

**HALL COUNTY PLANNING COMMISSION  
RECOMMENDATION REPORT**

**Applicant** ..... Cook Communities

**Request** ..... Use Subject to County Commission approval

**Proposed Use** ..... Single-family Residential, 20 Lots

**Size** ..... 20.74± acres- Density of 0.96 units/ acre

**Zoning** ..... Residential 1 (R-1) and Vacation Cottage (V-C)

**Location** ..... On the south side of Hardy Road at its intersection with Nancy Creek Road, 3710 Hardy Road, 3428 Nancy Creek Road, and 3416 Nancy Creek Road; tax parcels 10121 000015, 10121 000015A, 10121 000015B, 10121 000071 and 10121 000071A.

**Commission District** ..... Two

**Planning Commission Date** ..... August 1, 2022

**Staff Recommendation** ..... **Approval, with conditions/ Denial of requested variance for private streets**

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**Planning Commission Recommendation: Approval, with conditions**  
**Vote: 5-0**

**Conditions:**

1. *The development shall conform to the zoning and development standards set forth in the code of ordinances and with the site plan submitted with the application except for variances granted.*
2. *All roads must have a right-of-way and street design that meets Hall County codes.*
3. *The right-of-way must be dedicated and deeded to the homeowners association with the dedication of a public access and utility easement.*
4. *Hall County will not maintain the roads or stormwater facilities for this subdivision.*
5. *If required, no stormwater pond shall be on a residential lot. If a stormwater pond is required, a separate utility lot shall be created that does not have to meet the minimum size for the zoning district. The utility lot shall have a minimum 20' wide access to a street.*
6. *The applicant shall construct a low impact access to Lake Lanier to be maintained by the Homeowners Association per submitted site plan dated 5-2-22. This easement shall connect to a private street.*
7. *Sidewalks shall be required on both sides of the street in accordance with Chapter 16, Subdivisions, and shall be installed prior to the Certificate of Occupancy with each residence in accordance with §16.70.330 Sidewalk installation options, Option 2.*

8. *A homeowners association shall be created to maintain the streets and any stormwater facilities. The applicant shall submit the homeowners documents and any covenants for review with the application for the Final Plat.*
9. *The applicant shall meet engineering requirements pertaining to stormwater regulations.*
10. *A 5' Non-Access easement shall be placed on all lots with frontage on Hardy Road or Nancy Creek Road. Direct access to Hardy Road and Nancy Creek Road is prohibited. All other street frontage requirements of the Hall County ordinance shall be met.*
11. *All conditions of zoning shall be listed on the Final Plat.*
12. *A variance shall be granted to allow a private street to be built per Hall County standards.*
13. *Single story homes shall be a minimum of 2,500 heated sq. ft. not including the basement level. Two story homes shall have a minimum of 1,800 heated sq. ft. on the first floor for a total of 3,200 sq. ft. total.*
14. *All front yards shall be sodded.*
15. *There shall be a turnaround area for vehicles that cannot pass through the front gate.*
16. *The Fire Marshal shall have to approve the gate access and private streets in accordance with all Hall County Fire codes.*

### **Applicant Proposal**

The applicant has submitted a revised application and site plan for a 20 lot subdivision. The Planning Commission heard a request on a portion of this property for an 11 lot development on 4-4-2022. This case was remanded back to the Planning Commission by the Board of Commissioners on May 27, 2022 as the applicant changed the plan to add more land area and lots for the application.

Cook Communities is requesting a single-family residential subdivision on 20.74± acres currently dual zoned Residential -1 (R-1) and Vacation Cottage (VC). Pursuant to §17.50.040 (V-C) and §17.60.040 (R-I), a residential subdivision in either district requires conditional use approval from the County Commission.

The applicant's narrative dated June 3, 2022 describes the intent to create 20 lots where five residential lots currently exist. Each lot would be at least one acre in size. The owner is proposing to market these lots to individuals and custom homebuilders. The applicant is proposing to turn these lots into entitled lots with community dock slips with lake access.

The streets are proposed to be private with a gated access. The applicant states: "The lots all have frontage on public roads, either Hardy Drive or Nancy Creek Road. No access will be allowed directly onto Hardy Drive or Nancy Creek Road by driveway or other means and the final plat will show a five-foot non-access easement across all public road frontage exterior to the subdivision." A private street will require a variance to section 16.50.040- Access.

The proposed development will connect to City of Gainesville water and the lots will be served by onsite wastewater systems. A site plan was submitted with a date of May 2, 2022 illustrating the configuration of the proposed 20 lots and two streets.

A trip generation memo with a date of March 30, 2022 was previously submitted depicting operational impacts based on the additional peak hour traffic volumes. However, the traffic and

stormwater analysis reports from the applicant were not updated to reflect the change in the number of lots or the addition of streets.

### **History and Existing Land Uses**

The subject properties make up 20.74± acres and are zoned Residential -1 (R-1) and Vacation Cottage (VC). The two northern lots that front on Nancy Creek Road are wholly zoned R-1. The southernmost lot on Nancy Creek Road is split zoned between R-1 and VC. The two lots that front on Hardy Road are split zoned between R-1 and VC. Currently, all five lots are wooded and undeveloped.

