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SECOND AMENDED
IMPACT ANALYSIS

and

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

of

THE PROVIDENCE GROUP

for

± 19.324 Acres of Land
located on State Bridge Road
Land Lot 258, 259, and 285 11th District, Fulton County, Georgia

From R-1 to CUP

Submitted for Applicant by:

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I. INTRODUCTION

This Application seeks to rezone ± 19.324 acres of land located in Land Lot 258, 259, and 285, 11th District of Fulton County, consisting of eight (8) parcels along the northern right-of-way of State Bridge Road, approximately 2,800 feet west of its intersection with Medlock Bridge Road (“Subject Property”). More particularly the assemblage consists of 5565 State Bridge Road (Parcel ID: 11 082002850183), 5555 State Bridge Road (Parcel ID: 11 082002850175), 5535 State Bridge Road (Parcel ID: 11 070002580140), 5515 State Bridge Road (Parcel ID: 11 070002580132), 5437 State Bridge Road (Parcel ID: 11 070002580231), 0 State Bridge Road (Parcel ID: 11 070002580249), 5435 State Bridge Road (Parcel ID: 11 070002580173), and 0 State Bridge Road (Parcel ID: 11 070002590206). The Subject Property is currently zoned R-1 (Single Family Dwelling District). The Applicant seeks to rezone the Subject Property to CUP (Community Unit Planned) to develop 104 townhomes, 42 stacked townhomes, and 28 quadplex residences (all owner-occupied) with appurtenant site improvements (“Proposed Development”).

The Subject Property is currently developed with six (6) single family residences fronting directly on State Bridge Road. To the north of the Subject Property are single family residences within the Medlock Bridge neighborhood, zoned R-4A. To the west, the Subject Property abuts an undeveloped parcel, zoned R-1, which is the subject of a concurrent application by the same Applicant (The Providence Group) to rezone to Community Unit Plan District for the construction of 34 townhomes. To the south, the Subject Property abuts the right-of-way of State Bridge Road. Further south, across State Bridge Road, is Cameron Parc, townhomes and single family detached homes zoned TR, as well as State Bridge Crossing Elementary School, zoned R-1. To the east is Johns Creek High School, zoned MIX, which allows, among other uses,

townhomes, quadruplexes and multifamily.

The proposed townhomes will minimum floor area of 1,800 square feet and the other units will have a minimum floor area of 1,300 square feet. The development will offer onsite amenities to attract the future residents, including gated access, pool with a cabana, and multiple pocket parks to preserve and utilize green space. The pocket parks will also function as a gathering spot for the residents to help foster a sense of community. Further adding to the open space, the Applicant is retaining the existing lake as a water feature. The western entrance drive to the Proposed Development will pass over the lake on a graded berm enhancing the entrance to the development and its appearance from the right-of-way. This will not only improve the development's frontage on State Bridge Road, but will also serve as an amenity to be enjoyed by the residents. 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.

Furthermore, the Proposed Development will blend in perfectly with the surrounding uses and will add to the existing developments in the area. The proposed CUP zoning will act as a transition and buffer between the heavily traveled State Bridge Road, classified as a principal arterial, and the single family residential to the north. In fact, the Proposed Development is perfect for the location and the proposed zoning as it clearly aligns 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 residential development suitable for its location on a major roadway, yet compatible with the adjacent single family residential, while preserving a large amount of the natural green space. The Proposed Development will preserve the natural features and vegetation along the undisturbed stream buffer as well as adding several pocket parks and other green space to create scenic and functional open space areas. Moreover, the Proposed Development will comply with the dimensional standards and unit density requirements of the CUP district.

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 R-1 and designated as Warsaw/Morton Road character area transitional zone on the City's Future Land Use Map. The site was rezoned in 1977 pursuant to Fulton County Ordinance Z-77-107 from R-1-C to R-1-C (Residential Single Family Conditional) to revise certain conditions. The Subject Property was portion of a large tract of land at issue in Z-77-107 which occupied both sides of State Bridge Road.

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 adjacent and nearby properties are predominantly residential and institutional (school) uses and the proposed CUP zoning is complementary and suitable to the existing

developments. Appropriate attention to scale, buffering, setbacks, landscaping, and tree preservation has been given by the Applicant to ensure that this Project will blend harmoniously with its surroundings.

Additionally, the proposed townhomes and quadruplexes will complement the adjacent single family residential to the north and the existing school to the east, while providing density more favorable to its location on a major arterial. The Subject Property's situation on State Bridge Road limits its attractiveness for single family detached homes and is more conducive to higher density residential and/or commercial uses. However, its proximity to single family residential limits its intensity. Moreover, the CUP zoning will add a transition and buffer between the heavily traveled State Bridge Road and the existing single family residential properties to the north. As a result, the CUP zoning will add the perfect use given the constraints of the Subject Property and the surrounding uses.

