

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant.....Paden M. Dunagan

Request.....(A) Use Subject to County Commission Approval for an agri-entertainment venue.
(B) Variance from the standards of 17.215 to permit outside amplification of voice, music, and/or instruments.

Proposed Use.....agri-entertainment venue

Size.....37.28± acres

Zoning.....Agricultural Residential IV (AR-IV, [17.120](#))

Location.....**3263 Tanners Miller Road** | Tax Parcel 15025 000002

Commission District.....One

Planning Commission Date.....June 5, 2023

Staff Recommendation..... **(A) Approval with conditions as the proposed request is consistent with the intent and standards of the agri-entertainment district ([17.215](#)) and (B) Denial for a variance from the standards of 17.215 to permit outside amplification of voice, music, and/or instruments as the request does not meet the hardship criteria established in [2.60.030.J.](#)**

Planning Commission Recommendation.....**(A) Approval, with conditions.
Vote: 3-0 (Sosebee & Varner absent)
(B) Denial.
Vote: 3-0 (Sosebee & Varner absent)**

Planning Commission Conditions:

1. The agri-entertainment business shall operate as described in the narrative and depicted on the site plan.
2. The agri-entertainment business shall satisfy all comments from the Environmental Health Department, Fire Marshal, Public Works and Utilities, and Georgia Department of Transportation prior to obtaining an agri-entertainment business license. Plans addressing comments, or for any

further improvements or development of the property shall be submitted for review and appropriate permits obtained.

3. No variances are granted as part of this request.
4. Any expansion to the existing agri-entertainment business shall require additional approval from the County Commission.
5. Per, §2.60.060. – effective period of approved applications, all applications approved by the board, whether a request for variance from the terms of Title 17, a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of Title 17, shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.

Public Forum:

David Jones, 5110 Weaver Road, Gainesville, spoke in opposition. Concerns were noise and times of operation.

Summary Analysis

The applicant is requesting (A) conditional use approval from the County Commission to bring an existing agri-entertainment venue into compliance with the agri-entertainment business standards ([17.215](#)) located on the 37.28± acre parcel. Within the Agricultural Residential IV (AR-IV, [17.120](#)), agri-entertainment businesses are a use subject to the approval of the County Commission, resulting in the current application. Additionally, the application is requesting (B) a variance from the standards of the agri-entertainment district ([17.215.040](#)) which states that “outdoor activities within the agri-entertainment event barn or primary event structure shall not involve the outside amplification of voice, music and/or instruments except during a wedding ceremony.”

In the submitted application materials, the narrative describes the agri-entertainment business as being a venue for weddings and events that are ceremony-type gatherings. The events will take place in an existing barn (80' x 96'), which is located 350 feet from the eastern boundary of the property and 510 feet from the southern boundary. The barn is timber-framed with a metal standing seam roof and is 7,840 square feet in area. The total occupancy of the barn will be set by Hall County Fire Marshals and determined at a future date. The proposed hours of operation meet the criteria established by the agri-entertainment district ([17.215](#)). Specifically, events would begin no earlier than 9:00 a.m. and would end no later than 10:00 p.m. on Sunday through Thursday and no later than 12:00 a.m. on Friday and Saturday.

An existing gravel parking lot is located to the west of the barn, partially under a power line easement. The applicant has provided documentation from Georgia Power that the gravel parking lot beneath the transmission lines is approved but additional documentation is needed to verify the proposed parking lot use.

The applicant’s narrative states that there are two (2) types of activities that will occur outside of the barn: an outdoor wedding ceremony and a fire pit. In either instance, there would be no permanent outdoor audio for

the grounds surrounding the barn. Instead, an audio system would be used temporarily if it was warranted by the event.

The applicant is requesting one (1) variance from the conditions of an agri-entertainment business, ([17.215.040](#)). Specifically, the applicant has requested relief from the following condition:

- Outdoor activities within the agri-entertainment event barn or primary event structure shall not involve the outside amplification of voice, music and/or instruments except during a wedding ceremony.
 - *The applicant's narrative states that there would be two instances where gatherings may occur outside of the event barn. The first being outdoor ceremonies, which would permit the temporary use of outdoor amplification under the standards of ([17.215.040](#)). The second scenario would be an outdoor fire pit, which would be an outdoor gathering area used during events. In both scenarios, the applicant's narrative states that there would be no permanent outdoor audio equipment, instead it would be temporary and mobile, set up only if outdoor activities were planned. The proposal **does not meet** this condition.*

Based on the future land-use plan, staff finds the requested conditional use consistent with the intent of the agri-entertainment use and the future land use classification of Rural Residential character area in the [Comprehensive Plan](#).

