

REZONING/SUP/CHANGE IN CONDITIONS
APPLICATION

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>Edge City Properties, Inc.</u>	NAME: <u>James Whitfield & Chinmaya Mission Alpharetta Inc.</u>
ADDRESS: <u>4280 Dove Pt</u>	ADDRESS: <u>10655/10725 Jones Bridge Road</u>
CITY: <u>Duluth</u>	CITY: <u>Johns Creek</u>
STATE: <u>GA</u> ZIP: <u>30096</u>	STATE: <u>Georgia</u> ZIP: <u>30022</u>
PHONE: <u>770-814-4500</u>	PHONE: <u>N/A</u>
CONTACT PERSON: <u>Michael Dye</u> PHONE: <u>770-814-4500</u>	
CONTACT'S E-MAIL: <u>mdye@EdgeCP.com</u>	

APPLICANT IS THE:
<input type="checkbox"/> OWNER'S AGENT <input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICTS(S): <u>A-1</u> REQUESTED ZONING DISTRICT: <u>R-4</u>
LAND DISTRICT(S): <u>1st</u> LAND LOT(S): <u>133,144,151,152</u> ACREAGE: <u>7.45</u>
ADDRESS OF PROPERTY: <u>10655/10725 Jones Bridge Road</u>
PROPOSED DEVELOPMENT: <u>Residential Single Family Detached</u>
CONCURRENT VARIANCES: <u>.1. Reduce front yard setback from 35' to 20'. 2.Remove section of 20' pond landscaping requirement</u>

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units <u>17</u>	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): <u>Minimum of 2,200</u>	Total Building Sq. Ft. _____
Density: <u>2.28 units/acre</u>	Density: _____

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ZONING IMPACT ANALYSIS FORM

Analyze the impact of the proposed rezoning and provide a written point-by-point response to the following questions:

1. Does the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?
See attached

2. Does the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?
See attached

3. Does the property to be rezoned have a reasonable economic use as currently zoned?
See attached

4. Will the zoning proposal result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?
See attached

5. Is the zoning proposal in conformity with the policies and intent of the land use plan?
See attached

6. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the zoning proposal?
See attached

7. Does the zoning proposal permit a use that can be considered environmentally adverse to the natural resources, environment and citizens of the City of Johns Creek?
See attached

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ZONING IMPACT ANALYSIS FORM

10655/10725 Jones Bridge Road

1. Does the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?

Yes, the Property is mostly surrounded by residential developments and is in the Ocee character area which permits up to a maximum of 3 units/acre outlined in the Comprehensive Plan. A substantial amount of the property is adjacent to the Fulton County water towers and two cell towers.

2. Does the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?

No, the surrounding properties have similar residential uses and will not negatively impact them.

3. Does the property to be rezoned have a reasonable economic use as currently zoned?

Both parcels are zoned AG-1 and have two homes on them. One is owner occupied and the other is not habitable. The AG-zoning does not have reasonable economic use and it is unlikely the property will be developed with only one home on each parcel. The 10725 Jones Bridge Property holds a Special Use Permit to allow for a church.

4. Will the zoning proposal result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

The zoning proposal will have minimal impact on schools and only minimal impact on existing streets. The new residences will connect to Fulton County sewer and water. Adequate capacity is available.

5. Is the zoning proposal in conformity with the policies and intent of the land use plan?

Yes, the property is located in the Ocee character area and permits up to 3 units/acre.

6. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the zoning proposal?

The property's current AG-1 with a special use permit for a church is no longer compatible with surrounding properties. While the adjacent properties have lower densities that were developed in the 1970's and early 1990's the requested density is consistent with the Comprehensive plan.

7. Does the zoning proposal permit a use that can be considered environmentally adverse to the natural resources, environment and citizens of the City of Johns Creek?

The residential development will not adversely affect the natural resources, environment and citizens of the City of Johns Creek.

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CONSTITUTIONAL OBJECTIONS

Applicant: EDGE CITY PROPERTIES, INC.

Subject Property: 7.45 Acres of Land at 10655 and 10725 Jones Bridge Road

Current Zoning : AG-1

Proposed Zoning R-4 for single family detached homes

Georgia Law and the procedures of the City of Johns Creek require us to raise Federal and State Constitutional objections during the rezoning application process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at the stage may mean that the 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:

A denial of the Application would be unconstitutional in that it would destroy the Owner's 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 of the Constitution of the United States.

