



Index #: RZ 11-09
CV 11-00

Genero #: 11060123
CV 11060123

Legistar #: 11-0409

ZONING APPLICATION

TYPE

TYPE OF REQUEST:

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

Present Zoning FC-A
Requested Zoning R-3A
Proposed Use Detached Single Family
Residential
Total Acreage 8.5

PROJECT

PROJECT

Rucker Road Development
Name of Project
350 and 370 Rucker Road Roswell, Georgia 30004
Property Address/Location Suite/Apt # City State Zip Code
Land Lot District Section Property ID
1240 2nd 2nd 22-38701240040 and
22-38701240041

APPLICANT

APPLICANT

Ashton Atlanta Residential LLC
Applicant
1455 Old Alabama Road, Suite 100
Company
Roswell, Georgia 30076
Mailing Address Suite/Apt # City State Zip Code
Phone (770) Cell Phone Fax Phone E-mail
642-6123 X157 (404) 886-1466 (770) 518-2665 mbusher@ashtonwoods.com

REPRESENTATIVE

REPRESENTATIVE

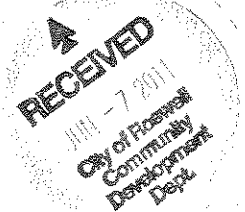
Nathan V. Hendricks III
Contact Name and Company (Owner's Agent or Attorney)
6085 Lake Forrest Drive, Suite 200, Atlanta, Georgia 30328
Contact Mailing Address Suite/Apt # City State Zip Code
(404) 255-5161 (404) 431-3918 (404) 255-3899 nvh@cobbandhyre.com
Phone Cell Phone Fax Phone E-mail

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

By: Mike J. Busher
Applicant Signature, Property Owner or Owner's Representative
Mike J. Busher-Vice President

Date 6 / 3 / 2011

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





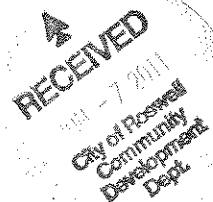
Analysis Requirements

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. Yes. Residential zonings and developments exist on properties contiguous and to the north and west and directly across Rucker Road to the south with a church on property contiguous and to the east.
2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. No. Given the proposed use being suitable in view of the used and development of adjacent and nearby property, no adverse affect would result from this proposal to said adjacent or nearby property.
3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned. No. The Property is a portion of an overall parcel approved with conditions restricting the use of the overall parcel to use for a church, day care and accessory structures. The structures existing on the Property are for single family residential use with one being occupied and one being vacant.
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. No. If approved, this proposal will not result in a use which would or could 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. No. The Comprehensive Plan suggests Estate Lot low density residential development. The proposal for minimum 9,000 square foot lots for a total of 26 lots at a density of 3.1 units per acre falls within the medium density range and it is to be noted that it is compatible with the the residential development of adjacent and nearby properties and therefore while not in strict conformity with the Comprehensive Plan does comply with the policies and intent of the Zoning Ordinance for residential development in the surrounding area.
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. Yes. As noted above, this proposal is compatible with the residential development of adjacent and nearby properties.

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.

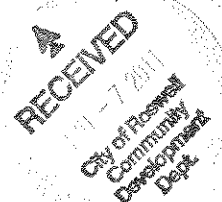
Notary Public (Signature)

Date: ____ / ____ / ____

My Commission Expires:

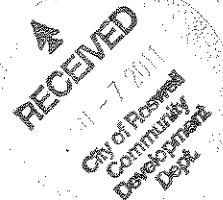
Date: ____ / ____ / ____

7. An explanation of the existing uses and zoning of subject property. The Property is zoned FC-A with 350 Rucker Road being used for single family residential purposes and 370 Rucker Road being vacant.
8. An explanation of the existing uses and zoning of nearby property. The properties contiguous and to the north and west are zoned and used for single family residential purposes as it the property directly across Rucker Road and to the south. The property contiguous and to the east is used as a church pursuant to the applicable conditions of zoning.



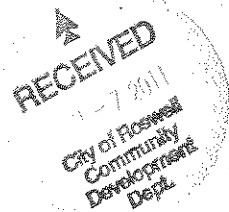


9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification. Under the existing zoning, the Property would have an approximate value of \$400,000.00 for use as two single family residences.
10. Whether the property can be used in accordance with the existing regulations. Yes. The Property can be used in accordance with the existing regulations.
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 use of the Property as two single family residential residences has a much diminished value from the value of the adjacent and nearby properties zoned and developed as referenced for single family residential use compatible with that proposed by the Applicant.
12. The value of the property under the proposed zoning district and/or overlay district classification. Under the proposed zoning district, the Property would have an approximate value of \$1,225,000.00.
13. The suitability of the subject property under the existing zoning district and/or district classification for the proposed use. The Property is not suitable for the development proposed and pursuant to the existing zoning conditions would not be allowed to be developed as proposed. The Property is suitable for the development proposed pursuant to the zoning district requested and as noted is compatible with the use and development of adjacent and nearby properties for similar single family residential use.
14. The suitability of the subject property under the proposed zoning district and/or overlay district classification. The Property is suitable for development under the proposed zoning district and as noted is compatible with the use and development of adjacent and nearby properties for similar single family residential use.





