



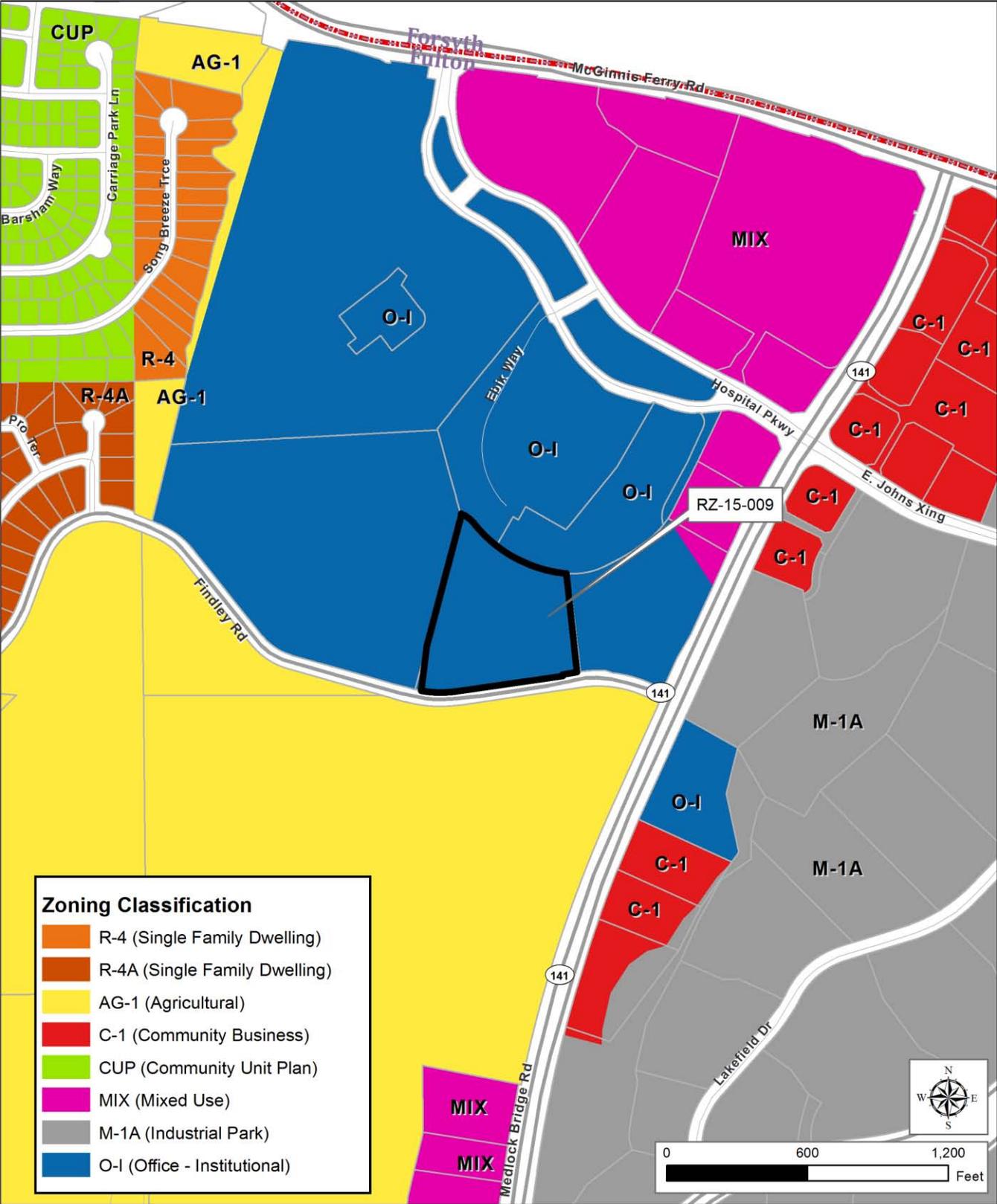
**Land Use Petition RZ-15-009**

**Date of Staff Recommendation Preparation: July 22, 2015**

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<b>PROJECT LOCATION:</b>	12000 Block of Findley Road
<b>DISTRICT/SECTION/LANDLOT(S):</b>	1 <sup>st</sup> District, 1 <sup>st</sup> Section, Land Lots 355 and 376
<b>ACREAGE:</b>	7.68 acres
<b>EXISTING ZONING</b>	O-I (Office – Institutional District) Conditional
<b>PROPOSED ZONING:</b>	O-I (Office – Institutional District) Conditional
<b>FUTURE DEVELOPMENT MAP DESIGNATION:</b>	Character Area 9: 141 Corridor
<b>APPLICANT:</b>	Brian B. West, P.E. 10 Roswell Street, Suite 210 Alpharetta, GA 30009 404-201-6127
<b>OWNER:</b>	JC Office, LLC 3350 Riverwood Parkway, Suite 750 Atlanta, GA 30339 770-436-3400
<b>PROPOSED DEVELOPMENT:</b>	Change zoning conditions to allow for the construction of a 48 unit memory care facility totaling 35,361 square feet
<b>STAFF RECOMMENDATION:</b>	<b>DENIAL</b>

RZ-15-009



## **PROJECT DATA**

The applicant is requesting a change in zoning conditions to allow construction of a memory care facility on an approximately 7.7 acre, vacant tract. The property is located in the 12,000 block of Findley Road and is zoned O-I (Office-Institutional District) Conditional. Current zoning conditions restrict the use of the property to office and accessory uses, including financial institutions or a hotel and conference center.

The property was zoned O-I (Office-Institutional District) Conditional per Fulton County rezoning case number RZ-90-036. Condition 1.a. limits the use of the property to office and accessory uses, including financial establishments. A hotel and conference center is also permitted by the conditions. The property is located near the intersection of Findley Road and Medlock Bridge Road and is part of Johns Creek Technology Park. At the time of rezoning, this phase of Technology Park was proposed to include a maximum of 1.6 million square feet of office space and a conference center/hotel on 146.12 acres. Subsequent rezonings took place in 2001 for development at the corner of McGinnis Ferry Road and Medlock Bridge Road and in 2006 for Emory Johns Creek Hospital. Three parcels are still subject to RZ-90-036 including parcels occupied by Ebix, the office building partially occupied by the City of Johns Creek (12000 Findley Road) and two vacant parcels. The subject site is one of these two vacant parcels.

