

HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT

ApplicantCarlos & Tara Gregory

Request(A) Rezone from Residential-I-Low Density (R-I-L, [17.70](#)) to Agricultural-Residential-III (AR-III, [17.110](#))- **BOC Final Decision**
(B) Use Subject to Planning Commission Approval for a residential business - **PC ONLY**
(C) Variance from residential business conditions - **PC ONLY**

Proposed Use(A) Permitted uses in AR-III
(B) Residential business – **PC ONLY**
(C) Residential business - **PC ONLY**

Size 5.21± acres

ZoningCurrent Residential I Low Density (Conditional) (R-I-L, [17.70](#)) | Proposed Agricultural Residential III (AR-III, [17.110](#))

Location **4375 Peckerwood Road** | Tax Parcel 15003 000136

Commission District Three

Planning Commission Date June 5, 2023

Staff Recommendation (A) Approval with conditions of the request to rezone the property to AR-III, **BOC Final Decision**
(B) Approval with conditions of the residential business, and –**PC ONLY**
(C) Approval of the variances from the residential business conditions, as the proposed request is consistent with the Rural character area in the [Comprehensive Plan](#). – **PC ONLY**

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

Planning Commission Conditions:

1. The property shall be developed in accordance with the standards of the Agricultural-Residential-III (AR-III, [17.110](#)) zoning district.
2. The following statement regarding the potential impacts of agricultural operations in the area shall be made a part of any plat recorded on the property:
“Owners, occupants, and users of property shown on this plat are hereby informed of the impacts associated with normal farming practices which may take place on adjacent and nearby property including, but not limited to, noise, odors, dust, the operation of machinery of any kind, the storage and disposal of manure, and the application of fertilizers, herbicides, and pesticides. Therefore, owners, occupants, and users of the property shown on this plat should be prepared to expect the effects of such practices.”

Public Forum:

There were no comments in support or opposition.

Summary Analysis

The applicant is requesting to (A) rezone the subject properties from Residential-I-Low Density (R-I-L, [17.70](#)) to Agricultural Residential III (AR-III, [17.110](#)) for uses permitted within the AR-III district. Concurrent to the rezoning request, the applicant is requesting (B) a use subject to Planning Commission approval for a residential business, and (C) variances from certain residential business conditions. Residential businesses are not an allowed use within the R-I-L district but are permitted with approval of the Planning Commission in the AR-III district.

The proposed residential business will be the base of operation for the applicant’s mobile food service and catering business. The business operates offsite at fairs, parks catering sites, car dealerships and designated food truck spaces on approved city streets. The business primarily operates off-site on Saturday and Sunday during daylight hours.

The narrative explains that a portion of the detached garage will be used to clean and store the food concession trailer. In addition to the storage space, the garage will include a commercial grade kitchen, cleaning area, dry storage, prep table, and a refrigerator and freezer. All cooking of food will be done on the food concession trailer at each venue spot and no cooking shall be done at the residential business.

Cleaning and storage of the food concession trailer will occur after Saturday and Sunday events and during daylight hours. There are no excess noise, fumes, or other hazards that would endanger the health, safety or welfare of the neighborhood. Per the submitted narrative, most of the cleaning can be completed on the food concession trailer. As part of the cleaning process, the commercial kitchen is necessary to dispose of grey water and to clean grilling equipment.

Concurrent to the rezoning and conditional use request, the applicant is requesting relief from three (3) of the standards of a residential business ([17.350.130](#)) as outlined below:

- The occupation or profession must be conducted entirely within the dwelling.

- Per the applicant’s narrative, a commercial kitchen must be located in a separate building from the primary residence. Approximately 350 square feet of the existing 1800 square foot garage will be renovated for the commercial kitchen use.
- No outside storage or display shall be allowed.
 - Per the applicant’s narrative, the food concession trailer will be stored on the right side of the detached garage, in an existing parking space. The location of the detached garage and parking space are located on the property in a location that is not easily visible from the street.
- The principal practitioner will be permitted to park one commercial vehicle in the approved parking area. The commercial vehicle is limited to a passenger car, a van or a light truck (up to one ton).
 - The food concession trailer does not meet this requirement.

Staff has identified the need for one (1) additional variance from the standards of a residential business ([17.350.130](#)) as outlined below:

- Days and hours of operation allowing access by the public, employees, customers or clients shall be Monday through Saturday, daylight hours only. No access by the public, customers or clients is permitted in the R-I district.
 - Per the applicant’s narrative, the business primarily operates offsite on Saturday and Sunday during daylight hours.

Based on the future land-use plan, staff finds the *requested zoning designation consistent* with the future land use classification of Rural in the [Comprehensive Plan](#).

