

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Burton Outdoor Adventures c/o Jason Burton

Request **Special Use** | Amend conditions of zoning

Proposed Use Expansion of services

Size 1.42± acres

Zoning Planned Commercial Development (PCD)

Location **5962 Jim Crow Road** | Tax Parcel 08101 002002

Commission District Two

Planning Commission Date May 5, 2025

Staff Recommendation **Approval, with conditions**, as the proposed use is consistent with the “Business Nodes and Corridors” future land use classification within the Comprehensive Plan.

Record Number.....HZCU25-0016

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

Vote: 5-0

Planning Commission Conditions:

1. The development is approved as generally shown on the submitted site plan dated January 28, 2025 and described in the project narrative dated March 10, 2025, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.
2. Any new lighting on the premises shall be of a non-spill type.
3. 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 Unified Development Code of Hall County, as well as any other agencies or reviewing departments, including, but not limited to Environmental Health, the Fire Marshal, and Hall County Engineering.
4. All conditions of zoning shall be made a part of any plat created for the parcel.
5. 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."

6. A variance is granted from 20 feet to 10 feet to the buffer along the north, west, and east property lines around the proposed pond.

Excerpts from the minutes of the May 5, 2025 meeting

Applicant's Presentation:

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

Myles Montgomery, 7185 Shady Grove Road, Cumming, presented the request. The applicant is requesting to amend the conditions of zoning on a 1.42± acre tract zoned Planned Commercial Development (PCD), to allow for the expansion of services for a water sports rental business. Per the narrative, the applicant is requesting to allow for a kayak training facility, which includes the construction of a pond that would support the existing kayak/water sports rental business, and measure approximately 70 feet by 148 feet in size and 4 to 5 feet in depth.

Public Forum:

There were no comments in support or opposition.

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

Conditions:

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2. Any new lighting on the premises shall be of a non-spill type.
3. 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 Unified Development Code of Hall County, as well as any other agencies or reviewing departments, including, but not limited to Environmental Health, the Fire Marshal, and Hall County Engineering.
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6. A variance is granted from 20 feet to 10 feet to the buffer along the north, west, and east property lines around the proposed pond.

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

1. The development is approved as generally shown on the submitted site plan dated January 28, 2025 and described in the project narrative dated March 10, 2025, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.
2. Any new septic tanks shall have inspection tubes at the inlet and outlet.
3. Any new lighting on the premises shall be of a non-spill type.
4. 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 Unified Development Code of Hall County, as well as any other agencies or reviewing departments, including, but not limited to Environmental Health, the Fire Marshal, and Hall County Engineering.
5. All conditions of zoning shall be made a part of any plat created for the parcel.

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 narrative and site plan:

1. **Table 8.2.1 – Buffer Requirements** – A buffer is required along and inside the property line of a nonresidential property abutting a residential use. Where a commercial zoning district with outdoor activity abuts property zoned for residential or agricultural use, the width must be at least 20 feet
 - The applicant proposes a 10 foot buffer along the north, west, and east property lines around the proposed pond.

Summary Analysis

The applicant is requesting to amend the conditions of zoning on a 1.42± acre tract zoned Planned Commercial Development (PCD), to allow for the expansion of services for a mixed use commercial

development. Per the narrative, the applicant is requesting to amend the conditions of zoning to allow for a kayak training facility, which requires the construction of a pond approximately 70 feet by 148 feet in size and 4 to 5 feet in depth. The applicant states that this pond will support the existing kayak/water sports rental business.

The site is currently developed with one building used for office space and an accessory storage building (HDV2021-00028, COM2021-00304 and COM2022-00169).

The subject property was part of an assemblage that was rezoned on September 23, 2004, from Agricultural Residential III (AR-III) to Planned Commercial Development (PCD) for various uses including commercial services, boat and camper storage, and residences (ZON2004-00129). The rezoning approval was subject to the following five conditions:

1. The property shall be used and developed as generally shown on the site plan and described in the narrative. Details of the plan, such as buffers and parking areas must be modified to comply with current codes.
2. Any new septic tanks shall have inspection tubes at the inlet and outlet.
3. Any new lighting on the premises shall be of a non-spill type.
4. If chain linked fencing is installed around the boat storage area, vinyl slats to provide screening shall be installed.
5. All conditions of zoning shall be made a part of any plat created for the parcel.

The surrounding properties are zoned and developed as outlined below:

North:	Agricultural Residential 1 (AR-1) Developed with a single-family residence
East:	Agricultural Residential 1 (AR-1) Developed with a single-family residence
South:	Agricultural Residential 1 (AR-1) Developed with single-family residence Residential 1 (R-1) Developed with single-family residences (River Oaks Subdivision)
West:	Planned Commercial Development (PCD) Developed with a convenience store built in 1970 and a single-family residence built in 1985 – This PCD was approved as part of the original rezoning for the subject property on September 23, 2004 (ZON2004-00129).

