

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Sue Ann Buchanan

Request Use Subject to County Commission Approval | [17.110.040\(M\)](#) for a commercial kennel

Proposed Use Commercial Kennel

Size 10.14± acres

Zoning Agricultural Residential III (AR-III, [17.110](#)),
Agricultural Residential IV (AR-IV, [17.120](#))

Location **2595 Gillsville Highway** | Tax Parcel 15023 000015

Commission District Three

Planning Commission Date December 4, 2023

Staff Recommendation **Denial**, as the proposed development does not meet the setback requirements for a commercial kennel ([17.240.060](#)).

Planning Commission Recommendation.....**Approval, with conditions**
Vote: 4-1 (Sosebee opposed)

Conditions:

1. Development shall be as generally depicted on the revised plan and narrative submitted, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.
2. Hours of operation shall be limited to proposed business hours only. Monday to Wednesday closed to customers, Thursday through Saturday 9:00am - 5:00pm, Sunday 1:00pm - 5:00pm.
3. Any site improvements related to the commercial kennel shall be subject to the Hall County Development Review process along with any applicable regulations at the time of development.
4. The applicant shall obtain a retroactive building permit for all unpermitted structures associated with the commercial kennel.
5. 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.
6. The existing vegetative buffer as described in the submitted narrative, shall be maintained.
7. All conditions of zoning shall be made a part of any plat created for the property.

8. 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."
9. Pursuant to section 17.380.13 of the Official Code of Hall County, the approval of any application for a use subject to approval of the County Commission shall be effective for a period of no longer than 12 months from the date of approval unless action is taken by the applicant to implement the use proposed in the application by obtaining the proper permit and/or license, and development plat approval, and proceeding with the building, occupancy or establishment of business.
10. The 36 foot by 60 foot building which encroaches on the western property line shall not be used for kennel business, including housing of dogs and/or supplies. Hall County personnel is required to inspect the building annually prior to the renewal of the business license.

The following should be considered as exceptions to the Official Code of Hall County, and shall warrant further determination by the Board should it choose to approve the submitted site plan and narrative:

- 17.240.060 of the Hall County Zoning Regulations states that in a commercial kennel, no structure, including outside runs, for the keeping of dogs or cats shall be constructed closer than 200 feet to a property line.
 - The submitted site plan depicts outdoor dog runs approximately 9 feet from closest property lines and a shed for expecting dogs approximately 182 feet from the closest property line.

Public Forum:

Lorene Grogan, 3853 Coker Road, Gainesville, spoke in favor. She is aware of the business, and believes the business is run well.

Summary Analysis

The applicant is requesting a Use Subject to County Commission approval for an existing commercial kennel on a 10.14± acre lot zoned Agricultural-Residential III (AR-III, [17.110](#)) and Agricultural Residential IV (AR-IV, [17.120](#)).

The applicant is seeking retroactive approval to continue operation of a commercial kennel. The submitted site plan reflects the current conditions of the property, including two structures and several pens on the property. The outdoor dog runs are located approximately 9 feet from the closest property line and structures utilized for the breeding and keeping of dogs are located approximately 24 feet from the closest property line.

Section [17.24.060](#). states that "in a commercial kennel, no structure, including outside runs, for the keeping of dogs or cats shall be constructed closer than 200 feet to a property line."

- None of the structures or outdoor dog runs for the breeding and keeping of dog meet the 200-foot setback.

The lot also contains three separate residences, two of which are manufactured homes. All of the homes are occupied by the applicant or their family members, and have been present on the property since 1999 or earlier. Per Hall County records, one of the manufactured homes appears to have been previously approved as a Hardship Mobile Home on July 27, 1999; however, it does not appear that this approval was ever renewed.

Per Hall County aerial imagery, the shed utilized for expecting dogs (labeled number 2 on the submitted site plan) appears to have been recently located on the property and will require a retroactive building permit.

Access to the site is from Gillsville Highway via an existing driveway. Customer and employee parking areas are not detailed on the site plan.

The submitted narrative and site plan indicate that the focus of the business is the breeding of dogs and the sale of puppies. The applicant has stated that customer pick up hours will be limited to Thursday through Saturday, 9:00am - 5:00pm and Sunday, 1:00pm -5:00pm. Sales take place online, limiting customer visits to the site for pick up only. Staffing needs and hours for the full-time operation of the business have not been specified in the application.

