

**HALL COUNTY PLANNING COMMISSION  
RECOMENDATION REPORT**

**Applicant** ..... Zachary Lewis Boyd Milne

**Request** ..... Use Subject to County Commission Approval | [17.60.040](#) 4-lot subdivision

**Proposed Use** ..... 4-lot residential subdivision

**Size** ..... 7.88± acres

**Zoning** ..... Residential-I (R-I, [17.60](#)) and Agricultural Residential III (AR-III, [17.110](#))

**Location** ..... **3321 Montvale Drive** | Tax Parcel 10046 000015

**Commission District** ..... Two

**Planning Commission Date** ..... November 6, 2023

**Staff Recommendation** ..... **Approval**, as the proposal is consistent with the Lake Area Residential Character Area of the [Comprehensive Plan](#).

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

**Planning Commission Conditions:**

1. The land shall be subdivided in accordance with the survey certified by London Land Surveying on July 26, 2023 and the updated narrative dated October 16, 2023.
2. All development within the subdivision shall conform to Residential-I (R-I, [17.60](#)) zoning guidelines and restrictions, with the exception of the prohibition of the following uses: 1) "I" Family Daycare; 2) "J" Community Residences.
3. Manufactured homes are prohibited within the subdivision. All principal structures shall be site-built.
4. The following statement regarding the potential impacts of agricultural operations in the area shall be made a part of any plat recorded for any of the subject properties established and approved herein:  
*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 shall be prepared to expect the effects of such practices.*

5. No more than one new residential building permit shall be open at one time. Each permit must be closed and occupancy issued prior to the issuance of a new building permit.
  6. The minimum heated floor area shall be no less than 1,500 square feet.
- 

**Note: This application was tabled to this date at the October 2, 2023 Planning Commission meeting.**

**10-2-2023 Public Forum:**

**Joey Taylor, 3015 Manor Ridge, Gainesville,** spoke in favor. Stated he has never had issues with short term renters.

**Glen Walter, 3245 Manor Ridge, Gainesville,** spoke in opposition. Concerns were intent, short term rentals, inconsistency, and constrains.

**Lenny Moniz, 3348 Montvale Drive, Gainesville,** spoke in opposition. Concerns were property value, crime, and interest.

**Sarah Hopkins, 3235 Manor Ridge, Gainesville,** spoke in opposition. Concerns were safety, narrow & shared driveway, fire hydrants, emergency vehicle access, type of structures, and septic systems.

**Sandra Landergott, 3174 Manor Ridge, Gainesville,** spoke in opposition. Concerns were short term rentals, clear cutting, noise, privacy, safety,

**Mark Gailey, 3345 Montvale Drive, Gainesville,** spoke in opposition. Concerns were covenants, short term rentals, and privacy.

**Corrine VanBibbes, 3418 Lake Crest Drive, Gainesville,** spoke in opposition. Concerns were short term rentals, traffic, crime, narrow road, safety, noise, wildlife, and home value.

**Tom Child, 3424 Lake Crest Drive, Gainesville,** spoke in opposition. Concerns were short term rentals, size of lots, safety, street access, and development.

**11-6-2023 Public Forum:**

**Skip Patterson, President of Volunteer HOA for Lanier Northwest, spoke** in opposition. Concerns were the size of the homes, short term rental restrictions, erosion, privacy, clear cutting of trees, style of homes, and lack of details.

**Summary Analysis**

The applicant is requesting County Commission approval to subdivide 7.88± acres of Residential-I (R-I, [17.60](#)) and Agricultural Residential III (AR-III, [17.110](#)) into four separate lots. Per the requirements of [17.60.040](#),

uses subject to approval of the county commission, within the Residential I (R-I, [17.60](#)) zoning district, subdivisions require Board of Commissioner approval. According to the submitted narrative, the applicant and his family will continue to live on the largest portion of the subdivided land, designated as tract one in the submitted plan, measuring 5.42± acres. The land is currently occupied by a single-family dwelling, and several secondary structures. This dwelling has been licensed to operate as a Short Term Rental ([17.216](#)) since December of 2022, although the rental listing indicates a different structure which has not been recognized as a primary residence, and which was not permitted as a dwelling but a storage and office structure. Since this discovery, the applicant is no longer advertising the accessory structure as a short term rental and is in compliance.

The proposed lots identified as lots two, three, and four on the site plan, are currently unimproved, except for a gravel driveway and gravel lot within proposed tract four.

