

**HALL COUNTY BOARD OF COMMISSIONERS
STAFF REPORT**

Applicant Hall County Planning

Request Variance to plat two (2) tracts without frontage on a public right-of-way ([Table 17.240.010](#) and [Section 16.50.040](#))

Proposed Use Platting parcel into two (2) tracts

Size 9.5 acres

Zoning AR-IV

Location **8730 Forrester Rd** | Tax Parcel 12128 000009

Commission District Three

Board of Commissioner’s Date March 23, 2023

Staff Recommendation Denial; lots of record cannot be altered without meeting the current standards.

Recommended Conditions, if approved:

1. The Board of Commissioner’s action letter shall be placed on the plat.
2. No further subdivision of the two newly created parcels shall be allowed.
3. No expansion of the commercial kennel or its services shall be allowed.
4. No dwelling may be added to the tract containing the commercial kennel.
5. The following note shall be placed on the plat of record:
"Purchaser understands that to the extent that the property is accessed through the current common access driveway, and non-exclusive perpetual easement, the current common access driveway is not maintained by Hall County, does not meet Hall County’s common driveway standards, and may not be accessible to emergency vehicles."
6. The two parcels shall be conveyed to one owner or entity.
7. Standard Hall County Platting procedures shall be followed.

Summary Analysis

The current owners wish to subdivide an existing +/- 9.5-acre lot of record into two (2) tracts. One tract will contain an existing home and accessory structures and will consist of +/-3.93 acres; the other will contain a commercial kennel authorized by ZON2007-00113, and will consist of +/- 5.57 acres. The property was

transferred by a deed (DB 3547/198-199) in 1999 and accessed via a non-exclusive perpetual 50FT easement, also included in the deed. The 50FT easement is the flag pole to 8720 Forrester Road and serves four (4) tax parcels, including 8730 Forrester Road. Although no plat has been found in the Superior Court Clerk's online records the ZON2007-00113 includes a copy of recorded plat and the historical zoning maps indicate that the property was a lot of record since 1965. The Planning Commission and Board of Commissioners approved the construction of a commercial kennel (ZON2007-00113) on August 23, 2007; a variance in the rear setback for the kennel (ZON2007-00153) on November 5, 2007, a house (RES1999-00155), a barn (MIS2007-00443), a swimming pool (MIS2020-00072), and kitchen remodel in 2019.

The adjacent properties to the east, west, and south are also zoned AR-IV and are either vacant or contain single-family dwellings. The property to the north has a zoning designation of Planned Commercial Farm Development (PCFD).

[Section 17.240.130.A](#) states that no principal building shall be placed or erected on a parcel not abutting a street or a public way not maintained by the county and the easement does not meet the definition of [Public Way](#), as listed in 17.20.850; however, the parent parcel is a legal lot of record. The minimum lot frontage in an AR-IV district is 50FT; [17.20.480](#) defines "frontage" as the dimension of a lot along a street line.

[Section 16.50.040](#) requires access for every subdivision lot to have access over a public road or common access drive meeting the common access drive standards. The existing easement exceeds the width requirement of [common access drive](#) but the existing drive does not meet the current standard.

A **variances** related to access will be required if the subdivision, as presented, is approved because the proposal does not meet the above listed requirements.

- All lots are to access a public road or a common access drive ([16.50.040](#)).

Should the Board of Commissioners grant this variance request, the applicant must follow the standard Hall County platting procedures.

Zoning Analysis

The Commission is hereby authorized to grant variances from the strict application of this Resolution upon proof by a preponderance of the evidence that:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual, practical, difficulties to or exceptional or undue hardship upon the owner of such property; **The existing parcel has existed since at least 1965 without frontage on a public right-of-way and the current owners purchased it in 1999. The parcel and three others use a 50FT non-exclusive perpetual easement for access. The owners were granted permits for the existing residence and residential ancillary buildings, and granted a land-use with a variance in required setback for a commercial kennel. During those reviews, [16.50.040](#) was not mentioned since the lot was a legal lot of record. The current request seeks approval to allow the property to be subdivided into two (2) tracts. The proposed parcels exceed the minimum lot area for the district but cannot meet the requirement of [16.50.040](#) since the parent parcel does not have road frontage.**

- (b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions; **The owner has approximately 800 LF along the perpetual easement but no frontage onto Forrester Road. Lots of record cannot be altered without meeting the current standards. As such, it is up to the property owner to explore options of obtaining the required road frontage.**
- (c) Such variance can be granted without substantial impairment to the intent, purpose, and integrity of this Resolution and/or the comprehensive plan or other master plan adopted for the property; and **The parcel has existed without frontage on a public right-of-way since at least 1965, as shown on the historical zoning map. The perpetual easement is referenced in the 1999 deed. Permits were issued for the home in 1999 and the kennel in 2007. The proposal will not increase the intensity of the use nor the traffic. Both parcels will continue to be served by the perpetual easement and the concrete drive that currently serve the property.**
- (d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties. These provisions, however, shall not permit the Commission to grant any variance to any setback or yard requirements for property zoned for commercial or industrial purposes when such property abuts or immediately adjoins any property zoned for residential purposes unless such residential property is proposed for commercial or industrial use on the comprehensive land development plan. **The proposal should not have a detrimental impact to the adjacent properties since the use will not change.**