

LETTER OF INTENT
and
IMPACT ANALYSIS

and

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

of

THE PROVIDENCE GROUP OF GEORGIA, LLC

for

± 6.067 Acres of Land
located on Fox Road in
Land Lot 197, 1st District, Fulton County, Georgia

From AG-1 and C-1 to NUP

Submitted for Applicant by:

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RZ-25-0001 & VC-25-0001
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I. INTRODUCTION

This Application seeks to rezone a ± 6.067-acre tract of land consisting of two parcels (Parcel IDs 11 054001970205 and 11 054001972136) located in Land Lot 197, 1st District of Fulton County and within the City of Johns Creek (“Subject Property”). The Subject Property is more specifically located at 11705 Fox Road and 11720 Jones Bridge Road. The Subject Property is currently zoned Agricultural District (AG-1) (±4.892-acres) containing one single-family home with several garden sheds and Community Business District (C-1) (±1.175-acres) currently used as material and equipment storage for a landscaping company. The Providence Group of Georgia, LLC (“The Providence Group” and/or “Applicant”) seeks to rezone the Subject Property to Neighborhood Unit Planned (NUP) to develop twenty (20) single-family detached residences (all owner-occupied) with accessory site improvements (“Proposed Development”).

The Providence Group is one of Atlanta’s most respected names in homebuilding, known for well-crafted new homes with a personal touch. It specializes in thoughtfully designed communities and intelligently crafted homes, built to standards that are elevated above and beyond the norm.¹ Examples of The Providence Group’s communities in Johns Creek include Knollwood on Parsons Road (currently under construction) and Bellmoore Park, both of which have homes similar in size to what is proposed for the Subject Property. With its experience in developing numerous communities in Johns Creek and throughout the region, it seeks to provide the same high-level of standards to the Proposed Development. The Providence Group’s vision for the Proposed Development is 20 single-family detached homes located on minimum 5,000 square foot lots² in a gated community. The development will include common areas in the form of pocket

¹ See The Providence Group of Georgia’s website at: <https://theprovidencegroup.com/about>.

² The NUP district requires a minimum lot size of 4,000 square feet.

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

parks and a central gathering area. In addition, the residents will have walkable access to nearby Webb Bridge Park, a ±109-acre public park, thus providing easy pedestrian connection to the area's amenities.

The Subject Property's two parcels are zoned AG-1 and C-1 and are both remnant zoning districts that are out of step with the current development trends in the area. The existing home on the AG-1 parcel was developed in 1970, at a time when much of the surrounding area was either farmland or large, residential estate lots. In fact, the AG-1 parcel is one of the few remaining agricultural zoned residential parcels in the area, while the remainder of the surrounding land has been developed with suburban neighborhood development. It is widely known that the AG-1 designation was considered a "holding pattern" by Fulton County until a future rezoning, which should also be true in the City of Johns Creek. The current AG-1 zoning thus is out of step with the residential development in the area and makes the property a prime candidate for redevelopment. In addition, the Subject Property's C-1 zoned parcel is an undeveloped remnant of the existing commercial development along Jones Bridge Road and Kimbal Bridge Road. The balance of the C-1 tract was developed as the Shoppes at Jones Bridge retail shops and other commercial development³, while the Subject Property's C-1 parcel has remained vacant. The Subject Property's C-1 parcel is land-locked with no direct access to adjacent roadways and located behind existing commercial developments. The C-1 parcel's location away from view corridors and behind existing development makes it unattractive for commercial use and is likely to remain vacant. As a result, the Subject Property is in a prime position for redevelopment into a modern, upscale residential community.

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

³ The majority of the commercial development, including the Shoppes at Jones Bridge, occurred in between 2002 and 2005.

The Proposed Development and the requested NUP district are also compatible and harmonious with the existing development and zoning in the area. The Subject Property is in an area characterized by a variety of single-family detached subdivisions, public park space, and residentially aligned commercial uses (e.g. retail, restaurant, and self-storage, among others). To the north and east, the Subject Property borders several single-family lots within the Fox Glen subdivision, all zoned Community Unit Planned district (CUP). To the south, the Subject Property borders property zoned C-1 and developed with an Extra Space Storage self-storage facility and the Shoppes at Jones Bridge retail shops. To the west, the Subject Property abuts the right-of-way of Fox Road. Further west is a senior assisted living facility, Addington Place of Johns Creek, zoned Office Institutional (O-I), and Webb Bridge Park, a City of Alpharetta public park. The proposed subdivision of 20 single-family detached homes is an appropriate and compatible use given the existing development and uses in the area.