Furthermore, the proposed townhomes and quadruplexes will be in line with the other residential development in the area. To the south, across State Bridge Road, is the Cameron Parc development which is of a similar nature and comparable zoning (TR) as the Proposed Development. The Parc Cameron development contains 41 townhomes, situated closer to State Bridge Road, and 17 single family detached residences, located to the rear of the property away from State Bridge Road. The current application is analogous to the Cameron Parc development in that the nature of the development and zoning are substantially similar. The Applicant, parallel to the Cameron Parc development, seeks to rezone R-1 property to create modern townhomes and quadruplexes that are in accord with the trending development in the area. The Proposed Development is therefore consistent with and suitable in light of the current and future development patterns.

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 adjacent residential to the north nor the existing school to the east. Additionally, the instant Application is being submitted in conjunction with a similar application to rezone the property to west to allow construction of 34 townhome units. As stated in previous paragraphs, the proposed townhome use is harmonious with the adjacent residential and completely compatible with the neighboring school use. The instant Application represents the most favorable zoning and use, given the Subject Property's location on a major roadway and surrounding development.

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 R-1, which limits development to single family dwelling or agricultural, neither of which are suitable given the development patterns in the area. As stated previously, the Subject Property is located on a principal arterial roadway that conveys a large amount of daily traffic. This fact makes it unattractive for the sale of single family homes and is a likely reason that it has remained undeveloped. In fact, the only other single family residential property directly fronting State Bridge Road is located immediately to the west and is the subject of a concurrent application to rezone from R-1 to TR. The fact that single family residential lots are nonexistent along State Bridge Road demonstrates that the Subject Property is not economically viable as currently zoned.

Indeed, it is likely that the Subject Property will remain undeveloped in the future under its current zoning. A rezoning to a favorable district, such as the one now proposed, would allow the development of the property into a practical, useful, and marketable use that will add to the

surrounding community.

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

This Project, if approved, certainly will not affect existing transportation facilities. Requisite parking is provided incidental to this development. As indicated above, the Subject Property has direct access to State Bridge Road classified as principal arterial. *See Johns Creek Transportation Master Plan 2030 Recommended Functional Classification Map.* The traffic to be generated by the proposed Project should not significantly affect traffic capacities along these roadways and surrounding streets, even at peak hours, and can be accommodated.

The Applicant used the Institute of Traffic Engineers (ITE) Trip Generation Manual (Ninth Edition) to calculate vehicle trips for Low Rise Multi-Family (ITE 220). According to ITE, the Proposed Development will generate 1,274 total trips on a weekday, 81 trips during the weekday a.m. peak hour, 97 trips during the weekday p.m. peak hour¹. The Subject Property is located on State Bridge Road, a four-lane state highway classified as a principal arterial, which indicates that the road is intended to carry large volumes of traffic. The Applicant is not aware of any current capacity issues with this major roadway and it is more than adequate to accommodate the additional trips the Proposed Development will generate.

The school children living in the residential portion of the development will attend State Bridge Crossing Elementary School; Autry Mill Middle School; and Johns Creek High School. State Bridge Crossing Elementary School and Autry Mill Middle School are listed as under capacity, and are projected to remain under capacity through 2022. Johns Creek High School is listed as at capacity for the 2018 school year, but enrollment is projected to decrease over the

¹ Refer to the Project Trip Generation letter prepared by Kimley-Horn, dated August 9, 2018, submitted along with this Application.

next five years. *See Fulton County Schools' Historical and Projected Enrollment Report 2014-2022*, dated March 01, 2018. As a result, the proposed development is not anticipated to have a significant 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's current Comprehensive Plan 2009-2030, adopted November 10, 2008 ("Comp Plan") and amended September 8, 2014, depicts the Subject Property as lying within the Warsaw/Morton Road character area and is further defined as being within a distinctive area (also referred to as a transitional area). The Com Plan has the following stated intent for the character area:

"The City envisions that the areas should remain residential. The area along State Bridge Road may experience some development pressure from the commercial nodes at State Bridge Road and Jones Bridge Road and State Bridge Road and Medlock Bridge Road. ... A distinctive area land use zone has been identified along State Bridge Road from the State Bridge Road and Medlock Bridge Road Activity Node up to the Doublegate common area on the south and Medlock Subdivision to the north, including parcels with corridor frontage. **The land uses in this area should be compatible with the established Activity Node.**" *See Johns Creek Comprehensive Plan 2009-2030*, pg. 16. (emphasis added)

The Comp Plan's State Bridge Road/Medlock Bridge Road (SR 141) Activity Node ("Activity Node") lists among the appropriate use as residential 5-12 units per acre. The Proposed Development is offering townhomes and quadruplexes with a total density of 9.0 units per acre, which falls perfectly in line with the type of development anticipated for the Activity Node.