The site was previously graded, but is currently covered with small to medium growth trees. Some infrastructure exists on the site, including an underground detention pond and storm pipes. The topography of the site is mostly flat, with steep slopes along the north, west, and southern boundaries. Shared access is proposed with 12000 Findley Road. An additional access point onto the adjacent private drive leading to the Emory Johns Creek Hospital is limited by steep topography.

The proposed development includes a one-story, 48 unit, 96-bed memory care facility totaling 35,261 square feet. The site plan indicates 72 total parking spaces. Only 33 spaces are required by the zoning ordinance. Building elevations have been submitted by the applicant. Staff would note that all structures must meet Zoning Ordinance requirements for materials and colors before issuance of a building permit.

The site plan correctly identifies current setback and buffer requirements with the exception of the rear setback, which should be 25 feet. The current plans incorrectly indicates a 20 foot rear yard setback. It does not appear that this error would adversely impact the proposed plan once corrected.

## **ANALYSIS**

The applicant is requesting a change in condition 1.a. (Fulton County RZ-90-036) in order to construct a memory care facility totaling 35,261 square feet in 48 units (up to 96 beds). The current zoning conditions limit the use of the property to office and accessory uses, including financial establishments or a hotel/conference center. According to the applicant, “memory care refers to assisted living care focused on persons living with Alzheimer’s and other forms of dementia. The Memory Care’s residents live in semi-private or private rooms and engage in structured activities to assist those with memory loss.”

