and enact an Amendment to the Future Land Use Map and an Amendment to the Official Map rests within the legislative discretion of the Board of Commissioners.

Section 3: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 23, "Official Zoning Map, Spalding County, Georgia (Official Map):" Section 2302(B).

Section 4: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 23, "Official Zoning Map, Spalding County, Georgia (Official Map)" to appear as Section 2302(B):

Section 2302: Identification, Alteration and Replacement of the Official Map.

B. Any alteration of the Official Map is an amendment to the Ordinance. The procedure by which amendments are proposed and approved is set forth in Section 414. Any amendment involving a change of a zoning district must be entered on the Official Map as soon as the amendment has been approved by the Board of Commissioners. The entry must be as follows: "On (date) by Official action of the Board of Commissioners of Spalding County, the following change(s) were made in the Official Zoning Map, Spalding County, Georgia: (Brief Description of Change). It must be signed by the Commission Chairman. No amendment to portions of this Ordinance that are illustrated on the Official Map becomes effective until after the change has been entered as described above on the Official Map.

Section 5: The following provision shall be deleted from the Zoning Ordinance of Spalding County, Article 23, "Official Zoning Map, Spalding County, Georgia (Official Map):" Section 2306(B).

Section 6: The following provisions shall be added to the Zoning Ordinance of Spalding County, Article 23, "Official Zoning Map, Spalding County, Georgia (Official Map)" to appear as Section 2306(B):

Section 2306: Identification, Alteration and Replacement of the Official Map.

B. The zoning districts contained on the Official Map set forth standards with which all new construction and development in Spalding County must comply. The application of zoning districts to property located within Spalding County is based on land use information contained and shown on the Spalding County Future Land Use Map which is a part of the Spalding County Comprehensive Plan. Amendment of zoning district boundaries must conform to the Spalding County Future Land Use Map.

Section 7: The foregoing amendments to the Zoning Ordinance of Spalding County shall become effective immediately upon adoption of this resolution.

Section 8: All Ordinances or resolutions in conflict herewith shall be and are hereby, repealed.

Mr. Taylor provided background for this amendment which links rezoning to the Comprehensive Plan and is a way to strengthen and put teeth into the Land Use Map. He suggested that commissioners endorse a change to stipulate that the phrase "Comprehensive Plan/Land Use Map" should replace the phrase "Land Use Map"

everywhere it is found in the amendment. After adoption, to deviate from the Comprehensive Plan and Land Use Map would require a request that the Land Use Map is updated and the Comprehensive Plan amended before such a rezoning could be approved.

Galloway said it forces the Board to be cognizant they would be going against a Comprehensive Plan and Land Use Map that has been adopted. This is consistent with the way most zoning ordinances are now being applied. He felt it was a good way to help commissioners adhere to a coherent, carefully thought out Comprehensive Plan.

Commissioner McDaniel made a motion to approve, amended to include Staff's recommendation that everywhere the phrase "Land Use Map" appears, it should be replaced with the phrase "Comprehensive Plan/Land Use Map". Commissioner Davis seconded, and the motion carried by a unanimous 5-0 vote.

12. **Amendment to UDO #A-05-02:** General Procedures – Section 414:J – amendment to revise requirements to continue a zoning public hearing.

IN RE: Text Amendment #A-05-02

AMENDMENT TO THE ZONING ORDINANCE OF SPALDING COUNTY

RESOLUTION AMENDING
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and has amended said Ordinance subsequently; and

WHEREAS, the Zoning Administrator, in conjunction with the Planning Commission, has deemed it advisable to recommend amendment to a portion or portions of the Zoning Ordinance of Spalding County; and

WHEREAS, such proposed text amendment to the Zoning Ordinance of Spalding County was reviewed by the Spalding County Planning Commission, and a hearing on the text amendment was conducted by the Board of Commissioners of Spalding County, Georgia on January 27, 2005, pursuant to O.C.G.A. ' 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia, is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: That Section 414.J be deleted in its entirety and replaced with the following:

J.

1. The Board of Commissioners must then conduct a public hearing on the Amendment. Notice of the hearing must be published in a newspaper of general circulation in Spalding County at least fifteen (15) days but not more than forty-five (45) days before the hearing. The location of the property, present zoning classification, and proposed zoning classification must be indicated in the newspaper notice. Additionally, notice of the hearing shall be provided by United States mail to the owners of each and every parcel abutting the property which is the subject of the proposed amendment, such notice shall be deemed delivered upon mailing.

2. The public hearing before the Board of Commissioners may be continued twice by action of the Board of Commissioners.

3. The applicant or property owner shall be entitled to continue the consideration of the application to the next Board of Commissioners hearing date once, as a matter of right.

4. The applicant or property owner shall also be entitled to continue the consideration of the application to the next Board of Commissioners hearing date in the event the hearing date on which the application is heard is attended by less than all members of the Board of Commissioners, provided such application has not been previously continued.

