

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Decatur Presbyterian Church

Request Use Subject to County Commission Approval |
17.50.040.K 6-lot residential subdivision

Proposed Use 6-lot residential subdivision

Size 13.91± acres

Zoning Agricultural Residential III (AR-III, 17.110) &
Vacation Cottage (V-C, 17.50)

Location **3475 Cook Road** | Tax Parcel 10068 000005C

Commission District Two

Planning Commission Date August 19, 2024

Staff Recommendation **Approval, with conditions**, as the proposed
request is consistent with the Lake Area
Residential future land use classification within
the Comprehensive Plan.

Record Number HZCU24-0029

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

Vote: 5-0

Planning Commission Conditions:

1. The property shall be developed in accordance with the plat dated April 29, 2005, and as described in the project narrative dated July 1, 2024, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.
2. The property shall be subdivided into a maximum of six (6) single-family residential lots in accordance with the requirements of the Agricultural-Residential-III (AR-III, 17.60) and Vacation Cottage (V-C) zoning districts as detailed in 17.240, Area and Setback Requirements.
3. 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."

4. Pursuant to 2.60.060. – effective period of approved applications, all applications approved by the board, whether a request for variance from the terms of Title 17, a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of Title 17, shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.
5. No variances or development exceptions are granted as part of this request that are not explicitly granted by Board approval. The development shall be compliant with the Official Code of Hall County.
6. All conditions of zoning shall be made part of any plats created for the property.
7. The developer shall be responsible for improving Cook Road along the frontage of the subject property. The surface material used where the road is improved shall match the existing road surface of asphalt or gravel. Improvements shall meet Hall County Fire Services/Fire Marshall standards for ingress and egress.
8. All required roadway improvements shall be completed prior to the issuance of any building permit for the proposed 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.

James Irvin, 164 Professional Drive, Baldwin, presented the request. The applicant stated that the proceeds from the sale of the lots will be placed in an endowment for future ministries. He also noted that the gravel road is a public right-of-way but is privately maintained. The church plans to dedicate property along the road to facilitate widening the right of way and to create a turnaround at the end of the road for emergency vehicle access. Additionally, the applicant mentioned having met with neighbors to discuss the proposed road improvements.

Todd Speed, 205 Sycamore Street, Decatur, presented the request.

Public Forum:

Wade Baggarly, 3484 Cook Road, Gainesville, spoke in favor. Spoke about the meeting held with the neighbor's discussing improvements to the road and paving the road. He also requested that the road become a county-maintained road.

Jeff Cook, 3480 Cook Road, Gainesville, spoke in favor. Spoke about the road improvement, the applicant donating their property to widen the road, the road becoming county maintained, and having the county install fire hydrants.

Philip Martin, 3482 Cook Road, Gainesville, spoke in favor. Spoke about the driveway, road construction cost, emergency service, and safety of the road.

Tom Shepard, 3476 Cook Road, Gainesville, spoke in opposition. Concerns were losing property to road widening.

Kimberly Shepard, 3476 Cook Road, Gainesville, spoke in opposition. Concerns were losing property if the road becomes a county road.

Patsy Kilmarten, 3549 Cameron Drive, Gainesville, spoke in opposition. Concerns were the number of docks increasing, who the developer will be, and increased lake traffic.

Rebuttal

The applicant noted that upgrading an old private road to meet county standards is challenging due to various requirements. He also mentioned that there is no public water, but they could build fire wells as required by the Fire Department. The property currently has five docks, and Mr. Hunt pointed out that dock permits are managed by the U.S. Army Corps of Engineers.

Planning Commission Comments:

Mr. Braswell stated that the application is solely to allow the 6-lot subdivision of the property and the road becoming county-maintained has its own separate process. Mr. Hunt questioned the road improvements and asked about creating a condition to require that when the roadway is expanded, it should be improved with asphalt where it is currently asphalt.

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

Conditions:

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Therefore, owners, occupants, and users of the property shown on this plat should be prepared to expect the effects of such practices."

