



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: ZONING MAP AMENDMENT

Property location:	2020 Swords Trail, Buckhead, Georgia
Property tax parcel:	058A-039C
Acreage:	Approximately 5 acres
Applicant:	Daile R. Allman, Sr., 2020 Swords Trail, Buckhead
Applicant's Agent:	N/A
Property Owner:	Daile R. Allman, Sr., 2020 Swords Trail, Buckhead
Existing Zoning:	Lakeshore Low Density Residential (LR1)
Proposed Zoning:	Agricultural Residential (AR)

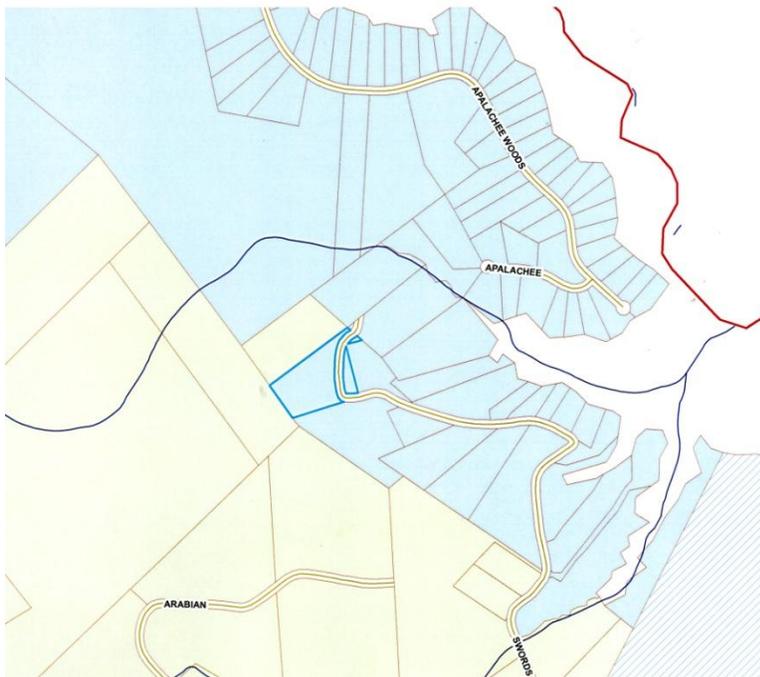
Summary

Daile R. Allman Sr. is requesting the rezoning of approximately 5 acres (Tax Assessor's has it listed as 5.08 acres, while the recorded plat has it at 4.915 acres) located at 2020 Swords Trail, from LR1 to AR. This is the second parcel for which Mr. Allman has requested such rezoning. The first request was heard by the Planning Commission in September 2014 and was unanimously recommended for approval. Mr. Allman mentioned at the time that he had a second parcel he wanted to rezone, but would have to wait until funds were available for the application process. The Board of Commissioners unanimously approved the rezoning request in October 2014. Staff requested that the Future Land Use Map also be

amended to reflect the change, and that request was also approved.

Please read the attached 2014 Staff Report, as it contains background information regarding previous zoning/rezoning petitions in this area.