Zoning Analysis

The proposed use of a single-family residence with associated accessory structures is consistent with the permitted uses within the Agricultural-Residential-III (AR-III, [17.110](#)) zoning district. The conditional use of operating a residential business on the property requires Planning Commission approval. Residential businesses are defined as an occupation or profession conducted within a dwelling, and which is carried on by an occupant thereof and which is clearly incidental and secondary to the use of the dwelling for residential dwelling purposes ([17.20.920](#)), subject to the requirements of [17.350.130](#).

(A) Rezone from Residential I Low Density (R-I-L, [17.70](#)) to Agricultural Residential III (AR-III, [17.110](#))

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; **Yes, the proposed use is suitable in view of the use and development of adjacent and nearby property.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The zoning proposal should not adversely affect the existing use or usability of adjacent or nearby properties.**
3. Whether the property to be affected by the zoning proposal has reasonable economic use as currently zoned. **The subject property is zoned Residential-I-Low Density (R-I-L, [17.70](#)) . Within the R-I-L district residential businesses are not a permitted use. The applicant would not be able to use their primary residence as a base of operation for their mobile food service business.**

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; **No, the proposed use should not cause an excessive or burdensome use of existing streets, transportation facilities, or utilities.**
5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan; **Yes, the requested zoning designation is consistent with the future land use classification of Rural in the [Comprehensive Plan](#).**
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; **Hall County aerial imagery shows a residence and detached garage on the property as far back as the early 2000's.**
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; **Adjacent properties are zoned Residential-I-Low Density (R-I-L, [17.70](#)) and Agricultural-Residential-IV (AR-IV, [17.120](#)).**
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. Home-based businesses play an important role in a community.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **Residential businesses require Planning Commission approval in all districts in which they are included.**
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 alternatively as a variance as the requested use is not permitted within the Residential-I-Low Density (R-I-L, [17.70](#)).**

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. The commercial kitchen improvements will likely require a building permit and inspections.**
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 evidence to indicate a mistake was made in the original zoning of the property.**

(B) Use Subject to Planning Commission Approval for a residential business Conditional Use

Per [17.350.130](#), residential businesses are designed to be less restrictive than a home occupation but more restrictive than a rural business in regard to access by the public, size, visibility, number of employees and types of business. Residential businesses shall be subject to the conditions set forth below. The applicant shall bear the burden of providing conclusive evidence to the planning commission that these conditions have been met. The planning commission may modify the conditions listed below to be more restrictive or place additional conditions, which may also be more restrictive than the conditions listed below, on any approval granted the applicant. If the residential business is approved, the applicant is responsible for the operation of the said residential business in conformance with these conditions. The applicant shall submit a written description of the proposed business demonstrating that the proposed business will comply with each of the conditions listed below. Additionally, the applicant will submit a floor plan showing the dimensions of the residence and showing the area with dimensions to be involved in the business.

1. Residential businesses may include but are not limited to beauty shops, barber shops, professional offices and minor repair services. In R-I, the use is restricted to those uses where no customers/clients are coming to the site.
 - **The proposed use of a mobile food service is not explicitly listed, but it is compatible with the intent of the residential business use.**
2. Residential businesses shall not include the repair and/or maintenance of motor vehicles, large scale manufacturing or any use which will create noise, noxious odors or any hazard that may endanger the health, safety or welfare of the neighborhood.
 - **Per the applicant's narrative, the residential business will not include any use that will create noise, noxious odors, or any hazard that may endanger the health, safety, or welfare of the neighborhood.**
3. The residential business shall not involve group instruction or group assembly of people on the premises.
 - **The proposed residential business meets this requirement.**
4. The occupation or profession must be conducted entirely within the dwelling.
 - **The applicant is proposing to operate the residential business from a detached garage and has requested relief from this standard via a concurrent variance request.**
5. The dwelling must be the bona fide residence of the principal practitioner and the residential business shall be valid only as long as the original principal practitioner resides in the dwelling, is conducting the business and has a current business license.
 - **The applicant resides on the subject property.**

