

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Viktor Vlad

Request Rezone from Agricultural Residential-IV (AR-IV) to Residential - I (R-I)

Proposed Use Single-family residential

Size 5.01± acres

Zoning AR-IV

Location On the south side of Union Church Road
where it converges with Oliver Road; a.k.a.
5360 Union Church Road; Tax Parcel 15039
000067.

Commission District One

Planning Commission Date February 7, 2022

Staff Recommendation **Denial**

Planning Commission Recommendation – Approval, with conditions
Vote: 4-0 (Bell absent)

Conditions:

1. *The development shall conform to the development standards set forth in the code of ordinances, to include minimum lot width.*
2. *The proposed lot subdivision plan shall be modified as necessary for compliance with these conditions and current development standards at time of site plan approval.*
3. *All conditions of zoning shall be made part of any plat created for the property.*
4. *A 50' transitional buffer shall be established along rear property lines that is parallel to Union Church Road.*
5. *The minimum home size shall be 2,600 square feet of heated floor area, the first floor shall have a minimum of 1,700 square feet of heated floor area.*
6. *A maximum of three driveways shall be provided, as approved by Hall County Engineering.*
7. *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.”

8. *All building materials shall conform to Planned Residential Development (PRD) standards.*

Applicant Proposal

The applicant is seeking to rezone a 5.01± -acre parcel from Agricultural-Residential-IV (AR-IV) to Residential-I (R-I) to accommodate the subdivision of land into five single-family residential lots. The proposed lot configuration shows five lots fronting on Union Church Road. Each lot is proposed to be served by a septic system, so the minimum lot requirement of the R-I district is 35,000 square feet. All lots are shown to meet the minimum lot size and other bulk standards. The lot frontage for Lot 5 is deficient, pursuant to a concurrent variance request to reduce the minimum frontage from 150' to 125'. A minimum of 150' is required on arterial and collector roads pursuant to Section 16.60.040.

There are extensive topographical challenges on the site that render the rear of most of the lots unbuildable or made up of unsuitable soils. While the minimum lot size is met for each lot, the proposed configuration is deficient with regard to prohibitions on flag lots pursuant to Section 17.240.150 detailed below, particularly as proposed for Lot 5:

17.240.150. - Flag lot width and frontage standards.

The minimum required lot frontage as established by the county zoning regulations shall be maintained as the minimum lot width for all of that portion of the lot between the front property line (frontage) and the actual building site on the lot even if the building site is a greater distance from the front property line than the minimum required front setback.

Overall, the proposed configuration of lots is too irregular and not based on sound planning practices and is deficient based on multiple provisions; therefore, staff finds the proposed subdivision to be insufficient and too intensive for the lot and the proposed district.

Additionally, staff finds, pursuant to Section 2.60.030.J., no variance is authorized to reduce the lot width required by the Zoning Ordinance. If that interpretation is upheld, the development cannot proceed with the proposed configuration.

History and Existing Land Uses

The subject property is zoned AR-IV and exists as a greenfield (i.e.: undeveloped land). The property is bounded to the east by the Village at Deaton Creek, zoned Planned Residential Development (PRD). Beyond the entrance to that development, the property is adjacent or nearby other similarly zoned large-lot single-family residential uses to the east and west.

Comprehensive Plan Land Use Designation

The future land use map shows the subject property as “Residential.” The Residential land use category should be characterized by moderate-density residential development and neighborhoods. The appropriate land uses in the Residential category include residential subdivision design that sets aside a high percentage of open space, greenways and trails, and civic benefit uses such as community centers, libraries, places of worship, and schools.

While each lot will have a significant amount of open space, the applicant has not proposed to reserve any land for preservation or recreation as envisioned in the Comprehensive Plan. The use itself is consistent with the Future Land Use Designation found in the Comprehensive Plan.

Development Support and Constraints

Hall County Environmental Health

In an email dated January 19, 2022, Emily McGahee, Environmental Health Manager, provided the following comment: "All proposed lots must meet Hall County Board of Health Lot Size Resolution requirements."

Hall County Fire Services

No comments were provided.

Hall County Public Works and Utilities

A memo dated January 18, 2022 from Bill Nash, PE, Interim Director of Hall County Public Works and Utilities, provided the following comments:

Engineering

Land disturbance permit will be required before performing any construction. Further subdivisions of these lots will result in the necessity of a stormwater management plan if the total number of lots reaches more than six.

Traffic Engineering

Driveway for proposed lot #5 cannot enter into the right turn lane or taper for Deaton Creek Pkwy. All driveways must meet County requirements including intersection and stopping sight distance requirements.

