

**HALL COUNTY PLANNING COMMISSION  
RECOMMENDATION REPORT**

**Applicant** ..... Rochester/DCCM

**Request** ..... Variance from certain development standards of a  
Planned Residential Development (PRD,  
[17.180.060](#))

**Proposed Use** ..... 38-unit residential rental community

**Size** ..... 5.95± acres

**Zoning** ..... Planned Residential Development (PRD,  
[17.180.060](#))

**Location** ..... **3055 Tumbling Creek Road** | Tax Parcel 08026  
000005 (pt.)

**Commission District** ..... Two

**Planning Commission Date** ..... January 3, 2023

**Planning Commission Recommendation**.....**Approval, with conditions**  
**Vote: 4-0 (Bell absent)**

**Planning Commission Rezoning Conditions:**

1. The conditions of zoning approved on January 28, 2021 shall apply as listed below, modified to be consistent with the current request:
  - A. The development shall generally occur as depicted on the site plan dated 10-19-2022, as modified, and described in the revised project narrative dated 11-16-2022 and site plan, modified for compliance with zoning conditions, and Hall County regulations.
  - B. The proposed residential development shall conform to [17.180.060](#) Planned Residential Development (PRD) standards, except for where variances are approved as part of this application.
  - C. The following standards shall apply to the development:
    - I. Use: Rental Cottages
      - i. 38 total units not exceeding 114 total bedrooms
      - ii. Density shall not exceed of 6.4 units per acre
    - II. Setbacks:
      - i. From right-of-way: 30 feet
      - ii. Side: 5 feet
      - iii. Rear: 20 feet
    - III. No less that Parking: 114 spaces, subject to Hall County regulations

- IV. Open Space: minimum of 1.53 acres (30%)
- V. Buffers: No buffers will be required against adjacent property retained by the foundation.
- VI. Where the development is adjacent to a right-of-way there shall be a 10 foot plated landscape strip to be installed no later than six months from the development of the proposed Tommy Creek connector.
- VII. Architectural standards: All facades of all residences, shall be finished with brick, stone, stucco, wood siding, wood shakes, or fiber cement type siding. The front facades shall incorporate changes in building material, texture, and/or color. Vinyl siding on all residential and non-residential buildings shall be prohibited.
- D. An updated traffic study shall not be required.
- E. Tenancy shall be not be restricted to University of North Georgia (UNG) faculty or students.
- F. The following language shall be placed upon the Final Plat of the PRD as defined by 17.20.830 of the Hall County Code and it will read, "Owners and users of this property are informed of industrial uses nearby and should expect noise, odors, and other effects associated with such industrial properties."
- G. The applicant, in developing the property, shall cooperate with Hall County regarding connectivity and development of the Highlands to Islands trail network.
- 2. No buffer shall be required along the perimeter of the property where the seller owns the adjacent property. A 10 foot landscape strip shall be required along the rights-of-way of Tumbling Creek Road and the proposed Tumbling Creek Connector.
- 3. Minimum of one tree shall be provided for each unit in addition to the planted landscape buffer. Trees shall be maintained by the owner and any diseased or dead trees shall be replaced by the owner.
- 4. Sidewalks will be provided adjacent to each parking bay with connecting sidewalks to the right-of-way of Tumbling Creek Road.
- 5. Open space shall be provided at a ratio of 30% of the site area and not subject to the requirements of the conservation subdivision design.
- 6. The commission shall approve there are no proposed lots for the developments rental community.
- 7. There are no proposed garages instead the development will be served by the community parking areas, which shall be allowed.

