



**Agenda**  
**Planning Commission - Special Called Meeting**  
**June 6, 2023**  
**6:00 PM**  
**Room 108, Annex Building**  
**119 E. Solomon Street**  
**Griffin, GA 30223**

**A. Call to Order**

**B. Public Hearing**

1. A-23-01: Resolution to Amend UDO, Article II, Definitions of Terms Used to replace Section 202(RRR) – General Definitions – Use, Non-conforming; to Amend UDO, Article II, Definitions of Terms Used to add Section 203(DD') – Housing Definitions – Planned manufactured home community, non-conforming; to Amend UDO, Article IV, General Procedures to replace Section 403, Continuance of Non-conforming Lots, Uses and Structures.
2. A-23-02: Ordinance to Amend the Unified Development Ordinance of Spalding County, Georgia, Article 21 Sensitive Land-Watershed Protection District: Section 2103 – Definitions to amend subsection (E) to define “Perennial Stream;” to Amend Section 2106 – Uses Exempt from S-2 Criteria to add subsection (E) to identify “Master Planned Developments.”
3. A-23-03: Ordinance to Amend the Unified Development Ordinance of Spalding County, Georgia, Article 4, General Procedures; Section 411 – Variances; Section 413 Special Exceptions; Section 413(A)-(G), (H)-(N); Section 414 Amendments to Comply with the requirements of House Bill Section 1405, as codified in Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1, et se
4. A-23-04: Ordinance to Amend the Unified Development Ordinance of Spalding County, Georgia, to amend Appendix D – Spalding County Soil Erosion and Sedimentation Control Ordinance by replacement in its entirety.

**C. Approval of Minutes**

1. Approval of minutes for meeting held on March 28, 2023

**D. Director Comments**

**E. Commissioner Comments**

**F. Adjournment**

**A-23-01: Resolution to Amend UDO, Article II, Definitions of Terms Used to replace Section 202(RRR) – General Definitions – Use, Non-conforming; to Amend UDO, Article II, Definitions of Terms Used to add Section 203(DD') – Housing Definitions – Planned manufactured home community, non-conforming; to Amend UDO, Article IV, General Procedures to replace Section 403, Continuance of Non-conforming Lots, Uses and Structures.**

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Requesting Agency

Spalding County Community Development

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In Compliance with the following Ordinance

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Requirement for Board Action

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Is this Item Goal Related?

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Summary and Background

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Fiscal Impact / Funding Source

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**STAFF RECOMMENDATION**

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**ATTACHMENTS:**

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

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

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

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

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

WHEREAS, the Board of Commissioners of Spalding County, Georgia desires to amend the provisions of the Zoning Ordinance of Spalding County to more authoritatively address its standards and procedures for the continuation of non-conforming uses of land uses and structures in Spalding County;

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

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

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

Section 1. The following provision shall be deleted from the Zoning Ordinance of Spalding County, Georgia: Article 2, Definition of Terms Used, General Definitions, Section 202(RRR).

Section 2. The following provision shall be added to the Zoning Ordinance of Spalding County, Georgia to appear as: Article 2, Definitions of Terms Used, General Definitions, Section 202(RRR):

## **ARTICLE II: DEFINITIONS OF TERMS USED**

### **Section 202: General Definitions**

RRR. *Use, non-conforming:* a lawful lot, structure, or use of land that existed at the time of the adoption of the Zoning Ordinance of Spalding County or at the time of the adoption of an amendment to the Zoning Ordinance, that no longer conforms to the regulations contained therein because of the adoption of the Zoning Ordinance or the adoption of an amendment to the Zoning Ordinance.

Section 3. The following provision shall be added to the Zoning Ordinance of Spalding County, Georgia to appear as: Article 2, Definitions of Terms Used, Housing Definitions, Section 203(DD'):

## **ARTICLE II: DEFINITIONS OF TERMS USED**

### **Section 203: Housing Definitions**

DD'. *Manufactured home community, non-conforming:* A lot used or intended as a residential area occupied by more than one (1) manufactured home where the resident owns or rents the manufactured home and rents the manufactured home space and which manufactured home community is not located in the Multiple Family R-3 zoning district.

Section 4. The following provision shall be deleted from the Zoning Ordinance of Spalding County, Georgia: Article 4, General Procedures, Section 403.

Section 5. The following provision shall be added to the Zoning Ordinance of Spalding County, Georgia to be appear as: Article 4, General Procedures, Section 403:

## **ARTICLE IV: GENERAL PROCEDURES**

### **Section 403: Continuance of Non-Conforming Lots Uses and Structures.**

Invariably, at the time a land use and development control ordinance is adopted or amended, certain uses of land and structures which lawfully existed prior to the adoption or amendment will not conform to the regulations and standards for the districts in which they are located. These are known as non-conforming uses. Nonconforming lots, buildings, structures and uses are incompatible with the provisions of the zoning districts in which they are located. It is the intent of this ordinance that these nonconformities shall not be enlarged upon, expanded, or

extended, except as otherwise permitted in this article, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district. In order to feasibly adopt the Zoning Ordinance and amendments thereto so as not to cause undue economic hardship on owners of non-conforming uses, these uses are allowed to continue under the following conditions:

*A. Non-conforming Lots:*

1. Where a lot of record in existence at the time of adoption or amendment of this ordinance does not meet the minimum requirements for lot width or lot area, the lot of record may be used for any permitted use in the district in which the lot is located, provided that any building or structure constructed on the lot complies with all other requirements for the zoning district. The nonconforming lot may also be used for conditional or special uses, if it meets all applicable requirements of this ordinance for those uses.
2. If two or more vacant lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of that parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this ordinance.

*B. Non-conforming Uses:*

1. A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land or building area than was occupied at the effective date of adoption or amendment of this ordinance.
2. No part of any nonconforming use shall be moved unless that movement eliminates or reduces the nonconformity.
3. If a nonconforming use is abandoned for any reason for a period of more than six months, any subsequent use shall conform to the requirements of this ordinance. A nonconforming use shall be determined to be abandoned if two or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
  - b. The property, buildings, and grounds, have fallen into disrepair;
  - c. Signs or other indications of the existence of the nonconforming use have been removed;

- d. Equipment or fixtures necessary for the operation of the nonconforming use have been removed;
- e. For commercial or industrial uses, no business license or occupational tax has been paid for the operation of a commercial or industrial business for the non-conforming use; or
- e. Other actions which, in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- f. Uses consisting of lots occupied by storage yards, used car lots, auto wrecking, junk yards, golf driving ranges, miniature golf courses and similar open uses, where the only buildings on the property are ancillary to the open use and where the use is nonconforming, shall be subject to the following additional restrictions.
  - i. When a nonconforming use of land has been changed to a conforming use, it shall not be used again for any other nonconforming use.
  - ii. Nonconforming uses of open land shall only be converted to a conforming use.
  - iii. A nonconforming use of open land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
  - iv. When any nonconforming use of open land is discontinued for a period of more than six (6) months, any future use of the land shall be limited to those uses permitted in the zoning district under which the property is governed.
  - v. Vacancy and/or nonuse of the land for a period of more than six (6) months by the owner or tenant shall be deemed to constitute the intent to discontinue the use of open land under this section.

*C. Non-conforming Structures:*

- 1. Where a lawful building or structure exists at the effective date of this ordinance, or an amendment thereto, that does not comply with the requirements of this ordinance because of restrictions such as lot area, lot coverage, width, height, or setbacks, that building or structure may continue to be occupied and used so long as it remains otherwise lawful, subject to the following provisions:
  - a. No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by fifty percent (50%) or less of the distance required by this ordinance.

- b. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

*D. Replacement of Non-conforming uses that are Damaged or Destroyed*

1. Where a non-conforming structure is damaged or destroyed (other than by the deliberate action of the owner or occupant), the structure may be restored to the same or lesser size in the same location.
2. Restoration shall begin within twelve (12) months of damage or destruction and diligently carried to completion.
3. All building materials and architectural details shall conform to the requirements, if any, of the zoning district in which the non-conforming structure is located.
4. A non-conforming use may be resumed in the non-conforming structure and continued as before, or on a lesser scale, but shall not be enlarged or intensified.
5. Unless restoration of the non-conforming structure is initiated and completed as required in this section, the use shall terminate and may not be resumed.
6. Remodeling of the structure shall be permitted so long the non-conforming use is not expanded or enlarged.
7. No provision of this section shall preclude normal repairs and maintenance on any nonconforming building or structure.

*E. Provisions governing a Manufactured Home Community, Non-conforming.*

1. The number of manufactured home spaces shall be limited to the number of spaces identified on the lot map filed documenting each manufactured home community located within Spalding County as of January 1, 2023 or the last filing made for the manufactured home community (whichever occurred later) and shall not be increased.
2. All manufactured homes must be installed in accordance with O.C.G.A § 8-2-160, et. seq..
3. All manufactured homes must comply with the requirements of the Spalding County, Georgia Code, Part VIII, Chapter 2, Unfit Buildings and Structures.
4. No manufactured home shall be placed on any existing manufactured home space without a permit issued by Spalding County. Each permit application shall include:
  - a. A layout and design of the manufactured home space which shall show:
    - i. The location of the manufactured home on the manufactured home space;

- ii. The location of a parking space on the manufactured home space for at least two (2) vehicles, to be delineated by landscaping timbers, pavers or other means and covered with a pervious surface;
  - iii. A landscape plan for each manufactured home space which shall include at least:
    - a. One understory tree (defined in Zoning Ordinance, Appendix L, Section 102(R); and
    - b. at least three (3) shrubs (bushes)(defined in Zoning Ordinance, Appendix L, Section 102(M).
  - iv. An improved open space or deck of a size containing at least 100 square feet for use by the occupants of the manufactured home or their guests.
- b. Proof of payment of all outstanding fees, liens and ad valorem taxes due and owing to Spalding County.
- c. A Certificate of Occupancy will not be issued for a manufactured home to be located on any manufactured home space until the requirements of Section 4 have been satisfied.
- 5. On or before December 31, 2023, the owner of each manufactured home community, non-conforming shall meet with the Zoning Administrator to review the following:
  - a. The general conditions and structural integrity of the manufactured homes presently located within the manufactured home community, non-conforming and their compliance with required housing codes.
  - b. The condition of roads within the manufactured home community, non-conforming and their capability to provide access to emergency services and vehicles.
  - c. Compliance of manufactured homes presently located within the manufactured home community, non-conforming with the Standard Fire Prevention Code and Code for Safety to Life from Fire in Buildings and Structures.
  - d. If the manufactured home community, non-conforming is not served by public water, the design, layout, capacity and source of potable water to serve each manufactured home.
  - e. If the manufactured home community, non-conforming is not served by public sanitary sewer, the design, layout, capacity of any private system, either individual septic tanks or a community or multi-family package plant to provide waste disposal sufficient to serve each manufactured home.



