

## ZONING PUBLIC HEARING

A public hearing was held by the Spalding County Board of Commissioners in Room 108 in the Courthouse Annex, Thursday, June 26 2008 beginning at 6:00 o'clock p.m. with Commission Chairman Edward Goss, Jr. presiding and Commissioners Gwen Flowers-Taylor, Eddie Freeman and David Phillips present. Absent was Commissioner Johnie McDaniel. Also present were County Manager William P. Wilson, Jr., Zoning Attorney Newton M. Galloway, Assistant to the County Manager Paul Van Haute, Community Development Director Chuck Taylor, and Executive Secretary Teresa Watson.

**A. Call to Order.**

*Commissioners Flowers-Taylor and Phillips moved and seconded to adjust the order of the Agenda as follows: Move Items 4, 5 and 6 to the front of New Business. Motion carried 4-0.*

**B. New Business:**

- 1. Amendment to FLA-08-01:** Fayette Environmental, LLC, Owner – Bucksnot Road (28.428 acres located in Land Lot 115 of the 3<sup>rd</sup> Land District) – from Forestry to Industrial.

Applicant desires to table Amendment to FLA-08-01 and Application #08-02Z (following). Planning Commission requests that the Board of Commissioners review the Land Use in that area, since these applications will have a continuing impact in the area.

*Motion and second to table until the next meeting Amendment to FLA-08-01 and Application #08-02Z, by Commissioners Freeman and Phillips, carried 4-0.*

- 2. Application #08-02Z:** Fayette Environmental, LLC, Owner – Scarbrough Development, Agent – Bucksnot Road (28.428 acres located in Land Lot 115 of the 3<sup>rd</sup> Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to C-2, Manufacturing.

*Same as above.*

- 3. Application #08-04Z:** Mubina Ahmed, Owner – Mahmood Ahmed, Agent – Macon Road (29.28 acres located in Land Lot 203 of the 2<sup>nd</sup> Land District) – requesting a rezoning from R-1, Single Family Residential Low Density, to AR-1, Agricultural and Residential.

The applicant requests rezoning to AR-1 Agricultural Residential, proposing to live on the subject property and maintain a small farming operation. The request is consistent with the Future Land Use Map classification of forestry and agriculture. Staff recommends approval of the request. The Planning Commission recommends conditional approval of the request with the following condition: No chicken houses or commercial poultry operations shall be allowed. This is not a licensing issue but rather a condition to deal with the nuisance factor.

Mr. Galloway said the condition imposed by the Planning Commission was because of the perceived nuisance factor. He reminded that the zoning will travel with the land, so even if Dr. Ahmed does not utilize a certain allowed use himself, a future property owner might entertain that option. Mr. Galloway said the Board could opt not to impose the condition as the Board of Commissioners is not bound by the Planning Commission condition. Mr. Taylor requested, and Mr. Galloway concurred, that the Board not impose conditions that are not easily enforced. Commissioners worried that such a condition would be viewed as requiring of this applicant something they did not require of others.

*Motion to approve Application #08-04Z by Commissioner Flowers-Taylor as presented, seconded by Commissioner Freeman, carried by a vote of 4-0.*

- 4. Application #08-07S: Lift from the table** – Reginal Lindsey, Owner – 1776 West Ellis Road (4 acres located in Land Lot(s) 1 and 2 of the 3<sup>rd</sup> Land District) – requesting a Special Exception to allow a certified medical hardship in the AR-1 District.

***Motion to lift Application #08-07S from the table by Commissioner Flowers-Taylor, was seconded by Commissioner Freeman, and motion carried by a vote of 4-0.***

Mr. Taylor stated the applicant requests a Special Exception to allow a manufactured home to remain on the property for a medical hardship in conjunction with a new stick-built, single family dwelling. A statement from the applicant's doctor is included in the application. Based on this letter from Mr. Lindsey's doctor, criteria has been satisfied. The item was tabled at last month's meeting at the request of the applicant because of a death in the family of the attorney representing him. Mr. Taylor provided a brief history of the petition. The County issued a building permit for a new home being constructed on the property without noting on the report there was an existing mobile home behind the property, and a Certificate of Occupancy was subsequently issued. When the issue was brought to light via a complaint, the County documented the situation, notified the owner and requested that the violating mobile home be removed from the property which did not occur. So, Spalding County proceeded through legal channels to bring the property into compliance. The court case has been stayed pending the outcome of the Special Exception request for medical hardship, which was the alternative suggested to Mr. Lindsey. An approved Special Exception for medical hardship is provided for in the County Ordinances. Staff recommends approval of the request since criteria has been satisfied. Board of Appeals recommended denial of the request 3-1.

