

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant.....Holly Crumley

Request.....**(A)** Use Subject to County Commission Approval
| [17.120.040](#) expansion of a commercial kennel
(B) Variance | [17.240.060](#) to reduce the setback for
commercial kennels from 200 feet to 48 feet
(C) Variance | [17.240.060](#) to reduce the setback for
commercial kennels from 200 feet to 44 feet

Proposed Use.....**(A)** Expansion of a commercial kennel
(B) Setback variance for commercial kennel
structures
(C) Setback variance for commercial kennel
structures

Size.....5.57± acres

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

Location.....**8730 Forrester Road** | Tax Parcel 12128 000009 (pt.)

Commission District.....Three

Planning Commission Date.....October 2, 2023

Staff Recommendation..... **(A) (B) and (C) Approval with conditions**, as the
proposed use is consistent with the Rural future
land use classification in the [Comprehensive Plan](#).

Planning Commission Recommendation.....**(A) Approval, with conditions**
Vote: 4-1 (Sosebee opposed)
(B) Approval, with conditions
Vote: 3-2 (Pilcher & Sosebee opposed)
(C) Approval, with conditions
Vote: 3-2 (Pilcher & Sosebee opposed)

(A)(B)(C) Conditions:

1. Any and all further expansion of the facility or kennel activity will be subject to further review and approval of the Board of Commissioners, and appropriate permits obtained upon approval.
2. No residential dwelling may be added to the parcel where the commercial kennel is located.

3. The business shall maintain the fencing and planted buffer as described in the applicant's statement.
4. The applicant will pursue retroactive building permits for all buildings measuring more than sixteen feet in length and width.

Public Forum:

Virginia Martin, Gainesville, spoke in opposition. Concerns were access to the driveway easement, amount of dogs, approval process, and property owners.

Kathryn Askew, 8720 Forrester Road, Lula, spoke in opposition. Concerns were the driveway, breeding, and approval process.

Summary Analysis

The applicant is requesting a **(A)** Use Subject to County Commission Approval for the expansion of an existing commercial kennel within a 5.57± acre lot zoned Agricultural Residential IV (AR-IV, [17.120](#)). Concurrent to this request, the applicant is seeking relief from the conditions of [17.240.060](#) that require commercial kennel structures to conform with a 200-foot setback from adjacent properties. The applicant is requesting a reduction in the required setbacks **(B)** from 200 feet to 48 feet, and **(C)** from 200 feet to 44 feet for existing kennel structures.

The applicant is seeking these requests retroactively. The submitted site plan reflects current conditions of the property, including setback lines. The commercial kennel was originally approved, with conditions, by the Board of Commissioners on August 23, 2007. One of the conditions of the 2007 conditional use permit required "any expansion of the facility or kennel activity would be subject to further review and approval" by the Board of Commissioners. On November 5, 2007, the Hall County Planning Commission approved a retroactive setback variance for a 42 foot by 118 foot kennel, which was constructed without a building permit.

Since then, the commercial kennel has been expanded beyond the original approval through the addition of kennel-related structures and outdoor facilities, resulting in these requests. While minor additions or adjustments to the site may be permissible, the addition of additional structures and facilities is beyond what would be considered minor. This expansion has included the installation of four (4) structures, covered concrete play areas, and associated fencing added without Board approval. The expansion and needed variances were discovered earlier in 2023 when the applicant was granted approval to subdivide the property, separating the commercial kennel from the residential uses on the property.

The applicant has stated the installation of additional buildings and improved surfaces has been for the sole purpose of broadening and improving business offerings, including canine massage therapy, quarantine, emergency care, and e-commerce inventory storage. The applicant also explains that many of these improvements have been required by the Department of Agriculture and at the recommendation of the applicant's veterinarian. These expansions, and new internal property line dividing the kennel from the residential property, have led to the applicant requesting relief from the 200-foot setback requirement for commercial kennel structures and outdoor runs ([17.240.060](#)).

Specifically, the expansion brings the kennel facilities within 48 feet of the eastern property line and 44 feet of the western property line, variance requests **(B)** and **(C)**, respectively.

As part of the application, the applicant is requesting two (2) variances from the setback requirements for commercial kennels established in [17.240.060](#). Specifically, the applicant is requesting relief from the following requirement, if the application, as presented, is approved:

- **(B)** Required 200 foot setback from the property line for the keeping of dogs and cats from the property line as found in [17.240.060](#)
 - The applicant is requesting to reduce the setback to 48 feet along tax parcel [12128 000009](#), (Parcel “A”) in order to bring the existing commercial kennel facilities into compliance.
- **(C)** Required 200 foot setback from the property line for the keeping of dogs and cats from the property line as found in [17.240.060](#)
 - The applicant is requesting to reduce the setback to 44 feet along tax parcel [12128 000007](#) (Parcel “C”) in order to bring the existing commercial kennel facilities into compliance.

Based on the future land-use plan, staff finds the requested use consistent with the Rural future land use classification of the in the [Comprehensive Plan](#). The primary future land uses within the “Rural” Character Area, which includes agriculture and low-density residential uses. The intention is to preserve agriculture and the rural character of this area.

