

Jennifer Rivera (Administration)

From: Jeff Stowe (County Commission)
Sent: Tuesday, October 1, 2024 9:30 PM
To: Jennifer Rivera (Administration); Beth Garmon (CDI: Planning)
Subject: Fw: Preservation of Constitutional Rights
Attachments: SKM_C300i_Z24100114590.pdf

See below

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From: Benjamin Tule <bentule@gmail.com>
Sent: Tuesday, October 1, 2024 5:19:51 PM
To: Jeff Stowe (County Commission) <jstowe@hallcounty.org>
Subject: Preservation of Constitutional Rights

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Jeff,
Kindly see attached regarding preservation of constitutional rights and our right to sue in the event of approval of the project. Our home at 5122 Deer Creek Ct, Flowery Branch, Ga 30542 is adjacent and seems to be the most impacted by 256 tightly spaced homes and townhomes adding to the already crowded conditions of the JM Turk or Martin Rd.

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BenTule

p. 678.997.3939



**PRESERVATION OF CONSTITUTIONAL RIGHTS IN CONNECTION
WITH REZONING OF 117.31 ACRES ON 0, 4611, 4627 Guth Road & 0, 4561, 4613 J M
Turk Road & 4590, 4601, 4610 Stanley Road | Rezone | from Agricultural Residential III (AR-
III) to Planned Residential Development (PRD) on 117.31± acres located on the east side of J M
Turk Road at its intersection with Guth Road | Zoned AR-III: Tax Parcels 15043 000027,
000109, 000128, 000201 & 15044 000035, 000035B, 000043, 000100, 000127
BY Thompson O'Brien Kappler & Nasuti PC**

As an owner of property adjoining the Subject Property, I respectfully submit that approving the zoning request would constitute an arbitrary, irrational abuse of discretion and an unreasonable use of the zoning power because the approval bears no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harms the adjoining property owners in violation of the due process and equal protection rights of said adjoining property owners 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, I respectfully submit that approving the rezoning would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between 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.

Allowance of the development as proposed is not based upon any clear and articulable standards and is an unreasonable exercise of discretion resulting in an unlawful exercise of delegated authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia - 1983 grants the Board of Commissioners the power to zone and rezone. That power must be fairly exercised. Based on this element of fairness, the Zoning Ordinance for Hall County, Georgia and violate Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia - 1983.

Any limitation on the time for presentation of the issues before the governing authority who have the power to zone and rezone is a violation of the guarantees of free speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph Six of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

Respectfully submitted,



Ben and Trish Turk.

Address

5122 Deer Creek Ct
Flowery Branch, GA 30542