**Public Forum:**

*There were no comments in support or opposition.*

**Summary Analysis**

**The applicant has requested the following variances** to the Planned Residential Development (PRD, [17.180.060](#)) requirements:

Code Section	Standard	Applicant's Proposed Standard
<a href="#">17.180.060.B.5 - Buffers</a>	A minimum 50 foot planted buffer shall be established along the perimeter of all property boundaries adjacent to residential and/or non-residential zoning districts to ensure that the planned residential development is appropriately	No buffer shall be required along the perimeter of the property where the seller owns the adjacent property. A 10 foot landscape strip shall be required along the rights-of-way of Tumbling Creek Road and the

	<p>screened. The planted buffers shall conform to the requirements as described in <a href="#">section 17.260.020</a> titled vegetation buffers and vision clearance. In conditions where required stream buffers exist along a perimeter property boundary, the planning director may grant exemptions from the 50 foot planted buffer if a stream buffer meets or exceeds the 50 foot planted buffer width.</p>	<p>proposed Tumbling Creek Connector.</p>
<p><a href="#">17.180.060.B.6.a - Landscape Requirements</a></p>	<p>A minimum of two trees per lot shall be provided or preserved in the front, side, or rear yard. Trees shall not be counted if they are located in utility easements, drainage easements, or septic drain fields. The homebuilder shall be responsible for planting or preserving the individual lot trees prior to the issuance of a certificate of occupancy. Trees that are provided or preserved to meet the two trees per lot may not be counted toward the overall development's tree density unit requirements.</p>	<p>Minimum of one tree shall be provided for each unit.</p>
<p><a href="#">17.180.060.B.7.b - Sidewalks</a></p>	<p>In addition to the sidewalk requirements that shall be met per <a href="#">chapter 16.70</a>, street construction requirements, all planned residential developments shall construct sidewalks on both sides of the streets that are a minimum of five feet wide.</p>	<p>Sidewalks will be provided adjacent to each parking bay with connecting sidewalks to the right-of-way of Tumbling Creek Road</p>
<p><a href="#">17.180.060.B.8 - Open Space</a></p>	<p>The development shall conform to all open space requirements of sections <a href="#">17.430.100</a> through <a href="#">17.430.150</a>, as shown under the conservation subdivision design option chapter. The only open space requirement that may differ from those standards set forth in <a href="#">section 17.430.110</a> is the open space shall comprise at least 30 percent of the gross tract area.</p>	<p>Open space shall be provided at a ratio of 30% of the site area and not subject to the requirements of the conservation subdivision design.</p>

Staff has identified the following sections of the Planned Residential Development (PRD, [17.180.060](#)) requirements from which a variance is also needed:

Code Section	Standard	Applicant’s Proposed Standard
<a href="#">17.180.060.B.2.a - Lot area</a>	Minimum lot area standards of 8,000 square feet for lots served by sanitary sewer. The overall gross density not to exceed two units per acre. The minimum lot area for lots without access to sanitary sewer shall be determined by the requirements of the county environmental health department.	There are no proposed lots for the development as it is a rental community.
<a href="#">17.180.060.B.2.b - Lot width</a>	Minimum lot width of 50 feet	There are no proposed individual lots.
<a href="#">17.180.060.B.9.b - Single-family or two-family residence garages</a>	Garage placement shall match one of the following standards for lots less than one acre	There are no proposed garages, instead the development will be served by communal parking areas.

**It should be noted that this application has a symbiotic relationship with the other Rochester/DCCM request to amend conditions of a Planned Residential Development (PRD, [17.180.060](#)). This was not a separate application but is part of the application to amend the previous rezoning conditions. This report has been prepared to specifically address the necessary variances.**

**Zoning Analysis**

The Planning Commission is hereby authorized to grant variances from the strict application of this Resolution upon proof by a preponderance of the evidence that [2.60.030.J](#) provided the request meets the criteria set forth in [2.60.030.K](#).

