



ZONING PUBLIC HEARING

The Board of Commissioners of Spalding County, Georgia, held their Zoning Public Hearing on Thursday, June 23, 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 Edward Goss presiding and Commissioners Cecil Davis, Johnie McDaniel, Gwen Flowers-Taylor and Eddie Freeman present. Also present were Community Development Director Chuck Taylor, Senior Planner Chad Jacobs, Zoning Attorney Newton Galloway and Executive Secretary Teresa Watson.

A. Call to Order – Chairman Edward Goss, Jr.

Commissioner Freeman made a motion to amend the agenda to add a Public Comment segment to the meeting after New Business so Mr. Dick Slade and Mr. Jason Lewis could address an upcoming zoning application. Mr. Slade and Mr. Lewis would like the ability to attach a variance to this zoning item. Chairman Goss seconded the motion. Mr. Galloway said the decision to amend the agenda was up to the Board's discretion. After some discussion, the motion carried by a unanimous 5-0 vote.

B. New Business:

- 1. Application #05-10Z: Lift from the table** – Byron F. Smith, Owner – McKinley Drive (18.765 acres located in Land Lot 150 of the 2nd Land District) – requesting a rezoning from R-1, Single Family Residential Low Density, to R-2, Single Family Residential.

Commissioner McDaniel made a motion to lift from the table Application #05-10Z, seconded by Commissioner Davis, and the motion carried by a unanimous 5-0 vote.

Byron Smith, 490 North Pinehill Road, Griffin, Georgia

Mr. Smith said zoning changed on this McKinley Drive property, resulting in a change for required footage from 1750 to 2000 square feet in this zoning classification a few months ago. He could build 2000 square foot houses there now with a split foyer design straight up, similar to those at the corner of Cowan and Vineyard Roads relatively inexpensively, but the houses would not be compatible with the surrounding ranch-style homes in the area. This would not do the neighborhood justice and he would prefer to do otherwise. He detailed several plans for ranch-style homes on the main street and additional plans in the 1750 square foot range for the new street he plans to build internally, and this is the rationale for requesting the change in zoning to R-2.

Lanny Hook, 148 McKinley Drive, Griffin, Georgia

Mr. Hook spoke against the petition, specifically with regard to the impact on the area. There are 45 houses presently on McKinley Drive, a horseshoe shaped street with one way in and one way out. The area was hard-hit last year in the fall storms that came through and the County encountered great difficulty clearing and repairing after the storm, due largely in part to the small street and the secludedness of the area. He identified the area on a more detailed plat, pointing to the swampy area between the two deadhead ends of the street. There are a great many trees and underbrush in the wetlands area positioned between Gail Street, Brown Acres Drive and Maddox Road, where drains are located and which present a safety hazard. There is a running creek and pond off Etheridge Mill Road, as well. Twenty-nine more homes will tax this area with at least 58 more children, overloading the road infrastructure, complicating matters for a school bus route that already has safety issues, and at least 58 more cars to overload a small residential road. It's rather doubtful that sewer systems could handle 29 more homes on an area that already has

drainage problems. The cul-de-sacs need to be eliminated and the connecting road that was planned years ago but never built needs to be revisited for better ingress and egress.

Frank Robertson, 133 McKinley Drive, Griffin, Georgia

He stated he was against building homes in any wetlands area. Some trees have been cut and Mr. Smith has cut more, but he also created ditches and pits to lower the water table so equipment could more easily work in the area since some heavy equipment has been stuck. Building homes according to the plans Mr. Smith showed are fine, but that won't stop the area from being wetlands. Prior to Dr. Oviedo and Mr. Smith cutting the trees, the area was swampier, but the water table is still substantial. They tried to bury stumps and debris in a pit, which he thought was a questionable practice. The purchase of the eighteen acres for development into homes was a bad business decision and one that neighbors should not have to live with to their detriment. Mr. Smith has never expressed much sentiment of concern to the existing neighbors; nor has he tried to work with them in any way other than to antagonize. Mr. Robertson, who has spoke in every instance this issue has arisen over the past three years, urged Commissioners to support existing the neighbors and deny the petition.