Based on the future land use plan, staff finds the requested zoning designation is consistent with the Hall County [Comprehensive Plan](#). The [Comprehensive Plan's](#) future land use designation for the subject parcel is "Rural Residential". The intent of this land use category is to preserve the established residential/rural character and create a transition between Rural Areas and development in Residential Areas.

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; **Yes, the proposed use is suitable in view of the use and development of adjacent and nearby property. It should be noted, the commercial kennel is an existing use, and the request is retroactive.**
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 commercial kennel is already established and no expansion has been specified in the application. Its impact on the parcel immediately to the west, which is located within the City of Gainesville, is difficult to determine. This property is zoned for single-family homes and townhomes.**
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned; **The subject property appears to have reasonable economic use as currently zoned.**
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; **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 future land use plan for the physical development of the area; **Yes, the requested zoning designation is consistent with the future land use classification of Rural Residential in the [Comprehensive Plan](#).**
6. The extent to which property values are diminished by the existing zoning restrictions; **Absent a market study, staff is unable to determine whether 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.**
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 three single family homes since 1999. The original home which is located on the parcel was built in 1977. It is unclear when the commercial kennel was established.**
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 approve a conditional use for a commercial kennel within the existing Agricultural Residential III (AR-III, [17.110](#)) and Agricultural Residential IV (AR-IV, [17.120](#)) zoning districts. All neighboring parcels are zoned similarly, with the exception of the parcel to the west, located in the City of Gainesville and zoned [Planned Unit Development](#).**
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; **In general, the use does not appear to be 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; **Because a commercial kennel within the Agricultural Residential III (AR-**

III, [17.110.](#)) and Agricultural Residential IV (AR-IV, [17.120](#)) zoning districts requires 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 alternatively as a variance.**
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. 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.**

[17.350.040.](#) - Submission requirements for a conditional use request

An application shall be submitted to the Planning Department at least 30 working days prior to the date of the Planning Commission meeting at which the application is to be considered. The completed application shall be accompanied by payment of such fee prescribed in [chapter 17.30](#) hereof to cover administrative and advertising costs. The following items of information shall be supplied by the applicant as set forth in [chapter 17.350](#). **The applicant submitted to the Planning Department more than 30 days prior to the meeting date and has paid the application fee.**

[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 proposal does provide a narrative outlining the intent of condition amendments; however, the applicant has not prepared a response to each of 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 has submitted a scaled site plan, however, the information provided about adjacent parcels is limited.**

- 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 to the applicant's request.**
- 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 standard is not applicable to the applicant's request.**

Development Support and Constraints

Hall County Environmental Health

In an email dated October 30, 2023, Emily McGahee stated "Must meet all Environmental Health commercial septic system permitting requirements. A detailed business plan must be submitted to Hall County Environmental Health for review. Additional items, including, but not limited to recorded plat, soil evaluation, and septic system installation/modification may be required after review of business plan."

Hall County Fire Marshal

In an email dated November 2, 2023, from 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 memorandum from Public Works and Utilities dated November 2, 2023, Director Bill Nash stated the following:

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.

Traffic:

Driveway permit from GDOT will be required.

Utilities:

Gainesville/ Hall sewer district- no sewer connection within feasible distance.

Georgia Department of Transportation

In an email dated November 6, 2023, Veronica Chavers, D1TO Civil Engineer III, stated that GDOT coordination would be required for driveway access to Gillsville Highway.

- **Excerpts from the minutes of the December 18, 2023 meeting**

Applicant's Presentation:

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

Sue Ann Buchanan, 2595 Gillsville Highway, Gainesville, presented a summary of the request. The business is for only small dogs, and are not caged. They are provided outdoor runs. There is a request to vary the setbacks for the portable buildings.

Public Forum:

Lorene Grogan, 3853 Coker Road, Gainesville, spoke in favor. She is aware of the business, and believes the business is run well.

Planning Commission Comments:

Mr. Hunt inquired how many dogs were used for breeding. Ms. Buchanan answered that there are 2 males and 8 females. Mr. Hunt asked about the intent of the building on the western property line. Ms. Buchanan stated that the building was previously used as a car repair garage and was not aware that it was too close to the property line. Mr. Hunt asked if she would continue to use it. Ms. Buchanan answered that she was willing to use another building in another location, further from the property line. Discussion of location and use of building to follow, including whether there could be inspections to verify that the building is not being used for the dogs.

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

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