



January 22, 2024

To the Planning Department of Hall County
Hall County Government Center
2875 Browns Bridge Road
Gainesville, Georgia 30504

RE: Rezoning and Concurrent Variance Requests for 0, 4611, 4627 Guth Road, 0, 4561, 4613 J M Turk Road, & 4590, 4601, 4610 Stanley Road

Please allow this letter of intent to supplement and amend the previous letter of intent provided in connection with the above application. After the Planning Commission meeting on November 20, 2023, the developer and applicant have worked to address concerns raised in the public hearing. Those concerns are addressed in this amended letter of intent as follows:

I. Secondary Entrance

The PRD standards in the Hall County Zoning Ordinance (the "Ordinance") require that all PRD developments over 150 units provide at least two vehicular entrances connecting to a county-maintained road. Hall County Code 17.180.060(B)(7). After extensive discussions with County staff, it was determined that, rather than developing Guth Road as a full secondary entrance, Guth Road was better left as an emergency access road with an emergency-access gate (knox box controlled). This will allow for emergency vehicle access, as intended by the Ordinance, while also addressing the Guth Road development concerns raised by the County's traffic engineer.

Although the two-entrance provision is a requirement of the PRD section, many other developments in the County with greater than 150 units have been constructed with less than two entrances. Those include, the surrounding neighborhoods of Quailwood and Grandview, which do not have the emergency-access accommodations that this project proposes. The development team believes the emergency-access gate meets the intent of the Ordinance and is consistent with the existing development of surrounding neighborhoods.

II. Sewer Connectivity

This project envisions the expansion of sanitary sewer connectivity from the proposed development to connections into a Hall County sewer on Union Church Road, which will require a forcemain extending from the Development to the discharge collection system. All homes within the development will be connected to sewer. The sewer line is now proposed to exit the development from Stanley Road, where it will connect to right of way along JM Turk Road. This route was selected over the route presented to the Planning Commission showing sewer connection from a small tangent of the subject property connecting it to JM Turk Road.

The development cost, which is substantial, will be borne by the developer with the sewer lines, of course, dedicated to the County.

III. Stanley Road and Connectivity to Adjoining Parcels

The site plan presented to the Planning Commission previously did not show an access easement to be dedicated to surrounding property owners. That was in error. Considering the issues presented to the Planning Commission and those raised at community meetings, the plan was revised to show the original path of Stanley Road, except where improved at its intersection with JM Turk Road. Accordingly, the adjoining property owner's access will not be moved from their current location, although the neighboring property owners will benefit from the improvement of JM Turk Road.

IV. Access to Detention Ponds

The site plan was revised to more clearly show access to all detention ponds and the proposed lift station.

V. Traffic Study

At the Planning Commission Meeting and at both community meetings held, there were concerns expressed about the traffic study that was performed. A new traffic study has been commissioned. The study's findings will be available before the Board of Commissioners. The study will be performed according to industry standards and will assess traffic patterns at the main entrance of the development, at the intersection of Stanley Road and JM Turk Road.

VI. Community Feedback

Members of the community were invited to two community meetings held in December. A few concerns were raised about the development's impact on Quailwood, the neighborhood to the northeast of the Property. To alleviate concerns with sight-lines between the development and surrounding properties, the developer is willing to proffer conditions that it will ensure sufficient evergreen planting along the boundaries with Quailwood to provide additional screening.

In response to concerns about the design features of the homes in the development, the developer is willing to proffer conditions that the buildings will be constructed with cementitious fiber siding and/or brick used in the facades of the home. Furthermore, the development team will update the results of its traffic study, including performing a new traffic count.

V. All Lots are Developable

At the public hearing, the Planning Commission requested that the site plan show that certain lots with large percentages of applicable stream buffers were developable. The site plan has been revised to show that the lots are developable. The rendering shows the following:



The lots will include the impervious and undisturbed buffers, however, the buildings will not infringe on those buffers. The buffer restrictions can be enforced by both the County and, likely, by the covenants and restrictions which will limit the development of structures in the residents' backyards without County and homeowner's association approval.

VII. Variance Requests

The following variance requests are being made to the PRD requirements in the Hall County Code:

1. Section 17.180.060 B.7.—Allow for the development of the property with only one access point to the development, while also conditioning the variance or development on the installation of an emergency-access
2. Section 17.180.060 B.2.a.—Reduce minimum lot area of single-family detached residences to 5,000 sq. ft. from 8,000 sq. ft.
3. Section 10.180.060 B.2.b.—Reduce minimum lot width of single-family detached residences to 40 from 50' sq. ft.
4. Chapter 10.180.060 B.2.c.i.—Reduce minimum front yard setback to 20 feet for single family detached residences from 25 feet.
5. Chapter 10.180.060 B.9.c.ii.—Increase width of garage door front door to 80% of the width of the individual townhouse units from 50%.
6. Allow eyebrow cul-de-sacs to be utilized
7. Allow dead-end streets within townhome portion of development (as permitted by fire code), to be conditioned on the property being developed with hammerhead turnarounds.

PRESERVATION OF CONSTITUTIONAL RIGHTS AND OBJECTIONS

As agent for the owner of the property, the Applicant respectfully submits that the current zoning classification of and rules relative to the intended use of the Property as established in the Hall County's Zoning Ordinance, to the extent they prohibit this use, 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 of the Applicant 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 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.

Further, the Applicant respectfully submits that the County's failure to approve the requested Rezoning would be unconstitutional and would discriminate in an arbitrary, capricious, and unreasonable manner between the 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. 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.

The practical effect of a denial of the Rezoning will be to drive up the cost of housing which will have the effect of discriminating on the basis of age and/or race in violation of the Fair Housing Act of the United States and Georgia. 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.

Very truly yours,

THOMPSON, O'BRIEN, KAPPLER & NASUTI, P.C.



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