

Project Narrative for
5912 & 5908 Atlanta Highway – Special Use Application

December 31, 2025

LOCATION – 5912 & 5908 Atlanta Highway, Flowery Branch, Georgia 30542

APPLICANT – Bill Stark Properties, Inc.

CURRENT ZONING – PCD, Planned Commercial Development

ACRES – 6.34 +/- Acres

SUMMARY

The accompanying Application seeks a Special Use to amend the conditions that were approved on October 25, 2018, attached as Exhibit “A”, to add an additional use to allow covered parking units (“Canopy Parking”) and enclosed parking units (“Enclosed Parking Units”). The intent is to improve the property and the previously approved PCD for outside boat and RV camper storage. The proposed use is consistent with the Hall County Comprehensive Plan appropriate for Hall County’s Planned Commercial Development (PCD) and the Gateway Corridor District.

SITE DESCRIPTION

As stated in the Narrative that was approved by the Hall County Board of Commissioners on October 25, 2018, the entire property boundary will be fenced with 6ft black aluminum fencing, and the entry will be by an access code gate for users only. There will be no office or bathroom facilities. No water or waste disposal is necessary.

The road frontage along Atlanta Highway will have decorative brick or rock columns with black aluminum or wrought iron fencing between the columns. Shrubs will be planted along the frontage behind the fencing to provide a screen from Atlanta Highway. A 25ft undisturbed buffer will be along the sides and rear of the property lines, along with evergreen trees, such as magnolia or cypress will be planted.

A brick or stone monument sign that meets the Hall County standards will be installed at the entry. The sign will be lit, and overhead, no-spill lighting will be installed in the parking area of the storage facility.

Applicant proposes to amend the conditions to allow Canopy Parking and an area of enclosed parking units at the rear of the development. Enclosed Parking Units and Canopy Parking will significantly improve the parking lot both aesthetically and practically. The canopies will better protect the boats and RVs stored there by shielding them from sun, rain, and hail, reducing long-term weather damage and wear. The use of the canopies will allow the property to look uniform and improve the overall appearance and functionality of the parking lot while extending the lifespan of the stored vehicles. See Canopy Parking Rendering attached as Exhibit

“B.” The Canopies will be constructed with standing seam roofing with steel columns. The area of Enclosed Parking Units shall not exceed 20% of the 200 previously approved units. See rendering attached as Exhibit "E."

Condition number 2 on Exhibit “A”, states that the “development shall be limited to a maximum of 200 storage units.” The original 200 units were shown on the originally approved Site Plan, attached as Exhibit “C.” The new Site Plan, attached as Exhibit “D”, shows a total of 159 units (Canopy Parking and Enclosed Parking Units).

CONCEPTUAL MASTER PLAN

The development shall be controlled by the Conceptual Master Site Plan (the “Plan”) attached as Exhibit “D.” 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 the Canopies and other improvements that do not conflict with specific standards and requirements of these conditions may be made by the Applicant so long as such modifications do not change the land use or reduce any established exterior buffers or setbacks.

REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE

Georgia law and the procedures of Hall County require the Applicant to raise Federal and State constitutional objections during the Special Use 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 Special Use 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 Special Use to amend the conditions of zoning to allow Canopy Parking to be granted as requested by the Applicant. If there are any questions about this request, you may contact:

CONTACT

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