

**HALL COUNTY PLANNING COMMISSION  
RECOMMENDATION REPORT**

**Applicant** ..... Abernathy Engineering Group

**Request** ..... Use Subject to County Commission Approval |  
Amend Conditions of Planned Residential  
Development (PRD, 17.180.060)

**Proposed Use** ..... 100-lot single-family development

**Size** ..... 38.45± acres

**Zoning** ..... Planned Residential Development (PRD,  
17.180.060)

**Location** ..... **5991 Swansey Road** | Tax Parcel 15048 000034

**Commission District** ..... One

**Planning Commission Date** ..... August 5, 2024

**Staff Recommendation** ..... **Approval, with conditions**, the proposed  
changes are consistent with previous approvals.

**Record Number** ..... HZCU24-0026

**Planning Commission Recommendation**..... **Approval, with conditions**

**Vote: 3-1 (Hunt opposed and Varner absent)**

**Planning Commission Conditions:**

1. The development shall conform substantially with the proposed site plan and narrative, modified as necessary for compliance with current development standards at time of site plan approval.
2. Development shall not exceed 100 residential units or a density of 2.7 units per acre.
3. Developer will improve and pave Swansey Road commencing from the southernmost point of its property where the property intersects with the Swansey Road right-of-way (otherwise identified as the development's point along the Swansey Road right-of-way nearest to Friendship Road). The paving of Swansey Road by the developer will continue north from said initial commencement point to a point just north of the northernmost aspect of the front entrance of its development as shown on the zoning plan approved on January 21, 2021, or farther north along Swansey Road if desired by the Developer. All such paving of Swansey Road will be completed prior to the approval of the final plat, shall be consistent with County

standards (see Hall County Detail TE-12 attached hereto), and shall include a right turn deceleration lane on Swansey Road into the development.

4. Subdivision lots must access internal roadways only and direct lot access to Swansey Road shall be prohibited.
5. All conditions of zoning shall be made a part of any plat of the property.
6. The following statement regarding the potential impacts of agricultural operations in the area shall be made a part of any plat recorded for 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.”
7. The following statement regarding the potential impacts of industrial operations in the area shall be made part of any plat recorded for the property:  
“Owners and users of this property are informed of industrial uses nearby and should expect noise, odors, and other effects associated with such industrial properties.”
8. The final plat shall not be approved prior to the property having access to Hall County sewer.
9. A vegetative buffer on Swansey roadway which would include the backs of lots 64, 65, 66, 67 and lots 1, 2, 3 and 4 will be provided.
10. Developer will post a bond or letter of credit in the amount of \$300,000.00 in favor of the County from a creditor doing business and with an office in Hall County, Georgia for the design, realignment, and construction of the section of Swansey Road from the point where the asphalt paving currently ends beyond the intersection with Friendship Road (GDOT) to the proposed development's southern-most property corner along Swansey Road. The bond or letter of credit may be cashed in by the County once the County awards a contract for the design or construction of the road project to pave the above-referenced section of Swansey Road as described herein. The design and/or construction of the road project shall be initiated no later than seven years from the date of the posting/issuance of the bond or letter of credit, and if design/construction has not been initiated within seven years, the bond or letter of credit shall be released and rendered null. The County shall be responsible for all eminent domain needed to acquire right-of-way and/or easements to adhere to the County's TE-12 specifications as to paving Swansey Road between the paved section nearest to Friendship Road and the southernmost point of the development along Swansey Road.

**Excerpts from the minutes of the August 5, 2024 meeting**

**Applicant's Presentation:**

**Katie Greenway, Planning and Zoning Administrator,** presented a summary of the request.

**Guy Abernathy, 2130 Misty Oaks Drive, Buford**, presented the request. The applicant stated that the previously approved conditions from 2021 were vague and have caused difficulties with the developer and Hall County Engineering to determine what part of the road the developer is responsible for improving.

**Public Forum:**

**Michael Shastel, 5961 Swansey Road, Flowery Branch**, spoke in opposition. Concerns were cost of the road improvement to taxpayers, traffic, safety, and the dust created by the existing road.

**James Basile, 3639 Buttercup Court, Flowery Branch**, spoke in opposition. Concerns were density, traffic, and rental homes.

*Rebuttal*

The applicant explained the road improvement plans per the amended conditions, and stated that they were originally going to build on top of the existing roadbed but this was not approved by Hall County Engineering. Because of this, the construction costs went up and led to negotiations for the proposed \$300,000 bond.

**Planning Commission Comments:**

Mr. Hunt questioned what the County Engineer wanted the applicant to pave the road with. The applicant stated that they were told to realign the road not just repave with asphalt where the roadbed was already located. Mr. Hunt questioned if the homes will be for sale before the County completes their portion of the road. The applicant stated that was correct.

