

**SPALDING COUNTY PLANNING COMMISSION**  
**Regular Meeting**  
**February 28, 2006**

The Spalding County Planning Commission held its regular monthly meeting on February 28, 2006 at 7:00 P.M. in Room 108 of the Spalding County Courthouse Annex. Members present were: Karen Mathiak, Chairman, presiding, Janet Bailey, Frank Chastain, Ronald Green and John Youmans.

Also present were Charles Taylor, Community Development Director, Chad Jacobs, Senior Planner, Newton Galloway, Attorney, Bruce Ballard, Griffin-Spalding County School System, and Yvonne Langford to record the minutes.

Ms. Mathiak called the meeting to order, introduced the members of the Planning Commission, and invited those present wanting to address the Board regarding any matter to sign in on the appropriate form.

**Application #02-30Z:** William R. King, Jr., Gayle G. Taylor and Comerica, Trustee for Oshlag/Stuckey, Owners – Spalding County Board of Commissioners, Agent – Highway 19/41 (10.87 acres located in Land Lot 101 of the 3<sup>rd</sup> Land District) – approval of settlement agreement dated August 26, 2004 to allow development within the R-3 and C-1 zoning districts.

Mr. Galloway said a memo had been provided to the Planning Commission members regarding this application. This application has been in process since 2002 and is still in litigation in Superior Court. The Planning Commission needs to approve the settlement agreement that has been reached to conclude the case. The settlement agreement was reached two years ago and the developer became concerned regarding the settlement agreement when a decision (Buckner vs. Douglas County) was made. Buckner can be interpreted to require that a settlement agreement to conclude a zoning case must be considered pursuant to procedures set out in the zoning procedures law. The settlement agreement was reached before Buckner and then Buckner was decided and the developer became concerned about the enforceability of the settlement agreement and it was agreed to bring it and have the settlement agreement approved pursuant to notice and hearing of the zoning procedures law.

**MOTION**

Mr. Chastain made a motion to approve the settlement agreement related to Application #02-30Z. The motion passed on a second by Ms. Bailey with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

**Application #06-01Z:** Cole Tract Associates, L.P., Owner – The Villas at Heron Bay – Highway Court and Court Crossing (11.318 acres located in Land Lot 145 of the 2<sup>nd</sup> Land

District) – requesting a rezoning from PDD, Planned Development District, Conditional, to PDD, Planned Development District.

Jane Curtis – Minerva – 2292 Henderson Mill Road – Atlanta, Georgia

Ms. Curtis said this application is to request a change in a condition that was imposed so that the garage will only stick out 10 feet from the main wall so there will not be a long protrusion. When they originally had the property rezoned they thought the property would be purchased by the company that has developed their cottages, active adult property, at the Heron Bay site. They have declined that purchase. The property is now under contract to Pulte. The plans that Pulte has presented meet all the conditions except for one of the homes where the garage protrudes from the main front wall beyond the 10 feet that is required. This will give more variation on the house plans. This request is only for this pod in Heron Bay. It is not for the entire project. They have recommended a condition to go along with this. When they were going through the zoning procedures one of the variances they were granted from the Appeals Board had a condition. The condition was that they could have a 10 foot front yard so long as the garage was no less than 20 feet from the sidewalk. When you are dealing with a 50' by 120' lot this is quite restrictive. There are also creeks involved that they want to avoid as much as possible. This pushes them even closer on some of the lots. Additionally, the purpose of the home is for the use of active adults and to keep them close to the road. There are a few problem lots if this condition is imposed. They support keeping vehicles off the sidewalk.

Mr. Taylor said there were some issues with this application. They do not want the cars to encroach into the right of way. The main concern is that the cars do not encroach on the sidewalks. Generally people park three or four feet from the garage when they park in the driveway. The closer the garage gets to the property line the more likely it is that the rear of the vehicle will encroach on the sidewalk. Also, in making this change in the conditions of the zoning, it is the recommendation that those conditions be re-stated so they do not drop off from the original zoning. The staff recommendation is that the motion state that the original conditions attached to the zoning still apply and they be made a part of this record.

#### **MOTION**

Mr. Youmans made a motion to approve Application #06-01Z and further approve that the conditions imposed on the development remain in tact and that this is to give relief for the parking situation. The motion passed on a second by Ms. Bailey with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

#### **Conservation Subdivision Sketch Plans:**

**Application #CS-06-01:** Sketch Plan: A conservation subdivision consisting of 40.97 acres on Carver Road located in Land Lot 87 of the 2<sup>nd</sup> Land District.

Mr. Jacobs said this is a conceptual plan for a conservation subdivision on Carver Road. The conceptual plan meets the intents and purposes of the ordinances. He has walked the

property with Mr. Anthony and identified the areas that are more suitable for conservation and they have developed this conceptual plan. The conservation subdivision is permitted by right. It is in an R-1 Zoning District and requires a 2000 SF heated home. The out parcel identified on the map is the developer's home and he intends to remain in that home.