The Proposed Development is also in alignment with the City of Johns Creek’s long-term vision for development in the area. The Connect Johns Creek Comprehensive Plan 2018-2028 (“Comp Plan”) identifies the property as being within the Johns Creek North Community Area and the future land use as Residential and Commercial. The Comp Plan also specifically identifies the Subject Property as a candidate for future residential development.⁴ The Comp Plan proposes residential development at 3 units per acre and the proposed development is slightly higher at 3.29 units per acre. The Applicant’s request would allow a residential product that is commensurate with existing residential homes in the area. For example, the Proposed Development’s ±3,200 square foot, 4-bedroom homes are comparable in size to the slightly larger homes within adjacent

⁴ See Connect Johns Creek Comprehensive Plan 2018-2028, pgs. 72-73.

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

Fox Glen subdivision.⁵ In addition, the Subject Property acts as a transition from the adjacent commercial along Kimball Bridge Road and Jones Bridge Road and the existing single family to the north. One of the basic tenants of land use planning is the ability to transition in intensity so that incompatible uses are not located adjacent to each other. In this case the Applicant's slightly higher density will allow a transition in intensity from the commercial to the south and the Fox Glen subdivision to the north.⁶ Thus, the Applicant's proposal will be harmonious and completely compatible with the existing development in the area today.

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 §§ 28.4.1 and 28.4.2. A Development Plan, pursuant to Johns Creek Zoning Ordinance § 11.2.3, has been filed simultaneously with this Application, along with other required materials.

II. HISTORY

The Subject Property is zoned AG-1 and C-1 and designated as being within the as Johns Creek North Community Area per the City's Comp Plan. There is no history of the site being previously rezoned either in the City of Johns Creek or Fulton County.

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, public space (Webb Bridge Park), and commercial uses which are compatible with the proposed single-family development. The

⁵ According to the Fulton County Tax Map records, homes within the Fox Glen subdivision average between $\pm 3,200$ and $\pm 4,200$ square feet in size.

⁶ The Fox Glen subdivision is limited to 2.99 units per acre, per Rezoning Ordinance Z-97-0111.

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 ±3,200 sf single family homes are comparable to what exists in the surrounding developments. In addition, the Proposed Development will incorporate open spaces and setbacks 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 uses. To mitigate potential impacts, if any, the Proposed Development will incorporate appropriate setbacks. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. In the current case, the Proposed Development acts as a transition from the more intense commercial to the south and the less intense Fox Glen subdivision to the north. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on a particular property to protect adjacent properties from adverse effects. To achieve the onsite transition, the proposed site design will incorporate a 40-foot setback along the property lines adjacent to the existing Fox Glen subdivision. The result is a development that is completely compatible and harmonious with the surrounding existing development.

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

3.

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

As noted in previous paragraphs, the Subject Property is currently zoned AG-1 and C-1. The AG-1 district limits development to single family dwellings on a minimum one-acre lot or agricultural uses, neither of which are suitable given the development patterns in the area. Similarly, the C-1 district limits development primarily to commercial uses, which are not suitable for the Subject property given its limited visibility and land-locked location to the rear of existing commercial development. The AG-1 and C-1 zoning districts are out of step with development trends and prohibit the practical development of the Subject Property. Instead, the Applicant request to rezone to NUP will allow the Subject Property's development is in line with other existing single-family subdivisions in the area.

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 (Ninth Edition), to calculate vehicle trips for the Proposed Development. The Trip Generation Memo notes that the twenty (20) single family homes (ITE category 210) will generate ±190.4 total trips on a weekday, ±15.4 trips during the A.M. peak hour, and ±20.4 trips during the P.M. peak hour. Thus, the Proposed Development's vehicular trips are not anticipated to cause any significant detrimental impacts on the adjacent roadways. The Proposed Development will have direct access

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

to Fox Road, which is classified as a Local Road.⁷ The development is also a short distance from Kimball Bridge Road⁸ and Jones Bridge Road, both of which are classified as Minor Arterials.⁹ Minor Arterials are intended for higher volumes of traffic and will easily accommodate the Proposed Development's minor amount of vehicular trips. As an example, there are approximately 32,800 daily trips on Kimball Bridge Road¹⁰ and approximately 20,700 trips on Jones Bridge Road.¹¹ The Proposed Development's anticipated daily trips only constitute $\pm 0.58\%$ of the trips on Kimball Bridge Road and $\pm 0.92\%$ of the total trips on Jones Bridge Road. Because the Subject Property is located in proximity to major roadways, its impact on traffic is anticipated to be minimal.

Any school children living in the development will attend Lake Windward Elementary School, Webb Bridge Middle School, and Alpharetta High School. Windward Elementary and Alpharetta High School are listed as under capacity and Webb Bridge Middle School is at capacity, but enrollment is projected to decline in the near future.¹² The minor number of homes are not anticipated to generate a large number of students; thus, the Proposed Development is not anticipated to negatively impact on local schools.

As for utilities, water and sewer are available to serve the site.

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

⁷ See *Johns Creek Transportation Master Plan 2030 Recommended Functional Classification Map*.

⁸ Fox Road's only outlet is onto Kimball Bridge Road.

⁹ See *Johns Creek Transportation Master Plan 2030 Recommended Functional Classification Map*.