Any application of the Code of the City of Johns Creek, or the Zoning Ordinance of the City of Johns Creek, to the Subject Property that prohibits the Owner from developing the Subject Property as proposed is unconstitutional, illegal, null and void because such an application constitutes a taking of the Owner's 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 a violation of 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 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 of Johns Creek Mayor and City Council 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 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Johns Creek Mayor and City Council to grant the Application would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Owner 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 Application that subjects the Subject Property to conditions that are different from the conditions requested by the Owner, to the extent such different conditions would have the effect of further restricting the Owner's utilization of the Subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the

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Subject Property to an unconstitutional category and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

In addition, this constitutes formal written notice to the City of Johns Creek, pursuant to O.C.G.A 36-11-1, that the Owner plans to seek to recover all damages that is sustains or suffers as a result of the denial of this Application and/or unconstitutional zoning of the Subject Property from 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 Subject Property, attorney's fees and expenses of litigation.

Accordingly, the Owner respectfully request that the City of Johns Creek Mayor and City Council grant the Application as requested.

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Environmental Site Analysis (ESA)

Land Use Application for 10655 and 10725 Jones Bridge Road, Johns Creek Georgia

Applicant: Edge City Properties, Inc.

Conformance with the Comprehensive Plan

The proposed project is a 17 unit single family residential development located on the east side of Jones Bridge Road and the south side of Morton Road. There is approximately 60' of elevation from the highest elevation to the lowest point on the site.

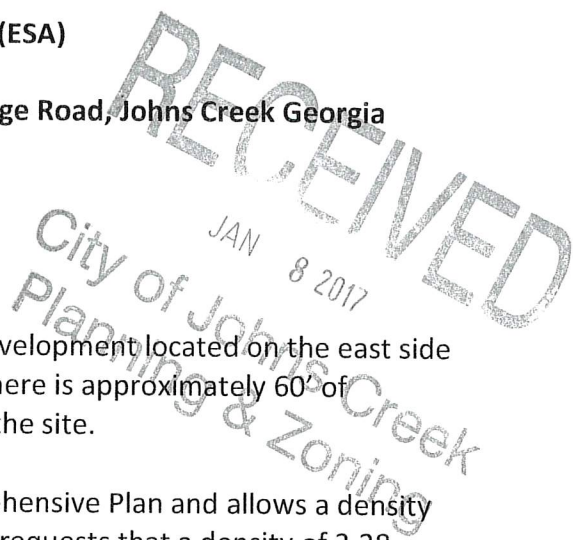
The site is located in the Ocee Character Area of the Comprehensive Plan and allows a density of up to 3 units/acre (see Exhibit "A"). The zoning proposal requests that a density of 2.28 units per acre be granted in the R-4 zoning classification. The development substantially complies with the vision of the Comprehensive Plan as it is compatible with surrounding properties. The southern and eastern lines primarily border an R-4 residential subdivision developed in 1995.

Environmental Impacts of the Proposed Project

- a. Wetlands: According to the U.S Fish and Wildlife Service National Wetlands Inventory **no** wetlands are located on this property.
- b. Flood plain: According to the FEMA Flood Insurance Rate Map for Fulton County, Georgia and incorporated areas, MAP #13121C0086F dated September 18, 2013, this site is not in a Flood Hazard Zone.
- c. Streams/Stream buffers: There are no streams or state waters on the property
- d. Slopes exceeding 25% over a 10-foot rise in elevation
According to GIS contours, the property does not have slopes which exceed 25%.
- e. Vegetation
The existing site contains mature trees of which specimen size trees are largely located along the stream. Approximately 1/10 of the site is developed with grassed and landscaped areas around the yards and structures.
- f. Wildlife Species
From field observation, no wildlife other than birds and squirrels were observed on the property.
- g. Archeological/Historical Sites
We have found no evidence that this property has any archeological or historical sites.