Mr. Taylor responded to extensive questions from Commissioner Freeman regarding the timeline, issuance of a citation, and nature of the special exception request of the applicant. Mr. Taylor responded he had already detailed these issues in his historical background, which Commissioner Freeman said he missed because he was speaking with the Spalding County Zoning Attorney in a sidebar conversation. Commissioner Freeman said he wanted to note that Mr. Lindsey did not file for a medical hardship until after he was cited for violation of the Ordinance. The investigation into someone living in the mobile home at the time Mr. Lindsey was cited did not divulge, nor was it required to, exactly who was residing there. It merely noted that the residence was being used in violation since there was already a primary residence on the property with the new home. Staff's recommendation to approve is based on the fact that Mr. Lindsey did, in fact, comply with the few criteria required by Spalding County. Many of the issues with which the Board of Appeals dealt were not germane to the matter but may have resulted in their vote to deny. Commissioner Freeman said he would have voted in the same manner the Board of Appeals did.

Commissioner Flowers-Taylor stated a certified medical physician has validated that there is, in fact, a medical hardship. That is what is required by our Ordinance. It is the physician's opinion that Mr. Lindsey's mother needs to be in close proximity for 24-hour per day care. She would like to remain as independent as possible but needs real care. Commissioner Flowers-Taylor has conversed with several doctors and oncologists who have voiced their concerns for the very real medical issues in this case, based on information the applicant himself shared. Several of the noted conditions are terminal.

Charles O. Lee, Attorney for Applicant, 4851 Jimmy Carter Boulevard, Atlanta  
Mr. Lee stated that Mrs. Rose Lindsey has not moved onto the property yet, pending this Board's decision, as she is too ill to be moving back and forth. Mr. Lindsey has met all of the three criteria put forth to him: 1) The property must not be detrimental to the adjacent properties or general neighborhood, nor shall it adversely affect the safety and health of residents and workers, 2) The request must not mean that any possible depreciating effects and damages to the neighborhood properties are greater than the benefits or need of the Special Exception, and 3) It must be placed on a lot of sufficient size to support this use.

This same Board, in March 2008, approved Application #08-02S for Dorothy S. and William S. Gary on 2213 N. McDonough Road for a Special Exception for a medical hardship in the AR-1 district. That application was approved on motion and second by Commissioners Flowers-Taylor and McDaniel and carried by a vote of 3-0. Should this petition be denied, he would want a rationale for the approval granted the Gary family and not for the Lindsey family. Mrs. Lindsey is presently in the hospital, having been back and forth for some time now. When the medical hardship should cease, the Special Exception will end 30 days after the situation requiring the hardship ceases, and Mr. Lindsey has stated he will remove the manufactured home at that

time. In light of Mr. Lindsey complying with the stated requirements of Spalding County for the Special Exception, he asked that the Board please grant approval for Mr. Lindsey's request to take care of his mother in what might be her final days.

Commissioner Freeman asked if Mrs. Lindsey really intended to live in the mobile home. Mr. Lee responded clearly she did, and that was the reason for the application for a Special Exception. Commissioner Freeman said the question arose in the Board of Appeals meeting as to why Mr. Lindsey did not want his mother to live in the new home because of a problem with his wife. If his mother were that ill, Commissioner Freeman said he would have his mother in the new house instead of a 30-year old mobile home. Mr. Lee responded he was not privy to any conversations Mr. Lindsey may have had with his wife, but he did know that Mr. Lindsey's mother planned to move into the manufactured home and has planned to do so ever since Mr. Lindsey moved into his home. The man currently living in the manufactured home is being allowed to do so since he is on hard times, but at such time as Mrs. Lindsey can move in, the gentleman will vacate the premises.

Commissioner Phillips stated should he need to personally take care of his mother, he would have to make special accommodations without being under the same roof, also.

Chairman Goss noted at this point in the meeting that all persons signing to speak on any issue would be limited to a time period of five minutes and must maintain order.

Reginal Lindsey, 1776 West Ellis Road, Griffin, Georgia

His mother has been in the hospital three times in recent days and has been there for a week now. Her blood count is 3.6 and she is fighting for her life. He wants to take care of her, but felt Commissioner Phillips expressed well the disruption it can cause.

Charlie Watts, 1566 West Ellis Road, Griffin, Georgia

He and other neighbors strongly disagree with statements made. Mr. Lindsey does have plenty of room in his home and the manufactured home is not needed. He felt there were several misrepresentations on the part of Mr. Lindsey and many issues that seemed to have developed "after the fact" of the property's purchase. Perhaps there were mistakes that have been made, but the fact remains Mr. Lindsey was not in compliance when he filed for this Special Exception, so his application for same should not be accepted.