5. Should the applicant or property owner desire to further continue the public hearing the applicant or property owner shall be required to submit a written request at least 48 hours prior to the scheduled date of hearing to continue to the Administrative Officer giving specific reasons as to why the public hearing should be continued. In such event, the continuation of the application from the public hearing is at the sole discretion of the Board of Commissioners.

Section 2: The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia.

Section 3: The Zoning Administrator is authorized and directed to enter such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia accordingly.

Section 4: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 5: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

Mr. Taylor stated this amendment puts limitations on the number of times an applicant could request tabling without justification. A fairness clause exists, also, to protect the applicant's rights in specific circumstances. The sole discretion of whether or not to table would still rest with the Board of Commissioners. The applicant can table once as matter of right. Once an allowed continuance as a matter of right is given, the applicant must provide 48 hours' advance notice and reason for a request for continuance. This should eliminate the problem of multiple requests for tabling. There is a limitation on the number of times the Board can table a petition, as well. A provision is included in the final version also to require repayment of costs incurred by County to republish, renote, advertise and re-sign the property as Section 6 of the Ordinance.

Applications in the pipeline presently would be exempted.

Commissioner McDaniel made a motion to approve Amendment to UDO #A-05-02 with inclusion of a recovery of cost clause for expenses incurred by Spalding County to republish, renote, readvertise and re-sign for petitions as noted in Section 6 of the final version of the Ordinance, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

- 13. Amendment to UDO #A-05-03:** R-3 Multiple Family District – Section 905:AA – amend required development standards for planned apartment communities. – *Planning Commission tabled until next meeting.*

As noted earlier in this public hearing, Commissioner Davis made a motion to table Item #13, Amendment to UDO #A-05-03, seconded by Commissioner McDaniel. The motion carried by a unanimous 5-0 vote.

14. **Amendment to UDO #A-05-04:** R-1 Single Family Residential Low Density – Section 703, R-1A Single Family Residential – Section 703A, R-2 Single Family Residential – Section 803 and R-4 Single Family Residential – Section 1003 – amendment to delete condominium dwelling, patio dwelling and zero lot line dwelling developments and replace with Cluster Development. – *Planning Commission tabled until next meeting.*

As noted earlier in this public hearing, Commissioner Davis made a motion to table Item #14, Amendment to UDO #A-05-04, seconded by Commissioner McDaniel. The motion carried by a unanimous 5-0 vote.

15. **Amendment to UDO #A-05-05:** Quarterly adoption of official zoning map in revised Geographic Information Systems (GIS) platform as applicable to unincorporated Spalding County.

IN RE: Text Amendment #A-05-05

AMENDMENT TO THE ZONING ORDINANCE OF SPALDING COUNTY

**RESOLUTION AMENDING
THE ZONING ORDINANCE OF SPALDING COUNTY, GEORGIA**

WHEREAS, the Board of Commissioners of Spalding County, Georgia under the Constitution and Laws of the State of Georgia is empowered by virtue of its police power to regulate the health, safety and welfare of the citizens of Spalding County to provide for and enact zoning and developmental regulations; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia enacted the current Zoning Ordinance of Spalding County, Georgia on January 4, 1994 and has amended said Ordinance subsequently; and

WHEREAS, the Zoning Administrator, in conjunction with the Planning Commission, has deemed it advisable to recommend amendment to a portion or portions of the Zoning Ordinance of Spalding County; and

WHEREAS, such proposed text amendment to the Zoning Ordinance of Spalding County was reviewed by the Spalding County Planning Commission, and a hearing on the text amendment was conducted by the Board of Commissioners of Spalding County, Georgia on January 27, 2005, pursuant to O.C.G.A. § 33-66-1, et. seq. in the Spalding County Hearing Room, Room 108, Spalding County Courthouse Annex, 119 East Solomon Street, Griffin, Spalding County, Georgia; and

WHEREAS, the Board of Commissioners of Spalding County, Georgia considered the proposed amendment, any and all alternate proposals or amendments, the report of the Spalding County Planning Commission and all data and evidence taken at the public hearing; and

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Zoning Ordinance of Spalding County, Georgia and an amendment to the Official Zoning Map of Spalding County, Georgia, is in conformance with the Spalding County Comprehensive Plan and sound comprehensive planning principles and of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

NOW THEREFORE, IT SHALL BE AND IS HEREBY RESOLVED by the Board of Commissioners of Spalding County, Georgia, that the Zoning Ordinance of Spalding County, Georgia shall be and is hereby amended as follows:

Section 1: A new paragraph shall be added to Section 2302(E) of “Official Zoning Map Spalding County, Georgia (Official Map)” of the Zoning Ordinance of Spalding County as follows:

A new Official Map was adopted on February 21, 2005, which will replace the previous Official Map.