15. The length of time the property has been vacant or unused as currently zoned.
The portion of the Property known as 350 Rucker Road has been occupied for single family residential use for approximately 25 years as currently zoned. The portion of the Property known as 370 Rucker Road has been vacant for approximately 3 years as currently zoned.
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 Owners attempted to sell the larger portion of the Property being approximately 6.5 acres and known as 370 Rucker Road for approximately 18 to 24 months under the existing zoning. The Applicant agreed to purchase 370 Rucker Road if 350 Rucker Road were added to the sale and purchase in order to have sufficient acreage and of appropriate configuration to reasonably develop as a single family residential subdivision.
17. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts. Due to the zonings and development on the adjacent and nearby properties, the approval of this proposal would not create an isolated zoning district.
18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district. As has been noted, the approval of this proposal would result in a use and development compatible with the character of the zoning districts on the adjacent and nearby properties and would not adversely affect them.
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 approval of this proposal will not be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. Given compliance by the Applicant with the City of Roswell development standards, there will not be any negative impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.





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. As has been noted, this proposal is compatible with the zoning and development of adjacent and nearby properties for single family use and therefore, if approved, will help to carry out the purposes and of the zoning regulations for single family residential use and development in this area of the City of Roswell.
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. This proposal, if approved, will help to preserve the residential area within which the Property is located.
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. There is not any undeveloped land in the general area affected which has the same zoning district classification as that being requested.

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:

- See Exhibit "B" attached hereto and by reference made a part hereof.
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

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.

OWNER

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

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

See Exhibit "A" attached hereto and by reference made a part hereof.

Owner of Property (Signature)

Date: ____ / ____ / ____

Street Address, City, State, Zip

Phone

NOTARY

Personally appeared before me the above Owner named _____ 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.

Notary Public (Signature)

Date: ____ / ____ / ____

Date: ____ / ____ / ____
Commission Expires

ATTORNEY/AGENT (IF APPLICABLE)

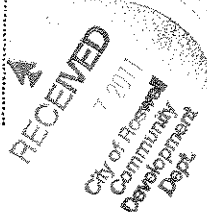
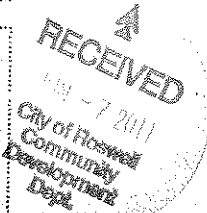
Attorney/Agent (Signature) Nathan V. Hendricks III

Date: 6 / 3 / 2011

6085 Lake Forrest Drive, Suite 200 Atlanta, Ga. 30328 (404) 255-5161

Street Address, City, State, Zip

Phone





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

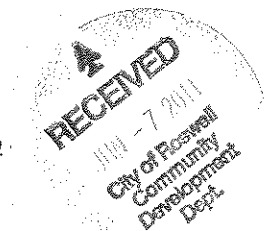
CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

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

Ashton Atlanta Residential LLC

By: [Signature]

Date: 6 / 3 / 2011

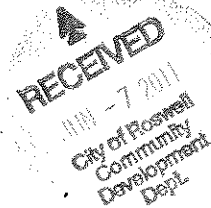
Applicant/Owner of Property (Signature) Mike J. Busher-Vice President

1455 Old Alabama Road, Suite 100, Roswell, Georgia 30076

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 June 9, 2011
Date

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

Burdette D. Townsend
Zoning Director

TIME: 10:19 DATE: June 9, 2011

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

R211-09, CV11-02

RECEIVED
JUN -7 2011
City of Roswell
Community
Development
Dept.

APPLICANT'S WRITTEN JUSTIFICATION FOR CONCURRENT VARIANCE RESPONDING TO
NUMBER PARAGRAPHS 1 through 7 SET FORTH ON THE ZONING APPLICATION:

1. There are extraordinary and exceptional conditions to the Property creating practical difficulties in the development of the Property due to the narrow, elongated and confining shape of the Property which is a hardship unique to the Property.
2. The request of the Applicant for a Concurrent Variance under Table 5.2 to reduce the minimum lot width from 80' to 60' is entirely in keeping with the minimum lot width of the Crabapple Registry Subdivision contiguous and to the west of the Property which under the original Fulton County zoning to the R-5A Classification required a minimum lot width of 40 feet. With interparcel access having been provided for under the original zoning of the Crabapple Registry Subdivision, to deny this Concurrent Variance of the Applicant would effectively deprive the Applicant of the same rights enjoyed by the Crabapple Registry Subdivision.
3. As referenced above, the approval of this Concurrent Variance Request would not confer upon the Property of the Applicant any special privileges that are denied to other properties and would rather entitle the Property of the Applicant with similar development standards afforded to the Crabapple Registry Subdivision Property.
4. Again, as referenced above, the approval of this Concurrent Variance would be in harmony with the purpose of the intent of the City of Roswell Zoning Ordinance as it would be in keeping with the minimum lot width of the Crabapple Registry Subdivision and accordingly would not be injurious to the neighborhood or to the general welfare.
5. The Applicant configured its proposed Subdivision to be compatible with the Crabapple Registry Subdivision through which interparcel access is provided and therefore the Applicant did not uniquely create the platting scheme for its proposed Subdivision.
6. As noted, the minimum lot width for the Crabapple Registry Subdivision is 40' and the request for a reduction in its proposed Subdivision to 60' is the minimum variance that would result in the proposed Subdivision of the Applicant being compatible with the Crabapple Registry Subdivision.
7. The approval of this Concurrent Variance Request will not permit a use of the Property, buildings or structures which is not permitted by right as the Applicant could otherwise develop the Property under the R-3A Classification for single family residential development but it would not be as compatible with the Crabapple Registry Subdivision as it would be with the approval of the requested Concurrent Variance.

Exhibit "B"