The City of Johns Creek Comprehensive Plan recognizes three categories of senior residents, including empty nesters, the elderly and the frail elderly. Empty nesters (generally persons age 55 to 75) are referred to as “active adults” that may enjoy eating out and being in a more active environment. These individuals are independent and do not require assistance with daily living activities. Elderly individuals are defined as persons 65 years of age or older and the frail elderly are defined as “those individuals with

two or more personal care limitations.” Frail elderly often require some type of supportive living arrangement such as an assisted living community, skilled nursing facility, or an independent living situation with in-home care. The frail elderly are typically age 75 and older, although they may be younger if their health and mobility is severely limited. Both elderly and frail elderly populations are identified in the City’s Comprehensive Plan as special needs populations that require “Special Needs Housing.”

According to the City of Johns Creek Future Development Map, the subject property is located in Character Area 9: 141 Corridor. In addition, the site is located within an Activity Node. Policies for this area emphasize the development of a relatively high-intensity, mixed-use, walkable, and accessible boulevard corridor, with a stated goal of allowing for senior citizens to “age in place” in higher-density housing types. A memory care facility is designed for patients who are considered frail elderly and require special needs housing. Special needs housing is not specifically listed as a recommended use within Activity Nodes. It should also be noted that this site is within “The District” master planning study area. This is an area that the City has identified as being key in balancing the City’s tax digest and creating a central business district.

A single-story memory care facility does not meet the policy and intent of the Comprehensive Plan in terms of providing higher-intensity, accessible senior housing in activity nodes. The Comprehensive Plan’s vision for the Character Area would be better met with development that includes a high-quality, accessible, and walkable component. The Comprehensive plan creates a clear distinction between senior housing and special needs housing. Senior housing is supportive of the Comprehensive Plan’s effort to promote pedestrian activity within the city’s Activity Nodes. Individuals living in institutional-type, special needs housing such as memory care facilities are typically less mobile and utilize on-site dining facilities and services. These types of uses are more suitable in areas outside of the City’s activity centers.

In conclusion, the proposed memory care facility would not be suitable in view of the use and development of adjacent and nearby properties, or in keeping with the overall policy and intent of the Comprehensive Plan. Therefore, the Department of Community Development recommends **DENIAL** of this request.

### **STAFF RECOMMENDATION**

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of Land Use Petition RZ-15-009. The following conditions are provided as a guide should the City Council choose to approve the petition:

1. All previous zoning conditions applying to the subject property shall be repealed.
2. The subject property shall include:
  - a. Office and accessory uses
  - b. A memory care facility containing a maximum 36,000 aggregate square feet with a maximum height of 60 feet or four stories.
3. The site shall be developed in general accordance with the site plan received by the City of Johns Creek Community Development Department dated July 2, 2015. Minor modifications, provided no increase in number of units or beds, may be approved subject to the review and approval of the Community Development Director.

4. Owner/Developer shall construct along the entire property frontage of Findley Road curb & gutter, 5’ sidewalk, and drainage improvements along with the dedication of required right-of-way and easement in accordance with the approved plans at no cost to the City of Johns Creek prior to the issuance of a Land Disturbance Permit.
5. Prior to the issuance of a Certificate of Occupancy, the developer shall provide pedestrian connectivity by constructing the internal sidewalk as shown on the approved Land Development Permit plans and provide pedestrian connectivity to the building.

**STANDARDS OF REVIEW - REZONING**

**A. Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property?**

The surrounding zoning, land uses and development criteria are as follows:

<b>Adjacent &amp; Surrounding Properties</b>	<b>Zoning (Petition Number)</b>	<b>Land Use</b>	<b>Density Non-Residential (SF/Acre) Residential (Units/Acre)</b>
Adjacent: North	O-I Conditional (two parcels under Z-90-036)	Ebix Inc	10,950 sf/acre
Adjacent: East	O-I Conditional (Z-90-036)	Office	10,950 sf/acre
Adjacent: South	AG-1 Conditional (RZ-78-132)	The Standard Club Golf Course	N/A
Adjacent: West	O-I Conditional (Z-06-050)	Vacant	10,343.73 sf/acre
Nearby: Northwest	O-I Conditional (Z-06-050)	Emory Johns Creek Hospital	10,343.73 sf/acre
Nearby: Northeast	MIX Conditional (Z-01-133)	Commercial, Retail	14,150.95 sf/acre
Nearby: East	M-1A Conditional (Z-83-141)	Office	10,000 sf/acre
Nearby: South	MIX Conditional (Z-10-008)	Assisted Living (HearthSide at Johns Creek Walk)	125 rooms

The area adjacent to and near the subject property is characterized by several small, medium, and large-scale retail, office, and institutional uses, as well as a large golf course. The property is located within an Activity Node. The proposed memory care facility would not be suitable at this location as it presents an institutional-only use for the frail elderly immediately within the 141 Corridor and McGinnis Ferry Road and Medlock Bridge Road Activity Node.

