

**After
Agenda**

**Board of Commissioners of Spalding County
Zoning Public Hearing
Thursday, September 25, 2014
6:00 PM
Meeting Room 108, Courthouse Annex**

The Spalding County Board of Commissioners held their Zoning Public Hearing in Room 108 of the Courthouse Annex, Thursday, September 25, 2014, beginning at 6:00 p.m. with Vice Chairman Raymond Ray presiding. Commissioners Rita Johnson, Gwen Flowers-Taylor and Bart Miller were present. Chairman Samuel Gardner was absent. Also present were County Manager, William P. Wilson, Jr., Zoning Attorney Newton Galloway, Director of Community Development, Chad Jacobs, and Kathy Gibson, Executive Secretary to record the minutes.

- I. OPENING (CALL TO ORDER) – Vice Chairman Raymond Ray**
- II. CITIZEN COMMENT**

Note: Persons desiring to speak must sign in for the appropriate application. When called, speakers must state their names and addresses and direct all comments to the Board only. Speakers will be allotted three (3) minutes to speak on their chosen topics and relate to matters pertinent to the jurisdiction of the Board of the Commissioners. No questions will be asked by any of the commissioners during citizen comments. Outbursts from the audience will not be tolerated. Common courtesy and civility are expected at all times during the meeting.

III. NEW BUSINESS:

- 1. Application #14-06S: Robert K. Howell and Leslie N. Hinton Howell, Owner, 368 Hill View Road (1 acre located in Land Lot 117 of the 3rd Land District) - requesting a Home Occupation, General, excluding public garage, repair garage and kennel in the AR-1 District.

Chad Jacobs, Director of Community Development, stated that this is a request for a home occupation. This is similar to requests we have had in the past for a one chair type salon; however, this is not a hair salon, or nail salon, this individual provides beauty services along the line of facials and make-up tips. The building has been inspected by both the Building Official and Fire Marshal. This is a matter where the owner is requesting to get the special exception at this time, but is not yet ready to move forward with the business license.

The business will be conducted in the basement area of the home, there is ample parking to the rear of the home and there is access to the basement through its own entrance. The building official has recommended certain guidelines that they will have to adhere to and a building permit will have to be

pulled in order to make these changes. All of the changes will have to be signed off on prior to issuance of a business license.

Staff recommends conditional approval as it does satisfy all requirements specified in Section 202LL, we do recommend that all revisions to the home occupation shall comply with the applicable building code, be inspected and approved prior to business license issuance. At the regular scheduled meeting in August, the Planning Commission also recommended conditional approval under the same conditions by a vote of 5-0.

Motion/Second by Miller/Flowers-Taylor to approve Application #14-06S: for Robert K. Howell and Leslie N. Hinton Howell, Owner, 368 Hill View Road (1 acre located in Land Lot 117 of the 3rd Land District) - requesting a Home Occupation, General, excluding public garage, repair garage and kennel in the AR-1 District with the recommended staff conditions. Motion carried unanimously by all.

2. Application #14-03Z: Duana Smith, Owner - 1553 and 1555 Williamson Road (0.68 acre located in Land Lot 109 of the 2nd Land District) - requesting a rezoning from R-3, Multiple Family, and O & I, Office and Institutional, to C-1, Highway Commercial.

Mr. Jacobs advised that this is the property that used to be occupied by the Elder Law Firm who vacated the building and moved to Peachtree City. The property owner has been approached by a potential renter who would like to open a hair salon at this location. This property was rezoned in 1998 to O&I and this zoning is for offices and a very select kind of retail businesses, thus the need to rezone.

In reviewing the application, staff recommended to Ms. Smith that the location be rezoned to C-1, the property meets all of the requirements for this type of zoning. Staff recommends the rezoning as will not increase the threat to public safety or welfare beyond acceptable measures and this zoning is consistent with the future land use map which has this property planned as commercial. The Planning Commission, at their regular scheduled meeting in August, also recommended approval by a vote of 5-0.

