

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Rochester | DCCM

Request Rezone from Agricultural Residential IV (AR-IV, [17.120](#)) to Highway Business (H-B, [17.150](#))

Proposed Use 8,000 SF speculative building

Size 1.33± acres

Zoning Current Agricultural Residential IV (AR-IV, [17.120](#))
| Proposed Highway Business (H-B, [17.150](#))

Location **5937 Union Church Road** | Tax Parcel
15039A000024

Commission District One

Planning Commission Date January 17, 2023

Staff Recommendation **Approval, as the proposed use is consistent with the [Comprehensive Plan](#) and the future land use classification of an Activity Center**

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

Vote: 5-0

Planning Commission Conditions:

1. The permitted uses for the site will include the permitted uses within the Highway Business ([17.150.010.](#)) district, except for the following are prohibited: Bus stations, drive-in theaters, radio and television studios, adult establishments, hotels and motels.
2. The standards of the Gateway Corridors Overlay District (GCOD, [17.420](#)) shall apply to the development. No variances to these standards are granted as part of this request.
3. The development shall follow all Hall County Development Review processes and stormwater requirements as established by the Official Code of Hall County and any other applicable agency.
4. The applicant shall obtain a commercial driveway permit from the Georgia Department of Transportation as part of the development process.

Public Forum:

There were no comments in support or opposition.

Summary Analysis

The applicant is requesting to rezone a 1.33± acre parcel from Agricultural Residential IV (AR-IV, [17.120](#)) to Highway Business (H-B, [17.150](#)) for unspecified permitted uses within the H-B district. The applicant’s site plan depicts an 8,000 square foot building with associated parking, a stormwater management area, and vegetated buffers. The narrative notes that the submitted site plan is meant to be conceptual in nature and shall not be binding to any future development of the site.

The accompanying narrative states that while there has been interest in commercial uses at this location over time, the property has not been actively marketed nor is there an option to purchase for the property. Instead, the property owners want to establish a non-residential zoning district for the purpose of marketing a future sale of the property.

As the request does not have an end user, the applicant has proposed a list of permitted uses. Specifically, the applicant is proposing that all of the permitted uses within the Highway Business (H-B, [17.150](#)) district be allowed, with the exception of the following:

- Bus stations
- Drive-in theaters
- Radio and television studios and
- Adult establishments

The permitted uses for the site will include the permitted uses within the Highway Business ([17.150.010.](#)) district, except for those excluded above:

- Any retail or retail service establishment, including the making of articles sold at retail on the premises providing the conditions of [chapter 17.210](#) are met.
- Banks.
- Churches and other places of worship.
- Motels, hotels.
- County uses.
- Offices, with a gross floor area not exceeding 25 percent of lot area.
- Parks for leisure and scenic appeal.
- Radio and television studios.
- Restaurants.
- Service stations, provided the conditions of [chapter 17.210](#) are met.
- Subdivisions.
- Family day care home.
- Group day care home.
- Construction trailer, provided the conditions of [chapter 17.210](#) are met.
- Dental laboratories.

The proposed minimum standards for the site are as follows:

Zoning Requirement	Minimum	Site
Lot Area	15,000 square feet	57,620 square feet

Lot Frontage	100 feet	371' (State Route 211) and 215' (Union Church Road)
Front Yard Setback	30 feet from right-of-way	30 feet from right-of-way
Side Yard Setback	20 feet	20 feet
Rear Yard Setback	10 feet	NA*
Vegetated Buffer along PRD	25 feet	10 feet (2 sides)
GCOD Landscape Strip	10 feet	10 feet
*As a commercial corner lot the property will have two front and two side setbacks, rather than a more typical front, two side, and a rear.		

The narrative explains that the site will be served by water provided from the City of Gainesville. Hall County sewer is available nearby, though the end user will ultimately decide if the site will utilize public sewer or on-site septic.

As part of the narrative, the applicant has proffered the following conditions:

1. The site driveway access shall be limited to a maximum of two (2).
2. Allowed uses of the limited only to the following listed uses of [17.150.010](#): A, B, D, F-I, K-Q, and S.
3. The conceptual site plan is representative but not binding.

No variances were specifically requested as part of the application. Staff notes that the applicant has indicated that the site will not have a true rear yard setback, as it has two front and two side setbacks. Table [17.240.010](#) (minimum lot area, setback and height requirements) does not include this interpretation. The rear yard is defined in [17.20.1390](#) as the area situation between the rear building line and rear lot line, extending the full width of the lot.

