



SMITH GILLIAM WILLIAMS & MILES

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Project Narrative for

5111 Old Winder Highway – 10.00 Acres

LOCATION – 5111 Old Winder Highway (Hwy 211)

Braselton, GA 30517

APPLICANT – Steven P. Gilliam, Attorney

CURRENT ZONING – AR-IV

PROPOSED ZONING – PRD

ACRES – 10.0 Acres

SUMMARY

The accompanying Application seeks a Rezoning from AR-IV to PRD for 10.00 acres of undeveloped property located at 5111 Old Winder Highway in Braselton, Hall County. The intent is to develop 38 townhome units of quality, 24' wide traditional single-family fee simple townhomes with an amenity area and 52% open space, exclusive of storm water ponds. The proposed use 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, which is residential and mixed-use corridor.

SITE DESCRIPTION

The overall tract is 10 acres adjoining to 5079 Old Winder Highway and located behind Chestnut Mountain Church of Christ. The water is provided by the City of Gainesville, and Hall County will provide sewer. There are no known impediments to its successful development for the purposes intended. All roadways within the development shall be designed and constructed to Hall County standards and dedicated to the county for public use. Thereafter, Hall County will maintain the roads.

ADJACENCIES & ACCESS

The property is surrounded by a PRD to the north, and residential zoning (AR-IV) to the east and to the south. Access to the property is from Old Winder Highway (SR 211), a two lane, paved and state-maintained roadway that connects to Winder Highway (SR 53).

Street Address:

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

PROJECT DIMENSIONAL STANDARDS

Parcel Size	10.00 acres
Proposed Number of Lots	38
Proposed Density	3.8 units/acre
Proposed Open Space	15.6 Acres (52%)
Streets	Public
Water and Sewer Provider	Gainesville City Water and Hall County Sewer
Minimum Lot Size	2,088 sq ft
Amenities	1 Park
Storm Water Management Areas	1
Minimum Lot Width	24 ft
Minimum Setback from Sidewalk	22 ft from garage door to back of sidewalk
Internal Side Setback	0 ft
Minimum Rear Yard Setback from Property Line	0 ft
Sidewalks – Both Sides of the Street	5 ft
Garage % of Front Façade	70%
Minimum Lot Depth	87 ft
PRD Buffer	50 ft
Impervious Stream Buffer	50 ft
Stream Setbacks	75 ft
Mail Kiosk (CBU)	1 with 6 additional parking spaces on the adjoining 20-acre tract
Minimum Heated Floor Area	1,800 sq ft
Front Setback from Right of Way	17 ft, 10 ft on corner streets
Side Separation from Foundation to Foundation	20 ft between buildings

ARCHITECTURAL MATERIALS & SITE IMPROVEMENTS

All facades of all residences shall be finished with masonry (brick or stone), wood, or fiber cement/Hardi-plank type siding. The garage doors shall not exceed 70% of the front façade. 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 and rear facades with masonry, fiber cement siding, or shake siding
- Sodded yards (4 sides)
- Speed tables in coordination with Hall County Engineering
- Each building will be offset 4-5 feet from the neighboring buildings.
- All buildings contain no more than six units.

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 signage must be outside of any Right of Way or Utility Easement with a Landscape and Signage easement recorded on the Final Plat.

AMENITIES

- 1 Park
- Guest Parking Spaces in 10-acre Tract: 6
- Total Guest Parking Included in Both Tracts: 49

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 7 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 Rezoning to PRD to the existing AR-IV zoning be granted as requested by the Applicant. If there are any questions about this request, you may contact:

Applicant

Steven P. Gilliam
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Gainesville, GA 30501
770-536-3381
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Additional Contact

Cameron Henderson
Georgia South Development, LLC
390 Brogdon Road
Suwanee, GA 30024
678-978-6782
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SMITH GILLIAM WILLIAMS & MILES

12.2.2024 - Item 5
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Gainesville, GA 30503

Kristie Turner, Principal Planner
Hall County Community Development and Infrastructure
kturner@hallcounty.org

Re: 5079 Old Winder Highway Conditional Use and 5111 Old Winder Highway Rezoning

Dear Kristie,

Cameron Henderson, Amanda Graham, and I appreciate you, Katie, and Beth meeting with us on Wednesday, October 16, 2024, to discuss our open applications. As discussed, this letter is to request that the 5079 Old Winder Highway Conditional Use Application and the 5111 Rezoning Application, currently scheduled for the November 04, 2024, Planning Commission Public Hearing date, be tabled to the Planning Commission Hearing scheduled for December 02, 2024, with the coinciding Hall County Board of Commissioners Hearing on January 09, 2024.

Please let me know if you need anything further to allow for the rescheduling. Thank you for your consideration.

With cordial regards, I remain

Sincerely,

Steven P. Gilliam

Cc: Cameron Henderson, Contact
Katie Greenway, Planning and Zoning Administrator
Beth Garmon, Director of Planning and Zoning

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Gainesville, GA 30501

In Your Community. In Your Corner.