Commissioner Flowers-Taylor asked if the C-1 Highway included something that could have outside storage.

Mr. Jacobs stated no outside storage is allowed in C-1 Highway only the retail/service industry and this property is a smaller tract which will limit itself to a degree and will limit the types of uses for the property.

Commissioner Flowers-Taylor then inquired as to appropriate parking to accommodate the business.

Mr. Jacob advised that there was ample parking to support the businesses in that area.

Motion/Second by Johnson/Miller to approve Application #14-03Z: Duana Smith, Owner - 1553 and 1555 Williamson Road (0.68 acre located in Land Lot 109 of the 2nd Land District) - requesting a rezoning from R-3, Multiple Family, and O & I, Office and Institutional, to C-1, Highway Commercial. Motion carried unanimously by all.

3. Amendment #FLA-14-02: Cecil O. and Dorothy S. McAdams have requested a future land use map change from Low Density Residential and Open Space Network to Agriculture for the following: 1649 Carver Road (3.03 acres), 1663 Carver Road (2.06 acres) and 1725 Carver Road (86.532 acres) located in Land Lot 86 of the 2nd Land District.

Mr. Jacobs asked that Items 3, 4, 5, and 6 be discussed at the same time and that they be voted on individually. Mr. Jacobs advised that the request for the change to the future land use map amendment and the three rezoning requests are almost identical to the request made by Mr. Tommy Addis that the Board voted on several months ago.

Mr. Jacobs advised that McAdams is now coming before you with a request to amend the future land use map from low density residential and open space network to agricultural and requesting that the three individual properties be rezoned from R1 to for the purposes of having horses on the property.

Mr. Jacobs asked that before the board moves forward the board should note that there are two issues falling into these applications. One the applications can directly address and the other the zoning does not completely address. The horses is the issue that we are addressing with respect to the land use and zoning aspect, but the other issue in play is the conservation tax designation for the property. Mr. Jacobs advised that part of the recent push for rezoning has been to accommodate the conservation tax designation for these properties and has been a significant part of the discussion surrounding the property and zoning currently before the board; however this matter cannot be addressed by the board as it is a tax matter that has to be addressed by another department.

Mr. Jacobs stated that in review of the applications as submitted, the staff recommends denial in all four of these items for the following reasons:

- From a land use standpoint the area has been planned for service delivery to support a certain amount of residential development that had started and then stalled due to the economy, but we are beginning to see a resurgence in residential development throughout the county.
- As mentioned at the previous requests regarding this area, some of the subdivisions that have been zoned and are currently in the area:

Raventree, Huntington South and Stonebriar. These subdivisions are primarily road frontage lots containing approximately two acres, but would fall under the qualifications for a low density residential subdivision.

- There is infrastructure in place in the area in the form of two schools, an elementary school and a middle school which were placed in the area due to the planning process to service the potential growth for the area. Additional planning for fire and police protection have also been included in the land use map.

Staff recommends denial based on the land use map and the policy shift that would start should these applications be approved.

Spoke in favor of Items 3, 4, 5 and 6:

Mr. Tommy Addis, 1833 Carver Road, stated that the he appreciated the board helping his family out several months ago and that this request is basically the same thing. He stated that he didn't understand the future land use map and its purpose. He stated that he didn't understand what the designation of residential or agricultural had to do with the current property owners. If the property were to sell to a developer, then the developer could come back in and have the property rezoned to residential. The current owner is using the property for agriculture. They are growing and baling hay on the property, they have trees on the property and they currently have a horse that has been on the property for several years. The property has not been developed and all the current owners are asking is that the property be returned to the original zoning of agricultural.

