

FIRST AMENDED
LETTER OF INTENT
and
IMPACT ANALYSIS

and

Other Material Required by
City of Johns Creek Zoning Ordinance
for the
Rezoning Application

of

THE PROVIDENCE GROUP

for

± 10.146 Acres of Land
located on Abbotts Bridge Road and Parsons Road
Land Lot 266 and 277, 11th District, Fulton County, Georgia

From AG-1 to CUP

Submitted for Applicant by:

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RECEIVED

RZ-22-0003

MAY 25 2022

PLANNING & ZONING

I. INTRODUCTION

This Application seeks to rezone ± 10.146 acres of land located in Land Lots 266 and 277, 11th District of Fulton County, consisting of three (3) parcels along the eastern right-of-way of Parsons Road and the southern right-of-way of Abbots Bridge Road, approximately 400 feet south of their intersection (“Subject Property”). More particularly the assemblage consists of 11245 Parsons Road (Parcel ID: 11 066002660262), 5545 Abbots Bridge Road (Parcel ID: 11 066002660312), and 5560 Abbots Bridge Road (Parcel ID: 11 078002770140). The Subject Property is currently zoned Agricultural (AG-1) and developed with two (2) single family residences and accessory structures (sheds). The Applicant seeks to rezone the Subject Property to Community Unit Planned (CUP) to develop 29 single family detached residences (all owner-occupied) with appurtenant site improvements (“Proposed Development”)¹.

The Subject Property is located in an area that is characterized by a variety of single family detached properties, subdivisions and limited non-residential uses that support residential development (e.g. dentist office and religious institution). To the north, the Subject Property borders the Parsons Pointe Dental Care property, zoned Office Institutional (O-I), as well as the right-of-way of Abbots Bridge Road. To the east and south, the Subject Property borders property containing the Congregation Dor Tamid synagogue, zoned AG-1. To the west, the Subject Property abuts the right-of-way of Parsons Road. Further west, across Parsons Road, are several AG-1 parcels containing single family homes, as well as the Parsons Run Subdivision, zoned Single Family Dwelling District (R-3). The proposed subdivision of 29 single family detached homes is an appropriate and compatible use given the existing development and uses in

¹ The Applicant initially proposed the development of 37 single family residences on the Subject Property (a density of 3.64 units per acre). After meetings with the community and City Staff, the Applicant reduced the number of units to 29 homes (a density of 2.86 units per acre) to better fit with the surrounding developments.

the area.

The Proposed Development's single family detached residences will have a minimum floor area of $\pm 2,400$ square feet (sf) with three to four bedrooms and baths per unit. The development will offer onsite amenities to attract the future residents, including a pocket park to preserve and utilize green space and a future option to be a gated community. The pocket park is intended to function as a gathering spot for the residents to help foster a sense of community. Also, the Applicant is preserving a portion of the property in the northeast corner in its natural state to serve as a buffer to protect the existing stream, as well as landscaped buffers and open space areas to the north and east. In addition to the site features, the design of the structures themselves will add to the community's appeal. The Applicant has paid close attention to the design, scale, materials and façade elements to create an aesthetically pleasing structure.

The Proposed Development aligns with the goals of the Johns Creek Zoning Ordinance and specifically with the stated intent of the CUP district:

- Encourage the development of large tracts of land as planned communities.
- Encourage flexible and creative concepts in site planning.
- Preserve the natural amenities of the land by encouraging scenic and functional open areas.
- Provide for an efficient use of land.
- Provide a stable residential environment compatible with surrounding residential areas.

The Proposed Development seeks to combine several smaller properties into a larger parcel that will allow a cohesive residential development, while providing green space areas to enhance the community. Moreover, the Proposed Development will comply with or exceed the site dimensional requirements of the CUP district. In sum, the Applicant is proposing an attractive and well thought development that will complement the existing development in the surrounding area.

This document is submitted as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and an impact analysis as required by the City of Johns Creek's Zoning Ordinance Sections 28.4.1 and 28.4.2. A Development Plan, pursuant to Johns Creek Zoning Ordinance Sec. 11.1.3, has been filed simultaneously with this Application, along with other required materials.

II. HISTORY

The Subject Property is zoned AG-1 and designated as being within the as Medlock Community area per the City's Future Land Use Map. There is no history of the site being previously rezoned.

III. IMPACT ANALYSIS

1.

THE ZONING PROPOSAL WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY

The Subject Property is surrounded by residential, institutional (synagogue), and service (dentist office) uses which are compatible with the Proposed Development. The Applicant has given appropriate attention to scale, buffering, setbacks, and landscaping to ensure that the Proposed Development will fit within the existing community. The proposed minimum $\pm 2,400$ sf single family homes comparable what exists in the surrounding developments. In addition, the Proposed Development will incorporate open spaces and landscape strips along the adjacent property lines. Accordingly, the Proposed Development will be suitable in view of the use and development of the nearby properties.

2.

THE ZONING PROPOSAL WILL NOT ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY

The Proposed Development will not adversely affect the surrounding residential, institutional, and service uses. As stated in previous paragraphs, the proposed single family detached subdivision is harmonious with the adjacent residential and will incorporate appropriate buffers to mitigate impacts, if any. Additionally, the Proposed Development is comparable in scale and nature to other existing residential developments located along Parsons Road and Abbots Bridge Road.

3.

THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL DOES NOT HAVE A REASONABLE ECONOMIC USE AS CURRENTLY ZONED

The Subject Property is currently zoned AG-1, which limits development to single family dwellings on a minimum one (1) acre lot or agricultural uses, neither of which are suitable given the development patterns in the area. The AG-1 zoning is out of step with the development trends and inhibits the practical development of the Subject Property. The current development in the surrounding area is typified by subdivisions consisting of single family detached homes on moderately sized lots, similar to what the Applicant is proposing. In order to allow a reasonable redevelopment of the Subject Property, however, it must be rezoned to an appropriate district.

4.

THE ZONING PROPOSAL WILL NOT RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS

The Applicant does not anticipate any significant impact to the vehicular traffic from the minor amount of trips that the Proposed Development will generate. A Trip Generation Memo detailing the Proposed Development's anticipated vehicular trips is attached to this Application.

The Applicant used the Institute of Traffic Engineers (ITE) Trip Generation Manual (Tenth Edition), to calculate vehicle trips for the Proposed Development. The Trip Generation Memo notes that the twenty-nine (29) single family homes (ITE category 210) will generate ±334 total trips on a weekday, ±25 trips during the A.M. peak hour, and ±31 trips during the P.M. peak hour. The Proposed Development’s vehicular trips are not anticipated to cause any significant detrimental impacts on the adjacent roadways. Parsons Road is classified as a Collector and nearby Abbots Bridge Road is classified as a Minor Arterial. *See Johns Creek Transportation Master Plan 2030 Recommended Functional Classification Map.* These types of roadways are intended for higher volumes of traffic and they are anticipated to adequately serve the Proposed Development.

The school children living in the residential portion of the development will attend Abbots Hill Elementary School, Taylor Road Middle School, and Chattahoochee High School. All of the schools are listed as under capacity and are projected to remain under capacity after construction of the Proposed Development. *See Fulton County Schools Rezoning Impact Statement for Petition RZ-22-0003, dated 5/17/2022.* Accordingly, the Proposed Development will not have a negative impact on local schools.

As for utilities, the Subject Property has access to water and sewer.

5.

THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICIES AND INTENT OF
THE LAND USE PLAN

The City of Johns Creek Comprehensive Plan 2018 (“Comp Plan”), depicts the Subject Property as being within the Medlock Community area. Additionally, the City of Johns Creek Comprehensive Plan 2018 notes the current land use as “Residential-4 units or less”³ and the

³ See the Comp Plan, pg. 82, Map 37: Current Land Use in Medlock.

future land use as “Residential 2-units or less”⁴. The Proposed Development’s ±2.86 units per acre density is substantially lower than the current land use density and toward the Comp Plan’s future density goals for the area. In addition, the Proposed Development meets a number of stated policies for the Medlock Community area:

- The vision for the Medlock Community Area is to maintain its premier residential status
- New infill housing developments should be limited to single-family detached homes
- The build-out analysis shows that the Medlock Community Area has the capacity for 481 additional residential units.

In sum, the Proposed Development serves to implement specific goals, objectives and policies of the Johns Creek Comprehensive Plan. The project at issue represents a consistent use commensurate with other existing uses on adjacent and nearby properties. The proposed use, therefore, is suitable *vis-a-vis* the policies of the Comprehensive Plan.

6.

THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR APPROVAL OF THE ZONING PROPOSAL

The existing homes on the Subject Property were built between 1960 and 1965, at a time when the area was much more rural in character. Over the past fifty-plus years, much of Johns Creek, including the Medlock Community area, has moved away from larger agricultural homesteads to more suburban single family lot neighborhoods. The current AG-1 district, however, limits development to residential lots over one acre or agricultural uses, neither of which allows construction in line with the surrounding uses and neighborhoods. The Applicants proposal to rezone to CUP will bring the Subject Property into alignment with the development trends in the area and allow a practical and fitting residential development.

⁴ See the Comp Plan, pg. 83, Map 38: Future Land Use in Medlock.

THE ZONING PROPOSAL WILL PERMIT A USE WHICH WILL NOT BE CONSIDERED ENVIRONMENTALLY ADVERSE TO THE NATURAL RESOURCES, ENVIRONMENT AND CITIZENS OF THE CITY OF JOHNS CREEK

The existing tract is largely undeveloped and any construction on the Subject Property will inevitably require the removal of trees and other land disturbance activities. That being said, there are no significant natural features on the Subject Property that require special protection, except for the stream to the northeast. The stream will be buffered as required by code. Further, the applicant will replant trees, grass, and other landscaping materials as part of its redevelopment of the site. In addition, the Applicant will provide stormwater management, including runoff reduction and/or water quality measures as required by the City of Johns Code of Ordinances.⁵

IV. NOTICE OF CONSTITUTIONAL CHALLENGE TO UNDERLYING ZONING AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicant respectfully submits that the current zoning classification of the Subject Property and any proposed intervening district is unconstitutional and that rules relative to the Subject Property owner's right to use the Property established in the John Creek Zoning Ordinance, to the extent they prohibit this use, constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to allow this use would constitute a

⁵ The stormwater design will be completed prior to issuance of the land disturbance permit.

taking of private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The Applicant respectfully submits that the City Council's failure to approve the requested rezoning would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Subject Property's owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

A refusal to allow the development in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

Opponents to this request, if any, lack standing; have failed to exhaust administrative remedies; and have waived their rights to appeal by failing to assert legal and constitutional objections.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the proposed rezoning be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 25th day of May, 2022.

Respectfully submitted,

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