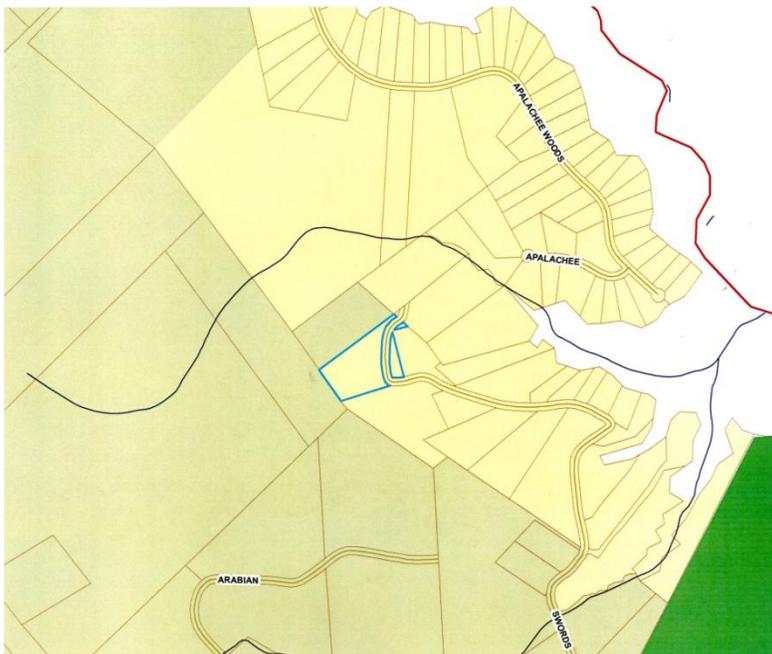
The zoning map (left) shows the subject parcel outlined in blue. The light blue color represents LR1 zoning; the greenish-yellow is AR zoning. The AR parcel adjacent to the subject parcel (protruding into the LR1 zoned area) is the parcel that was rezoned in 2014.





The subject parcel is outlined in blue on the aerial photograph. The applicant's dwelling is located on the parcel, as well as two outbuildings (one is on the east side of the driveway, which is shown here as a continuation of Swords Trail), and part of a third shop building, which is on the property line with the rear adjacent parcel (which was rezoned in 2014).

If you intend to visit the property, please note that it is gated.



The Future Land Use Map (FLUM) shows the subject parcel as Lake Community Residential (yellow). The greenish color indicates Agricultural/Forestry/Estate Residential. As mentioned above, the FLUM designation for the adjacent parcel rezoned in 2014 changed to reflect the change in zoning. If the recommendation is made to approve the rezoning for this application, the Future Land Use Map should also be addressed.

See attached for 2014 Staff report.

From September 25, 2014 Planning Commission Minutes

- I. Daile and Joyce Allman are requesting a rezoning of approximately 5.08 acres, located at the end of Swords Trail, Buckhead, Georgia (Tract 4 of Deer Run subdivision), from Lakeshore Low Density Residential (LR1) to Agricultural Residential (AR) (Tax Parcel 058A-039B).

Chuck Jarrell presented the staff report on behalf of Morgan County and explained the zoning history of the subject parcel. He noted that Mr. Allman had stated in his letter that the purpose of the request was to put a manufactured home on the parcel for his son. Mr. Jarrell also stressed that the Future Land Use Map would require an amendment.

Daile Allman, applicant, explained that his property had no lake view or lake access. He confirmed that he wanted to put a manufactured home on the property for his son. There was a brief discussion with the Planning Commission regarding the difference between a manufactured home and a modular home. There was no public comment.

Motion: Mr. Campbell made a motion to recommend approval of the request to rezone approximately 5.08 acres at the end of Swords Trail from LR1 to AR.

Second: Ms. Booth

Vote: 8:0 The motion to recommend approval of the rezoning request was approved.

Motion: Mr. Campbell made a motion to recommend approval of the Future Land Use Map amendment for the same parcel (approximately 5.08 acres at the end of Swords Trail) from Lakeshore Residential to Agricultural/Forestry.

Second: Mr. Knight

Vote: 8:0 The motion to recommend approval of the Future Land Use Map amendment was approved.

From the October 7, 2014 Board of Commissioners' Minutes

1. Daile and Joyce Allman are requesting a rezoning of approximately 5.08 acres, located at the end of Swords Trail, Buckhead, Georgia (Tract 4 of Deer Run Subdivision), from Lakeshore Low Density Residential (LR1) to Agricultural Residential (AR) (Tax Parcel 058A-039B).