Patsy Stewart, 123 McKinley Drive, Griffin, Georgia

Long-time neighbors are proud of this area and would like to see it remain as it is. The area is good and was an ideal place to raise children. We walk and visit and enjoy the neighborhood. She urged commissioners to remember many are getting ready to retire and the decision made tonight affects much more than just Mr. Smith's actions. She requested any conditions placed on an approval be incorporated into the written minutes of the meeting.

Margaret Varnom, 111 McKinley Drive, Griffin, Georgia

She spoke in opposition and felt Mr. Smith had not endeared himself to the surrounding residents. The last letter he left in residents' mailboxes was tantamount to a threat. She requested he be required to abide by any conditions imposed on his request and followed closely to ensure compliance. She was also concerned about the safety issue and the problem that already exists with water and drainage.

Dennis McGee, 202 McKinley Drive, Griffin, Georgia

Mr. McGee spoke against the petition and was also concerned with water and drainage. He would like to see the area remain as it has been for the 34 years he has lived in the neighborhood.

Larry and Marsha Huckaby, 106 McKinley Drive, Griffin, Georgia

Mr. and Mrs. Huckaby were signed to speak against but had nothing new to add.

John Stewart, 123 McKinley Drive, Griffin, Georgia

Mr. Stewart asked that whatever houses are constructed, he would like to see them a reasonable distance from the street.

Joe Conkle, 145 McKinley Drive, Griffin, Georgia

He has lived there 34 years as well, and pointed out the creek that has been dredged in an effort to dry out the property. Additionally, he felt Mr. Smith had not been very truthful in his presentations.

Patricia Bender, 127 McKinley Drive, Griffin, Georgia

Ms. Bender was against the added traffic to this small area, particularly with the new subdivision that will be developed on Etheridge Mill Road across from Buck's Barbecue that will add approximately 200 dwelling units to this small thoroughfare already plagued with heavy traffic counts. At that stop sign, there are almost always ten or more cars in front of you as you get in line to turn onto Highway 19. This wetland area is just not suitable for building homes, and she reiterated that Mr. Smith had already told so many falsehoods that no one trusted him. She urged Commissioners to make sure Mr. Smith adhered to any conditions they might impose. She was concerned, as well, about stumps, trees and other items that were buried on certain areas of the property during the clearing process. She wondered if there was some disclosure that was required for this pit area before people might buy it.

Kathy McCarty, 150 McKinley Drive, Griffin, Georgia
Sue Martin, 143 McKinley Drive, Griffin, Georgia
Rachel Kilgore, 125 McKinley Drive, Griffin, Georgia
Ray Kilgore, 125 McKinley Drive, Griffin, Georgia
Jerry Martin, 143 McKinley Drive, Griffin, Georgia
Betty Vaughn, 158 McKinley Drive, Griffin, Georgia
Dana Miller, 137 McKinley Drive, Griffin, Georgia
M. Pendleton, 101 McKinley Drive, Griffin, Georgia
All the above had nothing to add but were signed in opposition of the project.

Richard Lunsford, 147 McKinley Drive, Griffin, Georgia
Mr. Lunsford had met Mr. Smith on two occasions. Mr. Smith first told Mr. Lunsford he was buying the land to build himself a home, and on the second occasion he told Mr. Lunsford he was going to build homes for his children and family. The one speculative home he has built under the present zoning is large and nice, but is constructed of vinyl siding and stands out like a sore thumb among the brick ranch-type homes. Mr. Lunsford said they were not against Mr. Smith building homes there, but they wanted to ensure quality and not see Mr. Smith build something less than desirable, sell them and leave the area in worse shape. He urged commissioners to protect the investments of neighbors who had been there 30-plus years by imposing restrictions and conditions if they approve the petition. Structural engineering surveys should be required to avoid long-term wetlands problems, as well.