- f. The status and quality of utilities and supporting infrastructure to supply electricity, natural gas, telecommunications/broadband and streetlight/emergency lighting services to the manufactured home community, non-conforming.
  - g. Rules and regulations governing the manufactured home community, non-conforming.
  - h. Any deficiencies in the conditions of the manufactured home community, non-conforming or any individual manufactured home located therein will be identified by the Zoning Administrator who shall issue a Notice of Deficiency to either or both the owner of the manufactured home community, non-conforming or the owner of any individual manufactured home(s) located therein directing the correction of such deficiencies and setting a deadline for the completion and correction thereof. No manufactured home may be placed within the manufactured home community, non-conforming until such time as any deficiency identified in the Notice of Deficiency has been satisfied or corrected.
  - i. On or before June 1, 2024, the Zoning Administrator shall provide a report to the Spalding County Board of Commissioners which details the existing conditions found in each manufactured home community, non-conforming, identifies any Notice of Deficiency issued and reports on the status of the completion and correction of such deficiencies.
  - j. After June 1, 2024, the Zoning Administrator (in his discretion) shall establish a schedule by which the conditions in each manufactured home community, non-conforming shall be reviewed every three (3) years.
- F. Nothing in this Section shall be interpreted as authorization for, or approval of, the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the adoption of this ordinance.

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

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

**A-23-02:Ordinance to Amend the Unified Development Ordinance of Spalding County, Georgia, Article 21 Sensitive Land-Watershed Protection District: Section 2103 – Definitions to amend subsection (E) to define “Perennial Stream;” to Amend Section 2106 – Uses Exempt from S-2 Criteria to add subsection (E) to identify “Master Planned Developments.”**

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In Compliance with the following Ordinance

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Requirement for Board Action

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Is this Item Goal Related?

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Fiscal Impact / Funding Source

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STAFF RECOMMENDATION

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**ATTACHMENTS:**

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RESOLUTION AMENDING  
THE CODE OF ORDINANCES OF SPALDING COUNTY, GEORGIA

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

WHEREAS, the Board of Commissioners of Spalding County have determined that it is in the best interests of the citizens of Spalding County, Georgia for certain amendments to be made to the Spalding County Code of Ordinances;

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Spalding County Code of Ordinances is of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

WHEREAS, the Board of Commissioners of Spalding County, Georgia have determined that discharges into the Spalding County, Georgia separate storm sewer system that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving waters;

WHEREAS, these non-stormwater discharges occur due to spills, dumping and improper connections to the Spalding County, Georgia separate storm sewer system from residential, industrial, commercial or institutional establishments;

WHEREAS, these non-stormwater discharges not only impact waterways individually, but geographically dispersed, small volume non-stormwater discharges can have cumulative impacts on receiving waters, the impacts of which adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;

WHEREAS, these impacts can be minimized through the regulation of spills, dumping and discharges into the Spalding County separate storm sewer system;

WHEREAS, local governments in the State of Georgia are required to comply with a number of State and Federal laws, regulations and permits which require a locality to address the impacts of stormwater runoff quality and nonpoint source pollution due to improper non-stormwater discharges to the Spalding County separate storm sewer system;

WHEREFORE, the Board of Commissioners of Spalding County, Georgia adopts this ordinance to prohibit such non-stormwater discharges to the Spalding County separate storm sewer system. It is determined that the regulation of spills, improper

dumping and discharges to the Spalding County separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.

WHEREAS, it is the intention of the Board of Commissioners of Spalding County, Georgia to fully exercise its power to address such conditions pursuant to the authority granted by it to pursuant to the Georgia Water Quality Control Act, O.C.G.A. § 5-7-20, et seq. and the Federal Clean Water Act, 33 U.S.C. § 1251, et seq. and any and all regulations promulgated pursuant to each; and

WHEREAS, it is the intention of the Board of Commissioners of Spalding County, Georgia to require that all new and existing stormwater point sources are authorized to discharge stormwater into the waters of the State of Georgia only in compliance with the provisions thereof;

NOW THEREFORE, it shall be and is hereby RESOLVED by the Board of Commissioners of Spalding County, Georgia to fully exercise its power to address and eliminate non-stormwater discharges into the Spalding County, Georgia separate storm sewer system that the Spalding County, Georgia Code of Ordinances shall be and is hereby amended, as follows:

Section 1: The following provision shall be deleted from the Spalding County, Georgia Code of Ordinances: “Part VIII, Chapter 4. Illicit Discharge and Connection Stormwater,” Sections 8-4001 through Section 8-4022.

Section 2: The following provision shall be added to the Spalding County Code of Ordinances to appear as: “Part VIII, Chapter 4. Illicit Discharge and Illegal Connection,” Section 8-4001, et seq., as follows:

## PART VIII: PLANNING AND REGULATION OF DEVELOPMENT

### CHAPTER 4. - ILLICIT DISCHARGE AND ILLEGAL CONNECTION

#### **Sec. 8-4001. - Purpose/intent.**

The purpose of this chapter is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the Spalding County separate storm sewer system to the maximum extent practicable as required by Federal law. This chapter establishes methods for controlling the introduction of pollutants into the Spalding County separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are to:

- (1) Regulate the contribution of pollutants to the Spalding County separate storm sewer system by any person;

- (2) Prohibit illicit discharges and illegal connections to the Spalding County separate storm sewer system;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Spalding County separate storm sewer system; and
- (4) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this chapter.

**Sec. 8-4002. - Applicability.**

This provisions of this Chapter shall apply throughout the Spalding County separate storm sewer system unless explicitly exempted by an authorized enforcement agency.

**Sec. 8-4003. - Compatibility with Other Regulations.**

This provisions of this Chapter are not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**Sec. 8-4004. - Definitions.**

- A. *Accidental Discharge* means a discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence.
- B. *Authorized enforcement agency* means Spalding County, its employees or designees who are designated to enforce this chapter.
- C. *Board of Appeals* means the Spalding County Board of Appeals created by the Unified Development Ordinance (Zoning Ordinance) of Spalding County, Georgia, Appendix C.
- D. *Construction Activity* means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- E. *Federal Act* means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

- F. *Illicit connection* is defined as either of the following: (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, (b) b. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- G. *Illicit Discharge* means any direct or indirect non-stormwater discharge to the Spalding County separate storm sewer system, whether continuous or intermittent in occurrence, except as exempted in **Section 8-4008** of this chapter.
- H. *Illegal Connection* means either of the following: (a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or (b) Any pipe, open channel, drain or conveyance connected to the Spalding County separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- I. *Industrial Activity* means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- J. *National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit* means a permit issued by the Georgia EPD under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- K. *Non-Stormwater Discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.
- L. *Person* means, except to the extent exempted from this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

M. *Pollutant* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

N. *Pollution* means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

O. *Premises* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

P. *Spalding County Separate Storm Sewer System or "MS4"* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, Spalding County streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is: (a) Owned or maintained by the County; (b) Not a combined sewer; and (c) Not part of a publicly-owned treatment works.

Q. *State Act* means the Georgia Water Quality Control Act, O.C.G.A. § 5-7-20, et seq.

R. *State Waters* means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single person.

S. *Stormwater pollution prevention plan or SWP3* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater,

stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

- T. *Stormwater Runoff* or *Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.
- U. *Structural Stormwater Control* means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

#### **Sec. 8-4005. - Responsibility for administration.**

Spalding County, its employees and designees, shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon Spalding County may be delegated in writing by the director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

#### **Sec. 8-4006. - Severability.**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

#### **Sec. 8-4007. - Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

#### **Sec. 8-4008. - Discharge prohibitions.**

- A. **Prohibition of Illicit Discharges:** No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Spalding County separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater. The following discharges are exempt from the prohibition provision above:
  - 1. Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated



pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

2. Discharges or flows from firefighting, and other discharges specified in writing by Spalding County as being necessary to protect public health and safety;
3. The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Spalding County separate storm sewer system.

B. Prohibition of Illegal Connections: The construction, connection, use, maintenance or continued existence of any illegal connection to the Spalding County separate storm sewer system is prohibited.

1. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
2. A person violates this chapter if the person connects a line conveying sewage to the Spalding County separate storm sewer system or allows such a connection to continue.
3. Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Spalding County Water and Sewerage Facilities Authority.
4. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from Spalding County requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to Spalding County.

**Sec. 8-4009. - Suspension of MS4 access.**

- A. Suspension due to illicit discharges in emergency situations: Spalding County may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge: Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

**Sec. 8-4010. – Industrial or construction activity discharges**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the community development department prior to allowing discharges to the Spalding County separate storm sewer system.

**Sec. 8-4011. – Access and inspection of properties and facilities.**

Spalding County shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this chapter.

- A. If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the community development department.
- B. The owner or operator shall allow Spalding County ready access to all parts of the premises for the purposes of inspecting, sampling, photographing, videorecording, examining and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.
- C. Spalding County shall have the right to set up on any property or facility such devices as are necessary in the opinion of Spalding County to conduct monitoring and/or sampling of flow discharges.

- D. Spalding County may require the owner or operator to install monitoring equipment, perform monitoring as necessary, and make the monitoring data available to Spalding County.
- E. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- F. Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the community development department and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- G. Unreasonable delays in allowing Spalding County access to a property or facility is a violation of this chapter.
- H. If Spalding County is denied or refused access to any part of the premises from which stormwater is discharged, and Spalding County is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then Spalding County may seek issuance of a search warrant from any court of competent jurisdiction.

I.

**Sec. 8-4012. - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

Spalding County will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the county storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the county separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWP3) as necessary for compliance with requirements of the NPDES permit.