Tara Cooner, Senior Planner, provided a report from the Planning Commission meeting. She stated the property is located at the end of Swords Trail and is part of the Deer Run subdivision. The history of this property is that it was zoned AR in the mid-1980s. At the time in a private road subdivision, AR parcels required a minimum of 25 acres, but LR1 required only 5. The land was rezoned in 1990 from AR to LR1 in order to increase the number of lots allowed in the Buckhead Downs and Deer Run subdivisions. When the new zoning atlas was adopted in 2006, Buckhead Downs was changed back to AR, but Deer

Run was not. This parcel abuts AR zoned land in Buckhead Downs. The property does not have lake view or lake access. Mr. Allman intends to locate a manufactured home on the property for his son. Mr. Allman was present to answer questions. No one spoke for or against the application. The Planning office received one curiosity call about the application.

The Planning Commission voted unanimously to recommend approval of the rezoning application and also voted unanimously to recommend approval of the amendment of the Future Land Use Map to reflect the change in zoning. Two votes are needed.

Chairman Ainslie allowed proponents and opponents to speak. There were no proponents or opponents.

MOTION by Comm. Milton, seconded by Comm. Clack to approve rezoning approximately 5.08 acres, located at the end of Swords Trail, Buckhead, Georgia (Tract 4 of Deer Run Subdivision), from Lakeshore Low Density Residential (LR1) to Agricultural Residential (AR) (Tax Parcel 058A-039B). Unanimously Approved.

MOTION by Comm. Milton, seconded by Comm. Clack to approve amending the Future Land Use Map to Agriculture/Forestry/Estate Residential for the rezoned property. Unanimously Approved.

Criteria for Consideration

(Please note that the criteria below are bulleted in the Morgan County Zoning Ordinance, Section 19.3.1. They are numbered here for ease of use.

1. Compatibility with Adjacent Uses and Districts: Existing uses and use districts of surrounding and nearby properties, whether the proposed use district is suitable in light of such existing uses and use districts of surrounding and nearby properties, and whether the proposal will adversely affect the existing use or usability of adjacent or nearby properties.
2. Property Value: The existing value of the property contained in the petition under the existing use district classification, the extent to which the property value of the subject property is diminished by the existing use district classification, and whether the subject property has a reasonable economic use under the current use district.
3. Suitability: The suitability of the subject property under the existing use district classification, and the suitability of the subject property under the proposed use district classification.
4. Vacancy and Marketing: The length of time the property has been vacant or unused as currently used under the current use district classification; and any efforts taken by the property owner(s) to use the property or sell the property under the existing use district classification.
5. Evidence of Need: The amount of undeveloped land in the general area affected which has the same use district classification as the map change requested. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes public health, safety, morality or general welfare.

6. Public Facilities Impacts: Whether the proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks or other public facilities and services.
7. Consistency with Comprehensive Plan: Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan.
8. Other Conditions: Whether there are any other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the proposal.

Staff Comments

The applicant states in his letter that the change in zoning designation may result in some property tax relief, and that his property is not water front. The Tax Assessor's Office maintains that taxes are not affected by changes to/from agricultural /residential zoning (only to/from Commercial or Industrial zoning), although the applicant could answer as to whether the rezoning affected his taxes on the adjacent parcel when it was rezoned in 2014. He is absolutely correct that the property does not have lake frontage or lake access (some lake subdivisions have a dock for lake access for non-waterfront lots).

The application does not meet Criterion 7, so should the decision be made to recommend approval of the application request, a separate motion must also be made to amend the FLUM to Agriculture/Forestry/Estate Residential. The 2014 rezoning of the adjacent lot by the same applicant set a precedent that must be taken into consideration. Staff has no objections to the request.



