

CIP & IE

CHRISTOPHER PLANNING & ENGINEERING



CORPORATE OFFICE: 12450 CHESAPEAKE ROAD, SUITE 202-412, ALPHARETTA, GA 30204
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WWW.CIPANDIE.COM

Z-77
(2017)

ZONING SITE PLAN
FOR

WILDWOOD TRACT

LAND LOTS 9827 & 9868
17th DISTRICT
COBB COUNTY, GEORGIA

FOR:



ASHTON WOODS
ASHTON ATLANTA RESIDENTIAL
3820 MANSELL ROAD, SUITE 300
ALPHARETTA, GEORGIA 30022
PHONE 770.643.6123

REVISIONS

NO.	DATE	DESCRIPTION

DATE: SEPTEMBER 21, 2017
DRAWING NO: 20170791.dwg

ZONING SITE PLAN

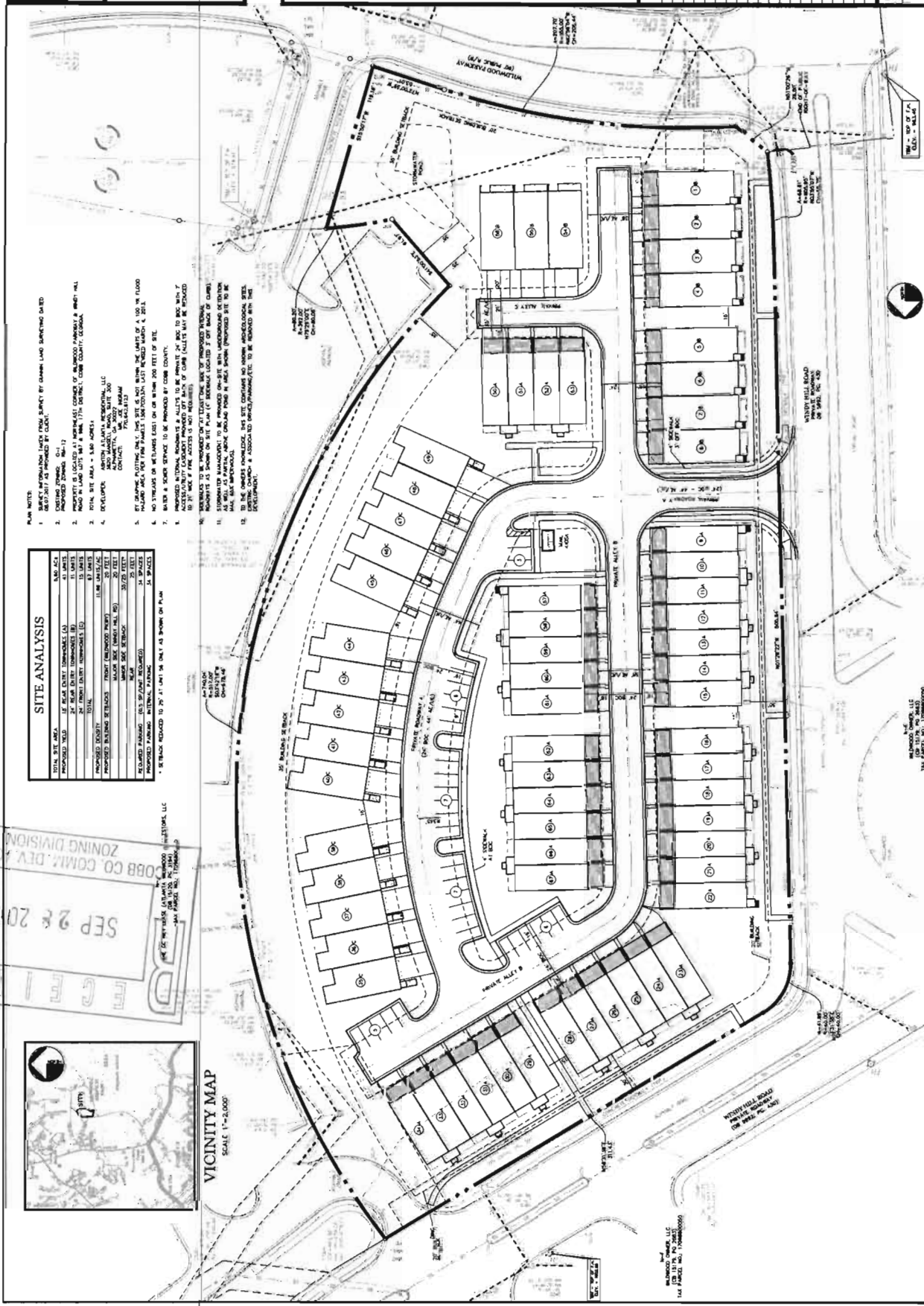
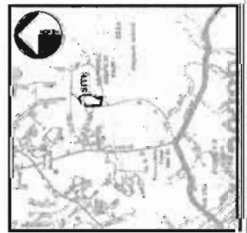
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SHEET NO.