Moreover, the Proposed Development meets a number of stated policies:

- Ensure infill residential development is compatible and sensitive to existing development.

- Afford protection for properties located in a transitional area; compatible height, building placement, densities, massing and scale, buffers, tree protection and other associated site related conditions.
- Promote walkability between homes, schools, shopping, civic uses and open space.
- Provide for a variety of residential types and densities.

In summary, 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 Subject Property was rezoned to R-1 in 1977, a time when State Bridge Road was less heavily traveled and single family residences fronting that road were more common. Since that time, the area has experienced substantial growth and State Bridge Road has evolved into a divided four-lane arterial. As stated in previous paragraphs, there are no other the there are no other residential, R-1 parcels directly accessing State Bridge Road except for the Subject Property and the properties immediately west, which are also the subject of a concurrent rezoning by the same Applicant.² The R-1 zoning that was fitting in 1977, has not kept pace with 40 years of growth that has transformed the area into a much more heavily developed environment with more vehicular traffic on State Bridge.

² There are other R-1 districts along State Bridge Road, such as State Bridge Crossing Elementary School, however none of them contain single family residential uses.

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

As with any undeveloped tract, the 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 and the stream on the southern portion of the property 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.

IV. CONCURRENT VARIANCE

In conjunction with the Applicant's request to rezone the Subject Property, the Proposed Development will also require concurrent variance pursuant to the requirements of Johns Creek Ordinance Sec. 22.9. The Applicant requests the reduction of the 30-foot landscape strip as required in Johns Creek Ordinance Sec. 4.23.2(2) to 15-feet. Johns Creek Code of Ordinances, Section 4.23.2(2) requires a 30-foot landscaped strip along the right-of-way of State Bridge Road. The Subject Property abuts the right-of-way of State Bridge Road to the south, thus requiring the 30-foot landscape strip.

The intent of the landscape strip is to improve the aesthetics of development along the subject right-of-ways. In the instant matter, however, strictly enforcing the full 30-foot landscape strip will detract from the aesthetic appeal of the property. The topography of the Subject Property dramatically slopes downhill from the right-of-way to an existing stream that bisects the property. The proposed design calls for the protection of the stream buffers, pursuant to Johns Creek Stream Buffer Protection Ordinance, Section 109-114, et seq., which limits the

amount of and buildable area of the property and forces the proposed buildings toward the right-of-way.

Consequently, if the 30-foot landscape strip is strictly enforced, the buildings nearest the right-of-way will be dramatically below the existing grade of State Bridge Road. The existing slopes in this portion of the Subject Property are around 40%. The steep slopes, in conjunction with the presence of the stream buffer, prevent the proposed grading design from flattening the grades enough to make the front portion of the development entirely level. The result is a design that will have the proposed improvements on a slope, with the highest grades and residences being at State Bridge Road. The proposed variance to a 15-foot buffer will allow the buildings closest to State Bridge Road to be approximately level with the right-of-way. Conversely, the strict enforcement of the full 30-foot landscape strip pushes the same buildings away from State Bridge Road and downhill, so that only a portion of the second floor is visible from the road and the entire first floor appears submerged. This gives the unappealing look of the development being in a hole and the 30-foot landscape strip actually detracts from the appearance, whereas allowing a reduction to a 15-foot landscape allows the front buildings to be higher and closer to level with State Bridge Road while still providing sufficient landscaping. The Applicant will provide landscaping within the 15-foot strip to enhance the attractiveness of the proposed development. As a result, it is more favorable to allow a reduction in the landscape strip requirement than it would be to enforce it.

Furthermore, the ability to plant the landscape strip along western portion of the Subject Property's frontage is limited due to the presence of the stream buffer closer to the street. At the southwest corner of the property, the 50-foot undisturbed stream buffer, per Johns Creek Code of Ordinances Section 109-118, is less than 25' from the right-of-way line. Therefore, the

reduction in the 30-foot landscape strip is, again, warranted by the natural conditions of the site.

Accordingly, the Applicant respectfully requests that the City grant its request to reduce the requirement for the 30-foot landscape strip as stated in Johns Creek Ordinance Sec. 4.23.2(2) to a width of 15-feet.

V. 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 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 Board of Commissioners' 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 rezoning in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the rezoning 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.

VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the proposed rezoning and comprehensive land use amendment 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.

[Signatures on Following Page]

This 17 day of September, 2018.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'K.M. Zickert', written over a horizontal line.

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