Project Implementation Measures

- a. Protection of Environmentally Sensitive Areas
The site will be developed using Best Management Practices (BMP's) and only after a land disturbance permit by the appropriate jurisdiction. Additional measures will be



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taken from Appendix 1 of the Erosion and Sediment control checklist to ensure sensitive areas will remain.

b. Protection of Water Quality

Water quality will be provided onsite per City of Johns Creek and the Georgia Stormwater Management Manual. Channel Protection and detention will be provided in an above ground storm water management pond. The pond will be designed to handle the one year to 100-yr storm as well as reduce flows to protect downstream receiving channels.

c. Minimization of Negative Impact to Existing Infrastructure

Existing infrastructure is not expected to be impacted by the proposed use of the property. Water, sewer and storm sewer infrastructure adjacent to the property.

d. Minimization on Archaeological/historically Significant Areas

This site does not contain archaeological or historically significant areas; therefore, no negative impact is expected.

e. Minimization of Negative Impact to Environmentally Stressed Communities

This site does not have any streams or state waters to protect.

f. Creation and Preservation of Green/Open Space

In order to create green/open space, a variance to delete the 40 ft perimeter setback and replace with a 25' landscape buffer along all property lines with residential homes (excluding the Water and Cell Towers).

g. Protection of Citizens from Noise & Light

All site lighting shall conform to City of Johns Creek standards and regulations to minimize light pollution. Minimal noise is expected to be created by the development.

h. Protection of Parks and Recreational Green Space

The proposed development will not have negative impacts to neither parks and recreational green space.

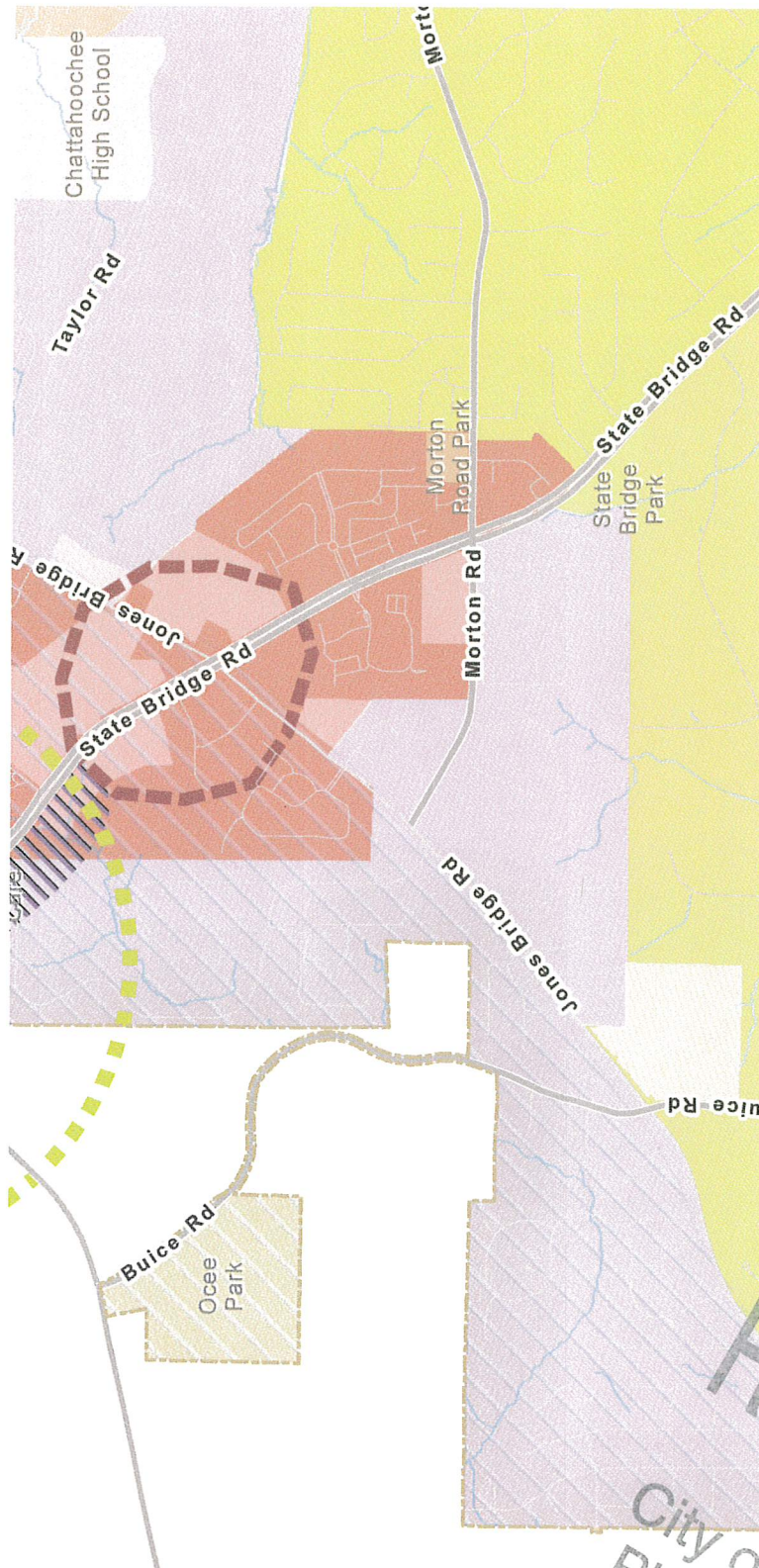
i. Minimization of Impact to Wildlife Habitats

This site does not have any streams or state waters to buffer or require setbacks.

