



Spalding County online

Board of Commissioners

ZONING PUBLIC HEARING

The Board of Commissioners of Spalding County, Georgia, held a Zoning Public Hearing on Thursday, February 24, 2005 in their office in the Courthouse Annex in the City of Griffin, Spalding County, Georgia, beginning at 6:00 o'clock p.m. with Chairman Eddie Goss presiding and Commissioners Cecil Davis, Johnie McDaniel, Gwen Flowers-Taylor and Eddie Freeman present. Also present were County Manager William Wilson, Zoning Attorney Newton Galloway, Community Development Director Chuck Taylor and Executive Secretary Teresa Watson.

A M E N D E D A G E N D A

A. Call to Order.

B. New Business:

- 1. Application #05-01S:** Oak Hill Baptist Church, Owner – CDH Partners, Inc., Agent – Lakeside Road (23.21 acres located in Land Lots(s) 53 and 54 of the 2nd Land District) – requesting a Special Exception to allow a Church and building height increase in the AR-1 District.

Community Development Director Chuck Taylor said the applicant received a Special Exception to construct a church building, and they now propose to expand that building. They are also proposing a Special Exception to increase the building height up to 60 feet as allowed under Section 504(G) of the UDO. Staff recommends conditional approval to stipulate that any expansion of the structure, any additional structures or the expansion of the use will require another special exception to be approved by Spalding County. The Board of Appeals recommends the same conditional approval as Staff.

Mr. Andrew Halloran, 675 Tower Road, Marietta, Georgia

Mr. Halloran's architectural engineering firm, CDH Partners, represents Oak Hill Baptist Church. The church has acquired ten acres of additional property, so this update was needed. The next phase of the building plan is also now desired as noted in original plan in 1997. The building will be sprinklered per the Ordinance. The master plan has been updated and the church agrees to the condition as stated.

Commissioner Davis made a motion to approve Application #05-01S with the condition that any expansion of the structure, any additional structures or the expansion of the use in the future will require another special exception being approved by the County. Commissioner McDaniel seconded the motion which carried unanimously at 5-0.

- 2. Application #05-02S:** Kenneth E. Stephens, Owner – Colton A. Collier, Agent – Minter Road (21.83 acres located in Land Lot 74 of the 3rd Land District) – requesting a Special Exception to allow a Class A Manufactured Home in the AR-1 District.

Community Development Director Chuck Taylor stated the applicant proposes putting a Fleetwood manufactured home with 1579 square feet, costing \$76,150, at 669 Minter Road. Staff found no established trend toward site built or manufactured homes in the general area, and on this portion of Minter Road there is an overwhelming trend toward manufactured homes. Staff and the Board of Appeals recommend approval of the request.

Susan Collier, 1578 Patterson Road, Lot 15A, Griffin, Georgia

Ms. Collier said there were already a great many manufactured homes in the immediate area. She and her husband were trying to better themselves by buying property from Mr. Kenneth

Stephens on Minter Road and placing a manufactured home there. They currently live in a mobile home park on Patterson Road.

Colton A. Collier, 1578 Patterson Road, Lot 15A, Griffin, Georgia
Mr. Collier said he echoed his wife's comments.

Commissioner Freeman made a motion to approve Application #05-02S, seconded by Commissioner Davis. The motion carried by a unanimous 5-0 vote.

- 3. Application #05-03S:** Landmark Church of God, Owner – Ellison Brannon, Agent – Dobbins Mill Road (4.4265 acres located in Land Lot 124 of the 3rd Land District) – requesting a Special Exception to allow a Church in the R-2 District.

Community Development Director Chuck Taylor stated the applicant is requesting a Special Exception to allow expansion of a church on Dobbins Mill Road in the R-2 District. They have acquired additional property, and Staff recommends conditional approval of the request with the stipulation that any expansion of the structure, any additional structures or the expansion of the use will require another special exception to be approved by Spalding County. The Board of Appeals also recommends approval of the request with the same condition as proposed by Staff.

Brent H. Moyer, 252 Keys Ferry Street, McDonough, Georgia
Mr. Moyer, the civil engineer on this project, said the church had wanted to apply two years ago but didn't have enough property. With this new acquisition of property, the Landmark Church of God meets all the requirements for a Special Exception and is petitioning for same.

Ellison Brannon, 108 Dobbins Mill Road, Griffin, Georgia
Mr. Brannon echoed Mr. Moyer's comments and said he just hopes for approval.