Zoning Analysis

(A) Use Subject to County Commission Approval | Agri-entertainment venue

Per §17.215.040, conditions and regulations for agri-entertainment:

1. A Hall County Business License shall be required if the zoning request is approved for the agri-entertainment events.
 - *The applicant will be required to obtain a Hall County Business License, subject to the below conditions and any additional conditions added, prior to beginning operation.*
2. The property shall be used for the purpose of providing an agri-entertainment venue, as provided for in [section 17.215.030\(A\)](#).
 - *The proposed uses are consistent with those described in [section 17.215.030\(A\)](#).*
3. The structure that will house the agri-entertainment event shall be located a minimum of 300 feet from any property lines of a different owner.
 - *The event barn meets this requirement. The barn is located 350 feet from the eastern property line and 510 feet from the southern property line.*
4. All parking for an agri-entertainment event shall be located a minimum of 200 feet from any property lines of a different owner.
 - *The existing parking lot appears to meet this requirement, although there are no dimensions indicated on the site plan.*
5. Parking shall be permitted on grass or gravel.
 - *The applicant's narrative states that the parking area is gravel.*
6. The agri-entertainment event barn or primary event structure shall be permitted to be constructed only on the property described.

- *The existing 80 foot by 96 foot timber-framed barn, which would be utilized as the agri-entertainment venue, was permitted through Hall County Building Inspections in August of 2022 on the subject property.*
7. The maximum number of attendees to occupy any agri-entertainment event barn or structure on the premises shall be regulated by the Hall County Fire Marshal.
 - *The applicant has not included any information regarding capacity for the proposed activities; however, the occupancy will be determined by the county Fire Marshal prior to the issuance of any license.*
 8. The occupancy of the agri-entertainment event barn or primary event structure shall not exceed the occupancy load provisions of the Uniform Building Code and those occupancy load limits shall be posted on the premises by the Hall County Building Inspection Department.
 - *If approved, the occupancy will be determined by Hall County Building Inspections, based on the above criteria.*
 9. The use of the premises for an agri-entertainment venue shall be permitted only after the issuance of a certificate of occupancy by the Hall County Building Inspection Department.
 - *If approved, the applicant shall be required to obtain a certificate of occupancy prior to commencing operations.*
 10. Any improvements required to support the property as an agri-entertainment venue shall be made only after the issuance of a building permit by the Hall County Building Inspection Department.
 - *The existing barn, which is proposed to be utilized as the agri-entertainment venue, was permitted by Hall County Building Inspections in August of 2022. Additional inspections will be required for the commercial use of the structure.*
 11. Outdoor activities within the agri-entertainment event barn or primary event structure shall not involve the outside amplification of voice, music and/or instruments except during a wedding ceremony.
 - *The applicant has requested a variance to permit the outdoor amplification of voice, music, and/or instruments in certain situations.*
 12. Agri-entertainment events shall commence no earlier than 9:00 a.m. and shall terminate no later than 10:00 p.m. on Sunday through Thursday and no later than 12:00 a.m. on Friday and Saturday.
 - For [the] purpose of this section, *termination* shall mean the termination of food, drinks, service and entertainment with the understanding that attendees will need a reasonable amount of time after termination to exit the premises.
 - *The proposed agri-entertainment business meets this condition.*
 13. All agri-entertainment events shall be provided with adequate potable water and sanitary waste disposal systems as approved by the Hall County Environmental Health Department.
 - *The applicant has not indicated how potable water and sanitary waste will be handled for the event venue.*
 14. All agri-entertainment events shall provide for adequate access and egress for emergency vehicles as determined through the development review process.
 - *The applicant will be required to receive approval from Hall County Engineering and Fire Services regarding access to the property.*
 15. All agri-entertainment events shall be provided with adequate personnel to assist with parking, emergency and other potential impacts of each event.
 - *The applicant has not addressed this in the application, but it will be required if the request is approved.*
 16. If the property being considered for agri-entertainment use is "bona-fide conservation use property" as defined under O.C.G.A. §§ 48-5-7.1 through 48-5-7.4, caution should be used to insure that the proposed agri-entertainment use of the property does not constitute a breach of the conservation covenants applicable to the property.