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Exhibit "A" to ESA



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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: **YES** (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

1. <u>None</u> 2. _____ 3. _____ 4. _____	5. _____ 6. _____ 7. _____ 8. _____
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3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more
None			

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Michael Dye

Signature: _____

Date: _____

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PUBLIC PARTICIPATION PLAN

1. The City of Johns Creek will notify all property owners within a quarter mile of the site. What other groups do you intend to contact?

The Gates Homeowners Association and residents which about the property.

Johns Creek Community Association

2. How do plan to contact any interested parties, either before making application or after the city neighborhood meeting, regarding the rezoning/use permit application?

After the application submittal but before the City neighborhood meeting.

3. In addition to the City of Johns Creek neighborhood meeting, do you plan to provide any other opportunities for discussion with interested parties before the PC and M&CC hearings?

Yes, any residents or community groups that express an interest to discuss or meet.

4. What is your schedule for completing the Public Participation Plan?

To be submitted no later that 15 days prior to the Planning Commission meeting.

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PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Johns Creek, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning, Use Permit, & Concurrent Variance in request of the items indicated below.

I, Chinmaya Mission Alpharetta, Inc., authorize, Edge City Properties, Inc.,
(Property Owner) (Applicant)

to file for RZ, at 10725 Jones Bridge Road
(RZ, SUP, CV) (Address)

on this date October 26, 2016
(Month) (Day)

- I understand that no application or reapplication affecting the same land shall be acted upon within 12 months from the date of last action by the City Council.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Johns Creek Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

[Signature] 10/26/2016
Signature of Property Owner Date

SUDHA MALHOTRA (PRESIDENT)
Type or Print Name and Title

W. C. Fields 28 Oct 2016
Signature of Notary Public Date Notary Seal



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PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Johns Creek, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning, Use Permit, & Concurrent Variance in request of the items indicated below.

I, James W. Whitfield, authorize, Edge City Properties, Inc.,
(Property Owner) (Applicant)

to file for RZ at 10655 Jones Bridge Road
(RZ, SUP, CV) (Address)

on this date October 26, 2016
(Month) (Day)

- I understand that no application or reapplication affecting the same land shall be acted upon within 12 months from the date of last action by the City Council.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Johns Creek Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

James W. Whitfield 10-27-16
Signature of Property Owner Date

James W. Whitfield
Type or Print Name and Title

W. G. Fields 2/10/2016
Signature of Notary Public Date Notary Seal



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10655/10725 Jones Bridge Road

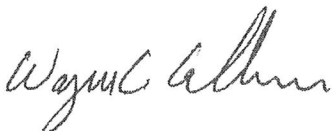
All that certain tract of land located in Land Lots 133, 134, 151, and 152, 1st District, 1st Section, Fulton County, Georgia, consisting of Tract 1 in the name of Chinmaya Mission Alpharetta, Inc. as recorded in Deed Book 48701 at Page 158, less and except that portion of Jones Bridge Road right-of-way dedicated to the State of Georgia as recorded in Deed Book 49941 at Page 9, and Tract 2 in the name of James W. Whitfield as recorded in Deed Book 22786 at Page 321, less and except that portion of Jones Bridge Road right-of-way dedicated to the State of Georgia as recorded in Deed Book 49940 at page 676, all among the land records of Fulton County, Georgia and being more particularly described as follows:

COMMENCING at a concrete right-of-way monument found marking the westerly corner of the mitered intersection of the southeast right-of-way of Jones Bridge Road (a variable width right-of-way) with the southwest right-of-way of Morton Road (a variable width right-of-way) and being a northwest corner of a tract of land in the name of Fulton County, Georgia; THENCE along the said southeast right-of-way of Jones Bridge Road the following four (4) courses and distances: South 45°32'09" West, a distance of 200.04 feet to a concrete right-of-way monument found; South 52°16'53" West, a distance of 102.23 feet to a concrete right-of-way monument found; South 47°13'47" West, a distance of 58.17 feet to a concrete right-of-way monument found; and South 47°35'17" East, a distance of 16.29 feet to a concrete right-of-way monument found marking the division line between the Fulton County tract on the north and said Chinmaya Mission Alpharetta, Inc. on the south, and being the POINT OF BEGINNING;