#### **Sec. 8-4013. - Notification of discharges and spills**

- A. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Spalding County separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- B. Said person shall notify Spalding County in person or by phone, facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to Spalding County within three (3) business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
- C. In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
- D. Failure to provide notification of a release as provided above is a violation of this chapter.

#### **Sec. 8-4014. – Violations, enforcement, and penalties.**

- A. Violations: It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, Spalding County is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Spalding County is authorized to seek costs of the abatement as outlined in **Sec. 8-4017.**
- B. Notice of Violation: Whenever Spalding County finds that a violation of this chapter has occurred, it shall issue a written notice of violation and order compliance with the requirements of this Chapter.

1. The notice of violation shall contain:
  - a. The name and address of the alleged violator;
  - b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
  - c. A statement specifying the nature of the violation;
  - d. A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;
  - e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
  - f. A statement that the determination of violation may be appealed to the Spalding County by filing a written notice of appeal within thirty (30) days of service of notice of violation.
2. Such notice may require without limitation:
  - (a) The performance of monitoring, analyses, and reporting;
  - (b) The elimination of illicit discharges and illegal connections;
  - (c) That violating discharges, practices, or operations shall cease and desist;
  - (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (e) Payment of costs to cover administrative and abatement costs; and
  - (f) The implementation of pollution prevention practices.

**Sec. 8-4015. – Appeal of notice of violation.**

Any person receiving a Notice of Violation may appeal the determination of Spalding County. The Notice of Appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the Board of Appeals shall take place within 15 days from the date of receipt of the Notice of Appeal. The decision of the Board of Appeals shall be final.

**Sec. 8-4016. – Enforcement measures after appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of the decision of the Board of Appeals upholding the decision Spalding County, then representatives of Spalding County may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow Spalding County or its designated contractor to enter upon the premises for the purposes set forth above.

**Sec. 8-4017. – Costs of abatement of the violation.**

Within fifteen (15) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within ten (10) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this chapter shall become liable to Spalding County by reason of such violation.

**Sec. 8-4018. - Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. If a person has violated or continues to violate the provisions of this Chapter, Spalding County may petition the superior court for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Sec. 8-4019. - Compensatory action.**

- A. Civil Penalties. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as Spalding County shall deem appropriate, after Spalding County has taken one or more of the actions described above, Spalding County may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the Notice of Violation.
- B. Criminal Penalties. For intentional and flagrant violations of this Chapter, the Spalding County may issue a citation to the alleged violator requiring such person to appear in the Magistrate Court of Spalding County, Georgia to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**Sec. 8-4020. - Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance and may be abated by injunctive or other equitable relief as provided by law.

**Sec. 8-4021. - Remedies not exclusive.**

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable Federal, State or local law, and Spalding County may seek cumulative remedies. Spalding County may recover attorney's fees, court costs, and other expenses associated with enforcement of this chapter, including sampling, monitoring, and investigative expenses.

**A-23-03:Ordinance to Amend the Unified Development Ordinance of Spalding County, Georgia, Article 4, General Procedures; Section 411 – Variances; Section 413 Special Exceptions; Section 413(A)-(G), (H)-(N); Section 414 Amendments to Comply with the requirements of House Bill Section 1405, as codified in Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1, et se**

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Requesting Agency  
Spalding County Community Development

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In Compliance with the following Ordinance

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Requirement for Board Action

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Is this Item Goal Related?

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Summary and Background

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Fiscal Impact / Funding Source

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**STAFF RECOMMENDATION**

**ATTACHMENTS:**

[sp.zpl.amendment.v3.6.2.23.docx](#)



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

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

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

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

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

WHEREAS, the Board of Commissioners of Spalding County, Georgia desires to amend the provisions of the Zoning Ordinance of Spalding County to comply with recently enacted legislation governing zoning procedures, enacted by the Georgia Legislature in House Bill 1405 and currently codified at O.C.G.A. § 36-66-1, et seq.;

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

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

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

Section 1. The following provision shall be deleted from the Zoning Ordinance of Spalding County, Georgia: Article 4, General Procedures, Section 411.

Section 2. The following provision shall be added to the Zoning Ordinance of Spalding County, Georgia to appear as: Article 4, General Procedures, Section 411:

## **ARTICLE 4. – GENERAL PROCEDURES**

### **Sec. 411. – Variances.**

A. **Definition:** A variance is a permit, issued by the Board of Commissioners or the Board of Appeals, which allows use of a parcel of land in a way that varies from the requirements for the district in which the property is located.

B. **Criteria for Approval:** A variance may be granted only:

1. In an individual, specific case under such circumstances as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this ordinance will result in practical difficulty (as distinguished from mere inconvenience) or unnecessary hardship so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done.
2. A variance may not be granted for the use of a parcel, building or structure that is prohibited by this ordinance.
3. A variance may be granted only for permitted or accessory uses allowed in the zoning district in which the property in question is located.
4. A variance may not be granted based on circumstances created by the applicant, such as:
  - a. The purchase of a parcel with knowledge of an existing restriction;
  - b. A claim of hardship based on prospective sales; or
  - c. An expressed economic need, when such need can be met in other ways which would not require a variance.

C. **Required Findings to support granting a variance:** A variance may be granted if it is determined that:

1. There are extraordinary and exceptional conditions pertaining to the particular parcel because of its size, shape, location and topography;
2. Application of this ordinance to the particular parcel would create a practical difficulty or unnecessary hardship on the property owner;

3. Such conditions are peculiar and unique to the particular parcel;
4. The variance, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance;
5. A literal interpretation of this ordinance would deprive the applicant of any rights that others owning property within the same zoning classification are allowed;
6. The variance, if granted, shall not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties within the same zoning classification;
7. The variance may be granted with such conditions imposed as may be necessary to protect the health, safety, welfare and general value of the property in the general neighborhood;
8. Granting the variance shall not be based on consideration of any existing nonconforming uses on nearby parcels and no permitted use of any parcel in any other zoning classification.
9. Relief from the hardship by virtue of granting the must not cause substantial detriment to the public good or impair the purposes of this ordinance.
10. When a variance is granted, the spirit of this ordinance must be observed and the public safety and welfare secured.

**D. General Variance Procedures:**

1. The developer or owner shall make a written application to request approval of a variance pursuant to the Administrative Officer [Director, Spalding County Community Development Department] and pursuant to such forms and required documentation as may be required.
2. The developer or owner making application for a variance must have at least fifty-one (51) percent ownership of the subject property or be the duly authorized agent of such a person, possessing notarized authorization in writing, under the owner's signature.
3. No application is to be accepted from any person in violation of the zoning ordinance. If an applicant for a variance is, at the time of application, determined by the Administrative Officer to be in violation of the zoning ordinance, the Administrative Officer shall not accept or process any application from that applicant until the applicant voluntarily removes or changes the cause of the violation and ceases to be in violation. The applicant must notify the Administrative Officer that the violation has ceased and after review by the Administrative Officer been released from the violation.

4. When the applicant has ceased to be in violation of this ordinance, the Administrative Officer will accept the variance application and transmit it to the appropriate board for its consideration.

**E. Variance Procedures before the Board of Commissioners:** When an application for a variance is received which is concurrent with and in conjunction with an amendment to the zoning ordinance to rezone property from one zoning classification to another, a special exception application or both, the Administrative Officer shall consolidate the variance application with them for hearing. The consolidated applications shall be considered pursuant to the Amendment procedure required in Section 414.

**F. Variance Procedures before the Board of Appeals:**

1. When an application for a variance is received which is not concurrent with and in conjunction with an amendment to the zoning ordinance to rezone property from one zoning classification to another, a special exception application or both, the Administrative Officer shall transmit the variance application to the Board of Appeals for consideration.
2. The Board of Appeals will set a time and place for a public hearing on the variance. Notice of the hearing must be published in a newspaper of general circulation in Spalding County at least thirty (30) days before the hearing. The notice will state the application number, owner's name, property location, its area, time, place and subject of the hearing.
3. At least thirty (30) days before the public hearing, notice of the time, place, and subject of the hearing will be sent to the applicant, appellant or petitioner in writing by U.S. Mail to his last known address. Copies of all such letters will be maintained in the applicant's file.
4. At least thirty (30) days before the public hearing, notice of the time, place and subject of the hearing will be sent to the owner of the property which is the subject of the application.
5. The Board of Appeals will make a decision concerning the variance and record the decision in the minutes for that meeting.
6. The Board of Appeals may impose any other conditions which must be complied with by the applicant to compensate for the requirements from which the variance is granted.
7. The Board of Appeals may require the applicant to post a performance bond to assure compliance with any requirements and/or conditions imposed to grant a variance.
8. Where a variance is granted for a construction activity requiring a building permit, the building permit must be obtained and construction must begin within six (6) months of the issuance of the variance. Otherwise, the variance expires after six (6) months.

**G. Appeals.** Any decision of the Board of Appeals to approve or deny a variance shall be deemed to be a quasi-judicial decision subject to appellate review by the Superior Court of Spalding County which shall be brought by a petition for review pursuant to O.C.G.A. Title 5, Chapter 3, the Superior and State Court Appellate Practice Act within thirty (30) days of the challenged or appealed action.

Section 3. The following provisions shall be deleted from the Zoning Ordinance of Spalding County, Georgia: Article 4, General Procedures, Section 413(A – G) and (H-N).

Section 4. The following provisions shall be added to the Zoning Ordinance of Spalding County, Georgia to appear as: Article 4, General Procedures, Section 413(A-G):

## **ARTICLE 4. – GENERAL PROCEDURES**

### **Sec. 413. – Special Exceptions.**

A. **Definition:** Some zoning districts permit certain uses only upon approval of the Board of Commissioners or Board of Appeals. These uses are identified in this ordinance as special exceptions and in each case carry specific circumstances under which the use should or should not be allowed.

#### **B. Criteria for Approval:**

1. A special exception may not be granted for the use of a parcel, building or structure that is prohibited by this ordinance.
2. A special exception may be granted only for permitted or accessory uses allowed in the zoning district in which the property in question is located.