6. Residential businesses shall be limited to no more than 35 percent of the total heated floor area of the residence. The proposed size of the residential business shall be specified at the time of application.
 - **The proposed residential business meets this requirement.**
7. Any additions or alterations to the residence which will be used for the residential business must be of an architectural style in keeping with the surrounding residential and agricultural development.
 - **There are no proposed modifications to the garage which would indicate that it is being used for a residential business.**
8. The portion of the residence in which the business is conducted shall be completely enclosed in a manner that the business is not visible from the surrounding property.
 - **If approved, the residential business will operate from inside the detached garage.**
9. Only one employee in excess of family members residing on the premises shall be permitted. For uses where no customers/clients are coming to the site, the number of employees permitted at any one time may be increased to three.
 - **The applicant has not detailed whether employees will work out of the residential business.**
10. Property on which the residential business is proposed must have frontage on a public road.
 - **The proposed residential business meets this requirement.**
11. Parking for customers/clients must be provided on site as provided in chapter 17.300 [17.250]; location of the parking is to be approved by the planning commission.
 - **The application materials do not explicitly address this requirement, but it is not anticipated that customers or clients visit the property.**
12. Only one non-illuminated sign not to exceed one square foot is permitted; the location is to be approved by the planning commission. No sign is permitted in the R-I zone.
 - **The application materials do not explicitly address this requirement, but any signage will have to meet this requirement.**
13. No outside storage or display shall be allowed.
 - **The food concession trailer will be parked outside, adjacent to the detached garage. The applicant has requested relief from this standard via a concurrent variance request.**
14. Days and hours of operation allowing access by the public, employees, customers or clients shall be Monday through Saturday, daylight hours only. No access by the public, customers or clients is permitted in the R-I district.
 - **The applicant is proposing to operate primarily on Saturday and Sunday during daylight hours.**
15. No more than one home occupation, residential business or rural business is allowed in a residence at one time.
 - **This requirement is met. There are no other home occupations, residential businesses, or rural business operating on the property.**
16. The principal practitioner will be permitted to park one commercial vehicle in the approved parking area. The commercial vehicle is limited to a passenger car, a van or a light truck (up to one ton).
 - **The food concession trailer does not meet this standard and the applicant has requested relief via a concurrent variance.**

17. Any utility trailer needed for the orderly operation of the business must be specifically requested and approved by the planning commission. The request must include the proposed use and size of the trailer.
 - **No utility trailer is being requested as part of this application.**
18. The planning commission may place any reasonable conditions on the application deemed necessary to insure the orderly operation of the proposed business and its compatibility with the surrounding properties.
19. Pickups from and deliveries to the site in regard to the business shall be restricted to vehicles having no more than two axles and shall be restricted to no more than two pickups or deliveries per day. The pickups and deliveries are restricted to daylight hours only.
 - **The applicant has not indicated that deliveries will be taking place related to the residential business.**

(C) Variance from residential business conditions:

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 does not appear to be extraordinary or exceptional conditions pertaining to the subject property. Instead, the need for a variance is necessitated by the proposed business and state health code requirements for commercial kitchens.**
2. The application of the requirements of this [Title 17](#) to this particular piece of property would create an unusual hardship; **The applicant would not be able to use the subject property as a base of operation for their mobile foodservice business.**
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 for a rezoning request

- 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 both the Hall County Planning Commission meeting and the voting meeting of the Hall County Board of Commissioners.**
- 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 did not specifically address the criteria listed in [17.380.060.C](#).**
 - 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 submitted site plan is hand drawn and not to scale, but does show the approximate locations of the proposed residences and accessory structures on the site.**
- 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 question is not applicable.**

Development Support and Constraints – Departmental / Agency Comments

Hall County Environmental Health

In an email dated May 17, 2023, Emily McGahee states “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. Food Service permit/plan will be required.”

Hall County Fire Marshal

In an email dated May 16, 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 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

Traffic:

No comment.

Utilities

Check with environmental health if separate septic system will be required for food service.

Georgia Department of Transportation

In an email dated May 11, 2023, Jonathan Peevy, Assistant District Traffic Engineer, confirmed this project will not 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.

Tara Gregory, 4375 Peckerwood Road, Gillsville, presented the request. The applicant stated that they are requesting to convert their existing garage structure into a home base of operation and commercial kitchen. The applicant stated that she is also requesting to park the food trailer on the property without altering the land or additional signage.

Public Forum:

There were no comments in support or opposition.

Planning Commission Comments:

Mr. Braswell wanted clarification that the applicants were not going to have functions for the business on the property. The applicant stated that was correct.

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

Conditions:

1. The property shall be developed in accordance with the standards of the Agricultural-Residential-III (AR-III, [17.110](#)) zoning district.
2. The following statement regarding the potential impacts of agricultural operations in the area shall be made a part of any plat recorded on the property:

“Owners, occupants, and users of property shown on this plat are hereby informed of the impacts associated with normal farming practices which may take place on adjacent and nearby property including, but not limited to, noise, odors, dust, the operation of machinery of any kind, the storage and disposal of manure, and the application of fertilizers, herbicides, and pesticides. Therefore, owners, occupants, and users of the property shown on this plat should be prepared to expect the effects of such practices.”