THENCE departing the said right-of-way of Jones Bridge Road and continuing with the division line between said Fulton County on the north and said Chinmaya Mission Alpharetta, Inc. on the south, the following two (2) courses and distances: South 49°57'22" East, a distance of 358.35 feet to 1/2-inch rebar found; and North 40°43'33" East, a distance of 438.23 feet to a capped 1/2-inch rebar, stamped "LSF000953", set on the said southwest right-of-way line of Morton Road; THENCE with the said southwest right-of-way of Morton Road South 59°40'29" East, a distance of 100.00 feet to a capped 1/2-inch rebar, stamped "LSF000953", set on the division line between said Chinmaya Mission Alpharetta, Inc. on the west and Lot 44, Unit Two, The Gates, by plat recorded in Plat Book 187 at Page 12, among the land records of Fulton County, Georgia, on the east; THENCE departing the said southwest right-of-way line of Morton Road, and continuing with the said division line between Chinmaya Mission Alpharetta, Inc. on the west and Lot 46 through Lot 38 of the said Unit Two, The Gates on the east, South 23°39'24" West, passing a 1/2-inch rebar found at 163.91 feet, passing a 1/2-inch rebar found at 362.04 feet, passing a 1/2-inch rebar found at 432.05 feet, passing a 1/2-inch rebar found at 572.05 feet, passing a 1/2-inch rebar found at 642.11 feet, a total distance of 706.39 feet to a 1/2-inch rebar found at the southeast corner of said Chinmaya Mission Alpharetta, Inc.; THENCE continuing with the division line between said Chinmaya Mission Alpharetta, Inc. on the north and Lots 38, 37, 29, 28, and 27 of said Unit Two, The Gates the following two (2) courses and distances: South 89°28'18" West, a distance of 46.58 feet to a 1/2-inch rebar found; and North 89°30'29" West, passing a 1/2-inch rebar found at 149.86 feet, passing a 1/2-inch rebar found at 304.84 feet, a total distance of 374.00 feet to a 1/2-inch rebar found in the east line of Lot 18, Wynbridge Subdivision by plat recorded in Plat Book 155 at Page 69, at the southwest corner of said Chinmaya Mission Alpharetta, Inc.; THENCE with the division line of said Chinmaya Mission Alpharetta, Inc. on the east and Lot 18 and Lot 19 of the said Wynbridge Subdivision, on the west the following two (2) courses and distances: North 00°30'18" West, a distance of 96.71 feet

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to a 1/2-inch rebar found; and North 00°14'21" East, a distance of 49.19 feet to a 1-inch rebar found at the northeast corner of said Lot 19, Wynbridge Subdivision and the southeast corner of said James W. Whitfield tract; THENCE with the south and west lines of said James W. Whitfield and the north and east lines of Lots 19 and 20 of said Wynbridge Subdivision and the southeast right-of-way of said Jones Bridge Road the following two (2) courses: North 89°28'01" West, passing a 1/2-inch rebar found at 0.07 feet, a total distance of 120.05 feet to a 1/2-inch rebar found at the southwest corner of James W. Whitfield; and North 00°37'26" East, passing a 1/2-inch rebar found at 34.16 feet, a total distance of 283.31 feet to a concrete right-of-way monument found; Thence continuing with the said southeast right-of-way line of Jones Bridge Road the following five (5) courses and distances: North 42°39'35" East, a distance of 166.34 feet to a P.K. Nail set; 11.72 feet along a curve to the right having a radius of 5,896.00 feet and a chord bearing North 42°42'33" East, a distance 11.72 feet to a concrete right-of-way monument found marking the division line between said James W. Whitfield on the west and said Chinmaya Mission Alpharetta, Inc. on the east; continuing North 43°29'42" East, a distance of 20.49 feet to a concrete right-of-way monument found; North 74°09'17" East, a distance of 34.46 feet to a concrete right-of-way monument found; and North 42°50'56" East, a distance of 10.46 feet to the POINT OF BEGINNING. Said tract of land contains 7.449 acres of land, more or less.



Wayne Colburn, RLS 2953

Maxwell-Reddick and Associates
11605 Haynes Bridge Road
Suite 475
Alpharetta, Georgia 30009
404-693-1698



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