The proposed subdivision plat has been submitted to reflect the desired layout of the lots as follows:

- Tract one is comprised of 5.42± acres and is primarily located within Residential-I (R-I, [17.60](#)) zoning, though some of the southern portion of this tract is zoned Agricultural Residential III (AR-III, [17.110](#)).
- Tracts two (0.86± acres), three (0.83± acres), and four (0.80± acres) are Residential-I (R-I, [17.60](#))-zoned. Each of the newly created lots, as proposed, meets the minimum lot area and frontage requirement for the Residential-I (R-I, [17.60](#)) district as established in table [17.240.010\(A\)](#). The density of the entire subdivision will be 0.52 units per acre.

The applicant provided general concept plans and architectural inspiration for the subject lots which are included in your packet. Lot 2 shows a general location of a 2 or 3 bedroom homes. The narrative states that the home on tract 2 may be a modern farmhouse, ranch, and timber frame or craftsman style. The concept plan for tract 2 shows a 1,500 square foot home that is intended to be the applicant's mom's home as indicated in the narrative as well in the purchase agreement provided by the applicant. The desired style will be traditional or contemporary; however, the applicant has stated his desire to ensure the homes fits the surrounding environment. The concept plan for tract 4 shows a 2,500± square-foot home with a 2 car garage with an exterior features of pine wood ceilings and/or wood accents. No improvement plans exist for the proposed new lots.

The applicant's narrative states that the provided details are not to be considered as final.

**Based on the future land-use plan, staff finds the zoning request *consistent* with the future land use classifications of Lake Residential in the [Comprehensive Plan](#), which allows for low-density residential development of up to one unit per acre.** The intent of the Lake Area Residential land use category is to preserve established neighborhoods and create opportunities for permanent vacation residences similar in land use patterns to Residential Areas but at lower residential densities. Future development will continue to be detached, single family homes at low densities. The Lake Area Residential designation envisions a maximum density of 1 dwelling unit per acre; the development has proposed a density of 0.52 DU/acre.

### **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, development and zoning of adjacent and nearby property; **The proposed use is consistent with the use, development, and zoning of adjacent and nearby properties, as most neighboring parcels are also zoned Residential-I (R-I, [17.60](#))**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The proposed minor subdivision of the parcel will not adversely affect the existing use or usability of adjacent and nearby property.**
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, Residential-I (R-I, [17.60](#)) and Agricultural Residential III (AR-III, [17.110](#)) and is currently occupied by a single-family residence. This residence has been licensed as a Short Term Rental ([17.216](#)) since December of 2022 and will continue to operate the Rental as long as the property remains compliant with [17.216](#).**
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 should not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, police protection, fire protection public facilities, or emergency medical service.**
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 proposed use of a residential subdivision conforms to the [Comprehensive Plan's](#) future land use classification of "Lake Area Residential." The Residential-I (R-I, [17.60](#)) zoning will foster responsible development of the vacant lots, although as individually considered, they will be developed at a slightly higher density than is recommended within the Lake Area Residential Character area. When considered in aggregate, the subdivision density is calculated to be 0.52 units per acre.**
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; **Tax parcel [10046 000015](#) is currently developed with a 2,432 square foot single family residence, constructed in 1997.**
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 a conditional use request, and there are no proposed changes to the underlying zoning.**
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. Housing is in high demand throughout Hall County, and with easy access to State Highway 53, this proposal is an optimal site to subdivide land for the future construction of residences.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **Because subdivisions within the Residential-I (R-I, [17.60](#)) zoning district require conditional use approval, it would necessitate the same request elsewhere.**
15. Whether the need for rezoning could be handled instead by a variance request to the zoning board of adjustment; **No, the request could not be handled instead by a variance. The tracts are proposed to be developed in accordance with the underlying bulk and area standards.**
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. Further, 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.**
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.**

**[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. **The proposal meets the requirement, and the applicant 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, but has not explicitly addressed 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 applicant submitted a subdivision plat to demonstrate the proposed improvements to date. The applicant has not submitted a site plan, but there are no improvements or additions planned for the property until the lots are formally subdivided. At that time, plans shall be submitted to verify compliance with all applicable land development and building requirements.**
- 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 criterion is not applicable.**

### **Development Support and Constraints**

#### **Hall County Environmental Health**

In an email dated August 31, 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 30, 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 31, 2023, Bill Nash, Director of Public Works and Utilities, provided the following comments:

#### **Engineering:**

Further subdivisions of these lots will result in the necessity of a stormwater management plan if the total number of lots reaches more than 6.