Mike Karr, 163 McKinley Drive, Griffin, Georgia
Mr. Karr asked how many times this particular issue could continue in the legal process. Commissioners explained how Mr. Smith came to be requesting zoning for the same parcel for three years straight. Mr. Karr, a builder, and his financial partner met with Niles Murray in the past to look at this property. The asking price of \$40,000 for 18 acres was fantastic, right up until he realized how much wetlands acreage was included. He passed on it, as did another friend of his, because of the cost that would be involved in working around the wetlands with the current zoning. He felt then, and he felt now, this was a bad business decision and a money loser. He urged commissioners to think of the neighborhood and not help bail Mr. Smith out of a bad business decision. The land now, though, has been literally raped and perhaps some type homes there would be better than looking at the mounds of red clay currently in place.

Commissioner McDaniel asked if Mr. Smith could return to answer questions. He asked how much Mr. Smith would be willing to work toward brick. Mr. Smith showed two plans he felt would be fitting in the main area which incorporated some brick and some stucco and siding. This is the County's first area to utilize the infill ordinance, and this area to be developed would complete McKinley Drive. In this unique area, the residents need compatibility in addition to house size, lot size and structural engineering, and he felt they were entitled to that component. Probably 85% to 90% of the homes there now are brick.

Mr. Smith said he was open to suggestions as to how much brick would be satisfactory. If there were an all-brick house across the street, Mr. Smith said he would be willing to build an all brick home in the area across from it. The speculative house is the one that was built similar to the homes at Cody's Plantation, which Mr. Smith did not want to do in this project. Mr. Smith said he was not a fan of vinyl siding either.

Commissioner Davis said water and sewerage were already available. This Board is seriously concerned about quality of the homes in this infill area rather than quantity, as well as the handling of the wetlands area. They are searching for a compromise that will work for everyone. The Board would like to see the new homes be as good as or better than what currently exists in the neighborhood. They are tired of rehashing the area on a continuing basis to the detriment of everyone involved. Commissioner Davis said it was certain that all the 29 lots in the plan would not be buildable, but the piece of land has some rights according to the infill ordinance. What is being sought is a reasonable solution agreeable to all. Engineering will determine just how many lots are indeed buildable.

Commissioner McDaniel asked if Mr. Smith would be willing to commit to do three sides brick and the back hardy board. Mr. Smith said he would definitely be open to that option. You could dress the back up with hardy board and use gables to dress up the homes even more. He would, however, like to change up the designs some on what will be the new internal street. He presented a two-story design and asked if this would be appropriate for the new internal street. The plan shown incorporates brick, siding and maybe hardy plank. The footprint of the two-story plan will be about 1000 square feet. Some of the existing ranch-style homes in the area, he thought, are around 1400 square feet. Mr. Smith would like to be able to do some different styles in the 1750 square foot range on the internal street away from the existing neighborhood. He would really rather do an all-brick home on the existing street rather than the brick three sides with siding on the back. He simply wanted to utilize a different look on the new street with the new designs and not be locked into as much brick, perhaps with stacked stone, hardy plank or stucco.

Commissioner McDaniel said Mr. Smith would have to do a minimum of 25% brick, stone or stucco according to current ordinance, but work was underway to eliminate stucco accents and the Board would prefer not to see him use any stucco accents at all. Mr. Smith said he was agreeable to that stipulation.

Mr. Smith volunteered he would match what was across the street on the main street. If the home was brick, he would build all brick. If the existing home incorporated brick and siding, he could match that, as well. Commissioners felt most all the homes were ranch-style brick on the existing street.

Chairman Goss asked where most of the stumps, trees, etc. that were buried were located, and Mr. Smith pointed out the area where this practice was implemented. An owner can bury on site according to zoning rules, but you cannot import debris from outside the site and you cannot build on the buried site. If you bury something on site, the bury pit must be platted with a record on file, Community Development Director Chuck Taylor confirmed.

Mr. Galloway said this was true, but Georgia is still a caveat state, and the purchaser takes a risk that disclosure might not have been adequately made.