**Motion: A motion to approve, with conditions was made by Mr. Sosebee and seconded by Ms. Pilcher. Vote: 3-1 (Hunt opposed and Varner absent)**

*Conditions:*

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**Staff Recommended Conditions:**

1. The development shall conform substantially with the proposed site plan and narrative, modified as necessary for compliance with current development standards at time of site plan approval-
2. Development shall not exceed 100 residential units or a density of 2.7 units per acre.

3. Developer will improve and pave Swansea Road commencing from the southernmost point of its property where the property intersects with the Swansea Road right-of-way (otherwise identified as the development's point along the Swansea Road right-of-way nearest to Friendship Road). The paving of Swansea Road by the developer will continue north from said initial commencement point to a point just north of the northernmost aspect of the front entrance of its development as shown on the zoning plan approved on January 21, 2021, or farther north along Swansea Road if desired by the Developer. All such paving of Swansea Road will be completed prior to the approval of the final plat, shall be consistent with County standards (see Hall County Detail TE-12 attached hereto), and shall include a right turn deceleration lane on Swansea Road into the development.
4. Subdivision lots must access internal roadways only and direct lot access to Swansea Road shall be prohibited.
5. All conditions of zoning shall be made a part of any plat of the property.
6. The following statement regarding the potential impacts of agricultural operations in the area shall be made a part of any plat recorded for the property:

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7. The following statement regarding the potential impacts of industrial operations in the area shall be made part of any plat recorded for the property:

“Owners and users of this property are informed of industrial uses nearby and should expect noise, odors, and other effects associated with such industrial properties.”
8. The final plat shall not be approved prior to the property having access to Hall County sewer.
9. A vegetative buffer on Swansea roadway which would include the backs of lots 64, 65, 66, 67 and lots 1, 2, 3 and 4 will be provided.
10. Developer will post a bond or letter of credit in the amount of \$300,000.00 in favor of the County from a creditor doing business and with an office in Hall County, Georgia for the design, realignment, and construction of the section of Swansea Road from the point where the asphalt paving currently ends beyond the intersection with Friendship Road (GDOT) to the proposed development's southern-most property corner along Swansea Road. The bond or letter of credit may be cashed in by the County once the County awards a contract for the design or construction of the road project to pave the above-referenced section of Swansea Road as described herein. The design and/or construction of the road project shall be initiated no later than seven years from the date of the posting/issuance of the bond or letter of credit, and if design/construction has not been initiated within seven years, the bond or letter of credit shall be released and rendered null. The County shall be responsible for all eminent domain needed to acquire right-of-way and/or easements to adhere to the County's TE-12 specifications as to paving Swansea Road

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### **Summary Analysis**

The applicant is requesting to amend the zoning conditions of a Planned Residential Development (PRD, 17.180.060). The request includes modifying two conditions related to the improvement of Swansea Road and addressed in Conditions #3 and #10 of the January 27, 2021 BOC approval.

The subject property was approved for rezoning from Agricultural Residential-III (AR-III, 17.110) to Planned Residential Development (PRD, 17.180.060) by the Hall County Board of Commissioners on January 27, 2021, for a 100-unit single-family residential development with an overall density of 2.7 dwelling units per acre subject to the following 10 conditions:

1. The development shall conform substantially with the proposed site plan and narrative, modified as necessary for compliance with current development standards at time of site plan approval. ~~No variances from §17.180 are granted as part of this request and any deviation found within the narrative or site plan is not approved.~~
2. Development shall not exceed 100 residential units or a density 2.7 units per acre.
3. Swansea Road shall be improved at the developer's expense to match the existing conditions of that improved area near the intersection of Friendship Road to the entrance of the subdivision.
4. Subdivision lots must access internal roadways only and direct lot access to Swansea Road shall be prohibited.
5. All conditions of zoning shall be made a part of any plat of the property.
6. The following statement regarding the potential impacts of agricultural operations in the area shall be made a part of any plat recorded for 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."
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8. The final plat shall not be approved prior to the property having access to Hall County sewer.
9. A vegetative buffer on Swansea roadway which would include the backs of lots 64, 65, 66, 67 and lots 1, 2,3 and 4 will be provided.
10. The applicant shall work with reasonable diligence to obtain the necessary right-of-way from the adjoining property owners. The applicant shall construct the road within the existing right-of-way.

The applicant and county representatives have discussed modifications of Conditions #3 and #10. Proposed conditions between the developer, Aspen Holdings Atlanta, LLC and county legal counsel are as follows:

Proposed Condition # 3.

Developer will improve and pave Swansey Road commencing from the southernmost point of its property where the property intersects with the Swansey Road right-of-way (otherwise identified as the development's point along the Swansey Road right-of-way nearest to Friendship Road). The paving of Swansey Road by the developer will continue north from said initial commencement point to a point just north of the northernmost aspect of the front entrance of its development as shown on the zoning plan approved on January 21, 2021, or farther north along Swansey Road if desired by the Developer. All such paving of Swansey Road will be completed prior to the approval of the final plat, shall be consistent with County standards (see Hall County Detail TE-12 attached hereto), and shall include a right turn deceleration lane on Swansey Road into the development.