Section 2: The Chairman of the Board of Commissioners of Spalding County, Georgia is directed and authorized to execute such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia.

Section 3: The Zoning Administrator is authorized and directed to enter such notice of the amendment to the Zoning Ordinance of Spalding County, Georgia accordingly.

Section 4: The foregoing amendment of the Zoning Ordinance of Spalding County, Georgia shall become effective immediately upon adoption of this resolution.

Section 5: All Ordinances or resolutions in conflict herewith shall be and are hereby repealed.

Mr. Taylor referenced the revised zoning map which incorporates changes made during the last quarter and from the University of Georgia consultant. This most current map will help keep everyone on track.

Commissioner McDaniel made a motion to approve Amendment to UDO #A-05-05, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

- 16. Amendment to UDO #A-05-06:** General Procedures – Section 411:A and B and revision requested Appendix C – Ordinance Establishing Board of Appeals – Section VII:e – amendment to modify standards for granting variances. – *Planning Commission tabled until next meeting.*

As noted earlier in this public hearing, Commissioner Davis made a motion to table Item #16, Amendment to UDO #A-05-06, seconded by Commissioner McDaniel. The motion carried by a unanimous 5-0 vote.

- 17. Application #04-19Z: Previously lifted from the table** – 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 referenced the earlier discussion and noted the questions raised regarding the revision to the site plan requested by commissioners could be addressed by the applicant.

Mr. Bob Smejkal said he had, in fact, revised his plan to move the location of the entrance to State Road 92 from David Elder Road due to the safety concerns previously expressed. State law mandates that an entrance on a state road have approved accel/decel lanes, which will cost him about \$100,000, but does effectively resolve the safety issue. Because of previously stated concerns over his proposed use being inconsistent with other uses in the area, he documented other commercial ventures in the immediate vicinity, although only one is listed as C-1 because of grandfathering.

General discussion followed, and Mr. Smejkal answered questions and presented photographs showing the proposed entrance location. He has not submitted a new plat and did not understand that commissioners expected that of him after the last meeting. With his promise of relocating the entrance there is now an unobstructed view for 1600 feet, which should allay commissioners' fears for safety issues.

Commissioner Davis said he did not feel comfortable going against the recommendations of Staff and Planning Commission, and he felt Mr. Smejkal should have revised his plan and brought in a new plat.

Commissioner Freeman made a motion to approve Application #04-19Z with an entrance onto Georgia Highway 92 utilizing required accel/decel lanes, seconded by Commissioner Flowers-Taylor.

Commissioner McDaniel asked for recommendations from Staff and Community Development Director Chuck Taylor relayed the following desired conditions:

- 1) Site lighting shall be designed so as to not reflect into residential or traffic areas.
- 2) Architectural character of the gas station shall reflect the residential character of the general area.
- 3) Canopy of the gas station shall be compatible with the residential character.
- 4) All turns from Georgia Highway 92 should be right-turn in and right-turn out only.

Commissioner Freeman amended his original motion to approve Application #04-19Z with an entrance onto Georgia Highway 92 utilizing required accel/decel lanes, seconded by Commissioner Flowers-Taylor, to accept the first three noted conditions as follows:

- 1) Site lighting shall be designed so as to not reflect into residential or traffic areas.*
- 2) Architectural character of the gas station shall reflect the residential character of the general area.*
- 3) Canopy of the gas station shall be compatible with the residential character.*

Commissioner Flowers-Taylor accepted the amendments for her second, and the motion carried by a vote of 4-1-0 with Commissioner Davis voting in opposition.

C. Other Business:

1. 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.

Commissioner McDaniel made a motion to extend the Moratorium on the Acceptance and Approval of Rezoning Applications and the Acceptance and Approval of Development Plans, Construction Plans and Building Permits for Developments in the R-3 Multiple Family District for 60 days to April 1, 2005, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

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

Commissioner Davis made a motion to enter Closed Meeting, seconded by Chairman Goss, at 9:45 p.m. The motion carried by a unanimous vote of 5-0.

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 January 27, 2005.

2.

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

3.

The executive session was called to order at 9:45 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 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 27th day of January, 2005.

Sworn to and subscribed
Before me this 27th day of January, 2005.

Notary Public -- Teresa A. Watson (L.S.)
My commission expires March 3, 2007

Spalding County Board of Commissioners
Edward Goss, Jr. (L.S.)
Johnie A. McDaniel (L.S.)
Cecil L. Davis (L.S.)
Gwen Flowers-Taylor (L.S.)
Eddie L. Freeman (L.S.)

Commissioner McDaniel made a motion to reconvene to Open Session, seconded by Commissioner Davis, at 10:17 p.m. The motion carried by a unanimous vote of 5-0.

D. Adjournment.

Commissioner McDaniel made a motion to adjourn, seconded by Commissioner Davis, at 10:18 p.m. The motion carried by a unanimous vote of 5-0.