On February 4 2025, a land disturbance permit application was submitted for the subject property (HDEV2025-0008). The property owner proposed to construct a 70 feet by 148 feet hydrofoil kayak training pond. Upon review of the application, Planning staff determined that the proposal for the development did not align with the zoning approval granted in 2004. This permit is currently closed pending the determination of this request to amend conditions.

Per the submitted site plan and narrative, the applicant has proposed the construction of the pond at the northern portion of the property, located behind the existing gravel parking area. The pond will be constructed with a vinyl liner and will include a filtration system similar to that of a pool. Per the narrative the applicant is proposing to install a five (5) foot chain-link fence around the perimeter of the training pond.

Furthermore, the applicant proposes that a new well will be used to supply water to the pond during times of drought. Additionally, the proposed pond will also function as part of stormwater runoff system,

capturing rainwater directed toward this area. The applicant has proposed the installation of an overflow pipe or emergency spillway to manage excess runoff.

Zoning Analysis

When considering a zoning amendment to the zoning maps, the Planning Commission must 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 must be considered:

- a) 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 amendments are suitable in view of the use and development of subject property as well as the previous approval for the Planned Commercial Development on September 23, 2004.**
- b) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The proposed rezoning is not expected to adversely affect the existing use or usability of adjacent properties.**
- c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned; **The property has reasonable economic use as currently zoned.**
- d) 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 amendment of conditions is not anticipated to cause an excessive or burdensome use of the existing streets, transportation facilities, utilities, schools, police protection, fire protection, public facilities, or emergency medical service.**
- e) 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 zoning designation has been established by previous board action with the original approval of the development. The requested modification complies with the policy and intent of the "Business Nodes and Corridors" future land use designation.**
- f) 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.**
- g) 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 values 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.**
- h) 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.**

- i) 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 one building used for an office and a storage building (HDV2021-00028, COM2021-00304 and COM2022-00169).**
- j) 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.**
- k) Whether the change would create an isolated district unrelated to the surrounding districts; **As the property is already zoned Planned Commercial Development (PCD), this would not create an isolated district unrelated to the surrounding districts. Additionally, per the Official Code of Hall County, Planned Development Districts are 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.**
- l) 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.**
- m) Whether the change requested is out of scale with the needs of the county as a whole or the immediate neighborhood; **The property is currently zoned Planned Commercial Development (PCD) and the proposed amendments are not out of scale with the needs of the County as a whole or the immediate neighborhood.**
- n) Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **There are other sites within the county that would allow this use without board action, however, the proposal to amend the conditions requires approval by the Board of Commissioners.**
- o) Whether the need for rezoning could be handled instead by a variance request to the Planning Commission; **The request to amend conditions could not be handled alternatively as a variance.**
- p) 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.**
- q) 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.**

11.2.6.E - Submission requirements

1. Any person or persons requesting a change in the official zoning map or use subject to approval of the County Commission must file an application with a plat or map of the property attached thereto, together with payment of such fees set forth in this Sec 11.2. to cover administrative and advertising costs, in the Planning and Zoning Department office. Such person or persons or their authorized agent must 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.**
2. All applications for a change of zoning classification or use subject to approval of the County Commission must include:
 - a. A narrative statement identifying the existing and proposed use of the property and addressing each of the criteria set forth in this Sec. 11.2. **The proposal provides a narrative outlining the intent of the development; however, the applicant has not prepared a response to each of the criteria listed in 11.2.6.E.2.**
 - b. 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 may 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 as defined in 7.6.9.D.1, 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 must be submitted prior to consideration of the application by the County Commission. At the applicant's expense, the traffic impact study must be prepared by a professional engineer in accordance with requirements established by the Hall County Engineering Department. The Engineering Department must review the traffic impact study and forward any comments to the County Commission. **This standard is not applicable to the applicant's request.**

Development Support and Constraints

Hall County Environmental Health

In an email dated April 3, 2025, Emily McGahee stated, "Must meet all Environmental Health commercial septic system permitting requirements. A detailed business plan, including details on the filtration of the pond water, 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. The pond will be regulated and permitted under the DPH Rules and Regulations for Public Swimming Pools, Spas, and Recreational Water Parks if the water is recirculated. In this case, the well must also meet potable water supply standards if used to fill the pond."

Georgia Department of Transportation

In an email dated May 5, 2025, Henry Stevens, GDOT Civil Engineer 2, stated that GDOT coordination is not required.

Hall County Public Works and Utilities

In a memo dated April 3, 2025, 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.

Traffic:

No comment

Utilities:

Flowery Branch sanitary sewer area.

Hall County Fire Marshal

In an email dated March 31, 2025, John Hornick, NPQ Fire Service Plans Examiner 1, stated, "The Hall County Fire Marshal's Office has no comments as proposed."