**B. Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?**

The proposed institutional use for the frail elderly could impact the success of the McGinnis Ferry Road and Medlock Bridge Road Activity Node. In addition, the City had identified this area as part of “The District” Master plan where an emphasis has been placed on creating a walkable, mixed use central business district. The proposed use is not compatible with these efforts or the Comprehensive Plan’s future development recommendations for the area.

**C. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned?**

The subject property has a reasonable economic use as currently zoned.

**D. Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?**

The proposed development of 48 units (96 beds) would be expected to generate an increase in automobile trips and utility usage over current conditions. However, the development of a memory care facility is likely to have a relatively minimal impact on utilities and existing streets and transportation facilities. Similarly, there would be no impact on local schools. At the same time, a significant increase in service calls for EMS-related activity would be anticipated with this development.

**E. Whether the proposal is in conformity with the policy and intent of the Comprehensive Plan including the land use element?**

The subject property is located in Character Area 9: 141 Corridor on the Future Development Map. It is located within an Activity Node. Policies for this area call for Medlock Bridge Road to evolve from being a “sprawling strip commercial store to Johns Creek’s premier boulevard.”

The Comprehensive Plan states that the 141 Corridor Character Area should “be developed with the active adult in mind because of the access to public transportation and commercial amenities allowing for community seniors to ‘age in place.’” The Comprehensive Plan specifically lists senior housing as a preferred use within the three Activity Nodes along the 141 Corridor, including the McGinnis Ferry Road and Medlock Bridge Road Activity Node. The Comprehensive Plan delineates between senior housing and special needs housing for the elderly and the frail elderly.

The proposed use of a memory care center, which focuses on persons living with Alzheimer’s and other forms of dementia does not meet criteria for active adults. This type of housing would be considered special needs housing and is more appropriately located outside of Activity Nodes.

**F. Whether there are other existing or changed conditions affecting the use and development of the property which gives supporting ground for either approval or disapproval of the proposal?**

There are no changes that would encourage the use of this property as a memory care facility. The 2030 Comprehensive Plan and the Future Development Map all encourage the property to be developed at a higher intensity use.

**G. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of the City of Johns Creek.**

There is one stream that runs near the property's southwestern boundary, which is subject to a 50' undisturbed stream buffer and additional 25' impervious surface setback. Any encroachment into this buffer and setback would require the approval of a stream buffer variance. The majority of the stream was piped when surrounding development occurred.

## **DEPARTMENT COMMENTS**

### **PUBLIC WORKS**

1. The City of Johns Creek has completed design plans for the construction of sidewalk along the north side of Findley Road. Owner/Developer shall construct along the entire property frontage of Findley Road curb & gutter, 5' sidewalk, and drainage improvements along with the dedication of required right-of-way and easement in accordance with the approved plans at no cost to the City of Johns Creek prior to the issuance of a Land Disturbance Permit.

### **WATER AND SEWER**

#### **WATER:**

Anticipated water demand: 270 gallons per day (gpd) per housing unit x 48 assisted living units (35,760 square feet) = 12,960 gallons per day (gpd).

This project is within the Fulton County Government water service jurisdiction. There is an 8 inch water line along the north side of Findley Road that can service this location.

#### **SEWER:**

Basin: Johns Creek

Treatment Plant: Johns Creek

Anticipated sewer demand: 11,664 gallons per day

There are three sanitary sewer manholes located within the property boundaries of the 7.68 acre tract ("0" Findley Road, Parcel I.D.: 11-0980-0376-024-7) (Sewer manholes # SMJC3416965, # SMJC3418030 and # SMJC3418040) in land lot 376, district 1-1 that can service this development.