Mr. Addis further stated that the biggest problem that most of the original owners of the larger parcels of land is having is in regard to the conservation tax break on the property. Mr. Addis stated that he had talked with Joe Maddox in the Tax Assessors office and Mr. Maddox stated that if you don't have an agricultural zoning you cannot get into the conservation program. Mr. Addis agreed with Chad, this is what is driving everyone trying to get their property changed back to an agricultural designation so that they can continue under the conservation tax break for their property. Property owners with smaller plots of land the conservation tax does not affect like the ones who are holding around a hundred acres of land that has been in their family for generations.

Mr. Jacobs then advised that the Planning Commission recommendation at their regularly scheduled meeting also recommended denial on the future land use map which carried by a vote of 4-1 and due to that denial it rendered the remaining zoning items moot.

Mr. Jacobs advised that one of the other items before the board is an initial step toward accommodating the request for horses in residential neighborhoods; however, this does nothing to address the CUVA element. If

the amendment is approved for the R1 and R2 zonings, this will accommodate the horses and we will not have to go the AR1 route. This is the first step toward looking at a more urban/agricultural type of ordinances to accommodate the organic type food plots with a smaller community based agriculture that is beginning grow in urban areas.

Commissioner Flowers-Taylor stated that Mr. Addis had stated that he really didn't understand the purpose behind the land use map. She then stated that at the time the future land use map was developed, the county was trying to plan the land use growth in Spalding County. This initiative was carried out about ten years ago, unfortunately over the last eight years the growth has not occurred in the form of developments. Fire Stations were planned for the area, because we determined the area would have more density. She further stated that the land that was rezoned for Mr. Addis at the time the land use map was developed the plan was that the land would be populated by multiple families with the possibility of setting up a Village Node or shopping center designated for that area.

Commissioner Flowers-Taylor stated at the last meeting regarding these same issues for the future land use map, she had suggested that the land use map be addressed as a whole for the entire county. She stated that currently we are just "spot zoning" without a plan and that we need to look comprehensively at the land use map and we probably need to have some public hearings on the matter.

Commissioner Flowers-Taylor further stated that she voted for the change in Mr. Addis' case because she felt like the needed the change to accommodate a special need for his grandchild. She further stated that although it appeared the board was changing policy at the time, we were not setting a precedent, we were accommodating a special need and that is within the ability of the board.

Mr. Jacobs stated that he had talked with Ms. McAdams and advised that this amendment would be considered by the board this evening which would accommodate the horse on her property. Ms. McAdams stated that the bigger issue was the conservation use and the need to have the property rezoned agricultural so that she could continue to receive that tax break. Ms. McAdams stated that she wanted the matter to remain on the agenda for consideration by the board.

Commissioner Flowers-Taylor then requested clarification on the conservation use plan, she wanted to know if the people applying were under the impression that they would have to be rezoned in order to qualify for this tax break.

Mr. Wilson stated that he will speak with Mr. Maddox and Mr. Lillard about these allegations and report back to the board.

Commissioner Miller then asked if zoning was a factor in the determination of the conservation tax.

Newton Galloway, Zoning Attorney, then stated that tax policy and zoning policy are two separate matters. He stated that the question at hand was “are we seeing these requests because they really want horses on the property or because they are wanting the CUVA tax breaks on their property.”

Vice Chairman Ray then asked if the property was currently under a CUVA.

Mr. Jacobs stated that the land is currently under the conservation use, but it is about to run out. Mr. Jacobs stated that due to the misconception, that there are a lot of people who are going to be making these same type of requests.

Mr. Addis stated that prior to going through the process to have his property rezoned, he had gone to the Tax Assessors’ office and applied for conservation while his property was still under the Residential zoning and at that time he received a letter from the Tax Assessors telling him that his request was denied because his property had Residential Zoning. He stated that is what the Tax Assessors are telling the property owners.

Mr. Jacobs stated that if the issue of CUVA was taken off the table, we would not be having this discussion tonight.