- PLAN NOTES**
1. STATE ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED BY DIMENSION LINES OR CALLS OUT.
 2. DIMENSIONS SHALL BE IN FEET AND INCHES (R/8) UNLESS OTHERWISE SPECIFIED.
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SITE ANALYSIS

ITEM	DESCRIPTION	VALUE
TOTAL SITE AREA		12.86 ACRES
TOTAL COVERED AREA		101,200 SQ FT
IF AREA DIRT COVERABLE (A)		11,200 SQ FT
IF AREA DIRT COVERABLE (B)		11,200 SQ FT
IF AREA DIRT COVERABLE (C)		11,200 SQ FT
IF AREA DIRT COVERABLE (D)		11,200 SQ FT
IF AREA DIRT COVERABLE (E)		11,200 SQ FT
IF AREA DIRT COVERABLE (F)		11,200 SQ FT
IF AREA DIRT COVERABLE (G)		11,200 SQ FT
IF AREA DIRT COVERABLE (H)		11,200 SQ FT
IF AREA DIRT COVERABLE (I)		11,200 SQ FT
IF AREA DIRT COVERABLE (J)		11,200 SQ FT
IF AREA DIRT COVERABLE (K)		11,200 SQ FT
IF AREA DIRT COVERABLE (L)		11,200 SQ FT
IF AREA DIRT COVERABLE (M)		11,200 SQ FT
IF AREA DIRT COVERABLE (N)		11,200 SQ FT
IF AREA DIRT COVERABLE (O)		11,200 SQ FT
IF AREA DIRT COVERABLE (P)		11,200 SQ FT
IF AREA DIRT COVERABLE (Q)		11,200 SQ FT
IF AREA DIRT COVERABLE (R)		11,200 SQ FT
IF AREA DIRT COVERABLE (S)		11,200 SQ FT
IF AREA DIRT COVERABLE (T)		11,200 SQ FT
IF AREA DIRT COVERABLE (U)		11,200 SQ FT
IF AREA DIRT COVERABLE (V)		11,200 SQ FT
IF AREA DIRT COVERABLE (W)		11,200 SQ FT
IF AREA DIRT COVERABLE (X)		11,200 SQ FT
IF AREA DIRT COVERABLE (Y)		11,200 SQ FT
IF AREA DIRT COVERABLE (Z)		11,200 SQ FT



APPLICANT: Ashton Atlanta, LLC

PHONE #: (678) 781-3164 EMAIL: joe.ingram@ashtonwoods.com

REPRESENTATIVE: Ellen W. Smith/Melissa Perignat

PHONE #: (770) 956-9600 EMAIL: esmith@honzw.com

mperignat@honzw.com

TITLEHOLDER: Wildwood Associates

PROPERTY LOCATION: northeast corner of Windy Hill Road and Wildwood Parkway

ACCESS TO PROPERTY: Windy Hill Road

PHYSICAL CHARACTERISTICS TO SITE: wooded acreage

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH: OHR/Office Complex
- SOUTH: O&I/Genuine Parts Company
- EAST: OMR/Office Complex
- WEST: OHR/Wooded, undeveloped