MORGAN COUNTY PLANNING AND DEVELOPMENT

150 East Washington Street, Suite 200
P.O. Box 1357
Madison, Georgia 30650
(706)342-4373 Office · (706)343-6455 Fax

Morgan County Zoning Map Amendment Request – Staff Report

September 4, 2014

To: Morgan County Board of Commissioners
Morgan County Planning Commission

Prepared By: Morgan County Planning and Development

Applicant Information:

Applicant:	Applicant's Agent:	Property Owner(s):
Daile & Joyce Allman 2020 Swords Trail Buckhead, Georgia 30625		Daile & Joyce Allman 2020 Swords Trail Buckhead, Georgia 30625

Property Information:

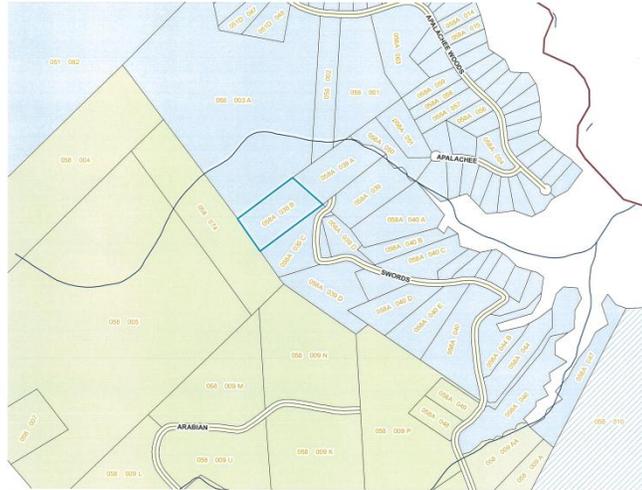
Property:	Location:	Current and Proposed Use:
Tax Map /Parcel : 059A-039B 5.08 acres Current zoning: LR1 Proposed zoning: AR	At the end of Swords Trail, off of Blue Springs (turn off of Parks Mill at Katy's Korner)	Current Use: Vacant Proposed Use: Single family residence

Ordinance Information

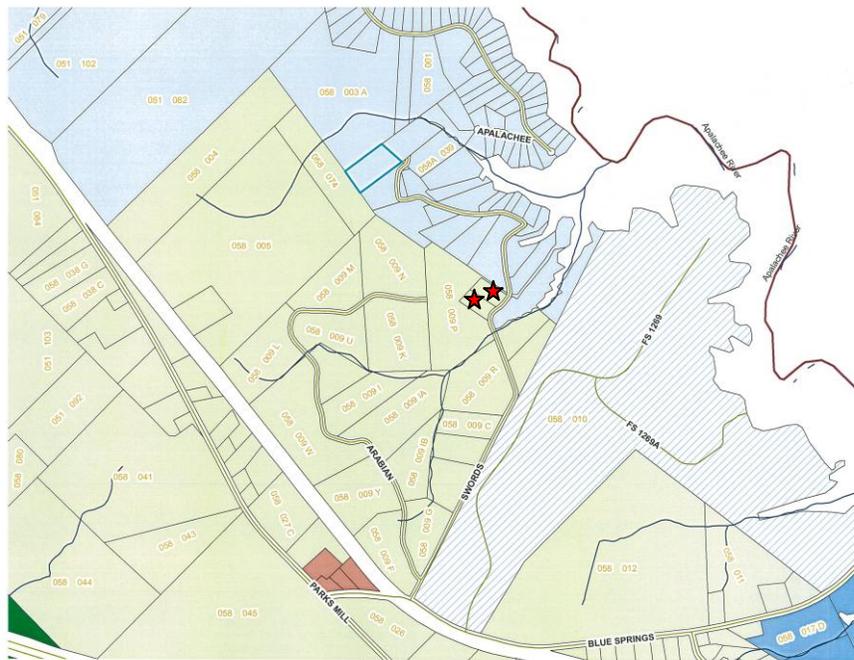
Ordinance:	Section:	Proposed Language:
Morgan County Zoning Ordinance Article 19 Zoning Amendment Procedures	Chapter 19.3 Criteria for Consideration	N/A

Comments from Staff Regarding Conditional Use Request

Daile and Joyce Allman are requesting the rezoning of 5.08 acres from Lakeshore Low Density Residential (LR1) to Agricultural Residential (AR) for property located at the end of Swords Trail. The property is Lot 4 of the Deer Run subdivision.



