

10/10/2023

Re: **Letter of Intent – CUP Rezoning
Reynolds Farm – 37.79 acres
PEC+ Project No. 23197.00**

Received
January 2, 2024
RZ-24-0001
Planning & Zoning

Dear Community Development Officials,

This application seeks to rezone the approximately 38-acre site known as Reynolds Farm (the “Subject Property,” 5825 Abbotts Bridge Road, PID 11 078003100248) from AG1 to CUP (Community Unit Plan). The change would allow for the development of a new, 38-unit, single-family detached development.

Site, Site History and Proposal

The Subject Property is located at 5825 Abbotts Bridge Road near the northeastern intersection Donnington Drive and Abbotts Bridge Road. The site is bordered by the Standard Club to the east, the Estates at Wellington to the west, and the Park at Wellington to the north. Johns Creek runs through the southeastern corner of the site. A smaller tributary also branches off from the creek, cutting through the site from the southeast corner to the northwest corner.

Of the near 38-acres, 12 acres (nearly 30% of the site) lies in a floodplain or stream buffer area. The proposed 38-unit single family subdivision has a gross site density of 1.0 units per acre of the permitted 5 units per acre in the CUP district. The minimum lot size would be 6,000 square feet to ensure the maximum amount of open space is conserved on the rest of the site. The existing horse barns in the northeastern quadrant of the site will remain, accessed by a small, private road.

Rationale for Request

The proposed rezoning could be in conformity with the policy and intent of the comprehensive plan. This subject property has a future land use designation of Agricultural. However, nearly all of the surrounding properties, barring the Standard Club to the east have a future land use designation of Residential, between 2 and 3 units per acre. As such, the proposed CUP zoning with a proposed density of less than 1 unit per acre is compatible with the neighboring developments, and should be reconsidered in these terms for a future land use designation to match.

While only 10% of the overall site area is required to be set aside for open space, the proposed development is earmarking nearly one third of the site area for open space, including floodplain, stream buffer, wetland, and natural other natural areas, as well as recreational area, with the existing horse barns to remain.

The immediate area is characterized by single-family subdivisions on similarly-sized lots. The proposed development would fit into the character of the existing context and would present a high quality addition to the overall area.

Constitutional Objections

The portions of the Code of Ordinances and Zoning Ordinance for Johns Creek (the "Zoning Ordinance") which classifies or conditions the Property into any more or less intensive zoning classification and/or zoning conditions other than as requested by the Applicant and property owner are unconstitutional, in that they would destroy the Applicant's and property owner's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Zoning Ordinance which presently restricts the Property's use to the present zoning classification, uses, regulations, requirements, and conditions is unconstitutional, illegal, null and void, and constitutes a taking of the Applicant's and the property owner's property rights in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983, and in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States by denying economic and viable use of the Property while not substantially advancing legitimate state interests.

The Property is presently suitable for CUP as proposed in the requested rezoning, as amended by the Applicant, and is not economically suitable for uses restricted under its present zoning and development classification, conditions, regulations, and restrictions due to its location, shape, size, surrounding development, and other factors. A denial of the requested rezoning and related variances would constitute an arbitrary and capricious act by Johns Creek and the City council without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment. A refusal by Johns Creek and the City council to approve this requested rezoning, with only such additional conditions as agreed to by the Applicant and/or owner, so as to permit the only feasible economic use of the Property, would be unconstitutional between the Applicant, owner, and similarly situated property owners, in violation of Article I, Section I, Paragraph II of the Constitution of the State by discriminating of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment.

Conclusion

The applicant and owner respectfully request that the Johns Creek City council, Planning Commission and Planning Staff approve and support the Applicant's rezoning request to allow for the development of a new, single-family detached conservation subdivision. The developer and their representatives welcome the opportunity to meet with all interested parties and representatives.

Sincerely,

Hayley Todd

Zoning Manager, Planners and Engineers Collaborative, Inc.