

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Ben Baker, Baker & Summy, PC

Request Rezone from Planned Commercial Development (PCD) to Agricultural-Residential-IV (AR-IV)

Proposed Use Agricultural uses

Size 13.38± acres

Zoning Planned Commercial Development (PCD) | Proposed Agricultural-Residential-IV (AR-IV)

Location **0 & 0 Old Winder Highway** | Parcel 15039A000003 & 000029 (pt.)

Commission District Commission District 1

Planning Commission Date November 7, 2022

Staff Recommendation **Approval based on the findings that this request is consistent with the Comprehensive Plan and that it meets the criteria outlined in [17.380.060](#)**

Planning Commission Recommendation.....**Approval**

Vote: 5-0

Public Forum:

There were no comments in support or opposition.

Summary Analysis

The applicant is requesting approval to rezone 13.38± acres from Planned Commercial Development (PCD, [17.180.080](#)) to Agricultural Residential IV (AR-IV, [17.120](#)) for agricultural uses. According to the applicant’s narrative, the property is currently used for agricultural purposes and there is no intention of developing any of the parcels for commercial use. The applicant would like all parcels to be classified as AR-IV to conform to the current and future use of the parcels.

The subject parcel was part of a larger 35 acre property originally rezoned to PCD in 2008 for a proposed commercial, office, and warehouse development. In 2017 the rear 21.78± acre tract was rezoned back to AR-IV.

Based on the future land-use plan, staff finds the ***requested zoning designation*** is consistent with the future land use map designation of Residential within a mixed-use corridor.

Zoning Analysis

The applicant is proposing to downzone the property from a Planned Commercial Development (PCD, [17.180.080](#)) to Agricultural Residential IV (AR-IV, [17.120](#)) for agricultural uses. This is consistent with the comprehensive land use plan for the property.

When considering a zoning amendment to the zoning maps, the following items must be considered:

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property; **The proposed zoning classification of Agricultural Residential IV (AR-IV, [17.120](#)) is suitable in view of the use and development of adjacent and nearby property.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The zoning proposal should not have an adverse effect on the existing use or usability of adjacent or nearby property. The proposed use is less intense than uses for which the property is currently zoned.**
3. Whether the property to be affected by the zoning proposal has reasonable economic use as currently zoned; **As currently zoned the property has reasonable economic use although all uses within a PCD are conditional and require a public hearing.**
4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, or utilities; **The zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, or utilities. The proposed rezoning is a downzoning and the resulting use of the property will be less intense than the approved Planned Commercial Development (PCD, [17.180.080](#)).**
5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan; **The proposed zoning classification of Agricultural Residential IV (AR-IV, [17.120](#)) is suitable in view of the policy and intent of the land use plan.**
6. The extent to which property values are diminished by the existing zoning restrictions; **Staff is unable to comment on the impact of property values without a full market analysis. Multiple factors impact property value including construction types, proposed uses, and maintenance. Often it is difficult to determine the effect of a development on adjacent properties until the development is completed.**
7. The extent to which the destruction of the subject property's value under the existing zoning promotes the health, safety, morals or general welfare of the public; **Staff has not identified that the existing property values have been impacted by the existing zoning.**
8. The relative gain to the public as compared to the hardship imposed upon the individual property owner; **Staff has not identified a hardship imposed on the property owner as the property is currently zoned.**
9. The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property; **The subject property is heavily wooded and is developed with a couple of small outbuildings, per Hall County GIS aerial imagery.**
10. Whether there are other existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal; **Staff is not aware of any changing conditions that affect the use and development of the property.**

11. Whether the change would create an isolated district unrelated to the surrounding districts; **The proposed zoning change to Agricultural Residential IV (AR-IV, [17.120](#)) would make the zoning consistent with surrounding properties.**
12. Whether the present zoning district boundaries are illogically drawn in relation to existing conditions in the area; **There is no evidence that the zoning district boundaries are illogically drawn.**
13. Whether the change requested is out of scale with the needs of the county as a whole or the immediate neighborhood; **The proposed zoning change is consistent with the needs of the immediate neighborhood.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **This criteria is not applicable to the current request because the proposed zoning change is a downzoning to remove the commercial zoning approval from the property.**
15. Whether the need for rezoning could be handled instead by a variance request to the zoning board of adjustment; **The request could not be handled alternatively as a variance.**
16. Whether there would be an ecological or pollution impact resulting from major modifications to the land if the request is granted; **The reversion back to an Agricultural Residential IV (AR-IV, [17.120](#)) zoning classification will have less of an ecological or pollution impact than a commercial classification.**
17. Whether there is reasonable evidence based upon existing and anticipated land use that would indicate a mistake was made in the original zoning of the property; **There is no indication that a mistake was made in the original zoning.**