#### **C. Required Findings:** A special exception may be granted only:

1. It must not be detrimental to the use or development of adjacent properties, or to the general neighborhood;
2. It must not adversely affect the health or safety of residents or workers;
3. It must not be that any possible depreciating effects and damages to the neighboring properties are greater than the benefits or need for the special exception;
4. It must not adversely affect existing uses;
5. It must be proposed to be placed on a lot of sufficient size to satisfy the space requirements of the use; and
6. It must meet all other requirements of this ordinance.

#### **D. General Special Exception Procedures:**

1. The developer or owner shall make a written application to request approval of a special exception pursuant to the Administrative Officer [Director, Spalding County Community Development Department] and pursuant to such forms and required documentation as may be required.
2. The developer or owner making application for a special exception must have at least fifty-one (51) percent ownership of the subject property or be the duly authorized agent of such a person, possessing notarized authorization in writing, under the owner's signature.
3. No application is to be accepted from any person in violation of the zoning ordinance. If an applicant for a special exception is, at the time of application, determined by the Administrative Officer to be in violation of the zoning ordinance, the Administrative Officer shall not accept or process any application from that applicant until the applicant voluntarily removes or changes the cause of the violation and ceases to be in violation. The applicant must notify the Administrative Officer that the violation has ceased and after review by the Administrative Officer been released from the violation.
4. When the applicant has ceased to be in violation of this ordinance, the Administrative Officer will accept the special exception application and transmit it to the appropriate board for its consideration.

E. **Special Exception Procedures before the Board of Commissioners:** When an application for a special exception is received which is concurrent with and in conjunction with an amendment to the zoning ordinance to rezone property from one zoning classification to another, a variance application or both, the Administrative Officer shall consolidate the special exception application with them for hearing. The consolidated applications shall be considered pursuant to the Amendment procedure required in Section 414.

F. **Variance Procedures before the Board of Appeals:**

1. When an application for a special exception is received which is not concurrent with and in conjunction with an amendment to the zoning ordinance to rezone property from one zoning classification to another, a variance or both, the Administrative Officer shall transmit the variance application to the Board of Appeals for consideration.
2. The Board of Appeals will set a time and place for a public hearing on the special exception. Notice of the hearing must be published in a newspaper of general circulation in Spalding County at least thirty (30) days before the hearing. The notice will state the application number, owner's name, property location, its area, time, place and subject of the hearing.
3. At least thirty (30) days before the public hearing, notice of the time, place, and subject of the hearing will be sent to the applicant, appellant or petitioner in writing by U.S. Mail to his last known address. Copies of all such letters will be maintained in the applicant's file.

4. At least thirty (30) days before the public hearing, notice of the time, place and subject of the hearing will be sent to the owner of the property which is the subject of the application.
5. The Board of Appeals will make a decision concerning the special exception and record the decision in the minutes for that meeting.
6. The Board of Appeals may impose any other conditions for approval of the special exception with which the applicant must comply to ensure the special exception use is compatible with the requirements of the zoning district in which the use is located.
7. The Board of Appeals may require the applicant to post a performance bond to assure compliance with any requirements and/or conditions imposed to grant a special exception.
8. Where a special exception is granted for a construction activity requiring a building permit, the building permit must be obtained and construction must begin within six (6) months of the issuance of the variance. Otherwise, the variance expires after six (6) months.

G. **Appeals.** Any decision of the Board of Appeals to approve or deny a special exception shall be deemed to be a quasi-judicial decision subject to appellate review by the Superior Court of Spalding County which shall be brought by a petition for review pursuant to O.C.G.A. Title 5, Chapter 3, the Superior and State Court Appellate Practice Act within thirty (30) days of the challenged or appealed action.

Section 5. The following provisions shall be deleted from the Zoning Ordinance of Spalding County, Georgia: Article 4, General Procedures, Section 414.

Section 6. The following provisions shall be added to the Zoning Ordinance of Spalding County, Georgia to appear as: Article 4, General Procedures, Section 414:

#### **ARTICLE 4. – GENERAL PROCEDURES**

##### **Sec. 414. – Amendments.**

A. **Definition:** An amendment means the following, upon approval by the Board of Commissioners:

1. An application initiated by a developer, landowner, member of the Board of Commissioners or member of the Planning Commission that seeks an amendment to official zoning map which changes the zoning district which is to be applied to a parcel or tract of land, such application may concurrent with and in conjunction with an application for a special exception and/or an application for a variance. The terms amendment to the official zoning map and rezoning application are synonymous;

2. An application to initiated by a developer, landowner, member of the Board of Commissioners or member of the Planning Commission which seeks to amend the text of this Ordinance.

**B. Application for Amendment to the Official Zoning Map.**

1. **Criteria for Approval:** An application for amendment to the official zoning map will be considered pursuant to the following criteria:
  - a. The existing uses and zoning of nearby property;
  - b. The suitability of the property for the proposed purpose;
  - c. The length of time the property has been vacant;
  - d. The threat to the public health, safety, and welfare if rezoned;
  - e. The extent to which the value of the property is diminished by the present zoning;
  - f. The balance between the hardship on the property owner and the benefit to the public if the application for rezoning is denied;
  - g. Whether the development of the property if the rezoning application is approved would do any of the following:
    - i. Have an adverse effect on the insurance rating of the county, or any substantial portion of the county, issued by the insurance service office or similar rating agency;
    - ii. Overtax any streets presently existing to serve the site, or other public facilities and utilities;
    - iii. Have a substantial adverse impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality, and water quality and quantity.
2. **Required Findings to Support Approval of an Amendment to the Official Zoning Map.** In considering whether an application for amendment to the official zoning map should be approved, Board of Commissioners must find that the benefit to the public of continued application of the present zoning classification applied to the property is outweighed by the detriment thereof to the property owner, assessed in light of the character of the land in question, the effect of the zoning decision upon the property owner's rights and whether approval of the proposed amendment is necessary to promote the public health, safety, or general welfare.



### **3. Required Procedures for an Amendment to the Official Zoning Map.**

- a. The developer or owner requesting an amendment of the official zoning map must have at least fifty-one (51) percent ownership of the subject property or be the duly authorized agent of such a person, possessing notarized authorization in writing under the owner's signature. This requirement shall not apply to an amendment of the official zoning map proposed by the Board of Commissioners or Planning Commission.
- b. No application is to be accepted from any person regarding any property that is in violation of the zoning ordinance. If the applicant or property which is the subject of an application for amendment to the official zoning map at the time of application is determined by the Administrative Officer to be in violation of the zoning ordinance, the Administrative Officer shall not accept or process any application from that applicant until the applicant voluntarily removes or changes the cause of the violation and ceases to be in violation. The applicant must notify the Administrative Officer that the violation has ceased and obtain a release from the Administrative Officer as to the violation. When the applicant has ceased to be in violation of the zoning ordinance, the Administrative Officer will then accept the application for amendment to the official zoning map.
- c. The Administrative Officer shall review the application for amendment of the official map to determine whether it is consistent with and complies with the requirements of the future land use map contained within the Spalding County Comprehensive Plan.
- d. In the event the request for amendment to the official zoning map is not consistent with and does not comply with the future land use map contained within the Spalding County Comprehensive Plan, a separate application for amendment to the future land use map shall be required.
- e. The application for amendment to the future land use map shall be considered simultaneously with the request for an amendment to the official zoning map.
- f. The request for amendment to the future land use map must be approved prior to consideration of the application for amendment to the official zoning map.
- g. The Administrative Officer will transmit the application for amendment to the official zoning map and (if required) the application for amendment to the future land use map along with any concurrent special exception or variance application to the Planning Commission for consideration.

### **4. Procedures before the Planning Commission.**

- a. All applications for amendment to the official zoning map and any concurrent special exception application and/or variance application must first be reviewed by the Planning Commission.
- b. The Planning Commission will conduct an unofficial public hearing at its option on any proposed application for amendment to the official zoning map.
- c. The Administrative Officer must post a sign at least two (2) feet by three (3) feet in size in a conspicuous place on the property at least fifteen (15) days but not more than forty-five (45) days prior to the date of the scheduled public hearing. The sign must set forth the fact that it is a "ZONING NOTICE". It must show the present zoning classification, the proposed zoning classification, the purpose, date, time, and place of the scheduled public hearing, and it must inform the public that additional information may be obtained from the administrative officer.
- d. Notice of the hearing must be published in a newspaper of general circulation in Spalding County at least fifteen (15) days but not more than forty-five (45) days before the hearing. The location of the property, present zoning classification and proposed zoning classification must be indicated in the newspaper notice.
- e. Notice of the hearing shall be provided by United States mail to the owners of each and every parcel abutting the property which is the subject of the proposed amendment; such notice shall be deemed delivered upon mailing.
- f. The Administrative Officer will review the proposed application for amendment to the official zoning map and make written recommendations to the Planning Commission.
- g. The Planning Commission will study the proposed amendment to the official zoning map (along with any concurrent special exception application and/or variance application) to determine whether it meets the requirements of this ordinance, as well as other applicable ordinances of Spalding County.
- h. Written comments on the subject of the hearing may be submitted by any citizen or property owner at any time prior to the adjournment of the hearing.
- i. Neither the amount of public participation nor expression of popular opposition to a proposal shall be a valid consideration in formulating a recommendation on the merits of the proposal.
- j. The public hearing before the Planning Commission will be continued one (1) time at the request of the applicant. Any request for an additional continuance rests in the sound discretion of the Chairman of the Planning Commission.

- k. The minutes of the Planning Commission will constitute the written record of its findings along with its recommendations on the proposed amendment to the official zoning map (along with any concurrent special exception application or variance application).
- l. The Planning Commission will forward a copy of its findings and recommendations to the Board of Commissioners within thirty (30) days of the date of the hearing it conducted on the proposed application for amendment to the official zoning map. If the Planning Commission fails to send its findings and recommendations to the Board of Commissioners within thirty (30) days, the Planning Commission will be deemed to recommend approval of the proposed application for amendment to the official zoning map.