1. There are 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); **No, there do not appear to be extraordinary and exceptional conditions pertaining to the particular lot in question because of its size, shape or topography of the property. Instead, the requested variances primarily relate to the proposed development type, a single-family residential rental community. The Planned Residential Development (PRD, [17.180.060](#)) recommends certain standards for individual lot development, which is different than the proposed model.**
2. The application of the requirements of this [Title 17](#) to this particular piece of property would create an unusual hardship; **The property can be developed as currently zoned, for a multi-family apartment complex geared towards the students of the University of North Georgia; however, that option does not meet the University’s current need.**
3. Such conditions are peculiar to the particular piece of property involved and are not common to other properties in the neighborhood; and **Yes, the conditions are peculiar to the particular piece of property as the development is geared to the users of the University of**

**North Georgia, which is the adjacent property owner. The proposed development likely would not occur as requested if it were not for the close proximity to the university campus.**

4. Such conditions are not the result of any actions of the property owner; and **The property owner has submitted a letter of support for the development; if the request to amend the conditions of zoning is approved, then the subject property will be sold to the developer.**
5. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of [Title 17](#); provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by [Title 17](#) or for a conditional use which has been denied by the county planning commission. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of [Title 17](#). The proposed development is less intense than what is currently approved for the site.**

### **Development Support and Constraints – Departmental / Agency Comments**

#### **Hall County Environmental Health**

An email dated December 13, 2022 from Emily McGahee states “No comment. Public sewer.”

#### **Hall County Fire Marshal**

An email dated December 15, 2022 John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant states, “The Hall County Fire Marshal’s Office has no comments as proposed.”

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

In a memo dated December 14, 2022, from Srikanth Yamala, Director of Public Works and Utilities, provided the following comments:

##### **Engineering:**

This site may require a stormwater management report, should the site plan indicate the proposed development meets stormwater thresholds for impervious surface and/or disturbed acreage.

Show buffer and impervious setback from wrested vegetation, not centerline of creek.

Buffer change requested does not include stream buffers

Show 75’ impervious setback or request a variance.

##### **Traffic:**

No comment.

##### **Utilities**

City of Gainesville Sewer District

#### **City of Gainesville Water Resources**

In a letter dated September 27, 2022, Nick Swafford, Permitting Services Manager, provided a letter confirming availability of water and sanitary sewer service for the property. Specifically, the letter states that:

“The City of Gainesville owns and operates an existing 12-inch DIP water main in the northeast right-of-way of Tumbling Creek Road along the subject property frontage. The City also owns and operates existing 10-

inch gravity sanitary sewers located in the right-of-way of Tumbling Creek Road as well as within the subject property. Also, a 15-inch gravity sanitary sewer is located within the subject property.

The City of Gainesville has adequate capacity for your proposed housing development, which we understand will consist of approximately 38 units with an anticipated average sewage flow of 9,500 GPO and a peak flow of 23,750 GPO.

This confirmation of water and sewer availability is good for one year from the date of this letter at which time, it will become null and void unless engineered plans have been submitted for issuance of a development permit.”

### **Georgia Department of Transportation**

No Comment for this item.

### **University of North Georgia Real Estate Foundation**

In a letter dated September 28, 2022, Gerald M. Sullivan, Associate Vice President of Real Estate & Auxiliary Services, provided the following comments in a letter of support:

“The University of North Georgia Real Estate Foundation supports the development of housing at this location as it will provide affordable housing opportunities to UNG students, faculty, staff, and others in close proximity to the UNG campus, and will provide a catalyst for other property improvements on adjoin property. The community as conceived by Stark Properties will begin to address demand from UNG students for safe, student focused housing that is walking distance to classrooms and student activities.”

