



SMITH GILLIAM WILLIAMS & MILES

Project Narrative for

4767 E Reed Road – 4.103 Acres

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RECEIVED

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Planning & Zoning Department

LOCATION – 4767 E Reed Road

Gainesville, GA 30507

APPLICANT – Cameron Henderson, Developer

CURRENT ZONING – AR-IV

PROPOSED ZONING – R-1 and a Conditional Use for a 5 Lot Subdivision

ACRES – 4.103 Acres

SUMMARY

The accompanying Application seeks a Rezoning from AR-IV to R-1 for 4.103 acres of property located at 4767 E Reed Road, Gainesville, GA 30507 and a Conditional Use for a 5 Lot Subdivision. The proposed use is consistent with the Hall County Comprehensive Plan for residential use for this location, which is residential and agricultural.

SITE DESCRIPTION

The overall tract is 4.103 acres (“Tract”) with 40ft of right-of-way along E Reed Road, and access from E Reed Road and Strickland Road. The applicant’s intent is to have the Tract subdivided into five residential lots for single family homes, each with a minimum lot area of 35,000 SF under R-1 zoning.

ADJACENCIES & ACCESS

The lots are surrounded by agricultural residential zonings, with AR-IV and E. Lee Road to the North, AR-IV and R-1 (Post Zoning) to the East, AR-IV to the South, and AR-IV and R-1 (Post Zoning) to the West.

An asphalt driveway and sign are located in the northeast corner of proposed Lot 5 leading to Platt Park, a Hall County, Georgia Park. A recorded written easement for the asphalt road shall be required for entrance access from applicant or its predecessor to Hall County, Georgia from E Reed Road to Platt Park, said road to be maintained by Hall County. A recorded written easement shall also be required for the sign from applicant or its predecessor to Hall County, Georgia, said sign to be maintained by Hall County.

Street Address:

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

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PROJECT DIMENSIONAL STANDARDS

Parcel Size	4.103 acres
Density	
Proposed Number of Lots	5
Water and Sewer Provider	City of Gainesville Water: Septic Tank
Minimum Lot Area	35,000 SF
Minimum Lot Frontage	50ft at Building Line
Maximum Building Height	35ft
Minimum Rear Setback	20ft
Minimum Front Setback	65ft from centerline or 40ft from property line (whichever is greater)
Minimum Side Setback	10ft

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

SITE UTILITIES

Water will be provided by the City of Gainesville. Septic tanks will be used for on-site sewage systems. Attached is a copy of the Level III Soils Report, showing that the soils are suitable for installation of on-site systems with proper system design, installation, and maintenance.

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 R-1 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 R-1 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.

Applicant / Owner reserves all due process rights granted to them under O.C.G.A. 36-66-5.1. et. seq, to petition the courts for review of a local government's exercise of zoning, administrative, or quasi-judicial powers, as set forth in those code sections and statutes.

Conclusion

For the foregoing reasons, the Applicant respectfully requests that this requested Rezoning to R-1 and a Conditional Use for a 5 Lot Subdivision for single family residences from the existing AR-IV zoning be granted as requested by the Applicant. If there are any questions about this request, you may contact:

CONTACT

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APPLICANT

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