## **5. Procedures before the Board of Commissioners.**

- a. All applications for amendment to the official zoning map and any concurrent special exception application and/or variance application must be reviewed by the Board of Commissioners.
- b. The Board of Commissioners must conduct a public hearing on the application for amendment to the official zoning map and any concurrent special exception application or variance application.
- c. Notice of the hearing must be published in a newspaper of general circulation in Spalding County at least fifteen (15) days but not more than forty-five (45) days before the hearing. The location of the property, present zoning classification, and proposed zoning classification must be indicated in the newspaper notice.
- d. Notice of the hearing shall be provided by United States mail to the owners of each and every parcel abutting the property which is the subject of the proposed amendment, such notice shall be deemed delivered upon mailing.
- e. The public hearing before the Board of Commissioners may be continued twice by action of the Board of Commissioners.
- f. The applicant or property owner shall be entitled to continue the consideration of the application for amendment to the official zoning map to the next Board of Commissioners hearing date once, as a matter of right.
- g. The applicant or property owner shall also be entitled to continue the consideration of the application for amendment to the official zoning map to the next Board of Commissioners hearing date in the event the hearing date on which the application is heard is attended by less than all members of the

Board of Commissioners, provided such application has not been previously continued.

- h. Should the applicant or property owner desire to any additional continuance of the public hearing before the Board of Commissioners, the applicant or property owner shall be required to submit a written request at least 48 hours prior to the scheduled date of hearing to continue to the Administrative Officer giving specific reasons as to why the public hearing should be continued. In such event, the continuation of the application from the public hearing is at the sole discretion of the Board of Commissioners.
- i. The following policies and procedures will be observed in conducting the required public hearing before the Board of Commissioners:
  - i. The hearing will be held in the Spalding County Courthouse annex.
  - ii. Written comments on the application for amendment to the official zoning map which is the subject of the hearing may be submitted by any citizen or property owner at any time prior to the adjournment of the hearing.
    - a. Persons desiring to be heard orally may present their views at the hearing. The length of time of oral presentations permitted to each speaker will be determined by the chairman of the Board of Commissioners and will depend upon the number of persons present and desiring to speak. Personal remarks will not be tolerated.
    - b. Any person desiring a transcript of the hearing must arrange for a court reporter at their own expense.
    - c. Cross-examination of persons making oral presentations will not be permitted.
    - d. All questions will be addressed to the chairman of the Board of Commissioners.
- j. After reviewing the record of the public hearing, considering the recommendations of the Administrative Official, the Planning Commission and applying the criteria set forth in section 414(B), the Board of Commissioners may approve or deny the requested amendment to the official zoning map and any concurrent special exception application or variance application, reduce the land area for which the amendment is requested, change the district or land use category requested, or impose conditions which may restrict the use or development of the property in a manner not otherwise required by this zoning ordinance.

6. Any conditions imposed by the Board of Commissioners shall be incorporated into this zoning ordinance and shall become a part of the official zoning map, whether or not actually entered upon the official zoning map.
7. If the board of commissioners deny a proposed amendment, a minimum period of twelve (12) months must pass before the same amendment proposal is again submitted for consideration.
8. **Appeals.** Any decision of the Board of Commissioners to approve or deny an application for an amendment to the official zoning map shall be deemed to be a legislative action subject to de novo review by the Superior Court of Spalding County which shall be brought by a petition for review pursuant to O.C.G.A. Title 9, Chapter 4 governing declaratory judgments or O.C.G.A. Title 23 governing equity jurisdiction.

**C. Application for a Text Amendment to the Zoning Ordinance.**

1. **Criteria for Approval/Required Findings to Support Approval of a Text Amendment to the Zoning Ordinance.** In considering whether an application for a text amendment to the zoning ordinance should be approved, Board of Commissioners must find that the proposed amendment is necessary to promote the public health, safety, or general welfare.
2. **Required Procedures for an Amendment to the Official Zoning Map.**
  - a. The developer, landowner, member of the Board of Commissioners or member of the Planning Commission may request a text amendment to the zoning ordinance in writing. The Administrative Office will prepare the application when the request is from a member of the Board of Commissioners or member of the Planning Commission
  - b. The Administrative Officer will transmit the application for a text amendment to the zoning ordinance map to the Planning Commission for consideration.
3. **Procedures before the Planning Commission.**
  - a. All applications requesting a text amendment to the official zoning ordinance must first be reviewed by the Planning Commission.
  - b. The Planning Commission will conduct an unofficial public hearing at its option on any proposed text amendment to the official zoning ordinance.
  - c. Notice of the hearing must be published in a newspaper of general circulation in Spalding County at least fifteen (15) days but not more than forty-five (45) days before the hearing. The description of the proposed text amendment to the official zoning ordinance must be indicated in the newspaper notice.

- d. The Administrative Officer will review the proposed text amendment to the official zoning ordinance and make written recommendations to the Planning Commission.
- e. The Planning Commission will study the proposed text amendment to the official zoning ordinance to determine whether it is necessary to promote the public health, safety, or general welfare.
- f. Written comments on the subject of the proposed text amendment to the official zoning ordinance may be submitted by any citizen or property owner at any time prior to the adjournment of the hearing.
- g. The public hearing before the Planning Commission on the proposed text amendment to the official zoning ordinance may be continued in the sound discretion of the Chairman of the Planning Commission.
- h. The minutes of the Planning Commission will constitute the written record of its findings along with its recommendations on the proposed text amendment to the official zoning ordinance.
- i. The Planning Commission will forward a copy of its findings and recommendations to the Board of Commissioners within thirty (30) days of the date of the hearing it conducted on the proposed text amendment to the official zoning ordinance.

##### **5. Procedures before the Board of Commissioners.**

- a. The Board of Commissioners will conduct the official public hearing at its option on any proposed text amendment to the official zoning ordinance.
- b. Notice of the hearing must be published in a newspaper of general circulation in Spalding County at least fifteen (15) days but not more than forty-five (45) days before the hearing. The description of the proposed text amendment to the official zoning ordinance must be indicated in the newspaper notice.
- c. The public hearing before the Board of Commissioners on the proposed text amendment to the official zoning ordinance may be continued in the sound discretion of the Chairman of the Board of Commissioners.
- d. The following policies and procedures will be observed in conducting the required public hearing before the Board of Commissioners:
  - i. The hearing will be held in the Spalding County Courthouse annex.
  - ii. Written comments on the application for the text amendment to the official zoning map which is the subject of the hearing may be submitted

by any citizen or property owner at any time prior to the adjournment of the hearing.

iii.

Persons desiring to be heard orally may present their views at the hearing. The length of time of oral presentations permitted to each speaker will be determined by the chairman of the Board of Commissioners and will depend upon the number of persons present and desiring to speak. Personal remarks will not be tolerated.

iv. Any person desiring a transcript of the hearing must arrange for a court reporter at their own expense.

v. Cross-examination of persons making oral presentations will not be permitted.

vi. All questions will be addressed to the Chairman of the Board of Commissioners.

- e. After reviewing the record of the public hearing, considering the recommendations of the Administrative Official, the Planning Commission and determining whether the proposed text amendment to the official zoning ordinance is necessary to promote the public health, safety, or general welfare the Board of Commissioners may approve or deny the requested text amendment to the official zoning ordinance.
6. If the Board of Commissioners denies a proposed text amendment to the official zoning map, a minimum period of twelve (12) months must pass before the same text amendment may be submitted again for consideration.
7. **Appeals.** Any decision of the Board of Commissioners to approve or deny an application for a text amendment to the official zoning ordinance shall be deemed to be a legislative action subject to de novo review by the Superior Court of Spalding County which shall be brought by a petition for review pursuant to O.C.G.A. Title 9, Chapter 4 governing declaratory judgments or O.C.G.A. Title 23 governing equity jurisdiction.

**A-23-04-Ordinance to Amend the Unified Development Ordinance of Spalding County, Georgia, to amend Appendix D – Spalding County Soil Erosion and Sedimentation Control Ordinance by replacement in its entirety.**

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Requesting Agency

Spalding County Community Development

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In Compliance with the following Ordinance

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Requirement for Board Action

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Is this Item Goal Related?

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Summary and Background

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Fiscal Impact / Funding Source

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STAFF RECOMMENDATION

**ATTACHMENTS:**

[sp.2023.soil.erosion.sedimentation.ord.v4.5.30.23.doc](#)



RESOLUTION AMENDING  
THE CODE OF ORDINANCES OF SPALDING COUNTY, GEORGIA

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

WHEREAS, the Board of Commissioners of Spalding County have determined that it is in the best interests of the citizens of Spalding County, Georgia for certain amendments to be made to the Spalding County Code of Ordinances;

WHEREAS, it is deemed by the Board of Commissioners of Spalding County, Georgia that an amendment to the Spalding County Code of Ordinances is of substantial benefit to the public and in the promotion of the best interests and general welfare of the people;

WHEREAS, Spalding County, Georgia desires to protect the environment and state waters to promote the health, safety and welfare of its citizens;

WHEREAS, the failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses;

WHEREAS, it is the policy of the State of Georgia to strengthen and extend the present erosion and sediment control activities and programs to provide for the establishment and implementation of a state-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of this state;

WHEREAS, Spalding County, Georgia desires to effectively contain soil erosion and sedimentation on parcels on which the land is being disturbed;

WHEREAS, Spalding County, Georgia desires to required provisions for water disposal and the protection of soil surfaces prior to, during and after land is disturbed;

WHEREAS, Spalding County, Georgia is authorized by the Erosion and Sedimentation Act, O.C.G.A. § 12-7-1, et seq. to adopt a comprehensive ordinance establishing the procedures governing land-disturbing activities which are conducted within its;

WHEREAS, Spalding County, Georgia's ordinance to establish procedures governing land-disturbing activities shall be consistent with the standards set forth in the Erosion and Sedimentation Act; and

WHEREAS, where it deems appropriate, Spalding County, Georgia may integrate such the provisions its ordinance governing land-disturbing activities with other ordinances relating to land development including but not limited to tree protection, flood plain protection, stream buffers, or storm-water management; and the properties to which any of the types of ordinances identified in this Code section shall apply;

WHEREAS, it is the intention of the Board of Commissioners or Spalding County, Georgia to fully exercise its power to address such conditions pursuant to the authority granted by it to O.C.G.A. § 12-7-4;

NOW THEREFORE, it shall be and is hereby RESOLVED by the Board of Commissioners of Spalding County, Georgia to fully exercise its power to address and eliminate non-stormwater discharges into the Spalding County, Georgia separate storm sewer system that the Spalding County, Georgia Code of Ordinances shall be and is hereby amended, as follows:

Section 1: The following provision shall be added to the Spalding County Code of Ordinances to appear as: “Part VIII, Chapter 3. Soil Erosion, Sedimentation and Pollution Control,” Section 8-3001, et seq., as follows:

## **PART VIII: PLANNING AND REGULATION OF DEVELOPMENT**

### **CHAPTER 3: SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL**

#### **Section 8-3001. Title and Purpose.**

- A. Title: This chapter will be known as the Spalding County Soil Erosion, Sedimentation, and Pollution Control Ordinance.
- B. Purpose: The purpose of this chapter is to effectively contain soil erosion and sedimentation on the parcels where land is being disturbed by requiring provisions for water disposal and the protection of soil surfaces prior to, during, and after the land disturbance, to protect the environment and state waters and to promote the safety, public health, convenience, and general welfare of the citizens of Spalding County.

