



CITY OF ALPHARETTA

ROAD ABANDONMENT REQUEST FORM

Please check all information supplied on the following pages to ensure that all spaces are filled out completely and accurately and that all required supporting materials have been supplied before signing this form.

Please make your check payable to "City of Alpharetta". The application fee is \$400, which must be submitted at the time of application.

Remit 5 copies of this application, an electronic copy in a pdf. format on a flashdrive and fee to the Department of Community Development, 2 Park Plaza, Alpharetta, GA 30009. If you have questions, please contact the department by calling 678-297-6070.

| FOR OFFICE USE ONLY | |
|--------------------------|----------------|
| Case # | PH-24-16 |
| Date In | 7/24/24 |
| Date Out | |
| <input type="checkbox"/> | \$400 Fee Paid |

Applicant Information:

Contact Name Miles Hansford, LLC - J. Ethan Underwood

Company Name KAJ Asher Freedom Properties LLC

Mailing Address 3396 Carverton Lane

City Alpharetta State GA Zip Code 30022

Telephone 770-781-4100 Fax _____

Email Address eunderwood@miles hansford.com / tfisher@miles hansford.com

Property Information:

Current Road Name Manning Street

Land Lot(s) 1268 District / Section 2nd / 2nd

The subject property for which abandonment is being requested is identified by (select one):

Survey Dated July 9, 2024 Prepared By GA Land Surveyor, LLC - Caleb A. McGaughey

Other Plat Specify _____

Reason For Request:

In the space provided, please explain the reason for which you are requesting abandonment of the subject property. Please attach additional pages if necessary.

Manning Street is narrow right-of-way owned and maintained by the City of Alpharetta. Manning Street is primarily used as alternate access points for the adjacent properties. Manning Street dead ends into a gated private parking lot owned and maintained by Alpharetta First Methodist Church, Inc. Manning Street is not the primary access point for any adjacent properties. The Applicant is proposing that adjacent property owners enter into a private easement agreement for the maintenance and use of Manning Street.

Is any portion of the subject road to be included in the sale of property? Yes No N/A

Please describe the location and the acreage involved.

Manning Street is a public right-of-way located along Academy Street, east of the intersection of North Main Street and Academy Street. Manning Street is 0.402 acres, more or less, and is more fully described on the survey submitted with this Application and incorporated herien by reference.

Is an alternate road proposed in lieu of the road to be abandoned? If "yes", please attach a site plan indicating the location of the proposed substitute road. Yes No

Will access be denied to any property as a result of this road abandonment? If "yes", please list these properties by address, including owner's name and telephone number. Attach additional sheets if necessary. Yes No

| Name | Address | Telephone |
|-------|---------|-----------|
| N/A | N/A | N/A |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

For properties that have frontage on the subject road, are there alternate points of access to enter and exit these properties? If yes, please identify alternate points of access for each property. Attach additional sheets if necessary. Yes No

| Address | Alternate Access Point |
|--|------------------------|
| 21 North Main Street, Alpharetta, GA 30009 | North Main Street |
| 31 North Main Street, Alpharetta, GA 30009 | North Main Street |
| 55 North Main Street, Alpharetta, GA 30009 | North Main Street |
| 42 Academy Street, Alpharetta, GA 30009 | Academy Street |
| _____ | _____ |

Please provide ten (10) copies of a boundary survey showing the proposed road abandonment, all utility locations, existing rights-of-way, acreage and contiguous property owners. Include a location map on the survey and a legal description of the subject roadway.

Please be advised that the City of Alpharetta may require a traffic study and property appraisal in conjunction with this petition.





Miles Hansford, LLC

ATTORNEYS AT LAW

202 Tribble Gap Road · Suite 200 · Cumming, GA 30040
178 S Main Street · Suite 310 · Alpharetta, GA 30009
Phone 770.781.4100

MilesHansford.com

J. Ethan Underwood
eunderwood@MilesHansford.com

July 12, 2024

CAMPAIGN DISCLOSURE

Applicant: KAJ Asher Freedom Properties LLC
Subject Property: 0.402 Acres Designated as Manning Street
Governing Jurisdiction: City of Alpharetta

To Whom It May Concern:

Pursuant to Section 36-67A-3 of the Official Code of Georgia Annotated, adopted by the Georgia General Assembly, effective July 1, 1986, please be advised that as of the date of this letter, Miles Hansford, LLC has made the following campaign contributions to local officials of the Governing Jurisdiction:

- **April 26, 2023 - \$500 to Councilman Fergal Brady**
- **May 3, 2023 - \$500 to City Councilman John Hipes**

This letter constitutes the disclosure of campaign contributions with respect to the above-referenced application.

