



# SMITH GILLIAM WILLIAMS & MILES

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## Project Narrative for JM Turk Road Assemblage

**Updated August 30, 2024**

**LOCATION** – JM Turk Road, Flowery Branch, GA

**ACRERAGE** – 114.147 +/- Acres

**APPLICANT** – Steven P. Gilliam, Attorney

### SUMMARY

The accompanying application seeks a rezoning from an existing zoning AR-III to PRD on Parcels 15043 000027, 000109, 000128, 15043 000201, 000127, 000035, 000043, 000035B, and 000100, for a total of 114.147 acres of undeveloped property located on Guth Road, J M Turk Road, and Stanley Road, in west Hall County. The intent is to develop a 256-unit residential development. The proposed rezoning will allow a feasible product to be supplied to the area that is consistent with the Hall County Comprehensive Land Use Plan for residential use, and appropriate for Hall County's Planned Residential Development (PRD) district for this location. There will be a mandatory Homeowners Association with a Declaration of Restrictive Covenants.

### SITE DESCRIPTION & ACCESS

Primary access to the property is 50 ft of road right-of-way at the intersection of Stanley Road and J M Turk Road, with secondary emergency access from Guth Road. Domestic water will be provided by the city of Gainesville. Sanitary Sewer Service will be provided by Hall County, with an on-site pump station and outfall force main. There will be sidewalks on both sides of the road throughout the entire development (POD A, POD B, and POD C). The construction entrance for the development shall be located at the future access points and shall be clearly marked. The entrance shall be regularly maintained to ensure the construction vehicles are not tracking mud from the development onto J M Turk Road.

### ADJACENCIES

The property abuts R-I to the northwest, AR-III to the south and east, and PRD to the north and northeast.

### ARCHITECTURAL MATERIALS & SITE IMPROVEMENTS

All facades of all residences shall be finished with a combination of masonry, fiber cement siding materials, and shake siding. The front facia shall incorporate changes in building material, texture, and/or color. Vinyl siding on all residential buildings shall be prohibited.

Garages shall meet the architectural standards for planned residential developments set forth in

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section 17.180.060.B.9 by not exceeding 55% of front building width. Architectural elevations and renderings are attached to this application.

**General**

Parcel Size	114.147 +/- acres
Proposed Number of Lots	256
Total Proposed Density	2.25 U/A
Townhome Density	4.64 U/A
Single-Family Density	1.95U/A
Proposed Open Space	36.90 acres (32.3%)
Streets	Public (Hall County) To be Dedicated
Water and Sewer	Gainesville City Water; Hall County Sewer
Minimum Lot Size for Cottage Residences	5,000 SF
Minimum Lot Size for Single-Family	8,000 SF
Stormwater Management Areas	3
Minimum Lot Width for Single-Family	50 ft
CBU with off-street parking	4; 94 parking spaces
Amenities	Swimming pool and dog park
Existing Zoning	AR-III
Proposed Zoning	PRD
Planted Buffers (Exterior)	50'

**POD A and B Single-Family Residences**

Proposed Density	1.95 U/A
Minimum Lot Size	8,000 SF
Minimum Lot Width	50'
Building Setback	
Front	25'
Rear	20'
Side	5'
Side Corner	10'
Minimum Building Separation	10'
Maximum Building Height	40'
Maximum Building Garage Door Coverage	55%
Minimum Heated Floor Area	1,800 SF
Guest Parking Calculations	64
<b>POD A TOTAL UNITS</b>	<b>73</b>
<b>POD B TOTAL UNITS</b>	<b>125</b>

**POD C Townhome Residences**

Number of Units	58
Proposed Density	4.64 U/A
Minimum Lot Size	5,000 SF
Square Feet Per Unit	1,300 SF
Minimum Lot Dimensions	40' x 125'
Building Setbacks	
Front	22'
Rear	20'
Side	0 (20' Between Buildings)
Side Corner	10'
Driveway	22' from Garage Door to Back of Curb
Maximum Building Height	40'
Maximum Building Garage Door Coverage	55%
Minimum Heated Floor Area	1,300 SF
Garage (2 Per Unit)	116
Guest Parking Calculations	
Off Street	30
Total (Per Unit)	30
<b>POD C TOTAL UNITS</b>	<b>58</b>

**ENTRY MONUMENT SIGNAGE**

Applicant is requesting permission for an entry monument sign located on the southwest portion of the open space as shown on the Site Plan. The entrance may also include the following structural items: masonry walls, wood or PVC fencing, and illuminated signage in accordance with the Hall County sign ordinance, ornamental sculpture, landscaping, and irrigation. **A rendering of the entry monument is attached.**

**CLUSTER MAILBOX UNIT (CBU)**

The developer shall be responsible for providing 4 CBUs for regular mail service delivery. A CBU is a structure housing multiple mailbox units to serve each residential unit of the development for the express purpose of regular mail delivery provided by the USPS. Development, maintenance, location, and parking shall be governed by section 17.180.060.B.11 of the Hall County Code. A total of 94 parking spaces are to be constructed.

**OPEN SPACE**

The 30% open space requirement for the PRD standards is satisfied with 36.9 acres of open space as shown on the Site Plan (32.3%). Additionally, in the Open Space adjacent to J M Turk Road is a historic 1880's barn that will remain on the property.

**BUFFERS AND SETBACKS**

Along the perimeter of the lots, a 50 ft Planted Buffer can be seen on the Site Plan.

## **AMENITIES**

Applicant is proposing an amenities area that will include a swimming pool, pool house, and pickle ball courts. The open space area in the east will serve as a dog park for the residents. The open space area to the northeast will serve as an HOA-maintained Community Garden for the residents of the development. Construction of the amenities will begin within twelve months of the final approved plat. During construction, there will be one construction trailer placed at the amenities area. Applicant is requesting to allow four model homes.

## **VARIANCE REQUESTED**

Applicant is requesting to reduce full vehicular access to one entrance, with the second entrance to be provided for emergency access only. Applicant is also requesting to increase the width of the garage door of front-loaded cottage residences to 55% to the width of the individual unit. Applicant is requesting to allow eyebrow cul-de-sacs to be utilized. Applicant requests that hammerhead cul-de-sacs be utilized in the Residential Cottage Pod.

## **CONCEPTUAL MASTER PLAN**

The development of the property shall be controlled by the Conceptual Master Site Plan (the "Site Plan") attached as Exhibit A. The Plan is considered conceptual in nature, and as such may require minor modifications during the engineering and development process. Modifications to the locations and arrangement of lots, roads, amenities, and other improvements that do not conflict with specific standards and requirements of these conditions may be made by applicant, so long as its modifications do not change the land use, increase the overall density of the project, or reduce any established exterior buffers or setbacks.

## **REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE**

Georgia law and the procedures of Hall County requires the Applicant to raise Federal and State constitutional objections during the PRD master plan application process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, the following constitutional objections are stated:

The portions of the Hall County Development Code, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are 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 and 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 Hall County Development Code, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application as 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 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 7 of its land while not substantially advancing legitimate state interests.

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the Hall County Board of Commissioners to approve the zoning conditions as requested would constitute a taking of the Applicant's property.

A denial of this Application would constitute an arbitrary and capricious act by the Hall County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and 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 to grant the PRD zoning request would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by the Hall County Board of Commissioners to approve this Application for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property 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 Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth 8 hereinabove.