Adjacent properties to the north, east, and west are zoned R-1 and developed with primarily single family residences. The property to the south is zoned VC and is a U.S.A.C.E property, an arm of Lake Lanier. The current zoning does not allow subdivisions by right. The applicant has chosen to request a conditional use approval from the County Commission to accommodate the proposed residential subdivision.

### **Comprehensive Plan Land Use Designation**

The Comprehensive Plan's future land use designation (adopted 6-22-2022) for the subject parcel is "Lake Area Residential." This land use category is characterized by low-density single-family residential and neighborhoods. The intent of 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 a lower density. The recommended density is 1 dwelling per acre.

This application is consistent with the Comprehensive Plan.

### **Development Support and Constraints**

#### **Hall County Environmental Health**

In an email dated July 7, 2022, Emily McGahee, Environmental Health Manager, provided the following comments:

All proposed lots must meet Hall County Board of Health Lot Size Resolution requirements.

#### **Hall County Fire Rescue Services**

In an email dated July 13, 2022, Lieutenant John Hornick, Hall County Fire Rescue, provided the following comments:

- 1) Fire hydrants shall be installed as required by the International Fire Code Chap. 5 Section 507.5.1
- 2) Knox Key Switch Override device shall be installed outside the main entry gate as required by the International Fire Code Chap. 5 Section 506.1

#### **Hall County Public Works and Utilities**

A memo dated July 14, 2022 from Srikanth Yamala, Director of Public Works and Utilities, provided the following comments:

### Engineering

The 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.

Subdivision roads must meet Hall County requirements.

No more than five lots to a common drive; therefore, all roads must have a right-of-way that meets county code. Also, the right-of-way must be dedicated and deeded to the homeowners association.

Hall County will not maintain the roads or stormwater facilities for this subdivision.

### Utilities

City of Gainesville Sewer Allocation District

### Traffic Engineering

Recommend adding a condition that all lots must access internal roadways and direct access to Hardy Road and Nancy Creek Road is prohibited. Due to a nearby curve on Hardy Road, intersection and stopping sight distance for the proposed entrance may be an issue. Applicant should verify that requirements can be met.

### Hall County Tax Assessors

No comments were provided in relation to this item.

### Gainesville Water and Sewer Resources

No comments were provided in relation to this item. The Hall County GIS indicates there is a City of Gainesville water line serving the subject properties.

### Georgia Department of Transportation

In an E-mail dated July 13, 2022, Parker Niebauer, Division 1 Operations Supervisor, indicated this item had no comments.

### Zoning Analysis

- The subject parcels make up a total of 20.74± acres in size and exist currently as five lots. The applicant is requesting to allow a subdivision of 20 lots.
- The proposed property use is consistent with the Comprehensive Plan designation of Lake Area Residential. The recommended density for this designation is 1 unit/ acre. The proposed density is 0.98 unit/ acre.
- Per § 17.240.010, the minimum dimensional standards for both V-C and R-I districts are as follows:
  - 35,000 sf minimum lot size
  - 50' minimum frontage
  - 75' minimum lot width (at front setback line) per § 17.240.120
  - Front yard setback: 55 feet from center line of road or 30 feet from property line, whichever is greater.
  - 10' side yard setback
  - 20' rear setback

- It is **unclear** whether additional requirements in the code of ordinances like tree protection and stormwater have been met, but the applicant will be required to demonstrate compliance with those regulations during the Development Review process. Additionally, the property will need to show confirmation for access to water service and on-site wastewater approval prior to the issuance of a building permit.
- According to the Trip Generation Memo, the additional trips generated by the development are not anticipated to have a significant impact on the roadway's operations. The all-way stop controlled intersections at Hardy Road and Nancy Creek Road, and Nancy Creek Road and Ed Dodd Trail are expected to experience nominal operational impacts as a result of the additional peak hour traffic volumes.
- Per Georgia Department of Transportation's (GDOT's) crash data system there have been zero crashes reported in the development area since 2015.
- New daily trips: 104 (52 entering; 52 exiting); AM peak period: eight (2 entering; 6 exiting); PM peak period: 11 (7 entering; 4 exiting)
- §17. 380.060 provides the criteria for considering a conditional use. The application **meets** all these standards based on the following analysis:
  - The zoning proposal is consistent with the Comprehensive Land Use designation by maintaining low density residential uses in the area of the lake.
  - Due to the number of other residential uses within the R-1 zoning in this area, a conditional use, if granted, would not cause substantial detriment to the public good
- §16.50.040-Access states: *Access to every subdivision lot shall be provided over a public road or over a common access driveway which meets the standards set forth in the driveway regulations. The planning commission may control access to freeway, expressway, arterial, and collector roads by requiring all buildings to face and have access to only minor roads...* The application **does not meet** all these standards based on the following analysis:
  - The proposed development will not have access to a public street if the internal street that starts at Hardy Road is a private street.

**Variance Required:**

The applicant is requesting a variance from ordinance §16.50.040-Access to allow a privately maintained street with a gated development.

