



Rezoning, CUP and Sketch Plat Application

This form is required for submittals of all rezoning, conditional use permit (CUP) and sketch plat applications. While this application provides some information regarding the necessary requirements to submit a complete application, the full application requirements (e.g. minimum site plan requirements) can be found on the website at forsythco.com. From the main web page, please choose **Department and Offices**, next choose **Planning & Community Development** from the list, and then select **Long Range Planning Division** on the left side of the page.

A. SUBMITTAL TYPE

Application for Zoning Review

If this submittal is a revision, please specify the previously assigned application number:

ZA3862

B. REQUESTED ACTION: PLEASE CHECK ALL THAT APPLY (E.G. REZONING, REZONING WITH A CUP, ETC.)

- Rezoning
- Conditional Use Permit (CUP)
- Sketch Plat
- CUP for a communication tower

C. APPLICANT INFORMATION

Name: MKW Capital, LLC

Address: PO Box 149, Jamestown, RI 02835

Phone#: 770-781-4100

E-mail Address: eunderwood@mhtlegal.com

D. REPRESENTATION INFORMATION (IF APPLICABLE)

Preferred Contact: Attorney Authorized Agent

Name: Miles Hansford & Tallant, LLC - J. Ethan Underwood

Address: 202 Tribble Gap Road, Suite 200, Cumming, Georgia 30040

Phone#: 770-781-4100

E-mail Address: eunderwood@mhtlegal.com

E. PROPERTY INFORMATION

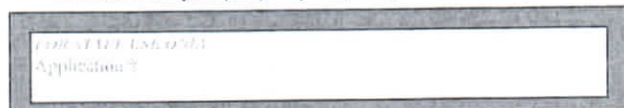
Tax Map & Parcel #(s): (e.g. xxx-xxx-xxx, xxx-xxx-xxx) 103-011, 103-301, 103-425 and 104-069

Current Zoning: ~~CR1 - Single Family Community Residential District~~ A1 - Agricultural District Proposed Zoning: Res2 - Single Family Residential District

Proposed Use: ~~R2R - Single Family Restricted Residential District~~ Dwellings, Single Family Residential Conservation Property Acreage: 104.31

Proposed Road Access: Silver Leaf Drive & Keithwood Drive

Does the subject property lie partly within or adjacent to the City of Cumming? Yes No



F. DETAILS OF PROPOSED USE

1) Please complete if you are filing a **rezoning, conditional use permit or sketch plat** application.

a) This application contains a **residential** component. If checked, please fill out the following:

Residential Building Type	Ownership Type *** (Fee-Simple or Condominium)	# of Lots or Units	Minimum Heated Floor Area (sq. ft.)	Minimum Lot Size (sq. ft.)(If applicable)
<input checked="" type="checkbox"/> Single Family Detached	Fee Simple	92	1,800	12,000
<input type="checkbox"/> Townhouses				
<input type="checkbox"/> Apartments				
<input type="checkbox"/> Condos				
<input type="checkbox"/> Other				

*** The UDC requires that condominium-style ownership be specifically identified during the zoning process. While there may be little visual difference between the finished product types, condominium style ownership means that there will not be individually-owned (i.e. fee simple ownership) property associated with a specific type of development; rather there will just be individual ownership in building space (i.e. units) with joint ownership of all property. Some developments might contain both ownership types.

The total residential density (lots and/or units) proposed with this project is units per acre.

b) This application contains a **non-residential** component. If checked, please fill out the following:

Total Building Area (sq. ft.) # of Parking Spaces Est. Bldg. Area of Out Parcels (sq. ft.)

c) What is the total amount of proposed open space (sq. ft. or acres) included with this application?

d) Please indicate whether this project will be served by septic, county sewer, or city sewer:

If the project will be served by either county or city sewer, please also submit the results of the required pre-application meeting.

e) Will the proposed development exceed the threshold that triggers the need for a Development of Regional Impact (DRI) review?

Yes No If yes, supplemental information shall be required in addition to this application.

f) Are you filing a rezoning application to rezone to a Master Planned District (MPD)?

Yes No If yes, please also submit the supplemental form "Supplemental Application - Master Planned District (MPD)", which can be found on our website at forsythco.com.

g) Are you filing an application that includes Senior Housing?

