



# SMITH GILLIAM WILLIAMS & MILES

## Project Narrative for

### 4610 & 4616 Winder Highway – 31.64 acres

**(Revised May 17, 2024)**

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**RECEIVED**

**MAY 17 2024**

**Planning & Zoning Department**

**LOCATION** – 4610 AND 4616 Winder Highway (Hwy 53)

Flowery Branch, GA 30542

**ACERAGE** – 31.64 +/- acres

**APPLICANT** – Georgia South Development, LLC

**ZONING** – PRD, 88 Single Family Townhomes

### Summary

The accompanying application seeks a change of conditions through on the existing PRD zoned parcels 15037A000001 and 15037A000070, on 31.64 acres located on Winder Highway in Flowery Branch, Hall County, Georgia. The intent is to develop 88 Fee Simple Townhouse 24' wide units of quality, traditional housing with an amenity area and 67% open space. Both Parcel 15037A000001 and 15037A000070 were rezoned from AR-III to PRD in August of 2022. The proposed change in conditions will allow a fee simple product to be supplied to the area that is consistent with the Hall County Comprehensive Plan for residential use and appropriate for Hall County's Planned Residential Development (PRD) District for this location.

### Site Description

The overall tract has approximately 1,316.75 ft of frontage along Georgia State Route 53 (Winder Highway). The overall tract is mostly triangular in shape and is approximately 1,962.66 ft deep. Domestic water is provided by the City of Gainesville. Hall County will serve the site for sewer services. All other dry utilities are located along the frontage of State Route 53 (Winder Highway). There are no known impediments to its successful development for the purposes intended. All roads shall be designed and constructed to Hall County standards and dedicated to Hall County. Thereafter, all roadways within this development shall be designated as public and shall be maintained by Hall County.

### Adjacencies

The property is already zoned PRD and abuts I-I and AR-III to the North, H-B and PCFD to the South, and State Route 53 is located to the Northeast.

#### Street Address:

Smith Gilliam Williams & Miles, P.A.  
340 Jesse Jewell Parkway, Suite 300  
Gainesville, GA 30501

In Your Community. In Your Corner.

**Project Dimensional Standards**

Parcel Size	31.64 (includes both parcels)
Proposed Number of Lots	88
Proposed Density	2.79 units per acre
Proposed Open Space	67%
Streets	Public
Water and Sewer Provider	Gainesville City Water and Hall County Sewer
Sidewalks-Both side of Road-Internal Sidewalks Only	5 ft
Amenities	Outdoor pavilion, picnic area, playground, mail kiosk, and open area with pedestrian bridge
Minimum Lot Depth	100 ft
Minimum Lot Area	2,400 sq ft
Maximum Height	35 ft
Front Setback from R/W	15 ft, 10' on corner street
Minimum Driveway length from back of sidewalk	22 ft
Internal Rear Setback	15 ft
Internal Side Setback	0 ft
Perimeter Front Setback	50 ft – transitional
Perimeter Rear Setback	50 ft – transitional
Perimeter Side Setback	50 ft – transitional
Side Separation – Foundation to Foundation	20 ft between buildings
Garage - % of front façade	70%, garage will be flush with front wall plane of unit
Minimum Heated Floor Area	1,800 sq ft
CBU Kiosk	13 parking spaces
Minimum Lot Size	2,400 sq ft
Unit Size	24 ft x 50 ft

**Architectural Materials & Site Improvements**

The builder intends to build:

- Single Family Fee Simple attached dwellings with two-car garages (garage width not to exceed 70% of front building width)
- Front facades with a combination of masonry and fiber cement siding materials
- Side & Rear facades with masonry, fiber cement siding, or shake siding.
- Sodded yards (4 sides)
- Speed tables in coordination with Hall County Engineering

## **Amenities**

- Outdoor Pavilion
- Picnic Area
- Playground
- Mail Kiosk (CBU)
- Open area (natural) with a pedestrian bridge leading to it
- Guest Parking Spaces \_\_\_\_\_
  - The 24' townhome product has a 2-car garage and the same driveway as a single-family zoned home.

## **Internal Signage**

The Developer and/or Builder shall be allowed to post permanent directional signs and monuments within the Community to direct traffic to sales and recreation centers and to identify differing residential areas. All permanent internal signage must be outside of any Right of Way or Utility Easement with a Landscape and Signage easement recorded on the Final Plat. Temporary Sales and Marketing signs not exceeding 32 square feet per sign face and 8 feet in height may be used along the property frontage of Spout Springs Road.

## **Model Home Permits**

The development shall be limited to a maximum of one (1) building prior to approval and recording of the final plat. Model home permits may be issued prior to Final Plat recording provided that hard surface (crusher run) access is provided, and fire protection (functioning hydrant) is located within 500 feet of any structure under construction. No certificate of occupancy permit shall be issued prior to Final Plat recording.

## **Sales and Construction Trailers**

Applicant is requesting the ability to install one sales trailer and one construction trailer with associated parking areas in locations to be determined at the time of final plat approval.

## **Entry Monument Signage**

Applicant is requesting permission for an entry monument type of sign with a natural stone base with a sign size (monument base and signage) totaling approximately 42 SF. The entrance may include the following structural items:

- Masonry walls
- Wood or PVC fencing
- Illuminated Signage in accordance with the Hall County Sign Ordinance

- Ornamental Sculpture
- Landscaping and Irrigation

### **Conceptual Master Plan**

The development of the community shall be controlled by the Conceptual Master Plan (the "Plan") attached as exhibit "A". The plan is considered conceptual in nature, and as such may require minor modifications during the engineering and development process. Modifications to the locations and arrangement of lots, roads, amenities, and other improvements that do not conflict with specific standards and requirements of these conditions may be made by the Developer so long as such modifications do not change the land use, increase the overall density of the project or reduce any established exterior buffers or setbacks.

### **REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE**

Georgia law and the procedures of Hall County requires the Applicant to raise Federal and State constitutional objections during the PRD master plan application process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, the following constitutional objections are stated:

The portions of the Hall County Development Code, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Hall County Development Code, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application as proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by



the Hall County Board of Commissioners to approve the zoning conditions as requested would constitute a taking of the Applicant's property.

A denial of this Application would constitute an arbitrary and capricious act by the Hall County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal to grant the PRD zoning request would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by the Hall County Board of Commissioners to approve this Application for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth 8 hereinabove.

### **Conclusion**

For the foregoing reasons, the Applicant respectfully requests that this requested modification of an existing PRD zoning be granted as requested by the Applicant. If there are any questions about this request, you may contact:

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390 Brogdon Road  
Suwanee, GA 30024  
678-978-6782  
[cameron@atlaslanddev.com](mailto:cameron@atlaslanddev.com)

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