¹⁰ Trip information gathered from the Georgia Department of Transportation's Traffic Station 121-0314 located on Kimball Bridge Road east of Cottonton Road.

¹¹ Trip information gathered from the Georgia Department of Transportation's Traffic Station 121-0868 located on Jones Bridge Road north of Roswell Mill Drive.

¹² See *Fulton County Schools Historical and Projected Enrollment 2016-2026*.

5.

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

As noted in the paragraphs above, the City of Johns Creek Comp Plan depicts the Subject Property as being within the Johns Creek North Community Area. The Comp Plan describes the Johns Creek North Community Area as a premiere residential community¹³ and specifically identifies the Subject Property as one of the last remaining areas which should be developed for residential use.¹⁴ The Applicant's proposal for single-family residential 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

As noted in the previous paragraphs, the existing home on the Subject Property was built in 1970, at a time when the area was rural in character. Over the past fifty-five years, much of Johns Creek, including the Johns Creek North 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. In addition, the commercially zoned C-1 parcel is an undeveloped remnant from the remaining commercial that was built along Jones Bridge Road. This parcel's location away from major roadway view corridors will result in its remaining vacant absent a rezoning to a more applicable district. The

¹³ See Comp Plan, pg. 70.

¹⁴ *Id* at pgs. 72-73.

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

Applicant’s proposal to rezone to NUP will bring the Subject Property into alignment with the development trends in the area and allow a practical and fitting residential development.

7.

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 some trees and other land disturbance activities. That being said, there are no significant natural features on the Subject Property that require special protection. 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.¹⁵

Received
February 4, 2025
RZ-25-0001 & VC-25-0001
Planning & Zoning

IV. CONCURRENT VARIANCE ANALYSIS

The Applicant is seeking one concurrent variance to reduce the interior side building setback from 7-feet to 5-feet (§11.2.4.K):

A. JOHNS CREEK CODE OF ORDINANCES § 11.2.4.K TO REDUCE THE INTERIOR BUILDING SEPARATION FROM 14 FEET TO 10 FEET.

Johns Creek Code of Ordinances § 11.2.4.K requires a minimum 14-foot separation between buildings along interior side lot lines. The Applicant seeks to reduce the interior side setbacks to a 10-foot separation between buildings, to allow the efficient layout of the property. The Subject Property is a long narrow property with a required 40-foot setback along the northern and eastern property lines adjacent to the Fox Glen subdivision. The property’s peculiar shape

¹⁵ The stormwater design will be completed prior to issuance of the land disturbance permit.

coupled with the setback requirement forces the proposed homes toward the center of the property and closer together. It should be noted that if the 40-foot setback were reduced the homes, it would give more room to accommodate the 14-foot separation. However, in conversations with City of Johns Creek Planning Staff, the preference was to preserve the 40-foot setback along the Fox Glen lots. Alternatively, the strict enforcement of both the 40-setback and the 10- interior building separation would require a much smaller home footprint that is not in step with the surrounding neighborhoods. This would preclude the practical development of the Subject Property. Instead, what the Applicant proposes is a slight reduction in the side yard to allow both a fitting home size and accommodate the full 40-foot setback adjacent to the Fox Glen subdivision. The Applicant's request is also aligned with the 5-foot setbacks within the adjacent Fox Glen subdivision.¹⁶ Accordingly, the Applicant's request is commensurate with existing and recent developments in the City and would allow a residential development consisting of homes that are comparable in size to what is existing in the area today.

Pursuant to the City of Johns Creek Zoning Ordinance § 22.3 the criteria for granting a variance are met. First, relief is in harmony with the general purpose and intent of the Zoning Ordinance. Second, the application of the building separation to the Subject Property creates an unnecessary hardship for the owner due to extraordinary and exceptional conditions because of its size, shape, or topography and would not cause any detriment to the public.

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 and/or conditions except those requested is

¹⁶ Refer to the Z-97-111 conditions.

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Planning & Zoning

unconstitutional and that rules relative to the Subject Property owner’s right to use the Property established in the City of Johns Creek Zoning Code, to the extent they prohibit the Proposed Development are unconstitutional and 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 City of Johns Creek’s failure to approve the requested Rezoning and Concurrent Variance 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 and Concurrent Variance 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.

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Planning & Zoning

A refusal to allow the Rezoning and Concurrent Variances 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.

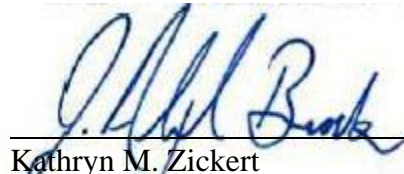
Opponents to this request, if any, lack standing; have failed to exhaust administrative remedies; and have waived their rights to appeal by failing to assert legal and constitutional objections.

VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the proposed rezoning and concurrent variance 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 4th day of February, 2025.

Respectfully submitted,



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