#### **Section 8-3002. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated:

- A. *Best Management Practices (BMPs)*: A collection of structural and non-structural practices and measures which, when properly designed, installed, and maintained, prevent and minimize erosion, pollution, and sedimentation. These include sound conservation and engineering practices that are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia.

- B. *Board*: The Board of Natural Resources.
- C. *Buffer*: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitats.
- D. *Certified Personnel*: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission (GSWCC).
- E. *Commission*: The Georgia Soil and Water Conservation Commission.
- F. *CPESC*: Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
- G. *Cut*: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.
- H. *Department*: The Georgia Department of Natural Resources (DNR).
- I. *Design Professional*: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
- J. *Director*: The Director of the Environmental Protection Division or an authorized representative.
- K. *District*: The Towaliga Soil and Water Conservation District.
- L. *Division*: The Environmental Protection Division (EPD) of the Department of Natural Resources.
- M. *Drainage Structure*: A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.
- N. *Ephemeral Stream*: A stream that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year-round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow.
- O. *Erosion*: The process by which land surface is worn away by the action of wind, water, ice, or gravity.

- P. *Erosion, Sedimentation, and Pollution Control Plan*: A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum, protections at least as stringent as the State General Permit, best management practices, and requirements in Section 8-3004(c) of this Chapter, referred to herein as the "Plan" or "Plans".
- Q. *Fill*: A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
- R. *Final Stabilization*: All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by the Georgia Environmental Protection Division for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.
- S. *Finished Grade*: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
- T. *Grading*: Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
- U. *Ground Elevation*: The original elevation of the ground surface prior to cutting or filling.
- V. *Land-Disturbing Activity*: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 8-3003(e).
- W. *Larger Common Plan of Development or Sale*: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
- X. *Local Issuing Authority*: Spalding County, which is certified pursuant to O.C.G.A. § 12-7-8(a).

- Y. *Manual*: the “Manual for Erosion and Sedimentation Control in Georgia.
- Z. *Metropolitan River Protection Act (MRPA)*: A state law referenced as O.C.G.A. § 12-5-440, et. seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
- AA. *Natural ground surface*: The ground surface in its original state before any grading, excavating, or filling.
- BB. *Nephelometric Turbidity Units (NTU)*: Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed particles are present.
- CC. *NOI*: A Notice of Intent, completed, executed, and submitted using the form provided by the Georgia Environmental Protection Division for coverage under the State General Permit.
- DD. *NOT*: A Notice of Termination, completed, executed, and submitted using the form provided by the Georgia Environmental Protection Division to terminate coverage under the State General Permit when NPDES termination conditions have been met.
- EE. *NPDES*: National Pollution Discharge Elimination System.
- FF. *Operator*: The party or parties that have: (a) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (b) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.
- GG. *Outfall*: The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water
- HH. *Permit*: The authorization necessary to conduct a land-disturbing activity under the provisions of this chapter.
- II. *Person*: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

- JJ. *Phase or Phased:* Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
- KK. *Project:* The entire proposed development project regardless of the size of the area of land to be disturbed.
- LL. *Properly Designed:* Designed in accordance with the design requirements and specifications contained in the Manual published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
- MM. *Roadway Drainage Structure:* A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
- NN. *Sediment:* Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.
- OO. *Sedimentation:* The process by which eroded material is transported and deposited by the action of water, wind, ice, or gravity.
- PP. *Soil and Water Conservation District Approved Plan:* An erosion, sedimentation, and pollution control plan approved in writing by the Towaliga Soil and Water Conservation District.
- QQ. *Stabilization:* The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
- RR. *State General Permit:* The National Pollution Discharge Elimination System general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. § Section 1251, et. seq., and O.C.G.A. § 12-5-30(f).
- SS. *State Waters:* Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which

are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

TT. *Structural Erosion, Sedimentation, and Pollution Control Practices:* Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

UU. *Trout Streams:* All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

VV. *Vegetative Erosion and Sedimentation Control Measures:* Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the *Manual*.

WW. *Watercourse:* Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

XX. *Wetlands:* Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

### **Section 8-3003. Exemptions.**

This chapter shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- A. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968";
- B. Granite quarrying and land clearing for such quarrying;
- C. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities, which result in minor soil erosion;
- D. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Sections 8-3004 paragraphs (a), (b), and (c), O.C.G.A. § 12-7-6, and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to O.C.G.A. § 12-5-20 et seq. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the Director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The general provision and minimum requirements of Section 8-3004(a) and the minimum requirements of Section 8-3004 paragraphs (b) and (c), O.C.G.A. § 12-7-6(b), and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;
- E. Agricultural operations as defined in O.C.G.A. § 1-3-3 to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- F. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities



otherwise prohibited in a buffer, as established in Section 8-3004(c) paragraphs (14) and (15) of this chapter, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;

- G. Any project carried out under the active technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture; this excludes those land-disturbing activities undertaken by a person who has requested technical advice only rather than active participation from the Natural Resources Conservation Service;
- H. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located. The provisions of this paragraph shall not prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs (a) through (g), (i), and (j) of this Section;
- I. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Georgia Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Georgia Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the Georgia Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a Notice of Intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
- J. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation

or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

K. Any public water system reservoir.

**Section 8-3004. Minimum requirements for erosion, sedimentation, and pollution control using best management practices; obligations of Spalding County.**

- A. General provisions: Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of this chapter and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this chapter shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the Erosion, Sedimentation and Pollution Control Plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section 8-3004 paragraphs (b) and (c). The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this chapter and the NPDES General Permit.
- B. Obligations of the local Issuing Authority Spalding County to comply with minimum requirements:
1. Spalding County, as a Local Issuing Authority, must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
  2. Any land-disturbing activities by Spalding County shall be subject to the same requirements of this Chapter, and any other chapter relating to land development, as are applied to private persons. The Division shall enforce such requirements upon Spalding County.
  3. The District or the Commission (or both) shall semi-annually review the actions of Spalding County pursuant to O.C.G.A. § 12-7-8 (a). The District or the Commission or both may provide technical assistance to Spalding County for the purpose of improving the effectiveness Spalding County's erosion, sedimentation and pollution control program. The District or the Commission shall notify the

Division and request investigation by the Division if any deficient or ineffective local program is found.

4. The Division may periodically review the actions of Spalding County, as a Local Issuing Authority pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of Spalding County's ordinance and review of conformance with an agreement, if any, between the District and the governing authority. If such review indicates that Spalding County has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the Division shall notify Spalding County in writing. Spalding County shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If Spalding County does not take necessary corrective action within 90 days after notification by the Division, the Division shall revoke the certification of Spalding County as a Local Issuing Authority.

C. Minimum Requirements/Best Management Practices (BMPs).

1. Best Management Practices as set forth in Section 8-3004 paragraphs (b) and (c) shall be required for all land-disturbing activities. Proper design, installation, and maintenance of Best Management Practices shall constitute a complete defense to any action by the Director of the Division or to any other allegation of noncompliance with subsection (2) of this paragraph or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the Manual specified in O.C.G.A. § 12-7-6(b).
2. Each discharge of stormwater runoff from disturbed areas where Best Management Practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by the Local Issuing Authority or of any state general permit issued by the Division pursuant to O.C.G.A. § 12-5-30(f) for each day on which such discharge exceeds the general (non-numeric) water quality criteria in the receiving waters according to the Georgia Rules and Regulations for Water Quality Control (Chapter 391-3-6-.03(5)(a) – (e)). This subsection shall not apply to any land disturbance associated with the construction of single-family homes, which are not part of a larger common plan of development or sale, unless the planned disturbance for such construction is equal to or greater than five (5) acres.
3. Failure to properly design, install, or maintain Best Management Practices shall constitute a violation of any land disturbance permit issued by the Local Issuing Authority or of any state general permit issued by the Division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such failure occurs.

4. The Director may require, in accordance with regulations adopted by the Georgia Board of Natural Resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
  5. The Local Issuing Authority may set more stringent buffer requirements than stated in **Section 8-3004(c) subparts (15), (16), and (17)** in light of O.C.G.A. § 12-7-6(c).
- D. Additional Minimum Requirements. Pursuant to O.C.G.A. § 12-7-1 et. seq., land-disturbing activities require, as a minimum, protections at least as stringent as the state general permit; and Best Management Practices, including sound conservative and engineering practices observed by all land disturbers and plan preparers to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
1. Stripping of vegetation, regarding and other development activities shall be conducted in a manner so as to minimize erosion;
  2. Cut-fill operations must be kept to a minimum;
  3. Development plans shall conform to topography and soil type so as to create the lowest practicable erosion potential;
  4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
  6. Disturbed soil shall be stabilized as quickly as practicable;
  7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development; the disturbed area shall be stabilized with temporary vegetation or mulch if land-disturbing activity temporarily ceases for more than fourteen (14) calendar days;
    - (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable; the disturbed area shall be stabilized with permanent vegetation if land-disturbing activity ceases for more than 30 calendar days;
    - (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area

is stabilized when it is brought to a condition of continuous compliance with the requirements of this chapter and O.C.G.A. § 12-7-1, et. seq.;

- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (11) Cuts and fill may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion, sedimentation, and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 8-3004(b);
- (15) Except as provided in subsection (16) of this paragraph, there is established a twenty-five (25) foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director of the Division determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director of the Division pursuant to O.C.G.A. § 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. Unless exempted as along an ephemeral stream, the buffers of at least twenty-five (25) feet established pursuant to O.C.G.A. § 12-5-440 shall remain in force unless a variance is granted by the Director of the Division as provided in this subsection. The following requirements shall apply to any such buffer:
  - a. No land-disturbing activities shall be conducted within a buffer, and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed.
  - b. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family

residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

- c. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

- i. Stream crossings for water lines; and
- ii. Stream crossings for sewer lines.