PETITION NO: Z-77

HEARING DATE (PC): 12-05-17

HEARING DATE (BOC): 12-19-17

PRESENT ZONING: O&I

PROPOSED ZONING: RM-12

PROPOSED USE: townhomes

SIZE OF TRACT: 5.60 acres

DISTRICT: 17

LAND LOT(S): 987,988

PARCEL(S): 149,7

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 2

Adjacent Future Land Use:

- Northeast: RAC/off
- East: RAC/off
- South: RAC/off
- West: RAC/off

OPPOSITION: NO. OPPOSED _____ PETITION NO: _____ SPOKESMAN _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____

REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

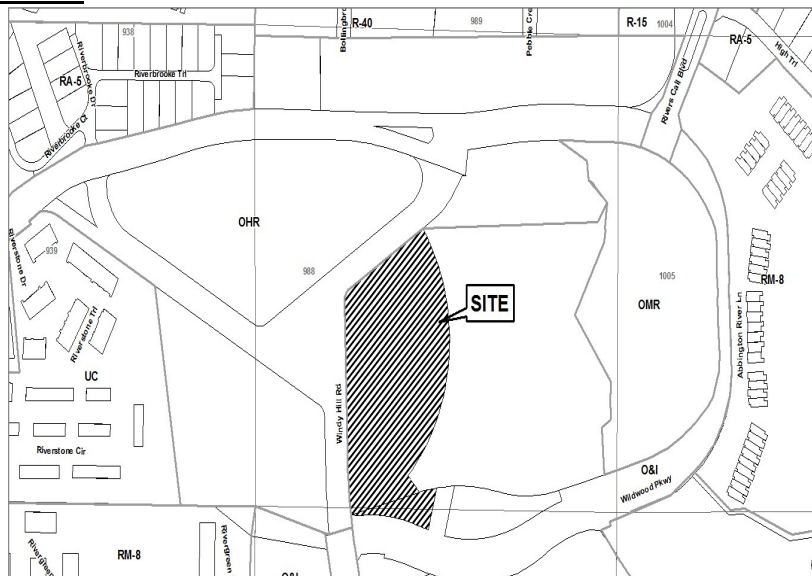
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____