Commissioner Davis made a motion to approve Application #05-03S with the condition that any expansion of the structure, any additional structures or the expansion of the use in the future will require another special exception being approved by the County. Commissioner Freeman seconded the motion which carried unanimously at 5-0.

- 4. Application #04-29Z:** GTW Properties, Inc, Owner – Paradigm Developers & Consulting, Agent – 1594 Kilgore Road (26.69 acres, more or less, located in Land Lot 120 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Community Development Director Chuck Taylor said the applicant requests a zoning change from AR-1 to R-5 in order to develop a 15-lot development with three lots being a minimum of one acre in size, and the remainder being a minimum of two acres in size. Staff determined that the average house size in the area was 1350 square feet, but feels it is important to note that a review of average house sizes included only site-built homes because that is the type dwelling on which data is gathered by the Tax Assessors' Office. There is no available data for mobile home house sizes, which has a bearing on this area directly with a mobile home park that is located just south of the subject property at the corner of Baptist Camp Road and Kilgore Road, A & B Mobile Home Park. Mobile home square footage in the area is not used in the calculations for purposes of this report. There is a definite trend toward larger homes with primarily brick exteriors nearby on North Pomona Road. Mr. Taylor presented pictures of homes in the area, including both stick-built and mobile homes. Staff recommends approval to R-4 with a minimum 1500 square foot house size in order to provide an area of transition from the mobile home community into the area of larger homes. The Planning Commission recommends approval for Lots 1, 2, 3 and 9 to R-4, with the balance of property to R-5. He referenced the site plan for commissioners.

Chad Pruitt, 1717 Honeybee Creek Drive, Griffin, Georgia
Mr. Pruitt provided a PowerPoint presentation that detailed the wide range of properties in the area from mobile homes to older homes to newer homes. He stated they had compromised with the Planning Commission to incorporate both R-4 and R-5 zoning districts. There would be four properties on the north end with 1500 square foot minimums, and the others would be

1250 square feet. The plat is 29.72 acres with an existing AR-1 zoning. There are three one-plus acre lots, and twelve two-plus acre lots. Featured on the property are a lake, rolling hills and pasture land. He noted the placement of the lots for commissioners and pointed out adjacent properties. He noted his request was consistent with the Comprehensive Land Use Plan. His data did include the mobile and modular homes and made the average house size much smaller than then 1350 square feet stated by Mr. Taylor, more in the area of 1177 square feet, so even the 1250 square feet homes would be an improvement. He felt his proposed rezoning would have little impact on the community's infrastructure and would be an improvement in an area that has a large number of mobile homes (70 in one park) and older homes, as well as newer, larger homes. There is also a duplex community and a good many 1000 square feet or smaller stick-built homes. He concluded with examples of the home designs he planned to incorporate.

Mr. Pruitt answered questions from commissioners regarding setbacks, terrain lines, wetlands, and septic systems.

Chuck Pruitt

Mr. Pruitt desired not to speak.

Greg Pruitt

Mr. Pruitt reserved his comments for a time when everyone else signed to speak had concluded.

Donnie & Adora Vining

Both were signed to speak against the rezoning but do not desire to do so.

Ricky Wilson, 700-706 Teamon Road, Griffin, Georgia

Mr. Wilson, signed to speak against the petition, explained his property on Teamon Road was about $\frac{3}{4}$ mile from the proposed site. The past three years' building trend in the area has been toward larger homes, and he does not want to see smaller homes on smaller tracts again. He also has concerns about contamination from the septic systems that would be in place near the lake since the area has County water but no sewer. The County told him that on his two, three-acre lots there are problems with the soil for septic systems. He had to put his septic tank in the front yard just to ensure the field could be maintained.

Michael Boatwright, 712 Teamon Road, Griffin, Georgia

Mr. Boatwright, who bought six acres on which he hopes to retire, spoke against the petition. When he purchased, he thought local tracts would be sold in 5+ acre tracts. He agreed the trend there was toward larger, nicer homes.

Sid Jennette, 1980 Kilgore Road, Griffin, Georgia

Mr. Jennette spoke in opposition of the application. He congratulated those who worked on the Comprehensive Land Use Plan and noted it was working to perfection in north Spalding County. Most of the houses there today range from 1850 to 5000 square feet with none built lately in the range being proposed tonight. Much hard work has gone into developing the land use plan so urged commissioners to be careful about going against it so as not to diminish its effectiveness. Mr. Jennette felt it was incumbent on the developer to prove he's improving the quality of life, not diminishing property values, providing tax improvements, and perpetuating the comprehensive land use plan with his development, and he felt these criteria had not been met with this development yet. The 135+ acres just a few hundred feet from this proposed development is an old peach orchard that is some of the most pristine in the County. He encouraged commissioners to preserve this area and not to allow development too rapidly. He felt quality development was coming, slowly but surely. A & B Mobile Home Park, which is an unkempt eyesore, should be left out of the equation altogether since he hoped its days are numbered. This property is contiguous to the mobile home park. The present zoning of AR-1 was exactly right and should be left alone, in his opinion. AR-1 fits the master land use plan quite well. In conclusion, he felt the proposed development would just perpetuate the trailer park.