- 16. There is established a fifty (50) foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to O.C.G.A. § 12-5-20 et seq., except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five (25) foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Georgia Board of Natural Resources, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director of Division may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed.
- b. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative

cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

- c. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

- a. Stream crossings for water lines; and
- b. Stream crossings for sewer lines.

- E. Nothing contained in O.C.G.A. § 12-7-1 et. seq. shall prevent the Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 8-3004 paragraphs (b) and (c).

#### **Section 8-3005. Application/permit process.**

- A. General: The property owner, developer, and designated planners and engineers shall develop the general development plans and detailed plans considering the tract to be developed and the area surrounding it, for review by the Local Issuing Authority. They shall review this chapter and other ordinances, regulations, or permits applicable to the development of land within the jurisdictional boundaries of Spalding County. However, the operator is the only party who may obtain a land disturbance permit.

- B. Application requirements:

- 1. Land Disturbance Permit Required. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Spalding County without first obtaining a land disturbance permit from the Spalding County Community Development Office, its successor, or designee to perform such activity and providing a copy of the Notice of Intent submitted to the Division, if applicable. If land is to be disturbed or developed in phases, then a separate land disturbance permit shall be required for each phase.
- 2. Application Submittal. The application for a permit shall be submitted to the Spalding County Community Development Office, its successor, or designee, and must include the applicant's Erosion, Sedimentation, and Pollution Control Plans accompanied by supporting data as necessary. Said Plans shall include, as a minimum, the data specified in Section 8-3004 paragraphs (b) and (c). Erosion, Sedimentation, and Pollution Control Plans, together with supporting data, shall demonstrate affirmatively that the land-disturbing activity proposed will be carried out in such a manner the provisions of Section 8-3004 paragraphs (b) and (c) will be

met. Applications for a permit will not be accepted unless accompanied by **three (3) full sets** of the applicant's Erosion, Sedimentation, and Pollution Control Plans. All applications shall contain a certification stating that the Plan preparer or the designee thereof visited the site prior to creation of the Plan in accordance with the Georgia Environmental Protection Division, Georgia Rules and Regulations Rule 391-3-7-.10.

3. Fees. All applicable fees shall be paid prior to issuance of the land disturbance permit.
  - a. **Local Issuing Authority fee.** A land disturbance permit fee, in an amount as established in a fee schedule approved by the Spalding County Board of Commissioners, shall be charged for each acre or fraction thereof in the project area, in addition to the required State fee.
  - b. **State fee.** In addition to the Local Issuing Authority fees, **State fees shall also be assessed as applicable** pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed eighty dollars (\$80.00) per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a), half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17 paragraphs (9) or (10) shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.

#### C. Review process:

1. District review. Immediately upon receipt of an application and Erosion, Sedimentation, and Pollution Control Plans for a land disturbance permit, the Local Issuing Authority shall refer the application and Plans to the District for its review and approval or disapproval concerning the adequacy of the Plans. The District shall approve or disapprove a Plan submittal within thirty-five (35) days of receipt. Failure of the District to act within thirty-five (35) days shall be considered a District approval of the proposed Plans. The results of the District review shall be forwarded to the Local Issuing Authority. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the Plans without referring the application and Plans to the District.
2. Local Issuing Authority review. The Local Issuing Authority shall approve or disapprove a land disturbance permit submittal within forty-five **(45) days of receipt** of the application, Plans, and supporting materials.



- a. No land disturbance permit will be issued unless the Erosion, Sedimentation, and Pollution Control Plans have been approved by the District or Local Issuing Authority with plan review authority; any variances required by Section 8-3004(c) subsections (15) and (16) have been obtained; all fees have been paid; all ordinances, rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met; and bonding, if required as per Section 8-3006(d), have been obtained. The permit shall include conditions under which the activity may be undertaken. If the permit is denied, the reason for denial shall be furnished to the applicant.
  - b. If a permit applicant has had two (2) or more violations of previous permits, this chapter, or the Erosion and Sedimentation Act, as amended, within three (3) years prior to the date of filing of the application under consideration, the Local Issuing Authority may deny the permit application, in light of O.C.G.A. § 12-7-7(f)(1).
  - c. **Resubmittals.** With each resubmittal of the Erosion, Sedimentation, and Pollution Control Plans, the review process starts again, and additional fees may be required as defined in the current fee schedule.
- D. **Bonding.** The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. **These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.**
- E. **Permit Suspension, Revocation, or Modification.** A land disturbance permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or the holder's successor in the title is not in compliance with the approved Erosion, Sedimentation, and Pollution Control Plan or that the holder or the holder's successor in title is in violation of this Chapter. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

#### **Section 8-3006. Plan requirements.**

- A. **Minimum requirements.** Plans must be prepared to meet the minimum requirements as contained in Section 8-3004 paragraphs (b) and (c), or through the use of more stringent,

alternate design criteria which conform to sound conservation and engineering practices. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual, which is hereby incorporated by reference into this Chapter. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances or regulations and State laws.

**B. Data requirements.**

1. Data shall include all information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted.
2. Maps, drawings, and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Georgia Soil and Water Conservation Commission and in consultation with the Environmental Protection Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.

**Section 8-3007. Inspections and Responsibilities.**

- A. The Spalding County Community Development Office, its successor or designee will periodically inspect the sites of land-disturbing activities for which land disturbance permits have been issued to determine if the activities are being conducted in accordance with the approved Plan and if the measures required in the Plan are effective in controlling erosion and sedimentation.
- B. The Local Issuing Authority shall regulate primary, secondary, and tertiary permittees as such terms are defined in the state general permit.
  1. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities.
  2. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities.
  3. Tertiary permittees shall be responsible for installation and maintenance of best management practices where the tertiary permittee is conducting land-disturbing activities.

- C. Spalding County shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this Chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- E. Construction site operators (permittees) shall implement and maintain site erosion, sedimentation, and pollution control best management practices, including control of waste such as discarded building materials, concrete truck washout, paint wash water, machinery leakage, chemicals, litter, and sanitary waste at the construction site that may cause adverse water quality impacts.

#### **Section 8-3008. Enforcement, Penalties, and Incentives.**

- A. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved Plan, with permit conditions, or with the provisions of this Chapter, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter.
- B. If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.
- C. Stop-Work Order.
  - 1. For the first and second violations of the provisions of this Chapter, the Director of the Division or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;

2. For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop-work order shall be issued by the Local Issuing Authority or by the Director or his or her designee. All such stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop-work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
5. Bond Forfeiture:
  - a. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved Plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 8-3006(d). The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
  - b. Monetary Penalties: Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this Chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day. For the purpose of enforcing the provisions of this Chapter and notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, the Magistrate Court of Spalding County shall be authorized to impose a penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

### **Section 8-3009. Administrative Appeal, Judicial Review.**

- A. Administrative Remedies: The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved Erosion, Sedimentation, and Pollution Control Plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance or regulation; shall entitle the person submitting the plan or holding the permit to a hearing before the Spalding County Board of Appeals? within sixty (60) days after receipt by the Local Issuing Authority of written notice of appeal.
- B. Judicial Review: Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Spalding County.

### **Section 8-3010. Education and Certification.**

- A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.
- B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
- D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. § 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. § 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

### **Section 8-3011. Effectivity, Validity and Liability.**

- A. Effective date: This ordinance shall become effective upon enactment by the Spalding County Board of Commissioners.
- B. Validity: If any section, paragraph, clause, phrase, or provision of this Chapter shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this chapter.
- C. Liability:
  - 1. Neither the approval of a plan under the provisions of this Chapter, nor the compliance with provisions of this Chapter shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
  - 2. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this chapter or the terms of the permit.
  - 3. No provision of this Chapter shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, as amended; the Georgia Water Quality Control Act, as amended; or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.



**PLANNING COMMISSION**

**Approval of minutes for meeting held on March  
28,2023**

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**Requesting Agency**

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**In Compliance with the following Ordinance**

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**Requirement for Board Action**

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**Is this Item Goal Related?**

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**Summary and Background**

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**Fiscal Impact / Funding Source**

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**STAFF RECOMMENDATION**

**ATTACHMENTS:**

[Meeting\\_Minutes\\_3-28-2023.docx](#)

**SPALDING COUNTY PLANNING COMMISSION**  
**Regular Meeting Minutes**  
**March 28,2023**

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The Spalding County Planning Commission held its regular monthly meeting on March 28, 2023, scheduled for 6:00 p.m. in Room 108 of the Spalding County Courthouse Annex. Members present were John Youmans, Bruce Ballard, MaryLouise Upshaw, Frank Harris. Nick Allen was absent.

Also present were Dr. Steve Ledbetter, County Manager; Eva Morales, Planner I, Susan Ellington, Planning Technician and Newton Galloway, Zoning Attorney

Mr. Youmans called the meeting to order at 6:02 p.m. and invited those who might wish to speak on any of the applications to come forward and sign the request form.

**I. Call to Order Note:**

The following information was read during the meeting:

Mr. Youmans requested that cell phones be silenced, and the Planning Commission proceed with the meeting.

**II. Public Hearing**

**Lift from Table Application 23-03Z:** 715 W W Hall LLC, Owner, 4 Sixth St (Approximately 9.66 acres located in Land Lot 207 of the 2<sup>nd</sup> Land District). The applicant is requesting a rezoning to be removed from the Mill Village Overlay. This application was tabled during the Regular Meeting held on February 28,2023.