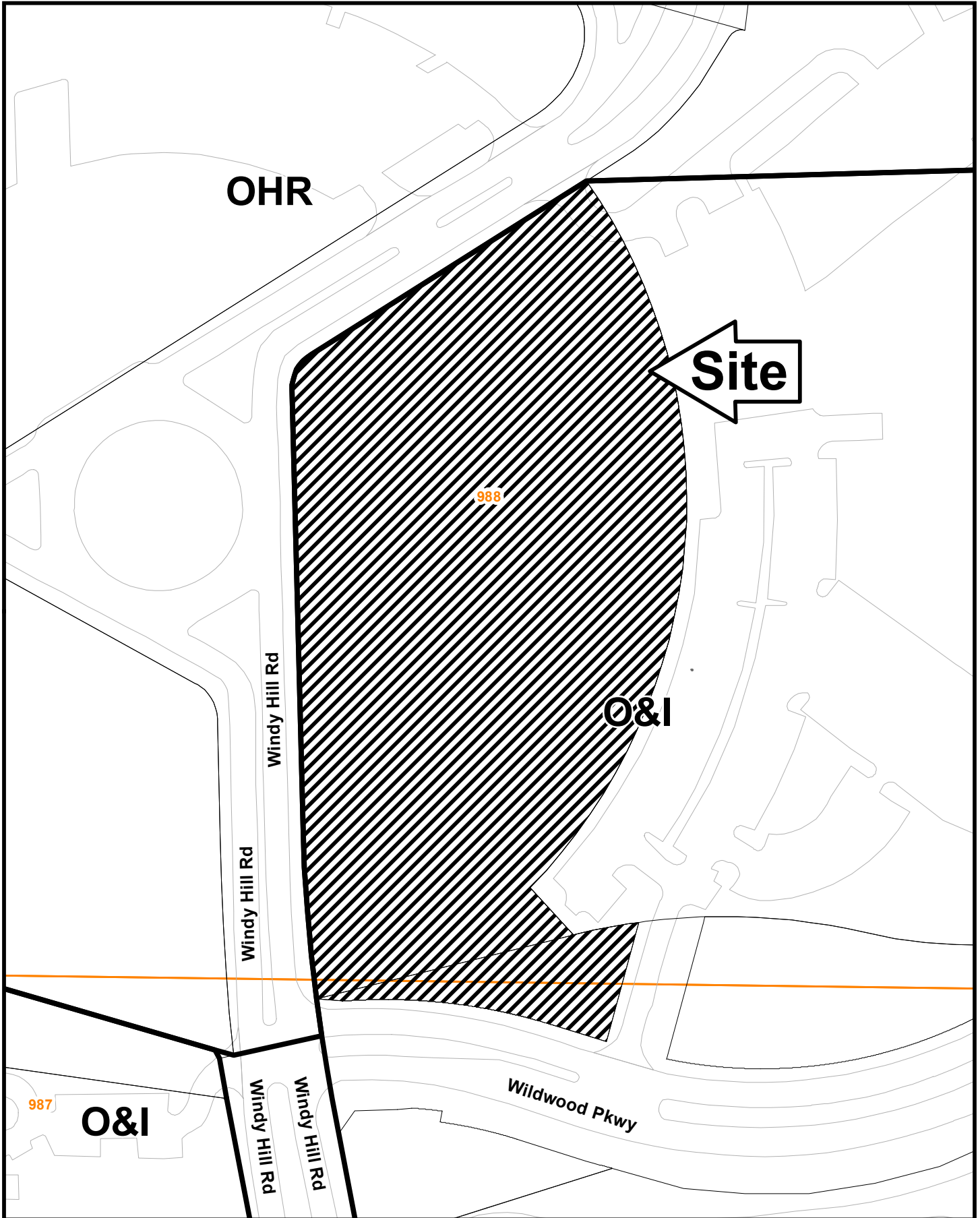
REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

STIPULATIONS:



Z-77 2017-GIS



This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 100 200 Feet

City Boundary
Zoning Boundary

APPLICANT: Ashton Atlanta, LLC

PETITION NO.: Z-77

PRESENT ZONING: O&I

PETITION FOR: RM-12

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Regional Activity Center (RAC)

Proposed Number of Units: 67 **Overall Density:** 11.96 **Units/Acre**

Staff estimate for allowable # of units: 0 **Units*** **Increase of:** 67 **Units/Lots**

*Estimate could be higher or lower based on engineered plans taking into account topography, shape of property, utilities, roadways, natural features such as creeks, wetlands, etc., and other unforeseen circumstances.

The applicant is requesting the RM-12 zoning district for the purpose of developing a 67-unit townhouse community. The units will range in size from 2,100 square feet to upwards of 3,500 square feet with a maximum height of three stories. The architecture will be of Traditional and European style. Each unit would have an attached two-car garage.

The proposed site plan will require the following contemporaneous variances:

1. Waiving the front setback from the required 50 feet to 20 feet;
2. Waiving the major side setback from the required 35 feet to 20 feet; and
3. Waiving the minor side setback from the required 35 feet to 24 feet in a limited area of the development.

Cemetery Preservation: No comment.

APPLICANT: Ashton Atlanta, LLC

PETITION NO.: Z-77

PRESENT ZONING: O&I

PETITION FOR: RM-12

SCHOOL COMMENTS:

<u>Name of School</u>	<u>Enrollment</u>	<u>Capacity Status</u>	<u>Number of Portable Classrooms</u>
<u>Brumby</u>	<u>986</u>	<u>751</u>	<u> </u>
Elementary			
<u>East Cobb</u>	<u>1170</u>	<u>1226</u>	<u> </u>
Middle			
<u>Wheeler</u>	<u>2165</u>	<u>2187</u>	<u> </u>

High

- School attendance zones are subject to revision at any time.

