STATEMENT BY COUNSEL FOR JERRY AND CATHY MARKATOS
180 Haw Tree Lane, Pittsboro, NC

Nathaniel C. Smith, attorney for Jerry and Cathy Markatos, states as follows:

1. Reiteration of the Procedural Problems set out on 10/20:

As (briefly) stated at the public hearing on 10/20/25 – the Subdivision Regulations mandate not only that there be a meeting with Neighbors/Community; its purpose is for the developer to use that meeting to revise the concept for the subdivision. Section B(1)(d) of the Subdivision Regulations provides the following with respect to the community meeting:

d. Mandatory Meeting with Neighbors/Community - This is to offer an **open dialogue between applicant and neighbors/community for better communication, to share goals of the development and gather information from neighbors about any concerns about the land, the goal being to achieve a balance for the environment, neighborhood/community and applicant**. The result is a better overall plan up front that is, as much as possible, embraced by the community and county and also saves applicant from spending money on multiple plans, surveying and engineering.

It was clear from the report of the neighborhood meeting that the plan as submitted was not "embraced by the community." There were 38 registered members of the community present, and they raised 38 recorded issues.

The Subdivision Regulations do not allow the community's input to be ignored by the developer. The diagram on p. 27 of the Subdivision Regulations provides that Step 4 of the Subdivision approval process is "MANDATORY MEETING WITH NEIGHBORS/COMMUNITY." Step 5 is "USE MEETING INPUT TO REVISE DRAFT CONCEPT." The document in the record suggests that the 38 issues raised by the community did not result in <u>any</u> revisions to the draft concept. It is possible, I suppose, that there eventually WERE revisions to the draft concept based on that community meeting; however, the relevant page in the record does not reflect any change in the plan resulting from the community meeting.

This appears to be a violation of the subdivision regulations. Ignoring community input.

2. Concerns related to lots 26, 27, 28 and access via Rock Rest Rd.

There are two issues here. It is my understanding that the developer is in discussions with one (or more) of the neighbors regarding the possible sale of some lots – particularly lots 26, 27 and 28. The plan – so far as I understand it – would be to not develop or build upon those lots. This would have a couple of positive results for everyone.

First – by eliminating the need for cars to be driving on that portion of Rock Rest Road, it would lower the chances of people (residents, contractors, etc.) using the private easement portion of Rock Rest without permission.

Second – this would at least partially address the community's widely held – and emphatically presented on October 20 – concerns about the impact of this development on the local fauna. And probably flora as well. Development would stay on the "river" side of Rock Rest Rd., providing an uninterrupted path for wildlife on the other side of the road and preserving that field.

It seems that one way to both encourage this transaction to take place AND to minimize the chances of such a sale not coming to pass would be for the Board to make any approval of Phase 6 contingent upon lots 26, 27 and 28 not being built upon, and being subject to a permanent conservation easement. The Markatoses would ask the Board for such a mandate.

There are other issues with respect to whether the subdivision can be approved with only one road large enough for fire and emergency vehicles to pass through; the likelihood of contractors ignoring signs and using the private part of Rock Rest Rd. as a "cut through" to Phase 6, etc. I leave those issues for others to cover.

3. <u>The Board of Commissioners have discretion here</u>

Subsection 5.2(C)(5)(b) of the Subdivision Regulations provides that the Board of Commissioners can "approve, approve with modifications or disapprove" the First Plat.

The Markatoses would ask the Board to either disapprove the First Plat, or approve it with modifications – those modifications being:

1. Removal of Phase 6. There is no rush (30 years to build this phase) and that's where most of the problems are; or
2. Approve with the added condition that lots 26, 27, and 28 in Phase 6 are designated not to be built upon – they shall be protected by a permanent conservation easement; or
3. Otherwise ensure that the small strip of Rock Rest Rd. that has an easement for the owners of the properties that are the successors of Banks and Viola Durham (the area in front of lots 26, 27 and 28) is NOT made a part of Riverbend subdivision.

Thank you.

Respectfully submitted on the 14th day of November, 2025.

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