Dot McAdams, 1725 Carver Road, stated that they have forestry on this land, they grow hay, harvest it and donate a lot of it, they do maintain a wildlife preserve so the land is utilized for more than just the horse that they have had on the property for the last five years.

Vice Chairman Ray then stated that the matter that is to be determined is if the rezoning of the property is for to utilize the property for the animals and agriculture, or are you requesting the rezoning for the CUVA?

Ms. McAdams stated that the taxes on the land are high with the conservation being on the land and she has been notified that the CUVA will end in December.

Motion/Second by Miller/Flowers-Taylor to table Amendment #FLA-14-02: Cecil O. and Dorothy S. McAdams who have requested a future land use map change from Low Density Residential and Open Space Network to Agriculture for the following: 1649 Carver Road (3.03 acres), 1663 Carver Road (2.06 acres) and 1725 Carver Road (86.532 acres) located in Land Lot 86 of the 2nd Land District to be revisited at the next Zoning Public Hearing in October. Motion carried unanimously by all.

4. Amendment #14-02Z: Cecil O. and Dot S. McAdams, Owners – 1649 Carver

Road (3.03 acres located in Land Lot 86 of the 2nd Land District) - requesting a rezoning from R-1, Single Family Residential Low Density, to AR-1, Agricultural and Residential.

Motion/Second by Miller/Flowers-Taylor to table Amendment #14-02Z: Cecil O. and Dot S. McAdams, Owners – 1649 Carver Road (3.03 acres located in Land Lot 86 of the 2nd Land District) - requesting a rezoning from R-1, Single Family Residential Low Density, to AR-1, Agricultural and Residential to be revisited at the next Zoning Public Hearing in October. Motion carried unanimously by all.

5. Amendment #14-02AZ: Dorothy S. McAdams, Trustee of the Dorothy S. McAdams Revocable Trust, Owner – 1663 Carver Road (2.06 acres located in Land Lot 86 of the 2nd Land District) – requesting a rezoning from R-1, Single Family Residential Low Density, to AR-1, Agricultural and Residential.

Motion/Second by Miller/Flowers-Taylor to table #14-02AZ: Dorothy S. McAdams, Trustee of the Dorothy S. McAdams Revocable Trust, Owner – 1663 Carver Road (2.06 acres located in Land Lot 86 of the 2nd Land District) – requesting a rezoning from R-1, Single Family Residential Low Density, to AR-1, Agricultural and Residential to be revisited at the next Zoning Public Hearing in October. Motion carried unanimously by all.

6. Application #14-02BZ: Dorothy S. McAdams, Trustee of the Dorothy S. McAdams Revocable Trust, Owner – 1725 Carver Road (86.532 acres located in Land Lot 86 of the 2nd Land District) – requesting a rezoning from R-1, Single Family Residential, to AR-1, Agricultural and Residential.

Motion/Second by Miller/Flowers-Taylor to table Application #14-02BZ: Dorothy S. McAdams, Trustee of the Dorothy S. McAdams Revocable Trust, Owner – 1725 Carver Road (86.532 acres located in Land Lot 86 of the 2nd Land District) – requesting a rezoning from R-1, Single Family Residential, to AR-1, Agricultural and Residential to be revisited at the next Zoning Public Hearing in October. Motion carried unanimously by all.

7. Amendment to UDO #A-14-05: Article 4. General Procedures - Section 419:G(1)(a) - amend building permit fee per dwelling unit.

Chad Jacobs stated that this amendment only applies to residential permitting at this time. June, 2000 was the last time that this item was addressed. We have not kept pace with inflation or our costs to conduct business and to perform the inspections. Mr. Jacobs further stated that this is not a increase in taxes, this is a user fee. Mr. Jacobs stated:

- The base fee would remain the same at \$25.00. (Currently, we charge a \$25.00 base fee plus \$0.20 per square foot.)
- The per square foot charge would increase to \$0.22 this would represent a 4% increase to cover our costs.

