



LS# 12-0151

RZ Case #: R212-05  
12040037

CV Case #: 1212-02  
12040039

CU Case #: \_\_\_\_\_

## ZONING APPLICATION

### TYPE OF REQUEST:

- ☒ Rezoning  
☒ Concurrent Variance  
☐ Conditional Use  
☐ Text Amendment  
☐ Other (Explain)

Present Zoning FC-A (AG-1)  
Requested Zoning R-3A  
Proposed Use single-family residential  
Total Acreage 16.69

### PROJECT

Etris Tract (12160 Etris)  
Name of Project  
Etris Road/Kent Road Intersection, Roswell, Georgia  
Property Address/Location 1236 Suite/Apt. # 2 City 22-3590-1236-10 State 7 Zip Code 22-3590-1236-30-5  
Land Lot 2 District 2 Section 2 Property ID

### APPLICANT/OWNER

EAH Investments c/o G. Douglas Dillard, Esq.  
Applicant  
Weissman, Nowack, Curry & Wilco, P.C.  
Company  
3500 Lenox Road, N.E., 4th Floor, Atlanta, GA 30326  
Mailing Address Suite/Apt. # City State Zip Code  
404-926-4545 404-926-4745 dotty@wncwlaw.com  
Phone Cell Phone Fax Phone E-mail

### REPRESENTATIVE

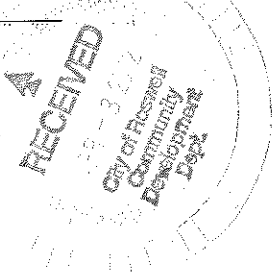
G. Douglas Dillard, Esq.  
Contact Name and Company (Owner's Agent or Attorney)  
3500 Lenox Road, N.E., 4th Floor, Atlanta, GA 30326  
Contact Mailing Address Suite/Apt. # City State Zip Code  
404-926-4545 404-926-4745 dotty@wncwlaw.com  
Phone Cell Phone Fax Phone E-mail

I hereby certify that all information provided herein is true and correct

G. Douglas Dillard  
Applicant Signature: Property Owner or Owner's Representative  
G. Douglas Dillard, Esq.

Date: 4 / 3 / 12

OFFICE USE Fee: \$ \_\_\_\_\_ ☐ Cash ☐ Check # \_\_\_\_\_ ☐ CC - Visa/ MC Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
☐ Approved ☐ Denied By: \_\_\_\_\_ Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_





### Analysis Requirements

**REZONING APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 6 pursuant to O.C.G.A. 36-67-3. Further, please complete criteria 7 through 23, as noted below.

**CONCURRENT VARIANCE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 23. Complete also the Concurrent Variance Justification, questions 1 - 7 at the end of this section.

**CONDITIONAL USE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 8; also 13, and 18 through 22. Criteria 9 through 12, and 14 through 17, and 23 are NOT required to be completed for a Conditional Use Application.

1. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.  
The proposed single-family detached residential use is suitable in view of the adjacent and nearby properties which are also single-family residential. The Application is consistent with the recommendations of the Comprehensive Plan.
2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.  
The proposal will not adversely affect the existing use or usability of adjacent or nearby property because the use is consistent (i.e. residential). The densities requested are also consistent with adjacent and nearby properties.
3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned.  
The property has some economic use as currently zoned but it cannot compete with nearby similarly situated properties. The nearby properties do not include developed properties with the same zoning (FCA-AG-1). The requested zoning of R-3A is consistent with adjacent and nearby properties.
4. Whether the proposal will result in a use which would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.  
The proposed zoning for 46 residential lots will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.





5. Whether the proposal is in conformity with the policy intent of the Comprehensive Plan including land use element.

The proposal conforms to the policy and intent of the 2030 Comprehensive Plan. The property is located in the Suburban Residential district and the proposed use (single-family residential) is consistent with the City's goals for future development.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

The property was included in the Fulton County Annex with a AG-1 zoning. There is no recent development of any AG-1 property which is located within the immediate vicinity of the subject Property.