James E. Fox, II, 1832 West Ellis Road, Griffin, Georgia

Mr. Fox states he resides next door to the Lindsey family and questioned the timeline of events that have resulted in the application for a Special Exception. His mother has been residing on the north side of Atlanta for over a year and, while he understood the difficulty of having to travel back and forth, he objected to the manner in which the matters were handled to reach the point of this request for a Special Exception.

Elberta Fox, 1832 West Ellis Road, Griffin, Georgia

Ms. Fox said Mr. Lindsey's attorney testified previously that no one was living in the manufactured home at this time when, in fact, there is someone living there.

Kay Jackson, 1760 West Ellis Road, Griffin, Georgia

She has compassion for Mr. Lindsey's mother, but matters should have been handled differently. If she is that sick, she does not need to be in a manufactured home constructed in 1968 that is grandfathered in and probably is in violation of many codes. There is a possibility of asbestos present in the trailer due to its age, and it does not meet fire safety standards.

Pam Ward, 1776-A West Ellis Road, Griffin, Georgia

Ms. Ward said this had simply been a series of mistakes. The bottom line is that the property is zoned for a single family dwelling, and in her estimation the manufactured home should have been removed when the Lindsey home was constructed and a Certificate of Occupancy was issued. Other people have to follow the rules of the County and Mr. Lindsey should be required to do the same. She is sympathetic to his mother's failing health, but they had to remove a mobile home when her home was constructed and he should be held to the same standard.

Chairman Goss acknowledged there was, in fact, a timeline of mistakes. The contractor who built the home for Mr. Lindsey should have divulged there was a

manufactured home on the property so that things could have been properly handled. A notation should have been made in the file.

Commissioner Flowers-Taylor said there were mistakes made by the County's inspectors and the Community Development Office. Mr. Lindsey's attorney did not state that no one lived in the manufactured home but rather that Mr. Lindsey was allowing a friend in need to live there temporarily. Additionally, she knows for certain that Mrs. Lindsey lives on the north side of Griffin in Hallmark Hills, not the north side of Atlanta. Mr. Lindsey cannot be expected to know of all the requirements of our Code personally; that falls under the purview of inspectors and planning personnel and the County fell short of this service. She did not feel Mr. Lindsey should have been cited initially, and he has met the criteria established by the County. Further, it is not for the County to dictate to Mr. Lindsey how he should treat his mother with regard to her end-of-life issues.

Commissioner Freeman elaborated, saying he has observed deception from the onset and maybe on the part of two or three people. In any case, he does not like the way matters were handled. Two inspectors who visit there and did not see a mobile home for the record is hard to believe. He did not believe at all that Mr. Lindsey's mother would ever live in the mobile home.

Commissioner Phillips recounted that several years ago he made a small addition to his house and erred on several aspects of construction also, but in the opposite direction with extensive permits and inspections that resulted in significant additional costs for him. So mistakes can be made from people who are knowledgeable. He urged all involved to be patient with what is apt to be a very temporary situation given the severity of Mrs. Lindsey's medical condition.

Commissioner Freeman said Mrs. Lindsey lived in a nice apartment which he knew because he went there to look but did not go inside. He could not believe she would want to leave there and live in this mobile home with her health declining. He has sympathy for Mr. Lindsey's mother, but with all due respect he was asking for fairness in being a good neighbor. He and his neighbors have been out there in the neighborhood for thirty years, and all of a sudden he came in and built a nice house, one he wished he could afford. He stated again he felt Mrs. Lindsey would never live in the mobile home and that was his reason for opposing the application. Commissioner Freeman asked how the County would know when the hardship would cease, and discussion followed. Chairman Goss called for order and Mr. Galloway pointed out that after public comment is over, only comment from the Board is permitted. He asked for everyone present to respect that rule. Mr. Taylor responded that letters are sent annually reminding everyone of the rule regarding their Special Exceptions and informing them again that, by law, the Special Exception will cease within thirty days. On renewal of the Special Exception, Community Development would seek to confirm that the medical hardship is continuing. Should a complaint be filed in the interim, they would investigate. Commissioner Freeman said that process only happens once per year. If something should happen during the year and no one complained, and Commissioner Freeman and his neighbors were not sure Mr. Lindsey was not renting out this mobile home even now, they would be unaware of such violations.

Commissioner Phillips advised he sees Reggie Lindsey on a regular basis and he would know when his mother had passed either from Reggie or other friends.

Some commissioners noted that the builder who didn't divulge on the site plan that a mobile home already existed on the property was a major factor in the mishandled process.

Commissioner Flowers-Taylor said this verification process has never been an issue with other Special Exceptions that have been approved for medical hardships.

***Motion to approve Application #08-07S by Commissioner Flowers-Taylor, seconded by Commissioner Phillips, carried 3-1, with Commissioner Freeman opposing.***

Commissioner Freeman advised Mr. Lindsey to go and be a good neighbor, and Commissioner Phillips wished the best for Mr. Lindsey's mother in the meantime.

