

TO THE CITY OF POWDER SPRINGS  
COBB COUNTY, GEORGIA

**CONSTITUTIONAL CHALLENGE**

COMES NOW, SERIOUS TREE SERVICES, LLC and its principal, WILLIAM MAZARIEGOS, hereinafter collectively referred to as the "Applicant", by and through the undersigned counsel of Record, and assert the following, to wit:

1.

The Applicant has filed an Application to Rezone (the "Application") two adjacent tracts of property located at **3969 and 3989 Flint Hill Road** in the City of Powder Springs (the "Property"), said Property comprising, in the aggregate, approximately 17.7 acres, and being more particularly described in the Application.

2.

Applicant seeks a rezoning of the Property from its current NRC classification to the LI classification under the City of Powder Springs Zoning Ordinance to allow the Applicant to build a corporate office for its existing business, to park its trucks and other equipment and to allow it to process and recycle wood products, including chipping and grinding (hereinafter "Applicant's Intended Use").

3.

The current zoning classification of the Property and all intervening classifications between same and the LI classification sought by the Applicant and any conditions or stipulations of zoning that prevent Applicant's Intended Use of the Property are unconstitutional in that they deprive the Applicant and the Owner under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

4.

The current zoning classification and all intervening classifications between same and the requested LI classification, as they presently exist, and any conditions or stipulations of zoning that prevent Applicant's Intended Use of the Property, violate the Applicant's right to the unfettered use of the Property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classifications and restrictions are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant and the Property.

5.

The City of Powder Springs Zoning Ordinance and other development restrictions are further unconstitutional in that the procedures contained therein pertaining to the public hearings held in connection with zoning applications violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law.

6.

Imposition by the City of Powder Springs of requirements that are not equally applicable to other similarly situation properties within the City of Powder Springs and/or requirement that the Applicant pay for or participate in off-site improvements that are not directly attributable to the Applicant's development and use of the Property are further unconstitutional is that the same are arbitrary and capricious and violative of the Applicant's right to due process, and not supported by any legally permissible purpose that applies solely to the subject property and thus violates the Applicant's right to equal protection under the laws.

Respectfully submitted, this the 4th day of November, 2024.

SAMS, LARKIN & HUFF, LLP

By: 

JOEL L. LARKIN

Attorney for Applicant

Ga. Bar No. 438415

376 Powder Springs Street, Suite 100  
Marietta, GA 30064  
[jlarkin@samlarkinhuff.com](mailto:jlarkin@samlarkinhuff.com)