

HALL COUNTY PLANNING COMMISSION  
RECOMMENDATION REPORT

**Applicant** ..... Robert and Valerie DeLeon

**Request** ..... Conditional Use Subject to County Commission Approval

**Proposed Use** ..... 2-lot subdivision

**Size** ..... 7.43 ± acres

**Zoning** ..... AR-III and V-C

**Location** ..... **4139 Cagle Road** | Tax Parcel 09099 000008

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

**Planning Commission Date** ..... November 21, 2022

**Staff Recommendation** ..... **Approval with conditions, 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, with conditions**

**Vote: 4-0 (Pilcher Absent)**

1. The development shall conform with the proposed narrative and site plan.
2. Standard Hall County plat approval process shall be followed.
3. The Board of Commission action letter shall be placed on the plat.

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**Public Forum:**

*There were no comments in support or opposition.*

**Summary Analysis**

The applicant is requesting a use subject to County Commission approval for purpose of subdividing a 7.5 acre property into two lots for the purpose of constructing a home on 2.5 of those acres. The narrative submitted by the applicant states that they are turning 70 in the next year and a half and would like to give

their daughter and her husband 2.5 acres so that they can build their “dream home” and be close to one another. The property has dual zoning designations of V-C, Vacation Cottage, and AR-III, Agriculture Residential III. Within the Vacation Cottage (V-C, [17.50.040.K](#)) minor subdivisions are subject to the approval of the County Commission.

The subject property is located on the north side of Cagle Road approximately 1,637 feet from its intersection with Eli Jackson Road.

No variances are being requested as part of this request.

### Zoning Analysis

When considering a conditional use certain criteria must be considered.

- (a) The existing land use pattern. **The subject property is located on the north side of Cagle Road and is zoned both Vacation Cottage (V-C, [17.50](#)) and Agricultural Residential III (AR-III, [17.110](#)). The proposed minor subdivision meets the area and setback requirements ([17.240](#)) for both zoning districts.**
- (b) Whether the proposed use would have an adverse effect on the comprehensive land development plan. **The proposed use would not have an adverse effect on the comprehensive land development plan. The subject property is within the Residential future land use classification where the recommended density is not to exceed 2 dwelling units per acre.**
- (c) Whether all proposed structures, equipment or material will be readily accessible for fire and police protection. **Any development to occur on the subject property will be subject to the review and approval through the Hall County permitting process and shall be subject to the all applicable local, state, and federal requirements.**
- (d) Whether the proposed use will be of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the area in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties or a deterrent to the improvement of adjacent properties in accordance with the zoning classification of such properties, the existing land use pattern, or the comprehensive land development plan. **The proposed use will be in harmony with the appropriate and orderly development of the area in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties or a deterrent to the improvement of adjacent properties.**
- (e) Whether, in the case of any use located in, or directly adjacent to, a residential district or area:
  - i. The nature and intensity of operations will be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residential district or area, or conflict with the normal traffic of the neighborhood; and **The proposed development is not anticipated to lead to hazardous or inconvenient conditions for pedestrian or vehicular traffic.**
  - ii. The location and height of buildings, and other structures, and the crosswalks or pedestrian ways are nature and extent of screening, buffering or landscaping on the site will be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings in conformance with existing zoning districts and development pattern. **The proposed development of the site will be such that the use will not hinder or discourage the appropriate**

**development and use of adjacent land and buildings in conformance with existing zoning districts and development pattern.**

- (f) Whether the proposed use will increase the population density resulting in the increase or overtaxing of the load on public facilities such as schools, utilities, streets, etc.; or approval of the use would encourage adjacent areas to develop at higher densities than provided in the comprehensive plan resulting in the overtaxing of such public facilities. **No, the proposed development will not increase the population density resulting in the increase or overtaxing of public facilities. Only one single-family residence may be constructed on the subject property.**
- (g) Whether the proposed use will cause a health hazard, a public safety problem, or nuisance created or excessively increasing traffic and associated congestion; creating a drainage problem; generating unnecessary disturbances due to noise, the emittance of smoke or other contaminants, odor, electrical interference or causing pollution to land, air and/or water. **Any development to occur on the subject property will be subject to the review and approval through the Hall County permitting process and shall be subject to the all applicable local, state, and federal requirements.**
- (h) Whether the proposed change will adversely affect property values in adjacent areas. . **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 complete.**
- (i) Whether there are substantial reasons why the property cannot be used for a permitted use in the district where the property is located. **Approval from the Board of Commissioners is required for any minor subdivision within the Vacation Cottage (V-C, [17.50](#)) district.**