- *The property is not under a conservation use covenant and as such this regulation is not applicable.*

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 of the property as an event venue in the Agricultural-Residential-IV (AR-IV, [17.120](#)) district is consistent with the standards for agri-entertainment uses ([17.215](#)). The surrounding properties are also zoned AR-IV, [17.120](#).**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The request is for conditional use approval for an agri-entertainment business in the Agricultural-Residential-IV (AR-IV, [17.120](#)) district. The proposed use may be more intense than that of the adjacent or nearby parcels, but the usability should not be impacted. If approved, the site will be developed in accordance with applicable development regulations.**
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned; **Yes, the property has reasonable economic use as currently zoned, Agricultural-Residential-IV (AR-IV, [17.120](#)) but the proposed business cannot occur as described without approval of the conditional use 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 use may cause an excessive or burdensome use of existing streets and transportation facilities, depending on the number of guests the business can accommodate.**
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 current application is for a conditional use request for agri-entertainment business within the Agricultural-Residential-IV (AR-IV, [17.120](#)) district. The parcels fall within the Rural Residential character area of the Comprehensive Plan. The intent of this character area is to preserve the established residential/rural character and create a transition between the Rural character area and development in Residential areas. The proposed use is consistent with the Comprehensive Plan and the standards for agri-entertainment businesses.**
6. The extent to which property values are diminished by the existing zoning restrictions; **Staff is unable to determine the extent to which property values are diminished by the existing zoning restrictions.**
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; **Aerial imagery shows the property as undeveloped until 2020, when the applicant constructed a single-family residence on the property. In 2022 the applicant obtained a building permit for an 80' by 96' farm use barn which is intended to be utilized as the event venue.**
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; **There is no proposed change to the underlying zoning, as such, this criteria is not applicable.**
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, the proposed use could compliment the residential growth occurring in the south Hall area.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **The proposed uses require Board of Commissioner approval for a conditional use permit. As such, there are no adequate sites already zoned for an agri-entertainment business.**
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; **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.**

(B) Variance | to allow for outside amplification of voice, music and/or instruments except during a wedding ceremony

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); **There do not appear to be extraordinary or exceptional conditions pertaining to the subject property, instead the need for a variance has been created by the applicant's proposed use of outdoor amplification during events as opposed to the site conditions.**
2. The application of the requirements of this [Title 17](#) to this particular piece of property would create an unusual hardship; **No unusual hardship would be created through the application of the requirements [Title 17](#). The applicant would not be able to have outdoor amplification other than during times permitted by the agri-entertainment regulations ([17.215](#)).**
3. Such conditions are peculiar to the particular piece of property involved and are not common to other properties in the neighborhood; **No, the conditions are not peculiar to the subject parcel but the result of the proposed use of the property.**
4. Such conditions are not the result of any actions of the property owner; **The site development has been proposed by the applicant.**
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](#).**

[17.380.050](#) - Submission requirements

- A. Any person or persons requesting a change in the official zoning map or use subject to approval of the county commission shall file an application with a plat or map of the property attached thereto, together with payment of such fees set forth in [chapter 17.30](#) to cover administrative and advertising costs, in the planning department office. Such person or persons or their authorized agent shall appear in person at the public hearing held to consider the district change. **Proposal meets the requirement. Applicant has paid the appropriate fees and understands that someone must be present at the Hall County Planning Commission.**
- B. All applications for a change of zoning classification or use subject to approval of the county commission shall include:
 1. A narrative statement identifying the existing and proposed use of the property and addressing each of the criteria set forth in section 17.380.060.C of this section [chapter]. **The applicant has submitted a narrative and site plan but has not explicitly addressed the criteria listed in [17.350.120](#).**