Zoning Analysis

(A) Use Subject to County Commission Approval | expansion of a commercial kennel within the Agricultural Residential IV district [17.120.040](#)

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; **Yes, the proposed use is suitable in view of the use and development of adjacent and nearby property, though the use is slightly more intensive than traditional agricultural and residential uses in the area. Many adjacent properties host low-intensity agricultural uses. It should be noted, the commercial kennel is an existing use and the current request is to bring into compliance the expansion and noncompliance with setback standards.**
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 as the kennel is existing and the expansion is being considered retroactively.**
3. Whether the property to be affected by the zoning proposal has reasonable economic use as currently zoned. **The subject property is zoned Agricultural Residential IV (AR-IV, [17.120](#)) and is developed with a single-family residence and a commercial kennel. The commercial kennel was established in 2007.**

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](#), but at a higher intensity.**
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; **The site has been developed with a residential building since at least 2000, per [Property Tax records](#).**
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 to retroactively expand a conditional use and the underlying Agricultural Residential IV (AR-IV, [17.120](#)) will remain unchanged. All neighboring parcels are zoned similarly, or are a Planned Commercial Farm District (PCFD, [17.180.100](#)).**
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. This establishment provides dog boarding services, which are important to the community and promote the well-being of dogs.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **Commercial kennel are subject to county commission approval and are not permitted by right in any zoning district, so it would be impossible to find a district in which this use is inherently permitted.**
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 requires conditional use approval in the underlying Agricultural Residential IV district (AR-IV, [17.120](#)).**

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 that should have an ecological or pollution impact.**
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) and (C) Variance | [17.240.060](#) to reduce the required setback for commercial kennels in Agricultural Residential IV (AR-IV, [17.120](#)).

Section [17.420.070](#), appeals and modifications states that “if substantial modifications or changes are necessary, any person, firm, group or organization may apply for relief from the requirements set forth in this chapter to the Hall County Planning Commission, unless otherwise specified in this chapter.”

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.**
2. The application of the requirements of this [Title 17](#) to this particular piece of property would create an unusual hardship; **The applicant would have to make modify the site, removing several concrete enclosures and existing building.**
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 use of the property.**
4. Such conditions are not the result of any actions of the property owner; **the site has been developed as a commercial kennel by the applicant, who failed to follow proper procedures regarding the expansion of the commercial kennel, which may have prevented the need for variances.**
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. **The proposal meets the requirement. The 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 statement 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 drawn to scale and includes the necessary details to assess the request.**
- 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 August 31, 2023, Emily McGahee stated “No comment.”

Hall County Fire Marshal

In an email dated August 29, 2023, John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated “New owner will be required to pass a life safety inspection conducted by the Hall County Fire Marshal’s Office for all buildings open to the public, a passing life safety inspection is required for a business license.”

Hall County Public Works and Utilities

In a memo dated August 31, 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

No comment.

Georgia Department of Transportation

In an email dated August 25, 2023, Veronica Chavers, D1TO Traffic Operations Civil Engineer 3, provided the following comments:

“No GDOT coordination required.”

- **Excerpts from the minutes of the October 2, 2023 meeting**

Applicant's Presentation:

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

Holly Crumley, 120 Magnolia Way, Homer, presented the request.

Rebuttal

The applicant stated that when dogs are sold they are dropped off, not picked up at the property. The applicant stated that they added a privacy fence as well as planting corn for screening.

Public Forum:

Virginia Martin, Gainesville, spoke in opposition. Concerns were access to the driveway easement, amount of dogs, approval process, and property owners.

Kathryn Askew, 8720 Forrester Road, Lula, spoke in opposition. Concerns were the driveway, breeding, and approval process.

Planning Commission Comments:

Mr. Hunt questioned if the applicant was just bringing the property into compliance. The applicant stated that was correct. Ms. Pilcher stated there should be a condition to restrict the further construction on the property.

A

Motion: A motion to approve, with conditions was made by Mr. Hunt and seconded by Mr. Varner. Vote: 4-1 (Sosebee opposed)

Conditions:

1. Any and all further expansion of the facility or kennel activity will be subject to further review and approval of the Board of Commissioners, and appropriate permits obtained upon approval.
2. No residential dwelling may be added to the parcel where the commercial kennel is located.
3. The business shall maintain the fencing and planted buffer as described in the applicant's statement.
4. The applicant will pursue retroactive building permits for all buildings measuring more than sixteen feet in length and width.

B

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

Conditions:

1. Any and all further expansion of the facility or kennel activity will be subject to further review and approval of the Board of Commissioners, and appropriate permits obtained upon approval.
2. No residential dwelling may be added to the parcel where the commercial kennel is located.
3. The business shall maintain the fencing and planted buffer as described in the applicant's statement.
4. The applicant will pursue retroactive building permits for all buildings measuring more than sixteen feet in length and width.

C

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

Conditions:

1. Any and all further expansion of the facility or kennel activity will be subject to further review and approval of the Board of Commissioners, and appropriate permits obtained upon approval.
2. No residential dwelling may be added to the parcel where the commercial kennel is located.
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