

**HALL COUNTY PLANNING COMMISSION  
RECOMMENDATION REPORT**

**Applicant** ..... Ridgeline Land Planning, Inc.

**Request** ..... Vary the front yard setback from 30 feet to 15 feet in a Planned Residential Development, subject to County Commission approval

**Proposed Use** ..... Single-family dwelling

**Size** ..... 0.51± acres

**Zoning** ..... At the terminus of River Station Drive; a.k.a. 6599 River Station Drive; Zoned PRD; Tax Parcel 09079C000035.

**Commission District** ..... Three

**Planning Commission Date** ..... October 3, 2022

**Staff Recommendation** ..... Denial

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**Planning Commission Recommendation: Approval, with conditions**

**Vote: 5-0**

**Conditions:**

1. *The Board grants a variance for lot 35 of Magnolia Station Phase 2 to vary the front yard setback from 30 feet to 22 feet in a Planned Residential Development.*
2. *In accordance with the PRD ordinance section 17.180.060.B.10: Footing inspections. At the time of footing inspection, the contractor shall provide the county building official with a certificate from a licensed surveyor certifying building setbacks for all corners of the structure being inspected.*

**Applicant Proposal**

The applicant is requesting to vary the front yard setback from 30 feet to 15 feet for the purpose of constructing a single-family residence. The property is zoned Planned Residential Development (PRD) and the 30 foot front setback standard was established by the applicant of the original rezoning application.

The applicant's Statement of Hardship states that "an error in topography created grading issues the impacted the depth of the building pad." The statement continues that maintaining a 30 foot front setback would cause the lots to be unbillable and that the conditions were created by the previous owner.

## **History and Existing Land Use**

The subject parcel is 0.51 acres in size and is undeveloped. The property is zoned Planned Residential Development (PRD) and is lot 35 of Magnolia Station Subdivision, Phase 2. The current owner/developer received approval for an amended Master Plan from the BOC on June 24, 2021. The PRD approvals were amend by the BOC on April 14, 2022, which set the setbacks and lot standards for Phase 2 as follows:

<b>PHASE 2 – SINGLE-FAMILY DETACHED (LDP APPROVED in 2018)</b>	
SITE AREA	51.750 ACRES
PROPOSED UNITS	56
MINIMUM LOT SIZE	75' X 150' (11,250 SQ. FT.)
FRONT SETBACK	30 FT.
SIDE SETBACK	10 FT.
REAR SETBACK	20 FT.
MAXIMUM BUILDING HEIGHT	35 FT.
MINIMUM HEATED FLOOR AREA	1,800 SQ. FT.

The plat for Magnolia Station, Phase 2 was recorded for 56 lots on June 30, 2022 in Plat Book 882, page 124-134 with the Hall County Clerk of Courts.

Surrounding properties are primarily zoned Planned Residential Development (PRD) though there are some Agricultural Residential IV (AR-IV) properties to the west. Most properties are developed with similar residential uses. To the southeast of the development is the intersection of Lula Road and Cornelia Highway/State Route 365, where there a number of commercially zoned and developed properties.

## **Significant Factors**

Per, §2.60.060. – effective period of approved applications, all applications approved by the board, whether a request for variance from the terms of Title 17, a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of Title 17, shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.

## **Development Support and Constraints**

### **Hall County Environmental Health**

In an email dated September 14, 2022, Emily McGahee stated, "No comment. Public Sewer."

#### Hall County Fire Rescue

In an email dated September 16, 2022, Lieutenant John Hornick, NPQ Fire Inspector 1, Plans Review, stated: "The Hall County Fire Marshal's Office has no comments regarding the single family residence set back's as proposed."

Per Hall County GIS, the property is located approximately 1.5 miles from Hall County Fire Station #6, located at 6172 Lula Road. The nearest fire hydrant is located at the terminus of River Station Drive, approximately 200 feet away.

#### Hall County Public Works and Utilities

A memorandum from Srikanth Yamala, Director of Public Works and Utilities, dated September 16, 2022 stated the following:

##### Engineering

All construction to stay out of the drainage easement.

##### Traffic

No comments.

##### Utilities

No Comments.