Mark Anthony – 1775 Carver Road

Mr. Anthony said they are going to build 36 beautiful houses that will be three sides brick or stack stone. The insides floors will be marble, teak or bamboo except for the bedrooms which will be carpeted. No cost will be spared to put trees with all the plantings being 8 feet or larger. It will be something beautiful in the community. They propose to put everything in back so as not to impact the front. All along Carver Road is the three tier fencing and that will be continued to make it congruent to the neighborhood.

Stephen Fusco – Ebstein, Becker & Green – Suite 2700 - 945 East Powers Ferry Road  
Atlanta, Georgia

Mr. Fusco said he is with the law firm of Ebstein, Becker & Green and is present to represent his client, Billy Mathis who is a property owner to the south of this project. He owns a single-family house there which has a large lake with geese. He additionally has horses on his property. He has developed his property with fencing. He moved here to have a large lot in keeping with the character of the neighborhood as it presently is. He understands the statement by staff regarding the fact that a conservation subdivision is allowed by right but there is one point of disagreement. It still requires approval of the Planning Commission and the Board of Commissioners if it meets the intent and spirit of the conservation subdivision ordinance. The question is, does this meet the spirit and intent of what a conservation subdivision ordinance is? Mr. Anthony came before this Board six or eight months ago with a much higher density plan that was turned down and this is yet another attempt to get more density on the land by calling it a conservation subdivision. The Board needs to consider whether or not it meets the requirements that it is going to prevent disturbance of natural or cultural features which is one of the intents under the purpose section of the ordinance. There is a lake with a natural waterway that goes through the middle of the property. All that has been done on this plan is to lay out lots with no attention given to the waterway feature. Additionally, there has been no indication as to whether there are wetlands or other features on this property. There is a lake on this property and the way the topo sits on this property there is likely to be wetlands and there has been no attention given at the concept plan level to that detail to know whether this is a good concept for conservation subdivision. That is really what the Board is to determine. Is this a good conservation subdivision? Does this meet green space requirements? There are no walking trails, no pedestrian access to link to other projects in the area. In fact there are really no other projects in the area. As a Board what you are being asked to consider is to give this developer a bump in density under the conservation subdivision ordinance because it is an R-1 property in order to come in with this particular site plan. He does not see anything in the plan to make it unique enough that the Board should grant a density bonus to this developer and allow him to come in and get more units than he would be allowed under the R-1 zoning classifications. For

that reason he requests that the Board to deny approval of the concept plan. Mr. Fusco stated that he wanted to preserve his client's constitutional objections.

Mr. Taylor said the ordinance outlines a series of steps that have to be followed for conservation subdivision approval. Mr. Jacobs walked through those steps with the developer. The resulting plan is what has been presented. By its nature a conservation subdivision does give some bonus for density over the normally allowed 2-acre site. However, it also costs the developer by requiring a 40% open space requirement rather than the 25%. The issue of the stream has been met quite nicely because there is a 100' wide buffer on either side of the stream as it crosses the road. That is far more than the normal 25' stream buffer that the county requires. The first house appears to be about 300 feet into the property which will give this a rural look. The recommendation is that this does meet the requirements of the conservation subdivision. Walking trails are not required but can be added if it adds to the quality of design. Mr. Anthony has said this will be a sidewalk community so you will have the ability to walk through the neighborhood.

Mr. Galloway noted that this will go to the County Commissioners for final approval and the Planning Commission can recommend any changes they would like the Commissioners to consider.

Mr. Anthony said the actual amount of green space is 47%. He does not understand the issue with Mr. Mathis because less than a week ago, in front of four witnesses, they did a verbal contract for him to purchase his property. Why he sent an attorney he does not know. He builds all his houses three side brick or stack stone. The reason that he does not do four sides is so that if people in the future want to expand. Most of his houses on the rear are about 75% glass. He does have proposed walking trails. The stream is about two feet wide and six inches deep. The lake begins on his property and extends onto Mr. Mathis's property. There is a series of about seven lakes that go up and down that area.

#### **MOTION**

Mr. Youmans made a motion to approve Application #CS-06-01 conditioned on three sides being brick or stack stone. The motion passed on a second by Mr. Chastain with Ms. Bailey, Mr. Chastain, Mr. Green and Mr. Youmans voting for the motion and Ms. Mathiak voting against.

**Amendment to UDO #A-05-17:** Article 5. AR-1 Agricultural and Residential – Section 503:A(1), Article 6. AR-2 Rural Reserve – Section 603:A(1), Article 7. R-1 Single Family Residential Low density – Section 703:A(1), Article 7A. R-1A Single Family Residential Section 703A:A(1), Article 8. R-2 Single Family Residential – Section 803:A(1), Article 8A. R-2A Single-Family and Two-Family Residential; Article 10. R-4 Single Family Residential – Section 1003:A(1), and Article 11. R-5 Single Family Residential – Section 1103:A(1) – add provision for minimum size of first floor of any single family dwelling.