Mark Murdock, 750 Teamon Road, Griffin, Georgia

Mr. Murdock, signed to speak against the application, presented photos of the Pomona Road area. He took issue with the capacity of Pomona Road being able to handle subdivision development and felt there could well be a safety issue with increased traffic. The road is very narrow and floods during heavy rains. It is below standard for a development and has no posted speed limits. There is a triangle with an island of pine trees which makes traveling in the very narrow area difficult and vehicles must go slowly. The infrastructure cannot handle an increased load on this road. If approved, the County would certainly need to upgrade and widen Pomona Road. Mr. Murdock said the property needs to stay AR-1 for smart growth and thanked commissioners for their support in promoting quality development.

When questioned about the triangle area, County Manager Wilson commented that the dirt road, ditch to ditch, would be the County's responsibility.

Debbie Frost, 724 Teamon Road, Griffin, Georgia

Ms. Frost, signed to speak against the request, said her property was ½ mile from the proposed development. She provided copies of photographs of the larger homes on larger tracts in the Pomona and Teamon Roads area. There are a great many tracts with horses, and a subdivision just doesn't fit. GTW made their investment into this countryside knowing that the property's zoning was appropriately AR-1. The Board of Commissioners ruled 5-0 a year ago to keep another property about one mile from this proposed one the same zoning, AR-2. She referenced a June 19, 2004 ruling by the Superior Court in favor of Jackson Township Committee on the issue of whether the municipality had the right to zone property as they saw fit. She and her husband own 40+ acres with a 4000 square foot brick home. They prefer the quiet farm life and urged commissioners not to readily discard country living for a subdivision with some greenspace. The local residents have invested not just money but a lifetime of dreams. She was concerned about the possible contamination of water from septic systems in this development. Additionally, people have died on a curve near the proposed development, the latest in January 2005, and increased traffic would only worsen the problem. Bruce Ballard has stated that even three lots can make a difference from a school perspective, so she felt it prudent to keep the present density. Those people with whom she spoke that have had homes built in the last two years have seen problems with their dwellings as the result of poor construction with cheap labor. This area will come to look like downtown Atlanta if the County is not careful and diligent. She asked that the commissioners listen as local residents make their feelings known and reap the benefits later with increased tax revenues from larger homes and larger tracts.

Larry Frost, 724 Teamon Road, Griffin, Georgia

Like his wife who spoke previously, he opposes this proposed change. Properties in the AR-1 and AR-2 zoning districts are becoming rare. He felt they should expand radius of properties considered in the decision-making process to include some of the outlying areas of North Pomona and the west end of Teamon Road. The current zoning there, AR-1 and AR-2, is conducive to nicer, larger homes on larger tracts, and he hoped the trend would continue. He urged them to leave the AR-1 zoning in place.

Richard Ingram, 300 N. Pomona Road, Griffin, Georgia

Mr. Ingram spoke in opposition. He felt two zoning districts on one parcel was not a good thing. Over the past eight years, the trend for lot size (for about 20 tracts) in the area is averaging 10.88 acres. He urged commissioners to keep this positive building trend going. He reminded the Board to remember the Lovejoy commuter rail that will come nearby next year. This property is next to one of the largest open areas in the County near the rail track and should lend itself to a positive image for visitors on the commuter rail as they enter the County. Smaller square footage homes lend themselves to becoming rental property, also. This proposed development would compliment the mobile home park more than the recent building trend of larger homes and tracts.

Chairman Goss called for a five-minute recess.

Chuck Borden, 222 Pomona Road, Griffin, Georgia

Mr. Borden, speaking against the application, resided about 400-500 feet from this proposed property, around the corner. His family came from Henry where poor planning was occurring right and left with regularity. He owns a 3000 square foot with a 6-stall barn and horses. Mr.

Borden has put his retirement funds into the development of his property. This proposed site is very hilly, and he felt they would have to do major excavation unless they were planning to erect slab homes rather than foundation homes. He asked for, and received, a show of hands against the application in the audience. He urged commissioners to please keep it zoned agricultural.