5. **Application #08-09S:** Stephen Whitaker, Owner – 3340 Newnan Road (2.8 acres located in Land Lot(s) 14 and 15 of the 2<sup>nd</sup> Land District) – requesting a Special Exception to allow a Family Personal Care-Home in the R-2 and AR-1 District.

Mr. Taylor explained the applicant proposes to provide a family personal care home at 3340 Newnan Road. The property consists of approximately 2.8 acres, and the applicant proposes to use the existing 1331 square foot home on the property as a family personal care home. Staff and the Board of Appeals both recommend denial of the request. The house does not meet the minimum square footage requirement, and that is the principal rationale to deny; 1500 square feet is the minimum requirement for a personal care home and with ramped-up square footage from that point, more residents are allowed. Mr. Taylor said the applicant was advised he did not have the minimum square footage, but he desired to proceed with the petition.

*Motion to deny Application #08-09S by Commissioner Phillips, seconded by Commissioner Flowers-Taylor, carried by a vote of 4-0.*

No one signed to speak either for or against the application, but the applicant Mr. Whitaker stated no one informed him the home was too small until the last minute.

6. **Application #08-11S:** Martha F. Cheeves (formerly Willis), Owner – 160 Davidson Drive (0.592 acre located in Land Lot 113 of the 4<sup>th</sup> Land District) – requesting a Special Exception to allow a Family Personal Care-Home in the AR-1 District.

Mr. Taylor advised the applicant proposes to provide a family personal care home at 160 Davidson Drive. The property consists of approximately .592 acres. The applicant proposes to use the existing 1508 square foot home on the tract. The current structure has two restrooms. Staff recommends conditional approval of the request with the following stipulations:

- a. Proof of compliance with all DHR and other State regulations prior to application of the business license.
- b. No more than four residents shall be allowed per section 503.B.20.b.ii.
- c. One restroom within the dwelling shall be entirely dedicated for patient use only.

The Board of Appeals recommends denial of the request by a 3-2 vote. The owner will not reside on the premises.

Martha Cheeves, 1329 North 9<sup>th</sup> Street, Griffin, Georgia

This personal care home will take care of three older residents, and she will provide assisted living with detailed services that will provide some relief to the primary caregivers for these clients. Her experience as an employee of Spalding Regional Hospital has been very beneficial and has pointed out the need for these type services. Ms. Cheeves has a compassion for the elderly and her staff will be composed of caring and trustworthy people and they will submit to background checks. Safety features will be utilized throughout the home and she has received her final clearance letter from the State for this facility. Ms. Cheeves noted that Davidson Drive is only the beginning for her and she felt this would be the first of other ventures in the area of elderly care that would provide badly-needed jobs in the County. She found it interesting, for those neighbors who complain of concern for their children, that these same residents would tolerate a child molester living on Birdie Road but not a personal care home in the area. She had tried renting the home to the son of a friend, Ms. Patricia Brown, but it had sustained damage and had not worked out satisfactorily. Other issues, such as increased traffic, emergency vehicle access, etc. are not major factors in her estimation.

Charlie Cheeves, 1329 North 9<sup>th</sup> Street, Griffin, Georgia

He stated he would appreciate the Board's consideration for his wife who was trying only to help the elderly.

Janie Newton, 227 Birdie Road, Griffin, Georgia

She owns a family child care facility on Birdie Road and feels there is an increased demand for not only child care, but for personal care homes for the elderly, as well. Residents desperately need care, companionship and attention. She agreed that Mrs. Cheeves has a compassion for this service, and she too considers it a calling for her. No one will be placed in danger and she didn't understand why such opposition was developing among neighbors.

Shirley Ellis, 2506 Rehoboth Road, Griffin, Georgia

As manager of a personal care home, she fields many calls from people looking for these type facilities. She did not feel it would adversely impact the neighborhood and it would definitely fill a need.

Speaking in opposition were:

Brandy Fulghum, 163 Davidson Drive, Griffin, Georgia

She felt there would be a significant and adverse financial impact to the neighborhood. As a former ombudsman, she visited hundreds of personal care homes. The traffic is a concern, as is the feeling that allowing this home would open up the way for mental health clients, as well, which would bring its own set of problems with such a large population of children in the neighborhood. Many of the other personal care homes are not in subdivisions and she felt that is problematic. These positions tend to have high turnover. She also felt this type business attracts the type of worker that would be undesirable, and she noted that some things which would make a worker deemed inappropriate would manifest themselves in a background check.

Lynn Spencer, 186 Davidson Circle, Griffin, Georgia

With only one entrance and exit to the subdivision of 56 homes, residents wanted to see it remain residential with minimal traffic. Businesses in the area would be more appropriately located on Birdie Road. She would have no aversion to Mr. and Mrs. Cheeves living in the home and taking care of their personal parents or grandparents, but not for a business.

