

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Southern Utility Group

Request Conditional Use subject to County Commission approval

Proposed Use inert landfill

Size 12.76± acres

Zoning Heavy Industrial (I-II, [17.170](#)) / Gateway Corridors Overlay District (GCOD, [17.420](#))

Location **1563 Calvary Church Road** | Tax Parcel 15031 000097

Commission District Four

Planning Commission Date April 3, 2023

Staff Recommendation **Approval, as the proposed use has already been established on the property, which is in compliance with the Official Code of Hall County and below conditions of zoning.**

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

Planning Commission Conditions:

1. *The development shall be generally consistent with the submitted site plan and narrative modified for compliance with Hall County regulations at time of development permit application.*
2. *Any business operating at the subject property shall obtain a Business License from Hall County.*
3. *Proposed pond for hydro-excavating services shall be limited to only waste consisting of soil and water. No other materials shall be accepted for disposal on the property. These materials shall be considered recoverable and/or reusable as per the Georgia Environmental Protection Division (EPD) dated January 23, 2017.*
4. *Owner shall provide written documentation from Georgia Environmental Protection Division (EPD) regarding pond design and use prior to acceptance of disposal of waste materials on the property.*
5. *Hall County shall conduct monthly routine compliance inspections.*
6. *The owner shall maintain logs and manifests of all materials accepted for disposal on the property. These records shall be made available for review upon request by Hall County.*
7. *Any change in use shall be subject to Hall County Board of Commissioners approval.*

8. *The access point to the pit area shall be closed and locked after hours.*
9. *The applicant shall contract with a third party environmental testing consultant who shall prepare a monitoring, inspection, and testing plan to include: on-site and downstream water quality testing and testing of on-site waste materials. Both the consultant and the plan shall be subject to the approval of Hall County Engineering for verification that waste materials contain no prohibited waste and only consist of water and soil as the applicant's proposal outlines.*
10. *The business license associated with this use shall go before the Board of Commissioners approval on an annual basis for renewal. As part of this renewal the owner shall provide the maintenance logs and manifests, as described in condition 6 and the inspection and testing results as described in condition 9.*
11. *In the event of any violation of the conditions, the Director of Planning and Development shall bring such violations before the Hall County Board of Commissioners, in accordance with the provisions of [\[§5.10.490\]](#), hearing on revocation of business license, of the Official Code of Hall County.*
12. *Erosion control measures and a double row of silt fence shall be installed and maintained.*

Public Forum:

Alec Tipton, 1642 Calvary Industrial Drive, Gainesville, spoke in opposition. Concerns were retention pond contamination.

Jay Wilhoite, 1044 Farmhouse Road, Gainesville, spoke in opposition. Concerns were runoff water and sedimentation.

Jim Wilhoite, 4025 Highlands Circle, Gainesville, spoke in opposition. Concerns were runoff water and erosion.

Summary Analysis

The applicant is requesting approval to operate an inert landfill on the 12.76± acre property for the purpose of operating a hydro-extrusion business. Hydro-extrusion, or hydrovac excavation, is a non-mechanical, non-destructive process that uses pressurized water and an industrial-strength vacuum to simultaneously excavate soil. As the pressurized water breaks up the soil, the soil and water slurry (mud) is conveyed by a vacuum to a debris tank. This process is most frequently used to daylight buried utilities.

The applicant's business includes the need for a place to store and dry out the slurry. This will be accomplished through a series of three (3) ponds already developed on the site. The first pond will receive the slurry, where the slurry will settle and the water will be filtered out into a second pond, the filtration pond. The leftover dirt/mud will be removed from the receiving pond and moved to a stockpile location adjacent to the pond where the mud will be placed for drying. Once dried, the mud will be utilized as fill dirt at locations where the hydro-extrusion is occurring. The final pond will be a wet stormwater pond which will provide additional filtration and pollution removal. The site plan depicts a proposed 2.09 acre conservation area at the rear of the property.

It should be noted that this parcel has had two (2) previous approvals for a similar business. The first request including the rezoning of the property to Heavy Industrial (I-II, [17.170](#)) and the conditional use approval for the inert landfill was approved by the Board of Commissioners on December 16, 2019. Then, on December

10, 2021, the Board of Commissioners approved the conditional use of an inert landfill for a second time. The second application was the result of the applicant not taking action to implement the use within 12 months from the date of approval.

