

Letter of Intent, Zoning Impact Analysis and Environmental Site Analysis

Presented by:

Northcorner, LLC

Received
August 6, 2024
RZ-24-0008 &
VC-24-0007
Planning & Zoning

Proposed Development:

9675 Brumbelow Rd. Alpharetta, Ga 30022

+/- 1.00 Acres

Zoning from: **AG1 to R-4A**

2 residential lots

INTRODUCTION

This zoning petition is filed with the intent to rezone real property located at 9675 Brumbelow Rd. Johns Creek, Ga 30022, Tax Id: 12-3180-0925-029-2, (the “Property”) from AG1 to R-4A. The Property consists of approximately 1.0 acres of land where the north and east sides abut the Estates at Deerchase subdivision (“Deerchase Subdivision”) while the southern property line abuts the Queensbury East subdivision. The Petitioner seeks to rezone the Property to R-4A in order to develop two single family detached residences consisting of a minimum floor area of 3,000 square feet each. Petitioner proposes to have exterior finishes being comprised of roughly 10% stone, 50% brick and 40% siding. The proposed residential lots will have a minimum of 12,000 square feet with front, side and rear setbacks being 35’, 7’ and 25’ respectively. This letter of intent is submitted along with the impact analysis as required by City of Johns Creek Zoning Ordinance Sec. 28.4.1 and 28.4.2. Appended to this document is a preservation of the Petitioner’s Constitutional rights and incorporates such rights in the letter of intent as submitted herein. See Exhibit “A”.

II. IMPACT ANALYSIS

1. **THE ZONING PROPOSAL PERMITS A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTIES.**

The Property is primarily surrounded by residential uses zoned R-4A and CUP which are compatible with the R-4A zoning. In comparison to the CUP zoning of the Deerchase Subdivision, the proposed two (2) lot development will have larger residential lots (less density) and more green space for each lot. The conditions under the CUP zoning for Deerchase Subdivision requires residential lots fronting Brumbelow road to have a minimum square footage of 14,000 square feet without providing any green space for each lot. In contrast to the proposed zoning, Petitioner proposes lot sizes that are, at a minimum, 12,000 square feet each. Petitioner, is requesting the elimination of the common open space requirement. This request is reasonable given that the two residential lots will have common driveway and abundant greenery as a buffer between the right-of-way of Brumbelow Road and the common driveways. This variance request is reasonable given that the City of Johns Creek is requiring both residential lots to have access from one (1) driveway rather than two (2) separate driveways for each residence. Due to this restriction on the two residential lots, the Petitioner is burdened by having to provide a common open space of driveways and have a smaller backyard. Unlike other multi-lot developments where each residence would be

afforded its own driveway, this requirement by the City of Johns Creek places a burden on the Petitioner that tends to reduce the overall usability of the residential lots compared to lots in the Estates at Deerchase Subdivision which, in reality, would have an adverse effect on the property values on the homes built in the Deerchase Subdivision.

2. THE ZONING PROPOSAL DOES NOT ADVERSELY AFFECT ANY ADJACENT PROPERTIES.

The proposed zoning will not have any adverse effects on adjacent properties. As mentioned above, the proposed residences conform with adjacent residential zonings.

3. THE CURRENT ZONING DOES NOT AFFORD THE PETITIONER A REASONABLE ECONOMIC USE.

The Property is currently zoned AG1, which limits the Petitioner to a single-family dwelling and agricultural uses. By developing the Property, the Property will be utilized in a manner that is reasonable given the adjacent, Deerchase Subdivision.

4. THE ZONING PROPOSAL WILL NOT RESULT IN EXCESSIVE BURDENS ON THE EXISTING INFRASTRUCTURE.

By developing the driveways of the two (2) lots to provide a single point of access to Old Alabama road, the wear and tear on paving will be significantly reduced and serve to minimize any burdens on the city's right-of-ways.

Consequently, the addition of two (2) residences on Brumbelow road would not have any adverse impact on the traffic capacity of Brumbelow road.

5. **THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICIES AND INTENT OF THE NEWTOWN CHARACTER AREA.**

The City Comprehensive Plan 2018, adopted October, 8th 2018 identifies the Property to be in the Newtown character area. (“Newtown Area”) The intent of the city in designating the Newtown Area as a “place where you can live, work and play”. Given the proximity of the Property to Newtown Park, Petitioner’s proposal to develop residences just minutes to the park provides the ideal balance to the Newtown Area.

6. **THE ZONING PROPOSAL SHOULD BE APPROVED BASED ON THE EXISTING ZONING CONDITIONS WHICH ADVERSELY AFFECT THE USE AND DEVELOPMENT OF THE PROPERTY.**

In its current state, the Property is zoned as AG-1. This does not allow for the kind of gated community proposed by Petitioner. In its current state, the AG-1 zoning makes the Property economically unfeasible to develop for the builder given its history as a formerly dilapidated¹ dwelling.

¹ Petitioner demolished the formerly dilapidated building to improve the aesthetics of Brumbelow Rd. and to prevent rodents from infesting the property.

7. THE ZONING PROPOSAL DOES NOT HAVE ANY ADVERSE AFFECTS ON THE NATURAL RESOURCES, ENVIRONMENT AND CITIZENS OF THE CITY OF JOHNS CREEK.

The Petitioner acknowledges that vegetation will have to be removed in order to construct homes on the land. However, upon completion of the proposed residences, all exposed soils will be covered with vegetation (sod, shrubs, flowers, mulch) so as to minimize any concerns about erosion. Furthermore, there are no natural resources featured on the Property that would require a buffer.

II. ENVIRONMENTAL SITE ANALYSIS

1. Currently, the parcel consists of a 1.0-acre lot with an existing single-family dwelling. The project consists of demolishing the house and building two (2) single-family dwellings on .5-acre parcels. The comprehensive land use maps calls for a density of no more than 3 units per acre. In this zoning application, the applicant proposes a density of 2 units per acre which conforms to the density requirements of the Newton character area.
2.
 - a. Wetlands: None present, N/A
 - b. Floodplain: None present, N/A
 - c. Streams/stream buffers: None present, N/A
 - d. Slopes Exceeding 25 percent over a 10-foot-rise in elevation: None present, N/A

- e. Vegetation: The parcel has very minimal vegetation present.
- f. Wildlife species (including fish): None present, N/A
- g. Archeological/Historical Sites: None present, N/A

3.

- a. N/A
- b. Developer will comply with Erosion, Soil, Pollution, Control Plan (ESPCP) as required.
- c. N/A
- d. N/A
- e. This parcel lacks any of the elements indicating an environmentally stressed community.
- f. A landscape strip of 25' will be provided to ensure green space is present on the parcel.
- g. No noise or lighting permitted after working hours.
- h. N/A
- i. The project will have minimal impact on wildlife habitats.

CONCLUSION

For the reasons stated above, Petitioner respectfully requests the proposed rezoning to R-4A be granted with the elimination of the open space requirement. In addition, Petitioner invites any and all City of Johns Creek staff, officials, city council members and mayor for input to facilitate the approval of this rezoning petition.

Respectfully Submitted,

This 5th day of August, 2024.

NORTHCORNER, LLC



John Jamont, Member

Exhibit “A”

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 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.