Yes No If yes, please also submit the supplemental form "Supplemental Application - Senior Housing Application", which can be found on our website at forsythco.com.

h) Are you filing an application that includes self-service storage?

Yes No If yes, the separation distance between self-service storage businesses shall be 3/4 of a mile or a variance is required.

G. REQUESTED VARIANCE(S) (SEPARATE SHEET REQUIRED FOR EACH REQUESTED VARIANCE)

1) A separate sheet is required for each variance request. The number of this variance request is: **Variance #1**

2) Please indicate which section of the Unified Development Code (UDC) is requesting to be varied, e.g. Chapter 11, Table 11.2(a).

UDC § 19-3.3(G)(1)

3) Please check the type of variance being requested:

A variance of feet to allow a setback to be feet.

A variance of feet to allow to be feet.

Other: **Exterior Buffer variance of 15 feet to allow the Exterior buffer to be 10 feet.**

4) Written Justification. Per § 8-6.3 (B), all variance requests must be accompanied by written documentation justifying the variance and explaining why it should be granted. Additional sheets can be found on the website at forsythco.com. The justification must specifically address, for each variance requested, the below criteria:

a) Describe why the variance would not negate the purpose and intent of the Unified Development Code provision?

The proposed variance will not eliminate the UDC's intent of providing adequate buffering between land uses. Adequate buffers will be provided to protect the privacy and safety of affected property owners. In this regard, the proposed 10 foot buffer will have the same 2 rows of plantings required in a 25 foot buffer.

b) Describe why the variance would not cause substantial detriment to the public safety, health, or welfare of the public, or injurious to other property?

The proposed buffer encroachments would not create a safety hazard or noxious condition.

c) Describe why the conditions of your property are unique only to the property which relief is sought and are not applicable generally to other property?

The proposed variance is solely to allow the location of a road to be located within a portion of the exterior buffer. The proposed road location is necessary to minimize stream crossings on the property.

d) Describe how this property's physical surroundings (e.g. shape, size, or topographical conditions) result in an extraordinary hardship or practical difficulty (as distinguished from a mere inconvenience)?

The subject property's shape, size, and topography substantially limit the buildable area of the subject property. The shape, size, and topography of the property necessitate the requested variance and placement of structures in the locations proposed by the Applicant in order to permit feasible development of the subject property.

e) Describe why the requested variance is the minimum necessary to accomplish the proposed development or building?

The requested variance is the minimum necessary to accommodate the proposed structures and allow the property to be developed in an economically feasible and physically practical manner.

f) Describe how granting this variance will result in equal or greater protection to adjacent property or natural resources? (Only required if requesting a variance to a buffer or setback)

No portion of the structures that encroach into the buffer area will cause or create a detriment to the safety, health, or welfare of the public, or be injurious to other property.

ADDITIONAL REQUESTED VARIANCE(S) (SEPARATE SHEET REQUIRED FOR EACH REQUESTED VARIANCE):

- 1) A separate sheet is required for each variance request. The number of this variance request is: **Variance #2**
- 2) Please indicate which section of the Unified Development Code (UDC) is requesting to be varied, e.g. Chapter 11, Table 11.2(a).

UDC § 19-4.1(G)

- 3) Please check the type of variance being requested:

Front yard variance of **5** feet to allow a front yard setback to be **10** feet.

Rear yard variance of _____ feet to allow a rear yard setback to be _____ feet.

Side yard variance of _____ feet to allow a side yard setback to be _____ feet.

Exterior yard variance of _____ feet to allow an exterior yard setback to be _____ feet.

Other: _____

- 4) Written Justification. Per section 8-6.3 (B), all variance requests must be accompanied by written documentation justifying the variance and explaining why it should be granted. Additional sheets can be found on the web site at <http://currentplanning.forsythco.com>. The justification must specifically address, for each variance requested, the below criteria:

- a) Describe why the variance would not negate the purpose and intent of the Unified Development Code provision?

The proposed variance will not eliminate the UDC's intent of providing adequate building separation from an interior right-of-way. The setback proposed by the Applicant will provide adequate separation between the proposed structure and adjoining rights-of-way. The lots for which the Applicant seeks this variance are part of a senior housing community, designed according to a common scheme of development.