Additional Comments: Brumby Elementary will be rebuilt, expanded and open July 2018. This petition will not cause concern for CCSD at this time.

APPLICANT: Ashton Atlanta, LLC

PETITION NO.: Z-77

PRESENT ZONING: O&I

PETITION FOR: RM-12

FIRE COMMENTS:

Modifications may be required to incorporate the Cobb County Fire Marshal's Office comments.

GUEST PARKING: Unless a driveway is provided for each unit that is 2 vehicles wide and 20-ft deep as measured from the back of the sidewalk or the back of the curb -where a sidewalk is not present- guest parking is recommended to be at least 1 dedicated parking space for every unit. The current plan dated 09/21/2017 would require an additional 22 guest parking spaces for the 56 units proposed.

APPLICANT: Ashton Atlanta, LLC

PETITION NO.: Z-77

PRESENT ZONING: O&I

PETITION FOR: RM-12

PLANNING COMMENTS:

The applicant is requesting a rezoning to allow the site to be used for townhomes. The 5.60 acre site is located in the northeast corner of Windy Hill Road and Wildwood Parkway.

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary? Yes No
If yes, has the city of _____ been notified? Yes No / N/A

Comprehensive Plan

This application pertains to a site designated as (RAC) future land use category with the Office subcategory (off). The purpose of the RAC category is to provide for areas that can support high-intensity development, which serves a regional market. Typical land uses in these areas include high-rise office buildings, regional malls and varying densities of residential development. Office developments are considered the most appropriate development in the off Sub-Area. However, mixed-use developments that include retail may also be appropriate. Mid- or high-rise residential developments are also appropriate in this category. This includes any residential development in excess of four (4) stories per structure. Because of the unique, urban characteristics of RACs, building height and density should be reviewed on a case-by-case basis.

Specific Area Policy Guidelines:

There are no specific policy guidelines for this area in the Comprehensive Plan.

Adjacent Future Land Use:

Northeast: RAC/off
East: RAC/off
South: RAC/off
West: RAC/off

Master Plan/Corridor Study

The property is not located within the boundary of a Plan or Corridor Study

Historic Preservation

After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Design Guidelines

Is the parcel in an area with Design Guidelines? Yes No

If yes, design guidelines area _____

Does the current site plan comply with the design requirements?

Incentive Zones

Is the property within an Opportunity Zone? Yes No

The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is available for new or existing businesses.

Is the property within an Enterprise Zone? Yes No

APPLICANT: Ashton Atlanta, LLC

PRESENT ZONING: O&I

PETITION NO.: Z-77

PETITION FOR: RM-12

PLANNING COMMENTS:

CONT.

The _____ Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program? Yes No

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas.

For more information on incentives, please call the Community Development Agency, Planning Division at 770.528.2018 or find information online at www.cobbcounty.org/planning.

Special Districts

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

Yes No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

Yes No

Is this property within the Six Flags Special Service District?

Yes No

Is the property within the:

- Dobbins Airfield Safety Zone?
- CZ (Clear Zone)
- APZ I (Accident Potential Zone I)
- APZ II (Accident Potential Zone II)
- Noise Zone
- Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Ashton Atlanta, LLC

PETITION NO. Z-077

PRESENT ZONING O&I

PETITION FOR RM-12

WATER COMMENTS:

NOTE: Comments reflect only what facilities were in existence at the time of this review.

- Available at Development: Yes No
- Fire Flow Test Required: Yes No

**REVISED
11-17-17**

Size / Location of Existing Water Main(s): 12" DI / N side of Wildwood Pkwy

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

NOTE: Comments reflect only what facilities were in existence at the time of this review.

