



January 5, 2024

**LETTER OF INTENT AND
JUSTIFICATION FOR REZONING**

**Rezoning Application
Smyrna, Georgia**

Applicant:

Amana Academy, Inc.

Property:

Tax Parcel ID 17-0779-0-006-0

± 7.41 Acres of Land

Located at 2200 Lake Park Drive Southeast

Smyrna, Georgia

From C-1 to O&I

Submitted for Applicant by:

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I. INTRODUCTION

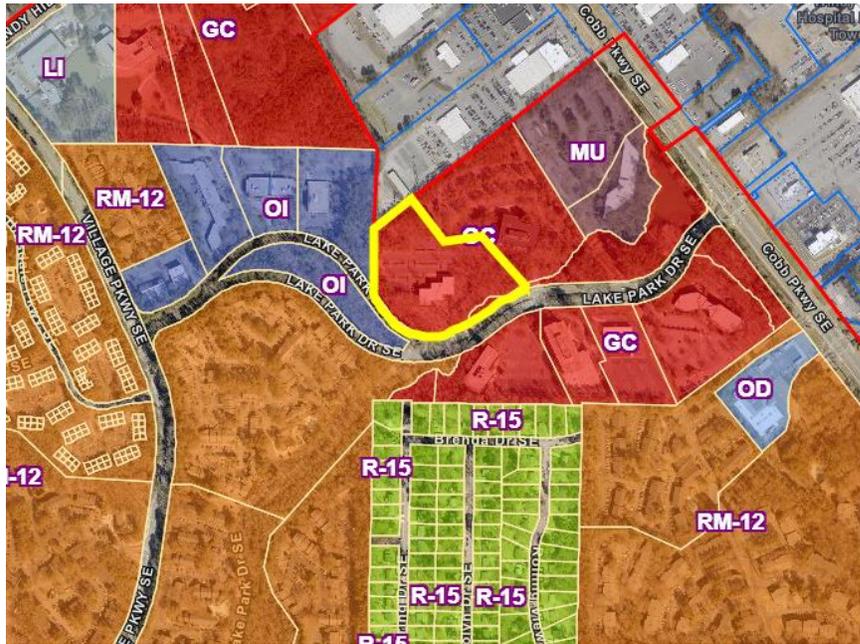
Amana Academy, Inc. ("Amana" or the "Applicant") submits this Application to rezone a 7.41-acre parcel of land located in Land Lot 779 of the 17th District, 2nd Section of Cobb County, Georgia, known as 2200 Lake Park Drive Southeast, Smyrna Georgia ("Property"). The Property is a single tract of land with road frontage on Lake Park Drive with nearby access to Cobb Parkway. The Property is accessible from an existing roadway on Lake Park Drive. The Property is Further shown on the survey prepared by Watt & Browning Engineering, Inc. dated December 29, 2023. The Property is currently owned by Murata Electronics North America, Inc. and further Identified below from the Cobb County GIS:



The Property is zoned GC (General Commercial District) under the City of Smyrna ("City") Code of Ordinances ("Code"). The Applicant now seeks approval to rezone the Property to OI (Office Institutional District) to allow the Applicant to operate a high-performing K-8 STEM-themed charter public school. The Applicant, through counsel, now submits this document as the Letter of Intent, Response to Standards Governing the Exercise of Zoning Power, and other materials required by the City and the Code.

II. DESCRIPTION OF SURROUNDING USE AND ZONING

The subject site is surrounded by office and institutional, residential, and commercial uses. The Property is next to other buildings zoned OI, including several office and residential uses. The below outlines the surrounding uses and zoning:



Location	Land Use	Zoning
Proposed	Public Charter School	OI (Office Institutional)
West	Skin Path Solutions, Union Chimique Belge UCB Pharmaceuticals	OI & Residential
East	US DOD, IRS	General Commercial
South	McVeigh & Mangum Engineering, Residential	GC, R15, RM-12
North	City of Marietta	NA

The Future Development Map of the City of Smyrna 2040 Comprehensive Plan (“2040 Plan”) classifies the Property within the “Office Professional” (O/P) character area. The Office Professional Character area is designed for centers of professional employment within the City but can notably include uses for children, research, and development. In keeping with the OI and O/P designation, Amana Academy West Atlanta (“Amana West”) is a replica public charter school drawing on nearly two decades of experience producing citizen scholars with 21st century skills and a mission to prepare students for high academic achievement beyond what they think possible, so they become active contributors to building a better world..