Mr. Taylor said a lot of this has already appeared before the Planning Commission in the form of minimum square footage on the first floor amendment. In defining what is

considered first floor they are adding a definition which causes them to have to re-advertise and re-consider.

Mr. Galloway went through the definitions for the first story and half story and the minimum square footage for the first story and the half story of a single-family dwelling as used in the proposed amendments in the Amendment to the UDO #A-05-17 and Amendment to UDO #A-06-01

#### **MOTION**

Mr. Youmans made a motion to approve Amendment to UDO #A-05-17. The motion passed on a second by Ms. Bailey with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

**Amendment to UDO #A-06-01: Lift from the table** – Article 2. Definitions – Section 202:III’ & III’’ – add definition for first story and half story.

#### **MOTION**

Approval was given to lift Amendment to UDO #A-06-01 from the table on a motion by Mr. Youmans and a second by Mr. Chastain with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

#### **MOTION**

Mr. Chastain made a motion to approve Amendment to UDO #A-06-01. The motion passed on a second by Mr. Youmans with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

**Amendment to UDO #A-06-02:** Article 12. C-1 Highway Commercial – Section 1203:A – add provision to allow BMX Track as a principal use.

Mr. Taylor said this is a situation where a private citizen has submitted a proposed change to the zoning ordinance to allow for non-motorized vehicle spectator sports in the C-1 zoning district. Mr. Potter has requested this change and had help from the staff to word the ordinance. He went over the requirements regarding lot size, hours of operation, lighting and buffers.

Velma McCard – 1994 South McDonough Road

Ms. McCard requested this amendment be approved. There are not a lot of things for young people. Her grandsons race bicycle motocross. They travel all over the United States, mostly in the southeast. This is a big sport and can bring a lot of money to the community during a big race. The main thing is that it gives young people another thing to do to keep them off the streets and out of trouble. If they participate in this sport they do not have a lot of time to do anything but school and train. There is a large base of volunteers to help with anything that needs to be done.

Carol McCard – Velma McCard spoke for her.

Wesley McCard – Velma McCard spoke for him

Rob Potter – 635 Beauregard Boulevard – Fayetteville, Georgia

Mr. Potter said he has a business in Spalding County. This will be run as a business. Most tracks in the state are run as recreational parks. He wants to try a new concept of privatizing a track on commercial property which is not hidden from the public but very visible so they know about the track. The site that he is interested in is on Highway 19/41. With all that traffic they will get more exposure. Peachtree City, Albany, McDonough and Augusta have problems because they only attract a small segment of the community since they are in parks.

#### **MOTION**

Mr. Youmans made a motion, seconded by Mr. Green, to approve Amendment to UDO #A-06-02. The motion passed with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

**Amendment to UDO #A-06-03:** Quarterly adoption of official zoning map in revised Geographic Information Systems (GIS) platform as applicable to unincorporated Spalding County.

#### **MOTION**

Mr. Youmans made a motion to approve Amendment to UDO #A-06-03. The motion passed on a second by Mr. Chastain with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

**Amendment to UDO #A-06-04:** Article 2. Definitions – Section 202:FFF – amend definition for public sewer.

Mr. Galloway said there is more interest in developments that are moving away from single septic systems that would require community septic, package plants or other mechanisms for dealing with wastewater that are not traditional single-family lot septic systems and which are not going to be operated, maintained or owned by one of the local governments. There is probably going to be pressure from the state to go to communal septic systems which will be a private sewer system based on a septic technology but results in spray field applications on green space. The definition of public sewer becomes problematic and this needs to be addressed and revised so there will be no question regarding the ordinance requirements. He requested that the ordinance that has been drafted be amended so they can incorporate the daily usage or affluent requirement that will place approval out of the Board of Health and up to the EPD and state.

#### **MOTION**

Mr. Youmans made a motion to approve Amendment to UDO #A-06-04 with an amendment to add the threshold of the volume level of affluent that will push approval to EPD. The motion passed on a second by Ms. Bailey with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

#### **MINUTES**

Mr. Youmans made a motion to approve the minutes of the January 17, 2006 and the January 31, 2006 meetings. The motion passed on a second by Ms. Bailey with Ms. Bailey, Ms. Mathiak and Mr. Youmans voting for the motion and Mr. Chastain and Mr. Green abstaining.

Consider extension on preliminary plat for Fair Oaks Subdivision Phase 2, 3, and 4 – Tom Farrar, Frances Farrar and Elaine Moore.

**MOTION**

Mr. Green made a motion, seconded by Mr. Youmans, to approve the extension of the preliminary plat for Fair Oaks Subdivision Phase 2, 3, and 4. The motion passed with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

**MOTION**

The meeting was adjourned on a motion by Mr. Youmans and a second by Mr. Chastain with Ms. Bailey, Mr. Chastain, Mr. Green, Ms. Mathiak and Mr. Youmans voting for the motion.

---

Karen Mathiak – Chairman

---

Yvonne M. Langford - Recorder