

**HALL COUNTY BOARD OF COMMISSIONERS
STAFF REPORT**

Applicant Hermelinda Sica de Ajanel

Request (A) **Rezone** | from Agricultural Residential 1 (AR-1) to Residential Two-Family (R-TF)
(B) **Variance to Section 4.4** | to reduce minimum yards
(C) **Variance to Section 7.8.11** | to reduce minimum yards

Proposed Use (A) Second single-family dwelling
(B) Single-family dwelling
(C) Keeping of livestock and poultry

Size 1.68± acres

Zoning **Current:** Agricultural Residential 1 (AR-1)
Proposed: Residential Two-Family (R-TF)

Location **2109 Microwave Tower Road** | Tax Parcel 15032 000005

Commission District Three

Commission Date October 22, 2026

Staff Recommendation (A) **Denial**, as the proposed zoning is not consistent with the “Employment Nodes & Corridors” future land use classification within the Comprehensive Plan.
(B) **Denial**, as no hardship exists pursuant to the criteria of 11.1.1.D.11.
(C) **Denial**, as no hardship exists pursuant to the criteria of 11.1.1.D.11.

Record Number..... (A) HZON26-0023
(B) HVAR26-0043
(C) HVAR26-0044

(A) (B) & (C) Staff recommends DENIAL of the applicant’s requests. However, if the Commission chooses to approve this request, staff recommends the following conditions:

1. The property shall be developed in accordance with the site plan dated August 21, 2025, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.

2. Retroactive building permits shall be obtained for all structures built without permits.
3. All conditions of zoning shall be made a part of any plats or construction plans created for the property.

Summary Analysis

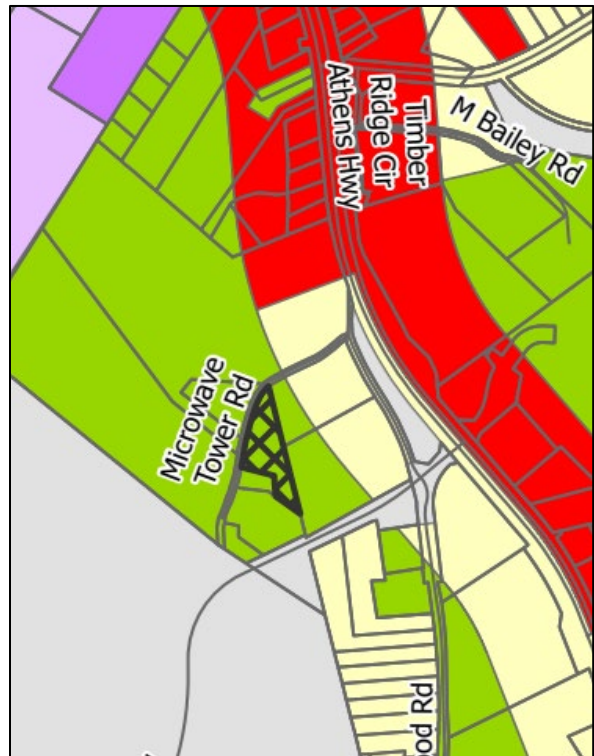
The applicant has submitted three concurrent requests: (A) to rezone a 1.68± acre tract from Agricultural Residential 1 (AR-1) to Residential Two-Family (R-TF) for a second single-family dwelling; (B) a variance to reduce the minimum yards for the original single-family dwelling; and (C) a variance to reduce the minimum yards for the keeping of livestock and poultry.

The surrounding properties are zoned and developed as outlined below:

- North: Agricultural Residential (AR-1) & Residential 1 (R-1): single-family residence & cell tower
- East: Agricultural Residential (AR-1) & Residential 1 (R-1): single-family residence
- South: Agricultural Residential 1 (AR-1): single-family residence
- West: Agricultural Residential 1 (AR-1): single-family residence & junk yard

The property is currently developed with two residences. Historic aerial imagery indicates that a residence was present on the property as far back as the early 1960's, and subsequent Geographical Information Systems (GIS) imagery shows that this structure was expanded more than once between 2018 and 2025. This structure is currently recognized as built in 2019 according to the Hall County Tax Assessor records. A retroactive building permit to allow an existing deck to be converted into a screened porch was approved in 2019; however, the permit expired (RES2019-00854). It was noted in this permit that the structure encroached into the right-of-way.