Utilities

No comment.

Hall County Tax Assessors

No comments were provided.

Gainesville Water Resources

No comments were provided.

Georgia Department of Transportation

No comments were provided.

Zoning Analysis

- The proposed use request is consistent with the Comprehensive Plan.
- Per §17.240.010, the minimum lot size for lots within R-I zoning district shall be at least 35,000 sf for septic-served lots.
 - All proposed lots **do meet** this standard.
- §17.20.720 of the Official Code of Hall County defines a *minor subdivision* as the subdivision of land into a total of two conforming lots, parcels, tracts or building sites during a 12-month period. §17.20.1210 of the Hall County Zoning Regulations defines a *subdivision* as the division of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale, legacy, a new street or a change in existing streets, and includes re-subdivision.

- Within the R-I zoning district, subdivisions of land greater than a minor subdivision require approval of the County Commission.
- In the Official Code of Hall County, §17.60.010 permitted uses within the R-I zoning district include:
 - Site built single-family detached dwelling units, Class A single-family detached dwelling units, Class A single-family manufactured home and Class A single-family industrialized dwelling units
 - Non-commercial accessory residential uses, including but not limited to a private garage, detached home workshop, swimming pool, or greenhouse, all of which shall be incidental to the use of the property as a residence, home offices, churches and other places of worship (but excluding cemeteries), county uses including parks and playgrounds, subdivisions, substations for electrical transformers, gas regulators, and telephone subscriber carrier sites, family day care home, community residences, home occupations, and transient occupancy of a vacation home.
- §17.240.010 of the Official Code of Hall County designates lots within R-I zoning districts to have a minimum 150 feet of lot frontage when along roadways designated as collectors.
 - Union Church Road is designated as a minor collector road. Lots 1-4 **do meet** the minimum road frontage requirements. Lot 5 **does not meet** the lot size for the minimum road frontage of 150 feet or greater.
- §17. 380.060 provides the criteria for considering a zoning map amendment (rezoning). The application **does not meet** all these standards based on the following analysis:
 - The zoning proposal is not suitable in view of the use, development and zoning of adjacent and nearby property. The proposed intensity is not only more intensive than the surrounding properties that are zoned AR-IV, but the proposed development is even more intensive than permitted by the proposed base district (R-I).
 - The property owner has other options to develop the site in a more compatible manner that would not necessitate concurrent variances, so the relative hardship imposed on the individual does not outweigh the impact to the public.
 - While there may be limited opportunities for undeveloped sites in the R-I category, there are other properties situated in the County that would be more appropriate for a development at this intensity. Likewise, the subject property is well-suited for a residential use, but the proposed density and configuration is not conducive based on the property frontage, environmental constraints, and adjacent intensity of uses.
 - The proposed lot configuration does not meet the minimum lot standards of the district proposed for rezoning.

Staff Recommendation

Staff recommends **denial** of the applicant's request. Should an approval be desired by the Commission, staff recommends the following conditions:

1. The development shall conform to the development standards set forth in the code of ordinances, to include minimum lot width. Lot lines shall be regular in configuration and generally at right angles from Union Church Road.
2. The proposed lot subdivision plan shall be modified as necessary for compliance with these conditions and current development standards at time of site plan approval.
3. All conditions of zoning shall be made part of any plat created for the property.

Excerpt from minutes of February 7, 2022 Planning Commission meeting:

- 3. Application of Viktor Vlad for a road frontage variance from 150 feet to 125 feet on a 5.02± acre tract located at the intersection of Union Church Road and Oliver Road; a.k.a. 5630 Union Church Road; Zoned AR-IV; Tax Parcel 15039 000067. Proposed Use: 5 lot subdivision. Commission District 1.**

Note: Mr. Braswell stated items 3 and 4 would be heard together and voted on separately.

Background Information:

The applicant is seeking a road frontage variance from 150 feet to 125 feet to accommodate a division of the property into five (5) separate tracts. The parent tract has approximately 725 feet of road frontage total; the minimum road frontage requirement of 150 feet prohibits the applicant from subdividing the property, as delineated in a separate zoning request. The applicant has submitted a concept plan showing five (5) proposed tracts, four (4) of which provide the minimum requirement and the fifth lot with approximately 125 feet of frontage.

Applicant's Presentation:

Srikanth Yamala, Interim Planning Director, presented a summary of the request.