4. Pursuant to 2.60.060. – effective period of approved applications, all applications approved by the board, whether a request for variance from the terms of Title 17, a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of Title 17, shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.
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Staff recommends APPROVAL of the applicant's request with the following conditions:

1. The property shall be developed in accordance with the plat dated April 29, 2005, and as described in the project narrative dated July 1, 2024, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.
2. The property shall be subdivided into a maximum of six (6) single-family residential lots in accordance with the requirements of the Agricultural-Residential-III (AR-III, 17.60) and Vacation Cottage (V-C) zoning districts as detailed in 17.240, Area and Setback Requirements.
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effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.

5. No variances or development exceptions are granted as part of this request that are not explicitly granted by Board approval. The development shall be compliant with the Official Code of Hall County.
6. All conditions of zoning shall be made part of any plats created for the property.

Summary Analysis

The applicant is requesting County Commission approval to subdivide a 13.91± acre parcel zoned Agricultural Residential III (AR-III, 17.110) and Vacation Cottage (V-C, 17.50) for the purpose of creating a 6-lot residential subdivision. Per the requirements of 17.50.040.K, minor subdivisions within the Vacation Cottage (V-C, 17.50) zoning district require Board of Commissioners approval.

The subject property is zoned both Agricultural -Residential -III (AR-III) and Vacation Cottage (V-C) with the majority of the property being zoned Vacation Cottage (V-C). The property is currently developed with a 2,400 square-foot single-family residence constructed in 1970, which is included on the proposed Tract 1.

Per the submitted narrative, the property and residence was previously used as a retreat for church members of Decatur Presbyterian Church; however, the frequency of use has decreased and the church would like to subdivide and sell the property. The narrative further states that the church does not intend to use any of the lots for church-owned short-term rentals.

Per the submitted site plan, all proposed lots meet the minimum lot area and frontage requirements for Agricultural Residential III (AR-III) as established in table 17.240.010(A). Furthermore, Cook Road is identified as a non-county maintained road. On March 6, 1995, the Planning Commission approved the portion of Cook Road beginning at the point where county maintenance ends and extending approximately 0.54± miles south to qualify as frontage for a public road. Per the narrative, the applicant states that each lot will use individual on-site wells and septic systems.

No variances have been submitted or identified as part of this request; therefore, any deficiencies identified as part of the plan will be required to comply with the respective zoning districts of the parcels.

The proposed subdivision plat reflects the desired layout for Lots 1-6 as follows:

Agricultural Residential III (R-III, 17.110) & Vacation Cottage (V-C, 17.50) Standards	Required	Proposed
Lot Area: AR-III	65,340 square feet	Lot 1: 177,924 sf (4.08 ac) Lot 2: 106,129 sf (2.44 ac)
Lot Area: V-C	35,000 square feet	Lot 3: 94,980 sf (2.18 ac) Lot 4: 95,990 sf (2.20 ac) Lot 5: 65,365 sf (1.50 ac) Lot 6: 65,379 sf (1.50 ac)
Lot Frontage	Local Road: 50 feet	Lot 1: 611 feet Lot 2: 400 feet Lot 3: 75 feet Lot 4: 207 feet Lot 5: 280 feet Lot 6: 275 feet
Lot Width at Building Line	75 feet	None Listed; however, each parcel is 75 feet or greater at all points.
Front Yard Setback: AR-III	65 feet from centerline of road or 40 feet from property line, whichever is greater	65 feet from centerline of road or 40 feet from property line, whichever is greater
Front Yard Setback: V-C	55 feet from centerline of road or 30 feet from property line, whichever is greater	55 feet from centerline of road or 30 feet from property line, whichever is greater
Side Yard Setback: AR-III	15 feet	15 feet
Side Yard Setback: V-C	10 feet	10 feet
Rear Yard Setback: (All lots back up to property controlled by the United States Army Corps of Engineers)	0 feet	0 feet

Based on the future land use plan, staff finds the request is *consistent* with the Hall County Comprehensive Plan future land use designation of “Lake Area Residential”. The intent of this land use category is to preserve established neighborhoods and create opportunities for permanent and vacation residences similar in land use patterns to Residential Areas but at lower residential densities. This land use designation envisions a maximum density of 1 dwelling unit per acre. The proposed development has an overall density of 0.43 units per acre.