An applicant for an amendment to the official zoning map may decline to provide any information related to criteria seven (7) through twenty-three (23) if he or she completes, signs, and notarizes the following statement:

*"I do not regard the information required by the City, or any portion thereof as indicated, as necessary or relevant to the City Council in their consideration of my application for rezoning. I stipulate that such information shall not be relevant to the City Council in their deliberations or to any court in its review of the decision on my application for rezoning."*

Owner of Property (Signature)

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

*The above named individual personally appeared before me, and on oath states that he/she is the \_\_\_\_\_ for the foregoing, and that all above statements are true to the best of his/her knowledge.*

Notary Public (Signature)

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

My Commission Expires:

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

7. An explanation of the existing uses and zoning of subject property.  
Both tracts are zoned FCA AG-1. Tract I is primarily undeveloped land with one, unoccupied single-family home. Tract II is undeveloped land with no existing use.
8. An explanation of the existing uses and zoning of nearby property.  
All nearby property is used for residential purposes. The zoning of nearby property includes FCA- AG-1 and FCA-R-3.





9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification.

The current value is not reflective of a reasonable economic use of the Property. Properties that have been developed consistent with the overlay are much higher in value. The diminution in value is significant. The Property owner suffers harm that is not justified by any public purpose.

10. Whether the property can be used in accordance with the existing regulations.

Property can be developed under current zoning; however, to limit development to the AG-1 classification is a taking of a valuable property right without just, fair and adequate compensation to the owner.

11. The extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification.

The property value is diminished by the existing zoning because the nearby properties have a higher density than permitted under the existing FCA-AG-1 zoning. Low density E-2 districts are not located near the Property. The Property is not competitive with other properties similarly situated in the City of Roswell.

12. The value of the property under the proposed zoning district and/or overlay district classification.

The value of the property when zoned R-3A will be consistent with the nearby residential neighborhoods.

13. The suitability of the subject property under the existing zoning district and/or district classification for the proposed use.

The property is ideal for single-family detached, residential use. The property is undeveloped and suitable for the creation of a neighborhood.

14. The suitability of the subject property under the proposed zoning district and/or overlay district classification.

The property is suitable for R-3A zoning and as part of the Suburban residential area of Roswell. The proposed lot size, density, and single-family detached use is consistent with other nearby developments.





15. The length of time the property has been vacant or unused as currently zoned.

The Property has never been developed. Tract 1 has only one house; Tract II has no improvements.

16. A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district.

The Property has been marketed at E-2. No offers to purchase have been made to limit development to E-2.

17. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts.

Because the property is located in the Fulton County Annexed zoning district and the nearby use is residential and similar to the proposed R-3A zoning, there is no possible creation of an isolated zoning district unrelated to the adjacent and nearby districts.

18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district.

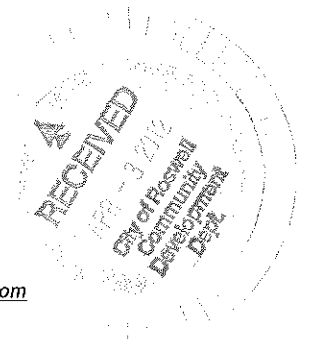
The re-zoning this property as R-3A will not affect the character of the district. The district character is suburban residential which is consistent with this application.

19. Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.

The proposed R-3A zoning will not be a deterrent to the value of improvement of development of adjacent property. To the contrary, the addition of new homes in the area will encourage improvements of adjacent property.

20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

The change in zoning from FCA-AG-1 to R-3A will not have any environmental impact.





21. The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given as to whether or not the proposed change will help to carry out the purposes of these zoning regulations.  
The overall zoning scheme for this property is Suburban Residential.  
The proposed zoning of R-3A will help further the City of Roswell's goal of stable and established suburban neighborhoods. The proposed zoning will allow for similar character, density and size to existing nearby neighborhoods.
22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.  
Although the property does not front on a major thoroughfare, the applicant considered the character of the adjacent neighborhood when proposing the R-3A zoning. The proposed development includes larger lots along the adjacent neighborhood and smaller lots with rear yards along Etris Road.
23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.  
The property is located in the FCA district and most of the general area is developed. In November 2011, the City of Roswell approved a re-zoning of property located at 350 and 370 Rucker Road to R-3A.