The subject property is outlined in blue. Light blue parcels are zoned LR1 and the yellowish parcels are zoned AR. The desired AR zoning is adjacent to the subject property. The acreage for the parcel meets the acreage requirements for AR zoning, but does not have road frontage. Although road frontage would be required for a new parcel split, it is not a determining factor with a rezoning application.



A wider view of the zoning map: The hatched area is zoned Recreation Conservation (the WMA). The orange is Katy's Korner and surrounding businesses.

The applicant's letter states that neighbors have rezoned their properties from LR1 to AR. The following language is from the Planning Commission meeting and staff report for those applications. The parcels discussed below are marked with stars. The Buckhead Downs subdivision consists of the parcels off of Arabian Way and the lower part of Swords Trail.

Comments from the staff report for November 15, 2007 Planning Commission meeting regarding the zoning classifications in the area (these comments are from the staff report for Mark & Eloise Grubaugh but apply to both agenda items):

The parcel under consideration is one of two parcels subdivided by Jimmy Moon in the mid-1980s from a larger tract of property. These two parcels are situated between two residential subdivisions, both cut from the Jimmy Moon estate. In 1990, Rufus Guthrie applied for a zoning change from AR to LR1 for approximately 243 acres of land that was eventually approved as a private road subdivision known as Buckhead Downs. Pursuant to the regulations in effect at that time, the minimum lot size in the AR zoning classification was 25 acres with a private road, and 2 acres with a county road. The minimum lot size in the LR1 zoning district at the time was only 5 acres with a private road. The property was adjacent to LR zoning, and the applicant applied to have that LR zoning classification extending to his property to be able to create a private road subdivision with 10-20 acre tracts.

When staff created the new zoning map in 2006, the Buckhead Downs subdivision was changed to AR zoning from LR1 due to the fact that it had no lake access, and it was more appropriately zoned as an AR subdivision. The parcel under consideration was not a part of the subdivision, therefore, the zoning did not change to AR. Staff has no objection to the proposed zoning change, as it is now adjacent to AR zoning, and it meets the minimum dimensional requirements for this district.

Excerpt from the Morgan County Planning Commission Regular Meeting Minutes, November 15, 2007

I. A petition has been received from **Mark and Eloise Grubaugh** in regard to a rezoning request for property located at 1490 Swords Trail, Buckhead, Georgia 30625. The purpose of the petition is to rezone 2.00 acres of land from Low Density Lakeshore Residential Zoning District (LR-1) to Agricultural Residential Zoning District (AR). Consideration of this petition may also involve a Future Land Use Map change from Lakeshore Community Residential land use classification to Agriculture/ Forestry/ Estate Residential use classification. Tax Map 058A Parcel 048

Allison Moon presented a staff report on behalf of Morgan County. Ms. Moon indicated that the parcels under consideration in the first two petitions are similar in nature, and she indicated that the staff presentation addressed both parcels. She indicated that the parcels under consideration were two 2-acre lots that were subdivided in the mid-1980s. These two lots are bordered by two residential subdivisions, Buckhead Downs and Deer Run. Ms. Moon clarified that the lots were part of neither subdivision, nor did they have access to Lake Oconee. Ms. Moon clarified that Buckhead Downs, which had previously been zoned LR1, had been subdivided in large acreage tracts and generally had an agricultural feel. She indicated that the zoning for this subdivision was changed from LR1 to AR when the new zoning atlas was adopted in 2006. As a result, the parcel under consideration was now adjacent to AR zoning. She indicated that the applicants were requesting to down zone their property from LR1 to AR as a result of the increased taxes due to the LR1 classification. Ms. Moon clarified that a zoning change to AR may or may not decrease their taxes, but she did indicate that the parcels under considerations both met the minimum dimensional requirements for AR zoning.