Viktor Vlad, 914 Old Hog Mountain, Hoschton, presented the request. Applicant stated that finding lots suitable for building is scarce in this area. They are not looking for building a high density area. Just want to build five homes on five acres. Looking to build homes in the range of \$600-800k. Looking to increasing the surrounding areas property value. Mr. Braswell stated traffic engineering made a comment that driveway for lot 5 cannot enter into right turn lane or taper for Deaton Creek Parkway. All driveways must meet County requirements including intersection and stopping sight distance requirements. Stated with that being in a curve, adding an additional driveway could be a safety and health issue. Questioned if the applicant has designed where the driveway entrances would be. Applicant stated the possibility of using a combined driveway for lots 4 and 5. Stated lot 1 needs a variance. Mr. Braswell questioned if the applicant has spoken with environmental health in reference to soil tests. Applicant stated tests have been turned in and was told they meet the requirements to build, this is one of the reasons the lots are oddly shaped to meet the soil test standards. Ms. Pilcher questioned lot 5 having 15,600 sq. feet of usable soils. It seems to be the least perking piece of property. Asked applicant if he was interested in converting to four lots and having shared driveways. Applicant stated that they intend to get as many lots as possible with road frontage. The houses will be 70 feet. Mr. Braswell asked if the applicant could make four lots work. Applicant stated they would if there is no other alternative. Applicant understands lot 5 has a problem with the driveway but the soils. Ms. Pilcher stated the way lot 5 is configured, the applicant would have to go over on lot 4 due to the gully on lot 5. By sharing the driveway, the applicant is limiting where the house and septic field for lot 4. If the applicant can do without the lot that is short of road frontage, lot 5 becomes more desirable. The driveway can then come down the property line and not eat up so much square footage from lot 4 to get to lot 5. The applicant stated when the houses were drawn, they intended them to be 80 feet from the road and 90 from the back. They could do an entry point at lot 4 and go across the lot. The driveways have not been drawn but could be worked out.

Public Forum:

Paul Koeshall, 6906 Cherry Blossom Lane, Hoschton, spoke in opposition. Concerns were the speed of traffic around the curve, tree buffers and the site plan.

Phyllis Mercer, 6320 Falling Water Lane, Hoschton, spoke in opposition. Concerns were traffic, turn lane into Deaton Creek, septic tanks vs. tapping into sewer system, sizes of homes and price ranges.

Don Flowers, 7000 Cherry Blossom Lane, Hoschton, spoke in opposition. Concerns were safety of driveways, noise, buffers and drainage runoff.

Ann Koeshall, 6906 Cherry Blossom Lane, Hoschton, spoke in opposition. Concerns were topography of the land, tree conservation and buffers.

Planning Commission Comments:

Mr. Braswell questioned the applicant in reference to price ranges and home sizes. Applicant provided a rendering stated the homes would be around \$730k and over 3,000 square feet. These homes would be custom built by the applicant, possibly building two at a time. Mr. Braswell questioned if the applicant would agree to a minimum square footage of homes. Applicant agreed and stated these homes could begin around 2,600-3,000 square feet. Mr. Braswell also discussed removal of trees. Applicant stated they would only grade the home site and area where septic tanks would be located. Mr. Hunt inquired about having a 50 foot undisturbed buffer along the rear lot line that runs parallel to Union Church Road. Applicant stated he can't agree until the septic lines are drawn. Mr. Yamala stated that the setbacks are standard, which is 20 feet. Mr. Braswell stated he could support a greater buffer, or a transitional buffer. Mr. Hunt also suggested dropping the driveways down to three to protect the Deaton Creek residents. Mr. Braswell agreed, as long as the site distance requirements are met. Mr. Hunt stated the application would still need to go through traffic engineering. The board can make the condition that it is contingent upon approval from traffic engineering. Mr. Braswell asked if the applicant is ok to have the rendering shown as part of the record. Applicant agreed. Ms. Pilcher questioned if the homes would be on slabs. Applicant agreed. Ms. Pilcher stated there is a 30 foot drop from lot 1 to lot 5, which in the distance is not a whole lot but going that way. Applicant stated in the back, the land shifts upward a bit. The gully on the land can be filled. Stated there should be no issues for water flow, all the water goes into the direction as the star shown on lot 5. Ms. Pilcher restated that the applicant would have to go into lot 4 to access the back of lot 5. Mr. Hunt discussed changes to conditions.

Motion: *A motion was made to approve by Mr. Hunt and seconded by Mr. Varner. Vote: 3-1 (Bell absent)*

Bell – Absent

Pilcher – Nay

Braswell – Aye

Hunt – Aye

Varner – Aye

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Public Forum:

See item 3.

Planning Commission Comments:

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Motion: *A motion was made to approve, with conditions by Mr. Hunt and seconded by Mr. Varner. Vote: 4-0 (Bell absent)*

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