Greg Pruitt, 55 Partridge Path, Griffin, Georgia

Mr. Pruitt reminded commissioners that the new land use map shows this area as low density residential. This proposal incorporates low density residential with three, one-acre lots but mostly with lots that fulfill the 2-acre minimums. Two-acre lots are good size lots and transition well from the high density mobile home park area. He felt that one day someone would purchase the 195 acres for a subdivision and desire one unit per acre. He urged residents to come regularly to commissioners' meetings and educate themselves as to the land use map and comprehensive plan.

Chad Pruitt, 1717 Honeybee Creek Drive, Griffin, Georgia

He responded that sewer tests have been done, and the project is consistent with the Land Use Map (both present and previous). None of the lots would front on the dirt road residents expressed concern over. There is a trend toward larger homes on Teamon Road, but this trend hopped right over this property because larger homes would not build next to or near the trailer park. The compromise at Planning Commission was done with input from Mr. Ingram for 1500 square foot homes, but now his posture has flip-flopped. Finally, the County's Staff and Planning Commission have recommended approval. Mr. Pruitt responded to Commissioner McDaniel that they won't develop the property if this zoning doesn't get approved. The parcel will remain as is and keep getting bypassed.

Chairman Goss made a motion to deny Application #04-29Z. Commissioner Flowers-Taylor seconded the motion for discussion.

Commissioner Flowers-Taylor felt that two-acre tracts were not that different from AR-1's three-acre requirement. Such a development would almost act as a buffer, an area of transition from the modular homes in the immediate area to the area of larger homes. She noted when visiting, also, that large brick houses on Teamon Road were right across from a multitude of modular homes. They may be on larger lots, but they are position next to the street and present a contradiction to some of what has been said tonight and to the more upscale houses across the street. On the western side of the railroad track, the homes and tracts are small. Most homes are older and some are very undesirable. The problems with the road need to be addressed by the County regardless of this petition. She did not feel that 10 to 12 families would pose a real hardship on the infrastructure, but she did not desire the 1250 square foot houses.

Mr. Pruitt asked if they would be agreeable to rezoning the entire tract to R-4, and Chairman Goss said they would rule on this motion first.

Commissioner McDaniel spoke to transition, as well, noting that A & B Mobile Home Park to the 3000+ square foot homes had really no middle ground in between. The trend is for a nice size property and larger houses with some open area. Perhaps a more appropriate transition would be R-5 on Kilgore Road and go to 1500 square feet as development moves in that direction. The 130+ acres on the west side of North Pomona Road gets to be a consideration, as well. Whether this gets zoned into one-acre or two-acre lots, something will eventually happen to this parcel. What happens with this proposed development will influence probably what happens with the 130+ acre tract. If there is anything beyond the motion on the floor to deny, it should probably need to incorporate an R-4 zoning classification. If the proposed property is not rezoned, however, a distinct possibility for the parcel is a conservation subdivision, possible in AR-1, with a density of one unit to every two acres, so the number of houses becomes a neutral consideration. The only real question is what size and type home will be put on that number of lots. Commissioner McDaniel concluded by saying he also discounted the mobile home park from calculating the average house size since this is rental property that will never go away.

Chairman Goss called for a vote, and Commissioner Davis said he would like to note in his vote that he would give consideration to a different plan. There did need to be a transition area, but he felt it should be bigger and better.

The motion to deny the R-5 application carried by a unanimous 5-0 vote.

On a question as to point of order, Newton Galloway explained that if the intent of the Board of Commissioners was to deny the requested zoning district but to go to another zoning classification, the motion should have included that stipulation and not have been just a motion to deny. However, no one made that motion. Once a motion to deny is approved, the Board has no authority to reconsider the zoning decision. The Board of Commissioners always has authority to bring property for rezoning, but the applicant must wait six months to reapply for the same property by State law. Under Spalding County's zoning ordinance, the applicant cannot reapply for the same property to the same classification for one year.

- 5. Application #04-30Z:** Holiday Investments, Inc., Owner – 309 LaPrade Road (6.41 acres located in Land Lot 101 of the 3rd Land District) – requesting a rezoning from C-1, Highway Commercial and R-2, Single Family Residential to C-1, Highway Commercial.