Julian Graham, 192 Davidson Drive, Griffin, Georgia

He and his wife narrowed their choices for building their home in 1991 to Davidson Drive, primarily because it was a small, closed and close-knit subdivision. He did not want to see any commercial business in their subdivision and felt this would open the door for other commercial ventures. Approval would lower property values, increase liabilities, affect traffic and be detrimental to the lifestyle of families with children.

Linda Roberts, 149 Davidson Circle, Griffin, Georgia

She moved there in 1994 and loves the neighborhood, feeling very safe particularly since her husband passed away, and she did not want to see this friendly area change.

Stephen Pass, 129 Davidson Circle, Griffin, Georgia

Mr. Pass was concerned for property values, insurance rates, and safety issues. He felt Mrs. Cheeves was merely trying to make money on the property since she could not sell the home and renting had proved unsuccessful. There may be a need for a facility of this type, but he felt there were plenty of commercial sites that would be more appropriate.

Rodney Autry, 191 Davidson Circle, Griffin, Georgia

He would not want to put his grandmother in such a home, but beyond that, he was concerned for safety of their children, property values, and general traffic. He, too, felt property values would go down.

Sherry Evans, 151 Davidson Drive, Griffin, Georgia

She was more worried about the disruption to residents of the facility since with so many children the neighborhood is rather noisy.

Patricia Brown, 194 Davidson Circle, Griffin, Georgia

Ms. Brown was not against the venture proposed by Mrs. Cheeves, but she felt there was no need for Mrs. Cheeves to make disparaging remarks about her son to whom Mrs. Cheeves rented her house previously. She was definitely against the application.

Rebecca Burnett, 183 Davidson Drive, Griffin, Georgia

She is a Business Office Manager and House Supervisor with a personal care home for 45 residents. She is concerned that the owner will not reside there so it is a business only, and residents do not want a commercial facility in the neighborhood.

Dan Lane, 137 Davidson Circle, Griffin, Georgia

He presented a petition with signatures representing 36 addresses of the 56 tracts. It is true that Davidson Estates is a one-way-in-and-out subdivision in a true AR (agricultural/rural) setting. His largest problem with the application was the fact that

the owner proposed a commercial business in a residence in which she doesn't even reside.

Helen Kendrick, 148 Davidson Drive, Griffin, Georgia

Ms. Kendrick said she agreed with her neighbors, although she was not against the premise of the business. It is a commendable venture, but simply not appropriate for this neighborhood. There are many variables which do not make this situation ideal.

Teresa Bowser, 176 Davidson Drive, Griffin, Georgia

She and her husband have lived there for eight years, and the subdivision is an actual neighborhood filled with caring and close-knit neighbors. Emergency vehicles do, in fact, have problems in areas with one-way methods in ingress and egress. She did not feel the area would be conducive to a personal care home, and she felt the personal care home residents would not be conducive to the neighborhood children in particular. She, too, felt this would be a last-minute attempt to utilize an unsuccessful piece of property.

Mr. Taylor responded to Commissioner Flowers-Taylor that approval of this venture as a Special Exception is allowed in residential neighborhoods and is a little more intense than the minor home occupation. This would not constitute a commercial zoning and he was unsure as to why neighbors thought this would open the door for commercialism. There are a number of steps beyond what is being considered tonight in order to put a true commercial business in the area. For instance, general home occupations, such as a hair salon, child care in the home, etc., require a Special Exception. It becomes a true business when one provides a commercial store versus a service industry. With home occupations, they coexist with an actual residence of the owner, whereas Mrs. Cheeves does not plan to live on the property. The Spalding County Ordinance had, as its main focus, to increase the quality of life for personal care home residents, thus the rationale for limiting the number of clients in such a home. Should anyone actually live in the home, they would, in fact, count in the number of persons allowed in the home. That would limit the number of clients who could be accommodated. DHR has established certain rules for personal care homes, and our ordinance raised County requirements beyond even that. This is a very young ordinance and was intended to provide a safe environment for residents.

Commissioner Flowers-Taylor asked if the property owner were to lease a home to a tenant, would that constitute a business since the owner will be receiving money for the home. What makes this situation different from the tenant scenario?

Commissioner Freeman said he did not feel this was appropriate for a neighborhood that is so filled with close-knit, well entrenched residents. In his estimation, there was a big difference between a beauty shop and a personal care home. He stated he would not want this in his neighborhood. There is a place for this type facility, and such a neighborhood is not it, in his opinion.

Mr. Taylor advised the Board of Appeals suggested that commissioners might want to revise the ordinance if it looks as though this might be a problem henceforth.