Mr. Smith agreed to Commissioner McDaniel's request that he be required do 75% brick on the existing McKinley Drive, and the new street would just have to comply with the new standards.

Commissioners responded to one resident in the audience that it had no control over the water pressure issue in the neighborhood and they directed her to call the Spalding County Water and Sewerage Facilities Authority.

There was a brief recess.

Commissioner McDaniel stated he wanted everyone to understand that the area is already zoned R-1 with a minimum requirement of 2000 square foot homes, and he could build according to the infill subdivision ordinance with a cheaper product right now with no action required. He urged residents to remember that bigger doesn't necessarily mean better. The property can be developed. The number of lots will depend on what the land will allow, so there will probably not be 29 lots.

Commissioner McDaniel made a motion to approve Application #05-10Z from R-1 to R-2 with the following conditions:

- ***A maximum of 24 houses total to be constructed***
- ***Lots shall be a minimum 1/2-acre***
- ***75% brick required on McKinley Drive***
- ***1000 square feet on the ground floor, heated, required on all houses constructed***
- ***Maximum of 8 lots on the northernmost part of McKinley Drive, to be built first***
- ***No split foyers***
- ***Front porches shall be underpinned and finished in character with the house***
- ***No exposed concrete block and foundations shall be utilized***
- ***Vegetative screening of Leyland Cypress shall be used where lots back up to each other***

- *Sodded lots required, per subdivision regulations, for front setbacks reduced to 50 ft.*
- *No houses shall be on slabs*
- *No vinyl siding shall be used*
- *No stucco accents shall be utilized*

Commissioner Davis seconded the motion. Some discussion followed, after which the motion passed by a unanimous 5-0 vote.

C. Other Business:

D. Public Comment:

Dick Slade, 415 Country Club Drive, Griffin, Georgia

He is a realtor with Searcy and Company for the purchaser of the property, Mr. Jason Lewis. They have been involved in this venture since October 2004 and have developed 4 or 5 different site plans already. Selling prices will range from \$150,000 to \$250,000 for homes in this garden park subdivision. He complemented Mr. Lewis as the most knowledgeable, meticulous and professional developer of subdivisions he had ever encountered. Nottingham Estates and Westchester are somewhat similar to this project, as is Westminster Estates. Lots are ½ acre or slightly more in all these subdivisions. Mr. Slade and Mr. Lewis projected the concept plan for commissioners. The entrance will be a grand boulevard with wrought iron and evergreens near Westmoreland Road. Walking trails, a park, a lake and medians with trees, antique lampposts, paved driveways, brick chimneys and brick mailboxes will all be incorporated. Mr. Lewis will have to spend a great deal of money to run sewer and he wants to utilize 5000 feet of frontage for four entrances to the property. There should be no adverse impact to traffic patterns and not a great influx of children to the area. Mr. Lewis is a man of integrity and will do what he promises. Some folks have stated this will open a Pandora's Box of problems, but it was Mr. Slade's hope to have the County allow Mr. Lewis to set such a high standard for the future. There are always wrinkles when trying to implement new concepts such as the Comprehensive Land Use Plan and the Land Use Map, and he felt they had been more than patient with snafus in the process.

Chairman Goss asked Mr. Lewis to keep his comments brief and concise as this was something not ordinarily allowed during a Zoning Public Hearing.

Jason Lewis, 4030 Pineridge Road, Smyrna, Georgia

Mr. Lewis passed out the minutes from the last meeting for Commissioners. He and his father, Griffin residents, brought into town the old Home Depot development and Cub Foods, but he left for Smyrna in 1996 where he developed his first garden park subdivision after some commercial ventures. He hoped to have not only the unanimous support of the Board of Commissioners but from the community, as well. He has a track record of building garden park communities and is looking for the highest and best use of this property. Much work has been done and revised concept plans were developed after much work, delays because of illness, and through help from Community Development Director Chuck Taylor and Staff. He is satisfied this plan is the highest and best use of the property. The zoning is consistent with the Land Use Map as it is currently drawn, which is a departure from what he was told in March, when he was told a land use map change would be required. Then he was told he didn't need that after he applied to do this, got all on the Planning and Zoning agenda, only to arrive at the meeting and be told it was a technical defect. Mr. Galloway could have alerted him to the change thirty days prior and let him know it was not necessary. Should they have proceeded at the Planning and Zoning Meeting, he could have run the risk of not having an approved plan. So, he submitted to the Board of Commissioners tonight that, at this particular point, they are the correct governing body to hear his request to approve a plat.