Sincerely,

Ethan Underwood
Attorney for Applicant



Miles Hansford, LLC
ATTORNEYS AT LAW

202 Tribble Gap Road · Suite 200 · Cumming, GA 30040
178 S Main Street · Suite 310 · Alpharetta, GA 30009
Phone 770.781.4100

MilesHansford.com

J. Ethan Underwood
eunderwood@MilesHansford.com

RESERVATION OF CONSTITUTIONAL AND OTHER LEGAL RIGHTS

Applicant: KAJ Asher Freedom Properties LLC
Subject Property: 0.402 Acres Designated as Manning Street
Governing Jurisdiction: City of Alpharetta

This Reservation of Constitutional and Other Legal Rights (“the Reservation”) is intended to supplement and form a part of the land use application (including any request for zoning, conditional use permit, site plan approval, and variances) (collectively, the “Application”) of the Applicant and the owners of the Subject Property (collectively, the “Owner”) and to put the Governing Jurisdiction on notice of the Applicant’s assertion of its constitutional and legal rights.

The Applicant has filed a timely application, has provided all required information and has submitted the appropriate application fees. The Application meets all judicial and statutory requirements for approval.

The Applicant objects to the standing of any opponents who are not owners of land adjoining the Subject Property and to the consideration by the Governing Jurisdiction of testimony or evidence presented by any party without standing in making its decision regarding the Application. The Applicant also objects to the consideration of testimony or evidence that is hearsay, violates any applicable rules of procedure or evidence, or that is presented by any party who fails to comply with notice and campaign disclosure requirements.

The Current Zoning (and/or zoning conditions) of the Subject Property is unconstitutional and deprives the Subject Property and all viable economic use thereof. The Proposed Use is the only viable economic use of the Subject Property, and the Governing Jurisdiction has deemed this Application necessary to allow the Proposed Use. As such, the Applicant and Owner file this Application for the purpose of changing the Current Zoning (and/or zoning conditions and requesting variances) to facilitate the Proposed Use, and to exhaust administrative remedies in the event the Application is denied. As such, the filing of this application is not an admission of the need for any such approval of the Applicant’s right to develop the property. The Applicant and Owner reserve the right to challenge the Current Zoning and any zoning conditions and other restrictions affecting the Subject Property.

Denial of the Application or approval of the Application in any form that is different than as requested by the Applicant will impose a disproportionate hardship on the Applicant and Owner of the Subject Property without benefiting any surrounding property owners. There is no reasonable use of the Subject Property other than as proposed by the Application and no resulting benefit to the public from denial of or modification to the Application.

Any provisions in the applicable land use, subdivision, and /or zoning ordinances (collectively the “Zoning Ordinance”) that classify, or may classify, the Subject Property into any of the non-requested zoning or use classifications, including the Proposed Zoning District and Proposed Use at a density or intensity less

than that requested by the Applicant, are unconstitutional in that they constitute a taking of the Applicant's and Owner's property rights without first paying fair, adequate, and just compensation for such rights in violation of Article I, Section III, Paragraph I of the Georgia Constitution of 1983, as amended and the Fifth and Fourteenth Amendments to the Constitution of the United States.

The Subject Property is suitable for development as proposed in the Application and it is not suitable for development under any other zoning classification, use, or at a density or intensity less than that requested by the Applicant. Failure to approve the Application as requested by the Applicant would be an unreasonable application of local land use authority, which bears no relationship to the public health, safety, morality or general welfare of the public and would constitute an arbitrary and capricious abuse of discretion in violation of Article I, Section I, Paragraph I of the Georgia Constitution of 1983, as amended and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the Governing Jurisdiction to approve the Application as requested by the Applicant will prohibit the only viable economic use of the Subject Property, will be unconstitutional and will discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Owner and the owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Georgia Constitution of 1983, as amended, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Governing Jurisdiction to approve the Application as requested by the Applicant without the consent of persons elected to the governing body of the Governing Jurisdiction will amount to an unlawful delegation of the Governing Jurisdiction's authority, in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution of 1983, as amended.

Furthermore, the Governing Jurisdiction cannot lawfully impose more restrictive standards on the Subject Property's development than are presently set forth in the Zoning Ordinance. Any conditions or other restrictions imposed on the Subject Property without the consent of the Applicant and Owner that do not serve to reasonably ameliorate the negative impacts of the development are invalid and void. The imposition of improvements or design requirements unnecessary to facilitate the proposed development constitute an illegal impact fee, an unconstitutional condemnation, or both. As such, the Applicant and Owner reserve the right to challenge any such conditions, restrictions, or design requirements.

The Applicant and Owner assert that each has expended substantial sums and significantly changed its economic position in reliance upon versions of the Zoning Ordinance that allow the development of the Subject Property as proposed by the Applicant. As such, the Applicant has acquired vested rights to develop the property and the filing of this Application shall not constitute a waiver of those vested rights.

