

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Ashley Xitlaly Ruelas

Request Use Subject to County Commission Approval |
Reestablishment of a Nonconforming Use

Proposed Use Single-family residence

Size 0.19± acres

Zoning Highway Business (H-B, 17.150)

Location **2052 Spring Road** | Tax Parcels 00122 002010

Commission District Four

Planning Commission Date August 5, 2024

Staff Recommendation **Approval**, as hardship exists pursuant to the
criterion of 17.340.020.

Record Number..... HZCU24-0023

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

Vote: 5-0

Planning Commission Conditions:

1. The property shall be developed in accordance with the site plan dated June 6, 2024, and as described in the project narrative submitted on June 11, 2024, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.
2. The Residential-II (R-II) setback standards, per section 17.240.10 shall be applicable.
3. Further residential development of the property beyond the features indicated on the site plan is allowed provided all improvements comply with all county standards and ordinances, supplemental regulations, and all other requirements as established by the Official Code of Hall County enforced at the time of development. It shall be the responsibility of the property owner to determine if permits are required for any future improvements.
4. All conditions of zoning shall be made a part of any plats or construction plans created for the subdivision.

Excerpts from the August 19, 2024 Planning Commission Meeting:

Applicant's Presentation:

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

Carla Walker, 340 Jesse Jewell Highway, Gainesville, presented the request. The applicant stated there was a home on the property many years ago that burned down. The applicant further stated that they are requesting that the building be held to Residential II (R-II) setback standards and that they agree with staff recommended conditions.

Public Forum:

There were no comments in support or opposition.

Planning Commission Comments:

No Comments.

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

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Staff recommends APPROVAL of the applicant's request with the following conditions:

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supplemental regulations, and all other requirements as established by the Official Code of Hall County enforced at the time of development. It shall be the responsibility of the property owner to determine if permits are required for any future improvements.

4. All conditions of zoning shall be made a part of any plats or construction plans created for the subdivision.

Summary Analysis

The applicant is seeking to re-establish a nonconforming use for a single-family residence on a 0.19± acre tract zoned Highway Business (H-B). Residential uses are not permitted within Highway Business (H-B) zoning districts; however, the property does not qualify for rezoning as it lacks the size required for any residential zoning district. The property is currently vacant and undeveloped; however, the applicant provided a document from the Hall County Board of Assessors, which has a note that a home was removed in 1992 from the property.

On July 25, 2019, the Board of Commissioners (BOC) voted to approve the re-establishment of a nonconforming use with Residential-II setback standards for the construction of a residence on the subject property. The BOC action letter references Section 17.380.013, which previously stated that any application for a use subject to the approval of the County Commission would be effective for no longer than 12 months from the date of approval. To maintain the application's validity, the applicant needed to implement the proposed use by obtaining the necessary permit and/or license, securing development plat approval, and proceeding with the building, occupancy, or establishment of the business within that period. Because no action was taken by the applicant, they must reapply. Since then, Section 17.380.013 has been removed, and this 12-month restriction will not be applicable if this request is approved.

Per the submitted narrative, the applicant is requesting to reestablish a nonconforming use for a single-family residence with Residential-II setback standards. The applicant states that due to logistics with building and the Covid-19 pandemic, the new residential structure was not built within the previously approved period.

Per the submitted site plan and narrative, the applicant states that they plan to relocate a 1,216 square foot one-story single-family residence currently located at 2036 Spring Street, approximately 475 feet away, to the subject parcel. The narrative states the applicant will connect to City of Gainesville water and sewer services.

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 not consistent with the majority of nearby properties. The surrounding properties are mainly Highway Business uses with a few other remaining residential uses.**

2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **No, it is not anticipated that the proposed residential use will adversely affect adjacent properties.**
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 Highway Business (H-B, 17.150).**
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; **It is not anticipated that the proposed use will result in an excessive or burdensome use.**
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 use is consistent with the Comprehensive Plan's future land use classification of "Lake Area Residential". The Comprehensive Plan does not accurately depict the existing commercial development of the area.**
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; **The property is currently vacant and undeveloped.**
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 that affect the use and 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; **Residential uses are not permitted in Highway Business (H-B) zoning districts. Therefore, the establishment of the nonconforming residential use is subject to approval by the Board of Commissioners.**
15. Whether the need for rezoning could be handled instead by a variance request to the zoning board of adjustment; **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; **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 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. **The proposal meets the requirement.**

- 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 a 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 to the applicant's request.**

Development Support and Constraints

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 02, 2024, John Hornick, NPQ Fire Service Plans Examiner 1, 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 July 05, 2024, Bill Nash, Director, stated the following:

Engineering:

No comment

Traffic:

No comment

Utilities:

No comment

Georgia Department of Transportation

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