Mr. Galloway said both of these would be treated as residential uses. Mr. Galloway said a personal care home is treated as a Special Exception general home occupation use based on DHR regulations that do not distinguish between residents who live there versus owners of the home who live there. The number limitation is merely to ensure that occupation in the home is not too dense. Decisions on these applications will be on a case-by-case basis with several mitigating factors. The Board of Appeals was concerned the County was approving personal care homes in certain sections of the County without controversy, yet not applying the same scrutiny in another part of the County. Finally, personal care homes are also an issue in the City, and it was his opinion that the County's ordinance was better than that of the City. Right now the Ordinance says this is a permitted use if certain criteria have been met, so there is no divine uniform answer to this question.

Commissioner Phillips noted this personal care home could be the lesser of two evils if the Martha and Charlie Cheeves saw fit to rent out the property on a Section 8 basis which would certainly have a negative impact on the neighborhood. He was sorry to see such animosity and felt they were unwelcome. He understood neighbors' reasoning but was sorry to see the situation. He had told the Cheeves that he would support them, but he will not support them now because of the overwhelming feeling

of the neighborhood. He felt he was actually helping them by not supporting them in light of all the residents' feelings.

Commissioner Freeman noted he had sympathy for the neighborhood and reiterated again that this facility did not belong in this neighborhood. ***Commissioners Freeman and Goss moved and seconded to deny Application #08-11S.***

Chairman Goss acknowledged this was a very difficult decision. He asked if there were specific conditions that would require placement in such a facility and several people told him that a broad range of different maladies, conditions and degrees of ambulatory were considerations. Some residents need more assistance than others; some have family members who place them and some are alone.

Commissioner Flowers-Taylor noted that the facility can self-impose as to the mobility of the residents they accept. Additionally, according to DHR, unless there is a registered nurse on staff, the employees or staff cannot administer medications, so residents have to be able to self-medicate.

Mrs. Cheeves responded to Commissioner Phillips that they would consider the option of moving back into this house and using the 9<sup>th</sup> Street address for the personal care home. Mrs. Cheeves stated she only desired clients who were ambulatory.

Commissioner Freeman called the question, but Commissioner Flowers-Taylor had another question. She had compassion for the neighbors' feelings, but she could only hear the fears they were voicing with no actual evidence of these fears coming true. There were no grounds for the contentions heard tonight, but rather she felt they presented worst-case scenarios. This personal care home could prove to be a welcome addition to the neighborhood. They have proven they meet the criteria for the state and even for the more stringent criteria of the County, but these type residents simply need minimal assistance. They are not the more severe cases seen in nursing home facilities. She stated she had to wonder if, with all this show of overwhelming opposition, this group would have wanted a black family in their midst had this been thirty years ago. The audience erupted, and Chairman Goss called for order, as did Commissioner Phillips. Commissioner Flowers-Taylor stated this obviously offended some people, and her point was where does the commission stop listening to the masses dictating what is fair to someone who had demonstrated they meet the criteria imposed and the standards of the law. What can only be surmised is they just don't want it there, because there is nothing evidentiary to show there are associated dangers or problems beyond what already exists in the neighborhood. Emergency vehicles will have no added problems, traffic will not be greatly increased, and no apparent dangers identified relating to the neighborhood children.

***Motion to deny Application #08-11S carried by a vote of 3-1 with Commissioner Flowers-Taylor opposing.***

7. **Amendment to UDO #A-08-07:** Article 7. R-1, Article 8. R-2, Article 10. R-4 and Article 11. R-5 – amend to allow Child Care Placement Facility as a Special Exception use in single family residential districts.

Mr. Taylor said this was a request to amend actual text in the Spalding County Ordinance, and did not pertain to a specific piece of property. This particular application is to gage interest of the Board to allow Child Care Placement Facilities as a Special Exception use in single family residential districts. This is closely linked to what is in the Ordinance currently for personal care homes. Prior to this request, there was no provision for this use in the Ordinance. This issue has the same potential for filling a meeting room as the personal care home issue tonight. This issue would have presented itself sooner or later because the potential is there. This is less of a commercial business issue than personal care homes and more of one's opening up his or her home to take care of children. Planning Commission recommends approval of the text amendment.

Mr. Galloway felt a fair amount of research was needed to ensure the issue was dealt with in a professional manner. He did not feel there was the potential for negative impact from a child care facility that could be experienced with a personal care home. The amendment utilizes some patterning after DHR regulations. Definitions were suggested for incorporation into the ordinance and, treating this similarly to personal care homes, allowing the child care placement facility as a Special Exception

permitted use in the different single family residential districts. Ms. Satonya Payne, who initiated this process, will probably request a child care placement facility which will not require foster parents actually living in the home. Foster Homes are treated as an accessory use to the owners living there. The line of demarcation is the number of children allowed. DHR regulations govern the number of bathroom facilities to the number of children. The Department of Human Resources permits both child caring institutions and foster homes, with the defining difference being the larger number of children in the child care institution.

