

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Fernando Magana Jr / Brenda Magana
Request Use Subject to County Commission approval
Proposed Use 2-lot subdivision
Size 8.56± acres
Zoning Residential-I (R-I, [17.60](#))
Location **3579 Poplar Springs Road** | Tax Parcel 15036
000006C
Commission District Three
Planning Commission Date September 5, 2023
Staff Recommendation **Approval as the proposed subdivision is
consistent with the Rural Residential future land
use classification of the [Comprehensive Plan](#).**

Planning Commission Recommendation.....**Approval, with conditions**
Vote: 5-0

Conditions:

1. The property shall be subdivided into a maximum of 2 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. 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 approval to subdivide an 8.56± acre parcel into two building lots according to the recorded plat submitted with the application; although upon further review, the property has been reconfigured since time of plat recordation (1972) and the current acreage is now approximately 7.62 acres. Per the requirements of [17.60.040](#), uses permitted subject to approval of the county commission within the Residential-I zoning district (R-I, [17.60](#)), subdivisions require Board of Commissioner approval. The submitted narrative explains that the applicant intends to subdivide the property into two building lots.

According to tax records, the property is currently developed with a single-family home and a workshop; 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: 160,246.96 square feet Lot 2: 151,818.49 square feet
Lot Frontage	Collector road: 90 feet	Lot 1: 402 feet Lot 2: 100 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

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 two 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 2-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 two 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 two 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 2-lot subdivision is consistent with the [Comprehensive Plan's](#) future land use classification of Rural Residential. In this land use classification, the recommended density is 1 dwelling unit per 1 – 1.5 acres; the density of the proposed subdivision is well below the recommendation at 0.26 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 two 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 a single-family residence built in 1973 and a workshop built in 1987.**
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 Commissioner 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; **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.**

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. However, a survey will be required showing the exact configuration and acreage of the parcel prior to plat approval.**
- 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 has less than 100 lots.**

Development Support and Constraints / Departmental Comments

Hall County Environmental Health

In an email dated August 3, 2023, Emily McGahee stated “All proposed lots must meet Hall County Board of Health Lot Size Resolution requirements. Further determination will be made during the plat review process. All proposed plats must be submitted to the Hall County Plat Review Team for review and approval prior to submittal to Clerk of Courts for recordation.”

Hall County Fire Marshal

In an email dated August 3, 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 August 3, 2023, Bill Nash, Director of Public Works and Utilities, provided the following comments:

Engineering:

This 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 August 1, 2023 from Parker Niebauer, D1TO Traffic Operations Supervisor, stated “GDOT coordination/permit required for driveway access on poplar Springs Rd.”

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

Applicant’s Presentation:

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

Fernando Magana, 3579 Poplar Springs Road, Gainesville, presented the request. The applicant stated that they would like to build a one story home on the property.

Public Forum:

There were no comments in support or opposition.

Planning Commission Comments:

Ms. Pilcher questioned if tract 2 would have 100 feet of road frontage. Mr. Braswell stated that's what the site plan showed and that the county requires 90 feet. The applicant stated that when they first came to start the process 100 feet of road frontage was the requirement. Ms. Doveton stated that the change was due to a text amendment. Ms. Pilcher clarified that there was a typo in the staff report and that the applicant did not have to remove an existing building.

Motion: A motion to approve, with conditions was made by Mr. Hunt and seconded by Ms. Pilcher. Vote: 5-0

Conditions:

1. The property shall be subdivided into a maximum of 2 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. 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."