Mr. Joiner inquired as to whether the tax assessor's had given an opinion as to whether the rezoning would affect their taxes.

Ms. Moon indicated that she had not made inquiry to the tax assessor's on this point. But she guesses that it may be hard for them to give that sort of guarantee until the land schedules were set for the next revaluation.

Ms. Moss expressed concerns as to whether changing the zoning when result in a substantial decrease in taxes given the fact that house values are considered in addition to zoning.

Mark Grubaugh spoke on behalf of the application. He indicated that he did not have much to add to the staff report, but he did clarify that house value and the structure value are assessed separately. He indicated that they believed the house value to be fair, but the land value is being compared to other parcels with the LR1 zoning, which would include land that actually had lake frontage or lake amenities.

Dr. Wade commented that the taxability of the land may not be an issue to be considered by the Planning Commission. Mr. Joiner inquired if the applicant had conversations with the tax assessors that lead them to believe a reclassification of zoning would reduce their taxes.

Mr. Grubaugh indicated that they had been told that by the tax assessors.

There was no additional public comment for or against this application.

Motion: Ms. Moss made a motion to approve the Future Land Use Map designation for parcels 058A 048 and 058A 049 to Agriculture/ Forestry/ Estate Residential.

Second: Mr. Joiner

Vote: 8-0

The motion to approve the Future Land Use Map amendment was unanimously approved.

Motion: Mr. Lehman made a motion to approve the rezoning request to AR.

Second: Mr. Trulock

Vote: 8-0

The motion to approve the rezoning request to AR was unanimously approved.

II. A petition has been received from **Jimmy Ray Breedlove** in regard to a rezoning request for property located at 1500 Swords Trail, Buckhead, Georgia 30625. The purpose of the petition is to rezone 2.00 acres of land from Low Density Lakeshore Residential Zoning District (LR-1) to Agricultural Residential Zoning District (AR). Consideration of this petition may also involve a Future Land Use Map change from Lakeshore Community Residential land use classification to Agriculture/ Forestry/ Estate Residential use classification. Tax Map 058A Parcel 049

Allison Moon presented the staff report on behalf of Morgan County. She indicated that the parcel under consideration was adjacent to the Grubaugh's parcel considered previously, and the reasons given by the applicant for filing the rezoning were the same in their written statements.

Jimmy Ray Breedlove spoke on behalf of the application. He indicated that he didn't have any additional comments, but noted that he was the first person to move down there.

There was no additional public comment for or against this application.

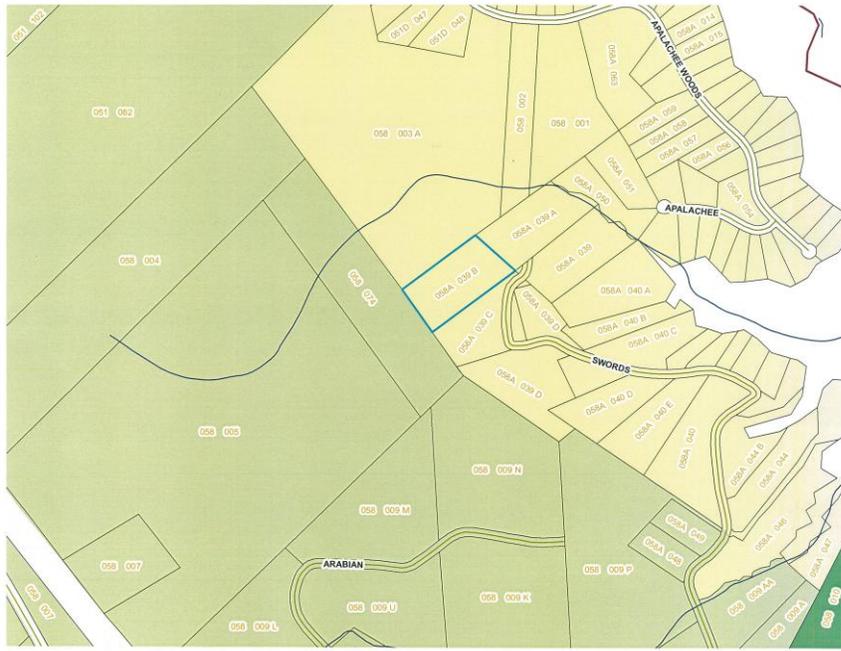
Motion: Mr. Lehman made a motion to approve the rezoning request to AR.