Both of these actions included conditions of zoning related to the use of the property for hydro-extrusion activity. The 2021 approval restricted the use and business operations to the previous applicant with the sale of the business requiring the new owner to seek Board of Commissioners approval. This condition has resulted in the current request.

Zoning Analysis

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 property has previously been rezoned to Heavy Industrial (I-II, [17.170](#)) and the current request is for a use subject to approval of the Board of Commissioners for an inert landfill. This use has previously been approved on the subject property, but due to a condition of zoning requiring approval for a change in business ownership has resulted in the current application.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The proposed use has previously been established and the current request relates to a change in business ownership, a condition of the December 10, 2021 conditional use approval.**
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned; **Yes, the property is currently zoned Heavy Industrial (I-II, [17.170](#)) and can be used for any use permitted by right. Due to previous conditions of zoning, the property can only be used for the hydro-extrusion business if approved by the Board of Commissioners.**
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; **This question is not applicable as the use is currently established on the property.**
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 Heavy Industrial (I-II, [17.170](#)) zoning classification has already been established by previous action on December 16, 2019, as such this criteria is not applicable.**
6. The extent to which property values are diminished by the existing zoning restrictions; **The subject property has already been developed for the proposed use of a hydro-extrusion business. If the current request is not approved, the applicant would not be able to continue business operation.**

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; **As the Heavy Industrial (I-II, [17.170](#)) zoning classification has already been established, this criteria is not applicable.**
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 developed, as such this criteria is not applicable.**
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; **There are no known changing conditions affecting the use or development of the property.**
11. Whether the change would create an isolated district unrelated to the surrounding districts; **The current request is a conditional use request and there are no proposed changes to the underlying zoning.**
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; **No, the request is not out of scale with the needs of the county as a whole.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **As inert landfills require Board of Commissioners approval within the Heavy Industrial (I-II, [17.170](#)), there are no sites that could be used without Commission action.**
15. Whether the need for rezoning could be handled instead by a variance request to the [planning commission]; **No, the request could not be handled instead by a variance.**
16. Whether there would be an ecological or pollution impact resulting from major modifications to the land if the request is granted; **There are no significant changes proposed to the site. Further, 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.**

Development Support and Constraints / Departmental Comments

Hall County Environmental Health

In an email dated March 9, 2023, Emily McGahee states “Must meet all Environmental Health commercial septic system permitting requirements. A detailed business plan must be submitted to Hall County Environmental Health for review.”

Hall County Fire Marshal

An email dated March 16, 2023, John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated that the Hall County Fire Marshal’s Office has no comments as proposed.

Hall County Public Works and Utilities

In a memo dated March 20, 2023, from Bill Nash, Director of Public Works and Utilities, provided the following comments:

Engineering:

The site may require a stormwater management report should the site plan indicate the proposed development meets stormwater thresholds for impervious surfaces and/or disturbed acreage.
Show stream buffers and impervious setback from wrested vegetation not centerline of stream.
Confirm if any permits are required from GA EPD and/or any other regulating agencies.

Traffic:

No comment.

Utilities

No comment.

Georgia Department of Transportation

In an email dated March 24, 2023 from Parker Niebauer, Traffic Operations Supervisor, confirmed that the project will require GDOT coordination.

➤ **Excerpts from the minutes of the April 3, 2023 meeting**

Applicant’s Presentation:

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

Andrew Bell, 1563 Calvary Church Road, Gainesville, presented the request. The applicant stated that their job leaves a considerable amount of mud behind so this use would allow them to dispose and repurpose it properly. The applicant stated that there will be security around the property only allowing key card access to approved users.

Rebuttal

The applicant stated that they are aware of the history of the property and understand the concerns about the runoff. The company wants to maintain a good relationship with the community and will take care of deficiencies.

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Planning Commission Comments:

Mr. Braswell stated that the runoff would need to be addressed between the county engineers and the applicant within the week to provide assurance to those concerned. Mr. Braswell requested that the applicant clarify the proposed use of the facility if it does not aligning as an inert landfill. The applicant stated that the name that would describe it best would be-- dump site for recoverable materials. Mr. Braswell requested clarification of the code from staff. Ms. Garmon stated it would have to be established at this meeting if not specified in code.

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

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