- In Drainage Basin: Yes No
- At Development: Yes No
- Approximate Distance to Nearest Sewer: on site along Windy Hill Rd
- Estimated Waste Generation (in G.P.D.): A D F= 10,720 Peak= 26,800
- Treatment Plant: Sutton
- Plant Capacity: Available Not Available
- Line Capacity: Available Not Available
- Projected Plant Availability: 0 - 5 years 5 - 10 years over 10 years
- Dry Sewers Required: Yes No
- Off-site Easements Required: Yes* No *If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer
- Flow Test Required: Yes No
- Letter of Allocation issued: Yes No
- Septic Tank Recommended by this Department: Yes No
- Subject to Health Department Approval: Yes No

Additional Comments:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or offsite easements, dedication of on and/or offsite water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Ashton Atlanta, LLC

PETITION NO.: Z-77

PRESENT ZONING: O&I

PETITION FOR: RM-12

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Powers Branch FLOOD HAZARD INFO: Zone X

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: _____

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - **County Review**/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITIONS

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on existing downstream drainage system(s).

APPLICANT: Ashton Atlanta, LLC

PETITION NO.: Z-77

PRESENT ZONING: O&I

PETITION FOR: RM-12

STORMWATER MANAGEMENT COMMENTS – Continued

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown _____
- Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. Stormwater management will be provided with a combination of above and underground facilities. Since the existing site discharges in two different directions (NE and S) an additional facility will be required for the northern portion of the site. This stormwater management facility will likely be located beneath the northeastern parking/drive area.
2. Since this is a private development with private drives, all stormwater infrastructure will be privately maintained by the homeowners association.

APPLICANT: Ashton Atlanta, LLC

PETITION NO.: Z-77

PRESENT ZONING: O&I

PETITION FOR: RM-12

TRANSPORTATION COMMENTS:

ROADWAY	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Wildwood Parkway	Minor Collector	30 mph	Cobb County	60'

ROADWAY	LOCATION	AVERAGE DAILY TRIPS	LEVEL OF SERVICE
Wildwood Parkway	East of Powers Ferry Road	6,900	C

*Based on 2011 traffic counting data taken by Cobb County DOT for Wildwood Parkway.
 Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.
 LOS C or D is acceptable based on GDOT Design Policy Manual criteria.*

COMMENTS AND OBSERVATIONS

Wildwood Parkway is classified as a minor collector and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend private streets be constructed to the Cobb County Standard Specifications.

STAFF RECOMMENDATIONS

Z-77 ASHTON ATLANTA, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal is located in an area that contains a variety of land uses, including high-rise office buildings, multi-family residential, single-family residential and the Chattahoochee River National Recreational Area.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse effect on the usability of adjacent or nearby property. Other residential zonings in this area include: Terrell Mill Estates Unit Four (zoned R-40 at approximately 1.12 units per acre), River's Call Unit III (zoned RA-5 at 2.08 units per acre), Abbington at Wildwood (zoned RM-8 at 2.41 units per acre), Riverbrooke at Wildwood (zoned RA-5 at 4.00 units per acre), Riverwalk at Wildwood (zoned RM-8 at 5.97 units per acre), and Riverstone at Wildwood Phase Two-B (zoned UC at 8.5 units per acre). The applicant's proposed density is 11.96 units per acre.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property as being in the Regional Activity Center (RAC) future land use category. Typical land uses include varying densities of residential development, with the Board of Commissioners reviewing densities on a case by case basis. The requested RM-12 zoning district has a maximum density of 12 units per acre and is compatible with the RAC future land use designation.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The property was the subject of zoning cases from 1979 and 1980 for commercial development. Office developments came to fruition on surrounding parcels, but the subject property was never developed. This area is mixed use in nature and the proposal should fit into the character of the area.

Based on the above analysis, Staff recommends **APPROVAL** subject to the following conditions:

1. Site plan received by the Zoning Division on September 28, 2017, with the District Commissioner approving minor modifications;
2. Variances mentioned in the Zoning Comments section;
3. Fire Department comments and recommendations;
4. Water and Sewer Division comments and recommendations;
5. Stormwater Management Division comments and recommendations; and
6. Department of Transportation comments and recommendations.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.