### ➤ **Excerpts from the minutes of the January 3, 2023 meeting**

#### **Applicant’s Presentation:**

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

**Bradley Dunkel, 425 Oak Street, Gainesville**, presented the request. The applicant stated that the request will be geared towards University of North Georgia students, staff, and faculty but not exclusive to. The applicant stated that they have support from the University of North Georgia. The applicant stated they would only like to build cottage type of rentals rather than the originally proposed apartments. The applicant discussed the proffered conditions: 1. the development shall generally occur as depicted on the site plan, as modified, and described in the revised project narrative, modified for compliance with zoning conditions and Hall County regulations. 2. The proposed residential development shall conform to §17.180.060 Planned Residential Development (PRD) standards, except for where variances are approved as part of this application. 3. The following standards shall apply to the development: a. Use: Rental Cottages 1. 38 total units/114 total bedrooms 2. Density of 6.4 units per acre b. Setbacks: 1. From R/W: 30 feet 2. Side: 5 feet 3. Rear: 20 feet c. parking: 114 spaces, subject to Hall County regulations. d. Open Space: 1.53 acres (30%) e. Buffers: No buffers will be required against adjacent property retained by the Seller. f. Where the development is adjacent to the right- of-way there shall be a 10-foot planted landscape strip required. 4. An updated traffic study will not be required for this project due to the unit count falling below the threshold of 100 units. 5. It is the intent of the

applicant that his development shall serve the students, faculty, staff of the University of North Georgia's Gainesville Campus, but tenancy will not be limited to these users. The applicant stated that there will be sidewalks in the development. The applicant stated that there are no proposed garages.

**Public Forum:**

*There were no comments in support or opposition.*

**Planning Commission Comments:**

Ms. Pilcher questioned if the development would be built where Lanier Tech was previously located. The applicant stated that was correct. Ms. Pilcher questioned the distance from the site to the retention pond. The applicant stated that they would be far enough from it. Mr. Braswell wanted to clear up that the stream buffer denial by Engineering would need to be appealed to the Board of Commission, it is not something that can be appealed to the Planning Commission.

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

***Conditions:***

1. *The conditions of zoning approved on January 28, 2021 shall apply as listed below, modified to be consistent with the current request:*
  - A. *The development shall generally occur as depicted on the site plan dated 10-19-2022, as modified, and described in the revised project narrative dated 11-16-2022 and site plan, modified for compliance with zoning conditions, and Hall County regulations.*
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      - i. *From right-of-way: 30 feet*
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      - iii. *Rear: 20 feet*
    - III. *No less that Parking: 114 spaces, subject to Hall County regulations*
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    - VI. *Where the development is adjacent to a right-of-way there shall be a 10 foot plated landscape strip to be installed no later than six months from the development of the proposed Tommy Creek connector.*
    - VII. *Architectural standards: All facades of all residences, shall be finished with brick, stone, stucco, wood siding, wood shakes, or fiber cement type siding. The front facades shall*

*incorporate changes in building material, texture, and/or color. Vinyl siding on all residential and non-residential buildings shall be prohibited.*

- D. An updated traffic study shall not be required.*
- E. Tenancy shall be not be restricted to University of North Georgia (UNG) faculty or students.*
- F. The following language shall be placed upon the Final Plat of the PRD as defined by 17.20.830 of the Hall County Code and it will read, "Owners and users of this property are informed of industrial uses nearby and should expect noise, odors, and other effects associated with such industrial properties."*
- G. The applicant, in developing the property, shall cooperate with Hall County regarding connectivity and development of the Highlands to Islands trail network.*
- 8. No buffer shall be required along the perimeter of the property where the seller owns the adjacent property. A 10 foot landscape strip shall be required along the rights-of-way of Tumbling Creek Road and the proposed Tumbling Creek Connector.*
- 9. Minimum of one tree shall be provided for each unit in addition to the planted landscape buffer. Trees shall be maintained by the owner and any diseased or dead trees shall be replaced by the owner.*
- 10. Sidewalks will be provided adjacent to each parking bay with connecting sidewalks to the right-of-way of Tumbling Creek Road.*
- 11. Open space shall be provided at a ratio of 30% of the site area and not subject to the requirements of the conservation subdivision design.*
- 12. The commission shall approve there are no proposed lots for the developments rental community.*
- 13. There are no proposed garages instead the development will be served by the community parking areas, which shall be allowed.*