The second residence first appears in aerial imagery in 2023 and is identified in the Hall County Tax Assessors' records as a 2025 residence. There is no record of a building permit for this structure, nor are there permits on file for the three animal structures located on the property. Below are GIS aerial images that further illustrate and support the information described above.





The property additionally has a record of two code enforcement cases, including a 2019 violation involving storage of junk materials, trash, and building without permits (COD2019-00069) and a 2026 case pertaining to two residential structures on one parcel (HENF26-0483).

Collectively, these records reflect ongoing development activity on the property, along with several instances where construction occurred without required approvals and in conflict with established setback requirements.

Water service is currently provided by the City of Gainesville, and sanitary sewer services are provided by on-site septic.

Rezoning:

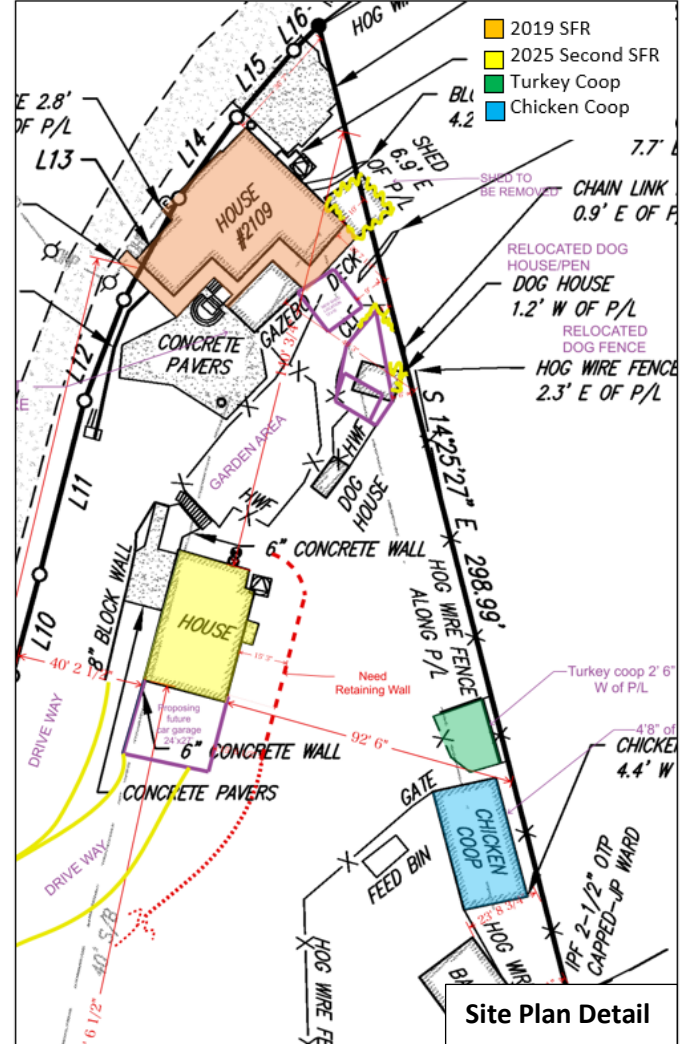
The applicant has submitted a request to rezone a 1.68±-acre tract from Agricultural Residential-1 (AR-1) to Residential Two-Family (R-TF) to allow a second single-family dwelling. The R-TF district requires a minimum lot size of 35,000 square feet and permits a maximum density of two dwellings per lot.

Per the submitted narrative, the applicant is requesting rezoning of the property to the Residential Two-Family (R-TF) district to allow a second residence. The applicant states three options were considered to bring the property into compliance: acquiring additional adjoining land, subdividing the existing property, or rezoning to R-TF. The first two options were determined to be infeasible as the purchase of additional property was not possible and the property is not large enough to subdivide under AR-1 standards. Rezoning to R-TF is identified by the applicant as the only option.

The submitted site plan shown below identifies two residential structures (shown in orange and yellow), multiple accessory structures including a gazebo, shed, turkey coop (shown in green), chicken coop (shown in blue), barn, and fencing. The site plan documents all structure locations in relation to property boundaries, noting several setback encroachments.