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 proposed use of a 6-lot subdivision is consistent with the use, development, and zoning of adjacent and nearby properties, as neighboring parcels are similarly zoned Vacation Cottage (V-C, 17.50) and/or Agricultural Residential III (AR-III, 17.110).**
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 reasonable economic use as currently zoned. **Yes, the property has reasonable economic use as currently zoned, Vacation Cottage (V-C, 17.50) and Agricultural Residential III (AR-III, 17.110); however, the applicant cannot subdivide the property without approval by the Board of Commissioners.**
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 development is 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 proposed use is consistent with the Comprehensive Plan and the "Lake Area Residential" land use designation. This land use designation envisions a maximum density of 1 dwelling unit per acre. The proposed development has an overall density of 0.43 units per acre.**
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 property is currently developed with a 2,400 square-foot single-family residence constructed in 1970.**

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 for conditional use approval and is intended to allow for the subdivision of the parcel into 6 single-family residential lots. The change would not create an isolated district unrelated to the surrounding districts**
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. The parcel is zoned both Agricultural Residential III (AR-III) and Vacation Cottage (V-C), although this appears to be original to the adoption of zoning regulations by Hall County.**
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; **The subdivision of land within the Vacation Cottage (V-C, 17.50) zoning district requires Board of Commissioner approval.**
15. Whether the need for rezoning could be handled instead by a variance request to the Planning Commission; **The request is for conditional use approval and is intended to subdivide the parcel into 6 single-family residential lots. This 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. The parcel is zoned both Agricultural Residential III (AR-III) and Vacation Cottage (V-C), although this appears to be original to the adoption of zoning regulations by Hall County.**

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

Development Support and Constraints / Departmental Comments

Hall County Environmental Health

In an email dated July 17, 2024, Emily McGahee stated, "All proposed lots must meet Hall County Board of Health Lot Size Resolution requirements. Please note that Zoning approval does not imply approval from other county departments. 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 July 17, 2024, John Hornick, NPQ Fire Service Plans Examiner, Lieutenant provided the following comments:

- 1. International Fire Code 503.2.1, Fire apparatus roads shall have an unobstructed width of not less than 20' exclusive of shoulders. The portion of Cook Road that is not maintained by Hall County will have to meet the 20' road width requirement to all the proposed lots.

2. International Fire Code 503.2.5, Dead end fire apparatus roads in excess of 150' in length shall be provided with an approved area for turning around fire apparatus. The portion of Cook Road that is not maintained by Hall County will be required to have an approved turnaround as required by code.
3. International Fire Code 507 Fire Protection Water Supplies: 507.1 Required Water Supply, an approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises on which facilities, buildings or portions of buildings are hereafter constructed or moved into within the jurisdiction. The closest fire hydrant is 2000 feet away from the Cul-de-Sac at the end of the Hall County maintained portion of Cook Road. No expansion of the municipal water system is proposed in the concept narrative.

Hall County Public Works and Utilities

In a memo dated July 18, 2024, Bill Nash, Director of Public Works and Utilities, provided the following comments:

Engineering:

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

As this subdivision is greater than 6 lots on an existing road a stormwater management report prepared by a professional engineer will be required.

Cook Drive beyond the cul-de-sac is not Hall County maintained.

Hall County should not accept partial right of way on a road that it does not maintain or have an interest in.

If they want to bring the road up to county specifications, then, as long as the other property owners agree, we would possibly accept the road.

Traffic:

Non-County maintained, "Privately maintained" roadway – see engineering comments, no additional comments.

Utilities

No sanitary sewer near the development

Georgia Department of Transportation

In an email dated July 18, 2024, Veronica Chavers stated that GDOT coordination is not required.