

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Kimberly Zax

Request Conditional Use for a 5-lot subdivision

Proposed Use 5-lot subdivision

Size 5.30± acres

Zoning Residential-I (R-I, [17.60](#))

Location **5961 Pocahontas Drive** | Tax Parcel 08131 002046

Commission District Two

Planning Commission Date July 24, 2023

Staff Recommendation **Approval as the proposed subdivision is consistent with the Lake Area Residential future land use classification of the [Comprehensive Plan](#).**

Planning Commission Recommendation.....**Approval, with conditions**
Vote: 3-2 (Varner & Pilcher opposed)

Planning Commission Conditions:

1. The property shall be subdivided into a maximum of 5 building lots in accordance with the requirements of the Residential-I (R-I, [17.60](#)) zoning district as detailed in [17.240](#), area and setback requirements.
2. A subdivision plat shall be reviewed for compliance with all applicable standards found in the Official Code of Hall County as part of the Hall County Plat Review process.
3. All conditions of zoning shall be made part of any plats created for the property.
4. There shall only be one (1) home built at a time through completion, from permitting to issuance of CO.
5. Permitting shall require normal review process.
6. A sign shall be posted on the lot thirty (30) days in advance of construction. The sign shall serve as notification of construction for the neighborhood.

Public Forum:

Saleena Phillips, 5960 Nachoochee Trail, Flowery Branch, spoke in opposition. Concerns were tree removal, visibility of power lines, lack of site plan, and devaluing property.

Tammy Harris, 5936 Nachoochee Trail, Flowery Branch, spoke in opposition. Concerns were builders, construction traffic, wildlife, road infrastructure, destroying property, and property value.

Sid Smith, 5941 Nachoochee Trail, Flowery Branch, spoke in opposition. Concerns were the trail, road length, heavy construction, construction traffic, and destroying neighboring property.

Andrea Nelson, 5970 Pocahontas Drive, Flowery Branch, spoke in opposition. Concerns were wildlife, soil erosion, lakeshore protection, number of homes, narrow street, emergency vehicle access, and traffic.

Dennis Pritchett, 5984 Pocahontas Drive, Flowery Branch, spoke in opposition. Concerns were narrow roads, safety, traffic, drainage, tree removal, and construction.

Tim Nouis, 5930 Nachoochee Trail, Flowery Branch, spoke in opposition. Concerns were home quantity, clear cutting, and wildlife.

Summary Analysis

The applicant is requesting approval to subdivide a 5.30± acre parcel into 5-building lots. Per the requirements of [17.60.040](#), uses permitted subject to approval of the county commission, within the Residential-I (R-I, [17.60](#)) zoning district, subdivisions require Board of Commissioner approval. The submitted narrative explains that the applicant intends to subdivide the property into 5 building lots.

According to tax records, the property is currently developed with a shop with a canopy; the structure would need to be removed as it does not meet the setback requirements for the R-I ([17.60](#)) district and no variances have been requested.

Within the Residential-I District (R-I, [17.60](#)) the following development standards are required:

Residential-I (R-I, 17.60) Standards	Required	Proposed
Lot Area	35,000 square feet	Lot 1: 65,340 square feet Lot 2: 41,382 square feet Lot 3: 41,382 square feet Lot 4: 41,382 square feet Lot 5: 41,382 square feet
Lot Frontage	Collector Road: 90 feet	Lot 1: 459.91 feet Lot 2: 138.38 feet Lot 3: 138.41 feet Lot 4: 138.37 feet Lot 5: 138.40 feet
Lot Width at Building Line	75 feet	None Listed
Front Yard Setback	55 feet from centerline of road or 30 feet from property line	55 feet from centerline of road
Side Yard Setback	10 feet	10 feet

Rear Yard Setback	20 feet	20 feet
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No variances were requested as part of this application.