The plat before the Board is for a conservation subdivision. They would then like to return to rezone the entire property to R-2 conditional because of time restraints. Part of the property is R-2 and the interior portion of 70 acres is AR-1. Directly abutting the north is property that was allowed to be rezoned to a conservation subdivision owned by Ricky Harp. Specifically, Mr. Lewis wants conditional approval, recognizing there will need to be an advertisement of a rezoning request; but if an agreement on a plat can be reached, the back-and-forth delays for an interpretation of the UDO can be terminated.

Mr. Lewis read Section 701-A relating to the purposes of the conservation subdivision. He maintained his project met the letter and the intent stated in this passage. He highlighted the ones

particularly applicable to this development. He had reached an impasse and would like relief in the form of an interpretation, and then he could return for a rezoning request. One specific spitting of hairs had arisen from the yield plan as required by the UDO. If the Board approves a plan tonight that is conditional on rezoning, there will be no negative precedent set. Instead it will allow Mr. Lewis to commit to a standard and return to wrap up with a rezoning request. Because of the topography and nature of the property that make it interesting and appropriate as a conservation subdivision as defined in your Code, he lost 25% of land that cannot be calculated into the yield plan. But it doesn't end there because the Spalding County UDO says the Board of Commissioners has discretionary ability to adjust these guidelines. A meeting last week with the Development Staff and a couple of commissioners reached an impasse and he needs direction. They don't need to change the Future Land Use Map, so the only issue is the yield plan. The only way to skin this cat without changing the zoning request, such as a creating a hodgepodge effect, zero lot lines or multi-family, which would be negative and really open a Pandora's Box of problems. So only the Board of Commissioners has discretionary authority to look at the 91.7 acres and allow 86 lots. The site plan shows lots ½ to one acre in size, which is right in line. In essence, they are arguing over 12 lots on the yield plan.

If they must reduce the plan by 12 lots, they reach a point where they cannot pay then for \$400,000 sewer system lift station as required by Brant Keller. He appreciated they would allow this permission, but the City has presented very clear standards with no wavering from the first meeting to the last. We have to bear the entire expense of the lift station. Ricky Harp was rezoned to allow 100 lots on 100 acres 18 months ago, and Mr. Lewis is asking for equal protection under the law but for even less density than that neighboring project. He is asking conditional approval of this plat in order to allow time for proper advertising for the rezoning. The approval would be based on getting the rezoning to R-2 for conservation subdivision with all the accompanying restrictions per the UDO. Time would be saved, however, by getting discretionary review to get the number of lots to 86. According to an interpretation of 706 regarding discretionary density bonuses allowed by the Board of Commissioners, they could actually ask for the full 91 lots allowed for the 91 acres. But what is being proposed fits specifically in this jurisdiction; they have no lots that would not be buildable; no lots would be culled; nor would any lots fail to yield a marketable, sellable product. He would never have even considered vinyl siding on his product. The average sale price of the lots in the former garden park theme project, with only 26 lots, had jumped from \$75,000 to \$250,000 just for the lot eight months into the project. This project had a three acre park, as opposed to this 30-acre park. By the end of that first garden park effort, the first \$1,000,000 had been built in Smyrna and added fifteen additional \$1,000,000 homes, topping out at \$1,800,000. Conservation subdivisions bring quality growth and quality development. He urged Commissioners to review the UDO and make a motion on his request to be able to approve the plat as it's drawn and approved by the County's own Planning Department, then getting the rezoning would just naturally follow.