***Motion/Second by / to lift application 23-03Z from the table; carried 4-0***

**STAFF RECOMMENDS CONDITIONAL APPROVAL** with the following conditions:

- A. Uses on the property, as zoned, C-2 shall be limited to retail tire sales, tire distribution and brokerage;
- B. Tires on the property shall not be repurposed, retread or shredded on site;
- C. All tires on site shall be maintained inside of buildings; no outside tire storage will be permitted;
- D. Rezoning shall be conditioned upon the site plan entitled: "A New Development for Marshall Lucas," dated August 2, 2022, provided that prior to consideration of this Application by the Board of Commissioners:
  - 1. The site plan shall be revised to delete the driveway on the property along the eastern and northern boundaries, currently shown on the site plan as located parallel to 6th Street and Park Avenue and
  - 2. The site plan shall be revised to show a designated truck parking area for use of trucks that are on site for the business operation.
- E. The site plan shall be revised to provide for the removal of asphalt located on the property that fronts along Park Ave to substantially reduce the existing impervious surface area which shall be replaced by a landscaped buffer.
- F. The new tire store (to be constructed in the area designated as "new sales office" on the site plan) shall be constructed to appear as shown on the "Proposed Retail Building for VT Tire," prepared by John Knight Architect, October 28, 2022;
- G. All ingress and egress to the property shall be shown on the site plan from a new entrance to be constructed at the intersection of Rehoboth Road and 6th Street;
- H. All existing buildings shall be brought up to a condition to comply with all applicable building and development codes before a Certificate of Occupancy or business license shall issue;



- I. A construction/renovation plan which identifies the activities required for the buildings shall be prepared prior to consideration of this application by the Board of Commissioners, and it shall set forth a timeline with benchmarks by which required construction and renovation shall be completed;
- J. A 10' landscaped buffer shall be planted along the property boundary and Park Avenue;
- K. A landscaped entry and sign subject to approval of the County shall be erected at the "Main Customer Entry" shown on the site plan.

**Gwendolyn Lucas, 1954 Sandtown Southwest Atlanta, GA** was present to represent VT Tires and answer any questions the commissioners would.

Mr. Youmans stated that there was a lengthy list of conditions and asked the applicant if they had time to review those conditions and asked if they were ok with all the conditions. Ms. Lucas stated that she had reviewed the conditions and if ok with all the proposed conditions.

Ms. Lucas stated that she met with commission Flowers-Taylor and stated the commission Flowers-Taylor had added conditions. The commissioners suggested to add privacy trees on the side that fronts of Park Avenue and to break up the concrete in that area to create a green space. Ms. Lucas stated that the map that was submitted was not up to date as it showed entrances that are no longer in use. Commissioner Flowers-Taylor asked for an updated site plan to be prepared before the April 17<sup>th</sup> Board of Commissioners meeting, that will reflect the green space and the different phases of the development.

Mr. Harris stated that his concern is the having heavy traffic within the Mill Village Overlay and he would like to make sure that applicant understands that all traffic needs to be not be within the residential roads within the Mill Village Overlay.

Mr. Ballard stated that the discussions in the last meeting were covered and met by the applicant, and it sounds like they're trying to do what was requested by staff and the commissioners.

Mr. Youmans stated that this is an opportunity to clean up the property and restore the building. He certainly does not believe that there will not be anybody that would like to come in with a bulldozer and clean up the site to build a residential property as it would be costly. Mr. Youmans asked Mr. Galloway that if the applicant follows through with the conditions that the property will be removed from the overlay. Mr. Galloway stated that the request was to remove that property from the overlay, however by having it in the overlay to begin with, has given control to be able to direct and participate on the proposed development of the property. Mr. Galloway also stated most of the conditions will be tied to her site plan and timeline. He also stated that the applicant has also agreed to submit a construction/renovation plan, explaining what work would be done in phase and providing a timeline for construction. Their certificate of occupancy will also be tied to that timeframe.

Mr. Harris stated that he got in touch with the Department of Natural Resources and stated that at the previous meeting Ms. Lucas had a permit to transport tires but does not have a permit to store tires, Mr. Harris asked the applicant of that had change. Ms. Lucas stated that they do not have a permit to store tires because they are listed as a tire merchant and wholesaler, and they only have a permit to carry to scrap tires for the companies that they pick up from. Mr. Harris stated that if they do not have a permit to store tires, how is the applicant going to store tires in the building. Ms. Lucas stated that they will not be storing tires as Georgia Department of Transportation will not let you store tires for a certain period. The tires in the building are being pushed out to retail companies before the period expires.

***Motion/Second by Ms. Upshaw/ Mr. Ballard to approve application 23-03Z with staff conditions; carried by a vote of 4-0.***

**Application 23-05MSP:** Consider the approval of the Master Site Plan for Cherokee Auto Sales, Inc., located at 4287 N Expressway. The applicant is proposing a car dealership, this property is currently zoned C-2, Manufacturing

**STAFF RECOMMENDS CONDITIONAL APPROVAL** with the following conditions:

- A. Variance approval to reduce landscape buffer from the required 60-feet. UDO Section 2211D(O)(1)(2)
- B. Completion of remodel of building and parking requirements shall be completed within four (4) months of approval from the Board of Commissioners

**Amy Farrell Pitts, 546 Sowell Road McDonough, GA**

Ms. Pitts stated that she would be representing Cherokee Auto Sales. Cherokee Auto has been operating since 2007 with an operating location on Acworth, Georgia and would like to have their second location in Spalding County. Ms. Pitts explained that the lot is not big but it's functional with their business. She also stated they would renovate the building to follow the North Expressway Improvement District Overlay requirements. She also informed the board that she is part of Georgia's Dealer Association and there are certain laws and regulations enforced by the state and the Association that they would have to follow. Ms. Pitts also stated that she would like to become a role model to the dealership around the area. She informed the board that they would also repave the parking lot once the weather got warmer.

Mr. Youmans asked the applicant if the primary ingress and egress into the property would be from the convenience store, or would it be on Wood Road? As Wood Road needs improvement. Ms. Pitts stated that there is an easement on the property so it will prevent their clients from going through the gas station to reach their business and Wood Road would be their point of exit.

Mr. Youmans asked if there will be someone that will stay at the building full time, to which Ms. Pitts stated that there would be an attendee there during operating hours. Mr. Youmans asked if there would be a restroom within the building for the attendees and customers. Ms. Pitts stated that a restroom will eventually be put in place as they are being renovated in stages. She also informed the commissioners that they would still need to get approval from the state after they get approval from the county. Mr. Youmans also asked if the cars that are currently on the lot belong to Cherokee Auto Sales, to which Ms. Pitts stated that those cars belonged to the previous dealership. Ms. Pitts further stated that the cars that they would be selling would range from \$10,000 to \$40,000 dollars. She also asked the commissioners to give her the opportunity to show them that she will be making the entrance way to Spalding County 10 times better than what it is now.

Mr. Harris made a comment about the current color of the building and suggested a more neutral color. Ms. Pitts stated that they will change the color and make the location more inviting.

Ms. Upshaw asked about the request to reduce the 60-foot landscape buffer stated in the staff report. Ms. Pitts stated that the lot is very narrow and there is already a fence line there as it sits. She also stated that GDOT advised them that if they've been maintaining the lot the way it currently sits, then the fence line can stay the same. She will still landscape with bushes and trees and replace the fencing.

Mr. Ballard asked if they would also lease the second property on the building, to which Ms. Pitts stated that they are looking to lease in the upcoming months.

Mr. Youmans stated that he real concern would be the location of the septic tank. The property owner, Mr. Hendrix, stated that the secondary building has a small bathroom with a large septic system already in place, and all they would is tie into the preexisting septic system.

Mr. Ballard stated they would like to have no more issues on the Northern side of the county and expect that the applicant makes the lot look better. He also asked about how many cars are located at their other location, to which Ms. Pitts stated there are about 120 cars in their other location.

Mr. Youmans asked if they will have an issue meeting the deadline of 4 months for the remodel of the building and parking requirements. Ms. Pitts stated that there shouldn't be any issue to meet that deadline.

***Motion/Second by Mr. Ballard/Ms. Upshaw to approve application 23-05 MSP with staff conditions; carried 4-1, with Mr. Harris in opposition.***

### **III. Minutes:**

Consider the Approval of minutes for the Planning Commission meeting held on February 28, 2023

***Motion/Second by Mr. Ballard/ Ms. Upshaw to approve minutes of the meeting held on February 28, 2023; carried by a vote of 4-0***

### **IV. Commissioners Comments:**

Mr. Ballard Glad to have another successful meeting and not quite as contentious as the last few meetings.

Mr. Youmans stated that he would defer his comments to Ms. Upshaw, as he asked if she could give the commissioners a short bio of her career.

Ms. Upshaw stated that her family used to drive through Griffin on their way to get to her mother's hometown. She stated that Sun City was the reason why she relocated to Sun City. Before that she was living in Brookhaven and wouldn't want to be part of the City of Atlanta traffic. She stated that she landed a position as a member of the association of certified land planners through the American Planning Association. She worked for a developer for 8 years and later joined Fulton County and became a senior planner there and eventually made it to assistant director in Fulton County Community Development.

Mr. Youmans asked the county manager is there has been any improvement in the hiring process for code enforcement. Dr. Ledbetter stated that they are, and more information will be released soon. Mr. Youmans stated that he noticed a good number of code violations within the North Expressway area.

Dr. Ledbetter informed the commission that the City of Sunny Side has been declared a Historic Sunny Side Community, effective January 1, 2024. He stated that although we're going to lose one of our longstanding cities, it will allow the county to enforce code in that area.

Dr. Ledbetter also informed that there will be an increased weight for tractor trailers, which will impact the county's roads. The bill has been passed on to the Senate for their consideration, which will put the weight around 90,000 pounds on the roads. Spalding County is part of the Atlanta Regional Commission and the Atlanta Regional Area were included to be excluded from the weight limit. He asked that the

commissioners reach out to the legislator and let them know that Spalding County be included as part of the Atlanta Regional Commission, so we are not impacted by the weight. The staff recommendation will start pushing the boards to consider what impact these developments will have on our roads, in light of this new legislation.

Mr. Youmans asked Dr. Ledbetter if the proposed upgrades to the intersection of Countyline Road and 4 lane are final? Dr. Ledbetter stated that the project is a GDOT project, the county had input but it was very limited. Mr. Youmans stated that he travels that road on a daily basis and those do not see the new design being effective and the new upgrades would cause more problems.

**V. Adjournment**

Chairman concluded the meeting by the sound of the gavel at 6:50

***Motion/Second by Mr. Harris/Mr. Ballard; carried by a vote of 4-0***

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John Youmans

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Eva Morales