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 and development of adjacent and nearby property; **The proposed use of 5 residential lots is compatible with the development of nearby and adjacent property. Adjacent and nearby properties are found in a range of sizes, with some being smaller in size than what is proposed by the applicant while others are larger.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The proposed use of a 5 lot subdivision will 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. **Yes, the property has reasonable economic use as currently zoned, Residential-I (R-I, [17.60](#)), but the applicant cannot subdivide the property into 5-lots without approval of the County Commission.**
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; **If approved, the development of 5 building lots should not cause an excessive or burdensome use of the existing streets, transportation facilities, etc.**
5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan; **The proposed use of a 5-lot subdivision is consistent with the [Comprehensive Plan's](#) future land use classification of Lake Area Residential. In this land use classification, the recommended density is 1 dwelling unit per acre; the current proposal is 1.06 units per acre.**
6. The extent to which property values are diminished by the existing zoning restrictions; **Unless the conditional use request is approved, the applicant will not be able to subdivide the property into 5-lots.**
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 developed with an old shed, which has been on the property since 1985.**

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; **This question is not applicable as there are no proposed changes to the zoning classification.**
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; **The subdivision of land within the Residential-I zoning district (R-I, [17.60](#)) requires County Commission approval.**
15. Whether the need for rezoning could be handled instead by a variance request to the Planning Commission; **This question is not applicable as there are not proposed changes to the zoning classification.**
16. Whether there would be an ecological or pollution impact resulting from major modifications to the land if the request is granted; **No, there should not be an ecological or pollution impact resulting from major modifications 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.**

Within the Residential-I (R-I, [17.60](#)) zoning district, subdivisions require conditional use approval from the Board of Commissioners.

[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. **Proposal meets this requirement.**
- C. For any application for a slow rate land treatment system (see [chapter 17.20](#)), the following additional requirements apply. **This is not applicable as the property will utilize an onsite septic or municipal sewer 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. **This is not applicable as the property is less than 100 lots.**

Development Support and Constraints / Departmental Comments

Hall County Environmental Health

In an email dated June 22, 2023, Emily McGahee stated "All proposed lots must meet Hall County Board of Health Lot Size Resolution requirements. Any abandoned well shall be properly closed as per Water Well Standards Act. Any abandoned septic tank shall be pumped by a State certified pumper/hauler and crushed/filled."

Hall County Fire Marshal

In an email dated June 22, 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 June 20, 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
FEMA and Hall County studied Flood plains present on site.

Traffic:

No comment.

Utilities

City of Flowery Branch sewer district

Georgia Department of Transportation

In an email dated June 21, 2023 from Parker Niebauer, D1TO Traffic Operations Supervisor, confirmed this project will not require GDOT coordination.

➤ **Excerpts from the minutes of the August 7, 2023 meeting**

Applicant's Presentation:

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

Lee Chambers, 4622 Pine Manor Bluff, Suwanee, presented the request. The applicant stated that soil samples came out good and the homes will be on septic. The applicant stated that the homes will sell at approximately \$1 million.

Rebuttal

The applicant stated that there will not be any clear cutting on the lots and that only trees in the proximity of the homes will be cut. The applicant stated that there is not a developmental site plan yet due to the process of approval. The applicant stated that there will be construction entrances.

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Planning Commission Comments:

Mr. Braswell questioned the phases of building. The applicant stated that he will need to have a pinned survey before starting but will probably build two houses at a time after clearing the needed space. Ms. Pilcher questioned the number of rooms. The applicant stated it would be about four to five rooms. Ms. Pilcher questioned the placement of the homes on the property. The applicant stated roughly 100 feet from the centerline of the road. Ms. Pilcher questioned if the applicant would consider less than five lots. The applicant said it was not financially doable. Mr. Sosebee questioned if the applicant would consider building one house at a time through completion. The applicant stated he could do it. Mr. Varner questioned if the

applicant could build when school is out to reduce traffic. The applicant stated they would be unable to build in that timeframe.

Motion: A motion to approve, with conditions was made by Mr. Sosebee and seconded by Mr. Hunt. Vote: 3-2 (Varner & Pilcher opposed)

Conditions:

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