#### **Concurrent Variance Justification If Required**

An applicant requesting consideration of a Concurrent Variance to any provision of the Zoning Ordinance shall provide written justification that one or more of the following condition(s) exist:

1. There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape, topography that are not applicable to other lands or structures in the same district.
2. Any information whereby a literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the applicant's property is located.
3. Any information supporting that granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
4. Any information that the requested variance will be in harmony with the purpose of the intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. Any information that special circumstances are not the result of the actions of the applicant.
6. Any information that the variance request is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
7. Any information that the variance shall not permit a use of land, buildings, or structures, which is not permitted by right in the zoning district or overlay district involved.





### Application Signature Page

Please complete this Applicant Signature Page for ALL applications. **READ CAREFULLY BEFORE SIGNING.**

- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the *Roswell Zoning Ordinance*) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.
- I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My signed Campaign Disclosure Statement is included with this Application (required for rezoning only).
- I understand that due to a sewer allocation system controlled by Fulton County, sewerage capacity may not be available. I agree to arrange sewer service separately from this application. The method of sewage disposal that is planned for this property is: Check one:  
☒ Sanitary Sewer  
☐ Septic Tank

*I respectfully petition that this property be considered as described in this application*

From Use District: FC-A (AG-1) To Use District: R-3A

Wherefore, applicant prays that the procedures incident to the presentation of this petition be taken, and the property be considered accordingly. Additionally, applicant further acknowledges and fully understands all above statements made by the City of Roswell.

#### APPLICANT SIGNATURE (REQUIRED FOR ALL APPLICATIONS)

*I hereby certify that all information provided herein is true and correct.*

William Corley Cook  
Owner of Property (Signature)  
1525 Billy Jordan Rd., Pageland, SC 29728  
Street Address, City, State, Zip

04/02/2012  
Date  
843-658-3481  
Phone

#### NOTARY

Personally appeared before me the above Owner named William Corley Cook who on oath says that he/she is the Applicant for the foregoing, and that all the above statements are true to the best of his/her knowledge.

Wanda S. Sellers  
Notary Public (Signature)

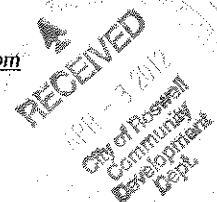
04/02/2012  
Date

11/08/2014  
Date Commission Expires

#### ATTORNEY/AGENT (IF APPLICABLE)

Brandon Wilco  
Attorney/Agent (Signature) Weissman, Nowack, Curry & Wilco, P.C. Date 1/1/12  
One Alliance Center, 4th Fl.  
Street Address, City, State, Zip 404-926-4545  
Phone

3500 Lenox Rd.  
Atlanta, GA 30326





### **Campaign Disclosure Ordinance**

Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting a Rezoning, Concurrent Variance, or Conditional Use.

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

\*38069 Code, 36-67A-3

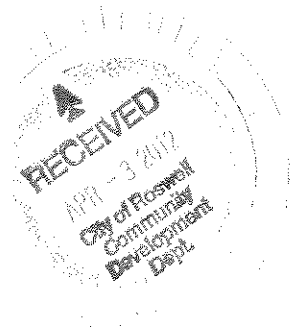
### **CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)**

#### **36-67A-3 Disclosure of campaign contributions.**

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)

*Official Code of Georgia Annotated Copyright 1982 - 2000 State of Georgia.*







### APPLICANT CAMPAIGN DISCLOSURE STATEMENT

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Roswell City Council or a member of the City of Roswell Planning Commission?

☐ YES

☒ NO

William Corley Cook

Applicant/Owner of Property (Signature)

4/2/2012  
Date

1525 Billy Jordan Rd., Pageland, S.C.

Street Address, City, State, Zip

If the answer is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount





**Planning & Zoning Director Acceptance Stamp**

- ☒ Rezoning
- ☒ Concurrent Variance
- ☐ Conditional Use

RECEIVED BY THE CITY OF ROSWELL

ZONING OFFICE April 3, 2012  
Date

APPROVED FOR INITIATION OF A ZONING  
AMENDMENT TO THE ROWELL ZONING  
ORDINANCE AND ZONING MAP BY THE  
ZONING DIRECTOR.

Bradford P. Townsend  
Zoning Director

TIME: 8:55 DATE: 4-24-2012

THIS APPLICATION SHALL BE CONSIDERED  
AND MAY BE REFERRED TO AS REZONING  
PETITION NUMBER

R212-05, CV12-02