Mr. Jacobs stated that for a 1500 square foot house the cost for a permit would increase from \$325.00 to \$355.00.

Commissioner Johnson asked if the 4% would bring the County into alignment with the counties around us.

Mr. Jacobs stated that every county is different in the way they charge for residential permits. Mr. Jacobs stated that all other permit fees are based on a matrix that was created a number of years ago.

Commissioner Flowers-Taylor asked if the increase would cover the inspection fees as well over the course of the project.

Mr. Jacobs stated that with the additional codes that have been implemented there are more indepth inspections that have to be performed. This increase is for the inspections and we are trying to cover all of our costs. The goal is to become completely user fee funded and come off of the General Fund and the purpose of the increase is not to make money, it is simply to cover our current costs.

Motion/Second by GFT/Johnson to approve the amendment to the UDO #A-14-05: Article 4. General Procedures - Section 419:G(1)(a) - amend building permit fee per dwelling unit effective November 1. Motion carried unanimously by all.

8. Amendment to UDO #A-14-06: Article 7. R-1 Single Family Residential Low Density – Section 703:C (8), Article 7A. R-1A Single Family Residential – Section 703A:C(8), Article 8. R-2 Single Family Residential – Section 803:C(8) and Article 10. R-4 Single Family Residential – Section 1003:C(8) – add horses as an accessory use.

Mr. Jacobs stated that this is the amendment that he had referred to earlier in the meeting with the respect to allowing horses in the Residential districts. This would be as an accessory usage. This amendment would allow horses in the stated zoning districts on a minimum of 3 acres or more and you can add one additional horse per additional acre of land. This is language that was borrowed from Fayette County.

Mr. Jacobs stated that Fayette County had ran into the same issues and the language for the amendment is what has been adopted and currently being used in Fayette County. Mr. Jacobs also stated that this is the first step in moving the county toward a more urban agricultural usage for Residential districts.

Commissioner Flowers-Taylor expressed her concern over whether 4 acres could accommodate the needs of two horses.

Mr. Jacobs stated that grazing abilities and droppings and so forth, we have to rely on the Extension Service. If we get a complaint, we would then we would work in conjunction with someone out from the Extension Office to review the complaint and make the determination.

Mr. Galloway stated that because we receiving a number of these type of requests to accommodate horses in residential areas. We tried to find the simplest way possible to allow citizens to have a horse, without messing up the future land use map. He stated that they found the solution in the Fayette County Ordinance and copied it into our Ordinance.

Mr. Galloway further stated that what we have seen is an increasing number of inquiries to have horses. He also stated that if the requests coming in were simply an effort to have a horse, then we would be covered by this amendment and there would be no need to come before the board to accommodate the request. However, if it is an effort to receive the CUVA, then this ordinance is not going to be of any assistance on that front.

Mr. Jacobs stated that within the current zoning under an accessory nature, you can have a garden or a greenhouse in these districts; however, you can't go to a local farmers market and sell that produce. He further stated that we will have to look at accommodated these types of requests in the future, so if your garden produces more than you can consume in a season, you can take this over abundance to a farmers market.

Motion/Second by Flowers-Taylor/Johnson to amend UDO #A-14-06, suggestion from staff that by requiring that each horse to be housed on a residential lot be set at 3 acres per horse. Motion carried unanimously by all.

Motion/Second Flowers-Taylor/Johnson to approve the amended amendment to UDO #A-14-06: Article 7. R-1 Single Family Residential Low Density – Section 703:C(8), Article 7A. R-1A Single Family Residential – Section 703A:C(8), Article 8. R-2 Single Family Residential – Section 803:C(8) and Article 10. R-4 Single Family Residential – Section 1003:C(8) – add horses as an accessory use. Motion carried unanimously by all.

IV. ADJOURNMENT

Motion/Second by Miller/Johnson to adjourn. Motion carried unanimously by all. Meeting adjourned at 7:26 p.m.