Per Planning Commission and Hall County Commission consideration and decision ([17.380.060](#)), the planning commission shall study the need and justification for the change based on a determination of the facts applicable to the particular case, and the following general lines of inquiry shall be considered, to wit:

1. Whether the zoning proposal will permit a use that is suitable in view of the use, development and zoning of adjacent and nearby property; **The proposed use is suitable in view of the use, development, and zoning of adjacent and nearby properties.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The zoning has already been established on the property and the current request is for a conditional use approval. The minor subdivision request will not adversely affect the existing uses or usability of adjacent or nearby property.**
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned; **The property is currently developed with a single-family residence and may continue to be used as such. This is a conditional use to subdivide the property into 2 parcels and is not a rezoning request.**
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, utilities, schools, police protection, fire protection, public health facilities or emergency medical service; **The proposed development is unlikely to cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, police protection, fire protection, public health facilities, or emergency medical services.**

5. Whether the zoning proposal is in conformity with the policy and intent of the future land use plan for the physical development of the area; **The zoning has already been established on the property and the current request is for a conditional use approval. This minor subdivision request is in conformity with the policy and intent of the Residential future land use classification of the Comprehensive Plan.**
6. The extent to which property values are diminished by the existing zoning restrictions; **Staff has not identified that the existing property values have been impacted by the existing zoning.**
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 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.**
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. This is a conditional use to subdivide the property into 2 parcels and is not a rezoning request.**
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 property is currently developed with a single-family residence and associated accessory structures.**
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 zoning has already been established on the property and the current request is for a conditional use approval. This question is not applicable to this request.**
12. Whether the present zoning district boundaries are illogically drawn in relation to existing conditions in the area; **There is no evidence that the present zoning district boundaries are illogically drawn in relation to existing conditions in the area; this is a conditional use to subdivide the property into 2 parcels and is not a rezoning request.**
13. Whether the change requested is out of scale with the needs of the county as a whole or the immediate neighborhood; **This is a conditional use to subdivide the property into 2 parcels and is not a rezoning request.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **This is a conditional use to subdivide the property into 2 parcels and is not a rezoning request. The property is appropriately zoned.**

15. Whether the need for rezoning could be handled instead by a variance request to the [Planning Commission]; **This is a conditional use to subdivide the property into 2 parcels and is not a rezoning request.**
  16. Whether there would be an ecological or pollution impact resulting from major modifications to the land if the request is granted; **The property will be required to meet all local, state, and federal requirements pertaining to stormwater management as part of the development process.**
  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 a mistake was made in the original zoning of the property. This is a conditional use to subdivide the property into 2 parcels and is not a rezoning request.**
- **Vacation Cottage (V-C)** standards are found in [chapter 17.50](#) which include the permitted and conditional uses allowed within the V-C district. The standards for the **Agricultural Residential III (AR-III)** may be found in [chapter 17.110](#).

**Development Support and Constraints –Departmental /agency comments**

***Hall County Environmental Health***

An email dated October 31, 2022 from Emily McGahee states “All proposed lots must meet Hall County Board of Health Lot Size Resolution requirements.”

***Hall County Fire Rescue***

In an email dated November 2, 2022, Lieutenant John Hornick, NPQ Fire Inspector 1, Plans Review states “International Fire Code Section 503.2.1 requires fire apparatus access roads public or private to be 20 foot wide exclusive of shoulders, road will have to be widened to 20 feet to meet fire access code requirements.”

***Hall County Public Works and Utilities***

In a memo dated November 3, 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 comments.

***Georgia Department of Transportation***

Per an email dated November 2, 2022, Parker Niebauer, District 1, Traffic Operations supervisor states that this project will **not** require GDOT coordination.

➤ **Excerpts from the minutes of the November 21, 2022 meeting**

**Applicant’s Presentation:**

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

**Robert Deleon, 4139 Cagle Mill, Lula**, presented the request. The applicant stated that the property is their retirement home where they would like their daughter to build her own home to be close to them.

**Public Forum:**

*There were no comments in support or opposition.*

**Motion: A motion to approve, with conditions was made by Mr. Hunt and seconded by Mr. Bell. Vote: 4-0 (Pilcher absent)**

*Conditions:*

- 1. The development shall conform with the proposed narrative and site plan.*
- 2. Standard Hall County plat approval process shall be followed.*
- 3. The Board of Commission action letter shall be placed on the plat.*