

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

**WHM CHATTAHOOCHEE HILLS
INVESTMENTS, LLC,**

Petitioner,

Y.

**CITY OF CHATTAHOOCHEE HILLS,
GEORGIA.**

Respondent.

Civil Action File
No. 24CV013879

ORDER OF REMAND

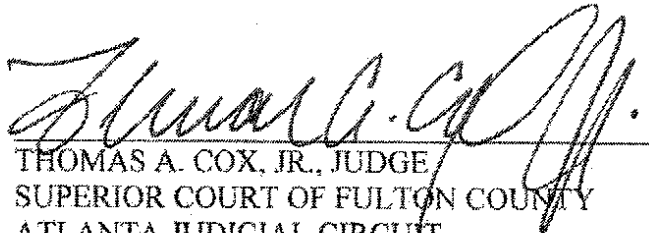
This matter came before the Court pursuant to O.C.G.A. § 36-66-1 et seq. and City of Cumming v. Realty Development Corp., 268 Ga. 461 (1997). Petitioner seeks review of the zoning classification applied to approximately 526 acres of land, located at Parcel Nos. 07-210000090092, 08-040000070218, 08-040000080225, 08-030000090274, 07-210000090332, 07-210000090324, and 07-220000080365 (the "Property"). Having reviewed the record and applicable law, the Court concludes that further proceedings before the City Council of the City of Chattahoochee Hills, Georgia (the "City") are appropriate. Georgia law places the responsibility on local governing authorities, in the first instance, to determine and pronounce what zoning classification they believe satisfies constitutional requirements for a particular property. See Gradous v. Bd. of Comm'rs of Richmond Cnty., 256 Ga. 469 (1986). At this time, the Court expresses no opinion regarding the constitutionality of the existing zoning classification pertinent to Plaintiff's Property. Rather, the Court finds that remand is appropriate to allow the City to undertake further constitutional analysis and fashion any rezoning relief that the City believes is warranted.

The Court is aware that Petitioner and the City have engaged in two (2) mediation sessions (December 3, 2025 and January 20, 2026). It is further the understanding of the Court that at those mediation sessions, certain terms and conditions were negotiated between the Parties, and that a remand order is appropriate for purposes of the City potentially implementing the zoning and conditions negotiated at those mediation sessions.

IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. This matter is REMANDED to the City for reconsideration consistent with this Order.
2. On remand, the City shall:
 - o consider further the zoning classification applicable to the Property,
 - o run appropriate legal ads for a public hearing consistent with the State Zoning Procedures law ("ZPL");
 - o run appropriate legal ads providing that the Property may be rezoned to the Village Zoning Designation;
 - o conduct a ZPL-compliant public hearing;
 - o following that public hearing, take such action as the City believes, in its reasonable legislative discretion, is required by the City zoning code, comprehensive plan, and the Georgia Constitution, and
 - o make appropriate entries on the minutes reflecting such zoning decision, and
3. The City shall render any revised decision within 60 days of this Order and shall transmit documentation reflecting the pertinent City action promptly thereafter.
4. Should the City rezone the Property in accord with Mediation Terms from the December 3, 2025 and January 20, 2026 sessions, the Petitioner shall file a Dismissal with Prejudice of the Civil Action within thirty-five (35) days following the final action by the City and the exhaustion of any rights to appeal, or appeals, of the City's action.
5. Should the City fail to rezone the Property or rezone the Property in a manner that is different than the Mediation Terms set forth at the December 30, 2025 and January 20, 2026 mediation sessions, the Petitioner shall have the right to amend Petitioner's Complaint for a period of thirty (30) days following said final action by the City, so as to challenge that action and continue the litigation.
6. For purposes of this Order, the "Mediation Terms" referenced in paragraphs 4 and 5 are those terms of zoning contained in the final and signed December 3, 2025 Settlement Memorandum and the final version of the January 20, 2026 document titled "Merrill Park Conditions."
7. Following the City action contemplated in this Order, the Court shall entertain either (i) a stipulation of dismissal, if warranted, or, (ii) a motion or consent order outlining further direction regarding the processing and scheduling of the litigation.

SO ORDERED, this 23rd day of February 2026.


THOMAS A. COX, JR., JUDGE
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

Prepared by:

/s/ Ken Jarrard

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**signed by KEJ with express permission