Community Development Director Chuck Taylor said the applicant was requesting a zoning change from C-1 and R-2 to C-1 in order to develop a twelve-lot office development with the possibility of allowing loft dwellings over some of the offices. Staff met with Mr. Dick Morrow, one of the applicants, prior to the Planning Commission meeting and discussed a significant redesign of the development. The redesign was to bring the buildings closer to the street and create a streetscape design to improve the character of the development. The applicant was to have met with Staff and redesigned the plan to be similar to the sketch plan previously provided. The applicant wishes to continue the rezoning process with the previous plan and redesign after the rezoning but before the development begins construction. Staff originally recommended conditional approval to C-1 but in light of not receiving a revised site plan, his recommendation was not to table the request until the site plan can be revised. The Planning Commission recommended conditional approval to C-1 as follows:

- a) The use shall be limited to an office park development and/or individual retail uses that require 4000 square feet or less of space and loft residential dwellings.
- b) All buildings shall be constructed of brick, stone, stucco, hardy plank or a combination thereof on all sides.
- c) The developer is to meet with Staff prior to the Board of Commissioners' meeting to redesign the site plan.

Commissioners reviewed the plans and general discussion followed.

Dick Morrow, 263 Westchester Drive, Griffin, Georgia

Years ago the County arbitrarily zoned to C-1 all property within 500 feet of the highway's right-of-way, all the way up U.S. 19/41. That line of demarcation splits this property so that part is zoned R-2 and part C-1. His objective is to get it all zoned C-1. Mr. Morrow said his interpretation of the site plan redesign was a little different from Mr. Taylor's. A zoning request only has to have a concept plan and not a final site plan. He agreed to what he felt was a better design proposed by Mr. Taylor and Staff with a new configuration and it will be incorporated after the zoning is granted. The Planning Commission liked the office park design with some loft concepts in two-story designs mixed with one-story designs. The loft apartments in the two-story designs will allow someone to live above their business; they are not interested in marketing them as apartments. This is not planned as rental property but rather to sell to professionals for office space, and no vinyl siding is to be used. Henry County has some similar office park space and was the pattern used in this design. Mr. Morrow said he had no problem with the conditions.

John Herbert, 1750 Cardinal Drive, Griffin, Georgia

Mr. Herbert spoke in favor of the proposed development. He bought his property 20 years ago that is zoned commercial. He is familiar with the property and there have been flash floods on the back of the parcel near the creek that literally made the entire road impassable. He felt

zoning all of this property to commercial would benefit the entire area and he was sure it would be cleaned up and present a better image.

Lynn Schott, 2006 Tallwood Place, Griffin, Georgia

Mr. Schott spoke against the petition and said it does flood in the area to the rear. He lives near the property being proposed for rezoning. He wondered if they were going to replace the trees they have removed. The highway and vehicles are now visible. He asked about a buffer and noted there had been some erosion due to the flooding problem.

Mr. Morrow said no trees have been taken down. An old trashy house and barn with privet hedge has been removed and/or cleaned up. Hardwoods and privet hedge are all along the building line with a magnolia tree, as well. The new redesign by Mr. Taylor leaves more natural area and was desirable from that aspect. A landscape plan will be submitted as part of the site plan, but he would not mind planting more trees. There are limited options to construct anything near the creek since that is prohibited. The buffer and screening requirement will be addressed during the site plan process.

Royce Sangster, 2005 Tallwood Place, Griffin, Georgia

Mr. Sangster, who has lived here 22 years, asked commissioners to reject rezoning this property. He had wondered how a house could be on the same property with a commercial use, but now he understood how the split zoning had come about. There had previously been a pond next to the creek. He cited the heavy traffic already in this area, saying sometimes he has to wait for 60 or 70 cars in order to cross to the median when exiting his subdivision.

Commissioner McDaniel motion to approve Application #04-30Z with the following conditions as recommended by Staff and Planning Commission:

- a) The use shall be limited to an office park development and/or individual retail uses that require 4000 square feet or less of space and loft residential dwellings.***
- b) All buildings shall be constructed of brick, stone, stucco, hardy plank or a combination thereof on all sides.***
- c) Buildings shall be pulled to 15 feet front setback line and all parking places shall be on the rear, thus creating a streetscape plan that shall be submitted detailing associated landscaping.***

The Board of Commissioners added the following condition, as well:

- d) The site plan shall be revised to incorporate Staff's recommended configuration changes on the sketch plan for overall design.***

Commissioner Davis seconded the motion which carried by a unanimous 5-0 vote.