The site plan notes that the shed adjacent to the original single-family dwelling that crosses the property line will be removed.





5.









Variance - Setbacks

Three (3) variances related to setback standards will be required if the site plan, as presented, is approved.

- Front yard setback requirement of 40 feet as found in Section 4.4 for the Residential Two-Family (R-TF) zoning district.
 - A front yard setback of 0 feet with an additional encroachment of 7 feet into the right-of-way for the original single-family residence.
- Side yard setback requirement of 10 feet as found in Section 4.4 for the Residential Two-Family (R-TF) zoning district.
 - A side yard setback of 6 feet along the east property line to allow for the unpermitted expansion of the original single-family residence.
- Side yard setback requirement of 10 feet as found in Section 4.4 for the Residential Two-Family (R-TF) zoning district.
 - A side yard setback of 9 feet along the east property line to allow a new shed.

Variance – Keeping of Livestock and Poultry

Three (3) variances related to Keeping of Livestock and Poultry standards will be required if the site plan as presented is approved.

- Section 7.8.11.B.3 – Structures or buildings for the keeping of animals must be at least 100 feet from any property line.
 - A side yard setback of 2 feet along the east property line to allow for turkey coop.
 - A side yard setback of 4 feet along the east property line to allow for chicken coop.

- A side yard setback of 16 feet along the east property line to allow for chicken coop.

Comprehensive Plan Analysis

Based on the future land use plan, staff finds the rezoning request is not consistent with the Hall County Comprehensive Plan and the future land use designation of Employment Nodes and Corridors within the Gainesville character area. The intent of this future land use designation is for development to consist of industrial and/or office uses housed in either formalized campuses or along major road corridors that have existing or future access to water and sewer.

(A) Zoning Analysis – Rezone

When considering a zoning amendment to the zoning maps, the 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; **While the proposed rezoning is not supported by the Comprehensive Plan, the residential nature of the proposed use could be considered appropriate for the physical development pattern of the surrounding area.**
- b) 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 rezoning will adversely affect the existing use or usability of adjacent or nearby 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, however, the second single family dwelling cannot be permitted without approval of the rezoning by the Board of Commissioners.**
- 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; **If approved and in compliance with all Hall County standards, the use 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; **While the proposed rezoning is not supported by the Comprehensive Plan, the residential nature of the proposed use could be considered appropriate for the physical development of the area.**
- 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 affected 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.

- h) The relative gain to the public as compared to the hardship imposed upon the individual property owner; **Staff have 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 developed with two residences, the first established in the 1960's with expansions between 2018 and 2025. The second residence was built around 2023 without a building permit.**
- 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; **Staff are not aware of any changing conditions affecting the use or development of the property.**
- k) Whether the change would create an isolated district unrelated to the surrounding districts; **The proposed zoning would create an isolated district unrelated to the surrounding developments and districts.**
- 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 request does not appear to be 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 properties within the County that support Residential Two-Family zoning based on the Future Land Use Map; however, the current development for two residential dwellings on one lot requires rezoning 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 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.**

(B) Zoning Analysis – Variance to Section 4.4, R-TF Dimensional Standards

The Commission may grant variances in individual cases of unnecessary hardship upon a finding of the board that:

1. There are extraordinary and exceptional conditions pertaining to the particular lot in question because of its size, shape, or topography (the hardship must relate to the physical character of the lot and not to a personal or economic hardship); **The applicant has repeatedly expanded the original single-family dwelling without permits. As this original home appears to have been constructed within the road right-of-way, recognizing the front yard setback of zero is reasonable. While the applicant states that there are topographical issues related to the property, expansion of the dwelling could have been accommodated in a manner that respects the side yard setback. In addition, the proposed new shed can be modified in size and location to comply with setbacks.**
2. The application of the requirements of this UDC to this particular piece of property would create an unusual hardship; **Strict application of the setback standards with respect to the single-family dwelling would require demolition of a portion of the structure. However, strict application of the setback standards to the proposed new shed would not create unusual hardship as the structure can be modified in size and location to meet setbacks. The applicant has not demonstrated that compliance with the setback requirement for the shed would prevent reasonable use of the property.**
3. Such conditions are peculiar to the property involved and are not common to other properties in the neighborhood; **While the property does have challenging terrain, the applicant has not demonstrated that these conditions are not common to other properties in the neighborhood. While the original residence was constructed within the right-of-way, the need for the side yard setback is a result of an unpermitted expansion rather than a condition peculiar to the lot. The need for a side yard setback variance for a proposed shed is a preference of the property owner and not a condition peculiar to the lot. Therefore, strict application of the UDC does not deprive the property of rights commonly enjoyed by other similarly zoned properties.**
4. Such conditions are not the result of any actions of the property owner; **While the front setback variance request is not the result of an action of the property owner, the request for a side yard setback variance is self-imposed.**
5. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this UDC; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this UDC or for a Conditional Use Permit which has been denied by the Planning Commission; **Relief, if granted, is not expected to result in substantial detriment to the public good. However, the requested side yard setback requests are not property-specific hardships and approval would effectively grant a special privilege and would be inconsistent with the intent of the UDC.**

(C) Zoning Analysis – Variance to Section 7.8.11, Keeping of Livestock and Poultry

The Commission may grant variances in individual cases of unnecessary hardship upon a finding of the board that:

1. There are extraordinary and exceptional conditions pertaining to the particular lot in question because of its size, shape, or topography (the hardship must relate to the physical character of the lot and not to a personal or economic hardship); **While the property does contain areas of steep topography, the properties dimensions cannot accommodate the 100-foot setback requirement from all property lines for structures used for the keeping of livestock and poultry.**
2. The application of the requirements of this UDC to this particular piece of property would create an unusual hardship; **The strict application of the requirements of this UDC prevents the placement of livestock and poultry structures on this property because its dimensions cannot accommodate the required 100-foot setback. However, the inability to keep livestock or poultry does not constitute an unusual hardship, as it does not prevent the property from being used reasonably for residential purposes.**
3. Such conditions are peculiar to the property involved and are not common to other properties in the neighborhood; **The conditions peculiar to this property are its dimensions, however, this does not justify structures for the keeping of livestock and poultry from meeting the required setback.**
4. Such conditions are not the result of any actions of the property owner; **The placement of the unpermitted structures for the keeping of livestock and poultry are the direct result of the actions of the property owner.**
5. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this UDC; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this UDC or for a Conditional Use Permit which has been denied by the Planning Commission; **Relief, if granted, is not expected to result in substantial detriment to the public good. However, the requested setback reductions conflict with the purpose and intent of the UDC, which is to maintain consistent separation standards for livestock and poultry structures.**

Development Support and Constraints

Hall County Environmental Health

In a memorandum dated September 17, 2026, the Hall County Environmental Health Department stated, “Must meet all residential permitting requirements. Please note that BOC approval does not imply approval from other county departments.”

Georgia Department of Transportation

In an email dated September 21, 2026, Christopher Hash, D1 Traffic Operations Supervisor, stated, “Off-system. No impacts expected to the State Highway System.”

Hall County Public Works and Utilities

In a memorandum dated September 23, 2026, Jorge Gomez, Director of Public Works and Utilities, provided the following comments:

Engineering:

No comment.

Traffic:

There are no traffic concerns with the requested second single-family dwelling unit or request to keep livestock and poultry.

Utilities:

This location is within the City of Gainesville sewer district.

Hall County Fire Marshal

In a memorandum dated September 18, 2026, the Hall County Fire Marshal's Office provided the following comments:

(A) The Hall County Fire Marshal's Office has no comments regarding the R-TF rezone.

(B) & (C) The Hall County Fire Marshal's Office has no comments.

Hall County Building Inspections

In a memorandum dated September 21, 2026, Barry Shaw, Interim Director of Development Services, provided the following comment:

- Applicant received permit for existing 1 Story SFR on Crawlspace with 2 Bedrooms, 1 Bathroom and screened porch (RES2019-00854). Retroactive fees were not collected at the time of permitting. Build finals were passed, although a CO was never issued. There is also an unpermitted residential structure, 2 unpermitted outbuildings and additional renovations/additions have been made to primary residence as depicted on GIS.