**Traffic:**

No comment.

**Utilities:**

No comment.

**Georgia Department of Transportation**

In an email dated August 25, 2023 from Veronica Chavers, D1TO Civil Engineer 3, stated that GDOT coordination will not be required.

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

**Applicant's Presentation:**

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

**Zack Mine, 3321 Montvale Drive**, presented the request. The applicant stated that he and his family live on the property and are requesting to subdivide. The applicant stated that the property has no HOA covenants. The applicant stated that the guest home was previously utilized as a short term rental.

*Rebuttal*

The applicant stated that the neighborhood doesn't legally have an HOA and they did not want to speak with him. The applicant stated that the building on his lot was built as an accessory building at first. The applicant stated that one of the lots will be for his mother to build an 1,800 sq. ft. building. The applicant stated that the property across the street was purchased as a buffer since it is very steep.

**Public Forum:**

**Joey Taylor, 3015 Manor Ridge, Gainesville**, spoke in favor. Stated he has never had issues with short term renters.

**Glen Walter, 3245 Manor Ridge, Gainesville**, spoke in opposition. Concerns were intent, short term rentals, inconsistency, and constrains.

**Lenny Moniz, 3348 Montvale Drive, Gainesville**, spoke in opposition. Concerns were property value, crime, and interest.

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**Tom Child, 3424 Lake Crest Drive, Gainesville,** spoke in opposition. Concerns were short term rentals, size of lots, safety, street access, and development.

**Planning Commission Comments:**

Mr. Hunt questioned if the property was originally subdivided in 4 lots. The applicant stated that was correct according to the plat. Mr. Braswell questioned the driveway access. The applicant stated the driveways would be off Manor Ridge. Ms. Garmon referenced the history of the plats. Mr. Braswell questioned if the applicant would be opposed to deed restrictions. The applicant stated he intended to require only something along the lines of not restricting his view. Mr. Braswell clarified adding short term rental restrictions. The applicant stated he would not want that. Mr. Hunt questioned if there are any other short term rentals down the neighborhood. The applicant stated there is. Mr. Varner stated that there needs to be clarity on what will be built. Mr. Sosebee suggested that the applicant meet with the neighborhood. Mr. Braswell stated that the public forum has been closed and will not be open at the next meeting.

***Motion: A motion to table to November 6, 2023 was made by Ms. Pilcher and seconded by Mr. Sosebee. Vote: 4-1 (Hunt opposed)***

➤ **Excerpts from the minutes of the November 6, 2023 meeting**

**Applicant's Presentation:**

**Katie Greenway, Principal Planner,** presented a summary of the request.

**Zachary Milne, 3321 Montvale Drive, Gainesville,** presented the request. The applicant explained the updated narrative and renderings. The applicant stated that there were meetings with the neighborhood to discuss the updated plans.

**Public Forum:**

**Skip Patterson, President of Volunteer HOA for Lanier Northwest,** spoke in opposition. Concerns were the size of the homes, short term rental restrictions, erosion, privacy, clear cutting of trees, style of homes, and lack of details.

**Planning Commission Comments:**



Mr. Braswell stated that the public forum was closed at the previous meeting so there will only be one public comment allowed to represent the neighborhood. Mr. Braswell thanked the applicant and neighborhood for meeting to discuss the plans for the lots. Ms. Pilcher questioned if any of the homes would be sold or rented. The applicant stated that lot 2 would be put up for sale, lot 3 would serve as his mother's residence, and development of lot 4 would be delayed for some time. Mr. Braswell stated that this application is not applicable to the lots across the street. Ms. Garmon stated that Building Inspections will assess erosion and silt fence is typically required.

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

*Conditions:*

1. The land shall be subdivided in accordance with the survey certified by London Land Surveying on July 26, 2023 and the updated narrative dated October 16, 2023.
2. All development within the subdivision shall conform to Residential-I (R-I, [17.60](#)) zoning guidelines and restrictions, with the exception of the prohibition of the following uses: 1) "I" Family Daycare; 2) "J" Community Residences.
3. Manufactured homes are prohibited within the subdivision. All principal structures shall be site-built.
4. The following statement regarding the potential impacts of agricultural operations in the area shall be made a part of any plat recorded for any of the subject properties established and approved herein:  
*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 shall be prepared to expect the effects of such practices.*
5. No more than one new residential building permit shall be open at one time. Each permit must be closed and occupancy issued prior to the issuance of a new building permit.
6. The minimum heated floor area shall be no less than 1,500 square feet.