Proposed Condition # 10.

Developer will post a bond or letter of credit in the amount of \$300,000.00 in favor of the County from a creditor doing business and with an office in Hall County, Georgia for the design, realignment, and construction of the section of Swansey Road from the point where the asphalt paving currently ends beyond the intersection with Friendship Road (GDOT) to the proposed development's southern-most property corner along Swansey Road. The bond or letter of credit may be cashed in by the County once the County awards a contract for the design or construction of the road project to pave the above-referenced section of Swansey Road as described herein. The design and/or construction of the road project shall be initiated no later than seven years from the date of the posting/issuance of the bond or letter of credit, and if design/construction has not been initiated within seven years, the bond or letter of credit shall be released and rendered null. The County shall be responsible for all eminent domain needed to acquire right-of-way and/or easements to adhere to the County's TE-12 specifications as to paving Swansey Road between the paved section nearest to Friendship Road and the southernmost point of the development along Swansey Road.

Per "Attachment 2" of the submitted narrative, dated June 17, 2024, the applicant is requesting additional language to Condition 10 as follows:

Applicant proposed language to be added to Condition # 10:

*Developer shall have the discretion to pave the existing roadbed with a tar/gravel treatment mix from the end of existing pavement near Friendship Road up to the tie-in to the required TE-12 pavement section which will begin at the southernmost portion of the subject Aspen Holding project. This portion of the road (and all of Swansey Road) will be maintained by Hall County. The County will assist the developer in acquiring right-of-way should legitimate attempts by the developer to negotiate the purchase of right-of-way and/or slope easements bog down, as this road improvement benefits the overall traveling public.*

County staff **DOES NOT** support the applicant's proposed additional language for Condition #10.

**Zoning Analysis**

Per Planning Commission and Hall County Commission consideration and decision (17.380.060), the Board 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 requested amendment to Condition #3 is consistent with the previous approval for the Planned Residential Development (PRD, 17.180.060) on January 27, 2021 by the county commission. However, Planning staff does not recommend the additional language to the amendment as proposed by the applicant, and only supports the amendment as stated in the recommended conditions.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The recommended amendments to the zoning conditions 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 reasonable economic use as currently zoned. **The property has reasonable economic use as currently zoned, Planned Residential Development (PRD, 17.180.060).**
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 recommended amendments to the zoning conditions are not anticipated to 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 zoning designation has been established by previous board action with the original approval of the development. The recommended amendments to the zoning conditions do not significantly affect the designated future land use of the area.**
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. 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 subject parcel was rezoned from Agricultural Residential-III (AR-III, 17.110) to Planned Residential Development (PRD, 17.180) on January 27, 2021, for the purpose of developing a 100-lot single-family development.**



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; **Staff is not aware of any 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 request is to amend zoning conditions of an existing Planned Residential Development (PRD, 17.180.060). Per the Official Code of Hall County, the Planned Development District (PRD, 17.180.060) is to be utilized as a "floating zone" which shall mean that areas will not be pre-designated as planned development districts but rather each such designation shall result from a specific and separate application for amendment.**
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 recommended amendments to the conditions would not 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; **The current zoning of the subject site supports the proposed use.**
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 instead by a variance.**
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 are no anticipated ecological or pollution impacts 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.**

#### **17.380.050. - 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 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 the request; 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 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 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. **The proposed development will contain no more than 100 residential dwelling units; this is the threshold which requires a traffic study. The development met submission requirements at time of previous approval. The proposed amendments to the zoning conditions do not warrant a new traffic study as the number of units is not changing.**

### **Development Support and Constraints / Departmental Comments**

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

In an email dated June 28, 2024, Emily McGahee stated "No comment. Public Sewer."

#### **Hall County Fire Marshal**

In an email dated July 3, 2024, John Hornick, NPQ Fire Service Plans Examiner 1, provided the following comments:

1. Water service provider not identified in the project narrative.
2. How will water be distributed to the development? Currently there is no water on Swansea Road.
3. Will the installation of public water occur during the Swansea Road improvements?
4. Development will require fire hydrants as required by Fire Code.
5. The Hall County Fire Marshal's Office considers the plan conceptual in nature, and if approved may require modifications during the development review process.
6. According to GIS property currently has a parcel warning tag.

#### **Hall County Public Works and Utilities**

In a memo dated July 5, 2024, 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 wretched vegetation not centerline of stream.

Show FEMA and Hall County studied Flood plains that are present on site.

**Traffic:**

Needs to be reviewed by legal.

**Utilities**

No comment.

**Georgia Department of Transportation**

In an email dated July 3, 2024, Veronica Chavers, D1TO Civil Engineer III, stated that GDOT coordination is not required.

**Attachments:**

Hall County Public Works & Utilities – Traffic Engineering Division – Standard TE-12