The foster care home can be an accessory use in residential uses, and the child caring institution for more than six children requires, according to DHR regulations, a house setting but not requiring live-in foster parents. Foster parents are the focal point of a foster home. The number of children allowed is the trigger for requiring the closer scrutiny of a Special Exception application for a child caring institution where there are no live-in foster parents. Should the County see an abundance of these requests, neighborhoods could turn out in force as was seen tonight on the personal care home. Right now, though, the Ordinance is silent on this issue. DHR does encourage that the children, and the elderly, be mainstreamed in traditional neighborhoods.

Satonya Payne, 201 S. Stewart Lane, Griffin, Georgia

The facility would be located in a home in a cul de sac in Will's Walk Subdivision. She has talked with neighboring residents, and they are in support of her effort. A child care facility provides professional services for both physical and emotional needs of the child. Bedrooms are adequate in space and there are 2-1/2 baths (2 upstairs and 1/2 downstairs). The Truitt Cathy house is already permitted in Spalding County on Wildwood Road, licensed as a child care facility. There are 361 such facilities in the state.

The Truitt Cathy home did come before the County several years ago, as well, noted Mr. Galloway. The definition developed at the time Truitt Cathy was permitted is no longer adequate according to DHR regulations, so the text amendment becomes necessary since it was only allowed in AR-1 at that time.

Commissioner Phillips asked about revocation should a facility not remain in compliance. Ms. Payne said there were requirements for inspections from DHR and DHR must be able to have 24-hour access as a matter of right since she receives children from DHR. Their Office of Regulatory Services requires that she adhere to their stringent guidelines. She would do so anyway as she desires to bring a greater level of professionalism and proficiency to the realm of child care. Some discussion followed regarding meeting with Ms. Payne to tweak some aspects of the amendment. Ms. Payne requested consideration of her particular facility, in lieu of tabling, since she has already experienced significant delays and she already paying rent on the facility with no income stream until approved. She has lingered for several months between all the processes required by Spalding County.

Mr. Galloway reminded all this was a text amendment to the Ordinance and Ms. Payne would have to apply for Special Exception once this is approved as written. At that time, the Board could add conditions if they so desired and/or make further changes to the text of the ordinance, as well.

*Motion to approve Amendment to UDO #A-08-07 by Commissioner Flowers-Taylor, seconded by Commissioner Phillips, carried by a vote of 4-0.*

- 8. Amendment to UDO #A-08-08:** Article 12. C-1 Highway Commercial – amend to allow remote control motorized vehicles as a principal use.

Mr. Taylor advised this was another text amendment that is the result of a specific request. This separates spectator uses from other participatory activities, and is the result of an idea for racing bicycles on a BMX track on Highway 19/41. The BMX bicycle activity does not generate a great deal of noise, traffic, etc. and the Board made a text change to accommodate that use. Now comes the idea of racing model cars, bikes, etc. and it presents new challenges to the Ordinance. The Ordinance was structured so as to allow for racing but was limited to electrical models which generate very little noise. The applicant is extremely interested in the nitro models and claims these models also produce very little noise with the smaller cc engines. Mr. Taylor noted limiting the engines to no more than 5 cc's would result in an amendment that would be difficult to enforce since that will require a level of expertise not generally found.

Ricky Conway, 101 Lake Chase Drive, Griffin, Georgia

They have no problem with limiting cc's but realize that would be hard to enforce. Most weed eaters are 12 to 21 cc's, so these vehicles make appreciably less noise. They suggested using the verbiage of non-occupancy vehicles as an adequate limiting definition for this principal use. More discussion followed and Mr. Conway and his associate provided a demonstration in the meeting room whereby they powered up one of the vehicles. Racing of these vehicles will take place at the BMX bike track.

*Motion to approve Amendment to UDO #A-08-08 but remove the 5cc designation restriction and instead insert a size to be determined and include "non-occupancy vehicle" in the text definition by Commissioner Phillips, seconded by Commissioner Freeman, carried 4-0.*

9. **Amendment to UDO #A-08-09:** Article 17A. VN Village Node – Section 1705A:D(3) – amend maximum units per building.

Mr. Taylor advised in the UDO, Spalding County limits the number of units per building, and the maximum number allowed is 16. Minerva proposes to have an apartment component to their Village Node, and the developer is looking to get a maximum of 24 units per building which exceeds current requirements. This will not change the density, but rather will push the fewer buildings together for a smaller footprint. This will apply mainly to the smaller apartment models. Staff sees a real benefit to having the buildings become more compact, which will basically add another 1/3 to what is currently allowed. With this change will come a much higher architectural quality, as well. Mr. Brian Davison said the same number of apartments will exist on the same piece of land but in fewer buildings. For instance, 100 apartments under current requirements would result in six buildings whereas with a 24-unit footprint, 100 apartments would only require four buildings.

