

RZ-20-002
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NOV 12 2019

City of Johns Creek
Community Development

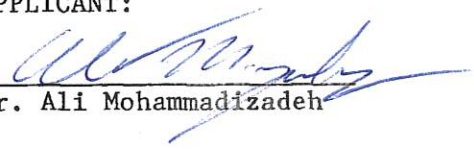
LETTER OF INTENT


The property contains approximately 0.902 acres and is located on the southerly side of McGinnis Ferry Road and is commonly known as 8125 McGinnis Ferry Road (the "Property"). The Property is presently zoned to the AG-1 Classification.

The Applicant requests a rezoning to the O-I Classification for the development of the Property as a one (1) story medical office building containing approximately 3,750 square feet which results in a per acre density of 4,157.43 square feet. The Applicant intends to use the building for his dental office practice. The Comprehensive Land Use Plan suggests residential use of the Property at a density of 1 unit per acre. However, it is to be noted that to the west of the Property is a mixed use development at the intersection of McGinnis Ferry Road and Bell Road and that directly to the north of the Property on the northerly side of McGinnis Ferry Road in Forsyth County is a Master Plan District development containing retail and further to the northwest of the Property also in Forsyth County at the intersection of McGinnis Ferry Road and Old Alabama Road are two (2) Commercial Business District developments containing office and retail uses. After numerous iterations of the Site Plan as coordinated with Staff, it has been determined that no variances, either concurrent or administrative, shall be necessary for the development of the Property. Lastly, it is to be noted that the Mayor and City Council adopted in February, 2018 a Resolution known as "iHeart Johns Creek" which has its focus healthcare, innovation and wellness. This rezoning request is therefore entirely appropriate and the appropriateness of this Application for Rezoning and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this Application for Rezoning be approved as submitted in order that the Applicant be able to proceed with the lawful use and development of the Property.

APPLICANT:


Dr. Ali Mohammadizadeh


Nathan V. Hendricks III
Attorney for the Applicant

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Exhibit "A"

APPROPRIATENESS OF APPLICATION
AND
CONSTITUTIONAL ASSERTIONS

The portions of the Zoning Resolution of the City of Johns Creek as applied to the subject Property which classify or may classify the Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant'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 to the Constitution of the United States.

The application of the Zoning Resolution of the City of Johns Creek to the Property which restricts the use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant'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 the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate State interests.

A denial of this Application would constitute an arbitrary and capricious act by the Johns Creek City Council without any rational basis therefore 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 the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Johns Creek City Council to approve this Rezoning Application as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitutions 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 this Application subject to conditions which are different from the conditions requested by the applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.