Agricultural Residential IV (AR-IV) standards are found in chapter [17.120](#) which include the permitted and conditional uses allowed within the AR-IV district.

[17.380.050](#) - Submission requirements for a rezoning request

- A. Any person or persons requesting a change in the official zoning map or use subject to approval of the county commission shall file an application with a plat or map of the property attached thereto, together with payment of such fees set forth in [chapter 17.30](#) to cover administrative and advertising costs, in the planning department office. Such person or persons or their authorized agent shall appear in person at the public hearing held to consider the district change. **Proposal meets the requirement. Applicant has paid the appropriate fees and understands that someone must be present at both the Hall County Planning Commission meeting and the voting meeting of the Hall County Board of Commissioners.**
- B. All applications for a change of zoning classification or use subject to approval of the county commission shall include:
 1. A narrative statement identifying the existing and proposed use of the property and addressing each of the criteria set forth in section 17.380.060.C of this section [chapter]. **The applicant has submitted a narrative but did not specifically address the criteria listed in [17.380.060.C](#).**
 2. A site plan drawn to scale designating the area covered by the application and identifying existing and proposed buildings and uses, adjacent existing land uses, zoning on contiguous parcels, including those across an abutting public right-of-way, and any other significant site improvements proposed to accommodate the proposed use or buffer

adjacent uses, etc., or a plat of the subject property where no specific land use is proposed. In cases where only a plat or map is provided and no land use is proposed, the planning commission and county commission shall evaluate the application based on the most intense possible land use permitted in the proposed district. **Proposal meets the requirement.**

3. For any application for a slow rate land treatment system (see [chapter 17.20](#)), the following additional requirements apply. **This criteria is not applicable since the project does not propose a slow rate land treatment system and as such.**
4. For any application proposing the development of 100 or more residential dwelling units, a traffic impact study shall be submitted prior to consideration of the application by the planning commission. At the applicant's expense, the traffic impact study shall be prepared by a professional engineer in accordance with requirements established by the Hall County Engineering Department. The engineering department shall review the traffic impact study and forward any comments to the Hall County Planning Commission. **This criteria is not applicable since the request does not involve a residential development of 100 or more units.**

Development Support and Constraints –Departmental /agency comments

Hall County Environmental Health

An email dated October 18, 2022 from Emily McGahee states “No comment.”.

Hall County Fire Rescue

In an email dated October 20, 2022, Lieutenant John Hornick, NPQ Fire Inspector 1, Plans Review, provided the following comments:

“Hall County Fire Marshal’s Office has no comments regarding zoning request as proposed.”

Hall County Public Works and Utilities

In a memo dated October 20, 2022, from Srikanth Yamala, Director of Public Works and Utilities, the following comments were provided:

Engineering:

Further subdivisions of these lots will result in the necessity of a stormwater management plan, if the total number of lots reaches more than 6.

Traffic:

No comments.

Utilities:

No sanitary sewer available.

Georgia Department of Transportation

Per an email dated October 20, 2022, Parker Niebauer, District 1 Traffic Operations Supervisor, states: “GDOT Coordination shown on page 12/14 of the application package. No coordination required at this time for zoning change, but coordination would be required if property will be developed. Note that SR 211 is tentatively scheduled to begin widening under GDOT PI 0007233 within the next 4-7 years.”

➤ **Excerpts from the minutes of the November 7, 2022 meeting**

Applicant's Presentation:

Randi Doveton, Planning Director, presented a summary of the request.

Ben Baker, 4512 Broad Circle, Flowery Branch, presented the request.

Public Forum:

There were no comments in support or opposition.

Motion: A motion to approve was made by Mr. Bell and seconded by Mr. Varner. Vote: 5-0