*Motion to approve Amendment to UDO #A-08-09 by Commissioner Flowers-Taylor, seconded by Commissioner Freeman, carried by a vote of 4-0.*

10. **Amendment to UDO #A-08-10:** Article 17A. VN Village Node – Section 1705A:A(9) – amend to allow School-elementary, middle, high-public or private.

Mr. Taylor said this amendment simply addressed an oversight. When the Village Node Ordinance was developed, schools pretty much took a backseat. The educational component certainly needs to be a part of the Village Node concept. Minerva has already made application for a charter school to both Griffin-Spalding County School System and the Henry County School System.

*Motion to approve Amendment to UDO #A-08-10 by Commissioner Freeman, seconded by Commissioner Flowers-Taylor, carried by a vote of 4-0.*

11. **Amendment to UDO #A-08-11:** Article 5. AR-1, Agricultural and Residential, Article 6. AR-2 Rural Reserve, Article 7. R-1 Single Family Residential Low Density, Article 8. R-2 Single Family Residential, Article 10. R-4 Single Family Residential, and Article 11. R-5 Single Family Residential – amend to allow mother-in-law suite as a principal use.

Mr. Taylor said mother-in-law suites were becoming increasing popular, and some are attached with a breezeway. The Ordinance does not allow the mother-in-law suite concept which this amendment will rectify. The suite just cannot have its own, separate utility source but must work off the main power supply for utilities, i.e. electric, gas, etc., and is limited to 1000 square feet, which makes it ancillary to the primary residence. After discussion, commissioners desired to add that the mother-in-law suite shall not to exceed more than 60% of the area of the house as an "either-or" condition of the size limitation.

*Motion was made by Commissioner Phillips to approve Amendment to UDO #A-08-11 with the suggested change that, added to the requirement of "the mother-in-law suite as a principal use shall be limited to 1000 square feet, which makes it ancillary to the primary residence", the following shall be stated, "not to exceed 60% of the area of the house." Motion was seconded by Commissioner Freeman, and carried by a vote of 3-1 with Chairman Goss opposing.*

12. **Amendment to UDO #A-08-12:** Article 2. Definitions of Terms Used – Section 203:H' – amend definition of Dwelling, Infill.

Mr. Taylor said ordinance was being written to support a longstanding unwritten policy for the County. The Ordinance is meant to allow houses in existing subdivisions, when they are being constructed on infill lots, to conform to the surrounding dwellings. The minimum front setback would be equal to the average of the two adjacent lots but could be set back further should it be necessary, such as in the case of a septic system installation, etc.

*Motion to approve Amendment to UDO #A-08-12 by Commissioner Phillips, seconded by Commissioner Flowers-Taylor, carried by a vote of 2-1 with Chairman Goss opposing and Commissioner Freeman being temporarily absent from the meeting room.*

- 13. **Amendment to UDO #A-08-13:** Appendix A. Subdivision Ordinance – Article 4 – Section 403:F – amend exception for minor subdivision.

Mr. Taylor said this amendment was designed to help streamline the review process.

*Motion to approve Amendment to UDO #A-08-13 by Commissioner Phillips, seconded by Commissioner Flowers-Taylor, carried by a vote of 4-0.*

**C. Other Business:**

- 1. Consider approval of a concept plan consisting of redesign of the Heron Bay Village Node located on Highway 155.

The site for the charter school is the one component being added to this concept plan that necessitates this redesign and request for approval of a revised concept plan.

*Motion to approve the concept plan consisting of redesign of the Heron Bay Village Node located on Highway 155 by Commissioner Phillips, seconded by Commissioner Freeman, carried by a vote of 4-0.*

- 2. Consider Moratorium on acceptance of rezoning applications to the Village Node District to commence June 27, 2008 and terminate December 31, 2008.

Mr. Galloway said this was a continuation of the Village Node Moratorium with two exceptions: for Allan McCallum at Rover-Zetella and for Minerva on Highway 155. This moratorium needs to be extended with these two exceptions, and by the time this extension expires, the changes will be added to accommodate the Sun City Village Node. Discussion followed.

*Motion to approve the Moratorium on acceptance of rezoning applications to the Village Node District to commence June 27, 2008 and terminate December 31, 2008 by Commissioner Phillips, seconded by Commissioner Freeman, carried 4-0.*

**D. Adjournment.**

*Motion to Adjourn at 11:07 p.m. by Commissioner Freeman, seconded by Commissioner Phillips, carried by a vote of 4-0.*

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Chairman

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County Clerk

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