

**LETTER OF INTENT  
APPLICATION FOR REZONING  
CITY OF JOHNS CREEK, GEORGIA**

CH Realty III/Haynes Bridge, LLC (the "Applicant"), requests a Rezoning of the approximately 15.42 acres located at 3000 Old Alabama Road (Parcel Identification Number 12 303008410790) (the "Property") from the C-1 Community Business District to the C-1 Community Business District to modify the conditions of zoning pertaining to the Property to relocate an allowed restaurant with a drive-through window use (proposed as a Dunkin'/Baskin-Robbins) to an existing stand-alone building. The existing building is in the northeast corner of the Property and has two tenant units, one of which (approximately 2,550 square feet) would be converted to the proposed restaurant use with minimal structural changes to the building. As shown on the enclosed Site Plan, a variety of methods will be used to direct on-site traffic generated by the building's two tenants.

The Property has long been developed as a large-scale shopping center in accord with applicable conditions of zoning. On January 22, 2008, the Mayor and City Council of Johns Creek, Georgia, rezoned the Property to the C-1 district to allow the addition of an accessory fuel center. See Johns Creek Ordinance 2008-01-1 (RZ-08-001). Condition No. 1 of the 2008 rezoning ordinance allows a fast food restaurant (i.e. having a drive-through window) on "the spin site located at the southeast corner of the subject property." However, the "southeast corner" was never used for a restaurant, and is instead used for a Chase Bank. Accordingly, the requested Rezoning proposes a modification of the conditions to simply relocate the allowed fast food restaurant use from the southeast corner to an existing building in the northeast corner.

For this reason, and because the requested Rezoning is consistent with the factors established at Section 28.4.1. of the Zoning Ordinance of Johns Creek as documented in the enclosed Zoning Impact Analysis, the Applicant respectfully asks that the Mayor and City Council of Johns Creek approve the Rezoning as requested.

Sincerely,

THE GALLOWAY LAW GROUP, LLC

  
William Woodson Galloway

4062 Peachtree Road NE, Ste A330  
Atlanta, GA, 30319  
(404) 965-3680

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**AUG 11 2020**

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**CONSTITUTIONAL OBJECTIONS**  
**APPLICATION FOR ZONING MAP AMENDMENT**  
**CITY OF JOHNS CREEK, GEORGIA**

City of Johns Creek  
Community Development

Georgia Law and the procedures of City of Johns Creek require us to raise Federal and State Constitutional objections during the Rezoning application process. While the Owner/Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Owner/Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the Zoning Ordinance of the City of Johns Creek, Georgia, as applied to the Property, that would result in a denial of the Rezoning as requested, are, or would be, unconstitutional in that they would destroy property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any application of the Code of the City of Johns Creek or the Johns Creek Zoning Ordinance to the Property which restricts its use to any use in a manner other than that requested is unconstitutional, illegal and null and void because such an application constitutes a taking of property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States because such an application denies the Owner/Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would also constitute an arbitrary and capricious act by the City Council of the City of Johns Creek without any rational basis therefore, thereby constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal to grant the Rezoning as requested would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Owner/Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of the Rezoning subject to conditions that are different from the conditions requested, to the extent such different conditions would have the effect of further restricting the utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

In addition, this constitutes formal written notice to the City of Johns Creek, pursuant to O.C.G.A. § 36-33-5, that the Owner/Applicant plans to seek to recover all damages that it sustains or suffers as a result of the denial of this Application and/or the unconstitutional zoning of the Property by the City of Johns Creek. Such damages may include, but are not necessarily limited to, damages related to the diminution in the value of the Property, attorneys' fees and expenses of litigation.

Accordingly, the Owner/Applicant respectfully requests that the City Council of the City of Johns Creek grant the Rezoning as requested.

THE GALLOWAY LAW GROUP, LLC



Jordan Edwards  
William Woodson Galloway  
Attorneys for Applicant

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