- 6. Application #04-31Z:** RR Browning Enterprises, Inc. D/B/A Bo Ray Construction, Owner – 100 Teamon Circle (Lot 16 – 1.90 acres located in Land Lot 202 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.
- 7. Application #04-32Z:** RR Browning Enterprises, Inc. D/B/A Bo Ray Construction, Owner – 106 Teamon Circle (Lot 17 – 1.90 acres located in Land Lot 202 of the 3rd Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to R-5, Single Family Residential.

Commissioner Davis made a motion to discuss Applications #04-31Z and #04-32Z jointly for consideration and vote on each separately. Commissioner Flowers-Taylor seconded the motion which carried by a unanimous 5-0 vote.

Community Development Director Chuck Taylor stated the applicant is requesting a zoning change from AR-1 to R-5 on two lots in order to develop two homes on existing lots in Teamon Circle Subdivision. At the Planning Commission meeting, the applicant indicated he may try to subdivide the lots so as to create two additional lots, with two facing Teamon Circle and two facing Hosanna Road. Staff recommends denial of the application because they felt

the building of two homes could be accomplished on the lots without requesting rezoning. The average house size in the area is 1444 square feet, but this calculation (as noted earlier) does not include any data from mobile homes in the area, of which there are many along Teamon Circle. Staff felt an R-4 zoning with a 1500 square foot minimum could be supported in the area. The Planning Commission recommends conditional approval to R-5 with a stipulation for 1350 square foot homes heated with a two-car garage each. The lots have the original mobile homes on them.

Mark Phillips, 145 Teamon Circle, Griffin, Georgia

Mr. Phillips said he was not really against the rezoning request but mainly just wanted answers. He was afraid the rezoning to R-5 could have negative aspects, not so much for this builder but for people in the future. He would like to see the mobile homes gone, and he liked the AR-1 zoning currently in place. He encouraged Mr. Browning to demolish what's there. He was concerned about the dangerously sharp curve near one of the mobile homes from a traffic standpoint already.

Ray Browning, 515 W. Solomon Street, Griffin, Georgia

What is presently located at 100 Teamon Road is a mobile home condo. There are three single wide mobile homes put together, and 106 Teamon Road is a mobile home with additions and a tree through the roof. He wants to make a development possible. He may only be able to get three lots because of topography, but definitely not more than four will be developed. The lots will not be smaller than one acre. He felt 1350 square feet for house size with a two-car garage was an adequate compromise for this area considering the proliferation of mobile homes there now, many of which are single-wide homes. There are a couple of nicer homes on Hosanna Road, but there are mobile homes there, too. His plans are to complement the nicer homes with dwellings that have 7/12 roof pitches and garage additions. There will be \$12,000 in demolition costs to build these site-built homes. These lots were platted some time ago, and he wondered if they would fall under the 1250 square foot rule for AR-1 rather than 1500 square foot requirement.

Mr. Galloway said he would have to check to see if these lots would be grandfathered for the house size that was allowed in subdivisions that were platted, and these are platted subdivision lots. Mr. Galloway said they would probably fall under the platted subdivision lot rule. With regard to building size, this rule is based upon action taken by the Board of Commissioners in implementing house square footage increases. It has been a policy of the Board of Commissioners previously and is not a rule of law coming out of a state statute or court case. This policy was utilized as square footages were increased throughout the zoning districts. Normally, absent putting in a grandfathering provision, the text amendment would apply that increased the square footage back to lots that were already platted. The Board recognized there were inequities in doing this in certain subdivisions; hence, the reason for the rule.

Mr. Browning said as far as the 90-degree turn in the road, he would meet all the County setback requirements. He can't obviously govern what a crazy driver may do, but he would make every effort to place the homes away from the road a safe distance.

Commissioner McDaniel questioned the acreage, 3.8, for four homes, although three would be fine.

Mr. Browning said he will ask for variance on one or more of the existing lots to be smaller to enable four and not three lots. They were originally platted at two acres, but now come in at 1.9 each because property was taken on the Hosanna Road side when they widened and paved it. So, he felt he had something concrete for his request in that it was through no fault of his own that the lots were no longer two full acres. He understood he could do three lots with no request for various but should he want to do four, he would have to request that variance for a smaller lot, probably .9 acres. Should he want to divide the lots, they would be roughly 200 x 200 feet. Before he could divide the lot, he would have to vary the Teamon Road side because there is an existing septic system on the other side and he could not vary the lot where there is no septic tank. To install a new septic system, the required lot size is one full acre, so the other lot with the existing septic system would be requested to vary slightly, perhaps .93 acres on one of the lots. The septic systems there will be checked out thoroughly but have been working fine in the past and they were installed at a time when 1000 gallon tanks were required

with drain fields, so the installed specifications should be fine. Those requirements have not changed in quite some time, and these were installed in 1976 or 1977. The 1000 gallon requirement was already in effect at that time.