Comments: This information does not guarantee that adequate sewer capacity is available at this time or will be available upon application of permits. Please contact the Department of Water Resources (Public Works) for more information

### **FIRE MARSHAL**

1. Shall provide a current water flow report for proposed site by LDP submittal and GPS locate all fire hydrants by final plat;
2. LDP submittals shall also include all water main sizes and valves for location;
3. FDC shall be a free standing type located away from the structure. Specific location will need to be coordinated with Johns Creek Fire Marshal's Office;
4. Site has three ADA parking stalls located near the structure. However, two more are located away from the building that could pose a challenge to maintain a compliant accessible route to structure;
5. Wheel stops may be needed along the accessible path to maintain required clearances;
6. Due to the large number of these type of facilities already located within Johns Creek, additional occupancies similar to this use could pose additional strain to our emergency response units;

7. This type of facility will also need to be submitted for review and approval to the State Fire Marshal's Office.

### ARBORIST

1. Tree Ordinance and Administrative Guidelines requirements to be met through land disturbance permit. Landscape strips, density requirements, parking islands, and any specimen recompense are to be protected and/or planted per the Guidelines.
  - a. A 25-foot landscape strip is required adjacent to Findley road per the Zoning Ordinance; the landscape strip is measured from the dedicated right-of-way. Planting requirements are found in the Administrative Guidelines.
  - b. The tree density required for this site is 30 units per acre.
  - c. The 10-foot landscape strips required adjacent to side and rear property lines are to be planted per the Administrative Guidelines.

### SITE DEVELOPMENT

- 1) A Land Disturbance Permit (LDP) is required to develop the property. Development plans will have to comply with the Development and Zoning Regulations, Tree Preservation, Erosion & Sediment Control, Floodplain, Stream and Post-Development Stormwater Management Ordinances. A surety will be required for erosion control and any right of way improvements prior to issuance of land disturbance permit.
- 2) Fulton County Water and Sewer approval is required prior to issuance of land disturbance permit.
- 3) Water/ Sanitary/ Storm as-builts, and a stormwater maintenance agreement (if applicable) will be required prior to issuance of a building permit.
- 4) A Stormwater Management (SWM) Report is required upon submittal of development plans. If the SWM report for the original development shows that the existing SWM facility does not provide water quality and channel protection then the developer has two possible options. Either SWM facilities can be constructed that provide water quality and channel protection for the site being developed or the existing pond can be upgraded to meet present day SWM requirements for the entire original development. If the existing facility is used it must be maintained and an as-built certification provided to show that the facility is functioning as designed.
- 5) Stream on the property requires field verification to determine its extent and location of stream buffers. Contact City to verify in the field the stream location which must be shown on the Land Disturbance Permit plans with 25' and 50' buffers and 75' impervious setback.
- 6) Site is within the Johns Creek Watershed which is an impaired stream segment for fecal coliform and biota. Erosion Sediment and Pollution Control plan must include additional Best Management Practices.

### HEALTH AND WELLNESS

#### Environmental Health Services (EHS) Comments

- The Fulton County Department of Health and Wellness recommends that the applicant be required to connect the proposed convalescent facility to public water and public sanitary sewer available to the site.
- Since this proposed development constitutes a premise where people work or congregate, onsite sanitary facilities will be mandatory, prior to use or occupancy.

- This development must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 - Health and Sanitation, Article III -Smokefree Air. .
- If this development includes a food service facility as defined in Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 - Health and Sanitation, Article V - Food Service, the owner must submit kitchen plans for review and approval by this department before issuance of a building permit and beginning construction, The owner must obtain a food service permit prior to opening.
- This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval.
- This department is requiring that this facility meet the permit requirements for convalescent facilities under the Rules and Regulations of Georgia Department of Community Health.

#### Environmental Justice (EJ) Program Comments

- The Department of Health and Wellness does not anticipate any adverse impacts from allowing a convalescent center to be constructed and operated on the property.
- This department does not anticipate any disproportionate impacts to any population by allowing the construction of the proposed convalescent center.

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