- b) Describe why the variance would not cause substantial detriment to the public safety, health, or welfare of the public, or injurious to other property?

Approval of the proposed variance would not create a safety hazard or noxious condition.

- c) Describe why the conditions of your property are unique only to the property which relief is sought and are not applicable generally to other property?

The setback requirements along the boundary of the subject property, in particular the impervious setback to the rear of Lots 1-6, substantially limit the buildable area of the subject property, such that unless the variance is approved as requested by the Applicant, the subject property may not be developed in an economically feasible or physically practical manner. The Applicant seeks a variance only to interior lot lines of Lots 1-6.

- d) Describe how this property's physical surroundings (e.g. shape, size, or topographical conditions) result in an extraordinary hardship or practical difficulty (as distinguished from a mere inconvenience)?

The subject property's shape, size, and topography substantially limit the buildable area of the subject property. The shape, size, and topography of the property necessitate the requested variance and placement of structures in the locations proposed by the Applicant in order to permit feasible development of the subject property.

- e) Describe why the requested variance is the minimum necessary to accomplish the proposed development or building?

The requested variance is the minimum necessary to accommodate the proposed structures and allow the property to be developed in an economically feasible and physically practical manner.

- f) Describe how granting this variance will result in equal or greater protection to adjacent property or natural resources? (Only required if requesting a variance to a buffer or setback)

No portion of the structures that encroach into the setback will cause or create a detriment to the safety, health, or welfare of the public, or be injurious to other property. Additionally, the requested variance will allow the placement of structures to be a further distance from the impervious setback located on the rear of the requested lots.

ADDITIONAL REQUESTED VARIANCE(S) (SEPARATE SHEET REQUIRED FOR EACH REQUESTED VARIANCE):

1) A separate sheet is required for each variance request. The number of this variance request is: **Variance #3**

2) Please indicate which section of the Unified Development Code (UDC) is requesting to be varied, e.g. Chapter 11, Table 11.2(a).

UDC § 19-4.1(G)

3) Please check the type of variance being requested:

Front yard variance of _____ feet to allow a front yard setback to be _____ feet.

Rear yard variance of _____ feet to allow a rear yard setback to be _____ feet.

Side yard variance of _____ feet to allow a side yard setback to be _____ feet.

Exterior yard variance of **10** feet to allow an exterior yard setback to be **40** feet.

Other: _____

4) Written Justification. Per section 8-6.3 (B), all variance requests must be accompanied by written documentation justifying the variance and explaining why it should be granted. Additional sheets can be found on the web site at <http://currentplanning.forsythco.com>. The justification must specifically address, for each variance requested, the below criteria:

a) Describe why the variance would not negate the purpose and intent of the Unified Development Code provision?

The proposed variance will not eliminate the UDC's intent of providing adequate separation between properties. Adequate separation between the uses will be provided and preserve the property rights of the the adjoining property owners.

b) Describe why the variance would not cause substantial detriment to the public safety, health, or welfare of the public, or injurious to other property?

The proposed buffer encroachments would not create a safety hazard or noxious condition.

c) Describe why the conditions of your property are unique only to the property which relief is sought and are not applicable generally to other property?

The setback requirements along the boundary of the subject property, in particular the exterior setback to the side of Lot 47, substantially limit the buildable area of the subject property, such that unless the variance is approved as requested by the Applicant, the subject property may not be developed in an economically feasible or physically practical manner. Additionally, the 75 foot impervious setback limits the buildable area of Lot 47. The Applicant seeks a variance only to exterior setback of Lot 47.

d) Describe how this property's physical surroundings (e.g. shape, size, or topographical conditions) result in an extraordinary hardship or practical difficulty (as distinguished from a mere inconvenience)?

The subject property's shape, size, and topography substantially limit the buildable area of the subject property. The shape, size, and topography of the property necessitate the requested variance and placement of structures in the locations proposed by the Applicant in order to permit feasible development of the subject property.

e) Describe why the requested variance is the minimum necessary to accomplish the proposed development or building?

The requested variance is the minimum necessary to accommodate the proposed structures and allow the property to be developed in an economically feasible and physically practical manner.

f) Describe how granting this variance will result in equal or greater protection to adjacent property or natural resources? (Only required if requesting a variance to a buffer or setback)

No portion of the structures that encroach into the setback area will cause or create a detriment to the safety, health, or welfare of the public, or be injurious to other property.