Commissioner McDaniel said this was the first instance whereby anyone has requested such a discretionary determination from the Board of Commissioners, and Board members are not familiar with the process. Tonight is the first time he has seen the plan, and commissioners will need to review the code section referenced for greater study. He certainly was not prepared to make such a determination tonight on an item that had not even appeared on the agenda except as an added item at the last minute with no advertisement.

Mr. Galloway said the issue of variation in the lots came to him yesterday. He told Commissioner Freeman at that time he would research the Code and issue an opinion on the discretionary determination Mr. Lewis was hoping to get. Some discussion followed.

Mr. Lewis said he was taking this approach because good communication has been sadly lacking and conflicts have arisen. One day he is told he needs a Land Use Map Change and the next not; one day he needs a possible variance and the next not. Tonight he is looking for the Board to approve the number of lots at 86, and only way to do that has become clear since October 2004 – and that is the discretionary authority of the Board of Commissioners.

Mr. Galloway said he would still research the Code, which he has not had a chance to do since being notified about 3 p.m. this would be on the agenda tonight. Off the cuff, he could not tell the Board if they have such authority or not. They can't approve something by letter of the ordinance either without going to the Planning and Zoning Commission.

Mr. Lewis said the Planning and Zoning Commissioner had an opportunity to weigh in but didn't have unanimous support to table the issue for a technical reason. This completely flies in the face of the

document provided to the Planning and Zoning Commission in advance, and he felt he had been sandbagged with a bait and switch as a developer. He had dealt in good faith through January, February and March and felt it had been inappropriate for it to take him two weeks to tell him he did not need to change the Land Use Map and wait until the meeting where they were bringing all the parties together. Now he must consume more time and is searching for a way to condense efforts. When he first approached in October 2004, the requirement to change the Land Use Map was not even a requirement and he felt they should have been relieved of that requirement. He did not bring developers, engineers or attorneys tonight; he simply wanted to achieve relief to the impasse. The County's own UDO clearly states the only relief to be sought is through the Board of Commissioners. The process has already consumed 90 days of his money and time on this project, much of it because of the communications problem.

Mr. Galloway said he would take responsibility for the requirement of changing the Land Use Map because of the ordinance passing in January that implemented the process. A significant number of zoning issues have arisen for properties immediately surrounding this area already. He apologized for the communication not getting the Staff report to Mr. Lewis prior to the night of the meeting, but it was simply a matter of everyone getting on the same page after implementation of this new requirement to amend the Future Land Use Map. The Planning and Zoning Commissioner agendas will look very differently because of this implementation.

Ultimately, Mr. Lewis will come with a conservation subdivision concept plan to be reviewed by Staff and Planning and Zoning. Then he will come forward with the subdivision plat for approval which will have to comply because Staff cannot vary the yield plan. The subdivision plat will have to satisfy the yield plan for the maximum lot requirements. If Mr. Lewis chooses to try to develop with a greater number of lots, then that will require approval from the Board of Appeals or the Board of Commissioners. Mr. Galloway reviewed the options open to Mr. Lewis.

Chuck Taylor stated the requests were on the Planning Commission agenda for both amending the Land Use Map and the property rezoning changes for Tuesday, June 28. It can come to the Board of Commissioners at the end of July for its Zoning Public Hearing, then for second reading after that. This would complete the zoning process for this application. The Board of Commissioners can entertain approval of the concept plan for a conservation subdivision at same time and can choose to give discretionary density bonuses as part of approval of conservation design at the same time, as well.

Commissioner Davis felt this Board could not preemptorily approve the concept plan prior to rezoning. Staff report recommends approval on both issues for Tuesday. The subdivision plan can be heard at the same time, too. The yield plan comes to 74 lots, but Mr. Lewis needs 86 lots. Mr. Lewis said the Board of Commissioners will have nothing to lose, and he will have everything to gain time wise during this process if the Board will issue conditional approval. Engineering can be concluded and sewer through swamp must be installed before losing the summer building season.