Application No. 7-77

Dec. 2017

Summary of Intent for Rezoning

.....
Part 1. Residential Rezoning Information (attach additional information if needed)

- a) **Proposed unit square-footage(s):** 2100 square feet to upwards of 3500 square feet
- b) **Proposed building architecture:** Traditional and European style, maximum of 3 stories (60' height) and minimum 2 car garage.
- c) **List all requested variances:** Front Setback - 20' (from 50')
Major Side Setback - 20' (from 35')
Minor Side Setback 25' (from 35') (in limited area)

*not a variance, but note 65% impervious surface TBD with staff

SEE ATTACHED SUMMARY OF INTENT CORRESPONDENCE FOR MORE INFORMATION

.....
Part 2. Non-residential Rezoning Information (attach additional information if needed) NOT APPLICABLE

- a) **Proposed use(s):** _____
- b) **Proposed building architecture:** _____
- c) **Proposed hours/days of operation:** _____
- d) **List all requested variances:** _____

.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

SEE ATTACHED SUMMARY OF INTENT FOR ADDITIONAL INFORMATION

.....
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). **NO**

HOLT NEY ZATCOFF & WASSERMAN, LLP

ATTORNEYS AT LAW

100 GALLERIA PARKWAY, SUITE 1800

ATLANTA, GEORGIA 30339-5960

TELEPHONE 770-956-9600 FACSIMILE 770-956-1490

Ellen W. Smith
e-mail esmith@hnzw.com

September 28, 2017



BY HAND DELIVERY

Zoning Division
Community Development Agency
Cobb County, Georgia
1150 Powder Springs Street
Suite 400
Marietta, Georgia 30064

SUMMARY OF INTENT

Re: Application for Rezoning, Cobb County, Georgia ("***Application***") by Ashton Atlanta, LLC ("***Applicant***") with respect to that certain approximately 5.6-acre property located within Wildwood and being designated on the master plan for such project as tracts F-5 and F-3(D), as more particularly described in the Application (the "***Property***")

Ladies and Gentlemen:

This law firm has the pleasure of representing Applicant with respect to the Application. Applicant respectfully submits for consideration the Application, seeking to rezone the Property from OI to RM-12 to allow the development of the Property as a 67-unit townhome community.

Background - The Property

The Property is owned by Wildwood Associates ("***Owner***"), and is an approximately total 5.60-acre tract zoned OI and located on the northeast corner of Wildwood Parkway and Windy Hill Road. The Property is unimproved, and is surrounded by property zoned OI, with OMR and OHR immediately nearby. Owner has contracted to sell the Property to Applicant, subject to the approval of this requested rezoning.

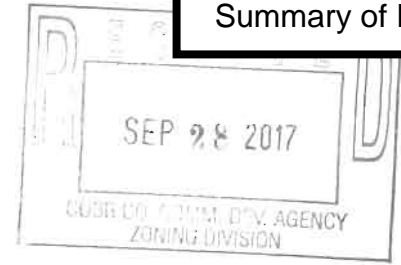
Proposed Rezoning

Applicant seeks to rezone the Property from OI to RM-12 to allow for the development of a 67 unit residential townhome community. This Property, initially contemplated to be used as a high-rise office and office development, has been vacant since Cousins initially developed Wildwood. Given area conditions, Applicant believes that residential is the most appropriate, highest and best use of this Property.

HOLT NEY ZATCOFF & WASSERMAN, LLP

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Z-77 (2017)
Attachment to
Summary of Intent



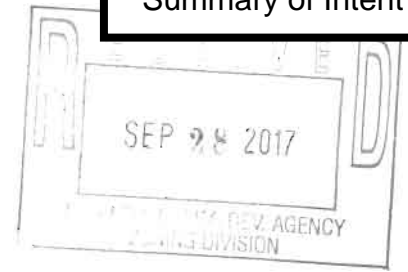
Applicant is preparing a proposed letter of stipulated zoning conditions to submit to the County for consideration. Included with these conditions will be conditions that provide: (i) if the commencement of construction of improvements on the Property has not occurred within two (2) years after the final rezoning of the Property, then the zoning of the Property will revert to the OI designation, and (ii) for specific requirements relating to townhome design and architecture.