H. PROPERTY OWNER(S) AUTHORIZATION AFFIDAVIT: ADD ADDITIONAL SHEETS IF APPLICABLE

Notice to Applicant. This application must be signed by the owner(s) as listed on the deed of record for the subject property. If there is more than one property owner, additional affidavits can be found on the Web site at forsythco.com. Only the owner or authorized agent (i.e. applicant or representing attorney) may speak on behalf of this application at the public hearing. The undersigned hereby swear that he/she/they is/are the owner(s) of the subject property as identified on this application.

I/We hereby authorize the authorized agent or attorney listed on the front of this application to speak and act on behalf of the owner(s) in pursuit of the rezoning, conditional use permit, or sketch plat application on this property. I/We realize that any action granted for this property will be binding on the property regardless of ownership.

For those properties owned by a corporate entity, please complete the two statements below:

I am a duly authorized officer/member of the respective undersigned entity [corporate entity].
The respective undersigned entity [corporate entity]
is the owner of the property seeking rezoning, conditional use and/or sketch plat approval and I am fully vested with authority to act on behalf of the respective undersigned entity [corporate entity]
in submitting this application. In making this representation, I acknowledge that any person who knowingly and willfully ... makes a false, fictitious, or fraudulent statement or representation ... in any matter within the jurisdiction of any department or agency of state government or of the government of any county, city, or other political subdivision of this state, shall upon conviction thereof, be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both."

Owner Name #1: MKW Capital, LLC

Address: PO Box 149, Jamestown, RI, 02835

Phone#: (401) 529-4742 E-mail Address: jwayt@reynardllc.com

Signature of Owner: [Signature] Date: 04/06/2017

Signature of Notary: [Signature] Date: 04/06/2017

KAREN MONTOYA
NOTARY PUBLIC-RHODE ISLAND
ID #43174
MY COMMISSION EXPIRES 07-01-2018

Owner Name #2: JOJO Capital, LLC

Address: PO Box 149, Jamestown, RI, 02835

Phone#: (401) 529-4742 E-mail Address: jwayt@reynardllc.com

Signature of Owner: [Signature] Date: 04/06/2017

Signature of Notary: [Signature] Date: 04/06/2017

KAREN MONTOYA
NOTARY PUBLIC-RHODE ISLAND
ID #43174
MY COMMISSION EXPIRES 07-01-2018

Owner Name #3: Seven Branches Farm, LLC

Address: PO Box 149, Jamestown, RI, 02835

Phone#: (401) 529-4742 E-mail Address: jwayt@reynardllc.com

Signature of Owner: [Signature] Date: 04/06/2017

Signature of Notary: [Signature] Date: 04/06/2017

KAREN MONTOYA
NOTARY PUBLIC-RHODE ISLAND
ID #43174
MY COMMISSION EXPIRES 07-01-2018

I. APPLICANT CERTIFICATION: PLEASE READ AND INITIAL THE FOLLOWING 9 STATEMENTS

1) I hereby request the action contained within this application relative to the property shown on the attached plats and site plan and further request that this item be placed on the Planning Commission and/or Board of Commissioners agenda for a public hearing.

2) I understand that my request will be rejected if all the necessary information and/or requirements are not presented.

3) I understand that I have an obligation to present all necessary information required by the Unified Development Code to enable the Planning Commission and/or Board of Commissioners to make an informed determination on my request. I will seek advice of Planning Staff or an attorney if I am not familiar with the zoning and land use requirements.

4) I understand that my request will be acted upon at the Planning Commission and/or Board of Commissioners public hearing and that I am required to be present or to be represented by the authorized representative as indicated on this application, so that someone is available to present all facts and answer questions. I understand that failure to appear at a public hearing may result in the postponement or denial of my request. I further understand that it is my responsibility to be aware of relevant public hearing dates and times regardless of notification from Forsyth County.