The applicant has proposed a reduced vegetated buffer where the property is adjacent to the adjacent townhome development. Within the Gateway Corridors Overlay District (GCOD, [17.420](#)), where a commercial zoning district abuts property zoned for single-family residential or agricultural use, the minimum width shall be 25 feet. If a six-foot high solid wood fence or masonry wall is incorporated into the design of a transitional buffer, the width of the buffer may be reduced by ten feet.

Based on the future land-use plan, staff finds the *requested zoning designation* of Highway Business (H-B, [17.150](#)) consistent with the [Comprehensive Plan](#) and the Activity Center future land use designation.

Zoning Analysis

The [Comprehensive Plan](#) states that the intent of the Activity Center is to enhance and create concentrated commercial uses, employment centers and mixed use development in defined areas that are served by a network of paths and streets suitable for pedestrians as well as cars. The proposed use is in close proximity to a 500± acre mixed use development and as such is consistent with the [Comprehensive Plan](#).

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 use is suitable in view of the uses and development of**

adjacent and nearby properties. The intersection of Old Winder Highway / SR 211 and Union Church Road is an area of the county currently experiencing both commercial and residential growth.

2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The proposed development should not have an adverse effect on the existing uses or usability of adjacent or nearby property. The proposed use will be subject to all applicable local, state, and federal development regulations.**
3. Whether the property to be affected by the zoning proposal has reasonable economic use as currently zoned. **The property has reasonable economic values as currently zoned; allowable uses within the Agricultural Residential IV (AR-IV, [17.120](#)).**
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; **As the end users have not identified it is difficult to determine the frequency and intensity of traffic using the site.**
5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan; **The proposal is consistent with the [Comprehensive Plan](#) and the future land use classification of an Activity Center.**
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.**
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 undeveloped and appears to have been this way for some time.**
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; **This portion of the county is rapidly changing as both residential and commercial growth is occurring in the area.**
11. Whether the change would create an isolated district unrelated to the surrounding districts; **The proposed zoning would create an isolated district unrelated to the surrounding districts. There are non-residentially zoned properties in the area, but not immediately adjacent.**
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.**
13. Whether the change requested is out of scale with the needs of the county as a whole or the immediate neighborhood; **The proposed use is not out of scale with the needs of the county as a whole. The subject property is adjacent to an Activity Center as identified on the future land use map and [2022 Comprehensive Plan, page 23](#).**

14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **There are other properties within the County that support the proposed use based on the Future Land Use Map and existing zoning designations.**
15. Whether the need for rezoning could be handled instead by a variance request to the [Planning Commission]; **The request could not be handled alternatively as a variance because it is 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; **Any land disturbance activities on the property shall be required to go through the land development permitting process, and as a result are subject to local, state, and federal regulations. As a result there should not be an ecological or pollution impact resulting from any modification to the land if the request is granted.**
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.**

The subject property falls within the Gateway Corridors Overlay District (GCOD, [17.420](#)) which provides supplemental design standards for non-residential property development.

[17.380.050](#). - The application meets the submission requirements for a rezoning request.

Development Support and Constraints – Departmental / Agency Comments

Hall County Environmental Health

In an email dated January 3, 2023, Emily McGahee states “Connection to public sewer required if available within 200’ of property. If sewer not available, must meet all Environmental Health commercial septic system permitting requirements. Further determination will be made during the civil plan review process. A detailed business plan must be submitted to Hall County Environmental Health for review. Additional items, including, but not limited to: recorded plat, soil evaluation, and septic system installation may be required after review of business plan.”

Hall County Fire Marshal

An email dated January 3, 2023, John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated “The Hall County Fire Marshal’s Office has no comments as proposed.”

Hall County Public Works and Utilities

In a memo dated December 30, 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.

Traffic:

GDOT permit will be required for driveway connection to Old Winder Highway.

Utilities

Sanitary sewer verify if intent is available at site, design shall meet Hall County Standards. Availability letter needed for Hall County Sewer.

Georgia Department of Transportation

No comments received from GDOT for this agenda.

➤ Excerpts from the minutes of the January 17, 2023 meeting

Applicant's Presentation:

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

Bill Schmid, 425 Oak Street, Gainesville, presented the request. The applicant compared the zoning of neighboring properties.

Public Forum:

There were no comments in support or opposition.

Planning Commission Comments:

Mr. Braswell questioned the speculative building. The applicant stated that the building would conform to Gateway Standards and presented an updated site plan that took buffers into consideration.

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

Conditions:

- 1. The permitted uses for the site will include the permitted uses within the Highway Business ([17.150.010](#).) district, except for the following are prohibited: Bus stations, drive-in theaters, radio and television studios, adult establishments, hotels and motels.*
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