Second: Ms. Moss

Vote: 8-0

The motion to approve the rezoning request to AR was unanimously approved.

Further regarding Mr. and Mrs. Allman's letter requesting the rezoning and the neighbors mentioned that have petitioned for rezoning in the past and been approved; the Pailer and Payne properties are part of the Buckhead Downs subdivision and were rezoned with the new zoning atlas in 2006. Staff could not find any record of a Planning Commission application to rezone the properties prior 2006.



The Future Land Use Map shows the subject parcel is Lakeshore Community Residential (yellow). The light green is Agriculture/ Forestry/ Estate Residential.

Chapter 19.3 Criteria for Considering Zoning Amendments

- **Compatibility with Adjacent Uses and Districts:** Existing uses and use districts of surrounding and nearby properties, whether the proposed use district is suitable in light of such existing uses and use districts of surrounding and nearby properties, and whether the proposal will adversely affect the existing use or usability of adjacent or nearby properties.
- **Property Value:** The existing value of the property contained in the petition under the existing use district classification, the extent to which the property value of the subject property is diminished by the existing use district classification, and whether the subject property has a reasonable economic use under the current use district.
- **Suitability:** The suitability of the subject property under the existing use district classification, and the suitability of the subject property under the proposed use district classification.
- **Vacancy and Marketing:** The length of time the property has been vacant or unused as currently used under the current use district classification; and any efforts taken by the property owner(s) to use the property or sell the property under the existing use district classification.
- **Evidence of Need:** The amount of undeveloped land in the general area affected which has the same use district classification as the map change requested. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes public health, safety, morality or general welfare.
- **Public Facilities Impacts:** Whether the proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks or other public facilities and services.
- **Consistency with Comprehensive Plan:** Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan.
- **Other Conditions:** Whether there are any other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the proposal.

Staff Opinion:

The subject property is adjacent to AR zoning and does not have lake access. The requested rezoning does not contradict the required criteria, with the exception of the Future Land Use Map. Should the decision be made to recommend approval of the application request, a separate motion must also be made to amend the FLUM to Agriculture/ Forestry/ Estate Residential.

Mr. Allman has clearly stated that his intention is to place a manufactured home on the property. Manufactured homes are prohibited in LR1, but are permitted in AR. One manufactured home is currently located on Swords Trail (at 1500 Swords Trail, one of the properties discussed in the 2007 Minutes).

Staff has no objections to the proposed request.

2014

I Daile R. Allman Sr. Would like to change track 3 of my property to AR. This property is as of now LR1 However we are not touching nor have access to the lake without going through neighbors' property or leaving the dirt road going to a public access area. We would also like to note that there are neighbors on the same side of the dirt road (Swords Trail Buckhead, Ga) that have already went from LR1 to AR. These people are as listed below:

Lance A Pailer

Kim R Payne

Mark A Grubaugh

Jimmy Ray Breedlove/ Dawn Homes (daughter)

All the above have applied and been approved for AR. These properties are closer to the water(Lake) then we are. My house is almost ½ mile from the water. This may also help my taxes some as I am retired and on a fixed income. Please consider this application.

Thank You for your consideration,

Daile R. Allman Sr.

Daile R. Allman Sr. Date 2-1-16

Joyce Denise Allman

Joyce Denise Allman Date 2-1-16