Commissioner Davis reiterated the request was to rezone to allow subdividing the lots into three or four lots with 1350 square feet heated homes with a two-car garage on land that was previously was covered with mobile homes.

Mr. Browning said that was correct. The original Staff recommendation was R-4, and the 1350 square foot option was negotiated with the Planning Commission.

Commissioner Flowers-Taylor asked again about the septic system requirement and the procedure for varying the acreage of the lots in question. Mr. Taylor explained why and how Mr. Browning would have to vary the acreage and the rationale for deciding which lots to vary.

Commissioner Freeman asked if the Health Department had approved the septic systems, and Mr. Browning responded they had to do so.

Mr. Galloway stated regulating the minimum tract size for a septic tank is a function of the Health Department, not the Board of Commissioners.

Commissioner Flowers-Taylor replied why, though, the Board of Commissioners would choose to grant someone a situation that would not meet Health Department requirements.

Mr. Galloway noted again this request was simply for rezoning. Mr. Browning would have to return for any variance on one or two lots, and the Health Department would regulate the septic systems to their requirements.

Mr. Browning noted there were a great many lots in the County already platted which are even less than ½ acre, particular in the old mill villages. The Health Department will approve a septic tank on those lots because they exist. If the tank exists and is functional, a few tenths of an acre won't make any difference. However, on a new platted lot the Health Department will not accept less than one acre.

Commissioner Davis made a motion to approve Application #04-31Z with the following conditions:

- a) Minimum heated square feet shall be 1350 with a two-car garage for each.***
- b) Porches shall be underpinned and finished in character with the houses.***
- c) Vegetative screening shall be provided where lots back up to one another.***

The motion was seconded by Commissioner McDaniel and failed by a vote of 2-3 with Chairman Goss and Commissioners Freeman and Flowers-Taylor voting in opposition.

Mr. Galloway, in light of earlier confusion tonight, noted for commissioners that they could now move to deny, table or approve to another zoning district since the motion to approve failed and no action was taken. A motion to deny, if passed, has very important significance because that governs how property can be dealt with by the Board of Commissioners and the property owner, but absent an approved motion to deny, the application is still active and awaiting action.

Commissioner Flowers-Taylor said she favored the original recommendation of Staff to leave it in the same zoning district and entertain looking at slightly less square footage.

Chairman Goss noted that in AR-1 the minimum square footage would be 1500, not less. However, it was noted these are platted lots, probably executed prior to 2001, so the Ordinance most likely allows Mr. Browning to drop down to 1250 square feet on existing lots. He could verify for certain whether these were platted prior to 2001 if commissioners wanted to table the issue until he could return with verification.

Commissioner Freeman made a motion that Mr. Browning have the option to pursue another class in the zoning.

Mr. Galloway said the Board of Commissioners has the authority to recommend another zoning class. In that case, the motion would be to approve the rezoning application, but to whatever class was desired instead of what was requested. Commissioners are not bound by the classification sought in the petition. He stated the commissioners voted to deny the petition, Mr. Browning could build on the existing two lots with 1250 square foot homes, but he cannot subdivide. Mr. Galloway felt confident that Teamon Circle subdivision predates 2000 and that Mr. Browning's would be considered a platted subdivision that would be allowed under a grandfathering option to put in 1250 square foot homes, which is what was required under AR-1 back then. This is a unique rule for existing lots in previously platted subdivisions only. Any new lot would have to comply with the current 1500 square foot requirement in AR-1. If they vote to go to another zoning classification, the difference will be the house size. He suggested that commissioners make a motion to table if they are confused so options for them can be laid out in detail.

Commissioner Flowers-Taylor made a motion to table this application until the next Public Zoning Hearing in March so the commissioners could thoroughly understand the ramifications, particularly since the vote earlier tonight was misconstrued as leaving the application open for additional action. Commissioner Freeman seconded the motion. The motion failed by a vote of 2-3 with Chairman Goss and Commissioners McDaniel and Davis voting in opposition.

Again, no action was taken since the motion to table failed and, with no further motions forthcoming, Application #04 -31Z was automatically placed on the agenda for the next regularly scheduled Zoning Public Hearing in March.