2. A site plan drawn to scale designating the area covered by the application and identifying existing and proposed buildings and uses, adjacent existing land uses, zoning on contiguous parcels, including those across an abutting public right-of-way, and any other significant site improvements proposed to accommodate the proposed use or buffer adjacent uses, etc., or a plat of the subject property where no specific land use is proposed. In cases where only a plat or map is provided and no land use is proposed, the planning commission and county commission shall evaluate the application based on the most intense possible land use permitted in the proposed district. **The applicant submitted a site plan drawn to scale.**
- C. For any application for a slow rate land treatment system (see [chapter 17.20](#)), the following additional requirements apply. **This standard is not applicable as the site will be served by an onsite septic system.**
- D. For any application proposing the development of 100 or more residential dwelling units, a traffic impact study shall be submitted prior to consideration of the application by the planning commission. At the applicant's expense, the traffic impact study shall be prepared by a professional engineer in accordance with requirements established by the Hall County Engineering Department. The engineering department shall review the traffic impact study and forward any comments to the Hall County Planning Commission. **As there are not 100 or more residential dwelling units proposed, this criteria is not applicable.**

Development Support and Constraints – Departmental / Agency Comments

Hall County Environmental Health

An email dated May 17, 2023, from Emily McGahee, Environmental Health, stated “A detailed business plan must be submitted to Hall County Environmental Health for review. Additional items septic system modification/expansion may be required after review of business plan. Tourist Accommodation permit/plan review and/or Food Service permit/plan review may be required after review of business plan.”

Hall County Fire Marshal

An email dated May 16, 2023, from John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated “Hall County Fire Marshal’s Comments:

- 1) Site visit on 5/6/23 by the Hall County Fire Marshal’s Office found a large commercial barn under construction that does not meet fire code as an event venue.
- 2) The conceptual site plan is hand drawn and not to scale, the Hall County Fire Marshal’s Office cannot comment on site plan as proposed. Note: The site work and proposed commercial barn are near completion.
- 3) The conceptual building plans show the occupancy classification as a Group S-1 Storage Occupancy with an occupant load of 8. As the project data does not match the scope of work summary for a timber framed commercial barn for events, the Hall County Fire Marshal’s Office cannot comment on the building plan as proposed. Note: The commercial barn is near completion and does not match the conceptual building plans.
- 4) The conceptual site and building plans do not meet fire code as proposed.
- 5) Site and building plans will be required.

Hall County Public Works and Utilities

In a memo dated May 18, 2023, 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 buffer and impervious setback from wrested vegetation not center line of stream
Show stream buffer and impervious setback from wrested vegetation not center line of stream
Proposed development is within 200' of state waters and will require a L.D.P.

Traffic:

No comment.

Utilities

No comment.

Georgia Department of Transportation

In an email dated May 11, 2023, Jonathan Peevy, Assistant District Traffic Engineer, confirmed this project will require GDOT coordination.

- **Excerpts from the minutes of the June 5, 2023 meeting**

Applicant's Presentation:

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

Paden Dunagan, 3263 Tanners Mill Road, Gainesville, presented the request. The applicant stated that they are in the middle of 40-acres and would like to be able to amplify music.

Public Forum:

David Jones, 5110 Weaver Road, Gainesville, spoke in opposition. Concerns were noise and times of operation.

Planning Commission Comments:

Mr. Braswell clarified that the applicant is requesting to allow the amplification of music after a wedding ceremony. Ms. Pilcher read the recommended conditions to make sure the applicant agreed to them.

Motion: A motion to approve, with conditions was made by Ms. Pilcher and seconded by Mr. Hunt. Vote: 3-0 (Sosebee & Varner absent)

Conditions:

1. The agri-entertainment business shall operate as described in the narrative and depicted on the site plan.

2. The agri-entertainment business shall satisfy all comments from the Environmental Health Department, Fire Marshal, Public Works and Utilities, and Georgia Department of Transportation prior to obtaining an agri-entertainment business license. Plans addressing comments, or for any further improvements or development of the property shall be submitted for review and appropriate permits obtained.
3. No variances are granted as part of this request.
4. Any expansion to the existing agri-entertainment business shall require additional approval from the County Commission.
5. Per, §2.60.060. – effective period of approved applications, all applications approved by the board, whether a request for variance from the terms of Title 17, a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of Title 17, shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.