Finally, the Applicant and Owner assert that the current Zoning Ordinance, Character Area Map, Future Development Map and Comprehensive Plan were not adopted in compliance with the laws or constitutions of the State of Georgia or of the United States, and a denial of the Applicant's request based upon provisions illegally adopted will deprive the Applicant and Owner of due process under the law.

By filing this Reservation, the Applicant reserves all rights and remedies available to it under the United States Constitution, the Georgia Constitution, all applicable federal, state, and local laws and ordinances, and in equity.

The Applicant and Owner respectfully request that the Application be approved as requested by the Applicant and in the manner shown on the Application, which is incorporated herein by reference. This Reservation forms an integral part of the Application, and we ask that this Reservation be included with the Applicant's other Application materials. The Applicant and Owner reserve the right to amend and supplement this Reservation at any time.

Sincerely,



Ethan Underwood
Attorney for Applicant



Miles Hansford, LLC
ATTORNEYS AT LAW

202 Tribble Gap Road · Suite 200 · Cumming, GA 30040
178 S Main Street · Suite 310 · Alpharetta, GA 30009
Phone 770.781.4100

MilesHansford.com

J. Ethan Underwood
eunderwood@MilesHansford.com

July 12, 2024

CAMPAIGN DISCLOSURE

Applicant: KAJ Asher Freedom Properties LLC
Subject Property: 0.402 Acres Designated as Manning Street
Governing Jurisdiction: City of Alpharetta

To Whom It May Concern:

Pursuant to Section 36-67A-3 of the Official Code of Georgia Annotated, adopted by the Georgia General Assembly, effective July 1, 1986, please be advised that as of the date of this letter, Miles Hansford, LLC has made the following campaign contributions to local officials of the Governing Jurisdiction:

- **April 26, 2023 - \$500 to Councilman Fergal Brady**
- **May 3, 2023 - \$500 to City Councilman John Hipes**

This letter constitutes the disclosure of campaign contributions with respect to the above-referenced application.

Sincerely,

Ethan Underwood
Attorney for Applicant

Legal Description

All that tract or parcel of land lying and being in Land Lot 1268 of the 2nd District of the 2nd Section, Fulton County, Georgia containing approximately 0.402 acres, more or less, according to a plat of survey dated July 9, 2024 prepared for Manning Street by GA Land Surveyor, LLC, certified by Caleb A. McGaughey, Georgia Registered Land Surveyor No.: 3174 and being more particularly described as follows:

To find the **TRUE POINT OF BEGINNING**, commence from a point located at the intersection of the easterly right-of-way North Main Street (SR 9) (R/W varies) and northerly right-of-way of Academy Steet (R/W varies), run thence North 87 degrees 36 minutes 03 seconds East a distance of 17.20 feet to a point; run thence South 02 degrees 23 minutes 57 seconds West a distance of 7.00 feet to a point; run thence South 87 degrees 36 minutes 03 seconds East a distance of 120.00 feet to a point; run thence North 02 degrees 23 minutes 57 seconds East a distance of 5.00 feet to a point; run thence South 87 degrees 36 minutes 03 seconds East a distance of 17.22 feet to an iron pin found, which is the **TRUE POINT OF BEGINNING**; run

Thence North 02 degrees 44 minutes 00 seconds East a distance of 154.18 feet to an iron pin found; run

Thence North 49 degrees 38 minutes 58 seconds East a distance of 47.20 feet to an iron pin found; run

Thence South 87 degrees 09 minutes 35 seconds East a distance of 2.41 feet to an iron pin found (1" OTF); run

Thence North 46 degrees 16 minutes 40 seconds East a distance of 74.97 feet to an iron pin found; run

Thence South 86 degrees 41 minutes 37 seconds East a distance of 2.80 feet to a point; run

Thence North 46 degrees 45 minutes 37 seconds East a distance of 423.58 feet to an iron pin found (nail); run

Thence South 89 degrees 19 minutes 33 seconds East a distance of 43.00 feet to an iron pin found (1/2" rebar); run

Thence North 87 degrees 52 minutes 12 seconds East a distance of 106.57 feet to an iron pin found (1" CTF); run

Thence South 81 degrees 21 minutes 56 seconds West a distance of 140.68 feet to a point; run

Thence South 46 degrees 45 minutes 35 seconds West a distance of 544.70 feet to a point; run

Thence South 02 degrees 46 minutes 35 seconds West a distance of 150.49 feet to an iron pin found; run

Thence North 87 degrees 47 minutes 42 seconds West a distance of 31.86 feet to an iron pin found, which is the **TRUE POINT OF BEGINNING**.

Said property is more fully described according to the above referenced plat, which is incorporated herein by this reference.