Commissioner Davis made a motion to approve Application #04-32Z with the following conditions:

- a) Minimum heated square feet shall be 1350 with a two-car garage for each.*
- b) Porches shall be underpinned and finished in character with the houses.*
- c) Vegetative screening shall be provided where lots back up to one another.*

Commission McDaniel seconded the motion which failed by a 2-3 vote with Chairman Goss and Commissioners Freeman and Flowers-Taylor voting in opposition. Again, no action was taken since the motion to approve failed and, absent any further motions, Application #04 -32Z was automatically placed on the agenda for the next regularly scheduled Zoning Public Hearing in March.

C. Other Business:

-Consider a Moratorium on Urban Proximity Special Exception theme.

Zoning Attorney Newton Galloway, at the request of Commissioner Flowers-Taylor, drafted a moratorium, similar to one recently done for R-3 zoning districts, that places a moratorium on the Urban Proximity Subdivision theme for a period of 90 days. This places a moratorium on the approval of any plat for Urban Proximity, the issuance of approval for construction plans and the issuance of any permit. Some discussion followed and Commissioner Flowers-Taylor noted the period of the moratorium should have been for 120 days.

Commissioner Flowers-Taylor made a motion to approve the Moratorium with an amendment that the termination date be adjusted to June 30, 2005 which would provide for 120 days. Commissioner Freeman seconded the motion, which carried by a vote of 4-0-1 with Commissioner Davis abstaining as he was absent from the meeting room for the vote.

-Buck Creek Estates.

With regard to the request previously from Mr. Raymond Ray, County Manager Wilson asked if there was direction from the Board of Commissioners to proceed with a text amendment to allow Class A manufactured homes in the R-5 zoning district by Special Exception.

Commissioner Freeman made a motion to allow Class A manufactured homes in the R-5 zoning district as a matter of right.

Discussion followed regarding the original designation of this subdivision in R-5 as a Factory Fabricated Home Subdivision, but the platted subdivision not only allowed manufactured homes as a matter of right, but conventionally constructed homes, as well, as a matter of right.

Newton Galloway cautioned the Board about the addition of manufactured homes in all R-5 zoning districts as a matter of right. To add them in as matter of right would mean a manufactured home could be located in any R-5 zoning district provided it met the design criteria, making R-5 the only district where that right would exist. This would affect not only Buck Creek Estates, but any property zoned R-5. Buck Creek previously was the only area in the R-5 zoning district, but as square footage has increased in other districts, there has been pressure to designate more R-5 areas. Buck Creek is no longer the only place where this change would apply. The easiest way to deal with the immediate problem is to bring a text amendment to treat R-5 the same as every other class and allow Mr. Ray to apply for his special exception at the same time the text amendment is being processed to eliminate further delay. Then the Board can vote on both issues. There is no way to notify all persons affected by text amendments. The County tries to be fair, and advertising is certainly done, but everyone who might be affected by a text amendment cannot be individually notified. Staff must comply with zoning procedure law that's on the books. The earlier platting that speaks to grandfathering applies to square footages but not to uses. He felt the County must simply jump through the procedural hoops to get this problem resolved. The general consensus of the Board was to authorize Staff to accept Mr. Ray's application for special exception for a use not permitted so it can be processed when the text amendment is done in order to save time.

Commissioner Freeman withdrew his motion.

The text amendment will take about 60 days and must be submitted by either the Board of Commissioners or the Planning Commission, but authorizing Staff to accept Mr. Ray's application will simply streamline the process. Should individuals request a text amendment in the future, such request will be brought to either the Board of Commissioners or the Planning Commission for a favorable vote rather than just processing it through the system. There are a great many text amendments active in the system, and it's becoming a cumbersome process. This procedural adjustment should simplify tracking those text amendments in the system.

-Licenses for Street Vendors

The Spalding County UDO doesn't permit street vending as a permitted use in commercial zones. Convenience stores sometimes allow vendors to set up displays to sell produce, tennis shoes, artwork, crafts, etc. People who raise their own produce can sell their products on their own property, but this problem does not speak to those people. Should they want to move their location to another site they did not own, they would be subject to this same prohibition. Chairman Goss will work with Staff on an issue that has been raised, and Staff will not issue a license until a ruling from the Board of Commissioners is made.

-McIntosh Trail Community Service Board

Commissioner Flowers-Taylor said, due to her inability to keep her commitment to serve on the McIntosh Trail Community Service Board, Commissioner Davis has agreed to assume her position. Formal appointment of Commissioner Davis will be scheduled for the next agenda.

D. Adjournment.

On a motion by Commissioner McDaniel, seconded by Commissioner Flowers-Taylor, the vote was unanimous at 5-0 to adjourn at 8:50 p.m.