- Staff recommends **denial** of this variance request for the following reasons:
  - The development is proposing 20 lots. With this number of lots, staff questions if a homeowners association will be able to financially support the required perpetual maintenance needs of the streets, sidewalks and stormwater infrastructure.
  - The applicant did not provide any details on the turn-around areas for vehicles that cannot pass through the gate.
- If the Commissioners choose to approve the variance, staff recommends the following conditions due to the lower number of lots being asked to support perpetual maintenance needs.
  - Provide a maintenance bond, with the format to be approved by the County Attorney, for a period of 15 years from the date of the Final Plat approval in the

amount of 115% of the construction cost of the street, sidewalks and stormwater infrastructure.

- The County Engineer shall review and certify the amount of the bond as being customary costs.
- The streets shall be built to Hall County Public Road standards and be certified to meet those standards by Public Works prior to approval of the Final Plat.
- The development will provide a turn-around areas for vehicles that cannot pass through the gate.
- The Fire Marshal shall approve the gate access and the private streets in accordance with Fire Codes.

### **Staff Recommendation**

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

1. The development shall conform to the zoning and development standards set forth in the code of ordinances and with the site plan submitted with the application.
2. All roads must have a right-of-way and street design that meets Hall County codes.
3. The right-of-way must be dedicated and deeded to the homeowners association with the dedication of a public access and utility easement.
4. Hall County will not maintain the roads or stormwater facilities for this subdivision.
5. No stormwater pond shall be on a residential lot. If a stormwater pond is required, a separate utility lot shall be created that does not have to meet the minimum size for the zoning district. The utility lot shall have a minimum 20' wide access to a street.
6. The applicant shall construct a low impact access to Lake Lanier to be maintained by the Homeowners Association. This will be placed on a separate lot, not an easement that shall be granted a variance from lot design and size standards. This property shall have a minimum width of 20 feet to allow for maintenance access.
7. Sidewalks shall be required on both sides of the street in accordance with Chapter 16, Subdivisions, and shall be installed prior to the Certificate of Occupancy with each residence in accordance with §16.70.330 Sidewalk installation options, Option 2.
8. A homeowners association shall be created to maintain the streets and any stormwater facilities. The applicant shall submit the homeowners' documents and any covenants for review with the application for the Final Plat.
9. The applicant shall meet engineering requirements pertaining to stormwater regulations.
10. A 5' Non-Access easement shall be placed on all lots with frontage on Hardy Road or Nancy Creek Road. Direct access to Hardy Road and Nancy Creek Road is prohibited. All other street frontage requirements of the Hall County ordinance shall be met.
11. All conditions of zoning shall be listed on the Final Plat.
12. Staff recommends denial of the requested variance for private streets. If the Commissioners choose to grant the variance request, the following needs to be added along with any conditions the Board chooses to add to the variance approval:
  - a. A variance is granted to Ordinance §16.50.040-Access to allow lots to access a private street instead of a public street.
  - b. The Fire Marshal and Hall County Public Works shall approve the street layout and gate access area.

c. The following conditions shall apply to the variance request: [insert conditions].

## **Excerpts from the minutes of the August 1, 2022 meeting**

### **Applicant's Presentation:**

**Randi Doveton, Planning Director**, presented a summary of the request.

**Jane Range, 1235 Riverside Drive, Gainesville**, presented the request. The applicant stated that there was property added to allow for another cul-de-sac. The applicant stated that this would be a gated community with a private entrance. The applicant stated the staff recommendation to remove the gate wasn't something they would want due to the value of the homes being built as well as the dock access being for the homeowners only. The applicant stated that the road maintenance shouldn't be an issue due to the price of the homes being so high as well as with the plan of establishing a home owners association. The applicant wanted to address the questioning about parking spaces and stated that they didn't want there to be parking other than at the lots driveways. The applicant stated that the easement would mainly be used for golf carts.

**Keith Cook, 3120 Frontage Road, Gainesville**, presented the request. The applicant clarified that the square footage of the proposed homes is 2,500 sq. ft. for single story home and 3,200 sq. ft. for two story homes with a 1,800 sq. ft. minimum on the first floor.

### **Public Forum:**

**Carl Rogers, 3705 Timber Walk Drive, Gainesville**, spoke in opposition. Concerns were road maintenance, neighboring properties, and demand for estate lots.

**Scott Stewart, 3282 Dunlap Drive, Gainesville**, spoke in opposition. Concerns were dock placement, overnight docking, depth of cove, and lake traffic.

**Tom Johnston, 3151 Tanyard Branch Road, Gainesville**, spoke in opposition. Concerns were the length and depth of the cove and safety.

**Krystal Mullins, 3789 Hardy Road, Gainesville**, spoke in opposition. Concerns were lifestyle and traffic.

**Bryson Worley, 3805 Hardy Road, Gainesville**, spoke in opposition. Concerns were amount of traffic and road safety.

### **Planning Commission Comments:**

Mr. Braswell questioned the number of slips for the residents of the proposed subdivision. Ms. Range stated that as far as she knows it is still ten slips.

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

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