As more particularly shown on the site plan enclosed herewith, Applicant is proposing several variances be concurrently considered with the rezoning of the Property. Specifically, Applicant seeks the following setbacks:

- Front Setback: 20' (from 50')
- Major Side Setback: 20' (from 35')
- Minor Side Setback: 25' (from 35') but only in a limited area

These variances are necessary given the size and shape of the Property and to accommodate a site plan that best addresses the same.

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Application Requirements¹

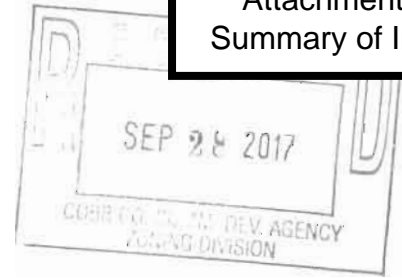
Section 134-121 of the Zoning Ordinance sets forth the various requirements applicable to requests for rezonings, some of which are addressed above and the remainder of which are addressed in supporting documents. Specifically, in support of the Application, Applicant submits the following documents:

- (1) Original notarized signatures of Owner, Applicant and representative;
- (2) Copies of the deeds to Owner;
- (3) Metes and bounds legal description of the Property;
- (4) Copy of the paid tax receipts;
- (5) Site Plan reflecting proposed improvements;
- (6) Copy of current boundary survey;
- (7) Zoning Application Disclosure forms;
- (8) Application and Sign Fees;
- (9) This Summary of Intent.

¹ Applicant notifies Cobb County of its constitutional concerns with respect to its Application. If the Board denies the Application in whole or in part, then the Property does not have a reasonable economic use under Chapter 134 of the Official Code of Cobb County, Georgia, as amended from time to time (the “**Zoning Ordinance**”). Moreover, the Application meets the test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government’s police power. *See Guhl vs. Holcomb Bridge Road*, 238 Ga. 322 (1977). If the Cobb County Board of Commissioners (the “**Board**”) denies the Application in whole or in part, such an action will deprive Owner and Applicant of the ability to use the Property in accordance with its highest and best use. Similarly, if the Board rezones the Property to some classification other than the RM-12 zoning district without Applicant’s consent, or if the Board limits its approval by attaching conditions to such approval affecting the Property or the use thereof without Owner’s consent, then such approval would deprive Owner and Applicant of any reasonable use and development of the Property. Any such action is unconstitutional and will result in a taking of property rights in violation of the just compensation clause of the Constitution of the State of Georgia (*see Ga. Const. 1983, Art. I, § 3, para. 1(a)*), and the just compensation clause of the Fifth Amendment to the United States Constitution (*see U.S. Const. Amend. 5*). To the extent that the Zoning Ordinance allows such an action by the Board, the Zoning Ordinance is unconstitutional. Any such denial or conditional approval would discriminate between Owner and Applicant and owners of similarly situated property in an arbitrary, capricious, unreasonable and unconstitutional manner in violation of Article I, Section I, Paragraph 2 of the Georgia Constitution and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Finally, a failure to grant the Application or a conditional approval of the Application (with conditions not expressly approved by Applicant) would constitute a gross abuse of discretion and would constitute an unconstitutional violation of Applicant’s rights to substantive and procedural due process as guaranteed by the Georgia Constitution (*see Ga. Const. 1983, Art. I, § 1, para. 1*) and the Fifth and Fourteenth Amendments of the United States Constitution (*see U.S. Const. Amend. 5 and 14*). Applicant further challenges the constitutionality and enforceability of the Zoning Ordinance, in whole and in relevant part, for lack of objective standards, guidelines or criteria limiting the Board’s discretion in considering or deciding applications for rezonings. Applicant remains optimistic that Cobb County’s consideration of the Application will be conducted in a constitutional manner.

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The Application, this letter and accompanying documents support Applicant's request for rezoning, and Applicant respectfully requests that the Zoning Division recommend approval of the Application to the Board. Applicant is happy to answer questions or provide any additional information that the Zoning Division may have with regard to this Application.

Sincerely,

Ellen W. Smith

EWS/ews

cc: Mr. Joe Ingram
Mr. Bill Bassett
(both by email only)