5) The Unified Development Code (UDC) of Forsyth County requires the landowner, applicant, or authorized representative to place an orange public participation sign(s) on the subject property during the entire Applicant Work Time. In order to insure that the correct information is included on the public participation sign(s), the Planning and Community Development Department will prepare the sign(s) and present it/them to the applicant at the Zoning Review Meeting. It is the applicant's responsibility to place the sign(s) on the subject property and to maintain the sign(s) during the entire duration of the Applicant Work Time, where the term "maintain" means that any and all meetings and/or application changes shall be updated on the sign(s), and that the sign(s) shall remain standing and readable until an application is withdrawn or the proposal is submitted for Board Consideration. A signed affidavit with a dated photo of each sign(s) placing said sign(s) against a verifiable property landmark shall be submitted to the Planning and Community Development Department within two (2) business days after the Zoning Review Meeting. Failure to submit the affidavit shall result in the public participation report being incomplete and the submittal for Board Consideration not being accepted until all posting requirements are complete.

6) The Unified Development Code (UDC) of Forsyth County requires that the yellow public hearing sign(s) be placed on the subject property at least twenty-one (21), but not more than forty-five (45) days prior to the public hearing. In order to insure that the correct information is included on the public hearing sign(s) and that it/they is/are posted within the specified time frame, the Planning and Community Development Department will prepare the sign(s) and post it/them on the subject property by replacing the already posted orange public participation sign(s) with the yellow public hearing sign(s). Once the yellow public hearing sign(s) is/are posted, it is the applicant's responsibility to maintain the sign(s) until an application is withdrawn or a decision is rendered by the Board of Commissioners. The term "maintain" means that the sign(s) shall remain standing, be readable, and be updated regarding any changes in the date of the public hearing. The applicant shall be responsible for removal of all public notice signs within three (3) days of the final motion or date of withdrawal. Failure to do so will result in a fine of one hundred dollars (\$100) per day until the sign(s) is/are removed.

7) The Forsyth County Tree Preservation and Replacement Ordinance requires that all zoning applications submitted to the Department of Planning and Community Development include the following sworn statement: *"I hereby swear, under oath, that the property shown on attached plats and site plan has not been clear cut within three years prior to the zoning application date and that the property will not be clear cut prior to a decision by the Board of Commissioners on the zoning. I hereby understand that any property that has been clear cut within three years prior to the date of this application, shall not be eligible for rezoning for a period of three years from the date said property was clear cut. Clear cut is defined as a timber harvest performed in one cutting operation with any remaining trees having no merchantable value or forestry management purpose."*

8) In the event this zoning application is approved, please be aware that such approval shall not be deemed, and is not, a commitment or guarantee by Forsyth County as to the availability of sewer capacity and/or county water; nor shall this approval be construed as a commitment by Forsyth County to assist the developer with sewer easement acquisition. The developer shall be required to independently secure all necessary sewer easements. All sewer capacity agreements must be approved by the Forsyth County Board of Commissioners.

I. APPLICANT CERTIFICATION - CONTINUED

Please list the name(s) and dollar amount of any campaign contribution or gift (for gifts greater than \$100) made to any Forsyth County elected official during the two years immediately preceding the filing of this application. If the applicant is a business, then such disclosure shall pertain to contributions made on behalf of the business as well as on behalf of the individual representing the business for purposes of this application submittal.

Please indicate the name of the elected official, date of gift, and dollar amount of any gift or contribution:

[Empty box for listing contributions]

The undersigned has personally appeared before me, a Notary Public, and states upon oath and by initialing, that he/she has read, understands, and agrees to comply with each of the above nine (9) applicant certifications.

Printed Name of Applicant: MKW Capital, LLC Date: 04/06/2017

Signature of Applicant: [Signature] Date: 04/06/2017

Signature of Notary: [Signature] Date: 04/06/2017

KAREN MONTOYA
NOTARY PUBLIC-RHODE ISLAND
ID #43174
MY COMMISSION EXPIRES 07-01-2018

J. SIGN ORDINANCE ACKNOWLEDGEMENT

By signing below, applicant acknowledges and affirms that prior to submission of this application that he or she has read and reviewed the County regulations applying to such application, including the Forsyth County Sign Ordinance, and agrees to comply with the provisions of the Code.

Applicant Name: MKW Capital, LLC

Signature of Applicant: [Signature] Date: 04/06/2017

K. APPLICANT WITHDRAWAL (ONLY SIGN IF OFFICIALLY WITHDRAWING APPLICATION REQUEST)

Signature of Applicant: _____ Date: _____