Commissioner McDaniel said he was impressed with Mr. Lewis' presentation and plan. However, he felt to expect this action tonight was unfair to the Board, as well. This Board was not expecting this; nor had they ever utilized discretionary review and were certainly not prepared to do it tonight. He was sympathetic to Mr. Lewis' plight and would like to see Mr. Lewis do a development in Spalding County but he wanted, and the citizens of Spalding County could expect, this Board's decisions to be informed. Even though such a determination is termed discretionary, he was worried about a wrongful and spur-of-the-moment precedent. He asked if there was a real problem and sense of urgency, realizing both items are on Tuesday's Planning Commission agenda and will come to the Board of Commissioners at the end of July.

Both Commissioners Davis and Flowers-Taylor felt it would not be fair to vote in any capacity tonight since the item was not publicly advertised on the agenda and no public awareness has been made.

The Board and Staff assured Mr. Lewis the zoning issue on Tuesday won't require a redrawing of the plan since this will deal with zoning and not density. Mr. Galloway confirmed the issue of zoning on Tuesday can give Mr. Lewis a variety of development rights not tied to any particular plan.

Mr. Lewis said his hands had already been tied for 90 days, and absent some sort of consideration such as a conditional, revocable confirmation from the Board of Commissioners so he can proceed, he will lose most of the summer building time for development of the concept. He felt he was being

asked to wait yet another length of time in good faith when that practice had already been shown to be futile for a project that fits perfectly with what the UDO requires in spirit and intent.

The consensus of the Board of Commissioners was to review Code and guidelines, then talk with Zoning Attorney Galloway, Staff, Planning Commission, Board of Appeals, and applicants so they will be adequately aware of the issue from now on. This Board favors good building, development and industry and will work for quality final products, noted Commissioner Davis.

Mr. Lewis asked that each Commissioner please take the time to acquaint themselves with the project and with the concept of discretionary review. He offered to provide numbers of other areas where he had successfully utilized the conservation subdivision development plan if they were interested. He asked if he could expect he could continue after the upcoming Planning Commission at the next Board of Commissioners' meeting with a considerable amount of work to be done since no action would be taken tonight.

Commissioner Freeman said it was a shame the Board would not pass approval of the site plan and hold it in abeyance until after the two upcoming hearings.

E. Closed Session:

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

Commissioner McDaniel made a motion to enter Closed Meeting at 8:25 p.m. to discuss pending and potential litigation, seconded by Chairman Goss, and the motion carried by a unanimous 5-0 vote.

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 June 23, 2005.

2.

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

3.

The executive session was called to order at 8:25 p.m.

4.

The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law:

Yes Consultation with the county attorney, or other legal counsel, to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1);

No Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and _____ (insert the citation to the legal authority making the tax matter confidential);

No Discussion of the future acquisition of real estate as provided by O.C.G.A. § 50-14-3(4);

No Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a county officer or employee as provided in O.C.G.A. § 50-14-3(6);

No Other (describe the exemption to the open meetings law): _____
as provided in _____ (insert the citation to the legal authority exempting the
topic).

This the 23rd day of June, 2005 .

Spalding County Board of Commissioners

Sworn to and subscribed

Before me this 23rd day of June 2005

Edward Goss, Jr. (L.S.)

Cecil L. Davis (L.S.)

Teresa A. Watson (L.S.)

Eddie L. Freeman (L.S.)

Notary Public

Gwen Flowers-Taylor (L.S.)

My commission expires:

Johnie McDaniel (L.S.)

March 3, 2007

Commissioner Flowers-Taylor made a motion to reconvene to Open Meeting at 9:15 p.m., seconded by Commissioner McDaniel; motion carried by a unanimous 5-0 vote.

F. Adjournment.

Commissioner McDaniel made a motion to adjourn at 9:17 p.m., seconded by Commissioner Flowers-Taylor, and the motion carried by a unanimous 5-0 vote.