Amana West will be permanently relocating to the Property from its current location in Cobb County.

III. PROJECT SUMMARY AND APPLICANT

As shown in the Site Plan ("Site Plan") filed with this Application, the rezoning would allow Amana West to permanently relocate its existing school operations to the site. Today, the Property is the North American Headquarters for Murata Electronics Incorporated. The building will be reengineered to meet all applicable state and federal standards for a primary public education facility. As for permitting and zoning, public charter schools are subject to the same exemptions provided to public schools. The Applicant intends to use the approximately 15,000-square-foot building on the Property for classrooms, administrative, dining, art, media, and music rooms.

Amana West launched in 2022 to expand Amana's flagship campus in Alpharetta, founded in 2005. Now Amana West serves 200 students in grades KG-4 from South Cobb, West Atlanta, and South Fulton Communities. Amana West ultimately seeks to serve 600 students. The school prides itself on serving a socially, economically, and racially diverse student body with a rich cross-section of families. The school implements the Harvard-based Expeditionary Learning approach to teaching and learning using a hands-on STEM-themed curriculum. In its first year, Amana West boasted an 88% 3rd-grade reading proficiency, and 75% perform on or above grade level in math, with 94% of staff and students returning for year two. The school seeks to lay roots in Smyrna and become an asset to the community by expanding public education options for families and collaborating with local agencies.

IV. JUSTIFICATION FOR REZONING AND CONSTITUTIONAL OBJECTIONS

The Applicant is a public school authorized by the State Charter Schools Commission ("SCSC"). Like local school districts, each state charter school functions and is treated as a single educational agency. (*See* O.C.G.A § 20-2-2090).

Public schools, like county government projects, are not subject to zoning regulations. Macon-Bibb County Planning & Zoning Comm'n et al. v. Bibb County Sch. Dist., 222, Ga. App. 264 (Ga. Ct. App. 1996); City of Decatur v. DeKalb County, 256 Ga. App. 46 (Ga. Ct. App. 2002). Additionally, under O.C.G.A § 20-2-2068.2, Charter schools shall only be subject to the zoning, planning, and building permitting requirements that apply to traditional public schools when constructing

or renovating a facility; provided, however, that the location of a charter school site shall conform with existing county or city comprehensive land use plans, if applicable, or existing land use patterns in the area.

Further, the Applicant respectfully submits that the Code, as amended from time to time, to the extent that it classifies the Property in any zoning district that would preclude the development and operation of a school, is unconstitutional as a taking of Property a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth here. Any existing inconsistent zoning of the Property under the Ordinance deprives the Applicant and Property owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and that requested here, would deprive the Applicant and Property owner of any reasonable use and development of the Property. Further, any attempt by the City of Smyrna to impose more significant restrictions than presently exist based on state law on how the Property will be developed would be also unlawful.

Applicant therefore submits that the current zoning classification and any other zoning of the Property save for what has been requested as established in the Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant and Property owner. All inconsistent zoning classifications between the existing zoning and the zoning requested here would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality, or general welfare of the public and would substantially harm the Applicant and Property owner. Further, the existing inconsistent zoning classification constitutes, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this Project would constitute, a taking of the owner's 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 the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that failure to approve the requested rezoning change would be unconstitutional and would discriminate in an arbitrary, capricious, and unreasonable manner between the Applicant and Property

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.

Finally, the Applicant respectfully submits that the City of Smyrna cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking of the Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution. This Application meets favorably with the prescribed test set out by the Supreme Court of Georgia to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. *See Guhl v. Holcomb Bridge Rd. Corp.*, 238 Ga. 322 (1977).

V. **CONCLUSION**

For the preceding reasons, the Applicant respectfully requests that the City Approve this Application to rezone the property C-1 or OI. The Applicant welcomes the opportunity to meet with the City's Planning Department staff, Planning Commission, Council Members, and Mayor to answer any questions or to address any concerns relating to this Letter of Intent or supporting materials.

Respectfully submitted this 5th day of January 2024.

Krevolin & Horst, LLC

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