#### Georgia Department of Transportation

This project will not require GDOT coordination.

#### Hall County Tax Assessors

No comments were provided in relation to this item.

#### Gainesville Water and Sewer Resources

No comments were provided in relation to this item.

Per Hall County GIS, there is public water along River Station Drive.

#### Application of Ridgeline Land Planning, Inc.

Factor	Analysis	Supports requested variance?		
		Yes		No
<b>1. Are there extraordinary and exceptional conditions pertaining to the particular lot in question because of its size, shape, or topography (the hardship must relate to the physical character of the lot and not to a personal or economic hardship)</b>	No, this property is similar in shape and size to other properties within the subdivision. The submitted site plan shows a storm-water detention pond and a drainage easement in the rear of the parcel.			X

<b>2. Would the application of the requirements of the resolution to this particular piece of property create an unusual hardship?</b>	The application of the requirement would not cause an unusual hardship. The applicant still has the option of building a smaller footprint or building vertical.			<b>X</b>
<b>3. Are such conditions peculiar to the particular piece of property involved and not common to other properties in the neighborhood?</b>	No, the storm-water detention pond location was a decision of the applicant.			<b>X</b>
<b>4. Are the conditions the result of any actions of the property owner?</b>	Yes, the developer chose to locate the detention pond on these lots after being advised by staff that this could be a problem.			<b>X</b>
<b>5. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this resolution provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this resolution or for a conditional use which has been denied by the Hall County Planning Dept.</b>	Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the resolution.	<b>X</b>		

### **Staff Recommendation**

Staff recommends **denial** of the applicant's request for a variance for the following reasons:

1. The application of the setback requirements would not cause an unusual hardship. The applicant still has the option of building a residence with a smaller footprint or building vertical.
2. The applicant obtained this property and development before the streets and infrastructure were built and the project received Final Plat approval.
3. The applicant had the option to remove the stormwater pond from the proposed lot as the density could have transferred to another phase when the master plan for Magnolia Station was updated in March and April, 2022.
4. Staff recommended during the master plan update in 2022 for Magnolia Station that this lot should be platted without the stormwater pond on the individual lot.

If the Board of Commissioners chooses to **approve** the variance, staff recommends the following conditions:

1. The Board grants a variance for lot 35 of Magnolia Station Phase 2 to vary the front yard setback from 30 feet to 15 feet in a Planned Residential Development.

2. An advisory note shall be placed on the building permit:

In accordance with the PRD ordinance section 17.180.060.B.10:

*Footing inspections.* At the time of footing inspection, the contractor shall provide the county building official with a certificate from a licensed surveyor certifying building setbacks for all corners of the structure being inspected.

#### **Excerpts from the minutes of the October 17, 2022 meeting**

##### **Applicant's Presentation:**

**Ellis Still, Assistant Planning Director**, presented a summary of the request.

**Holt Persinger, 196 Villa Court, Winder**, presented the request. The applicant stated that detention ponds would not be allowed per phase II of the development but were approved by Hall County when they were purchased and it would be a shame to let two lots go with the cost of construction. The applicant stated that the two houses would be side entry with an area to the side of the houses for parking.

##### **Public Forum:**

*There were no comments in support or opposition.*

##### **Planning Commission Comments:**

Mr. Braswell questioned the topography of the site. Mr. Hunt questioned if the homes could be vertical. The applicant stated that they want to maintain floor plan consistency within the development and would prefer not to have 2-story products in the development. Mr. Braswell questioned if the applicant could take less of a setback. The applicant stated he wants to keep his request at 15 feet to assure space. Different possibilities of the setback variances were discussed.

**Motion: A motion to approve, with conditions was made by Mr. Hunt and seconded by Mr. Bell. Vote: 5-0**

##### **Conditions:**

1. *The Board grants a variance for lot 35 of Magnolia Station Phase 2 to vary the front yard setback from 30 feet to 22 feet in a Planned Residential Development.*
2. *In accordance with the PRD ordinance section 17.180.060.B.10:*  
*Footing inspections. At the time of footing inspection, the contractor shall provide the county building official with a certificate from a licensed surveyor certifying building setbacks for all corners of the structure being inspected.*